

## PROFORMA FOR EHRC REFORM CONSULTATION RESPONSES

**The consultation closes on 15 June 2011.** Please let us have your response by that date.

When responding, it would be helpful if you could provide the following information.

Please fill in your name and address, or that of your organisation if relevant. You may withhold this information if you wish, but we will be unable to add your details to our database for future consultation exercises.

### Contact details:

Please supply details of who has completed this response.

Response completed by (name):

Position in organisation (if appropriate):

Name of organisation (if appropriate):

Address: www.respect.uk.net"/>

Contact phone number:

Contact e-mail address:

Date:

### Confidentiality

Under the Code of Practice on Open Government, any response will be made available to the public on request, unless respondents indicate that they wish their views to remain confidential. If you wish your response to remain confidential, please tick this box and say why. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

I would like my response to remain confidential (please tick if appropriate):

Please say why

In what capacity are you responding (please tick if appropriate)?

As an individual

On behalf of an organisation

As an employer

Other (please specify)

**Note:**

- In addition to the completed proforma, you can also send other supporting information if you so wish.

Completed forms should be e-mailed to the following address:-

[EHRC.reform@geo.gsi.gov.uk](mailto:EHRC.reform@geo.gsi.gov.uk)

If you are posting the form please send to:-

EHRC Reform Consultation Responses  
C/O Louise Sutton  
Government Equalities Office  
Zone G10, 9<sup>th</sup> Floor Eland House  
Bressenden Place  
London SW1E 5DU

Thank you for completing this response form.

**EHRC's core functions**

**PROPOSAL ONE – Repealing the General Duty**

**Question 1: Do you agree that Section 3 should be repealed?**

Please place a cross in the appropriate box

Agree  Disagree  Not sure

Please explain why -

Removing the general duty would mean that the UK has no independent body charged with the duty to promote the values, aims and functions the general duty currently requires the EHRC to promote. Creating another body to carry this duty (which is not proposed) would be an unnecessary creation of a parallel body, with unnecessary additional costs.

Promoting equality, challenging discrimination and creating opportunity for all are all important UK values in themselves and they also help to support other key features of UK society, such as tolerance, the rule of law and democracy. There can be no true democracy where there is discrimination. Tolerance does not simply exist – there would be no need for anti discrimination legislation if this were the case. Bigotry, hatred and prejudice continue to blight the lives of so many individuals in our country and reduce our capacity to perform as a nation whilst they are limited from contributing fully.

Prejudice and discrimination are two key features supporting violence and harassment. If we do not continue to tackle them we continue to support the conditions in which violence, suspicion, hatred and harassment flourish. One day perhaps we will have a society in which they are a long forgotten memory, For the time being, we still need the general duty on the EHRC as much as ever.

## PROPOSAL TWO – Amending the equalities duties at section 8 to clarify EHRC’s core equality functions

**Question 2: Do you agree that remodelling the duties at s.8 of the Equality Act 2006 to mirror the role and functions set out in para 1.9 of chapter 1 will help to focus EHRC on its core functions as an equality regulator? If not, what do you think EHRC’s core functions should be?**

Please place a cross in the appropriate box

Agree  Disagree  Unsure

Please explain why -

The question is based on a premise which we disagree with, that the EHRC should have its functions reduced to those in this set of proposals. As stated in the answer to the previous question and elsewhere in this response, we disagree that these functions should be reduced and the EHRC effectively reduced to the role of regulator.

The core functions should continue as they are, if anything they may need expanding. The performance of parts of the EHRC may well need improvement, but this does not justify removing some of those functions.

