Multiple discrimination consultation response

The Equality and Diversity Forum (EDF) - the network of national organisations working to advance equality and human rights – considers that people are complex and multi-layered and that the law needs to recognise this complexity. We therefore welcome the Government's recognition of this and their consequent discussion paper on ways to remedy this. We welcome in particular the proposal to introduce provision for taking multiple discrimination claims, although we also have some reservations about the limits of aspects of the proposal.

When people are treated badly or unfairly because of a combination of protected characteristics they, not unreasonably, expect to be able to seek a remedy in the courts. There is a public policy interest in promoting a diverse society and in providing a remedy for harmful discrimination. In providing such a remedy it is increasingly obvious that the law needs to be able to take account of the complexity of life as it is really experienced by people. The law needs to be able to reflect the discrimination that has actually occurred. The law changes that would make this possible need not be difficult to understand or burdensome for employers to comply with and would address real problems that people are experiencing on the ground[1]. Multiple discrimination happens when a sub-group within a primary group having protected characteristics experiences discrimination. Thus the people affected by this are among the most vulnerable in our society so that the more a person differs from the norm, the more likely she is to experience multiple discrimination and the less likely she is to gain protection.

The Government recognised that this was an increasing problem when it chose to set up the Equality and Human Rights Commission. Thus, the Right Honourable Patricia Hewitt when she was Secretary for Trade and Industry pointed out :

> *As individuals, our identities are diverse, complex and multi layered. People don't see themselves as solely a woman, or black, or gay and neither should our equality organisations.*

This was given as one of the primary reasons for setting up a new Commission for Equality and Human Rights. While now widely recognised by those working in the equality field little has been done to address the problems that this entails.[2] It makes no sense to disaggregate humans into their separate parts, however, this is exactly what the law does at present. This discussion paper and the Equality Bill provide a good opportunity to change this.

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[1] Citizens' Advice, which is well placed to assess the scale of the issue, believes that there is evidence of a real problem.

[2] See, for example, UN General Assembly Report of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Durban, 2000, declaration no 2 : We recognize that racism, racial discrimination, xenophobia and related intolerance occur on the grounds of race, colour, descent or national or ethnic origin and that victims can suffer multiple or aggravated forms of discrimination based on other related grounds such as sex, language, religion, political or other opinion, social origin, property, birth or other status.

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History and current position

It seems clear that at one time, particularly prior to 2004[3], multiple discrimination claims were allowed. This appeared to cause no particular problems to employers or to the tribunals considering the cases. In appendix 1 we have set out some examples of cases.

Whilst cases involving the combination or race and sex are now being clearly ruled out by the tribunals at an early stage, some claims involving other intersections continue to be made and accepted by tribunals and courts; for example, cases entailing consideration of whether Muslim women should be able to wear headscarves or veils in certain circumstances. They have been treated as cases of religious discrimination. However, although issues of religious discrimination are engaged, an intrinsic part of the alleged discrimination relates to the fact that the complainant is a female and not a male Muslim. A male Muslim would not have experienced discrimination in this form.

Analysis of this example provides useful insights. A Muslim woman who is excluded because she is wearing a headscarf appears to have had had a provision, criterion or practice applied to her which is discriminatory in relation to a relevant protected characteristic, her religion or belief. It applies to persons with whom she does not share a religion or belief. However, sub clause 18(2)(b) requires that it *'puts or would put persons with whom B shares the characteristic at a particular disadvantage when compared to persons with whom B does not share it'*. The provision in question here, namely the requirement not to cover her hair, puts the Muslim woman at a disadvantage, however, it does not put a Muslim man at a disadvantage. So whilst it puts some persons who share the characteristic at a disadvantage, it also does not put a significant proportion of them at any disadvantage at all. So far this argument does not appear to have been put in relation to these cases, but it can only be a matter of time before it is. It seems to us that such an argument would be difficult to defeat and consequently that the consideration currently being given by tribunals to such cases would be likely to end. The key question in establishing indirect discrimination in such a case is whether a ban on the headscarf or veil is justified, but unless the disadvantage question is answered positively this justification question will never arise. An indirect multiple discrimination case would be more appropriate in these circumstances.

