

Background appendix to

Submission on the Seventh Periodic Report of the United Kingdom to the United Nations Committee on the Elimination of all forms of Discrimination Against Women (CEDAW)

June 2013

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Equality and Human Rights Commission – ‘A status’ National Human Rights Institution of Great Britain.

Background appendix to submission on the Seventh Periodic Report of the United Kingdom to CEDAW Committee, June 2013

Introduction and overview

1. The Equality and Human Rights Commission (the Commission) is a statutory body set up under the Equality Act 2006 with powers and duties to promote progress on human rights and equality. The Commission is the ‘A status’ accredited National Human Rights Institution (NHRI) for Great Britain and as such we monitor compliance with international human rights treaties. The Scottish Human Rights Commission, which also has ‘A status’ accreditation has jurisdiction with respect to matters that are devolved to the Scottish Parliament. The Commission's remit does not extend to Northern Ireland, which is therefore out of the scope of this report. The Equality Commission for Northern Ireland and the Northern Ireland Human Rights Commission will be presenting separate submissions.
2. The Commission welcomes the opportunity to make submissions to the Committee on UK compliance with CEDAW. This is the background appendix to our shadow report on the status of women in Britain for the examination of the UK government in July 2013.
3. The Commission welcomes the UK Government's 7th report to CEDAW, and we have noted the efforts that have been made by the UK Government to promote women's equality since the last periodic review. Notwithstanding these achievements, the Commission considers that there is still further scope for improvement to achievement of the Convention obligations in a number of areas that we have focused on during the review process. However, we wish to place on record our appreciation of the areas where progress has been made.
4. We address most of the subject areas covered by the Committee's List of issues and questions (issues and questions from that List are included under each section in italics with references to the paragraph from which they derive). This report sets out a number of questions which the Committee may wish to put to the UK Government. These are set out in bold as Questions A to T. The Commission has identified key issues it believes should be highlighted as actions following the examination and these are set out in italics as conclusions 1 to 5.
5. Where it refers to the Government, it should be noted that many issues are devolved to the Scottish and Welsh Governments. We welcome the various thematic shadow reports being submitted to the Committee by the Scottish Human Rights Commission and by UK NGOs (Non-Governmental Organisations), including the shadow report on Older Women being submitted by the Older Women's Network, and have aimed, where possible, to avoid covering the same ground.

Constitutional, legislative and institutional framework

The Public Sector Equality Duty

Para 1: Please provide information on measures taken to ensure that the new integrated Public Sector Equality Duty effectively 'requires public bodies to have due regard when exercising their functions' to equality between women and men, in line with the Convention, given that the Equality Act (2010) authorizes the introduction of different equality duties across the United Kingdom.

Para 1: What steps are being undertaken to ensure that all levels of government and the devolved administrations are complying with the Convention?

6. The integrated Public Sector Equality Duty came into force on 5 April 2011 and covers all the protected characteristics, replacing the separate gender, race and disability duties.¹ The Commission regards this duty as an essential and innovative measure for advancing equality. The *general* duty on public authorities (and those exercising public functions) to “have due regard to the need to eliminate discrimination ... (and) advance equality of opportunity”² applies across Great Britain. However, the *specific* duty regulations are different in England, Wales and Scotland. In England, unlike in Scotland and Wales, the specific duty requirements have no explicit gender component.³ The English specific duties require listed public authorities to publish equality information relating to persons who share protected characteristics and to publish one or more equality objectives, which must be specific and measurable.
7. The new specific duties for England represent a regression in the framework for monitoring and compliance of promoting gender equality for women in England, where the majority of the UK population lives, as the previous Gender Equality Duty placed specific duties on listed authorities to: publish a gender equality scheme including gender equality objectives which had to address the causes of any gender pay gap; gather and use information on how their policies and practices affect gender equality in the workforce and in the delivery of services; consult stakeholders (i.e. employees, service users and others, including trade unions) and take account of relevant information in order to determine their gender equality objectives; assess the impact of their current and proposed policies and practices on gender equality; implement their scheme within three years, report against it every year and review it at least every three years.
8. In relation to the new Public Sector Equality Duty, specific equality duties have been introduced in Scotland⁴ which require listed public bodies to report progress on

¹ S.149 Equality Act 2010: The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The protected characteristic of marriage and civil partnership is also relevant but only to the first limb of the duty on eliminating unlawful discrimination, and only in relation to employment.

² For the full text of the general duty see <http://www.legislation.gov.uk/ukpga/2010/15/section/149>

³ EHRC, The essential guide to the public sector equality duty. Revised (second) edition. (EHRC, 2012) http://www.equalityhumanrights.com/uploaded_files/EqualityAct/PSED/essential_guide_update.pdf

⁴ EHRC, Essential guide to the public sector equality duty: A guide for public authorities (Scotland). (EHRC, 2012).

mainstreaming equality every two years; to publish every four years a set of equality outcomes which they consider will enable them to better perform the equality duty; to assess the equality impact of applying a proposed new or revised policy or practice, and review any policy or practice to ensure that it complies with the equality duty. A listed authority with 150 or more employees must publish information on its gender pay gap and publish its policy on equal pay and information on occupational segregation. In awarding contracts, it must have regard to the equality duty. Scottish Ministers must publish proposals every four years for activity to enable a listed authority to better perform the general equality duty.

9. Specific duties were introduced in Wales⁵ in 2011 which include a number of elements aimed particularly at gender equality. The duties require action by public bodies, including: publishing equality objectives and strategic equality plans; engaging with stakeholders; assessing impact of policies and practices; using and publishing relevant information, including data on the workforce and pay differences; training staff; considering equality through procurement; undertaking periodic review and annual reporting. There is also a duty on ministers to report progress every four years. These reports must set out an overview of the progress made by public authorities in Wales towards complying with the general duty and proposals to coordinate action by public authorities in Wales to bring about further progress on the general duty.
10. In May 2012, the UK Government announced that it would bring forward its planned review of the Public Sector Equality Duty, to determine whether it is working as intended. The review is led by a Steering Group, on which the Commission has observer status through the attendance of its chair. At officer level, the Commission has sought to engage with the review, which is gathering evidence using a range of methodologies: a literature review and legal analysis, together with qualitative work. We have submitted the findings of our review of English public authorities' compliance with the specific duty to publish equality information⁶ and work is now in progress to finalise our assessment of compliance with the specific duty to publish equality objectives. The Commission also aims to contribute case studies that illustrate where the Public Sector Equality Duty has made a positive difference. Given the different specific duties in Scotland and Wales, it is hoped that the review will also compare the performance of the Duty in the three nations.

Question A: Can the Government provide assurance that its review of the Public Sector Equality Duty will not compromise its effectiveness in strengthening compliance with CEDAW?

<http://www.equalityhumanrights.com/scotland/public-sector-equality-duty/non-statutory-guidance-for-scottish-public-authorities/>

⁵ EHRC, Annual reporting, publishing and Ministerial duties: A guide for listed public authorities in Wales (EHRC, 2011).

http://www.equalityhumanrights.com/uploaded_files/Wales/PSED_Wales_docs/8._psed_wales_annual_reporting_publishing_and_ministerial_duties.pdf

⁶ Publishing equality information: Commitment, engagement and transparency, EHRC 2013

<http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/monitoring-and-enforcement/#Monitoring>

Compliance with the Convention at all levels of government and the devolved administrations

11. There is no unified national strategy across England, Scotland and Wales to implement CEDAW; however, the UK Government's national equality strategy, "Building a Fairer Britain", published in 2010, "sets out the Government's commitment to tackling the barriers to equal opportunities and social mobility." Separate strategies for equality and violence against women exist in Wales and Scotland. In a referendum on the National Assembly for Wales's legislative powers held in March 2011, the people of Wales voted in favour of granting the National Assembly for Wales further powers for making laws in Wales. The National Assembly for Wales is now able to pass laws on all subjects in the 20 devolved areas without first needing the agreement of the UK Parliament.
12. Devolution means responsibility for policy implementation is shared across different levels of government, under a national legislative and policy framework. The emphasis on localism in England means that funding for many programmes is determined by Local Government.
13. As a consequence of this, women in some parts of the UK enjoy a greater promotion of gender equality than others. We are concerned that, across the UK, there may not be sufficiently developed commitment and leadership, co-ordination of strategies, and systematic monitoring of outcomes. These geographical inconsistencies could hamper overall UK progress on the realisation of rights guaranteed by CEDAW – for example, by giving rise to local differences in the availability of VAWG support services. We note that decentralization of power and decision making does not detract from the responsibility of Central Government to fulfil its obligations to all women within its jurisdiction and that, equally, devolved administrations have a responsibility to make progress on CEDAW where they have the power.⁷

Question B: Can the Government demonstrate how it will ensure that it fulfils its strategic responsibilities under CEDAW regardless of the status of devolution and decentralization of power in the UK?

Legal Complaint Mechanisms

Para 4: Please provide clarifications on steps taken to monitor and where applicable mitigate the impact on women's access to justice due to the changes made to legal aid and to the fees for applying to an employment tribunal.

14. Providing systems of legal aid is a significant part of how the UK meets its obligations to protect the right to a fair trial and the right to equality, liberty and security. Changes to legal aid could have an adverse impact on access to justice which would be incompatible with equality law.

⁷ Para 39 General Recommendation No. 28, CEDAW/C/2010/47/GC.2

15. Article 6 of the ECHR (European Convention on Human Rights) requires free legal assistance to be provided for defendants in criminal proceedings who need legal representation and have insufficient means to pay for it themselves. In civil cases, the right to a fair hearing may require the state to provide legal aid for complex matters or where someone would have difficulty with representing themselves.
16. Calls to the Community Legal Advice Helpline⁸ show that in the area of family law, approximately twice as many women as men seek advice. The availability of legal aid is particularly important for women, who are more likely than men to be living on low incomes or in poverty and are less able to access credit and less likely to own assets. Women experiencing violence may need advice on non-molestation or occupation orders, the division of assets and debt following relationship breakdown, rights to the family home, arrangements for child contact and residence and child maintenance. Women separating from their partners may need advice on housing, debt and welfare benefits, and child support.
17. Women at risk from specific forms of violence that disproportionately affect black, minority ethnic and refugee women (such as forced marriage, dowry-related violence and female genital mutilation) may need specialist legal advice on these issues. Women with an insecure immigration status may face additional difficulties in accessing life-saving services.⁹
18. Changes to legal aid contained in the Legal Aid, Sentencing and Punishment of Offenders Act 2012 could limit women's access to legal advice and services in areas of civil law and for criminal cases. Although the Government rightly accepts the need for the legal aid system to provide support for women to obtain domestic violence injunctions (non-molestation, occupation orders, restraining orders and forced marriage protection orders), the new legislation excludes legal aid for other family law cases where domestic violence is not involved.
19. The Commission is pleased that the Government modified its original proposals to limit access to legal aid to those who could show evidence of domestic violence through engagement with the criminal justice system (for example, the criminal conviction of a perpetrator, or the existence of a protective injunction). As most women still do not report domestic violence to the criminal justice system, and those who do continue to have mixed experiences, this condition would have excluded many women. Medical evidence, a letter from a social worker, or evidence that a woman is in a refuge will now also be accepted as evidence that domestic violence has occurred.
20. However the Commission notes that some women may be reluctant to seek medical help, especially if they do not trust their doctor to respect confidentiality. This has been shown to be the case for some women in tight knit ethnic minority communities.¹⁰ Not all cases of

⁸ CLA Helpline 2012, 7,312 calls were from men; 14,098 from women. See Legal Services Commission, Equality and Diversity Information for Community Legal Advice Helpline 2011-12).

<http://www.justice.gov.uk/downloads/publications/corporate-reports/lsc/lsc-equality-diversity-cla-service-users.pdf>

⁹ Rights of Women, Women's Access to Justice: a research report (Rights of Women, 2011).

http://www.rightsofwomen.org.uk/pdfs/Policy/Womens_access_to_Justice-a_research_report.pdf

¹⁰ Research funded by the Home Office showed that GPs within the Muslim community where respondents lived were not seen as reliable. It was perceived that GPs were liable to disclose confidential information about patients

domestic abuse will result in physical injury, so medical evidence may not be available. In addition, problems may arise for women who cannot obtain a medical report without payment, and who lack the means to pay. Furthermore, the vast majority of women who approach organisations like Women's Aid do not enter their refuges, but are supported in other ways. The Commission therefore believes that other evidence should also be accepted for access to legal aid in cases involving domestic violence allegations. In addition, the Commission notes that the Government intends to impose a 24 month limit on entitlement in such cases, although domestic violence by definition is characterised by a long-term pattern of coercive control which may continue over many years.

Conclusion 1: The Government should provide further information to show how it will ensure:

- **that the right to access to justice is fully respected for victims of human rights breaches after the legal aid reforms in England and Wales, and that it will not be disproportionately reduced for persons with certain protected characteristics, and specifically for women; and**
- **that where there are reasonable grounds for believing that a person is a victim of trafficking in human beings, that person is able to access the support and services they are entitled to, including free legal aid and access to their right to compensation.**

21. In relation to access to justice for sex discrimination and harassment at work, the introduction of fees for Employment Tribunals may have a disproportionate impact on women, as the Commission has pointed out.¹¹ Evidence in the Commission's 2010 report to Parliament 'How Fair is Britain?' (hereafter Triennial Review¹²) noted that in 2008, 13 per cent of British employees had personally experienced unfair treatment in the workplace in the previous 2 years, and that 7 per cent reported experiencing bullying, harassment or discrimination. More women than men reported unfair treatment: 16 per cent compared with 11 per cent respectively.¹³ Complaints of sex discrimination and equal pay comprised 12 per cent of the total number of complaints lodged with the Employment Tribunal in 2011/12.¹⁴ Most of these complaints were made by women.¹⁵

22. Women are over-represented in lower income brackets so application fees for the Employment Tribunal may have a disproportionate impact on women's ability to bring a

to their families. Women's National Commission, *She Who Disputes: Muslim Women Shape the Debate*, (Women's National Commission, 2006). http://www.mwnuk.co.uk/go_files/downloads/992754-shewhodisputesnov06.pdf

¹¹ EHRC, Response to consultation on charging fees in Employment Tribunals and Employment Appeal Tribunals. (EHRC, 2011) <http://www.equalityhumanrights.com/legal-and-policy/consultation-responses/response-to-consultation-on-charging-fees-in-employment-tribunals-and-employment-appeal-tribunals/>

¹² Section 12 of the Equality Act requires the Equality and Human Rights Commission to monitor the progress that society makes towards becoming more equal, and to report findings to Parliament every three years (now revised to every five years). The EHRC report *How Fair Is Britain?* (EHRC, 2010) reports findings from the Fair Treatment at Work Survey 2008 and the other surveys mentioned.

¹³ EHRC (2010), *How Fair Is Britain?* (EHRC, 2010) <http://www.equalityhumanrights.com/key-projects/how-fair-is-britain/online-summary/power-and-voice/>

¹⁴ Ministry of Justice (2012) *Employment Tribunals and EAT statistics, 2011-12*.

<http://www.justice.gov.uk/downloads/statistics/tribs-stats/employment-trib-stats-april-march-2011-12.pdf>

¹⁵ Ministry of Justice, 'Charging fees in the Employment Tribunals and the Employment Appeal Tribunal – Initial Equality Impact Assessment', paragraph 20.4

discrimination complaint. The proposed fee remission policy itself may be indirectly discriminatory against women because eligibility for assistance is assessed on household income, aggregating the claimant's income with her partner's.¹⁶ Given that women are over-represented in lower income brackets, the effect of this is that proportionately more women than men may require the consent and financial co-operation of their opposite sex partner in order to bring a discrimination claim or indeed any work related claim. The Commission believes that consideration should be given to a fee system in which all unlawful discrimination claims would be exempt from fees.

23. The Commission also fears that the exclusion of employment law from the scope of legal aid may have negative consequences for victims of workplace discrimination claims, including claims of sex discrimination. While victims of discrimination will be aware that they are facing problems at work, they often do not know they have a potential claim for discrimination. Without access to employment advice, their chances of understanding the correct legal grounds for their case would be considerably reduced. Although discrimination law remains within the scope of legal aid, this will generally only be available through a mandatory telephone advice gateway.

24. Drawing on the findings of its Civil and Social Justice Survey for England and Wales, the Legal Services Research Centre found that around 62% of people faced with a discrimination problem did not know their rights, and a similar proportion were not familiar with the procedures involved.¹⁷ The same research shows that nearly 40% of those faced with discrimination problems either did nothing, or tried and failed to get advice and then abandoned their case. In Wales, research on advice for employment-based discrimination cases found that people often experience persistent discrimination over a long period of time and yet fail to define these experiences as discrimination within the context of the law.¹⁸

Question C: Can the Government demonstrate how it will both monitor and mitigate the impact on women's access to justice of its changes to the cost of applying to an employment tribunal?

