



HOUSE OF LORDS

Revised transcript of evidence taken before

The Select Committee on the Equality Act 2010 and Disability

Inquiry on

EQUALITY ACT 2010 AND DISABILITY

Evidence Session No. 3

Heard in Public

Questions 27 - 42

TUESDAY 21 JULY 2015

3.35 pm

Witnesses: Baroness O'Neill of Bengarve, Lord Holmes of Richmond and Rebecca Hilsenrath

Members present

Baroness Deech (Chairman)
 Baroness Browning
 Baroness Campbell of Surbiton
 Lord Faulkner of Worcester
 Lord Foster of Bishop Auckland
 Lord Harrison
 Baroness Jenkin of Kennington
 Lord McColl of Dulwich
 Lord Northbrook
 Baroness Pitkeathley
 Baroness Thomas of Winchester

Baroness Wilkins

Examination of Witnesses

Baroness O'Neill of Bengarve, Chair, **Lord Holmes of Richmond**, Disability Commissioner, and **Rebecca Hilsenrath**, Chief Legal Officer, Equality and Human Rights Commission

Q27 The Chairman: Good afternoon, Lady O'Neill, Lord Holmes and Ms Hilsenrath. Thank you very much for coming to see us this afternoon. We are very appreciative. I should tell you that this session is open to the public, and a webcast goes out live as an audio transmission and is subsequently accessible via the parliamentary website. A verbatim transcript will be taken of the evidence and will be put on the parliamentary website. A few days after this session, you will be sent a copy of the transcript to check it for accuracy. If you could advise us of any corrections as quickly as possible, that would be helpful.

If, after this evidence session, you wish to clarify or amplify any points you made during your evidence or you have any additional points to make to us, you are very welcome to submit supplementary evidence to us. In fact, as you well know, our time is limited, so if there is straightforward material or something that is better in writing, do send it to us rather than spending our valuable time, which we would like to use on your opinions and your evidence, especially since it is quite likely that there will be at least one Division, if not two. As you well know, we will have to adjourn for a few minutes if that is the case.

Can I ask you, if you want to, to make a brief opening statement before I put the first question to you, Lady O'Neill and Lord Holmes?

Baroness O'Neill of Bengarve: Let me say that we are very pleased to be in front of this Committee and very pleased that the Committee has been established. We think it could be extremely constructive to take a look at the working of the rather complex Equality Act 2010 and to consider the present realities and how we might go forward. I do not wish to say more than that. You will know what questions you want to ask and we will, I hope, have answers for them. I shall throw them to Chris Holmes or Rebecca Hilsenrath. Rebecca is our chief legal officer, and there are some questions that she will be best placed to answer. Chris is the disability commissioner, and there will be other questions that he is best placed to answer.

The Chairman: Of course, you do not, all three of you, have to answer every question. Whoever is most appropriate should answer.

Lord Holmes of Richmond: I will just say that it is a great pleasure to be here and to put on record a commendation to Baroness Thomas of Winchester for being the inspiration for this Committee coming into being.

Baroness Thomas of Winchester: Thank you.

Rebecca Hilsenrath: Good afternoon. I would just like to make one specific comment, which is not entirely relevant to the subject matter of this Committee, but I am very well aware that we are here to consider the Equality Act. As you are aware, we are the national human rights institute for Great Britain. As such, we want to draw to the attention of the Committee that a lot of the work that we do in relation to disability actually lies outside the scope of the Equality Act. There is a sort of added value that we bring as an NHRI with our engagement with the UNCRPD, as part of the United Kingdom independent mechanism, as chair of the CRPD working group for the European network of NHRIs and in our work with the special rapporteurs in that field.

I wanted to put that on record as something that is outside what we are going to be talking about but is part of work that we are very engaged in.

Q28 The Chairman: Thank you. Has the Equality Act 2010 been a success for disabled people? How does the position of disabled people under the Act compare with their position under the Disability Discrimination Act 1995?

Baroness O'Neill of Bengarve: We have a piece of work going on at present that should give us some useful empirical information about disability and changes. This is our *Is Britain Fairer?* report, which will be published in late autumn this year. It will be very comprehensive. It will look at a whole number of equalities, inequalities and changes across time. It will not look at particular cases in order to judge whether specific inequalities are the result of discrimination or, in particular, of unlawful discrimination. We hope that it will be the evidence base for a lot of work by us, but also by many other bodies.

There is no single "success or not success" answer to that question: it is a very granular picture that we will be presented with when this information is fully available.

The Chairman: This report that you mentioned has the title *Is Britain Fairer?*. Is it specifically about disability or is it about all the protected characteristics?

Baroness O'Neill of Bengarve: No, it is about all nine protected characteristics.

The Chairman: That actually focuses on our concern. We have picked up from the evidence so far that some disabled people feel that they are not getting their fair share of attention, because there are so many other protected characteristics for you to take care of. I am not saying it is your fault if that is the case, but the question really is: are they better off with the challenges of disabled people being rolled into everything else, or was their position better safeguarded under the previous Act?

Baroness O'Neill of Bengarve: Perhaps I could give you the elementary financial and legal framework within which we are now operating, because the question "better or worse" is probably, in the end, not a question that anybody could answer.

The Disability Rights Commission, when it existed, in the first seven years of the millennium, ended up with a budget of £21 million and 205 staff. That covered the helplines. The core funding for the Equality and Human Rights Commission this year is £17 million, with access to additional discretionary programme funding of £6 million. The cost of the helpline, which of course was removed from the commission after 2010, the conciliation and the grants functions was £10 million. If the budget reductions that were applied to the Equality and

Human Rights Commission had been applied to the Disability Rights Commission, its budget this year would have been down to £5 million. That is the context in which one has to understand changes.

Our budget is adequate for us to fulfil our functions, but we have to look very carefully at the most effective and affordable ways of intervening in particular cases, so the mix of what we do has changed. We do a great deal more of what you might call partnership working: that is to say, trying to get certain institutions—be it the police, parts of the health service, schools—to pay better and closer attention to their legal responsibilities. We also, of course, bring cases, and most of our case workload is still on disability issues. Certainly the most costly cases in recent times have been on disability issues. Just to give you some numbers, last year of a total of 41 Section 28 and Section 30 cases, 19 were disability-related. On the legal cases, it still has the majority of our attention.

Perhaps you would like to know about the other changes. There have been changes in our powers, and there are a number of legal provisions that have not been commenced.

The Chairman: We are aware of that. I wonder if some of this material, which is very valuable, could be submitted to us in writing.

Baroness O'Neill of Bengarve: Indeed, yes.

The Chairman: On the face of it, I think what you are saying is that disabled people now do not actually have as great an access to resources and focus as they did before. That is the impression that I get from your figures, but we await the report.

Baroness O'Neill of Bengarve: There was a slightly different point on my figures, which was that the access that disabled people would have under the cuts that have taken place would be less than it is under current provisions, where they are in with the other range of protected characteristics and the human rights work.

