

Women and Equalities Committee

Oral evidence: [Enforcing the Equality Act: the law and the role of the Equality and Human Rights, HC 1470](#)

Wednesday 28 November 2018

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Members present: Mrs Maria Miller (Chair); Tonia Antoniazzi; Sarah Champion; Angela Crawley; Vicky Ford; Eddie Hughes; Jess Phillips.

Questions 63–137

Witnesses

I: Alex Hayes, Managing Director, Equality Advisory and Support Service; Christina McAnea, Assistant General Secretary, UNISON; Richard Miller, Head of Justice, The Law Society; Nick Whittingham, Chief Executive, Kirklees Citizens Advice and Law Centre.

Examination of witnesses

Witnesses: Alex Hayes, Christina McAnea, Richard Miller and Nick Whittingham.

Q63 Chair: Good morning. Can I welcome you to our oral evidence session today? Thank you for coming along and spending time with us. We appreciate that. Also welcome, people who are joining us in the gallery and also those who might be watching online. This is the second session of our inquiry into enforcing the Equality Act, the law and the role of the EHRC. This session will be focusing in on enforcement rights, in particular how individuals are supported to enforce their equality rights and what barriers they may encounter. Before we start, I will ask each of you just to say your name and the organisation that you represent, so everybody knows who everybody is. Alex, can I ask you to start?

Alex Hayes: I am Alex Hayes. I am from the Equality Advisory and Support Service.

Christina McAnea: I am Christina McAnea. I am assistant general secretary of the public sector union, UNISON.

Richard Miller: I am Richard Miller. I am head of justice at the Law Society.

Nick Whittingham: I am Nick Whittingham. I am the chief executive at Kirklees Citizens Advice and Law Centre. I also sit on the executive committee of the Law Centres Network.

Chair: If I could remind everybody, the Victorians were not very good at making sure our microphones were in the right place, so if I could ask everybody to lean forward, including myself, we will have a good chance of hearing everybody. I am going to ask a series of questions. I apologise for all of the comings and goings; it is a very busy day in Parliament.

Q64 Jess Phillips: Hello. To start with, I just want to know roughly how much of the work that you all do relates to the Equality Act.

Nick Whittingham: If I can go back a bit, from about 2006 we had funding from the DRC and then subsequently the EHRC, to fund a caseworker post to provide discrimination casework advice and representation. That was cut in 2012. We then had legal aid briefly, but then following LASPO that has gone. We now have no funding at all to do any discrimination casework. Most other organisations are in a similar position. There really is very little funding around.

Q65 Jess Phillips: In terms of the people coming forward to you for help, what percentage or what amount would you say was concerning the Equality Act?



HOUSE OF COMMONS

Nick Whittingham: Again, it is an interesting question. There is what we see as an advice gap. If we go back, the MoJ did a legal problem and resolution survey in 2014-15, and I think the feeling is that things have not changed much. It found that 13% of respondents felt that their legal issue had a discrimination aspect. That went up to about 22% for things like benefits and employment. I asked Citizens Advice for their figures for the past year. They dealt, across the service, with 1.4 million unique clients. Of those, 13,000 were flagged as having a discrimination issue. That is less than 1%. That is what I mean by the "advice gap". If between 13% and 22% of people feel that discrimination is an issue and we are only flagging up less than 1%, we are missing something somewhere.

Richard Miller: We are a policy organisation rather than an advice-giving organisation. Our focus has been on what has happened to legal aid and where the key problems are there. One of the big issues for us is the fact that most discrimination work came within the employment sphere within the legal aid system. All legal aid for employment work was removed under LASPO in 2013, apart from advice on discrimination matters, which was transferred across to a telephone helpline. People can no longer come in off the street into a high street solicitor's to get advice on discrimination issues. The other real challenge here is that many people who have suffered for discrimination cannot.

Jess Phillips: They cannot. An ordinary person cannot.

Richard Miller: There is no access to that advice at all. Most people do not know about the telephone helpline. It is almost as if the Government treat it as a state secret that it exists. The other issue is that people do not necessarily identify that their problem is a discrimination problem. For example, a woman who is pregnant has been sacked. She just feels she has been treated unfairly and does not make the leap: "It was because of your pregnancy and therefore it is discrimination". She may not even realise that the helpline could be an appropriate source of advice. It is that loss of advice generally for employment matters that means that a lot of the investigation that would flag an issue as discrimination no longer happens.

Christina McAnea: I am afraid I do not have an absolute answer for you in terms of percentages. I can probably get that information from our legal team, if that is helpful.

Jess Phillips: That would be helpful.

Christina McAnea: Obviously, a large percentage of our legal work will be personal injury work, but probably the second biggest would be related to equalities and discrimination issues, or around pay and discrimination within pay.

Just listening to what my colleagues have said, with many of our members it is exactly as you were saying. An issue will happen at work.



HOUSE OF COMMONS

They may not necessarily know it is a discrimination issue, but we try to train all of our representatives on at least some basic discrimination and equalities issues, so that they are able to pick those up. We have a system where if someone thinks it is an equalities issue or a discrimination issue, they can then seek advice from a full-time paid official, who will then either seek advice from the firm of solicitors that we use or our own in-house legal teams.

Q66 Jess Phillips: Do you feel that you are able to meet the demand of that level of work?

Christina McAnea: An increasing part of the work of the union and an increasing part of the work of our representatives on the ground is around some of these issues. Where we think it is a systemic problem, we will try to deal with it through collective bargaining where we can, but when it is about an individual's rights then obviously we would take a case. Can we deal with it? We are always increasingly finding it difficult to get activists, because of the difficulties in getting facilities time—time off from work—to deal with some of these cases. Yes, it becomes an issue for us.

Q67 Jess Phillips: Alex, do you have anything to add?

Alex Hayes: Yes. I run the helpline, which is the Equality Advisory and Support Service. We help members of the public dealing with discrimination issues against the Equality Act and the Human Rights Act, but the majority of cases—probably about 95%—are around the Equality Act rather than the Human Rights Act. Our role is to empower individuals to go through non-legal channels, such as mediation, complaints and grievance processes, in order to resolve those issues and try to come up with amicable solutions.

Q68 Jess Phillips: To all of you, first of all, just as a yes or no, do you find that you have to turn people away who have what you perceive to be a strong case? Richard, I understand you are a policy organisation, so you are not turning people away.

Nick Whittingham: Yes, although we will do what we can. Where we can, we will pick up discrimination issues as part of other casework.

Christina McAnea: No, if they are a member of UNISON and we think they have a strong case, then we represent them.

Jess Phillips: I am glad that is the answer.

