

Women's rights and gender equality in 2018

Annex I

Equality and Human Rights
Commission recommendations to
the UN Committee on the
Elimination of All Forms of
Discrimination Against Women to
inform the UK List of Issues

1. Enhancing the status of international human rights in domestic law

Full implementation and incorporation of CEDAW

The EHRC recommends that the Committee ask the UK Government and Welsh Government where relevant to explain:

- if they intend to incorporate CEDAW into domestic law so individuals can effectively challenge rights violations using the domestic legal system and access a domestic remedy for alleged breaches of CEDAW rights
- if they will keep the reservations to CEDAW under regular review, publishing comprehensive explanations of their necessity, and
- if they will ensure that implementation plans are published in follow-up to CEDAW and all UN reviews, demonstrating a joined-up approach in relation to the UK's various human rights commitments.

Human Rights Act 1998

The EHRC recommends that the Committee ask the UK Government to explain:

- how it will ensure that there is no regression in the protection of women's rights and their access to redress in light of proposals for changes to the human rights legal framework.

Full implementation of the Equality Act 2010

The EHRC recommends that the Committee ask the UK and Welsh governments, where relevant, to explain:

- if they will reinstate all original, and commence any outstanding, provisions of the Equality Act 2010, including the socio-economic duty, and introduce new measures to address gaps in protection.

Implications of leaving the European Union

The EHRC recommends that the Committee ask the UK Government to set out:

- how it will ensure that there is no regression in the respect, protection and fulfilment of human rights as a result of the changes introduced following the UK's withdrawal from the EU
- how it will ensure that the loss of EU funding does not undermine the UK's equality and human rights infrastructure, including the already scarce funding

available to specialist services, such as those that support women survivors of violence and domestic abuse

- if it will publish rigorous equality and human rights impact assessments in advance of proposed changes to laws protecting equality and human rights, including analysis of the impact on women, and
- if it intends to introduce a new domestic right to equality in UK legislation.

2. Participation in political and civic life

Political participation

The EHRC recommends that the Committee ask the UK and Welsh governments, where relevant, to explain:

- if they will implement the statutory requirement for political parties to publish their parliamentary candidate diversity data for general elections, as set out in Section 106 of the Equality Act 2010, and in the interim, encourage political parties to publish voluntary diversity data via an independent third party, and
- if and how they will actively encourage all women, particularly those sharing other protected characteristics, to participate in democracy and politics through outreach initiatives, and continue to investigate ways of reducing barriers to women's participation.

Public and private appointments

The EHRC recommends that the Committee ask the UK and Welsh governments to explain:

- if they will take action to improve women's representation on public boards, particularly at chair level, and in the judiciary, and consider introducing temporary special measures if progress continues to lag, and
- if they will support a new national target for women to make up half of all new appointments to senior and executive level positions in all listed companies.

3. Gender-based violence, harassment and abuse

Background and context

The EHRC recommends that the Committee ask the UK and Welsh governments, where relevant, to set out:

- how they will ensure that they are undertaking joined-up, strategic cross-UK and cross-Government action to tackle VAWG and raise awareness of the issue
- if they will implement all outstanding recommendations of the JCHR inquiry into VAWG, including the establishment of an adequately resourced, full-time coordinating body, and
- if and what urgent steps they will take to put in place the necessary law, policy and practice changes to be able to ratify the Istanbul Convention and, once it is ratified, dedicate sufficient resources to central, devolved and local authorities to ensure its effective implementation.

Sexual violence

The EHRC recommends that the Committee ask the UK and Welsh governments to set out:

- how they will ensure that recent guidance on sexual violence and consent is promoted widely and implemented effectively within the criminal justice system, to enable police forces to take a victim-centred approach and to prioritise this issue, and
- if they will, and through what steps, improve the reporting and recording of sexual violence crimes, and increase prosecution and conviction rates.

The EHRC recommends that the Committee ask the UK Government to set out:

- how it will ensure that victims receive appropriate support, and that all support services have sufficient and secure funding on a long-term basis, including those that provide specialist services to Black and ethnic minority women, women with learning difficulties and women with complex needs.

