



Government
Equalities Office

Putting equality at the heart of government

**Information,
Advice and Support
on Equality and
Human Rights
Issues**

A Report by the Government Equalities Office

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Synopsis

Introduction

This synopsis summarises the key points of Government Equalities Office's (GEO) review of information, advice, and support on equality and human rights issues that was carried out between August and October 2010. This Review contributed to internal thinking on the budget allocation for GEO and the Equality and Human Rights Commission (EHRC), which was announced on 22 October 2010. We now propose an intensive period of engagement with partners on the next steps identified as a consequence of this Review.

Strategic drivers & principles

Strategic drivers

The strategic drivers for this Review were as follows:

- **Ensuring access to justice:** the provision of information and generalist advice should continue. Government is committed to trying to resolve problems wherever possible, early and informally i.e. before the need to resort to formal legal proceedings;
- **Promoting The Big Society:** Government is seeking to deliver services that in the past have been provided through the public sector, through civil society organisations and the private sector; and
- **Promoting modern regulation:** Government is committed to regulatory enforcement as a means of last resort. The focus of regulators should be on working in partnership with organisations in civil society and the private sector to improve understanding of the minimum standards required for compliance with legislation, as well as the business benefits of going beyond the minimum standards (i.e. good practice). The modern regulator has a key role to play in achieving this through capacity and capability building within the VCS sector, strategic partnership working with key umbrella bodies, and building up trust with the private sector to enhance compliance.

Principles

- **Cost-effectiveness:** delivering improved value for money;
- **Accountability:** Ministers being directly accountable in those instances where public funding is used to commission services from civil society organisations and the private sector; and
- **Transparency:** enabling citizens to hold bodies to account for their performance.

Methodology

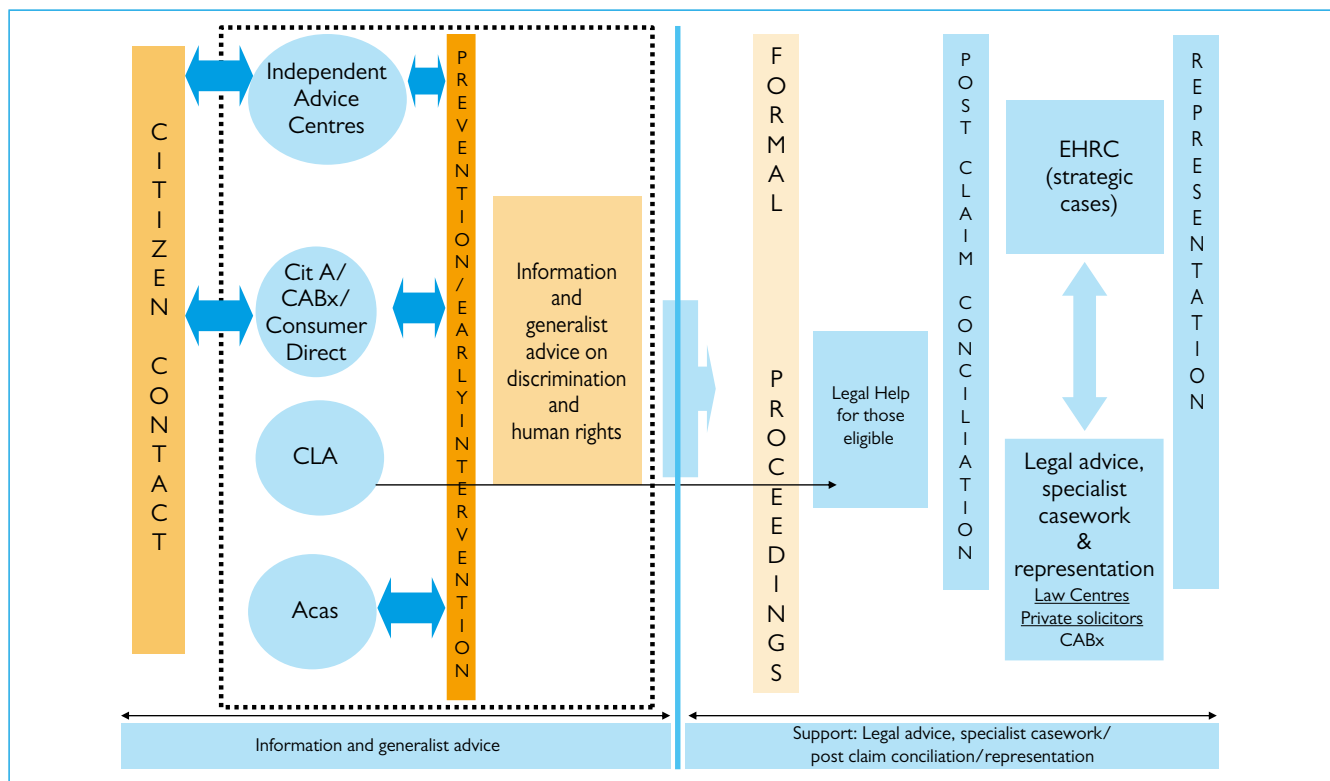
We carried out in-depth analysis of the EHRC helpline and its strategic and legal grants programme. This has involved engaging closely with staff in England, Scotland and Wales at all levels within the EHRC and with their union representatives. We have also had the benefit of insights from the following organisations:

- End Violence Against Women
- Law Centres Federation
- Mind
- Age UK
- Citizens Advice
- Equality and Diversity Forum
- Equality 2025.

We benchmarked the performance of the EHRC helpline against other organisations providing information and generalist advice to citizens on civil law justiciable causes, in the main through contact centre services: (Citizens Advice/ Citizens Advice Bureaux), the Advisory, Conciliation and Arbitration Service (Acas), Community Legal Advice (CLA), and Consumer Direct. The EHRC grants functions have also been benchmarked against those of other grant providers.

Key Findings

THE SYSTEM: The provision of information, advice and support on equality and human rights is fragmented, is lacking in strategic partnership working and co-ordination and does not represent value for money. As a consequence it does not operate as a system. The need to tackle the public expenditure deficit is leading both funders and providers of information, advice and support on people's legal rights in relation to civil law to come together to look at how their services can be delivered in a more streamlined and rationalised way. The public sector (including Government departments and the EHRC) should identify what they can do to facilitate effective co-operation and integration in order to provide an improved service and better value for money. A possible future business model for those providing information, advice and support on amongst other civil law causes, discrimination and human rights issues is set out below. Government should also focus on better understanding of both the level of need (met and unmet) and the level of supply of generalist advice and legal advice/specialist support on discrimination matters in particular. This will enable government to use its funding levers in a more precise and targeted manner.



The EHRC management of the helpline/grants programme within that system

Helpline

- The EHRC helpline does not occupy a clearly specified role within the system of information and generalist advice provision on civil law justiciable causes.
- The helpline (particularly in England) is not integrated into some of the key current regulatory functions of the EHRC (casework and litigation, enforcement and policy development). We recognise that the helplines in Scotland and Wales are significantly more integrated.
- The helpline is not cost-effective. Particular areas of concern are:
 - Historically, there is minimal integration with the digital operation/team, Smart use of digital services are essential to providing a cost-effective service;
 - There is no systematic data on customer outcomes/satisfaction; and
 - The EHRC's helpline cost per call is £28¹ – over double the cost per call of any of the benchmarked comparators.

Grants programme

Regarding the Legal grants programme:

- It is unclear how the allocation of legal grants to provide 'tier 1 support' aligns with Government policy on civil legal aid or representation in employment tribunals (for England and Wales);
- There is no clear alignment with the EHRC's regulatory functions (e.g. in targeting regulatory action or taking strategic test cases). We believe ensuring alleged victims have access to

¹ This includes the wrap up time after the call (i.e. when the advisor makes a brief record of the call and what was agreed).

a sufficient range of independent specialist legal advice on discrimination should be the responsibility of the UK Government in both England and Wales, and that funding ad hoc advice provision is not a core activity for a modern focused regulator; and

- It is unclear whether funding other umbrella bodies organisations is the most cost effective way for the EHRC to improve the capability of advisors, caseworkers and lawyers, to provide information and generalist advice and support (taking forward formal proceedings) on discrimination issues.

Regarding the Strategic grants programme:

- There was no clear evidence of alignment of funding with either the EHRC's or Government's strategic priorities; and
- Responsibility for allocating such a wide ranging grants programme has distracted EHRC from developing a productive partnership relationship with the Voluntary and Community sector. In particular .the social capital gained from the allocation of grants has been offset by the suspicion generated among those who have failed to receive grants funding and failures in the administration of both the strategic and legal grants programmes.

Evidence shows that neither the strategic nor the legal grants programme have been managed in accordance with National Audit Office standards. This is a symptom of the more general absence of procurement capability within the EHRC. The EHRC's failure to manage their strategic and legal grants programme in accordance with HMT's Managing Public Money has resulted in their accounts being qualified for 2008/09. Whilst some improvements have been made to the administration of the strategic grants programme, serious challenges are afflicting the management of the legal grants programme, resulting in some recipients of these grants (CABx, Law Centres, Race Equality Councils, other voluntary and community sector organisations) not receiving funding.

Does the EHRC need to deliver (either directly or through commissioning) either the information and generalist advice function or a grants programme in order to fulfil the Government's vision of it focusing on its core regulatory role?

We think that the EHRC does not need to deliver **or** commission the information and generalist advice function or indeed a grants programme to fulfil its core regulatory role. We recommend that the resource saved from not undertaking nor managing these two functions could instead be diverted towards the EHRC focusing on:

- taking forward directly (or funding) strategic cases; and
- analysing the data received from the future contact centre provider and balancing this reactive source of information with *proactive* identification of systematic challenges to equality in the medium to long term and their economic and societal impact.

These activities are essential if the EHRC is to undertake strategic risk-based compliance and enforcement activity as well as identify and promote good practice.

In addition, the EHRC should focus on building capacity and capability within the VCS rather than commissioning this function via grants. Capability to directly provide training and expertise, for example to front line advisors or lawyers/caseworkers working on a pro bono basis on discrimination and human rights law, exists within the EHRC. Capability to commission other organisations to deliver this function does not.

Summary of our recommendations

Information and generalist advice (the current EHRC helpline function)

- a) The function of providing information and advice to alleged victims of discrimination is necessary, because the provision of timely and high quality information and generalist advice can support the resolution of problems at an informal stage, thus leading to more positive outcomes for the individual and for the economy more generally. To be cost-effective and maximise opportunities for access, this service is best delivered through a combination of digital technology and telephony, supplemented by the availability of face to face provision. However, we believe that providing uniform and reasonable access to information, advice and support regarding discrimination and human rights solely via the face to face model is not a realistic, or indeed cost-effective, model.
- b) This activity should be commissioned by the UK Government (rather than the EHRC). This would allow Government to commission an information and generalist advice/generalist casework service on discrimination and human rights issues in a systematic and cost-effective manner. The service should be focused around the holistic needs of the individual rather than be restricted by departmental boundaries or policy silos. It would need to ensure that the service remains accessible to those most likely to experience discrimination **and** is active in helping those most at risk to identify where discrimination has occurred and seek the appropriate support. We will engage with the Scottish Government and Welsh Assembly Government to ensure that the new specification fully meets the needs of users in Scotland and Wales.
- c) The EHRC should continue to operate its specialist advice line via the casework and litigation team for advisors on discrimination matters. This could form an important part of the EHRC's enhanced capacity building activity.

Legal grants functions, including the provision of 'support' through formal proceedings i.e. legal advice, specialist casework, post claim conciliation, representation

- d) **In addition** to the above, government (rather than the EHRC), should **fund** the provision of strategic outreach/awareness-raising activity. This should focus on those demographic groups and disadvantaged individuals most likely to experience discrimination and human rights abuses. Clearly the EHRC will itself also directly (as opposed to funding other organisations) raise **awareness** of people's rights under discrimination law (working through other organisations) and **promote** people's rights under human rights law. The EHRC will need to balance its focus on citizens, with the priority it gives to working with employers and service providers to improve compliance and promote good practice. The latter is essential to the EHRC successfully realising behavioural change. We therefore think that there is a legitimate role for government, in line with its strategic

priorities, to support the organisations that are best placed to reach the individuals who evidence suggests are most likely to experience discrimination.

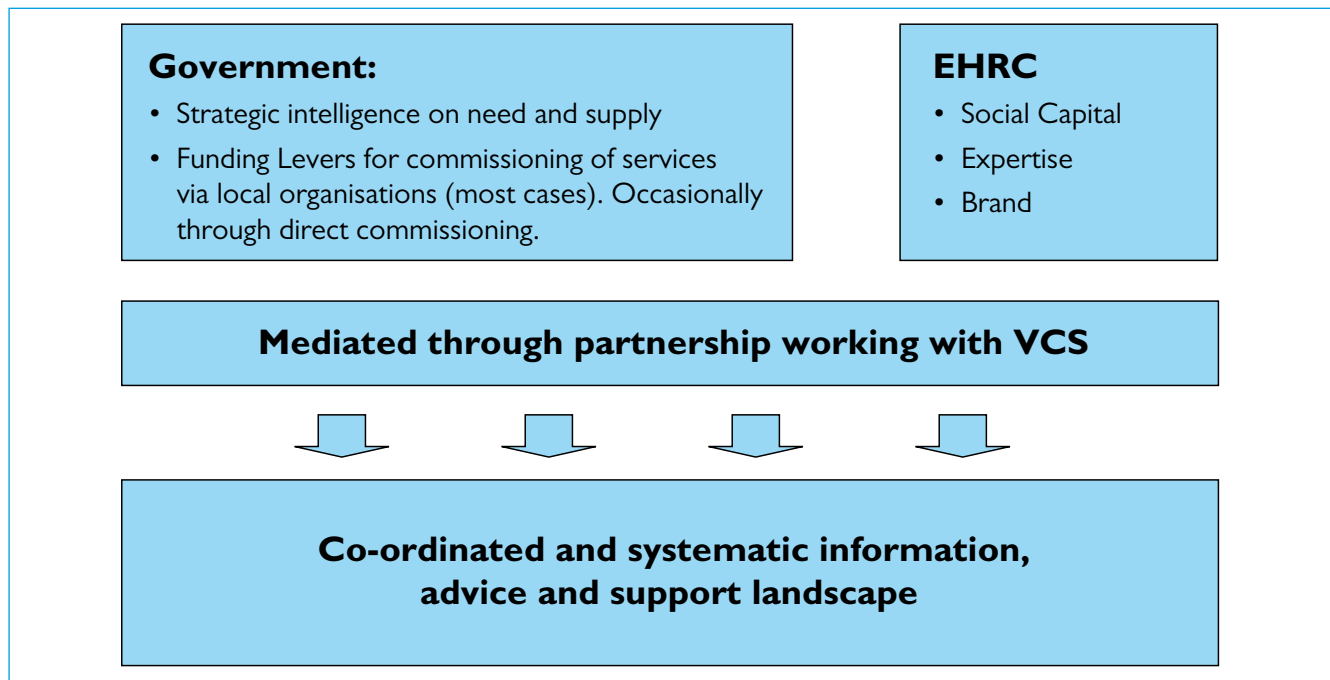
- e) We are not convinced that the Government should provide funding for discrimination cases outside that of the civil legal aid scheme. Nonetheless we recommend that Government should engage further with partners to decide if there is anything that distinguishes discrimination cases from other civil law justiciable causes within the scope of civil legal aid that would justify further public funding for support. Additionally we will engage with the Scottish Government to explore the implications of our proposals for the Scottish legal aid system.
- f) To support the successful allocation of funding, the EHRC should **directly** engage in capacity building; that is, it should work with and through umbrella bodies such as Citizens Advice and the Law Centres Federation to provide training and accreditation/ quality assurance of training and to develop and share good practice. It should act as a hub for strategic partnership working 'on the ground'. We consider this to be an important part of the EHRC's core regulatory functions and consistent with the Government's thinking on changing people's attitudes and behaviours through mechanisms other than 'hard' enforcement (although clearly some of the latter will always be necessary).

Strategic grants functions

- g) Government should continue to support VCS organisations in ensuring that the needs of disadvantaged groups are factored into the design, commissioning and delivery of services **and** to support the sustainability of a VCS sector that caters for disadvantaged groups. These objectives could in part be achieved through a funding stream. We recommend this funding should not however be distributed through a top down open-ended grants programme; instead we recommend focused and targeted commissioning arrangements should be used in support of the Government's broader equality strategy. We wish to work closely with the Scottish Government and the Welsh Assembly Government to decide how any funding should be provided to the VCS in Scotland and Wales, in relation to equalities issues.
- h) The EHRC should continue **directly** to support the capacity building of the VCS, thus enabling the VCS to influence broader public sector decision makers to ensure that the needs of its constituents are built into the design, commissioning and delivery of services. We think that the EHRC is uniquely placed given its position as a body representing all strands, its brand and reputational leverage and its social capital, to operate in partnership with umbrella bodies to bring together the VCS, to promote good practice, develop and share capability. This requires the EHRC to focus on building up strong strategic partnerships with organisations (rather than relying on this solely occurring at a junior level amongst individual caseworkers or helpline advisors). As one observer from the EHRC put it:

"[I] don't have a sense that we network into the rich experience and knowledge often to be found out there."

A proposed model for government/EHRC joint working is set out below:



Next steps

For Government

- work with other funders of information and generalist advice provision on justiciable causes in civil law (e.g. employment, housing, welfare/debt) to deliver a more effective service focused on the needs of the individual, rather than restricted by departmental boundaries or policy silos;
- develop a map of 'need' (including the risks and economic impact of that need not being met) for information, advice and support on discrimination and, where appropriate, human rights
- engage with partners on:
 - the commissioning of provision of information and generalist advice on discrimination and human rights issues; and
 - deciding whether there is anything distinguishable about discrimination as opposed to other civil law justiciable causes within the scope of the civil legal aid scheme that justifies additional public funding.
 - how best Government can:
 - support VCS organisations in ensuring that the needs of disadvantaged groups are factored into the design, commissioning and delivery of services; and
 - support the sustainability of a VCS sector that caters for the needs of disadvantaged groups.

This could include through developing a funding stream.

For EHRC

Focus on building capability and capacity within the VCS and others, for example lawyers/caseworkers operating on a pro bono basis, on discrimination and human rights law.

Executive summary

Scope

This Review looked at how best to deliver equality and human rights information, advice and support. Support is defined as the provision of funding by public bodies (the EHRC or government) to not-for-profit organisations to provide legal advice/specialist casework and potentially representation, primarily through employing a discrimination legal specialist to work in an organisation. This Review has not been constrained by current domestic legislation relating to the powers and duties of the EHRC, (principally the Equality Act 2006) as the domestic legislation governing the remit, duties and powers of the EHRC is currently under review. That said, we recognise and respect the difference in remit that the EHRC has in relation to discrimination law and human rights legislation. The EHRC does not currently have the remit – and, consequently, the duties or powers – to provide legal advice/specialist casework and representation in relation to human rights cases which are not related to a discrimination cause. Its human rights remit is essentially focused on promoting awareness and good practice on human rights. With respect to discrimination legislation, in contrast, the EHRC does have a power to provide assistance to individuals to bring legal proceedings where they allege that they have been a potential victim of discrimination under the Equality Act 2010. The EHRC currently uses this power to take forward/fund strategic cases, which clarify and potentially expand the scope of case law. However it is not the purpose of this Review to focus on how well or otherwise the EHRC has performed its functions in this regard (as set out in section 28 of the Equality Act), beyond stating that in our view, the ability to take forward strategic cases is an important function which the EHRC should retain.

Chapter 1: explains that the remit of this Review is to focus on the functions of the EHRC's contact centre service and its legal and strategic grants programmes. This chapter summarises the key strategic drivers and principles that have influenced our thinking; and our recommendations. They are as follows:

Strategic drivers

- Access to Justice
- The Big Society
- Modern regulation and regulators, and specifically for the EHRC becoming a more focused regulator
- Government's Equality Strategy.

Principles

- Transparency
- Accountability
- Cost-effectiveness.

Chapter 2: outlines the methodology that we used and the degree of engagement with partners. We have engaged with as many external and internal partners (in the public and private sectors and the VCS) and EHRC staff as possible to gain an understanding of the landscape and the current EHRC contact centre and grants operations. This chapter also defines the key terms of: (i) information, (ii) generalist advice (iii) legal advice/specialist casework and representation.

Chapter 3: focuses on demand/need, supply and system

Demand/Need

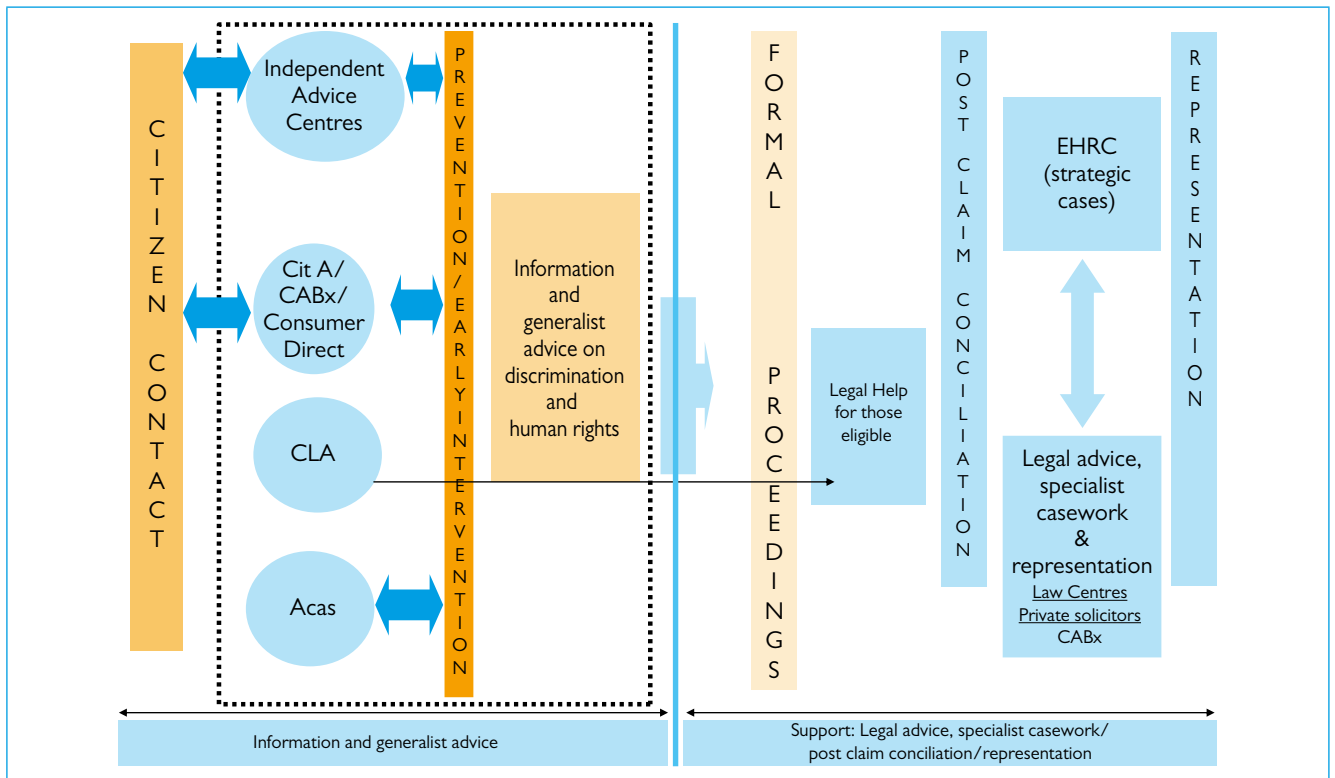
- Understanding the nature of discrimination and human rights enquiries, and specifically their interaction with other ‘justiciable’ problems such as employment, debt and divorce. We conclude that discrimination is often entangled with other justiciable problems, for example, in relation to employment and debt.
- Understanding the level of need for information, advice and support on discrimination issues and how far this is being met. The evidence suggests that discrimination is the fourth hardest justiciable cause (out of eighteen) on which to find information, advice and support.

Supply

- Identifying where people experiencing discrimination are most likely to go for information, advice and support and the quality of the help they receive.
- Identifying which organisations in the public sector and not-for-profit sectors provide information, advice or support on discrimination and human rights issues and their funding sources.

System

- An assessment of how far the current key organisations operate as a ‘system’ with clearly differentiated roles, effective referral mechanisms and minimal duplication.
- An analysis and model of how the key organisations could operate better as a ‘system’ and which is set out in the model below. We anticipate that more cooperation will occur amongst those providers (captured within the dotted line) who signpost and provide information and deliver generalist advice often not just on discrimination, but on other justiciable causes in civil law. Within this proposed system, we suggest that the EHRC should focus on ‘engaging’ at the point of formal proceedings and specifically taking forward strategic cases. We do not consider that it should play a role in the provision of information or generalist advice through an advice line (the current function of the EHRC helpline). A possible future business model for the provision of information, advice and support on, among other civil law causes, discrimination and human rights issues is set out below.



Chapter 4: outlines a brief history of the EHRC contact centre service, its current organisational structure, its operating costs and a sample of the nature of calls received by the helpline.

Chapter 5: sets out a brief history of the grant-making function within the EHRC.

Chapter 6: outlines the guiding principles that have governed the benchmarking criteria used to compare the EHRC contact centre with other comparable operations.

Chapter 7: sets out:

- a comparative analysis between the EHRC and benchmarked providers
- a cost effectiveness comparative analysis between the EHRC helpline and benchmarked providers
- analysis of the FTE resource utilisation in EHRC helpline offices in England, Scotland and Wales
- an analysis of the referral mechanisms of benchmarked providers.

Chapter 8: sets out the different business models considered for the provision of a contact centre service providing information and generalist advice and generalist casework on discrimination and human rights issues:

- the EHRC continuing as the provider of a contact centre service providing information and generalist advice on discrimination and human rights enquiries;
- the EHRC commissioning the provision of information and generalist advice on discrimination and human rights enquiries; and
- Government commissioning the provision of information and generalist advice on discrimination and human rights enquiries.

Key findings

We think that government should continue to fund the provision of information and generalist advice to:

- ensure independent assistance for victims of discrimination to deliver cost-effective access to justice. Provision of information and generalist advice on discrimination and human rights matters, is in essence early intervention thereby increasing the opportunity for problems to be resolved informally, with consequent better outcomes for all involved.
- We conclude that the Government should no longer fund the EHRC to provide information and generalist advice because:
 - i. the helpline does not play a clearly specified role in the provision of information or generalist advice. In particular it is unclear how its service differs from that of Citizens Advice/CABx or Acas. Certainly for England, the EHRC helpline can not operate as successfully, as for example Citizens Advice/CABx, because of the absence of the local infrastructure and consequent local knowledge and social capital that is essential for resolving justiciable problems informally. As already stated, we think that the EHRC should focus on its role in relation to taking forward and/or funding strategic cases.
 - ii. the EHRC has not to date capitalised upon providing the helpline service through using the data captured via the helpline to inform strategic risk-based enforcement. We think that another provider would be better able to run the service and ensure that relevant data is captured and fed back to the EHRC to inform risk-based strategic enforcement. Arguably the focus and resource saved from not running the helpline would encourage the EHRC to focus on analysing the data received, and balancing this reactive source of information with proactive identification of systematic challenges to equality in the coming decade and their economic and societal impact.
 - iii. in our view the EHRC does not have the commissioning and in particular procurement capability successfully to procure the information and generalist advice provision.
 - iv. the benefit of government taking on this commissioning role, is the ability to integrate the provision of information and generalist advice on discrimination and human rights issues with both the subject matter of and the entities delivering advice and information on people's legal rights in relation to civil law such as Citizens Advice, CABx, CLA and Acas.
- In addition to the above, we conclude that government should continue to fund one of the functions of the legal grants scheme, namely awareness-raising of discrimination and human rights as this is an integral part of Government's focus on prevention/early intervention to resolve problems informally. Additionally, government should engage with partners to identify if there is anything that distinguishes discrimination cases from other cases eligible for civil legal aid that would justify further public funding for support.

Chapter 9: outlines and illustrates the objectives that the current strategic grants programme is seeking to achieve.

Chapter 10: outlines benchmarking of the provision of the grants function

Chapter 11: outlines the options and business model for the provision of the function of the strategic grants programme. Specifically this chapter seeks to answer three questions:

- What objectives should any funding mechanism be designed to achieve in light of the Government's Big Society agenda?
- What should the role of the EHRC be in delivering those objectives considering its vision of moving towards becoming a modern, more focused regulator?
- Are there objectives which funding could be used to achieve but which should not be delivered by the EHRC as they are inconsistent with its vision of becoming a modern regulator, and if so who is best placed to take on these activities?
- Government should continue to support VCS organisations in ensuring that the needs of disadvantaged groups are factored into the design, commissioning and delivery of services **and** to support the sustainability of a VCS sector that caters for the needs of disadvantaged groups. This could include through developing a funding stream. We recommend, this funding should not be distributed through open-ended grants programme; instead focused and targeted commissioning arrangements should be used in support of the Government's broader equality strategy.
- We also conclude that the EHRC should focus on directly delivering capacity/capability building through working in strategic partnership with umbrella bodies such as Improvement Delivery Agency and Equality and Diversity Forum. This capacity building function should also extend to building up the capability of other bodies and groups of people, for example, lawyers/caseworkers operating on a pro bono basis, who provide information, advice and support on discrimination and human rights matters.

Chapter 12: outlines recommendations and key findings:

- We have identified that: **the provision of information, advice and support on equality and human rights is fragmented, lacking in strategic partnership working and co-ordination**. As a consequence it does not operate as a system. The need to tackle the public expenditure deficit is leading both funders and providers of information, advice and support on people's legal rights in relation to civil law to come together to look at how the service can be delivered in a more streamlined and rationalised way. The public sector (including government departments and the EHRC) should identify what they can do to facilitate such cooperation and effective integration to provide improved service and better value for money. Government should also focus on better understanding both the level of need (met and unmet) and the level of supply of information, generalist advice and specialist support (i.e. legal advice) on discrimination matters in particular. This will enable government to use its funding levers in a more precise and targeted manner.

