

Women and Equalities Committee

Oral evidence: The role of the GEO: embedding equalities across Government, HC 1139

Wednesday 14 April 2021

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Members present: Caroline Nokes (Chair); Ben Bradley; Angela Crawley; Alex Davies-Jones; Kim Johnson; Kate Osborne; Bell Ribeiro-Addy; Nicola Richards.

Questions 25 - 45

Witnesses

I: Dr Wanda Wyporska, Executive Director, The Equality Trust; Tansy Hutchinson, Head of Policy, Equally Ours; Tim Durrant, Associate Director, Institute of Government; Justine Greening, former Minister for Women and Equalities, and Co-Founder, Social Mobility Pledge.

I: Baroness Falkner of Margravine, Chair, Equality and Human Rights Commission; Melanie Field OBE, Executive Director, Equality and Human Rights Commission.



Examination of witnesses

Witnesses: Baroness Falkner of Margravine and Melanie Field.

Q25 **Chair:** We have Baroness Kishwer Falkner, who is chair of the EHRC, and Melanie Field. Thank you very much for joining us this afternoon. I am going to pose my first question to Melanie. We have heard a great deal from the earlier witnesses about the importance of having consistency within the Government Equalities Office. Do you think that, moving forward, the permanent move into Cabinet Office is going to help and give you a more stable relationship with them?

Melanie Field: Thank you for the opportunity to give evidence today. We do think that the move to Cabinet Office is a positive thing, in that it will prevent that nomadic characterisation of GEO. You will probably know that I was in GEO before my current role, and I served in at least five Government Departments during that period. It is disruptive for GEO having to move offices, quite often move on to new computer systems, negotiate budget transfers. It is also incredibly disruptive to the commission because GEO is our sponsor Department, so we are caught up in those machinations. We have to agree a new framework document, which sets out the relationship with the sponsor Department.

A permanent home for GEO is a great thing. A permanent home for GEO at the centre of Government in a place, Cabinet Office, that is responsible for policy co-ordination across Government is positive for the equality agenda. It fixes a lot of the problems. The points that have been made about the Secretary of State role highlight that perhaps it has not fixed all the problem, in that the Secretary of State sits in a different Department from her officials. That creates issues of its own in terms of how effectively GEO and the Equality Hub can operate.

Q26 **Chair:** I am very conscious that the GEO's new data project is a very significant part of its work at the moment. There is an existing body of work already out there, whether it is from the ONS or the EHRC's own work. I will address this to Baroness Falkner first. How confident are you that there is not going to be duplication and the data project is going to add value? What is the EHRC contributing to that project?

Baroness Falkner of Margravine: Actually, I would rather you had done it the other way round. This is a specialist Melanie question. Can I bat it to her?

Chair: Shall we take Melanie first? If you have anything to add, please raise your hand.

Melanie Field: We welcome the increased focus on data and the idea of looking at both protected characteristics and issues like place and socioeconomic disadvantage, because, as we have heard from the



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previous panel, all these things join up. Obviously we do work, and ONS has been doing work, in this space. The Race Disparity Unit has done excellent work in this space. We are all conscious of guarding against duplication, but also benefiting from the learning and the information that is already there.

We have been talking to colleagues in the Equality Hub about their developing ideas about this project. We are very keen to be involved in it. They seem keen to look, as the Race Disparity Unit did, at the commission's measurement framework as a basis for that work. As I understand it, it is in quite early stages. They will have advantages over us in that they will have more access to Government datasets than we have, so that is good.

Q27 Chair: Have they given you any indication of timeline? You just said it is still in the early stages.

Melanie Field: My understanding is that they are looking to produce some kind of initial analysis in the summer, which seems likely to focus on some specific areas. As I understand it, they are going to look at a cluster approach. They may be focusing, for example, on education and work, and looking at life trajectories, so longitudinal data, which will be really useful. That is incredibly relevant, given the impact of the pandemic on both the education sector and employment.

Q28 Chair: What evidence have you seen that the enactment of the Equality Act's socioeconomic duty would help to support the Government's aims of levelling up and addressing the problems with geographic inequality? Have you discussed that directly with the Government?

Baroness Falkner of Margravine: As you know, it has been effective in Scotland since 2018 and Wales has just brought it in. We did a research paper that was fairly inconclusive, and the short answer is that it is too early to tell. For some bodies, it was more a box-ticking exercise; others thought it had changed and informed them somewhat. The duty itself is really more a strategic guide. In that sense, we cannot expect very much. We cannot expect miracles from it, in the sense that most good strategic bodies would be taking the impact of differential outcomes into account as they are going into doing their strategic planning. Where bodies are unlikely to do it, I am not clear that a duty would do it.

