Response of the Equality and Human Rights Commission to the Consultation:

Consultation details

<table>
<thead>
<tr>
<th>Title:</th>
<th>UPR: Note Verbale and Questionnaire on the role of Parliaments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Source of consultation:</td>
<td>Office of the High Commissioner of Human Rights</td>
</tr>
<tr>
<td>Date:</td>
<td>12th January 2018</td>
</tr>
</tbody>
</table>

For more information please contact

<table>
<thead>
<tr>
<th>Name of EHRC contact providing response and their office address:</th>
</tr>
</thead>
<tbody>
<tr>
<td>David Coulter</td>
</tr>
<tr>
<td>Equality and Human Rights Commission</td>
</tr>
<tr>
<td>Arndale House</td>
</tr>
<tr>
<td>Arndale Centre</td>
</tr>
<tr>
<td>Manchester M4 3AQ</td>
</tr>
<tr>
<td>Telephone number: (+44) 161 829 8542</td>
</tr>
<tr>
<td>Mobile number: (+44) 771 218 8318</td>
</tr>
<tr>
<td>Email address: <a href="mailto:David.Coulter@equalityhumanrights.com">David.Coulter@equalityhumanrights.com</a></td>
</tr>
</tbody>
</table>

The Equality and Human Rights Commission (the Commission) is a statutory body established under the Equality Act 2006. It operates independently to encourage equality and diversity, eliminate unlawful discrimination, and protect and promote human rights. The Commission enforces equality legislation on age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. It encourages compliance with the Human Rights Act 1998 and is accredited by the UN as an ‘A status’ National Human Rights Institution.

Our sponsor is the Government Equalities Office within the Department for Education, and our funding is provided by the Minister for Women and Equalities. We do not carry out Government business or perform its functions on its behalf and we operate independently as an arm’s length body.

The Commission has ambitions to further its independence by becoming directly accountable to Parliament rather than government, as is currently the case.

1. **Does your Parliament have a specialised committee that deals solely with human rights? Is the committee human rights-specific or does it cover other related questions?**

2. **Does it have “human rights” in its name?**

   The UK Parliament created the Joint Committee for Human Rights (the JCHR) under a House of Commons Standing Order, and it deals solely with human rights. It is made up of 12 members drawn from both Houses of Parliament.

3. **What are the committee’s functions?**

   The JCHR’s work includes scrutinising every item of draft legislation being considered by Parliament for its compatibility with human rights. This scrutiny specifically includes rights provided under the European Convention on Human Rights, common law fundamental rights and liberties, and human rights contained in other international obligations of the UK. This scrutiny also includes consideration of whether the draft legislation presents an opportunity to enhance human rights in the UK.
The JCHR also conducts thematic inquiries, where it chooses its own subjects of inquiry and seeks evidence from a wide range of groups and individuals with relevant experience and interest.

In addition the JCHR scrutinises the Government’s response to court judgments concerning human rights.

4. Does it deal with international human rights issues?

The JCHR examines matters relating to human rights within the United Kingdom, though this does sometimes include matters of UK Government policy with an international dimension.

5. If it deals with national human rights issues:
   - Does it oversee the responsibility of the executive for its legal obligations (following the ratification of treaties) or political commitments made following the UPR?

The JCHR scrutinises the UK Government’s compliance with its human rights obligations contained in a range of international treaties, as it relates to their chosen programme of work. It does not oversee the UK Government’s treaty or UPR obligations in any standardised or formal fashion.

The UK’s three NHRIṣ¹ have previously suggested ways in which the JCHR could take a more prominent role in scrutinising the UPR recommendations. This includes the suggestion to hold an annual evidence session with the Justice Secretary on implementation of the recommendations and publishing a report on progress made. This approach would be similar to the way that the JCHR assesses judgments from the European Court of Human Rights (ECtHR) on an annual basis.

The JCHR did intend to have a session on the UK’s UPR in April of this year; however this was cancelled due to the March announcement of a UK general election which led to the dissolution of Parliament. The Commission has encouraged the JCHR to re-establish this session now that the Committee has been reconstituted in the new Parliament.

Other possible ways of increasing the UK Parliament’s engagement might include encouraging the JCHR’s Chair to ask for a debate in Parliament about the UPR, immediately after the Human Rights Council publishes its recommendation and before the Government responds, or establishing a practice whereby the UK Government lays the UPR state

---

report before Parliament. Neither of these practices have yet been instituted.

- **Does it communicate its concerns to relevant UN human rights mechanisms?**

The JCHR has held a number of relevant inquiries that would be of interest to UN human rights mechanisms. For example, in the 2015 Parliament it held an inquiry into the UK’s compliance with the UN Convention on the Rights of the Child.

However we do not believe that these concerns were directly or formally communicated to the relevant UN mechanisms by the JCHR.

- **Does it participate as part of the Government delegation or on its own in UN human rights meetings in Geneva?**

We are not aware of any instance where the JCHR has taken on this role.

- **Does it meet with visiting Special Procedures Mandate Holders or UN Officials dealing with human rights issues?**

We cannot fully answer this question; however there have been examples of this. In the 2010 Parliament the JCHR received oral evidence from the UN Special Rapporteur on Violence Against Women in their inquiry into violence against women and girls.

- **Does it follow up recommendations received by the state that involve either legislative reform or the passing of laws?**

The JCHR is required to report to Parliament on any remedial order made under the Human Rights Act 1998. A remedial order is a form of delegated legislation, which seeks to correct breaches of human rights, identified by either domestic courts or the ECtHR, between UK law and the ECHR.

