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REF: GD/CR/FB
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Dear Mr Kotey

Proposed new City Academy in Brent

I am now responding in full to your letter of 10th July 2007. A file of relevant background documents accompanies this letter.

Brent's Diversity

According to the Office for National Statistics (ONS), Brent is the most diverse local authority in the country and one of only two Councils with a majority Black and Minority Ethnic (BME) population. According to the ONS, if you were to pick two Brent residents at random, there would be an 85 per cent chance that they would come from different ethnic communities. ONS data also reveals that Wembley is the only area in the country where the majority of local residents were actually born outside of the UK.

According to the 2001 Census, BME residents constitute 54.7% of Brent's total population of 263,464. Only 29% of Brent's population was classed as White British in the 2001 Census and a further 7% were classed as White Irish, the largest Irish community in England and Wales. Since the 2001 Census, Brent's population has continued to increase year-by-year and is currently estimated around 276,000. Within our primary and secondary schools, the percentage of children of BME origin is 74% (and this proportion is growing) and no fewer than 59 of our 73 primary and secondary schools have a BME majority school population. Brent is therefore becoming even more multi-racial with a growing BME majority population throughout the borough. Fourteen of Brent's 21 electoral wards had a BME majority population in the 2001 Census and this number is likely to have risen over the last six years.

Recent data supplied by the Greater London Authority (GLA) Data Management and Analysis Group in July 2007 projects the following current breakdown of Brent's ethnic groups:



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	Brent %	London %
White	42.6	60.7
Black-Caribbean, African, other	21.8	15.0
Asian-Indian, Pakistani, Bangladeshi, other	30.2	17.3
Chinese	1.2	1.8
Other groups	4.3	5.3

Brent is home to what we believe to be London's largest population of refugee and asylum seekers (between 6.5 and 7.5% of the local population) and has some 2000 Irish Travellers and East European Roma. Recent research also suggests we have a rapidly growing East European population including the second largest Polish population in London.

As an authority, Brent is recognised as a national leader in the provision of services to a multi-cultural community and we positively celebrate the diversity within our highly cosmopolitan local community. Promoting diversity and community cohesion is one of four core values in the Council's Corporate Strategy for 2006-10 (document 1) in which we state categorically:

"Our services will recognise the diversity of local communities and all service users will be treated with sensitivity and respect. We will celebrate the rich cultural heritage of the borough and promote tolerance, understanding and community cohesion between our different communities."

Brent's record in providing racially sensitive services has been independently validated in a series of external inspections by the Audit Commission including an in-depth corporate governance inspection in January 2006. Our recent 'Investors in People' re-accreditation (April 2007) praised the way in which we addressed diversity issues and we are, to the best of our knowledge, the local authority with the largest BME workforce as a proportion of total staff employed. Our workforce profile for 2007 shows we have 55% BME majority workforce which we believe is the largest proportion of any local authority in the country.

Brent is therefore a local authority with a strong institutional commitment to diversity and we take very great exception to the NUT's mischievous and uninformed allegations that we would discriminate, directly or indirectly, against any section within our polyglot community. We believe we have a proud record of providing culturally sensitive services and for the reasons set out below we reject categorically the arguments put forward by the NUT.

The Allegation

The NUT allege that Brent failed to carry out a Race Equality Impact Assessment on the Secondary School Places Strategy approved by the Executive in January 2007 and that the decisions of the Executive do not address the imbalance of school places between North and South Brent and thereby discriminate against the predominantly Black population of South Brent in favour of the predominantly Asian population of North Brent. The basis of the allegation centres on the Council's decision to site a



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new school in North Brent and not South Brent. The proposed new school is an Academy. A further allegation is that not only are the decisions discriminatory but the Council has failed to consult people on the decisions.

The allegations are wrong. The Council did undertake a REIA (document 6) which was considered by the Executive in reaching their decision. The Executive report (document 8) makes clear that the proposed strategy for the expansion of secondary places across the Borough will be the subject of consultation before a final decision is taken.