The cases of *Azmi v Kirklees Metropolitan Borough Council*[4] and *Noah v Desrosiers t/a Wedge*[5] detailed in Appendix 1 provide examples. (Of course, it is important to remember that any form of indirect discrimination can be justified. So that in the case of *Azmi* the school was able to justify their requirement that Ms Azmi should not cover her face while she was teaching the children as it impeded her communication with the pupils).

Direct discrimination cases involving older women, such as the newsreaders Selina Scott or Moira Stewart who did not have their contract renewed when older male

[3] i.e. the judgment in *Bahl v Law Society* [2004] IRLR 799.
[4] [2007] IRLR 484
[5] Equal Opportunities Review, April 2009, p33.

newsreaders experienced no such problems, were likely to have been taken on grounds of age discrimination. However, these cases could have been defeated on proof of the fact that women newsreaders were employed and had no problem with having their contracts renewed and so were older workers (provided they were men!). It is understood that these cases were settled.

Limitations of GEO proposal

As indicated earlier, we strongly welcome the GEO's proposal to insert a new multiple discrimination provision into the Equality Bill. However we regret that it is limited to direct discrimination only because we believe that this will cause problems for courts and tribunals hearing these cases. Once it is accepted that when people are subjected to discrimination on more than one ground 'it can be difficult, complicated and even impossible, to prove such claims'[6] there can be no good reason for excluding claims of indirect discrimination. It is not always clear until the full facts are heard whether a case under consideration is direct or indirect, whether the resultant discrimination is caused directly or by the imposition of a provision, criterion or practice. Appropriate protection requires that indirect discrimination on more than one ground should be covered, as the analysis above illustrates. Harassment, as a separate civil wrong, is particularly important in relation to situations where there is no valid actual or hypothetical comparator, situations when the employer may say that everyone is treated equally badly. The fact that everyone is treated badly should not be permitted to allow harassment whether that harassment is on one ground or several grounds.

We agree that the grounds of pregnancy and maternity and marriage and civil partnerships should not be included and that a multiple claim should not exclude a single claim being brought alongside a multiple claim. We consider that the burden of proof in a multiple discrimination case will be slightly higher than for a single ground case as the person bringing the claim will have to establish sufficient facts for both grounds and for the intersection so that 'the court could decide, in the absence of any other explanation, that a person (A) contravened the provision concerned...'[7].

We accept that no changes need to be made to the way in which damages are awarded because judges already have a broad discretion to take into account all the relevant facts which will include the number of grounds and the severity of the discriminatory conduct. So that in the case of *Al Jumard v Clywd Leisure Ltd*[8] the Employment Appeal Tribunal correctly decided that in a case where different forms of discrimination arise out of the same facts, a single award for injury to feelings is justified. But where there are specific acts which fall into one category but not the other, they should be separately assessed. At the end of the exercise the Tribunal must look at the total figure in the round to ensure that it is proportionate overall and does not involve double counting.

[6] *Equality Bill: Assessing the impact of a multiple discrimination provision, April 2009,* para 2.3.
[7] Equality Bill clause 130(2).
[8] [2008] IRLR 345.

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Implications for Employers and Service Providers

The EDF agrees that many businesses and other organisations have excellent records on diversity. We believe that any business or organisation that has good equality policies on each of the separate grounds will necessarily cover combinations of protected characteristics.

Employers who operate a fair system of employment and implement fair policies that do not discriminate on any protected ground and in which they can justify all the requirements or conditions that they place on their staff should have no problems with a law on multiple discrimination.

