

EHRC REFORM CONSULTATION RESPONSES

Response completed by (name):

Alan Rees MBE, Secretary, Scottish Accessible Transport Alliance (SATA) 20 Seaforth Drive, Edinburgh EH4 2BZ
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Introduction

SATA is an independent self-funding Scottish Charity with over 80 individual and corporate members active in the voluntary, public and private sectors. It is led by disabled people, works for improvements in transport services, and makes representations on issues of concern to disabled people.

What is being proposed by the UK government we understand will result in a major cut in the EHRC budget, end of its helpline, remove its grants programme and contract its remit. We were against the merger of the Disability Rights Commission with the EHRC since the DRC had a high profile and effectiveness in promoting equality of access to services such as transport in Scotland. We are therefore strongly against this further lessening in the ability of a statutory agency to support disabled people.

EHRC's core functions

PROPOSAL ONE – Repealing the General Duty

Question 1: Do you agree that Section 3 should be repealed?

Please place a cross in the appropriate box

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	XNot sure	<input type="checkbox"/>
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Please explain why –

AS FAR AS WE CAN SEE, THE CASE FOR REPEALING THE GENERAL DUTY HAS NOT BEEN MADE OUT. THE EHRC HAS NOT BEEN IN EXISTENCE LONG ENOUGH TO ENABLE A VALID ASSESSMENT OF ITS PERFORMANCE TO BE MADE. WE WOULD CONTEND THAT FROM AN EQUALITY POINT OF VIEW, THE GENERAL DUTY SHOULD BE RETAINED. REPEALING IT WOULD SIGNIFICANTLY WEAKEN THE EQUALITY FUNCTIONS OF THE COMMISSION.

PROPOSAL TWO – Amending the equalities duties at section 8 to clarify EHRC’s core equality functions_

Question 2: Do you agree that remodelling the duties at s.8 of the Equality Act 2006 to mirror the role and functions set out in para 1.9 of chapter 1 will help to focus EHRC on its core functions as an equality regulator? If not, what do you think EHRC’s core functions should be?

Please place a cross in the appropriate box

Agree Disagree Unsure

Please explain why –

THIS JUDGMENT AS TO WHAT THE CORE FUNCTIONS OF AN EQUALITY REGULATOR SHOULD BE IS A HIGHLY POLITICAL ONE. IF THE PROPOSAL IS IMPLEMENTED WHAT THE EHRC CAN DO WILL BECOME SIGNIFICANTLY RESRICTED. THE CORE FUNCTION OF AN EQUALITY REGULATOR SHOULD INCLUDE THE PROMOTION OF EQUALITY GENERALLY (SEE THE COMMENT MADE TO QUESTION 1 ABOVE).

Question 3: Do you agree with our proposal to amend the section 12 duty so that it:

a) specifies the aims and outcomes which EHRC is required to monitor progress against; and

b) requires a report every five rather than three years, to tie into the Parliamentary cycle and enable reports to capture meaningful change over time?

Please place a cross in the appropriate box

Agree Disagree Not sure

Please explain why –

SPECIFYING THE AIMS AND OUTCOMES IN THIS WAY IS A MATTER OF POLITICAL JUDGMENT AND REFLECTS POLITICAL CHOICES MADE BY THE CURRENT GOVERNMENT. THE COMMITTEE SHOULD NOT OFFER ITS SUPPORT TO THESE CHOICES.

REPORTS ONLY EVERY FIVE YEARS SEEMS TOO LONG AND WOULD NOT ANYWAY RELATE TO THE SCOTTISH PARLIAMNTARY CYCLE.

PROPOSAL THREE – Supporting the EHRC to enhance its focus on human rights

Question 4: Do you agree that the proposals to focus the Commission on its core functions, as well as the measures set out in Chapter 3 to increase the Commission’s accountability for the its performance, will help the Commission fulfil its human rights remit? If not, what further changes do you suggest?

