

Equality and Human Rights Commission: A Decade in the Making

SARAH SPENCER

THE Equality and Human Rights Commission (EHRC) had a difficult labour. From conception in the 1990s as a 'Human Rights Commission' in the context of incorporation of the European Convention on Human Rights (ECHR) into domestic law, through quite separate plans for a 'Single Equality Body', its ten year gestation was fraught. Never attractive to the Blair leadership, and with the vision and considerable enthusiasm of its proponents matched by some scepticism and concern, it nevertheless emerged into the sunlight in October 2007. While the focus is now on what the new commission can achieve, a recap of its history may throw light on some of the challenges it faces.¹

Human Rights Commission

The need for a Human Rights Commission was first mooted in the early 1990s but it was only when mentioned in Labour's consultation on incorporation, *Bringing Rights Home*, in 1996 that it became a serious option. Making no commitment, Shadow Home Secretary Jack Straw suggested a commission *could* be a means to provide individuals with advice, support public interest cases, conduct inquiries, monitor progress and scrutinise proposed legislation. While incorporation of the European Convention on Human Rights subsequently became a Labour manifesto commitment in 1997, establishing a commission did not.

The Institute for Public Policy Research (IPPR) picked up the baton, first publishing its own consultation paper on the

remit and structure of a commission and then, in 1998, a report arguing for equality issues to be brought within an overarching human rights body.² IPPR's proposals met enthusiasm among those concerned with human rights and equality issues for which no statutory body already existed, but a cautious response from the Commission for Racial Equality (CRE) and Equal Opportunities Commission (EOC), unconvinced at that stage of the relevance of human rights to their agendas and fearing marginalisation within a body with a broader remit. Their concerns were a factor in Labour's reticence when parliamentarians argued forcefully for a commission during the passage of the Human Rights Bill in 1998. Labour peer Baroness Amos argued:

We need a body which will raise public awareness, promote good practice, scrutinise legislation, monitor policy developments and their impact, provide independent advice to Parliament and advise those who feel that their rights have been infringed. I am particularly keen to see the promotion of an inclusive human rights culture which builds on the diversity of British society. That would be a key role for any human rights body to play.

Liberal Democrat, Baroness Shirley Williams said the great advantage of a commission was that it 'would encourage the public to own human rights . . . the beginning of a real and profound change in the democratic ethos and sense of freedom in this country'.³

The government stalled, said it was not yet convinced of the need for such a body and cited concern about its impact on the

existing commissions. Having recommended that Parliament establish a Joint Committee on Human Rights (JCHR), it suggested that the committee could hold an inquiry on the issue and that it would await its advice. The JCHR was finally established and launched its inquiry in 2001, six months after the Human Rights Act (HRA) had already come into force.

In a preface to the IPPR report, the Lord Chief Justice, Lord Woolf, had argued that 'the most important benefit of a Commission is that it will assist in creating a culture in which human rights are routinely observed without the need for continuous intervention by the courts. Human rights will only be a reality when this is the situation.' Faced with criticism that his Human Rights Bill would lead to vexatious litigation, Jack Straw emphasised the role of the Act itself in changing the culture of the public sector, calling it 'an ethical bottom line for public authorities . . . a fairness guarantee for the citizen' which would help build confidence in public bodies; thus connecting human rights to the government's public service reform agenda.⁴

Significantly, this was not an argument picked up by ministerial colleagues in service departments charged with advising public bodies to prepare for the HRA by reviewing their policies and practices. As evidence began to emerge⁵ that neither Whitehall nor public bodies were adequately prepared, NGO representatives on the Human Rights Taskforce overseeing implementation (1999–2001) tabled a controversial paper in July 2000 insisting this approach had been ineffective. NGOs could not meet the high demand from public bodies for training; Whitehall could not provide the guidance needed and there was an urgent need to address negative public attitudes towards the Act. A statutory human rights commission was needed to fulfil these roles and to promote a human rights culture: 'The danger is that, without a Commission, developing

a culture will be left to lawyers and the courts—not an optimistic prospect.'

The government was not convinced and, post 9/11, as the HRA was increasingly cited in challenges to government security measures, the idea that it might establish a commission charged with upholding human rights principles had become increasingly unlikely. Responsibility for human rights was transferred, following the 2001 election, to the Lord Chancellor's Department (LCD) where officials began to consider the potential not for a Human Rights Commission but for inclusion of human rights within a quite separate proposal—a 'single equality body'.