I wonder if I could ask Ms Hilsenrath to speak a little about the legal aspects of this.

Rebecca Hilsenrath: If I could just come back to your question briefly on two grounds, first, some specific protection is offered to disabled people under the Equality Act 2010 that was not there before under the disability discrimination legislation. Touching briefly on some of those points, there is now a more flexible definition of “disability”, a more consistent definition of “reasonable adjustments”, a new provision in relation to discrimination arising from disability, a coherent cross-protected-characteristic public sector equality duty, and a provision making pre-employment health checks unlawful. There is positive action in relation to disabled people, and indirect discrimination now applies to disabled people.

Those are very specific things, but I would like to make an overriding point, which is that the ability of the commission to support people sharing any protected characteristics enables us to strengthen our activity and the law in relation to cross-cutting provisions. There are numerous examples of this, relating to disability and others. A recent example was a case in which we intervened at the High Court in relation to the public sector equality duty as it applied to a decision to recover planning applications in the green belt relating to Gypsy and Traveller sites. That was a very strong win for the commission in terms of the court’s treatment of our submissions on the nature of the public sector equality duty and the duty on Ministers to comply with it, but it applies across the board, including, of course, in relation to disabled groups in other contexts. There are numerous other examples along those lines that we could provide you with substance on.

The Chairman: Perhaps you could write to us about those. Lady Jenkin, much of this has been answered.

Q29 Baroness Jenkin of Kennington: It has. I suppose, if there is anything else that you have not already commented on, it is what activities the commission has undertaken recently in meeting the duty to monitor the effectiveness of the Act and what, if any, amendments you would like to see that you have not already covered.

Baroness O'Neill of Bengarve: On amendments, we would like to draw your attention to the fact that there are a number of clauses and provisions that have not been commenced. There is socioeconomic duty, caste discrimination, dual discrimination. That is very relevant. There are things that happen in ships. There is transport accessibility, taxis in particular, and the majority of bus and coach accessibility provisions. There is the requirement on political parties to report on diversity and the repeal of third-party harassment provisions, but the one that we would particularly like to point out is the repeal of employment tribunals' powers to make wider recommendations. The impact of bringing a case can be very much greater if that power is in place, which it is not.

Rebecca Hilsenrath: In terms of the activities that we have undertaken to monitor the effectiveness of the Act, Baroness O'Neill has already mentioned *Is Britain Fairer?*, which is our major piece of work in that regard. However, it is also true that everything that we do monitors the effectiveness of the Act in terms of the inquiries that we carry out, the research that we carry out, the casework that we do, briefing parliamentarians, and our work in liaising with the EASS. It is key to what we do.

I would also like to mention that because of very tight timeframes, we were not able to comment on the GEO submission in relation to the post-implementation review of the Equality Act, but we will be engaging in that review going forward.

Lord Holmes of Richmond: *Is Britain Fairer?*, the report coming out later this year, should not just demonstrate a picture across the whole of Britain. Through specific issues and a thread running through the whole of that report, you will be able to take a slice out, which will be the disability slice. Although it is integrated and connected across that piece, you will be able to say from that report, "Is Britain fairer (for disabled people)?"

Q30 Lord Foster of Bishop Auckland: I have no declarable interests. Are you confident that the disability provisions are addressed in sufficient detail in existing codes of practice? Why did the Government decide not to lay three of the codes of practice before Parliament? Do you have plans to issue any other specific codes of practice or technical guidance, for example on the premises provisions, and, if not, why not?

Baroness O'Neill of Bengarve: In many contexts, there is something to be said for some flexibility in the requirement. As to the question of the status of the codes, which, I take it, is what you are really concerned about, we believe there are cases where it would be more effective to have a statutory code and less effective to be in our present situation. However, we have argued the case with our sponsoring department. You will remember the Red Tape Challenge and the concerns about regulatory burden. Although we have been keen to see that change, it has not happened. We have therefore issued codes that we hoped would have been statutory as technical guidance. I will ask Ms Hilsenrath to speak on that a little further.

Rebecca Hilsenrath: We have produced codes of practice on employment and on services and public functions, all of which touched quite closely on disability issues. They were subject to very effective consultation and did address a lot of issues that arose at the time. It is our view—and that is very much informed by the stakeholders that we work with—that codes of practice reduce regulatory burden by adding clarity and information. That is

perhaps particularly true in relation to issues such as the duty to make reasonable adjustments, which is very fact-specific.

We obviously cannot comment on the stance of the Government in not laying before Parliament the codes that we have produced. We have scoped further codes on housing and transport. We have not proceeded with them. We are in a position now, particularly in the light of the last code that we produced, which was a supplemental code on age and has not to date been laid, of not knowing whether that is likely to be a productive area of work for us.

Q31 Baroness Campbell of Surbiton: What are you doing to push the Government to lay these codes? It is all very well saying, “Well, they will not lay them”, but we all know that you can push government from time to time. Can you give us any examples of where you have been giving them the little nudge that they probably need?

Rebecca Hilsenrath: We had quite a serious degree of correspondence with them last year, and in fact we have written to them very recently since the general election. Within the last month or so, we wrote asking if they would reconsider. We are waiting to hear back from them.

Baroness Campbell of Surbiton: That is it so far.

Rebecca Hilsenrath: That is at a ministerial level. We have also engaged in an awful lot of official communication on the subject.

Baroness O'Neill of Bengarve: I would say that it is a topic that we raise quite often when we see Ministers. We will come to this, no doubt, but we see a number of Ministers for different purposes. My sense is that the Government's opinion is quite divided. There certainly are people who think there would be merit in certain statutory codes; there are people who think, “No, that is red tape”. I do not regard this as an entirely closed door. I do appreciate what the idea was behind the Red Tape Challenge, and we have failed so far to convince that in some ways there may be less red tape if you achieve greater clarity.

Rebecca Hilsenrath: Another example is that a colleague and I gave evidence to the Women and Equalities Committee last week, and we raised the matter of the age code then. It is a subject that we keep on the agenda.

Baroness Campbell of Surbiton: Could you please provide us with details of the occasions on which you raised it? It would help us.

Rebecca Hilsenrath: Yes, of course.

The Chairman: The Red Tape Challenge has not necessarily been beneficial for the clarity and assistance needed by disabled people, then.

Baroness O'Neill of Bengarve: Not necessarily, but I will make this comment on behalf of the public sector equality duty. Some people think, “Well, that is a rather oddly vague duty, because it is a duty to have due regard”. I have come to appreciate that its power lies in the fact that you have to have due regard when you are making a decision. That is the moment when people need to think about issues such as access and race. It is when they make decisions. If that duty is taken seriously—and there are some good examples of it being taken seriously—it has, potentially, a very salutary impact at just the stage of decision-making when you need it.

Q32 Baroness Wilkins: How public do you feel you can make those disagreements that you have with Ministers?

