



25 May 2007

## **COMMUNITIES AND LOCAL GOVERNMENT COMMITTEE**

### **THE EQUALITY INQUIRY**

#### **MEMORANDUM BY THE BRITISH INSTITUTE OF HUMAN RIGHTS**

The British Institute of Human Rights (BIHR) is an independent charity with a UK-wide remit. Our focus is on the value of human rights ideas, laws and practice to tackle inequality and promote social justice. We have three main aims: (i) lead the development of a fresh and ambitious vision of human rights that encompasses the full range of internationally recognized rights and is relevant to everyone in the UK, especially the most marginalised people; (ii) build the capacity of other organisations to develop their own human rights practice that helps them deliver more effective services and campaigns; (iii) to influence people with power to make this broader vision of human rights an integral part of their policies and plans. We do a range of policy, research and influencing activities and we develop and deliver practical human rights supports (including information, consultancy and training) for voluntary, community and public sector organisations.

#### **Our main activities:**

- Undertake policy analysis and research
- Influence and lobby national government and Parliament
- Organise a range of events that stimulate debate on topical human rights issues
- Provide a range of information and other resources (including briefings and toolkits)
- Develop and deliver consultancy and training for the voluntary and community and public sectors on both practice and policy
- Lead and/or collaborate on demonstration and pilot projects across the voluntary and community and public sectors

## **Issues faced in the establishment of the new Commission Equality and Human Rights**

The CEHR is to be a new statutory organisation with a wide-ranging brief. It could be thought of as a 'fairness commission' for Britain, which is potentially relevant to everyone in society. The organisation's website reflects this: *'The vision for the CEHR is based on the Government's view that equality is not a minority concern - it matters to every one of us'*. The CEHR's powers and responsibilities are clearly laid out in the Equality Act and in its transition phase the organisation is now looking at how it will fulfil these. This submission highlights some of the challenges and opportunities the CEHR has in developing its thinking and practice so that it can bring together its three agendas on equality, human rights and good relations and do so in a way that has a tangible impact on the most pressing inequalities, the most flagrant human rights abuses and the most worrying cohesion and community relations issues faced by people in Britain today. To most people in our society, human rights, equalities and good relations can seem abstract or alien concepts. The Commission has an important job to do in bringing them to life and we believe that human rights, as 'something for everyone' can help to be an inspiring, unifying and practical force in this initiative.

### **Using human rights as an underpinning framework for work with diverse equality interests or 'strands'**

A key challenge facing the CEHR is how to work across what have been, until now, separate equality 'strands'. Human rights offer a unifying framework that not only provides a solution to this challenge, but also brings a fresh approach that will strengthen work on equality.

A human rights approach to equality is more ambitious and inclusive than the models that have dominated the equality movements to date. In addition to prohibiting discrimination, a human rights vision of equality encompasses fairness of treatment, dignity, respect and access to all the fundamental rights (including economic, social and cultural rights) which enable participation in a democratic society. Placing this vision at the heart of its work will extend the CEHR's horizons in a number of concrete ways. It will allow the CEHR to:

- tackle the discrimination faced by many people on more than one of the grounds within the CEHR's remit (for example older, disabled, black women);
- expand its equality work to cover groups not recognised by the 6 'strands', including asylum seekers and refugees, and carers (see broader protection against discrimination offered by human rights discussed below);
- challenge treatment or public service provision that may be accessed equally, but which does not meet human rights standards (for example degrading or undignified conditions or lack of respect for family life); and
- show how its work is of relevance not only to particular groups of interest or identity, but to everyone with the UK, thus contributing to its work on good relations and positive cultural change.

This approach is supported by the Equality Act which obliges the CEHR to take human rights into account in its work on equality and diversity and good relations, thus recognising that human rights provide an underpinning framework for these other areas of work.<sup>1</sup>

It is often forgotten that **equality is a fundamental human right** and that our anti-discrimination laws are a product of the international human rights movement and the prohibition of discrimination it championed and secured from the late 1940s onwards. The Universal Declaration of Human Rights famously prohibits discrimination on *any* grounds including ‘race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth *or other status*’ (emphasis added). This broad prohibition, extending far beyond the six equality ‘strands’ we recognise in the UK, is replicated in a range of human rights treaties including the European Convention on Human Rights.