Single equality body

The European Commission had issued an Employment Directive in 2000 that required member states to enact legislation making discrimination in employment on grounds of age, disability, sexual orientation and religion and belief unlawful. Falling, with the exception of disability, outside the remit of the existing equality commissions, and with new statutory bodies an unattractive option, the future machinery for promoting and enforcing equality legislation was forced onto the agenda. A Green Paper on implementation of the Directive from the Department of Trade and Industry (DTI), *Towards Equality and Diversity* (2001), said the government was minded to bring the existing equality commissions, now including the Disability Rights Commission (DRC), into a single equality body to take responsibility for all six equality grounds.

Include or exclude human rights?

When the Minister, Barbara Roche, subsequently announced a feasibility study to explore the implications of a single

commission, she was persuaded to include 'the relationship between possible new arrangements for promoting equality and those for promoting and protecting human rights more widely'. 'That single phrase was crucial,' an official told the author, 'the undoing of the case for a body that excluded human rights'; allowing the LCD to make the case for inclusion and the JCHR to call Roche to give evidence to its inquiry.

The JCHR received a significant body of evidence that the HRA had failed to foster a culture of respect for human rights within public services, including, significantly, a critical report from the then local authority inspectorate, District Audit, and in particular had failed to protect vulnerable people: people who also figured prominently in the equality agendas. The equality commissions were, by 2002, convinced that a human rights commission was needed, but not necessarily that it should be included within an equality body. A DTI paper in the autumn setting out options for the SEB, *Equality and Diversity: Making it Happen*, was non-committal. It emphasised the contrasting focus of human rights work 'to safeguard individual rights in their relationship with the authorities of the state' where equality legislation had 'centred on social and economic protection' in jobs and services, while acknowledging that the gap in focus was narrowing.

As the JCHR continued to hear evidence of unmet need, including an influential report from the British Institute of Human Rights, *Something for Everyone*,⁶ debate intensified within government on how to respond. Anticipating that the JCHR would make a powerful case for a human rights body, the LCD argued in Whitehall that the least difficult option was to include human rights within the SEB. Officials in the Women and Equality Unit (WEU) in the DTI were firmly against and backed by the secretariat to the Cabinet subcommittee on equality,

DA EQ. Their reasons were pragmatic: there was no existing commission to assimilate; and the hostility to human rights in the media and lack of buy-in across government created complications that the project, already overstretched, could do without. DTI Secretary of State Patricia Hewitt pushed back, questioning but reluctantly supporting that position. Prior to a crucial meeting of DA EQ in February 2003, Downing Street advisers made known their own doubts, leaving Lord Chancellor Derry Irvine, his influence within government on the wane, exposed in his recommendation that human rights be included. Irvine emerged from the meeting convinced that this view had prevailed, only to find that the minutes, backed by committee chair John Prescott, disagreed.

The JCHR reported the following month that the case for a human rights body was 'compelling' and saw a strong case for inclusion within a single body.⁷ A number of reasons explain why its impact, unlike that of so many Select Committees, was profound. The first was the authority of its chair, Jean Corston MP. A former PPS to David Blunkett and, as chair of the parliamentary Labour party, meeting the Prime Minister on a regular basis, Corston was a respected and influential figure, reportedly seen by some in government as a potential chair of the commission.

Second was the weight of evidence that the committee had received—of degrading treatment and lack of privacy in residential and hospital care, for instance—which reinforced understanding of human rights as an ethos and standard of public service rather than, as often narrowly perceived, as the focus of controversial challenge to government in the courts. The coincidence of the timing of the report with imminent decisions on an SEB and the government's promise to give due weight to the committee's view tipped the decision in its favour.

The three equality commissions were by now persuaded that human rights would enhance the capacity of the SEB to deliver for their constituencies—a view that organisations concerned with age equality had long taken. LCD officials, their authority enhanced, initiated an interdepartmental meeting of officials to secure the case for inclusion, now unopposed by Number Ten, the Home Office or DTI. At a subsequent meeting of DA EQ in September, agreement was formally reached to establish an integrated commission, announced on 30 October by Patricia Hewitt and Lord Chancellor Charlie Falconer. ‘Human rights and equality,’ they said, ‘are two sides of a single coin—respect for the dignity and value of each person.’ Echoing the sentiment of the JCHR report, the new commission should ‘be able to change the way that public authorities treat individuals and drive up our service standards . . . reducing the need to go to court’.