Baroness O'Neill of Bengarve: Our task, like that of any arm's-length body, is not to embarrass our sponsoring department, but—and we shall come to this—we have a very high degree of operational independence. This is essential as a national human rights institution,

but it is also important as the equality body that we have that degree of independence. We have a framework document that is an agreement between us and DCMS, which sets out the areas where the department will not seek to interfere.

We try to be effective in our discussions with Ministers and civil servants, but confrontation is, I suspect, not always most effective.

Q33 Baroness Pitkeathley: I have just one interest to declare as vice-president of Carers UK. I want to ask you about monitoring the impact of the Equality Act. How do you go about monitoring its impact on disabled people? Does the monitoring include assessing what percentage of your time is spent on disabled people as opposed to the other protected characteristics? Does that monitoring show up any differences between the public sector equality duty in the different countries of the United Kingdom, England, Wales and Scotland?

Baroness O'Neill of Bengarve: I am just deciding whether I am the best person to answer that. Perhaps I am going to lob it to Chris and Rebecca first—I am sorry to be informal, to colleagues first—and then I will come back, if you want.

Rebecca Hilsenrath: I will start and colleagues can join in. I will not repeat what has already been said about *Is Britain Fairer?* other than to say that it is a huge part of our work. We have put a lot of resource into it over the last 18 months and it is a very important statutory mandate. In fact, over the past 10 days, as it happens, we have held three very large stakeholder consultations on the outline of the report, which will be laid before Parliament in October. That has involved a large number of disabled organisations, and it is a cross-cutting exercise across all protected characteristics. That is how we monitor the impact of the Act. As Lord Holmes said, there will be a protected-characteristic-specific report that comes out of that on disability.

I said this before, and I will not repeat it too heavily, but it is important to understand that the work that we do is integrated across all protected characteristics. We do work on things like access to justice and we have a headline project this year on attitudes and values, how they influence behaviour, how regulating behaviour changes values and how that could help us to shape future interventions. These are projects that we undertake across protected characteristics, and they make that a richer engagement but obviously touch on disabled issues quite specifically. It would be quite difficult to find too many pieces of work that we do that do not touch on disabled issues.

In fact, if you look at our case work—Lady O'Neill has already touched on this, but obviously it is a particular issue for me—in the past year, out of full funding that we have given under Section 28, six out of 16 cases were disabled-focused. In terms of part funding that we gave under that provision, it was five out of seven. We made 18 interventions, of which eight were disability-focused and nine were relevant to disability and other protected characteristics. Obviously, if we were not working in relation to other protected characteristics as well, some of that work would fall away. The fact we do an integrated body of work is quite important in understanding the value that we add in terms of disability.

In relation to our work on the public sector equality duty, again, it is not work that we target in relation specifically to disability issues, but a lot of the work we do does show its impact on the disabled community.

I have some information particularly in relation to 2012. In England, we found that 78% of public authorities had up-to-date published equality information, of which 90% consisted of information on disabled staff and up to 75% on disabled service users. Seventy per cent of them had one or more equality objectives published, except in relation to schools, where we

found that there was poor compliance but that in fact schools were making headway in addressing the particular needs of people with differing characteristics, including disability. In Scotland, we found that 83% of public authorities were mainstreaming reporting both in relation to information and outcomes. Ninety-three per cent of them provided information on protected characteristics of staff, and of those, disability was the most frequently mentioned protected characteristic and was relevant to 62% of outcomes that were published. We found that only one in three of them had clear and measureable outcomes, and we worked with them in our Improving Equality Outcomes project.

Baroness Pitkeathley: These are very interesting statistics. I hope you will be able to provide them to us.

Rebecca Hilsenrath: I am very happy to do that.

I will just finish off in relation to Wales, where the specific duties give greater clarity in relation to the work of public authorities, and in fact all of them had published strategic equality plans and objectives. We found that their consultation and engagement work had improved, and that was including the disability sector.

Lord Holmes of Richmond: Taking it slightly wider, we get a considerable amount of intelligence on this through, for example, our legal panel, who bring prospective cases to us, which gives us a very clear understanding of what is happening out there. Also, through the real, detailed engagement with disabled people and organisations of and for disabled people, of which we will be talking about later in the questions, we have various levels to ensure we have a pretty clear picture of what is going on, both in terms of all aspects relating to disability and obviously with the specific elements raised with the Equality Act 2010.

The Chairman: Before Lady Campbell puts her question, I will just read for the record her relevant interests, which are: patron of Just Fair, patron of the National Disability Archive, founder and member of Not Dead Yet UK, recipient of a social care personal budget as well as DLA and access to work, Disability Rights Commissioner throughout the life of the Disability Rights Commission, and Commissioner of the Equality and Human Rights Commission for three years. It is a long list.

Q34 Baroness Campbell of Surbiton: Thank you. I have always been quite interested in enforcement. As you have heard, with my experience of being both at the Disability Rights Commission, on the legal committee, as a Commissioner, and on the EHRC, I am very interested in enforcement strategy. It is, after all, what people want to know. This morning, I was on your website, having a little look at your material, and it really does not appear to publish the details of its enforcement strategy—for instance, statistics, types of cases—which is really important when you want to push employers, et cetera, forward on their understanding. I guess my question to you all is: what strategy do you employ to ensure that the disability provisions in the Act are fully enforced? How do you choose the cases you intervene in? How do you monitor the effectiveness of your approach? I do not want a lot of statistical information, please: I want to know more about your strategy and how well you think it is working. Why do we not know about it?

Baroness O'Neill of Bengarve: The first thing to note is that it is the courts that enforce, not the Commission. That is quite fundamental. We are a strategic regulator and, in that respect, the tools we have are not the tools of enforcement. There would be perhaps a different model of doing these things, whereby enforcement lies with a Human Rights Commission or Disability Rights Commission, but that is not what we have.

We have a strategic litigation policy, which is crucial for decisions about where and how we support cases. Naturally, given the budget, as it really is, there is no question of being able to support every single case that comes up. However, we have a set of criteria: obviously, it has to be within our remit; we have to look at its chances of being successful; we have to look at how far we, the institution, are best placed to achieve change. That is where partnership working is highly relevant, because we may not always be the institution best placed to achieve change, and sometimes we are uniquely able.

Let me give you an example of a change. As you know very well, there are certain activities, such as stop and search, that have been particularly burdensome to people with various protected characteristics, including of course ethnic minority people, but also including disabled people, and people with mental health conditions in particular. The way to get at that has not been enforcement; it has been by demonstrating what is known as the disproportionality of the use of stop and search, and then moving on to look at the treatment of people in the custody of the state. In particular, we published a report on unanticipated deaths of people who were in prison, in hospitals or in police stations. Many of these people were suffering from clear disability, often mental health disability.

We have been having conversations with the Minister for Policing, Mr Penning, about these very issues. It is an example of how sometimes you get at what is the sharp edge by addressing not the courts but other institutions, and, in particular, the question of the adequacy of police procedures, police complaints and a lot of things that go on from there.

Baroness Campbell of Surbiton: Could you give me an example of a disability-specific case that you have intervened in that has actually made a difference—that is, it has changed habits or changed behaviour?

