

# Women and Equalities Committee

Oral evidence: [Work of the Equality and Human Rights Commission](#), HC 199

Wednesday 18 March 2020

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Members present: Caroline Nokes (Chair); Nickie Aiken; Sara Britcliffe; Alex Davies-Jones; Peter Gibson; Kim Johnson.

Questions 1–78

Witness

I: Melanie Field, Executive Director, Strategy and Policy and Wales, Equality and Human Rights Commission.



## Examination of witness

Witness: Melanie Field.

Q1 **Chair:** Good morning. Thank you so much for coming. From the outset, can I say how much we appreciate you still coming in in these interesting times?

Today's session is very much about some scene-setting and giving an opportunity for the Committee to get to know a little bit about the work of the commission, and perhaps for you to explain your priorities to us. It really is far from a grilling. I hope today's session will give us an opportunity just to understand a bit better. It is a new Committee. The two returning members of the Committee are not here today, so it is a real chance for some new members to hear from you.

I am just going to kick off with some questions about the commission's current priorities and to try to tease out how those priorities are set and what scope for flexibility there is.

**Melanie Field:** It is important to make you aware that we published a new three-year strategic plan last year, so we are just coming to the end of the first year of that strategic plan. We feel that that was a real step-change in how we approach our work. We put a lot of thought into that strategic plan and were able to develop it in light of the findings of the tailored review that the Government conducted into the commission and also feedback from this Committee.

We wanted a plan that was truly strategic, so we set ourselves three strategic goals, which we see as a strategy for driving forward progress on equality and human rights in Britain. Those goals are ensuring that we have strong foundations on which to build a more equal and rights-respecting society; ensuring that people's life chances are not held back by barriers in their way; and protecting the rights of people in the most vulnerable situations. Those are the three prongs of the strategy.

Within those goals, we identified a number of priorities. In doing that, we referred to our state-of-the-nation report, *Is Britain Fairer? (2018)*, which looks at progress on equality and human rights across Britain. We considered the unique set of powers and levers that Parliament has given us and how those relate to those challenges that were identified in *Is Britain Fairer?* We then did a public consultation, which we got over 1,000 responses to, and did a lot of proactive stakeholder engagement during that consultation process.

That resulted in six key priority aims: a core aim, which is about ensuring that strong equality and human rights laws protect people and that we have the data to understand what is happening in practice; an aim about improving access to justice; an aim about equality and human rights in education, seeing schools as a way of promoting equality and human rights and reducing prejudice; thinking about people in the most vulnerable situations, we have an aim about treatment in institutions and



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entry to institutions; transport is another aim and is about looking particularly at the barriers facing older and disabled people, and thinking about public transport as an enabler for economic and social participation; and the final aim is on work, looking at access to work and treatment in work.

**Q2 Chair:** Thank you for that. You mentioned 1,000 responses to the consultation. Can I just drill down a bit into how widely you consulted and whether you targeted specific groups of people or whether this was much more general and open to the public?

**Melanie Field:** It was a public consultation, so it was available on our website and people could submit online responses. As well as that, we involved our strategic reference group of key stakeholders, which includes equality and human rights interest groups, business, and key public sector organisations and regulators. We also targeted communities of interest in the three nations that we cover. We did targeted consultation and one-to-one engagement, as well as giving the opportunity for anyone to contribute their thinking online. We did an analysis of who responded, and the interest group that responded most was disabled people or organisations representing disabled people.

**Q3 Chair:** Is 1,000 a good number?

**Melanie Field:** It is far more than we have ever had before. On the previous strategic plan, there were about 60 responses, so it was quite significant. We were really delighted with that.

**Q4 Nickie Aiken:** Why do you think that is? Why do you think it went from 60 to 1,000? That is a huge increase. What did you do differently?

**Melanie Field:** It is just indicative of the journey that the commission has been on over the last five to six years. We have become more visible. We are better at stakeholder engagement. We are more proactive in highlighting the work that we do, so we created the conditions where people wanted to engage in what we are going to be doing in the future.

**Q5 Chair:** Is becoming more visible an aim in itself?

**Melanie Field:** That is a difficult one because it is about ensuring that we can do our job properly. In order to exert the influence that we want to be able to over public discourse and values but also in terms of the influence that we can have on policymakers in Government, it is important that we are seen as being expert and authoritative and that we are engaged in the issues that people are interested in. There is a relationship between being visible and being effective.

**Q6 Chair:** Can I just ask a question? Your consultation report that was published explained that some aims were lower-priority than others. I just wanted to specifically ask about new technologies and digital services to promote equality and human rights, which was deemed to be a lower priority. Is that something that you see growing in importance? I am very



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conscious, particularly when it comes to delivering digital services, that sometimes there are all sorts of weird and wonderful algorithms that tend to be designed, if that is the correct term, by white men in their early 20s. Does it worry you that technology sometimes has a prejudice baked into it that does not represent those with protected characteristics?

**Melanie Field:** Yes, and we certainly see technology as an emerging threat and an opportunity. Certainly, it was something that we looked at and is something that we continue to look at. We felt that we were not really the expert body on new technology but that new technology is relevant to some of the aims that we are pursuing.

In our work aim, for example, we are looking at the use of algorithms in recruitment. What we have sought to do is to embed thinking about new technology in the work that we are doing. Similarly, in access to justice, new technology is being used more by people to access the justice system. Again, that offers opportunities, in that people can engage more easily, but it also presents risks for those who may not be digitally competent. What we have sought to do there is to build it into the work that we are doing under the aims that we have identified.

**Q7 Alex Davies-Jones:** In terms of the aims that you have identified and the ones that you are specifically focusing on, what actions have been taken this year to address these? What do you see as your wins, your quick wins and your longer-term aims that are being taken this year?

