



**Commission for Equality and Human Rights:
Structure, Functions and Powers**

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Summary

1. JUSTICE is an independent all-party human rights and law reform organisation. It is the British section of the International Commission of Jurists.
2. JUSTICE welcomes the government's proposal in the White Paper *Fairness for All : A New Commission for Equality and Human Rights* to establish a Commission for Equality and Human Rights ('CEHR') to promote all the strands of equality and to promote and protect human rights.
3. JUSTICE considers that there are two essential prerequisites to the successful operation of a CEHR. These are that:
 - there are sufficient resources to enable it to meet the anticipated demand arising from double the number of grounds for discrimination,
 - there is substantial reform of the existing equality law to eliminate all inessential differences between the different grounds for discrimination.

Resources

4. It has been repeatedly asserted that the CEHR is not an economy measure. However, resources will be one major key to the success of this 'bold and innovative plan'. The Race Directive¹ in Article 13 requires the setting up of a commission or similar body/bodies. Article 6 requires that the implementation of the Directive 'shall under no circumstances constitute grounds for a reduction in the level of protection against discrimination already afforded by the Member States...' thus no regression in the existing provision is permitted. Any diminution of the provision made in respect of the provisions for race equality protection will be in breach of the UK Government's commitments under the Race Directive. Moreover, if there is to be equality between the different grounds a similar provision will have to be made in respect of each of them. The Annual Report of the Irish Equality Tribunal 2003 suggests that numerically we may expect about as many age, religion or belief and sexual orientation cases to be brought as disability cases.²

¹ Council Directive implementing the principle of equal treatment between persons irrespective of racial or ethnic origin 2000/43/EC.

² See The Equality Tribunal Annual Report 2003, p11.

Equality Provisions

5. JUSTICE is concerned that the equality between the grounds for discrimination within the new Commission will be an immediate problem. The current equality law is piecemeal, inconsistent and variable. The current framework of discrimination laws is notoriously complex, having suffered over many years from a steady accretion of ad hoc measures, statutory instruments and EU directives.³ The framework is also inconsistent, with key terms still defined differently in different Acts relating to different types of discrimination. The remedies that victims receive can vary depending on the reason for the discrimination. For example :

- There are different definitions of indirect discrimination on grounds of sex to those on grounds of ethnic or racial origin, and different again if the discrimination is on grounds of nationality.
- The definition of direct discrimination on grounds of sex or race is wide enough to encompass those who are subjected to discrimination because of their connection or perceived connection with sex or race, whereas a disabled person can only benefit from the discrimination provisions in respect of their own disability.

These, often minor, distinctions between grounds or even sub-categories of grounds, will make it much harder for the personnel within the Commission to give consistent guidance on the law.

6. Worse still, the different Acts provide unequal protection against different kinds of discrimination. For instance, it is legal for suppliers of goods and services to discriminate on grounds of religion or belief or sexual orientation, whereas it is unlawful to do so on the grounds of race or ethnicity. Consequently, for example, a Muslim family who are refused accommodation because they are Muslim will have no redress but a Jewish or Sikh family (whom the law recognizes as members of ethnic groups as well as religious groups) would. It would be problematic for the CEHR to promote an equality framework that is itself unequal. It is inevitable that this inequality in provision will be echoed in an undesirable hierarchy within the CEHR. It is likely to undermine support for the work of the CEHR and create undesirable tensions within it.

³ See Gay Moon, 'Equality re-imagined', (2004) JUSTICE Journal 108.

7. Accordingly, JUSTICE supports the Joint Committee for Human Rights' call for the 'levelling-up' of the laws relating to discrimination on all six equality strands, in particular extending protection against discrimination in respect of education, goods, facilities and services.⁴ We similarly support the Committee's call for positive duties on public bodies to promote equality of opportunity and treatment in respect of each strand.⁵ In view of this, **JUSTICE considers there to be a compelling case for a coherent and integrated legislative framework on equality, ideally by way of a single Equality Act.**

Independence and accountability

8. JUSTICE believes that the independence, accountability and transparency of the CEHR is key to its success. This reflects the requirements of both Article 13 of the Race Directive,⁶ in respect of race, and the Paris Principles,⁷ in respect of human rights. The Joint Committee on Human Rights (JCHR) have reiterated the importance of this in paragraphs 126 to 137 of their Report⁸.
9. JUSTICE considers that it is important that the new Commission should act as an international exemplar of best practice in equality and human rights provision. We believe that in order to achieve the maximum level of independence within the present political structures, it is important that the new CEHR should be directly accountable to Parliament in the same way that currently applies to the National Audit Office and the Electoral Commission. This would minimise the impact of governmental and departmental interference and ensure that the CEHR is fully accountable to both the legislature and the executive. We regard the alternative structure of an executive non-departmental body (NDPB) to be less satisfactory and more susceptible to short term political influence.
10. **JUSTICE considers that the CEHR should be guaranteed independence from both the executive and from parliament. We therefore believe that it should be**

⁴ JCHR 11th Report, para 46.

