

PROFORMA FOR EHRC REFORM CONSULTATION RESPONSES

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Question 1: Do you agree that Section 3 should be repealed?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

Runnymede has concerns regarding proposals to repeal the General Duty, many of which are expressed in the response submitted by the Equality and Diversity Forum (EDF), and which we have also signed. Throughout this submission, where there is crossover with the EDF response we refer to that document rather repeating the same arguments.

We appreciate that the budget reductions placed on the EHRC, combined with its under-delivery in some areas, has contributed to the view that the commission's focus needs to be altered.

However, we strongly believe that the General Duty's stipulation on the EHRC to exercise its functions *'with a view to encouraging and supporting the development of a society...'* where people's ability to achieve their potential is not limited by discrimination and prejudice, where there is respect for human rights and dignity, and mutual respect between groups, is an extremely important function.

Accountable and effective democratic government requires certain kinds of societies. Democracy is weakened where people generally do not hold to fundamental rights and where different groups do not interact as equals. In fact, a democratic government is obliged to defend and sustain these values if it is to have any legitimacy at all: citizens accept the state's exercise of power and monopoly on the use of force precisely because it defends those rights, and so democratic government must foster human rights and equal opportunities.

It is therefore vital that some part of the state should have a duty to support a society where people believe in human rights and equal opportunities. It is also important that this institution is independent of the government of the day. In our view, the EHRC should retain this duty. Just because it has not worked perfectly thus far does not mean that the General Duty is not worthwhile in of itself, and it does not mean that the EHRC will not be able to exercise it effectively in the future.

However if it is to be removed from its remit, we believe that it is important that the responsibilities of the duty should moved elsewhere within the government, rather than it be scrapped entirely.

The retention of the aims of the General Duty is currently of particular important to race as we believe there is an absence of work on race equality within the government. No department is currently “supporting the development of a society” free from racial discrimination or prejudice, nor does it appear likely that any will in the near future. The Department for Communities and Local Government (CLG), which has responsibility for race, has undertaken no substantial work on race equality since the 2010 election. It has instead decided to focus on integration by turning its race equality division into an integration division, and is currently preparing an integration strategy. No race equality strategy, as far as we are aware, is currently planned. We cannot state strongly enough that integration **is not** the same as race equality.

By removing the General Duty from the EHRC, one of the only governmental tools to encourage the development of a society free from racial discrimination and prejudice will be removed. We are not currently confident that this will be replaced, at least in relation to race, by CLG and therefore urge the government to either keep the duty at the EHRC or ensure that at least some of these necessary aspects of democratic government are made the responsibility of some other department or public body.

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 -

We have concerns regarding proposals to remodel the duties under Section 8 of the Equality Act 2006, and many of these concerns are outlined in the response submitted by EDF.

We would, however, particularly like to raise in particular the removal of “diversity” as part of the duty. Currently the Commission is required to

- “Promote understanding of the importance of equality and diversity”; and
- “Encourage good practice in relation to equality and diversity”

However, we are disappointed to see that under the key activities outlined under Proposal Two (p12) diversity is not included, and there is no substantial explanation for its omission.

Our view therefore is that the removal of diversity is a regressive step, particularly given the massive under-representation of ethnic minorities in senior roles in the private sector, as well as in parliament and senior public sector roles. Effective and legitimate government must respond to the needs of all citizens, and it is difficult to argue that government employees or members of parliament fully reflect the interests of those living in the UK.

From our experience, businesses recognise the importance of diversity, and welcome guidance and good practice on how to improve diversity in the workplace¹. This is because diversity is good for their bottom lines, and leads to more effective decision-making. The disadvantage of everyone having the same viewpoint is ‘herd behaviour’, and we should by now understand the impact of such behaviour in terms of risk assessment and poor product design in financial markets.

Leadership from the government or a quango such as the EHRC on diversity is particularly valued by businesses as it helps senior managers and diversity teams more effectively make the case to introduce recommended diversity initiatives. It is surprising that the government should give up on a principle that is affirmed by most FTSE-100 and other global corporate organisations.

Failing to promote ethnic diversity in the workplace is bad for international competition, and the removal of the EHRC’s responsibility to promote this goes against the grain of other countries, including France, where the government awards a diversity charter, which has also been taken up by Belgium, Germany, Spain, Italy, Austria and Sweden². Economists and social scientists widely recognise the value of diversity in good decision-making, and for efficient and competitive firms. Ethnic diversity is even more crucial in relation to the emerging markets in China and India, and if we do not recognize its value we are unlikely to compete successfully with those who do when selling to these new markets.

We therefore propose that “activity b)” should be amended as follows (amendment in bold):

“working in partnership with organisations to highlight good practice and build their capacity to eliminate unlawful discrimination, advance equality of opportunity, **promote diversity**, and foster good relations”.

