



FAIRNESS FOR ALL: A NEW COMMISSION FOR EQUALITY AND HUMAN RIGHTS.

RESPONSE TO CONSULTATION QUESTIONS ASKED IN THE WHITE PAPER.

Q1. How can the CEHR ensure that all stakeholders have meaningful opportunities to shape its priorities and how it works?

We welcome the fact that the government recognises that traditionally excluded groups will need support to engage with the Commission. However, for this to be a meaningful and constructive process for marginalised groups, the Commission will need to have more than an ***“awareness that, in some sectors, organisations will need support to build their ability to engage with the CEHR.”*** Rather, the CEHR will need to be proactive in their engagement with disenfranchised groups so that the Commission can be seen to be engaged with a ‘broad church’ of voices and opinions, particularly those groups/communities that face multiple forms of discrimination and those most vulnerable and alienated within our society.

There needs to be clarity on what the proposed support will look like; will the Commission, for example, provide financial support for marginalised groups and their representatives to access information via new technologies? Will it provide training to use the new technologies, or funding to enable attendance at conferences, seminars, training events and consultative fora?

The Commission itself will need to engage with stakeholders through regular and varied consultative fora (e.g. meetings, survey’s/questionnaires, submission of reports to the respective committees and through testimonies/or hearings by interested parties); to maintain transparency and accessibility both in terms of internal mechanisms of the Commission and its relationships with external groups; to ensure that engagement with the Commission is not a complex process, so that low profile and high profile stakeholders alike are encouraged to communicate with Commission representatives. The Commission will need to be adequately resourced, on a long-term basis in both financial and work force terms, to ensure that it can appropriately sustain its remit.

The Commission should also establish a database of key equality cases being brought before the judiciary as a means of informing the Commission of grass-roots issues, including gaps in provision and failure of employers to be conversant with equality legislation. The findings flowing from the database should be used to inform and influence positive change in the areas deemed deficient around equality/human rights practice. Research should also be conducted into cases that fail to reach a successful conclusion for the complainant, to establish whether there is a pattern of systemic failure to support particular areas of discrimination (e.g. race and gender). If this emerges, the Commission should seek to rectify any flaws that are identified.

‘Stakeholder’ should be used in the broadest definition of the term so that the Commission liaises not only with ‘community leaders’ and other specialists in the NGO equality/human rights field, but also with ordinary individuals and marginalised



groups, so that they are afforded an equal space to voice their concerns and requirements vis-à-vis equality of treatment, opportunity and human rights.

The Commission needs to not only be seen to be engaging with communities that encounter discrimination, but should seek to act upon the recommendations that emerge, and publicise how and where the recommendations have had an effect on the workings of the Commission.

The chair / chair and board should be elected through a democratic mechanism, for example through democratic elections such as the Mayor's office. It should be kept separate from the government.

We note that there is a requirement that the board include at least one person who has or has had a disability. There should also be consideration of the composition of the board in relation to the other groups identified as vulnerable to discrimination, to ensure fair representation of women, ethnic and racial minorities, different ages and sexual orientations. The board should also include a representative from within the Commission itself. Staff within the commission, at every level, must also reflect and represent a cross section of those groups the commission is seeking to support.

The CEHR should ensure accessibility of information in community languages, through telephone interpreters, sign language, Braille etc.

Q2. We would welcome views on whether the CEHR should be able to continue support for cases which have drawn on both discrimination and human rights arguments, after the discrimination element of the case has fallen away.

The Lilith Project strongly believes that the Commission should have over-arching powers to support cases under all forms of discrimination legislation including the Human Rights Act 1998 (HRA), as it would signal that the Commission – the national body designed to protect and promote all strands of equality and human rights issues - is seen by the criminal justice system (CJS) and wider society to be taking the lead on promoting a human rights culture in the UK, alongside utilising the legislation to punish perpetrators that breach the law. It would demonstrate that gender-related crimes, as well as other forms of discriminatory crime, are considered to be human rights violations, which is unacceptable in a democratic society. It would also ensure that the spirit of the European Convention of Human Rights (ECHR), which is considered to be that of a 'living instrument', is imbedded into the HRA - realistically, this is most likely to be achieved through regular usage by a body as influential as the CEHR potentially will be.

This latter point is particularly pertinent as the HRA has limited jurisprudence on which the CJS can draw upon for guidance; the potential expertise and knowledge emanating from the CEHR on regional and international human rights law will be of immeasurable value in this relatively new area of our domestic law. Therefore it would be in the individual and collective interest for the CEHR to maintain support for cases where the human rights component of the overall argument is still relevant.



In addition, we believe that in seeking to successfully integrate a culture of human rights within the UK, the Commission should also have a role in reviewing emerging forms of discrimination in order to instigate legislative/other responses to combat the emerging discrimination and empower targeted group; to have the power to strongly advocate on behalf of discriminated communities in the UK for government to ratify international treaties and/or protocols to existing treaties – a key case in point is Protocol 12 of the ECHR, which the British government have yet to ratify or incorporate into the HRA; and to establish a Committee within the Commission to issue, on a regular basis, reports on the state of human rights and equalities development within the UK, across the private, public and NGO sector, with regard to employment practice and service provision vis-à-vis access to goods and services.

Q3. What other areas of activity should the CEHR support at local level to further its overall mission to promote good relations between different communities?

The CEHR should seek to establish mechanisms to educate the public on both their rights and responsibilities under the equalities legislation. This could be achieved through publications; through workplace initiatives (e.g. regular and ongoing training around the equalities legislation akin to the Equal Pay Champions, especially but not exclusively for the big employers/service providers) and through the education system, perhaps through the Citizenship Curriculum, so that the next generation will have a better understanding of the concept of equality, in that difference does not equate to inequality.