Implications for Tribunals and Courts

The task for the Tribunal or Court is to analyse what has happened and whether the facts before them amount to any defined form of discrimination. They consider the facts and then consider whether they fit into any of the categories of behaviour that the law prohibits. It seems likely that a claimant who could, if the Equality Bill so permitted, bring a multiple discrimination claim, would also bring one or more claims on a single ground basis. These claims would be in the alternative. The facts that would be discussed before the tribunal would be the same or very largely the same. The extra time that would be needed would relate to the submissions as to the effect of those facts in a multiple discrimination context and the reflection that the tribunal would need to bring to bear on those facts and submissions.

However, whilst the inclusion of a multiple discrimination claim could take a little more time for those reasons it could equally reduce the time taken by the tribunal to consider the case if multiple discrimination provided the more appropriate analytic framework than consideration of discrimination on a single ground. Accordingly EDF does not consider that on average there will be a material increase in the time taken over such cases.

A second consideration is the proposal that only direct and not indirect multiple discrimination cases would be permitted. The EDF has said that it considers that this does not accord with the way in which multiple discrimination occurs. However, there is a second point to be made about this aspect of the proposals that relates to the process at the tribunal.

It is not always clear at the outset of a discrimination case whether the discrimination in question is properly described as direct or indirect. Often the case will be pleaded in the alternative leaving it to the tribunal or court to ascertain, having heard all the facts in full, whether the discrimination is direct or indirect or even both.[9] Restricting tribunals or courts to the consideration of direct discrimination only in relation to intersectional discrimination would be to create further problems and complexities for them and is likely to add to the time that any intersectional discrimination case takes to be heard.

[9] See, for example, *Azmi* case set out in Appendix 1.

The question of vexatious litigants abusing the right to make multiple discrimination claims has been raised. Whilst it must be acknowledged that vexatious litigation happens and that it is never possible to entirely remove vexatious litigants from the tribunals and courts the EDF considers that there are well developed procedures in place to prevent abuse of the litigation process at an early stage. In the case of Employment Tribunals pre-trial hearings are used to define the claims and weed out any vexatious claimants. Moreover there are procedures under the current legislation which permit orders to be made to prevent repeatedly vexatious litigants from commencing litigation without permission.

Conclusion

EDF is strongly in favour of provisions being added to the Equality Bill to allow discrimination on the grounds of multiple protected characteristics. However, for both practical and principled reasons we urge the Government to reconsider its proposal to restrict such claims to direct discrimination only.

We also regret the limitation of only two grounds, however, if this limitation is retained we recommend that it should be revisited within two years of this provision being introduced to consider whether the number of grounds should be extended.

Appendix 1 – Case examples

Cases prior to 2004

In 2004 the case of *Bahl v Law Society* made it clear that cases involving the combination or race and sex would not be considered by the Employment Tribunals saying:

In our judgment, it was necessary for the ET to find the primary facts in relation to each type of discrimination against each alleged discriminator...
The information that we have been able to find indicates that these cases are now being clearly ruled out by the tribunals at an early stage, at pre-trial hearing or earlier.

The fact that a number of cases of intersectional discrimination on grounds of race and sex were successfully brought prior to 2004, and that none have, to our knowledge, been successfully brought since then must indicate that there are still cases of such discrimination but that they are not being brought before the Courts and tribunals. We give examples of some of the pre-2004 cases below in order to show that the *Bahl* case was not an isolated occurrence and that pre-2004 cases covered not only direct discrimination but also harassment.

However, in contrast to the *Bahl* case it does appear that some claims involving other intersections continue to be made and accepted by tribunals and courts; for example, cases entailing consideration of whether Muslim women should be able to wear headscarves or veils in certain circumstances. These cases have been treated as cases of religious discrimination.