Can I take a minute to read to you the actual text of the duty? "An authority...must, when making decisions of a strategic nature about how to exercise its functions, have due regard to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage". That is about as wide a definition as I have encountered in most legislation I have seen. The very fact that it is, to use common parlance, so waffly allows a lot of bodies to interpret it any way they like.



Our approach is that we are going to see the level of effectiveness that emerges from this in the countries and the nations of the United Kingdom where it is being implemented. Since the Government have indicated that they are unlikely to implement it, we are focusing on other priorities in the meantime, such as the levelling-up agenda that you were just speaking to in the earlier panel.

Q29 **Chair:** “Waffly” can therefore be good as well as bad. Is that what you are saying?

Baroness Falkner of Margravine: Yes.

Q30 **Chair:** Do you think there is anything else that would be better? If the Government wanted to point at a single thing that could help them drive attacking socioeconomic inequality, what one tool would they be better off using?

Baroness Falkner of Margravine: Data is the key to it, which is our approach. In *Is Britain Fairer?*, we accumulate quite a lot of data about that, but ultimately the Equality Act is poorly equipped to deal with this one. It was rather a bit of an afterthought in the Equality Act, recalling those debates, because essentially you have the Equality Act, where the headline is to protect the rights of individuals and to advance equality of opportunity for all, whereas this duty addresses outcomes. That is the key problem with implementation.

Equality of opportunity is very clear cut. You know what you have to do in strategic terms to do that. You can enforce it in legal and compliance terms with simpler steps. Although they may be complex, they are clear steps that you can take. In addressing design to reduce the inequalities of outcome that result from socioeconomic disadvantage, it is hard to see a clear thing other than using, I am afraid, HM Treasury’s different levers.

That has to be the key to the levelling up approach: progressive taxation and investment in the longer term to tap people’s innovative entrepreneurial skills, in order to support businesses and individuals to achieve better growth in the areas of the country we want the growth to come from. Today we had a question in the Lords on the global tax thresholds that the United States has proposed. This stuff is macroeconomic, translatable into microeconomics, but it is not really addressed properly in the Equality Act.

Q31 **Nicola Richards:** How effectively does the GEO or Equality Hub balance different and sometimes competing rights for different groups?

Baroness Falkner of Margravine: We all agree—I am sure your Committee would too—that a balance of large numbers of protected characteristics can be challenging. It can lead to a robust debate and can involve quite a lot of thinking through where priorities lie. I suspect you might be referring specifically to GRA reform; is that correct? You are nodding. If you are referring specifically to GRA reform, we know that the Government consultation generated a lot of interest, as well as very



strong views. We welcome the steps to reduce fees and waiting times. We are supportive of steps to simplify the process and remove unnecessary barriers, while maintaining the safeguards that exist today. GEO, like us, has to take into account the priorities and rights of different groups in delivering in that area.

Q32 **Nicola Richards:** What can it do to increase its capabilities in that area?

Baroness Falkner of Margravine: If I can talk about what we are doing to see if we can help clarify where you have competing Acts and competing pieces of legislation, we are looking to advance strategic litigation. There are areas where there is a conflict of laws and we believe that it is time for the courts to rule. Cases are coming through. There is also the interaction with religion and belief. There is interaction with sex. There are so many things touched upon in that discussion that we are supporting strategic litigation. Ultimately, it is a tricky one for GEO. It is navigating it reasonably quietly, but essentially it needs a strategic action plan to take forward.

Q33 **Nicola Richards:** Do you think there are lessons to be learned from the GEO's stakeholder engagement in relation to the GRA reform?

Baroness Falkner of Margravine: This slightly precedes my time. I am going to bat it over to Melanie, if you allow me to do so, because that was a few years ago. While it is there in my background, I am not sufficiently capable to comment on it.

Melanie Field: There are always lessons to be learned about how to do stakeholder engagement well. In the context of very divisive debate, it is very difficult, and we in the commission are also learning in this space. For me, what is important is that we hear and understand the different perspectives in those divisive debates, we are evidence-based, rational and rooted in the law, and we come to our own independent view. It is really important that stakeholders feel confident that they are being heard, even if they do not necessarily get the result that they particularly want. It is really important to give that space for people to be heard and respect different positions, while also coming to an independent view.

Q34 **Kate Osborne:** One of the GEO's four strategic objectives for 2019-20 was to be an international trailblazer and exceed the UK's international commitments on equality. Do you think the GEO or Equality Hub has achieved this objective?