Alex Hayes: No, not at all. We answer the majority of our calls and we can answer everything that comes in.

Q69 Jess Phillips: All of you have alluded to the fact that people do not understand the different types of discrimination and identify exactly the sort of discrimination that they might be suffering. From the perspective of the three people at this end of the table, rather than Alex, do you think that people know about the helpline and would know where to go?



HOUSE OF COMMONS

Nick Whittingham: My feeling is that there is a lot of information out there; there is the helpline, websites and so on. It is not the information that is the problem. It is that you can find out that you have suffered discrimination and that you have a good case, but there is nowhere for you to go unless you can either afford a private solicitor or you have the skills to bring a legal case yourself. In the majority of cases, you are just stuck. You have a right but you cannot enforce it. That cannot be a good situation.

Christina McAnea: Our members have a right to legal advice as part of UNISON. People often do not know what their rights are, but they would come to us. Probably, if you are a member of a union, you would probably go to your union first. Sometimes they find out because they have perhaps gone on to a website, or they have gone on to the ACAS website, asked some questions and then will come to the union and say, "I think I have been discriminated against because..."

Q70 **Jess Phillips:** Do you prioritise cases specifically on the basis of you being able to take the case?

Nick Whittingham: With the proviso that we have no funding at all to allow us to do that, so I do what I can pro bono.

Q71 **Jess Phillips:** I mean for just general advice and support. I do not mean taking people all the way through to court. Do you have to prioritise the people you can and cannot help?

Nick Whittingham: No, that would fall within the general service we provide.

Christina McAnea: If we think someone has a reasonable chance of success and we think they are actually being discriminated against, we will always take the case. We do prioritise where we think a case has strategic significance. We will then put additional resources into it and we will maybe do more of an investigation to try to find cases to support it, et cetera.

Q72 **Jess Phillips:** Are there any groups of people, either with particular protected characteristic or users of specific services, that contact you for support more frequently than others?

Alex Hayes: The trend actually stays the same, pretty much all of the time. For the majority of people that contact us, it is around disability. About 65% of all cases are on disability.

Q73 **Jess Phillips:** Do you think that is because, as a client group, they recognise that their rights are often missed, are used to having to live with grievance everywhere they go and are more likely to be aware of their own rights?

Alex Hayes: What we do is we share the statistics. We have quite a big stakeholder network. We run these reference groups every six months with around 40 other organisations that are involved in these services.



HOUSE OF COMMONS

We all find the same thing. Where we have trends, where we are seeing this 65% for disability and we give all of our figures, we find that there is very little difference anywhere else across the board.

Q74 **Jess Phillips:** Disability is the highest.

Alex Hayes: Disability is always the highest.

Q75 **Jess Phillips:** What is next?

Alex Hayes: Race is about 15%, sex is about 8% and then it goes down.

Christina McAnea: I could get you figures; I am afraid I do not have them. Most of ours are probably discrimination. TUC says 57% of union cases are disabilities.

Jess Phillips: Disabilities again would be the highest.

Christina McAnea: Disabilities is the big one. Sometimes it is the union that is proactive. Particularly if it is something to do with equal pay or any kind of pay discrimination, it would then often be the union that is proactive in that. We will actively go out and seek cases where we think there is a particular problem in an individual employer. We will go and seek those. We will run roadshows, we will talk to people and we will actually try to find cases. It is a mixture of group cases and individual cases. In terms of our cases, disability would probably be the individual highest one.

Nick Whittingham: To preface this, although we help people with employment advice, the focus of what I will be telling you is in relation to non-employment issues. The majority of that is disability. The vast majority.

Jess Phillips: Do you mean in terms of welfare?

Nick Whittingham: It is things coming through welfare particularly, but it is also other sources.

Jess Phillips: We are all constituency MPs as well, so the idea of Citizens Advice is not lost on us.

Nick Whittingham: My focus at the moment is very much on the DWP. Almost everybody with disability is facing some sort of discrimination from the DWP. A lot of it is very low level, and when you talk about prioritisation it is for us about finding those cases that really say something shocking, because we are used to the low-level stuff now. Everybody is used to it. Yes, disability is far and away the biggest area.

Q76 **Jess Phillips:** Richard, do you have anything?

Richard Miller: We do not have any relevant stats on that, I am afraid.

Q77 **Jess Phillips:** Roughly how many of those that you advise or support go on to take enforcement action?



HOUSE OF COMMONS

Nick Whittingham: A really tiny proportion. I have two or three cases on the go at the moment, out of hundreds potentially. That is all we could cope with, pro bono.

Q78 **Jess Phillips:** That is taking proper legal action at tribunal.

Nick Whittingham: In the county court, yes.

Q79 **Jess Phillips:** Judicial review and any of that is all in this tiny fraction.

Nick Whittingham: Yes.

Christina McAnea: It is a minority of cases that we would take enforcement action, because we would always try to resolve it at the workplace where we can.

Alex Hayes: Likewise, our remit is to try to get an informal solution, so it is a very small percentage that would take legal action.

Richard Miller: I do actually have a stat on this one, which is the legal aid figure. In 2013-14, there were about 6,000 calls to the discrimination telephone service. Of those, four were recorded as receiving an award from a court or tribunal. That is four out of 6,000.

Jess Phillips: As somebody who has learned to be disappointed by the stats about courts, that really takes the biscuit.

Q80 **Chair:** How many of them would have settled out of court?

Richard Miller: I would need to clarify this, but my understanding is that is the recording of what the outcome of the case was, reported by the provider who gave the advice. My understanding would be that settlements may be included within that. I would want to double-check on that though.

Jess Phillips: I should imagine quite a lot of it was settlements.

Richard Miller: Part of the issue may be, of course, that the advice is given at the outset and then the adviser is not involved in what happens after that. There may be some that do go on to receive some compensation by the individual taking the matter forward by themselves, but there is no way of capturing that.

Q81 **Jess Phillips:** Nick, you suggested it was a resources issue as well, from your point of view: that you simply could not and the people you are dealing with do not have the capacity to take it through to an enforcement end. You are saying that capacity is what stops enforcement.

Nick Whittingham: Yes.

Q82 **Jess Phillips:** I wonder if Richard, Christina and Alex want to suggest what other things stop enforcement going to its full conclusion.



Richard Miller: If you look at the employment context, you have so many barriers in the way. You have got the fact that advice for employment matters was taken out of scope of legal aid. You have the tribunal fees, which blocked a lot of people from bringing claims. You have the fact that there is no effective enforcement mechanism within the employment tribunal jurisdiction. Of course, if the person is unrepresented for the actual tribunal hearing, they do not necessarily have the support they need to know how to enforce any award that comes out of it.

