

**Joint Committee on Human Rights
13th Report: Equality and Human
Rights Commission**

**Equality and Human Rights
Commission Response**

July 2010

1. Introduction

The Equality and Human Rights Commission (the Commission) welcomes the opportunity to respond to the 13th report of the Joint Committee on Human Rights (JCHR or the Committee), entitled Equality and Human Rights Commission.

The JCHR report has provided the Commission with an opportunity to reflect on its performance as a National Human Rights Institution, building on its strengths and addressing areas for development. To ensure that the comments and recommendations of the JCHR are reflected in their totality, this response is divided into the three thematic areas that the Committee focused on with respect to the work of the Commission. These areas are:

1. Our human rights work (recommendations 1 and 2).
2. Our plans for action (recommendations 3 and 4).
3. Perceptions of the role and actions of the Board and Chair (recommendations 5, 10 and 11).

Each of these areas will be discussed in turn.

Our response will not focus on the following areas, as those are respectively outside the remit, powers or authority of the Commission:

- The political representation of Commissioners on the Commission Board (recommendation 6).
- The reappointment process of the Chair and Deputy Chair in 2009 (recommendations 7, 8 and 13).
- The recommendation to inform the appropriate select committees when the holder of a post subject to a pre-appointment hearing is re-appointed (recommendation 9).
- The sponsorship arrangement of the Commission (recommendation 12).

2. The human rights remit and work of the Commission

JCHR comments and recommendations

1. We agree with the main findings of the EHRC's human rights inquiry. As several of our previous inquiries have concluded, embedding a culture of human rights in public authorities in the UK would drive service improvements which would benefit people who use them. The Commission has a major role to play in leading this process. Our concern is with whether the EHRC is doing enough to devise and disseminate a culture of respect for human rights in public authorities, the main aim our predecessors identified for the Commission. (Paragraph 15)

2. The publication of a human rights strategy is evidence that the EHRC is seeking to approach its responsibilities for human rights matters on a more systematic basis than hitherto; but, in our view, the Commission is not yet fulfilling the human rights mandate set out in the Equality Act. (Paragraph 26)

The Commission welcomed the Committee's recognition that the Commission was 'seeking to approach its responsibilities for human rights matters on a more systematic basis'. We believe we have made real progress over the last year, while being committed to continue striving hard to improve both our performance and the perceptions of stakeholders.

Internal arrangements for delivery

Following publication of the Commission's Human Rights Inquiry in June 2009, a dedicated human rights team was created to implement the recommendations of the inquiry and to ensure that human rights are mainstreamed across the Commission. The role of this team is to oversee the development and delivery of strategy and work plans on human rights and to build the capacity of the Commission as a National Human Rights Institution, working closely with teams across the organisation. This team is composed of:

- Lead Commissioner, Geraldine Van Bueren
- Group director (Legal) as Senior Responsible Officer, John Wadham

- Director of Human Rights, Neil Crowther (level 6)
- Programme Head of Human Rights (level 5)
- Programme Head of European and International Policy (level 5)
- Programme Head, seconded to the human rights team (level 5)
- Policy Manager (level 4), with responsibility for European and International Work

In addition to the team, a high level cross-directorate human rights strategy group has been instituted to:

- help ensure effective delivery of the human rights content of the Commission's 2010-11 business plan.
- drive organisational development as a National Human Rights Institution (NHRI), and
- define and develop our future strategy and plans on human rights, including redefining our vision and setting clear targets and outcomes, deliverables and actions, to contribute both to the development of the 2011-12 plans and the Board's deliberations on longer term strategy.

In addition, a Human Rights Delivery Board, involving staff working on human rights projects across the Commission, meets once a month to discuss implementation of the Commission's work plans.

Fulfilling the Commission's human rights mandate

The remit of the Commission is set out in the Equality Act 2006 as follows:

The Commission shall exercise its functions (...) with a view to encouraging and supporting the development of a society in which:

- people's ability to achieve their potential is not limited by prejudice or discrimination
- there is respect for and protection of each individual's human rights
- there is respect for the dignity and worth of each individual
- each individual has an equal opportunity to participate in society, and
- there is mutual respect between groups based on understanding and valuing of diversity and on shared respect for equality and human rights.¹

¹ s.3.

The specific human rights duty encompasses the protection and promotion of human rights, as envisaged in the Paris Principles:

The Commission shall, by exercising the powers conferred by this Part:

- (a) promote understanding of the importance of human rights
- (b) encourage good practice in relation to human rights
- (c) promote awareness, understanding and protection of human rights, and
- (d) encourage public authorities to comply with Section 6 of the Human Rights Act 1998 (c.42) (compliance with Convention rights).²

The Commission is also required to take into account 'any relevant human rights' when fulfilling its duty under Sections 8 and 10 of the Act (which relate specifically to equality and diversity and to good relations between members of different groups).³

The specific powers listed in the Act which may be exercised with reference to the Commission's duty to promote and protect human rights are:

- a) to advise central government about the effectiveness of any of the equality or human rights enactments, or to recommend their amendment, repeal or consolidation⁴
- b) to advise government about the effect of an enactment, or the likely effect of a proposed change in the law⁵
- c) to publish or otherwise disseminate ideas or information⁶
- d) to undertake research⁷
- e) to provide education or training⁸
- f) to give advice and guidance (about the law or otherwise)⁹
- g) to conduct an inquiry¹⁰
- h) to make grants¹¹

² s.9(1).