Lord Holmes of Richmond: Let me try a couple on that. To take one step back as well, it is important to note that the strategic litigation plan was drawn up in full consultation with the Disability Committee, so there was the correct input at the stage of constructing the strategy and disabled people were involved at that stage of building the strategy. There was also a lot of consultation across our stakeholder groupings.

No case with a disability element or completely concerning disability can be taken, or indeed not taken, without consultation with the Disability Committee, not least through me as Disability Commissioner. I receive all the regulatory decision-making panel's papers ahead of the meeting. No decision can be made to turn down a case on disability, or even concerning disability being an element of that case, without the Disability Committee's view being taken on board.

If we look at two cases, both concerning transport, which is an incredibly significant area for all disabled people, the *Stott v Thomas Cook Tour Operators Ltd* case we took was the largest piece of litigation we funded last year. I will not go into the details—we can send you more information on it—but, effectively, what we were challenging was the fact that this case was going through and it would mean that, even though Mr Stott could claim damages under UK law's interpretation of the European directive, he was effectively prevented from receiving any remedy because of the operation of the Montreal convention that governs air travel. Effectively, you have an international convention, derived from the Warsaw convention, which obviously was put together at a time well before discrimination was on many people's agendas. That was an incredibly strategic case for us to take to enable people to assert their rights in that environment. The work going forward from that is to seek to amend the Montreal convention to ensure that the will of Parliament, the will of Europe, is not able to be stymied through international convention on air travel.

The second case involves Mr Paulley.

Baroness Campbell of Surbiton: We are all aware of that case.

Lord Holmes of Richmond: You are aware of that. Again, that case is significant in terms of transport, but it has much wider impact, because it goes to the whole question of reasonable adjustments across the whole operation of that incredibly important element of the Act.

Rebecca Hilsenrath: First of all, following on from what Lord Holmes said, we can always provide you with other cases, and we would be happy to do so. Following up on my earlier comments, we have also taken a number of cases in relation to disability issues under the Human Rights Act.

You asked about monitoring the effectiveness of the casework and we do that through reporting quite regularly and robustly to Lord Holmes, as Disability Commissioner, and to the board. That is about looking at the cases and exactly what you said about their impacts on lives and numbers of lives and so forth.

Also, I will come back on what Lord Holmes said about transport cases and echoing comments made earlier by Baroness O'Neill about the provisions in the Act not being commenced in that area. That is a very important piece of work for us in terms of that area generally. If those provisions could be commenced, it would very much help us in taking that whole area of access to transport forward.

Baroness Thomas of Winchester: Could we have a list of the provisions that have not been commenced?

Rebecca Hilsenrath: Yes, we will send those to you. May I make one quite important point before I stop? All the enforcement regulatory work you will find on our website would be restricted to cases taken, inquiries held and so forth. The vast amount of work we do is pre-enforcement, and that is as it should be under the regulators' code and simply in terms of the most effective and efficient use of our resources. We do an awful lot of work before we even get to that stage. It is about trying to make society more compliant, which is of course the impact of the guidance that we issue and the codes of practice, but it is also about nudge work and everything on a line from persuading someone that there is a better way forward, all the way through to having a Section 23 agreement. On a number of occasions, we have persuaded organisations to enter agreements to effect a better, more systematic approach to the discrimination legislation in a number of areas.

Q35 Lord McColl of Dulwich: Vis-à-vis the whole question of enforcement, I understand that you do not have powers of enforcement; you have to act through the courts. Could you say how these powers sit alongside the ability of individuals to take action in courts and tribunals? What is the appropriate division of responsibility for enforcement of the Act? Could you say how successful your influence has been, compared with individual litigation?

Lord Holmes of Richmond: That is a big question. Have a shot.

Rebecca Hilsenrath: Then you can tell me a better answer. The big difference between our role and that of individuals is that we are not a front-line organisation, neither by resource nor by objective. We are a strategic regulator. We will look at cases that help clarify the law and provide a stronger framework, so individuals are more likely to take up cases that benefit them directly at a lower court or tribunal level. Having said that, our strategic litigation policy, to which Lord Holmes has already referred, among many other criteria, looks at the work that colleagues are doing elsewhere in the commission. Therefore, if there is a particular project looking at, for example, our disability harassment inquiry, we would

have an interest in taking lower-level cases in that area to reinforce the work done elsewhere.

We also, this year, as part of our business plan, have a key project looking at access to justice. That is about understanding that, of course, it is more difficult for individual litigants to take cases up. The most effective way forward is not about turning ourselves into a front-line agency, both for resource reasons and in terms of what our purpose is. However, it is important for us to look at a strategic overview of what the position is for individuals like that.

We have been working on a report that identifies the specific issues arising from recent reforms for people with particular protected characteristics, and that does focus largely on the disabled community. As the second part of that project, we will be looking to see what the commission's role ought to be there. It is fair to say that, looking at the problems that arise in particular for those who are on the receiving end of issues arising out of discrimination, we think it is important to look at possible solutions that are outside the court, which might be a quicker and more effective way of addressing access-to-justice issues. We know that, in other jurisdictions, national equality bodies have ombudsman-type functions, which we would be very interested in exploring with the Government, obviously subject to resourcing and scoping it in more detail.

I would just add there that we also think it is very important to look at mediation services going forward. That, as you know, was a function we had and was repealed.

Lord McColl of Dulwich: That is very helpful. Why are trade unions not allowed to take up cases?

Baroness O'Neill of Bengarve: You mean in the employment tribunals?

Lord McColl of Dulwich: Yes.

Baroness O'Neill of Bengarve: They are the places where most employment cases will be heard in the first instance.

Lord McColl of Dulwich: What about trade unions?

Baroness O'Neill of Bengarve: Trade unions will support some cases but not others.

Lord McColl of Dulwich: They are not actually allowed to take the case to court. Is that right?

Baroness O'Neill of Bengarve: I think the individual has the choice there.

Rebecca Hilsenrath: Trade unions often support cases going to court. In fact, we have been involved in intervening in some of those cases or, in fact, part-funding them with trade unions, where it has been appropriate.

Baroness O'Neill of Bengarve: We are aware of other models in other European countries, but it is interesting to reflect on whether they would achieve more. The Netherlands has an equality and human rights commission, which I visited, and it is much more like an ombudsman service. All the commissioners are career judges in the Dutch system, but they do not take any disability cases, they told me, because they regard that as something for the welfare organisations. That was rather a striking view of the matter, which was not quite what I expected when I began the conversation.

The Chairman: Lord Faulkner, this is a question really just for Lord Holmes.

Q36 Lord Faulkner of Worcester: Yes, but I would be delighted if Lord Holmes's two colleagues want to comment as well. May I first thank Lord Holmes very much indeed for the speech he made on Friday in support of my Private Member's Bill? Four speakers in that debate are in the room this afternoon, so we are reasonably well represented. I wonder, Lord Holmes, if I could ask you what your view was on what the Minister said in reply,

particularly her suggestion that, as no disabled spectator, she said, has brought a case under the reasonable adjustment provision of the Act, it is untried and untested. That is at variance with what I understand the situation to be.