National Machinery for the advancement of women

Para 7: The report mentions that the Women's National Commission has been abolished as a result of a review of the non-departmental public bodies and that a new mechanism will be put in place. Please clarify whether the new approach of communication to enable engagement with women and with women's organisations has already been implemented across the United Kingdom and provide details about it. If not, when does the State party envisage its implementation?

¹⁶ For an analysis of the effect of household means testing see Fran Bennett, Gender and Benefits, EOC Working Paper No. 30 (Equal Opportunities Commission, 2005) .

¹⁷ Knowledge, capability and the experience of rights problems; Balmer et al, Legal Services Research Centre, March 2010

¹⁸ Snakes and Ladders: advice and support for employment discrimination cases in Wales; Williams et al, 2003

Para 8: Please provide further information on the changes in the operation of the Equality and Human Rights Commission. How does the State party ensure that the EHRC is able to fulfil its mandate in light of the reported budgetary reductions (60%)?

Para 8: Please also provide information on measures undertaken to effectively guarantee women's rights in the broader context of growing alarm felt at public spending cuts and its negative consequences for women.

Ensuring a coherent approach to gender equality

25. Since the last periodic report, the Government Equalities Office (GEO), previously a dedicated Government department, became first a unit within the Home Office and was then moved to the Department for Culture, Media and Sport.¹⁹ The GEO and its antecedents have been moved eight times in the last sixteen years.²⁰
26. Public Service Agreements (PSAs) were highlighted in the 7th state report as examples of useful mechanisms to drive and monitor equality objectives. However, the Government has now terminated PSAs, including the Equality PSA.²¹

The Women's National Commission

27. The Women's National Commission, the only UK-wide machinery dedicated to women's equality, which used to coordinate the UK's independent shadow report to CEDAW, has been abolished. The Wales Women's National Commission, which fulfilled a similar advisory function in Wales, lost its funding from the Welsh Government and closed down. It is noted, however, that the Women's Equality Network Wales has secured funding from the Welsh Government to become Wales' Network for Women; and the Scottish Women's Convention is funded by the Scottish Government to ensure that women's voices and views feed into government policy.

The Equality and Human Rights Commission

28. In response to reductions in our budget, the Commission is refocusing its activities towards a more enabling role which maximises our value to the public. This includes using our expertise and influence, in co-operation with other regulators, to support the development of policies and services that promote equality of opportunity and safeguard fundamental

¹⁹ <https://www.gov.uk/government/organisations/government-equalities-office>

²⁰ Parental departments were: Department for Education and Employment, 1996; Department of Work and Pensions, 1997; Cabinet Office, 1999; Department of Trade and Industry, 2002; Department of Communities and Local Government, 2005; Government Equalities Office, 2007; Home Office, 2010.

²¹ The Equality PSA which was adopted by the government in 2008 set the following key objectives to achieve greater equality by 2011: a reduction in the pay gap for women; improved choice and control for disabled people; greater participation in public life for disadvantaged groups; a reduction in workplace discrimination and a better understanding of and ability to measure fair treatment in the delivery of public services. See Government Equalities Office, Delivering the Equality PSA: 2008-2011 (GEO, 2008)

http://www.lawcentres.org.uk/uploads/PSA_Delivery_Plan_09.08_.pdf

human rights. The work we delivered in 2012/13 reflects this change in focus, which we will continue to develop through the next two years.

29. The Commission welcomes the Government's commitment to maintain our independence. We have agreed a core budget for two years which, in our view, is sufficient for us to deliver our legislative mandate. The headline reduction in our budget has been achieved by securing the necessary savings whilst mitigating the impact on resources available for frontline functions. A significant proportion of the cost reduction has been achieved through transfer of functions to other organisations (our helpline service has been replaced by the Government-funded Equality Advisory Support Service), and by reducing our estates and other running costs.
30. As set out in the review of the Commission's budget²², it is for the Commission's Chair and Board to decide how our funding will be spent in support of our statutory functions, but the Commission must produce business plans showing: the key deliverables for the period, including targets and milestones, and budgetary information on the level of resource allocated to its proposed activities. This will enable Parliamentarians, Government and civil society to understand the contribution the Commission is making towards a fairer society with the resources at its disposal.

Public spending cuts and negative consequences for women

31. Reducing the fiscal deficit was a declared priority for the incoming coalition Government in 2010. The Commission is working to ensure that financial decisions made by Government are fully informed by equality evidence to ensure fairness and to identify and mitigate any negative impact on different groups of people, including women.²³
32. Evidence suggests that women are likely to be disproportionately affected by the ongoing austerity measures - because they are more likely to work in the public sector where jobs are being cut (65 per cent of public sector workers are women and around two-fifths of women work in the public sector²⁴); because they are more likely to be in receipt of certain benefits and therefore are more likely to experience a reduction in their income than men; and because a greater proportion of women than men are reliant on some public health and social care services, partly because of their caring responsibilities.²⁵ In November 2010 The Equality and Human Rights Commission carried out a formal, independent assessment of the extent to which the Treasury had met its legal obligations to consider the impact on protected groups of decisions contained in the Spending Review. The assessment was

²² Comprehensive Budget Review of the Equality and Human Rights Commission, DCMS, 2013 <https://www.gov.uk/government/publications/comprehensive-review-of-the-equality-and-human-rights-commission-s-ehrcc-budget>

²³ EHRC, Making fair financial decisions: an assessment of HM Treasury's 2010 Spending Review conducted under section 31 of the 2006 Equality Act, (2012). http://www.equalityhumanrights.com/uploaded_files/Inquiries/s31exec_summary_final.pdf

²⁴ Annual Survey of Hours and Earnings, 2012, Table 13: <http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcM%3A77-280149>

²⁵ TUC and Stephenson, M (2011) Women and the Cuts Toolkit <http://www.tuc.org.uk/tucfiles/138/WOMENANDCUTSToolkit.pdf>

conducted under powers granted to the Commission under section 31 of the 2006 Equality Act.

34. The assessment noted a number of positive indicators of equality mainstreaming such as the production, for the first time, of an equalities overview document, alongside the Spending Review, while HM Treasury made an attempt to analyse the effects of its proposals on different income groups and sometimes used this as a proxy for understanding the impact on protected groups.
35. Since Budgets and other significant fiscal events like Spending Reviews, play such a crucial part in determining what it is possible to achieve through public policy and services, the Treasury has a key role to play in ensuring that Budget decisions are fully informed by equality evidence including the impact on women.
36. The Commission's Section 31 assessment showed an absence of gender disaggregated data in some of the Spending Review 2010 measures and commented that gender-based analysis could give vital insights to enable the government's policy aims to be more successful.
37. We note that the Scottish Government has published an equality statement with its spending review and draft budget.²⁶
38. The Welsh Government has also published documentation around an equality impact assessment of its recent budgets and has engaged in further considerations of its approach. The Welsh Government has collaborated with the Commission in Wales to conduct an Appreciative Inquiry of the Welsh Government's approach to assessing the equality impacts of its budget²⁷. Until a recent cabinet reshuffle (March 2013) the Minister for Finance, and Leader of the House, also had portfolio responsibility for equality. This leadership role has had a positive influence on the profile and consideration given to equalities within the Welsh Government. In October 2012 the Minister for Finance announced the establishment of the Welsh Government Budget Advisory Group for Equality (BAGE). This group seeks to encourage and strengthen the focus on identifying and understanding the nature of inequalities within Wales.
39. Compliance with the Public Sector Equality Duty requires public authorities to have due regard to the aims of the general duty when making decisions and when setting policies. To do this, it is necessary for decision-makers to understand the potential impact of their decisions on people with different protected characteristics and to identify potential mitigating steps to reduce or remove adverse impacts. This should help to ensure that the policy is fully effective for different groups of people, including women. The Commission's formal assessment found that this is not yet the case for every area of policy and we are

²⁶ Scottish Government, Equality Statement Scottish Spending Review 2011 and Draft Budget 2012-13 (Scottish Government, 2011) <http://www.scotland.gov.uk/Resource/Doc/358418/0121145.pdf>

²⁷ EHRC, 2012 <http://www.equalityhumanrights.com/wales/equality-impact-assessments/appreciative-inquiry-report/>

working with the Treasury and other government departments to improve this process to enable better outcomes.

40. The Commission's report recommended:

- Greater transparency, including clear guidance on data and analytical requirements for the whole of government
- Common rules to allow easier sharing of equality data within government, such as standardised data collection rules
- Authoritative sources of advice and support for government departments on equality impact analysis
- The development of a common model of analysis to predict the likely equality effects of policy
- A single point of government responsible for monitoring and assessing the cumulative impact of future Spending Reviews and budgets
- Independent and authoritative equality analysis of public spending.

41. The Commission is working with individual departments on ways of monitoring the actual impact of measures within the 2010 Spending Review, and working with HM Treasury on the development of a common process and model of equality impact assessment for fiscal events that can be used across government.

Conclusion 2: The Government should provide further information to show, in future Spending Reviews (and other fiscal events), how they assess and mitigate the cumulative impact of all measures contained within it for women.

42. The Commission welcomes the adoption of the Equality Act 2010 for England, Scotland and Wales but is concerned that inequalities in the enjoyment of the right to health, education and employment persist, as evidenced by the Commission's Triennial Review²⁸. In order to comply with the UK's obligations under CEDAW and ICESCR, it is important that the Government tackles inequalities in society through policy interventions including temporary special measures; and assesses and limits the impact of austerity measures on gender and other disadvantaged groups.

43. With regard to the ICESCR individual complaints mechanism (Optional Protocol to the International Covenant on Economic, Social and Cultural Rights) the Commission notes that the UK has not signed nor ratified this optional protocol. The Optional Protocol would provide a legal avenue for applicants who have exhausted domestic remedies, making it possible in practice to get redress in relation to breaches of ICESCR rights. It would help clarify the obligations of the UK government under the ICESCR and assist the government in implementing those rights.

²⁸ EHRC, 2011, How Fair is Britain? <http://www.equalityhumanrights.com/key-projects/how-fair-is-britain/>

Violence against Women and Girls (VAWG)

Para 11: The report mentions a number of measures in place to support and protect victims in the criminal justice system and in bringing perpetrators to justice. Please provide further information about the 12 month pilot programme of domestic violence protection orders and domestic violence protection notices. Please also provide detailed information on the prevalence of domestic and sexual violence, including rape, the rate and number of cases reported, the relationship between the victim and the perpetrator, prosecutions and punishment of perpetrators.

Para 12: Please provide further information on measures in place to ensure that local areas have the necessary means and tools to adequately respond to incidents of violence against women, including victims' equal access to services. Please indicate the steps envisaged to modify the commissioning and delivery of services for victims of violence against women across the United Kingdom, also involving the local communities in deciding the priorities.

44. VAWG is a cause and consequence of women's inequality. Its impact on many women's health and independence reduces their ability to work, and creates a cycle of economic dependence. Women's inequality limits their ability to escape from abusive relationships. It can make it more difficult for them to enforce their rights and more liable to be subject to sexual harassment and sexual violence. Disability, especially learning disability, can exacerbate this vulnerability.²⁹ Women are much more likely than men to experience particular forms of violence such as rape, repeated/severe domestic violence or partner abuse, forced marriage and so-called 'honour' crimes, and are uniquely affected by female genital mutilation (FGM)³⁰. Despite some improvements, under-reporting to the police is still a problem and high attrition rates in moving from report to prosecution and conviction give cause for concern.

45. While older people, a larger proportion of whom are women, are generally less likely to be affected by violent crime, they are more likely to feel unsafe in various situations,³¹ whereas older and disabled people who experience domestic abuse by carers or relatives are particularly vulnerable to repeat occurrences. Research suggests that lesbians are more likely than straight women to have experienced sexual assault and domestic violence: they are also more likely than average to be worried about crime.³²

²⁹ Disabled people are often reliant on the person who is abusing them who may be their partner. This can leave them at risk of sexual violence and/or financial abuse. Research by Women's Aid Federation England shows that disabled women experience a greater need for services because of the abuse to which they are subject. Gill Hague et al, Making the links: Disabled women and domestic violence (Women's Aid Federation England, 2008). <http://www.womensaid.org.uk/domestic-violence-articles.asp?section=00010001002200080001&itemid=1722>

³⁰ EHRC, How Fair is Britain? (EHRC, 2010) <http://www.equalityhumanrights.com/key-projects/how-fair-is-britain/online-summary/legal-and-physical-security/>

³¹ EHRC (2012) Physical security. Measurement Framework Briefing Paper No.4. <http://www.equalityhumanrights.com/key-projects/our-measurement-framework/-briefing-papers-and-data/physical-security/>

³² EHRC, How Fair is Britain? (EHRC, 2010) <http://www.equalityhumanrights.com/key-projects/how-fair-is-britain/online-summary/legal-and-physical-security/>

46. In 2010 the Government launched its national strategy on VAWG, noting that in the previous year alone, there were over 1 million female victims of domestic abuse in England and Wales. Latest estimates show that on average, over 400,000 women aged 16-59 are sexually assaulted and 85,000 women suffer the most serious sexual offences, including rape and assault by penetration, each year.³³ In the UK, more than one in four women will experience domestic abuse in their lifetimes.³⁴
47. The Commission notes the efforts of successive UK Governments in recent years to adopt a strategic approach on violence against women and girls. We welcome the national strategy for England, Scotland and Wales but we are concerned that it does not include trafficking or prostitution, which are dealt with separately. Trafficking and prostitution are inextricably linked to unacceptable levels of vulnerability, coercion, exploitation, violence and abuse.³⁵ As the key benefit of the strategy is to apply a comprehensive, joined up approach to all aspects of violence against women and girls, it would be helpful to integrate these issues into the strategy.
48. The strategy has no central budget line attached to it, which limits and obscures the resources available to implement it. Resources must be allocated by individual departments out of their own budgets, which have been subject to cuts. Some departments, such as the Crown Prosecution Service, have developed their own groundbreaking strategies and programmes independently; other departments have demonstrated less engagement. A national strategy should bring greater consistency of approach and commitment across government.
49. Despite positive work on VAWG internationally, the UK's own practice on asylum fails to recognize the protection needs of women coming from abroad seeking asylum from VAWG³⁶.
50. Despite the national strategy on VAWG, the UK Government has emphasised the importance of local autonomy and accountability in decision making, including on spending decisions (see for example the Localism Act 2011). The Commission is conscious of the lessons from our study of the provision of VAWG services,³⁷ which showed that if local areas choose not to prioritise VAWG, women and girls will often lack access to specialist support.

³³ Ministry of Justice, Home Office & the Office for National Statistics (2013) An overview of sexual offending in England and Wales. Table 2.2. <http://www.justice.gov.uk/statistics/criminal-justice/sexual-offending-statistics>

³⁴ <http://www.homeoffice.gov.uk/crime/violence-against-women-girls/strategic-vision/>

³⁵ Research shows high levels of client violence experienced by sex workers over the lifetime. In the six months prior to interview, 37 per cent had experienced some form of client attack. Streetworking prostitutes most often reported being 'slapped, kicked or punched' (47 per cent), 28 per cent reported 'attempted rape' (vaginal or anal). Of violence reported by indoor prostitutes, the most frequently reported was vaginal or anal 'attempted rape' (17 per cent). Marina Barnard et al, Client Violence Against Prostitute Women Working From Street and Off-Street Locations: A Three City Comparison (Economic and Social Research Council Report, 2005) <http://www.esrc.ac.uk/my-esrc/grants/L133251025/read>

³⁶ Asylum Aid (2011) Unsustainable: The quality of initial decision making in women's asylum claims.

<http://www.asylumaid.org.uk/data/files/publications/151/UnsustainableWEB.pdf>

UK Border Agency (2011) Quality and Efficiency Report: Thematic Review of Gender Issues in Asylum Claims; UNHCR (2008) Quality Initiative Project Fifth Report to the Minister. UNHCR: London

http://www.unhcr.org.uk/fileadmin/user_upload/pdf/QI_Fifth_Report.pdf

³⁷ EHRC (2009) Map of Gaps 2. http://www.equalityhumanrights.com/uploaded_files/research/map_of_gaps2.pdf

There is an important debate to be had about the relative roles of national/strategic, regional and local bodies in securing the provision of support services, particularly in terms of funding, and in other work to tackle VAWG. In this context we question how the Government will discharge its responsibility to secure women's safety as a human right.

