



**Submission of JUSTICE to the Joint Committee on Human Rights:**

**A Human Rights Commission for the United Kingdom?**

**July 2001**

## **A Human Rights Commission for the United Kingdom: Executive Summary**

JUSTICE considers that there is a clear need for a Human Rights Commission. Only a Commission can effectively and fully realise the long-term societal and cultural change involved in the incorporation of human rights standards in the United Kingdom. The difficulties experienced in the initial implementing period of the Human Rights Act, in the absence of a Commission, further underline the need for a central body with responsibility for human rights promotion and protection.

These functions are not at present being discharged by central government. A Human Rights Commission would have a role distinct from the Joint Committee on Human Rights, which primarily acts as an adviser to Parliament and holds the government to account. It would also have a role different from that of the equality commissions and the office of the Information Commissioner, which have specific mandates. It should not replace any of these bodies, but should work closely with them.

The principal functions of a Human Rights Commission should be:

- to act as a provider of advice, education and information on human rights to civil society and to public and voluntary bodies;
- to conduct public inquiries into situations where there are human rights concerns;
- to bring test case litigation, provide representation and act as a third party intervenor or amicus in human rights cases.

A separate Human Rights Commission for Scotland should be established. The question of whether there should in addition be a UK-wide Commission, or alternatively a Commission for England and Wales, working alongside the Scottish and Northern Irish Commissions, requires further consultation. Either a UK or an English and Welsh Human Rights Commission should have a permanent office in Wales. Mechanisms will be needed to ensure close liaison and co-operation among the Commissions.

Appointments to the Human Rights Commission should be made by the Lord Chancellor on the advice of an independent appointments committee. The Commission should be accountable to the Joint Committee on Human Rights.

The Commission should be granted specific powers, in its founding legislation, to conduct inquiries, to compel evidence and witnesses, to make third party interventions, act as an amicus curiae, and bring test cases in its own name.

## **Joint Committee on Human Rights Inquiry into the establishment of a Human Rights Commission for the United Kingdom**

### **Introduction**

JUSTICE is an independent all party legal human rights organisation, which aims to improve British justice through law reform and policy work, publications and training. It is the British section of the International Commission of Jurists. Since the enactment of the Human Rights Act in 1998, much of JUSTICE's work has focused on its implementation in domestic law.

JUSTICE welcomes this inquiry and the opportunity to make submissions on this key issue for the structure of United Kingdom human rights protection. JUSTICE's work on the implementation of the Human Rights Act, as well as its participation in the Home Office Task Force, has confirmed its view that there is a clear need for a Human Rights Commission. This paper outlines the reasons for the establishment of a Human Rights Commission, and the functions and jurisdiction it should have, following the questions posed by the Joint Committee. It builds on the views expressed by JUSTICE in its submission to the Joint Committee on the implementation of the Act to date, which identified some of the shortcomings of the initial implementation process. It should be read in conjunction with those submissions.

### **A Human Rights Commission in Context**

Whether or not a Human Rights Commission is established is crucial to the development of the UK constitutional and legal system. Important work has already been done to entrench human rights guarantees in the UK, in enacting the Human Rights Act, in taking the initial steps towards implementation through the Task Force, and in establishing a Northern Ireland Human Rights Commission. The Human Rights Act has instigated a highly significant constitutional change, in moving the United Kingdom towards a system of positive guarantees of rights, with human rights as some of the core values of society and the legal system. This legal and constitutional change also has broader societal and cultural significance. It demands a new way of thinking about the relationship of the individual to the State. It empowers individuals to think in terms of asserting their positive human rights, and

places new duties on all those exercising public power, in whatever sector, where they potentially infringe the rights of others.

This cultural change, and the process of embedding human rights guarantees within the UK constitutional and governmental structure, begins rather than ends with the coming into force of the Human Rights Act. The change the Act brings about, both directly, through the rights it incorporates, and indirectly, through the impact of rights as they filter through society, and the possibilities the Act opens up for the acceptance of other international human rights standards, requires continuing management. This is a large, long-term, permanent project, and one which only a Human Rights Commission can effectively and fully realise.

Without a Human Rights Commission, it is likely that the UK's conception of human rights will be an impoverished one. The Human Rights Act will be viewed narrowly, as a legalistic document to be developed primarily through litigation. In the absence of a Human Rights Commission, the great opportunity presented by the Human Rights Act may be missed.

