

Women and Equalities Committee

Oral evidence: [The Work of the Equality and Human Rights Commission](#), HC 357

Wednesday 17 January 2018

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Members present: Mrs Maria Miller (Chair); Tonia Antoniazzi; Rosie Duffield; Kirstene Hair; Eddie Hughes; Jess Phillips; Mr Gavin Shuker.

Questions 80–137

Witnesses

[I](#): Rebecca Hilsenrath, Chief Executive, Equality and Human Rights Commission; Sir Brendan Barber, Chair, Acas; Alex Hayes, Managing Director, Employment Support Services, G4S.

Examination of witnesses

Witnesses: Rebecca Hilsenrath, Sir Brendan Barber and Alex Hayes.

Q80 Chair: Welcome to this meeting of the Women and Equalities Committee. Today we are going to begin with a short evidence session on the work of the Equality and Human Rights Commission, before moving on to take evidence on our inquiry into the race disparity audit. Scrutiny of the work of the Equality and Human Rights Commission is one of the core tasks of our Committee. Throughout our work we also take a keen interest in the effective enforcement of the Equality Act.

Last week, when we were taking evidence about age discrimination, we began to consider some issues about how the EHRC works with Acas and with the call line as well: the telephone helpline to tackle discrimination. The Committee felt this was an urgent matter, and we are grateful to our three panel members today for coming forward to talk to us at very short notice. Thank you so much for doing that, but we felt it was important that we had the opportunity to talk to you at this stage of our inquiry, and this discussion will inform our recommendations. We are going to kick off with the usual questions from each of the Committee members.

Jess Phillips: Each of the organisations has a very specific role. The helpline provides advice to individuals; Acas provides conciliation and advice to employers and employees; and the EHRC has strategic, regulatory and enforcement powers. I am sure the public are entirely aware of each and every part of that. In relation to tackling discrimination, is this specialisation effective?

Chair: Sorry, when I was introducing, I forgot to ask you to introduce who you were. Before you answer that, could you perhaps just say your name and the organisation you represent?

Sir Brendan Barber: I am Brendan Barber, chairman of Acas.

Rebecca Hilsenrath: I am Rebecca Hilsenrath, the chief executive of the Equality and Human Rights Commission.

Alex Hayes: I am Alex Hayes from G4S. We deliver the EASS helpline.

Q81 Jess Phillips: Do you think that this is effective, having three different organisations with three different roles pushing, essentially, to the same end?

Sir Brendan Barber: Yes, I do. As you say, the service that Acas provides is conciliation. Last year, about 93,000 people brought cases to Acas that were potentially going to become employment tribunal cases. A little over a quarter of those dealt with discrimination issues. Our service is to conciliate between those individuals and their employers. We explore whether there is scope for finding a settlement, without the need for the full legal processes of the tribunal. That service is available not only when the issue is initially brought to us, but right the way



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through, after it is formally lodged with the tribunal, if it reaches that stage, and up to the steps of the tribunal.

- Q82 **Jess Phillips:** I do not doubt the conciliation service that Acas offers, having used it as both an employer and an employee in my life. The question is not whether that is fit for purpose. Let us say you have 19 settlements from one organisation that were all in the area of discrimination of disability, just to pick one off the top of my head. How would you work with the EHRC to make sure that it is not just out of court settlements and a better outcome for everybody involved, which is absolutely what everybody would want, but that that employer is no longer discriminating against people based on their disability? What conversation is had so that these trends are picked up?

Sir Brendan Barber: On particular cases, there is no conversation, because the two core principles underpinning Acas's conciliation services are impartiality and confidentiality. That is so that the parties in the conciliation process are able to proceed with confidence that the information about the issue is not going to spill out in some unreasonable, unfair or inappropriate way. Indeed, it is crucial to the confidence of the parties that they understand that it will be dealt with on a confidential basis.

- Q83 **Jess Phillips:** What if an employer is repeatedly having to go through conciliation because they sexually harass or discriminate widely against people because of their gender or race? Is there no system whereby that is monitored and passed over?