Question D: Can the Government demonstrate that it will provide sufficient support and help to local decision makers to ensure that their policies, practices and funding decisions fulfil the Government's responsibilities to tackle VAWG and that funding is commensurate with need?

51. The Commission's report *How Fair is Wales?* sets the Commission's British Triennial Review in a Welsh context. Seven challenges emerged from this evidence, including the need to reduce the incidence of domestic abuse and sexual violence. In 2010, the Welsh Government published 'The Right to be Safe', the Welsh Government's integrated strategy for tackling all forms of violence against women and domestic abuse³⁸. This is a six year integrated strategy which sets out four key priorities: prevention and raising awareness, providing support, improving the response of criminal justice agencies and improving the response of health services and other agencies. This was published alongside a three year implementation plan to support the delivery of the strategy.
52. In November 2012, the Welsh Government consulted on legislation to end violence against women, domestic abuse and sexual violence³⁹. This is the first of its kind in the UK and concentrates on the three themes of stronger leadership and accountability, better education and awareness and strengthening and integrating services. The White Paper proposes to legislate to require local authorities and public service partners to collaborate on a local and regional level to develop and implement strategies to reduce violence against women, domestic abuse and sexual violence. It is noted that the White Paper also forms part of the fourth equality objective of Welsh Government's Strategic Equality Plan which focuses on fostering good relations between people and reduce the incidence of violence against women, hate crime, bullying, 'honour' based violence and elder abuse.
53. The Commission notes that in March 2013 the Minister for Local Government and Communities wrote to the Chief Executives of Local Government, Health Boards and Trusts, Police and Fire Services to seek commitment to put in place a workplace policy to support staff experiencing violence against women, domestic abuse and sexual violence.
54. The UK Government has signed but not yet ratified the Istanbul Convention⁴⁰ on the prevention and elimination of violence against women and domestic violence. Ratifying the Convention and taking steps to comply with its requirements would have the effect of

³⁸ Welsh Government, 2010 <http://wales.gov.uk/topics/housingandcommunity/safety/domesticabuse/?lang=en>

³⁹ Welsh Government (2012) White Paper: Consultation on legislation to end violence against women, domestic abuse and sexual violence (Wales)
<http://wales.gov.uk/consultations/housingcommunity/vawwhitepaper/;jsessionid=CE6D2760B23FD5549452ECC2A4E640B0?lang=en>

⁴⁰ Opened for signature in May 2011, the Istanbul Convention is the first legally binding instrument in Europe to prevent and combat violence against women and domestic violence

improving legal protections against violence, improving coordination of work to prevent VAWG, and help to ensure that support services are adequately funded.

Conclusion 3: The Government should therefore ratify the Istanbul Convention on the prevention and elimination of violence against women and domestic violence.

55. Prevention has been identified as a key objective of the Government's VAWG strategy. As such, the Department for Education is well placed to give a lead. However, the Department has decided to exclude personal, social and health education from the new mandatory schools national curriculum, which is where education on equal, non-violent relationships can be included. The Department's VAWG Advisory Group, referred to in the UK's one year on report to CEDAW in 2009,⁴¹ has been disbanded. However, the Welsh Government has proposed to make education on 'healthy relationships' compulsory in Welsh schools⁴².
56. Research suggests that attitudes that contribute to the perpetuation of violence against women and girls, including the construction of masculinity and male privilege, are developed during childhood. A 2010 survey of schoolgirls' experiences of sexual harassment in the classroom indicated both its prevalence and a failure by some teachers and schools to challenge it.⁴³ The Commission supports Ofsted's⁴⁴ recommendation that 'schools should ensure that their curriculum, including their personal, social and health education (PSHE) and citizenship curriculum systematically teaches pupils about all aspects of individual difference and diversity, including those related to appearance, religion, race, gender, sexuality, disability and ability'.⁴⁵

VAWG and the health sector

57. VAWG has direct health consequences such as injury or even death, as well as contributing to women's risk for long term health problems such as issues with mental health, substance misuse, trauma, unwanted pregnancy, abortion, sexually transmitted infections and risky sexual behaviour⁴⁶. The impact of rape and child sexual abuse includes anxiety and panic

⁴¹ Response by the United Kingdom (UK) And Northern Ireland (NI) to select recommendations of the United Nations Committee On The Elimination Of All Forms Of Discrimination Against Women following the examination of the UK And NI's 5th And 6th Periodic Reports on July 10 2008, July 2009. paragraph 31. <http://www2.ohchr.org/english/bodies/cedaw/docs/followup/UKFollowupRep2009.pdf>

⁴² Welsh Government (2012) White Paper: Consultation on legislation to end violence against women, domestic abuse and sexual violence (Wales)

⁴³ One in 3 girls aged 16 to 18 years has experienced unwanted sexual touching at school; one in three teenage girls has experienced sexual violence from a partner. End Violence against Women Coalition, A different world is possible (2011)

http://www.endviolenceagainstwomen.org.uk/data/files/resources/19/a_different_world_is_possible_report_email_version.pdf

⁴⁴ OFSTED – Office for Standards in Education, Children's Services and Skills, which inspects and regulate services which care for children and young people, and those providing education and skills for learners of all ages.

⁴⁵ OFSTED, No Place for Bullying (OFSTED, 2012) <http://www.ofsted.gov.uk/resources/no-place-for-bullying>

⁴⁶ Responding to Violence Against Women and Children - the Role of the NHS. The Report of the Taskforce on the Health Aspects of Violence Against Women and Children, 2010 http://www.health.org.uk/media_manager/public/75/external-publications/Responding-to-violence-against-women-and-children%E2%80%93the-role-of-the-NHS.pdf

attacks, depression, substance misuse, eating disorders, self-harm and suicide⁴⁷. A briefing from 2008 showed that women who experienced domestic violence required twice the level of general medical services and three to eight times the level of mental health services⁴⁸, and that one third of all suicide attempts and half of those by black and minority ethnic women could be attributed to past or current experiences of domestic violence⁴⁹.

58. The health sector has a key role to play in tackling VAWG, but so far has not invested the energy and resources into the issue that could yield significant results. As argued by Professor Sir George Alberti in his report on the role of the National Health Service in responding to violence against women and children, the health consequences of violence and abuse should be taken just as seriously as stroke, diabetes and coronary heart disease: "More women suffer rape or attempted rape than have a stroke each year, and the level of domestic abuse in the population exceeds that of diabetes by many times. The same effort to ensure that a heart attack victim or a stroke patient gets rapid and appropriate care should be applied to the victims of violence and abuse"⁵⁰.
59. Greater prioritisation and investment by the National Health Service into tackling VAWG as a major public health issue could transform the provision of care and support for victims, as well as contributing to the prevention of VAWG and improving our understanding of its prevalence. The National Health Service could play a key role in the commissioning and resourcing of a range of VAWG support services, and could undertake studies to secure high quality disaggregated data on the prevalence of VAWG.
60. Rather than introduce a new policy on VAWG we propose that the National Health Service should institute a wholesale change in its perspective on VAWG as a public health issue alongside issues such as diabetes or family planning; carry out a prevalence study on VAWG; prioritise the prevention of VAWG in its Operating Framework; and commit resources to ensuring that there is sufficient provision of specialist support services for all victims of VAWG to help restore their health and wellbeing.

Question E: Can the Government consider implementing the recommendations of the Alberti Review 2010 in full, and identifying VAWG as a core strategic public health issue for the National Health Service with a wholesale change in perspective, prioritisation and resourcing of VAWG in the National Health Service's Operating Framework?

⁴⁷ Home Office (2007) Cross government action plan on sexual violence and abuse
<http://webarchive.nationalarchives.gov.uk/+/homeoffice.gov.uk/documents/sexual-violence-action-plan.html>

⁴⁸ Women's Resource Centre (2008) Briefing: Violence Against Women, Health and the Women's Voluntary and Community Sector. WRC: London

http://www.wrc.org.uk/includes/documents/cm_docs/2008/v/vaw_and_health_briefing_sept_08.pdf see also Walby, S (2004) the Cost of Domestic Violence. Women and Equality Unit

⁴⁹ Women's Resource Centre (2008) Briefing: Violence Against Women, Health and the Women's Voluntary and Community Sector. WRC: London

http://www.wrc.org.uk/includes/documents/cm_docs/2008/v/vaw_and_health_briefing_sept_08.pdf see also Walby, S (2004) the Cost of Domestic Violence. Women and Equality Unit

⁵⁰ Responding to Violence Against Women and Children - the Role of the NHS. The Report of the Taskforce on the Health Aspects of Violence Against Women and Children, 2010

http://www.health.org.uk/media_manager/public/75/external-publications/Responding-to-violence-against-women-and-children%E2%80%93the-role-of-the-NHS.pdf

Sexual and domestic violence and the criminal justice system

61. Under-reporting of sexual and domestic violence to the criminal justice system is acute and persistent. Government figures from the Crime Survey for England and Wales show that only around one in seven women who experienced serious sexual assault in the last year have reported it to the police.⁵¹ As a result, the prevalence of these crimes is underrepresented in official police recorded crime statistics. Frequently cited reasons for not reporting serious sexual offences include embarrassment, not believing the police can help, or feeling that the incident was trivial or a private matter.
62. In Scotland, reported rapes rose by 19 per cent during the year 2011-12, and when attempted rapes are included there was a rise of 13 per cent in reported incidents of these crimes.⁵² But this should be treated with caution as the new and wider definition of rape in the Sexual Offences (Scotland) Act, which came into force in December 2010, means that the rise in reported rape is likely to be at least in part due to the fact that some sexual crimes which would previously have been investigated as sexual assaults now constitute rape. This trend needs to be monitored further.
63. Police recording procedures vary from area to area. This is evidenced by wide variations between local areas in the rate at which rape complaints are recorded as "no crime" by the police, meaning that they decide no offence has taken place. The rate at which rape complaints are "no-crimed" varies between 2 per cent and 30 per cent of complaints. Allegations of rape are "no-crimed" around four times as often as allegations of grievous bodily harm with intent.⁵³
64. The Crown Prosecution Service has a good record in responding to issues relating to violence against women, including rape. Attitudes, policies and practices around dealing with rape allegations have changed for the better in recent years, in response to sustained campaigns by women's organisations. In England and Wales there is a specialised system for dealing with rape at the police, prosecution and judicial levels. Measures in the courtroom to minimise the trauma of the trial for the complainant have been introduced and there is a programme to provide state-of-the-art medical centres in every police force area, where victims of rape can be examined and assisted.
65. While the policies are laudable, there are problems with their implementation. The Stern Review into the handling of rape allegations in England and Wales exposed areas in which criminal law is not being enforced by the police. It noted that although 58 per cent of people charged with rape are convicted, only 6 per cent of rapes initially reported to the police get to

⁵¹ Ministry of Justice, Home Office & the Office for National Statistics (2013) An Overview of Sexual Offending in England and Wales, <http://www.justice.gov.uk/statistics/criminal-justice/sexual-offending-statistics>

⁵² Scottish Government (2012), 'Recorded crime in Scotland, 2011-12, Statistical Bulletin, Table A2, p.33.

⁵³ HMIC, HMCPSI, Forging the links: Rape investigation and prosecution, A joint review by HMIC and HMCPSI (2012).

http://www.hmcpsi.gov.uk/documents/reports/CJJI_THM/BOTJ/forging_the_links_rape_investigation_and_prosecution_20120228.pdf

the point of conviction.⁵⁴ In 2006 statutory charging was introduced in England and Wales. Under this scheme, police officers are provided with access to Crown Prosecution Service prosecutors for advice and charging decisions. Since its introduction, around half of all cases reported to the police have been referred to the Crown Prosecution Service. This still suggests that a large proportion of cases reported to the police do not progress any further.⁵⁵

66. The Stern Review highlighted that despite special efforts to improve the way the police respond when a rape is reported, 'there is a long history of disbelief, disrespect, blaming the victim, not seeing rape as a serious violation, and therefore deciding not to record it as a crime'. The Review also noted that the police have a series of arrangements for getting access to forensic physicians, who can take appropriate samples, assess any injuries, reassure and provide care for victims. However, there are problems with the quality of the physicians involved and the police sometimes experience delays in finding one, and in particular obtaining the services of female physicians (who are preferred by both male and female victims).
67. Independent reports have criticised the police for their insensitive and dismissive approach to victims of sexual violence. For example, the Home Office review on the criminal justice system's response to rape victims was heavily critical of the way police handled and prosecuted rape complaints. It found that several women believed that the police had not properly investigated their cases; and many women reported that the police did not believe them, particularly if they had previous criminal convictions or had been drinking.⁵⁶
68. The Stern Review also argued that the Crown Prosecution Service's current policies are the right ones, but that the policies have not been fully implemented. The Crown Prosecution Service's target for reducing 'unsuccessful outcomes,' influences their decisions to take forward to trial only cases with the strongest evidence. The Review found that cases were not properly prepared, as prosecution lawyers were often not ready for what might be disclosed about the complainant, and did not respond effectively to material presented by the defence.
69. Despite these limitations, since the Crown Prosecution Service adopted its own VAWG strategy the volume of prosecutions for all VAWG offences rose from 68,930 in 2006-07 to 95,257 in 2011, with a fall to 91,466 in 2012 - although this is in the context of a fall in volume across all Crown Prosecution Service cases prosecuted of 6.5 per cent. Convictions fell by 2 per cent in 2012 to 66,860, although this follows a rise of around 50 per cent in convictions since 2006-07. In addition, both domestic violence and rape attrition have fallen slightly, achieving over 73 per cent successful outcomes for domestic violence and 62.5 per

⁵⁴ Government Equalities Office, 2010. The Stern Review: a report by Baroness Vivien Stern CBE of an independent review into how rape complaints are handled by public authorities in England and Wales. Available at: http://beneaththewig.com/wp-content/uploads/2011/08/Stern_Review_acc_FINAL4.pdf.

⁵⁵ Equality and Human Rights Commission, 2010. *Triennial Review: How fair is Britain?* Page 139.

⁵⁶ S. Payne, 2009. *Rape: The Victim Experience Review*, London: Home Office. Available at: <http://webarchive.nationalarchives.gov.uk/+/http://www.homeoffice.gov.uk/documents/vawg-rape-review/rape-victim-experience2835.pdf?view=Binary>

cent for rape in 2011-12⁵⁷. This demonstrates that practices can be improved by adopting a strategic approach and with strong leadership.

70. As we have said in our Shadow Report to the Committee Against Torture⁵⁸, in cases of domestic violence there is evidence to suggest that authorities do not act effectively to protect women they know to be vulnerable. The 2009/10 annual report of the Independent Police Complaints Commission noted an increasing number of deaths in domestic violence cases in England and Wales where the victim was in prior contact with the police.⁵⁹ Since the Independent Police Complaints Commission was created in 2004, it has recorded over 26 cases of women who had prior contact with the police about domestic violence incidents, who were subsequently killed by their partners or ex-partners.

71. Advances have been made to protect women from domestic abuse. Rape in marriage was recognised as a crime in English criminal law by abolition of the historic marital rape exemption in 1991. Sentencing guidelines recognising the seriousness of domestic violence were issued in 2006, and the law on murder was reformed to limit the scope of the 'provocation defence' as an excuse for domestic homicide in 2009. The key problems seem to lie not in the law or the policies themselves, but in their implementation. There is a perception at least amongst some women's groups that there is a reluctance to prosecute in domestic violence cases on public interest grounds.

72. The Independent Police Complaints Commission's investigation into domestic abuse cases where the woman has been seriously injured or killed shows that the failure to prevent deaths and serious injuries is in part explained by police attitudes. In some cases police did not listen to or believe victims who asked for help. In other cases, police appeared not to understand domestic violence, did not identify risks or appreciate how these might escalate. Calls were wrongly prioritised with fatal consequences.⁶⁰ The Independent Police Complaints Commission has made useful recommendations to improve policing, but again there is evidence that some local forces have failed to implement them.⁶¹

Question F: Can the Government demonstrate how it will ensure that all cases of violence against women are swiftly investigated, prosecuted and punished and that their victims receive immediate protection, redress and compensation?

⁵⁷ Attrition refers to the process by which reported cases are lost from the legal process, and do not result in a criminal conviction. Violence against women and girls crime report 2011-12, Crown Prosecution Service http://www.cps.gov.uk/publications/docs/cps_vawg_report_2012.pdf

⁵⁸ EHRC, 2013 <http://www.equalityhumanrights.com/human-rights/our-human-rights-work/international-framework/un-convention-against-torture-and-other-cruel-inhuman-or-degrading-treatment-or-punishment/>

⁵⁹ Independent Police Complaints Commission, 2010. *Annual Report 2009/2010*. Available at: http://www.ipcc.gov.uk/en/Pages/corp_reports-plans.aspx.