³ s.9(4).

⁴ s.11(2) (a) and (b).

⁵ s.11 (2) (c) and (d).

⁶ s.13(1)(a).

⁷ s.13(1)(b).

⁸ s.13(1)(c).

⁹ s.13(1)(d).

¹⁰ s.16(1).

¹¹ s.17.

- i) to cooperate with persons interested in human rights within the United Kingdom or elsewhere¹², and
- j) to institute or intervene in legal proceedings, whether for judicial review or otherwise, if it appears to the Commission that the proceedings are relevant to a matter in connection with which the Commission has a function.¹³ In bringing a claim for a violation of human rights under the 1998 Act, the usual requirement for the Claimant to be a 'victim' is disapplied.¹⁴

The last year has seen a significant expansion in the human rights work undertaken by the Commission. Human rights work is mainstreamed across the organisation and is undertaken in every directorate of the Commission.

By way of example, since January 2010 the Commission has undertaken or commenced the following actions and activities:

- A submission to the Human Rights Council in response to the joint study on secret detention of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances.
- Intervention into the case of *R(Smith) v Secretary of State for Defence and another*, in which the Supreme Court confirmed that the Ministry of Defence must hold a proper inquest into the death of one of its officers who died seven years ago from heat exhaustion in Iraq.
- Challenging the government on more than 20 allegations that the government knew of, and was complicit in, the torture of Britons being held abroad, and called for an independent review to investigate. The new government has subsequently decided to hold an inquiry into these allegations, to be led by William Hague.
- An in-depth inquiry into human trafficking in Scotland with a particular focus on commercial sexual exploitation. The inquiry, led by Baroness Helena Kennedy QC, will seek to identify the nature, extent and causes of human trafficking in Scotland, and will assess to what extent Scotland is meeting international and

¹² s.18.
¹³ s.30.
¹⁴ s.30(3)(a).

domestic human rights obligations to prevent and prohibit trafficking, prosecute traffickers and protect its victims.

- Influencing the government in relation to serious privacy concerns about the introduction of bodyscanners at international airports.
- Legal and policy work about the DNA retention regime currently being operated by police forces in the UK in violation of a decision of the European Court of Human Rights (ECtHR).¹⁵
- Legal interventions in both the domestic court of appeal and in the ECtHR on compliance with the investigative duty under Article 3 ECtHR following police use of electroshock weapons ('Tasers' or 'stun guns').¹⁶
- Engaging with the ECtHR, including an intervention on the disenfranchisement of prisoners, in violation of an earlier decision of the ECtHR.¹⁷
- Legal interventions in domestic cases about allegations of abuse by UK troops in Iraq, and allegations of complicity in torture by UK intelligence and security personnel in Pakistan.
- A legal intervention in the ECtHR in a case concerning allocation of housing to people whose entitlement to it rests on a relationship with a dependent who is subject to immigration control¹⁸ and two other ECtHR applications against the UK.
- A s.16 inquiry into the actions of public authorities to address the harassment of disabled people

In addition to those new pieces of work, the Commission has demonstrated over the past 18 months that it is able to exercise its mandate independently across a broad spectrum of its remit, including:

- campaigning to protect the human rights of people living in privately run care homes. Our work helped to secure recognition in the 2008 Health and Social Care Act that such organisations should be considered to be public authorities under the Human Rights Act
- working successfully towards ratification by the UK of the United Nations Convention on the Rights of People with Disabilities with minimal reservations

¹⁵ S and Marper v the UK (Application Nos 30562/04 and 30566/04).

¹⁶ Fox v the UK (Application no 61319/09) and Morrison v IPCC ([2009] EWHC 2589).

¹⁷ Hirst (No.2) v the UK (Application no. 74025/01).

¹⁸ Bah v the UK (application number 56328/07).

and chosen to chair the European Group of NHRIs' working group on the Convention

- staging a major debate in which the principal spokespeople for all the political parties outlined their proposals for the Human Rights Act and potential Bill of Rights. For the debate we produced a comprehensive response to the government's Green Paper on a Bill of Rights and a research report on the best practice principles for developing any Bill of Rights. A central part of this was the launch of the Commission's stance on the proposed Bill of Rights, namely our total commitment to the protections in the Human Rights Act, a complete opposition to resiling on any element of the Act, and a desire to see the protections afforded by the Act actually extended, a position set out in an article by the Commission's Chairman in the *Guardian* newspaper on 1 March 2010
- hosting a Human Rights Summit in Wales in March 2008, bringing together service providers and users to find ways of placing dignity and respect at the heart of public services, and holding a subsequent follow-up summit in July 2009, building on the findings of the Human Rights Inquiry. Both had over 150 delegates, and
- working in partnership with the British Institute of Human Rights to look at the applicability of the Human Rights Act to poverty, working with civil society and non-governmental organisations (NGOs) to examine the potential of using the Act to address issues such as homelessness, the marginalisation of Traveller communities and the reintegration of offenders into mainstream society.

The following are examples of the work we have carried out across different directorates since October 2007. While this is not a definitive picture of all that we have done on human rights, it does give an indicative look at the range of projects we are undertaking across our mandate areas.