Domestic violence, abuse and femicide

The EHRC recommends that the Committee ask the UK and Welsh governments to explain:

- if they will – and through what steps – improve the reporting and recording of domestic violence and abuse, and increase prosecution and conviction rates
- how they will ensure that domestic violence services are adequately funded and supported to address all forms of abuse, including the specialist needs of disabled women, Black and ethnic minority women, and those with complex needs
- if they will work with local authorities to collect and monitor data about the number of spaces needed in refuges, develop a sustainable and accountable funding

model for refuges and domestic abuse services, and withdraw proposed changes to housing benefit that would remove women's ability to use it to pay for refuge accommodation, and

- if they will support the collection of data on femicide, and how they will ensure that national homicide data reflects the gendered nature of crimes by collecting data on the sex and age of the perpetrator and victim, their relationship and previous domestic abuse convictions, and by disaggregating this data across police force areas.

The EHRC recommends that the Committee ask the Welsh Government to explain:

- how it will address the Local Government and Communities Committee's concerns around the pace and consistency of implementing the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act, and implement its recommendations.

Harmful practices

The EHRC recommends that the Committee ask the UK Government to set out:

- if, and how, it will urgently act on all outstanding recommendations of the 2015 Her Majesty's Inspectorate of Constabulary report on police responses to so-called 'honour-based' violence.

The EHRC recommends that the Committee ask the UK and Welsh governments to explain:

- how they will ensure that all relevant public sector professionals receive mandatory training in how to identify and support women and girls affected by harmful practices.

Female genital mutilation

The EHRC recommends that the Committee ask the UK and Welsh governments, where relevant, to set out:

- how they will improve FGM data collection in line with the recommendations of the Home Affairs Committee's 2016 inquiry
- if they will implement a comprehensive, coordinated and properly funded FGM strategy, with clear objectives and delineated accountabilities within the UK and devolved governments, and involving relevant communities and non-governmental organisations

- if they will provide sufficient, sustainable funding to community groups that work closely with communities where FGM is practised, and
- what concrete steps they will take to encourage successful prosecutions for FGM.

Forced¹ and child marriage²

The EHRC recommends that the Committee ask the UK Government to explain:

- how it will ensure that legislation on marriage is in line with the international human rights framework, ensuring the best interests of the child are taken as a primary consideration in marriage legislation, providing adequate safeguards for under-18s, and
- how it will ensure thorough investigation of all referrals of forced marriage, including those involving women with learning difficulties.

Hate crime, hate speech and identity-based harassment

The EHRC recommends that the Committee ask the UK and Welsh governments to set out:

- how they will improve the way in which data is collected and shared so that robust analysis can be undertaken to inform effective approaches to deal with hate crime; and if they will make sure that data will be fully disaggregated on the basis of protected characteristics, and gathered consistently across the criminal justice system and within individual agencies to allow comparative and chronological analysis, and
- if they will, with due regard for the right to freedom of expression, invest in further research into online abuse marked by misogyny, violence against women and girls, and other bias-motivated hostility, and develop effective mechanisms and interventions for tackling it.

¹ A 'forced marriage' is any marriage that occurs without the full and free consent of one or both of the parties and/or where one or both of the parties is/are unable to end or leave the marriage, including as a result of duress or intense social or family pressure. OHCHR (2014), 'Preventing and eliminating child, early and forced marriage', UN doc. A/HRC/26/22, para. 6. Available at: http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session26/Documents/A-HRC-26-22_en.doc [accessed: 5 January 2018].

² 'Child marriage' is a marriage in which at least one of the parties is under 18 years.

The EHRC recommends that the Committee ask the UK Government to explain:

- if it will commit to a full-scale review of hate crime offences and enhanced sentencing powers in England and Wales to ensure adequate protection for women and fair and appropriate access to justice, and
- if it will consider amending hate crime legislation to extend protections on the basis of gender.

4. Access to civil justice

Legal aid

The EHRC recommends that the Committee ask the UK Government to set out:

- how it will ensure its LASPO post-implementation review utilises the full range of evidence available, including an assessment of the equality and human rights impacts of the LASPO provisions on women, survivors of domestic violence and other groups sharing protected characteristics
- if it will consider bringing areas of law back into the scope of legal aid if reductions in scope are found to have had a disproportionate impact on women, and
- if it will put forward legislation to end the cross-examination of domestic violence victims by their perpetrators in the family courts.