Specific recommendations

- We think that the function of providing information and generalist advice to alleged victims of discrimination is necessary, because the provision of timely and high quality advice can support the resolution of problems at an informal stage, thus leading to more positive

outcomes for the individual and for the economy more generally. To be cost-effective and to maximise opportunities for access, this service is best delivered through a combination of digital technology and telephony, supplemented by some face to face provision. Nonetheless we recognise that providing uniform and reasonable access to information and generalist advice solely via the face to face model for discrimination and human rights enquiries is not a cost-effective model.

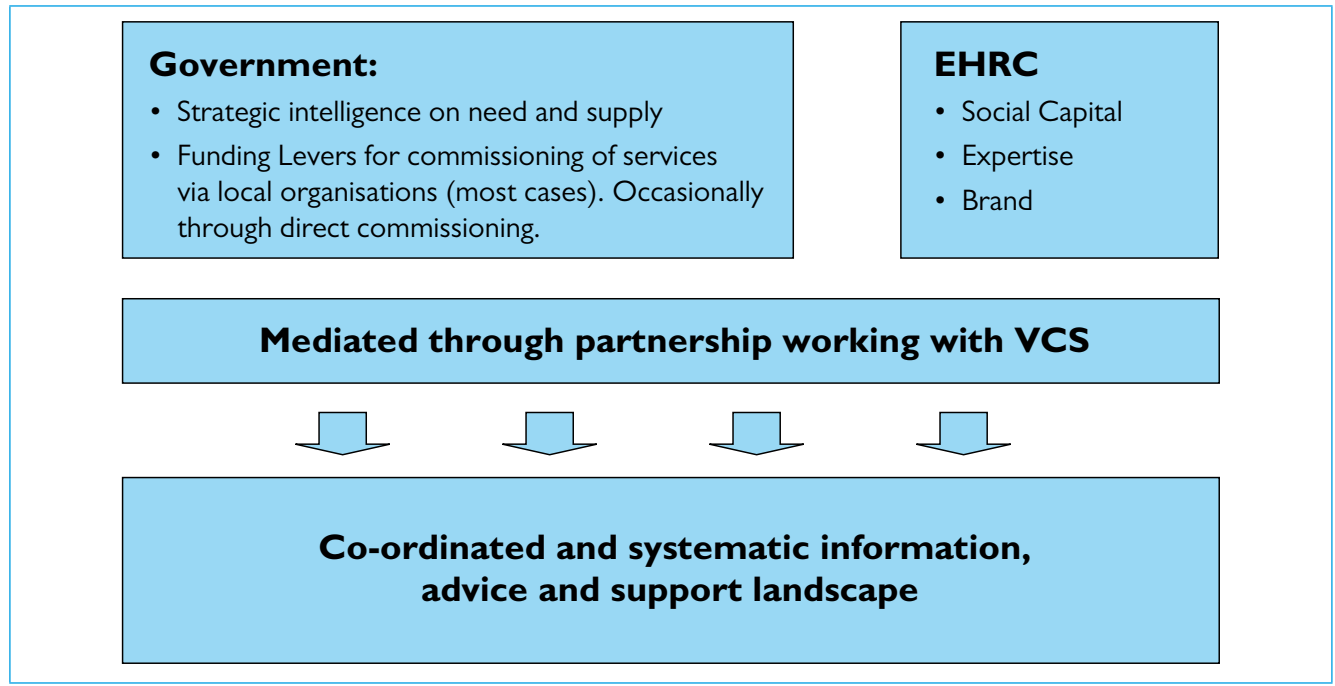
- This activity should be commissioned by Government (rather than the EHRC), thus allowing Government to commission an information and generalist advice activity on discrimination and human rights issues in a systematic and cost-effective manner, while ensuring that the service remains accessible to those most likely to experience discrimination and active in helping those most at risk to identify where discrimination has occurred and to seek the appropriate support.
- The EHRC should continue to operate its specialist advice line via the casework and litigation team for advisors on discrimination matters. This could form an important part of the EHRC's enhanced capacity/capability activity.
- **In addition** to the above, government (rather than the EHRC), should **fund** the provision of strategic outreach/awareness-raising activity targeted on the most disadvantaged individuals who are most likely to experience discrimination and human rights abuses. Clearly the EHRC will itself also directly raise **awareness** of people's rights under discrimination law working through, as opposed to funding, other organisations, and **promote** people's rights under human rights law. The EHRC will need to balance its focus on citizens, with the priority it gives to working with employers and service providers to improve compliance and promote good practice. The latter is essential for realising behavioural change. We think there is a legitimate role for government in funding organisations that are best placed to reach individuals who evidence suggests are most likely to experience discrimination.
- We are not convinced that Government should provide funding for discrimination cases outside that of the civil legal aid scheme. We believe any additional funding for discrimination cases should only be awarded to those financially eligible for civil legal aid. Nonetheless, we suggest that Government may wish to engage with partners on if there is any rationale for further publicly funded support for discrimination cases.
- To support the successful allocation of funding, the EHRC should **directly** engage in capacity building. Namely, it should work with and through umbrella bodies such as Citizens Advice and the Law Centres Federation to provide training, accreditation and quality assurance of training, and development and sharing of good practice. It should act as a hub for strategic partnership working on the ground. We consider this to be consistent with its core regulatory function and consistent with the Government's thinking on changing people's attitudes and behaviours through mechanisms other than 'hard' enforcement (although some of this will always be necessary).
- Government should continue to support VCS organisations in ensuring that the needs of disadvantaged groups are factored into the design, commissioning and delivery of services **and** to support the sustainability of a VCS sector that caters for the needs of disadvantaged groups. We recommend this should include through developing a funding stream. We recommend this funding should not be distributed through open-ended grants programme; instead focused and targeted commissioning arrangements should be used in support of the Government's broader equality strategy.

- The EHRC should continue **directly** to support the capacity building of the VCS, thus enabling the VCS to influence broader public sector decision makers to ensure that the needs of their constituents are built into the design, commissioning and delivery of services. We think that the EHRC is uniquely placed given its position as a body representing all strands, its brand and reputational leverage and its social capital to operate in partnership with umbrella bodies to bring the VCS together to promote good practice, and to develop and share capability. This requires the EHRC to focus on building up strong strategic partnerships with organisations (rather than relying on this solely occurring at a junior level amongst individual caseworkers or helpline advisors). As one interviewee put it:

“[I] don’t have a sense that we network into the rich experience and knowledge often to be found out there.”

- In summary and perhaps most ambitiously the EHRC (through its social capital) and Government through financial levers, should together play a key role in being the ‘ringmaster’ of the discrimination and human rights information, advice and support landscape focused on bringing coherence to what is currently a patchy and duplicatory system.

A proposed model for Government/EHRC joint working is set out below:



Chapter 13: outlines next steps

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Chapter 1: Introduction

Remit and objectives

- 1.1 The remit of this Review is to assess how information, advice and support can achieve the objectives of reducing the overall level of discrimination and human rights abuses and ensure that the government complies with its EU and international obligations. We therefore looked broadly at those organisations most directly involved in the provision of information, advice and support on equality and human rights matters.
- 1.2 We recognise:
- the importance of understanding the different demand and supply considerations in Scotland and Wales and;
 - that many providers of information, advice and support on equality and human rights (for example Citizens Advice and law centres), will also provide these functions for other justiciable causes in civil law.
- 1.3 As a starting point, we focused on the provision of equality information, advice and support by the Equality and Human Rights Commission (EHRC). Specifically we looked at the functions of:
- the EHRC contact centre operation (helpline);
 - the legal grants programme; and
 - the strategic grants programme.
- 1.4 We found it helpful to distinguish between three different aspects of legal requirements:
- (a) The provision of independent assistance to victims of discrimination (an EU requirement for the protected characteristics for race and gender), which the EHRC provides through its:
- GB-wide contact centre service which provides a uniform level of information and generalist advice on a national basis;
 - legal grants programme which is used to: (a) fund awareness-raising; (b) provide legal advice and representation support on discrimination matters; and (c) funding umbrella organisations to improve the capability of advisors, caseworkers and lawyers on discrimination and human rights legislation;
 - provision of legal assistance through funding ‘strategic’ cases, where case law either needs to be clarified or extended.
- (b) The EHRC’s duties include working towards the elimination of unlawful discrimination and harassment, promoting equality of opportunity and the protection of human rights and promoting the understanding of the importance of equality and diversity and human rights. In addition to these objectives, the EHRC also has a function of fostering good relations. Although the EHRC currently has an express obligation under section 10 of the 2006 Act to

exercise its powers to promote understanding of the importance of good relations, it like other bodies will also have a duty under the new public sector Equality Duty to have due regard to the need to foster good relations when it exercises its functions.

- (c) Under EC Directive 1107, the EHRC is also the complaints handling body for accessibility issues for users of airlines (a function inherited from the Disability Rights Commission). Although the EHRC ran a successful airlines accessibility campaign, we are not convinced this function needs to be undertaken by the EHRC.

1.5 Other functions carried out by the EHRC are relevant to this review, for example its:

- regional networking team, which the EHRC proposes to restructure radically under its Mid term Organisational Review (MTOR) proposals;
- transfer of expertise team, a group of trained facilitators who will move from the Corporate Management Directorate to the Regulation Directorate, under MTOR proposals;
- function of providing legal assistance (i.e. supporting 'strategic' cases);
- provision of conciliation services for dispute resolution (where Acas service are not available); and
- development of guidance and codes of practice to support users in understanding their rights and obligations under the Equality Act 2010.

1.6 We have not analysed these functions in depth. However, the implications of recommendations made in this Review for these broader functions have been highlighted.

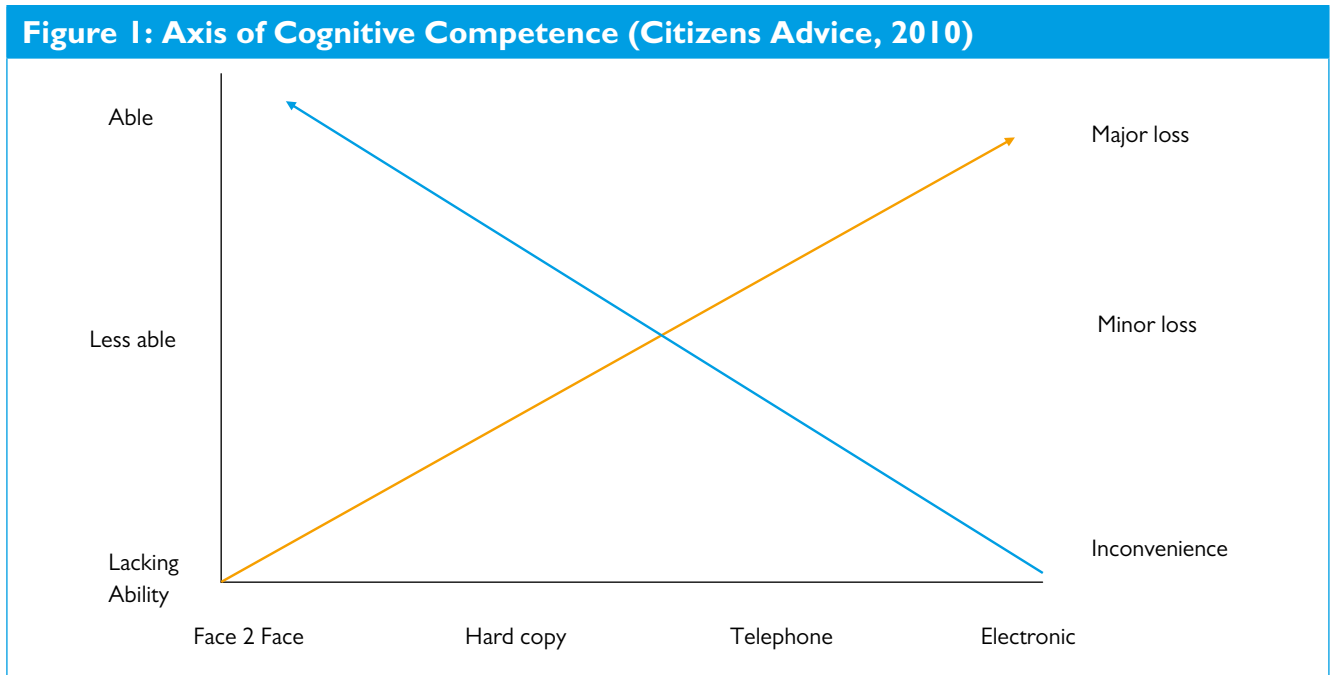
Strategic Context

1.7 We consider it essential to set our analytical framework within the Coalition government's philosophy in the following areas:

- (a) **Access to justice:** The Coalition Government is committed to providing a simpler legal justice system, which allows people to resolve their issues out of court, using simpler, more informal remedies where they are appropriate, and which encourages more efficient resolution of contested cases where necessary. The Government is focused on ensuring legal aid for those cases which have sufficient priority to justify the use of public funds.
- (b) **The Big Society:** Government's vision is for the citizen and communities to take social action, play a key role in public service reform and empower communities. Government is consulting on opening up public services so that civil society organisations (mutuals, co-operatives, charities, social enterprises) can have much greater involvement in the running of public services. The Government's commitment to increasing the involvement of civil society organisations in public service delivery is based on the following:
- firstly, these reforms are fundamental to building The Big Society. Improved commissioning practices will encourage a flourishing civil society, increasing community involvement in activities which were previously the almost exclusive domain of the state; enhance the responsiveness of local authorities and other local commissioning bodies to their needs and priorities; reaching some of the most disadvantaged groups in society; and supporting local economic growth;

- secondly, the modernisation of commissioning will ensure that Government drives transformative improvements in public service efficiency, by improving its ability to buy public services intelligently and making better use of all available resources.
- (c) **The government's vision of regulation:** Regulators should focus on working in partnership with organisations (private, public and VCS), to improve understanding of the minimum standards required for compliance with legislation, as well as the business benefits of going beyond the minimum standards (i.e. good practice). 'Hard regulation' i.e. enforcement action and litigation should be used only as the means of last resort. Given the scope of the EHRC's coverage as a horizontal regulator it is essential for the EHRC to work through umbrella organisations. For example, it is important that the EHRC is able to work with and through other regulators in the public sector (i.e. with the EHRC essentially acting as an 'oversight' regulator). To some extent this is already underway with, for example, partnership working with the Care Quality Commission and Ofsted. Thus the EHRC can influence the policies which govern the use of powers and duties by other regulators: such as the power to fine and the power to de-authorise. This partnership working is also essential to achieving transparency about the outcomes of hard and soft regulatory activity. It is also important for the EHRC to be able to engage in strategic outreach activity, in relation to soft regulation: Private sector employers need to feel able to approach the EHRC if they are concerned that they are not complying with equalities legislation, without fearing that this contact will lead to 'hard' enforcement action being taken against them. Building this trust is particularly challenging as the EHRC does not have the remit of the Acas helpline which will only provide advice and has no regulatory enforcement role. Outreach activity for the VCS is also important. It is essential that the EHRC has 'its finger on the pulse of the VCS community' to understand better the real-time challenges being experienced by citizens in relation to discrimination and human rights. This as much as the helpline, and the findings from research, enquiries, investigations and their own analysis of the economic impact of different types of inequalities, is essential for the EHRC to identify what the 'real' strategic priorities should be. This will help them to focus both their resource and attention (the essence of risk-based regulation), and also influence others in the system (whether this is a government department responsible for public policy interventions or other regulators), so that system wide solutions can be developed.
- (d) **Government's vision of the equalities agenda going forward:** Government's recently published Equality Strategy – 'Building a Fairer Britain' sets out a new approach to equalities, moving away from the identity politics of the past and to an approach recognising people's individuality. And it sets out a new role for government, moving beyond simply introducing more legislation, to promoting equality through transparency and behaviour change. Government will act as a catalyst and advocate for change, working with businesses, the voluntary sector and wider civil society to create equal opportunities.

- (e) **Cost-effective service and channel strategy:** Government wishes to prevent unnecessary litigation where alternative sources of information and generalist advice could lead to problems being resolved informally. Government is also committed to making best use of delivering information and generalist advice to citizens through the use of digital communication. However most of the providers of advice we engaged with indicated in their judgment the limitations of digital services when dealing with emotive and complex enquiries (see figure 1).



This position **may** change when more interactive web-based services (such as web-chat) are more routinely and cost-effectively available and indeed mainstreamed into communications culture. However most providers recognise the paramount importance of ensuring that information and fulfillment requests are dealt with online.

- (f) **Transparency and democratic accountability:** The information collected from a helpline potentially has a crucial role to play in helping regulators to understand the real-time challenges on the ground. This in turn should help inform risk-based regulation. We therefore looked carefully at the uses to which the intelligence collected through the helpline (in particular) has been put, and at what other sources of intelligence and information have informed the strategic enforcement activity being undertaken by the EHRC. We also note the recommendation of the Hampton Review (Better Regulation Executive, 2010) that the EHRC should complement ad hoc 'soft' intelligence from the helpline with richer and deeper sources of intelligence which are subject to greater 'economic and analytical rigour'. This should enable the EHRC to move from a complaints and demand-led model, to one based on more formal or systematic risk analysis. Finally, we looked to assess the importance of a functioning helpline in the enforcement activity of other regulators, for example the value of

the intelligence gathered through Consumer Direct to the enforcement activity of the Office of Fair Trading (strategic) and the Trading Standards Agency (routine).

The Government wants public bodies to publish as much data as possible on their inputs, outputs and outcomes, so that the citizen can hold them to account for their performance.

Chapter 2: Methodology

Engagement strategy

2.1 Engagement with the following partners has helped inform our findings:

2.1.1 With the EHRC:

- Staff and unions across a range of levels;
- senior management who are involved in setting the strategic direction of the EHRC;
- senior management who are engaged in the design and delivery of the helpline and the grants programmes; and
- staff on the frontline who are engaged in delivering the helpline and grants programmes across England, Scotland and Wales.

2.1.2 External stakeholders with insights on the provision of equality information advice and support. Formal contributions have been received from the following groups:

- End Violence Against Women
- Law Centres Federation (LCF)
- Mind
- Age UK
- Citizens Advice (Cit A)
- Equality and Diversity Forum.

2.1.3 We intended to engage on a systematic basis with recipients, or representatives of recipients, of strategic and legal grants (including some of the end users who would have experienced the impact of the strategic and legal grants). However it has not been possible for the EHRC to arrange this within the lifetime of this Review. We have spoken separately to two of the umbrella bodies whose members are recipients of legal grants, namely the Law Centres Federation and Citizens Advice, and to one of the key umbrella bodies (the Equality and Diversity Forum). We have also obtained the views of Equality 2025, given our assumption that the helpline is particularly important for some disabled people because of the challenges they might face in accessing information face to face or online.

2.1.4 A full consideration of the equality impact has been carried out for all options and recommendations put forward. **Equality Impact Assessments have been undertaken, and are published on GEO's website.**

Definitions of key terms used in the report

- 2.2.1 **Information.** This could comprise of simple fulfilment requests (e.g. signposting to codes of practice or other sources of information). It could also mean factually explaining what the law states, for example in relation to direct or indirect discrimination (i.e. simple diagnosis).
- 2.2.2 **Generalist advice**². This is defined as advice provided by advisors trained in discrimination law, but not legal advice provided by lawyers or caseworkers. This is defined as including the identification of issues and possible outcomes and solutions, including attempts at informal resolution, without going to court or tribunal. This would involve more than simply stating the law, but actually providing advice to an individual on how the law relates to the particular instance or event that they are describing. It is at this stage that informal early intervention (to avoid formal proceedings) could be considered – for example, a quiet word with a local employer or service provider, or empowering a citizen to challenge an instance of potential discrimination, to achieve a positive outcome without the need to consider more formal proceedings. This is the function that we consider the EHRC contact centre is designed to provide.
- 2.2.3 **Legal advice, specialist casework and litigation** (involving the preparation for court, tribunal or alternative dispute resolution and representation in court or tribunal where necessary). This is essentially the provision of legal advice on discrimination issues. This service is predominantly provided by law centres (the LCF state they handled over 5,000 cases last year). Some citizens advice bureaux will also provide specialist casework support (usually in the event of other specialist providers not being available in a particular region or area). Private solicitors in receipt of legal aid contracts will also deliver this service as will independent advice agencies which are often strand specific, for example race equality councils. Within casework there are two broad categories of cases:

- **Strategic cases.** As a matter of policy the EHRC only takes on or funds strategic cases that it believes will change or clarify existing case law. In its business plan for 2010/11, it has a target of funding at least 100 new legal actions with a minimum success rate of 70%. An example of a strategic case is as follows:

Sheffield Law Centre represented David Allen, a 17 year old disabled young person about inadequate accessibility at his bank branch under the Disability Discrimination Act 1995 (DDA). The case went to appeal, with RBS ordered to compensate David for disability discrimination due to their refusal to make reasonable adjustments for him. The case also set a precedent by requiring building work to improve accessibility as a 'reasonable adjustment' under the DDA.

- **Non-strategic/routine cases,** which will usually be taken on by law centres, some citizens advice bureaux, some independent advice centres and some private solicitor's firms. An example of a routine case, as provided by the Law Centres Federation, is as follows.

² For the purposes of the Review generalist advice is defined as being broad enough to also capture what is sometimes referred to as generalist casework

A disabled employee was dismissed by her employers for absence that was directly related to her disability. She attended Rochdale Law Centre for help and advice, and the centre, using the EHRC legal grant scheme, intervened by bringing a case at the employment tribunal on her behalf. The employers then agreed to pay a sum of £30,000 to the woman as compensation for the discrimination she suffered and loss of earnings.

- 2.3 **Contact centre.** *The Better practice guidance for Government Contact Centres (3rd edition, COI) defines a contact centre as ‘a location where citizens interact with an organisation through various vehicles of response’. The key difference between a call centre and a contact centre is that call centres offer access only by telephone, but contact centres use other vehicles such as post, email, fax, SMS and text chat.*

Chapter 3: Supply and demand

Introduction

- 3.1 This chapter first examines the nature of information and advice that is sought on equality and discrimination problems. It explores if these are problems often ‘bundled up’ with other justiciable problems such as those related to employment, homelessness, money/debt and welfare/benefits. Next, it examines the level of need for discrimination information, advice and support and how far that need has or has not been met. It seeks to identify the key public and voluntary and community sector providers of information, advice and support on discrimination matters. It also explores whether the need for discrimination information, advice and support has increased since Great Britain entered the economic downturn. Finally, the chapter looks at whether an effective system of information, advice and support on discrimination issues currently exists.
- 3.2 The focus here is on problems related to discrimination only and not on standalone human rights problems with a discrimination element attached to them. This is essentially because of the lack of GB-wide research on human rights as a discrete category of law. Even with respect to discrimination problems, the evidence base on the nature of the need, the level of need and the level and type of supply available, is patchy. This underlies the lack of strategic information available on the need for information, advice and support on discrimination issues and the supply of information, advice and support on discrimination problems.

DEMAND

What is the qualitative nature of discrimination problems?

- 3.3 The Causes of Action Civil Law and Social Justice report (2nd edition Pleasance ,2006) indicated three clusters of justiciable problems:
 - Family;
 - Homelessness/unfair treatment by police; and
 - Employment/debt/rented accommodation/welfare benefits and discrimination.
- 3.4 Data suggests that if an individual experiences discrimination they have an increased likelihood of experiencing other justiciable problems. Analysis suggests that the justiciable causes significantly **more likely** to occur alongside discrimination causes (as opposed to an individuals only encountering a single justiciable cause) are mental health (seven times more likely), clinical negligence (five times more likely) and domestic violence (three times more likely).

Figure 2: Incidence of justiciable causes (%) – all persons vs. those encountering discrimination problems (Causes of Action, 2006)

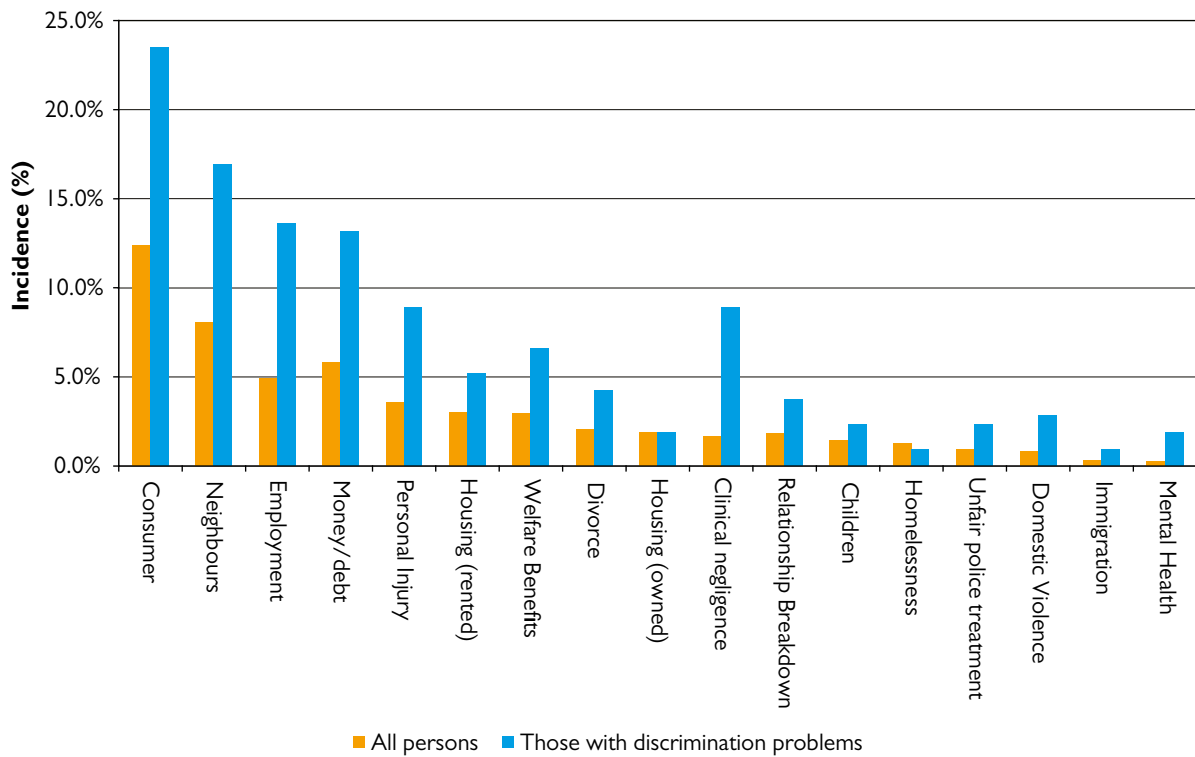
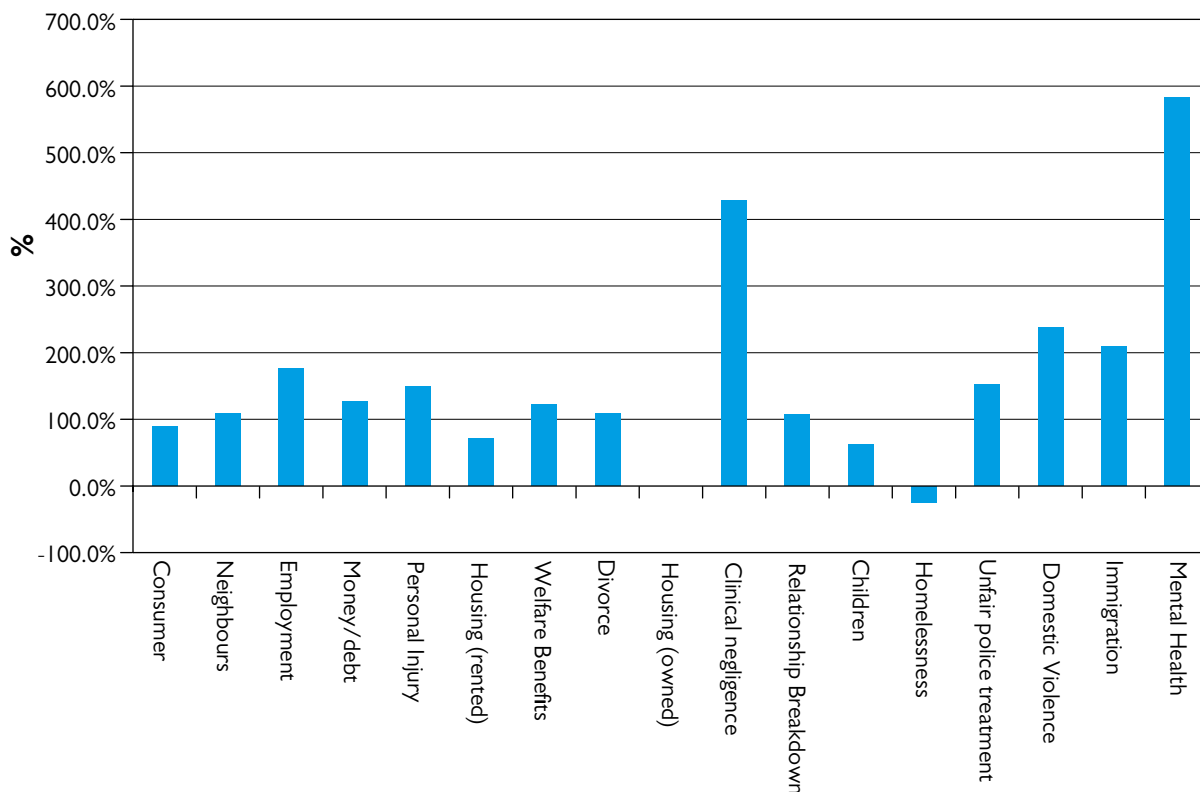
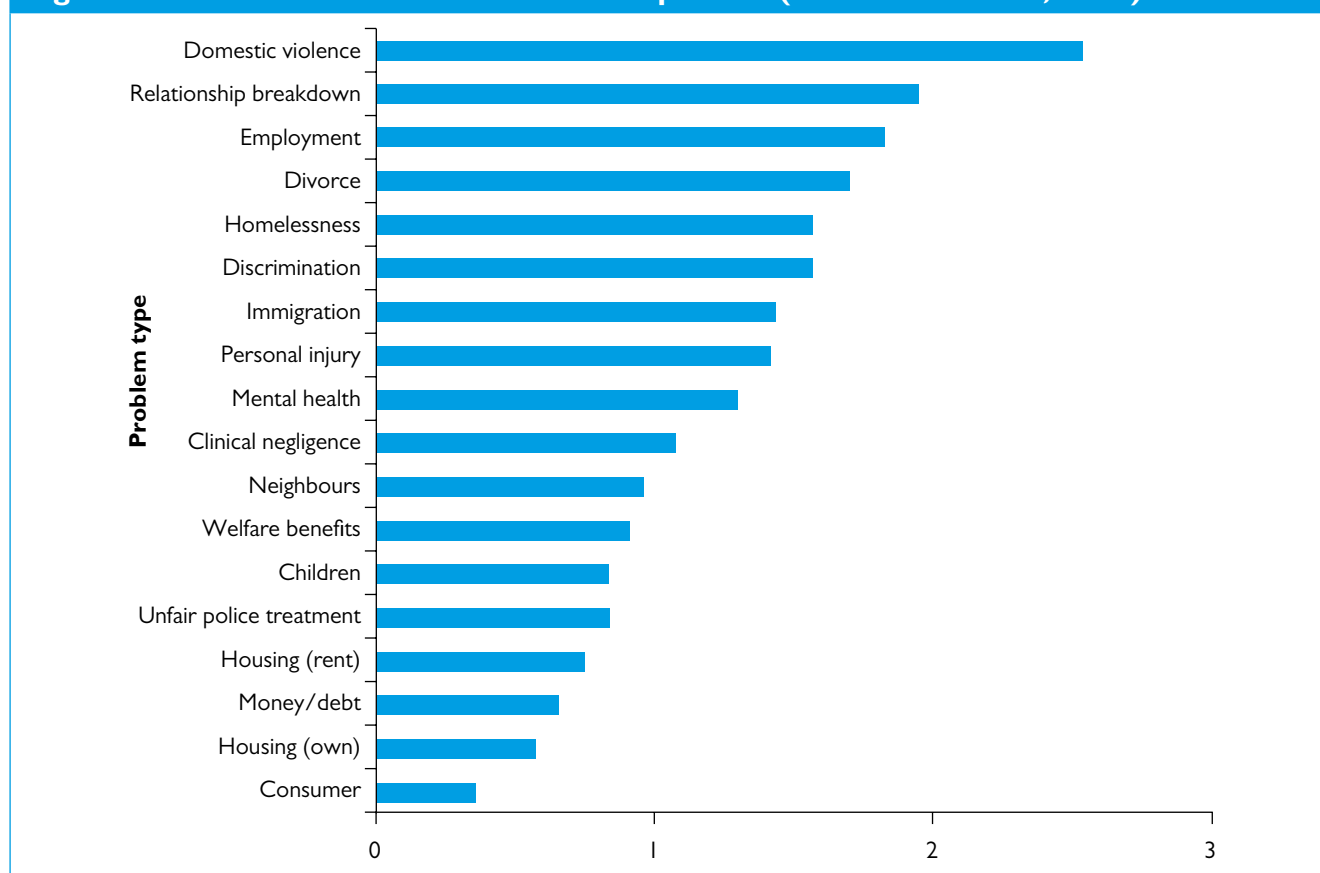


