



House of Commons  
Scottish Affairs Committee

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**Work of the Equality  
and Human Rights  
Commission, Scotland:  
Government Response  
to the Committee's  
Third Report of Session  
2008–09**

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**First Special Report of Session 2009–  
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## The Scottish Affairs Committee

The Scottish Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Scotland Office (including (i) relations with the Scottish Parliament and (ii) administration and expenditure of the offices of the Advocate General for Scotland (but excluding individual cases and advice given within government by the Advocate General)).

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Danny Alexander MP (*Liberal Democrat, Inverness, Nairn, Badenoch and Strathspey*)  
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### Powers

The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the Internet via [www.parliament.uk](http://www.parliament.uk).

### Publication

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee are on the Internet at [www.parliament.uk/scotaffcom](http://www.parliament.uk/scotaffcom).

### Committee staff

The current staff of the Committee are Nerys Welfoot (Clerk), Alison Groves (Second Clerk), Briony Potts (Committee Assistant), Becky Crew (Committee Assistant), Karen Watling (Committee Assistant) and Tes Stranger (Committee Support Assistant).

### Contacts

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## Second Special Report

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The Scottish Affairs Committee reported to the House on the *Work of the Equality and Human Rights Commission, Scotland* in its Third Report of Session 2008–09, published on 30 June 2009 as HC 176. The Government's response to the Report was received on 27 August 2009. We also received a response from the Chairman of the Equality and Human Rights Commission on 9 July 2009.

We note the comments of the Chairman of the Equality and Human Rights Commission on the remit of the Commission with regards to immigration policy. We agree that immigration issues are within the Commission's remit. However, as detailed in our Report, we felt that the Commission was best occupied focussing on dealing with the consequences of immigration for community cohesion and good relations, rather than seeking to influence immigration policy.

We welcome the response of the Chairman of the Equality and Human Rights Commission which recognised that it is not the Commission's remit to determine the desirability or otherwise of Scotland being granted further powers over immigration control under the devolution settlement.

We note the recent publication of the Scotland Business Plan 2009–10 and will continue to monitor the work of the Scottish Directorate of the Commission and the important work it carries out, particularly in the area of poverty and equality.

## Government response

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The Government notes the recommendations in this report. While equal opportunities legislation is reserved, an exception in the Scotland Act 1998 enables Scottish Ministers to encourage equal opportunities and to impose duties on Scottish public authorities in order to meet their equal opportunity requirements. EHRC Scotland's work therefore reflects this context, and is able to take into account any Scotland specific equality issues where appropriate when setting priorities.

**1. We recommend that the Scottish Directorate of the Commission for Equality and Human Rights use their position as a UK body having a specific remit for Scotland to take up with the Scottish Executive the provision of legal advice and assistance in the equality field. (Paragraph 31)**

**2. We recommend that the Scottish Directorate of the Commission take up the need for developing and funding legal advice and assistance in the equality field with the Scottish Government. (Paragraph 33)**

The Government Equalities Office (GEO) sponsors the Commission and provides grant in aid to the Commission. It is up to the Commission to allocate this funding. The Scottish Government may choose to provide additional funding to the Commission for Scottish projects in devolved areas if it so wishes.

**3. We recommend that the Scottish Directorate of the Equality and Human Rights Commission takes forward its plan to publish its own Scottish strategic plan, setting out how it intends to prioritise and resource its work in tackling both Scottish aspects of the Commission's Britain-wide goals and the specifically Scottish issues relevant to its remit which it has identified. (Paragraph 36)**

The Equality Act requires the Commission to publish a strategic plan, but there is no stipulation that there should be a separate plan for Scotland. Therefore the publication of strategic and business Plans for Scotland is a matter for the Commission rather than Government.