⁶⁰ Independent Police Complaints Commission, *Learning the lessons, Bulletin 11: Gender and domestic abuse*. Available at: <http://www.learningthelessons.org.uk/Pages/Bulletin11.aspx>. Accessed 22/11/2011; see also the most recent IPCC report into police failures contributing to a woman's murder by her husband: http://www.ipcc.gov.uk/news/Pages/pr_200112_merseysidemott.aspx. Accessed 24/01/2012.

⁶¹ IPCC find individual and systemic failures in Nottinghamshire Police's handling of domestic incidents involving Casey Brittle, 18 October 2011. Available at: http://www.ipcc.gov.uk/news/Pages/pr_181011_brittle.aspx?auto=True&l1link=pages%2Fnews.aspx&l1title=News%20and%20press&l2link=news%2FPages%2Fdefault.aspx&l2title=Press%20Releases. Accessed 24/01/2012.

Support services for women

73. The economic cost of violence against women in the UK is estimated to be £37.6 billion annually⁶², including police and court costs, health and housing costs and effects on people's work and employment. Specialist services which provide women and girls with support to leave violent and abusive relationships, navigate the criminal justice system and to recover and rebuild their lives, receive only a fraction of this amount in funding. Funding for specialist support and preventive services should be seen as an investment or an offset that would reduce the overall economic costs of this violence.
74. In its 7th periodic report, the UK Government describes the success of initiatives in reducing the attrition rates of VAWG cases, which is a key priority. These measures include the funding of independent sexual violence advocates (ISVAs) and independent domestic violence advocates (IDVAs) whose primary focus is working with women and girls to improve engagement with the criminal justice system. In addition, specialist domestic violence courts were established. In 2011 however, information from eight IDVA providers supporting 13,180 clients, showed they were facing a loss of funding of between 23 and 100 per cent.⁶³ In 2011 on a typical day, 230 women (just under 9 per cent of those seeking refuge), were turned away by Women's Aid due to lack of space.⁶⁴
75. The UK Government has ring-fenced approximately £5 million per year (April 2011 – March 2015) to provide a range of specialist sexual abuse support services in England and Wales, delivered in the main by a network of Rape Crisis Centres.⁶⁵ Three year contracts for this service have provided a degree of sustainability and the Government has announced that centralised funding is set to continue.⁶⁶
76. This is welcome, but apart from services supporting victims of trafficking, rape and murder, the UK Government is ending central funding of support services and instead devolving responsibility for funding most services to Local Authority level in England and Wales.
77. The Government has removed the ring-fence from funding for domestic violence services in England and reduced the annual Supporting People programme by 3 per cent over four

⁶² Justine Järvinen et al, New Philanthropy Capital Hard Knock Life: Violence against women, A guide for donors (New Philanthropy Capital, 2008)

www.philanthropycapital.org/publications/community/violence_against_women/default.aspx

Sylvia Walby, The Cost of Domestic Violence: Up-date 2009. (Lancaster University, 2009).

Sources cited in HM Government, The Equality Strategy - Building a Fairer Britain, (HM Government, 2010)

⁶³ CAADA (2011) Press release: The perfect storm. 5th March <http://www.caada.org.uk/news/press-release-5-3-2011.html>

⁶⁴ Jude Towers and Sylvia Walby, Measuring the impact of cuts in public expenditure on the provision of services to prevent violence against women and girls. Report for Northern Rock Foundation and Trust for London (Lancaster University, 2012)

<http://www.nr-foundation.org.uk/wp-content/uploads/2012/03/Measuring-the-impact-of-cuts-in-public-expenditure-on-the-provision-of-services-to-prevent-violence-against-women-and-girls-Full-report-3.pdf>

⁶⁵ Home Office (2011, p.15-16) Ending Violence Against Women and Girls (VAWG): Action Plan Progress Review states that £1.72m has been annually ringfenced for the ISVA support and another £3.5m annual pot has been distributed via the Ministry of Justice to support Rape Support Centres.

⁶⁶ Ministry of Justice, Getting It Right for Victims and Witnesses: Government Response (Ministry of Justice, 2012) <https://consult.justice.gov.uk/digital-communications/victims-witnesses>

years.⁶⁷ In 2009, £1.6 billion was allocated to the programme, compared with £1,027 million in 2012-13.⁶⁸ Decisions about where to allocate these funds are now at the discretion of Local Authorities, at a time when their grants from central government are being cut. Whilst there is at present no secure funding for domestic violence refuges, central government has indicated that it will consider how to address this problem.⁶⁹

78. The Welsh VAW strategy pledges £4.4 million per annum for 2010-11 onwards, an increase from £1.6m in 2004-2005.⁷⁰ The Commission notes the roll out of the 10,000 Safer Lives project which has identified a set of 'minimum service standards' to make a difference to the quality of services experienced by victims of domestic abuse in Wales. The Scottish Government has committed to fund all VAW programmes at the same level in nominal terms for three years to 2015. Despite this, Women's Aid Scotland reports that it has to turn away one woman in three.⁷¹

Question G: Can the Government show how it is monitoring the provision of local specialised support services to women and girls who have suffered from violence, and demonstrate how women and girls have equal access to services wherever they live in the UK?

79. The last three years have witnessed a considerable change in policies affecting the funding and commissioning of women-only services. Prompted by this, and by the concerns raised in the last CEDAW examination of the UK, the Commission conducted further research into the provision of specialist services for women. This shows a complex picture with many services experiencing difficulties in securing sustainable funding.⁷²

80. Women-only service providers have reported that in some cases, the move from grant funding to commissioning of services has reduced their income and jeopardised their sustainability. A number of reasons have been suggested for this, some of which are to do with the way the market is structured. There is a preference by commissioning bodies to tender services on a large scale, through a single contract rather than multiple smaller

⁶⁷ House of Commons (2012) The Supporting People programme. Research Paper 12/40. www.parliament.uk/briefing-papers/RP12-40.pdf

⁶⁸ House of Commons (2009) The Supporting People Programme Communities and Local Government Committee 13th Report of Session 2008-09.

<http://www.publications.parliament.uk/pa/cm200809/cmselect/cmcomloc/649/649i.pdf>

and DCLG (2012) Local Authority Revenue Expenditure and Financing, Statistical Release. July.

<http://www.communities.gov.uk/documents/statistics/pdf/2178912.pdf>

⁶⁹ Ministry of Justice, Getting It Right for Victims and Witnesses: Government Response (Ministry of Justice, 2012) <https://consult.justice.gov.uk/digital-communications/victims-witnesses>

⁷⁰ Welsh Government (2010) 'The Right to be Safe'.

<http://wales.gov.uk/topics/housingandcommunity/safety/domesticabuse/publications/besafe/?lang=en>

⁷¹ http://www.scottishwomensaid.org.uk/assets/files/publications/general/SWA_per_cent20Census_per_cent20Leaflet_per_cent20ARTWORK.pdf

⁷² Hirst, A. and Rinne, S. (2012) The impact of changes in commissioning and funding on women-only services, Research Report No. 86. Equality and Human Rights Commission.

http://www.equalityhumanrights.com/uploaded_files/research/rr86_final.pdf

contracts, to reduce transaction costs. This can exclude smaller women's service providers, particularly dedicated black and ethnic minority women's services.⁷³

81. Women's organisations also reported that equality law and the equality duty may be misinterpreted by some public authorities to mean that they could only commission services that are equally available to both men and women, although the Commission's codes of practice and guidance explicitly rebut this.⁷⁴
82. This last point is specifically addressed in the U.K.'s 7th report, which states that 'Independent research commissioned by GEO found no evidence that the Gender Equality Duty affected the stability or sustainability of the women's voluntary sector. An evaluation of the 2009/10 Special Fund found that, while some recipients had been encouraged to provide services to male victims of sexual violence, there had been a range of responses to this by individual organisations from providing separate services for men to retaining exclusively women-only services. Nor was evidence provided to the CEDAW Committee during the 2008 examination to substantiate these assertions.'
83. However, research for the Rape Crisis England and Wales' report on their funding in 2012 found that about 1 in 3 of their members have been challenged by funders about the fact that they provided women-only services.⁷⁵
84. The Commission's own research concludes that while national policies recognise the need for women-only services across a range of sectors, the move to more localised funding arrangements, and the imperfect understanding of substantive equality among some decision makers, are having an adverse impact on the viability of some women's support services, especially those for black and ethnic minority women. The report suggests that the lack of a national 'champion for women's services' may be a threat to the future of these services.⁷⁶

Question H: Can the Government commit to reviewing the available evidence on whether the market for commissioning services is undermining the provision of specialist women's services, and if this is the case, change policy?

⁷³ Women's Resource Centre, Why Women Only? (Women's Resource Centre, 2007). http://www.wrc.org.uk/resources/wrcs_research_and_reports/why_women_only.aspx. See also Imkaan (2008) 'A right to exist' and Imkaan, Equality Now and City University, London (2011) The Missing Link: A joined up approach to addressing harmful practices in London, Available at <http://imkaan.org.uk/resources>

⁷⁴ Equality Act 2010 Code of Practice on Services, public functions and associations, 195-96;

⁷⁵ Sheila Coates, Lee Eggleston and Linda Regan Impact Of Rape Support Fund On Existing Rape Crisis Centres, Rape Crisis England and Wales, 2012

<http://www.rapecrisis.org.uk/userfiles/Conference%202012/RSFSummaryreport.pdf>

⁷⁶ Hirst, A. and Rinne, S. (2012) The impact of changes in commissioning and funding on women-only services, Research Report No. 86. Equality and Human Rights Commission.

http://www.equalityhumanrights.com/uploaded_files/research/rr86_final.pdf

Female Genital Mutilation (FGM)

Para 13: Although the practice of FGM persists in some communities in the State party, the report acknowledges that there have not been prosecutions related to this practice. Please provide information on actions taken to encourage prosecutions related thereto. Besides the various awareness raising measures, please indicate other measures in place to encourage the elimination of FGM in practising communities in the State party. What are the protocols in place to identify girls at risk?

85. In 2012, the Government launched a one year pilot of the cross government declaration against FGM plus a fund supporting frontline organisations tackling the practice; it has also announced that it will work to end FGM worldwide within a generation.⁷⁷ It is estimated that in the UK, up to 24,000 young women under the age of 15 are at risk of FGM,⁷⁸ but there are no recent estimates of how many women in Britain have experienced FGM. Figures obtained by a Freedom of Information request to London National Health Service hospitals indicate that over 2,100 women and girls have had hospital treatment for FGM since 2006, with 708 women needing hospital admission or surgery⁷⁹. There is evidence that families are taking their children abroad to have the procedure done, although this has been illegal since 2004 when the original Act was amended.⁸⁰ There have also been media reports that individual practitioners in the UK are willing to perform the procedure.⁸¹ However, despite the fact that FGM has been illegal in the UK since the Prohibition of Female Circumcision Act was originally passed in 1985, there has never been a single prosecution.⁸² The Commission is raising this issue with the UN Committee on the Convention Against Torture. The UN Economic and Social Council Statistical Commission has recently adopted an indicator under gender statistics to monitor the prevalence of FGM.⁸³

Question I: Can the Government demonstrate how it plans to:

- **support and enable successful prosecutions for FGM;**
- **support communities to abandon the practice particularly by empowering women leaders within communities; and**
- **draw lessons from initiatives in other countries with practising communities, which could be applied in the UK.**

⁷⁷ Girls and women: UK to help end female genital mutilation, 6th March 2013. <http://www.dfid.gov.uk/News/Latest-news/2013/FGM-UK-to-help-end-female-genital-mutilation/>

⁷⁸ <http://www.homeoffice.gov.uk/crime/violence-against-women-girls/female-genital-mutilation/>

⁷⁹ Figures from 11 London NHS trusts, including Guy's and St Thomas', UCL and St George's in Tooting, showed a peak of 442 women seeking treatment in 2010 - a 30 per cent increase on 2007. Craig Woodhouse and James Clayton, '2,100 women seek treatment for mutilation', London Evening Standard, 16 February 2012.

<http://www.standard.co.uk/news/health/2100-women-seek-treatment-for-mutilation-7443780.html?origin=internalSearch> See also Imkaan, Equality Now and City University, London (2011) The Missing Link: A joined up approach to addressing harmful practices in London, <http://imkaan.org.uk/resources>

⁸⁰ See Home Office information page on FMG, at <http://www.homeoffice.gov.uk/crime/violence-against-women-girls/female-genital-mutilation>

⁸¹ The Guardian, Sunday 22nd April, 'Female genital mutilation 'offered by UK medics'', see <http://www.guardian.co.uk/uk/2012/apr/22/female-genital-mutilation-uk-medics>

⁸² The Independent 6th January 2013, 'Special report: Female genital mutilation - unreported, ignored, unpunished'. <http://www.independent.co.uk/news/uk/crime/special-report-female-genital-mutilation--unreported-ignored-and-unpunished-8439824.html>

⁸³ UNESC Statistical Commission, 44th Session <http://unstats.un.org/unsd/statcom/doc13/Report-1March9am.pdf>

Trafficking and exploitation of prostitution

Para 14: Please indicate whether the State party's strategy to combat trafficking in persons has been published and provide information on its content, particularly in the context of gender sensitivities. Please also provide information on measures envisaged and/or in place to provide women who wish to be out of prostitution with alternative lifestyle opportunities. Please also indicate measures taken in order to decrease the demand of prostitution.

86. The Commission's Inquiry into human trafficking in Scotland assessed to what extent Scotland is meeting its international and domestic human rights obligations to prevent and prohibit trafficking, prosecute traffickers and protect victims. Scotland has already introduced legislation but, unlike other parts of the United Kingdom, and despite evidence of trafficking, by 2013 there had been only two successful prosecutions, resulting in five convictions compared to over 150 successful prosecutions in England and Wales.⁸⁴ Scotland has introduced statutory aggravation legislation to make it easier to prosecute traffickers.
87. The Inquiry found it impossible to establish the extent of trafficking in Scotland. Reliable figures are not available and numbers provided by some support organisations are hard to verify. However, trafficking undoubtedly exists and has to be taken seriously.
88. Police who had investigated trafficking cases spoke about the near impossibility of securing courtroom testimony from witnesses, especially when their immigration status was uncertain, and they could face deportation.
89. The Commission welcomes the Government's establishment of a National Referral Mechanism for victims of trafficking. The Commission is concerned about the lack of data and investigations into trafficking, specifically for forced labour, and wishes to see authorities better equipped to recognise people who may have been trafficked and avoid their criminalisation. The Commission is concerned with protection of migrant domestic workers who may be particularly vulnerable to domestic servitude and forced labour. Low levels of awareness among officials, and proposed changes in the visa requirements, may make it more difficult for them to find protection.
90. The Commission notes the Welsh Government's creation of Wales' first anti-human trafficking co-ordinator. The Welsh Government's Right to be Safe strategy further outlines its commitment to supporting victims of human trafficking.

Conclusion 4: The Government should sign and ratify the International Labour Organisation Domestic Workers Convention; and fully implement the European Union Directive on trafficking in human beings.

⁸⁴ Equality and Human Rights Commission (2011) Inquiry into human trafficking in Scotland. http://www.equalityhumanrights.com/uploaded_files/Scotland/Human_Trafficking_in_Scotland_/inquiry_into_human_trafficking_in_scotland-full-report_pdf_.pdf and The Herald, Tuesday 15th January 2013, 'Human traffickers jailed', see: <http://www.heraldscotland.com/news/crime-courts/human-traffickers-jailed.19912428>

Participation in political and public life

Para 15: Please provide information on further efforts to increase the participation of women in political and public life, in particular the adoption of temporary special measures to accelerate the achievement of equality between women and men in decision-making positions in the public sector, including in the judiciary and the private sector. Please provide detailed information on the implementation of Lord Davies' report as well as on further measures to increase the participation of BAME women in the political and public life of the State party.

91. The 2013 survey on women in public life⁸⁵ reported that 'at the current rate of progress, a child born today will be drawing her pension before she has any chance of being equally represented in the Parliament of her country'. It showed that the over-representation of men is evident in almost all areas of public life.
92. Progress has been very slow and, in some cases, there has been regression in recent years. By February 2013, the percentage of women MPs had increased from 19.3 per cent to 22.5 per cent, and four members of the Cabinet were women, 18.2 per cent of the total, compared with 26.1 per cent in March 2008.⁸⁶ The number of women who were Local Authority council leaders decreased slightly between 2008 and 2012, from 14.3 per cent to 12.3 per cent.⁸⁷
93. Demonstrating the variability of progress across Britain, women members of the Scottish Parliament increased by two between 2008 and 2013 from 34.1 per cent to 35.7 per cent.
94. In Wales, although there was a decrease of three women members of the National Assembly for Wales from 48 per cent to 42 per cent in the same period, this remains a significantly higher proportion than elsewhere in the UK. . The National Assembly for Wales has the first ever female Presiding Officer of a devolved institution in the UK as well as two female leaders of the four main political parties in Wales.
95. In its Programme for Government the Welsh Government has committed to identifying steps to deliver a more representative pool of decision makers and greater numbers of women in public appointments. The Welsh Government has committed to seeking to introduce Norwegian-style gender quotas for appointments to public bodies in Wales, ensuring that at least 40 per cent of appointments are women.