⁵ Ibid.

⁶ Council Directive 2000/43/EC.

⁷ General Assembly Resolution 48/134 of December 20th 1993.

⁸ Joint Committee on Human Rights, Commission for Equality and Human Rights : Structure, Functions and Powers, Eleventh Report of Session 2003-04, HL Paper 78, 2004.

set up in the same way as the National Audit Office and the Electoral Commission as recommended by the JCHR.

Governance and Structure

11. JUSTICE agrees with the recommendation of the White Paper that the Commissioners should not be champions of any one ground of discrimination. We do not see that the provisions in respect of disability should be any different from any other ground in this respect. We would expect to see people who are members of **all** the various communities subjected to discriminatory treatment within the total membership of the Board. However, it is worth noting that although there are six recognised grounds of discrimination within each ground there are a number of sub categories which may make the choice of one 'representative' for that ground contentious. This is most clearly illustrated in the case of religion or belief when, for example, a humanist may be unhappy to see their interests represented by a Muslim or a Christian, but this could also apply to a Gypsy being unhappy about having their interests represented by an Afro-Caribbean. Thus it may be better to ensure that as many as possible facets of potentially discriminatory identity are represented within the context of a balance between the different grounds and that the Commissioners themselves should not see themselves as responsible for any one strand. We therefore agree with the recommendation of the JCHR that :-

the legislation should provide that commissioners are appointed on a basis that must have regard to their experience, knowledge and expertise in matters relating to the commissions functions and powers and should have regard to the importance of achieving a balance between representatives of different parts of the United Kingdom and between representatives of those who have particular experience or understanding of discrimination of different kinds.

12. However, the absence of 'champions' for the specific grounds should not be allowed to undermine the importance of the CEHR maintaining a dialogue with the communities represented by the different grounds of discrimination. We would therefore recommend that consultative Committees should be set up to meet this need, similar to that proposed in respect of disability. These would report to the Commissioners. We would envisage that the Chair of the Committee should report to

the Commissioners, but should **not** be a Commissioner⁹. Such committees would fit into the current proposal in para 5.14. We do **not** propose that these should be specifically provided for in the enabling legislation, unless they were put in place for a limited time period, such as, for example, the first five years, but rather that the CEHR should seriously consider setting them up as a matter of their discretion.

13. JUSTICE welcomes the proposal in paras 5.14 to 5.18 that the CEHR will have the power to ‘establish committees to support or assist with any of its functions’. **We believe that these should be used to channel the input and views of those communities which have experienced sustained discrimination on any of the specified grounds of discrimination as well as those from the different geographical areas covered by the Commission.** If the nature of the committees is left to the discretion of the Commissioners this would enable the CEHR to be flexible in its operations and to respond to new needs as they arise.

Promotional Role

14. We would agree that if ‘the CEHR is to succeed, it will need to demonstrate its impact on the day-to-day lives of individuals, as well as on the policies and practice of organisations and government to promote fairer outcomes’ (para 1.18). We also agree on the need ‘to promote understanding of equality and human rights as important for everyone and as key foundations of a fair, successful and cohesive society’ (para 1.19). JUSTICE welcomes the inclusion of the promotion of human rights within the CEHR’s remit.
15. The case for the benefits of good diversity practice is well understood by some, particularly in the public sector, and much work on this has already been done by the existing Commissions. However, there are still many areas where its impact is yet to be felt.

⁹ In respect of disability there appears to be some inconsistency in the White Paper proposals. Para 5.10 says that the Disability Board Member ‘will be expected to contribute to the corporate approach of the Board, rather than act as a champion for disability issues’. Para 10.15 says that the Chair of the Disability Committee will be a member of the Board. It will be impossible to the Chair of the Committee not to act as a ‘champion’ for disability issues as his/her committee will expect their chair to represent their issues. It would be better for the Chair not to be a member of the Board but to be able to attend to put the committee’s views.