Parliamentary

The Commission engages in a number of ways with the parliamentary process, for example by responding to consultations, giving evidence to parliamentary committees, and liaising with individual legislators and with experts servicing parliamentary committees, and it has made submissions or otherwise expressed positions (for instance in the media) on proposed legislation in a variety of areas.

The Commission actively raised its concerns and set out its policy priorities through the briefing process to parliamentarians on the following pieces of legislation during the 2009-10 parliamentary session (October 2009–April 2010):

- Child Poverty Bill – provides for a statutory duty to eradicate child poverty in the UK by 2020. The Commission briefed strongly in support of the Bill during its passage through parliament. We tabled amendments and successfully called for a commitment from government to consult with groups who are under-represented - such as looked-after children, children in the criminal justice system, refugees and asylum seekers, Gypsies and Travellers - when drafting the UK poverty strategy. We also tabled amendments that would extend provisions to cover children in care and children affected by the immigration and asylum systems. Our successful strategy here was to use a human rights-based approach ourselves to persuade the government to change the Bill and to place an obligation on the government to consult directly with children (in other words to involve children themselves, rather than just consult with organisations representing children).
- Children’s Rights Bill (Private Members’ Bill) - enshrines into UK law the UN Convention on the Rights of the Child (UNCRC). The Commission strongly welcomed the opportunity to debate children’s rights and how best to incorporate the UNCRC and recommended that the government consult on and consider incorporation of the best interests principle.
- Crime and Security Bill – contains a range of policing, crime and security measures, including provisions to reform the national DNA database. We briefed in support of measures that would reduce reporting requirements for police stop and searches and also supported provisions for Domestic Violence Protection Notices. We raised serious concerns about proposals for the national DNA database and supported in principle amendments that sought to reduce the length of time DNA profiles were kept on databases for people not convicted of a crime.
- Equality Bill - simplifies, strengthens and advances existing equality legislation. The Commission worked closely with government, parliament and stakeholders to build a new framework for equality legislation. In particular, we successfully made the case for many key provisions to be retained in the final Act, including: positive action, socio-economic duty, elimination of unfair age discrimination in

the provision of goods, facilities and services, and extension of the Public Sector Equality Duty to all protected strands (see above).

- Persons Care at Home Bill - extends free personal care to those with most critical needs. The Commission welcomed the government commitment to free personal care and highlighted the role of care and support in promoting human rights, equality and good relations.

The Commission also briefed on the following pieces of legislation, which extend from the 2008-09 parliamentary session, from May 2009 onwards:

- Borders, Citizenship and Immigration Bill – amends the law on immigration, asylum and nationality. The Commission highlighted significant human rights concerns with proposals for probationary/earned citizenship.
- Coroners and Justice Bill – makes provisions to reform laws relating to coroners and inquests and incitement to hatred. The Commission raised significant human rights concerns over proposals for certified inquests and witness anonymity. We also supported provisions to extend protection against incitement to hatred on grounds of sexual orientation.
- Welfare Reform Bill – provisions to reform the welfare and benefit system. The Commission briefed in support of provisions, in particular the right to control for disabled people and access to flexible work for all to help enable individuals to both enter and remain in paid employment.

During the 2009-10 parliamentary session, the Commission submitted detailed evidence to the following parliamentary committee inquiries:

- Children, Schools and Families Committee – we provided written evidence to the inquiry into young people not in education, employment or training (January 2010).
- Home Affairs Committee – we provided a submission to the inquiry into counter-terrorism measures in British airports (February 2010) and written evidence to the inquiry into the national DNA database (January 2010).
- Joint Committee on Human Rights – we provided written evidence to legislative scrutiny priorities 2010 (January 2010), written and oral evidence to the

Commission's human rights work (November 2009) and written and oral evidence to the inquiry on business and human rights (June 2009).

- Work and Pensions Committee - we provided written evidence to the inquiry on the Local Housing Allowance (February 2010), written and oral evidence on the Commission's Working Better project (October/November 2009), and written evidence to the inquiry on child poverty (May 2009).

Legal cases

The Commission frequently uses its legal powers to challenge actions of the executive or administration that it believes may lead to a human rights violation.

The majority of the human rights cases the Commission has been involved in have been third-party interventions. We do not currently have the power to fund claims or represent claimants in litigation which raises only human rights issues – though we can do so where issues under the equality enactments are raised as well, as in a case we have supported about the racial discrimination and the right to a fair trial in cases concerning national security.

Our most notable human rights interventions in the domestic courts in 2009-10 have been:

- *R(B) v Director of Public Prosecutions* [2009] EWHC 106. A case challenging the decision to discontinue a prosecution of an assault on the basis that the victim's reliability as a witness was undermined by his mental health. The court found that the victim's human rights had been breached.
- *Catholic Care (Diocese of Leeds) v Charity Commission*. Heard in March 2010, the High Court agreed with our submission that the Charity Commission is a public body and when it is considering registration of a charity it must take into account its human right obligations, in this case Article 14 read with Article 12 in respect of a charity that sought to discriminate on the grounds of sexual orientation.
- *Weaver v London and Quadrant Housing* [2009] EWCA Civ 587. A case which resolved the question of whether housing associations (Registered Social Landlords) are hybrid public authorities and therefore subject to obligations under the Human Rights Act.