**Melanie Field:** We have achieved quite a lot in the first year but it is a three-year plan and it is important to remember that one of the aspects of our strategic plan was to focus on what we call “fewer, bigger, better, longer”. It is about developing sustained strategies that will deliver sustainable impact over time using a combination of our powers and levers.

This year, some of the highlights included our inquiry into racial harassment in higher education. We conducted a major inquiry looking at the harassment experienced by both staff and students. That has had impact in terms of really engaging the sector and other regulators in addressing those issues and seeking to address those issues.

We have used litigation to challenge racism in adoption services. We supported quite a high-profile case that resulted in Government writing to all local authorities, reminding them about the need to ensure that adoption was not influenced by racial prejudice. Another case that you may be aware of is that of Bethany Harris, a young woman who was in secure accommodation, and we supported her in terms of getting her into a more appropriate setting. We also took litigation supporting a number of children with special educational needs to ensure that they got the reasonable adjustments that they needed in school. We have also been enforcing the gender pay gap regulations and we secured 100% compliance with those.



In terms of policy-influencing, we built on our own work and the work of this Committee on sexual harassment, and persuaded the UK Government to conduct regular surveys on the scale and prevalence of sexual harassment at work. There is a range of highlights that I would point to.

**Q8 Alex Davies-Jones:** You talked about engagement and how you have had so many people responding to your consultations—1,000 as opposed to 60—and some of the proactive work you have been doing around that. You named some of the groups, but are there any specific stakeholders that you have been targeting, who you are aiming at or going for in terms of gathering all this evidence and data?

**Melanie Field:** We try to take a broad approach. We have a very wide range of stakeholders. Our remit is very wide and is about equality and human rights in all areas of life across England, Scotland and Wales. We seek to have constructive relationships with business and employers, with the public sector, with regulators and inspectors, and with human rights organisations, women's organisations, disability organisations and LGBT organisations.

We have been thinking particularly about engagement with the race-equality sector. It is a sector that we know is facing particular challenges in terms of lack of funding and fragmentation, so we have been trying to reach out to that sector more and think about ways, for them and all our stakeholders, that we can engage that work for them as well as working for us.

**Q9 Alex Davies-Jones:** For me, it is just making sure that the big stakeholders are targeted but also that the little ones at the grassroots level are engaged with as well.

One of the things that I picked up was the work that you have done on the gender pay gap. It is great, but do you think it could go further, in terms of targeting smaller companies and maybe not those big conglomerates that we are all aware of? Companies in small towns and villages are the ones where people work, day in and day out, and those need to be targeted. How do you think you can engage with them and get them onboard to look at some of these issues as well?

**Melanie Field:** There are a number of ways. It is about engaging through their representative bodies like the British Chambers of Commerce, for example, as well as ensuring that we think about that audience when we are producing information and think about the kinds of pressures that small businesses face, the kind of information that they can easily digest and the tools that they can use. Certainly, we are very much aware that they employ the majority of the workforce in Britain, and so anything that we can do to drive better practice in small business is going to benefit more people.

**Q10 Chair:** Is there a danger with stakeholders that it is the loudest voices that drown out the small? I was interested in what you said about



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engaging with stakeholders in the race-equality sector. What specific actions have you taken to reach out to them, and do you think there is more that you could do?

**Melanie Field:** We are organised around our priority aims in terms of the structure of the organisation, but we also have a lead for each protected characteristic. We have a race protected-characteristic lead, and part of their role is to create a community of stakeholders that they regularly engage with, update with our work and seek views from. That is very much a growing part of the way that we do business.

Q11 **Chair:** This might be way too specific a question. If you have a race lead, presumably you have a gender lead, an LGBT lead and a disability lead.

**Melanie Field:** That is right.

Q12 **Chair:** How does the race lead's community of stakeholders compare, both in terms of size and also volume with, for argument's sake, the disability lead's?

**Melanie Field:** I would not be able to give you that level of detail, I am afraid. I will probably need to write to you about that, if that is okay.

Q13 **Kim Johnson:** Can I also ask, in terms of the race lead and the stakeholder group, whether it operates on a national level, or is it also at a regional level?

**Melanie Field:** We have different stakeholder engagement arrangements in England, Scotland and Wales. Those arrangements are mirrored in the devolved nations. In England, we are developing our English regional strategy. We have built up an England network of people in different regions who are interested in our agenda, and we are up to about 1,000 people in that virtual network at the moment. We look at things across GB within England, Scotland and Wales, and then within each country. For example, in Wales, our Wales Committee meets in different parts of Wales each time, and it holds stakeholder engagement events and engages with local decision-makers in each place that it meets.

Q14 **Kim Johnson:** You have a national lead for each of the protected characteristics. Do you also have regional leads, or is it just one lead to cover the whole of the country for each of those protected characteristics?

**Melanie Field:** It is one person per country. That is a strategic lead rather than operational. Through our operational work, we will be engaging with a range of stakeholders as well.

Q15 **Nickie Aiken:** I am just wondering how flexible your priorities are. It is three years and society can change quite rapidly. We have seen a huge increase in the discussions, debates and views on transgender. Particularly over the last 12 months, I would say that it has really come to much more of an understanding that there is probably an ongoing discussion that we have to have as a society. There is debate amongst



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the women's rights community. We had some interesting conversations and debates on International Women's Day, and I just wondered whether the commission has flexibility to look at this area, which is not going to go away, and at how young people are being advised and treated in their gender orientation.

**Melanie Field:** We absolutely need to strike a balance between focusing on sustainable, long-term strategies and being responsive to what is happening. There is no point in us just blindly carrying on and ignoring what is going on around us.