Employment tribunals

The EHRC recommends that the Committee ask the UK Government to set out:

- how it will identify and expedite refunds for all claimants who have paid employment tribunal and employment appeal tribunal fees over the relevant period that the order was in force
- if it will ensure no new barriers to accessing employment tribunals are introduced
- if it will extend the time limit to bring an employment tribunal claim in cases involving pregnancy and maternity discrimination from three to six months, in line with other employment claims such as redundancy and equal pay, and
- if it will amend the Equality Act 2010 to prohibit employers asking job applicants questions related to pregnancy and maternity, with a breach enforceable by the EHRC.

5. Human trafficking and modern slavery

Modern slavery

The EHRC recommends that the Committee ask the UK Government to explain:

- if it will review the Modern Slavery Act 2015 within five years of its commencement
- how it will address the outlined gaps in the Modern Slavery Act by bringing forward amendments to the legislation
- if it will update the 2014 modern slavery strategy³ and include new ambitious targets for increasing referrals, training frontline services, improving data collection and creating a framework for government agencies to coordinate their work, and
- if it intends to introduce a legal duty to support victims of modern slavery with clear minimum standards in England and Wales prior to the UK's withdrawal from the EU.

Strengthening the National Referral Mechanism

The EHRC recommends that the Committee ask the UK Government to explain:

- if it will publish the evaluation of the pilot schemes that tested the recommendations of the 2014 review of the NRM to explain its position on each of the recommendations, and
- if it will consult formally on plans to reform the way victims of modern slavery are identified and supported before the changes are formally adopted, and publish a timetable for their implementation and review outcomes.

The EHRC recommends that the Committee ask the UK and Welsh governments to set out:

- if they will create a requirement for public authorities to record and report suspected victims of trafficking.

³ HM Government (2014), 'Modern slavery strategy'. Available at: <https://www.gov.uk/government/publications/modern-slavery-strategy> [accessed: 18 January 2018].

6. Detention and asylum

Women in prison

The EHRC recommends that the Committee ask the UK Government to set out:

- how it will use the opportunity of its new female offenders strategy to address and implement all outstanding recommendations of the 2007 Corston report, and how it will ensure that the strategy gives full consideration to the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders ('the Bangkok Rules'), and
- how it will monitor and review the use of community sentences for women with the aim of promoting their greater use.

The EHRC recommends that the Committee ask the UK and Welsh governments to explain:

- if they will develop and provide funding to sustain a network of women's centres to support liaison and diversion from the criminal justice system and enable rehabilitation, particularly for ethnic minority women, and
- how they will improve the provision and availability of mental health services in prison, including for transgender women, recognising the different issues women experience while in prison, to prevent suicide or self-harm.

Immigration detention

The EHRC recommends that the Committee ask the UK Government to set out:

- how it will ensure that immigration detention is used as a last resort, and if it will commit to setting a maximum limit of 28 days on the length of time an individual can be held
- how it will improve screening and strengthen detention policies to ensure that women who have experienced rape and gender-based violence, pregnant women or women who have mental health conditions are not held in immigration detention, and
- what steps it will take to ensure women detainees receive adequate healthcare services, including appropriate mental health care and, until the detention of pregnant women ceases, midwifery.

Asylum seekers' access to services

The EHRC recommends that the Committee ask the UK Government to explain:

- if it will fully evaluate the effect of data sharing between health services and the Home Office, including the effect of fear and misunderstandings of how data is used and shared, and take action to tackle any negative effects on access to health services and health outcomes of migrant women as a consequence of this, including clearly communicating any changes to the data-sharing policy
- how it will improve monitoring and inspection of private sector delivery of asylum accommodation contracts to ensure that the rights and needs of vulnerable women asylum seekers are met
- if it will fully evaluate the effect of the regulations for overseas charges for healthcare and take action to tackle any negative effects on access to health services and health outcomes in relation to:
 - the unintended impact on groups who are eligible for free healthcare such as women asylum seekers, refugees and other categories of destitute migrants
 - the impact on vulnerable groups who may be technically chargeable for healthcare but have no realistic means of paying for this care, and
- if it will amend the Immigration Rules to ensure spouses of refugees do not have to choose between staying with an abusive partner or having no recourse to public funds.

The EHRC recommends that the Committee ask the UK and Welsh governments to set out:

- how they will ensure that there is a good understanding of health-charging regulations and eligibility requirements among healthcare staff, migrants, refugees and asylum seekers, and the organisations that support them, to ensure the right to healthcare is upheld.

