

Recording and reporting racist incidents in schools

– an update on requirements and good practice, autumn 2012

This paper

This paper begins by recalling a key recommendation in the Stephen Lawrence Inquiry report in 1999. It then continues with quotations from government documents over the years which have declared that racist incidents in schools must be recorded and reported. It notes that recording and reporting have never been statutory requirements nationally, however, and that a statutory requirement is unlikely to be introduced in the near future.

The paper concludes by observing that recording and reporting are still widely considered to be good practice, and that their importance and value are reinforced by the Equality Act 2010, and by the new Ofsted framework that was introduced in 2012.

The paper was last updated in September 2012.

Historical background

1. In 1999, in its official response to the Stephen Lawrence Inquiry, the Department for Education declared it expected all schools to record racist incidents. It said also it expected that parents and governors should be informed of the nature of any incident and the action taken to deal with it, and that school governing bodies would inform local authorities, on an annual basis, of the pattern and frequency of racist incidents. In February 2009 the Department reported that 'there is widespread compliance with these expectations' (*Stephen Lawrence Inquiry 10 Years On: progress against the recommendations*, Home Office).
2. A few years after its initial response to the Lawrence Report, the Department dropped the notion of 'expect' and in effect (but not explicitly) replaced it with the notion of 'require'. For example, in *Schools' Race Equality Policies: from issues to outcomes*, published in November 2004, it stated that 'all racist incidents **must** [emphasis added] be monitored and reported to the LEA – there should be no under-reporting' (page 6). A year later Ofsted summarised the statutory situation and concluded: 'The legislation, administrative guidance and inspectors' expectations consequently signal to schools and local authorities **the need** [emphasis added] to put in place systems for handling and recording race-related incidents' (paragraph 27 of *Race Equality in Education: good practice in schools and local education authorities*, November 2005).
3. These unambiguous statements were cited verbatim in Government guidance on dealing with racist incidents published in March 2006, both on the Teachernet website and in a widely distributed leaflet entitled *Bullying Around Racism Religion and Culture*. In March 2011 this publication was removed from the Teachernet website. It is still available, however, as a PDF document (1.6 MB) at <http://www.insted.co.uk/racist-bullying-april11.pdf>.)
4. The Teachernet advice about recording and reporting was repeated at the end of 2006 in further DfES guidance. This said: 'schools **must** [again, emphasis added] record all racist incidents, and report them at least annually to their local authority' (page 8 of *Recording and Reporting Racist Incidents Guidance*, December 2006).

5. Recalling the 2006 Teachernet guidance the DCSF said in February 2009: 'We again advised schools to record all incidents of racist bullying, and to report this information to their local authority.' The word 'advised' here appears to have been carefully chosen; it reflects the realisation that, strictly speaking, there had never been a legal requirement that incidents should be recorded and reported, even though such a legal requirement was widely believed to exist, and even though the Department itself had frequently (see above) stated that such a requirement existed.
6. The expectation that schools would record and report racist incidents was substantially reinforced by the Audit Commission through its best value performance indicators, and by the Ofsted inspection regime in relation to its scrutiny of local authorities. It was reiterated on Teachers TV in April 2009 (<http://news.bbc.co.uk/1/hi/education/8014880.stm>) and on BBC News: 'Schools have a statutory duty to record all incidences of racist bullying and report them to the local authority, and schools must ensure that all pupils feel safe.' However, the BBC was factually wrong – there was no statutory duty at that time, and never had been.
7. Amongst other things, the Teachernet advice valuably discussed the distinction between 'racist incidents' and 'racist bullying'. It said in this connection that all instances of racist bullying are racist incidents but that not all racist incidents are appropriately described as racist bullying. However, it added that the distinction is often false. For what may appear to a teacher to be a one-off event (an 'incident') may be experienced by the pupil at the receiving end as part of an overall pattern, and likely therefore to be repeated (therefore, to be a form of bullying).