Sir Brendan Barber: No, not in the terms that you suggest. The consequence of Acas becoming a kind of referral agency, in a sense a part of the enforcement processes around the law, would be to very significantly damage the confidence and willingness of parties to use Acas services.

- Q84 **Jess Phillips:** Do you want organisations to have confidence that they can keep on discriminating?

Sir Brendan Barber: Our services are completely voluntary. We have no powers to require an employer or an individual to bring their cases into Acas. We are only allowed in the room if the parties consent to that. It is a critical feature of the conciliation process that it is voluntary.

- Q85 **Jess Phillips:** Not to make Acas the only answering body to this, Rebecca, do you not feel alarmed by that, as the chief executive of the EHRC?

Rebecca Hilsenrath: I feel that I am answering slightly to my right and left. First, it is correct that we do not take referrals from Acas in relation to individual cases because of confidentiality. We do work with Acas quite closely, for example, to produce online materials for Acas's site that support line managers in relation to religion or belief issues, pregnancy and maternity. We have delivered seminars on flexible working together.



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More broadly, there is room to work more closely together on picking up trends, and we have discussed this in the light of this evidence session. For example, in my understanding, Acas has data on zero-hours issues arising in the care sector, which is a matter of concern. We would like to talk to Acas about that sort of information being floated across to us more readily, so that we can look at it in relation to our work. That will help us strategically.

Q86 **Chair:** You do not do that at the moment.

Rebecca Hilsenrath: That is something we can improve on. It is really helpful to have this opportunity to talk. We have a good working relationship with Acas. I am sure we could do more together.

Q87 **Jess Phillips:** There is no doubt about that.

Rebecca Hilsenrath: In relation to the EASS line, it is important to say that we have a very good relationship with G4S. It is collaborative and constructive. The delivery of the line has improved as a result of that. I do not stand here to say anything other than that is the case. Our principal point, which I have said to you before, so you will not be surprised to hear me say it, is that, in answer to your primary question, we believe there would be a more effective delivery if we owned the management of the helpline and were able to design a more end-to-end process from the helpline through to enforcement.

There are two or three specific reasons for that. One is that we are closely involved, in terms of attending management meetings, but we do not own the contract. We cannot require G4S to do things that sit outside the contract, because that sits with the GEO. One key component of that is that G4S is not contracted to deploy lawyers. In our view, a lot of the work around identifying what is a strategic case, in order to be able to refer that to us for enforcement work, is a legal skill. In fact, many lawyers may struggle with identifying a strategic case or a novel point in law. That is done by knowledge experts but not lawyers.

Q88 **Jess Phillips:** Do you feel that Acas needs to be better able to identify a strategic case, potentially, or strategic cases. It is not a criticism of Acas. The trouble is that it feels as if there is no strategy to improve the nature of employment for everybody. This is not about individual cases. It does not feel like there is much of a strategy at the moment, working across that.

Rebecca Hilsenrath: As long as you are looking at a helpline being housed in a different organisation from the commission, there will always be barriers to the smooth transition of information. Those are legal, in relation to data protection, and technical, in relation to the IT data-sharing portal that we use. There is a lack of the communication that happens within an organisation, where you share expertise and knowledge, have team meetings and so forth.



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Our referral rate has dropped to roughly half since the helpline was moved from us six-odd years ago. That remains a key concern of ours. As I say, we are working closely with G4S to improve referral rates. They have improved, but we think that there is room for them to improve further.

Alex Hayes: I would agree that we have a very strong working relationship. My point on this is that we have lots of governance and so much communication in place. Ours is an open book so, if the EHRC says to us, "Actually, we want this information; we want that", we will give it.

Q89 **Chair:** Data protection is not an issue.

Alex Hayes: We anonymise all the data and give it to the EHRC in that format, so that it can look at the data by all the protected characteristics. It can look at it by the points of the Equality Act. It can actually manipulate the data.