It is JUSTICE's view that, at the time of the enactment of the Human Rights Act, a Human Rights Commission should have been established. The experience immediately leading up to the implementation of the Human Rights Act justifies our initial concerns. Implementation of the Human Rights Act suffered, because there was not a sufficiently strong, well-resourced or focused implementing authority. During the implementation period, the Home Office Human Rights Unit and NGOs, in particular those involved on the Home Office Task Force, were faced with a very large number of requests for advice, legal assistance, training and information materials. Although every effort was made to respond to this need, they lacked the considerable resources required to do so comprehensively. The result has been a general public that is largely either confused or unaware about human rights, a public sector that is not fully educated in its responsibilities, and a voluntary sector that has been left without sufficient support or assistance.

Therefore, there is a need for a Commission both in the long term, to manage the cultural and societal changes envisaged by the Human Rights Act, and also more immediately, to ensure the effective implementation of the Human Rights Act. In addition, the establishment of a Human Rights Commission would be a much-needed statement of commitment to and affirmation of the aims of the Human Rights Act.

***Question 1: what do you think a Human Rights Commission might add to the current methods of protecting human rights in the United Kingdom?***

From JUSTICE's experience of working for the implementation of the Human Rights Act, a Human Rights Commission is a necessity, because of a number of essential missing elements in the machinery of human rights protection. Broadly, although the courts, government and Parliament all now discharge their responsibilities under the Human Rights Act, the lack of a central body with responsibility to promote and protect the broad panoply of human rights is acutely felt. Invaluable though they are, the existing equality commissions have closely defined roles, which do not extend to cover even the full range of equality issues, let alone other human rights issues. Furthermore, taken as a whole, central government has shown a reluctance to be closely associated with the Human Rights Act, and effective promotion of the Act has not been consistent across all sections of government. Some departments have welcomed the opportunity presented by the Act whilst others have appeared less enthusiastic. Although important work was done in implementing the Act by the Home Office Human Rights Unit and the Task Force, these efforts were somewhat limited by lack of resources. Since the winding up of the Task Force, there is no single body which focuses on the protection and promotion of human rights standards in the UK.

Although JUSTICE welcomes the new allocation of human rights responsibilities to the Lord Chancellor's Department, this will not in itself address the problems of implementation and human rights promotion described here. In the past, when new responsibilities have been placed on public authorities or employers by legislation, new bodies have been established to assist and advise them in discharging these responsibilities. This has been the case, for example, in relation to equality legislation, and the Data Protection and Freedom of Information Acts. JUSTICE considers that similar action is necessary following the coming into force of the Human Rights Act.

**a. Fostering a human rights culture**

There has not to date been any comprehensive or sustained public information or education service in regard to the Human Rights Act. Lack of understanding of the Act has been compounded by frequent misrepresentation in the media. A Human

Rights Commission could act not only as the key provider of easily accessible information to the public on human rights matters, but also as a forum for public discussion and debate on human rights issues. This process of debate is particularly important, since the Human Rights Act was not developed (in contrast, for example, to the Canadian Charter of Rights and Freedoms and the South African Constitution) as an indigenous Bill of Rights following a public consultation process. In the first place, for the UK law of human rights to be developed and litigated appropriately and well, it needs to be informed by public needs and concerns. The Human Rights Act aims to develop a distinctive UK law of human rights, from the application of international norms within a domestic context.

Secondly, for there to be ownership by the general public of the UK's new and developing law of human rights, there needs not only to be education on the human rights guarantees we now have, but also the fullest possible debate on how a domestic law of human rights should develop, in the context of our changing society and emerging concerns. This is a debate which should not be confined to an elite. The Human Rights Act will have failed to realise its very considerable promise if it comes to be viewed (as it has often been perceived in the media) as a foreign import or as the preserve of self-interested lawyers. The effort and commitment already made to the Human Rights Act project needs to be taken forward to make it constitutional in the broadest sense: a valued statement of principles that are respected and relied upon by the people.

One of the most effective functions of the Human Rights Commission could be the conduct of inquiries. Such inquiries, along with inquiries by the Joint Committee, would have an important function, in bringing to the attention of both government and society areas of law and practice which raise human rights concerns, and in stimulating debate about new areas of human rights protection, such as the scope and implementation of socio-economic rights. The particular role of the Human Rights Commission would be to instigate public debate through its inquiries; for example it could hold public hearings around the country and take evidence from the public. This could be an important part of its role in building a human rights culture, as well as raising matters of legitimate public concern.

