Healing the divisions:

A positive vision for equality and human rights in Britain
The Equality and Human Rights Commission has been given powers by the UK Parliament and the United Nations to advise governments and parliaments on the equality and human rights implications of laws and proposed laws. This role is crucial in the wake of the changes that are likely to flow from the UK’s decision to leave the European Union, including possible implications for the Equality Act 2010 and other laws that impact on equality and human rights, such as those on maternity and parental rights, accessibility for disabled people, and immigration.

Britain has a long history of upholding people’s rights, valuing diversity and challenging intolerance. At this moment of significant constitutional change, it is important to set out a positive vision for the kind of country we want to be after we have left the EU. Building on our heritage of respect and inclusion, the Commission will encourage all political parties to pursue five priorities to protect and promote equality and human rights in the UK.
1. Protecting Parliament’s role in scrutinising the UK’s equality and human rights legal framework

- The European Union (Withdrawal) Bill should explicitly rule out further use of ‘Henry VIII’ powers to repeal or amend equality and human rights laws in UK primary legislation, such as the Equality Act 2010.

- Equality and human rights laws in UK secondary legislation that are derived from EU law, such as those on accessible transport for disabled people and maternity and parental rights, should only be amended by procedures which allow for rigorous parliamentary scrutiny, such as the super affirmative procedure.

- Rigorous equality and human rights impact assessments should be published in advance of proposed changes to laws protecting equality and human rights, to ensure parliamentarians have evidence to inform their debates and votes.

2. Retaining the UK’s equality and human rights legal framework as we leave the European Union

- Equality and human rights laws that are currently underpinned by EU law, like the Equality Act 2010, those on data protection and workers’ rights, should be retained.

- The UK should remain a committed party to the European Convention on Human Rights and ratify its Protocol 12, which would replace the right to non-discrimination in Article 21 in the EU Charter of Fundamental Rights.

- The UK Government should ensure Court of Justice of the European Union (CJEU) case law, which is in place at the point of Brexit, continues to apply in the UK, and consider how to ensure UK courts keep up with future case law developments at the CJEU and courts in other countries that share our values.

3. Ensuring the UK is a global leader on equality and human rights

- All the original provisions of the Equality Act 2010, such as the socio-economic duty and protection from combined discrimination, should be brought into force and implemented in England, Scotland and Wales, and the Public Sector Equality Duty
should be strengthened. This would maximise the potential of the Equality Act’s protections to heal those divisions in society that became acutely apparent around the EU referendum.

The UK Government should introduce a constitutional right to equality, for example by amending the Human Rights Act 1998 or the Equality Act 2010, to provide a free-standing right to equality. This would mean that UK laws and state actions could be tested against our fundamental right to equality.

UN human rights treaties, like the Convention on the Rights of the Child, should be given further effect in UK and devolved law, and the UK and devolved governments should publish action plans for implementing UN recommendations on human rights. This would ensure the UK meets international human rights standards.

The UK and devolved governments should explore opportunities to advance equality and human rights that arise from the removal of EU constraints, for example using public procurement and positive action to drive equality.

The UK and devolved governments should ensure our laws and policy keep pace with future equality and human rights standards coming from the EU, after we exit, such as the EU Accessibility Act, as well as other comparator countries.

4. Protecting the UK’s equality and human rights infrastructure

The Equality Act 2006 should be protected so that Britain retains an effective independent equality body and ‘A’ status national human rights institution.

The UK Government and devolved governments should ensure the loss of EU funding, such as the European Social Fund and the Equality and Citizenship Programme, does not undermine the UK’s equality and human rights infrastructure. This includes academic research, for example on violence against women and how to police it, and voluntary sector services, for example those supporting older and disabled people in employment.

5. Promoting the UK as an open and fair place to live and do business

The UK and devolved nations’ future trade agreements should contain human rights and democracy clauses that, at a minimum, meet current EU standards.

The UK Government should conduct rigorous equality and human rights impact assessments of proposed changes to immigration rules, and take steps to minimise
negative impacts. Such impacts could include the availability of workers to support services that are fundamental to our rights, like the National Health Service or personal assistants to disabled people, and the protection and promotion of the right to family life.

Any new asylum arrangements that the UK Government agrees with other countries must comply with the Refugee Convention and European Convention on Human Rights, and enable cross-border cooperation, for example to protect child victims of trafficking.

Governments should view Brexit as a driver for National Action Plans on Business and Human Rights, for example by integrating human rights into the design of international investment agreements.