The JCHR follows up on UN issued recommendations involved in legislative change where these issues directly relate to its work programme.

- **Does it participate in national coordination mechanisms for comprehensive reporting and follow up human rights recommendations set up by the executive?**

We are not aware of the JCHR taking on this role.
- **Does it play a role in the implementation of national action plans for human rights or in overseeing Government’s policies and action to that end?**

The UK does not have a national action plan in human rights. However, as mentioned above, the JCHR does scrutinise draft legislation going through parliament, ECtHR case law and UK case law where it has relevance to human rights law and international obligations, and undertakes thematic inquiries on issues such as human rights and business, and counter-extremism.

- **Does it receive and process individual cases?**

The JCHR does not consider individual cases.

6. **If such a Committee exists:**

- **What is its composition (in terms of representation by gender, minorities or opposition parties)?**

The JCHR consists of twelve members, six appointed from the House of Commons and six from the House of Lords.

The current composition of the JCHR is:

- Eight women and four men;
- Five Conservative Party members (the minority government party), four Labour Party members, one Liberal Democrat Party member, one Scottish National Party member, and one Cross-bencher (not affiliated to any party);
- As far as can be established from an initial review of the JCHR members, 11 are White British, and one is Black Afro-Caribbean (by heritage). However, these figures have not been formally monitored or published and we would suggest that this information is established from the JCHR directly.

- **Does it include staff with technical expertise in international human rights law?**

The JCHR has the power to appoint specialist advisers, either to supply information which is not readily available or to elucidate matters of complexity within the JCHR's order of reference. It typically has one Senior Legal Adviser, one Assistant Legal Adviser and a number of other specialist staff members, many of whom will have technical expertise in international human rights law.

A number of the JCHR members are lawyers, including two solicitors, two barristers, and a former Lord Chief Justice (head of the judiciary and president of the Courts for England and Wales).
- **What is the statute/mandate/budget of such a committee?**

Select Committees are appointed to examine the expenditure, administration and policy of the principal government departments and associated public bodies.\(^2\)

The JCHR's formal remit is derived from House of Commons Standing Order No. 152B of 2002.\(^3\)

This remit, in addition to those outlined above, includes the power to send for persons, papers and records, to sit notwithstanding any adjournment of the House, to adjourn from place to place, and to report from time to time.

The JCHR reports its findings to the House of Commons and the House of Lords, and these reports are in the public domain.

- **How has it been created?**

The JCHR was created under HC Standing Order No. 152B of 2002.

- **Is it in the constitution, a law, the parliament by-laws, a resolution?**

A Standing Order of the House of Commons is a rule that regulates the way MPs conduct House of Commons public business, including electing the Speaker and the powers of committees.

- **Is it aware of the UN HRC/GA action concerning the role of Parliament in human rights, especially the HRC UPR?**

We do not have an answer to this question.

- **Is it aware of the OHCHR/Inter-Parliamentary Union publication on Human Rights?**

We do not have an answer to this question.

- **Is it aware of the UN Secretary-General report A/72/351 on where the important role of parliaments in human rights is emphasised in para 35-37 that also refers to the desirability of international principles on Parliaments and Human Rights?**

We do not have an answer to this question.

- **Would it be favourable to the development of international principles on Parliaments and Human Rights by the UN taking**

---

\(^2\) HC Standing Order 152(1)

\(^3\) URL: [https://publications.parliament.uk/pa/cm200102/cmstords/27519.htm#152B](https://publications.parliament.uk/pa/cm200102/cmstords/27519.htm#152B)
into account those for the independence and effectiveness of NHRIs or those for the independence of the judiciary?

We cannot answer this on behalf of the JCHR. However, the Commission has used the Belgrade Principles, along with the Paris Principles, as part of its arguments to increase Parliament’s engagement with human rights, increase the Commission’s accountability to Parliament and secure further independence from Government. We have found the JCHR to be supportive of this initiative, and some progress has been made.

A working group, called the Treaty Monitoring Working Group (TMWG), has been set up between the Commission, the JCHR and officials from the Ministry of Justice, the Foreign Office and other departments that have a human rights treaty monitoring lead across Government. The TMWG meets quarterly, and facilitates information-sharing and collaborative working in relation to treaty body and UPR reviews.

The TMWG has enabled co-operation between the Commission and the JCHR in a number of ways:

- The Commission helped to shape the terms of reference of the JCHR’s 2014 inquiry into violence against women and girls, using the CEDAW Committee’s Concluding Observations.
- JCHR member Baroness Ruth Lister contributed to a development session the Commission held in Parliament on the International Covenant of Economic, Social and Cultural Rights in 2014. The Justice Minister also contributed to the session.
- The Commission contributed to the JCHR’s 2015 inquiry into the implementation of the Convention of the Rights of the Child (CRC), ahead of the 2016 UK Examination.

The Commission is discussing with the JCHR the possibility of further developing the TMWG as an accountability and implementation mechanism.

In addition the JCHR now holds pre-appointment hearings for the Chair of the EHRC, along with the House of Commons Women and Equalities Committee, to establish suitability and consider any potential conflicts of interest.

In recognition of these successes, the Commission and the JCHR were asked by the General Assembly of National Human Rights Institutions (GANHRI), in May 2016, to develop a case study of our work, with a view to supporting capacity building in other countries.
Would it consider relevant additional information tools or focused seminars on international human rights issues relevant to Parliaments organised by OHCHR/ IPU or other UN entities in-country?

We do not have an answer to this question.