

Response from Just Fair to the EHRC's Draft Strategic Plan 2022-2025

September 2021

Just Fair is a UK charity that is working to realise a fairer and more just society by monitoring and advocating for Economic, Social and Cultural Rights (ESCR) in the UK. We aim to ensure that the UK government's law, policy and practice comply with international and domestic human rights obligations pertaining to ESCR.

This response is endorsed by Surviving Economic Abuse - the only UK charity dedicated to raising awareness of economic abuse and transforming responses to it.

We welcome this opportunity to submit our views on the Equality and Human Rights Commission's (EHRC) Draft Strategic Plan 2022-2025 and we particularly commend the EHRC for their work in ensuring the plan is accessible to as many people as possible through the creations of a range of different formats of the draft plan and options for response to the consultation.

1. Executive summary

We believe that these duties of the EHRC, as laid out in the next section and particularly in relating to 'protecting human rights' and 'enforcing the Equality Act of 2010', mean that the EHRC have responsibilities over the next few years that fall into two main categories, each of which has two subcategories:

- **Maintaining the current realisation of human rights and equality protections**
 - Protecting and promoting the Human Rights Act (HRA)
 - the impact of the UK's exit from the European Union on the human rights and equalities enjoyed by people in the UK.
- **Advancing the realisation of human rights and equality protections**
 - Work to realise rights contained within the seven human rights treaties – ([ICERD](#), [ICESCR](#), [ICCPR](#), [CEDAW](#), [CAT](#), [CRC](#) and [CRPD](#))
 - Work to ensure the effective enactment and enforcement of Section 1 of the Equality Act 2010 in England

We have made a number of recommendations that we believe will strengthen the workplan of the EHRC:

- A focus on the protection and promotion of the Human Rights Act should be a core part of the EHRC's work over the next three years and as such should feature prominently in the upcoming Strategic Plan. As well as making the case to the UK government about the need to retain and protect the HRA, it falls to the EHRC to continue the work of educating the public, media and public authorities about the scope, nature and out workings of the Human Rights Act to work to dispel myths that have arisen in society about it.
- We would strongly urge the EHRC to look again at their 5 point plan on how Britain can keep and strengthen its status as a world leader on equality and human rights and integrate this into their current Draft Strategic Plan.¹ We would also encourage them to continue their

¹ EHRC, 'Healing the divisions: a positive vision for equality and human rights in Britain', (2017) available [here](#)

important work with human rights and equality commissions² across the UK to protect these hard won rights and equalities.

- Work to encourage the UK government to implement the rights contained within the seven human rights treaties – ([ICERD](#), [ICESCR](#), [ICCPR](#), [CEDAW](#), [CAT](#), [CRC](#) and [CRPD](#))
- Work to educate judges, public officials, police and law enforcement officials, medical practitioners, and other health care-related professionals on ESC rights (including their justiciable nature)
- Work to improve the participation of the UK government in the reporting cycle in order to ensure that the benefits of the cyclical process of treaty monitoring mechanisms are fully enjoyed in the United Kingdom
- The EHRC should include work in their Strategic Plan to ensure the effective enactment and enforcement of Section 1 of the Equality Act 2010 in England. In particular they could look at ways to provide education about what the duty entails and how it could help build a fairer society, and work to provide support for capacity building in terms of the enforcement of the duty. Capacity building could involve a range of activities including continuing to provide high-quality research and communicating it to legislators and public officials and also providing them with training and resources on the socio-economic duty.
- We recommend that if the EHRC is not already doing so, then it considers using the Human Rights Tracker to inform its future priorities.

2. The Duties of the EHRC

In advance of laying out our main comments in relation to the current strategic plan, we believe it is worth laying out below our understanding of the duties of the EHRC.