Figure 3: Change in likelihood of encountering a discrimination problem as a result of reporting a discrimination problem (Causes of Action, 2006)



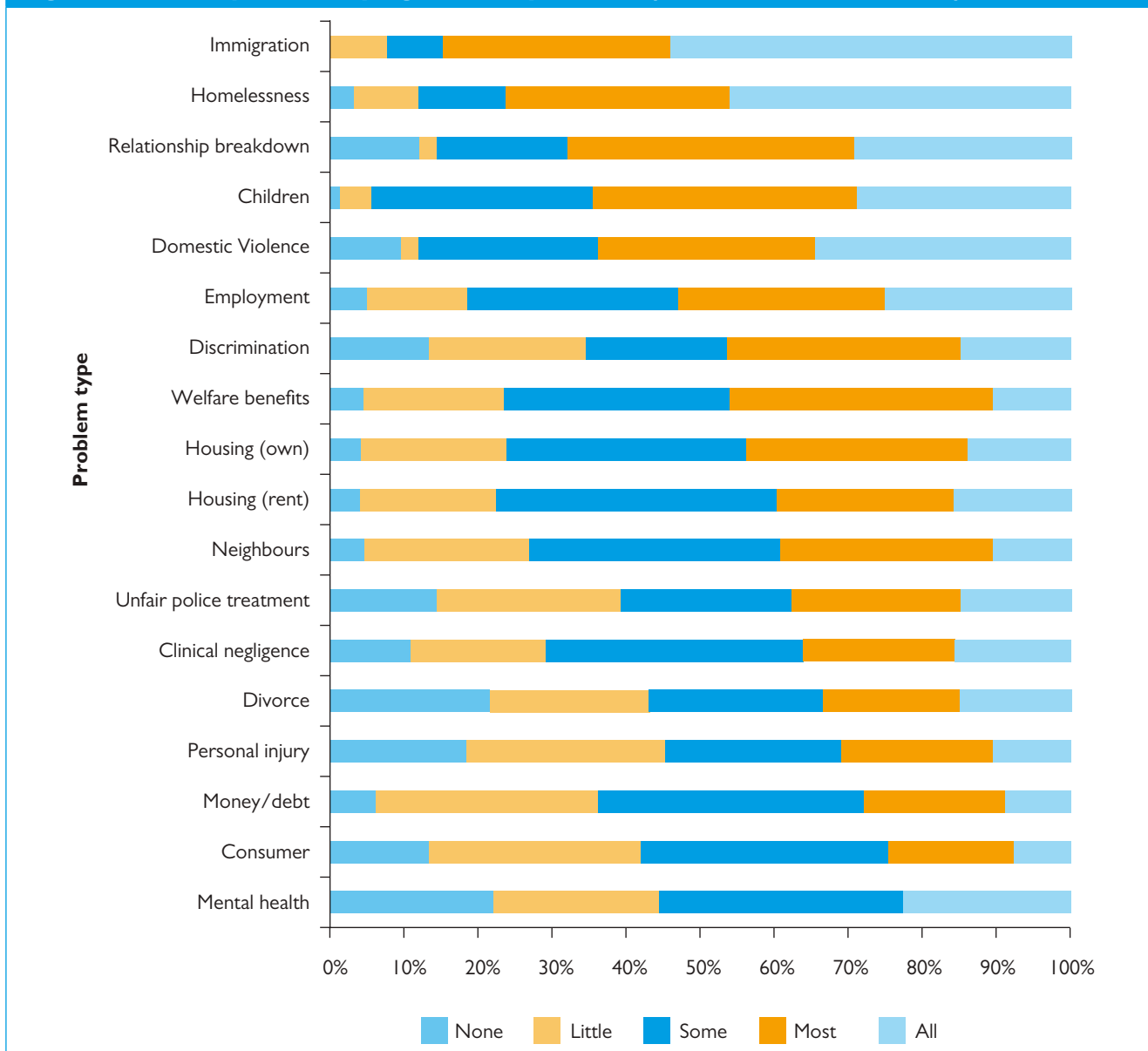
- 3.5 There is clearly a stronger chance of experiencing problems related to other justiciable causes as a consequence of experiencing discrimination.
- 3.6 Pleasance identified that certain types of problem are more likely than others to lead to multiple adverse consequences, and discrimination is identified as the fifth justiciable cause most likely to lead to further justiciable problems. Figure 4 shows the mean number of adverse consequences (defined as physical ill health, stress related illness, relationship breakdown, violence aimed at me, damage to property, had to move home, loss of employment, loss of income and loss of confidence), experienced by problem type, with discrimination generating the sixth highest (of eighteen categories).

Figure 4: Mean Number of Adverse consequences (Causes of Action, 2006)



- 3.7 Research indicates that people do worry and care about discrimination issues. Figure 5 shows that of the sample cohort for Causes of Actions: Civil law and Social Justice (2nd edition, 2006), 45% of those experiencing discrimination spend most or all of their time worrying about the problem, thus having a significant impact on their everyday lives and on society and the economy more widely.

Figure 5: Time spent worrying about a problem (Causes of Action, 2006)

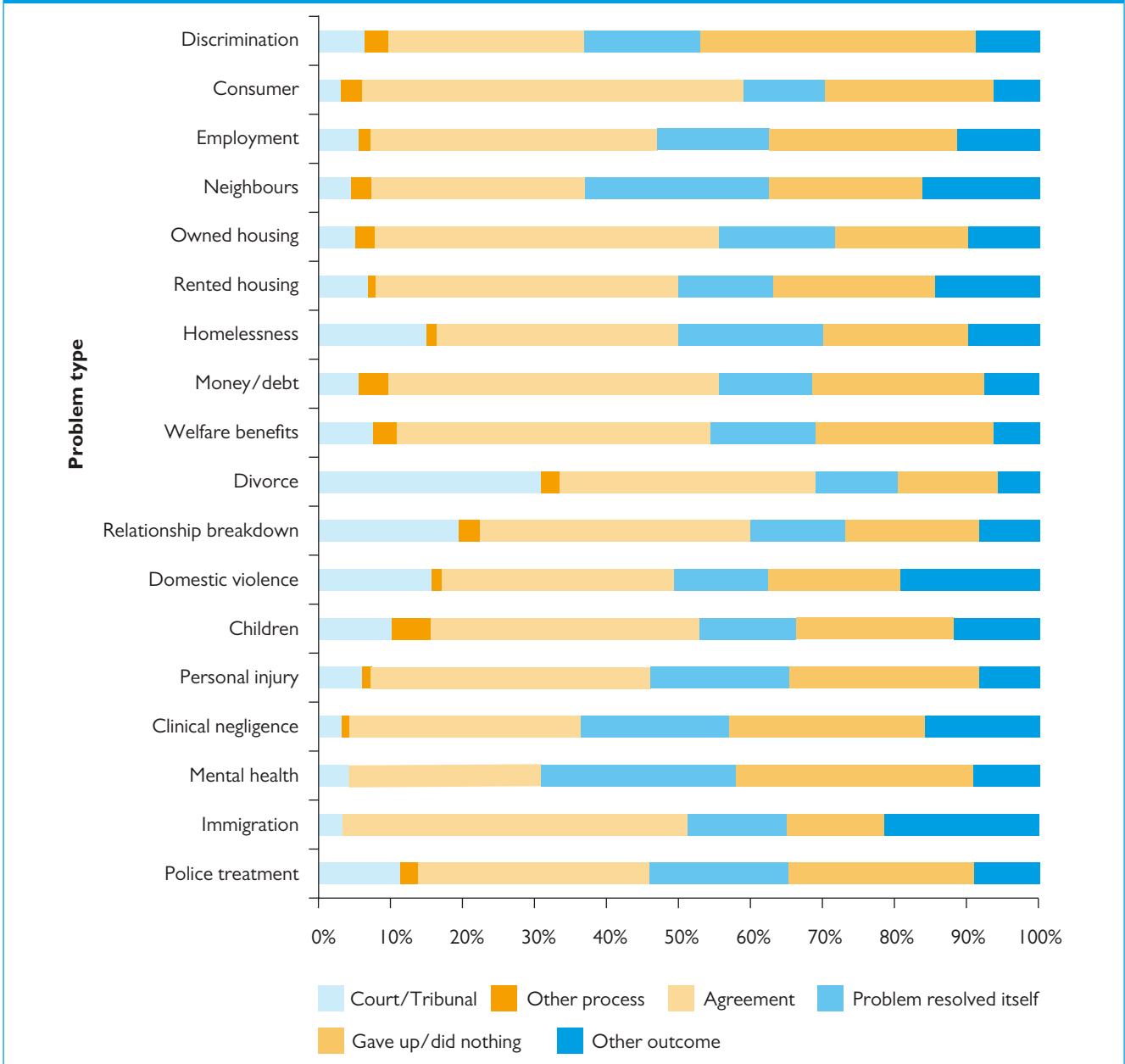


3.8 Anecdotal evidence, and the judgement of those on the ground, points to a strong association between discrimination and other justiciable causes, with many stressing that people often do not identify that they have been discriminated against unless this is indicated to them by an informed individual. As one observer put it:

“It varies. People don’t always identify they have been discriminated against. Even if you are sacked because you are pregnant, many people wouldn’t be able to tell you their legal position”.

3.9 We note that the 2006-9 English and Welsh Civil and Social Justice Survey stated that the largest percentage of people who had experienced a civil and social justice related problem, but had done nothing about it, was in relation to the category of discrimination. This is shown in Figure 6. This is largely attributed to victims feeling that nothing could be done to resolve the problem.

Figure 6: Problem type and outcomes (2006-9 Civil and Social Justice Survey)



What is the level of need for information, advice and support on discrimination issues?

3.10 The 2006-09 English and Welsh Civil and Social Justice Survey indicates that of the eighteen justiciable causes looked at (see Figure 7), the category of discrimination was the **second highest**, measured in terms of the percentage of people who had tried and failed to obtain advice. This was surpassed only by problems related to the categories of owned housing, money/debt and immigration. This indicates that it is challenging to find information, advice and support in relation to discrimination problems.

Figure 7: Response to justiciable problem by problem type (2006-2009 Civil and Social Justice Survey 2010)

Variable	% did nothing	N	% handled alone	N	% obtained advice	N	% tried and failed to obtain advice	N	% tried, failed and handled alone	N
Discrimination	20.4%	100	25.7%	126	43.0%	211	4.1%	20	6.8%	33
Consumer	6.7%	167	47.8%	1,187	38.8%	964	1.1%	27	5.6%	138
Employment	9.4%	112	29.6%	350	53.3%	630	1.1%	13	6.6%	78
Neighbours	11.3%	188	27.0%	446	52.1%	862	2.8%	47	6.8%	112
Housing (owned)	6.3%	28	28.4%	124	59.6%	261	0.9%	4	4.8%	21
Housing (rented)	7.1%	54	34.3%	260	49.1%	373	1.8%	14	7.8%	59
Homelessness	6.1%	90	38.0%	555	49.4%	722	1.1%	15	5.4%	79
Money/debt	6.2%	46	36.0%	266	48.8%	360	0.8%	6	8.2%	60
Welfare benefits	10.2%	51	25.4%	126	61.7%	306	1.0%	5	1.7%	8
Divorce	5.4%	31	24.3%	139	64.4%	369	1.3%	7	4.6%	26
Post-relationship	10.9%	29	20.9%	57	62.0%	168	2.3%	6	4.0%	11
Domestic violence	4.5%	17	31.0%	118	56.7%	217	1.0%	4	6.8%	26
Children	16.1%	128	22.7%	180	56.0%	444	1.7%	14	3.4%	27
Personal injury	17.0%	71	31.3%	130	41.1%	171	2.7%	11	7.8%	32
Medical negligence	7.1%	7	17.6%	17	70.0%	68	1.7%	2	3.6%	3
Mental health	6.7%	5	37%	26	48.2%	34	2.6%	2	5.5%	4
Immigration	15.0%	37	32.2%	80	40.0%	100	4.5%	11	8.3%	21
Unfair police treatment	11.1%	41	23.0%	84	57.1%	210	2.9%	11	6.0%	22

3.11 We have been unable to find a breakdown of the demographics of those who are most likely to experience discrimination (beyond categorisation by protected characteristic). However the Causes of Action report indicates that the people most likely to experience justiciable causes of action per se are likely to be those who are vulnerable and socially excluded, for example those:

- with long standing ill health or disability;
- who are lone parents;
- living in rented accommodation;
- living in high density housing ;
- those between the ages of 25 and 44;
- unemployed;
- on means-tested benefits; or
- on low incomes.

National and regional variations

3.12 Clearly there are regional variations in the **need** for information advice and support on discrimination problems. For example *Snakes and Ladders: Advice and Support for Employment Discrimination Cases in Wales (2003)* identified a high level of unmet need, as a result of three key factors:

- structural changes in the labour market. The Welsh labour market is characterised by a high number of small and medium enterprises where the support mechanisms for supporting claimants are more likely to be lacking (for example trade union membership);
- demographic trends. For example a high number of women workers in Wales are concentrated in the part-time lower paid sector in comparison to other parts of the UK; and
- an ‘information gap’ – public awareness of rights and the role and function of key agencies of redress is low.

3.13 In Scotland, there are concentrations of advice centres providing face to face contacts centred around large urban areas such as Glasgow, Edinburgh, Dundee, and Aberdeen. However, there are also many small towns and rural areas where the numbers of advice centres are lower (for instance Dumfries and Galloway, the Borders, and the Highlands and Islands) although help and information for those seeking legal advice about discrimination may also be available through nationwide networks (telephony or digital) including the EHRC, Acas, Citizens Advice Scotland, the Scottish Association of Law Centres and the Legal Services Agency.

What is the recent trend of need/demand?

3.14 The English and Welsh Civil and Social Justice Surveys suggests, between 2001 and 2009, the incidences of discrimination problems has remained broadly constant (see Figure 8). However more generally there has been a significant increase in the number of respondents in the 2006-9 survey who indicated having experienced one or more justiciable problems compared with the 2004 survey. This could be attributed to the economic downturn that commenced towards the end of the survey reference period (although this does not seem to have increased the incidence of discrimination cases per se).

Figure 8: Incidence of justiciable problems in civil society (2006-2009 Civil and Social Justice Survey 2010)

Problem type	Incidence in 2006-2009		Incidence in 2004	
	% respondents	N	% respondents	N
Consumer	12.4%	1,306	10.0%	503
Neighbours	8.1%	851	6.6%	329
Money/debt	5.8%	611	5.4%	272
Employment	4.9%	520	5.0%	250
Personal injury	3.6%	377	4.8%	243
Housing (rented)	3.0%	317	2.6%	128
Welfare benefits	3.0%	312	1.9%	94
Divorce	2.0%	214	2.1%	105
Discrimination	2.0%	214	2.1%	106
Housing (owned)	1.9%	198	2.4%	122
Clinical negligence	1.7%	178	1.6%	79
Relationship breakdown	1.8%	191	1.6%	81
Children	1.4%	152	1.5%	74
Homelessness	1.3%	132	1.1%	57
Unfair police treatment	0.9%	93	0.8%	38
Domestic violence	0.8%	88	0.8%	42
Immigration	0.3%	32	0.3%	14
Mental health	0.3%	29	0.2%	10

- 3.15 However evidence on the ground, including from advice providers, indicates a significant increase in the proportion of discrimination cases being dealt with. Evidence from Citizens Advice suggests that the economic downturn has exacerbated discrimination problems in the past two years. They report that last year CABx helped with over 28,000 discrimination enquiries, which they report as an increase of 22% over the last two years. According to the Law Centres Federation, law centres have reported a 30% increase in clients assisted with employment and discrimination cases, since the economic downturn commenced.
- 3.16 In summary, research and views from organisations with direct front-line experience confirms that discrimination is a serious matter that has a significant impact on people’s lives. It is also clear that discrimination is one of the justiciable causes that can lead to multiple adverse effects.

Supply

Who are people experiencing discrimination most likely to go to for information, advice and support and what is the quality of the help they receive?

3.17 We failed to find any specific survey data on where people experiencing discrimination problems are most likely to go to for information, advice and support. However, looking across the board at all civil law justiciable causes, it is clear that between 2004 and 2006/09 there has not been a significant change in the advisors most often used (see Figure 9).

Figure 9: Advisers Used (Survey 2006-2009 of civil and social justice)

	% problems for which respondents tried to obtain information in 2004	N	% problems for which respondents tried to obtain information in 2006-2009	N
Local Council				
General Enquiries at your local council	4.5%	122	4.9%	297
Council Advice Service	2.1%	58	2.6%	157
Trading Standards	2.4%	65	2.7%	166
Another Council Department	7.8%	211	6.6%	401
Advice Agency				
Citizens Advice Bureau	8.2%	221	8.8%	536
Law Centre	0.6%	16	0.6%	34
Another Advice Agency	2.0%	53	2.3%	138
Trade Union/Professional body				
Trade Union/Professional Body	4.5%	123	3.6%	220
Lawyer				
Solicitor	16.4%	444	13.3%	811
Barrister	1.0%	26	0.7%	45
Other person or organisation				
The Police	9.0%	243	8.3%	506
Your employer	5.3%	142	4.0%	247
An insurance company	4.2%	113	3.2%	193
A doctor or other health worker	6.3%	172	5.5%	337
A Jobcentre	1.3%	35	1.1%	69
A social worker	1.7%	45	1.3%	77
An MP or local councillor	2.5%	68	2.0%	125

3.18 Interestingly, the quality of information, advice and support received indicates (again with respect to all civil law justiciable causes i.e. not just discrimination cases) levels of satisfaction are highest for advice agencies. In this regard advice agencies score higher than local councils, trade union professional bodies, lawyers or people/organisations such as the police, employer, Jobcentres or social workers. This is shown in Figure 10 below. Satisfaction was measured in response to the question: 'Would you recommend other people in your situation to consult this type of advisor'. Within the advice agencies category, the highest level of satisfaction was reported with law centres, followed by 'another advice agency' and then CABx.

Figure 10: Would you recommend other people in this situation to consult this type of adviser (Survey 2006-2009 Civil and Social Justice)

	Yes-definitely		Yes-probably		No-probably not		No-definitely not	
	%	N	%	N	%	N	%	N
Local Council								
General Enquiries	51.0%	50	25.5%	25	12.2%	12	11.2%	11
Advice Service	56.4%	31	25.5%	14	9.1%	5	9.1%	5
Trading Standards	90.9%	20	4.5%	1	0.0%	0	4.5%	1
Another Department	58.5%	69	20.3%	24	9.3%	11	11.9%	14
Advice Agency								
Citizens Advice Bureau	76.9%	140	14.8%	27	4.9%	9	3.3%	6
Law Centre	90.0%	9	10.0%	1	0.0%	0	0.0%	0
Another Advice Agency	85.0%	34	5.0%	2	2.5%	1	7.5%	3
Trade Union/Professional body								
Trade Union	73.1%	79	19.4%	21	4.6%	5	2.8%	3
Lawyer								
Solicitor	79.3%	291	14.2%	52	4.6%	17	1.9%	7
Barrister	85.7%	12	14.3%	2	0.0%	0	0.0%	0
Other person or organisation								
The Police	69.7%	106	18.4%	28	5.9%	9	5.9%	9
Your employer	59.5%	47	19.0%	15	7.6%	6	13.9%	11
An insurance company	72.6%	45	16.1%	10	6.5%	4	4.8%	3
Health worker	72.2%	117	19.8%	32	4.3%	7	3.7%	6
A Jobcentre	27.8%	5	22.2%	4	5.6%	1	44.4%	8
Social worker	31.8%	7	31.8%	7	9.1%	2	27.3%	6
MP or local councillor	68.4%	26	18.4%	7	7.9%	3	5.3%	2

3.19 Responding to Discrimination: The geography and geometry of advice provision in England, Scotland and Wales (EHRC, 2009), maps the distribution of community legal advice centres (CLACs) Law Centres and CABx in England and Wales (see Figure 11). The largest and most widespread advice service in Great Britain are CABx. Their distribution across the country is similar to that of the population as a whole. They are most frequently found in areas of substantial population such as the London conurbation, Midlands, Lancashire and the Manchester area, North West and South Wales, with smaller concentrations along the south coast of England and in Bristol. Elsewhere there are fewer CABx, with sparse coverage in predominantly rural areas of Britain such as Cumbria, North Lancashire, Yorkshire, Lincolnshire, significant parts of mid and west Wales and the South east of England.

Figure 11: Distribution of CABx, CLACs, EHRC funded and Law Centres in England and Wales (Responding to Discrimination 2009)

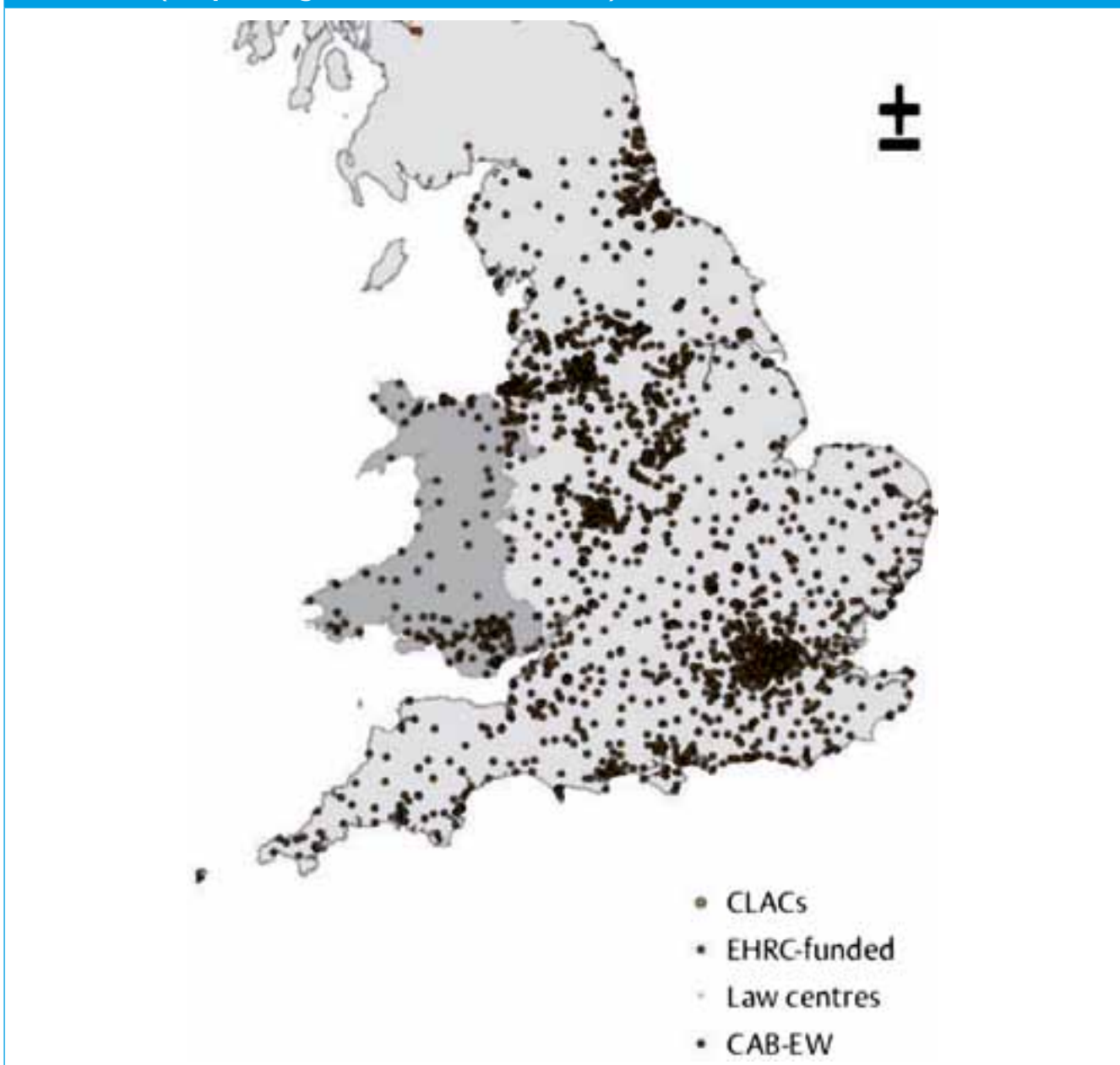
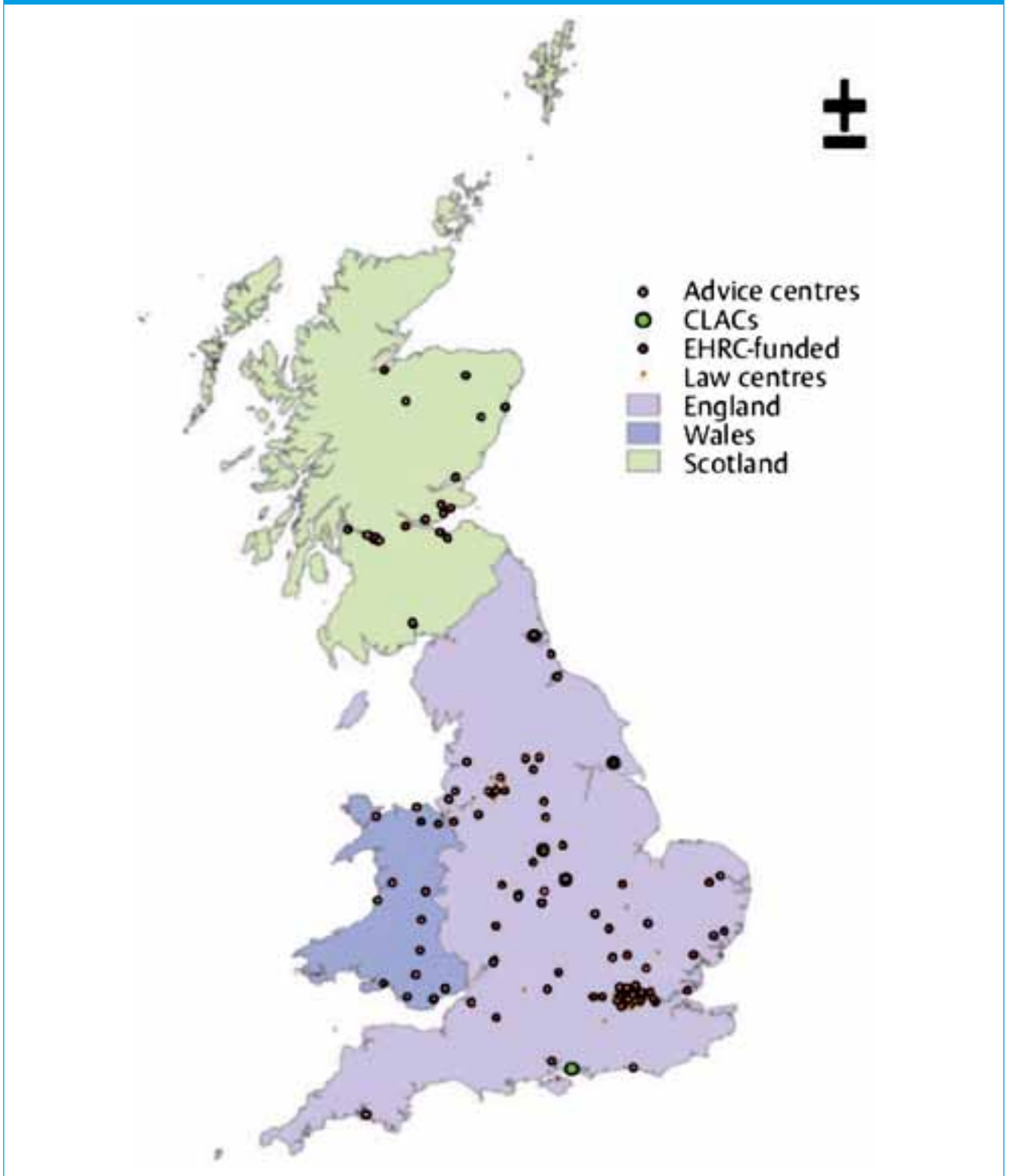


Figure 12: Distribution of advice centres and funded centres providing discrimination advice services (Responding to Discrimination, 2009)



Which voluntary and community sector and public sector organisations provide information, advice and support on discrimination and human rights matters?

