

Ethnic Minority Law Centre: AGM
27 November, 2008, 333 Woodlands Road, STUC

Introduction

I would like to thank the staff and board of EMLC for inviting me to address your 17th AGM. It is privilege and a pleasure to be here. As I explained to Jonathon, I am never too busy to celebrate hard work and success!

For me it is a humbling experience to be here. The vast contribution you made over the last year, is a sharp reminder of how much statutory and government agencies gain from the existence of organisations like yourselves.

So I am here today, not just to share some insights on the Scottish Human Rights Commission but also to thank you for the years of service you provided on behalf of the CRE, Local governments and more importantly, for those who would have suffered discrimination and abuse in silence had it not been for your legal advice, encouragement and support.

Despite the changing government agendas and the transformations in administrative arrangements for eliminating inequalities and discrimination in Britain - experiences of discrimination and inequalities remain commonplace in Scotland.

If anything, personal rights abuse and institutional inequalities are not only deeply routed in our society but have become much more complex, diverse and multi-levelled.

The nature and form of contemporary discrimination and inequality has evolved and now appears in different guises.

Whilst 30 years ago, colour and ethnicity formed the basis for racism, nowadays religion and more specifically, Islam, forms the basis for racial discrimination and judiasm remains a target for zenophobists. Moreover, Religion these days is not only used to sustain different forms of racism but is used also to re-enforce homophobic behaviour.

In this present climate of complex discrimination and prejudice, it is no longer possible to support individuals

and groups effectively without considering multiple issues in holistic ways.

In my view, it is therefore, important for us on the ground to shift both our focus and our strategies for addressing 21st century issues. We need to reposition ourselves in ways that can better support those who need our services by balancing collective and individual rights to protect the most vulnerable.

This for was for me, a strong motivation for joining the Scottish Human Rights Commission. By way of introduction, allow me to explain briefly what the SHRC was set up to achieve with groups like EMLC alongside the GB Equalities and Human Rights Commission (EHRC).

As some of you might know, I am a member of both organisations (transition at EHRC). Being an 'embodiment' (as I was recently told) of both, I am often asked how we intend to operate so that beneficiaries can get the best from us.

SHRC-EHRC

As you are aware, Equality is a reserved issue and as such is covered by the Equality Act 2006, which established the EHRC.

EHRC covers 3 traditional strands plus 3 new strands - religion and belief, age and LGBT. In addition, EHRC has the duty to promote Human Rights in England and Wales and in reserved areas in Scotland.

Although, building on the work of the traditional three commissions, the EHRC will operate differently from the traditional commissions and will take a more thematic rather than a strand-specific approach to its work.

I won't go into detail here as some of you might be familiar with how ECHR intends to work, more so, if you have been involved with the current consultations being undertaken (3 year business plan; 3 year equality scheme and new funding programme).

I will say a bit more about the funding, in general, a little later on.

SHRC

Turning, more specifically to the SHRC.

The Scottish Human Rights Commission was established by the Scottish Commission for Human Rights Act, 2006, as a requirement of the Scotland Act 1998.

We have been established in line with the UN Paris Principles¹. We hope to shortly obtain UN Recognition and intend to participate fully as a National Human Rights Institution within the UN system. This means we will be able to present reports to the UN on the progress of Human Rights in Scotland.

We were established by the Scottish Parliament, but unlike regular NDPBs, we are totally independent of the Scottish Government and UK Government – We are not sponsored by any specific government department, so we effectively have total independence to challenge without

¹ A framework of principles relating to the status and functions of national institutions for the protection and promotion of human rights, as agreed by the UN in Paris in 1991

prejudice, or interference from governments, the powers of institutions, public, private, or voluntary on human rights violation.

The SHRC adopts a rights based approach, not an anti-discrimination one as in the case of traditional equality bodies. Our definition of Human Rights is enshrined in the European Convention for Human Rights and our position is no different from that of the UNHCR on individual and collective rights

Our primary focus is, without any reservation, to cover the protection all human beings against abuse – we will do this by promoting the creation of a human rights culture by using a rights based framework. This is based on the principle of proportionality and balancing the rights of all concerned; collective, individual, staff, customers, patients, government department and the public.

So contrary to common misconceptions, fear and negative views surrounding the notion of Human rights in many quarters, if understood and used properly- a rights based approach will balance rights in a way that mutually acceptable solutions could be reached in areas of disputes, conflict or rights abuse.

Role of SHRC

Our role is clearly laid out in The Scotland Commission for Human Rights Act, 2006 - without going into much detail, I want to clarify that our role includes promoting a strong human rights culture and best practice within public institutions.