16. However, **JUSTICE considers that within the equality field it is essential to keep a proper balance between promotion and enforcement. The recognition of the importance of law enforcement in the equalities field is essential.**

Law Enforcement Role

17. There are good reasons to conclude that policy and exhortation by themselves will not effect substantive change. A very good example of the limitations in this respect can be found in the developments in relation to age equality. In 1999 the Government published a voluntary Code of Practice for Age Diversity in Employment which aims to encourage employers to remove unnecessary age limitations. This has had very limited effect. Research published by the Employers Forum on Age indicated that this was having little effect on the way employers were running their businesses.¹⁰ Even the Government's own research has shown that although knowledge of the Code is widespread, only one in four employers have adopted the guidelines.¹¹

Value of taking individual cases

18. There are many excellent examples of cases supported by the Commissions which have an impact well beyond the individual case. Such cases have had a range of important effects. They have:

- Defined the extent of the law/legal duties, across the UK, or upon a large organisation or a particular sector.
- Exposed working or business practices to independent, public and judicial scrutiny.
- Provided new insights as to how inequality works in practice and therefore how policies and practices might be framed to remedy such problems.
- Performed a critical role within a particular organisation, by compelling a particular person/body to look very closely at his/her working or commercial policies, procedures and practices.
- Acted as a signal deterrent, both to the particular respondent who will inevitably have faced financial cost, inconvenience and perhaps adverse publicity, and to other employers or service providers, prompting them to eradicate similar discriminatory

¹⁰ *Report on a survey of senior decision makers in small and medium enterprises*, Employers Forum on Age, 1999 and *Employing Older Workers*, IRS/EFA, IRS Management Review, issue 21, April 2001.

¹¹ *Age Diversity: Summary of Research Findings*, Select Committee Report on Ageism, March 2001.

practices in their own organisations. Legal follow-up work by the Commissions has been effective in securing the wider, sectoral, application of individual cases.

- Formed a basis for more incisive action by the Commissions, such as the CRE decisions to conduct formal Investigation into Hackney, the Prison Service and the CPS, and the recent EOC decision to conduct a formal investigation into the Royal Mail.

Criteria for taking individual cases

19. In analysing these cases it is clear that not all of them could be defined as 'strategic cases' when they arose. Many are not identifiable as 'strategic' until the facts have been found and an initial decision on the law has been taken, and even then what appears to be a strategic case can fall away, be resolved or settled. For this reason a wider pool of cases needs to be taken in order to bring forward a smaller number of cases that may have a strategic impact.

20. We therefore believe that the CEHR should be given a wide discretion as to which equality cases to support within the expectation that their casework should have a strategic impact. We are concerned that the criteria set out in para 4.16, even when they are only provisions to which 'due regard' is to be paid, is too narrow to facilitate the necessary exercise of discretion.

21. We do not consider that the assistance for individual cases should be restricted to the discrimination element of a case where the case entails linked claims, arising from substantially the same facts, under other legislation or under the common law. So, for example, in a case for sex discrimination and unfair dismissal the Commission should be able to support the whole case and not feel that it can only offer support in respect of the sex discrimination allegation.

22. We consider that, where appropriate, the CEHR should be able to require an assisted person to repay part or all of the cost of the assistance provided by the Commission. We would not expect this to be used regularly, however, it could be appropriate when the Commission has assisted a person to win their primary claim and further assistance is needed with a remedies claim. In circumstances when it is clear that a substantial award of damages will be made there have been occasions when the Commissions have refused further assistance on the basis that the amount due to be recovered will easily cover the cost of obtaining independent legal assistance.

However, it would be better if the CEHR could continue to act but would make a charge for its services.

23. We have asked Robin Allen Q.C. to draft a possible clause to deal the CEHR's powers in respect of assistance in relation to proceedings and this is attached as Appendix 1.

Support for cases which the CEHR cannot take on

24. JUSTICE is also concerned about the number of cases for which no assistance is available. A restricted amount of advice and assistance is available under the provisions for legal aid but the benefits of this are limited to those with very low incomes. Research has shown a direct link between the results obtained in discrimination cases and the type of legal assistance available to claimants. For example, in the field of disability discrimination law, the assistance of a legally qualified representative was found to make a significant difference to an applicant's chance of success, an applicant who was represented by a friend or relative had a 11.8% chance of success, an applicant who representing him/herself had a 13.7% chance of success compared to those represented by a barrister (28.9%) or a Law Centre representative (27.3%).¹² Yet there is currently no legal aid available for representation before the employment tribunal (ET) save in 'exceptional' cases.¹³ This provision came into force in April 2000. In 2000 and 2001 no exceptional funding was given for ET discrimination cases. In 2002 one disability discrimination case was funded under these provisions. In 2003 three further cases were recommended for funding and they are currently being considered. One concerns sexual discrimination, another racial discrimination and the third disability discrimination¹⁴. The Commissions cannot begin to meet the level of need.