⁸⁵ Centre for Women and Democracy (2013) Sex and Power 2013. <http://www.countingwomenin.org/wp-content/uploads/2013/02/Sex-and-Power-2013-FINALv2.-pdf.pdf>

⁸⁶ There are currently 22 full members of the Cabinet, including four women; nine others, including one woman, also attend Cabinet meetings but are not full members. <http://www.parliament.uk/mps-lords-and-offices/government-and-opposition1/her-majestys-government/>. Data for 2008 are from EHRC, Sex and Power 2008 (EHRC, 2008) <http://www.equalityhumanrights.com/key-projects/sexandpower/>

⁸⁷ Centre for Women and Democracy (2013) Sex and Power 2013. <http://www.countingwomenin.org/wp-content/uploads/2013/02/Sex-and-Power-2013-FINALv2.-pdf.pdf>

96. The Government has adopted temporary special measures to increase the number of women in Parliament, by extending until 2030 the provision allowing political parties to adopt women-only shortlists for parliamentary candidates.⁸⁸ Women's representation in the UK parliament rose significantly in 1997, primarily as a result of special measures, and has continued to rise slowly since, although still well below 25 per cent. The Scottish Parliament and Welsh Assembly are much closer to gender parity. In all three nations, local councillors are predominantly male.⁸⁹

97. In 2012, women held 35 per cent of public appointments.⁹⁰ Any increases in the percentage of women holding senior positions in the public and voluntary sector between 2008 and 2012 have generally been small, in the region of a few percentage points.⁹¹

Women on boards

98. The Government-commissioned Davies report⁹² recommended that all Chairmen of FTSE 350 companies should set out the percentage of women they aim to have on their boards in 2013 and 2015. FTSE 100 boards should aim for a minimum of 25 per cent female representation by 2015.

99. In the largest listed companies on the London stock exchange, between 2008 and March 2013 the number of women on boards (executive and non-executive directors) increased from 11.7 per cent to 17.3 per cent in the largest 100 companies by market capitalisation (FTSE 100); and from 7.0 per cent to 13.3 per cent in the next largest 250 companies (FTSE 250). The figure for Executive Directors alone is lower, at 5.8 per cent in March 2013 within FTSE 100 companies.⁹³

100. In the early part of 2012, 44 per cent of new appointments to FTSE 100 boards went to women (36 per cent for FTSE 250 boards). However this progress was short lived as the proportions fell to 26 per cent and 29 per cent respectively by 2013, short of the 33 per cent required to meet the target for FTSE 100 boards. Cranfield University's Female FTSE Board Report expressed concern that complacency may be setting in.⁹⁴

⁸⁸ S.104 & s.105 Equality Act 2010.

⁸⁹ EHRC, How Fair Is Britain? (EHRC, 2010) <http://www.equalityhumanrights.com/key-projects/how-fair-is-britain/online-summary/power-and-voice/>

⁹⁰ Cabinet Office (2012) Public Bodies 2012. Annex H - Public Appointments - Gender http://www.cabinetoffice.gov.uk/sites/default/files/resources/public-bodies-2012_1.pdf

⁹¹ Centre for Women and Democracy (2013) Sex and Power 2013. <http://www.countingwomenin.org/wp-content/uploads/2013/02/Sex-and-Power-2013-FINALv2.-pdf.pdf>

⁹² Department for Business, Innovation and Skills, Women on Boards (The Davies Report), (BIS, 2011) <http://www.bis.gov.uk/assets/biscore/business-law/docs/w/11-745-women-on-boards.pdf>

⁹³ Ruth Sealy and Susan Vinnicombe, The Female FTSE Board Report 2013 (Cranfield University 2013) <http://www.som.cranfield.ac.uk/som/dinamic-content/media/Research/Research%20Centres/CICWL/FTSEReport2013.pdf>

2008 figures are from the 2008 Female FTSE report:

⁹⁴ *ibid*

101. The same report showed that the number of all male boards in the FTSE 100 had reduced to 6.⁹⁵
102. The Government is confident that the voluntary, business-led approach to increasing the representation of women is working so there is no need to follow the example of Norway and others⁹⁶ and legislate on this issue. The Davies report noted, however, that Government may need to introduce more prescriptive alternatives if the voluntary approach does not achieve significant change.
103. The Commission has published research on the role of executive search firms,⁹⁷ which play a key role in identifying and recruiting talent and could influence the number of women on boards, and the impact of the newly introduced Voluntary Search Code.⁹⁸
104. The research found that the Board appointment process remains opaque and subjective, and is typically driven by a corporate elite of predominantly male Chairmen who tend to favour those with similar characteristics to themselves. Non-executive director appointments are still informed by how much candidates 'fit' with existing Board members. Due to the male-dominated nature of corporate Boards, female candidates are often disadvantaged.
105. The Commission believes that there is need for greater transparency, professionalism, and rigour in the selection process. Selection criteria should be clearly set out, posts advertised openly and selection interviews conducted against competencies rather than experience to reduce the likelihood of shifting criteria and subjective judgements. Post-appointment, more attention should be given to induction to ensure that it is gender-inclusive.
106. Ongoing review of the impact of the Voluntary Search Code is needed to assess whether it needs to be revised and strengthened and whether it is driving the necessary change. The Commission recommended strengthening and clarifying the code of practice, which was developed by the search firms, to provide a more consistent and transparent appointment process. A revised version of the code is now under consideration and takes on board all of the Commission's recommendations. This includes recording and sharing of best practice in supporting clients, monitoring adherence to the code and ensuring that weight is given to relevant skills, underlying competencies and personal capabilities, not just proven career experience.

⁹⁵ *ibid*

⁹⁶ As a result of quota legislation, Norway has 40.1 per cent women on boards.
http://www.catalyst.org/file/725/qt_women_on_boards.pdf

From January 1 2010 listed companies in Finland must have at least one woman on the board.

⁹⁷ Elena Doldor et al, Gender Diversity on Boards: The Appointment Process and the Role of Executive Search Firms. EHRC Research Report No. 85.(EHRC, 2012). <http://www.equalityhumanrights.com/publications/our-research/research-reports/research-reports-81/>

⁹⁸ The Davies report recommended that executive search firms should draw up a Voluntary Code of Conduct addressing gender diversity and best practice which covers the relevant search criteria and processes relating to FTSE 350 Board level appointments.

107. To ensure progress continues on the appointment of women to Boards, the Commission's analysis points to the need for a series of longer term sustainable targets to 2017 and beyond, and a specific target for the FTSE 250.
108. It appears unlikely that an entirely voluntary approach will work without clear targets for change and pressure to create business ownership of them. There is little doubt that a factor for success thus far is the business community's respect for Lord Davies and the government's clear commitment to change. Changes to the Corporate Governance Code, pressure from the investor community, and improved gender reporting by companies at Board, executive and senior management level help make transparent companies' commitment to change and their progress. Monitoring of the position at both executive and non-executive levels is important to determine whether a pipeline for female Board members is developing to enable long term change. The Female FTSE Board Report 2013⁹⁹ noted that despite women dominating Human Resources, Law and Marketing in general, this is not reflected at Executive Director level and fewer female than male Executive Directors are internally promoted. In addition, there was a drop in the percentage of women on executive committees from 18.1 per cent to 15.3 per cent since 2009.

Question J: Can the Government provide further information to show how it will carefully measure and monitor, as well as encourage and support, progress in women's representation on Boards? Monitoring of the position at both executive and non-executive levels is important to determine whether there is progression of women towards Board positions to enable long term change. Alternative measures (legislative if necessary) could be considered if the current scheme does not succeed in delivering sustainable change.

Question K: Can the Government provide further information to show how the Voluntary Search Code for executive search firms could be strengthened and the number of signatories increased? Executive search firms could be asked to demonstrate how they are meeting the voluntary code and track and promote their own progress and improvements.

Employment

Para 16: Please provide information on the achievements of the State party's call for voluntary gender equality reporting to the business and voluntary sectors. Please provide further information on measures undertaken to reduce the gender pay gap in both public and private sector. Please also provide detailed information about measures in place to ensure a high rate of employment for women while addressing the reported gap between the demand for and supply of affordable high-quality childcare.

109. Women are still generally disadvantaged in employment and the labour market. In particular this applies to minority groups of women, for example ethnic minority women and

⁹⁹ Ruth Sealy and Susan Vinnicombe, The Female FTSE Board Report 2013 (Cranfield University 2013) <http://www.som.cranfield.ac.uk/som/dinamic-content/media/Research/Research%20Centres/CICWL/FTSEReport2013.pdf>

disabled women, who can be doubly disadvantaged in relation to employment levels, pay gaps, job security, and harassment at work.¹⁰⁰

110. Only 1 in 4 Bangladeshi and Pakistani women work compared to nearly 3 in 4 White British women.¹⁰¹ The low labour market participation among Bangladeshi and Pakistani women, which corresponds to a similar picture for Muslim women, persists to include British-born members of this group despite changing attitudes and improved education levels. Almost half of Bangladeshi (49%) and Pakistani (44%) women are economically inactive, looking after the family or home, compared to 20% or fewer of other groups.¹⁰² It is hard to measure the extent to which this reflects personal choice, cultural pressures, discrimination or lack of opportunities. Even comparing those with degrees, Pakistani and Bangladeshi women are 11 percentage points less likely to be employed than White British women¹⁰³. Local research shows that on many Gypsy and Traveller sites, only a small minority of households are engaged in paid work. The evidence points towards a strong preference for male self-employment: women tend not to work outside the home, but are sometimes engaged in traditional 'craft' work¹⁰⁴.

Migrant women workers

111. In 2010, the Commission published the findings of its inquiry into recruitment and employment in the meat and poultry processing sector in England and Wales. The report¹⁰⁵ revealed widespread mistreatment and exploitation of migrant and agency workers in the sector. Specifically, pregnant women were liable to be (unlawfully) dismissed and were denied the health and safety protection to which they were entitled. Migrant workers felt that employers and agencies expected them to put up with poor treatment, knowing that they had limited options.

112. The Commission made recommendations designed to reduce the vulnerability of migrant women workers and improve standards in the industry. It has worked with the relevant industry bodies and regulators to achieve this. The Commission is pleased with the progress made by the industry, especially in light of the difficult economic environment. Pregnant workers are treated significantly better, workers are no longer segregated by nationality or suffer physical abuse; British workers no longer experience difficulties registering with

¹⁰⁰ See EHRC, *How Fair is Britain?* (EHRC, 2010), Chapter 11 pp. 410, 415-416, 428, 443.

<http://www.equalityhumanrights.com/key-projects/how-fair-is-britain/online-summary/power-and-voice/> For example ethnic minority women are clustered in an even narrower range of jobs than white British women, and disabled women are four times more likely than other employees to report being bullied.

¹⁰¹ Hills, J., Brewer, M., Jenkins, S. P., Lister, R., Lupton, R., Machin, S., Mills, C., Modood, T., Rees, T., and Riddell, S. (2010) *An anatomy of economic inequality in the UK: report of the National Equality Panel*. Centre for Analysis of Social Exclusion, London School of Economics and Political Science, London, UK. Page 112.

¹⁰² Hills, J. et al. 2010. Page 112. Data are for working-age population.

¹⁰³ Hills, J. et al. 2010. Page 224.

¹⁰⁴ Cemlyn, S. Greenfields, M. Burnett, S. Mathew, Z. and Whitwell, C. (2009) *Inequalities experienced by Gypsy and Traveller communities*. Research Report 12. Manchester: Equality and Human Rights Commission. Pages 38-39. <http://www.equalityhumanrights.com/publications/our-research/research-reports/research-reports-11-20/>

¹⁰⁵ EHRC, *Inquiry into recruitment and employment in the meat and poultry processing sector* (EHRC, 2010). <http://www.equalityhumanrights.com/legal-and-policy/inquiries-and-assessments/inquiry-into-the-meat-and-poultry-processing-sectors/>

agencies due to their nationality. We have included recommendations in our review findings report, and launched guidance to support the sector to tackle the remaining challenges¹⁰⁶.

Question L: Can the Government demonstrate how it will ensure that the relevant regulatory bodies (eg the Gangmasters Licensing Authority and the Health and Safety Executive) are enforcing the law and adequately protecting migrant women workers from exploitation and discriminatory treatment; and say when it will sign the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families?

The Gender Pay Gap

113. The main structural causes of the continuing UK gender pay gap are:

- Occupational segregation reflecting gendered traditions, stereotyping and educational pathways. This consists of vertical segregation where women are under-represented in senior jobs,¹⁰⁷ and horizontal segregation where for example women are under-represented in scientific occupations and manual trades
- The undervaluing of work traditionally associated with, and done by, women
- The 'motherhood penalty' which affects women's pay and opportunities for taking maternity leave and career breaks or the expectation that they will (and in its most extreme manifestation, is evidenced by the unlawful dismissal of pregnant women)¹⁰⁸
- The 'part-time penalty', linked to the unequal gender division of childcare and domestic work and the poor quality and low pay of much part-time work
- Direct and indirect discrimination in pay policies and practices
- Lack of transparency in pay and pay systems which indirectly allows pay inequality to continue unchecked.

114. Men working full-time continue to have higher average hourly, weekly and annual earnings than women. Across the United Kingdom, in 2012 the median full-time gender pay gap (the difference in percentage terms between the average earnings of women and men working full-time) was 9.6 per cent for hourly earnings excluding overtime, and 17.8 per cent for gross weekly earnings.¹⁰⁹ The gap is wider in weekly than hourly earnings as men tend to do more hours of paid work. Men are also more likely to receive overtime and bonus payments.

¹⁰⁶ EHRC, Meat and Poultry Processing Inquiry Review (2012) <http://www.equalityhumanrights.com/legal-and-policy/inquiries-and-assessments/inquiry-into-the-meat-and-poultry-processing-sectors/>

¹⁰⁷ Women made up 36 per cent of all managers, directors and senior officials in the UK in October-December 2012. Office for National Statistics, All in Employment by Occupation (Excel Spreadsheets), EMP08. <http://www.ons.gov.uk/ons/search/index.html?newquery=Standard+occupational+classification>

¹⁰⁸ 1900 cases of unfair dismissal or detriment related to being pregnant or on maternity leave were lodged at the Employment Tribunal in 2011-12. Ministry of Justice, Annual tribunals statistics, 2011/12: 1 April 2011 to 31 March 2012 (Ministry of Justice, 2012). <http://www.justice.gov.uk/statistics/tribunals/annual-stats>

¹⁰⁹ Office for National Statistics, Annual Survey of Hours and Earnings 2012 (ONS, 2012); data are based on the 2010 Standard Occupational Classification and were published in November 2012. The data are provisional and may be revised. <http://www.ons.gov.uk/ons/rel/ashe/annual-survey-of-hours-and-earnings/2012-provisional-results/stb-ashe-statistical-bulletin-2012.html> For a detailed analysis of the gender pay gap, see David Perfect, Gender Pay Gaps, 2012 (EHRC Briefing Paper, forthcoming).