I should, at the beginning, declare my own interests, in that I am a vice-president of the charity Level Playing Field and I have a number of unpaid appointments as trustee of two museums and an involvement in public transport, which are relevant to other parts of this inquiry.

Lord Holmes of Richmond: There are indeed four of us in the room who participated in the debate; we are still one short of a five-a-side team.

May I put on record, first of all, my respect, congratulation and thanks to Lord Faulkner of Worcester not just for coming up with such an inspired Private Member's Bill but for coming so high in the ballot that we could have the Second Reading so early in this Parliament? The noble Lord's commitment to this area over decades means it is well worth putting thanks from all of us on the official record. It was a good debate. It was good to see agreement right across the House over what we are trying to achieve. There is clearly a distance to go and work to be done with the Government. What is clear is that there is commitment from the Government to enable change in this area. The Private Member's Bill that Lord Faulkner of Worcester brought to the House is a very interesting and effective way of achieving the aim we are all after. If the Government do not share that view then, as I put the question to the Minister on Friday, they are very much beholden to come up with amendments or, indeed, a subsequent piece of legislation seeking to address this matter.

There are other elements that came up in the debate worth putting on the record as well. The Premier League rulebook, which is binding on all Premier League clubs, has one rule, which is one line, on disability access. It is rule K.34, if anybody is interested in going and consulting it. It merely talks of "sufficient and adequate facilities" that should be provided for disabled spectators. There are pages and pages of rules covering the specific details of the provisions for the media. As a start, it would be incredibly helpful if there was additional detail in the Premier League handbook that was more specific on provision for disabled spectators, but, as everybody who spoke in the debate on Friday appreciated, this has gone on far too long. Change is required. There are only three clubs in the Premier League that meet the minimum standards. Some of the largest clubs are well below 50% of the minimum provision. I recommend all members of this Committee consult the league table that Level Playing Field prepared, which shows the 20 Premier League clubs not in order of how many points they got last season but in terms of their relative league table position based on the number of accessible seats they provide. We know who lifted the Premier League trophy in this league table based on number of accessible seats. Chelsea are in 12th place, Liverpool 15th place and Manchester United 16th place. It is clear that work is required. Friday's Second Reading was an excellent step on that journey.

Lord Faulkner of Worcester: Thank you for your kind comments to the Committee. Do you think the EHRC has a part to play in getting the improved deal for disabled sports supporters that we all want?

Lord Holmes of Richmond: The EHRC absolutely has a part and I believe we are playing our part. We began our sport inclusion programme piece of work last September, working with Premiership Rugby, the England and Wales Cricket Board, and then looking to work in football, to drive change, to increase opportunities for participation across other protected characteristics and to drive accessibility and inclusion for disabled people across those three sports, not least in respect of their stadia.

We certainly do have a role to play. The work with Premiership Rugby is going incredibly well. We had the formal launch with the England and Wales Cricket Board at Lord's yesterday. The ground was not being used for anything else, as it turned out. Football, as we suspected at the outset, has proven to be far more difficult. We have had a number of pieces of correspondence with individuals and organisations that suggest prima facie legal cases. Where we are right now, all options remain on the table, including litigation.

Lord Faulkner of Worcester: It is possible the Commission may take up the cases that have come to you, then.

Lord Holmes of Richmond: At the heart of your question is a really important point, which is worth illuminating here a little, if I may. You hit the nail on the head when you talk about individual spectators bringing cases. This is why sport, particularly football, is different from a number of other areas. If you go to your local supermarket and you, as a disabled person, are discriminated against or not allowed into that supermarket, that is bad. It is discrimination; it is against the law, but, even in that situation, you have the choice, potentially, to stop going to that supermarket and to go to another. In football, you cannot change your club. You are born with your football club; that is that.

That is why there is a significant issue here and why it is so difficult—and understandably difficult—for individuals to bring cases. We have a number of potential cases that we are considering. All options remain on the table. There are a number of other legal powers, as you know, which we may choose to deploy in this area. At this stage, it is being given serious consideration and a lot of management time. As I say, all options remain on the table, including litigation.

I do not know if you want to add anything as chief legal officer.

Rebecca Hilsenrath: I could not possibly top that.

The Chairman: The whole Committee is really anxious to push this one forward.

Baroness O'Neill of Bengarve: We are very much on the case on this one. It is remarkable. Far be it from me to say anything about the politics of football, but you will notice that Lord Holmes gave a different sketch of issues in the other two sports.

Q37 Baroness Thomas of Winchester: I have to declare a few interests. I receive DLA. I am a trustee and vice-president of Muscular Dystrophy UK; I am a member, as I said on Friday, of the Lord's Disability Access Users Group; and I am a patron of Thrive. My question is financial.

The Chairman: We will pause. For the record, we are adjourning for ten minutes.

The Committee suspended for a Division in the House.

The Chairman: In view of the time we have spent on this—and there may be another Division—could you be as concise as possible in response to Lady Thomas and the succeeding questions?

Baroness Thomas of Winchester: Have you seen any improvements in the application of the public sector equality duty for financial decision-making since the publication in 2012 of your assessment of the Treasury's spending review? Perhaps I can just explain where I am coming from on this particular matter. I am very concerned that, in the Budget that we have just had, that employment and support allowance is being cut, so that there will be only one group of people who receive it, called, at the moment, the "support" group—people who are much too ill to work. There are also people who are acknowledged to be not available for work at the moment, which is now called the WRAG group, or the work-related activity

group. That is going to be abolished. They are going to have to take their chances with JSA. A lot of those people are disabled. They might have Parkinson's; they might have MS; they might have ME; they might have all sorts of disabilities, but they might not be at the very end of the spectrum. I just wonder whether the commission has any duties under the public sector equality duty in regard to that matter.

Baroness O'Neill of Bengarve: As I am sure the Committee knows, we did an inquiry into the decision-making of the Treasury in the 2010 comprehensive spending review. Our view was that it was possible to work out whether there were respects in which people with particular characteristics or combinations of characteristics were going to be disadvantaged. That was not the view the Treasury took initially, but we disagreed about that. We thought it was feasible—not simple, because these statistical things never are simple, but we thought it was feasible.

Rebecca Hilsenrath: To come back to the assessment we carried out in 2012 under Section 31, it is fair to say that we found quite a lot of positive when we reported back on progress in March this year. We found there had been a lot of good progress overall on collection and use of equality evidence and systematic improvement on data collection. I am talking about things such as templates for qualitative submissions.

Baroness Thomas of Winchester: I do not know what that means.

Rebecca Hilsenrath: It is about being able to provide a better system so that you can look at submissions coming in from departments on spend in key areas to make sure they are looking at reporting back on the appropriate places, and looking at early reporting instead of waiting until it is too late. Toolkits are produced for departments to report back in particular systematic ways. The Treasury produced a summary note on equality impacts of spending reviews, and they were also monitoring the impact of the spending review 2010 in relation to people with particular characteristics.