Please place a cross in the appropriate box

Agree Disagree Not sure

Please explain why –

AGAIN, THE GOVERNMENT SEEMS TO HAVE DECIDED THAT THE EHRC SHOULD FOCUS ON HUMAN RIGHTS RATHER THAN EQUALITY. THAT IS A POLITICAL JUDGEMENT MADE BY THE GOVERNMENT. EQUALITY IS AS IMPORTANT TO THE COMMISSION AS IS HUMAN RIGHTS AND WE REGRET THAT THE POLICY OF THE GOVERNMENT DOES NOT REFLECT THIS. THE PROPOSALS FOCUS ON ACCOUNTABILITY TO THE GOVERNMENT AND IGNORE THE INTERESTS OF THE VARIOUS EQUALITY GROUPS INVOLVED.

PROPOSAL FOUR – Removing the Commission’s good relations duty (section 10)

Question 5: Do you agree that we should remove the Commission’s good relations function, and the associated power at section 19? If not, why not?

Please place a cross in the appropriate box

Agree Disagree Not sure

Please explain why -

AS FAR AS W CAN SEE, THE CASE FOR ABOLISHING THE GOOD RELATIONS DUTY HAS NOT BEEN MADE. WE CONTEND THAT PROMOTION OF GOOD REGULATIONS OUGHT TO BE ONE OF THE FUNCTIONS OF AN EQUALITY REGULATOR..

EHRC's Non-core activities

PROPOSAL FIVE – Repealing the Commission's power to make provision for conciliation services

Question 6: Do you think the Government should repeal the Commission's power to make provision for conciliation services, as part of the process of focussing the Commission on its core functions?

Please place a cross in the appropriate box

Agree Disagree Not sure

Please explain why –

THIS DOES NOT SEEM A GOOD IDEA. THE GOVERNMENT SHOULD NOT ABOLISH THIS POWER UNLESS IT IS SURE THAT THE NATIONAL MEDIATION HELPLINE CAN PROVIDE AN EQUIVALENT SERVICE. MEDIATION IS LESS EXPENSIVE THAN LITIGATION.

PROPOSAL SIX – A new system for equality information, advice and support

Question 7: Do you agree with the proposals set out to provide a new system of information, advice and support? If not, what changes to the system would you recommend?

Please place a cross in the appropriate box

Agree Disagree Not sure

Please explain why -

THE GOVERNMENT SEEMS TO HAVE DECIDED THAT IT DOES NOT WANT THE EXISTING SYSTEM. EVERYONE WANTS HIGH QUALITY INFORMATION, ADVICE AND SUPPORT. THE ISSUE IS HOW TO ACHIEVE IT. THE GOVERNMENT SEEMS TO THINK THAT LEGAL ADVICE AND ADVOCACY CAN BE PROVIDED BY VOLUNTEERS AND THAT LAWYERS NEED ONLY TO BE FUNDED IF THEY ARE WORKING AT LAW CENTRES. THERE IS NO MENTION OF THE NEED FOR LEGAL ADVICE AND ASSISTANCE TO BE PROVIDED BY PRIVATE PRACTICE SOLICITORS WHOSE ESSENTIAL FUNCTION IN PROVIDING LEGAL ADVICE AND REPRESENTATION IN ALL ITS FORMS SEEMS TO BE COMPLETELY IGNORED BY THE GOVERNMENT. THE AVAILABILITY OF LEGAL AID HAS AN IMPORTANT ROLE TO PLAY HERE.

Question 8: What should a new citizen - focused, cost effective information and generalist advice service look like?

Please explain - WE THINK THAT THE CITIZEN'S ADVICE SERVICE [STAFFED ALMOST ENTIRELY BY VOLUNTEERS] IS THE MOST CITIZEN FOCUSED AND COST EFFECTIVE ADVICE SERVICE AVAILABLE. A DISTINCTION NEEDS TO BE DRAWN BETWEEN A GENERAL ADVICE SERVICE WHICH CAN BE PROVIDED BY VOLUNTEERS AND LEGAL ADVICE AND REPRESENTATION IN COURTS AND TRIBUNALS WHICH IS BEST PROVIDED BY QUALIFIED LAWYERS.