115. The full-time gender pay gap is wider for mean than for median hourly earnings (14.8 per cent in 2012 for mean earnings, compared with 9.6 per cent for median earnings). This is also the case for weekly earnings (20.6 per cent for mean earnings, compared with 17.8 per cent for median earnings). This reflects the impact of the very high earnings of some men, and the fact that men continue to dominate the highest paid occupations, while women predominate in the lowest paid.
116. There has been much less progress in closing the part-time women's pay gap (that is the difference in the median hourly earnings of men who work full-time and women who work part-time) which was 38.8 per cent in 2012.¹¹⁰ There are indications that there are a lack of choices for part-time workers where wages are artificially depressed either by the absence of alternative full-time work (for example, in Wales)¹¹¹ or by the absence of affordable, good quality childcare which would enable the primary carer (still usually a mother) to undertake full-time work.
117. The Commission's Triennial Review included evidence that the gender pay gap can be compounded by other aspects of inequality, although there is limited data on intersectional pay inequality. However, disabled women experienced a 22 per cent pay penalty compared to non-disabled men in 2004-07.¹¹² Age is a key variable in the gender pay gap: it rises sharply for those aged 40-49 and is highest for those aged 50-59. Women aged 40-49 experienced a 15 per cent penalty compared to men of the same age in 2012, when median hourly earnings are considered.¹¹³
118. Amongst the four UK nations, the full-time median hourly gender pay gap was widest in England and narrowest in Northern Ireland in every year between 2009 and 2012. Within England, the widest gaps are to be found in the South East and London.¹¹⁴
119. Although girls/ women now do better than boys/men in many areas of educational achievement there is still marked subject segregation and a chronic under-representation of girls and young women studying maths, science and technology. In 2010-11, 84 per cent of UK Higher Education students in Engineering and Technology were men, in Computer Science it was 82 per cent and in Architecture, Building and Planning it was 68 per cent.¹¹⁵ This is reflected in persistent gender patterns of occupational segregation, which is a key cause of the pay gap. Overall in 2012, women accounted for 77 per cent of those employed in administrative and secretarial occupations and 82 per cent of those in caring, leisure and

¹¹⁰ Office for National Statistics, Annual Survey of Hours and Earnings 2012 (ONS, 2012).

<http://www.ons.gov.uk/ons/rel/ashe/annual-survey-of-hours-and-earnings/2012-provisional-results/stb-ashe-statistical-bulletin-2012.html>

¹¹¹ Alison Parken and Adele Baumgardt, The Business Benefits of Equal Pay: Local Authority Case Study. (EHRC Wales, 2008).

¹¹² Simonetta Longhi and Lucinda Platt, Pay Gaps Across Equalities Areas. (EHRC Research Report, No. 9, 2008).

<http://www.equalityhumanrights.com/publications/our-research/research-reports/research-reports-1-10/>

¹¹³ Office for National Statistics, Annual Survey of Hours and Earnings 2012 (ONS, 2012).

<http://www.ons.gov.uk/ons/rel/ashe/annual-survey-of-hours-and-earnings/2012-provisional-results/stb-ashe-statistical-bulletin-2012.html>

¹¹⁴ Office for National Statistics, Annual Survey of Hours and Earnings 2012 (ONS, 2012).

<http://www.ons.gov.uk/ons/rel/ashe/annual-survey-of-hours-and-earnings/2012-provisional-results/stb-ashe-statistical-bulletin-2012.html>

¹¹⁵ Equality Challenge Unit, Equality in higher education: statistical report 2012, Part II (ECU, 2012).

<http://www.ecu.ac.uk/publications/files/equality-in-he-stats-report-2012-students.pdf/view>

other service occupations, but only 6 per cent of engineering professionals, 15 per cent of information technology and telecommunications professionals and 12 per cent of architects, town planners and surveyors.¹¹⁶ Women continue to dominate low pay, low grade work and be under-represented in better paying, higher status managerial and professional occupations. In 2012, women made up 33 per cent of those employed as managers, directors and senior officials, and 50 per cent of employees in professional occupations; they also held 43 per cent of those employed in associate professional occupations.¹¹⁷

120. Full-time gender pay gaps are much wider in some occupations than in others. The gap in median hourly earnings was widest for skilled trades and process, plant and machine operatives in 2012. Among major industrial groupings, the full-time gender pay gap was widest for financial and insurance activities at 37 per cent for median hourly earnings.¹¹⁸ The Commission's Inquiry into Sex Discrimination in the Finance Sector¹¹⁹ showed that women working full-time earned up to 55 per cent less in gross annual salary than men, mainly due to the large bonuses paid to men, despite the fact that women and men entered the sector in equal numbers. 2012 data suggest that this substantial gap in annual earnings of women and men in this sector remains.¹²⁰

121. It is noted that within its Strategic Equality Plan, the Welsh Government cites an objective to work with partners to identify and address the causes of the gender, ethnicity and disability pay and employment differences. A three year project entitled 'Women Adding Value to the Economy' (WAVE) is an innovative equal pay project. It is funded by the European Social Fund through the Welsh Government.

122. The Commission would like to see the adoption of a national strategic approach to tackle the structural causes of the gender pay gap described above, including initiatives to widen educational and employment opportunities for girls and women as well as direct support to employers to improve job evaluation, pay transparency and flexible work options.

123. The Commission would also like to see a review of the legislation¹²¹ and procedural rules which apply to equal pay cases¹²² in the UK to address a number of shortcomings, including;

- The absence of the ability to mount a systemic challenge, in a context where the vast majority of equal pay/equality of terms claims brought in the UK arise from systemic pay differences.

¹¹⁶ Office for National Statistics, All in Employment by Status, Occupation and Sex (Excel Spreadsheets), EMP16. Data are for April-June 2012.

<http://www.ons.gov.uk/ons/search/index.html?newquery=Standard+occupational+classification>

¹¹⁷ Office for National Statistics, All in Employment by Status, Occupation and Sex (Excel Spreadsheets), EMP16. Data are for April-June 2012. Data are for employees only and exclude the self-employed.

<http://www.ons.gov.uk/ons/search/index.html?newquery=Standard+occupational+classification>

¹¹⁸ Office for National Statistics, Annual Survey of Hours and Earnings 2011. (ONS, 2011).

http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcm_per_cent3A77-235202

¹¹⁹ EHRC, Financial Services Inquiry: Follow Up Report (EHRC, 2011).

http://www.equalityhumanrights.com/uploaded_files/Inquiries/fsi_follow-up_report.pdf

¹²⁰ Office for National Statistics, Annual Survey of Hours and Earnings 2011. (ONS, 2011).

http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcm_per_cent3A77-235202

¹²¹ Equality Act 2010, Part 5 Chapter 3.

¹²² Currently The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004 (as amended)

- The narrow scope for comparison, requiring the identification of an actual comparator in almost all¹²³ equal pay/equality of terms cases. The difficulties posed by the absence of any lead-in time or 'grace period' within which employers can adapt their pay systems so as to provide equal pay and avoid litigation. The Commission understands that some employers are reluctant to begin addressing equal pay issues for fear of litigation being taken against them.
- Secrecy in the workplace around pay and benefits, and the lack of any cases being brought under the Equality Act 2010 Section 77 which makes pay secrecy clauses unenforceable. It is difficult to say how effective Section 77 has been in changing the culture around the disclosure of pay.
- The time and money that some large employers devote to fighting equal pay claims and the lack of incentive for them to proactively address pay issues in their pay systems.
- The length of time it takes for equal pay cases to be heard and the large backlog of equal pay cases in the tribunal systems.
- The low number of equal pay claims that make it to tribunal as many are settled or dropped beforehand. In the three year period 2009-2012, 23,800 equal pay claims were received. Less than 1% (32 claims) were successful. More than 80% were withdrawn or settled¹²⁴.

124. Where pay inequality arises from collective circumstances, a procedure that permitted claims to be brought by representative bodies (such as trades unions) would overcome some of the shortcomings of the equal pay provisions.

125. The Government is removing the question and answer procedure in Section 138 of the Equality Act 2010. That procedure currently applies to all discrimination claims including equal pay claims. It allows employees to ask an employer for relevant information when the employee believes they have been discriminated against. A court or tribunal can take into account a failure to respond to a Section 138 questionnaire or an inadequate response to it in assessing whether an employer has discriminated unlawfully. The Commission's view is that the question and answer procedure should not be removed and that it is helpful in resolving disputes between parties. The questionnaire is particularly useful in equal pay cases as a way of an employee gaining access to relevant pay information held by an employer.

126. In June 2012, the Government announced that it will introduce legislation in 2013 to require an employment tribunal to order an equal pay audit in cases where an employer loses an equal pay claim. The Commission supports this proposal, but considers that equal pay audits should not only be viewed as a penalty but as a regular 'business tool'. We note that only 1 per cent of equal pay claims (or fewer) succeed at tribunal so the impact of the new legislation will necessarily be limited.¹²⁵ The introduction of fees for employment tribunals will also limit women's access to redress and further limit the effectiveness of this measure.

¹²³ The exception to this is in a case of direct discrimination in contractual terms where there is no actual comparator (see Q1 para (4)). The EHRC are not aware of equality of terms case brought relying on this exception.

¹²⁴ Figures taken from the Ministry of Justice's 'Employment Tribunals and EAT Statistics 2011-12'.

¹²⁵ Ministry of Justice, Annual tribunals statistics, 2011/12: 1 April 2011 to 31 March 2012 (Ministry of Justice, 2012). <http://www.justice.gov.uk/statistics/tribunals/annual-stats>

127. In May 2012, the European Parliament passed a detailed equal pay resolution that calls for Member States to ensure their legislation is effective, and makes a number of proposals including for increased focus on job evaluation, for Governments to appoint an Equal Pay Champion, and for urgent action to address the part-time wage penalty.¹²⁶ The Commission believes that the resolution is a useful frame of reference to support further work in the UK.

128. The Government launched *Think, Act, Report*, a voluntary gender equality analysis and reporting initiative, in 2011. It is aimed at private sector and voluntary organisations employing at least 150 people. The Government is asking these businesses to undertake gender equality analysis and reporting on a voluntary basis. The Government has published a report on the progress of the *Think, Act, Report* initiative one year on.¹²⁷ In that report, the Government explains that "the aim of the initiative is not to force companies to report any gender pay gap. It is to drive culture change where reporting a range of gender workplace information and policies becomes the norm"¹²⁸. The UK Arbitration, Conciliation and Advisory Service (ACAS) has published start-up guidance on voluntary reporting, which refers people who need further information to the Commission.¹²⁹

129. Section 78 of the Equality Act 2010 makes provision for the government to require compulsory reporting on their gender pay gap by employers with at least 250 employees. The Government has said that it will not implement the gender pay reporting measures in Section 78 of the Act while it is working with business on how to best support increased transparency on a voluntary basis. The absence of a clear timetable for implementation of these measures means there is less incentive for employers to sign up to *Think, Act, Report*. The Government announced that it would annually review this approach, in order to assess whether it is successful and take a view over time whether alternatives are required, including using a mandatory approach through Section 78 of the Equality Act. The Government's baseline survey in 2011 reported that only 1.3% of large employers report their gender pay gap externally.¹³⁰

Question M: Can the Government:

- **produce a timetable for its activities to encourage voluntary reporting on pay gaps;**
- **improve the speed, effectiveness and accessibility of the tribunal process; and**
- **consider further measures to tackle the persistent educational and occupational gender segregation that contribute to the gender pay gap?**

Part-time and flexible work

¹²⁶ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2012-0225+0+DOC+XML+V0//EN>

¹²⁷ <https://www.gov.uk/government/publications/think-act-report-one-year-on>

¹²⁸ *ibid.* page 11

¹²⁹ Office for National Statistics, Annual Survey of Hours and Earnings 2011. (ONS, 2011).

http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcm_per_cent3A77-235202

¹³⁰ Government Equality Office Voluntary Gender Equality Reporting: Baseline Report 2011

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/85558/baseline-report.pdf at page 13.

130. Research suggests that around half of part-time workers, who are mostly women, are in jobs below their potential, often because it is the only way they can combine work and caring.¹³¹ A recent survey found that female employees were more likely than male employees to report that flexible working was available in their workplaces (91 per cent, compared to 69 per cent); those working in female dominated industries were more likely to report this than those in male dominated industries.¹³² Full-time working is still seen as a prerequisite for career progression for parents.¹³³ Whilst this norm prevails, part-time workers will not be able to access promotion and men will be reluctant to reduce their hours.
131. A recent survey found that women, those with higher qualifications, those in managerial/professional occupations, public sector employees, trade union members or those whose pay and conditions were agreed between the employer and a union were most likely to report that flexible working was available. Part-time working was the most commonly available form of flexible working (reported by 80 per cent of employees), followed by temporarily reduced hours (56 per cent) and flexitime (48 per cent). Women are more likely to request a change to their working arrangements than men (28 per cent compared to 17 per cent). Men are more likely than women to have their requests declined, as are full-time workers than part-time workers.¹³⁴
132. The Government has announced it will extend the right to request flexible working to all employees, which the Commission welcomes. The extension of the right would enable more people, including grandparents and workers with adult caring responsibilities, to manage their working and caring roles.¹³⁵ However, at the same time, the statutory procedure obliging the employer to consider a request will be removed and may weaken the right in a context where the employer may already refuse a request for flexible work based on business reasons. We also note that the requirement that an employee must work for an employer for 26 weeks before they have a right to request remains unchanged. Many people – for example some lone parents or carers – are unable to enter work on a full time basis and then ask to change to flexible or part time working hours. Too few jobs are advertised on a flexible or part time basis. This results in talent being wasted and employers not recruiting from the widest possible pool of candidates. In addition, the proposal to respond reasonably to requests ‘within three months’ may be too long a period for someone whose

¹³¹ EHRC, Working Better: Meeting the changing needs of families, workers and employers in the 21st century, (EHRC, 2009). http://www.equalityhumanrights.com/uploaded_files/working_better_final_pdf_250309.pdf

¹³² Sarah Tipping et al, The Fourth Work-Life Balance Employee Survey, Employment Relations Research Series No. 122, (London: Department for Business, Innovation and Skills, 2012).

<http://www.bis.gov.uk/assets/biscore/employment-matters/docs/f/12-p151-fourth-work-life-balance-employee-survey> Flexible working in this survey included: annualised hours; compressed hours; flexitime; job sharing; part-time work; reduced hours for a limited period; term-time working; and working from home.

¹³³ Verity Campbell-Barr and Alison Garnham, Childcare: A Review of What Parents Want, (EHRC Research Report, No. 66, 2010). <http://www.equalityhumanrights.com/publications/our-research/research-reports/research-reports-61-70/>

¹³⁴ For further details see Sarah Tipping et al, The Fourth Work-Life Balance Employee Survey, Employment Relations Research Series No. 122, (London: Department for Business, Innovation and Skills, 2012). <http://www.bis.gov.uk/assets/biscore/employment-matters/docs/f/12-p151-fourth-work-life-balance-employee-survey>

¹³⁵ Verity Campbell-Barr and Alison Garnham, Childcare: A Review of What Parents Want, (EHRC Research Report, No. 66, 2010). <http://www.equalityhumanrights.com/publications/our-research/research-reports/research-reports-61-70/>

circumstances change suddenly beyond their control, for example they are required to look after an elderly parent.¹³⁶

133. The proposed flexible working arrangements could be improved by:

- introducing adequate protection for employees, noting that the statutory procedure provided a consistent framework for the making and handling of requests;
- providing that the duty to respond should be within a reasonable time period for both the individual and employer;
- ensuring that ACAS's Code of Practice on acting 'reasonably' should provide for both sides to meet, for employees to be accompanied to meetings, and for an internal appeal process to be established; and
- removing the 26 week qualifying period for making a request - those seeking flexible working should be able to make a request at the recruitment stage.

134. The Government published its proposal to introduce a new employment status for employees in October 2012. The 'employee owner' status will enable businesses to offer shares in their company to new recruits. They will have the same rights as current employees - excluding unfair dismissal, certain rights to request flexible working and training, statutory redundancy pay and they will be required to give longer notice periods to return from maternity or adoption leave.

135. In the Commission's view an increase in employee owners of businesses is to be welcomed. Such companies tend to be more successful and may achieve high standards of equality. However, the introduction of a new status of employee owner should not result in a reduction in individuals' rights to protection from unfair dismissal, access to flexible working or the notification of return from parental leave. We believe that employers, if they wish to, should be able to offer share ownership options to employees and at the same time offer the same rights and benefits as all other employees in the UK. This will make them more attractive to skilled and talented recruits who wish to work in a modern flexible workplace with full protection of employment rights.

Question N: Can the Government provide further information to show what scope there is for improving its proposed flexible working arrangements?

Parental leave

136. The Commission notes some important European case-law developments that mark a growing recognition of the importance of shared parental leave for the advancement of gender equality. Although the government's proposals extend the existing system of transferable maternity leave (available currently after 20 weeks of maternity leave), an opportunity has been missed to progress towards a system of flexible, as opposed to shared, parental leave, and pay in which mothers and fathers each have their own exclusive entitlement.

¹³⁶ EHRC Modern Workplaces consultation response, August 2011 <http://www.equalityhumanrights.com/legal-and-policy/consultation-responses/response-to-consultation-modern-workplaces/>

137. The Commission's first Working Better report in 2009¹³⁷ found that the entitlement for women to a long period of leave was perpetuating inequality in the workplace. The Equal Opportunities Commission's 2005 investigation into pregnancy and maternity discrimination¹³⁸ estimated that almost half the 440,000 women in Britain each year who worked as an employee during their pregnancy experienced some form of disadvantage at work, simply for being pregnant or taking maternity leave. It also suggested 30,000 had either been dismissed, made redundant or treated so badly they felt they had to leave their job as a result of their pregnancy, maternity leave or return to work following absence for maternity.

