Dear Convenor

**RE PETITION PE1659.**

*Calling on the Scottish Parliament to urge the Scottish Government to create an independent body with a remit to make findings of fact in complaints involving local authorities.*

Thank you for inviting the Equality & Human Rights Commission to contribute to your consideration of the above petition.

Whilst we agree to with the petitioner that accessing justice or seeking a low level resolution of complaints against local authorities in Scotland can be at times complex and time consuming for citizens, we do not feel that the proposed solution – a new independent body – would assist in resolving complaints involving discrimination as set out under the Equality Act 2010.

The Charter of Fundamental Rights of the European Union guarantees the right to an effective remedy and to a fair trial, including legal aid to those who lack sufficient resources. At the same time, access to justice is also an enabling right that allows those who perceive their rights as having been violated to enforce them and seek redress. Article 8 of the European Convention on Human Rights similarly guarantees a right to an effective remedy. The petitioner raises concerns which indicate that currently Council redress is lower than a desirable threshold and not
providing an effective remedy, particularly in the context of the time and cost involved in pursuing a complaint.

However there are a number of reasons why a new independent body may not be effective in resolving discrimination or Human Rights complaints. These are as follows

- Equality legislation is largely reserved to Westminster and the Scottish Parliament does not have the power to introduce new resolution systems under the Act.
- The EHRC ran a conciliation service in which those raising complaints and those subject to those complaints could seek an informal resolution. Unfortunately the service was not well used and discontinued after a few years activity.
- Discrimination claims tend to be complex, and rely on comparative evidence. It is unlikely that any new independent agency with a wide remit (all public services provided by councils) would be able to develop the expertise necessary to competently progress them.
- The proposal would lead to duplication of existing EHRC resources in respect of discrimination claims.
- Time limits – strict time limits apply to lodging discrimination claims. We would be concerned if lodging and pursuing a complaint with any new independent body “eats into” the time available to lodge a claim at an ET or Sherriff Court.

I trust that this information is sufficient for your purposes but please feel free to revert to me if there is anything else I can be of assistance in.

Yours sincerely,

Chris Oswald
Head of Policy