On the specific issue that you mention around the balance between trans rights and women's rights, I gave evidence to this Committee about that on a previous occasion in the context of its inquiry on the Equality Act. We have been working on guidance for schools on how to support trans pupils. We are also looking at providing some guidance for service providers around how the single-sex service provisions in the Equality Act work, to give something more practical for people to use.

Q16 **Alex Davies-Jones:** Looking at the difference between how your achievements are measured at a UK level or in the three countries that you represent, and then at a devolved level, without sounding too parochial, do you see there being a gap anywhere in your stakeholders or those that you are gathering evidence from in any of the devolved nations as opposed to England? You talked about having quite a large bank of those in England whereas, potentially, you do not have those voices shouting loudly in the devolved nations. Do you see it as a gap and as a risk to you in achieving some of these priorities that you have?

**Melanie Field:** I will talk about Wales because I am the senior lead for Wales and I probably know a bit more about that. There are particular challenges in Wales, just because of its geography, its transport links and particular pockets of socioeconomic disadvantage. The race sector in Wales is a particular example of where it is difficult. We are very conscious of that. We have some very good voices for race-equality issues on our Wales Committee and, as I said, we go out into communities and consult people. At the last Wales Committee, we had a really lively discussion about race-equality issues.

It is no good taking a blanket approach and we have to be aware of the context that we are working in. That is why it is great that we have an office in Cardiff, an office in Glasgow, an office in Manchester and one in London, so that we are not so detached from the different areas that we are seeking to serve. The political contexts are different as well in the devolved nations. That means that we face different challenges and opportunities, and we seek to use those to inform our corporate GB approach.

Q17 **Peter Gibson:** Good morning, Melanie. I just want to focus a little on enforcement and litigation. Your policy changed in respect of that in 2019. Has your enforcement activity changed? Is it more beneficial? What



sort of impacts and results are you seeing as a result of that?

**Melanie Field:** Yes, as you say, we published a new litigation and enforcement strategy in November, so it is quite recent, but that was developed in the context of the approach set out in our strategic plan. The key changes are that we articulate much better how we will use our enforcement work to pursue our priority aims. It is one of a range of levers that we might use to complement each other in order to drive progress on an issue. We have broadened our understanding of what strategic litigation is, so we are only able to do litigation that is strategic. We are not funded and not big enough to be able to support every case.

In the past, that was really focused on where we might be able to clarify or change the law. We have broadened that to thinking about how a volume of lower-level litigation can highlight an issue and make it clear that this is a regulated space. For example, on our transport aim, where we are looking at accessibility of public transport for older and disabled people, we are doing what we call a Section 28 project, which is a project where we use our power to fund cases to fund a volume of cases in order to highlight the issues that passengers are facing and to try to drive better practice in the industry.

Another key feature is that, under our core aim, which is about ensuring that the law is the right law and works properly, we have clarified that that means that we will support flagrant breaches of the law. Again, that is about signalling to society that this kind of thing is not acceptable. A slightly older example of that would be a landlord who you may have heard of, Fergus Wilson, who said that he would not have certain tenants in his properties and we pursued a case against him.

Q18 **Nickie Aiken:** What was the outcome?

**Melanie Field:** We secured an injunction preventing him from doing that again.

We will also look at supporting cases that highlight or address systemic issues of discrimination, if we think that there is a broader issue that needs to be addressed. In line with one of our strategic goals, it is about supporting people in the most vulnerable situations, so the most serious breaches of rights. That might be where people are deprived of their liberty, which the Bethany Harris case is a good example of.

Q19 **Peter Gibson:** Just concentrating on the example of the landlord, would you give that as an example of significant impact where your enforcement and litigation has had the impact that you desire? If not, can you give me some other examples of where your enforcement and litigation has had impact?

**Melanie Field:** That kind of case has impact on a number of levels. First of all, it prevents the individual from doing the thing that they should not be doing. There was a lot of media interest in that issue and, therefore, it was an opportunity for us to really send a clear message to the public



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that, when people behave in this way, which is against our values and our laws, we will step in and act. In terms of trying to set the tone of public thinking about the issues that we care about, where there is something that most people would say is just flagrantly wrong, it is really helpful in building public support for equality and human rights.

**Q20 Peter Gibson:** You have a target of reaching 25 transport enforcement cases. Do you think that you are going to achieve that? A supplementary to that would be about whether you have the resources to be able to do that.

**Melanie Field:** At the moment, there are around 18 to 20 transport cases that we have supported.

**Q21 Peter Gibson:** Is that current and ongoing?

**Melanie Field:** I believe that is correct.

**Q22 Peter Gibson:** In what timescale?

**Melanie Field:** We started that project in September 2019.

**Q23 Peter Gibson:** You are going to achieve that target of 25 within the space of a year.

**Melanie Field:** In the year of the project but not in this financial year.

**Q24 Peter Gibson:** Do you have the resources in order to be able to do that?

**Melanie Field:** Yes. That project is underway and running well.

**Q25 Nickie Aiken:** Do you have any frustrations about how your plan is progressing at the moment? Knowing what you know now compared to when you started off on the strategic plan, is there anything that you would change, or are you happy with it?

**Melanie Field:** No, we are confident in the plan that we have set out. We do need to flex, as we talked about before, in line with emerging issues. You will be aware that we are conducting two major investigations at the moment, which have necessitated us reprioritising resources. It might mean that we might need to slow a particular piece of work; for example, we could potentially have started the Section 28 transport legal-support project earlier. In terms of looking at the strategies that we have in place, we are confident that those continue to be relevant and worthwhile.

**Nickie Aiken:** Forgive me, because I do not know much about your organisation as yet.

**Melanie Field:** No. That is why I am here.

**Q26 Nickie Aiken:** I have read your plan and everything. Would you consider the equality of religious freedom and the ability for religions to be treated properly and equally part of the scope of your commission?



