



21 July 2008

- **High Court victory for BME women's group challenging their funder under the Race Relations Act**
- **Ealing Council concedes and agrees to hold new process on deciding funding for domestic violence services in the borough**

In a key judicial review case brought by the Public Law Project about how local authorities should approach the funding of specialist services for black and minority ethnic (BME) groups, a two-day trial finished early when the Defendant Council agreed to withdraw their decision and start the decision-making process again.

Southall Black Sisters (SBS) is a not-for-profit organisation, established in 1979 to meet the needs of black (Asian and African-Caribbean) women, particularly those who have been victims of domestic violence. The organisation had been funded for many years by Ealing Council but last year, when it undertook a review of this funding, the Council proposed a new grant specification to provide the same service for all women in the borough but for the same level of funding. However, the Council failed to assess the adverse impact on BME women of this funding shift, until they were threatened with proceedings in December last year. Ealing Council then undertook a race equality impact assessment exercise but this remained seriously flawed. The Council failed to properly consider the inevitable adverse impact of using the same level of funding for a service for all women that was previously providing a specialist service for only a proportion of women in the borough. Their decision was not supported by the evidence available as to the needs of women in the borough.

The Council also failed to follow their own policy on how they should undertake such impact assessments, an essential part of their duties under the Race Relations Act (RRA). The legal challenge related to both their failure to meet their general duty under the RRA (to eliminate race discrimination, promote equality of opportunity and good race relations), and to follow their own Impact Assessment Guide. The Council also sought to rely on the policy context of the draft Cohesion Guidance for Funders as the correct approach to funding such services, even though this specifically states that some services should be provided on a specialist basis.

Two service-users of SBS therefore brought judicial review proceedings in April this year to challenge the unlawful process adopted by Ealing Council. The Equality and

Human Rights Commission also intervened to support the case, recognising the importance of the issue for BME groups and their users. The EHRC supported the main argument made by the Claimants - service-users of Southall Black Sisters - that the Council had failed to meet its duties under the Race Relations Act and had misinterpreted how to comply with these duties.

At a two-day hearing before Lord Justice Moses on 17 and 18 July, the Council conceded defeat halfway through the second day, agreeing to withdraw their decision to approve the flawed grant criteria. They have agreed to go back to the drawing board on the commissioning of domestic violence services. Lord Justice Moses will issue a judgment shortly giving guidance on the interpretation of s.71 of the Race Relations Act in the context of voluntary sector funding and services for BME groups.

The final judgment will be available on PLP's website at www.publiclawproject.org.uk

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Notes for editors

1. The Public Law Project currently provides free advice to voluntary sector organisations on public law disputes as part of a three-year project funded by the Big Lottery. Contact on 020 7697 2198 or email on r.lowbeer@publiclawproject.org.uk
2. The Public Law Project (www.publiclawproject.org.uk) is a national legal charity which aims to improve access to public law remedies for those whose access to justice is restricted by poverty or some other form of disadvantage.

Within this broad remit PLP has adopted three main objectives:

- increasing the accountability of public decision-makers;
- enhancing the quality of public decision-making;
- improving access to justice.

Public law remedies are those mechanisms by which citizens can challenge the fairness and/or legality of the decisions of public bodies and so hold central and local government and other public authorities to account. They include non-court-based remedies such as complaints procedures and ombudsman schemes and also litigation remedies, in particular judicial review.

To fulfill its objectives PLP undertakes research, policy initiatives, casework and training across the range of public law remedies.