- G v The governors of X school and Y Local Authority, EHRC and Secretary of State intervening [2010] EWCA Civ 1. A case asserting the right to a fair trial (specifically the right to legal representation) in employment disciplinary proceedings where the consequences of dismissal extend far beyond the immediate employment context, for instance, where the result could entail losing a professional entitlement to practice, or being banned from a particular line of work.
- Al-Saadoon and Mufdhi v the UK (Application no 61498/08). A case in the European Court of Human Rights (ECtHR) challenging the government's transfer of two Iraqi suspects to Iraqi jurisdiction in violation of an order ('interim measures') of the ECtHR. In its judgment, the ECtHR found that the government's arrest and detention of the men violated their rights under Articles 3, 13 and 34 of the European Convention on Human Rights (ECHR). The ECtHR criticised the government for failing to take all reasonable steps to comply with its interim order and to obtain assurance from the Iraqi authorities that the men would not face the death penalty. The Commission had submitted to the Court that where Britain's international law obligations conflict with their obligations under the ECHR, human rights considerations should prevail. The ECtHR agreed, confirming that human rights considerations are paramount in cases such as this and that 'it is not open to a Contracting State to enter into an agreement with another state which conflicts with its obligations under the Convention'.

In the last three periods (October 2008-March 2009, April 2009-September 2009 and October 2009-March 2010), the breakdown by strand of third-party interventions is:

- Human Rights (15 cases)
- Human Rights/housing (3 cases)
- Disability (6 cases)
- Disability / housing (1 case)
- Religion / belief (4 cases)
- Age (1 case)
- Sexual orientation (1 case)
- Equality duties (2 cases)
- Multi strand (2 race / human rights)

- Gender (3 cases comprising: 1 x pay linked to length of service; 1 x victimisation; 1 x transgender)
- Race (2 cases)

Section 16 inquiries

Since the Commission began in October 2007, we have undertaken several ground breaking inquiries using our powers under section 16 of the Equality Act 2006, examine human rights violations in Great Britain, and proposing challenging recommendations to ensure all individuals are experience the highest levels of human rights protection. The inquiries include:

- Human Rights Inquiry
- Inquiry into the Meat and Poultry Processing Sectors
- Inquiry into Human Trafficking in Scotland
- Inquiry into Harassment of Disabled People

Further, we are currently scoping an additional inquiry into the human rights of older people receiving or seeking home-based care and support, an area where human rights violations are known to exist. These inquiries, using our unique legal powers, are a powerful way of exposing systematic human rights violations, and setting recommendations that must be taken into account. While the detailed terms of reference and findings of each inquiry is too lengthy to report here, further information and final reports can be found on our website.

Foresight and research

The Commission, in partnership with the Scottish Human Rights Commission, is developing a Human Rights Measurement Framework. The framework will measure compliance with and progress towards implementation of the domestic and international human rights framework, and an initial report will be published in January 2011.

Promoting and enforcing human rights

The Commission has and is developing a broad programme of work to promote and enforce both compliance with human rights statute and good practice across the public, private and voluntary sectors including:

- Building on the actions set out for the Commission in our Human Rights Inquiry (HRI), including the development of a good practice observatory to identify and encourage good practice in the protection and promotion of human rights in the provision of public services.
- Developing and implementing a regulatory strategy to ensure a proportionate approach to minimising the impact of spending cuts on vulnerable and marginalised groups, and actively support public sector leaders to make fair spending decisions.
- Develop partnerships with key inspectorates and regulators in areas of health and social care, policing and schools to embed equality and human rights into regulatory frameworks and professional standards.
- Developing and implementing a strategy aimed at tackling targeted violence and harassment against at-risk communities, including developing an end-to-end regulatory approach that will help tackle violence against women and girls (VAWG). This will include completion of Map of Needs, a model of the level of need for VAWG services across Britain.
- Improving young people's access to and knowledge of equality and human rights by commissioning a project to embed a human rights culture in schools and provide teachers with resources to improve understanding of and respect for human rights among children and young people.
- Conducting research to review the jurisprudence about equality and human rights related to religion and belief to ensure individuals understand their legal rights and redress misunderstanding about the law.
- Establishing the Commission's position on balancing competing human rights conflicts through research, expert and stakeholder engagement and partnerships.
- Continuing to increase the capacity and capability of intermediaries to provide advice and guidance on equality and human rights through our grant-funding programme, and extend the programme of transfer of expertise by working in partnership with other advice providers.
- Co-producing guidance with the Tenants Services Authority on the human rights obligations of Registered Social Landlords in the management and allocation of social housing stock.

One of our key human rights projects for 2010 is a partnership project with the British Institute of Human Rights to evaluate the impact of using a human rights-based

approach to help people experiencing poverty and improve services provided to them. We are evaluating the impact by supporting six London-based voluntary and community sector organisations that are working with and for people facing poverty or social injustice. The six participating organisations are: Housing Justice, Irish Traveller Movement in Britain, London Refugee Voice, Pecan, Praxis and Women in Prison. The support aims to help these organisations use human rights to strengthen their voice and influence with national and local policy-makers.