Question 9: How can government best provide public education on discrimination and human rights, targeted on the most disadvantaged groups?

Please explain – IN ADDITION TO THE CITIZEN'S ADVICE SERVICE [SEE PREVIOUS ANSWER] THE GOVERNMENT SHOULD FUND LAW CENTRES AND LEGAL ADVICE CLINICS AND PROVIDE INFORMATION IN ACCESSIBLE FORMATS AND ON ACCESSIBLE WEBSITES.

Question 10: Is there anything that distinguishes discrimination cases from other cases eligible for civil legal aid that would justify further public funding for support?

Please explain- DISCRIMINATION CASES CAN BE VERY COMPLICATED [FOR EXAMPLE EQUAL PAY CASES] AND OFTEN THE PERSONS BRINGING THE CASES ARE OF LIMITED MEANS. AN INDIVIDUAL LITIGATING AGAINST A LARGE ORGANISATION OFTEN EXPERIENCES A VERY REAL INEQUALITY OF FINANCIAL RESOURCES THUS JUSTIFYING LEGAL AID. MANY IMPORTANT LEGAL CASES WOULD NEVER HAVE REACHED THE COURTS WITHOUT THE PROVISION OF LEGAL AID.

Question 11: Do you agree with the proposal for the Air Transport Users Council (AUC), part of the Civil Aviation Authority (CAA), to provide the complaints handling service for disabled passengers in the future? If not, why not?

Please place a cross in the appropriate box

Agree Disagree Not sure

Please explain why -

THIS PROPOSAL IS ACCEPTABLE PROVIDED ONLY THAT THE AUC IS ADEQUATELY RESOURCED TO DO SO AND INCLUDES REPRESENTATIVES OF DISABLED PASSENGER GROUPS..

PROPOSAL SEVEN: Supporting Social Action

Question 12: How could the new Government funding stream most effectively support civil society organisations to promote equalities, human rights and tackle discrimination?

Please explain – IT IS DIFFICULT TO COMMENT ON THIS QUESTION WITHOUT KNOWING HOW MUCH FUNDING THE GOVERNMENT INTENDS TO MAKE AVAILABLE OR HOW IT WILL BE DISTRIBUTED. IT SEEMS UNLIKELY THAT CIVIL SOCIETY ORGANISATIONS WILL BE EFFECTIVE IN PROMOTING THESE MATTERS AS THEY WILL NOT BE IN POSITION TO GIVE LEGAL ADVICE OR TAKE COURT OR TRIBUNAL PROCEEDINGS.

Achieving greater value for money and accountability

Question 13: Do you agree with our legislative proposals to increase the Commission's transparency, accountability and value for money?

Please place a cross in the appropriate box

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Please explain why –

THE PROPOSALS MAY MAKE THE COMMISSION MORE ACCOUNTABLE TO THE GOVERNMENT. BUT WHETHER THE PROPOSALS PROVIDE TRANSPARENCY AND VALUE FOR MONEY IS QUESTIONABLE. IT SEEMS UNLIKELY THAT USER AND EQUALITY GROUPS WILL SEE THE COMMISSION AS BEING ACCOUNTABLE TO THEM.

Our approach to reform & next steps

Question 14: Do you agree with our approach of legislative and non-legislative reform?

Please place a cross in the appropriate box

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Please explain why - THE REFORM SEEMS TO BE DRIVEN BY A POLITICAL DESIRE TO NARROW DOWN THE FOCUS OF EQUALITY. THE GOVERNMENT SEEMS TO BE OBSESSED BY INCREASING THE ACCOUNTABILITY OF THE COMMISSION TO THEM. IT SEES EQUALITY AS A POLITICAL OBJECTIVE TO BE DECIDED ON BY CENTRAL GOVERNMENT AND NOT AS SOMETHING DRIVEN BY THE NEEDS OF USERS AND EQUALITY GROUPS WHO ARE UNLIKELY TO FEEL BENEFITTED BY THE PROPOSED REFORMS.