

# **Comprehensive Budget Review of the Equality and Human Rights Commission**

Review Group

Final evidence report

Government Equalities Office, Department for Culture Media and Sport January 2013

## Overview

To identify the funding necessary for the Equality and Human Rights Commission (EHRC) to fulfil its functions effectively, a comprehensive review of the EHRC's budget was carried out between August and December 2012.

A review group was established to oversee the review – comprising of senior officials from the EHRC, its sponsoring Department and the Ministry of Justice, and including a member of the EHRC's Board<sup>1</sup>. There were also discussions with the devolved administrations because of the importance attached to the EHRC retaining a strong and distinct presence in Wales and Scotland.

The review group considered how the EHRC had spent its money in the past, and the impact that the EHRC's new target operating model and changes in context would have on the EHRC's future spending profile. The review group accepted the information provided by the EHRC, which proposed that steady-state funding of £17.1m would be adequate for the EHRC to discharge its functions effectively.

It is for the EHRC's Chair and Board to decide how this funding will be spent in support of the EHRC's statutory functions, but the EHRC must produce business plans showing: the key deliverables for the period, including targets and milestones, and budgetary information on the level of resource allocated to its proposed activities. This will enable Government, Parliamentarians and civil society to understand the contribution the EHRC is making towards a fairer society with the resources at its disposal.

The review group also considered the transitional costs of implementing the new operating model. On the advice of the EHRC, the review group recommends making available funding of £7.94m in 2013/14 and £1.4m in 2014/15 for transition purposes.

The EHRC will be able to access additional programme funding of up to £7.8m in 2013/14 and £8m in 2014/15 to support wider activities that contribute to equalities and human rights priorities, as appropriate. The Government is holding this funding in reserve until June 2013 to enable the new Chair and Board to reach a view on programmes that it may wish to undertake and which are supported by plans that have demonstrable impacts and secure value for money.

## Context

The EHRC was established by the Equality Act 2006 with a very broad remit. It replaced and took over the work of the Equal Opportunities Commission, the Commission for Racial Equality and the Disability Rights Commission, and was also given responsibility for promoting equality and tackling discrimination in respect of age, sexual orientation, and religion or belief; promoting good relations between groups; and, protecting and promoting human rights as an 'A'-rated status National Human Rights Institution (NHRI). When it opened its doors in October 2007, the EHRC had a budget of £70m - £20m more than the combined budgets of the three previous Commissions – although it never spent more than £62m (in 2008/09).

In part because of errors made in the process of setting it up, the EHRC struggled after its establishment. Its first three sets of accounts were qualified, and in March 2010 it attracted criticism from the Joint Committee on Human Rights (JCHR) on its failure to integrate human rights into its work - prompting a special review of its 'A' status as a NHRI.

When the Coalition Government was formed in May 2010, the country faced a record budget deficit. The scale of the deficit meant that all Departments across Whitehall and the wider public sector had to make immediate savings. In June 2010 the EHRC's budget was reduced from £62m to £55m in-year. The EHRC's own plans resulted in an actual expenditure of £48m – of which £16.3m was spent on its corporate costs.

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<sup>1</sup> Sarah Anderson, an EHRC Commissioner, attended meetings of the review group.

As part of the 2010 Spending Review, the Government announced further plans to reduce the deficit – including plans to reduce the EHRC’s budget to £26.8m by 2014-15. This reflected the overarching imperative of deficit-reduction, but also the Government’s desire to enable the EHRC to focus its efforts on its core functions as Great Britain’s independent equality body and ‘A’-rated NHRI.

A significant area of activity for the EHRC in the past had been the delivery of a helpline and discretionary grant programmes. To support the EHRC’s focus on its core functions, the Government announced that the Government Equalities Office (GEO) would take on responsibility for the provision of a new Equality Advisory and Support Service in place of the EHRC’s helpline, and for targeting funding at frontline initiatives providing practical help and support. Funding was transferred from the EHRC to the Government Equalities Office to reflect this change in responsibilities. Had this transfer of funding not taken place, the reduction to the EHRC’s resource budget announced in October 2010 would have been less than 35%, and consistent with the level of savings required of other public sector bodies.<sup>2</sup>

Following firm action by the Government, in partnership with the EHRC’s Board and Chief Executive, significant progress has been made at the EHRC in the last two years. Its ‘A’ status was reconfirmed by the United Nations (UN) in October 2010, it has built a collaborative relationship with the JCHR, and its last two sets of accounts were unqualified. There has also been a 75% reduction in the EHRC’s reliance on expensive interim staff, with the plan to be down to no more than 4 in post by April 2013.