The NUT allegations are based on a number of incorrect assumptions. These include the following.

- That Brent is polarised between an Asian north and a Black south. In fact Brent is a multi-racial Borough with people of different ethnic backgrounds living throughout the Borough. This is particularly true of Wembley the proposed site of the Academy which has an extremely diverse community.
- Their use of the term Black and Asian is crude and does not reflect the complex range of ethnicity in Brent's rich make-up.
- They argue that there should be a proportional equality of places as between north and south and that more places should be provided in the south. This ignores the fact that historically in the south of Brent, which is wedge shaped, pupils have chosen schools in neighbouring boroughs which are very close. In planning places the Council must take account of provision in neighbouring boroughs and patterns of school catchment areas which have traditionally straddled Borough boundaries.
- They assume that the supposed north-south divide in Brent created by the North Circular Road provides a difficult and distant barrier when in fact Brent is a compact Borough seven miles by four and that the proposed site of the Academy is central to Brent with excellent public transport links. Currently pupils of different ethnic backgrounds travel across the Borough north and south to schools. When planning a new secondary school the Government guidelines provide for a population planning radius of three miles. The great majority of the South of the Borough lies within the three mile planning radius of the proposed City Academy.

Brent's Population Growth and Expansion

Brent has a rapidly growing population across the Borough and needs at least 2300 extra places by 2014. The Borough proposes to meet this demand by providing several new schools and expanding existing schools right across the Borough both in the north and the south. The report to the Executive of 13th November 2006 (document 4) considers the different options for delivering additional school places.

Options for expansion in the south include the expansion of four existing secondary schools and a possible new school if a site can be identified. A recent proposal has been made for two of the schools proposed for expansion to become Academies. These schools have significant numbers of Pakistani pupils as well as Black African and Black Caribbean pupils. At present there is no readily available site in the South of the Borough. The Council is currently trying to find a site and secure Government funding for a new school. These options will be the subject of consultation in the Autumn and the equality issues will continue to be addressed. There is no substance in the accusation that the Council is discriminating either directly or indirectly against particular ethnic groups when it is planning to create extra places to meet demand across the Borough taking into account actual site availability, and the existing pattern of schools within and without the Borough. The Wembley Park site will shortly be available and thus provides a unique opportunity for an early increase in much-needed schools capacity. Contrary to the NUT's assertions, we do not have the luxury of creating sites at will anywhere in the borough.



The Wembley Site

Within the overall strategy of expanding places across the Borough the Executive has decided to site a new school in Wembley. There are strong clear reasons for this. In summary the reasons are:

- There is substantial housing growth of 5000+ units planned for the Wembley area over the next five to ten years. This is around 50% of the anticipated new housing for the Borough as a whole. New school places are needed in Wembley and the Section 106 monies provided by the main developer are for new school places in Wembley.
- Wembley is the most diverse part of Brent and receives over 50% of the growth in Brent resulting from inward migration of many diverse ethnic groups from all over the world
- The proposed site in Wembley is the only available and affordable site in the Borough which is of sufficient size to meet the immediate and pressing demand for places.
- As stated earlier, the site is central to the Borough and readily accessible by public transport from all parts of the Borough

The Council would be failing in its duty to provide sufficient school places if it did not proceed with the Academy school site in Wembley by 2009/10. The NUT maintain that there are readily available alternative sites in the south of the Borough. This is simply not the case. The Council has conducted an exhaustive examination of sites across the borough and Wembley is the only one which can be provided within the timescale needed to meet the demand. The decision has been subject to thorough scrutiny. A threat by the NUT to seek a judicial review on the grounds of racial discrimination has been withdrawn because there is no justification for their stance. This complaint to the CRE is a transparent ploy by the NUT to mask their underlying opposition to the provision of City Academies *per se*.