The risk is we end up with a vicious circle here, where people are either unable to bring claims in the first place or enforce them effectively, and employers become aware that that is the case and therefore employers feel less obligation to comply with people's rights. You end up with a situation effectively where good employers are then penalised because bad employers are getting away with bad employment practice.

Christina McAnea: It is about personal barriers as well, because particularly if you look at disability cases or pregnancy-related cases and maternity-related cases, for that individual it is very difficult. There can be a lot of pressures on them from other parts of their life. Either their disability or their physical condition, et cetera, makes it difficult.

Jess Phillips: Having a screaming baby in front of you.

Christina McAnea: Yes, you have a screaming baby or you are having a difficult pregnancy or whatever. These are all difficult. Also, because so much of this is about discrimination at work, often it is not about when you have left your employment; it is when you are still in employment. You have to be very brave to take a case when you are still in employment and you know this is going to affect your relationship with your employer going forward. They might raise it with us as a trade union. We will try to resolve things where we can. We will try to get some kind of settlement of a case. Even though they have the support of the union, so they do not have to pay anything and they know that we will pursue the case for them and give them legal representation, et cetera, for many individuals it is just a step too far. They do not actually want to take their employer that far.

Q83 **Jess Phillips:** Do you think that the union ever encourages people to settle, where they might want to take it to full fruition?

Christina McAnea: We would never force them to settle; we will give them advice on what we think the probability of success will be, but it is their choice. There are cases where sometimes we would say to someone, "We think this is a case you cannot possibly win", and we will withdraw support from them, but that tends to be more in the minority than the majority.

Alex Hayes: As I have said, a lot of ours are about giving informal support, and that resolves itself. We do pass all work issues to ACAS.



HOUSE OF COMMONS

They take those on our behalf. Most people who ring us just want a solution. They want it resolved. They do not necessarily want to go to court, but if somebody does, we support them for referral to a law centre or on whether they are entitled to legal aid. We will support with that and then pass them through that way.

Nick Whittingham: Can I come back in respect of county court, because there are particular barriers in enforcing rights through the county court? There are still fees for the county court, unlike the employment tribunal. Those fees can be quite large. There is also, in the county court, the risk that people face if they were not to be successful, that they might have to pay the costs of the other side. When you are dealing with a big opponent—a Government Department or a large company—you know that the lawyers' fees will be immense, enough to wipe out the cost of somebody's home. It is a huge risk for somebody to take. What they might get from that is minimal in terms of compensation.

Q84 **Jess Phillips:** For those of us less learned, what sort of cases would go to the county court? I am au fait with the tribunal.

Nick Whittingham: Anything essentially outside the employment sphere, so we are talking about goods and services, but that would include services provided by public bodies. The DWP would fall within that as a service provider. If, as an example, we have a client who suffers discrimination from the DWP while claiming benefits, if the DWP will not respond to our initial letters and attempts to sort it out, then you have to issue proceedings; that goes to the county court. That may require a court fee, as I say, but you know then that you are up against that cost risk. Where we had legal aid, legal aid gives the client cost protection. There is presumption that the client will not have to pay costs. Without legal aid, there is no protection, so everybody accepts risk.

Q85 **Chair:** Remind us what the court fees are. How much are they?

Nick Whittingham: Court fees vary, and they vary according to the amount of the claim. You have to pay initial fees and then further fees if you go to hearings. You may be talking £50, but you may be talking thousands of pounds as an initial fee.

Jess Phillips: That is a reasonable amount if you are living on benefits.

Nick Whittingham: Exactly. There is an exemption scheme for people who are on passporting benefits.

Q86 **Chair:** What percentage of people you represent would be exempt from court fees?

Nick Whittingham: A lot of the people we represent, particularly in benefits cases, would be exempt, but the exemption is at that very basic passporting level. Anybody on higher levels of benefits, tax credits or



that sort of thing, and people who are working even with very low incomes may have to pay some fee.

Q87 Chair: Given that so many cases are settled, and you have talked about that, how do you get the information on the trends and patterns of discrimination? Obviously, we are interested in where discrimination lies. Given there is so much that is settled, how do you actually know where the problems are and where the patterns are?

Alex Hayes: We get everybody who feels that they have been discriminated against, so we get all of those patterns. We get all of the information and we share that with anybody who wants to have it. We have very good relationships with the EHRC, which gets all of our information. We have an MoU with ACAS and they get all of our information.

Chair: That is at a very initial level, is it not?

Christina McAnea: Yes.

Chair: That is people who come with an initial problem. What about when it comes to those problems that have required intensive legal intervention?

Alex Hayes: That is not something in our remit.

Richard Miller: Where it is undertaken on legal aid, there are all sorts of reporting mechanisms that would enable you to get statistics for it, but where it is funded by other means, that is a private arrangement between the client and their solicitor, so there is no central collation of that sort of information.

Christina McAnea: We will keep some information on types of cases, but the bigger issue in terms of where you have settlements and where you do not actually know what is happening is on an individual employer basis. Part of the problem we have found is that we might take a case as a union, say with a big public sector employer, a hospital or something like that, we will take the case, and there will be a settlement, but we do not know that actually two other unions have also taken a case and had a settlement. Somebody in that organisation will know that. Somebody in the HR team or the legal team will know that.

Our issue is about what they are doing about that as a corporate organisation. Even though these are confidential agreements, they should at least be able to see that there is a pattern here. It could be one department in particular or one manager in particular, or whatever it happens to be. We will not necessarily have that. We will only know the ones we have been involved in. We will not necessarily know the other ones. That pattern does not necessarily emerge.

Q88 Chair: You are touching on another inquiry that we have ongoing at the moment on the use of non-disclosure agreements. Just before we go on



HOUSE OF COMMONS

to Eddie's set of questions, can I just ask a question on that? To what extent are the people who are approaching you then resolving their disputes with the use of non-disclosure agreements? What do you think about that?

Christina McAnea: A lot of our individual cases involve non-disclosure agreements. We try to resist them where we can, but for members often it is the only way they can see a resolution, and they would rather it was kept confidential because of the nature of it, so they agree it. Where we have group claims, it is much easier for us. Employers know that in a group claim it is much more difficult to enforce a non-disclosure agreement, because when you have several people involved, they will talk about it. Their families will know about it, et cetera. They tend not to be an issue when you have got a group claim, but for individual claims we will try to resist it. We will try to encourage the member not to go for it, but it is their choice at the end of the day.

Often the employer will insist. Even in things where you would think there is no need for a non-disclosure agreement, that is the way they will end up. Even if it is just something that is relatively minor, they will still insist on an NDA, which is quite amazing.