Direct discrimination

Gender and race – pre-Bahl cases

Nwoke v (1) Government Legal Service and (2) Civil Service Commissioners IT/43021/94

In this case an industrial tribunal awarded damages to a black female solicitor unlawfully discriminated against on grounds of race and sex by the Government Legal Service when she was marked so low after an interview that she was effectively barred from applying for such a post again. The tribunal also recommended that the service, whose behaviour had been 'dismissive and insulting', interview the applicant for future vacancies, using a panel properly trained in issues of race and sex bias.

Mackie v G & N Car Sales n/a Britannia Motor Co ET case no 1806128/03

In this case Mrs Mackie, an Indian woman, was employed as a book keeper. During the time that she worked there she was told by a colleague that the directors did not like having Asian women working for them and that the only reason that she had been employed was because she had a Scottish husband. Shortly after a visit by

the director's father she was dismissed. The ET found that she had been discriminated against on grounds of race and sex. In reaching this conclusion they compared her situation to that of a hypothetical comparator who was a man with identical qualities to hers but who had a racial origin that was not Indian.

Gender and age

Two newsreaders, Selina Scott and Moira Stewart, separately challenged the discriminatory failure of their respective television channels to renew their contracts. The precise nature of these claims is not known, however, it is clear from the news reports of these cases that it was the combination of their sex and their age that were the operative characteristics. The television companies concerned continued to renew the contracts of both older male newsreaders and younger female newsreaders.

Indirect discrimination

Gender and religion

Cases where the wearing of the headscarf, or other sex-specific religious clothing, has been contested do involve the intersection of two grounds for discrimination but so far this has not been specifically raised in the tribunals or courts. Although these multiple discrimination cases have been treated as single ground cases and resolved accordingly, they have not, in our view, been decided correctly. The requirement not to cover one's head is one that does not, or would not, put Muslim men at a particular disadvantage. The claimant cannot in fact show that the requirement in question is one which puts, or would put, persons with whom the claimant shares the characteristic (i.e. Muslims) at a particular disadvantage when compared with persons with whom the complainant does not share it (i.e non-Muslims) unless she is able to argue her case on the combined grounds of sex and religion of belief. Once the error in the reasoning adopted so far in these cases is exposed there is a substantial risk that, for example, women who wish to wear the Muslim scarf will be left without a remedy if they are subjected to discrimination as a result of their wish to cover their head.

Azmi v Kirklees Metropolitan Borough Council [2007] IRLR 484 – this case concerned a Muslim teaching assistant who wanted to wear the niqab or full veil whilst teaching. The school was prepared to let her wear the veil when she was in the corridors but not when she was teaching, she did not agree with this. The school did observe her teaching in class and concluded that the veil impeded her diction to a certain extent and prevented the children receiving 'visual clues' from her. After a period of sickness absence she returned to work but refused to remove the veil. She was suspended and consequently brought a claim of direct and indirect discrimination and harassment against the school. The tribunal concluded that she was not directly discriminated against because a person who insisted on covering her face for whatever reason would have been treated in the same way. The concluded that the school had imposed a 'provision, criterion or practice' on her and that it did operate to her detriment, however, the school were justified in making this requirement. Their objective was legitimate and proportionate. They also concluded that she had not been subjected to harassment. The Employment

Appeal Tribunal confirmed these findings. This case was taken on grounds of religious belief only however, in fact this was clearly a case of intersectional sex and religious discrimination – she wore a scarf because she was a Muslim woman, a Muslim man would not have sought to wear a scarf and would not have been disadvantaged by this requirement.

Noah v Desrosiers t/a Wedge – this case concerned a hairdresser who applied for a job as an assistant hair stylist. She was a Muslim and wore a head scarf. She was asked at interview whether she always wore a head scarf at work. She replied that she did. The potential employer took the view that it was necessary for a hairdresser to display their hair as a way of projecting their particular image. Ms Noah brought a case alleging that she had been subjected to both direct and indirect religious discrimination. In fact this was clearly a case of intersectional sex and religious discrimination – she wore a scarf because she was a Muslim woman, a Muslim man would not have sought to wear a scarf. However, the case was taken and resolved on the religious grounds only. The tribunal concluded that it was not direct discrimination because the employer would have treated any woman, whether Muslim or not, who wanted to wear a scarf in the same way. Dealing with the indirect discrimination claim the ET considered that the requirement to display their hair while at work was a 'provision, criterion or practice' which would put people(?) of the same religion at a particular disadvantage compared to others not of that faith. In fact this only applies to women of that faith, not to men.