The EHRC should be encouraged to initiate more equalities impact assessments of government proposals, policies and legislation. It should continue to support legal funding in cases of discrimination, outside and beyond that provided by the Legal Aid scheme. The function of helpline, whilst it definitely needs greater publicity, should remain with the EHRC. Funding support for voluntary and community organisations on equalities should continue. This combination of functions is vital for all the parts to be effective. Without each element, others, including those which the government proposes retaining, are weakened. For example, without the provision to support VCS in equalities work and the information gleaned from the helpline, the EHRC’s ability to monitor and regulate equalities legislation is weakened and their ability to disseminate best practice to other organisations reduced.

**Question 3: Do you agree with our proposal to amend the section 12 duty so that it:**

**a) specifies the aims and outcomes which EHRC is required to monitor progress against; and**

**b) requires a report every five rather than three years, to tie into the Parliamentary cycle and enable reports to capture meaningful change over time?**

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Please place a cross in the appropriate box

Agree  Disagree  Not sure

Please explain why -

**PROPOSAL THREE – Supporting the EHRC to enhance its focus on human rights**

**Question 4: Do you agree that the proposals to focus the Commission on its core functions, as well as the measures set out in Chapter 3 to increase the Commission’s accountability for the its performance, will help the Commission fulfil its human rights remit? If not, what further changes do you suggest?**

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Please place a cross in the appropriate box

Agree  Disagree  Not sure

Please explain why -

## PROPOSAL FOUR – Removing the Commission’s good relations duty (section 10)

**Question 5: Do you agree that we should remove the Commission’s good relations function, and the associated power at section 19? If not, why not?**

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Please place a cross in the appropriate box

Agree  Disagree  Not sure

Please explain why -

IF there are concerns about the EHRC performance in these areas this can be tackled. It does not remove the need for this work and there appears to be no clear proposal to carry the work out elsewhere..

Without the good relations function, the capacity of the EHRC to support other organisations and to build an evidence base is severely weakened. When added to the proposal to remove funding for Social Action (elsewhere in this document) the overall effect will be a significant reduction in their ability to gather evidence and promote best practice.

**EHRC's Non-core activities**

**PROPOSAL FIVE – Repealing the Commission's power to make provision for conciliation services**

**Question 6: Do you think the Government should repeal the Commission's power to make provision for conciliation services, as part of the process of focussing the Commission on its core functions?**

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Please place a cross in the appropriate box

Agree  Disagree  Not sure

Please explain why -

The proposals imply that the conciliation services supported by the EHRC are duplicating those provided by the National Mediation Helpline. Conciliation and mediation are not the same thing. Comparing the two is like comparing apples and pears.

## PROPOSAL SIX – A new system for equality information, advice and support

**Question 7: Do you agree with the proposals set out to provide a new system of information, advice and support? If not, what changes to the system would you recommend?**

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Please place a cross in the appropriate box

Agree  Disagree  Not sure

Please explain why -

The helpline provides a direct link between live cases of discrimination and the EHRC. Without these, the ability of the EHRC to monitor implementation of equalities laws is reduced, their ability to identify cases which are in need of legal support is removed and their ability to develop and promote best practice in response to their knowledge of poor practice is also weakened. Removing this helpline function therefore reduces capacity to perform other EHRC functions.

The proposals state that the helpline is not well known – removing it from the EHRC does not remove the need to publicise the services better, it simply transfers that need elsewhere.

These proposals do not lay out clearly what the alternatives are and how they would be assessed for quality assurance, nor how they would link to other non governmental and governmental bodies. Simply stating that it would be citizen focused and cost effective is to state values which could just as easily applied to the EHRC helpline.

We therefore recommend that the helpline functions remain in the EHRC and that greater efforts are made by the EHRC to publicise the service.

**Question 8 What should a new citizen - focused, cost effective information and generalist advice service look like?**

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Please explain -

See above. The premise of the question is that there should be a new service, which we disagree with.

The helpline should be independent of government, business and other bodies. It should be cost free at the point of delivery to the people calling. It should be delivered by a non profit organisation. Above all, it should be provided by an organisation with considerable existing expertise in discrimination and equalities law, individual rights and corporate and other responsibilities. All of these requirements therefore point clearly to the functions remaining within the EHRC.