Nick Whittingham: My understanding is they are very common. I have asked around a little. The figure I am generally given is that around 80% of settled matters have a non-disclosure agreement.

Q89 **Chair:** Do you, like Christina, think that sometimes it may be slightly curious as to why they are there?

Nick Whittingham: I can understand why they are there from the defendant's point of view, because discrimination is one of those things that are not well looked upon. Public bodies particularly do not want to be seen as discriminating against their customers or their employees.

Eddie Hughes: Even though they are.

Nick Whittingham: Even though they are, absolutely. I can see the reasoning for them wanting to insist on that. From our clients' perspective, most clients will bring these sorts of cases not because they are looking for compensation but because they want something done that will stop this happening to other people.

Chair: But the non-disclosure agreement, as Christina said, covers it up.

Nick Whittingham: Exactly. That is the dilemma that somebody faces when a settlement is put to them. Particularly if you are involved in proceedings, it would be done in terms of a Part 36 offer, which then puts the client on increased risk of costs if they do not beat that offer. That tweaks up the pressure on the client to accept, even if there is a non-disclosure agreement.

Q90 **Chair:** Richard, do you have anything to add on that?



HOUSE OF COMMONS

Richard Miller: The Law Society is submitting evidence on the other inquiry. I understand that is actually coming in this morning, so it should be with you very shortly.

Chair: That is great. I do not like to mix our inquiries, but it was a God-given opportunity, so I thought I would.

Q91 **Eddie Hughes:** What is your role in identifying or taking cases that seek to achieve a wider impact, beyond the rights of the individual complainant?

Alex Hayes: We pass on all strategic, systemic and other cases on which we call for information. If there are trends that seem to be happening, which are outside of the trends that we talked about at the beginning—the standard trends that we have—we pass all of those cases to the EHRC to take up.

Christina McAnea: Yes, if we come across something that feels like there is a systemic problem in an individual employer or organisation, yes, we can and we do put additional resources into trying to then find additional cases. That is particularly true when it is to do with, for example, equal pay cases. If we think there is a fundamental problem with a pay system, then we will actively go in and find people and ask to see their pay slips; we will talk to them; we will do workshops; we will perhaps set up meetings with them. We will try to fight it with them, and we will try to resolve that with the employer.

Q92 **Eddie Hughes:** Could there be a case that comes to you that is new or unique in some way, seemingly, to you, and then when you think about it, you think there could be a wider impact for other people?

Christina McAnea: Yes. That will happen in some big public sector employers. Particularly where it is to do with pay discrimination, usually it is hardly ever an isolated incident. If a teaching assistant comes and says, “I do not think I am being paid properly for the job I am doing. I think I am being undervalued”, the chances are that all the teaching assistants are being undervalued, not just that one. Even though it is that one person who has come forward, we will then begin to look at what is happening across a range of schools, for example.

It is probably a bit more difficult when we are talking about things like race discrimination. You might sometimes find that in access cases as well. There will be an employer that takes a particularly hard line on things like disability leave, so they might start to look at cases where an employer is starting to put more and more people with disability through their sickness absence procedures. If we have a rep who has begun to see a pattern, they would start to look at it in a bit more detail.

Richard Miller: This one is probably not relevant for me.

Nick Whittingham: Yes, we have brought a number of cases. I am thinking back a few years now. We brought a case that brought



HOUSE OF COMMONS

Rastafarianism within the protected characteristic of religious belief. That had a wider impact. We brought the case of the lady who was sacked for wearing a veil. That opened up a wider discussion around manifestations of religion and belief. Again, those sorts of things have wider impacts.

I also have another view on this, which is perhaps best illustrated by a very short story of a case report. We had a client who was a wheelchair user and he could not access his local mosque. He had to sit outside and look through a small window. When he came to us, he said he felt very excluded from his community. He often suffered abuse as well. When we followed that through, we talked to the mosque and explained his rights, and they then agreed that they would put access in for him. He reported back afterwards that he was then able to join that community and that he had been welcomed. Doing that had changed the attitude of that whole community about people with disability.

Often it is these fairly small things that, over time, by bringing them in a systemic way, do change hearts and minds, if you like. They just change that societal view around people with protected characteristics, how they are viewed and how we need to treat them. We can see a progression over time where views have changed about race, about women and, increasingly, about sexuality. We are seeing new types of societal views. Transgender is probably the current thing that people are discussing and coming to terms with. These cases have an impact. Often, these cases have a way of framing a story that gets that public discourse running and moves society forward. That is where I see it fitting in.

Q93 Eddie Hughes: Amen to that. Christina, Unison have taken or supported a number of high-profile cases that have at least had an element of equality law, most recently tribunal fees. Why do you do that?

Christina McAnea: It is a mixture of things. We do it because it affects our members, but we also do it because we see ourselves as a big campaigning union. It is not just about our members but also about trying to change the system a bit, trying to identify cases that move legislation along.

On the tribunal fees, although we lost along the way, I have to say that our legal advice was always very strong on that one. We were continually being told, "We can win this one". We did work with the EHRC on this one. ACAS was also able to provide very good statistics on that in terms of what the impact of removing tribunal fees had been on claimants, the types of cases that continued and the types of cases that had fallen off a cliff, as it were.

We just felt that it was the right thing to do. There are a number of other areas where we are doing the same thing. There has been a recent case; we lost a case at the High Court on sleep-ins for care workers and whether that is the minimum wage. Although we have lost that, we are seeking leave to appeal to the Supreme Court. We will not know until January whether we have leave to appeal. There are a number of areas



HOUSE OF COMMONS

where we think the significance is wider than just our membership group and that it is right thing to do, because we think the decision has been fundamentally flawed.

Q94 Eddie Hughes: With regards to the tribunal fees, you mentioned that you were working with the EHRC. Would you prefer that they handled it?

Christina McAnea: No, we were happy. They supported us on that one. We have had a mixed relationship with them over the years in terms of some of the big strategic pieces we have taken. They have worked very well with us in one or two cases where the EHRC were part of it. They were able to do investigations for us that we were able to use as part of the case.

There have been others where they have been not so helpful, shall we say. We had a big equal pay case at Glasgow City Council involving 8,500 mainly women workers. That case has been running for 12 years. The EHRC were involved in the initial investigation into this. This was primarily about classroom assistants and early-years staff. The problem was the pay structure and the job evaluation scheme being flawed. We found it was flawed and then the EHRC did a deal with the council, in effect. As far as the council was concerned, that was it settled. That was back in 2012 that they did that deal. We continue to fight the case. We never agreed it. We just won it at the Court of Session last year. We are now back in negotiations with the council, but in that time people have died. Women have died and not received their pay. We now have women who have been waiting 12 years, who will have a claim for back pay. In that case, we did not find the EHRC as helpful as they could have been.