In the context of our promotional work, the Commission also works closely with regulators and inspectorates to promote human rights. We co-chair the Inspectorates and Regulators Forum on Human Rights with the Ministry of Justice (MoJ), sharing good practice, ideas and issues across the regulatory spectrum and developing further commitment and understanding among inspectorates and regulators regarding the value and practical application of the human rights approach to regulatory activity, including inspections and complaints handling. We are following up on the work undertaken with inspectorates and regulators in the Human Rights Inquiry which called for sector-specific guidance about the benefits of a human rights approach. In addition, we are developing a number of different working arrangements with inspectorates and regulators concerning equality and human rights to assist all parties to conduct their regulatory activities in a manner which is consistent, transparent, accountable and proportionate, focusing on service user experience and outcomes. We have entered into a Memorandum of Understanding with the Care Quality Commission (the main inspectorate for health and social care) which commits both organisations to working collaboratively on areas of joint concern. Other agreements are being negotiated with a range of different regulators which cover the police, hospitals and immigration sectors.

International work

The Commission has a dedicated International Team which leads on our engagement with the United Nations (UN) system, and operates a system of matrix working whereby staff members from each of our directorates contribute to our international work. For instance for each of the UN human rights treaties the UK has signed, we have appointed a dedicated treaty lead who convenes a team from across the Commission's directorates and regions to ensure that treaty work is both

ongoing between periodic examinations, and also integrated as much as possible into our everyday work.

We are proud of our achievements in the international domain. Since our accreditation as a National Human Rights Institution (NHRI) recognised by the UN, we:

- have engaged with the UN Treaty Bodies each time the UK has been examined under its international obligations – submitting four shadow reports to date and attending all state examinations
- have participated in every session of the Human Rights Council (HRC): since our accreditation we have submitted several written statements, made two oral submissions and organised a side event
- were one of only a handful of NHRIs present at the first meeting of the newest UN Treaty Body with responsibility for the UN Convention on the Rights of Persons with Disabilities (UNCPRD), where we delivered an oral statement, and at the Conference of State Parties for UNCPRD, where we spoke at the International Co-ordinating Committee of National Human Rights Institutions (ICC) side event
- participated in every session of the ICC, the UN European regional human rights meeting, the Durban Review Conference, the EU Fundamental Rights Conference and several EU Fundamental Rights Agency (FRA) conferences and events
- have been selected to chair the European Group of NHRIs (the Eurogroup) working group on UNCPRD
- intervened in 10 international human rights cases at the ECtHR, and
- hosted its first side event at the Human Rights Council. Entitled ‘Putting People First: The story of human rights in Britain’, the focus of this event was to share the findings from our HRI and our experience in using the inquiry process to assess progress towards the effectiveness and enjoyment of a human rights culture in Great Britain.

Since the Commission started work in October 2007, the UK has been examined by the UN under the following four treaties:

- CEDAW: UK examined July 2008.
- ICCPR: UK examined July 2008.
- CRC: UK examined September 2008.
- ICESCR: UK examined May 2009.

In each case, the Commission submitted a shadow report to the UN, coordinated with civil society and other stakeholders, and briefed the relevant UN Treaty Body. Since then we have been undertaking work to promote the Concluding Observations issued by the Treaty Bodies.

The Commission has set up internal working groups for each of the treaties to ensure that our work is not confined to submitting shadow reports at periodic intervals, and rather that the treaties become a core part of our human rights work in order to ensure that we use every possible opportunity to promote and use the treaties and the optional protocols.

Communications

Following on from the findings of the Human Rights Inquiry, which illustrated that many individuals and organisations did not see the relevance of human rights to their everyday lives, we aim to illustrate how respect for human rights and human rights principles can make a real, tangible difference in service delivery, public sector efficiency and, ultimately, people's lives.

To this end, we have developed a robust communications strategy to illustrate the importance of human rights and the value it adds to public sector service delivery, tackle myths and misconceptions about human rights, and work with parliamentarians and stakeholders to defend and strengthen human rights protection. Our communications strategy aims to:

- promote awareness, understanding and respect for human rights among decision-makers, public service providers, the media and key segments of the general public
- position the Commission as a leading and credible authority and source of information and guidance on human rights issues in Great Britain, and
- translate human rights principles into everyday practice and behaviours.

To achieve these aims, we are:

- instituting a rebuttal and ‘myth-busting’ mechanism as part of a wider strategy to promote an accurate portrayal of the Human Rights Act
- engaging with parliamentarians on human rights issues
- influencing the legislative agenda through the active promotion of human rights
- working closely with key stakeholders to develop and strengthen support and understanding of human rights in the voluntary sector
- engaging with key public sector representatives to build awareness and capacity of human rights as it relates to their work, and
- developing and disseminating good practice and guidance for the public sector, advocates and individuals on using and applying human rights to their everyday lives.

The Commission’s website is another important tool for increasing public awareness of human rights. It contains material targeted at the general public on the value of human rights, such as our publication *Ours to Own: Understanding human rights* and *Dignity Drive*, a simple interactive guide to the Human Rights Act.

