

Our advice to parliament on progressing women's rights

**Our briefing for the House of Commons/House of Lords International
Women's Day debates**

Thursday 7 March 2019

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Introduction

The Equality and Human Rights Commission's (EHRC) has been given powers by Parliament to advise Government on the equality and human rights implications of laws and proposed laws and to publish information or provide advice, including to Parliament, on any matter related to equality, diversity and human rights.

The Commission is the regulatory body responsible for enforcing the Equality Act 2010. We are also accredited by the United Nations as an "A status" national human rights institution. Our duties include reducing inequality, eliminating discrimination and promoting and protecting human rights. The focus of our regulatory role is to help organisations achieve what they should including by providing advice and guidance, publishing information and undertaking research. When these methods are ineffective, we also have a range of enforcement powers.

Over the last year, we have conducted [our biggest ever review into women's rights and gender equality](#). Important progress has been made in some areas, for example, forced marriage has been criminalised and shared parental leave has been introduced. Nevertheless, in a range of areas there remain significant ongoing challenges facing women and girls.

Our evidence and recommendations have informed our submission to a United Nations review of the UK's progress on women's rights, which takes place every four to five years. The UN is expected to issue its recommendations to the UK Government on Monday 11 March.

The information below highlights just some of the issues covered in the EHRC research and the UN review, as well as our recommendations for progress. It also provides an overview of some of the enforcement activity we have undertaken to ensure compliance with the law. We hope this usefully provides parliamentarians with a sense of the many opportunities for progress on women's rights, in 2019 and beyond.

Just and fair conditions of work

- A recent EHRC survey into sexual harassment at work found this to be a prevalent issue for, predominantly, women. Of those who had experienced harassment, around half had not reported it, and of those who did, half said their employers took no action as a result.
- The UK Government has agreed to introduce a new code of practice to tackle sexual harassment at work, and is consulting on a mandatory duty to protect workers, as well as on other important issues such as third-party harassment, non-disclosure agreements (NDAs), and the extension of employment tribunal time limits.
- Pregnant women, new mothers, and women of childbearing age are still routinely discriminated against in the workplace. EHRC and Department for Business, Energy and Industrial Strategy (BEIS) research found that 11% of mothers reported that they were either dismissed or made compulsorily redundant where others in their workplace were not; or treated so poorly they felt they had to leave their job.
- The gender pay gap in the UK stands at around 18%, though this increases for older women and women who have children. There are also stark differences between different ethnic groups, such as White British women and Pakistani and Bangladeshi immigrant women, and between disabled women and non-disabled women. Just 3% of employers are currently able to report on ethnicity and disability data gaps.
- New regulations require large employers to report their gender pay gap, however the submission of narrative reports which set out what action they will take to address the causes of the pay gap is only voluntary.
- The Commission has litigation and enforcement powers to take action against employers that are failing to protect their staff from discrimination and harassment. Alongside its research and recommendations, the Commission has:

- funded cases on behalf of individuals, such as in a recent case relating to the time limits applied to pregnancy and maternity discrimination claims
- sought to improve the practice of organisations, for example, the Commission is working with the House of Commons to ensure improvements are made to processes for dealing with harassment complaints; and
- entered legally-binding agreements with employers, where necessary to ensure that they take measures to protect their employees. The Commission has recently entered into four such agreements with employers who have had findings of sexual harassment made against them in the employment tribunal.

The EHRC recommends that the UK Government should:

- introduce a mandatory duty on employers to take reasonable steps to protect workers from harassment and victimisation in the workplace
- ensure that flexible working is offered as a day one right for all roles
- make it mandatory for employers to publish an accompanying narrative and time-bound and target driven action plans to publicly set out the reasons for any gaps and ensure there is a focus on how to make substantive improvements to the workplace for women.
- support employers to collect the necessary data for them to begin closing pay gaps for ethnic minority and disabled women.

Gender-based violence

- Despite signing the Istanbul Convention on 8 June 2012, the UK still has not yet achieved ratification, and has been criticised for a lack of accountability and oversight of its violence against women and girls (VAWG) strategy.

- Women are estimated to account for 95% of all rape victims, and are five times more likely than men to experience sexual assault. They also account for the majority of victims of domestic abuse.
- It is estimated that only around 15% of survivors of report their experience to the police, and 79% of survivors do not report partner abuse to the police.
- Women and girls with learning disabilities, mental health issues, and drug/alcohol dependency, those facing homelessness and Black and ethnic minority groups are disproportionately affected

The EHRC recommends that the UK and Welsh governments, where relevant, should:

- take urgent steps to put in place the necessary law, policy and practice changes to be able to ratify the Istanbul Convention and, once it is ratified, dedicate sufficient resources to central, devolved and local authorities to ensure its effective implementation.
- improve the reporting and recording of domestic abuse and sexual violence crimes, and increase prosecution and conviction rates.
- ensure that support services are adequately funded and supported to address all forms of abuse, including the specialist needs of disabled women, Black and ethnic minority women, and those with complex needs.

Adequate standards of living

- EHRC has repeatedly expressed concerns that UK Government tax, welfare and public spending changes have adversely affected women, ethnic minorities, disabled people and children.
- Women's losses are compounded by the fact that they account for 90% of lone parents, they are more likely to be in receipt of benefits in couples with children, and are more likely to be in part-time, lower paid work.