Engagement with stakeholders

Resolution of the human rights issue was, however, only the first challenge. Major issues in the remit and structure of the body had yet to be addressed if the existing commissions and many NGOs were to buy in to the project. A taskforce was established in December 2003 as a forum to test ideas and foster consensus. Bringing together representatives of the commissions, employer and union representatives and NGOs from across the equality and human rights fields (though failing to include any black-led NGOs, an omission the government later had cause to regret⁸), the taskforce met frequently until September 2004.

For taskforce members, the lengthy deliberations in which debates were played out but not resolved, from which advice was channelled back into Whitehall discussions in which they had no part, could be frustrating. Yet the tenor of the debates, articulating a vision of a

symbiotic equality and human rights agenda for the first time, was enlightening, raising awareness of the synergy between equality issues and of the relevance of human rights principles. To WEU officials, the taskforce was a ‘bold and significant step’ in involving external stakeholders in policy formation and its influence, and that of the subsequent steering group which helped to draft the Bill, ‘huge’.

Officials also attended the monthly meetings of the network of equality and human rights organisations, the Equality and Diversity Forum (EDF),⁹ reporting and consulting on developments with a degree of openness that secured greater understanding and cooperation than might otherwise have been the case. Bilateral meetings with stakeholders were regularly on ministers’ and officials’ agendas. Officials describe the ‘lobby’ as very influential: they ‘used their contacts in government well’. Moreover ‘many of the ideas grew organically from those relationships and discussions and this in turn stimulated their interest in and ownership of the project’. There were those, nevertheless, including anti-racist NGOs, who felt marginalised in the process; and officials’ capacity to engage with organisations at the regional and local level was constrained.

Disability

When the government first proposed a single equality commission it seemed the greatest obstacle could be opposition from the DRC and its supporters. Established only in 2000 as a statutory body in which the chair and a majority of commissioners were people with direct experience of disability, the prospect of the commission being wound up so early in its life was a bitter blow. That the DRC’s sponsor, the Department for Work and Pensions (DWP), defended its interests so strongly reinforced the need to find a compromise acceptable to both.

The government's commitment to non-regression on the powers and duties of the current commissions, requiring that disabled people should have no less control over their own affairs than under current arrangements, weighed heavily in the negotiations.

The DRC proposed a federal commission in which an exclusive focus on disability would be retained. DTI officials and those excited by the opportunities of collaboration across the equality strands feared this would undermine the very ethos and effectiveness of the new body. An alternative proposal—a statutory committee to oversee work on disability issues, chaired by a disabled person—was put to the taskforce. The willingness of members to accept this, despite reservations, encouraged ministers to proceed with that option, coupled with a 'legacy' commissioner from each of the three commissions for a fixed term. The DRC, accepting that a single body in some form was inevitable, and aware from its existing work of the benefits that human rights could bring for disabled people, agreed.

Single equality Act

A major concern for the commissions and NGOs was that the new body would be faced with a complex array of differing equality provisions in which some sections of the public had significantly greater protection from discrimination than others—a hierarchy which would undermine the very notion of equality on which the new body should be based. The insistence of taskforce members on this point was the principal reason no final report with recommendations was allowed, only a record of its discussions. The prospect of a single commission, in exposing the inequity in the law, strengthened calls for a single equality Act. Harmonisation, however, implied protection from discrimination in goods, facilities and services on grounds of age

(considered particularly problematic), sexual orientation and religion and belief. Full parity would also mean extending the innovative race equality duty not only to cover disability (already agreed), but equality on other grounds.

The government was as yet unwilling to contemplate such a comprehensive overhaul of the law. Opposition from the CBI, which thought 'imposing new obligations would be going too far too soon', was no doubt a factor.¹⁰ Coming under pressure to honour a long-term commitment to introduce a gender equality duty and, in the context of issues relating to the Muslim community, to extend protection from discrimination on grounds of religion and belief, ministers agreed to inclusion of those reforms within the Bill. Despite strong internal resistance to further concessions for fear that they would both delay the Bill and remove the strongest grounds for a single equality Act, a last minute deal to extend the law on sexual orientation was made in face of highly effective lobbying from NGOs and support in the House of Lords.