138. Our analysis suggests that with the 52 week entitlement remaining with mothers unless and until shared parental leave is triggered, there will be nothing to drive change in the negative attitudes of some employers to women of child-bearing age. The current proposal which retains the existing two weeks of paternity leave and allows a transferable period of parental leave at a flat rate is likely to be too low to be an incentive or to support sharing, because of the drop in pay most men will incur. By the government's own estimates, just 2-8 per cent of fathers will take up the flexible parental leave option, which is identical to the estimated take-up of the current additional paternity leave provisions.

139. The Working Better report set out proposals based on evidence of the best practice in Europe to encourage greater parental choice and particularly fathers' involvement. International policies that achieve the greatest uptake combine:

- a non-transferable allocation of leave for fathers,
- an incentive to take it (for example, a 'use it or lose it' condition),
- at least 60-80 per cent replacement of fathers' lost income, and
- fathers' leave as an add-on to mothers' leave, providing additional support for the family, rather than eating into mothers' entitlement.

140. In order to ensure more equal access to and take up of parental leave, the Government could consider the following proposals:

- Access to shared parental leave to become a day-one right with no service requirement, which would increase eligibility to share leave and reduce complexity for employers and employees
- New leave to be taken flexibly to enable part time work and part time parental pay
- Effective employment protection for all workers taking maternity, paternity and parental leave
- More clarity on how enhanced maternity pay would dovetail with statutory sharing arrangements
- Review the decision not to reserve rights for fathers, before the 2018 review date.

Question O: Can the Government provide further information to show how it will ensure more equal access to and take up of parental leave?

¹³⁷ EHRC Meeting the Changing Needs of families, workers and employers in the 21st century , 2009

http://www.equalityhumanrights.com/uploaded_files/working_better_final_pdf_250309.pdf

¹³⁸ http://www.equalityhumanrights.com/uploaded_files/eoc_pregnancygfi_summary_report.pdf

Childcare

141. The UK has amongst the highest charges of any OECD (Organisation for Economic Cooperation and Development) country for childcare. The Commission notes the OECD view that cutting back on childcare services will make it difficult for the UK to achieve its policy aim of making work pay for all. The OECD's analysis shows that in the UK, before accounting for childcare, the cost of entering work for an average-wage family's second earner is lower than the OECD average. After accounting for childcare, over two-thirds of the family's second wage was effectively taxed away in 2008: a rate that was well above the OECD average (68 per cent in the UK compared to 52 per cent).¹³⁹ Moreover, in 2011, the Government cut support within the tax credit system from 80 per cent to 70 per cent of eligible childcare costs. This saved £335m in 2011-12, but meant that eligible families had to pay 30 per cent rather than 20 per cent of childcare fees – a 50 per cent increase.¹⁴⁰ This could contribute to an increase in the gender gap identified in the Commission's Triennial Review, that in 2009, mothers of children under the age of 16 were four times more likely than fathers to be economically inactive.¹⁴¹ The Government has announced that childcare funding for some low income families under the new universal credit benefit will be increased to 85 per cent. However, this will only be available to families who pay income tax and as such there will be no additional support for the lowest earners.
142. The Childcare Act 2006¹⁴² requires Local Authorities in England and Wales to secure sufficient childcare for the needs of working parents in their area, for children up to age 14, and 18 in the case of disabled children. Unfortunately, there are no routine and repeat surveys at national level that enable parental preferences and needs to be identified.
143. A review of childcare provision carried out for the Commission¹⁴³ found that despite increases in childcare places under the National Childcare Strategy, 93 per cent of Local Authorities reported gaps in childcare provision including: childcare before and after school, holiday care, provision for disabled children, childcare for parents working atypical hours, and, in some places, care for children under two.¹⁴⁴ In addition, smaller studies identified the importance of investigating supply at more localised levels within regions, as the supply was not always matched to where there was demand.¹⁴⁵
144. An annual survey carried out by the Daycare Trust¹⁴⁶ indicates large gaps in childcare provision in Britain. Their 2013 survey shows that 40 per cent of local authorities in England

¹³⁹ OECD, Doing Better for Families (OECD, 2011). <http://www.oecd.org/dataoecd/61/32/47701096.pdf>

¹⁴⁰ HM Treasury, Budget 2011, Table 2.2 http://cdn.hm-treasury.gov.uk/2011budget_complete.pdf

¹⁴¹ EHRC, How Fair is Britain? (EHRC, 2010) p.391

http://www.equalityhumanrights.com/uploaded_files/triennial_review/how_fair_is_britain_ch11.pdf

¹⁴² <http://www.legislation.gov.uk/ukpga/2006/21>

¹⁴³ Verity Campbell-Barr and Alison Garnham, Childcare: A Review of What Parents Want, (EHRC Research Report, No. 66, 2010). <http://www.equalityhumanrights.com/publications/our-research/research-reports/research-reports-61-70/>

¹⁴⁴ Office for Public Management, Reviewing childcare sufficiency assessments. Report for the DCSF. London: OPM, 2008.

¹⁴⁵ Verity Campbell-Barr, 'Contextual Issues in Assessing Value for Money in Early Years Education', National Institute Economic Review, 207, 1 (2009): 90-101.

¹⁴⁶ Daycare Trust, Childcare costs survey (Daycare Trust, 2013).

http://www.daycaretrust.org.uk/data/files/Research/costs_surveys/Childcare_Costs_Survey_2013.pdf

report having enough childcare in their area to meet the needs of working parents. This figure drops to just 9 per cent for parents working atypical hours. It would appear that the requirements of the Childcare Act are not being met by many English and Welsh Local Authorities.

145. The survey showed particular gaps in childcare for older children as well as children aged two and under. Concerns have been raised about the possible impact of changing staff to child ratios on the quality of childcare.
146. Childcare for disabled children is both scarce and expensive, and care for children of disabled parents is an under-explored area of research. In the 2013 Daycare Trust survey, 14 per cent of Local Authorities in England said they had enough childcare to meet the needs of disabled children compared with none of the Local Authorities who responded to the survey in Wales.¹⁴⁷
147. Children experiencing multiple disadvantages¹⁴⁸ have low levels of childcare use and yet arguably have the most to gain from it. Research from 2010 showed that the most multiply disadvantaged pre-school and school-aged children were less likely to receive formal childcare (including the 3/4 year-old free entitlement) and also less likely to receive care from grandparents.¹⁴⁹
148. It is noted that within the Welsh Government's Programme for Government a key action is to promote provision of affordable, good quality childcare through the Childcare Policy Statement Nurturing Children, Supporting Families and Flying Start.

Question P: Can the Government demonstrate how it will monitor the gap between the demand for flexible work and affordable, high-quality childcare, and the available supply; and take action to close those gaps, in particular for disabled and disadvantaged children?

Social and economic benefits

Para 18: The report acknowledges changes to the social welfare system. Please provide information about actions envisaged to assess the impact of the introduction of the Universal Credit on women's economic independence. Please also indicate the impact of the changes in the welfare system and the pension reform (2008) on older women, women with disabilities and ethnic minorities.

¹⁴⁷ Daycare Trust, Childcare costs survey (Daycare Trust, 2013).

http://www.daycaretrust.org.uk/data/files/Research/costs_surveys/Childcare_Costs_Survey_2013.pdf

¹⁴⁸ Multiple disadvantage is defined as those families who have five or more points of disadvantage (see Speight et al., 2010).

¹⁴⁹ Svetlana Speight et al, Families experiencing multiple disadvantage: their use of and views on childcare provision. DCSF Research Report No. 191. (NatCen/DCSF, 2010).

149. As part of the reforms to the welfare system the Government is introducing Universal Credit. The aim of this new system is to “help claimants and their families to become more independent and simplify the benefits system by bringing together a range of working-age benefits into a single streamlined payment”¹⁵⁰.
150. In the case of couples, these rolled-up benefits will be paid monthly to one member of the household chosen by the couple (or into a joint account). A key and legitimate aim of the reforms is to simplify the system, making it easier for people to understand, and easier and cheaper for staff to administer. However a possible consequence of making one payment to a single recipient on behalf of the whole family is a reduction in the amount of independent income received by women in poorer households. Statistics on income and poverty in the UK are commonly based on the level of the household, but research that has been done on intra-household income allocation questions the assumption that income entering a household is shared equally between the household members in a 'gender neutral' way.¹⁵¹ These consequences should be considered and if possible measures put in place to monitor the effects of a single payment on women's economic independence within a household, especially as this could make her more vulnerable to domestic violence.¹⁵²
151. The Commission's assessment¹⁵³ of Her Majesty's Treasury's compliance with the Public Sector Equality Duties in the UK Government's Spending Review 2010 included aspects of welfare reform. The Commission found that ministers and officials had made a serious effort to meet their obligations under these duties. However, there was a lack of transparency in some of the decision-making and no department had responsibility for working out the cumulative impact on women of the measures proposed. Specifically with regard to the introduction of a household benefits cap,¹⁵⁴ there was no evidence of any gender analysis or equality screening of the measure provided to Treasury ministers before it was announced on 4 October 2010.

¹⁵⁰ <http://www.dwp.gov.uk/policy/welfare-reform/universal-credit/>

¹⁵¹ See research by Sue Himmelweit, Jerome de Henau and Cristina Santos on 'Gender and intra-household entitlements', <http://www.open.ac.uk/socialsciences/genix/>

¹⁵² Home Office research shows a link between poverty and vulnerability to violence. Women are 3½ times more likely to be subject to domestic violence if they find it impossible to find £100 at short notice, than if this was no problem. Sylvia Walby and Jonathan Allen, Domestic Violence, Sexual Assault and Stalking: Findings from the British Crime Survey. Home Office Research Study No. 276 (Home Office, 2004)..

¹⁵³ EHRC, Making fair financial decisions An assessment of HM Treasury's 2010 Spending Review conducted under Section 31 of the 2006 Equality Act, (EHRC, 2012)

http://www.equalityhumanrights.com/uploaded_files/Inquiries/s31_final.pdf The assessment was conducted under Section 31 of the Equality Act 2006 to assess whether decisions were taken in accordance with the duties, whether improvements in the decision-making process were needed, and to propose ways to make future exercises more effective, more transparent, and better value for money by ensuring that spending is better targeted. See also paragraphs 123, 126 below.

¹⁵⁴ Measure as announced in the Spending Review para 161 'Cap household benefit payments from 2013 at around £500 a week for couple and lone parent households and around £350 a week for single adult households, so that no workless family can receive more in welfare than median after tax earnings for working households. All Disability Living Allowance (DLA) claimants, War Widows, and working families claiming the working tax credit will be exempt from the cap.' HM Treasury, Spending Review 2010 http://cdn.hm-treasury.gov.uk/sr2010_complereport.pdf

152. Subsequent analysis by the Department for Work and Pensions showed that the vast majority of households affected by this policy (89 per cent) would have children¹⁵⁵. Around 60 per cent of those likely to be affected would be single women, and only around 10 per cent would be single men. Most of the single women affected would be lone parents. Single mothers may be particularly affected if they are unable to move house and reduce their bills, or enter the workplace given their parenting and other caring responsibilities, or any disability they may have.

Question Q: Can the Government demonstrate how it will monitor and mitigate the impact on women's economic independence in the move towards the implementation of Universal Credit, and review this regularly after full implementation has taken place?

Disadvantaged groups of women

Para 19: The report mentions the 'Inclusion Health Programme' as a measure in place to improve access to health care services of groups in vulnerable circumstances. Please provide further information on specific measures in place to guarantee traveller and Roma women, access to education, employment, housing and health care and support services, as well as women belonging to ethnic and religious minorities.

Para 20: Please provide further information on the implementation of the Corston report. Please also provide further information on the implementation of the programme which aims at providing quality mental health services for women in prison, as well as measures undertaken for gender-sensitive handling of detainees.

Para 21: Please provide information on the removal of safeguards to migrant domestic workers, in particular women, under the Overseas Domestic Work visa, which reportedly increases the risk of women domestic workers being abused and exploited. Please also provide information on measures to improve asylum-seeking and refugee women's access to health-care, labour market, legal remedies and social services.

Gypsy and Traveller Women

153. Evidence from Scotland and elsewhere in Britain has shown a poor take-up of preventative healthcare by Gypsy and Traveller women, especially well-women care and immunisation programmes.¹⁵⁶ A study published in 2001 found that many women who had several

¹⁵⁵ Department for Work and Pensions, 'Household Benefit Cap: Equality Impact Assessment', October 2011. <http://www.dwp.gov.uk/docs/eia-benefit-cap-wr2011.pdf>. Cited in EHRC, 'Making fair financial decisions An assessment of HM Treasury's 2010 Spending Review conducted under Section 31 of the 2006 Equality Act', (EHRC, 2012) http://www.equalityhumanrights.com/uploaded_files/Inquiries/s31_final.pdf

¹⁵⁶ Sarah Cemlyn et al. (2009) 'Inequalities experienced by Gypsy and Traveller communities: a review'. EHRC Research Report No. 12. http://www.equalityhumanrights.com/uploaded_files/research/12inequalities_experienced_by_gypsy_and_traveller_communities_a_review.pdf

children had never had access to cervical cytology screening, greatly reducing the likelihood of cervical cancer being detected; a more recent study found that women may be reluctant to access cervical screening facilities if no female staff are available to both take smears and discuss the results of tests. The extreme shortage of official sites for travellers means that women will often move on, and access to services of all kinds is difficult for those without a permanent address and with an itinerant lifestyle. This has an impact not only on the ability to access health services, but also on education for girls.¹⁵⁷

154. A 2004 study examining the health status of Gypsy and Traveller people indicated that Gypsy and Traveller mothers may be around 20 times more likely than other mothers to have experienced the death of a child.¹⁵⁸ There is also evidence to suggest that being forced to move on results in a lack of continuity of care, the late detection of abnormalities and the misdiagnosis of maternal and child health complications¹⁵⁹.

Question R: Can the Government demonstrate how it will enable Gypsy and Traveller women to have adequate access to health services, particularly antenatal, obstetric and maternal health services?

Pregnant and lactating asylum seekers

155. The Commission has received advice stating that the provision of healthcare and basic welfare for pregnant and lactating failed asylum seekers falls below the standard required by Article 12 of CEDAW. In England, free maternity care is not available to pregnant failed asylum seekers until the late stages of pregnancy, and many failed asylum seekers will be detained during pregnancy or dispersed to accommodation around the country. In addition, only limited financial support is provided to pregnant failed asylum seekers, and only in the late stages of pregnancy, meaning they may not be able to obtain adequate nutrition during pregnancy and lactation.
156. A report by Maternity Action and the Refugee Council¹⁶⁰ has warned of the treatment of asylum seeking women who are pregnant or have recently given birth, due to the UK's policy of dispersing people granted asylum support to locations outside London. This includes destitute asylum seekers awaiting a decision on their claim or those who have been refused asylum but qualify for financial support.

¹⁵⁷ Philip Brown et al, Assessing Local Authorities' progress in meeting the accommodation needs of Gypsy and Traveller communities in England and Wales: 2010 update. EHRC Research Report No. 68. (EHRC, 2010) <http://www.equalityhumanrights.com/key-projects/good-relations/gypsies-and-travellers-simple-solutions-for-living-together/gypsies-and-travellers-research-reports/>

¹⁵⁸ Parry, et al. (2004) The health status of Gypsies & Travellers in England. University of Sheffield. http://www.shef.ac.uk/polopoly_fs/1.43714!/file/GT-final-report-for-web.pdf

¹⁵⁹ Sarah Cemlyn et al. (2009) 'Inequalities experienced by Gypsy and Traveller communities: a review'. EHRC Research Report No. 12. http://www.equalityhumanrights.com/uploaded_files/research/12inequalities_experienced_by_gypsy_and_traveller_communities_a_review.pdf

¹⁶⁰ Maternity Action and Refugee Council, 2013, When Maternity Doesn't Matter: Dispersing pregnant women seeking asylum http://www.refugeecouncil.org.uk/assets/0002/6402/When_Maternity_Doesn_t_Matter_-_Ref_Council__Maternity_Action_report_Feb2013.pdf

157. The study found cases where pregnant women have been moved against medical advice and close to their due date, often on multiple occasions. Moving such women to accommodation around the country can mean removing them from antenatal and maternal healthcare and can leave them isolated. In some cases women were left without sufficient cash support and had to walk home from the hospital after giving birth. New guidance on dispersal of pregnant asylum seekers¹⁶¹ goes some way towards improving the position. However it still fails to recognise that all pregnancies of asylum seeking women should be regarded as complex because of their additional social needs, and as such it is not compatible with National Institute for Health and Care guidance on maternity care for women with complex social factors¹⁶².