Mindful of the ongoing need to identify further savings to rebalance the economy, the significant progress made in driving efficiencies in the EHRC’s back-office functions and accommodation costs, and the requirement in the EHRC’s founding legislation (the Equality Act 2006) that the Secretary of State must provide the EHRC with “such sums as appear to [her] reasonably sufficient for the purpose of enabling the Commission to perform its functions”, the Government announced a comprehensive review of the EHRC’s budget in May 2012. The purpose of this review is to ensure that the EHRC has adequate funds to perform its important role effectively. Copies of this report can be downloaded from: <http://www.culture.gov.uk/equalities/index.aspx>

## Institutional landscape – at home and abroad

The EHRC’s remit covers the whole of Great Britain (England, Wales and Scotland), although its human rights functions are more limited in Scotland, where there is a separate Scottish Human Rights Commission (SHRC) which is responsible for human rights in Scotland (as set out in the Scottish Commission for Human Rights Act 2006) but not equalities issues. SHRC had a budget of £1m in 2010/11.

The EHRC’s core functions are:

- **As a national expert on equality and human rights issues** – monitoring the effectiveness of equality and human rights law, undertaking research, conducting inquiries, making recommendations about improvements in the law and practice and monitoring progress; and
- **As a strategic enforcer of the law and guardian of legal rights** – promoting awareness and understanding of rights, supporting victims of discrimination, and using its strategic enforcement powers to ensure the law is working as intended.

The effective discharge of these functions is supported by:

- **A clear and comprehensive legal framework** - The Human Rights Act 1998 and the Equality Act 2010 give people in Great Britain strong individual rights to redress if they are discriminated against or their rights under the European Convention on Human Rights are infringed. The Equality Act 2010 also requires public bodies to have due regard to the need to eliminate unlawful discrimination,

<sup>2</sup> As part of Spending Review 2010, HM Treasury sought budget reductions of one third from all Departments.

advance equality of opportunity and foster good relations. We understand that such a duty is unique to Great Britain, and its implementation is supported by specific duties, which are distinct in England, Scotland and Wales.

- **An independent judiciary** – It is for the courts to decide whether or not the Government and organisations and individuals in the public, private and voluntary sectors have complied with domestic equality and human rights law, EU legislation and the European Convention on Human Rights, when a case comes before them. Additionally, courts are required to notify the EHRC of discrimination proceedings, and tribunals are required to notify the EHRC of rulings in discrimination cases. This supports the EHRC to form a view on where there are particular problems relating to the interpretation and implementation of equality law and identify those cases on which it may be helpful to intervene.
- **Legal aid** - Legal aid helps to pay for legal advice, where people can't afford it. Discrimination cases and human rights cases remain within the scope of legal aid.

The EHRC is also supported in the effective discharge of its functions by the following organisations:

