

## Improvement Network

### Briefing: The Equality and Human Rights Commission's human rights inquiry

**Purpose of briefing: To provide an overview of the human rights inquiry findings, including associated sub-reports published by the EHRC in June 2009**

#### Section 1 - background

- 1 The Human Rights Act (1998) came into force in October 2000, and sets out the fundamental human rights for individuals in the United Kingdom. All public bodies are required to uphold these rights. The EHRC launched the [human rights inquiry](#) in April 2008 under its statutory responsibility to conduct inquiries into human rights issues<sup>1</sup>. The inquiry considers human rights to be the 'bedrock' or umbrella of principles that apply to all. According to the inquiry, human rights includes equality, but also covers dignity, fairness, respect and autonomy. The inquiry's terms of reference were:
  - to assess progress towards the effectiveness and enjoyment of a culture of respect for human rights in Great Britain
  - to consider how the current human rights framework might best be developed and used, to realise the vision of a society built on fairness and respect, confident in all aspects of its diversity.
- 2 Evidence for the inquiry was gathered from individuals, organisations and service providers, based on their experiences, both positive and negative. Following a literature review, EHRC also commissioned research on specific areas that would help with the inquiry including the experiences of inspectorates and regulatory bodies. A series of [inquiry panels](#) to gather evidence from invited witnesses were also held.
- 3 The specific findings of the inquiry are set out in section 3. These cover subjects such as corporate culture, training and development and incorporating human rights into audit and inspection processes.

#### Section 2 - Overview of the human rights inquiry's recommendations

##### Corporate culture and human rights

- 4 The inquiry found that human rights are rarely the only driver for change in public bodies and that there is no systematic understanding of a human rights approach among public sector staff involved in delivering services or dealing with the public. Concern to avoid the risks associated with legal challenge under the Human Rights Act (HRA) is sometimes a major factor in encouraging a human rights focus.
- 5 The inquiry found that further work on governance arrangements in public bodies is required to achieve an improved approach to understanding the implications of human rights case law. Less than half of director level respondents feel that front line staff receive sufficient, timely or accessible guidance on case law. Some benefits are beginning to emerge from efforts to embed human rights into organisational practice, but further monitoring is required and it is still too early to determine tangible outcomes.

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<sup>1</sup> Under section 16 of the Equality Act 2006, the Commission may conduct inquiries into human rights issues. This may involve inquiries into particular issues or sectors where concerns relating to human rights exist.

- 6 The inquiry found no good organisational benchmark<sup>1</sup> on human rights practice, but instead a number of good practices that demonstrate a strong approach to human rights. These include:
- visible leadership and commitment to human rights
  - incorporating human rights into corporate plans and strategies<sup>11</sup>
  - embedding human rights and inequalities into internal structures
  - ongoing review and realignment of policies and legislation
- 7 The inquiry recognised that additional staffing capacity and advice would be needed to achieve and sustain these proposed cultural changes. It suggests that there is a need for dedicated human rights leads within public bodies to hold them to account.

### Using human rights language

- 8 The inquiry found reluctance in government and public bodies to use specific human rights language due to a perception that it is legalistic or because of confusion between human rights and equality. Unhelpful media coverage has also discouraged the use of human rights language. ‘Softer’ language such as respect, dignity or freedom from discrimination has taken the place of the Articles from the HRA<sup>111</sup>. The inquiry found that some respondents thought a top-down approach to mandating human rights language could be counter-productive and increase reluctance to use language from the Act.
- 9 The inquiry indicates that it is important for service providers to undertake specific engagement work to ‘inform and educate’ service users about their human rights. This can be seen as a bottom-up approach to human rights. However, the inquiry also recognised it is difficult to simplify human rights language and that staff in public bodies may feel nervous about informing service users of their human rights as this may stimulate demand for services.
- 10 The inquiry suggests that regulators and inspectorates produce sector specific guidance in translating human rights principles into practice. The inquiry report states that:
- inspectorates have a positive internal communication job to do on human rights
  - sector specific guidance to translate human rights principles into practice would be beneficial

### Knowledge and information sharing

- 11 There is widespread concern that there is insufficient knowledge about human rights and good practice needs to be spread more widely. None of the public bodies questioned could provide an overall picture on how human rights are integrated into specific public sector services such as health or local government.
- 12 There is a strong desire for accessible and relevant guidance as well as information and advice about human rights. However, although self-assessment tools for equalities and human rights have been developed, organisations report that the take up of these has

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<sup>1</sup> 11 regulators were consulted during this inquiry, they are: Audit Commission; Commission for Social Care Inspection; HM Inspectorate for Education and Training in Wales; Healthcare Commission; Healthcare Inspectorate Wales; HM Inspectorate of Prisons for England and Wales; HM Inspectorate of Probation for England and Wales; Independent Police Complaints Commission; Mental Health Act Commission; Parliamentary and Health Services Ombudsman; and the Wales Audit Office.

<sup>11</sup> Seven of the 11 regulators reviewed set out their commitment to human rights in their corporate plans or value statements.

<sup>111</sup> See Annex E in [A guide to the Human Rights Act 1998: third edition](#) for a list of the Articles of the 1998 Human Rights Act.

been low. Also, the inquiry identified a lack of time for inspectorate staff to commit to mainstreaming human rights and sustain a human rights approach during inspections.

### **Training and development**

- 13 The inquiry found that there is no evidence that human rights training is given to all front line staff involved in the delivery of services to the public.
- 14 Where human rights training does take place, the inquiry found that there is widespread acknowledgement of the need for more tailored training.

### **Developing human rights performance management indicators**

- 15 One of the inquiry's sub-reports<sup>1</sup> finds that some positive benefits are beginning to flow from efforts to embed human rights into organisational practice, but detailed information on costs and benefits of human rights activity are not being collected in a systematic way. Current human rights indicators tend to be concerned with tracking progress against planned activities rather than measuring impact. Overall, the inquiry found no evidence that organisations have developed a systematic corporate performance framework to assess the outcomes of their human rights work across the board.
- 16 The EHRC suggests that any performance framework would need to include the following elements:
  - Some clear human rights objectives and priorities, linked to an organisational narrative about what it means to take human rights seriously and embed human rights into every aspect of organisational life.
  - A range of indicators to measure performance against these objectives. These might include indicators related to service outcomes that link to Articles in the HRA – for example, mortality and injury rates in care.
  - Regular reporting of progress to senior management teams, governing bodies, service users and the public.
- 17 At the launch of the inquiry report, the EHRC explained that it proposes to engage with inspectors, regulators and complaint handling bodies to explore how the human rights framework can improve the quality of - and engagement with - public services:

*Over time we want to agree HR indicators with regulators and inspection bodies so that they become part of the framework for holding public bodies to account."*

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<sup>1</sup> [The impact of human rights culture on public sector organisations: the lessons of good practice](#), Equality and Human Rights Commission, June 2009

<sup>11</sup> [Human rights inquiry launch](#), Professor Francesca Klug, 2009