The Equality Act 2006 lays out the duties of the Equality and Human Rights Commission. In relation to equality and diversity they are as follows:

8. Equality and diversity

1. *The Commission shall, by exercising the powers conferred by this Part—*
 - a) *promote understanding of the importance of equality and diversity,*
 - b) *encourage good practice in relation to equality and diversity,*
 - c) *promote equality of opportunity,*
 - d) *promote awareness and understanding of rights under the Equality Act 2010,*
 - e) *enforce that Act,*
 - f) *work towards the elimination of unlawful discrimination, and*
 - g) *work towards the elimination of unlawful harassment.*

In relation to human rights they are as follows:

9. Human rights

1. *The Commission shall, by exercising the powers conferred by this Part—*
 - a) *promote understanding of the importance of human rights,*
 - b) *encourage good practice in relation to human rights,*
 - c) *promote awareness, understanding and protection of human rights, and*

² See for example, 'Joint statement: the UK's human rights and equality bodies on Brexit', available [here](#)

d) *encourage public authorities to comply with section 6 of the Human Rights Act 1998 (c. 42) (compliance with Convention rights).*

2. *In this Part “human rights” means—*

a) *the Convention rights within the meaning given by section 1 of the Human Rights Act 1998, and*

b) *other human rights*

3. Maintaining the current realisation of human rights and equality protections

Protecting human rights should include work by the EHRC to work to uphold the current level of rights that we enjoy across Great Britain and ensure that there is progress rather than regression in relation to how rights and equalities are realised. For that reason, we encourage the EHRC to include specific workstreams around two major events which could impact current enjoyment of rights and equalities across the UK namely:

- Protecting and promoting the Human Rights Act (HRA)
- the impact of the UK’s exit from the European Union on the human rights and equalities enjoyed by people in the UK.

3.2 The Human Rights Act

The UK Government is currently undertaking a review of the Human Rights Act, which will examine the following:

- *the relationship between domestic courts and the European Court of Human Rights (ECtHR)*
- *the impact of the HRA on the relationship between the judiciary, the executive, and the legislature*

While the terms of reference for the current review are limited, we remain concerned about intentions of the UK government to roll back rights. The current UK government was elected with the following commitment in their manifesto,

“We will update the Human Rights Act and administrative law to ensure that there is a proper balance between the rights of individuals, our vital national security and effective government.” Conservative Party Manifesto 2019.

The Human Rights Act gave further effect to many of the rights from the European Convention of Human Rights (ECHR) in domestic legislation across the UK and allowed access to UK courts for violations of Convention rights. In our [written submission](#) to the Joint Committee on Human Rights’ Inquiry into the Independent Review of the Human Rights Act we made it clear that we believe the HRA is an important pillar of the UK constitution providing a framework for individuals beyond the limited rights available under the common law system and uncodified constitution.

We strongly submit that there is no case for a weakening of enforcement mechanisms in the HRA and we believe that the EHRC has an important role to play in protecting and enhancing the

protections afforded by the Human Rights Act and that this should be reflected in the Draft Strategic Plan.

In the absence of domestically justiciable protection for socio-economic rights in the UK, the Human Rights Act, in limited but important ways, has acted to protect these rights, notably in relation to issues such as social security,³ which is a right protected in international human rights law by Article 9 of the [International Covenant on Economic, Social and Cultural Rights](#) (ICESCR).

Further, as mentioned in our evidence to the JCHR, the approach taken by the European Court of Human Rights (ECtHR) has meant its jurisprudence is increasingly in line with the principle of indivisibility. In *Airey v Ireland* the Court suggested that, “*the Convention sets forth what are essentially civil and political rights,*” but, “*many of them have implications of a social or economic nature*”.⁴ Therefore, “*that an interpretation of the Convention may extend into the sphere of social and economic rights should not be a decisive factor against such an interpretation; there is no water-tight division separating that sphere from the field covered by the Convention*”.⁵

In the absence of domestic remedies for violations of our socio-economic rights, particularly those contained within the International Covenant on Economic, Social and Cultural Rights, the Human Rights Acts is an important tool in helping to realise these rights.