**b. Education in human rights**

Education and public information provision on human rights standards will be a continuing need, for public authorities, the voluntary sector, and for the general public. Provision of information is needed, not only in relation to rights and obligations under the Human Rights Act, but also in relation to the developing UK caselaw of human rights, as well as the range of rights guaranteed under the international instruments to which the UK is party, which will become of increasing importance as a result of the Human Rights Act, and about which there is a relatively low level of awareness.

The provision of Human Rights Act training to the public sector has been one area in which JUSTICE has been heavily involved. Although some government departments and public authorities prepared fully for the implementation of the Act, much work remains to be done to ensure that both the public and the voluntary sector are fully prepared for the long-term impact of the Act, through training and information. In particular, JUSTICE is concerned that the NGO sector has to a large extent been unable to access training and information in regard to the Human Rights Act.

The expertise and support of a Human Rights Commission would provide an invaluable resource for public authorities in this regard. Although the Commission could not be expected directly to provide comprehensive training for the public or voluntary sector as a whole, it could play an important strategic role in facilitating, supporting, and advising on Human Rights Act education, for example in publishing training manuals and materials. It may also be able to organise cascade training of particular sectors or departments.

**c. Advising and assisting people who claim to be victims of violations of their Convention rights**

The right of access to justice is both a key guarantee and an important underlying principle of the European Convention on Human Rights. It is also fundamental to the purpose of the Human Rights Act that Convention rights should be made a reality in the UK courts. This requires, at an initial stage, access to information about the legal avenues available if someone believes their rights have been breached. At present, although NGOs and legal practitioners discharge some of this function, there is no

central public body equipped to be a first port of call for people seeking advice. A Human Rights Commission would be able to play an important role in this regard, in co-operation with those already involved in the field. It could provide a telephone information line as a central point of contact, providing information, or referring callers to other appropriate organisations or public bodies.

The Commission could also provide legal representation to individuals, in cases involving issues of public interest in the field of human rights, where funding to bring the case is otherwise unavailable. The Commission's role in this regard would allow important test cases to come to court where they might not otherwise do so, and thereby assist in the development and clarification of the law.

**d. Developing expertise in human rights**

An expert Human Rights Commission would be a central resource for those already involved in the field of human rights, as well as for those developing an interest in the area. The Commission could provide an important forum for expert debate and discussion on human rights, bringing together those with different perspectives: legal practitioners, academics, parliamentarians, campaigners, government officials and others.

**e. Bringing legal proceedings on human rights issues in the public interest**

The courts have a continuing and formidable task in applying human rights principles in the context of domestic law. Many difficult points have still to be resolved, and it is likely that these issues will be dealt with and the law developed gradually by the courts. It will aid certainty and assist in the development of the law, if there is a body with the capacity to provide expert advice to the courts on human rights issues.

Some of this function has been discharged by human rights NGOs, through third party interventions and test case litigation. Although the role of such NGOs will continue to be important, a Human Rights Commission would be well placed to act either as an *amicus curiae*, or as a third party intervenor in human rights cases.

In relation to test case litigation, the drafting of the "victim test" in section 7 of the Human Rights Act means that the capacity of NGOs to bring public interest actions is restricted. JUSTICE has consistently taken the view that the victim test in section 7 of

the Act is unduly restrictive. We consider that, ideally, the legislation establishing a Human Rights Commission should amend section 7 of the Human Rights Act, to allow the Commission, at least, to take cases in its own name in situations where it considers there to be serious, systemic human rights abuses. In situations where there is wide-ranging systemic violation of rights, but where it may be difficult to identify an individual victim able or willing to bring a case to court, the ability of the Commission to bring a case in its own name would become important.

In the absence of any such legislative power, the Commission could nevertheless, as we have noted above, assist individuals to bring human rights actions.

***Question 2: If a Human Rights Commission were established, how should its role and functions relate to those of the JCHR?***

The JCHR and a Human Rights Commission would have distinct though complementary roles, and would serve and address different sectors. The JCHR's primary role is to act as Parliament's human rights adviser, and to hold the executive to account, through Parliament, for any action that is in breach of human rights. Its establishment is an expression of Parliament's responsibilities under the Human Rights Act to ensure that human rights standards are taken into full consideration in the course of the legislative process.