Question S: Can the Government reconsider its policy of dispersing pregnant women and introduce guidelines which ensure a full risk assessment is undertaken if dispersal is unavoidable?

Women in Prison

158. In 2007 a review of women with particular vulnerabilities in the criminal justice system, the Corston Report,¹⁶³ made detailed recommendations about fundamental reform that was needed to improve the conditions for women in prison and in the criminal justice system as a whole. The many recommendations included that women's prisons should be replaced with smaller suitable and geographically dispersed multi-functional custody suites within 10 years, that in the meantime improvements to sanitation arrangements were urgently required and that strip-searching should be reduced to the absolute minimum necessary¹⁶⁴.

159. The UK government has stated its intention to reduce the number of women in custody due to the impact that often has on the well being of children, and on the women themselves, and to increase the use of community sentences. It has embarked on a process of closing women's prisons¹⁶⁵. There are currently 13 women's prisons in England, 1 in Scotland and none in Wales. This means that women in England who are sent to prison are likely to be, and women from Wales are very likely to be, incarcerated at some distance from home, exacerbating the problems of separation from their families; and calls are now being made for further urgent reform¹⁶⁶.

160. Far fewer women go to prison than men, but the rate of imprisonment of women is increasing faster than the rate of men. The number of women in prison has increased by 85 per cent over the past 15 years (1996-2011). Much of this increase is due to changes in sentencing rather than increases in offending. Women are still more likely than men to be incarcerated for non-violent offences: 68 per cent of women are in prison for non-violent

¹⁶¹ UKBA 2012, *Healthcare needs and pregnancy dispersal guidance* <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/asylumsupport/guidance/healthcare-guidance-.pdf?view=Binary>

¹⁶² NICE, 2010, *Pregnancy and complex social factors: A model for service provision for pregnant women with complex social factors* <http://www.nice.org.uk/nicemedia/live/13167/50822/50822.pdf>

¹⁶³ Available from <http://www.justice.gov.uk/publications/docs/corston-report-march-2007.pdf>

¹⁶⁴ *Ibid.* page 5.

¹⁶⁵ Ministry of Justice (2009) *A Report on the Government's Strategy for Diverting Women Away from Crime*

¹⁶⁶ <http://www.guardian.co.uk/society/2012/feb/11/women-prisons-urgent-reform-needed>

offences, compared with 47 per cent of men.¹⁶⁷ On 2 November 2012, there were 4,141 women in prison, making up 5 per cent of the total prison population¹⁶⁸.

161. Not only are the patterns of offending of a less serious nature, but there is also a clear link between having mental health problems¹⁶⁹ and the likelihood of being in prison. Similarly, there are strong links with having experienced some form of abuse. Up to 50 per cent of women in prison report having experienced violence at home compared with a quarter of men. One in three women in prison has suffered sexual abuse compared with slightly less than one in ten men. In a case study of 50 prolific self-harmers in women's prisons, 38 reported that they had experienced abuse or rape while 18 had been abused as a child.¹⁷⁰ Of all the women who are sent to prison, 37 per cent say they have attempted suicide at some time in their life. 51 per cent have severe and enduring mental illness, 47 per cent a major depressive disorder, 6 per cent psychosis and 3 per cent schizophrenia.¹⁷¹

162. In this context, in 2011-12, there were a total of 23,435 incidents of self harm in prisons, involving 7,004 prisoners. Women accounted for 31 per cent of all incidents of self harm, despite representing just 5 per cent of the total prison population, partly due to those who self-harm doing so more frequently on average than men who self-harm.¹⁷²

163. In February 2012 the Chief Inspector of Prisons, Nick Hardwick gave a lecture highlighting the very shocking and distressing conditions found by the Inspectorate at Styal Prison in 2011.¹⁷³ He said, "I have seen a lot of pretty grim things in my working life but what I saw at the Keller Unit kept me awake at night. The levels of self mutilation and despair were just terrible. Men who are as repeatedly violent to others in prison as these women are to themselves are treated as a national responsibility and managed with resources and attention from the centre. These women, whose disturbance is turned inwards, are left to a local prison to manage as best they can."

164. Offender support to divert women from prison is delivered by a wide range of mainstream and specialist organisations, including specialist women's centres, and is funded through the

¹⁶⁷ All Party Parliamentary Group on Women in the Penal System, Women in the Penal System: Second Report on Women with Particular Vulnerabilities in the Criminal Justice System [The Corston Report], 2011. http://www.howardleague.org/fileadmin/howard_league/user/pdf/Publications/Women_in_the_penal_system.pdf

¹⁶⁸ Prison Reform Trust Bromley Briefing November 2012 <http://www.prisonreformtrust.org.uk/Portals/0/Documents/FactfileNov2012small.pdf>

¹⁶⁹ The EHRC welcomes the Bradley Review of people with mental health problems or learning disabilities in the criminal justice system and the Government's response to its recommendations http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_098694

¹⁷⁰ The Corston Report, http://www.howardleague.org/fileadmin/howard_league/user/pdf/Publications/Women_in_the_penal_system.pdf

¹⁷¹ Prison Reform Trust. Bromley Briefings Prison Factfile June 2012. Available at http://www.prisonreformtrust.org.uk/Portals/0/Documents/FactfileJune2012.pdf?dm_i=47L,UJV5,U407X,2IEO2,1

¹⁷² Ministry of Justice, Safety in Custody Statistics Quarterly Update to June 2012, England and Wales, (Ministry of Justice, 2012). <http://www.justice.gov.uk/downloads/statistics/prison-probation/safety-custody/safety-custody-june-2012.pdf>

¹⁷³ Women In Prison: Corston Five Years On, Nick Hardwick, HM Chief Inspector of Prisons, 29 February 2012 Available at http://www.womeninprison.org.uk/news_show.php?id=70

National Offender Management Service (NOMS) and other third sector funders. In the future these services will be commissioned by the 35 Local Probation Trusts, together with their local partners, in England and Wales. In Scotland, services are funded by the eight Community Justice Authorities (CJAs) and delivered by a range of local specialist providers. The issues raised above about the commissioning and funding of women's services are relevant here and are addressed in our research report on the commissioning and funding of women-only services.¹⁷⁴

165. There have been ten previous reports and inspections across the UK on the issue of women offenders, and none have been implemented in full. The Commission emphasises the importance of appropriate community provision for women that takes account of their different offending profile, addresses the complex causes of their offending and the impact of separating children from primary carers. It is disappointing that the Government has not accepted recent proposals for a statutory obligation to ensure that the specific needs of women offenders are met when services for women offenders are being commissioned.

Question T: Can the Government demonstrate how it intends to:

- **reduce the numbers of women still being sent to prison for non-violent offences;**
- **implement the recommendations of the Corston report;**
- **improve mental health services for women in prison; and**
- **divert women with mental health problems away from custody into therapeutic care.**

The 'No Recourse to Public Funds' rule

166. Immigration law in the UK stipulates that those entering on visas must be self funding and are not entitled to any support from the state (the "No Recourse to Public Funds" rule). Last year, the Government announced a concession for women who are experiencing domestic violence. However, this concession only applies to women who have entered on spousal visas. Other women, who have entered for example on student visas, may continue to be trapped in violent situations. These rules threaten women's human rights¹⁷⁵.

Conclusion 5: The Government should consider the case for making all women who are subjected to domestic violence or abuse and immigration control exempt from the restriction on access to public funds and health and social care services.

¹⁷⁴ Hirst, A. and Rinne, S. (2012) The impact of changes in commissioning and funding on women-only services, Research Report No. 86. Equality and Human Rights Commission.
http://www.equalityhumanrights.com/uploaded_files/research/rr86_final.pdf

¹⁷⁵ See <http://www.southallblacksisters.org.uk/tag/no-recourse-to-public-funds/> for further information.

Monitoring Women's Equality - Data Availability

The measurement framework

167. The Commission values the range and quality of official statistics produced in the UK which, despite gaps in some areas, provide a rich source of information on equality and human rights. Since 2008, the Commission has been developing its measurement framework¹⁷⁶. This provides the Commission with a structure to assess equality and human rights across a range of domains relevant to 21st century life. This is not intended to measure performance in itself, but to provide a baseline of evidence for evaluating progress and deciding priorities, and, inter alia, support the monitoring of individual treaties and the Universal Periodic Review.
168. The measurement framework monitors the central and valuable things in life, such as an adequate standard of living, being healthy, opportunities for education and learning, legal security, and being free from crime and the fear of crime. It is particularly concerned with the position of individuals and groups with regard to the protected characteristics of gender, age, disability, ethnicity, religion or belief, sexual orientation and transgender, and by social class. It allows the relative position of each main equality strand (gender, ethnicity etc.) to be compared and for progress over time to be monitored.
169. However, only some data are available to populate the framework, in the main for the five protected characteristics of gender, age, disability, ethnicity, and religion or belief. Data are less frequently available for sexual orientation and no data are available for gender reassignment. The Commission considers that any reductions in the statistics available will hamper its ability to provide comprehensive reports to Parliament on equality, human rights and good relations in Britain, as it is required to do by law.

Equality statistics - the losses

170. The Commission is concerned that recent cancellations of official surveys will reduce the ability of the Commission, government and other public bodies including Local Authorities to understand the effect of policies and practices on equality groups as required by the Public Sector Equality Duty, and measure progress towards equality. It will also reduce the Government's ability to report on its compliance with CEDAW.
171. Appropriate, high-quality data may not be available to allow public bodies to target resources well, to deliver services effectively and to publish information on outcomes as required by the Public Sector Equality Duty. It is important that these are available to the public, given that the Government has determined that public accountability through transparency shall become a key lever in delivering equality in the public sector, rather than relying on regulation.

¹⁷⁶ <http://www.equalityhumanrights.com/key-projects/our-measurement-framework/>

172. The Wealth and Assets Survey measures assets, debt and savings by employment status. In 2010 it showed a high degree of inequality.¹⁷⁷ As far as the Commission is aware, no further waves of this survey are planned, which would have an adverse impact on the Commission's statutory reports to Parliament. The measure 'Share of total personal wealth' in the Commission's measurement framework relies on the availability of data from this survey, disaggregated by sex, ethnic group, religion, disability and age.
173. The Citizenship Survey was cancelled in 2011¹⁷⁸; this was a key source for the Commission's 2010 Triennial Review¹⁷⁹. It covered a broad range of equality characteristics: sex, age, disability, ethnic group, marital and civil partnership status, religion, and sexual identity. Uniquely, it asked questions relating to community cohesion, racial and religious prejudice and discrimination and identity. Its loss will have a substantial impact on development of the measurement frameworks as it provided data for 14 measures.¹⁸⁰
174. Far from cancelling the survey, the Commission would like to see the survey improved and developed: for example, a boost sample is needed to provide estimates for Wales. Although we welcome the launch of the new Community Life Survey, this only covers England and incorporates a small number of priority measures from the Citizenship Survey,¹⁸¹
175. The Tellus survey¹⁸² was discontinued by the Department for Education in 2010. This will have a particular impact on the measurement framework through the loss of information on, for example, children's and young people's healthy living, bullying and fear of crime, transport and leisure activities, planning for the future and girls' influence over their own lives.
176. It is important that when government considers reducing its data collection that it shows due regard to equality. For many public sector organisations, this information is vital in shaping policy and informing service delivery.

Gaps in Existing Data

177. The UK has no reliable baseline estimate of how many women identify themselves as lesbian, bisexual or transgender. Without this, it is hard to gauge the extent to which different institutions reflect these populations or meet their needs. None of the routine childcare surveys currently collect data on the sexual orientation, religion or belief, or

¹⁷⁷ The wealthiest half of British households have 91 per cent of total wealth, with the least wealthy half accounting for only 9 per cent of wealth, according to the 2010 Wealth in Great Britain report.

<http://www.ons.gov.uk/ons/rel/was/wealth-in-great-britain-wave-2/2008-2010--part-1-/index.html>

¹⁷⁸ Announcement of cancellation by CLG:

<http://www.communities.gov.uk/communities/research/citizenshipsurvey/surveyscancellation/>

¹⁷⁹ EHRC, How Fair Is Britain? (EHRC, 2010) <http://www.equalityhumanrights.com/key-projects/how-fair-is-britain/>

¹⁸⁰ Sabina Alkire et al, 2009, Developing the Equality Measurement Framework: selecting the indicators. . (EHRC Research Report No. 31) (EHRC, 2009); Andrea Wigfield and Royce Turner, Good relations measurement framework. (EHRC Research Report No. 60) (EHRC, 2010). <http://www.equalityhumanrights.com/publications/our-research/>

¹⁸¹ See: Community Life Survey pages, Cabinet Office: <http://communitylife.cabinetoffice.gov.uk/index.php>

¹⁸² Tellus survey was developed by Ofsted and the Department for Education and gathered the views of children and young people and was used by inspectors to identify potential aspects to investigate.

transgender status of parents.¹⁸³ There is a lack of data disaggregated by gender and older age in some areas,¹⁸⁴ as well as a general lack of statistics disaggregated by multiple aspects of identity, such as disability and gender. There are also gaps in basic information about women who are institutionalised, and women, such as Travelling and Roma women, who do not live in fixed locations. In some cases, small-scale studies and other available evidence suggest that these may also be among some of society's most marginalised and vulnerable groups. The Commission's own research on Gypsies and Travellers suggests they are the most disadvantaged group in the UK, and women in this community are worse off on a number of indicators. However, further data are needed. Similarly, there are no recent estimates of the number of women in Britain who have experienced FGM, while the UN has recently adopted an indicator to monitor its prevalence.¹⁸⁵

178. The Commission's research suggests that disability-related harassment is widespread¹⁸⁶. However, comprehensive statistics are not available. This is a gap that needs to be addressed if organisations are to set their priorities and monitor the impact of efforts to tackle the problem. Local Authorities need such information to prioritise how resources should be spent as part of the Government's 'localism agenda'. Information, analysis and regulatory scrutiny of public authorities in England has been further reduced by the abolition of the Audit Commission and changes to the role of the Care Quality Commission in respect of Local Authorities.

179. Under its statutory powers, the Commission recently made an assessment of the extent to which the UK's finance department, Her Majesty's Treasury, met its legal obligations to consider the impact of decisions taken in the Government's Spending Review on protected groups. The Commission believes that future compliance and good practice in cross-government Spending Reviews could be better assured by ensuring greater transparency, including clear HM Treasury guidance on data and analytical requirements for the whole of government; common rules to allow easier sharing of equality data within government; and the development of a common model of analysis to predict the likely equality effects of policy.

180. The Scottish Government¹⁸⁷ has developed an Equality Evidence Framework, to help public authority officials meet their duty to set and measure progress on equality outcomes. It will assess the evidence available across all areas of Government and identify the gaps in the equality evidence base. It will also contain guidance documents on:

- Recommended questions to ask when gathering equality information;
- The Scottish Government's proposed approach to equality outcome setting; and
- How the Scottish Government approached the equality impact assessment of its Scottish Budget.

¹⁸³ Verity Campbell-Barr and Alison Garnham, *Childcare: A Review of What Parents Want*, (EHRC Research Report, No. 66, 2010). <http://www.equalityhumanrights.com/publications/our-research/research-reports/research-reports-61-70/>

¹⁸⁴ Elizabeth Sclater, *NGO Thematic Shadow Report, Older Women's Rights in the United Kingdom*, (Older Women's Network, Europe and National Alliance of Women's Organisations, 2012).

¹⁸⁵ UNESC Statistical Commission, 44th Session <http://unstats.un.org/unsd/statcom/doc13/Report-1March9am.pdf>

¹⁸⁶ EHRC, *Hidden in Plain Sight, Inquiry into Disability Related Harassment*, (EHRC, 2011) <http://www.equalityhumanrights.com/legal-and-policy/inquiries-and-assessments/inquiry-into-disability-related-harassment/>

¹⁸⁷ <http://www.scotland.gov.uk/Topics/People/Equality/Equalities/EqualFramework>

181. The Scottish Government is also developing an equality evidence website that presents statistical data and research evidence across a range of policy areas broken down by equality characteristics. This provides links to datasets and further analysis.¹⁸⁸
182. The Welsh Government's Statistics Division provides statistical data across a range of policy areas broken down by equality statistics. An Equalities Evidence Newsletter is also produced which provides information and news about equalities research and statistics. This newsletter is targeted at policy makers and analytical staff.

¹⁸⁸ <http://www.scotland.gov.uk/Topics/People/Equality/Equalities/DataGrid>