Q90 **Chair:** Rebecca, why did you say data protection was an issue?

Rebecca Hilsenrath: That is in relation to data across the piece, in terms of how many protected characteristics, trends and so forth. Specific cases have to go through a different process.

Alex Hayes: We refer strategic cases to the EHRC. We have a process in place for that and we have improved. It is continually improving. We have very clear guidelines as to whom we refer. We believe we are referring everybody we have been asked to refer, in terms of the guidelines. If they needed to change, we would be open to changing those, and then we can refer more. The EHRC comes in to train our advisers on what is a strategic case, how to refer and the protocols. My view is that we are doing everything we are being asked to do.

Q91 **Chair:** Why has the referral rate halved?

Alex Hayes: That is from when the contract was outsourced, six years ago. We only took over the contract in October 2016 and now we are building up. That is quite a long time period to be comparing things. I cannot comment on the contract previously, but I believe we are referring all that fit the criteria that we have been given, and we are doing everything we can to ensure that all our advisers are trained to do that.

Q92 **Eddie Hughes:** It seems slightly jumbled, and maybe it is just me. Can you just explain how relations between the organisations are managed operationally and strategically? I would like to understand who the ultimate arbiter of the process is. I feel like there is a chance all three you might design processes differently, and rather than be collaborative they might be bumping into each other.

Rebecca Hilsenrath: At the risk of repeating myself, at an operational and management level, we have a memorandum of understanding



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between the two organisations. It details that we attend quarterly meetings. We have monthly referrals of information from the helpline.

Q93 **Eddie Hughes:** Do not repeat yourself. That is a piece of paper.

Rebecca Hilsenrath: Correct.

Eddie Hughes: I am talking about how it works for a real person moving through this system. Somebody will see that it does not work: "This process that is set out very clearly in the memorandum of understanding does not bloody achieve what we are hoping to achieve".

Chair: Parliamentary language please.

Q94 **Eddie Hughes:** My apologies: "blooming". Who is it that says, from some high level, "That does not work and you need to change this".

Rebecca Hilsenrath: At the risk of repeating myself, my point is that we do not own this contract. That is a government contract with the helpline. G4S has been very helpful and collaborative in working with us. We appreciate that, but, at the end of the day, it cannot do everything we ask it to do. When it comes at an extra cost or goes outside its contract, that is for the Government Equalities Office to work on with G4S. It does not actually sit with us or, to that extent, with G4S. It sits with the GEO.

Q95 **Eddie Hughes:** You make those points the Equalities Office to say, "This is not working".

Rebecca Hilsenrath: Yes.

Q96 **Eddie Hughes:** It says, "Okay, we will come in and fix it".

Rebecca Hilsenrath: We repeatedly surface our concerns about the rate of referrals with the Government. We also repeatedly articulate the fact that we believe there would be a more joined-up service if we were responsible for the management of the helpline.

Q97 **Eddie Hughes:** Between the organisations, how often would there be meetings at board management level?

Rebecca Hilsenrath: Between us and the GEO, I have a monthly meeting with the director. Between us and G4S—

Alex Hayes: It is quarterly, but we also have weekly phone calls.

Rebecca Hilsenrath: Correct, which is above and beyond the level stipulated in the memorandum of understanding.

Alex Hayes: It is, yes.

Q98 **Chair:** What is G4S doing wrong at the moment?

Rebecca Hilsenrath: I am not here to say it is doing anything wrong. It is working very collaboratively with us, but we are looking at the output. On average, we find the cases that it is referring to us as being strategic



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to be less than 10% truly strategic, according to the criteria that we have. We believe that is because there is not any legal involvement in determining what is a strategic case.

Just to compare this, there has been some argument within the advice sector, where obviously legal resource is at a premium, as to what you do when there is a restricted amount of that. Often you will find that the front desk, the triage place if you like, is manned by non-legally qualified staff. You reserve the lawyers for further on in the process.