**Question 9: How can government best provide public education on discrimination and human rights, targeted on the most disadvantaged groups?**

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Please explain -

**Question 10: Is there anything that distinguishes discrimination cases from other cases eligible for civil legal aid that would justify further public funding for support?**

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Please explain-

These cases are about fundamental values which are intrinsic to the UK way of life and are therefore of wider importance than to the individual immediately affected. We all have a considerable part of our sense of national identity bound up with concepts of tolerance, rule of law and fairness. When these are allegedly broken in cases of discrimination, the harm is done both to the individual and to the wider society we all value. It also provides support for those who wish to discriminate against others if there is no action taken. In some cases, the legal situation is complicated, which would result in large fees for individuals not assessed as qualifying for civil legal aid. Simply having a complicated case of discrimination should not be a barrier to justice. This provision ensures that we are a society which understands this and agrees collectively to support provision to ensure that such barriers are removed.

Without this additional funding, outside civil legal aid, many cases would not be followed up. This would mean that a) our collective values would be eroded and undermined by the failure to tackle discrimination and unfairness; b) case law potentially arising from these cases would not be developed and c) some individuals would not have access to basic fundamental rights which they should be able to take for granted.

Of particular practical concern is the reductions in the development of case law on discrimination which would follow if the funding were reduced to that provided by civil legal aid only.

As there are already proposals elsewhere in government to reduce the overall costs of Legal Aid it is also unclear how this would be carried out.

**Question 11: Do you agree with the proposal for the Air Transport Users Council (AUC), part of the Civil Aviation Authority (CAA), to provide the complaints handling service for disabled passengers in the future? If not, why not?**

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Please place a cross in the appropriate box

Agree  Disagree  Not sure

Please explain why -

This is not our area of expertise, so we are not sure what is the best route to pursue. However, we strongly suspect that the concerns we have expressed elsewhere may also apply, that transferring specialist functions to other organisations without specialist knowledge will result in reduced capacity overall as a nation to tackle discrimination.

## **PROPOSAL SEVEN: Supporting Social Action**

**Question 12: How could the new Government funding stream most effectively support civil society organisations to promote equalities, human rights and tackle discrimination?**

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Please explain -

Once again, we do not agree with the premise of the question that there should be a new funding stream from within government for this function.

Independent funding from the EHRC should remain. If necessary there should be improvements to the way this is assessed, monitored and evaluated. However, for reasons already expressed in answers to other questions, we believe that this function of the EHRC is necessary to help support other EHRC functions. Furthermore it is arguable that the independence of the EHRC is also a critical part of the funding function. To bring this back into government reduces the capacity of organisations to apply for funding to carry out work which may potentially be critical of government. In a healthy democracy, governments should not be afraid of independently supported civil society work to promote equality and human rights. Allowing this funding to continue to be part of the EHRC strengthens the government's commitment to equality and human rights far more than bringing the function back within government.

**Achieving greater value for money and accountability**

**Question 13: Do you agree with our legislative proposals to increase the Commission's transparency, accountability, and value for money?**

Please place a cross in the appropriate box

Agree  Disagree  Not sure

Please explain why -

These are all important values and we agree that these are vital for any publicly funded body (and for many private bodies as well). If the government feels that the EHRC needs to improve their ability to fulfil and live by these values, these can be achieved through means other than removing most of their existing functions, particularly as there are significant gaps in the proposals about where they will be moved to or even if they will be transferred.

**Our approach to reform & next steps**

**Question 14: Do you agree with our approach of legislative and non-legislative reform?**

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Please place a cross in the appropriate box

Agree  Disagree  Not sure

Please explain why -

As we have already explained, we do not agree with significant parts of the proposals. We therefore cannot comment on the effectiveness of methods for implementing these proposals as we are not in favour of the majority of the proposals in any case.