- **The new GB-wide Equality Advisory and Support Service (EASS)** – covering England, Scotland and Wales - With a budget of £2m and over 30 staff, the EASS works in partnership with local advice and support networks – in particular Acas, and Citizens Advice - to provide advice to victims of discrimination. Where appropriate, it will also support people to access mediation and conciliation and/or financial assistance through legal aid.
- **Children's Commissioners in England, Wales and Scotland** – with budgets (in 2011/12) of £2.67m, £1.75m and £1.25m respectively, and whose roles are to promote the views and best interests of children and young people in accordance with the UN Convention on the Rights of the Child (UNCRC). There is also a Commissioner for Older People in Wales, with a budget of £1.75m in 2011/12.
- **The UK Information Commissioner's Office** – which upholds information rights by promoting good practice, ruling on complaints, providing information to individuals and organisations and taking action when the Freedom of Information Act, Data Protection Act, etc, are broken. It has a budget of £20m.
- **A new GB-wide Social Mobility and Child Poverty Commission** – to provide an authoritative voice on child poverty and social mobility.
- **The Office for Fair Access** – to promote and safeguard fair access to higher education for lower income and other under-represented groups.
- **UK Parliament, Scottish Parliament and National Assembly for Wales** – the UK Parliament's Joint Committee on Human Rights (JCHR) produces regular reports on human rights issues and scrutinises legislation with significant human rights implications, and there are a number of relevant All-Party Parliamentary groups - on Equality, Sex Equality, Disability, Race and Community, Ageing and Older People, and Carers. The Scottish Parliament's Equal Opportunities Committee delivers a comprehensive programme of work on discrimination issues and there is a Communities, Equality and Local Government Committee in the National Assembly for Wales, which scrutinises progress on equality.
- **Ombudsmen, notably the Parliamentary and Health Service Ombudsman (PHSO), the Local Government Ombudsman for England, the Housing Ombudsman, the Scottish Public Services Ombudsman and the Public Services Ombudsman for Wales** – which investigate complaints of maladministration brought by individuals – including complaints relating to discrimination and human rights issues in the work of public bodies. For example, in 2009, and 2011 the PHSO published reports

on the application of human rights within the National Health Service.<sup>3</sup> These Ombudsmen had a combined budget in excess of £50m in 2011/12.

- **Inspectorates and regulators** - there is a large number of inspectorates and regulators operating across Great Britain. They have a role to play in ensuring public bodies comply with relevant legislation, including equality and human rights legislation. They gather evidence on standards and make recommendations.
- **Civil society** – groups like the Fawcett Society, the Runnymede Trust, Age UK, Carers UK, Radar, Scope, Stonewall, Liberty, JUSTICE, the British Humanist Association, churches and trades unions, all of which conduct independent surveys and research, make recommendations and help victims of discrimination to pursue complaints. They can also bring judicial review proceedings.

### **International comparators**

The EHRC is one of 69 'A'-rated NHRIs. As each NHRI has a different mandate, and operates in a unique cultural, legislative and institutional environment, the review group concluded that it is not possible to draw conclusions about an appropriate level of funding from comparisons with other NHRIs. For example:

- The Danish Institute for Human Rights had a budget of £13m in 2011. This includes separate funding from the Ministry of Foreign Affairs to cover the requirements of a co-operation agreement for long-term international activities, such as Criminal Justice Reform work in Rwanda, part-funding the operation of Georgia's 'A'-rated NHRI – the Public Defender's Office, and reviewing the healthcare of HIV positive children in Ethiopia.
- The Australian Human Rights Commission was allocated a budget of £15.1m in 2012/13. It includes a Children's Commissioner, but it does not have responsibility for promoting equality on grounds of sexual orientation and religion or belief. It is also underpinned by a federal structure, with each of Australia's six states having their own equality and human rights bodies.