Q99 **Chair:** With respect, you do not need to have a lawyer to identify a strategic case. We just heard from G4S that you have a responsibility to train its people. Is there not a question there about the training?

Rebecca Hilsenrath: I was going to say that there is an argument to suggest that reserving the lawyer for later in the process is missing a trick, in terms of the legal skills that are required to identify a novel point of law, especially in a specialist area. You might have, at the extreme, no legal staff involved at all; a lawyer on the front desk; or what we would argue for, which is some sort of supervision and support by a lawyer. G4S's contract with the GEO does not permit any lawyers to be used at all.

Q100 **Chair:** I am not really clear if the EHRC wants to be the manager of the contract or wants to bring the service in house. What is your position on that?

Rebecca Hilsenrath: I believe the contract is up for letting at the end of next year, October 2019. The key area for us to work up before then is a very clear position on what we would do. We believe that, if we owned the management of the contract, we would be able to design an end-to-end process. There is a strong view that it should be in house, but we have not come to a landing on exactly what that would look like.

Q101 **Tonia Antoniazzi:** Within Acas, how do you collate information about equality-related issues in the workplace? How is that passed on to the EHRC?

Sir Brendan Barber: We analyse the cases that are referred to us through the conciliation process. For example, we know that around 23% of cases are dealing with discrimination issues. We have data on which particular discrimination issues those cases are dealing with. We publish that data, so it allows us to monitor trends if there are particular issues that are clearly giving rise to cases. We make that data openly available. The EHRC would be able to look at that data about particular trends. The earlier discussion was about particular cases, but in terms of information on trends we make that as available as we can.

Q102 **Tonia Antoniazzi:** Within the EASS, how do you aggregate information about emerging issues, whether in employment or in provision of goods and services? How is this passed on?



Alex Hayes: I will give some examples of emerging issues. We had one where a lady was at work and told to wear heels, for example, so dress code came up. We are in very close contact with the GEO and the EHRC, and if anything comes up they let us know. We have a very small call centre. It is a great team there, and they put them up on the wall. They then instantly train their advisers, and then we record anybody who comes in on our systems. We can record that information, then take that information and look at trends and how that correlates. We can pass all those cases to the EHRC and the GEO as they want them.

Q103 **Tonia Antoniazzi:** What improvements do you want to see in the pipeline of information coming to the EHRC?

Rebecca Hilsenrath: In terms of the general data that Alex has referred to on the trends, that is very helpful. It is one of the sources that we use when we are developing our strategic plan. Our concerns are largely about the referrals of strategic cases, which I have spoken to.

Q104 **Tonia Antoniazzi:** How would you improve the effectiveness of your strategic litigation?

Rebecca Hilsenrath: Are we talking about outside EASS? Are we talking about the work that we do specifically?

Tonia Antoniazzi: Yes, specifically.

Rebecca Hilsenrath: Our strategic litigation is one of the levers that we use, one of our statutory powers. We exercise our powers on the basis of our evidence base. *Is Britain Fairer?*, which is our triennial review, provides us with evidence of key issues. On the back of that we consult and develop our strategic plan, which is laid in Parliament, and that informs our business plan.

Our litigation strategy determines that we use our strategic litigation capability in relation to matters within our business priorities, which are about clarifying novel points of law, or where there is a significant impact, perhaps across a particular sector, or a particular priority issue that needs addressing.

We have recently begun to use our powers in relation to access to justice pilots, which allow us to take up first instance cases where we think we can have an impact on a particular area. In the first three months of last year, 2017, we ran a project looking at disability discrimination at first instance. We are currently running a project where we started looking at education issues and broadening that to look at housing and social security. We asked EASS, as part of that, to refer non-strategic cases in relation to that project to us. That has been very helpful and a good use of our collaborative endeavours.

Q105 **Rosie Duffield:** What constraints are there on intelligence sharing between the three organisations, for example confidentiality requirements and constraints strategically? How does that work?



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Alex Hayes: We do not think there are particular constraints, because, as I said, we anonymise all the data and pass it on. We do that to lots of organisations, not just the EHRC and Acas, so that everybody has that information. We do not really think there are constraints.