**Melanie Field:** Yes.

Q27 **Nickie Aiken:** We have had an awful lot of concern over recent years about antisemitism. There have also been concerns about Islamophobia and we have had some nasty situations where mosques have been targeted. Are you looking at scoping out that type of work as well?

**Melanie Field:** Yes. The right to hold a religious belief and manifest it in a way that does not infringe the rights of others is protected by the convention. The Equality Act covers discrimination because of religion and also, in the context of antisemitism, which is classed as race, race discrimination.

Going back to your earlier point about transgender rights and women's rights, there is something about the nature and tone of political and public discourse and a growing context in which people seem willing to express quite divisive views. That is something that we are concerned about.

There are a number of things that we are doing in that space. First of all, our education work is really important, but it is not a quick win. This is about seeing schools as places that create the citizens of the future with the values that we value as a nation. We want schools to be places where our young people learn to understand and respect other people and their values and lives. It is very much the place where we can start to tackle prejudice.

Q28 **Alex Davies-Jones:** Just on that, and given the issues we have had in the last 12 months around the teaching of the LGBT curriculum in schools and the protests outside, particularly in cities like Birmingham, have you been involved in that? Do you have a place to look at the situation that is going on there?

**Melanie Field:** Yes. A couple of things on that: first of all, in Wales, you will be aware that there is a new curriculum, so we have been influencing that and are really pleased to see equality and human rights featuring in that as a result of our interventions.

Secondly, we wrote to the Minister on the issue around teaching about LGB relationships and trans people in schools. We do feel that leaving it for schools to negotiate with parents on these issues puts schools in a very difficult situation, so we would like to see a clearer steer from Government that schools are expected to teach children that these relationships and people exist and should not be discriminated against.

Q29 **Peter Gibson:** You referred to divisive debate and it is an important issue that you highlight. Do you think that your organisation has a role in helping frame that debate and educating people as to how to have that debate in a more constructive and less divisive way? If so, how would you do that?



**Melanie Field:** Yes, we do see ourselves as having a role in seeking to influence debate and the tone and direction of debate. That would predominantly be through thought pieces but also through interventions on specific issues. Coming back to your question, one of the other things that we are doing, as you will be aware, is looking at the handling of complaints of antisemitism in the Labour Party. We have also been engaged in looking at the law around hate crime, and there is to be a Law Commission consultation on that soon, which I hope we will be responding to.

There are a number of levels on which we can be involved in these issues in terms of how specific organisations or sectors deal with issues. For example, we published some voluntary standards for political parties about the tone of political debate, which we encourage parties to adopt. We are looking at how complaints are handled by political parties. There is a range of levels, including through thought-leadership pieces and blogs.

Q30 **Peter Gibson:** I am grateful for that answer in terms of clarifying that you see that you have a role in that space. Do you see that having an impact on improving that debate?

**Melanie Field:** It is difficult to measure any improvement at this point. There are lots of players who are interested in this with different powers and levers. We have our particular set. I would say that our thought-leadership voice is not our hardest-edged lever. Where we can take enforcement action, it will have much more direct impact.

Q31 **Kim Johnson:** You mentioned earlier that antisemitism was deemed race hate. I just wanted to know whether Islamophobia was deemed the same.

**Melanie Field:** Currently under the law, it is not.

Q32 **Chair:** Going back to where Nickie started, on religion, can I ask you a question about religious-based protests outside abortion clinics? In those circumstances, what involvement do you see the commission can or should have to protect women from that sort of religious-based protest?

**Melanie Field:** That is not an issue that I am aware we have been specifically approached about acting on, and it is not something that we are currently acting on, but it is something that I can certainly take away for us to consider and come back to you.

Q33 **Nickie Aiken:** Just going back to Peter's line of enquiry about you looking into how the complaints of antisemitism have been handled, it came across as very much carrot rather than stick.

I would suggest that, if the commission is going to be taken seriously in dealing with some serious racist issues involved in the antisemitism problems within a particular political party, there surely has to be some sort of enforcement that the commission is going to have to look at



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seriously, if people are going to take it seriously and the Labour Party, in particular, is going to understand that it has been woeful and that it has to really take this issue seriously.

**Melanie Field:** We are undertaking a formal investigation because the threshold was met that we suspected an unlawful act in the context of the handling of antisemitism concerns in the Labour Party. That investigation is ongoing.

Q34 **Nickie Aiken:** Would you see some sort of enforcement?

**Melanie Field:** I would say that that is one of our strongest enforcement powers.

Q35 **Nickie Aiken:** What are the enforcement powers that you would introduce? What would you do? Would you take somebody to court?

**Melanie Field:** When we undertake an investigation, first of all we have to suspect an unlawful act. We will then do an investigation and come to findings and recommendations. The organisation has to have regard to the recommendations and we can issue an unlawful act notice and require action to be taken. If that is not taken, that can be taken to court and enforced by the court. The penalty would be a fine imposed by the court.

Q36 **Nickie Aiken:** Were you surprised to learn about Trevor Phillips and his suspension from the Labour Party after certain comments that he had made compared to how antisemitism complaints have been held?

**Melanie Field:** I cannot comment on the Labour Party's handling of an individual case, given that we are in the middle of an investigation. I am sorry but I cannot comment.

Q37 **Sara Britcliffe:** You mentioned that there was a threshold for the investigation. What is that threshold?

**Melanie Field:** We have to suspect that there has been an unlawful act. That is set out in our legislation.

**Chair:** Are you done, Nickie?

**Nickie Aiken:** I was interested in your personal view.

**Chair:** That is a line of inquiry that we will not pursue. Did you want to ask a question about the BBC?

Q38 **Nickie Aiken:** I did, yes. Where are we with that? You quite rightly opened an investigation into this but it seems to be taking a long time. We have had the court case in recent weeks, in which the journalist was very successful and it was found in her favour. Where does that leave your investigation and why is it taking so long?