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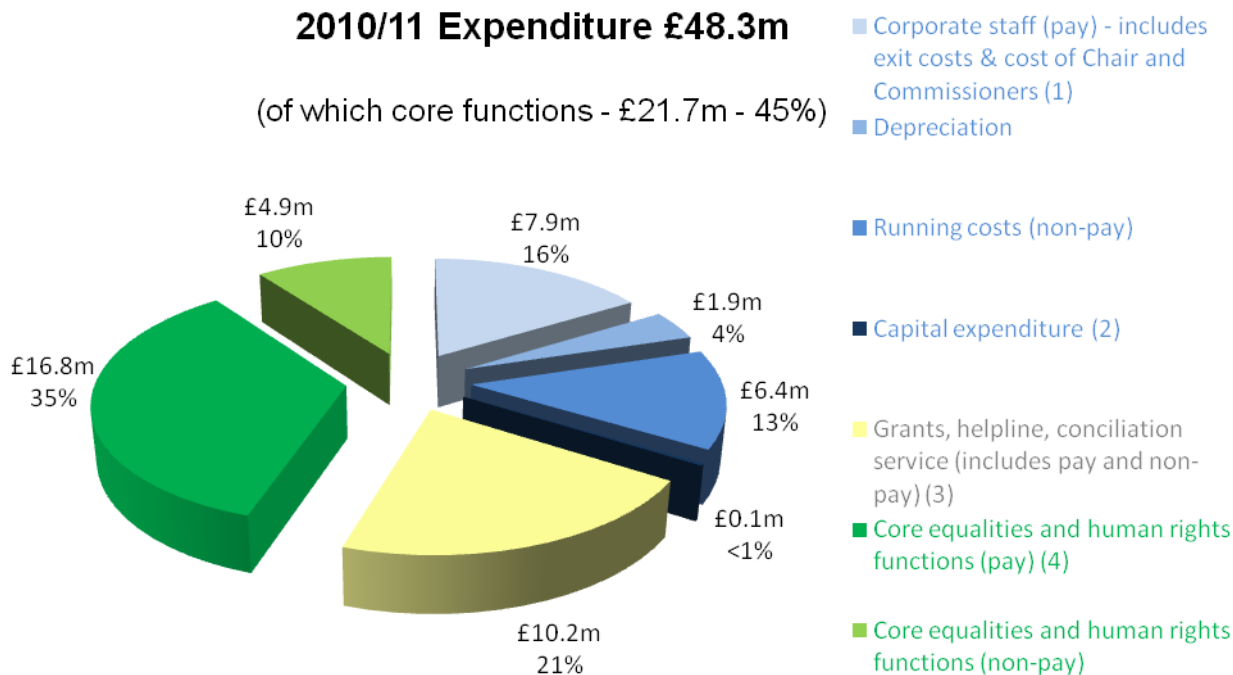
<sup>3</sup> Six lives in March 2009, and Care and Compassion in February 2011.

## The EHRC's expenditure in 2010/11

In 2010/11, a breakdown of the EHRC's spend was as follows:

### 2010/11 Expenditure £48.3m

(of which core functions - £21.7m - 45%)



#### Notes

(1) Includes cost of interim contractors (£3.6m) and Board (£363k).

(2) In line with HM Treasury budgetary policies capital expenditure budgets are ring-fenced for the purchase of assets and cannot be utilised for running costs of core functions delivery. EHRC's capital budget is used mainly for property-related improvements and accessibility equipment.

(3) Functions no longer provided by the EHRC.

(4) Includes cost of interim contractors (£164k).

All figures rounded to nearest £100k. No apportionment of running costs has been made (e.g. all travel and subsistence comes under running costs).

'Running costs (non-pay)' comprise the costs of all expenditure other than staff costs and programmes of work, and includes, inter alia, estates, IT and staff training costs. Cost of specific programmes of work (such as 'Research and policy development') is included within the 'Core functions - non-pay' element.

This shows that in 2010/11 the EHRC spent 21% (£10.2m) of its total expenditure on functions which it is no longer providing, and 45% (£21.7m) on its core equalities and human rights functions. Corporate costs made up the remaining 34% (£16.3m) of the total expenditure.