Q95 Eddie Hughes: Alex, how many cases that you have flagged to the EHRC as potentially strategic have been taken on by the Commission?

Alex Hayes: I could not give you the exact number, but it is very few. I can come back in writing on this.

Q96 Eddie Hughes: Can you give me an idea of the proportion?

Alex Hayes: It is a very small amount, if any. We have referred quite a lot, but we do not know of any that have been taken on as strategic cases.

Q97 Eddie Hughes: How does your agreement to refer potentially strategic cases to them interact with your main aim of enabling an informal resolution?

Alex Hayes: We pass any case on that we think might be of interest to them and we continue to work with people who are calling us in order to get to that informal resolution. In terms of what we pass to the EHRC, when we get a relationship with the individual we get more information. The more information we get, the better it is for the EHRC. If somebody has just called us once, they do not always have enough, though we



HOUSE OF COMMONS

would potentially give them that. We give the EHRC literally anything they ask for. We have a weekly call with them. We have calls with their lawyers. We talk about cases, we talk about hotspots that have come from the week, and then we send them anything they want and all the high-level numbers, so they get everything.

Q98 **Eddie Hughes:** I am sorry. They get anything they want, but, in terms of your people proactively referring stuff to them without them asking for things, do you do that as well?

Alex Hayes: We do that as well, yes.

Q99 **Eddie Hughes:** Is that the case even when an informal resolution might have been possible?

Alex Hayes: Yes, essentially. They look for trends as well. They look for other things that are going on. Yes, even when an informal resolution could be possible, we would still pass it. We have increased the numbers. As the relationship has grown and grown, we have really increased the numbers we have been sending to them.

Q100 **Chair:** Can we just ask a quick supplementary to Alex? We obviously had that one-off session where we, as a Committee, were a bit fed up with the fact there was an apparent miscommunication or lack of communication between the EHRC and the helpline. We have been speaking to the EHRC since then. Has the situation improved, or is there still a mismatch of expectations, and that the EHRC still do not feel they get the level of referral from you that they can then take forward for further action?

Alex Hayes: Speaking for us, we have always had a very good relationship with them, but there has been that mismatch or perceived mismatch. We are now referring a lot more. From speaking to my teams and how they are working with the EHRC, I think it has got better. More cases are going to them. How it used to work in the past was that we would speak to them about what was strategic and we would send them those cases. Now we just kind of send them everything so they can decide what is strategic, systemic or what they need information on. They have the lawyers on that side and they can do that. Yes, it has got better.

Q101 **Tonia Antoniazzi:** It is probably best to declare that I am a Unison member. Legal action by individuals is the primary means by which the rights in the Equality Act are enforced. Is the burden that this places on individuals proportionate to the benefit they and society potentially gain from enforcing the Act?

Nick Whittingham: No, it is not, but it is still important. It is clearly important that individuals have that right to challenge discrimination on their own behalf, but it is equally important—I touched on this earlier—that clients who are prepared to bring these sorts of cases are generally looking at that wider interest. They understand and hope that by



HOUSE OF COMMONS

bringing something themselves they will change something, whether it is a small procedure in one place or whether it is a much wider systemic issue. That is what motivates a lot of people, and it is useful that they can do that, but the burden on them is huge, the risks to them are great, and I salute every client who is prepared to do that, because it is a difficult choice to make.

Q102 **Tonia Antoniazzi:** Would anybody else like to add anything?

Christina McAnea: Yes, it is a huge burden on them. We would perhaps like to see tribunals having wider enforcement powers, so not just about individual cases, but actually being able to make recommendations on some systemic changes to organisations. These might just be recommendations. It might even be the case that for some things there could be the possibility of having more of a fixed-penalty system for certain things. For health and safety failures, there is an inspectorate that goes in and looks at it and says, "You need to address these particular problems that you have in health and safety". That might be something you could bring in around access issues for disabled people.

You could have an organisation that goes in and makes recommendations for changes to the way things are done in an organisation. If an employer does not do it, there could be some sort of penalty system for them, rather than individuals or even unions having to take organisations to tribunals or to courts, and the system of having to get employers to pay the penalties. It must be particularly difficult if you are not in a trade union, if you are either doing this yourself or maybe getting free legal advice. If the employer does not then abide by whatever comes out of a tribunal, you have to then go to court to get some sort of civil settlement from that.

Q103 **Tonia Antoniazzi:** If the burden is not to sit so heavily with the individual facing the discrimination, you are saying it should sit with the employer or the Government. Is there anywhere specifically you would like to see it?

Christina McAnea: It sounded like I was being very critical of the EHRC a minute ago, and I was not really. We have had mixed views of them, but one of the issues, of course, is the fact that their funding has been drastically cut since 2010. Something like 70% of their funding has gone since 2010, so their capacity to be able to deal with some of these issues has been fairly restricted, I am sure. I do not know whether it is the EHRC that it should sit with or somewhere else, but there could be a body that could have more of an enforcement role. Even though it is about an individual's right to take a case, where that does not work, where there is an enforcement issue, some other organisation could step in and make that happen.

Q104 **Chair:** Your perception is that the EHRC used to do a lot of these sorts of cases and they do not now.



HOUSE OF COMMONS

Christina McAnea: My perception is that they do less now; I am not sure it is true. I understand that funding has been cut. There are issues around administrative support and their ability to do big investigations. We have referred cases to them in the past on things like pay discrimination and disability issues, so reasonable adjustments, for example. They have been helpful. They have done investigations into a big employer; they have gone in and looked at the whole organisation and how it works; they will make recommendations on this. The examples I have of them doing that are several years ago now, so I am talking about before 2010 or up to about 2010 or 2012. There has not been much after that, I would say.

Richard Miller: Just on this question of the individual burden, the evidence prepared by Professor Abigail Adams for the Unison case is quite relevant on this. This was in the context of the tribunal fees. That demonstrated that it was economically irrational for many people with valid claims to bring them forward simply because of the balance between the risks and the potential rewards. That issue probably applies a lot in discrimination cases. The economically rational stance for an individual to take, even with an absolutely rock-solid case, is not to proceed.

We need to look at how that can be tackled. Going down the route of class actions may be one way of dealing with it. Another way might be to look at ways of addressing the system, the impacts and the risks that people have to take in bringing these claims. I am particularly drawn back to what Nick was saying earlier about the claims that are brought in the county court, where there is the risk of the adverse costs order. You may bring a rock-solid claim, but if you have missed something and you lose the case, you could lose your house. That is not a risk that a lot of people are going to be able to take.

