

August 2004

Consultation response to DTI White Paper: Fairness for all: A new commission for equality and human rights

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Introduction

The Joseph Rowntree Foundation (JRF) is one of the UK's largest independent funders of research and development. We have a long-standing interest in a broad range of social policy issues, our core concerns being related to the interplay of poverty and disadvantage with '[place](#)'.

The White Paper touches on themes covered by several of our research areas, as equality and discrimination are phenomena which play themselves out in a range of contexts. This response draws on a number of our current programmes and, as a consequence, we have divided our response into general remarks – which reflect lessons from across our programmes of research – and specific responses to the questions posed in the consultation paper.

General remarks

As we indicated in our response to [Equalities and diversity: Making it happen](#), it is important to recognise that the causes (and lived experience) of ageism, discrimination against people with impairments, sexism and racism can have similarities and differences. It is important that the proposed Commission for Equality and Human Rights (CEHR) has internal structures and ways of working that reflect this diversity. The new commission will not answer the need if the different streams are amalgamated merely for administrative convenience. Therefore, it is important that the vision, mechanisms for working with stakeholders and the tools for change to be used by the CEHR are consistently robust, but used flexibly and creatively. From the annexes to the White Paper, it is clear that the current legislative framework is not consistent across all the streams that will be covered by the CEHR. We would urge Government once again to review the laws on discrimination and human rights with a view to bringing the legal framework under a consistent human rights and equality umbrella.

It is also important that equality should not be seen as a 'zero-sum' game between different groups: a game in which one player's winnings equal the other player's losses. Research in a range of areas – including the voluntary sector and relating to disability – emphasises the impossibility of sub-dividing people by their characteristics. One only has to consider the likely experiences of, for example, black disabled people or older women to see the problems that might arise from seeing such features as colour, ability, sex and age as discrete factors. Indeed, if properly established, the CEHR is an opportunity to firmly tackle the sorts of

discrimination experienced by those facing multiple 'disadvantages' in our society.

The Joseph Rowntree Foundation has supported a programme of work which looked at race equality within the context of disability. We have funded a number of studies including:

- Disabled people in refugee and asylum-seeking communities in Britain (see Roberts and Harris, [Findings ref. 962](#)).
- Peer-support groups and young black and minority ethnic disabled and deaf people (see Bignall et al., [Findings ref. 762](#)).
- South Asian young disabled people and their families (see Hussain et al., [Findings ref. 742](#)).
- The views of young black disabled people on independent living (see Bignall and Butt, [Findings ref. 340](#)).
- Minority ethnic families caring for a severely disabled child (see Chamba et al., [Findings ref. 539](#)).

These studies explored a little known lacunae in our research and practice knowledge. It found that there were relatively few services which addressed the needs of these groups and that many agencies were unwilling to divert funds from their original remit of race or disability, or to prioritise work that they saw as marginal to their core interests.

The JRF encountered serious difficulties in trying to promote the findings of this research to bring about change in our dealings with both of the relevant equality commissions. Neither fully engaged in either disseminating or taking forward suggested changes.

The CEHR might be able to play a vital role in breaking down institutional barriers between the streams. Drawing on our experience, we would strongly recommend that appropriate structures and processes are put in place within the organisations to ensure that vulnerable groups do not get lost between those streams.

Response to specific questions

Question 1: How can the CEHR ensure that all stakeholders have meaningful opportunities to shape its priorities and how it works?

Throughout the document there are references to key stakeholders in the new and existing strands. This appears, primarily, to relate to representative organisations including the voluntary and community sector, trade unions, employers and service providers. Government should recognise that such organisations are proxies for involvement. There is no reference to direct engagement with users or people with the 'lived experience', other than those seeking redress for discrimination.

From our work relating to race and disability, and in relation to neighbourhood regeneration, the CEHR should give an explicit commitment to involving people more directly through the use of consultation exercises, reference groups and advisory panels for pieces of work. This will provide a useful counter-balance to the more direct involvement that the new body will have in applying its legal tools to demand redress.

Relevant studies which provide useful pointers include the report by Robson et al. entitled [*Increasing user involvement in voluntary organisations*](#). This study provides a useful definition of involvement and its implications for organisational structures. It draws a distinction between management-centred user-involvement, agendas driven by users and agendas affected by particular institutional structures. These considerations might be particularly relevant to the formation of a new organisation.