Ministers subsequently agreed that the plethora of equality laws would be reviewed 'with the aim of bringing forward a Single Equality Act'—a development significant in overcoming reservations about a single commission, not least in the trade union movement. Pressure from within the Labour party was instrumental in securing that concession, a manifesto commitment at the May 2005 general election. A Discrimination Law Review initiated two years of consultation and debate, culminating in a Green Paper in June 2007 which was widely criticised as rowing back on existing provisions. The appointment of new ministers under the Brown Administration provided the opportunity to reconsider.

Community relations

The promised commission had begun life as an equality body and acquired a

human rights mandate. For the CRE there remained a significant omission which prompted unease that its own role was misunderstood by those designing the new body. Unlike the EOC and the DRC, the CRE had a dual role in promoting good race relations, but this key dimension of its mandate was not reflected in the early documentation from the DTI on the new body.

The lack of consistent engagement by the CRE's sponsor department, the Home Office, contributed to the failure to give serious thought to this issue until late 2003. The race relations responsibility could not simply be transferred to the new body without reference to faith groups nor, for instance, to tensions that could arise between faith groups and those advocating equality on other grounds such as sexual orientation. Officials in the WEU saw value in a duty on the new body to promote positive contact between different groups, aware of NGO initiatives that had, for instance, fostered understanding between young gays and lesbians and other youth groups. They suggested that the commission's responsibility for promoting 'cohesion' should cover all of the equality strands.

The Home Office insisted on non-regression grounds that the Act must refer to 'good relations' and give priority to race and, by connection, faith. Whether it should also refer to other strands was contested. The relevance of 'good relations' to gender, for instance, was unclear. The DRC argued the duty should not apply to disability as it would require reciprocity—that disabled people had to change their behaviour towards others, a departure from the approach in disability law. Under pressure to reach agreement, the WEU inserted into the Equality Bill a duty to promote good relations from which disability was exempt, only to find that compromise rejected by Parliament. The duty would apply to all strands, but the commission would be

required, as proposed, to give priority to race and faith.

Race

The perceived lack of understanding in the DTI of the CRE's race relations role was not a concern shared by critical, anti-racist NGOs including the 1990 Trust. They feared that race equality would be marginalised in the new body but were sceptical of the value of race relations work. Like the CRE, however, they wanted a guarantee that funding for local race equality councils would continue. The prospect of vocal criticism from both the CRE and race NGOs, albeit in part for different reasons, became a serious concern to the government in 2004.

Having taken an early decision that the new body could be established only with the support of the existing commissions, ministers and officials had always been keen to know what would ensure their support. While negotiation with the DRC and the EOC was relatively straightforward, they were less clear what the CRE wanted until in 2004, following the task-force 'report', it sought a series of assurances. These included that the new body would not be limited to supporting strategic test cases, that the chair would be appointed by the Prime Minister to reinforce independence from a single department, that it would have a greater range of monitoring and enforcement tools and that the legislation would not fix a timetable for the new body to be established. The DTI sought to address those issues in the White Paper published in May 2004, *Fairness for All*,¹¹ but failed to satisfy the CRE which 'unequivocally rejected' the proposals.¹² Many responses to the White Paper, while less critical, shared its concerns.

Over the summer of 2004 the department entered a period of negotiation with the CRE, backed by its powerful sponsor department, the Home Office. WEU officials had become 'frustrated and fearful'

of the CRE's reaction and it was clear that Number Ten and the powerful Legislation Committee would not allow the project to proceed unless both the CRE and vocal anti-racist NGOs would back it. The CRE secured significant concessions from this period, notably an independent equality review to investigate the causes of persistent inequality, chaired by the chair of the CRE, and agreement that the entry of the CRE into the new body be deferred until 2009. Concern by other stakeholders that neither race issues nor the CRE's budget would thus be part of the new body in its early years were put to one side to ensure the CRE's acquiescence:

There was extreme nervousness on going ahead in face of opposition from the Black community. The whole thing would have been over in the Spring of 2005 unless we could demonstrate that the CRE would not use the media to oppose it. It was a race against time to get agreement and the Second Reading of the Bill before the election.