**Melanie Field:** Because these are things that are ongoing, I have to be quite careful about what I say. The BBC investigation, as you say, is ongoing. The issues are quite complex. It is a large organisation, and



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equal pay legislation is quite complex. It is an important issue and it is important that we conduct the investigation properly. It has taken some time but we hope to be reporting later this year.

Q39 **Nickie Aiken:** Later this year, so roughly how long will that have taken from start to finish? Was it March? It will be over a year.

**Melanie Field:** Yes. Sorry, we launched the investigation in May.

Q40 **Nickie Aiken:** How helpful and proactive has the BBC been in providing you with data?

**Melanie Field:** I am really sorry but I am not going to be able to give any information about the investigation.

Q41 **Alex Davies-Jones:** Given that it is going to take over a year, and potentially 18 months, to complete the investigation, and that Samira Ahmed was successful—

**Melanie Field:** Sorry, I did not say that. It was launched in May and I said later this year.

**Alex Davies-Jones:** Sometime this year, so it could be a year or over a year. Given that it is taking that long and given that we have had the case of Samira Ahmed, who was extremely successful, and that there could now be potentially hundreds more cases being explored in the courts, do you not think that has undermined the investigation in a way? She has been found successful and it is obviously a systemic problem in the BBC in terms of gender pay. Do you not think your resources would be better served supporting these cases rather than this investigation, given that, by the time it is published, we will already know the outcome anyway?

**Melanie Field:** I can say very little about the investigation and I cannot pre-empt what the findings of that will be.

**Alex Davies-Jones:** I think we all know—

**Melanie Field:** I would make a general point about the difference between the impact of an individual case and the impact of an investigation into an organisational issue and what might result from that. With an individual case, there is a remedy for the individual by the court. What we seek to do with our investigations is to draw wider conclusions and make wider recommendations that will drive systemic change.

Q42 **Alex Davies-Jones:** We all know that these systemic issues are there in the BBC. It has been proved in a court of law that these are there. I feel—and I think the public do as well—that you as a commission would be better placed to support these individuals who are seeking remedies and seeking justice for what they have been through as a result of gender bias, rather than a report that we all know what the outcome of will be.



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**Melanie Field:** Of course, we do that. This is the 50-year anniversary of the Equal Pay Act, and this will be a big feature of our work in the coming year, to look at the barriers that women face in bringing equal-pay claims, and we will be looking at how those women can be supported better, both by us and by other organisations. You will be aware that the Fawcett Society is doing some work in that area, which is really welcome.

We will also be looking at whether there are improvements to the law that can make things easier for women. For example, you may be aware that, when the Equality Act was implemented, there was a statutory procedure whereby women could make inquiries of their employer, if they felt that they were being discriminated against. That was repealed, so we would like to see that kind of process being reintroduced to support women.

Q43 **Chair:** Is there a temptation to go after the high profile? We heard Alex's question earlier about small employers, but is it value for money to have a year-long investigation into the BBC when, as we have heard, we have already had the judgments in the court of law, and perhaps that time, money and effort could be better spent pursuing smaller, less high-profile employers with individual cases supporting women to get the justice and the fairness that they are entitled to?

**Melanie Field:** Those are the kinds of considerations that we have to bring into play when we are considering whether to do this kind of work. We do small investigations too. Our gender pay gap enforcement work is built on small investigations. Another area where we do small investigations is under Section 60 of the Equality Act, which is the provision that says that you are not allowed to ask disability or health-related questions during the recruitment process, in order to prevent disability discrimination.

We do those but there are criteria around where you can send a big message to a sector or employers generally about where they should improve practice. One of the things that we will be thinking about when deciding whether to devote, as you say, a significant level of time and resource to an issue is what we think the impact might be at the end of that process. I am in the difficult position that we have not reached the end of those processes yet.

Q44 **Peter Gibson:** Just as a small follow-up on Alex's questioning, do the decisions of the court in respect of those cases that have already been decided and are continuing form part of the evidence that you use in your investigation?

**Melanie Field:** I am really sorry but I cannot say anything about what we are using in the investigation.

Q45 **Nickie Aiken:** Picking up on what my colleagues have been saying, we know the outcome of the court case, which has been very high-profile, and that the BBC has admitted. It has brought in policies over the last 12



months reducing men's pay. We have seen some high-profile male BBC employees having their salaries cut and women having theirs increased. Surely that would suggest that there is no real need to carry on with this investigation or to carry on resourcing it, and that it would be more important now to increase the scope of the investigation and make it a general broadcast investigation.

Maybe other large-scale companies are doing the same. I appreciate that the BBC is funded differently than many other broadcasters, but it does not necessarily mean that other private broadcasters are not doing the same. Surely it would be more effective if the commission could use its huge resources to look at the broadcast industry rather than just targeting the BBC, which we have seen has started to improve its practices.

**Melanie Field:** I will go back to what I said before. It is about us deciding what we think is the right lever. Part of your job is to challenge and scrutinise us, which is constructive and welcome. With an individual case, it will always be on its individual facts.

Another issue is that the tribunals are no longer allowed to make recommendations that benefit the wider workforce in some circumstances, so that is something that we would like to see restored. Where they make a finding of a breach of the equal-pay provisions, they are supposed to order an equal-pay audit, but that does not appear to have happened in that particular case, which we are looking into. An individual case will be about an individual and individual facts, whereas our investigation will be looking at broader issues.

Q46 **Nickie Aiken:** The BBC has taken steps because they knew Ahmed's case was coming up and would be very high-profile. There are more in the pipeline. From what we understand, the BBC is taking steps to improve the situation, so are you saying that you are just going to carry on, even though the BBC are doing what they can? Surely, we should be looking at a broader industry issue.