7. Adequate standard of living and social security

Cumulative impact of welfare and tax changes

The EHRC recommends that the Committee ask the UK Government to explain:

- if it will review the level of welfare benefits to ensure that they provide an adequate standard of living for women in households who rely partially or wholly on transfer payments
- if it will demonstrate that regressive reforms to the tax and transfer payment system are temporary, necessary, proportionate and non-discriminatory; that they do not undercut a core minimum level of protection, and put in place any mitigating measures required to safeguard women's rights, and

- if it will prepare a cumulative impact assessment for each fiscal event, as well as analysing the impact of key individual tax or social security measures, incorporating intersectional analysis of people sharing certain protected characteristics.

Specific changes to the social security system

The EHRC recommends that the Committee ask the UK Government to explain:

- if it will undertake a further equality impact assessment of Universal Credit and offer split payments as standard, and how it will, in the interim, ensure that the current system of single payments to a couple includes improved and robust safeguards for women experiencing domestic abuse
- if it will conduct a further equality impact assessment that fully considers the effects of the further reduction in the household benefit cap on women, and set out comprehensive strategies to mitigate any projected disproportionate and unjustified impacts, and
- if it will review the impact on living standards restricting the entitlement to Child Tax Credits has had, set out mitigating actions where adverse impact is identified, and amend the Child Tax Credit (Amendment) Regulations 2017 to mitigate the impact of the so-called 'rape clause'.

Changes to the state pension age

The EHRC recommends that the Committee ask the UK Government to set out:

- if it will consider introducing transitional arrangements for those most disadvantaged by the changes to the state pension age (SPA) within the cohort of women born in the 1950s
- if it will undertake a comprehensive communications campaign setting out the SPA changes and their consequences, and where to access accurate, accessible information, and
- if it will make revisions to state pension statements in line with the recommendations made by the Work and Pensions Committee.

Housing and homelessness

The EHRC recommends that the Committee ask the UK and Welsh governments to set out:

- how they will improve data collection on homelessness across the UK to more accurately reflect estimated prevalence and include breakdowns by protected characteristic group, and
- if they will take immediate measures to address the significant increase in homelessness, and how they will ensure that there are sufficient resources to implement effective women-specific initiatives and to provide adequate reception facilities, such as emergency shelters and hostels, as well as social rehabilitation centres.

The EHRC recommends that the Committee ask the UK Government to explain:

- if it will replace the current Traveller definition in the Planning Policy for Traveller Sites with the more inclusive one in the Housing Act 2004, and reintroduce the duty on local authorities to provide sites for Gypsies and Travellers, as was previously required under the Caravan Sites Act 1968 and as is required in Wales under the Housing (Wales) Act 2014, and
- if it will reconsider the 'spare room subsidy' regulations, which discriminate against survivors of domestic abuse who have 'safe rooms'.

8. Just and fair conditions of work

Women in work

The EHRC recommends that the Committee ask the UK and Welsh governments to set out:

- if they will monitor, and what steps they will take to improve, women's access to secure employment with just and fair conditions, including for groups with comparatively low employment rates such as ethnic minority women and disabled women
- how they will address the problems with the availability and affordability of properly regulated childcare, including by ensuring adequately funded, flexible and high-quality childcare for all children, and if they will monitor the impact different models of provision have on women's labour market participation, and
- how they will encourage men and women to share caring responsibilities on an equal basis.

The EHRC recommends that the Committee ask the UK Government to explain:

- if it will introduce dedicated non-transferable 'use it or lose it' parental leave for fathers with a pay rate that acts as a real incentive to take-up, and

- if it intends to legislate to extend the right to request flexible working to apply from day one in all jobs, unless there is a genuine business reason that means that this is not possible.

Discrimination and harassment in the workplace

The EHRC recommends that the Committee ask the UK Government to explain:

- if it will introduce a mandatory duty on employers to take reasonable steps to protect workers from harassment and victimisation in the workplace, and
- if it will introduce a statutory code of practice on sexual harassment and harassment at work, specifying the steps that employers should take to prevent and respond to sexual harassment, and which can be considered in evidence when determining whether the mandatory duty has been breached.

The EHRC recommends that the Committee ask the UK and Welsh governments to explain:

- how they will ensure that women have access to employment advice services, particularly in relation to sexual harassment and the rights of pregnant women and new mothers.