Meanwhile, the NGOs focused on the lack of provision for a statutory race committee equivalent to that for disability—an omission which reinforced their concern that race, having had its own focused commission, would be marginalised in the new body. Consultation of community groups organised through the 1990 Trust and assurances that a race committee was a possibility, brought a level of engagement which had been lacking and sufficient support to enable the Bill to proceed. While there was reluctance to concede a statutory race committee, officials insist that a well framed amendment to the Bill would have been accepted if tabled at an early stage. In the event, an amendment to establish committees for all equality strands was rejected and a last minute amendment to establish a race committee came too late for agreement to be reached.

Ministers were taken aback when the CRE was again vocally hostile when it

was announced in late 2005 that the new body would primarily be located in Manchester. The CRE also insisted that the new body would be unable to make a sufficient contribution on community relations to meet the significant challenges Britain faced and that a separate body for citizenship and integration was needed. Home Secretary Charles Clarke disagreed. Following transfer of responsibility for cohesion (and equality) work to the Department for Communities and Local Government in May 2006, an investigatory Commission on Integration and Cohesion was established that reported the following year.¹³

Devolution

If human rights, provision for disability and race were the major fault lines, they were by no means the only issues to be resolved. Government and NGO stakeholders in Scotland and Wales (the former already more coordinated on cross-strand equality issues than some of their English counterparts) were anxious to ensure a greater level of devolved autonomy to the commission's offices in those nations and, in part, secured it. There is a Scottish and a Welsh commissioner on the EHRC, as on the existing commissions, but backed by influential stakeholder committees. The Scottish Executive had meanwhile taken the decision to establish a separate Scottish Human Rights Commission. Securing clarity on respective roles, however, was considered a technical rather than a political hurdle to be overcome. Whether the division of responsibility, and the level of autonomy allowed to the devolved offices, will sit comfortably with the evolving political priorities and differing institutional arrangements in Scotland and Wales will be one challenge that the new body is likely to have to face.

Gender and the 'new' strands

It is striking that the organisations representing gender, age, sexual orientation and religion and belief were not those which presented political obstacles to the development of the new commission. Had they chosen to do so, they had the political clout—each had powerful lobby groups and supporters in Parliament. They were moreover, intensely engaged in the process. The EOC strongly supported a single equality body from an early stage, providing essential political support to the project at times when the CRE, DRC and some gender NGOs had reservations. It secured inclusion within the Bill of a duty on public bodies to promote gender equality and innovations such as the commission's duty to produce a 'State of the Nation' report.

The NGOs representing the new strands and human rights, having no existing commission to defend contributed significantly to debates on the role, powers and structure of the new body and were dismayed by opposition which threatened to derail the project. While a government retreat would leave disability, gender and race with their existing commissions, for the new strands it meant no statutory provision at all. For them, the imperative was that the project succeed, and their views were, officials insist, by no means marginal to the outcome.

Whitehall

No explanation of the history of the EHRC would be complete without an understanding of the impact which the fragmented and changing responsibility for the project and related equality issues had on its development. It is common place for many departments to stake an interest, and for a White Paper to be negotiated with their officials and cleared by ministers. The EHRC project, however, faced the additional challenge that

the minister responsible was, in the early years, in a different department (first the Cabinet Office, then Office of the Deputy Prime Minister) from the responsible Secretary of State (DTI). The WEU changed department three times: from the Cabinet Office (where it was isolated from the Secretary of State and her private office in the DTI), to the DTI in 2001, to Communities and Local Government in 2006, and finally to become the Government Office for Equalities attached first to the DWP then Cabinet Office in 2007. The Home Office's responsibility for human rights, meanwhile, transferred to the Lord Chancellor's Department in 2001 and for race to Communities and Local Government in 2006. Number Ten, initially disinterested, intervened intermittently when controversy on human rights, then race, hit its radar.