¹² *Monitoring the Disability Discrimination Act 1995 (Phase 2), Final report*, Incomes Data Services, Sarah Leverton, 2001 see also *Tribunal Users' Experiences, Perceptions and Expectations: a Literature Review*, M Adler & J Gullard, 2003, Council on Tribunals.

¹³ Access to Justice Act 1999, s6(8)(b). For the sake of comparison, in Scotland, there is now limited legal aid for cases brought before Tribunals under the Advice and Assistance (Assistance by Way of Representation) (Scotland) Amendment Regulations 2001, in order to comply with Article 6 of the European Convention on Human Rights which requires that there should be 'equality of arms', ensuring a fair trail for all parties to a proceeding.

¹⁴ Hansard, 19th January 2004, WA 122.

25. A great many people with discrimination claims are not eligible for legal aid but find themselves totally unable to meet legal costs themselves.¹⁵ This means that many of those who take a case to the Employment Tribunal will have to represent themselves, while the employer will invariably have legal representation. The Legal Action Group has found that unrepresented applicants are more likely to bring cases that the tribunal judges to be 'misconceived'. This is not surprising, given the increasing complexity of employment law. In fact, more complex anti-discrimination legislation strengthens the argument for public funding for victims of discrimination in order to protect their right to a fair hearing under Article 6 of the European Convention on Human Rights.¹⁶ And it is not just the legislation which is becoming more complex but also the way that cases are held: it is not uncommon to rely on expert evidence to prove or disprove a fact (in *Virdi v Metropolitan Police*¹⁷ very costly computer experts were used), or to show evidence of personal injury in support of the claim for damages.

26. JUSTICE therefore considers that much work remains to be done to make legal remedies more accessible to individuals who have been subjected to discrimination. The Constitutional Affairs Select Committee of the House of Commons has recently concluded :

*It is not acceptable that in employment cases employees can be forced to represent themselves in circumstances where private employers are able to employ lawyers to represent them. If proceedings are to be fair there needs to be equality of arms. Legal aid should not automatically be excluded from such tribunal hearings.*¹⁸

27. JUSTICE therefore considers that ways of making legal remedies more accessible to individuals who have been subjected to discrimination need to be examined as a matter of some urgency. The remedy may lie in the provision of a national network of

¹⁵ For example, legal aid is rarely awarded for claims under the goods and services provisions of the Disability Discrimination Act, given the relatively low amount that is likely to be awarded in compensation; the DRC have found that cost is a considerable deterrent to disabled people in bringing such claims under the Act.

¹⁶ Article 6 of the European Convention on Human Rights and Article 47 of the EU Charter of Fundamental Rights both provide for a right of access to a court and for an effective remedy; a right also included in Article 7(1) of the Race Directive. The European Court of Human Rights has repeatedly held that Article 6 ECHR may impose a requirement for an individual to be legally represented where the issues before the court or tribunal are particularly difficult, either as a matter of fact or law (*P, C and S v United Kingdom* (2002) 35 EHRR31 at p.1075, para 89).

¹⁷ *Virdi v Commission of the Metropolitan Police*, 2001, ET

¹⁸ Constitutional Affairs Select Committee report, 16.7.04, para 111.

aid agencies similar to the successful Northern Complainants Aid Agency set up with the specific task of advising and assisting with discrimination cases as well as the provision of further training for existing agencies. Alternatively, the Irish Equality Tribunals could be examined as an alternative means of providing an accessible first tier dispute resolution service. The role of the Equality Tribunals is the hearing and mediation of claims of discrimination in relation both to employment and access to goods and services, disposal of property and certain aspects of education. It uses an inquisitorial process and the parties do not have to be represented. In the majority of the employment equality cases neither party is represented and in equal status cases a 'large minority' are not represented.¹⁹