Melanie Field: GEO does a lot of work. It is the lead Department on the Convention on the Elimination of Discrimination against Women, and has pulled together a gender equality roadmap in response to that. We would like to see a strategy for implementation of CEDAW and other UN human rights conventions. Because responsibility for the different conventions sits with different Government Departments, there is a particular need for a co-ordinating mechanism. We believe that the Government should put in place a national mechanism for implementation, reporting and



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follow-up. That would enable GEO, and Government more broadly, to be the international trailblazer that it aspires to be.

The Committee may be aware that we at the commission launched a human rights tracker last year, where we pull together all the recommendations made by UN human rights bodies and set them out in a way that they are accessible and can be searched. We are currently in the process of putting our assessment of progress on there. That is a really good basis to have a more co-ordinated approach to treaty obligations and implementation, but what is really needed is a co-ordinating structure in Government, in order to drive progress.

Baroness Falkner of Margravine: In terms of the trailblazer comment, it is instructive, but as the United Kingdom takes over the presidency of the G7, it has said it is going to concentrate on freedom, human rights and equality of opportunity. That is an unusual set of priorities for a G7, and it is good news.

Q35 **Kate Osborne:** Do you think the Equality Hub has the resources and capability it needs to achieve?

Baroness Falkner of Margravine: It is pretty unclear what resources it currently has. In terms of its human resources and staffing resources, it has handed over significant numbers of people to deal with implementation of Covid. From what I understand, my impression is that the spending review is not going to be kind to the GEO, possibly because it is not going to be that kind to the Cabinet Office either. You must ask yourself the question of how much you can continue to deliver when your resources are as constrained as they continue to be.

Efficiencies are a great thing and we can all improve in terms of delivering efficiencies, but there has to be some plateauing point whereby you have to choose your priorities very carefully after that. That is all I will say in that regard.

Q36 **Kate Osborne:** How well is compliance with the UN conventions and monitoring progress against the sustainable development goals co-ordinated across Government Departments in the UK?

Melanie Field: I probably covered part of your question when I was talking earlier about having a national mechanism. We see that as really important. It would enable Government to take a joined-up approach. It should involve engagement with us, as a national human rights institution, but also the other UK NHRIs, civil society, Parliament and the judiciary. That would be a really positive step forward.

In terms of the sustainable development goals, there is clear linkage and read-across between the SDGs and human rights obligations. Our own treaty tracker seeks to articulate those relationships and assess progress. We would like to see the Government taking a similar approach and explicitly addressing the SDGs in its responses to its human rights obligations.



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Q37 **Kate Osborne:** Specifically looking at SDG 5, which is focused on gender equality, like the other goals it applies to the UK. What measures has the Equality Hub taken to progress sustainable development goal 5?

Melanie Field: I am not aware of anything specific, other than the work that it has done in relation to CEDAW, which I referred to earlier, but it may be that I am not aware.

Q38 **Kate Osborne:** You have called for a national mechanism for implementation, reporting and follow-up on UN recommendations. What part could or should the GEO play in this? What benefits would it bring?

Baroness Falkner of Margravine: We already have a convening power of a body that works across Departments to monitor progress, periodic reviews and all of that, which we do as the Equality and Human Rights Commission. A national mechanism for implementation, reporting and follow-up would strengthen the Government's commitment to international human rights. It would ensure a joined-up approach to implementing, including CEDAW.

Different countries do it different ways. In Belgium, there is a team based in the Ministry of Foreign Affairs. In Portugal, there is an inter-ministerial national human rights committee that takes an integrated approach. Our advice, really, is that we need an identified body where this has to happen, and that is what is slightly lacking at the moment. The actual architecture of the mechanism is not so important to us as the fact that there needs to be a single go-to place that does the necessary work in that regard. At the moment, it sits in a very disparate framework across Departments.

Q39 **Angela Crawley:** On the point you made earlier, the Scottish Parliament recently enshrined in law the UN Convention on the Rights of the Child legislation, which received cross-party support across Parliament, but the Government currently seek to challenge this piece of legislation in the Supreme Court and potentially strike down aspects of it. Is this a good use of Government time and resources?

Baroness Falkner of Margravine: Forgive me; I did not catch the piece of legislation that you referred to.

Angela Crawley: The UN Convention on the Rights of the Child.

Baroness Falkner of Margravine: Perhaps my audio is not very good. Melanie, did you have an answer to that?

Melanie Field: I think Angela is referring to the Scottish Government's recent decision to incorporate the UNCRC into domestic Scottish law.