More recent developments: 2008–11

8. In September 2008, it was announced at the Labour Party Conference that the government intended to introduce a statutory duty to record *all* incidents of bullying in schools, not racist incidents only. The government indicated also, however, that there would be no duty to report them. But in January and February 2009, the Department for Education (the DCSF as it then was) took informal soundings amongst specialists and in consequence resolved it would conduct a formal consultation about this. The implication was that it was minded to require all kinds of bullying to be *both* recorded *and* reported. It said:

The DCSF is about to consult on making it a statutory requirement that schools keep a record of all incidents of verbal and physical abuse that can be perceived as bullying. Incidents of bullying related to race, religion or culture would be recorded under the proposed new duty. The consultation will ask whether the statutory requirement should also cover the reporting of incidents to the local authority and if so whether the reporting requirement should distinguish between the various forms of bullying, including racist bullying, and whether incidents other than bullying should be separately reported. Plans are for the new duty to come into effect from autumn 2009. (*Stephen Lawrence Inquiry 10 Years On: progress against the recommendations*, Home Office.)

9. On 10 December 2009 the Government announced that from September 2010 onwards schools would have a new statutory duty to record and report all incidents of bullying. The official DCSF press release quoted a minister saying:

The majority of schools already record incidents of bullying. However, I want to make sure that all schools have measures in place to prevent and tackle bullying and show they are taking it seriously. Having the right information early on can be vital in dealing with problems quickly. The new duty announced today will ensure this becomes common practice for all schools.

http://www.dcsf.gov.uk/pns/DisplayPN.cgi?pn_id=2009_0244)

10. The closing date for responses was 4 March 2010. The questions on which the government requested views were not to do with **whether** there should be a statutory requirement but **how** it should be implemented in practice.
11. By the time of the general election and the formation of a new coalition government in May 2010, no announcement about the results of the consultation had been made. Subsequently, research by the Equality and Human Rights Commission published in March 2011 showed that there would be widespread support in local authorities for recording and reporting to be put on a statutory basis. The research is at http://www.equalityhumanrights.com/uploaded_files/research/64_identity_based_bullying.pdf.
12. However, the logic of government advice first issued in March 2011, and slightly updated in May 2012, is that no such statute will be created. In answer to the question 'Should I record incidents of bullying?' it makes the following statement:

Staff should develop a consistent approach to monitoring bullying incidents in their school and evaluating whether their approach is effective. For some schools, that will mean recording incidents so that they can monitor incident numbers and identify where bullying is recurring between the same pupils. Others do not want to keep written records. We want schools to exercise their own judgment as to what will work best for their pupils.
13. There is a link to *Preventing and Tackling Bullying – advice to headteachers, staff and governing bodies*, updated 17 May 2012, at <http://www.education.gov.uk/aboutdfe/advice/f0076899/preventing-and-tackling-bullying>
14. Although there is no statutory requirement to record and report, many local authorities and schools, including academies, agree with the EHRC finding (paragraph 11 above) that recording and reporting all racist incidents is good practice and they are continuing with the systems that have been put in place and developed since the Stephen Lawrence Inquiry report in 1999. They are taking the opportunity, however, to make various improvements, as outlined below. The measures outlined below are also encouraged and supported by Ofsted.

The present situation, 2012 onwards

15. A view has developed in many authorities and schools that *all* prejudice-related incidents should be monitored, not racist incidents only. This view has gathered force as new legal requirements have come into force nationally as a consequence of the Equality Act 2010 and is supported by at least one union, NASUWT. It is strongly advocated in the EHRC report mentioned above (paragraph 11), and is clearly supported and encouraged by Ofsted.
16. The possible disadvantage of including a range of prejudice-related behaviour, not racist behaviour alone, is that the emphasis on racism following the Stephen Lawrence Inquiry could be lost or marginalised. Also, there is the danger that the whole exercise could become too cumbersome to be of any use. The potential advantages, however, are substantial. They include:
 - It helps people understand the concept of prejudice-related incidents and bullying, and would therefore increase the likelihood of racist behaviour being reported.
 - It makes sense in the day-to-day life of schools – sense to teachers and other staff, and sense also to children and young people, and parents and governors, for it is easier to explain to children and young people why racist bullying is hurtful and therefore wrong if staff also explain why bullying around gender, disability and sexual identity is hurtful and wrong.