Equality and Human Rights cases

28. JUSTICE notes that many cases are likely to raise both equality and human rights issues and we consider that the CEHR should not be prevented from funding a case simply because it is not a 'pure' equality case. **In cases where the CEHR has supported a 'mixed' case but the equality argument has fallen away, we agree that the CEHR should have a *discretion* to continue to support the case.** However, we would argue that the discretion should only be exercised in a narrow category of cases – cases in which the CEHR has identified a human rights issue of strategic importance and whose facts retain the 'flavour' of some form of discrimination (e.g. unfavourable treatment of an identifiable class of persons) even if it is not technically an equality case within the terms of the existing discrimination legislation. We also consider that **there should be a specific reporting provision in respect of the funding of such cases in the CEHR's Annual Report.**

'Pure' human rights cases

29. JUSTICE has already given its view that the proper role of funding human rights cases should be for the Legal Services Commission and not the CEHR.²⁰ Our reason for this view is that human rights issues permeate UK law and, as such, burdening the CEHR with the task of funding such cases would threaten to overwhelm it. We support the Committee's view that there should be a memorandum of understanding established between the Legal Services Commission and the CEHR to develop

¹⁹ See The Equality Tribunal: Annual Report 2003.

appropriate criteria for the strategic funding of human rights cases.²¹ However, it is important that the Legal Services Commission retains its duty to support public interest cases.

Judicial review in human rights cases

30. JUSTICE notes that the JCHR has called for the CEHR to have a freestanding power to bring applications for judicial review in respect of 'pure' human rights cases²². We agree. As a matter of policy we consider that the human rights litigation functions of the CEHR should be developed gradually, initially by way of *amicus* briefs and third party interventions (for the avoidance of doubt, the CEHR should have explicit power to intervene as appropriate in human rights cases). Should these powers prove inadequate, the power to initiate proceedings for judicial review should be available to be used as a remedy of last resort.

31. JUSTICE is concerned that the CEHR will already be under very significant pressure to manage its human rights remit. Accordingly, the suggestion that the CEHR should discharge its statutory duty to protect and promote human rights *by way of* "seeking judicial review of actions, failures to act or policies or rules which it believed to be in continuing breach, or to threaten a breach, of the Convention rights"²³ may give rise to an unfortunate impression that the CEHR has *primary responsibility* to litigate to prevent such breaches. In order to make it clear that this is not the case **the CEHR should be given the legal power to initiate proceedings for judicial review to prevent a breach of Convention rights by the amendment of section 7 of the Human Rights Act 1998. However, JUSTICE suggests as a matter of practice this should be limited to those cases in which there is a *compelling* public interest in doing so.**

²⁰ JUSTICE response to the JCHR inquiry 'A Human Rights Commission: Structure, Function and Powers' (May 2003), paras 11-12.

²¹ JCHR 11th report, para 70.

²² JCHR Report para 89.

²³ JCHR 11th report, para 89.

Formal Investigations

Equality

32. We welcome the Government's recognition that 'to be successful, the CEHR must be able to tackle effectively deep rooted and systematic discrimination as well as helping individuals to secure their rights'. We believe that the Commission's powers in respect of both General and Specific Investigations uniquely enable them to tackle entrenched and widespread discriminatory practices and barriers, and thus are one key to its effective operation. Therefore any new CEHR should have real and effective powers and resources to take strategic action by the initiation of formal investigations and the taking of coercive action to eliminate discriminatory practices. However, the existing powers of the CRE and EOC need to be updated to mirror those of the DRC so that the CEHR is applying a single set of criteria to its investigatory powers. This would mean updating the gender and race provisions to include a power to accept legally binding undertakings.²⁴ The DRC powers incorporate a number of the changes that have been recommended in the past by the CRE in respect of its own powers and they represent a good model. However, the addition of strict time limits within which a respondent has to respond would be a useful addition in order to prevent undue delays in the carrying out of investigations. We therefore recommend that **technical distinctions between the powers of the CEHR in respect of the separate grounds should be eliminated and the provisions updated to equal those of the DRC.**²⁵ We welcome the changes proposed in para 4.29.

33. We believe that the CEHR should have flexibility as to when it can launch investigations. We are therefore concerned about the proposal that the Secretary of State can request that a general inquiry should be initiated. We believe that such a provision is not appropriate and would endanger the independence of the commission. We agree with the JCHR that :

It should be open to a Minister to ask the commission to undertake such an inquiry, and to make his request publicly, but not to require an investigation²⁶.

²⁴ Disability Rights Commission Act 1999, section 5.

²⁵ See Disability Rights Commission Act 1999, section 3 and schedule 3.

²⁶ JCHR Report, para 55.