Angela Crawley: That is correct.

Baroness Falkner of Margravine: Melanie, you obviously have more of a take on this. It has passed me by. Forgive me, Ms Crawley.



Melanie Field: Anything that strengthens the protection of the rights of the child in domestic legislation across the UK is a very good thing. The Rights of Children and Young Persons Measure in Wales does something similar: it requires public bodies to have regard to the children's rights convention. We would like to see that implemented and not challenged.

Baroness Falkner of Margravine: Let me hasten to add that the EHRC is not equipped to comment on a good use of Government resources. There may be issues about reserved powers versus devolved powers. We are not familiar with that case and it is best that we not opine on it in specific terms.

Q40 **Bell Ribeiro-Addy:** Baroness Falkner, last year we heard from your predecessor that the Government had been slow to seek advice from the EHRC on the equality implications of the pandemic. Did the Government fail to anticipate equality issues as a result, in your opinion?

Baroness Falkner of Margravine: There was a general lack of appreciation across Government of the depth, the force, the damage and the length of the pandemic. That is fairly admitted by most fair-minded people. On the equality implications, we were keen that they publish their equality impact assessment on the Act rather sooner than they did. They took four months after the Act was published to bring it forth. Again, it is hard to say. I am not sure that we would be in a position today to definitively decide what the equality implications have been.

We see complex pictures emerging. We know, and your Committee will know very well, about the impact on women. Women in particular circumstances have been very badly affected. You will also know that, if it comes to unemployment, men have been more badly affected than women. Larger numbers of men have been made unemployed. It is basically too early to definitively come to a view of the impact of the pandemic. Where I would urge the Government to be speedy and responsive is, with every piece of new evidence comes to light, to use the data that is there to come up with their assessment, in a very transparent way, of the true impacts on different groups within the protected characteristics.

Q41 **Bell Ribeiro-Addy:** Should the GEO have played a greater role in anticipating and mitigating equality issues during the pandemic? Is it sufficiently well resourced to carry out this function?

Baroness Falkner of Margravine: You have gone to the heart of the matter. It is a resource issue. Secretary of State Truss's ambition for the Equality Hub is one where you would expect it to have a cross-departmental, cross-cutting line of vision across all Government Departments to be able to see that. Given her speech, "Fight for Fairness", that is certainly what you would deduce from that. I really wonder whether it has the resources to do that, in the way that you and I would probably wish for it to do.



Q42 **Bell Ribeiro-Addy:** The Committee has raised concern with the way in which Equality Ministers have frequently referred to considering policy responses in the round, rather than through the lens of the Equality Act's protected characteristics. Do you think this was the best approach to take?

Baroness Falkner of Margravine: I reread her speech about an hour ago in preparation for this session. She emphasises the core principles of freedom, choice, opportunity, individual humanity and dignity. No one who represents protected characteristics—and I represent four of them—would disagree with that. I did not read the speech as saying somehow that people who suffer discrimination due to representing protected characteristics are not at the heart of anti-discrimination and equality legislation. Rather, I read it as a rallying call to say that everybody in the UK should care about that and that we should have a stake in it.

You have just heard from Justine Greening. She expressed a lot of those views very vocally: that it is not a matter of either/or; it is a matter of all of that, and we can do better than that. We can do better. Frankly, if you look across the nine protected characteristics—we often debate this in the EHRC—we cover the whole of the population. That is why I say it is not either/or.

In terms of resources and priorities, we have to make finer judgments, in our annual plan and our strategic plan, about which of the sectoral areas we want to concentrate on: employment, work, education, age, stuff like that. In terms of protected characteristics and legislation, we specifically look to see where we can make the greatest difference and where there is perhaps—I would not say a conflict of rights—a lack of clarity on rights.

We take forward strategic legislation across sectors and across institutions, but most importantly on behalf of people, because it is people who should be at the forefront of all of this. I did not read that speech as divisive in that sense. I saw it as—I am reading the words from it—enforcing fair treatment for all. That is what she called on EHRC to do, and we will definitely be doing that.

Q43 **Bell Ribeiro-Addy:** Part of the reason why I asked is that, in December, Minister Liz Truss announced a new approach to equalities, which indicates moving away from protected characteristics, and a new focus on social class and regional disparities. Now, there is no question that social class and regional disparities have an impact on inequality. However, the recent report by the Commission on Race and Ethnic Disparities demonstrates this new approach, and it has been widely rejected by the communities it focuses on and a lot of the civil society organisations that support those communities. I wondered what your view was on this departure from protected characteristics and the very topical issue of the Commission on Race and Ethnic Disparities report.