A Human Rights Commission's responsibility would be broader and its role more public. Its focus would be the provision of advice and information to the general public, as well as to the public and voluntary sectors in relation to their responsibilities. The Commission would stimulate debate on human rights issues of public concern, and would be able to provide an interface between the varied groups that engage with human rights protection. The Human Rights Commission would also have an important role in the courts, both as a litigator and as an adviser (acting as an intervenor or *amicus curiae*), a function which would be outside the remit of the Joint Committee. The Commission would also be able to hold inquiries for the benefit of the public. Commission inquiries would aim to raise and address human rights issues of public concern, whilst inquiries by the Joint Committee would be primarily intended to hold the executive and public authorities to account.

It will be important that there is a close and constructive working relationship between the Joint Committee and the Human Rights Commission,<sup>1</sup> and co-ordination and co-operation in their work. The scope of operation of a Human Rights Commission would of course be affected by the need not to duplicate the work of the Joint Committee. In particular, the primary function in relation to the human rights auditing of legislation should remain with the Joint Committee on Human Rights, although the JCHR would be greatly assisted by expert evidence and research from the Human Rights Commission when assessing the human rights compatibility of legislation.

***Question 3: In what order of priority would you arrange the functions of such a Commission? To which issue or issues do you think that the Commission should give priority?***

### **Functions of a Human Rights Commission**

JUSTICE would envisage the Commission as having three broad functions: to act as a provider of advice, education and information on human rights for all sectors; to engage in litigation, provide representation and provide information to the courts on human rights issues; and to conduct inquiries into situations where there are human rights concerns.

Specifically, a Commission's functions should include, in this general order of priority:

- Advising and providing information to the public on human rights standards, facilitating public debate, and promoting understanding and awareness of human rights
- Advising and providing information to government and public bodies on human rights
- Conducting thematic inquiries into the protection of human rights in particular areas
- Acting as a third party intervenor or as an *amicus curiae* in proceedings before courts or tribunals where human rights protection is at issue
- Bringing test cases on key human rights issues

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<sup>1</sup> Below we recommend that the Commission should report directly to the Joint Committee

- Making recommendations to government and parliament on measures to be taken to improve the protection of human rights, including proposals for legislation, for adherence to international conventions, and for reform of practice and policy.
- Undertaking research and publishing reports
- Participating in the scrutiny process in relation to the UK's compliance with United Nations and other human rights instruments.

JUSTICE is of the view that the Commission should not have judicial or quasi-judicial powers to consider complaints in individual cases where violations of human rights are alleged. Such a power could be seen as at odds with the Commission's role in bringing test cases, and in providing advice or legal assistance to individual litigants. The Commission's work should instead focus on informing the process of litigation before the courts and tribunals, as well as other proceedings for redress such as the Ombudsmen procedures.

### **Issues to be given priority**

The Commission should have the power to direct its own work programme, within the remit provided for by its founding legislation. The Paris Principles state that a Human Rights Commission should have the power: "freely to consider any questions falling within its competence, whether they are submitted by the Government or taken up by it without referral to a higher authority, on the proposal of its members or of any petitioner."

In accordance with the Paris Principles, it should be specifically provided that the Commission should have a broad remit to consider the protection of all internationally recognised human rights standards within the UK, and to propose development of standards and adherence to additional human rights instruments. Within this, it will be for the Commission to prioritise particular issues.

Initially, the Commission will need to give priority to issues concerning the implementation of the Human Rights Act. However, the Act should be addressed within the broader context of the UK's international human rights obligations. The prioritisation of specific issues will be for the Commission to decide, on its formation.

***Question 4: If a Human Rights Commission were to be established, should there be a single body with a jurisdiction extending to all parts of the United Kingdom, or separate bodies for England, Scotland, Wales and Northern Ireland, or both a United Kingdom body and bodies with territorial responsibilities?***

The establishment of Human Rights Commissions for the UK will need to take account of the devolution arrangements, whilst at the same time avoiding unnecessary complication or overlap in the jurisdictional competence of the commissions. The Northern Ireland Human Rights Commission, already well established, should of course continue in its present work, as is required by the Good Friday Agreement. The distinct legal and political system of Scotland means that a separate Scottish Human Rights Commission would be appropriate; the need for a Scottish Commission is already being investigated by the Justice Department of the Scottish Executive.

Given the lesser degree of devolution to Wales, and the shared legal system of England and Wales, the arguments for a separate Welsh Commission are probably not as strong. However, some separate provision should be made for Wales, within either a UK-wide Commission, or a single English and Welsh Commission. A London-based Commission should have a permanent presence in Wales, and it may be that one or more Commissioners should have particular responsibility for the Welsh branch of the Commission, with an office in Wales.