Human Rights

34. In certain cases, the promotion and protection of human rights may require an effective public inquiry.²⁷ More broadly, the ability of a statutory human rights body to conduct inquiries into matters of public importance would aid in the effective promotion of a human rights culture. Accordingly, JUSTICE supports the Committee's conclusion that the CEHR should have full powers to conduct such inquiries on human rights issues 'relating to the policies and practices of public authorities'.²⁸

Transitional arrangements

35. JUSTICE is concerned about the lack of provision for advice and assistance in respect of the new grounds of religion or belief and sexual orientation prior to the setting up of the CEHR which will not come into existence for at least two years. Provision for advice and assistance is needed now, it is a matter of considerable regret that the money that has been made available to facilitate the implementation of these new grounds excludes any provision for advice and assistance. We recommend that consideration be given to the setting up of area discrimination offices, similar to the former Northern Complainant Aid office, which would be able to advise and assist complainants.

²⁷ See e.g. *Edwards v United Kingdom* (2002) 35 EHRR 19.

²⁸ JCHR 11th report, para 60.

APPENDIX 1

Assistance in relation to proceedings

(1) Where an individual applies to the Commission for assistance in relation to any proceedings to which this section applies, the Commission may grant the application on any of the following grounds-

- that the case raises a question of principle;
- that the case has or is likely to have a special significance in respect of any aspect of the Commission's powers or duties;
- that it is unreasonable to expect the applicant to deal with the case unaided (because of its complexity, because of the applicant's position in relation to another party or for some other reason);
- that there is some other special consideration which makes it appropriate for the Commission to provide assistance.

(2) This section applies in relation to any case in which an allegation (referred to in this section as the primary allegation) is made, of discrimination contrary to

- Any provision of the (here name the relevant Acts and regulations)
- Any provision of the laws of the European Union which prohibit discrimination or pay inequality
- Any provision of the Human Rights Act 1998 provided that reliance is also placed on Article 14 of the European Convention on Human Rights as set out in schedule 1 to that Act, and provided also that the reliance is in relation to discrimination based on race, sex, status as a transsexual, disability, sexual orientation, religion or belief, or age.

(3) This section also applies in relation to any case in which an allegation of a breach of any provision of the Human Rights Act 1998 is made provided that

- The allegation arises out of the same or substantially the same facts as those which give rise to the primary allegation, and

- The Commission is satisfied that it is necessary or particularly convenient that the primary allegation and any such allegation of a breach of the Human Rights Act 1998 are heard together at the same time

(4) This section also applies in relation to any case within the jurisdiction of the County Court or the Employment Tribunal provided that

- The allegation arises out of the same or substantially the same facts as those which give rise to the primary allegation, and
- The Commission is satisfied that it is necessary or particularly convenient that the primary allegation and any such allegation are heard together at the same time.

(5) Subject to the next sub-section, the Commission shall not continue to assist where it ceases to assist in relation to the primary allegation, or if there is more than one primary allegation, then all such allegations.

(6) The Commission may continue to assist in relation to a case under the Human Rights Act 1998 where it has discontinued assistance in relation to the primary allegation (or if more than one then all such allegations) if but only if it remains satisfied that the assistance was rightly granted in the first place for the primary case and the case under the Human Rights Act 1998 meets the criteria set out in subsection 1.

(7) If the Commission grants an application, it may provide or arrange for the provision of legal advice; arrange for legal or other representation (which may include any assistance usually given by a solicitor or counsel); seek to procure the settlement of any dispute; provide or arrange for the provision of any other assistance which it thinks appropriate.

(8) It may make this provision on such terms as it sees fit, including an obligation on the person assisted to repay any part or all of the cost of the assistance provided, though it may not make such a stipulation unless there are special reasons for making it.

(9) The Commission may recover the cost of assistance in any case in which a litigant who it has assisted might personally recover any or all of the costs of the litigation, from any person from whom the person assisted might be able to recover such costs.

(10) The Commission may authorise any employee of the Commission to exercise such of its functions under this section as it may determine.

QUESTION 1

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

Please see paras 11 to 13.

QUESTION 2

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

Please see para 28.

QUESTION 3

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

We believe that continued support for the current network of Race Equality Councils is needed, together with the development of similar bodies to promote good relations in respect of the other grounds for discrimination.

QUESTION 4

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

Please see paras 17 to 35.

QUESTION 5

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

JUSTICE considers that it is important for the credibility and effectiveness of the new CEHR that it has a regional presence. We consider that the proposals in chapter 8 will meet this need.

August 4th 2004.