Rebecca Hilsenrath: Our view is that we would share data and cases more easily with the helpline if it were under our own control. We are using a data-sharing portal that is clunky and takes time. We have already discussed data protection issues in relation to specific issues. Of course, we do not have that ease of informal communication, which always improves workstreams in different areas. In relation to Acas, we have already discussed the confidentiality issues. If there is anything that you would like us to address above and beyond that, we are very happy to.

Q106 **Eddie Hughes:** Can I just ask an odd question? Have you ever met socially? Has there ever been any interaction between your organisations that was not about spreadsheets and data?

Alex Hayes: Colleagues from the EHRC have come to visit us at our contact centre. The invite is there to all, if anyone ever wants to come. It is really fantastic.

Chair: I understand you are near Rotherham.

Alex Hayes: It is near Rotherham, yes. There is an open invite. We would love to take you. We have had some colleagues from the EHRC attend. We have given that invitation to board members, but nobody has taken us up on that yet. We are always open for informal communication as well as formal.

Q107 **Eddie Hughes:** Rebecca was making the point that there is not that easy communication between you because you are not in the same building and you are not the same organisation. Am I paraphrasing slightly?

Rebecca Hilsenrath: Yes, and it is fair to say that any organisation—and I am talking about an organisation, as opposed to a group of organisations—that has a number of different complex workstreams will put a lot of work into making sure they are not working in silos and there is a lot of cross-team communication. That is simply far more difficult when you are talking about completely different organisations.

I am always willing to improve the way we work, and I would be delighted to see more of both Alex and Brendan. In fact, we have already discussed how we might do that, including with the chief exec of Acas. I do not think that quite addresses the point that we are making. It is difficult enough within an organisation to make sure that there is cross-team communication on an informal basis, and outside an organisation it is doubly so.

Sir Brendan Barber: To add to that briefly, I talked about the confidentiality constraints on individual cases, but I would not like to give



a picture that we do not work very closely with colleagues in the other organisations. We have a memorandum of understanding with EASS, which we concluded in December. That is about exchanging information without breaching the confidentiality point on individual cases, attending each other's events and so on.

At a working level, in terms of the advice and guidance that Acas issues, which is absolutely about trying to influence behaviours and ensuring that all the players understand the legal issues involved in employment and equality, we work very closely. The EHRC will input very significantly to that guidance as it is being prepared, in terms of all the materials on our website, the training activities that we undertake. On all of that, at a working level, there is very close collaboration between colleagues in our organisations.

Q108 Rosie Duffield: Rebecca has mentioned a few times that the EHRC is almost frustrated by the fact that it does not own the contract and oversee the service. I wonder if that is a possibility in the future. Is it something you have spoken to the Government about?

Rebecca Hilsenrath: That is definitely our ambition and preference. We were not able to bid for the contract when it was last let, because it was only available to government-approved procurement suppliers.

Q109 Rosie Duffield: You had the contract.

Rebecca Hilsenrath: It was removed from our control in 2012; I think I am right. That was in the contract before the one that G4S has. As I say, that is out for let in 2019. Our very strong preference would be that it was returned to us at that point. We would be working our position towards that in the next year or so.

Q110 Chair: It has all sounded a bit doom and gloom, to be honest. Can you give us some ideas of success stories where you have all worked together, collaborated and done what we want to see done, which is improving the situation on the ground?

Alex Hayes: I can. One thing we have introduced, which is not part of our contract, is something called reference groups. We have put reference groups in England, Scotland and Wales, because we knew that some people were fed up of always coming to London. Those reference groups share information with a whole load of organisations that are like-minded. Both the EHRC and Acas sit on those reference groups. They input into them. We discuss discrimination issues, trends and ways forward. We set those up and they happen twice a year, as I say, one in each location.

Q111 Chair: How has that helped, Rebecca?