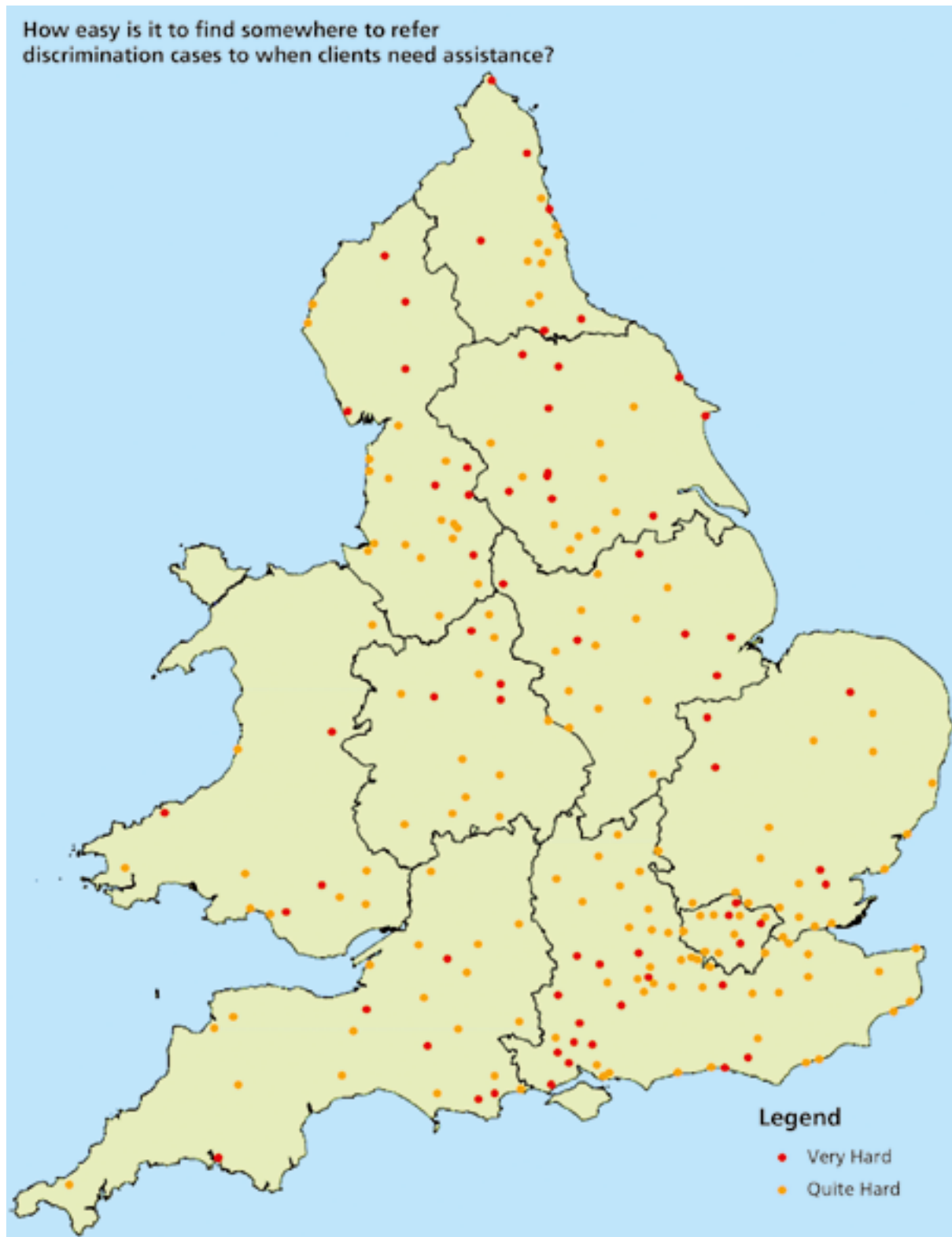
3.20 The following organisations have been identified as providing information, generalist advice on individual cases and legal advice, specialist casework and legal representation on discrimination and human rights issues:

- **EHRC:** through their helpline/website. The helpline focuses on the provision of information and generalist advice to individuals. They also offer legal assistance for ‘strategic cases’;
- **Acas:** also handles calls for *Equality Direct* (for businesses). Acas provides information, but in the majority of instances delivers generalist advice;
- **Citizens Advice/CABx:** has a digital service, combined with a recently launched national helpline (for England and Wales), and a local face to face service through their bureaux. Through their digital service they focus on the provision of information, while through their telephony/face to face provision they focus on the provision of generalist advice. In some instances, often where there is a dearth of law centres or other providers of specialist legal advice and representation, they will provide specialist legal advice/casework/representation support. In Scotland, services are provided by Citizens Advice Scotland;
- **Community Legal Advice:** (funded through the Legal Services Commission) offers both a helpline and an on-line presence (which offers information to help clients resolve their problem and a range of services including an on-line legal aid eligibility checker and a call-me-back facility);
- **Advice UK (independent advice centres):** They also represent the smaller VCS organisations that provide information, advice and support (e.g. race equality councils, some disability specialist groups such as disability information and advice lines services (DIAL) UK serving the disability advice network).
- **Age UK:** acts as a one stop shop for a wide range of issues affecting older people. They offer a generic service telephone number and a range of information on their website;
- **Advice Now:** is a web-based service only for people concerned that they have experienced discrimination, operated through the Advice Services Alliance;
- **Free Representation Unit:** They only take cases referred to them by their referral partners, for clients who would not otherwise receive legal support. They are a charity which receives funding purely from donors;
- **Law centres (England):** essentially operate a face to face service. They do not operate a national helpline. Several Law Centres have contracts with the Legal Services Commission to provide specialist face to face (but not telephone) advice;
- **Scottish Association of Law Centres:**
- **Community Legal Advice Centres:** located in Derby, Gateshead, Hull, Leicester, Portsmouth, East Riding Bridlington, Goole and Beverley, Barking and Dagenham, West Sussex, Lancing, Shoreham, Bognor Regis, Littlehampton, Chichester, Crawley, Horsham, Burgess Hill, East Grinstead, Haywards Heath, Worthing;
- **Trade Unions:** These are cited as being particularly important in Wales where law centres do not operate;

- **Bar Pro Bono Unit:** Acts as a clearing house, matching barristers with those who cannot afford to pay for the assistance sought, and are not eligible for legal aid; they are contactable by telephone, email and letter, but not face to face. They will consider cases in any law areas. They are funded by a mixture of individuals, chambers, organisations and companies; they receive no government funding.
- **Liberty (covers England and Wales, but not Scotland)** operates a small helpline that will provide specialist legal advice/casework and representation support. Limited amount of specialist casework/representation support;
- **The British Institute of Human Rights:** does not provide individual assistance.

3.21 We were unable to identify any comprehensive independent data on how easy or difficult it is for people to access information, advice and support on discrimination matters across the whole of Great Britain. The closest proxy we could identify was information provided by Citizens Advice, based on the national organisation asking local bureaux how hard it was for them to find someone to refer callers to when they could no longer deal with an enquiry. The findings of the Citizens Advice survey are set out in Figure 13.

Figure 13: How easy/hard is it to find someone to refer an individual onto once you can no longer deal with an enquiry



Funding for the providers of information, advice and support on discrimination cases

3.22 The following organisations have been identified as providing funding for information, generalist advice on individual cases and specialist legal advice/casework/ legal representation on discrimination and human rights issues:

- Legal Services Commission/Ministry of Justice (MOJ), predominantly through legal aid contracts. The Legal Services Commission (LSC) provides funding for legal advice and representation in matters such as employment, education and actions against the police as well as many other categories of law which may involve discrimination. The total amount spent on the civil legal aid for 2009-10 was £951 million. A vast amount of this will include matters that do not involve any discrimination, for example, private family law.
- A global figure for LSC funding for the provision of specialist legal advice via the Community Legal Advice Line is £21.5M³ relative to £770M for face to face provision. Government has consulted on proposals on the reform of Legal Aid. The consultation included proposals to provide a greater proportion of specialist legal advice via telephone services rather than face to face. It is estimated that that this channel is, on average, more than 40% cheaper than the use of face to face channels. The vast majority of LSC funding for the not-for-profit sector is through contractual legal aid payments. For 2008/09 this was in the region of £76 million (of which £24 million was distributed to CABx and £7.5 million to Law Centres). Not-for-profit organisations compete for contracts on the same basis as private practice law firms. A nominal amount of spend from MOJ/LSC has been made available for capacity building where Community Legal Advice Centres or Networks (CLAC/Ns) are being established. CLAC/Ns combine local authority and legal aid funding to purchase legal advice services for specific areas. There are currently 10 CLAC/Ns. We are also aware that some organisations, such as Citizens Advice, receive funding from LSC to provide specialist expertise to CABx caseworkers and advisors if they have a particularly challenging discrimination case.
- The Department for Business, Innovation and Skills (BIS) funds the architectural infrastructure of Citizen's Advice, which is the national membership organisation of the citizens advice bureaux. For example, BIS funds Citizens Advice ICT platform, including AdvisorNet, their national telephone service, the training of their volunteers and quality, audit and process support and systems for the bureaux. Grant funding from BIS to Citizens Advice was circa £40m in 2009/10.
- EHRC legal grants. The EHRC provide funding for the sector on discrimination and human rights law (as for example, HM Treasury for debt and financial inclusion, the Department for Communities and Local Government with respect to homelessness, HM Revenue and Customs in relation to Tax Credits and the Department for Work and Pensions in relation to benefits). Funding by Government departments is either through grants or through a contract, and is to provide advice on issues related to their particular sector, ranging from tax credits through to welfare benefits. For instance HMT provides between £16 million and £17 million funding for 330 debt advisors to operate through the CABx.
- Big Lottery (although Big Lottery funding for the law centres will now be ceasing).
- Local Authorities (majority of the funding for local CABx (40%).

³ This figure excludes expenditure of £4.5million on the first tier operator service

3.23 The patchwork nature of funding for advice and support organisations is shown in the different funding sources for Citizens Advice. For 2009/10 Citizens Advice received income of £65,215,000, of which £50,650,000 was from government grants, made up as follows:

Organisation	Grant/Commission	Nature of it	Amount £'000
BIS	Grant	Grant-in-aid	£21,470
BIS	Commission	Financial inclusion fund	£18,579
BIS	Commission	Leadership programme	£61
BIS	Commission	Conference sponsorship	£1
DCLG	Grant	The National Homelessness Advice Service	£864
DWP	Commission	Information assurance	£28
Prison Service	Commission	Reducing offending through advice	£129
HMRC	Commission	Tax credits training	£250
HMT	To be ascertained	Provision of additional hours advice	£7,500
Welsh Assembly	Both	Various	£1,725
European Commission	Commission	European Consumer Centre	£43

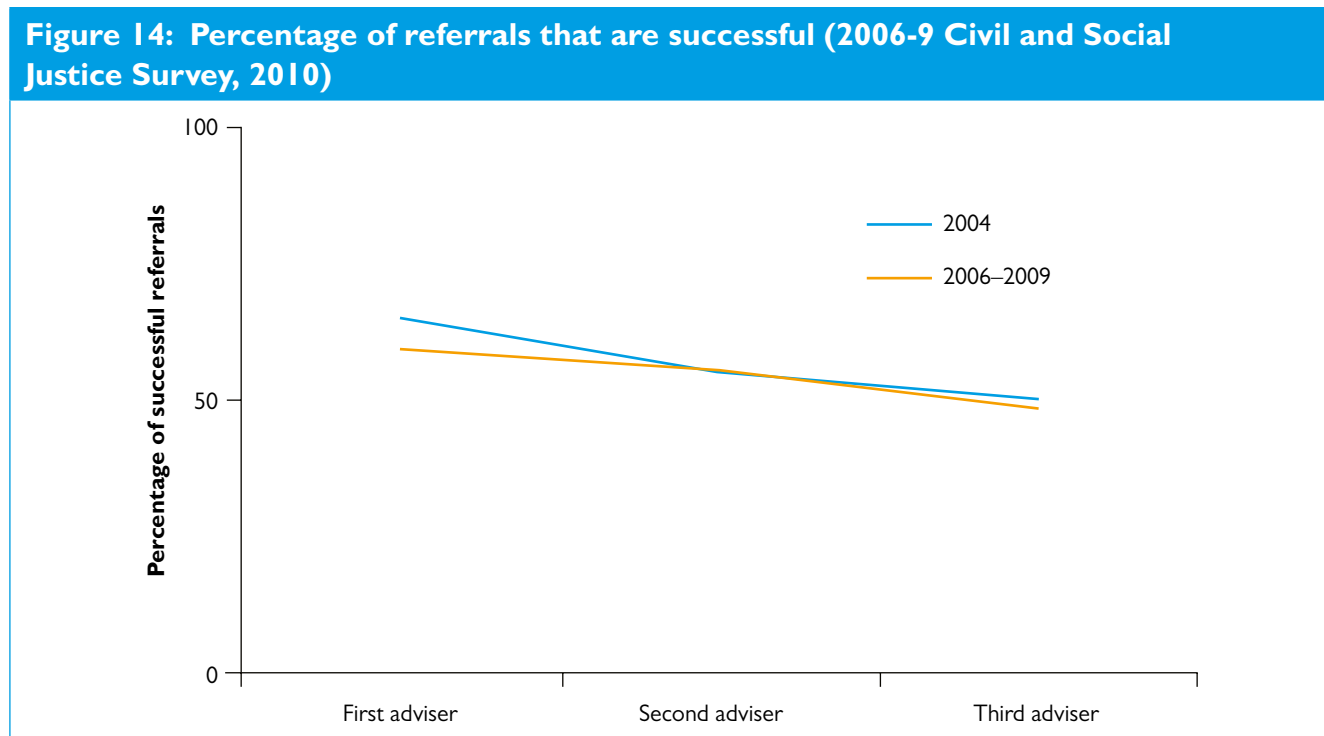
3.24 There are important geographical distinctions in the spread of organisations that provide information, advice and support (through which ever contact model). For example in Wales there are no law centres. There is also a lack of information, advice and support available in rural areas, which disproportionately affects Scotland and Wales. For example, *Advice and Support for Employment Discrimination cases in Wales* (2003), identified areas in Wales, where the quality of generalist advice was variable and the availability of specialist legal advice extremely hard to find. The report identified weak co-ordination between major agencies working in this field.

Demand and Supply: strategic connections

3.25 Those operating in the information, advice and support sector, particularly those working in the sector of equality and human rights legislation believe they are operating in a disjointed market place. There is increasing recognition amongst advice providers of the importance of working in a **system** and in partnership with each other, rather than duplicating activities. The current fiscal climate will have further focused minds on the cost-effectiveness of a systems approach.

3.26 This is also important because the availability of supply does have an important effect on demand. The Causes of Action report (2006) indicates that inaction was far more common amongst respondents who were unaware of advisors in their locality, compared to respondents who are were aware of local advisors. 14% of the former took no action to resolve problems compared with around 8% of others. The research identified that around 43% of respondents who lived within two miles of a solicitor's firm, 46% of those that lived within two miles of a CAB, and 83% who lived within 2 miles of a law centre, were unaware that they did so. The evidence also suggests that people who perceive themselves to be experiencing discrimination are less likely to find a form of agreement or seek redress through the courts and tribunals than in relation to welfare benefits, money/debt problems, employment or housing issues.

3.27 The Report of the 2006-09 English and Welsh Civil and Social Justice Survey also highlights, unsurprisingly, the phenomenon of referral fatigue, whereby people become increasingly unlikely to obtain advice on referral as the number of advisors they use increases, as shown in Figure 14.



3.28 Pleasance (2009) emphasises the importance of public education to create awareness amongst people of appropriate sources of advice and assistance. In particular he emphasises the importance of individuals outside of the recognised advice sector from whom people may initially seek advice, such as health professionals and social workers being able to direct people effectively to the appropriate advisors.

3.29 The Working Together for Advice project (2008) based on a survey of Advice UK, CABx and Law Centre Federation members⁴, has identified the following trends:

- (a) There are few instances of referral networks. Some 69% of the Advice UK sample, 85% of the CABx sample and 60% of the Law Centre sample, did not have partnership arrangements in place for discrimination cases. To address this gap, the Working Together for Advice discrimination workstream (in which Advice UK, LCF and Citizens Advice were partners) supported agencies to build closer links through a series of nine regional capacity building events and piloting six referral networks. Clearly effective partnership and referral arrangements appear to be a major gap in relation to discrimination information, advice and support. Currently the EHRC’s contribution to developing a more systems-based approach is through the provision of grants funding, which is credited for creating partnerships through the mechanism of organisations seeking match funding. However the role of regional EHRC officers has been challenged by some partners in terms of its constructive contribution to

⁴ The survey generated 29 responses from Advice UK members plus a further 42 responses from Advice UK members seeking their views on discrimination advice, 67 responses from the CAB and 20 responses from the LCF members.

a systems and partnership based approach to providing information, advice and support on discrimination and human rights issues.

- (b) Advising on the Human Rights Act was indicated as a gap, with 15 law centres stating that they would welcome training. Nearly 50% of the CABx sample stated they were not using the Act. The report indicates the need for particular support for advice providers on human rights issues.
- (c) Again there is no consistency or specialism in the provision of discrimination and human rights awareness-raising activities. Law centres, CABx and independent advice centres all undertake their own awareness-raising activities. There is a consistent trend that online materials, information strands and media work were the least used methods, even though they might be the most effective mediums for sharing expertise and good practice. Again this is symptomatic of a lack of a systems-based approach to the provision of equality information, advice and support.

Possible systems approach

3.30 CABx, because of their high brand awareness (97% among the public in general), are the ‘instinctive’ first port of call for many enquiries in relation to people’s rights, benefits, entitlements and support. The CABx model could thus focus on the provision of information and generalist advice. The proportion of enquiries received for 2009/10 indicates that the **majority** of approaches in relation to discrimination and human rights are in relation to advice, rather than generalist or specialist casework (with specialist casework defined as both constituting and including legal advice).

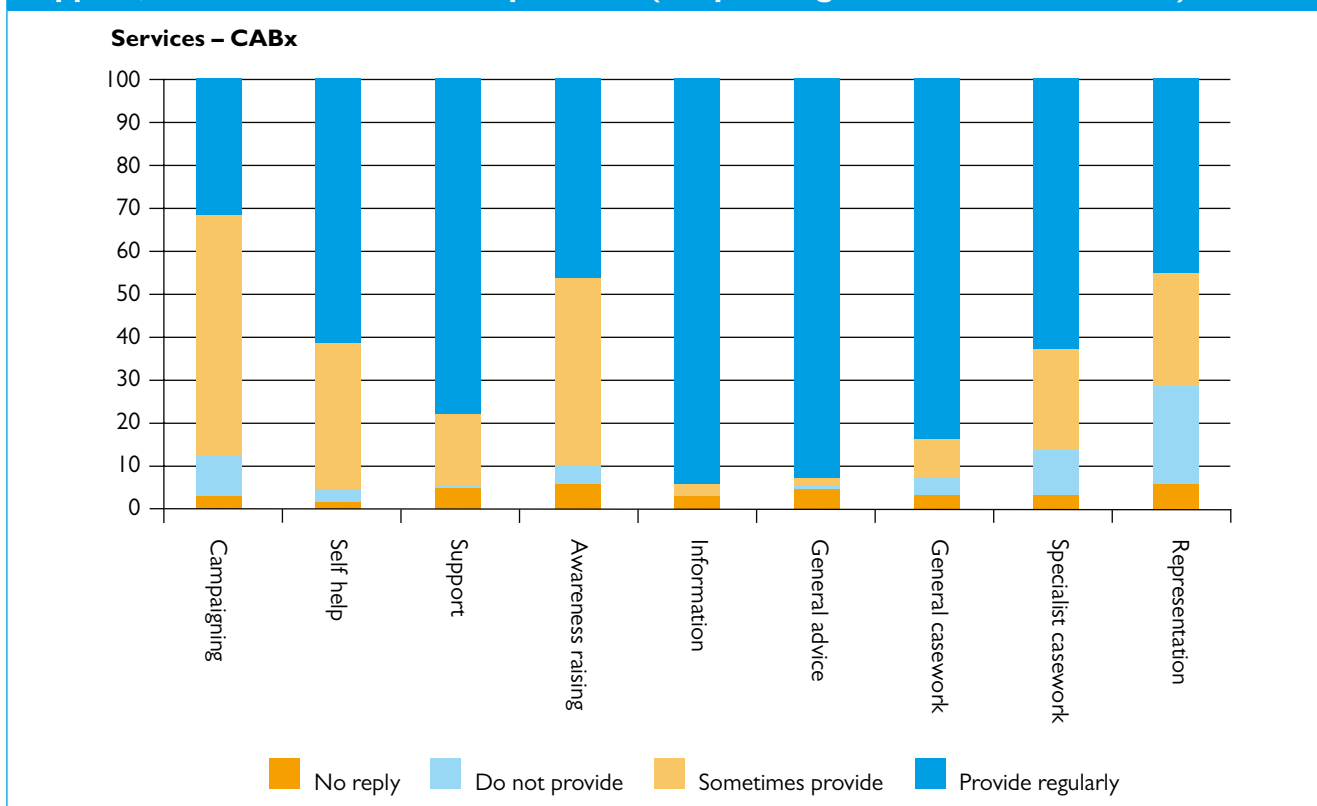
Proportion of enquiries received by the CAB on discrimination and human rights related enquiries

Figure 15: Proportion of enquiries received by CAB in 2009/10 on discrimination issues (Citizens Advice, 2010)

Level of advice provided	% of enquiries in 2009/10
Gateway	14%
Information	16%
Advice	58%
General casework	4%
Specialist casework	8%

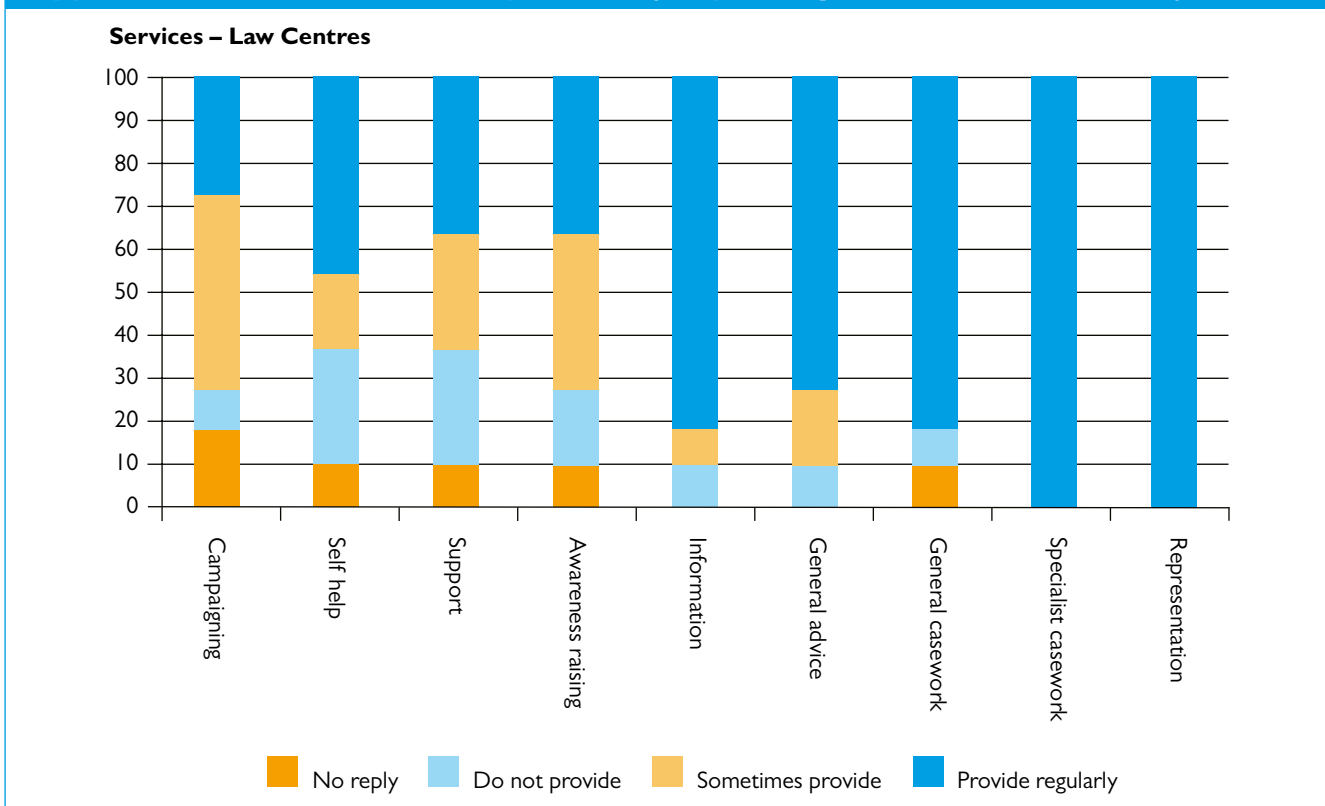
3.31 This is also supported by the Responding to Discrimination Report, which identified that of the CABx it surveyed, almost all offered the services of information, general advice and general casework.

Figure 16: Sample of CABs self assessment of different information, advice and support, discrimination services provided (Responding to discrimination 2009)



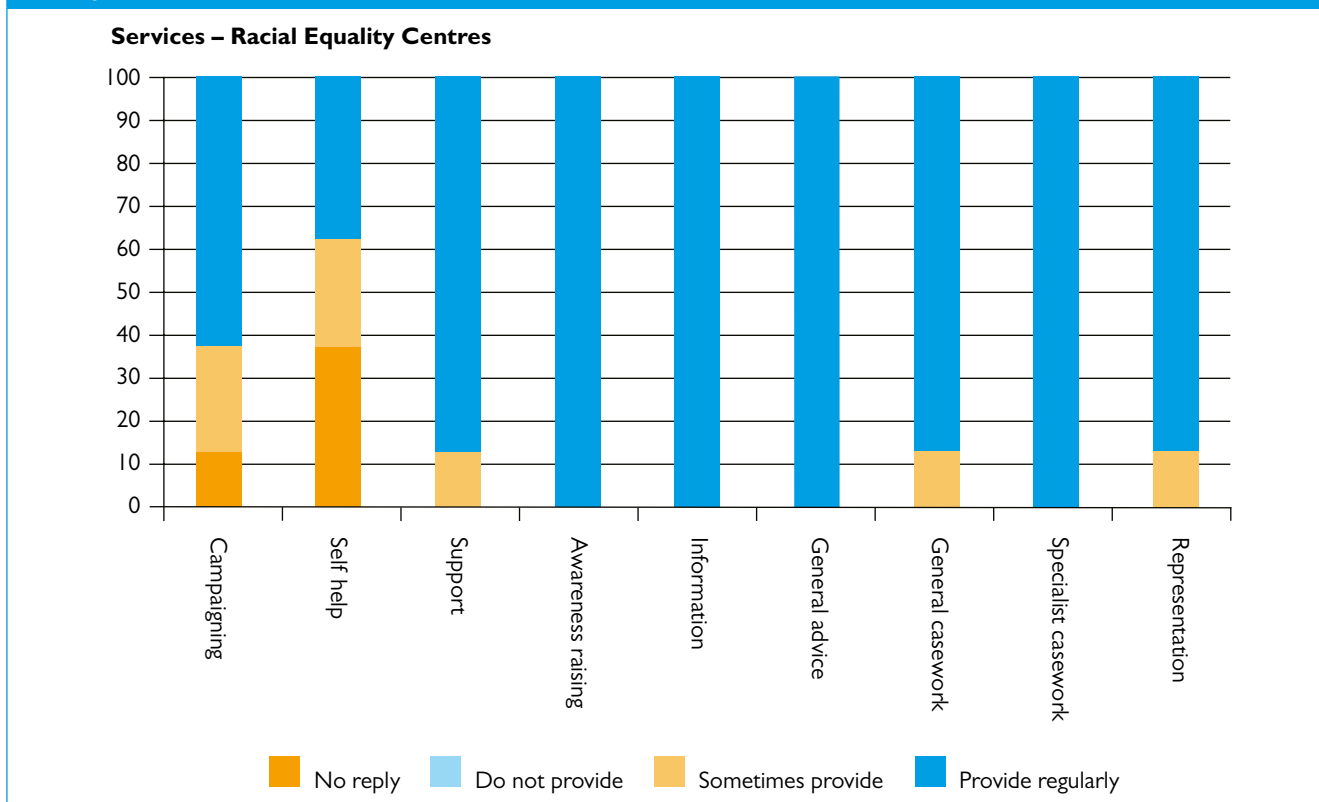
3.32 Law Centres and the EHRC provide more specialist support i.e. legal advice and representation. Most law centres will cover all protected characteristics. In the main law centres provide legal advice/specialist casework through to the point of representation where necessary.