Occupational segregation

The EHRC recommends that the Committee ask the UK and Welsh governments to explain:

- what steps they will take to tackle women's persistent occupational segregation in typically low-paid roles and sectors
- how they will ensure high-quality apprenticeships to reduce women's employment gaps and occupational segregation, and
- if they will consider ways to improve the participation and progression rates of under-represented groups in apprenticeships and set aspirational targets.

Pay

The EHRC recommends that the Committee ask the UK Government to explain:

- how it will enforce the National Living Wage and monitor and report on the impact of NLW on women's pay and standard of living, and if it will consider increasing the level at which NLW is paid, and
- if it will make it mandatory for employers to publish a narrative with their gender pay gap data to help employees and the public understand the factors underlying

the gender pay gap and focus on how to make substantive improvements to the workplace for women.

The EHRC recommends that the Committee ask the UK and Welsh governments:

- if they will develop national action plans to close gender, disability and ethnicity pay gaps, and report regularly on progress.

9. Highest attainable standard of health

Mental and physical health

The EHRC recommends that the Committee ask the UK and Welsh governments to explain:

- if they will set gender equality objectives to address health inequalities experienced by women, which should provide focus to gender-specific and gender-sensitive health policies and services where evidence demonstrates targeted interventions would be effective
- if they will monitor and publish progress against equality objectives under the Public Sector Equality Duty, and what further steps they will take where progress is insufficient
- how they will ensure the routine collection of data on women's access to, experience of, and outcomes of health services, disaggregated by protected characteristics, and
- how they will ensure that there are sufficiently funded, appropriate and high-quality mental health services that meet local demand.

Sexual and reproductive health and rights

The EHRC recommends that the Committee ask the UK and Welsh governments to set out:

- what steps they will take to ensure that all women can enjoy access to mainstream sexual and reproductive healthcare and maternity services, including disabled women, on an equal basis with others.

The EHRC recommends that the Committee ask the UK Government to explain:

- how it will ensure that transgender women are able to access gamete storage services, free from discrimination, and

- if it will standardise eligibility criteria for IVF treatment, in line with the guidelines from the National Institute for Health and Care Excellence (NICE), to ensure that all eligible women receive three cycles of IVF, regardless of where they live.

10. Equality in education

Bias in subject choices

The EHRC recommends that the Committee ask the UK and Welsh governments to explain:

- how they will ensure that careers guidance and work experience opportunities tackle gender stereotypes and encourage a wider range of subject and career choices for women and girls from primary school onwards, and
- if, and how, they will increase their efforts to tackle barriers to, and encourage girls' uptake of, STEM subjects, while demonstrating regard to different protected characteristics and socio-economic groups, so that all girls have the opportunity to consider and pursue this career path.

Personal, social, health and economic (PSHE) and relationships and sex education

The EHRC recommends that the Committee ask the UK and Welsh governments to explain:

- if they will make personal, social, health and economic education mandatory in its entirety, in all schools and educational settings from key stages 1 to 4, with a curriculum that offers comprehensive coverage of human rights and equality issues, and
- how they will ensure that statutory RSE meets the needs of all young women and girls, and other groups with protected characteristics, so that they are equipped with the knowledge they need to stay safe and prepare for life beyond the classroom.⁴

The EHRC recommends that the Committee ask the Welsh Government:

- if it will accept and act on the recommendations from the Sex and Relationships Education Expert Panel.

Bullying and harassment in schools

The EHRC recommends that the Committee ask the UK and Welsh governments to explain:

⁴ This should include coverage of sexual and reproductive health and rights, and discussion of same-sex as well as heterosexual relationships.

- if they will conduct regular surveys to determine the extent of bullying and prejudice-based bullying, sexual harassment and violence in schools, so they have a better understanding of the issue, and to provide a baseline to track progress and to take appropriate action on the findings
- how they will disseminate best practice on how schools can address sexual harassment and violence, including advice on supporting teachers to feel confident in recognising and addressing such behaviour
- how they will ensure that schools receive consistent guidance on preventing and tackling bullying, including sexual harassment and violence; and if they will make sure that this guidance requires all schools to gather, record by protected characteristic and use the information on bullying to develop and evaluate their anti-bullying strategies, in line with their obligations under the Public Sector Equality Duty, and
- how they will ensure initial teacher training includes support on how to prevent and tackle prejudice-based bullying, sexual harassment and sexual violence.