Runnymede Trust and Race on the Agenda
Joint Submission to House of Commons Committee Stage of the Localism Bill
17 February 2011

About Runnymede
1. Runnymede is a social policy research organisation focused on race equality and race relations. We work by identifying barriers to race equality and good race relations; enabling effective action for social change and influencing policy at all levels through providing thought leadership and robust evidence.

About Race on the Agenda
2. Race on the Agenda (ROTA) is a social policy and research organisation that focuses on issues impacting on Black, Asian and minority ethnic (BAME) communities. Our policy priorities are health, education and criminal justice.

3. As a BAME-led organisation, all ROTA’s work is based on the principle that those with direct experience of inequality should be central to solutions to address it. Our work is actively informed by the lived experiences of BAME communities and their organisations.

Summary
4. We are concerned that Clause 5 (2), which gives the Secretary of State power to “amend, repeal, revoke, or disapply any statutory provision (whenever passed or made)”, could result in potential “opt-outs” of the duties under the Equalities Act 2010, including the Public Sector Equality Duty.

5. Despite a recent assurance made earlier in Committee Stage by Communities and Local Government Minister Andrew Stunell MP that disapplication of a law requires “rigorous procedure”, we believe that there should be an amendment in the Localism Bill preventing opt-out of the Equality Act.
General concerns regarding the localism agenda

6. Decentralisation of power could be a welcome development for ethnic minority communities, especially where local communities have the power to decide what best meets their needs and interests.

7. However, simply moving decision away from central government does not resolve the problems of democratic accountability, fiscal transparency, equality and rights.

8. If local decision-making is democratic and inclusive then concern about “postcode lotteries” can be minimised. We accept local variation is permissible, within boundaries. However, there must be mechanisms to ensure a minimum standard of public services is ensured for all, regardless of address.

9. Reducing persistent racial inequalities would result in savings on spending. Part of the tragedy of racism is the waste of resources and human potential that it engenders. If decentralisation is to achieve substantial public savings, it is important that service delivery does not result in increased ethnic inequalities, which would result in greater public expenditure further down the line.

10. There is a danger that in the drive to localise power and cut bureaucracy, local authorities’ increased discretion will be applied inconsistently. If this happens, local authorities will not be sufficiently accountable for the decisions they make. New ways to hold local authorities to account need to be explored, particularly to ensure increased discretion does not impact detrimentally on race equality. Some local authorities may also need further resources and training to deliver their new powers effectively.

Specific concerns with the Localism Bill

Secretary of State’s Power [Clause 5 (2)]: Concern regarding potential “opt-out” of the Equality Act

11. This measure is designed to give councils more freedom in running services, giving local authorities the ability to do anything an individual can do, rather than
only being able to do things that Parliament specifically authorises. Whilst in isolation this appears to maintain adequate safeguards, requiring local authorities to act in accordance with statutory limitations or restrictions, we are concerned with Clause 5 (2), which gives the Secretary of State power to “amend, repeal, revoke, or disapply any statutory provision (whenever passed or made)”. This power is limited by:

a) A requirement to consult local authorities, representatives of local government and other persons the Secretary of State considers appropriate and;

b) by a requirement to lay a draft order before parliament

We are concerned that these provisions give the Secretary of State wide-ranging power to remove statutory obligations on local authorities with minimal parliamentary scrutiny.

12. We agree with submissions made previously by organisations including Age UK, which highlight the potential effect on the duties under the Equalities Act 2010, including the Public Sector Equality Duty. These duties give a legal framework for ensuring equality of opportunity for many of the most excluded groups in our society. To “amend, repeal, revoke or disapply” these duties too easily would remove protections for the marginalised in our society who need them the most.

13. A similar power can be found under the Local Government Act 2000 in granting the “well-being power”. By contrast, under that legislation the order is restricted to the super-affirmative resolution procedure of being laid before Parliament for 60 days. There is no similar restriction under the Localism Bill. There are therefore two concerns:

- That this power increases the scope of reasons for removing statutory restrictions on local authorities from “economic, social or environmental well-being” to “anything that individuals generally may do”

- The removal of any restrictions that have been enacted through full parliamentary procedure and scrutiny will only be subject to the minimal
parliamentary scrutiny of a negative resolution procedure at the discretion of the Secretary of State

14. We note remarks made by the Communities and Local Government Minister Andrew Stunell MP in the 1st February Committee Stage of the bill, where he was questioned on this issue, in which he stated that approval of a disapplication of a law requires “rigorous procedure”, adding that “we certainly do not have anything in mind in the near future that would bring this abruptly into use”.

15. Whilst we welcome this verbal assurance, we still believe that there should be an amendment to the Localism Bill preventing opt-out of the Equality Act. In our view, a verbal assurance in Parliament that the act will not be “disapplied” is not enough to ensure protection of the Act. Similarly, we do not believe that a non-binding consultation process (made up of consultees chosen by the Secretary of State) and a draft order in Parliament acts as sufficient scrutiny of a decision to disapply it, as highlighted earlier in this evidence.

16. We believe that it is particularly important to protect the Equality Act as opposed to other pieces of legislation. Unlike something more “procedural” such as a planning regulation or health and safety requirements, the Equality Act is a legal expression of the values of the United Kingdom. In addition, whilst we support the ethos of localism, we believe there should be at least minimum standards of equality at its heart.

For any further information or questions regarding this response, please contact Vicki Butler, Public Affairs Officer, at vicki@runnymedetrust.org or 020 7377 9222.