Baroness Falkner of Margravine: I do not want to gainsay what Secretary of State Truss thinks. What I would like to express to you is the



Equality and Human Rights Commission's view on the CRED report, which is what you have just referred to. We think race inequality is complex. There are links with other factors such as social and family background, poverty and geography. We think that they have identified various causes of disparities and made recommendations that we find we might be able to play a leading role in. We welcome their recommendation for additional funding to tackle discrimination and disadvantage, which are at the heart of what we want to do in terms of the race agenda. We certainly think that we need a more joined-up approach to it. If one takes away the presentational style of the CRED report and looks at the concrete recommendations, which is what I have tried to do dispassionately, there is a lot there that one could agree with.

Q44 **Bell Ribeiro-Addy:** So the EHRC does not take the position that there is no institutional racism, but supports the recommendations from the report as opposed to the main methodology and premise of the report.

Baroness Falkner of Margravine: I do not want to particularly get stuck into a discussion on the narrative of the report, but the Macpherson definition of institutional racism is clear. It is a collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture and ethnic origin. That is the first part of the definition.

If you take, for example, our inquiry into Windrush and the Home Office's hostile environment, we looked at that. The Equality Act does not cover institutional racism as a legal concept, so we looked very carefully at where things had gone wrong and have published, as you know, an action plan that the Home Office is working with us on. The issue of the Macpherson definition is that the first part of it, which people often ignore, is really critical. It is the collective failure of an organisation to provide an appropriate and professional service.

I will give you a personal example. Last year in the House of Lords, on a question about the NHS's performance on Covid and ethnic minorities—and I was participating in that question—somebody accused the Government of the NHS representing institutional racism because ethnic minorities were dying in larger numbers, often against the grain, in the sense that they were younger than the older non-ethnic minority people who were dying. I did not agree with that question whatsoever, because to take the whole of the NHS and to say, as a collective, it went out of its way to fail to provide an appropriate and professional service to its patients, particularly its minority patients, is not a grown-up discourse.

The fairer and more relevant thing we can do, all of us in ethnic minorities, is to press for the reasons why our numbers are dying in larger numbers, to have a long look at the data, to work through other intersectional factors such as the kind of jobs we are doing and the kind of frontline roles that exposed us in the early stages, before we were removed from those roles. Many institutions have moved to remove people who are more vulnerable in risk factors away from those roles.



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Those are the kinds of measures we want institutions to take. To have a blanket approach to say Europe's largest employer is institutionally racist, as in that example I have just given you, does not advance anything.

Q45 Bell Ribeiro-Addy: It may be a bit too difficult at this time to go into the detail of what you said, but I have one further question. It is going back to the point about the move from protected characteristics and a new focus on social class and regional disparities. It is to ask whether such a change would be consistent with the Government's legal duties under the Equalities Act, and whether you have had any discussions with Ministers about this.

Baroness Falkner of Margravine: Can I pass over to Melanie? I will come back after her response. My brain is still overactive from the last one.

Melanie Field: The Equality Act is still in place, so all the anti-discrimination duties apply, as does the public sector equality duty. Regardless of Government priorities and focus, all Government Departments are subject to those duties. We at the Equality and Human Rights Commission continue to be the body that is the guardian of and the enforcer of that legislation. As Kishwer alluded to earlier, in terms of the nature of the Secretary of State's speech, that is about a shift in political focus. That is not necessarily about not having a focus on protected characteristics.

I was very struck by what Justine Greening said in the last session about places and people. That is very much how we see the important interaction between these factors: protected characteristics, socioeconomic status, place. All these things come together to impact on people's life chances. We need to unpick the reasons behind gaps and disparities, and make sure that the policy responses actually address those causes. All Government Departments should still be continuing to have due regard to the matters set out in the public sector equality duty. We have not picked up any suggestion that there is a shift in their approach to doing that.

Baroness Falkner of Margravine: It is an interesting dichotomy. On the one hand, we have the Government saying that they will not implement the socioeconomic duty, yet the levelling-up agenda, and their work on it and the direction of travel they are taking on it, is not necessarily about a legal duty, but is very much about encouraging all strata of institutions, commerce and private business to engage with the economic disparities that exist across the country. While they are not keen to implement the duty, their actions seem very firmly to point to levelling up the socioeconomic disparities that exist.

Chair: Can I take this opportunity to thank the panel for their contributions this afternoon? They have been hugely appreciated. If there is anything that you wish to add in writing afterwards, please do not hesitate to contact us. We would be delighted to hear from you.