This is not just about the BBC; it is surely about other large broadcasters, and small broadcasters. We now have so many big and small companies that, surely, it should be the industry sector. The BBC seems to have woken up. I am not saying that they are perfect at all, by any stretch of the imagination, but they seem to have started to put policies in place for the staff they have there at the moment. Who knows about when they are recruiting? I do not know. Surely there should be a wider scope now.

**Melanie Field:** The purpose of us doing the investigation is that we are going in as an independent external regulator to come to our own conclusions about what has happened and where the organisation is. We will come to findings and recommendations. As you say, these are not issues that are not necessarily unique to a particular organisation, so the hope is that there will be conclusions, findings and recommendations that can be drawn from this work, which will have wider impact.



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Q47 **Chair:** Can you and do you ever change or extend the scope of an investigation mid-investigation?

**Melanie Field:** It is possible to do so but there are terms of a reference of an investigation. There is a statutory process for consulting the organisation that is subject to the investigation on those. If we change them, we would need to go through a process. It is not impossible.

Q48 **Chair:** You can, but have you?

**Melanie Field:** I cannot comment on any ongoing investigations and I am not aware of any investigations that we have completed in the past where we did that.

Q49 **Sara Britcliffe:** The last Women and Equalities Committee did a lot of work on sexual harassment, and I just want to know your opinion of the influence that that has had.

**Melanie Field:** That was a really good example, just thinking about the relationship of the commission and this Committee, of where we are interested in the same issues and we have different levers that we can pull. This Committee did a number of pieces of work around sexual harassment at work and in public places, the use of non-disclosure agreements and a whole range of things.

We did our own work in terms of doing a survey of women and understanding more about their experiences. We came and gave evidence to this Committee about changes that we felt were needed to law and practice. We have been very pleased with the outcome of that. We have published technical guidance on non-disclosure agreements and on sexual harassment and harassment at work. We are hoping that that will become a statutory code of practice, so that is a matter with Government at the moment.

Q50 **Sara Britcliffe:** When do you expect that to happen?

**Melanie Field:** That is something that Government are looking at, so it is for the Minister to lay that before Parliament.

Q51 **Sara Britcliffe:** From your side, when would that be best to happen?

**Melanie Field:** We would like it to happen as soon as possible.

Q52 **Sara Britcliffe:** With regard to the specific steps that you are pushing the Government to take, what action are you asking Government to take?

**Melanie Field:** One of the things that we asked for was more information about the experiences of women. I mentioned earlier that the Government are going to do a survey of sexual harassment at work. We are also calling for a mandatory duty on employers to protect staff from harassment, and that has been supported by the CBI, so that is something that we are continuing to advocate for. We have also been supporting individual cases of sexual harassment to highlight the issue. As I understand it, Government have agreed that our technical guidance



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should become a code of practice, but we do not know the timing of that, because that is in Government's hands.

Q53 **Sara Britcliffe:** Are you able to just go into a little bit more detail about the survey?

**Melanie Field:** Government have announced that they are going to do a survey, so we welcome that.

Q54 **Sara Britcliffe:** Have you put forward any contributions as to what would be in that survey?

**Melanie Field:** We have been engaging with the Government Equalities Office, which is our sponsor unit in Government, and we have been engaging with them very closely on this area. The Government have, in fact, consulted on a number of the recommendations that we made. Another one is reintroducing protection against harassment by third parties, which was repealed, and we would like to see that reinstated. The Government have consulted on a number of these issues.

Q55 **Sara Britcliffe:** Just on that point, do you feel that we, as a Committee, should be pushing this, and when?

**Melanie Field:** The combination of the work that we did and the Committee did was incredibly influential on Government in focusing their attention on this issue and shifting to a more proactive approach to looking at what more can be done. Absolutely, I would hope that the Committee will continue to be interested.

Q56 **Sara Britcliffe:** In what timescale would you like to see that?

**Melanie Field:** We need to keep the pressure up. This is the sort of thing where it would be good for us to talk to each other about what role we can play and what role the Committee can play in terms of trying to keep the pressure up on those issues.

Q57 **Chair:** You have had engagement with the GEO on this. How much engagement have you had from Ministers?

**Melanie Field:** Our chair and chief executive have regular meetings with our sponsor Ministers.

Q58 **Chair:** When was the last one?

**Melanie Field:** There have been some changes, but I believe our chair met with the current Secretary of State about a month ago.

Q59 **Chair:** What about the Minister for Women?

**Melanie Field:** I would need to check, sorry. Can I write to you?

**Chair:** Could you let us have that information?

**Melanie Field:** Yes.

**Nickie Aiken:** As well as with the disability Minister.



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**Chair:** Specifically around sexual harassment, I was interested whether there had been engagement from the Secretary of State or the Minister for Women, and in what sort of timescale. You are right that there have been ministerial changes, but it would be helpful for this Committee to have an indication as to what level of priority the Ministers might be regarding this as having. Kim.

Q60 **Kim Johnson:** Melanie, the *Is Britain Fairer?* report was published last year. It identified that certain areas have worsened since the 2015 report, particularly in terms of changes to the welfare system and people living in poverty. I wanted to know whether you would be looking at extending protected characteristics to start looking at a socioeconomic element.

**Melanie Field:** We are not advocating for socioeconomic status to become a protected characteristic currently. It is not a current position of the commission but it is something that we continue to look at. We have been advocating and continue to advocate for implementation of Part 1 of the Equality Act, which is the duty on public authorities to take account of the inequalities arising from socioeconomic disadvantage. That duty has already been implemented in Scotland and is due to be implemented in Wales later this year, so we would like to see that duty implemented in England as well.