Workable models for Human Rights Commissions can be found within the devolution arrangements for the UK. There are two primary options:

- There could be a Human Rights Commission for the United Kingdom as a whole. This Commission would perform all the functions of a Commission for England and Wales, and would also have a role in Scotland and Northern Ireland, in relation to non-devolution matters of general concern to the UK as a whole.
- There could be a Commission for England and Wales, alongside a Scottish Commission and the present Northern Ireland Commission. The Commissions would work collegially, with structures in place to ensure liaison and co-operation. Co-operation could take the form, for example, of a Joint Committee (on the

model of that provided for in Ireland under the Good Friday Agreement<sup>2</sup>) with its Chair rotating among the Commissions.

There are attractions and disadvantages to each of these proposals. A UK-wide Commission, existing alongside devolved Commissions, would have the advantage of reflecting the devolution arrangements. It would also ensure that there was an identifiable UK central body with responsibility for human rights issues throughout the country. However the second model, of a Commission for England and Wales, alongside Commissions for Scotland and for Northern Ireland, may provide a more straightforward solution, avoiding overlap and conflicts of responsibility and authority between the various bodies. It may also be the best way of ensuring ownership of human rights issues within the different parts of the UK.

JUSTICE considers that either of these models could prove workable and effective. Both these models (and the question of separate arrangements for Wales) should be put forward for public consultation, which will be of particular importance on this question.

Whichever structure is adopted, it will be important to establish mechanisms of co-operation and communication between all of the Commissions, to ensure co-ordination and information-sharing among them. This will be particularly important if no single UK Commission is established.

***Question 5: If there were to be a Human Rights Commission with responsibilities for the whole United Kingdom, what relationship should there be between its work in respect of Northern Ireland and the work of the NIHRC (and similar Commissions in Scotland and Wales if they are established at some time in the future)?***

If a United Kingdom Human Rights Commission were to be established, then its jurisdiction should reflect the current devolution arrangements. The devolved Commissions should have primary responsibility in relation to human rights issues and situations particular to Scotland and Northern Ireland. However, where there are human rights issues common to the UK as a whole, or where human rights concerns arise out of UK legislation, then a UK Human Rights Commission should have

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<sup>2</sup> Paragraph 10 under the Heading "Human Rights" in Strand Three of the Agreement.

primary responsibility, working in co-operation with the devolved commissions where appropriate.

***Question 6: If a Human Rights Commission were established, how should its work relate to that of other bodies with special responsibility for particular rights?***

In JUSTICE's view, a Human Rights Commission should not replace or absorb the existing equality commissions or the office of the Information Commissioner. The role of these commissions is important in providing a specialist focus, although the specific nature of their remits will mean that some issues - for example discrimination on the basis of age or religion - will still remain to be dealt with by a Human Rights Commission. Equality issues should not be specifically excluded from the remit of a Human Rights Commission, since clearly equality and discrimination issues will arise in the course of the Commission's work in cases where other rights issues are also involved. However, issues within the work programmes of the existing commissions should not form the primary focus of the Human Rights Commission.

Again, structures should be put in place to ensure co-ordination between the work of the various commissions. Joint work could fruitfully be undertaken between the Human Rights Commission and the other commissions.

***Question 7: If a Human Rights Commission were to be established, how should its independence of Government be preserved while ensuring an appropriate type and level of accountability?***

Independence will be vital to the efficacy and credibility of a Human Rights Commission. The Paris Principles stress the importance of independent legal status and the practical ability of Human Rights Commissions to work free from government obstruction. The Commission must of course nevertheless maintain strong links with government, in order to work most effectively with the public sector, and must be fully accountable, both financially and in terms of its substantive work.

**(a) How should its Chair, members and key staff be appointed?**

Appointments of the Chair and members of the Commission should be by the Lord Chancellor on the advice of an independent appointments committee. There should

be public advertisement of the positions, transparent selection procedures, and respect for equal opportunities.

Appointments to a Human Rights Commission should be on the basis of expertise and experience in fields relevant to the Commission's work, including human rights, equality, and social justice issues. Within this, in accordance with the Paris Principles, appointments to the Commission should to the greatest extent possible be reflective of society generally and of those involved in human rights promotion, practice and theory, including experts in human rights law and associated disciplines, both academics and practitioners, and representatives of NGOs and minority communities.