Concern over the future of the HRA has been communicated by a number of UN human rights monitoring mechanisms in recent years including:

- “*Ensure that any legislation passed in lieu of the Human Rights Act 1998 — were such legislation to be passed — is aimed at strengthening the status of international human rights, including the provisions of the Covenant, in the domestic legal order, and provide effective protection of those rights across all jurisdictions.*” *Human Rights Committee, August 2015*
- “*The Committee recommends that the State party undertake a broad public consultation on its plan to repeal the Human Rights Act 1998 as well as on the proposal for a new bill of rights. It also recommends that the State party take all necessary measures to ensure that any new legislation in this regard is aimed at enhancing the status of human rights, including economic, social and cultural rights, in the domestic legal order and that it provide effective protection of those rights across all jurisdictions of the State party.*” *Committee on Economic, Social and Cultural Rights, July 2016*
- “*The Committee is concerned that the proposal to replace the Human Rights Act of 1998 with a new British Bill of Rights may lead to decreased levels of human rights protection in the State party, which would negatively affect the situation of individuals protected under article 1 of the Convention...The Committee recommends that the State party undertake meaningful and broad public consultation on its proposal to revise its human rights legislation and ensure that any changes to the current human rights framework strengthens the protection of human rights, and in particular the rights of individuals protected under article 1 of the Convention.*” *Committee on the Elimination of Racial Discrimination, August 2016*

³ See for example ‘In the matter of an application by Siobhan McLaughlin for Judicial Review (Northern Ireland) [2018] UKSC 48’ where the Supreme Court by a majority of 4 to 1 that the Widowed Parent’s Allowance was incompatible with article 14 of the ECHR read with article 8, insofar as it precluded any entitlement by a surviving unmarried partner of the deceased.

⁴ *Airey v. Ireland*, 32 Eur Ct HR Ser A (1979): [1979] 2 E.H.R.R. 305, para 26.

⁵ *Ibid*

- *“Make sure that, in case the proposals for a British Bill of Rights are realized, the current level of human rights protection provided by the Human Rights Act of 1998 is maintained and improved.” Ukraine, UPR, May 2017*

Recommendation

For all these reasons we believe that a focus on the protection and promotion of the Human Rights Act should be a core part of the EHRC’s work over the next three years and as such should feature prominently in the upcoming Strategic Plan. As well as making the case to the UK government about the need to retain and protect the HRA, it falls to the EHRC to continue the work of educating the public, media and public authorities about the scope, nature and out workings of the Human Rights Act to work to dispel myths that have arisen in society about it.

3.2 The Impact of the UK’s Exit from the EU

On 31 January 2020 the United Kingdom exited the European Union.

Three main ways in which this will impact on current human rights and equality standards for people living in the UK are; through the potential **removal of laws protecting human rights and equality originating in EU law and no longer implementing new EU laws domestically**, the loss of the statutory footing of **caselaw from the Court of Justice of the European Union (CJEU)** and the **loss of the Charter of Fundamental Rights of the European Union**. The latter two were drawn as red lines by the UK in its White Paper on the Repeal Bill in March 2017.⁶

The CJEU has been instrumental in driving forward domestic legislation in the UK to a more substantive application of equality and human rights for many minority groups including women, children and young people, disabled people, workers, migrants and members of the LGBT+ community.⁷ As we noted in January 2021 in [joint work](#) with Equally Ours, the EU (Withdrawal) Act 2018 did include an amendment that UK courts and tribunals could ‘have regard to’ its case law, but that it will no longer be on a statutory footing. CJEU rulings/case law can now also be challenged in the UK courts, and these can help unpick the existing laws on these rights and standards if the challenge is found favourable.