- Lone parents' losses under these changes are the largest of any group in Britain. In England, their losses are around 18.7%, compared to 10.5% in Wales and 7.6% in Scotland, where devolved governments have taken divergent policies.
- The Commission intervened in two cases before the Supreme Court in December 2018 challenging the two-child limit on the basis that it discriminates against lone parents and the children of lone parents.

The EHRC recommends that the UK Government should:

- mitigate the impact of welfare reform measures on lone-parent families, the majority of which are women, by:
 - uprating all benefits in line with inflation and review the level of benefits to ensure it meets adequate living standards
 - reversing the two-child limit on child tax credits within Universal Credit
 - ensuring that work coaches are trained to deliver tailored employment support, providing evidence of the steps taken to ensure that the specific needs of lone parents are being met

Participation in political and civic life

- Women now make up a record 32% of representatives (MPs) in the UK Government's lower chamber, the House of Commons, 35% of members of the Scottish Parliament and 40% of Welsh Assembly members. Their representation in local government across England and Wales is also low.
- Just 4% of MPs are ethnic minority women, and data suggests that whilst one in five people in the UK have a disability, their representation as MPs is much lower. There is no statutory requirement to collect consistent, standardised

data on the diversity of candidates or elected officials, and much existing data is unreliable.

- New research being published by EHRC on International Women's Day 2019, sets out the full picture of diversity of candidates and elected officials in Great Britain.

The EHRC recommends that the UK and Welsh governments, where relevant, should:

- implement the statutory requirement for political parties to publish their parliamentary candidate diversity data for general elections, as set out in Section 106 of the Equality Act 2010
- consider amending the Equality Act 2010 to include a statutory requirement to collect data on local election candidates

Asylum-seeking women

- Women who are seeking asylum face barriers in enjoying the human rights they are entitled to. EHRC research into experiences of healthcare for people seeking or refused asylum highlighted that some barriers were experienced more by women, in particular pregnant women.
- Women seeking or refused asylum reported experiencing issues around asylum accommodation allocation, being provided inadequate information about health services and encountering staff not having appropriate training.
- Pregnant women seeking asylum reported experiencing difficulties in affording the costs associated with accessing healthcare appointments or acting on advice.
- Refused asylum seeking women who are pregnant cannot access support until six weeks prior to the estimated due date. For the majority of their pregnancy,

women who have had their asylum claim refused have no access to money or housing.

The EHRC recommends the UK and Welsh governments, where relevant, should:

- fully implement the EHRC’s recommendations on improving asylum seekers and refused asylum seekers’ access to healthcare, including:
 - exempting all people who have been in the asylum process from NHS healthcare charging in England, in line with policy in devolved nations
 - ensuring free and full access to all family planning services and pregnancy and maternity services, regardless of immigration status
 - reviewing current Home Office accommodation and dispersal policy and practice to ensure that healthcare needs, especially of disabled people and pregnant women, are met in the provision of asylum accommodation
 - substantially increasing the level of weekly support to guarantee everyone is living above the recognised poverty line of 60% of the UK median household income, taking into account the needs of people with protected characteristics, such as pregnant women and new mothers

Strengthening equality and human rights protections

The purpose of the Public Sector Equality Duty (PSED) is to integrate the consideration of equality across the protected characteristics in public authorities’ day-to-day decision-making, and how they develop policy and how they design and deliver services. Under the “specific duties”, it was hoped public bodies would identify the main inequalities in their area of responsibility, set objectives to

improve outcomes in relation to those inequalities, and put in place targeted plans to deliver change. However, our research on the implementation of the PSED suggests public bodies have not done this consistently. Instead, some authorities focus on ‘foundational’ objectives aimed at improving their own capacity to address inequality – for example, staff training to improve general understanding of equality, or stakeholder engagement to better understand inequality in the local context. The Commission is proposing a new approach to the PSED to ensure public bodies and Government departments focus on the key inequalities affecting those affected by their functions.

The UN Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) also provides an important framework for the UK and devolved governments in eradicating inequality between men and women. The UK and devolved governments have not directly incorporated CEDAW into domestic law and policy. Thus, neither its general principles nor its substantive provisions can be enforced by domestic courts. A number of CEDAW rights are given partial effect through existing legislation, however we are concerned that there is no coherent plan for achieving the full realisation of CEDAW.

The EHRC recommends that the UK Government and Welsh Governments, where relevant, should:

- review and amend the specific duties underpinning the PSED to ensure public bodies are required to focus on the most significant inequalities for people affected by their functions, with regard to the most significant inequalities identified in the Commission’s recent *Is Britain fairer?* reports, and drawing on other relevant evidence where appropriate
- incorporate CEDAW into domestic law so individuals can effectively challenge rights violations using the domestic legal system and access a domestic remedy for alleged breaches of CEDAW rights
- consider establishing a national mechanism for implementation, reporting and follow-up to oversee all UN treaty obligations, which would ensure that

implementation plans are published in follow-up to CEDAW, demonstrating a joined-up approach in relation to the UK's various human rights commitments

Further information

The Equality and Human Rights Commission is a statutory body established under the Equality Act 2006. Find out more about the Commission's work on our website.

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