Having said that, we also thought that there was room for improvement. When we published in March, we looked at areas for further improvement that were the subject of ongoing conversations with the Treasury but also with stakeholders. These included: clarifying a single point within government with formal responsibility for monitoring and assessing cumulative impact of future spending reviews on those sharing different protected characteristics; continuing to make improvements in the quality of data collection to be able to support the assessment of impacts on different groups; developing a cumulative impact model for use with future spending reviews and fiscal events; looking at producing summary reports of fiscal events alongside the report that the Treasury have produced on the spending review 2013; looking at improving scrutiny, both by including equality as one of the things the Independent Challenge Group is mandated to consider; and looking at an independent body, possibly, to scrutinise the impact of spending reviews and fiscal events on those who share protected characteristics.

We would characterise that as a glass half-full, a glass half-empty, but a lot of progress has been made and we are working with the Treasury to look at continuing improvements going forward.

Baroness Thomas of Winchester: That sounds to me completely bureaucratic and does not impinge on anything I thought I had said. I am sorry. I just could not cope with that reply.

Rebecca Hilsenrath: Could I come back on the specific point of a cumulative model to look at the impact, which I think you are talking about?

Baroness Thomas of Winchester: I was very specifically talking about one thing. I am sorry. I just do want to know. Have you done anything with the Treasury about this proposal around the cutting of ESA, or will you do anything?

Rebecca Hilsenrath: I am not actually entirely sure. May I write to you about that?

Baroness Thomas of Winchester: This is going to impact on disabled people a great deal. That is why I am worried about it.

Baroness O'Neill of Bengarve: We would all be worried if that is the impact. Most of us have not even managed, with the in-year budget, to work out what the cumulative impact of various commitments, taken additively, is. It was like being on an up and a down escalator simultaneously. Of course, the comprehensive spending review is the area where this is going to be at its most important.

The Chairman: Lord Harrison will continue on the same theme.

Q38 Lord Harrison: Please say if you think you have exhausted what you want to say in public on the cumulative impact on disabled people. Rebecca Hilsenrath, early on and then later in a reply, you talked about opportunities that arise from the cross-cutting nature of what has now been brought about by the Act. Are you saying that that is now a clear advantage and something that we should very steadily recognise in this Committee? If I may say to Baroness O'Neill, when you were parsing, as you were so usefully, the budgets that now exist, the implication was that, even if the quantum of the budget was going down, that which was apportioned to the disabled side of the other nine protected areas was actually quite reasonable. Is that what you were saying?

Baroness O'Neill of Bengarve: It is, but I cannot give you a quantitatively precise answer on that. Let me give you an example. Pregnancy and maternity is one of the characteristics. Disability intersects with pregnancy and maternity in quite strong ways. The fact that you can consider these two characteristics and the way they intersect is an advantage, because people do not come, as it were, neatly pigeonholed with one aspect of their life. We think there is advantage, but we cannot quantify it precisely because you would say, "Was it more their pregnancy or their disability that was in mind in making this adjustment?". That might not be open to a precise answer.

Lord Harrison: Perhaps, Rebecca, you could reply to, broadly, the same point, about the opportunities that arise.

Rebecca Hilsenrath: There is a significant advantage in covering all the protected characteristics and, in addition, human rights issues, and that is partly about quantum. It is about being able to use resources as effectively as possible and not, I may say, having to liaise with other commissions working in associated fields and therefore adding a whole layer of communication issues to the work that we are doing.

However, it is also about being better informed. An example I can give is that we recently had to advise about the lawfulness or not of not permitting wheelchair access to Hindu temples, because the floor of temples is sacrosanct to religious use. Because we work in relation to religious belief as well as disability issues, we actually have information and expertise on both points and we are much more able to take a view and give effective advice than if we were a single-issue commission.

Lord Holmes of Richmond: Can I just raise that to a conceptual level? If one believes in equality, if one believes in inclusion, it is quite difficult then to suggest that a start point now would be to have individual commissions to cover each of the nine protected characteristics and then another commission for human rights. We are all multilayered individuals. Disabled

people will also have a gender characteristic; they will have an age characteristic, and so forth.

It has to be a logical start point, and it has to be the right start point, if one believes truly in equality and inclusion, to have one commission. The disability strand is the only strand that has a specific commissioner representing it, the Disability Commissioner. It is the only strand that has a specific statutory committee, the Disability Committee. It is certainly legitimate for any of us to engage in a discussion around resource, the quantum of resource, the allocation of resource. That is all legitimate to discuss, but, conceptually, to have an integrated, connected Equality and Human Rights Commission with a Disability Commissioner and a Disability Committee potentially puts the disability strand in good stead. It is not that disability should have more coverage, but it is right to note that disability is different. You see that in the statutory framework around disability; it is different to other equality strands, and that needs to be recognised. To take it to one specific practical example, if we look at the largest legal spend on a case last year, and more than likely this year, it will be on a disability case. That hopefully is useful context.

Q39 The Chairman: Perhaps I can address this to Lady O'Neill. I understand, of course, the ideology and the theory of the Act, and what you said, Lord Holmes. I remain concerned that the neatness, tidiness and fairness of it may not actually give the disabled people, with whom, of course, this Committee is concerned, the feeling that they are getting empowerment support, that you are reaching out to them and helping them, now that they are just one of eight or nine protected characteristics. I do not feel I have got to the bottom of that.

Baroness O'Neill of Bengarve: I do not know we could give any group of people who share a protected characteristic that reassurance. There may be people who think we are not taking sufficient account of age, people who think we are not taking sufficient account of sexual minority status, and there certainly are. Disability is a uniquely diverse set of conditions under one protected characteristic, but many of the others are also quite diverse. Some of them, of course, relate—particularly when you get to ethnicity and race—to quite small numbers of people with very specific issues. We will try, by clear and direct communication, to do what we can to enable people to judge us, but we cannot, as it were, do more than that.

Lord Holmes of Richmond: To help you, Chair, ultimately, you could have a Disability Rights Commission of, say, 500 people; you could have an Equality and Human Rights Commission of 500 people with a large budget. Ultimately, I believe, if we get it right somewhere, really effectively working as a strategic regulator, that has to be how change is delivered. No matter how many people any commission had, be it an equality commission or, indeed, a disability-specific commission, it is ultimately going to come down to the work that happens with our partners, with organisations that need to be on the hook for this. If we go back to Lord Faulkner of Worcester's football example, we have a key role to play, but it is ultimately for the Premier League and football to make that change, through us making a strategic intervention to change a sector, a system or a piece of our society.

If we consider the work we do with the RIO group, as it is called—regulators, inspectors and ombudsmen—we gather all those groups together to go to exactly this point: to be, if you will, resourceful as well as resource-rich, to really enable the regulators, the organisations, the bodies, the institutions to be on the hook for this.