Regional outreach

As part of our work to make human rights relevant to those at the grass roots, our regional teams regularly hold events, either one-off or as part of a series, with various audiences aimed at promoting understanding of human rights and their importance, increasing public knowledge of domestic and international human rights protections, and ensuring that our key messages (opinions and recommendations) reach as wide an audience as possible. Some examples of these include:

- In the Yorkshire and Humber region, we commissioned a six-month capacity development project which aimed to empower and build the confidence of the voluntary and community sector to address inequality and discrimination by using the Human Rights Act to ensure that individuals have appropriate access to services and that their rights are met. The project was delivered by JUST West Yorkshire in partnership with the British Institute of Human Rights. Six training sessions were delivered in Hull, York, Leeds, Bradford, Rotherham and Sheffield. The training sessions looked at the practical application of human rights in

relation to race, disabled people, youth, transgender and women. The training sessions were delivered to a total of 84 attendees from a range of voluntary and community sector organisations working across different equality areas. The training sessions received very positive feedback from the attendees.

- In March 2009 our regional team in the South East worked with Aik Saath Youth Group and Slough Age Concern to deliver a workshop to raise awareness about human rights and explore how they operated in people's day-to-day lives. This workshop was filmed and the media clip was shown at a SERFA (South East Regional Forum on Aging) conference, also in March 2009.
- In June 2009 our South East team presented at Hampshire Equalities Conference and promoted the findings of the Human Rights Inquiry. We played the Commission's video clip on Knights Enham Junior School to attendees (this Hampshire school being the first in the world to be awarded a UNICEF level 2 rights-respecting school award). At the second roundtable of the network on 15 March 2010, representatives of 34 public agencies and NGOs met to further develop such terms of reference, as well as discuss recommendations for a joint strategy for the prevention of trafficking in human beings for the purpose of sexual exploitation and for forced labour in relation to the 2012 Games.

3. The EHRC Human Rights Strategy

JCHR comments and recommendations

3. We agree entirely with the strong criticisms of the human rights Minister that the EHRC's human rights strategy is 'too full of aspiration and too light on what I would call concrete goals that can be delivered within a specified time frame'. (Paragraph 27)

4. An important next step will be for the human rights strategy to be redrafted to make it, as the Minister said, less aspirational and more concrete. We recommend that the EHRC redraft its human rights strategy so that it is more focused and includes timescales, milestones and indicators of success. A revised strategy should clarify how a standalone human rights strategy relates to the EHRC's overall strategy for 2009-12. The Commission should ask for public views on the existing strategy now and aim to launch its revised strategy later in 2010. (Paragraph 28)

The Commission welcomes the Committee's feedback on our human rights strategy. Following publication of the Commission's Human Rights Inquiry, which was finalised after the Commission had agreed its 2009-12 strategic plan, the Commission felt it would be important to articulate how it proposed to respond to its findings and recommendations. The Human Rights Strategy was intended as an addendum to the Commission's strategic plan, to be integrated into it via the Commission's cyclical business planning process.

The purpose of the strategy was to share the Commission's vision of human rights and illustrate broadly how we would be taking that forward. It was not designed as a comprehensive statement of all human rights work taking place in the Commission, but to give an indication of the context of human rights in our work, setting out our priority areas and illustrating how the recommendations from the inquiry would be taken forward.

As one of our core planning documents, the business plan 2010/11 has integrated the Commission's work across all three of its remit areas (equality, human rights and

good relations) into a single, coherent narrative. We have ensured that it translates the vision and aspirations of the Commission with respect to human rights into tangible deliverables with specific time lines. Human rights are mainstreamed through all five strategic priority areas, with explicit human rights-focused projects and actions in each of these areas. A summary of our human rights 2010-11 work plan, set in the context of the Commission's overall strategic plan, is included in the Appendix.

The Commission is now beginning to develop its next three-year corporate strategy, through which we will identify and articulate SMART objectives, goals and targets concerning human rights, involving and engaging stakeholders in its development.

For the above reasons, the Commission does not therefore propose to redraft the human rights strategy published in November 2009 as recommended by the Committee.

4. The internal functioning of the Commission

JCHR comments and recommendations

5. In our view, merging three equality bodies and developing a strong corporate Board for the new body, making use of the expertise and talents of all Commissioners, are challenging tasks and we conclude that in the early years of the EHRC's existence this was not done successfully, for which the Chair must bear responsibility. (Paragraph 48)

10. The recruitment of Dr Brewer's successor appears to have proceeded at a leisurely pace even before the government's late intervention to query the salary expectations of candidates led to the competition being suspended, apparently until after the next Budget. There is every possibility that the post will have to be re-advertised and that the appointment of a new Chief Executive will be further delayed. It is unacceptable for a body of the size and significance of the EHRC to operate without a permanent Chief Executive for as long as eight months and with there seemingly being no prospect of an appointment being made until much later in 2010, especially given the costly interim arrangements. (Paragraph 66)

11. We welcome the fact that Mr Phillips has now relinquished his controlling share in the Equate consultancy. It would appear, however, that it took some time before Mr Phillips was persuaded to take the action necessary to address the perception of a conflict of interest caused by his involvement with Equate. We regret that he did not terminate his involvement with Equate when the issue was first raised by Dr Brewer. We again suggest to Mr Phillips that his personal website should be amended to remove references to the Equate consultancy. (Paragraphs 76 and 77)

We welcome the JCHR's recognition that the merging of three equality bodies and the development a strong corporate board for the new body, making use of the expertise and talents of all Commissioners, was a challenging task. Making the first few months and years of the Commission a success took the leadership, dedication and commitment not just of the Chair and Board, but of the whole staff team. While

there may have been passionate and at times divisive discussions on issues in the past – as is to be expected when working on such a wide range of difficult issues as the Commission does – the Commission is committed to ensuring that there is a positive and collaborative spirit at every level in the organisation going forward.