In the interests of preserving independence, JUSTICE considers that staff should, as a general rule, be appointed directly by the Commission, rather than seconded from the civil service. However, there may be exceptional cases where secondments would be helpful in providing the Commission with particular expertise.

**(b) How should its funding be provided?**

The bulk of the Commission's funding should be provided by a grant-in-aid from central government. However, it is essential, in order to preserve its independence from government, that the Commission should not be constrained from accepting funding from elsewhere, so long as this does not compromise its independence, or unduly influence or distort its work. The Commission should also be free to raise some income from fees (for example for training or speaking engagements) and sale of publications, although any charges should not be imposed in a way that impedes access by the general public to assistance from the Commission. The income that could realistically be generated from such activities would, however, be small, and this should be reflected in the grant in aid.

**(c) To whom should it be accountable?**

JUSTICE considers that the Human Rights Commission should report to the Parliamentary Joint Committee on Human Rights, and be examined by it on its annual report. Making the Commission accountable to Parliament, to a Committee expert in its field, would assist in protecting its independence, and would also assist in developing a close working relationship between the two bodies.

**(d) How should this be applied in the context of devolution?**

The devolved commission in Scotland should be accountable to the Scottish Assembly. Arrangements for appointments and funding by the Scottish executive should reflect those for the UK (or the English and Welsh) Human Rights Commission.

***Question 8: What level of staffing would be required by the body or bodies you propose, and what might the annual cost be?***

It would be inappropriate at this stage to calculate the detailed budget or precise funding needs of a Human Rights Commission. Resource allocation will need to be backed up with careful research and consideration of the experience of commissions abroad. Detailed costings for a Human Rights Commission have been undertaken by the IPPR,<sup>3</sup> and these will be useful, but since the publication of this report considerably more has been learnt about the range of functions and the level of work that would be involved for a Human Rights Commission with responsibility for the implementation of the Human Rights Act. The experience of the Home Office Task Force and of the NGOs that participated in it illustrates the high level of resources demanded by the provision of information, training and advice on the Act and Convention.

It will be important for the efficacy of its work for the Human Rights Commission to have an adequate permanent full-time core staff, with in-house human rights expertise. The Commission should also have the option of commissioning outside research, and bringing in outside specialists for training or inquiries, and for funding to be specifically provided for this. The Commission should have the capacity to form working groups and expert panels composed of both members of the Commission and outside experts to advise on particular issues. This would allow for some flexibility in the use of resources. It would also assist the Human Rights Commission in maintaining strong links with civil society and with legal and other professional communities.

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<sup>3</sup> *A Human Rights Commission: the Options for Britain and Northern Ireland* (1998, Spencer/Bynoe)

JUSTICE also considers that the Commission should have at least a core of full-time Commissioners. A number of Commissioners with a full-time commitment to the Commission would provide a necessary resource, providing in-house expertise and ensuring the efficient discharge of the Commission's work programme. At the same time, the capacity to make some part-time appointments could be a useful way to ensure that as wide a range of people as possible could be appointed to the Commission. Commissioners should be appointed for a fixed renewable period.

The experience of the Northern Ireland Human Rights Commission, provided with a grant in aid insufficient for its work, should be taken into account. As the NIHRC has recently recommended in regard to its own work, there should be specific legislative provision, guaranteeing a level of funding sufficient to permit the Commission to fully perform its functions.

***Question 9: If a Human Rights Commission were established, what powers should it have?***

The Commission should be granted sufficient powers to ensure that it can carry out its functions effectively. In relation to its power to conduct general inquiries it should have powers:

- to compel evidence
- to hear and compel witnesses

It should be noted that the Northern Ireland Human Rights Commission has recently reported that the absence of powers to compel the production of oral or written evidence, in its founding legislation, has seriously hampered its investigative functions.

JUSTICE believes that the founding legislation (amending section 7 of the Human Rights Act) should also give the Commission the capacity to bring actions in the public interest, in its own name where human rights concerns are at stake. As a minimum, the Commission should also be empowered to represent individuals in human rights test cases.

The legislation should also provide clearly that the Commission has the power to make third party interventions, in light of the experience of the Northern Ireland

Commission, whose capacity to make such interventions has been denied by the courts. There should also be a power to act as an *amicus curiae*.

As has been stated above, JUSTICE does not consider that the Commission should have the power to conduct investigations into individual cases.