Q61 **Kim Johnson:** Have there been any discussions at all with Ministers about that happening?

**Melanie Field:** It is one of the things that we usually raise. It is one of our key legislative asks, so it is something that we continue to ask for.

Q62 **Kim Johnson:** How can we on this Committee help to push that forward?

**Melanie Field:** This is quite interesting in terms of the Government's wish to level up, looking at regions where there are particular inequalities. We are doing quite a lot of thinking currently about how our remit relates to that agenda and how bringing a protected-characteristic lens to that agenda might enrich it and help to target interventions that benefit those who are experiencing the biggest gaps. It would be interesting to have some more evidence and views around the relationship between socioeconomic disadvantage, protected characteristics and regional inequalities, in order to inform the Government's emerging approach.

Q63 **Kim Johnson:** Do you have the resources at the moment to be able to undertake that piece of work?

**Melanie Field:** We do look at socioeconomic status when we are doing our analysis for *Is Britain Fairer?* The last report was in 2018 and the next report will be in autumn 2021, so we are just starting to decide how we are going to shape that. We have resource allocated to producing that report, and that will have some element of focus on that. As I say, we are, at the moment, developing our approach. We are conscious that the



spending review is coming up, and this regional levelling-up approach is somewhere we could add more value, if we had additional resource.

Q64 **Kim Johnson:** Given that we are in this current coronavirus crisis, and that those people within the group that we have just mentioned are likely to be most impacted, is there a pressing need to maybe look at doing something sooner rather than later?

**Melanie Field:** Like everybody else, we are thinking about the implications of coronavirus, not only for our teams but also for our agenda. We are expecting the emergency legislation later this week. This is unprecedented and very challenging for everybody, and the Government are trying to strike a very difficult balance between protecting public health and life, protecting the country's economy and thinking about where it is proportionate to restrict people's freedoms. There are clearly human-rights issues embedded in all of that, but it is also important, in looking at the response and thinking about how the response is implemented, to have, at the front of our minds, the people who may have particular needs, barriers or challenges, in order to make sure that those are factored in and do not emerge later as a problem.

Q65 **Kim Johnson:** Would you say that the equality issues identified in *Is Britain Fairer?* are still the most pressing, particularly if you think about some of the emerging issues at the moment? We have talked about transgender and there is a lot of discussion around non-binary and how that fits into the whole equality agenda.

**Melanie Field:** *Is Britain Fairer?* is based on our published measurement framework. Of necessity, the idea is that we track progress over time and, therefore, it needs to be reasonably high-level while enabling us to delve more deeply into current issues.

As I said, we are currently looking at how we are going to use it next time to strike that balance, so that we get that broad picture of where things are getting better or worse, or not moving, as well as richer information on issues that are of particular relevance or interest. The key challenges that we identified last time persist. These are big social changes, so movement is not going to be quick.

Q66 **Kim Johnson:** You also identified that you have experienced some difficulty and that there are some gaps in data, particularly around LGBT. I just want to find out what you intend to do to try to address those difficulties.

**Melanie Field:** We have a data-gap strategy. That is part of our core aim of ensuring that we have the right laws in place and the data to know what is happening. We do a lot of work with ONS about how national data is collected. We have worked very closely with the Race Disparity Unit in the Cabinet Office in terms of seeking to influence how the Race Disparity Audit was framed and conducted, and we continue that relationship.

Q67 **Kim Johnson:** Can I just say something about race disparity? It was



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published in 2017. It was a report that was published but, from my point of view, very little happened with it in terms of any particular actions or recommendations. I would be interested in terms of the relationship with the race unit around some of those key issues.

**Melanie Field:** Sure. I will just finish off what I was saying about data and then I will come back to that, because it is related. The Equalities Hub in the Cabinet Office is now aligned with the new Disability Unit and with the Race Disparity Unit, which is a really positive thing. What we really welcome is the Government's commitment for a national disability strategy. Just linking back to the race issue, what we said at the time that the Race Disparity Audit was being conducted was that we really welcomed increased transparency around the level of racial disparities that there are. It does provide a richer dataset in terms of drilling down into regional areas, for example, but we have known about most of these issues for a very long time.

In fact, we published our own report, following *Is Britain Fairer? (2018)*, called *Healing a divided Britain*, which had a particular focus on race equality. What we have called for is a co-ordinated strategy or programme of action to address the policy responses to those disparities, rather than just focusing on providing transparency about them. We are really pleased to see that Government have taken that onboard but there is no set-out strategy that is centrally owned and driven. It seems to be mainly in the hands of individual departments, and a lot of these issues require a more joined-up approach, so we would like to see a Government strategy on race equality.

Q68 **Kim Johnson:** The country has been very polarised since the referendum. You have talked about antisemitism but there are still major issues in terms of Islamophobia; Baroness Warsi has a dossier of incidents. I am just curious in terms of whether the Equality and Human Rights Commission are looking at some of those pressing issues across all parties.

**Melanie Field:** I mentioned before that we are concerned about the tone of political and public discourse on a range of issues where these divisions seem to be heightened or there seems to be more of a feeling of permission to express those views. You will be aware that the Conservative Party has announced that they will be conducting an independent review and we are waiting to see the final terms of reference of that review before commenting further.

Q69 **Kim Johnson:** How long have you been waiting for that?

**Melanie Field:** You will be aware when they announced the review.

Q70 **Kim Johnson:** Are you concerned that some equalities have increased since your 2015 report? You mentioned access to justice and personal security. I am linking that to the David Lammy report in 2017 that talked about over-representation for certain groups. These types of reports are undertaken, and I am just curious in terms of the role that your



organisation has in trying to implement and take action that has been identified in these particular types of report.