The NUT Stance

It is evident that Brent NUT are ideologically opposed to the creation of an Academy in Brent because they are opposed to the involvement of the private sector and private individuals in the running of schools. When the Council proposed the building of an Academy in Willesden in the South of the Borough in 2001 to replace and extend a failing school this was opposed by the Brent NUT leadership including the current President who has submitted the allegation of discrimination. The first City Academy was built despite their opposition and it has offered much improved education to pupils in South Brent including many Black African and Black Caribbean pupils.

The NUT appears to suggest that the Council should build schools for Black pupils in the south and separate schools for Asian pupils in the north. Certainly this is an inference a number of people have drawn from the NUT's submission. This is a highly dangerous stance which seems to run counter to community cohesion objectives and is likely to foster separatism and the polarisation of different ethnic groups. It seems to be at odds with the general duty to promote good relations between peoples of different racial groups. It also runs counter to the choices that people in Brent make for their children. For example, four years ago when schools in Brent were undersubscribed and there were empty places, many Black African and Black Caribbean parents still preferred to apply to schools in the north of the Borough. The Brent community has a good record of community cohesion which has been strongly promoted by the Council.

Legal Issues

It is accepted that Brent is under the general statutory duty as set out at the Race Relations Act section 71. This duty means that Brent must have due regard to the need to :



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- (a) eliminate unlawful racial discrimination;
- (b) promote equality of opportunity; and
- (c) promote good relations between people of different racial groups.

The general duty is, just that, general. It in no way specifies how the authority should carry out its activities in individual cases. It will be a matter for the authority to decide what action, such as consultation, it may consider it requires to carry out to reflect this general duty.

The Race Relations Act 1976 (Statutory Duties) Order 2001 requires that certain local bodies, such as London Boroughs, provide a race equality scheme. Brent complies with this duty by its Single Equalities Scheme 2007-2010 which is sent with this letter (document 12). Our Scheme includes specific targets on race issues which we are working towards. Regulations 2 and 3 of the Order speak in very general terms of the impact of policies on pupils, staff and parents including in particular the impact on attainment levels of pupils. There are no specific references at regulations 2 and 3 to organisational matters such as the provision of school places. However, I would accept that any lack of school places for a particular racial group is a matter which should be addressed as part of the general duty.

The Council is also mindful of the guidance given by your Commission in the Code on Practice on the Duty to Promote Race Equality. Paragraph 3.16 is particularly helpful and bears setting out :

"...3.16 To assess the effects of a policy, or the way a function is being carried out, public authorities could ask themselves the following questions.

- a. Could the policy or the way the function is carried out have an adverse impact on equality of opportunity for some racial groups ? In other words, does it put some racial groups at a disadvantage ?*
- b. Could the policy or the way the function is carried out have an adverse impact on relations between different racial groups ?*
- c. Is the adverse impact, if any, unavoidable? Could it be considered unlawful racial discrimination ? Can it be justified by the aims and importance of the policy or function ? Are there other ways in which the authority's aims can be achieved without causing an adverse impact on some racial groups ?*
- d. Could the adverse impact be reduced by taking particular measures ?*
- e. Is further research or consultation necessary ? Would this research be proportionate to the importance of the policy or function ? Is it likely to lead to a different outcome ?..."*

The development of Brent's strategy for secondary school provision should be considered in the light of the above guidance. I believe that we have taken the above guidance into account and are continuing to do so. As referred to above a major problem faced by Brent is a lack of secondary school places. The provision of a new school in any part of Brent does not put any racial group at a disadvantage. A new school does not have an adverse impact on any racial group. Those who live closest to the school will benefit most by being more directly able to take advantage of the geographical catchment area of the school. However, those who live further away will also benefit by the general increase in school places which increases the opportunities for people in all parts of the borough to obtain school places of their choice. The highest the argument can be put is that a new school will benefit certain pupils more than it benefits certain others. It is accepted that if prominent new facilities are only provided to a particular racial group then this may lead to poor relations between different racial groups and the Council, as part of its general duty, should be sensitive to this. However, the provision of the intended new Academy



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needs to be seen in the context of the overall expansion of school places which is set out in this letter and the accompanying documents.