Rebecca Hilsenrath: Generally across the piece, we welcome the efforts that G4S is doing to improve. We have seen an improvement recently in terms of rates of referral. I think that is partly to do with changes of



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leadership at G4S, and partly to do with the access to justice pilot that I mentioned, where we are getting referrals in on a non-strategic level, which are really helpful to us.

I would like to endorse what Brendan was saying in terms of the working relationship between us. Another example that we have not mentioned, to add to those earlier, is that, when we had a major project on religion or belief last year, Acas was a major key partner, in terms of feeding into the work that we did there. That was extremely helpful.

Q112 Jess Phillips: I want to ask one more question. Picking up on your high heels point, at the moment it would seem to me that sexual harassment is a strategic issue. The country over, there has been an outpouring about sexual harassment. What would you say your organisations are doing at the moment, together, to pick up and change this as an issue?

Alex Hayes: We are tracking all those cases, and we can give those cases to the EHRC, and to the GEO, which is our client. We have all that information there and can pass that information on.

Q113 Jess Phillips: Do you think that you have picked up strategic cases? I actually do not really understand what strategic cases means. I am not lawyer, but, to me, it seems at the moment that would be a strategic case.

Alex Hayes: I will help you in that. For emerging issues, they do not even need to be a strategic case. We would pass them on anyway. When we get these emerging issues, they all go.

Jess Phillips: That is important.

Rebecca Hilsenrath: I would absolutely endorse that. We have written out to major employers in the public and private sectors to ask them to complete a questionnaire about how they handle sexual harassment cases and what their policies and procedures look like. We have also opened a call for evidence for individuals who may have encountered it, so that we can understand what resistance they may have met with addressing those complaints. That has surfaced the fact that it is a key strategic issue for us. We have communicated with EASS about it; it knows we are driving that as a key area.

Q114 Jess Phillips: In my inbox, I have hundreds of cases of sexual harassment happening to people at work across the country, because I talk about it so people come forward and tell me their cases. If I were to refer every single one of those cases into the helpline and into the EHRC, what is the likelihood that you would pick up any of their cases?

Rebecca Hilsenrath: We will look at any case that is relevant to what we are doing.

Jess Phillips: I will send them all over.



Sir Brendan Barber: We refreshed and updated our guidance on sexual harassment in the middle of November. Since then, we know that the guidance has been viewed about 16,000 times. It is particularly directed at helping employers to understand what their responsibilities are and the procedures they should have in place to deal with those issues, if they are arising in workplaces they are responsible for. We have also been asked for advice by a number of organisations that are considering exactly how they need to institute new procedures to deal with these issues. Hopefully, that is making a genuinely valuable contribution.

Q115 **Jess Phillips:** This might just be because I am really optimistic and like change. Do you think that, between your three organisations, in five years' time we could see a demonstrable change in sexual harassment in the workplace?

Rebecca Hilsenrath: What we are hoping to see, as a result of the work that we are doing, is a better understanding of what works and what does not work.

Q116 **Jess Phillips:** I want people who have sexually harassed people taken to court.

Rebecca Hilsenrath: Where we see that there is room for enforcement and litigation, we would take that up as well. We would hope that, between the organisations, we can share that learning, and certainly in relation to the guidance that Acas puts out we would be able to improve that going forward. To be honest, in five years' time I would hope that the helpline might sit within our ownership, and therefore that would be less of an issue.

Q117 **Jess Phillips:** Brendan, you look positive.

Sir Brendan Barber: We know that guidance was shared extensively by the EHRC and a whole number of other organisations. The accountants organisation, the Local Government Association, Working Families and a whole number of different organisations actively shared that guidance through their networks. Hopefully, that is contributing to a serious degree of thinking about how the whole culture needs to change in an awful lot of places, to deal with this issue.

Q118 **Jess Phillips:** Are you taking any cases of sexual harassment at the moment?

Rebecca Hilsenrath: We will take cases, yes.

Q119 **Jess Phillips:** Are you currently?