Figure 17: Sample of Law Centres self assessment of different information, advice and support, discrimination services provided (Responding to discrimination 2009)



- 3.33 Law Centres: Strategically, Law Centres are focused on the provision of specialist casework (legal advice) and representation where they have a geographical coverage to be able to deliver this service, or indeed help to skill up other information, advice and support providers who do have a geographical presence in a certain area. For example, there are no law centres in Northumbria, but there are nine CABx. Therefore, the nearest Law Centre (Newcastle) is training Northumbria CAB officers to identify discrimination issues and to undertake general casework (with any cases requiring specialist casework being directed to Newcastle Law Centre).
- 3.34 Independent Advice Agencies: (e.g. members of Advice UK (largely VCS) currently provide an eclectic range of legal information, advice and support for the particular strands they represent. Their functions range from ensuring that their represented groups have access to legal information, advice and support, through to the provision of specialised information and generalist advice, in relation to their particular strands (for example Women’s Aid or Women’s Refuge, in relation to domestic violence, or race equality councils, in relation to specific race-related issues). In some instances, such as the race equality councils and DIAL, they will also provide specialist casework (i.e. legal advice) and representation services.

Figure 18: Sample of Race Equality Councils self assessment of different information, advice and support, discrimination services provided (Responding to discrimination 2009)



- 3.35 By ensuring access to equality information, advice and support for disadvantaged people, these groups could play an important role in a more systematic approach. Crucially, they are best placed to engage in outreach activities to educate and raise awareness amongst disadvantaged and vulnerable groups of their rights under discrimination and human rights law. For some of the most disadvantaged, the first point of contact will not be within a ‘generic’ organisation even if it is locally based, but will be through, or at least encouraged or facilitated by, the VCS groups to which the client has an affinity, for example DIAL, or a local charity group for older people.
- 3.36 The ‘specialisms’ approach by no means suggests that organisations should not seek to work closely and in partnership with each other, whether this involves sharing physical infrastructure, creating a physical one-stop shop or through creative methods of ensuring quick and fit for purpose referrals. An example of this approach is the funding of Derbyshire Access2Law, a partnership which brought together Derby Citizens Advice Bureau and Law Centre, Derbyshire Housing Aid and two local solicitors firms in one physical centre. The intention was to enable clients to ‘seamlessly’ access a full range of social welfare law from information and generalist advice to specialist legal advice for complex cases.

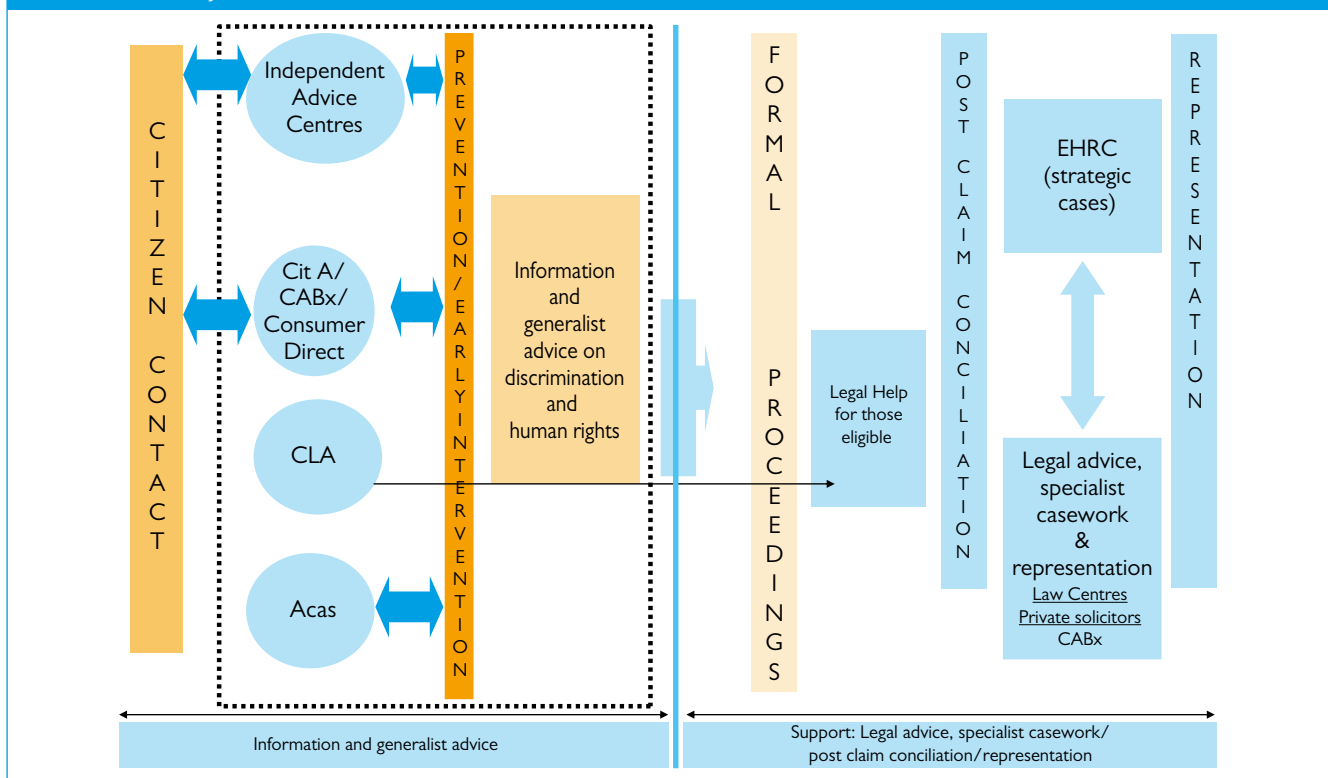
Role of government and the EHRC

3.37 Arguably the system outlined above would benefit from:

- **an organisation** capable of mapping need/demand for information, advice and support on discrimination issues and assessing ‘supply’ provision against this need (government role); and
- **an organisation** able to build strategic partnership-based networks with umbrella bodies to ensure compliance and spread good practice through capacity/capability building within the public, private and voluntary and community sectors with respect to equality and human rights legislation (an EHRC role).

3.38 We are interested in exploring the levers (financial and otherwise), that could be used to support a systems-based approach to the provision of information, advice and support on discrimination and human rights issues.

Figure 19: Future business model for those providing information, advice and support on amongst other civil law causes: discrimination and human rights problems (The Review 2010)



Chapter 4: History of the EHRC helpline and current organisational structure

Recent history

- 4.1 The EHRC's helpline in the main caters for people who believe they have experienced discrimination or human rights abuses. A very small proportion of calls are from employers or service providers on discrimination-related matters. The Hampton Review (Better Regulation Executive, 2010) noted that while in theory the telephone service can take calls and provide help to individual businesses and other organisations, in practice its primary constituency is members of the public. Stakeholders consulted as part of the Hampton Review (which focused only on the private sector) recognised that a helpline which also provided 'soft' intelligence to inform enforcement activity was unlikely to gain widespread support from the business community. This community was much more likely to approach neutral and non-regulatory organisations such as the Advisory, Conciliation and Arbitration Service (Acas) or Business Link. The helpline is a GB-wide service, and there are helpline advisors based in Scotland and Wales who understand the devolved issues in relation to discrimination cases that occur within the context of devolved functions, such as health or education, and in the instance of Wales, are able to provide advice in the Welsh language.
- 4.2 The outward-facing public helpline is complemented by a specialist service offered by the Casework and Litigation team for other advisors, caseworkers or lawyers, on discrimination and human rights matters, providing further clarification in response to complex enquiries. In July 2010, using the actual number of cases handled from January to May, the EHRC forecast that for the whole of 2010 45% of cases received by the helpline would be in relation to disability; with disability within the employment context being the most common theme. An analysis of cases dealt with broken-down by protected characteristic and human rights is set out in Figure 20. It is unsurprising that case volumes on the newer strands of religion or belief, age, sexual orientation and transgender are lower than for the longer-established protected characteristics. However, the disparity between the case volume on race and gender relative to that of disability is more surprising, and the size of the differential cannot be accounted for simply through assuming that disabled people are more likely to want to access information over the telephone rather than face to face or to use digital communication. We believe that the current helpline service is leveraging the previous 'pull' of the helpline provision provided by the Disability Rights Commission.

Figure 20: Breakdown of cases received by the EHRC helpline by theme and strand for 2009 and Jan-May 2010 (actual data) and June-Dec 2010 (forecast) (EHRC, 2010)

Total Cases¹					
Themes	2009 (actual data)		2010 (5 months actual data)		12-month projected 2010
Employment	18,588	44%	6,756	44%	16,214
Goods, facilities and services	15,573	37%	4,285	28%	10,284
General	4,424	10%	2,663	17%	6,391
Education	2,722	6%	844	5%	2,026
Human rights	1,273	3%	863	6%	2,071
	42,580		15,411		36,986
Strands					
Disability	23,738	56%	7,000	45%	16,800
General	6,910	16%	3,778	25%	9,067
Race	5,362	13%	1,828	12%	4,387
Gender	3,137	7%	1,083	7%	2,599
Human rights	1,774	4%	996	6%	2,390
Age	829	2%	362	2%	869
Religion and belief	518	1%	201	1%	482
Sexual orientation	242	0.6%	109	1%	262
Transgender	70	0.2%	54	0.4%	130
Total	42,580		15,411		36,986

¹ A case is counted based on an individual contacting the EHRC on a specific issue; the individual may contact the EHRC a number of times on one issue (for example, they may follow up their initial call with a letter), but this is recorded as one 'case handled'.

4.3 The EHRC conducted a review of the helpline in 2009, which concluded that the helpline was underperforming because of the following structural flaws:

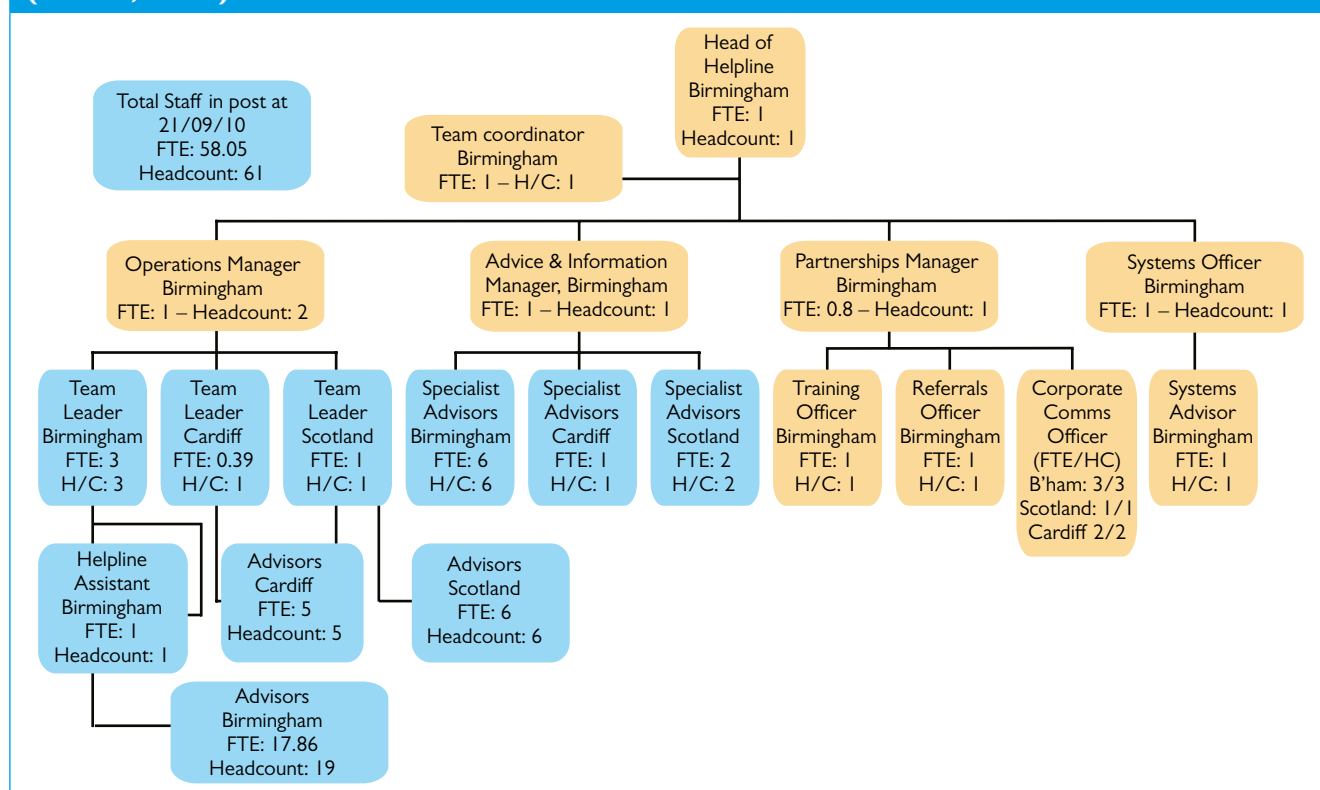
- The helpline service was being operated by different groups of people (employed by two different organisations: EHRC and SITEL), across three different sites (Birmingham, Manchester and Stratford-upon-Avon);
- The helpline staff specialised in different strands and were not able to advise across all strands. For example:
 - disability advice was being delivered in Stratford-upon-Avon by SITEL staff (a private sector employer);
 - race and sex advice was being delivered in Birmingham by EHRC staff; and
 - new protected characteristics: age, LGB and T (lesbian, gay, bisexual and transgender), religion or belief advice was being delivered in Manchester by EHRC staff.

- 4.4 The EHRC therefore decided that the helpline should offer an integrated service, i.e. be able to cover all protected characteristics, be in one physical location in England (with a physical presence in Scotland and Wales) and require fewer staff in total. The EHRC believed that this would result in savings of £1.28 million per year between 2008/09 and 2010/11. This was based on the budget allocation for the helpline of £3.4 million for 2008/09 as the starting figure, reducing to £2.1 million by 2010/11. The EHRC subsequently closed the office in Manchester, with some staff from both Manchester and Stratford-upon-Avon (SITEL staff) moving to the Birmingham office. The new helpline was operational from the end of September 2008.
- 4.5 The helpline sits within the Communications Directorate, which is also responsible for media handling and enquiries, internal communications and some stakeholder engagement, and which has a parliamentary team for correspondence. The regional offices also sit within the Communications Directorate, as do the teams delivering advice and guidance and good relations programmes.
- 4.6 We note that there has been no promotion of the helpline since September 2009. A number of EHRC staff involved in the helpline told us that they consider that this accounts for the declining call volume.

Helpline structure in England, Scotland and Wales

- 4.7 The organisational structure of the helpline in England, Scotland and Wales is set out in Figure 21 below. The helpline provides a GB-wide service, with staff located in England (Birmingham), Scotland (Edinburgh) and Wales (Cardiff). Some staff (for example the partnerships manager) carry out a GB-based role (these GB-wide roles are denoted in yellow in Figure 21).

Figure 21: Organisational structure for the EHRC helpline for Great Britain (EHRC, 2010)



Breakdown of the cost of the helpline

4.8 The overall helpline headcount has reduced from a peak of around 104 people to 58 full-time equivalent employees (FTE), with 61 people operating the EHRC helpline only (i.e. not including the digital corporate communications team people/costs).

Figure 22: Total costs of operating the EHRC helpline (EHRC, 2010)

	2008/09 £	2009/10 £	2010 (forecast) £
Salary costs	1,609,000	2,080,000	1,954,000
Running costs	1,389,000	243,000	150,000
Estate costs	(included in running costs)	330,000	320,000
Miscellaneous/Other	–	–	76,000
Total costs	2,998,000	2,653,000	2,500,000

These figures do not include costs for IT equipment, software or the cost of IT support/servicing.

Miscellaneous/Other – the 2010 figure is a GEO estimate of additional costs not included within the three categories above.

Sample of the nature of calls received by the helpline

4.9 This small snap-shot of incoming calls is far from being a scientific indicator of calls received. However, given the lack of any form of customer satisfaction data, some inferences have been drawn from the sample supported by anecdotal evidence from the staff in question. **This information has been redacted because it contains sensitive personal data.**

4.10 We drew the following general inferences from the calls directly heard:

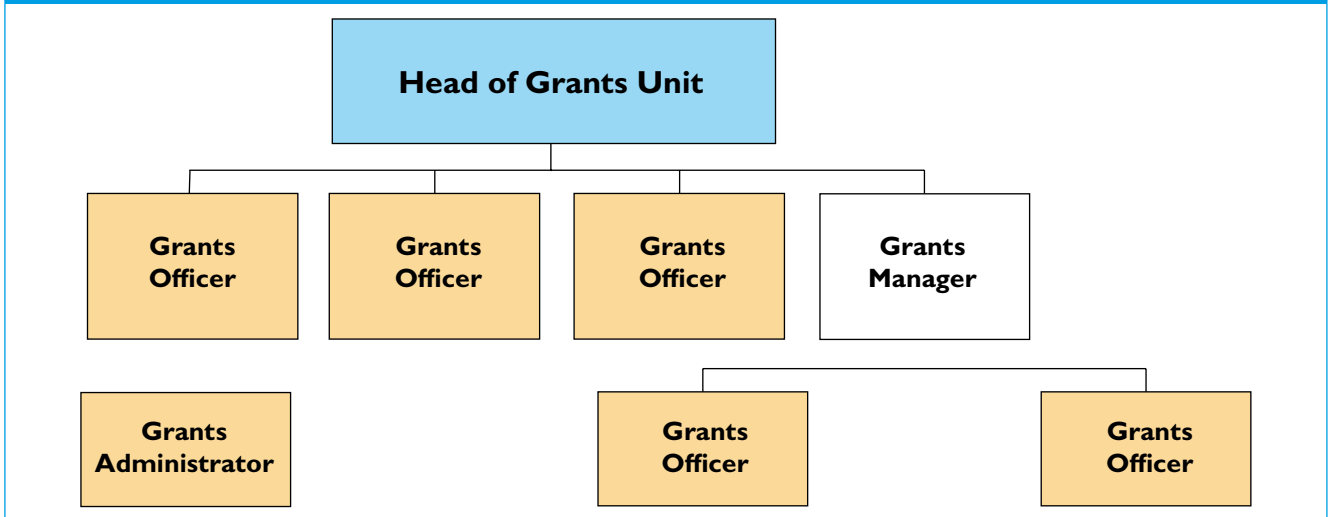
- many of the calls received are outside the remit of the EHRC, particularly those which the caller saw as involving a human rights violation;
- the call volume is low and advisors appear under-used, which perhaps explains why they offer a reasonably long call time, even if the caller's request does not necessarily merit this;
- while the intention is to offer callers an action plan of steps to take, in reality the service engenders a sense of dependency of the caller on the advisor. For example, once a step has been taken, the emphasis is on calling the advisor back to discuss what to do next; and
- emailing template letters is undoubtedly helpful to callers, but we note that some contact centre providers (e.g. Consumer Direct) make template letters available on their websites.

Chapter 5: History of the grant-making function

- 5.1 There is no express legal requirement (domestic, legal or international) for the EHRC to provide grants, although it has a grant-making power. Section 17 of the Equality Act 2006 allows the EHRC to give financial assistance to organisations in pursuance of duties relating to equality and diversity, good relations and human rights. However, this is permissive and there is no duty on the EHRC to issue grants for these purposes. Neither the public sector equality duty nor the duty to promote good relations requires/or will require the EHRC to issue grants. Both of these duties could be satisfied by other means (for example when it carries out activities which impact on its own organisation and the wider public sector). This function could also be delivered through mainstreaming the requirements of the public sector equality duty into its regulatory framework. For example, it could investigate how the public bodies whose compliance with the equality duty it regulates are promoting good relations between people who share a protected characteristic and persons who do not share it.
- 5.2 The EHRC has run a grants programme since 2008, and in 2009/10 endeavoured to align it more closely with its own strategic objectives, through a three-year funding programme. Funding is distributed through a competitive grants mechanism; 61 organisations were awarded funding under the 'strategic' part of the programme, and 90 organisations received funding as 'legal' grants. The allocation of payments in 2009/10 (on an accruals, rather than a payments basis) were as follows:
- legal grants: £3,690,000;
 - strategic grants: £980,000; and
 - capacity development programme: £330,000.
- 5.3 The total spend on legal and strategic grants was £5m in 2009/10, and is scheduled to be a further £7.5m in 2010/11. Both legal and strategic grants have been awarded on the basis that they may be paid for up to three years (up to and including 2011/12).

Management of grants (legal and strategic) within the EHRC

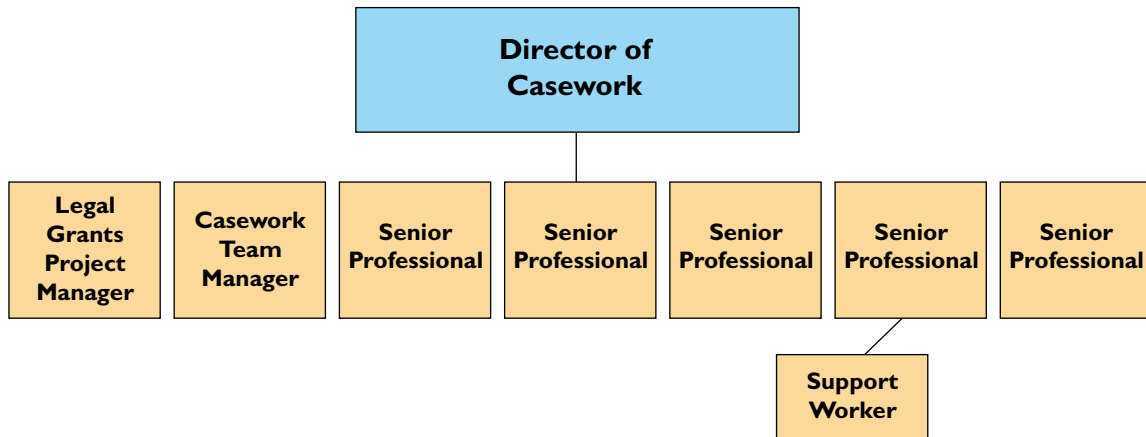
Figure 23: Organisational chart for the team responsible for administering the strategic grants programme (EHRC, 2010)



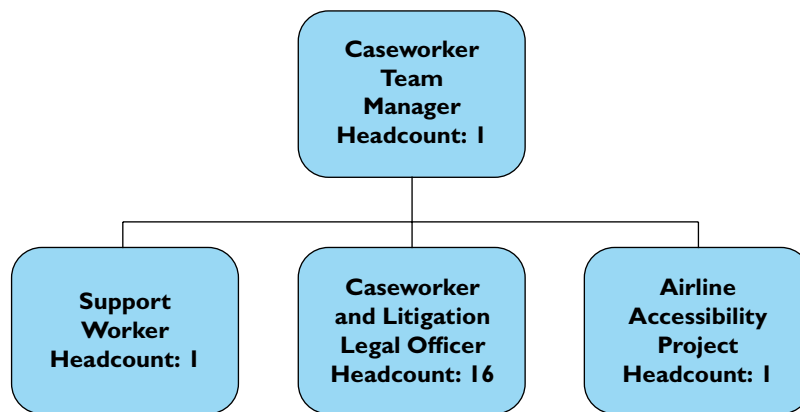
- 5.4 Strategic grants are administered by a team of eight people. Of these eight people, five are Grants officers.

Figure 24: Organisational chart for the team responsible for administering the legal grants programme (EHRC, 2010)

Legal casework team organogram:



Casework and Litigation team organogram:



Legal grants organisational management

- 5.5 The full management of the legal grants programme passed to the Casework and Litigation team in April 2010, having previously been undertaken by the team administering the strategic grants.
- 5.6 The Casework and Litigation team have taken on full responsibility for all the financial probity of the legal grants issued. The team consists of 15 people, split into 3 teams of 5 caseworkers. Each advisor is responsible for managing the relationship with around 15 of the grant recipients. Managing the relationship with the grantees has always fallen to the caseworkers (i.e. pre-April 2010), but now they are also responsible for financial management/monitoring/checking of spend (in the light of National Audit Office concerns). The caseworkers have been asked to undertake this function in addition to their ‘day job’ of:
- analysing referrals for potentially ‘strategic’ cases;
 - supporting senior lawyers in taking forward strategic cases; and
 - relationship management with recipients of legal grants funding (concern was expressed that this has suffered as a consequence of also undertaking the financial scrutiny role).

- 5.7 There is recognition within the EHRC that the legal grants programmes has been very poorly administered. This is attributable to confusion in the methodology used when assessing bids and agreeing the terms on which funding is released. In essence, we found that there is a view within the EHRC that the output measures are aspirational, rather than contractual, and as a consequence they agreed output criteria that were too specific. The indications are that some of the legal grants recipients of tier 1 support are now in a position where they are unable to meet their costs, i.e. they cannot pay the salary costs of the individual they recruited to provide specialist discrimination support (i.e. legal advice).
- 5.8 All administration of strategic and legal grants is undertaken in England on a GB-wide basis. There are no staff based in Scotland and Wales whose sole job relates to the administration of strategic or legal grants.

Chapter 6: Principles for the provision of effective information and generalist advice

Strategic fit

- 6.1 The Government is committed to the provision of information and data to empower citizens. With respect to discrimination law, EU obligations require government to designate a body, or bodies, to have a remit to promote equal treatment in relation to sex or race; these bodies must be able to provide independent assistance to enable victims of sex or race discrimination to pursue their claims.
- 6.2 We think that government funding some form of contact centre provision is important in maximising opportunities to access information and generalist advice on discrimination and human rights issues. More importantly however, the provision of information and generalist advice to those who believe they are experiencing, or at risk of experiencing, discrimination will provide an opportunity for problems to be dealt with informally before they get to the point of formal proceedings. This should be beneficial to individuals, employers, service providers and the public purse. There is no European requirement to provide early assistance on human rights issues, and indeed no power within the Equality Act 2006 for the EHRC to provide legal assistance (defined as specialist casework and representation i.e. legal advice and advocacy) on 'pure' human rights cases (i.e. cases without a discrimination element to them).

Guiding principles

- 6.3 We consider that the effective provision of information and advice should be underpinned by the following principles:
- **information** (i.e. encouraging self help wherever possible) – the government is keen to make a reality of 'a right to data', so that citizens can hold public bodies to account and are able to get more involved in the delivery of public services;
 - **intelligence to inform soft and hard regulatory activity** – capturing real-time information on the challenges experienced on the ground to facilitate, alongside other sources of intelligence, strategic outreach activity and effective risk-based strategic enforcement;
 - **localised support** (consistent with the principles of The Big Society) – the government is keen for civil society organisations to bid to deliver public services. Government wants local people, through their involvement in civil society groups, to have more of a say on tackling local problems and to use their insights on local issues, problems and particulars to provide a more tailored service that meets the particular needs of their community; and
 - **cost-effectiveness:**
 - Cost-effectiveness is fostered when interested parties and groups work together in a system, rather than competing against each other. We have noted how cost constraints

have resulted in many organisations coming together to identify how they can collectively provide information and generalist advice on discrimination and human rights and eliminate duplication. Options being considered are focused on improving referral mechanisms between helplines by signposting strategies and protocols. Some progress has already been made, for example, the Citizens Advice England offers redirects to the Community Legal Advice Line, Consumer Direct, Money made clear and the Bereavement Advice Centre. The possibility of redirects to Acas is also being considered.

- The Government is keen to promote the use of digital technology wherever possible to provide a more cost-effective service. We have, and continue to, engage with the government's wider objective of encouraging businesses and citizens to access information and advice via web and digital channels, supported where necessary by helpline services. We are however sensitive to the specific needs of certain groups, for example, significantly fewer disabled people access the web than non-disabled people, and this reinforces our desire to provide accessible information through a number of different channels.

Discrimination law & human rights: specific considerations

6.4 There are specific considerations in relation to discrimination law and human rights, namely:

- Providing generalist advice (as opposed to information) is not a routine, standardised, transactional exchange such as registering for your driving licence or obtaining a passport renewal. Generalist advice on discrimination and human rights falls into the category of *counselling, advice and complex exchanges*. We therefore decided to benchmark the performance of the EHRC information and generalist advice function against organisations providing information and advice on complex and emotive issues (for example Acas, Consumer Direct, CABx, Community Legal Advice Line). We saw little value in comparing the EHRC operation with that of the contact centres delivered by the Department for Work and Pensions, HM Revenue and Customs or the Driver and Vehicle Licensing Agency, which are focused on essentially transactional exchanges.
- Discrimination cases will most often be bundled up into employment, welfare, immigration and criminal justice cases. Therefore providing bespoke advice on discrimination issues is even more complex because of the interaction with another substantive area of law; this applies even more so to human rights issues.
- Devolved issues: We are sensitive to Welsh language requirements and the interaction of discrimination/human rights law with devolved functions in Wales. The latter also applies, and of course to a greater extent, to Scotland.

Key metrics for benchmarking

6.5 The criteria for benchmarking the EHRC's provision of information, advice and support against that of other providers is as set out in paragraph 6.1. The indicators used to assess performance against these criteria are set out below.