Baroness Campbell of Surbiton: Lord Holmes, that is exactly what its predecessor body did as well. It did not do anything other than what you have said: it worked with partners; it was

very much an empowering organisation. What we are trying to get to the bottom of in this Committee is why so many disabled people are saying to us, "We do not know what the EHRC are doing. We used to have a dynamic relationship with the predecessor body. We understand it does not have as many resources and is not able to do as many things, but, quite frankly, we do not have a feel for what they are doing for us and how we can then take that forward".

We are trying to get to bottom of this. We would like you to help us to do this, not just by telling us that you have a lot less resources and you have nine characteristics. How do you think we can re-engage that dynamic approach, rather than what seems to be a highly strategic intangible approach?

Lord Holmes of Richmond: Let me take that. This may be covering ground from a question that we have not come to yet, but I will certainly address it. I agree with you: in no sense was I suggesting that the Disability Rights Commission did not take that approach, not at all. I was merely comparing different organisations at different times, so I do not disagree with anything that you have said there.

If we look at what we have done to remodel the work of the Disability Committee at the Equality and Human Rights Commission, it was clear when I got involved that we needed to be far more engaged with stakeholders, to be on the ground, to go to them to get all of that information and have a two-way debate and dialogue. For a series of reasons, it has taken some time to get to that. We had the appointment process to appoint new members to the Disability Committee to build on the work that the previous committee had done, when their terms came to an end. I believe we have a very high-calibre group of people around the table of the Disability Committee. They only came on stream fully in February of this year. We had a new engagement strategy, whereby now I am taking the committee around the country. Each year, we will visit Scotland, Wales and another English region, rather than previously, before my time, when we just had meetings based in London.

It is absolutely critical that we do re-engage. I take your point entirely on the voices of disabled people's user-led organisations and individual disabled people. We need that intel. I am very committed to that level of engagement. I hope that is demonstrated through the restructure of the Disability Committee, taking the committee around the country to engage. In fact, we had the first very good session in Cardiff, in May, and at the end of next week we go to Manchester to engage with organisations of disabled people and also the local authority and all of the organisations and the health authority up there, to get that intel from them, on the ground.

The Chairman: Lord Northbrook is going to follow up on a similar issue.

Q40 Lord Northbrook: Part of my question has already been answered, so I am going to slightly edit my question. Will this change if the committee moves to a non-statutory footing in 2017?

Lord Holmes of Richmond: My intention and the intention of my fellow board members is that the change, which is due to take place in 2017, from statutory to non-statutory, should not impact the work of the committee, or indeed the work of the commission, as pertains to the disability strand. The Minister determined that the committee should come to an end in its statutory form in 2017. What I wanted to achieve, with the appointments process and indeed the restructuring of the committee, coming off some of the recommendations of the report that Agnes Fletcher did into the Disability Committee five years after its establishment, was to ensure that I was not just putting people in place and processes in place, not least the engagement strategy, which would just be things to take us through to

the end of March 2017. These would be things that would be just as effective, and just as impactful, post 2017.

Lord Northbrook: I have a couple of supplementaries. What internal mechanisms are in place to ensure that the committee is consulted on wider commission work, firstly?

Lord Holmes of Richmond: As currently stands, under the statutory requirement for any element of work that concerns disability, the Disability Committee has to be and is indeed consulted. Rebecca's area is a very good example of how well connected, integrated and threaded that is, in terms of the Disability Committee's involvement in the building of the strategic legal plan. In terms of all cases, in terms of some of the more strategic powers, legal comes to the Disability Committee. We have regular connection outside meetings, so there is effective connection. Legal is just one example of that.

That goes similarly for our work on economy and employment and on public services. There is a clear line. I have now connected all Disability Committee members with their relevant director across the commission—be it the director of economy and employment or another director—so each committee member of the Disability Committee has a specific responsibility to increase that belt and braces approach. I will underline again that disability is the only strand to have a specific commissioner and a specific committee.

Lord Northbrook: How is the work of the Disability Committee resourced, in terms of staff and finance?

Baroness O'Neill of Bengarve: There are many people in the commission who would do part of their work on disability issues, part of their work on non-disability issues, and part of their work on joint issues, which are "disability and". It is quite difficult to factor that out, because it would be misleading simply to take the people who support the Disability Committee or the people who are specialists in disability law. We have those. Could you make it more precise, Rebecca, or is it difficult?

Rebecca Hilsenrath: It is important to note, as we have said on a number of occasions and Lady O'Neill just said, that the work we do in the disability field is integrated across the entire commission. In terms of the actual committee itself and servicing the secretariat, the budget is £110,000 on an annual basis, and we do have three dedicated staff posts, which are just reserved for the operation of the committee and its work programme.

Baroness O'Neill of Bengarve: That is committee support. It is not disability work support.

Q41 Baroness Browning: Could you just tell us a bit about the relationship between the Commission and Government, please? Your sponsoring department is DCMS. The ministerial responsibility rests at the Department for Education. Government policy rests with Work and Pensions, and that is before we even get to the Department of Health, which often plays a key part in disability matters. Government departments are notorious for working in silos and not together. How on earth do you cope with working with all these different departments?

Baroness O'Neill of Bengarve: With difficulty, persistence and tact. We have a good working relationship with the Government Equalities Office, but I think it is probably very relevant to understanding the Equality and Human Rights Commission to know that it has been shifted around Whitehall departments during its relatively short life. It has been, for example, with the Home Office. You might ask if there is not a conflict of interest there, as we have to do a great deal on the policing and criminal justice front. It is presently with DCMS. People have discussed the Cabinet Office and there are other discussions all the time. One member of staff told me she thought that, if you counted the switches, including when GEO had been switched, the Government Equalities Office presently in DCMS, it added up to eight

switches. Each switch is very costly, in terms of building relationships, achieving continuity and educating a new group of colleagues in the Civil Service. I do not underestimate the importance of this issue.

In fact, I think, in the Commission, we see the question of what we would identify as a machinery-of-government issue as very fundamental for the Commission. To be peripatetic around Whitehall has not been a satisfactory solution. The two departments where we probably should not be, because there would be a conflict of interest, are the Home Office and the Ministry of Justice. Otherwise, there are number of departments where you could say the fit is so-so or so-so. This issue impinges very much on our human rights work, because, under the Paris principles, a national human rights institution has to be independent of Government and should report to Parliament. Now, we have a very useful and good relationship with the Joint Committee on Human Rights. For our human rights work, we think it would probably be a natural thing for us to report on the substance of our work and be cross-examined on it by that committee.

It has hitherto been a very great difficulty that there was no comparable committee of Parliament that covered the equality field. There is perhaps now, in the Women and Equalities Select Committee of the Commons, to be such a Committee. That will alter things. We think that it is very well worth considering what the most effective reporting line for this institution is. Of course, we take it for granted that we have to report to a Whitehall department for pay and rations, just as we would report to the National Audit Office on financial management. By the way, now, I am glad to say that is solid.