For decades equality campaigners in the UK have focused on securing specific protection against discrimination for an increasing, but far from exhaustive, range of groups. In most cases, these protections have been achieved without reference to the broader human rights agenda.<sup>2</sup> As a result, equality has come to be perceived by many as a ‘minority’ concern and the broader vision of equality beyond anti-discrimination offered by human rights has been largely dormant in the UK until now. The creation of the CEHR restores the essential connection between equality and human rights in both institutional and practical terms. As the Lord Chancellor has explained, human rights are not ‘the icing on the top of the Commission’s equality cake’; they are ‘the key ingredient.’<sup>3</sup>

### ***Supporting the use of human rights based approaches ‘in practice’***

Another key challenge the CEHR will face is demonstrating how a human rights approach can be used in practice to tackle inequality. International and emerging national practice suggests that the key lies in developing, with those who will use them, practical guidance and supports on using human rights based approaches.

In essence a human rights based approach is the process by which human rights principles and standards are made a reality in people lives: by using human rights as an explicit reference point in policy and planning, by empowering people to participate in achieving them, by making accountability clear and by prioritising the most marginalised or excluded. The impact of inequality on specific groups is thus a key focus of human rights based approaches; while the addition of extra dimensions including participation and empowerment means that practitioners are supported to do equalities work better.

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<sup>1</sup> Section 9 (4) Equality Act 2006.

<sup>2</sup> There are some exceptions. For example, the Scotland Act 1998 adopts a broad approach to the grounds of discrimination that is inspired by human rights instruments. See Schedule 5 ‘Reserved Matters’ L2 ‘Equal opportunities’.

<sup>3</sup> <http://www.dca.gov.uk/speeches/2004/lc120504.htm>.

Though human rights based approaches have been developed and used by a number of international organisations over the past few years (including the United Nations), they are very new to the UK. In this context a small but growing number of organisations and institutions in the public and voluntary sectors are piloting or developing human rights based approaches here, some with the support of BIHR, offering great potential for learning. For example, our new 'Human Rights in Healthcare' framework was developed in partnership with the Department of Health and five NHS Trusts. Two of the five participating Trusts piloted human rights based approaches in the context of their work on equality, yielding valuable learning for the CEHR.<sup>4</sup>

The CEHR is well-placed to take the lead on promoting and up-scaling this innovative way of working by providing information and support to other organisations interested in using human rights based approaches. This would be an effective way for the CEHR to discharge its statutory duties to encourage compliance by the public sector with human rights standards and to promote good practice in relation to human rights generally.

***Increasing the engagement of a wider range of actors in promoting human rights - in particular voluntary and community organisations (VCOs) who support the participation and voice of the most marginalised***

To progress the CEHR's remit to support the development of a *culture of respect for human rights*<sup>5</sup> which benefits and is owned by all in society, the engagement of VCOs will be critical. This is particularly the case in ensuring that human rights take on a greater meaning for, and produce practical benefits to, the most disadvantaged and marginalised people and communities. VCOs play a key role for these groups in terms both of service delivery and representing their needs and issues.

Moreover, policies, services and programmes developed by the new CEHR, in particular its first strategic plan, will simply be more effective if they are informed by the very people they are intended to benefit and support.

However, compounding low awareness of human rights, there is currently widespread anxiety across the voluntary and community sector in relation to the role of the new CEHR. Many organisations are frustrated at perceived poor engagement during the transition period. BIHR has played a role in convening voluntary and community organisations to explore the challenges and opportunities presented by both human rights based approaches and their links with wider equality work within the new CEHR.

In November 2006 we convened, together with the National Council for Voluntary Organisations, an NGO Summit on human rights and the voluntary and community

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<sup>4</sup> The framework is available at [http://www.bihhr.org/downloads/Health\\_framework.pdf](http://www.bihhr.org/downloads/Health_framework.pdf).

<sup>5</sup> '[A culture] that fosters basic respect for human rights and creates a climate in which such respect becomes an integral part of our way of life and a reference point for our dealing with public authorities and each other.' Joint Committee on Human Rights.

sector. A key message emerging from this event was that although there is strong will and an appetite on the part of VCOs to use human rights based approaches and support the work of the CEHR, there is a significant human rights ‘capacity gap’ in the sector with limited current supports to address this.<sup>6</sup>

### **The Government’s role and responsibilities in taking forward the recommendations within the Equalities Review**

We are encouraged to see the final Equalities Review report go some way to recognizing the connection in theory between human rights and equalities. Specifically the Review acknowledges the relevance and use of international human rights standards/principles as a means of ‘unpacking capabilities’. However, the Review does not go on to look at what this framework would mean in practice for organisations. So we would be looking to the Government, the CEHR and others now to move this on a stage further, by looking at the practical implications of the theoretical approach that is outlined in the Review.



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<sup>6</sup> The report of this meeting is available at <http://www.bihhr.org/downloads/NCVO.pdf>.