Another useful publication explores the role of faith organisations in current urban regeneration initiatives: *Engaging faith communities in urban regeneration* (see Farnell et al., [*Findings ref. 413*](#)). This study explores the present and potential contribution of religious communities and their members, and the tensions and controversies involved in engaging with faith groups. It particularly emphasises the importance of understanding the diversity of faith and religious views and of trying to engage with them in a secular institutional framework.

In the text of the document, the White Paper makes reference to various ‘tools to promote change’, sets out the new commission’s tools to enforce the law where required and makes specific reference to the use of general enquiries and the issuing of codes of practice and guidance. Our comment about this is more of a query: have either of these two approaches ever been evaluated in terms of their effectiveness in bringing about change? The JRF has an ongoing interest in the most effective mechanisms for bringing about change and would welcome an opportunity to examine the operation of these particular approaches in more detail.

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.

The Government welcomes views of the different legal frameworks that underpin powers and duties in relation to the different groups covered by the commission, and specifically the frameworks underpinning the new streams of age, sexual orientation and religion. There seems to be a particular difficulty in the limitations of the existing legal framework in relation to these streams as they relate only to employment. While the proposals in this White Paper bring in a duty to promote equality in relation to disability and gender which are to be welcomed, we have a concern about the others. We have undertaken considerable work on the difficulty faced a range of groups when accessing services particularly relating to age and

the evidence we found would suggest that access to services is a vital issue that needs to be addressed across all the streams. The following publications will be of interest in this context.

- *The assessment process for older people leaving hospitals* (see Clark et al., Social Care [Findings ref. 89](#));
- *Black minority ethnic older people's views on research findings* (see Butt and O'Neill, [Findings ref. 564](#)); and
- *Integrating user involvement in multi-agency working to improve housing for older people* (see Midgley et al., [Findings ref. 205](#)).

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?

There is a reference at paragraph 6.10 to the use of the CEHR's powers to influence other funding bodies. It is not clear which funding bodies the CEHR will be able to influence or how. The links to direct Government funding streams, as well as those that are less direct such as the Big Lottery Fund, will be vital in understanding and promoting this particular function.

It is at the regional and local level that proper consultation and engagement with users and/or people with direct experience will be the most important (see general comments above). It would be inadequate to rely on the voluntary and community sectors to do this. Indeed, doing so could well result in an overall disengagement from people on the street. A good example of this is found in a study of the black and minority ethnic voluntary sector undertaken by the University of Warwick. The research report entitled *Black and minority ethnic voluntary and community organisations: Their role and future development in England and Wales* (see McLeod et al., [Findings ref. 311](#)), found that knowledge of the role and activity of local voluntary organisations among individuals of relevant minority ethnic groups was low. The new commission must ensure that it is engaging directly with its constituencies in order to ensure it has sufficient reach.

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.

In paragraph 7.48 a direct link is made to the role of inspection regimes as a means of enforcing discrimination legislation. This appears to assume that inspection regimes are primarily concerned with monitoring the performance of public sector providers. However, a forthcoming research report on inspections makes it clear that the Audit Commission in England is moving towards a greater emphasis on processes to improve performance. (The report by Howard Davies is entitled *Impact of national inspection regimes on local government* and will be published in December 2004.) There is the potential for CEHR to engage with this broader inspection role, reflecting its duty to promote good relations, rather than simply limiting itself to the regulation dimension.

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?

We are delighted that some recognition of the regional dimension is included. Nevertheless, the approach suggested appears to be inadequate. As it develops partnership and co-location contracts with regional bodies, it is vital that the independence and cross-cutting perspective of the CEHR is not lost. It is equally important to recognise that the new commission may well be in a position to take a critical view of the activities of the regional bodies with which it may be co-located. The distinction between the commission and other regional bodies must be clear.

The key omission here appears to be a lack of detail on the modes of working that will enable the commission to be truly responsive to local and regional perspectives.

Conclusions

In general, the Joseph Rowntree Foundation welcomes the potential for a cross-cutting approach that is embodied within the proposed CEHR. Our response draws on lessons learned from a range of our research and development projects as they relate to the specific questions posed in the White Paper.