We also highlighted in January 2021 that our biggest loss of rights from Brexit is undoubtedly the loss of the EU Charter of Fundamental Rights (the Charter). The Charter brings together the fundamental rights of everyone living in the EU, including the rights protected by the ECHR,⁸ the constitutional traditions of the Member States, and the rights contained in other international conventions to which the EU or its Member States are parties. Unlike say, the ECHR, the Charter reflects the indivisibility of civil, political, economic, and social rights. Title V (Solidarity) for example provides protections for a number of ESC rights including collective bargaining and action,⁹ fair and

⁶ Department for Exiting the European Union, ‘The Repeal Bill: White Paper’, Cm 9446 (March 2017), <https://bit.ly/3d6mETP> particularly para 2.3 on the ECJ and 2.23 on the Charter

⁷ For multiple examples, please see Human Rights Consortium, ‘Rights at Risk: Brexit, Human Rights and Northern Ireland’, January 2018, <https://bit.ly/3xFPnXk>

⁸ Article 52(3) of the Charter clarifies that the ECHR is a floor not a ceiling, so rights protections may be more extensive under the Charter than in the ECHR, but must not fall below it

⁹ Article 28

just working conditions,¹⁰ prohibition of child labour and protection of young people at work,¹¹ social security and social assistance,¹² and healthcare.¹³ In addition, unlike the Human Rights Act, the Charter contains a free-standing right to prohibition of discrimination,¹⁴ and a specific article on equality between men and women,¹⁵ which does not prohibit positive action, (a feature of substantive equality which seeks to help to achieve equality by using a protected characteristic to benefit a disadvantaged group).¹⁶

The right to work (Article 6) and the right to just and favourable conditions of work (Article 7) are key ESC rights and are clearly outlined in ICESCR. The laws of the European Union have done much to realise these rights in practice in the UK. Article 151 of the [Treaty on the Functioning of the EU](#) clarifies that workers are not merely economic assets to the EU, but rather should be supported through employment to, *“improved living and working conditions, ... proper social protection, [and] ... dialogue between management and labour.”* Taken with the protections included in the Charter, it is clear that, *“This situates any discussion on regulating employment within the EU firmly within a clear human rights framework.”*¹⁷

Employment law directives at an EU level provide for issues important to achieving just and favourable conditions of work including health and safety in the workplace,¹⁸ rights of employees when ownership of a company is transferred,¹⁹ and a wide range of anti-discrimination measures.²⁰

We are now in a more perilous situation in relation to rights and equalities protections, as noted by Murray, O’Donoghue and Warwick, *“The UK Parliament will be able post Brexit to alter any retained EU law by standard processes of law making, and thereby diminish rights protections.”*²¹

In addition, we are already falling behind the EU in terms of protection for workers. An example of this is the [Work-life Balance Directive](#), which will not be implemented in the UK. The directive introduces a set of legislative actions with aims including:

- better supporting a work-life balance for parents and carers,
- encouraging a more equal sharing of parental leave between men and women

¹⁰ Article 31

¹¹ Article 32

¹² Article 34

¹³ Article 35

¹⁴ Article 21

¹⁵ Article 23

¹⁶ Fredman, S., ‘Discrimination Law’ (OUP 2011) p.232

¹⁷ Human Rights Consortium, ‘Rights at Risk: Brexit, Human Rights and Northern Ireland’, January 2018, available [here](#)

¹⁸ For example Directive 89/391/EEC Framework Directive on Safety and Health at Work and Directive 92/85/EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers

¹⁹ Transfers of Undertakings (Protection of Employment) Regulations 2006 implementing Directive 2001/23/EC

²⁰ Including Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (29 June 2000), Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation (27 November 2000) and Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) (5 July 2006)

²¹ Murray, C., O’Donoghue, A. and Warwick, B., ‘Discussion Paper on Brexit’ (NIHRC, IHREC, 2018), p.16, available [here](#)

Moving forwards, in March 2021 the European Commission presented a proposal on pay transparency²² that sets out measures, such as:

- pay information for job seekers,
- a right to know the pay levels for workers doing the same work,
- gender pay gap reporting obligations for big companies

The application of these directives to improving the just and favourable conditions of work are clear, however people within the UK will not benefit from them.

