

Dear South West Member of Parliament

The Equality Act was passed into law in April 2010. Most of the Act has been implemented, some clauses have been scrapped and other provisions remain under consideration.

Responsibility for implementing the Act passed from the previous Labour government to the Coalition government, whose key priorities, themes and initiatives are, in various aspects, at odds with those underpinning the conception and drafting of the legislation. As a civil society organisation committed to promoting equality, diversity and human rights, it has been necessary for Equality South West to monitor quite closely the impact that various announcements, proposals and initiatives have had during the past year.

Attached is a digest of some of our most recent concerns.

I would be grateful if you would take a few minutes to read this briefing and would be happy to answer any questions you may have.

Sincerely

Katie

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Briefing for South West MPs on key equality issues

Understanding and using the EU Charter of Fundamental Rights: The Charter of Fundamental Human Rights has the status of a Treaty and is one of the three pillars of the Lisbon Treaty. It has the effect of giving fundamental human rights parity of status with the Treaty of the European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU). The UK has negotiated an opt out of the Lisbon Treaty which means that Charter provisions only apply where EU law is being implemented in the performance of any activities. However the Charter adds the following to what we have in UK law: Human Dignity - human dignity is inviolable and must be respected; The Right to integrity of the person - everyone has the right to respect for his or her physical and mental integrity; The Prohibition of slavery and forced labour - trafficking in human beings is prohibited.

Red Tape Challenge: The Equality Act was put up on the government's Red Tape Challenge website in April as a candidate for repeal or amendment. The public are invited to

say if they want it scrapped. In spite of Theresa May's statement that there are no plans to scrap it there are deep concerns among equality organisations about the enormous scope, short of repeal, for government to render the legislation ineffectual. Over 4,000 people have written to defend the Act, many calling for stronger measures to support its implementation. The Equality Act is to be 'spotlighted' by the government in June and it will be necessary to re-mobilise this response. It is unclear what spotlighting means and what process the government has devised or will devise for deciding which, and what volume of submissions are sufficiently convincing to trigger change.

Public Sector Equality Duty: Specific Duties. The latest draft specific duties amount to an about-face by government. Some key commitments that had been given following the consultation on the draft duties launched in January have now been withdrawn. These include duties to provide information about the equality data used in public policy-making, how data has been analysed and conclusions reached, and the need to engage with staff and service users in developing policies.

The EHRC Consultation: Responses need to be in by 15th June. A fundamental concern is that the proposals ignore the purpose for which the EHRC was set up and the people who rely on it as an independent body dedicated to promoting equality as well as regulate and enforce. The government proposes to redefine core functions and get rid of what they categorise as 'non-core functions'. It is important to view the proposals in the wider policy context (citizens becoming front line regulators of the equality legislation; abolition of key regulatory agencies and supportive inspection regimes e.g. Audit Commission/Ofsted; dilution of the specific duties; Red Tape Challenge) as well as considering the implications for the EHRC's independence from, and freedom to challenge government and other bodies. The GEO is now located in the Home Office, and the EHRC's IT system has been combined with that of the GEO under 'back office' efficiency savings.

The underlying assumption of the consultation is that EHRC does too much and that is why it has failed. It is the view of equality organisations that this starts from the wrong premise. It is recognised that there have been problem with aspects of the EHRC's performance, but it would be possible to improve the efficiency and effectiveness of the EHRC without removing the functions that were relatively recently agreed as important.

One of the big concerns is the proposal to close the EHRC helpline and commission a private or voluntary sector organisation to provide this instead. There are no assurances that the provider would need to be a specialist organisation. The information provided through analysis of the issues dealt with by the helpline is invaluable in informing the EHRC's work. Should it be outsourced, this needs to go to a voluntary body (the CAB would seem like the most obvious candidate) but there are suspicions that it could go to a private company.

It is also proposed to end the provision of grants to support legal and strategic actions beyond what is available through legal aid. This would result in minimal case law being created and reduce the opportunities for legitimate challenge.

In clarifying its relationship to government, the proposals would create an intimidatory, restrictive and heavily bureaucratic environment within which the EHRC would need to perform, including a statutory requirement for EHRC to lay an annual business plan before Parliament enabling Ministers to ensure that the business plan provides sufficient detail as to how the EHRC intends to spend its budget. Other proposals are: a requirement for the EHRC's Chair and CEO to have regard to using public money efficiently and effectively; to make explicit that the secretary of state may impose a financial sanction, where EHRC can be shown to have mis-spent taxpayers' money; to make clear that as a publicly funded body EHRC is subject to Government public expenditure restrictions.

Women's Engagement Consultation: Ministers are emphasising women's individuality and want to hear from individual women and organisations representing disabled women, BME women, lesbians. There is an element of downplaying – in some of the rhetoric – the institutionalised sexism that the gender equality legislation has been designed to eliminate (note the withdrawal of mandatory pay reporting requirements). The proposals rely quite heavily on the idea of an IT platform, although many women's organisations have warned that this is not the way that many women can or want to communicate.

Government Social Mobility Strategy: This claims to adopt an evidence-based approach. The Equality Trust has concerns that the strategy and statements from ministers downplay the impact of income on social mobility, arguing that evidence on this is contestable. The key evidence offered against the connection are criticisms of 'The Spirit Level' from biased organisations (such as the Policy Exchange and Tax Payers' Alliance). The Commission will be focusing on non-income causes of the lack of social mobility and the challenge will be to argue the connections between income and lack of social mobility.

Possible cap on discrimination compensation: We are concerned at the proposal to review levels of compensation available. High levels of compensation for discrimination are only awarded in severe cases. The Equal Treatment Directive requires our UK laws to provide adequate remedies for discrimination.