We welcome the Commission's intent to utilise the power of the media to engage and inform the public. We would particularly appreciate the Commission being represented on current affairs programmes to disseminate awareness of equalities/human rights issues. We also welcome the fact that the Commission seeks to establish partnerships at the local level with NGO's hopefully to endorse the vital work of such groups, and as a means for the CEHR to maintain contact with 'real life' instances of discrimination, which should feed into and influence policy and decision-making processes within its own sphere and beyond. We would also like to see the Commission endorsing new initiatives that seek to empower communities disadvantaged by discrimination and inequality.

The Commission should seek to engage with their constituencies in celebratory spaces, such as at local festivals and culturally specific celebrations. These can be both community focussed and/or borough created. The Commission should also promote and participate in national events, for example at the annual Black History Month, International Women's Day, Pride etc. This would be an ideal platform to raise awareness of the role of the Commission, to advise individuals/communities of their rights and to promote the ideals of an inclusive, diverse, meritocracy.

The Lilith Project fervently adheres to the notion that in order to eliminate discrimination, policy makers must address the inter-related nature of exclusion, oppression and inequality within society. In terms of gender-related discrimination, the Commission will need to challenge issues such as the ongoing gender pay-gap that exists in both private industry and public sector work sphere; the glass-ceiling



prohibiting the promotion of women in the world of employment; the underlying causes of domestic violence (CJS, housing, education, support provision, access to benefits etc); being pro-active in challenging societal complicity/acceptance of other forms of gender violence such as rape, gang-rapes, childhood sexual abuse, forced marriages, sexual exploitation of women and girls (pornography, prostitution and domestic slavery); and the inter-connection between the various forms of discrimination (race/gender/marital status/age/sexual orientation/class/disability/other status) that further serves to disempower, undermine and undervalue the role of women and girls in our society.

Q4. We would welcome comments on the strategies for working with individuals, businesses and the public sector that are set out in this chapter.

Individuals that experience discrimination as well as those individuals that witness discrimination within the workplace should feel confident in using the complaints procedure – this may necessitate a raft of measures to empower prospective complainants, including a **confidential** help line service to be made available to prospective complainants. In addition, individuals that have been victimised should also have the opportunity to access affordable therapeutic counselling provision that addresses the psychological trauma often associated with various forms of discrimination victimisation.

CEHR's communication channels should be designed in a discrete manner so that individuals do not face any additional stress when trying to access information (e.g. the website should have an escape/panic button allowing visitors to switch to a more innocuous page if they deem it necessary). Information should also be made available for individuals using websites on how to delete pages from their history as with domestic violence information.

We welcome the government's commitment to ensure that the Commission works in partnership with specialist organisations such as Citizens Advice Bureau (CAB), the Advisory, Conciliation and Arbitration Service (ACAS) and Parent Partnership Services. We also welcome the Commission's intention to support front-line advisors from these partner organisations through the establishment of a second-tier support service within the Commission. However, with the incorporation into domestic law of the various EU equality directives, and the increase in workload that this may have for CAB's (let alone much smaller NGO's), we would encourage the Commission to identify additional methods of supporting key frontline service providers (e.g. recruiting and training of volunteers to support NGO's in equalities law and providing free training sessions for organisations providing support to individuals that have experienced discrimination and the provision of relevant good practise policies and procedures, which can easily be adapted to particular workplaces).

Although we strongly adhere to the notion of developing partnerships across all sectors of business in order to raise awareness and establish consensus on equalities issues, we hope that as well as having an **“open, trusted and flexible dialogue with organisations in the private sector”** the CEHR will also ensure that the private sector is aware of the powers of enforcement at the Commission's disposal if business's go down the route of non-compliance; the CEHR should also



demonstrate its willingness to use its “**suite of legal tools**” to ensure that business/public sector understand that they are duty bound to be pro-active in the delivery of equality both as an employer and as a service provider. This would include employers devising strategies to promote the law, including employers’ obligations, under the raft of new legislation.

In terms of addressing violence against women we would encourage the Commission to combat notions of private/public gender discrimination, in that the former is often considered acceptable as it takes place behind closed doors. To this end, we would urge the Commission to closely scrutinise legal processes for the purposes of monitoring and accountability, particularly around the rate of attrition in successfully prosecuting rape cases; to challenge biased practises and procedures; to engender understanding and positive change within key institutions about the impact of violence on the lives of women and girls (mental and physical health/poverty implications/life opportunities etc.); to carry out on site inspections around equality practices in the workplace; and to hold regular hearings/testimonials/witness days to maintain direct communication with individuals vulnerable to discrimination.

Q5. What other activities should the CEHR carry out at regional level? Is the mixed approach – contracts, partnerships and co-location – an appropriate way to develop the CEHR’s regional presence?

The Lilith Project believes that working at the regional level should enable the Commission to identify persistently offending companies / organisations with the aim of eliciting a speedy resolution in order to rectify the particular breach in the law. It would be extremely useful for the Commission to develop a ‘watch list’ for organisations that offend and do not adhere to the recommendations, or do not make changes. This should be made publicly available. The monitoring of cases in the CJS and through equalities legislation is vital; research into inequalities, particularly enduring inequalities; and networking with existing anti-discriminatory groups.

We also believe that NGO’s have a crucial role to play not just in terms of supporting oppressed individuals/communities, but also in terms of the expertise that reside within and across the NGO equalities field that should be utilised by the Commission. This would include ensuring that NGO representatives are well-placed within the policy forming, decision-making apparatus of the CEHR and that their role is not compromised in any form or manner (i.e. that they are able to maintain their credibility and independence, whilst influencing the development of the Commission).

*****END NOTE*****

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