Recommendation

With the cumulative total of rights already lost, and the threat of other rights being unpicked we were surprised that the Draft Strategic Plan for the EHRC for the next 3 years did not feature any mention of the impact of the UK's exit from the European Union, particularly when this was another issue highlighted by a UN human rights monitoring committee.²³ We would strongly urge the EHRC to look again at their 5 point plan on how Britain can keep and strengthen its status as a world leader on equality and human rights and integrate this into their current Draft Strategic Plan.²⁴ We would also encourage them to continue their important work with human rights and equality commissions²⁵ across the UK to protect these hard won rights and equalities.

4. Advancing the realisation of human rights and equality protections

The Equality Act 2010 clarifies that the scope of the EHRC's work in terms of human rights goes beyond the Human Rights Act 1998. As an 'A' status National Human Rights Institution (NHRI) the EHRC is aware of the various UN human rights treaties that the UK has signed up to and agreed to be bound by. To ensure that the EHRC fulfils its duty to 'promote awareness, understanding and protection of human rights' we believe that these **international human rights obligations** should feature within the Draft Strategic Plan.

In addition, and in line with guidance given by these sources of international human rights law, we would strongly encourage the EHRC to include work **to support the enactment of Section 1 of the Equality Act 2010** (the socio-economic duty) in their current Draft Strategic Plan.

4.1 International Human Rights obligations

The United Kingdom has voluntarily signed and ratified seven of the nine United Nations human rights treaties. In doing so we have agreed to be bound by the provisions therein and to be periodically reviewed for our compliance with these obligations. As a National Human Rights

²² Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms COM/2021/93

²³ See 'Concluding observations on the eighth periodic report of the United Kingdom of Great Britain and Northern Ireland', Committee on the Elimination of All forms of Discrimination against Women, 2019, para 22. Available [here](#)

²⁴ EHRC, 'Healing the divisions: a positive vision for equality and human rights in Britain', (2017) available [here](#)

²⁵ See for example, 'Joint statement: the UK's human rights and equality bodies on Brexit', available [here](#)

Institution, the EHRC has a duty to adhere to the 'Paris Principles'²⁶ and in particular we would highlight the following competences and responsibilities,

“3(b) To promote and ensure the harmonization of national legislation, regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation;”

and

“3(c) To encourage ratification of the above-mentioned instruments or accession to those instruments, and to ensure their implementation;”

With this in mind we would raise the following Concluding Observation from the 5th Periodic Review of the UK by the Committee on Economic, Social and Cultural Rights;

“The Committee recommends that the State party take effective measures to increase awareness of economic, social and cultural rights among the public at large as well as among judges, public officials, police and law enforcement officials, medical practitioners, and other health care-related professionals, including by lending adequate support to civil society and national human rights institutions in their efforts in relation to awareness-raising. It also recommends that the State party take steps to improve awareness of the Covenant rights as justiciable human rights and not merely rights as part of the “Welfare State”.²⁷

In addition, we would also remind the EHRC of the following Concluding Observation from the 6th Periodic Review of the UK by ICESCR:

“72. The Committee requests the State party to disseminate the present concluding observations widely among all levels of society, at national, provincial and territorial levels, particularly among parliamentarians, public officials and judicial authorities, and to inform the Committee, in its next periodic report, about the steps taken to implement the recommendations contained herein. The Committee also encourages the State party to engage non-governmental organizations and other members of civil society in the follow-up to the present concluding observations and in the process of consultation at the national level prior to the submission of its next periodic report. Furthermore, the Committee requests the State party to ensure effective coordination with all devolved administrations, particularly Northern Ireland, and with its Overseas Territories and Crown Dependencies at all stages of the implementation of the recommendations contained in the present concluding observations and in the preparation of its next periodic report.”²⁸

²⁶ Principles relating to the Status of National Institutions (The Paris Principles), Adopted by General Assembly resolution 48/134 of 20 December 1993, available here: [OHCHR | Principles relating to the Status of National Institutions](https://www.ohchr.org/en/docstore/ohchr/2009/06/20090612_10249.pdf)

²⁷ Concluding observations of the Committee on Economic, Social and Cultural Rights, 12 June 2009, available here: <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4sIQ6QSmIBEDzFEovLCuW3XRinAE8KCBFogOHNz%2fvuDNyRNRpYh4%2fXwi5mGxO4uVHSp5NkoJ82quvCoRYrFwZPTcDMxjOFb22xm9hq%2boJq2oc5GX%2fWPPHcYPRNBddrPf>