It is accepted that nothing the Council does should constitute direct race discrimination contrary to the Race Relations Act. The proposed provision of this new school does not, and cannot, constitute a "detriment", as properly described in the Race Relations Act, to any particular individual. Whilst the document submitted by the NUT speaks of "adverse effects" and indeed of "detriments" they appear to mean that their claimed inequality of treatment between African Caribbean and Asian pupils will be made worse. Alternatively, their arguments, such as that the proposed new school will lead to South Brent children having longer travel times, simply make no sense.

It is also accepted that nothing the Council does should constitute indirect race discrimination as defined in the Race Relations Act. This occurs when there is a rule or condition which is applied equally to everyone but can be met by a considerably smaller proportion of people from a particular racial group; is to the disadvantage of that group; and cannot be justified on non-racial grounds. The NUT submission does not put their case in this way. Although you have referred to indirect discrimination, you have not indicated any particular condition or test that the Council is applying which may constitute indirect discrimination. Brent is not applying any condition or test which would adversely affect any individual such that indirect racial discrimination could be engaged. It is denied (if it is being suggested) that the mere siting of a school in a particular place could, of itself, constitute indirect racial discrimination at law.

As referred to above, the stance of the NUT on Academies is an important factor to take into account. If the Council was proposing a new maintained community school in Wembley Park, instead of an Academy, your Commission would not be hearing from the NUT. The Commission should be cautious about the NUT purporting to speak on behalf of the African Caribbean community in this way. The hostility of the NUT is not the same as genuine friction between different racial groups.

The immediate history is that Graham Clayton, solicitor for the NUT, sent a letter to myself as Chief Executive of Brent dated 2nd May 2007. It was a judicial review pre-action protocol letter. Clive Romain, Senior Education Lawyer of Brent, replied by his letter of 17th May 2007. Both letters are included in the bundle of papers which is sent with this submission (documents 10 and 11). The essential point is that an Equality Impact Assessment was prepared and considered by the Brent Executive on 15th January 2007. It was then open to the NUT to take judicial review proceedings. They could have sought an interim injunction from the Administrative Court to stay the present process if a judge had agreed this was the right course pending a full hearing. They have not taken such an action or, anyway, we have not received any notice of proceedings. Given what has been said generally in this letter and the urgent and overwhelming need to proceed with the expansion of secondary school places in the borough, I must respectfully decline your suggestion that the development of the strategy be put on hold. To do so would be a reckless dereliction of our responsibilities to children and families throughout the borough and is not an action we could possibly support.

Conclusion

The Council is absolutely committed to promoting equality of opportunity by providing new schools of good quality as it has done with the creation of the existing City Academy in Willesden in the south of the Borough and the subsequent proposals for a new Academy in Wembley and expansion of good schools in all parts of the Borough. A search for a suitable site or sites in the south of the Borough is still underway. Another example of the Council's commitment to promoting equality of opportunity is a comprehensive Borough-wide programme to improve educational outcomes for underachieving groups and in particular Black Caribbean boys and Somali children. A report on this programme, "Improving Outcomes for Black African and Black Caribbean Children in Brent" is attached in the bundle, together



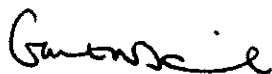
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with a report from the Improving Outcomes Task Group of the Children and Families Scrutiny Committee (as document 13). The Council would welcome a visit from the CRE so that we can explain further about this exciting programme and discuss any other matters the CRE may wish to discuss. I trust that this letter addresses the concerns you may have had after reading the NUT's misleading and alarmist communication.

Yours sincerely



Gareth Daniel
Chief Executive



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