We have been supported and guided in this endeavour by the leadership of our Director General Neil Kinghan. The Committee expressed concern about the pace of the recruitment for a new Chief Executive, and we agree with the Committee's conclusion that it is undesirable to operate over a long period without a permanent Chief Executive. The appointment by the Commission of a permanent Chief Executive as soon as possible is important for the longer-term stability of the organisation.

The Director General has made considerable progress in improving the accountability and management of the Commission. Following the end of his contract at the end of January 2010, his interim appointment was extended on a short-term basis to the end September 2010 at an annual equivalent rate of £150,000. Over the maximum expected period of his further employment (until end September 2010, see below), this represents a saving of 19% in salary from the previous Chief Executive, who was paid £185,000 a year. The Commission has been unable to proceed with the appointment of a new permanent Chief Executive as it would have wished. The first recruitment exercise, which began in July 2009, was terminated because the then government announced a review of top public sector pay after this exercise had started, which could have resulted in changes to the salary for the post. The second recruitment exercise, which began in May 2010, has been terminated at the request of the present government, pending the review of non-departmental public bodies, which the Cabinet Office has initiated, and the Spending Review. This has been particularly frustrating since both exercises looked likely to produce good fields of candidates but the Commission recognises that the Equality Act provides for the Secretary of State's consent to the appointment of its Chief Executive. The Commission will proceed with the appointment of a permanent Chief Executive as soon as it is able to do so.

We were pleased to have the Committee's recognition that Trevor Phillips has relinquished his controlling interests in the Equate organisation. Mr Phillips is

employed by the Commission on a part-time basis, an arrangement that was agreed by the government. His arrangement allows him to undertake activities during his non Commission time, subject to managing any conflict of interests. It is therefore reasonable, given his expertise, that he has an involvement in an organisation like Equate (a consultancy whose work included equality and diversity). In the light of legal advice, to avoid any perceived conflict of interest, the Chair resigned as Director and reduced his interest in Equate on 1 October 2008. He retains a minority shareholding (20%) in the company but he plays no part in directing the affairs of the company or in promoting its equality work to clients or potential clients. Further, references to the Equate organisation have been removed from his personal website.

5. Conclusion

While the 13th report of the JCHR looking into the internal functioning and external impact of the Commission was, in places, critical, we welcome having the opportunity to explore some of the lessons learned from and the chance to address the concerns of the Committee.

The Commission has learnt from past experiences as a Commission and we have become stronger for it. It is hoped that this account of our achievements and plans provides reassurance both to the Committee and those stakeholders who engaged with its inquiry into the Commission that we are fulfilling the mandate set out for us in the Equality Act 2006 and as a National Human Rights Institution. If the Committee would like any further information or background to any of the projects, work streams or cases mentioned above, or would like information on other work we are undertaking, we would be happy to provide it.

We have had a close working relationship with the JCHR, working in a complementary way, providing mutual support to shared areas of interest and ensuring that our agendas are aligned but not overlapping. We are looking forward to this close and positive relationship with the Committee continuing in the future.

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Appendix

Equality and Human Rights Commission human rights work plan for 2010-11: Summary

	Our strategic priorities	An effective legislative and regulatory framework for equality and human rights	Create a fairer Britain	Build a society without prejudice	Promote understanding and awareness of rights and duties	Build an authoritative and responsive organisation
Our human rights activities						
Promoting awareness, understanding and respect for human rights		<p>We will: Seek to provide a bridge between the UK parliament and the Human Rights Council, for example by facilitating an exchange trip for UK MPs to the UN in Geneva Chair the European Group of National Human Rights Institutions Working Group on UNCRPD</p>	<p>We will: Sponsor and/or participate in key trade events Identify and facilitate a network of human rights champions at the CEO or director level in key target organisations Utilise social networking sites including our Facebook and Twitter networks and others, eg</p>	<p>We will: Commission the development of teaching materials for schools on equality and human rights Seek to foster more accurate portrayal of human rights by the UK media, including via implementing a response mechanism to</p>	<p>We will: Publish practical guidance on the UNCRPD Publish practical guidance on the CEDAW optional protocol Launch Dignity Drive – an online educational tool for the general public</p>	<p>We will: Improve our capacity to offer advice and information on human rights via the Helpline, website, legal grants and Transfer of Expertise programme</p>

			<p>Pronurse.co.uk, Royal College of Nursing Facebook site</p> <p>Organise web banners on key public sector stakeholder websites</p> <p>Place articles in sector-specific media, eg health in <i>Health Service Journal</i> and <i>Nursing Times</i>; <i>Jane's Police Review</i></p>	<p>inaccurate stories about human rights, promoting responsible and accurate reporting among individual journalists and editors, providing or sponsoring a recognised professional development course or module on human rights and presence at media conferences and events, such as the NUJ annual conference</p> <p>Pilot and evaluate a project aimed at influencing public attitudes concerning human rights and the Human Rights Act</p>		
Translating human rights			We will: Continue to help			