²⁸ Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland, 14 July 2016, available here: <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4sIQ6QSmIBEDzFEovLCuW3XRinAE8KCBFogOHNz%2fvuCC%2bTxEKA118bzE0UfQhJkxxOSGuoMUxHGypYlJNfkwxnMR6GmqogLJF8BzscMe9zpGfTXBkZ4pEaigi44xqil>

These Concluding Observations, taken together with the competencies and responsibilities under the Paris Principles, illustrate a clear role for the EHRC to work with the UK government to encourage fuller implementation of our international human rights obligations. While work in relation to the domestic implementation of these treaties has been ongoing in Wales (Convention on the Rights of the Child²⁹) and Scotland (Convention on the Rights of the Child,³⁰ International Covenant on Economic, Social and Cultural Rights, Convention on the Elimination of All Forms of Discrimination against Women, Convention on the Elimination of All Forms of Racial Discrimination, Convention on the Rights of Persons with Disabilities³¹), people in England are being left behind in terms of rights protections. We believe that work to encourage the UK government to incorporate international law in domestic legislation should form a key part of the EHRC's upcoming work.

Better understanding amongst government, judges, public officials etc of the nature of our obligations under international human rights law in an important step in ensuring the protection, promotion and fulfilment of these rights and was an important concluding observation from the CESCR. Because of its value in helping to protect and advance how rights are currently enjoyed in the UK we believe this should form part of the Strategic Plan of the EHRC over the next three years.

Finally, the EHRC have a key role to play in ensuring that the UK government engage more fully in reporting cycles, including by ensuring disaggregated data is included in State Party Reports, that meaningful consultation occurs with civil society across the UK in advance of reviews and that plans are put in place following reviews to implement and review concluding observations and recommendations.

Recommendations

We recommend that the EHRC consider including the following in their Strategic Plan for the next three years:

- ***work to encourage the UK government to implement the rights contained within the seven human rights treaties – ([ICERD](#), [ICESCR](#), [ICCPR](#), [CEDAW](#), [CAT](#), [CRC](#) and [CRPD](#))***
- ***work to educate judges, public officials, police and law enforcement officials, medical practitioners, and other health care-related professionals on ESC rights (including their justiciable nature)***
- ***work to improve the participation of the UK government in the reporting cycle in order to ensure that the benefits of the cyclical process of treaty monitoring mechanisms are fully enjoyed in the United Kingdom***

4.2 Section 1 of the Equality Act 2010

The Covid pandemic has been a harrowing and tragic experience both internationally and across the UK. One thing that has become increasingly clear is that the pandemic has exacerbated existing

²⁹ Rights of Children and Young People (Wales) Measure 2011: [Rights of Children and Young Persons \(Wales\) Measure 2011 \(legislation.gov.uk\)](#)

³⁰ UNCRC (Incorporation) (Scotland) Bill: [Incorporation of the UN Convention on the Rights of the Child | Together Scotland](#)

³¹ Through the proposed Human Rights Bill: <https://www.gov.scot/news/new-human-rights-bill/>

inequalities in our society.³² Now more than ever we need to ensure that we are using all the tools at our disposal to build back a fairer, more just society.

It has been over ten years since the Equality Act 2010 came into force. This Act brought together 116 pieces of anti-discrimination legislation and requires equal treatment in private and public services, and access to employment, for the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

Section 1 of the Equality Act 2010 introduces a socio-economic duty on public bodies that requires them:

“when making decisions of a strategic nature about how to exercise its functions’ to ‘have due regard to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage.”