Apart from the disruption of physical relocation, a new department brings differing contextual issues, priorities and closer or more distant relationships with relevant stakeholders. For the WEU, the DTI, for instance, was close to business, highly conscious of the perils of proposing further regulation; more aware of employment issues than the broader issues raised by access to service provision and distant from the community relations concerns of the Home Office. In Communities and Local Government, the WEU worked in the same division as those addressing community cohesion and race issues; but still at one remove from the concerns and perceptions of those responsible for promoting human rights at the LCD (later Department for Constitutional Affairs, now Ministry of Justice). Officials say that the separation of work on human rights from that on equality meant that, when the LCD effectively became a junior partner in the project in 2003, officials spoke a different language and did not initially understand each other's concerns nor how their separate agendas could fit together.

Meanwhile, the DWP championed disability issues and was less concerned with the impact of the new body on equality as a whole. The Home Office, while defending the CRE and latterly taking an interest in the community relations role, had limited engagement. In the 856 pages of David Blunkett's diary, including his three years as Home Secretary (2001–2004) and later at the DWP (2005), the new commission is never mentioned. It was simply not a priority; it did not fall within the vision of what the Home Office, with its then mandate of race equality and social cohesion, wanted to achieve, and that went for much of the rest of government. The project succeeded, as one official put it, because there was insufficient opposition to those few ministers who backed it. If the vision of the society the new commission was intended to foster, spelt out so powerfully in Section 3 of the Equality Act 2006, was shared by others in government, the new commission did not figure highly in their chosen means to achieve it.

Knowledge transfer

Although the Foreign and Commonwealth Office had long supported the development of national human rights institutions abroad, international experience of such bodies did not figure significantly in either the government or stakeholders' thinking. Officials at the LCD cited the UN Paris Principles (1993) on the remit, powers and independence of such bodies, but quickly realised that this carried no weight within government. The successes of the Australian Human Rights and Equal Opportunities Commission were cited as proof that bringing equality strands together could enable cross-cutting issues to be addressed more effectively; but its strand-divided structure, perceived marginalisation of disability and the ease with which a hostile government had cut its budget were equally

cited by sceptics as dangers of an integrated model.

The commission whose experience was most influential, albeit for negative reasons, was the Human Rights Commission in Northern Ireland, established in 1998 as one outcome of the Good Friday peace agreement. The political controversy that had marked its early history, internal divisions, rebuffs from the courts and difficulty attracting government funds, helped to convince the JCHR and officials that a separate HRC was not the way forward: 'our bogey man was the free-standing HRC and we pointed to the Northern Ireland commission as the embodiment of the problems that such an institution gave rise to'. The broad definition of human rights in that commission's mandate, however, ensured that its British counterpart was not constrained to address only those human rights issues falling within the narrow remit of the ECHR; and the courts' refusal to allow the commission to give evidence as an independent third party ensured that a right to do so was written into the Equality Act.

Often disregarded at home, Northern Ireland's HRC is highly regarded in international fora, the only UK body entitled to representation as a national human rights institution at the United Nations. The advent of Britain's commission means that the Northern Ireland body will have to share that role or could find itself displaced. Yet the British body will not have its unique experience of human rights in conflict and post-conflict society. When the Scottish Human Rights Commission is established, its role will also need to be accommodated if tension between the three bodies is to be avoided and each to benefit from and contribute to the work that takes place at the European and international level.

Think-tanks contributed ideas and momentum to the early debate. Academic literature appears to have had less influence, officials hard placed to recall many

texts which had informed their thinking.¹⁴ This may reflect a paucity of directly relevant material and officials' lack of time for background research rather than any resistance to new ideas. The tenor of discussions was that the new body should not be a merger of the old commissions, but a fresh beginning with more effective powers and a structure which facilitated cross strand synergies while retaining focused expertise. Nevertheless, the ideas and experience on which the new body was based came primarily from those with the greatest direct interest in the outcome—the existing commissions and other national organisations in the equality and human rights fields—with some input from employers' representatives and less from service providers. This reflected the resources available to government policy makers and allowed an unusual degree of engagement for a limited range of expert bodies. It may have been less well suited to eliciting the blue skies thinking on the powers and structure of the commission with which those actors would themselves have been keen to engage.