<p>principles into practice across the public, private and third sectors</p>			<p>develop the role of regulators and inspectorates in protecting and promoting human rights through co-hosting with UK government a human rights and regulators forum Develop a good practice observatory to identify, evaluate - through action research where this is necessary to plug critical gaps - and disseminate good practice in human rights-based approaches across the public, private and voluntary sectors Work with key professional and trade associations/ unions in the areas of health and social care, policing and</p>			
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			<p>schools to promote human rights</p> <p>Co-produce guidance concerning the obligations of registered social landlords following the Weaver judgment</p> <p>Sit on the advisory board for the IDeA-led human rights in local government project</p> <p>Sit on the advisory board for the Department for Health/MacMillan Cancer-led project on a human rights-based approach to the cancer care pathway</p> <p>Develop a strategy on the private sector and human rights which takes forward recent work from the Ministry of Justice, the Joint</p>			
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			<p>Committee on Human Rights and the UN Special Representative on Business and Human Rights Encourage and support a multi-stakeholder dialogue on business and human rights in the UK with business, civil society and government</p> <p>Undertake research on the key human rights issues on which UK businesses have an impact</p>			
<p>Developing effective mechanisms for the measurement and monitoring of human rights compliance and performance</p>						<p>We will:</p> <ul style="list-style-type: none"> Complete and publish the Human Rights Measurement Framework Develop effective methodologies to monitor human rights violations and risks

<p>Creating greater top down and bottom up accountability for performance on human rights</p>		<p>We will: Develop a Treaty Monitoring Scorecard, regularly updated to keep track of the UK's compliance with its reporting commitments under all seven of the UN Human Rights Treaties Encourage government departments with lead responsibilities for UN human rights treaties to develop national action plans Submit a shadow report on the UN Convention on the Elimination of Racial Discrimination Submit a shadow report on the UN Convention Against Torture and other forms of</p>	<p>We will: Conduct a section 16 inquiry into the care and support of older people Work with the Care Quality Commission to develop its capacity to inspect providers of care and support for performance on human rights and share information where appropriate to do so Work with Her Majesty's Inspectorate of Constabulary to develop its capacity to inspect police forces' compliance with and performance on human rights and share information where appropriate to do so Use the</p>	<p>We will: Conduct a section 16 inquiry into Human Trafficking in Scotland Conduct a section 16 inquiry into the action of public authorities to eliminate the harassment of disabled people</p>	<p>We will: Fund projects to empower voluntary and community organisations to use human rights law and approaches to influence public authorities including: sponsoring a project on anti-poverty and human rights with BIHR and Oxfam; grant funding a project to develop the capacity of community-based organisations to use human rights approaches; funding a project to develop the awareness and understanding of human rights among national third-sector organisations</p>	<p>We will: Improve the Commission's performance as a regulator of human rights compliance and performance</p>
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		<p>inhuman or degrading treatment Identify through research, legal analysis and consultation priorities for the UK government's first report on the UN concerning implementation of the UN Convention on the Rights of Persons with Disabilities Develop action plans for the Commission's work on ICESCR, ICCPR and CRC including following up concluding observations, increasing citations of the Treaties in legal judgments and public policy development, and raising awareness among stakeholders</p>	<p>Commission's powers of judicial review to enforce compliance with s6 of the Human Rights Act</p>			
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		<p>Actively pursue action by government concerning human rights judgments made by the European Court of Human Rights, the European Court of Justice and 'declarations of incompatibility' issued by the domestic courts</p> <p>Submit statements to the Human Rights Council including on torture and violence against women</p>				
<p>Undertaking legal interventions to clarify or extend the reach of human rights law in both the domestic and European Courts and through supporting the use of Optional</p>		<p>We will: Publish and implement a legal strategy concerning human rights interventions</p>	<p>We will: Identify opportunities to promote human rights through enforcement of Equality Law, including the public sector equality duties</p>		<p>We will: Implement a strategy to promote the effective use of the Optional Protocols under CEDAW and CRPD Increase the capacity of advice agencies to</p>	

Protocols					provide support on human rights through the Commission's Legal Grants and Transfer of Expertise programmes	
Providing policy advice to government and others		<p>We will: Work to ensure any reform of domestic human rights law amounts to Human Rights Act plus and that processes for the development of legislative reform proposals meet standards of international best practice Engage fully with the development of the coalition government's proposed 'Freedom' or 'Great Repeal' Bill to restore civil liberties Complete a review</p>	<p>We will: Contribute to the Law Commission review of Community Care Law</p>			

		<p>of the impact of the counter-terrorism legislation on the human rights of ethnic minority groups in general, and the Muslim community in particular and make proposals for reform</p> <p>Complete and publish a review of how the right to privacy in the current social and political context might be at risk or further strengthened, making proposals for reform in consultation with government and other stakeholders</p> <p>Initiate an independent review concerning the most effective approach to protecting and promoting</p>				
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		<p>economic, social and cultural rights in Britain</p> <p>Contribute expertise and ideas to ongoing discussions at the Council of Europe about reform of the European Court of Human Rights – an urgent process if the right of individual petition is to endure in the future</p>				
<p>Improving organisational capability on human rights</p>						<p>We will:</p> <p>Ensure the Commission’s organisational review improves our capacity and performance as a National Human Rights Institution</p> <p>Identify and put in place steps to improve the Commission’s performance as both a regulator and National</p>

						Human Rights Institution Implement a programme of training and development for the Board, statutory Committee's and staff on human rights
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