Information and transparency agenda (also linked to cost-effectiveness)

- **Channel strategy:** understanding the use of digital channels which are considered a key route for 'self-help' through the provision of effective information. Information and fulfilment requests can be effectively dealt with through digital mediums. However, it is unclear how many queries dealing with the experience, or the perception of the experience, of discrimination could be effectively addressed digitally. Interactive contact via web-chats are currently more expensive than providing advice over the telephone.
- **Evidence of the ability to operate effectively within the system (through referrals and partnership working) and intelligent use of management information (at local, regional and national level):** Research suggests that contact centres can be an invaluable way of capturing real-time information on the ground and hence should be considered 'investment' centres rather than 'cost' centres. The data and information collected through contact centres is:
 - an important way of enriching an organisation's evidence base and could inform future strategy through, for example in the case of the EHRC, informing the Triennial Review and developing policy interventions aimed at **preventing** discrimination and human rights abuses; and
 - crucial to informing strategic enforcement, with contact centre data contributing to a broader understanding of (potential) acts of discrimination currently taking place, helping to ensure that the most strategically important cases are taken forward.
- **Strength of brand awareness and identity:** strong brand awareness amongst the public ensures demand for an essentially generalist information and advice service. This should be tempered by recognition that low brand awareness amongst citizens can be remedied by leveraging the strong brand awareness of organisations such as Citizens Advice and Acas. Therefore it is essential to identify the level of brand awareness of, for example the EHRC helpline service, among key referring and signposting organisations. In the case of the EHRC this would clearly include Acas, Citizens Advice/CABx and the Community Legal Advice line.

Big Society (linked to cost effectiveness):

- evidence of the ability to tailor information and advice services to meet the specific localised needs of citizens and the differing needs of disadvantaged groups; and
- quality of the service being delivered i.e. how far it is meeting the needs of citizens. We recognise this is also a key aspect of cost-effectiveness.

Cost-effectiveness: pure.

- Evidence of effective implementation of strategies to deliver cost-effectiveness including:
 - **accurate forecasting of demand:** the ability to accurately project peaks and troughs in demand is essential to enabling flexible resource management and striking the right balance between fixed and variable staffing costs;
 - **flexible resource management – balance between fixed and variable costs:** this is particularly important given that the vast majority of costs for a contact centre are staffing costs;


- **use of new technology platforms:** for example front screening, integrated voice recognition, and new channels for communication geared at certain demographics (such as SMS, Facebook and Twitter).
- **various metrics of cost-effectiveness including:** unit cost per call, abandonment rate, customer satisfaction , return on investment measures, causal links between information and advice received and successful outcomes, number of complaints.

Chapter 7: Benchmarking and comparative analysis

- 7.1 The information and generalist advice activity being delivered by the EHRC helpline and website has been benchmarked against the information and generalist advice activity delivered by other providers operating in the field of complex information and advice. This involved semi-structured interviews with senior representatives of the providers of the information, advice and support function. Following these interviews, providers have also submitted further information pertinent to the questions asked as part of the semi-structured interviews. A summary of the results of the benchmarking exercise have been set out in figure 2. A table with further details on cost-effectiveness has been provided – see Figure 26. Finally a comparative analysis has been undertaken of the referral capability of information and advice providers. We consider this essential in assessing the relative performance of the information and advice providers, and in understanding their particular role in operating within the equalities and human rights landscape.

Figure 25: Comparative analysis between the EHRC and benchmark providers (The Review, 2010)

KEY: Does a little/not within remit Does some Does a lot



Organisation	Transparency and information	Transparency and information	Transparency and information	Big Society	Cost-effectiveness	Equality impact considerations
	Channel strategy – in particular the use of digital channels focus on the provision of information and self-help.	Intelligent use of management information from the contact centre service.	Strength of brand awareness/brand identity for the citizen on the street. Strength of brand recognition amongst referral agencies.	Ability to offer a locally/regional tailored service	Key performance indicators included: <ul style="list-style-type: none"> • accurate forecasting; • flexible resource management; and • efficiency and effectiveness metrics. 	With respect to both service delivery, and internal procedures, and processes.
EHRC – digital offering and helpline						
Acas						
Citizens Advice						
Community Legal Advice						
Consumer Direct						

Figure 26: Cost-effectiveness comparative analysis between EHRC helpline and benchmarked organisations (The Review, 2010)

Organisation	Total call volume	Cost per call	Cost per minute of call	Customer satisfaction
EHRC (NDPB)	Forecast calls (answered) for 2010 = 52,824 (based on actual data from Jan to May, forecast data from June onwards) Forecast written enquiries for 2010 (also based on actual data to May, forecast thereafter) = 21,590 Total forecast enquiries for 2010 = 74,414	£28.02 (based on actual 2009 figures of calls handled)	£1.40	No survey/ monitoring has taken place.
Acas (NDPB)	1 million calls a year. National helpline provides advice on employment related issues to employers, employees and their representatives. Employees and employee representatives account for 60% of the call volume, with employers and employer representatives accounting for 34% (Acas, helpline evaluation 2009)	REDACTED	REDACTED	95% of callers were stated they were either extremely satisfied, very or fairly satisfied. (Acas helpline evaluation 2009).
CABx/Cit A (VCS)	2009/10 data Total number of individual clients advised by Citizens Advice/CABx = 2.1 million people, on 7.1 million advice issues. Of the 7.1 million issues, 600,000 were dealt with via telephone. In addition, 10.6 million hits to the self help website www.adviceguide.org.uk	REDACTED	REDACTED	<ul style="list-style-type: none"> • (2009/10 data) (2008/9 data) • clients reporting overall satisfaction with the service = 94.5% (92.8%) • clients satisfied with the advice received = 93.2% (93.7%) • clients satisfied with access to service = 89.6% (88.0%) • clients who would use the service again or recommend it to others 95.9% (95.6%)

Organisation	Total call volume	Cost per call	Cost per minute of call	Customer satisfaction
<p>CLA Commissioned by Legal Services Commission/Ministry of Justice ('operator service') operated by a private sector provider – First Assist which has subsequently been takeover by Capita.</p>	<p>Call volumes = 50,000 a month, equating to 600,000 per annum & growing by between 10- 15% per year. Of this monthly in take of calls:</p> <ul style="list-style-type: none"> • 1/3 referred for face to face specialist legal advice • 1/3 referred telephonic specialist legal advice • 1/3 either closed at the point of the gateway or referred to non Legal Services Commission funded services 	<p>REDACTED</p>	<p>REDACTED</p>	<p>95% were 'satisfied' or 'very satisfied' by the service. 94% said they were 'likely to, certain to or had already recommended' the service to someone else.</p>
<p>Consumer Direct Is commissioned by Office of Fair Trading, a non-Ministerial government department; will transfer to Citizens Advice in April 2012.</p>	<p>Call volumes have remained static at around 1.5 million per year – with another 200,000 for energy & post. Written contact is actively discouraged because it is so expensive. Email traffic accounts for only 3% of contact volume</p>	<p>REDACTED</p>	<p>REDACTED</p>	<p>Regular comprehensive surveys take place. In December 2009 82% were fairly or completely/ very satisfied with the level of service received. 13% were fairly or very dissatisfied.</p>

- 7.2 In summary we conclude that from an operational lens, the following would need to take place to improve the operation of the helpline service:
- Improving awareness of the helpline service through developing richer partnership arrangements with referral agencies and for this to be seen as a strategic priority for the helpline/contact centre;
 - within England, in particular, much stronger integration of the helpline function with the casework and litigation/enforcement/policy functions of the EHRC;
 - Better technological support; and
 - Leaner management structure with managers undertaking more people management responsibility and the up-skilling of advisors.
- 7.3 Analysis indicates that England is underperforming in terms of the numbers of enquiries dealt with, with both Scotland and Wales over performing in comparison.
- 7.4 Our analysis found that across each location the EHRC’s staffing resource (available resource measured against the volume of enquiries dealt with) on the helpline was not fully utilised. The number of cases dealt with was significantly lower than we expected given the resources available. Based on each advisor having the agreed 997 hours per annum available to handle enquiries, for the monthly averages from January to July 2010 a total of 29 full-time equivalent staff should have been sufficient to deal with the actual volume of enquiries dealt with. We believe this leaves an unused resource of 11 FTE; the vast majority of this resource is in England (8.85 FTE).⁵

Figure 27: FTE resource utilisation (The Review, 2010). The methodology of how these figures have been calculated has been agreed with the EHRC.

Country	FTE needed to deal with volume of cases	Actual FTE in post	FTE unaccounted for	% of resource unaccounted for
England	19.15	28.00	8.85	31.60
Scotland	6.13	7.00	0.87	12.48
Wales	3.53	5.00	1.47	29.34
TOTAL	28.81	40.00	11.19	27.97

Effectiveness of referrals by the benchmarked organisations

- 7.5 Citizens Advice offers information and advice on matters such as debt, benefits, housing, discrimination, employment, immigration and consumer issues. It has the broadest remit of any of the advice providers looked at. Citizens Advice, like in some senses Community Legal Advice (CLA) and Consumer Direct, operates as a referral point, as well as providing information and generalist advice in its own right. Thus under the gateway model, Citizens Advice advisors will

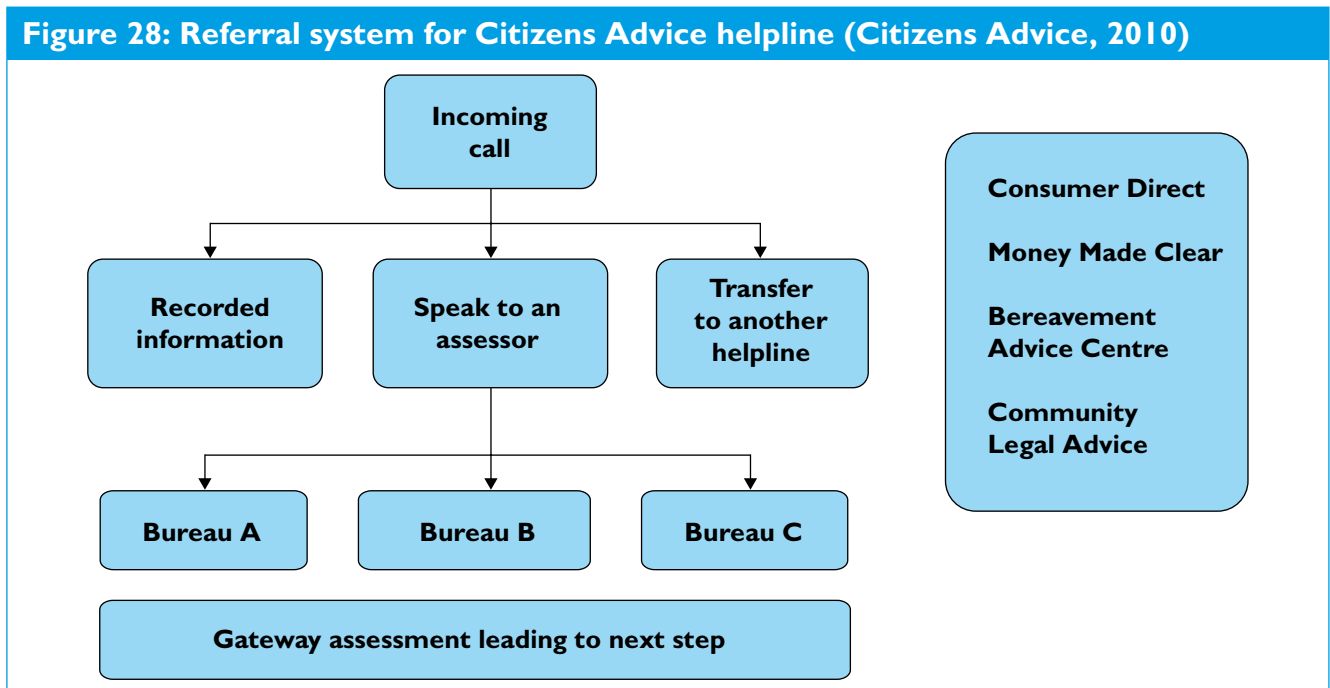
⁵ The above calculations are based on:

- each advisor on core work for 997 hours per annum or approximately 22.5 hours per week (approximately 63% of their working time); and
- the actual number of enquiries dealt with at each location from January to July 2010.

make a decision about who they need to refer a case onto, with the ability to make transfers to:

- Consumer Direct;
- Money Made Clear;
- Bereavement Advice Centre; and
- CLA.

Figure 28: Referral system for Citizens Advice helpline (Citizens Advice, 2010)



7.6 Citizens Advice has also invested in developing referral points of contact to both national organisations and locally based niche or specialist organisations. This is a specific result of their localised model of delivery, i.e. the fact that even when the national advice line number is called, it will be put through to advisors who work in the local branch or vicinity from where the call is being made. All face-to-face contact will also be in the nearest local branch. Citizens Advice national helpline therefore has the local intelligence to be able to refer clients, not just to national helplines, but also to localised niche advice providers perhaps focused on particular disadvantaged groups or specific types of problems.

Citizens Advice has a partnership with the Department for Communities and Local Government (DCLG) for mortgage rescue managed by their national specialist support team and involving a DCLG-seconded fast-track team, approximately 250 citizens advice bureaux (CABx), lenders and Registered Social Landlords, which involves a customer journey management process including agreed timescales for action, quality assurance, and referral of agreed information back to the DCLG fast-track team.

Citizens Advice has a partnership with the Royal British Legion (RBL) and the RAF Benevolent Fund, managed by Citizens Advice, through which 43 caseworkers in 38 CABx provide benefits and money advice. The caseworkers receive specific training when they start and must undertake annual RBL caseworker training. A minimum of four meetings a year are held between the caseworker and RBL County Office staff, which include feedback on referrals to ensure that clients get the best service. In addition, there is a feedback loop for clients referred to CABx who are applying for grants from the RBL under which they get a full debt/benefits check and a financial statement sent back to the RBL as part of the grants process.

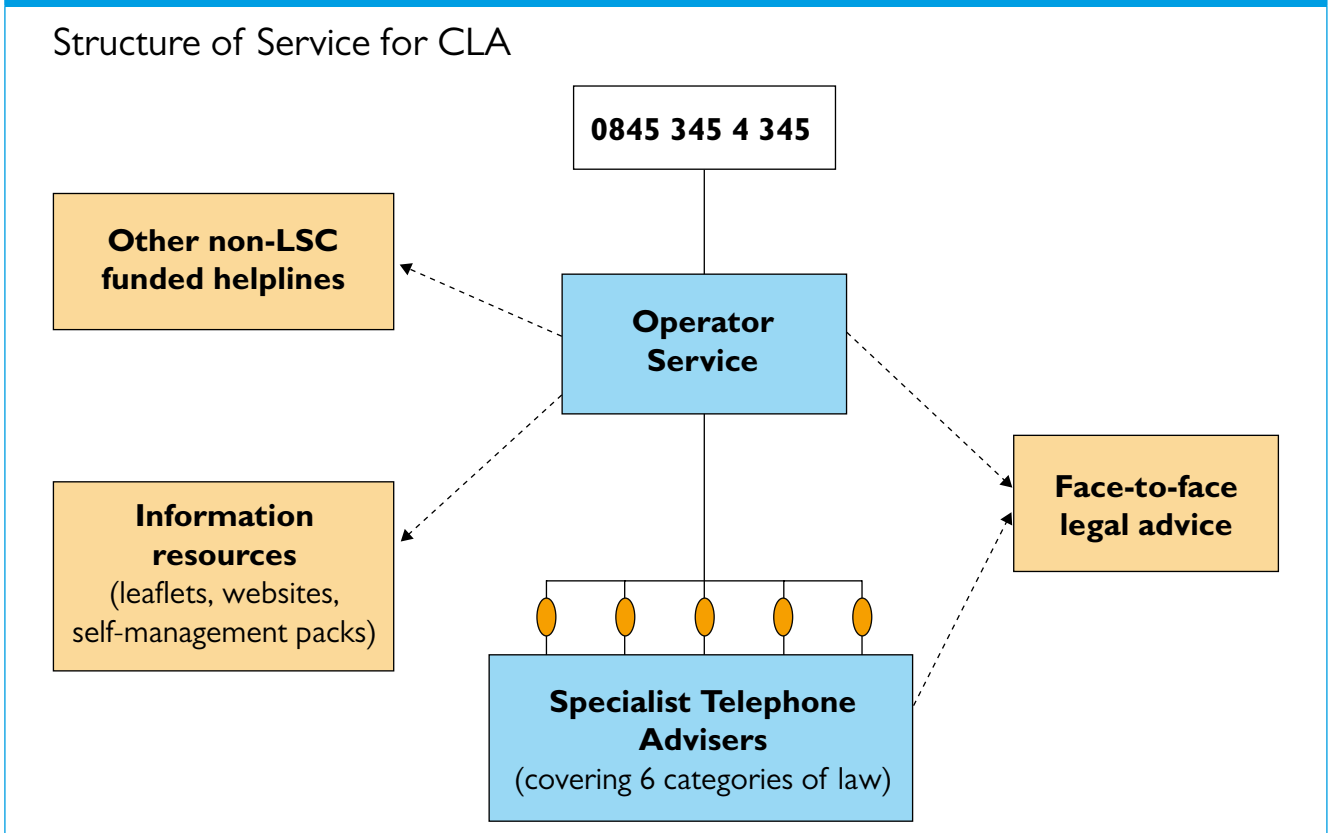
Referrals provided by Consumer Direct

- Information about individual consumer complaints are passed to Trading Standards and helps it identify potential rogue traders and allows them to prioritise cases where vulnerable consumers are involved.
- The Office of Fair Trading uses a database to identify topics which may merit a market study on the grounds of distortion of competition or of serious consumer detriment.

Referrals provided by Community Legal Advice line.

7.7 At present, the service provides specialist legal advice via telephone, to those clients eligible for legal aid, seeking help to resolve problems relating to family issues, debt, housing, education, employment and welfare/benefits. In addition eligible clients are referred to contracted face-to-face advice providers in a wide range of categories of law where telephone advice is not currently available such as domestic violence, asylum and immigration, mental health and community care issues. Non-eligible clients (or those whose problem is outside of the scope of legal aid) are signposted to other suitable sources of assistance including national helplines and local face-to-face advice providers.

Figure 29: Referral model for the Community Legal Aid Advice line (LSC, 2010)



Referrals provided by Acas

- 7.8 Referrals appear not to be built into the business model of the Advisory, Conciliation and Arbitration Service (Acas), as they are for either Citizens Advice or CLA. To some extent this is understandable given the much wider remit of Citizens Advice and CLA. At least at advisor level, Acas and the EHRC appear to have the strongest referral relationship, and there were proposals for piloting closer collaborative working between the two organisations to improve pre-conciliation referral rates to Acas. However at the time of writing this Review, this pilot initiative is still in the pipeline, with no clear indication as to when it might be set up.
- 7.9 The EHRC's referral capacity will be discussed fully in the next chapter.

Chapter 8: Should the EHRC continue to provide information and generalist advice through a helpline?

8.1 Chapter 7 concluded that when benchmarked against comparators, the EHRC helpline is not being run effectively when assessed against the following criteria:

- **Effective and integrated channel strategy**
- **Evidence of the ability to operate effectively within the system (through referrals and partnership working) and intelligent use of management information**
- **Strength of brand awareness and identity**
- **Locally tailored service delivery**
- **Cost-effectiveness including:**
 - **accurate forecasting of demand:** the ability to accurately project peaks and troughs in demand is essential to enabling flexible resource management and striking the right balance between fixed and variable staffing costs.
 - **flexible resource management – balance between fixed and variable costs:** this is particularly important given the vast majority of costs for a contact centre are staffing costs.
 - **use of new technology platforms:** for example front screening, integrated voice recognition, and new channels for communication geared at certain demographics (such as SMS, Facebook, Twitter).
 - **various metrics of cost-effectiveness** including: unit cost per call, abandonment rate, customer satisfaction, return on investment measures, causal links between information and advice received and successful outcomes, number of complaints.

Figure 30: Summary of EHRC performance against benchmarking criteria (The Review, 2010)

	Channel strategy – in particular the use of digital channels Focus on the provision of information and self help	Intelligent use of management information from the contact centre service	Strength of brand awareness/ brand identity for the citizen on the street Strength of brand recognition amongst referral agencies	Ability to provide a locally/ regionally tailored service	KPIs included • accurate forecasting • flexible resource management • efficiency and effectiveness metrics
EHRC – helpline	No current integration between the digital service and the helpline. Although this is planned for the future, there remains no clear articulation of channel strategy. No current record of numbers of hits on the website or where they have originated from. We recognise the desire to remedy this through introduction of new software in near future. Evidence of working with Direct Gov to mainstream equality into relevant parts of the Direct Gov service	Little evidence of effective referrals systems either in terms of ensuring referrals are made to the EHRC from other advice agencies or in terms of quickly referring queries to other advice agencies where they are clearly not for the EHRC to handle. Doubts cast over effective internal referrals of potentially strategic cases. (Again there is no measurement of this)	Low citizen brand awareness Sporadic and non systematic awareness amongst referral agencies. No clarity re: the function of the EHRC helpline.	No evidence of the ability to provide a locally tailored service, although the Review recognises the service is being delivered by a GB-wide contact centre.	Evidence of inaccurate forecasting. E.g. for year to date, written enquiries are 15% higher than was forecast and call volume is 33% less than was forecast. No evidence of flexible resource management, only reactive crisis management on a daily basis. Call length and cost per minute of call do not compare favourably with any of the other benchmarked providers other than Acas. Total lack of any systematic data on customer satisfaction/outcomes as a consequence of intervention through the helpline or web. Only indirect and unsatisfactory proxy for customer satisfaction is the number of complaints received.

8.2 On the basis of the above analysis, we considered which of the following three business models should be progressed with:

- **Business model I:** Should EHRC continue to provide a contact centre offering information and generalist advice to those citizens who believe they have been discriminated against or experienced human rights abuses?

- **Business model 2:** Should the EHRC commission an information and generalist advice service on discrimination and human rights matters for citizens?
- **Business model 3:** Should Government directly commission an information and generalist advice service on discrimination and human rights matters for citizens?

8.3 A full analysis of these three options is provided at annex A and a summary is provided below.

Business model 1: Should the EHRC continue to provide a contact centre providing information and generalist advice for citizens?

Strategic fit

8.4 The helpline, if it is operating effectively, is one source of real-time intelligence and management information that enables the EHRC to undertake risk-based strategic regulatory activity. However it is by no means the only source of intelligence and information. We think that the EHRC does not play a clearly specified role in the information and generalist advice landscape for discrimination and human rights issues. In particular, its service vis-à-vis Cit A/CABx and Community Legal Advice Line is unclear. Under the current legal aid reform proposals, CLA helpline would continue to offer a signposting and operator service to all clients regardless of whether or not they are eligible for civil legal aid. Arguably both of these providers, along with Acas, are a key first source of referrals of cases which may contain a strong discrimination element. Because of the lack of systematic referral mechanisms with CLA, CABx and Acas in particular, it is challenging for the EHRC to add value to the provision of information and generalist advice on discrimination issues. Ultimately the lack of definition of the role of the EHRC helpline in the civil law information and generalist advice landscape, and the fact that while it is an important (but far from only) feeder source of intelligence to assist both strategic risk-based regulation and a richer understanding, in real-time, of the challenges on the ground, suggests that it is not essential for the EHRC to **provide** this helpline. The resource and scope that would be freed up as a consequence of the EHRC not providing this service could be diverted elsewhere. For example the focus can shift to more proactive identification of trends of persistent or systematic discrimination gathered through greater strategic outreach and engagement with key partners, targeted research activity and greater analysis of the economic impact of inequalities. Once a risk-based focus for strategic enforcement has been developed, it is likely that much closer partnership working with other regulators would be required to ensure greater compliance.

Delivery

8.5 The EHRC is clearly not delivering a cost-effective service. A full analysis is provided at Annex A.

Conclusions

8.6 The EHRC should no longer provide information and generalist advice on discrimination and human rights issues through the provision of a helpline for individuals. The performance of the helpline in Scotland and Wales has undoubtedly been stronger than in England. However in Scotland and Wales, even allowing for the smaller (in geographic terms) vicinities the helpline serves, we believe it can not have the same 'local' reach as other information and generalist

advice providers that have a more localised infrastructure; we note however that there is a lack of VCS provision in some geographical areas in both countries. We believe that to operate a Scotland/Wales only contact centre service would be too small to be viable or cost-effective. Most importantly in our view, the provision of a helpline is not integral for the EHRC to operate as an effective modern regulator in Scotland or Wales, any more than it is for England.

Business Model 2: Should the EHRC commission an information and generalist advice service on discrimination and human rights matters for citizens?

Strategic fit

8.7 There are precedents for non departmental public bodies (NDPBs) which are essentially strategic regulators, outsourcing the provision of a helpline function. For example, the Office of Fair Trading has contracted out the provision of Consumer Direct. In this instance the 'acid test' for deciding whether the EHRC should commission out the helpline function is if there is an optimal benefit to be achieved from the EHRC being responsible for outsourcing the service (e.g. being able to ensure an effective referral mechanism) which another body could not provide.

Operational and delivery considerations

8.8 We have concerns about whether the capability exists in the EHRC to manage commissioning relationships. Evidence of a dearth of business management skills is reflected in the qualification of the EHRC's 2008/09 Accounts, by the National Audit Office (NAO). The NAO described an organisation where there is little respect or regard for government procedure on procurement. They attributed this to a failing in systems, culture and ultimately leadership, with a lack of appropriate systems and processes to ensure professional commissioning of services. The NAO expressed concern about the basic lack of understanding amongst staff of procurement procedures. The EHRC does have a central procurement and corporate law team, but their role has been essentially advisory, with no requirement for procurement actions to be agreed with them. Hence there have been instances of:

- the EHRC's procurement activity being insufficiently specified or scoped;
- a lack of planning with not enough thought about what the most appropriate procurement route would be, leading to an over reliance on 'emergency' procurement routes such as Single Tender Actions; and
- instances of some procurement failures to comply with internal delegated limits e.g. where expenditure was approved by people who did not have the appropriate authority to do so.

8.9 Consequently these central teams have been unsighted on procurement activity or have been consulted at too late a stage to be effective. We note that the EHRC has, and continues to, take action to address these shortcomings. As an example of the steps being taken, EHRC now ensure that competency in procurement procedures are factored into the job objectives for all staff, and more robust processes have been introduced around the approval procedures.

8.10 Whilst acknowledging the steps that the EHRC has taken to improve procurement processes, on balance we do not have sufficient confidence that the EHRC currently has the skills or capabilities to manage a complex procurement exercise. We also believe that the role of ensuring effective

referrals through to its other functions (e.g. the regulatory directorate or the Casework and Litigation team) could be achieved by other mechanisms.

Recommendation

8.11 The EHRC should not commission out its helpline service.

Business Model 3: GEO/another body should directly commission the information and generalist advice service on discrimination and human rights for citizens

Strategic fit

8.12 Government cannot provide “independent” assistance to alleged victims of discrimination, hence Government cannot provide this service itself. However it could commission the service from one or more independent bodies. With the Legal Services Commission becoming an executive agency of Ministry of Justice, there is a precedent for Government Departments to directly fund helplines providing information and advice on civil law matters. Similarly the Department for Business, Innovation and Skills will take over funding for the provision of Consumer Direct from the Office of Fair Trading. This increases both transparency of spend and strengthens Government’s accountability for the provision of a high quality, cost-effective service. Government should be expected to understand the importance of:

- (a) providing high quality information and generalist advice to citizens, to help ensure that as high a proportion as possible of problems are resolved informally; and
- (b) ensuring the timely transfer of contemporaneous intelligence and management information from the provider of the service to the regulator.

8.13 There are two possible mechanisms through which a Government Department may seek to fund the provision of information and generalist advice:

- a procurement exercise (either competitive dialogue/competitive tender); or
- the allocation of funding to a body to procure/commission a service. This could, of course, include an allocation of funding to one of the existing providers of information and generalist advice on discrimination and human rights matters.

Recommendation

8.14 Government should take over the commissioning of the function of information and generalist advice on discrimination and human rights issues for citizens.

Chapter 9: Should the EHRC continue to provide legal grants?

Background

9.1 Legal grants have been awarded by the EHRC to the following organisations: CABx, law centres and independent advice centres, to achieve one of the following three objectives:

- **tier 1 support: the provision of legal advice, casework, and representation to individuals about matters falling within the equality and human rights enactments:** Generally paying for a CABx or law centre to employ a specialist on discrimination law for a set period of time (proportion of legal grant funding initially allocated: 60 grants, total value initially allocated £3,205,200);
- **tier 2 support:** Funding umbrella organisations. For example funding has been provided to umbrella organisations for training advisors on the frontline (proportion of legal grant funding initially allocated: 4 grants, total value initially allocated £197,915);
- **awareness-raising of equality and human rights:** (proportion of legal grant funding initially allocated: 25 grants, total value initially allocated £748,063).

9.2 The criteria used by the EHRC for prioritising projects for legal grants are:

- satisfying unmet advice, casework and representation needs, for example, in geographical or subject areas where there is no provision;
- providing advice and representation to the individuals and groups that may have difficulties in accessing available services;
- providing specialist employment tribunal or court representation over a wide area;
- providing other highly specialist advice and representation that is not readily available elsewhere; and
- delivering advice and representation in new and innovative ways.

9.3 Importantly it appears that some recipients of tier 1 funding do not believe there is any restriction on who they can offer legal advice/specialist casework and representation to i.e. funding is not restricted to only those who are eligible for civil legal aid. On the ground we identified that recipients of tier 1 funding appear to be taking different approaches. For example some recipients will:

- actively seek evidence of an individual's income and would spend the majority of their time providing 'representation' support (including case management discussions) to those eligible for legal help or those that are slightly above the threshold for eligibility;
- provide legal advice/specialist casework and representation support, as a matter of principle, to anyone with a meritorious case and a good chance of success at Tribunal/Court; or
- set their own threshold, for example they won't help anyone whose income and savings are over £40,000).

- 9.4 Tier 1 funding will however only be used for routine cases. In the event of taking forward a strategic case, separate funding for representation by a barrister will be sought from the EHRC, or else the EHRC will be asked to directly take on the case.
- 9.5 The EHRC received applications from 128 organisations for 168 legal projects. The total amount of funding requested was three times the funding available for legal grants which was £4.2 million for year 1 (2010/11). The breakdown for the legal grants awards that the EHRC made in **October 2009** are as shown in figure 32 below.