Rebecca Hilsenrath: If you are asking whether we are doing anything at the moment, I have to say I do not know. I am happy to write to you afterward.

Q120 **Chair:** Can I follow up on that? How many strategic cases does the EHRC have in train at the moment, or has it had in train over the last



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12 months?

Rebecca Hilsenrath: I would have to give a guess, to be honest. I guess it would be around the 20 or 30 mark. I am happy to write to you.

Q121 **Chair:** Is that 20 or 30 cases that you have going through the courts at the moment, or over the last 12 months?

Rebecca Hilsenrath: Yes, correct. I am happy to write with what might be more accurate information.

Q122 **Chair:** That would be really helpful. Can I follow up with Alex? The EHRC made a criticism of the helpline that only 10% of cases you are referring are strategic. Then you started to talk about the sorts of things you refer to the EHRC as being more general about trends. Do you think there is a mismatch there, or could you explain why?

Alex Hayes: No, they are two completely different things. There are two different things that we give the EHRC. One is that we give it strategic cases that meet the criteria that it has given to us. The other is that we give it a huge management information pack with all the MI and all the data it needs to look at emerging trends, protected characteristics and things like that.

Q123 **Chair:** Why is there criticism from Rebecca that only 10% of the cases that you are referring are strategic?

Alex Hayes: It may be that we do not get that many strategic cases. What is the magic number? This is a conversation: we do not know. We are given criteria of people to refer. It may be the criteria are wrong. Again, if they are, we can work together and look at that.

Q124 **Chair:** You fit against criteria specifically given by the EHRC.

Alex Hayes: Yes.

Q125 **Chair:** The EHRC is now criticising the helpline to say that only 10% of those that fit against the criteria are actually strategic cases. Either there is an error being made at your end in terms of analysis of the cases, or there is an error in the criteria. How is the EHRC feeding back to the helpline to try to improve that situation?

Rebecca Hilsenrath: We are addressing this at the moment, and it is a really helpful and relevant point. We are looking at a different pilot that G4S has been really helpful in supporting. We have taken cases straight to a member of our independent panel of counsel, who has looked at the cases, again using the same criteria about whether they are strategic, but from a legal perspective. This comes back to what I was saying earlier, about there being a lack of lawyers involved in the assessment process at G4S.

I am only talking about three cases, but it has just kicked off as a pilot. So far, all those three cases were identified by the barrister as being strategic. Our concern, because of that, is that there may be cases that



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G4S is not identifying as strategic. That is not about me criticising G4S; it is about a lack of legal input in that decision-making process and those cases not coming to us. That is just a concern at this moment. We are nowhere near the completion of the journey of the pilot, to be able to identify whether that is the case.

Alex Hayes: I completely agree. Whatever the pilot says, we will do everything we can to resolve any issues that it might bring. On top of that, we are now just starting to get feedback from EHRC lawyers on cases that we have referred that are not taken up as strategic, which we have not had before, so that we can streamline those that we are referring.

Q126 **Chair:** This is the final question from me. It is not unusual for an organisation like the EHRC to have to work with external providers of services. That is an increasingly relevant way of providing specialist services. Are you not concerned that the EHRC appears to find it difficult to work with, particularly, the helpline? This is not a new phenomenon. This has been going on since 2012, so we are talking about five years. I know the contract has changed, and I appreciate that, so I am a little concerned that there is still such a negative attitude coming from the EHRC about working with an external provider of the service.

Rebecca Hilsenrath: I completely understand the question and I am grateful for it. To pick up on some of those issues, first of all, we work with a number of external agencies across the board for everything we do. It is absolutely key to what we do. We have a very broad remit. We have a restricted amount of resource. You are aware that we have lost 70% of our funding over the lifetime of the organisation. I believe we have very good, effective relationships.

By way of an example, we do not rely on just the EASS for strategic case referrals. We also go out to NGOs, barristers, MPs and other sources. We get approximately 80 to 100 cases per quarter because of that. We do not take them all; they are not all strategic, but we have close working relationships.