Implementation

The new body could not, of course, be an entirely new organisation. It had to assimilate the three existing commissions and contractual obligations meant that it would inherit many of their existing staff. Once the Equality Act had received the Royal Assent in 2006, policy officials made way for a project team brought in to oversee this complex task, staff focused on the practicalities of merger and detached from the vision and understandings developed in the earlier phase. Only with appointment of the Commissioners and Chief Executive in the months before the Commission opened its doors could work shaping the vision and priorities of the new body really begin.

Conclusion

Dialogue and dissent, trade offs and compromise is the stuff of politics and the history of the EHRC is no exception. Conflicting interests within and out of government were played out over a ten-year period in debates informed and at times significantly influenced by evidence and evolving analysis of the equality and human rights challenges Britain faces. No single player determined the form in which the new commission emerged. The EU effectively put the 'single equality body' on the political agenda; the JCHR was pivotal in the decision to include human rights; the existing commissions, national NGOs, parliamentarians, trade unions and think tanks each had some steerage over a vehicle driven and consistently powered by a few determined officials and their ministerial leads. The outcome is a statutory body with a powerful mandate, set an inspiring challenge, and equipped with the powers, breadth of functions, independence and internal flexibility of structure to achieve it.

The policy development process was remarkable in the degree of sustained engagement between officials and external stakeholders, and in the impact that had on the vision and remit of the EHRC, on perceptions of the issues it must address and on working relationships between NGOs. A process that began with many fearing that their 'strand' would lose out in an equality melting pot engendered an enthusiasm for both the new commission and the vision of society it was tasked to deliver. Many of the challenges it faces are, from this early history, already apparent: generating support within government for a mainstreamed equality and human rights agenda and public ownership of human rights in a hostile environment, securing substantive reform of equality law and reconciling the tension between devolution and consistency, to name but a few.

Engaging stakeholders in the process of policy formation has ensured that high expectations of the new body are tempered by some understanding of the enormity of the task on which, from 1 October 2007, its commissioners and staff have embarked.

Notes

- 1 I would like to thank the officials and external stakeholders who agreed to be interviewed in the preparation of this article and/or to comment on a draft.
- 2 S. Spencer and I. Bynoe, *A Human Rights Commission: The Options for Britain and Northern Ireland*, London, Institute for Public Policy Research, 1998. A separate paper explored the implications for Scotland: S. Spencer and L. Chauhan, *A Human Rights Commission for Scotland*, London, Institute for Public Policy Research, 1999. The Scottish Executive subsequently published a consultation paper: *Protecting Our Rights: A Human Rights Commission for Scotland* (2001).
- 3 Baronesses Amos and Williams, Committee Stage, Human Rights Bill, HL 24 November 1997.
- 4 Rt Hon Jack Straw, Home Secretary, 'Building on a Human Rights Culture'. Address to the Civil Service College seminar, 9 December 1999.
- 5 'Report on IPPR survey into whether public authorities are preparing for implementation of the Human Rights Act 1998', June 2000. One-third of public bodies either had no information on the Act or wrongly concluded that it did not apply to them.
- 6 Jenny Watson, *Something for Everyone: The Impact of the Human Rights Act and the Need for a Human Rights Commission*, London, British Institute of Human Rights, 2002; see also Frances Butler, *Human Rights: Who Needs Them? Using Human Rights in the Voluntary Sector*, London, Institute for Public Policy Research, 2004.
- 7 Joint Committee on Human Rights Sixth Report Session, 2002–2003, *The Case for a Human Rights Commission*, vols 1 and 2, HL Paper 67–1, HC 489–1.
- 8 Criticism focused on the fact that the two organisations from the race 'strand' on the Taskforce, the CRE and the Runnymede Trust, were both represented by white women.
- 9 <http://www.edf.org.uk>.
- 10 'Single body to fight all discrimination', *Daily Telegraph*, 13 May 2004.
- 11 *Fairness for All: A New Commission for Equality and Human Rights*, Department of Trade and Industry/Department for Constitutional Affairs, CM6185, May 2004.
- 12 CRE press release, 22 July 2004.
- 13 Commission on Integration and Cohesion, *Shared Futures*, London, Department for Communities and Local Government, 2007.
- 14 Papers commissioned by the EOC on behalf of the equality commissions from Sandra Fredman (Oxford) on concepts of equality and Colm O'Cinneide (UCL) on international experience of single equality bodies were contributions cited as having influenced discussions.