Figure 31: Distribution of the spend of legal grants between the three different objectives (EHRC, 2010)

Type of legal funding	Projects awarded funding	Year 1 Funding from October 2009
Legal Advice & specialist casework/ Representation	60	£3,205,200 % proportion of total legal grants spend: 77%
Awareness raising of equality & human rights	30	£748,063 % proportion of total legal grants spend: 18%
Tier 2 funding to umbrella organisations	4	£197,915 % proportion of total legal grants spend: 5%
Totals	94	£4,151,178

- 9.6 Ultimately only 90 projects were funded in the first phase of the legal grants programme. The organisations that received legal grants were split as follows (this is based on the number of organisations that received funding, not taking into account the amount of each award):
- law centres 34%;
 - race equality councils 16%;
 - CABx 19%;
 - independent advice centres 7%; and
 - other 24%.

How discrimination is addressed through the Civil Legal Aid scheme in England and Wales

- 9.7 Discrimination is not a 'stand alone' category, for funding purposes, within the context of the civil legal aid scheme. Rather discrimination is an aspect of other categories of case which may be within the scope of the scheme. As set out in *Proposals for the Reform of Legal Aid in England and Wales*, the Government has consulted on reducing the scope of civil legal aid in a range of categories. However the consultation proposes that even if a discrimination case forms part of a category of law which if the reductions were implemented would no longer fall within the scope of civil legal aid (for example employment), funding would still be retained for those cases. It is important to clarify that even under the current legal aid scheme, legally aided representation is not generally available in tribunals as they are considered litigant friendly, for example the Tribunal chair should assist the claimant if needs be.

Scotland

- 9.8 The Scottish legal aid system operates under a different legislative framework, and it allows funding for representation in employment tribunals for those eligible under Scotland's civil legal aid scheme.

Strategic fit

Tier I support

- 9.9 Wherever possible, the government is committed to enabling people to resolve their issues out of court, using simpler and more informal remedies. That is why government will be commissioning out the activity of providing information and generalist advice on discrimination and human rights issues. Government is also focused on providing access for justice to those who need it most, in those matters for which access to legal advice or representation is necessary. We think that government, rather than the EHRC, should be responsible for funding tier I support for discrimination cases and that ensuring access to legal help/aid for routine discrimination cases is not a core regulatory activity.
- 9.10 Legal grants are perceived by the EHRC as essential grist to the mill, in ensuring that they can make effective referrals to other agencies. They believe the fact they have awarded funding to a certain local CAB or independent advice centre, increases the chances that they will accept a referral by the EHRC to take on a 'routine' case. They also believe that the legal grants are essential to ensuring that discrimination law remains high up the list of generic advice centres priorities. We do not underestimate the importance of the personal connections and relationships leading to effective referrals. However we note that this is not the most systematic way of ensuring an effective referrals system. Rather there is an urgent need for relationship building with partner organisations operating within the equality information, advice and support landscape to move from grassroots level personal connections and social capital, to senior, strategic partnership building.
- 9.11 On the basis of the above the current tier I support funded through the EHRC legal grants is neither integrated with the civil legal aid system or strategically necessary for the EHRC to do in order to become a more focused regulator. We therefore conclude that the EHRC should no longer fund tier I support through legal grants.

Awareness-raising and Public Education

- 9.12 We recommend that Government makes funding available to promote awareness-raising and indeed rebalance funding distribution so that more spend is focused not directly on *awareness-raising* (which by definition will be untargeted and unfocused) but on empowering individuals by providing them with the information they need to be able to assert their rights and challenge discrimination thus increasing the chances of avoiding formal proceedings and the need for legal advice i.e. *education*. Clearly this is something that the EHRC will also wish to focus on, but given their regulatory role they are perhaps best placed to focus on employers and service providers. There is a role for government to fund organisations who are best placed to reach the individuals who evidence suggests are most likely to experience discrimination. The importance of public education is recognised by partners. For example, Citizens Advice has put forward the vision

of a ‘human information super high-way’ supported by targeted outreach activity. By aiming ‘*discrimination education*’ at those most likely to experience discrimination in employment or with respect to the provision of goods, facilities and services, (parents, young people, social housing tenants, migrants, ex offenders, domestic violence victims, people with learning disabilities etc), participants could be assisted in resolving their own problems, and pass on basic information either through word of mouth or other mediums. This approach is supported by feedback given by other partners. This feedback has been redacted because it was given to Government on a confidential basis.

Tier 2 support

- 9.13 We think that the EHRC has a key role to play in directly building capacity and capability amongst frontline advisors and, for example, lawyers/caseworkers operating on a pro bono basis, on both discrimination and human rights law. Therefore we recommend that, as a rule, the EHRC should itself directly use the skills and experience of its staff to engage in capacity and capability building and work in partnership with umbrella organisations to ensure their knowledge and expertise is disseminated in the most effective way. This is not to say the EHRC can not fund organisations to provide tier 2 support but that this should be on a case by case basis.

Operational and delivery considerations

- 9.14 The management of legal grants has posed a significant challenge to the EHRC. The mechanism of awarding grants (rather than commissioning support in specific areas) is again a consequence of the lack of knowledge of the information, advice and support landscape in relation to discrimination and human rights issues. This knowledge gap has prevented the effective targeting of very limited funding. More generally, the EHRC has struggled to effectively manage the legal grants programme. There are serious challenges currently afflicting the management of the legal grants programme, resulting in recipients (CABx, law centres, independent advice centres), not receiving their funding because they are unable to show or explain why they have not delivered against very specific output indicators. The root cause of this dilemma is allowing so many conditions to be attached to the awarding of the legal grants spend (which the team administering the legal grants considered aspirational) but which the NAO consider firm outputs which must be delivered (or else good explanation provided for why this has not been achieved). A fuller analysis of how well the EHRC has managed the legal grants has been considered alongside the management of the strategic grants programme (see Chapter 12), however a summary of that analysis indicates that the EHRC’s management of the legal grants programme has resulted in:
- some of the tier 1 services reliant on that funding no longer being delivered; and
 - reputational damage to the EHRC brand.

Recommendation

- 9.15 We recommend that the EHRC should no longer run a legal grants programme. Instead the EHRC should focus on directly delivering (through working with others with the appropriate reach such as the Law Centres Federation and Citizens Advice), 2nd tier support on discrimination and human rights legislation.

- 9.16 We therefore conclude that if legal grants should continue to be awarded this should be done by government as opposed to the EHRC. We are clear that government should continue to fund organisations to provide public education to citizens, particularly those who are most vulnerable to experiencing discrimination and human rights abuses. We are less convinced on the merits of a separate funding stream from that of civil legal aid to fund legal advice/specialist casework (i.e. legal help) for discrimination cases. We believe any additional funding for discrimination cases should only be awarded to those financially eligible for civil legal aid. Nonetheless, we suggest that Government may wish to engage with partners on if there is any rationale for further publicly funded support for discrimination cases. Specifically this might involve engaging with partners on:
- (a) if there is anything sufficiently qualitatively distinguishable about discrimination cases, as opposed to other civil law justiciable causes, that justifies additional publicly funded support;
 - (b) whether a short term funding stream designed to provide information and generalist advice in areas of advice shortage is justifiable at the current time or whether this is best tackled through the civil legal aid scheme; and
 - (c) whether using a short term funding stream to try to generate more of a ‘systems approach’ in the information, advice and support landscape is a sensible and justifiable use of public funding at the current time.

Chapter 10: The provision of support to tackle discrimination and human rights abuses more widely

- 10.1 The final section of this report focuses on the objectives of the EHRC's strategic grant programmes.
- 10.2 The Government's Big Society vision clearly has implications for the:
- role of the voluntary and community sector (VCS) in delivering services; and
 - ways of funding the VCS to contribute to Big Society.
- 10.3 The mechanisms for delivering funding to the VCS can vary from straightforward procurement on one end of the spectrum, through to allocated grants at the other. The method of commissioning used for the EHRC's legal and strategic grants programmes is that of competitive grants.

Background

- 10.4 During this review the EHRC acknowledged that the timing of both the interim grants programme and that of the strategic grants programme for 2009-2012 had been far from ideal. These grants 'issues' have preceded rather than followed establishment of clear strategic priorities for the EHRC; ideally a strategic grants programme would be run after the findings of the Triennial Review.
- 10.5 The objectives of the EHRC's 2009/12 strategic grants programme are:
- (a) to increase opportunities for communities to set up organisations that represent and respond to the interests and needs where none currently exists (to support outcomes b and c below), and for existing organisations and services to expand and develop their expertise and services (again to support outcomes b and c);
 - (b) for individuals, particularly those who suffer inequality and disadvantage, to have greater choice, control and empowerment over their own lives, in relation to social care, health, housing, education, employment and business advice; and
 - (c) for victims of all forms of hate crime to receive the support they need and have the confidence to continue their daily lives.
- 10.6 These objectives are fuzzy and ill defined, to some extent this explains why a grants mechanism (as opposed to a commissioning arrangement) was used for the allocation of funding. As a consequence 2,200 applications were received for the 2009-12 strategic grants programme. This was a challenge to administer and led to some ill feeling amongst those recipients who did not receive funding, even though there was no evidence to suggest that funding had been distributed inappropriately.

Analysis of the strategic grants programme

10.7 For the purposes of this Review, the allocation of strategic grants has been measured against four 'primary' objectives. In reality it is recognised that most bids fall into more than one category, and of course the functions of capacity building and providing a voice are intended ultimately to contribute to improved service delivery.

Figure 32: Distribution of the spend of the strategic grants against four primary objectives (The Review, 2010)

Primary – function/purpose of the grant	Mean spend – as a proportion of total spend on strategic grants (figures provided by the EHRC)
<p>1. Service delivery</p> <p>Examples include: Breakthrough UK</p> <p>To deliver a disability hate crime advocacy and advice service</p>	<p>Details of grants awarded for Service Delivery:</p> <p>Number: 5</p> <p>Total amount: £342,237</p> <p>Mean amount: £68,447</p> <p>% of funding: 7%</p>
<p>2. Capacity building</p> <p>Examples include: Coventry Rape and Sexual Abuse Centre (CRASAC)</p> <p>Examples of the use of funding include:</p> <ul style="list-style-type: none"> • To Review CRASAC's existing services in relation to women and girls from black and minority ethnic groups and ensure that the good practice of specialist groups is transferred back to CRASAC's service provision • To develop and promote a training package that will be targeted at those professionals and organisations that have the highest level of contact with victims of sexual violence in underrepresented groups to enable an informed and appropriate response and appropriate referral (e.g. police, health professionals, homeless agencies, voluntary organisations including domestic violence). 	<p>Details of grants awarded for Capacity Building:</p> <p>Number: 32</p> <p>Total amount: £2,633,084</p> <p>Mean amount: £77,464</p> <p>% of funding: 56%</p>
<p>3. Providing a voice</p> <p>Examples include: Brent Mencap</p> <ul style="list-style-type: none"> • To advise service providers about how to change their strategic plans, policies and practices to lessen discrimination experienced by people with learning disabilities 	<p>Details of grants awarded for Providing a voice:</p> <p>Number: 8</p> <p>Total amount: £665,708</p> <p>Mean amount: £83,212</p> <p>% of funding: 14%</p>
<p>4. Fostering good relations</p> <p>Examples include: Nottingham Playhouse Trust Limited</p> <ul style="list-style-type: none"> • Increased interaction and understanding between groups and communities that do not ordinarily mix or where particular tensions exist. 	<p>Details of grants awarded for Fostering good relations:</p> <p>Number: 14</p> <p>Total amount: £1,049,487</p> <p>Mean amount: £74,963</p> <p>% of funding: 22%</p>

Figure 33: Examples of strategic grants funding provided by the EHRC (Review 2010)

Eclectic Productions: engaging with young people on the issue of domestic violence: what the signs are, how to detect it, what to do if you suspect/ are involved in domestic violence. The focus of this project is on awareness-raising and early intervention.

Dial Peterborough: meeting the particular needs of disabled people experiencing domestic violence.

Cardiff's Women Aid: running sessions offering drop-in centres to victims, providing counselling and working with the local community and public bodies to ensure the provision of safe havens.

Gendered Intelligence: working with young people who think they may be transgender, providing a 'safe space' for them to explore their gender issues – covering London, Manchester and Birmingham. The group also empowers individuals to deal with the family problems they may be experiencing as a consequence of their gender issues.

- 10.8 The EHRC has expressed concern that smaller grassroots organisations (for example Gendered Intelligence (see Figure 33 above) where the director works for free and is supported by a part-time paid lawyer and administrator), are already being disadvantaged by the more stringent criteria in respect of financial auditing attached to the 2009-12 grants spend. Some within the EHRC told us that many of these small communities-based organisations struggle to meet even basic accounting standards; they would not be able to meet more sophisticated accounting measures such as social return on investment.
- 10.9 The findings clearly show that the majority of grants spend has been distributed on the primary functions of capacity building and providing a voice. This needs to be considered alongside the findings of the evaluation of the interim grants funding programme undertaken by Aligne and Deloitte, which identified capacity building projects as having been the most successful.
- 10.10 We think that the model of engagement the grants programme has conformed to is that of **stakeholder management**. There is less evidence to show that it has facilitated **stakeholder engagement**, through the adoption of a non power-based partnership working model.

Chapter 11: Benchmarking of the grants function

11.1 For the purposes of comparison, we undertook some benchmarking of how other non-departmental public bodies manage their grants programmes. The three organisations (Capacitybuilders, the Community Development Foundation (CDF) and the Tenant Services Authority) were chosen because their subject area is similar to that of the EHRC. The data gathered was purely concerned with 'good practice'. Capacitybuilders and the CDF were also selected as exemplars of good practice by Alignea and Deloitte which conducted an evaluation of the effectiveness of the EHRC's interim grants programme (the precursor of the current strategic and legal grants programme). The Tenant Services Authority was suggested to us by the National Audit Office, as an example of a body where the commissioning of grants is an adjunct to its 'core' functions.

11.2 A summary of the results of the benchmarking exercise is set out below.

- grant providers engage in a more iterative exchange and dialogue governing the distribution of spend than the EHRC. This means that along with ensuring the alignment of spend with their strategic objectives, they are also genuinely engaging in partnership working with the bodies that are bidding. This results in a degree of flexibility allowing providers to tailor the objectives of the grant to the specific needs of a group within the overall strategic aims of the grants programme;
- operationally when compared with the EHRC, fewer people are required to manage more spend ranging between £2 million and £7 million per grants officer, relative to the £7m project being managed by 5 officers in the EHRC; which works out as £1.4m per grant officer.
- other providers have tangible 'milestone' measurements used during, and after, the funded period. These particularly relate to the financial expenditure, as well as assessing progress against the aims of the project; and
- the CDF uses the local community to a large extent in its grants process: a locally assembled panel, approved by the CDF, assesses the requests for funding, and funding agents are commissioned to physically make the payments to the successful applicants. By allowing others to carry out some of these functions, the CDF is able to focus a large proportion of its time on monitoring and stakeholder engagement activity.

Chapter 12: Options and business models for the provision of support

12.1 We have identified three key questions:

- What objectives should any funding mechanism be designed to achieve, in light of the government's Big Society vision?
- What should the role of the EHRC be in delivering those objectives, considering the vision of becoming a more focused regulator?
- Are there objectives which funding could be used to achieve, but which should not be delivered by the EHRC as they are inconsistent with the vision of becoming a more focused regulator. If so, who is best placed to take these functions on?

What objectives should any funding mechanism be designed to achieve?

12.2 Possible objectives include:

- **Directly improving service delivery outcomes** for disadvantaged groups;
- **Capacity/Capability building** within the VCS, thus enabling the VCS collectively to achieve improved outcomes for disadvantaged groups;
- **Providing a voice** to ensure the needs of disadvantaged groups (particularly some of the new protected strands) are recognised and factored into the design and delivery of services. We recognise that one of the key ways in which government can enable VCS organisations to have an effective voice is through encouraging capacity building amongst like minded organisations so that they are more than the sum of their parts. In this sense the distinction between the function of providing a voice and capacity/ capability building, at least with respect to public funding is artificial. Therefore for the purposes of this Review, capability and capacity building and providing a voice are treated as one objective; and
- **Fostering good relations** between different equalities groups.

12.3 We consider that all of the above objectives are important for building a cohesive Big Society.

12.4 We recognise an important distinction between:

- what it is suitable for the public sector to fund other bodies to deliver; and
- what the public sector should be delivering itself.

12.5 Government's vision on The Big Society is clear; the public sector should consider whether civil society organisations and the private sector is best placed to deliver services. However we also recognise the importance of capacity building to enable the VCS to operate to its optimal level. Government is keen not to lose the higher degree of coordination and mutual support which has developed in recent years with the expansion of infrastructure organisations and local consortia. This is recognised through Government consulting on the value of time limited consolidation grants to assist mergers and greater sharing and collaboration in the use of infrastructure.

Ministers are considering a possible continuation of a grants programme to enable infrastructure organisations to act as a conduit to the grass roots civil society, thus helping them to shape Government policy.

What should the role of the EHRC be in delivering those objectives?

Strategic fit

- 12.6 We consider that given the EHRC's remit to become a more focused regulator, it should not directly fund organisations to 'do good things' i.e. improved service delivery outcomes. We think that there is potentially a role for the EHRC directly to support capacity building between and within different VCS groups. We therefore considered models of support that the EHRC itself could directly provide to build up capacity and capability within the VCS which does not involve it funding other organisations to achieve these objectives.
- 12.7 If the EHRC itself engages more directly in capacity building in the VCS in particular, the result will:
- support the focus of the EHRC on soft regulation; and
 - support and enhance the function of strategic outreach activity which is essential to creating a full and comprehensive intelligence hub to inform strategic risk-based enforcement activity.

Operational and delivery considerations

- 12.8 Overall the EHRC has struggled to successfully administer the strategic and legal grants programmes. This is for a variety of reasons ranging from strategic and systems failures to management ones:
- **Lack of alignment between the grants programmes and the strategic objectives of the EHRC.** Feedback from the Hampton Review, and indeed the EHRC's own analysis, indicates that the EHRC has struggled to align the purpose for which grants have been awarded with their organisational strategic objectives. This was a failing also identified by the independent evaluation undertaken by Alignea and Deloitte (2009) of the interim grants programme (a precursor of the strategic and legal grants programmes). It should however be noted that the 'map of gaps' and the mapping the EHRC commissioned on areas of advice shortage have, to some extent, informed the allocation of strategic and legal grants respectively. However we are not convinced there is a sufficiently clear 'line of sight' between the EHRC's strategic objectives, key pieces of research such as the map of gaps, and identifying areas where there is a lack of advice, and the eventual allocation of strategic and legal grants.
 - **Underperforming in sharing learning and good practice gathered from grants recipients.** The Alignea and Deloitte evaluation also suggested that while the EHRC had been successful in developing new relationships, it had not been as successful in capitalising upon those relationships. Improvement was required in:
'learning from and selling the positive stories from organisations [the EHRC] gave grants to or ensuring that grantees networked amongst themselves to share learning and best practice'.

We have been unable to test how successfully or otherwise the EHRC has improved its 'facilitation, capacity building role', in the running of the strategic and legal grants programme

as there has been no opportunity to engage with the recipients of the 2009-12 grant programmes. However, we note that the EHRC has not brought together relevant clusters of strategic grants recipients to share learning and good practice and there are no plans to do this in the future. That said, we note that in March 2010, the EHRC did bring together the recipients of legal grants to enable them to share good practice and create networks.

- **The team administering the strategic grants have lacked the capabilities to manage the grants programme and have been let down by a lack of management oversight.** There is clear evidence from the NAO that the EHRC has failed to manage its strategic and legal grants programmes in accordance with good practice set out in HM Treasury's *Managing Public Money*, resulting in its accounts being qualified for 2008/09. Specifically this is as a result of the EHRC being unable to explain to the National Audit Office how £62,800 (0.6% of the total spend on grants in 2009/10) was spent by grants recipients. More broadly this is indicative of the fact that to date the leadership and culture of the EHRC is not one which emphasised or promulgated the importance of business management skills. We think that absence of capability within the team is not because of staff shortcomings, but because of the lack of the underlying processes and systems necessary for the successful administration of a grants programme. That said, we consider that both the grants team administering the strategic grants and the Casework and Litigation team responsible for administering the legal grants are better placed to support and manage positive relationships with grants recipients, rather than rigorously monitoring spend and enforcing the necessary checks and balances in terms of audit and financial controls so that spend is being distributed in accordance with Government Accounting Standards. Indeed there are indications that the 'closeness' of those administering the spend to those who were allocated the funding can sometimes cause a conflict of priorities between their desire to maintain a positive relationship with grant recipients and monitoring delivery against output criteria. While some improvements have been made in the management of the strategic grants programme, following the earlier qualification of accounts, the organisation as a whole appears not to have learnt key lessons. As a consequence of this, there are serious challenges currently afflicting the management of the legal grants programme, resulting in recipients (CABx, law centres, independent advice centres), not receiving their funding until they are able to explain why they have not delivered against very specific output indicators. The root cause of this dilemma is allowing so many conditions to be attached to the awarding of the legal grants spend. The team administering the legal grants considered these to be aspirational, but the NAO considered them to be firm outputs which had to be delivered (or there had to be a good explanation for why these had not been achieved).

12.9 The EHRC believes that one of the most valuable 'by products' the organisation gains from funding both the strategic and legal grants programmes is the social capital and the intelligence they gain from the VCS recipients of the funding. For example, the EHRC believes the legal grants funding assists it when making referrals of meritorious but non-strategic cases to law centres and CABx. Equally, the awarding of strategic grants are considered to help the EHRC maintain a grassroots connection with the VCS community. However, the evidence suggests that the intangible benefits of awarding funding are more than offset by the structural and administrative flaws in the management of the grants programme and in particular by the lack of partnership

engagement in the design and allocation of the strategic grants. The grants programme has been perceived by some in the EHRC to encourage stakeholder management rather than stakeholder engagement. This is for a number of reasons:

- the involvement of funding introduces an unequal dynamic into the relationship between the grant funder and the grant recipient;
- there is no direct knowledge within the EHRC of what the VCS offers in any particular region. There appears to be a lack of bottom up intelligence of VCS views and an inability to ‘*make new friends*’ to ascertain: a) what the key challenges are in any particular region/or with respect to any protected characteristic and; b) how they can best be addressed. Hence the partnership working necessary to build a commissioning mechanism, rather than a ‘bottom up’ competitive grants funding, cannot be successfully adopted. In our view, the absence of these rich relationships and the intelligence obtained from them can not be substituted for by the consultation which informed the allocation of the strategic grants for 2009-12; and
- the grants programme appears to have muddied the waters between the EHRC and other umbrella/intermediary bodies. For example, some feel the EHRC seems to be in competition with certain umbrella body groups such as Equality South West, rather than working through them.

Recommendation

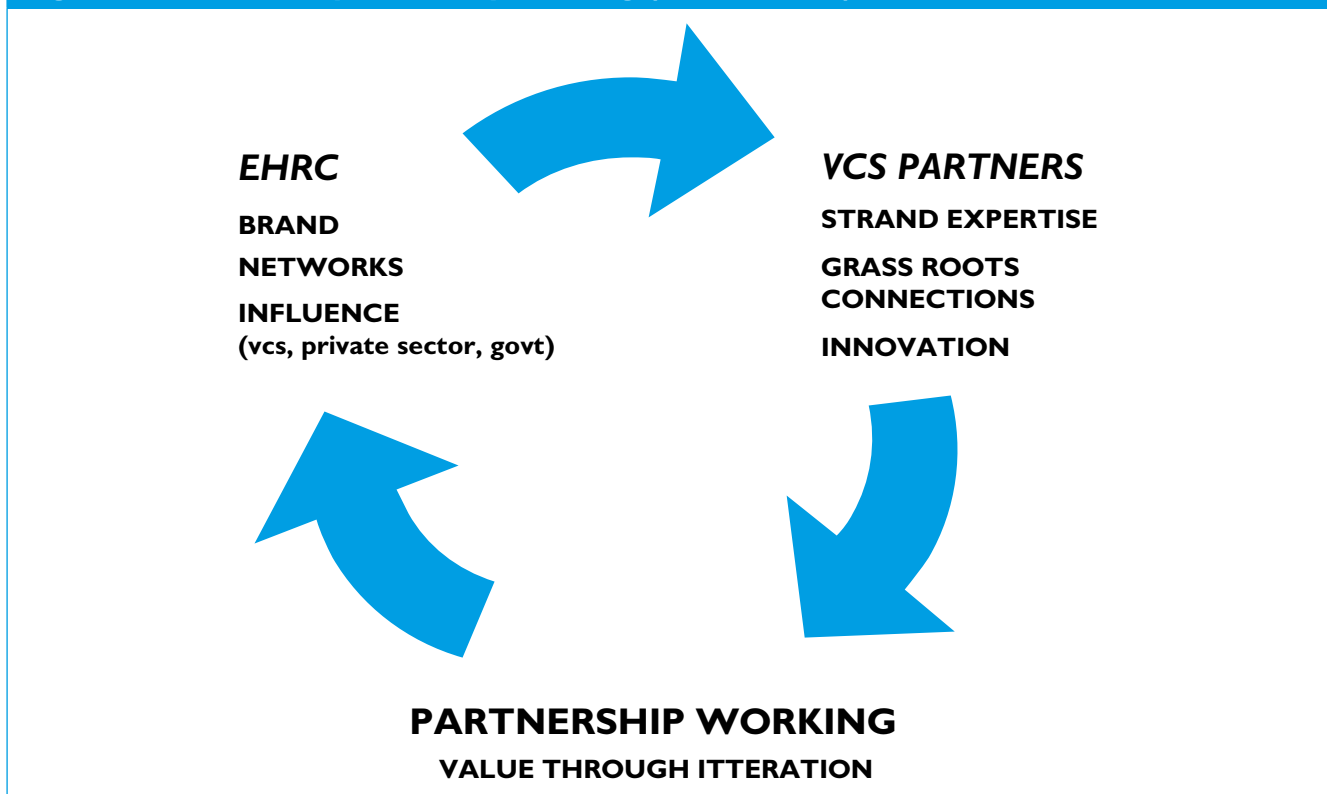
12.10 Based on the above analysis, it is proposed that the EHRC should no longer run a grants programme for the VCS. The benefits attributed to the EHRC awarding funding to VCS organisations appear to be more than offset by:

- the lack of partnership working caused by the way funding has been awarded; and
- the operational challenges of managing a grants programme.

12.11 This is not to say that the EHRC does not have an important role to play in directly supporting the objectives of capacity building. However, we propose that the EHRC delivers these functions itself through acting as a facilitator and a centre of expertise. The EHRC should focus on providing: contacts; signposting; networking opportunities; and forums for the exchange of good practice. It should focus on the gathering of intelligence from the grassroots and feeding this through into enforcement and strategy. Finally, it should also focus on explaining and improving understanding of new legislation and on codes of practice and guidance. In particular as part of its capacity building activity the EHRC could focus on:

- building up the capability of the VCS to support citizens in undertaking comparative analysis of the data which public sector bodies will publish on their service delivery (including input and output data related to policy interventions as well as data on overall service delivery trends and outcomes – including longitudinal data); and
- improving understanding of human rights legislation.

Figure 34: Model for partnership working (Review 2010)



12.12 Critical to the successful delivery of this function is the ability of the EHRC to engage in strategic outreach engagement with the VCS. We note the proposals being considered as part of the EHRC’s Mid Term Organisational Review are moving in the right direction, In particular, the proposal to restructure the English Regions team (currently comprising 26 people) by reconfiguring the team so that it comprises three senior EHRC representatives covering the North, the Midlands and the South, and then to develop a pool of ‘partnership engagement officers’ not confined to any particular geographical area who would undertake the necessary strategic outreach activity. This structure is based on the IDA partnership working model. Feedback given by partners suggests there is appetite for the EHRC to work through umbrella bodies to ensure effective capacity/capability building within the sector. This feedback has been redacted because it was provided to Government in confidence.

Are there objectives which funding could be used to achieve, but which should not be delivered by the EHRC as they are inconsistent with the vision of becoming a more focused regulator, and if so who is best placed to take these functions on?

12.13 We think that government has a role to play in supporting:

- organisations to directly deliver and improve service delivery outcomes for disadvantaged groups; and
- capacity building – including for example enabling representatives of certain disadvantaged groups to have a stronger voice in influencing, for example public service design and delivery.

Strategic fit

12.14 GEO will be working with key funding departments (Department for Communities and Local Government, the Department for Work and Pensions, Ministry of Justice and the Office for Civil Society), to ensure that the needs of disadvantaged groups are mainstreamed into the provision of generic models to deliver The Big Society, particularly in areas with low social capital where disadvantaged groups are disproportionately represented. Nevertheless, government will need to decide whether, at least in the short term, funding is required to complement the government wide activity described above, to ensure that the needs of disadvantaged groups are fully factored into the delivery of The Big Society, and that disadvantaged groups have the opportunity to fully contribute to this vision. We note the importance of ensuring that the needs of disadvantaged groups are factored into the design, commissioning and delivery of services as well as more general capacity building within the voluntary and community sector.

Operational and delivery considerations

12.15 We recommend that the mechanism for providing government funding should not be through a bottom up competitive grants programme but through bespoke commissioning based on close partnership working with the VCS to ensure that the correct specification has been designed. This should ensure that the Government is not inundated with requests for grants, as well as allowing for much greater control and specificity over the outcomes required as these can be subject to service level agreements and aligned with the priorities set out in the government's Equality Strategy.

12.16 One clear advantage of the EHRC no longer administering a wide ranging grants programme is to protect it against charges of partiality towards certain protected characteristics, something to which it has been vulnerable in the past (even though there is no evidence to indicate any malign or improper influence on the allocation of the funding).