However, the Framework Agreement with the EHRC provides for a GEO Minister to write a letter to the Commission setting out the Government's priorities for consideration in drawing up the strategic plan. In doing so, the Minister will assess and raise any Scottish issues to be prioritised within the GB-wide plan, and reserved matters which apply across GB are also highlighted. The Scottish Government are given the opportunity to feed into this process in relation to their devolved responsibilities, and are consulted when drawing up the letter.

Scotland Office Ministers have been consulting with a range of Scottish stakeholders, which helps inform GEO's priorities in relation to their equalities agenda. This has included meetings specifically on the current Equality Bill with the Scottish Trade Unions Congress, RNIB, RNID, MIND and Capability Scotland.

The Commission has also undertaken direct consultation with Scottish stakeholders when drawing up their GB-wide strategic plan, in line with the requirement to consult with those having the knowledge or experience relevant to its functions, as set out in the Equality Act 2006. This included a consultation event in Glasgow on the 24<sup>th</sup> of February 2009.

**Scotland Office**

**August 2009**

## Response from the Chair of the Equality and Human Rights Commission

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I wanted to follow up your recent press statements around the Scottish Affairs Committee's report on the work of the Commission in Scotland.

I was concerned to note that the report, and specifically the accompanying press release, stated that the committee felt that the Commission in Scotland was operating outside its remit in addressing immigration and Scotland's need to attract new people of working age to support an ageing population.

On reading the report I believe that the committee has misunderstood the remit and status of the Equality and Human Rights Commission. The report and press release imply that the committee is of the view that in Scotland our remit is limited to devolved issues. In fact we operate across Great Britain (you will be aware that Northern Ireland has its own Equality Commission and a separate Human Rights Commission). As such immigration issues are wholly within our remit.

I can understand why members of the Committee may interpret our position through the prism of the constitution, and the responsibilities of the Scottish versus the UK government, however it is not for the Commission to comment on the desirability or otherwise of Scotland being granted further powers over immigration control.

Instead our "Room for Manoeuvre" report sought to explore what options are possible to address the real difficulties Scotland will face if it fails to address its aging population. The Commission has a mandate to promote good community relations and we believe a failure to address this demographic time-bomb will have a negative impact on community relations in Scotland—both between generations and between established communities and migrants settling in Scotland. The report is part of a broader suite of work on the impact of immigration policy across Britain which the Commission published during 2009.

It may be that the presentation that the Commission gave to the Scottish Affairs Committee did not focus on the status of the Scotland directorate in relation to the rest of the Commission. The report appears to describe the Commission in Scotland as an autonomous body, independent from the Commission as a whole. However, the Scotland Directorate is in effect the EHRC in Scotland, operating with delegated authority through our Scotland Committee. The Scotland Committee has a statutory role in ensuring that the work of the Commission is appropriate to the needs of Scotland, but it does not directly manage or oversee the work of the Scotland Directorate.

Within this structure I believe that the Commission's Scotland office is well placed to respond to debates and initiatives which impact on equality, and good relations in both the devolved and reserved contexts. It is only in the area of human rights that the work of the Commission in Scotland differs somewhat. Because the Scottish Parliament voted to establish the Scottish Commission for Human Rights, the Commission in Scotland does not consider issues of human rights in devolved areas. Otherwise all equality aspects of reserved and devolved policy are clearly within our remit.

I wanted to set this out in a letter to you as Chair and hope that you can clarify our remit with the rest of the Scottish Affairs Committee. It is important for the Commission that I clarify our role as I note it is the intention of the Committee to share its conclusions with the Government Equality Office, the Joint Committee on Human Rights and the Communities and Local Government Select Committee. We wouldn't want this misunderstanding around our remit to be perpetuated across Parliament.

Perhaps you would like to meet with myself and Morag Alexander, Chair of the Scotland Committee to offer us the opportunity to clarify our role and to discuss any future work which may be of interest to the Scottish Affairs Committee.

**Trevor Phillips**

**Chair of the Equality and Human Rights Commission**

**July 2009**