**Melanie Field:** As you say, access to justice was a particular area where we were concerned that things were going backwards in *Is Britain Fairer?* (2018). One of the things that we did as a result was an inquiry into legal aid, which looked in particular at the availability of legal aid for discrimination cases. That report was published in June last year.

We made a number of recommendations and have been engaging with the Ministry of Justice since then on ensuring that those are followed through. One of the key things that we were concerned about was the mandatory telephone gateway—if you wanted to get legal aid, you have to go through this telephone gateway—and that that was not appropriate for certain groups of people, particularly disabled people. We are pleased that the Government have committed to removing that.

Q71 **Kim Johnson:** One last question, sorry, Melanie, is around the public sector equality duty that all public organisations need to adhere to. I know, from working in the public sector, that it is often just seen as a bit of a box-ticking exercise, so I just wanted to know how that would be enforced and monitored going forward.

**Melanie Field:** We are doing quite a lot of work on the public sector equality duty at the moment. I gave evidence to the predecessor Committee about that in the context of the Equality Act inquiry. We do feel that the public sector equality duty has not delivered its vision in terms of driving concerted progress in the public sector on tackling big, entrenched inequalities and disadvantage. We have been looking at the scope for changing the specific duties that are set out in secondary legislation. The specific duties are there to support better performance of the general duty.

I do not know how familiar the Committee is with this—you may well be very familiar—but the general duty has three prongs: it is about eliminating unlawful discrimination and harassment; it is about advancing equality of opportunity; and it is about fostering good relations. The specific duties are there to help public bodies do those things better. In England, there are only two really specific duties, apart from the one on gender pay gap reporting, and those are to publish one or more equality objectives and to publish information about how you have performed the general duty.

That makes it quite difficult for us, as the enforcement body, to meaningfully enforce that. It also leaves public bodies slightly uncertain about how they should respond to the duty. There is an opportunity for the specific duties to give public bodies more guidance. There is also an opportunity to make the duty more strategic, building on the information that we know about the big equality challenges facing Britain that we identified in *Is Britain Fairer?* and that the Race Disparity Audit has identified, and requiring specific consideration of that evidence in setting



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objectives that work across sectors, so that a whole sector will be focusing on these big issues rather than it being entirely a bottom-up approach to objective-setting, although you need both.

We would also like to see more onus on public authorities to use positive action and to use their purchasing power to advance their equality objectives. We would also like to see regulators and inspectors having a duty to look at how progress towards delivering equality outcomes is going when they are looking at the performance of public bodies.

**Q72** **Nickie Aiken:** Because I am very conscious of time, a “yes” or “no” will suffice. From what we have heard today, would you agree that, if the commission is to ensure it keeps to its core values, remains relevant to the public and retains the trust of the public, it would be beneficial for the commission to be as flexible and as agile as possible, particularly with the investigations, where you need to be able to move quickly and maybe change the emphasis of an investigation if more information comes to light?

**Melanie Field:** We do that and we are looking at how to do swifter and more light-touch interventions. It is about tailoring the intervention to the specific issue and making sure that we keep checking that what we are doing is the right lever and that we are using it in the right way.

**Q73** **Alex Davies-Jones:** I am conscious of time but I would like to come back to the coronavirus pandemic and the impact that that is having on everybody. Particularly, it is impacting those with protected characteristics hugely and significantly. We can look at the disabled. Women are more likely to be working in the hospitality sector, more likely to be on zero-hour contracts and more likely to be carers. They are being laid off already.

We have pregnant woman now classed as a vulnerable category for the virus and they are being forced by their employers to take early maternity leave, which is then going to impact them further down the line. I understand and appreciate that this is unprecedented, but we still need to scrutinise the emergency legislation as much as we can, without delaying it, and we need to ensure that those with protected characteristics are not going to fall foul of this legislation and be even more negatively impacted as a result.

I know you have touched on your role in this but what can you do immediately, in the short term, to ensure that that happens, and in the longer term as well, once we see the full impact of this?

**Melanie Field:** One of our roles is to provide expert advice to Government and Parliament.

**Q74** **Alex Davies-Jones:** Have you been asked to do that on this emergency legislation?

**Melanie Field:** We have not been specifically asked to do that, as far as I know, but we are nonetheless considering how we can do that.



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Q75 **Chair:** Do you have any concerns, when you look at the war cabinet around this issue and when you look at the expert voices that we get to listen to, that the voices of women have been excluded?

**Melanie Field:** There is always a concern about any decision-making group that it can only represent or take into account the experiences of the people involved in the group, which is why it is important that decision-making groups are as diverse as possible, but also that there are engagement mechanisms, so that people understand the impacts of the decisions that they are taking on people's lives that they may have no experience of.

Q76 **Sara Britcliffe:** You said you have not been consulted. Where, in the commission's opinion, will there be gaps in this legislation?

**Melanie Field:** We have not seen the legislation yet. There will be the legislation, which, I imagine, will be quite high-level and broad-brush, and then there will be the way it is implemented, which is equally important.

Q77 **Chair:** You are not aware of having been consulted. What steps are you taking to make sure that your voice is heard?

**Melanie Field:** We have been giving a lot of thought to what we know and what we are seeing in the media about the kinds of impacts that people are reporting. We had some feedback from the Equality Advisory and Support Service—the helpline for equality and human rights—about the kinds of enquiries that they have been getting, and that is informing our thinking. This is literally a moving feast, so I do not want to commit to anything that my colleagues back at the office are still working on.

Q78 **Chair:** I appreciate that. I just wanted to clarify whether you wait to be asked.

**Melanie Field:** No, we do not wait to be asked.

**Chair:** If there are no further questions, can I just thank you very much for coming in today? It is very much appreciated and it has certainly been helpful for me and, I hope, for other Committee members.

**Melanie Field:** Thank you. It is nice to meet you all.