Q105 **Tonia Antoniazzi:** Do you want to add anything, Alex?

Alex Hayes: I do not really have anything to add.

Q106 **Tonia Antoniazzi:** Is it possible to design a system of enforcement that does not place the burden on the individual?

Nick Whittingham: You can do a lot—and this follows from what Richard was saying—to lift that burden. I am not thinking of taking it away from the individual. I am saying that providing people with free advice, support and representation lifts that burden. If you can remove court fees, that lifts the burden. If you can put in a presumption of no costs against a claimant in a discrimination case, that lifts the burden. It then starts to become something that an individual can approach with some equanimity. It allows people to do that without this burden and risk.

Q107 **Tonia Antoniazzi:** You are talking about universal access to advice. Would you support a change in the law to allow organisations representing people with particular protected characteristics to bring



HOUSE OF COMMONS

discrimination cases?

Nick Whittingham: Yes, that would be helpful. At the moment there are charities, for example, that do that through individuals and will fund their legal costs. In some ways, it makes more sense to allow the charity or the organisation to bring that themselves. The risk is, as was raised in the last session, that you are potentially just shifting the burden on to a charity that also may be strapped for cash and finding it difficult. It may not be a clear-cut solution, but I certainly would suggest that it is a reasonable thing to be able to do.

Q108 **Tonia Antoniazzi:** What else needs to change?

Christina McAnea: In our submission, we made a few suggestions, such as having statutory guidance on timescales for the implementation of reasonable adjustments. When a case has been found proved, actually saying to the employer, "You have to do this within a fixed time period". You could also look at the timescales for submitted claims, particularly for certain types of cases. For us, one of the things would be to get the employment tribunal system to be able to enforce awards when employers refuse to pay, rather than then having to go somewhere else to enforce that award.

Nick Whittingham: Something else to consider, though, would be—this is quite far-reaching—to consider an inquisitorial rather than adversarial system. It is something like the employment tribunals were intended to be when they were set up. Over the years, employment tribunals have morphed into more of a court or an adversarial process. If you were to have a judge-led inquisitorial process, again, that might make it easier for somebody bringing a claim and potentially get to the bottom of issues much more directly.

Q109 **Chair:** So that I am clear, that would mean that an individual would not necessarily need legal representation.

Nick Whittingham: I think they would, because legally this is complex. If you were to get to a point where an inquisitorial judge was so well trained that he could—

Chair: Or she. Most of the judges I see nowadays are she.

Nick Whittingham: Yes, or she, absolutely. You are right. Equally, most of the judges have no idea about how the Equality Act works, I am afraid. Either you need that legal support, probably for both parties, or you need a judge who is very well trained.

Q110 **Chair:** We are making up for the lack of training of judges by having expensive lawyers there to help the witnesses.

Nick Whittingham: At the moment, yes.

Richard Miller: It is interesting. In Germany, where they do have an inquisitorial system, representation of the parties is mandatory before a



HOUSE OF COMMONS

lot of their courts. They clearly do not see an inquisitorial system as being an alternative to representation for the parties. The role of the lawyer may be somewhat different, and it will be the judge who leads the questioning and the process, but certainly in Germany they do still feel there is a need for representation even with an inquisitorial process.

Q111 **Chair:** Is the inquisitorial process easier on the people bringing the action?

Richard Miller: It can be. There are pros and cons. One of the risks with an inquisitorial process is that the party bringing the claim loses control of it. The process goes in the way that the judge leading it chooses, and therefore the individual bringing the claim may or may not feel at the end of it that they have been properly listened to and that their points have been addressed. One of the strengths of the adversarial approach is that the individual can put what their case is and the points they want to see addressed. There are pros and cons. There are benefits; there are ways the inquisitorial system can relieve some of the burden on claimants as well. It is an area that should be explored further, but we should not be jumping immediately to say that one or the other is definitely the right approach.

Chair: That is very helpful.

Q112 **Vicky Ford:** I just want to come back to what you said, Richard, about the risk of the cost versus, potentially, the compensation. If that changed, would we see more “no win, no fee” or more insurance options available to people, so they could look at that balance in a different way?

Richard Miller: That is quite possible, yes. In employment matters, you see both “no win, no fee” and DBAs—defined benefit arrangements—where the lawyer takes a percentage of the award as their fee rather than taking a fixed amount.

Q113 **Vicky Ford:** It could also be an insurance scheme.

Richard Miller: Insurance schemes would also be an alternative. One of the issues is that where claims are relatively low-value, those schemes do not tend to work, because the potential rewards out of them are not sufficient to cover the costs involved. If either the system is simplified so the costs are lower or the awards are higher, then both of those approaches might well lead to these arrangements being more practical.

Q114 **Angela Crawley:** With regards to the barriers to bringing cases or enforcing people’s rights, how much of a barrier is the actual cost of bringing a discrimination claim for an individual?

Nick Whittingham: I would say for anybody who is not wealthy, it is a huge barrier.

Q115 **Angela Crawley:** Christina, would you agree?

Christina McAnea: Yes, we took the tribunal fees case. I do not have the evidence in front of me, but we submitted lots of evidence on this.



HOUSE OF COMMONS

That was a huge barrier to people taking cases. Part of this is, as you were saying, that low-value case just disappeared. Things like wages claims just disappeared. A lot of discrimination cases again fell off the cliff in terms of the numbers that were coming forward. That was one of the big reasons for it. They were relatively low-value; people were not going to go forward with tribunals and take a risk on that.

Richard Miller: The total reduction was over 70%. 70% of the number of claims being brought were no longer brought after the fees were introduced.

Christina McAnea: An interesting part of this was that the claims that did not reduce by the same amount were the ones that you could consider to be vexatious and litigious. They still continued, because if people feel that strongly they will still put a case in, but it was the low-value and high-risk cases like discrimination cases or cases that you know are going to be very stressful. People just did not do it.

Q116 **Angela Crawley:** I agree. As someone who campaigned to get rid of tribunal fees, I agree that it did not necessarily prevent vexatious claims at all. Would the cost still be a burden if the burden of enforcement was shifted from the individuals to, for example, an organisation like the EHRC representing individuals and taking representative actions? What is your opinion of that?

Christina McAnea: I am sorry. What do you mean?

Angela Crawley: Rather than the individual having to take a claim, the burden could be shifted on to, for example, the EHRC to take representative action. Would that help with the burden of cost for individuals? Would it make any difference whatsoever?

Richard Miller: My view on this would be that you need to be careful not to disempower the people at the heart of the case. We would want to see this as an alternative. We would not want to see that you could only go down this route and you could not bring a claim yourself. If this was an additional means by which these claims could be brought, there could be a lot of strength to this, yes.