Moreover, we will advise government and MSPs on key policy areas, monitor law, policy and practice, conduct public inquiries, give oral evidence, intervene in civil proceedings and most importantly we have power of entry, inspection and interview in places of detention.

Since we have no direct powers to take up case work or to represent individuals directly, we will seek to work closely with organisations like EMLC to ensure that we are able to refer those who require legal advice and case work support.

We believe that we can be more effective by having this “third party” relationship as it allows us to intervene

independently in civil proceedings and to give oral evidence, which will support cases more effectively.

Working with the EHRC deliver Equality

The two Commissions are committed to working together to deliver seamless support, information and advice so that you, as practitioners can effectively serve those most vulnerable.

For us the interface between Human Rights and equality is clear. Equality is central and core to Human rights as is specifically reflected in Article 14 of the European Human Rights Convention and more generally throughout several articles and protocols.

To achieve equality and non-discrimination, the SHRC will use international instruments, taking a rights-based approach while the EHRC is more likely to focus mainly on domestic instruments, taking an anti-discrimination or equality focused approach, given their remit.

Since each commission has different sets of powers and has different strategic priorities, we intend to work in a

complimentary way to ensure that no area of abuse, inequality or discrimination falls through the net.

The SHRC will

- Focus is on individual rights rather than discrimination strands - the EHRC will focus on multiple levels of inequality based on discrimination strands.
- Fill gaps left by equality strands through interpretation and broadening anti-discrimination protection using HR instruments to deal with for example the treatment of asylum seekers, refugees, Gypsy and travellers – as the services provided to these groups are delivered through devolved services.
- Strengthen the so called “equality strands” by balancing rights and responsibilities and competing rights through mechanisms of proportionality, promotion and good relations

In a nutshell, the SHRC believes that if agencies take a rights-based approach, not only will they meet all the requirements in relation to the Single Equality Act, but will also create cultures of dignity, respect and fairness.

So by making public bodies accountable for their decisions, as required by the Scottish Human Rights Act 2006, vulnerable individuals will be protected against institutional malpractice, abuse and discrimination while institutions will benefit by improving their cultural environments.

Similarly, by focussing on the treatment of people in communities and in institutions, the work of the SHRC will cut across different sectors - eg scrutinsing abuse of old people in care, treatment of children and patients in mental health hospitals.

THE EHRC will complement our work in Scotland by

- Providing funding to undertake legal and community development work
- Act in areas that do not fall into our jurisdiction, mainly reserved areas, employment, and national security.
- Will act as one source of information and advice and tackle discrimination on multiple levels, including race, religion, sexual orientation, age, disability and gender.
- Will conduct judicial reviews and enforcement actions - while this is only in relation to equality and reserved areas of HR, the SHRC can give consent to the EHRC to use its powers in the devolved areas of Scotland.

Working with External partners to achieve Human Rights

Finally, the SHRC look forward to discussing in more detail how (together with the EHRC), we can work in partnership with you to ensure a high quality of legal support and advice in Scotland.

As most of you are aware, the infrastructure for community legal service support is weak in Scotland compared to England and Wales.

In the final years prior to the merger of the CRE, the CRE legal staff, in partnership with the EOC and DRC spent considerable time with capacity building work to enable other voluntary sector organisation, including the CABs to provide high quality legal advice. Something, I am pleased to note is being continued through your work at EMLC.

I am certain that the demand for capacity building and indeed the core legal support services provided by EMLC will continue to grow in future years.

More so, given the early indications that case-work will play a relatively smaller part within the operations of the

EHRC, with the latter intending to refer cases to external agencies..

Moreover, both the EHRC and the SHRC will focus in the coming years on promoting Human Rights thereby raising individual and institutional awareness of Human Rights

It is very likely that with heightened rights awareness, demand for legal advice and support will increase.

Although the SHRC is not remitted to provide funding to external organisations, it is in our interest to ensure that the provision of community legal services is appropriately funded.

Similarly, given our focus on a rights based approach, we would be interested in seeing more organisations being funded to provide rights based mediation and conflict resolution services. The latter is crucial if we are to realise our vision for a fairer Scotland, one that reflects the fundamental principles of respect, dignity and equality.

Conclusion

In conclusion, I would like to take this opportunity to congratulate both the board and staff of EMLC for another successful year and for the hard work you put in to ensure that those most vulnerable have somewhere reliable to go when in need of legal advice, support and service.

You have an excellent track record for your professionalism and high quality of service provision. I urge you to continue to develop your work both geographically as well as in different areas of expertise.

You have shown your ability to grow from your early focus on race and ethnic minorities to include, work on gender, asylum seekers and immigration. Your next opportunity awaits in the field of Human Rights.

I wish you the best for the coming year and thank you for listening.