Public bodies are asked to consider how their decisions and policies could increase or decrease inequality that results from socio-economic disadvantage. We believe that this could be a vital tool to building a fairer society. This duty could help in two main areas:

1. Better decisions: the enforcement of Section 1 would mainstream the socio-economic duty into the decision-making processes of public authorities, so that people in greatest socio-economic need are prioritised.
2. Better laws: if lawmakers had to actively consider the socio-economic duty when making laws, this ‘pre-legislative scrutiny’ could highlight the particular risk in terms of socio-economic need and ensure that mitigations are considered.

Despite being passed by UK Parliament in 2010, successive UK governments have refused to bring Section 1 into force in England and Northern Ireland.

In April 2018, the Fairer Scotland Duty³³ came into force as Section 1 of the Equality Act 2010 in Scotland. This duty requires local authorities to actively consider how they could reduce inequalities of outcome in any major strategic decision they make; and to publish a written assessment, showing how they have done this. After extensive consultations, the Welsh Government enacted the duty as part of its programme to help public bodies deliver A More Equal Wales.³⁴

The EHRC has undertaken research³⁵ to examine how the duty has been implemented in these nations and how it is working and we commend them for this important work.

Bearing in mind the competences and responsibilities of the EHRC under the Paris Principles, we would draw your attention to this Concluding Observation from the 6th Periodic Review of the UK by ICESCR:

“23. The Committee recommends that the State party bring into force the relevant provisions of the Equality Act that refer to the public authorities’ duty with respect to socio economic disadvantage, as well as with respect to the prohibition of intersectional discrimination, in

³² See evidence Just Fair has gathered on this, including in relation to [older persons](#), [children](#), [employment](#), and the [unequal impact](#) of the pandemic

³³ <https://www.gov.scot/publications/fairer-scotland-duty-interim-guidance-public-bodies/pages/2/>

³⁴ <https://gov.wales/socio-economic-duty-overview>

³⁵ Equality and Human Rights Commission, [‘Evaluating the socio-economic duty in Scotland and Wales’](#) (March 2021).

order to enhance and guarantee full and effective protection against discrimination in the enjoyment of economic, social and cultural rights.”³⁶

We would therefore recommend that the EHRC include work in their Strategic Plan to ensure the effective enforcement of Section 1 of the Equality Act 2010 in England. This is particularly timely given the increasing divides we have seen as a result of the pandemic, and also in order to allow England to ‘level-up’ its equality protections with the rest of Great Britain.

Recommendation

The EHRC should include work in their Strategic Plan to ensure the effective enactment and enforcement of Section 1 of the Equality Act 2010 in England. In particular they could look at ways to provide education about what the duty entails and how it could help build a fairer society, and work to provide support for capacity building in terms of the enforcement of the duty. Capacity building could involve a range of activities including continuing to provide high-quality research and communicating it to legislators and public officials and also providing them with providing training and resources on the socio-economic duty.

5. Human Rights Tracker

We would like to take this opportunity to commend the work that the EHRC has put into the Human Rights Tracker. It is an excellent resource and an innovative tool which illustrates how digital resources can be used to protect human rights by providing information and evidence in a clear and accessible way. We note that the NIHR³⁷ use their Annual Statement to inform their future work and believe this to be an interesting approach for the EHRC to consider employing with regards the Human Rights Tracker (if they are not already doing so).

Recommendation

We recommend that if the EHRC is not already doing so, then it considers using the Human Rights Tracker to inform its future priorities.

6. Conclusion

We congratulate the EHRC on the work undertaken to more fully realise human rights and equality protections in our society, and we hope that this piece can help in terms of thinking about ways in which they can effectively continue this work. We look forward to continuing to work with the EHRC in the realisation of its next Strategic Plan.

³⁶ Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland, 14 July 2016, available here:

<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4sIQ6QSmlBEDzFEovLCuW3XRinAE8KCBFogOH Nz%2fvuCC%2bTxEKA118bzE0UfQhJkxxOSGuoMUxHGypYLjNFkwxnMR6GmqogLJF8BzscMe9zpGfTXBkZ4pEaigi44xqil>

³⁷ [NIHRC Draft Strategic Plan 2019 2022 180519.pdf](#)

Further information

Just Fair is a charity (charity number: 1141484 company number: 07394478)

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