We do not believe that this contradicts the new proposed core functions.

¹ For further information on the attitudes of businesses in promoting diversity please see our research report “Snowy Peaks – Ethnic Diversity at the Top” (2010, commissioned by Lloyds TSB)

<http://www.runnymedetrust.org/uploads/publications/pdfs/SnowyPeaks-2010.pdf>

² <http://www.diversity-charter.com/diversity-charter-french-charter-overview.php>

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?

Please place a cross in the appropriate box

Agree Disagree Not sure

Again, we support EDF's comments in relation to these issues.

More specifically, at the cost of repetition, we reiterate concerns regarding proposals to publish a report every five years, instead of three, to tie in with parliamentary cycles. Our first concern is that a report every five years is too infrequent to adequately monitor patterns of inequality. In addition, given the reduction of support from government for third sector organisations, there is likely to be less research and on the ground information filtering through as an alternative to a more frequent report.

It is important to add that we thought that the Triennial Review was a particularly effective piece of work and one the EHRC's major successes. Its effectiveness would be undermined if such a review was published less frequently.

Our second concern is around when in the parliamentary cycle the report will be published. If it is published after an election, for example, it would not hold the previous government to account. We also have fears that the report could be used as a political tool. In addition, the five year parliamentary cycle is a problematic timeframe as governments might not always be able to complete their terms due to a no-confidence vote from a coalition partner, or because internal party dynamics result in a new prime minister who has not had to face the electorate.

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?

Please place a cross in the appropriate box

Agree Disagree Not sure

We support comments made in submissions by the EDF and the British Institute of Human Rights (BIHR) on these issues.

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?

Please place a cross in the appropriate box

Agree Disagree Not sure

Please explain why -

The good relations duty itself

The good relations duty is essential in promoting good race relations, and we are therefore strongly against it being removed from the Commission’s remit.

The Commission’s requirement to focus on good relations stretches back as far as 1976, when it was introduced as a duty of the Commission for Racial Equality. To simply remove something that has been so integral to race relations in this country for over three decades is extremely worrying.

Promoting good relations is of prime importance in order to achieve racial harmony. The last significant race riot only took place 2005 in Birmingham, while the 2001 disturbances affected northern towns including Oldham, Burnley and Bradford . Given the current and increasing economic pressures on individuals in certain parts of the country, combined with already existing racial tensions in particular areas, we

fear that similar disturbances could occur in the not-too-distant future.³ We are also concerned about the ongoing rise of the EDL and their potential to create further wedges between communities, as well as the poor relations between Gypsy, Roma and Traveller communities and other ethnic groups.

We cannot stress strongly enough the importance of keeping the good relations duty. It is of even more importance currently given the government's lack of work around race equality so far (as stated in our response to Question 1).

It is hard to evaluate the impact of work on good relations, but it is still an important way of raising issues surrounding and challenging poor relations engendered by racism. The CRE undertook a number of important projects focusing on this, from the Young Brits in Art scheme to high profile public anti-racism campaigns in the 1990s. In relation to the latter in particular, it is worth noting that outside of the CRE, there has been no major public campaigns of this type, and it cannot be expected that civil society will replicate such campaigns in the short term.

If the view is that the EHRC has under-delivered in its work on good relations, it is hard to see why it follows that the duty should be simply scrapped. The EHRC's work in this area should instead be strengthened so that it can deliver this vital aim more effectively.

We do not necessarily believe that the good relations duty has to remain at the EHRC, but if the government decides to remove it this responsibility needs at least to be shifted elsewhere within the government machinery.

We are not adverse to the prospect of this responsibility moving to civil society, but if this is to be the case, this needs to be adequately resourced by the government as the funding situation of many organisations working on these issues is not sustainable in the long term. This concern will be elaborated on below.

Funding

We have reservations regarding the government's proposal to scrap the voluntary sector grants programme for good relations. Following the discontinuation of the Department for Communities and Local Government's Tackling Race Inequalities Fund, many organisations in the Black and Minority Ethnic (BME) third sector are fighting for their survival. Discontinuing the EHRC's good relations grant programme will place an even greater strain on the race equality sector, which relies on public sector funding to a greater extent than the voluntary sector as a whole.

In addition, we would also like to make some points regarding the mention of Runnymede in the consultation document in relation to our work on good relations (p.16). We are pleased that our work has been recognised, but we are concerned that the government believes that this offers a substantial duplication of the work of the EHRC on good relations. Whilst there is some overlap, our good relations work is carried out on a much smaller scale – for example the budget for our good relations work was £100,000 over the past year, which is substantially smaller than the EHRC

³ Our recent research project based in Handsworth, which experienced race riots in 2005, found that racial tensions are still present in the area:
<http://www.runnymedetrust.org/uploads/publications/pdfs/PassingTheBaton-2011.pdf>

overall budget for this issue. We are also a far smaller organisation, with far less resources, than the EHRC, and do not provide grants to other organisations. It is hard to believe that £100,000 is sufficient to ensure that people from different ethnic backgrounds across the whole of the UK interact meaningfully with one another.