My point comes back to the point of this session and the idea that these are very core functions in relation to how you address inequality and discrimination. We believe that would be better served if it were joined up within an organisation. I obviously would not say that in relation to every organisation we work with. I think our relationship with G4S has improved. It is far better than it was, in relation to the last contract that was let out.

I would not comment going back to 2012. I was not at the EHRC then, and the organisation as a whole is far more effective because of the changes it has gone through over the last two or three years than previously. That is partly why, and it is partly credit to G4S for a really good working relationship now, which I am not negative about. But the



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structure of the helpline would be far improved if it were under the same management as the EHRC with its enforcement arm.

Q127 **Chair:** How confident are you that you are identifying emerging issues from the data that you are getting?

Rebecca Hilsenrath: I am confident. The changes that have been put in place in the EHRC over the past couple of years show that we have much better joined-up working arrangements. We have an excellent research team, which has carried out work that has been respected and used across government. For example, I know that you are moving on to look at the race disparity audit, which was carried out by the Government on the back of a race report that we published last year. The teams and professionals we are working with internally are at a place and capacity now that they would be able to take this function and improve the way that we work.

Q128 **Chair:** Did you see the issue of sexual harassment coming?

Rebecca Hilsenrath: We reacted to it quickly.

Q129 **Chair:** You reacted to it, but did you see it coming from the issues and the trend data?

Rebecca Hilsenrath: We work to look at data emerging across our *Is Britain Fairer?* function, which we have changed recently. By statute, we have to report across equality outcomes every five years. We have now moved that to doing it every three years. We have become more agile since then, as a result of changes we have put in place at the commission. We believe we are very well placed to capture emerging data.

Q130 **Chair:** The reason we are here this morning is that last week we were told that it was surprising how few age discrimination cases were coming through, given the level of problems that had been identified with age discrimination in advertising. Why is that statement able to be made if you feel so confident that you are identifying trends and taking forward the most relevant cases?

Rebecca Hilsenrath: I may be wrong, but I do not believe the age discrimination case level is actually to do with the EHRC. That is about the number of cases that are out there generally, not about the number of cases that come through to us.

Q131 **Chair:** The comment being made was that, given the level of age discrimination, it was surprising so few cases were being taken forward by the EHRC.

Rebecca Hilsenrath: If we had a better joined-up function in relation to the helpline, that is the sort of issue we would hope to be able to address. We have also seen a high level of engagement with the strategic litigation function as a result of work that our legal team has done recently, in terms of working with other sources of referrals. I



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talked earlier about some of those. We would hope to improve rates of referral as a result.

Q132 **Chair:** Alex, it sounds like you have to do some work on age discrimination, identifying some cases.

Alex Hayes: Yes, absolutely. Anything that we are asked to identify, we can identify; we can pass the cases on. That is not a problem for us.

Q133 **Chair:** You are not being asked to do that at the moment.

Alex Hayes: We are not being asked to look at age discrimination at the moment, no.

Q134 **Chair:** Maybe that is a trend that has slipped by the EHRC and it might be worth re-looking.

Rebecca Hilsenrath: Yes. To reiterate, the data that we use comes out of our research across *Is Britain Fairer?* We are about to reissue that this year, in 2018. We would be very interested in what comes out of that, in terms of emerging trends. We will be able to use that to work with the EASS and other partners going forward.

Q135 **Chair:** We are going to have to call this to a close. Before I do, Alex, which issues are you being asked to refer cases on at the moment?

Alex Hayes: There is quite a long list.

Q136 **Chair:** Would you be able to provide it to the Committee?

Alex Hayes: We can submit that in writing.

Q137 **Chair:** There is no problem with that happening.

Rebecca Hilsenrath: I have no problem at all, no.

Chair: Brilliant, that would be very helpful. Thank you so much. I cannot thank you enough for freeing up your diary at extremely short notice to come in. Speaking on behalf of the rest of the Committee, I can assure you that this has been an extremely useful session. Thank you very much.