- It removes one of the reasons for current resistance to recording and reporting racist incidents, namely the voice that says: 'Why only concentrate on racism? Why not be concerned about children whose lives are made a misery because of teasing about a disability? Or who get harassed sexually, or are targets of homophobic bullying and insults?'
17. Racism is not the same as sexism or homophobia or hostility towards disabled people. But the measures required to prevent racist behaviour are similar to the measures required to prevent other forms of prejudice-related behaviour. So are the measures to deal with incidents when they occur. A holistic approach to all prejudice-related incidents is clearly consonant with a restorative or transformative approach to dealing with incidents.
 18. Until recently the practice in most schools, as mentioned above, was to record all racist incidents, regardless of their seriousness, and simply on the basis of whether they are 'perceived' to be racist. Like the term 'incident' this came to schools from policing.
 19. Aggregating all incidents together, or only distinguishing between physical and verbal behaviour, is likely to produce unreliable and unhelpful statistics. An alternative and preferable approach involves creating and using a four-point scale with categories such as the following:
 - No offence was intended or taken.
 - Hurt or distress was caused, but the offending behaviour is unlikely to be repeated.
 - Hurt or distress was caused, and the pupil(s) responsible had previously been warned that their behaviour was unacceptable.
 - Substantial hurt or distress was caused, and/or the behaviour was based on substantial hostility and prejudice, and/or the behaviour may be repeated.
 20. In addition, other things being equal, it is worth collecting and publishing data about time of day, day of the week, and month of the year; and, with regard to location, to ask about corridors and playgrounds, and journeys to and from school. In addition, reports at local authority level need to provide a breakdown by geographical areas, preferably aligned with administrative districts used by the police.
 21. Several authorities have found it is helpful to complement written reporting (whether paper-based or electronic) with professional conversations and interview-based surveys. Such conversations and interviews are likely to produce more useful data (though more 'soft') with regard to decision-making and policy-making. At school level, staff may similarly get a better feel for what is going on amongst pupils by asking them directly in conversation or focus groups, rather than waiting for complaints to be made. Some authorities routinely include questions about bullying, including racist bullying, in their annual surveys of pupil voice. So do some schools. Both these approaches may yield more useful data than recording forms on their own.

The influence of Ofsted

22. As mentioned and emphasised above, there is no statutory requirement nationally, and never has been, that racist incidents should be recorded. However, the new Ofsted framework that came into effect on 1 January 2012, and was then slightly revised for September 2012, is wholly clear that inspectors expect schools to keep detailed records not only of racist incidents but also of all prejudice-related incidents. This expectation is underpinned legally by section 149 of the Equality Act 2010.

23. The new Ofsted framework includes a general statement that 'inspectors will evaluate ... pupils' behaviour towards, and respect for, other young people and adults, including freedom from bullying and harassment that may include cyber-bullying and prejudice-based bullying related to special educational need, sexual orientation, sex, race, religion and belief, gender reassignment or disability'.
24. It says also: 'Inspectors must take into account a range of evidence to judge behaviour and safety over an extended period and should consider ... types, rates and patterns of bullying and the effectiveness of the school's actions to prevent and tackle all forms of bullying and harassment, including cyberbullying and prejudice-based bullying related to special educational need, sexual orientation, sex, race, religion and belief, gender reassignment or disability'.
25. Early in 2012 Ofsted published a briefing paper for inspectors specifically about equalities, and this was re-issued in September 2012. Amongst other things this thorough and valuable document states that inspectors must check whether 'there are clear procedures for dealing with prejudice-related bullying and incidents, and appropriate staff training that equips staff to identify and deal with this effectively'. There is a link to it at <http://www.ofsted.gov.uk/resources/briefings-and-information-for-use-during-inspections-of-maintained-schools-and-academies-january-201>.
26. There is also information about equalities in the Ofsted framework at <http://www.insted.co.uk/ofsted-framework.pdf>.

Concluding note and summary

27. Legal requirements and expectations relating to the recording and reporting of racist incidents in schools have at times been experienced as no more than bureaucratic and mechanistic chores; have failed to produce data of practical use; and have brought the essential task of preventing and addressing racism in education into disrepute. They have substantial potential value, however. The potential is particularly likely to be achieved when systems are part and parcel of restorative and transformative approaches to dealing with incidents, and when they are integrated with the overall school curriculum.
28. Recording and reporting are still widely considered to be good practice, and their importance and value are reinforced by the Equality Act 2010 and the new Ofsted framework introduced in 2012.
29. For example, one of the ways in which a school may show that it has 'due regard' for fostering good relations is to have a robust system for the recording of prejudice-related incidents. Similarly the recording of incidents is one of the ways in which a school may demonstrate to Ofsted that it is serious about ensuring that all pupils feel safe.