Most importantly however, our good relations work has been funded by the EHRC, and without the grants programme it is possible that we will no longer be able to continue this work. As suggested above, as an organisation we have been hit hard by the discontinuation of the Tackling Race Inequalities Fund, and the current climate is a particularly difficult one for finding alternative sources of income due to increased competition for funds. This means that it will be incredibly difficult for us to find a sustainable and consistent way to continue work on community cohesion and good relations, and the government should therefore not assume that we will therefore simply be able to fill the gap left by the removal of the EHRC from this area.

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?

Please place a cross in the appropriate box

Agree Disagree Not sure

We support comments made by EDF on this issue.

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?

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

Please place a cross in the appropriate box

Agree Disagree Not sure

We are concerned about the government's proposals to outsource the EHRC helpline, and we therefore support comments made in the EDF's submission in response to questions both 7 and 8.

We would particularly like to reiterate that if the EHRC helpline is to be outsourced, it is important that it is run by specialist providers so that citizens' interests are given prime importance. Here we note the important distinction between citizens having their rights defended, and customers choosing a particular product.

We would also like to add that if the helpline is to be outsourced, there needs to be an ongoing relationship between the new helpline and the EHRC, in order for the EHRC to be updated on developing trends on the ground and also for the commission to share expertise it has built up from running the helpline previously.

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

Please explain –

Further to EDF's evidence, we would like to argue that public education on discrimination and human rights needs to reach wider society as a whole, rather than just disadvantaged groups. Whilst we agree that the most disadvantaged groups need education about their rights, those who discriminate are not necessarily from disadvantaged groups themselves, and therefore need education on their responsibilities.

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?

Please explain-

We support comments made by EDF on this issue.

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?

Please place a cross in the appropriate box

Agree Disagree Not sure

Please explain why -

We are not able to comment

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?

Please explain -

We would like to reiterate many of the points we made in response to Question 5. As stated above, the BME voluntary sector is far more reliant on funding from statutory sources than the sector as a whole. This dependence on government funding for many organisations means that the impact of public sector cuts is likely to be significant.

Capacity building

Whilst we believe it would be beneficial for the sector to become less reliant on government funding, this is difficult to achieve, particularly in the short-term. The reality is that many organisations will simply disappear or dramatically shrink once government funding ends, leaving little time to generate new funds, and meaning that expertise and networks are lost.

Obtaining funding from the private sector and from individual donations is particularly difficult if organisations are starting this work from scratch, as it often relies on long term relationship building and profile-raising.

Any new government funding programme should therefore include ways to help the BME voluntary sector transition from its over-reliance on government grants by providing funding focused on capacity building and long term sustainability.

Accountability

Given the government's move towards localism, we believe that new methods of local accountability need to be developed in order for marginalised groups to hold local authorities and service providers to account on equalities.

We recently argued this as part of the Communities and Local Government Select Committee inquiry into localism. Our director, Dr Rob Berkeley stated in an oral evidence session as part of the inquiry:

“We had an extensive structure of race equality councils across the country. In 2007 there were 100, now they are down to 42 and they seem to be declining. [...] I am keen to go with the spirit and suggest that localism can deliver, given local accountability to local citizens, but the structures need to be in place. I suspect that they are not currently. I do not hear any plans to support and establish those local organisations that might begin to hold local authorities to account a bit more on equality”.

In its final report, the committee itself recommended that: “new methods of accountability are needed in order for marginalised groups to hold local authorities to account”.⁴

We would therefore encourage the introduction of government funding which would help voluntary organisations develop new ways to do this, particularly in relation to equalities.

Good Relations

As stated in response to Question 5, we are very concerned about proposals to scrap the Commission's Good Relations Duty. Given the importance of promoting good relations for race equality, we believe that any new government funding stream should consider including funding for projects that focus on these issues.

⁴ <http://www.publications.parliament.uk/pa/cm201012/cmselect/cmcomloc/547/547.pdf>

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 -

Again, we support comments made by EDF on this issue. We have particular concerns that the EHRC's independence will be undermined by the proposals, and believe that the proposed requirements are inconsistent with those currently in place for other Non-Departmental Public Bodies.

Our approach to reform & next steps

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

Please place a cross in the appropriate box

Agree Disagree Not sure

Please explain why -

We support comments made by EDF on this issue.