We do think there is a machinery-of-government issue here and—this is not this Committee's pigeon—we are just being examined in Geneva by the ICC, as a national human rights institution. I take this very seriously. I think it is important that our human rights body has a status. They rank them A, B or C, and do not ask me to comment on the quality of the ranking. We are an A-ranked national human rights institution, as is the Scottish Human Rights Commission, as is the Northern Ireland Human Rights Commission. Wales does not have a separate one. This is important to get right and I hope your Committee will ask us more about it and think about it.

Baroness Browning: Thank you very much. What you have explained to us today I assume you have made known at the highest levels of government.

Baroness O'Neill of Bengarve: We have tried. We do not always have access to the highest levels, but we try where we can. We have had very good relationships but, you will understand, we have had relationships with a lot of different Ministers, even in my short time as Chair.

Rebecca Hilsenrath: It is important throughout that to note that we are an independent commission, and that is secured under our framework agreement with DCMS and, on a statutory footing, under the 2006 Equality Act. That is very key to how we operate and how we operate with Government.

The Chairman: In brief, would your ideal relationship be with one department and one Minister?

Baroness O'Neill of Bengarve: It is a very broad remit. You could understand why we find ourselves visiting Work and Pensions, we find ourselves visiting Local Government, we find ourselves visiting Education and of course we find ourselves visiting the Home Office. Inevitably, we will have relationships with a number of Ministers but, for that permanent relationship, one bit of the government machinery should actually know what we do and think, "Okay, that is important, even if some of it is going over to Work and Pensions". Of

course, we have a lot of relationships with MoJ, although we should not report to them, because we do work on prisons; we do work on stop and search; we do other work on policing; and, above all, we do treaty monitoring on UK compliance with the international instruments to which we are signatory. It is very complicated, but it would probably help the commission to have clarity, and not just very short-term clarity, about these arrangements. As soon as we have one Minister educated to the sheer difficulty of it, and he or she is totally convinced, we get moved or they get moved. That happens too; both happen.

Q42 The Chairman: Finally, could I ask you what is the relationship and what ought to be the relationship between disabled people and the work of the Commission? How are they involved?

Lord Holmes of Richmond: Not to re-rehearse some of my previous evidence, it is key to understand that we are a strategic regulator. We have that; we are not a campaigning organisation as such, but it is incredibly important that we hear the voices of disabled people and organisations of and for disabled people, right across Great Britain. That is essential information for what goes into our business plan, how we run the Disability Committee and potential legal cases in Rebecca's area. We have to and it is right that we commit to that level of engagement.

That is why the best example of it is certainly taking the Disability Committee around the country, so the Disability Committee can meet directly with organisations in their local region, in their local devolved nation, not asking people to necessarily engage but have to come down to London to have that engagement. It is similar having all those voices of disabled people and disabled people's organisations involved in the "Is Britain Fairer?" process. Finally with the UNCRPD examination, our preparation of the list of issues ensures that disabled people are very much involved in that process. As I say, it is not for us to take one particular strand or voice out of that; it is to take all of those voices and views, and for us as a commission, as a strategic regulator, to form an opinion as a result of that engagement.

Baroness O'Neill of Bengarve: I have one point I would like to add to that. We used to have a telephone helpline. This was removed from the commission after the 2010 election and it was put out to tender. It has become rather invisible since it was put out to tender. I have had several conversations with members of the Disability Committee, who have told me that people do not know where this helpline is. We have had considerable difficulty in accessing sufficient information about the inquiries coming into them. Those enquiries are very useful data for us about where things are and are not happening. It was put out to tender and we have worked very hard to try to improve the information flow from the company that is running it back to us, but that is where it is. The contract comes to an end next year, I think, and we very much hope that the process for putting it out to tender will take very seriously, first of all, the crucial advice provision function that the telephone line is for, and the secondary purpose, which is to provide us with data on what is coming up. That would be extraordinarily useful for our work on a number of fronts.

Baroness Thomas of Winchester: Could I just ask the panel something that has not come up so far? That is about the recent increase in disability hate crime. The Commission did a report on this some time ago but, since then, this particular phenomenon has probably not improved.

Baroness O'Neill of Bengarve: It is not just disability hate crime; it is other sorts of hate crime. I have been to the APPG on these sorts of things, on hate speech, and listened to evidence there. We are hearing of a lot more gender and race hate crime. There are two

stories you could tell about this: it is only evidence of complaints made. Is it that there is more to complain about? That would be the bad story, or is it that people are feeling more empowered to complain? That would be the slightly more encouraging story. When we get to some very nasty things, like violence against women and girls, which is a central concern for the commission, of course, we probably cannot tell. We take the evidence with a pinch of salt. You have to look at the particular evidence for particular cases. I do not know whether there is more prima facie disability hate crime or whether it is being better recorded.

Rebecca Hilsenrath: Coming out of our disability-related harassment inquiry, we had a programme going forward monitoring outcomes, called Manifesto for Change, which reported against that. I know that time is short, so we would be more than happy to write to you about the latest outcomes under that programme.

I would also say that, as I mentioned earlier, our current business programme focuses on attitudinal change. The relationship between that and behavioural regulation is very key in this area.

I would also just add to what my colleague was saying, in terms of what our relationship looks like with disability groups. We are an independent national expert, which by necessity involves a two-way dialogue with all groups, but particularly disabled people. That involves understanding that there are different views. It is not a sector that necessarily speaks with a homogenous voice, and that is something that has come out of early work in "Is Britain Fairer?". It is about us understanding what different priorities look like.

Sometimes, it is part of the dynamic involved in being an equality commission across all strands. We have stakeholder events and consultation, which involve disabled people being in a room with those representing many other different strands. That involves a particularly dynamic interchange, where you can see disabled people's organisations informing the outlook of other people's organisations and other groups, and vice versa. Coming back to what Lord Holmes was saying about what the nature of inclusivism really is, that is a very important part of what we do.

Baroness Browning: Very briefly, I just wanted to ask Lady O'Neill about the contracting-out of the helpline. Does that contract require them to feed back information to you? Are they obliged to or is this something you have just asked them for?

Baroness O'Neill of Bengarve: They are required to; it was just that the information was not at the useful level. We have improved it, I believe, but we are essentially waiting for this to be re-contracted out. There were some among us who thought it would be ideal if Citizens Advice had managed this helpline. People know that address, but it was not to be. I believe they tendered, but it did not happen.

The Chairman: You have given us a very deep and clear picture of the difficult work you do and all the challenges you face. It is very complex indeed and we do appreciate it. We are very grateful to you indeed for all the work you have done and for coming and telling us so frankly about it. At various points, you said you would write in and give us more information, so do, please, because all of that will be very helpful to us in our report. We noted the various difficulties that you have expressed, for example about the helpline. Thank you very much indeed.

Baroness O'Neill of Bengarve: Thank you. We will provide information, and please ask us if you think there are gaps in that information, and we will try to fill it in.

The Chairman: We will. Thank you.