## The EHRC's expenditure in the future

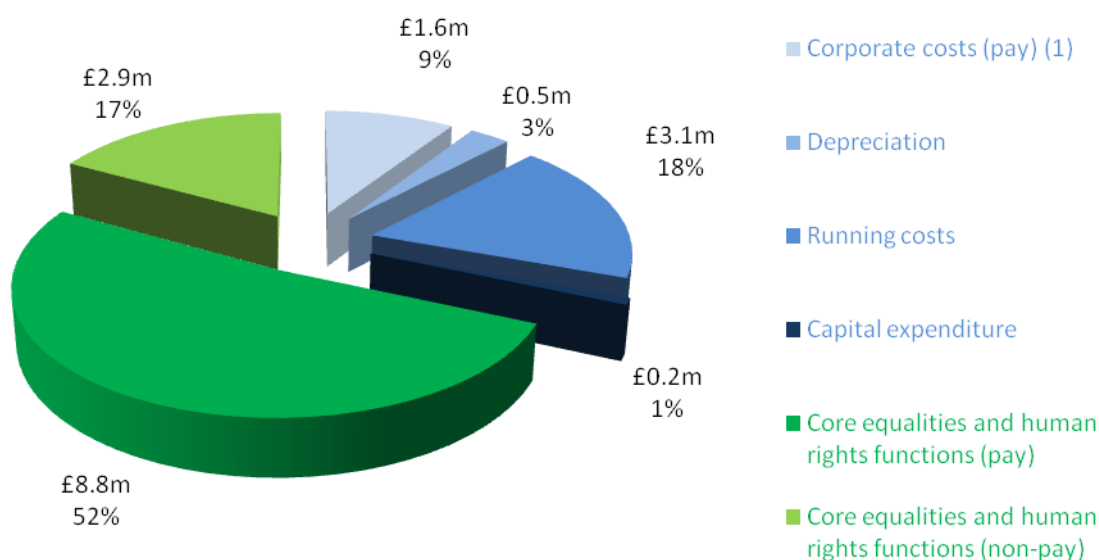
The EHRC has made significant progress in reducing its corporate costs, and it is on track to have reduced its 2010/11 corporate costs by over two-thirds over the next two years – through a move to shared services for back office functions such as finance and HR.

It has also developed a new target operating model, implementation of which began on 1 December 2012, which breaks down silos within the organisation, creating an integrated, intelligence-based, strategic approach to delivery. This will enable the EHRC to work more effectively as well as efficiently.

Officials at the EHRC have provided a breakdown of the resources they consider the organisation will need in the future to support the effective delivery of its statutory functions, once its new target model has been implemented. The EHRC's forecast is based on the cost of it undertaking the activities at Annex A under its new operating model.<sup>4</sup>

### Future core steady state - £17.1m

(of which core functions: £11.7m - 69%)



#### Notes

(1) Includes cost of new Board - £182k.

Figures rounded to the nearest £100k. No apportionment of running costs has been made (e.g. all travel and Subsistence comes under running costs).

This shows that in future steady-state the EHRC will spend 69% (£11.7m) of its steady-state budget on its core equalities and human rights functions, and 31% (£5.4m) on corporate costs.

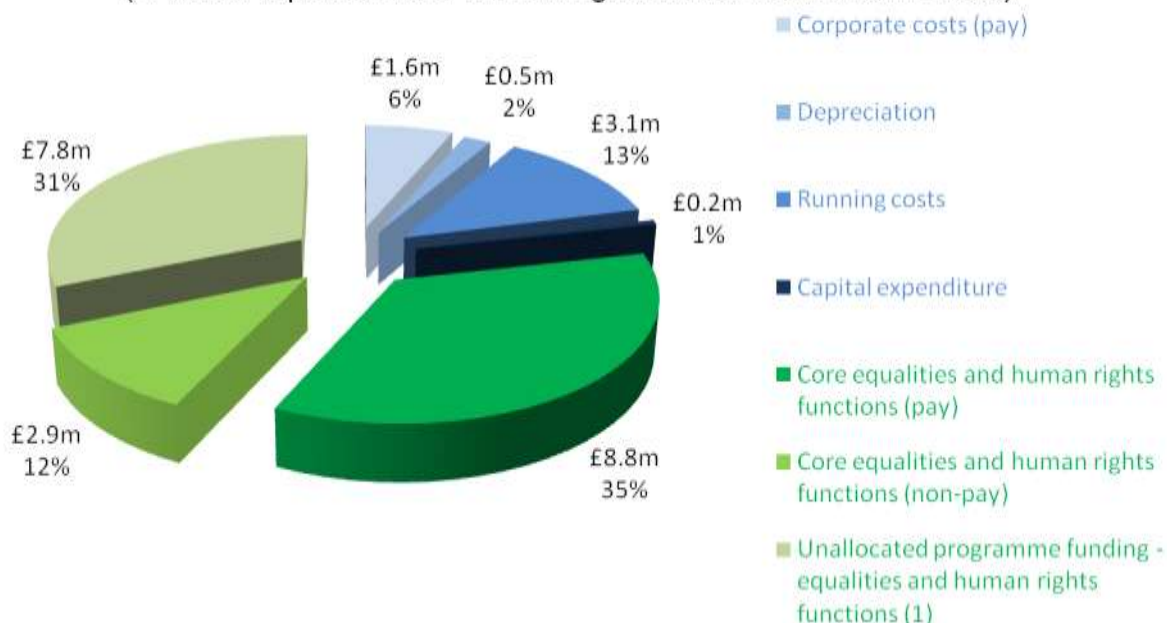
Additionally, EHRC officials considered that funding of £7.94 million would be required in 2013/14 and £1.4m in 2014/15 to enable the organisation to complete the transition to its new operating model.