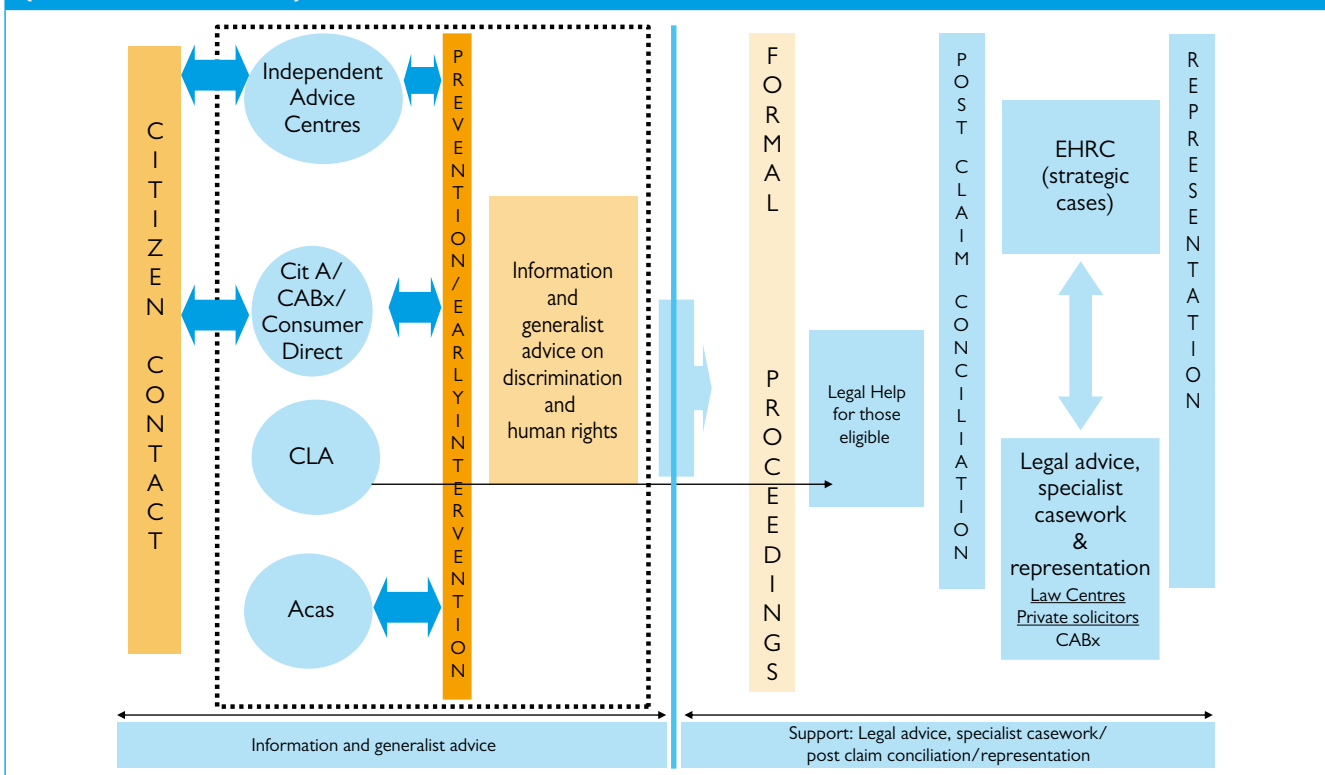
12.17 We are conscious that this is a challenging time for the VCS, and therefore recommend that:

- Government engages with VCS organisations on how best it can support these groups (including through the design of an alternative funding stream) in ensuring that the needs of disadvantaged groups are factored into the design, commissioning and delivery of services **and** to support the sustainability of a VCS sector that caters for the needs of disadvantaged groups.
- The EHRC begins its enhanced capacity building role.

Chapter 13: Recommendations

13.1 We identified that the provision of information, advice and support on equality and human rights issues is fragmented, and lacking in strategic partnership working and co-ordination. As a consequence it does not operate as a system. The need to tackle the public expenditure deficit is leading both funders and providers of information, advice and support on people's legal rights to come together to look at how services can be delivered in a more streamlined, rationalised and cost-effective way. The public sector (including government departments and the EHRC) should identify what they can do to facilitate cooperation and effective integration in this market. A possible model going forward is set out in Figure 35 below. Government should also focus on better understanding both the level of need (met and unmet) and the level of supply of generalist advice and specialist support/legal advice on discrimination matters in particular. This will enable government to use its funding levers in a more precise and targeted manner.

Figure 35: Future Business model for those providing advice, information and support on amongst other civil law causes discrimination and human rights issues (The Review, 2010)



Specific recommendations

- 13.2 We think that the function of providing information and generalist advice to potential victims of discrimination is necessary because the provision of timely and high quality advice can support the resolution of problems at an informal stage, thus leading to more positive outcomes for the individual, the economy and society more generally. To be cost-effective and to ensure maximum opportunities for access to this service is best delivered through a combination of digital technology and telephony. This could also be supplemented by some face to face provision. Nonetheless we recognise that providing uniform and reasonable access to information and generalist advice solely via the face to face model for discrimination and human rights enquiries is not a cost-effective model.
- 13.3 We think that this activity should be commissioned by the UK government (rather than the EHRC), allowing government to commission an information and generalist advice activity on discrimination and human rights issues in a systematic and cost-effective manner, while ensuring that the service remains accessible to those most likely to experience discrimination and active in helping those most at risk to identify where discrimination has occurred and to seek the appropriate support.
- 13.4 The EHRC should continue to operate its specialist advice line via the casework and litigation team for advisors on discrimination matters. This could form an important part of the EHRC's enhanced capacity building activity.
- 13.5 **In addition** to the above, government (rather than the EHRC), should **fund** the provision of strategic outreach/awareness-raising activity. This should focus on those demographic groups and disadvantaged individuals most likely to experience discrimination and human rights abuses. Clearly the EHRC will itself also directly (as opposed to funding other organisations) raise **awareness** of people's rights under discrimination law (working through other organisations) and **promote** people's rights under human rights law. The EHRC will need to balance its focus on citizens, with the priority it gives to working with employers and service providers to improve compliance and promote good practice. The latter is essential for the EHRC successfully realising behavioural change. We therefore think that there is a legitimate role for government in funding organisations that are best placed to reach the individuals who evidence suggests are most likely to experience discrimination.
- 13.6 We are not convinced that Government should provide funding for discrimination cases outside that of the civil legal aid scheme. We believe any additional funding for discrimination cases should only be awarded to those financially eligible for civil legal aid. Nonetheless, we suggest that Government may wish to engage with partners on if there is any rationale for further publicly funded support for discrimination cases. Specifically this might involve engaging with partners on:
- if there is anything sufficiently qualitatively distinguishable about discrimination cases, as opposed to other civil law justiciable causes, that justifies additional publicly funded support;
 - whether a short term funding stream designed to provide information and generalist advice in areas of advice shortage is justifiable at the current time or whether this is best tackled through the civil legal aid scheme; and

- whether using a short term funding stream to try to generate more of a ‘systems approach’ in the information, advice and support landscape is a sensible and justifiable use of public funding at the current time.

13.7 The EHRC should **directly** engage in capacity building. Namely, it should work with and through umbrella bodies such as the Law Centres Federation and Citizens Advice to provide: a) training; b) accreditation and quality assurance of training and; c) sharing of good practice. It should act as a hub for strategic partnership working on the ground. We consider this to be an important part of the EHRC’s core regulatory function and consistent with the government’s aim of changing people’s attitudes and behaviours through mechanisms other than ‘hard’ enforcement (although some of the latter will always be necessary).

13.8 Government should continue to support VCS organisations in ensuring that the needs of disadvantaged groups are factored into the design, commissioning and delivery of services **and** to support the sustainability of a VCS sector that caters for the needs of disadvantaged groups. These objectives could in part be achieved through a funding stream. We recommend this funding should not however be distributed through a top down open-ended grants programme; instead we recommend focused and targeted commissioning arrangements should be used in support of the Government’s broader equality strategy.

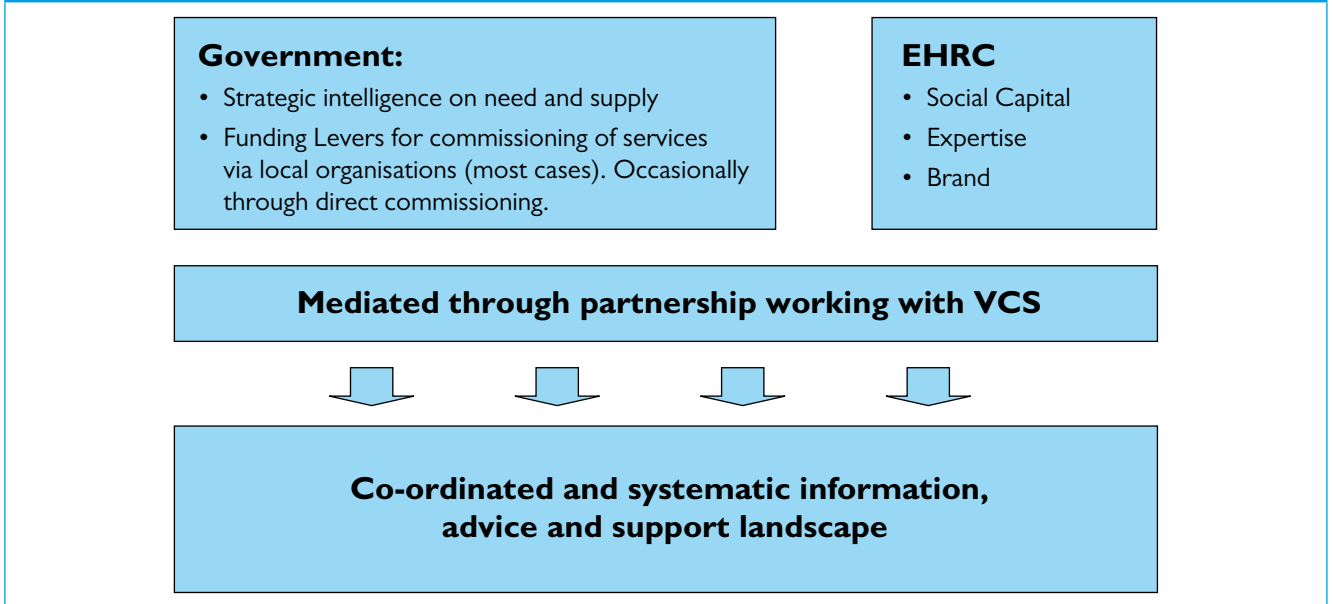
13.9 The EHRC should continue to **directly** support the capacity building of the VCS, thus, for example, assisting the VCS to influence broader public sector decision makers to ensure the needs of their constituents are built into the design of the commissioning of services. We think that the EHRC is uniquely placed given its position as an umbrella body representing all strands, its brand and reputational leverage and social capital, to operate in partnership with umbrella bodies to bring the VCS together to promote good practice and to develop and share capability. This requires the EHRC to focus on building up strong strategic partnerships with organisations (rather than relying on this solely occurring at a junior level amongst individual caseworkers or helpline advisors). As one observer from the EHRC put it:

“I don’t have a sense that we network into the rich experience and knowledge often to be found out there.”

13.10 In summary and perhaps most ambitiously, the EHRC (through its social capital) and Government through financial levers should together play a key role in being the ‘ringmaster’ of the discrimination and human rights information, advice and support landscape focused on bringing coherence and system to what is currently a patchy and duplicatory system.

13.11 A model for EHRC and Government/GEO joint working is set out below

Figure 36: Government/EHRC strategic roles in the equality and human rights information, advice and support landscape (The Review, 2010)



Chapter 14: Next steps

14.1 We have noted that both civil society organisations and private sector partners are keen to impress upon the Government the importance of partnership working and early engagement with them, ahead of policy and business models being defined.

14.2 We recommend that the following next steps should be undertaken:

For Government

- work with other funders of information and generalist advice provision on justiciable causes in civil law (e.g. employment, housing and welfare/debt) to deliver a more effective service focused on the needs of the individual rather than restricted by departmental boundaries or policy silos;
- develop a map of 'need' (including the risks and economic impact of that need not being met) for information, advice and support on discrimination and where appropriate human rights;
- engage with partners on:
 - the commissioning of provision of information and generalist advice on discrimination and human rights issues;
 - deciding whether there is anything distinguishable about discrimination as opposed to other civil law justiciable causes within the scope of the civil legal aid scheme, that justifies additional public funding
 - Government engages with VCS organisations on how best it can support these groups in ensuring that the needs of disadvantaged groups are factored into the design, commissioning and delivery of services **and** to support the sustainability of a VCS sector that caters for the needs of disadvantaged groups.
- We recognise that the helpline operation has been run significantly better than in Scotland and Wales and that organisations within Scotland and Wales are also recipients of both strategic and legal grants. We will therefore be engaging separately with the Scottish Government and the Welsh Assembly on next steps.

For EHRC

- Focus on building capability and capacity within the VCS and others, for example lawyers/caseworkers operating on a pro bono basis, on discrimination and human rights law.

Annex A: Analysis of options for the provision of information and advice

Business model 1: EHRC – provider of a ‘contact centre’ providing information and generalist advice to those citizens who believe they have been discriminated against or experienced human rights abuses

Strategic fit

a) Alignment with the vision of the EHRC as a modern regulator

Arguably, the EHRC as a provider of information and generalist advice aligns with the government’s model of modern regulation through:

- allowing for a direct link between the citizen and the Regulator. An EHRC run contact centre allows citizens to challenge the performance of, for example the public sector, in relation to discrimination and human rights and to have a ‘direct line’ through to the regulator responsible for strategic enforcement; and
- the provision of information and generalist advice, increasing the chance that potential discrimination issues can be resolved informally without the need to access legal advice and engage in formal proceedings. This is an essential part of the government’s access to justice agenda.

Nonetheless, in each of the above two instances, we conclude that so long as there is: (a) an effective referral source through to the Regulator; and (b) a provider able to deliver high-quality information and advice on discrimination and human rights issues, the information/generalist advice function does not have to be located within the Regulator itself. Current thinking from the Central Office of Information (COI) on contact centres suggests that unless they involve large scale transactional arrangements, the provision of advice, counselling and support is most cost-effectively provided outside the confines of Non-Departmental Public Bodies (NDPBs) and government departments. They advocate outsourcing to encourage flexibility and innovation in the way that services are provided.

An EHRC run contact centre operates on a GB-basis and is therefore unable to capitalise on the local social capital that could be so crucial to resolving potential instances of discrimination, in particular, before they get to the point of requiring legal advice and advocacy support.

b) Current role of the EHRC in the supply chain for information and generalist advice on discrimination and human rights matters

We identified that there are other providers delivering information and advice on discrimination (although not human rights), such as CABx and independent advice centres. The EHRC helpline/digital service appears to be duplicating some of these functions without the advantages of the strong brand awareness and breadth of localised coverage of Citizens Advice. We conclude that it is unclear what ‘competitive advantage’ the EHRC has or what added value it brings to providing information and generalist advice on discrimination and human rights matters.

Operational and delivery considerations

An analysis of the helpline suggests that significant further improvements need to be made in the provision of information and advice through a contact centre if the EHRC were to continue providing this service. Indeed, as one observer put it, *‘if you run a helpline you have got to make up your mind to do it’*.

The required improvements are set out below:

Information/transparency:

Use of ‘real-time’ intelligence/management information: to become an investment centre.

Figure 37: Potential infringements of discrimination/human rights legislation for 2009/10 (EHRC, 2010)

	2009	2010	
Total cases	42,580	36,986	* forecast
Potential infringements of discrimination or human rights legislation as identified by an advisor	13,022	5,866	* forecast
Potential infringements as a % of total cases forecast	31%	16%	

Intra-EHRC referrals: The data in Figure 37 (consolidated for England, Wales and Scotland) indicates that even allowing for the fall in call volume in 2010 relative to 2009, potential infringements have decreased by 15% between 2009 and 2010. We therefore tried to identify if there was serious over reporting of cases in 2009 or a serious under reporting of cases in 2010 which, in either instance, casts doubt on the ability of helpline advisors to accurately identify potential infringements of discrimination or human rights law. We are not convinced that there is clarity amongst advisors on what does and does not constitute a potential infringement. We suspect that greater engagement of specialist advisors in deciding which cases should be referred to the Casework and Litigation team could account for the differential. This implies that previously too many cases were being reported as potential infringements.

Figure 38: Total number of internal and external referrals for the helpline between January and August 2010 (EHRC. 2010)

TOTAL OF INTERNAL AND EXTERNAL REFERRALS – January 2010 – August 2010								
Month	Casework & Litigation		Enforcement		Free Representation Unit (FRU)		Bar Pro Bono Unit (BPBU)	
	New Referrals	Update Referrals	New Referrals	Update Referrals	New Referrals	Update Referrals	New Referrals	Update Referrals
January	11	29		2	1	14	1	21
February	20	42		1	1	2		8
March	14	25	2	3	1	18		2
April	4	12	2	3	1	18		2
May	20	13	5		1			
June	34	20	4	1	1	3		3
July	33	27	6	2				5
August	23	25	3	1	1	7		
TOTAL	159	193	22	13	7	62	1	41
New	189							
Update	309							

This deduction is supported by the seemingly weak relationship between the helpline staff and the Casework and Litigation team, within England in particular. The only data available for referrals made from the helpline to the Casework and Litigation or Enforcement teams for the EHRC is from January 2010 (where new referrals and updated referrals are set out – see Figure 38). The increase in referrals to the casework and litigation and enforcement teams, from April 2010 was attributed by the helpline staff to a change in the process and more direct engagement by the new specialist advisor team.

In England whilst the Casework and Litigation team have a monthly catch-up with specialist advisors, no data has been provided to us on the proportion of referrals to the Casework and Litigation team that resulted in them either:

- agreeing to fund or support strategic cases; or
- referring cases to other organisations with the capacity and capability to take cases forward (for example local law centres, Disability Information and Advice Line Services (DIALs) or local race equality councils).

This is supported by anecdotal feedback from partner organisations which refer to a dearth of systematic feedback once they have referred cases to the EHRC.

Inter-EHRC referrals: The EHRC was unable to provide data on the organisations that they are most likely to refer to or which are most likely to refer enquiries to them. The judgement of the helpline staff is that the organisations they are most likely to make referrals to are: Acas and Community Legal Advice Line. Before 2010 referrals were made by the helpline staff (for non strategic cases) to the Bar Pro Bono Unit and the Free Representation Unit, although this practice has now ceased as all referrals

are sent to the Casework and Litigation team. The judgement of helpline staff is that the organisations who are most likely to have referred or signposted callers through to them are: Acas, CABx, Law centres, Jobcentres, strand-specific VCS groups (e.g. Stonewall).

Integration of the helpline with other functions within the EHRC

More broadly there are some examples of the England helpline function becoming more integrated with the other core functions of the EHRC. For example they are taking on a quasi-enforcement role in dealing with: (i) complaints in relation to airline accessibility, and: (ii) complaints about discriminatory advertisements. A clear effort is being made to use data derived from the helpline, for example on the disability harassment inquiry to inform policy and enforcement activity. However there are also indications of duplications of functions. For example, there was evidence that some helpline staff were unaware that the EHRC draft codes of practice on the Equality Act 2010 were already available on the EHRC website. Equally, the role of specialist advisors in training advisors about the practical implementation of the Equality Act appeared to be something they were doing from scratch, with no reference to the EHRC's draft codes of practice or the GEO co-produced 'quick start' guides.

The integration of the helpline function with other EHRC regulatory functions appears to be stronger in Scotland and Wales than it does in England. This is supported by the examples below:

Anecdotal example provided by Wales EHRC

The helpline was contacted about access challenges experienced by a disabled person trying to use a supermarket, and brought this to the attention of the policy arm in the EHRC in Wales. Although the individual did not wish to pursue the case, the policy arm of the EHRC made contact with the supermarket to warn them of this potential infringement and worked with them to remedy the situation, averting the risk of any future litigation.

Anecdotal example provided by Scotland EHRC

Helpline colleagues discussed various calls they had received about transgender issues, many of which could not be pursued legally for various reasons but which gave EHRC Scotland a good picture of what seemed to be a widespread and persistent problem amongst the transgender community. EHRC Scotland took up one case with Greater Glasgow NHS and persuaded them to change their policy on hair removal services for transgender people. EHRC Scotland is now in discussion with the Scottish Government, which they hope will lead to a change in their guidance to all NHS Boards on the provision of surgery for transgender people, taking it out of the cosmetic protocol and leading to substantially improved treatment for those who are transitioning.

Clearly the helpline is only one source of intelligence about potential strategic cases. This point was emphasised by EHRC representatives from England, Wales and Scotland. Other sources of referral include:

- direct contact with the EHRC through letters. The EHRC states that one such letter, from a solicitor, is how it became aware of the Sharon Coleman case, which ultimately led to the extension of protection against discrimination to those associated with disabled people i.e. carers;
- referrals from other organisations such as CABx, trade unions, private law firms. The EHRC does not keep a record of referrals received from other organisations, and the system of referrals from the EHRC to other organisations seems to be based on personal, informal relationships, rather than being delivered on a systematic basis. This also applies to the referrals the EHRC makes of cases it deems to be strong (but non-strategic), for example, to Law centres or private solicitors to take forward. However, again there is no useable data for 2008/09/10, on the numbers of referrals made by the EHRC to other agencies, other than the Free Representation Unit and the Pro Bono Unit;
- trends identified through research (for example the Triennial Review), enquiries and investigations. For example, research in Scotland identified gaps in the provision of advice and support for LGB and T groups; and
- reviewing of tribunal outcomes.
- We conclude there is no formal systematic basis for referrals, particularly for England, in the following areas:
 - intra referrals made between the helpline and the casework and litigation officers (or indeed other parts of the EHRC);
 - inter referrals made from the helpline to other information, advice and support providers; and
 - referrals made from other not-for-profit information and advice providers and private law firms to the EHRC.

This clearly limits the extent to which the real-time intelligence and management information, of which the helpline must be a rich source, can inform strategic risk-based enforcement, or indeed improve the EHRC's understanding of the real-time challenges being experienced by people on discrimination and human rights issues. These findings are also supported by the recent Hampton Review (Better Regulation Executive, 2010) of the EHRC which identified the need for a more systematic risk-based approach to enforcement activity. The Hampton Review (2010) warns against undue or sole reliance on the important, but also soft and ad hoc intelligence collected from the helpline to inform strategic and risk-based enforcement. A risk-based approach needs to be less reactive with more intelligence being derived from a number of sources, some reactive, some proactive and being filtered through the lens of the organisation's strategic priorities to ensure the necessary focus.

Brand

- Brand awareness of the EHRC helpline is low. There has been no assessment by the EHRC of the brand awareness or the strength of brand identity of the helpline amongst citizens or any systematic measurement of the awareness of their service or referrals from other advice agencies to the EHRC helpline and vice versa. The helpline’s call volume of around 53,000 calls a year (2010 forecast), suggests low brand awareness compared to Citizens Advice or Acas. However, we recognise there has been no real promotion of the helpline for several reasons including forthcoming organisational reviews. Other than Citizens Advice and Acas, which have a strong brand identity awareness with citizens, the other helplines used for benchmarking, such as Consumer Direct and the Community Legal Advice line, also have low brand awareness. However, this can be mitigated against if the helpline is well known to referral agencies such as, CABx/Citizens Advice and, for example, Acas.

A very small-scale survey (carried out by the EHRC in May 2009) indicated that awareness of the EHRC helpline amongst fourteen other referral agencies including local CABx, Law Centres and independent advice centres is reasonable (79%) but has not translated into close partnership working, with referrals being lower than would be expected. The findings below are clearly not statistically significant.

Figure 39: Findings of a small survey indicating the level of awareness of the EHRC helpline function amongst referral agencies (EHRC, May 2009)

Percentage of organisations aware of the advice and support provided by the EHRC	79
Percentage of organisations who had a direct working relationship with EHRC	7
Percentage of organisations who referred people to the EHRC for advice and guidance	64
Percentage of organisations who would find a closer working relationship with EHRC helpline beneficial	57
Percentage of organisations who said they would benefit from a shared training programme between the EHRC and their organisation	64

There is evidence to suggest that EHRC’s own enquiries and research generate calls to the helpline. For example, the spike in call volume for 2009 resulting in higher call volumes than forecast for 2010 is attributed to the airline accessibility campaign which is believed to have generated an increase of 20% in call volume.

The Big Society

There is no systematic data/evidence of the EHRC providing a locally or regionally responsive helpline service, or being able to disaggregate data captured through the helpline to identify regional or local trends or hotspots. This also applies to helpline providers such as Consumer Direct and the Community Legal Advice line. The helpline most able to capitalise on local understanding of challenges faced by citizens is Citizens Advice. We recognise however that because of their origins, essentially as a localised service, Citizens Advice/CABx have an inherent advantage. Their business model of using volunteers and the ability to refer people to their face to face provision enables them to retain their local connection.

Largely because of technological limitations and the lack of a functioning Customer Relationship Management (CRM) system, the EHRC is unable to show the outcomes of its information and generalist advice to citizens through the helpline. No customer satisfaction surveys have been undertaken and hence no systematic data to assess the quality of the service exists. This also makes it impossible to calculate the return on investment. This will be fully explored in the below section on cost-effectiveness. All other contact centres analysed for benchmarking purposes were able to provide strong customer satisfaction data. The helpline team provided us with some testimonials from 'clients' which were very positive. We note that two of the examples put forward show the generalist helpline advice has assisted people in resolving issues while they remain at the 'informal' stage. **These testimonials have been redacted as they contain sensitive personal data.** Anecdotal evidence has also been provided by partners, which indicates the inquirers have not found the information and generalist advice from the helpline as helpful as they would have liked; for example one partner reflected concern about the quality of general advice provided by helpline staff on certain protected characteristics. However, without any customer satisfaction data, and indeed any knowledge about the proportion of calls which are signposted to other agencies, it is impossible to directly verify the quality of advice provided.

Cost effectiveness

Technology:

Evidence suggests the basic technological infrastructure does not exist for handling calls or written enquiries. The CRM system is only now being partially used, in spite of the EHRC having purchased 120 licences in October 2007. The system is of high specification and the vast majority of its functions are not required. CRM is considered by some within the EHRC to be a 'sledgehammer to crack a nut'. Relevant parts of the system are now operational, although the EHRC indicate that the telephony infrastructure is not fit for purpose. More importantly there are no plans for moving towards more sophisticated resource management tools or indeed any use of voice integrated recognition, which for example is used by Consumer Direct. Even basic technological tools such as a resource scheduler are not available. Plans are, however, underway to develop a sophisticated knowledge base and standard suite of letters for responses to written requests. There are moves towards a closer relationship with the Digital Communications team (also within the Communications Directorate). The intention is to make available top line frequently asked questions on the website, which are informed by management information from the helpline (contemporaneous information). There are also some ambitious plans for developing an 'instant messaging service' to provide information and generalist advice digitally.

Accurate forecasting, flexible resource management & capacity

- (a) **Capacity:** In an operational report produced in the summer of 2010, the EHRC forecast a total need for 31.3 FTE (full time equivalent) advisors (the data does not differentiate between the advisors and specialist advisors – this is the total number) using the forecast number of enquiries for the calendar year 2010. Our analysis has indicated that within the GB helpline operation, there are significant variations in productivity between England, Scotland and Wales offices, which are as follows:
 - i. England based advisors are dealing with **9.45%** less of the total enquiries volume than would be expected given their share of the total advisor resource;


- ii. Scotland based advisors are dealing with **30%** more cases than would be expected given their share of the total enquiries volume; and
- iii. Wales based advisors are dealing with **29%** more cases than would be expected given their share of the total enquiries volume.

The above analysis indicates that the England office is underperforming relative to those of the Scotland and Wales offices. Allowing for the fact that advisors should only be available for 997 hours per FTE per year (around 22 hours per week), the actual number of FTEs required to deal with the volume of enquiries and cases received in the first 7 months of 2010 would suggest that: England were overstaffed by 8.85 FTE, Scotland by 0.87 FTE, Wales by 1.47 FTE. These calculations are based on the actual number of cases handled from January to July 2010. This methodology of these calculations has been agreed with the EHRC.

- (b) **Management structure:** The management structure within the helpline appears particularly dense. The role of the team leaders appears to be largely focused on soft skills management of advisors (as specialist advisors are responsible for the advisors technical development), and for managing the call volume (which is low) between their respective teams. We found it challenging to understand why helpline managers (one grade above the team leaders) could not undertake the functions of the team leaders. We are also unconvinced by the relationship between specialist advisors and advisors. To some extent this appeared to undermine the move away from a two tier advice business model. While we understand the challenges of all advisors having the capability to advise on all protected characteristics, we are not convinced that the functions of specialist advisors is conducive to a lean management culture. We consider that a better approach would be to up-skill advisors so that they feel confident in being able to advise thoroughly and to prepare the necessary paperwork (including ET1 and ET3 forms) for cases which are subsequently referred to the Casework and Litigation team. In contradistinction, one area where more focus and possibly more resource needs to be directed is in ensuring effective partnership working with other partners in the information, generalist advice and support landscape. Equally, Specialist advisors because of their expert knowledge on discrimination law could have a crucial role to play in the enhanced capacity and capability building role we recommend for the EHRC.
- (c) **Culture:** We are left with the overall impression that the helpline operation in Birmingham is not well integrated with the other functions and arms of the EHRC including the policy, digital communications and enforcement teams. There are some good instances of personal relationship based referrals and joint working with the Casework and Litigation team, but this is not being done systematically. In contrast the helpline operations in Scotland and Wales appear to be significantly more integrated into the enforcement, policy and outreach/communications arms of their respective EHRC operations.

There is little evidence of any effective forecasting of case volumes. Indeed call volume for 2010 to date is 33% less than forecast, with written enquiries being significantly higher than forecast for 2010.

A combination of capacity, capability and cultural issues inevitably means that the EHRC does not compare well with regard to metrics on cost-effectiveness in relation to the benchmarked comparators.



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