Nick Whittingham: There is also a risk that you then put the EHRC in the position of judging the case in the first instance. I can give an example of a case I have running at the moment. I did go to the EHRC with it to look for funding, and they were not prepared to fund it. I think that case will be successful and we will bring it, but if it was reliant on the EHRC, their view was, "We are not really that interested in this one". It is risky. As Richard says, it takes a little of the power away from the claimant.

Q117 **Angela Crawley:** You think it would become a kind of first-instance decision rather than providing any sort of recourse for people who could not take actions individually.



HOUSE OF COMMONS

Nick Whittingham: Yes, particularly if the EHRC are not funded to bring every single case that could possibly be brought. That is not going to happen. There always has to be that judgment about what they bring.

Q118 **Angela Crawley:** In your opinion, then, are there any ways the costs could be reduced or removed further? How would you propose that could be done?

Nick Whittingham: Yes, you can remove court fees in the same way as tribunal fees have been removed. You can have a presumption that claimants will not have to pay costs if they lose. You can have a presumption that claimants should be able to claim costs if they are successful. That may be useful in a tribunal scenario as well. There are those ways.

I would also say that, while costs are important and that obviously links to financial compensation, equality and discrimination does have this wider issue that it is not just about the money. We perhaps need to remember that. It is why it is not always easy to say, "Just ramp up the compensation and that will open up insurance and so on".

Q119 **Angela Crawley:** You are already answering my next question, which was going to be about whether financial compensation is the best way to put things right, either for the individual or as a wider preventative measure. If not simply compensation, what would you suggest?

Nick Whittingham: If we can say, "We will forgo compensation, but we will get some positive action taken", most clients would accept that. That is what they really want. It is more difficult to do, but in many cases what clients want is simply an acceptance that there was some discrimination, an apology and some indication of what the organisation, body, company or whoever is going to do about it to make sure it does not happen again. As has been mentioned, if that can be built in with an enforcement mechanism to back it up, so much the better. Those are important issues for clients.

Q120 **Angela Crawley:** Christina, you have referenced a couple of times the equal pay claim in Glasgow City Council. Would women have been satisfied 12 years ago if collective action had been resolved then, or is compensation the very least that those women are asking for?

Christina McAnea: When it is pay discrimination, people expect to get the money that they are entitled to, which is possibly a bit different to when it is a discrimination issue. Where it is pay, people are entitled to get the right pay for the job they are doing. They would be entitled to back pay, and we would not want to see that removed. Sometimes these things are resolved through collective action or through a collective resolution process, rather than having to go to a tribunal.

There are some other things. For us, one of the things would be to give tribunals more enforcement powers on employers, rather than having to have another stage you have to go through to try to enforce some of the



HOUSE OF COMMONS

outcomes of tribunals. As I was saying earlier, in order to make change happen on some equalities issues, where a tribunal has made a finding that discrimination has taken place, there should be some mechanism that says, "The employer has to fix this". Going wider than just dealing with that individual's problems would be very useful. We could have an organisation, whether it is the EHRC, that could do an investigation, go in and look at it and make recommendations about some structural changes that have to happen within organisations. You could have a relatively simple fixed-penalty system or something. There are repeat offenders.

We took a case, back in 2004 or 2005, in Fife, with Fife Council. That was about ensuring reasonable adjustments for people with disabilities. The EHRC were involved in this, so there were some systemic changes that took place within the council as well, which were helpful. On things like that, there are ways that you could bring in changes that make it easier for people to know what their rights are and be able to access their rights on things like disability leave, reasonable access and having term limits in place. We could say, "A tribunal has now decided this is a reasonable adjustment that can be made, and the employer is expected to do it within X time".

Q121 Angela Crawley: If they brought in, for example, time limits or penalties in the case of Glasgow, would it have been resolved long before the 12 years? Why has that one taken so long?

Christina McAnea: There is a whole load of factors there. Partly it is the size of the case and the potential cost to the employer. Because we had an investigation in Glasgow into the role of classroom assistants and the job evaluation system it was based on, the EHRC then did a deal with the council that we were never satisfied with as a trade union. Our members were not satisfied. It was not just us; there were other lawyers involved in this, under "no win, no fee", for example. That case was never settled, even though the EHRC were involved in it.

Q122 Angela Crawley: Nick or Richard, you perhaps might have a view on this. Would there be other remedies that would have had an impact beyond any individual cases being brought?

Richard Miller: This is a point that I was just thinking about. We are focusing a lot on the claimants here. What we would rather have is a system where the claimants never have to bring a claim because employers comply. We have focused a lot on what would enable claimants to bring claims more, but we also need to think about what an effective deterrent would be for employers and other parties not to breach people's rights in the first place.

One of the challenges is that there are two factors that determine whether people will comply. The first is the likelihood of them being held to account for it, and the second is the penalty if they are held to account. You can increase the penalties as much as you like, but if someone thinks they will not be held to account to pay a £1,000 fine, it is



no more of a deterrent than if they think they will not be held to account to pay a £100 fine. We need to make sure there is a realistic belief on the part of those who are breaching their obligations that they will be held to account for that. That is only partly about what the scale of the penalty is. We do need to look at the mechanisms for enforcement and also at what broader powers might be needed in the case of repeat offenders to ensure it is not economically in their interests to just carrying on breaching people's rights and pay a small penalty on the few occasions they are held to account.

Nick Whittingham: Rolling this back a bit, we are perhaps approaching this in a funny way. You could have a system where employers or other service providers understand that there is an enforcement mechanism available that is accessible and realistic. If people are given early advice and support to try to resolve those issues, they are much more likely to get a resolution without having to go down that process. You can then look at the proper resolutions of the issues, without the compensation, just by discussing it with somebody. I refer back to my story about the ramp. That is all it needed. Somebody put a ramp in and the problem was solved. Very often it is these little things. If you catch them early and you can discuss them realistically with, if you like, the stick ready should that not get resolved, you can achieve an awful lot. Certainly, when we were running a lot of discrimination cases, almost every one resolved without litigation, and yet we got a lot of positive outcomes.

Q123 **Angela Crawley:** Significant penalties would prevent people having to take these actions in the first instance, you would argue.

On a slightly different point, we have had a number of submissions to us that have stated that some service providers are afraid to use the Equality Act exemption that allows them to exclude someone with the protected characteristic of gender reassignment from single-sex services. Is this a widespread concern among those that you have to advise, Alex? Are your advisers clear on what the law does and does not allow.