<sup>4</sup> This reflects the activities undertaken by the EHRC in the past to support the effective discharge of its statutory functions. However, it is for the EHRC's new Chair and Board to decide what activities it wishes to undertake to fulfil those statutory functions in the future.

The review group agreed that there may be additional programmes that a new Chair and Board will wish to initiate in support of its functions. The Government is holding this additional programme funding in reserve. If the additional funding is included in the overall budget, future expenditure could look as follows:

### Future state ? - includes additional (unallocated) programme budget

(of which equalities and human rights functions: £19.5m - 78%)



#### Notes

(1) Indicative programme allocation for 2013/14 (£9.2m) used, of which £1.4m is already included in the steady-state core spend amount. 2014/15 indicative programme allocation increases to £9.4m.

All figures rounded to nearest £100k. No apportionment of running costs has been made (e.g. all travel and subsistence comes under running costs).

This would mean that, minus the helpline and grants (the funding for which has transferred to GEO) the EHRC would be spending only marginally less in 2014/15 (£19.5m) on its equalities and human rights functions than it spent in 2010/11 (£21.7m) – with greater impact as a result of its new operating model, and efficiencies.

The Secretary of State has asked the EHRC Chair to move as swiftly as possible to review the corporate costs with a view to improving the effectiveness of every pound spent in support of equality and human rights.



## Annex A

Function/Activity	Example Outputs	FTE	External cost £,000
Monitoring progress on equality and human rights	Triennial reviews of Britain's progress on equality and human rights. Shadow reports to UN Committees on Children's Rights, Civil and Political Rights and Rights of Persons with Disabilities. Support to MoJ to establish cross-government steering group to implement Universal Periodic Review recommendations.	20	300
Educating and promoting understanding of equality and human rights and international co-operation.	Implementation of strategy developed to promote more positive attitude to human rights. In partnership with SHRC rights-based approach to impact assessment developed.	23	100
Supporting victims of discrimination	Support provided to strategic legal cases	9	1,100
Using our enforcement powers to protect individuals and groups from discrimination, harassment and abuse.	Monitoring and assessment of the effectiveness by which public authorities are using the Public Sector Equality Duty as a policy and delivery tool. For example implementation of recommendation from assessment of 2010 Spending Review. Entering into and monitoring formal agreements with public bodies and private companies to change their working practices. For example monitoring implementation of stop and search compliance measures.	23	485
Providing advice and support to individuals, as well as the public, private, voluntary and advice sectors on how best to meet their responsibilities.	Practical guidance and toolkits produced in collaboration with key partners. Voluntary approach to increase FTE 250 board diversity promoted. Courses delivered for trades union and other advice providers.	21	370
Submit advice on the effectiveness of the law to Government, Parliament and International organisations on equality and human rights.	Responding to consultations and providing briefings on government bills and responses to Select Committee inquiries and providing technical equality and human rights impact assessments.	13	100
Conducting inquiries	Rolling programme of inquiries and be planning, conducting and following-up three inquiries, respectively, in one business year.	12	350
Scotland, Wales and Disability Statutory Committees	Advice provided on exercise of EHRC's functions in Scotland and Wales and those which affect disabled people. Includes monitoring of implementation of Scottish and Welsh specific duties and assessment of impact of independence and devolution on equality and human rights in Scotland.	27	270
Business Support (1)		38	

(1) – includes 10 FTE resource which are posts not expected to be required following a move to shared services.