Alex Hayes: Yes, our advisers are clear on what the law does and does not allow. Each individual is different, and that is how we would look at those. In terms of the trends, we have not seen any significant increase in calls of that nature coming to us. We get around 10 a month, around 30 a quarter, in terms of calls on gender reassignment. We have seen that remain really quite consistently flat throughout.

Angela Crawley: Thank you for that. It is just something that has come up.

Alex Hayes: We obviously monitor it. It is on our board, because it is one of our hot topics.

Q124 **Angela Crawley:** But you have seen no issue with it previously.

Alex Hayes: No.

Q125 **Chair:** How about you, Nick? Have you seen this?



HOUSE OF COMMONS

Nick Whittingham: It is not on our radar at all, I am afraid.

Christina McAnea: I would say it is on our radar. We have a very clear policy of supporting transgender members. On this particular issue, I would say I have had, in the past six months, maybe 12 emails or letters asking me why we have this policy.

Q126 **Angela Crawley:** Is that more than usual?

Christina McAnea: It is because we ran a bit of a high-profile campaign this year. It is more than I would normally get, but it is not huge. I get inundated with emails on lots of other issues, but on this one I have had about 12. People are asking questions, but they are not producing any evidence. I have not had any evidence. I have had people say, "This will cause such-and-such a problem in a single-sex service", but no one has brought an actual case to us that says, "This is causing us a problem".

Q127 **Angela Crawley:** Would you feel comfortable to advise someone if they wanted to use the Equality Act exemptions that it would be valid in some instances, if it were to be valid?

Christina McAnea: Yes, we would be quite comfortable with that. Our view is that there would be very few instances where that would be an issue. The Act does say that it has to be proportionate, so we would be happy to put out advice on this and to support members either way: to support members who were being excluded because they were transgender or, indeed, if we had members who were trying to enforce it, we would look at whether it was a proportionate response and whether there was an actual case that says it has to happen in this instance.

Q128 **Chair:** I just have a final couple of questions before we close. The Equality and Human Rights Commission want to be seen as a muscular regulator. They have this unique role to enforce the Equality Act. How successful are they in that?

Nick Whittingham: They struggle. Particularly when you look at the funding that they now get, it is significantly reduced. They have a real resource issue.

Q129 **Chair:** Can I just be clear on this? Whenever we have the EHRC in front of us, they do not tell us that funding is an issue. I am just putting that out there. That is not what they have told us.

Nick Whittingham: Their profile is not as high as it was. Certainly, when we meet people from the EHRC, there are excellent people there. They are committed, passionate and they do their very best, but I do not see that they have the resources to be a muscular organisation.

Q130 **Chair:** They are not using their resources to project the image of being an enforcer of equality law.

Nick Whittingham: It does not feel that way, no.



HOUSE OF COMMONS

Richard Miller: I would take the same view as Nick: that the resource issue is a significant one in terms of the ability of the EHRC to play the role that they ideally should be playing.

Q131 **Chair:** What extra resources should they have to be a more effective enforcer of equality law?

Richard Miller: One that would be very useful would be in terms of the telephone helpline, because in the past that has been a very strong way of getting intelligence through.

Q132 **Chair:** So Alex is not doing her job properly.

Richard Miller: It is not that Alex is not doing her job properly; it is that the more sources there are for getting that sort of information through, the better. There may well be people who have heard of the EHRC who have not heard of Alex's organisation. The more routes in, the better.

I come back to what I said earlier. The legal aid helpline is very little known in the general public as well. Across the piece, there is a lack of information out there to get the intelligence in about where these problems are. The more that can be done to improve that position, the better.

Q133 **Chair:** The EHRC are using their resources to bring about 25 cases at the moment. At any one point in time it seems to be about that. Is it a good use of resources to have that number of cases? Should they be using those resources to bring more cases?

Richard Miller: There is always going to be a challenge here as to whether you are bringing large numbers of cases to help a lot of people or you are bringing a selective number of test cases. One of the real challenges with test cases, as well, is the fact that even an organisation like the EHRC has the risk of an adverse costs order. Therefore, at any one time they could have a potential liability that they have to account for, as well as the ongoing actual costs of running that case.

I do not know how that is accounted for within their resource allocations, but it is a huge issue that they have to take into account in running those cases. It may be that if measures were brought, for example, for broader Government to provide an indemnity for any adverse costs on those cases, that might enable the organisation to do more with the resources it has.

Q134 **Chair:** Alex, defend your position.

Alex Hayes: Calls are significantly up on where they have been previously and we have so much stakeholder engagement that gets out there. If you google it, it comes up first. We now pass all cases to the EHRC, so they get total visibility. How they enforce that is not really our remit. We can give them all the information, and they can look at how they enforce it. This also applies to law centres, because we also refer on



HOUSE OF COMMONS

to law centres. I would argue very much that our name is not out there and people do not know how to access us.

Q135 **Chair:** Time is rather tight. How frequently do you have contact with the Commission? Could you say “a lot” or “not a lot”?

Nick Whittingham: It is once or twice a year at conferences.

Richard Miller: We have contact three or four times a year.

Christina McAnea: It is probably half a dozen times a year.

Alex Hayes: We have contact all the time.

Q136 **Chair:** Yes, because they are your client or you are their client, whichever way around it is. In your very extensive experience, do organisations and businesses really worry that they could be subject to enforcement action by the Commission?

Nick Whittingham: No, I really do not.

Richard Miller: Probably not.

Christina McAnea: We deal with large public sector organisations, which you would think would be concerned about reputational damage, but, no, that would be my view as well. They do not care.

Alex Hayes: We tend to solve things. I have not seen anything like that.

Q137 **Chair:** If there was one thing the EHRC could do to make businesses and organisations really worried about enforcement action, what would that be?

Nick Whittingham: I would go back. There is a slight self-interest in this, but the grant programme they had that funded law centres and others to bring cases was an effective use of money. It meant that, across the country, there was a network of skilled lawyers who could bring cases against whatever was needed in their communities.

Chair: This is going back to the grant funding.

Nick Whittingham: Yes, going back to grant funding. It is relatively cheap. It was about £1 million, so it is not huge.

Richard Miller: We need improved resources for bringing more test cases and individual challenges.

Christina McAnea: Yes, that would be mine: more resources for them to go in and do some investigations into systemic problems in some organisations.

Alex Hayes: I do not really know. I do not have an answer to that.

Chair: Do not worry; that is great. That was really helpful. Thank you very much. I am sorry we started a little late. We have a number of



HOUSE OF COMMONS

things on our plate at the moment. I am sorry we finished a little late as well. It has been an incredibly helpful session. I cannot thank you enough. I realise it takes a lot of time out of your diary to be here, so thank you again.