It is important to remember that any form of indirect discrimination can be justified. So that in the case of *Azmi* cited above the school was able to justify their requirement that Ms Azmi should not cover her face while she was teaching the children as it impeded her communication with the pupils.

These cases show how the case moves through from consideration of direct discrimination to consideration of indirect discrimination. It is often not clear when a case commences whether the discrimination in question is direct or indirect and these will normally be pleaded in the alternative.

Gender and race (and religion) – pre Bahl
Ali v North East Centre for Diversity & Racial Equality & Bux ET case no 2504529/03

Mrs Ali who was employed as a finance officer. She claimed that she had been discriminated against and harassed by Mr Bux on grounds of her race and sex. She suffered humiliating treatment in front of her colleagues, she was required to cook for him at his home, she received unjustified complaints about her work and was required to become involved in dubious financial arrangements. The tribunal found that she had been discriminated against on grounds of sex and race, they found that this was because she was perceived as being compliant because she was a Pakistani Muslim woman. The tribunal considered that she would not have been treated like this if she was either a white female employee or a Muslim female employee who had been brought up in Britain.

Gender and sexual orientation

Bloomfield v Hampshire Police Force [2006]

In this case PC Neil Bloomfield wished to wear a gold stud in his left ear as a symbol of his sexuality. Hampshire Police dress code states no men can wear earrings on duty. But PC Bloomfield told an employment tribunal that 'straight' colleagues got away with it. He said: 'By singling me out the force has victimised and discriminated against me.' The Special Branch officer said he was branded a 'crusading faggot' by a superior officer, bullied by colleagues and threatened with suspension. This case was settled.

Harassment

Race and sex (and sexual orientation?)
Acharee v Chubb Guarding Services t/a Chubb Security Personnel [1999] ET [2000] DCLD 43
In this case a male supervisor sexually harassed a black South African man and the tribunal found that he had been discriminated against on grounds of both race and sex.

The tribunal found that virtually all the supervisors were white and all the security guards were either black African or of black Caribbean origin. In January 1999, the site manager returned to the site drunk. Mr Acharee approached him to raise a query about his pay. The site manager responded that he should 'kneel down and lick his penis'. A few days later, when Mr Acharee asked him why he had made such a remark, the site manager slapped Mr Acharee's buttocks and said 'you have got a nice arse'. Mr Acharee told him he was not gay and he then apologised. Thereafter, relations between them deteriorated, and ultimately Mr Acharee was dismissed.

The employment tribunal found that

> *'Mr Primarolo was a man who displayed a discriminatory attitude towards black people. We were prepared to draw the inference that the incidents when Mr Primarolo had made completely inappropriate sexual approaches to the applicant at work were not only sex discrimination but they also amounted to acts of race discrimination. We do not consider that Mr Primarolo would have treated the applicant in the same way if he had been white. He totally disregarded the applicant's sensibilities and had propositioned him without any thought to the applicant's reaction. We draw this inference because of the evidence of Mr Primarolo generally treating the black staff less well than he treated the white staff.'*

Pearce v Governing Body of Mayfield Secondary School [2003] IRLR 512

Ms Pearce was a lesbian school teacher. She was taunted and subjected to oral abuse by her pupils, she was called 'dyke', 'lesbian shit', 'lemon' or 'lezzie'. She complained to the school and they took no action. As a result of this she became ill with stress and notified the school that this was a direct result of the campaign of harassment against her. The school took no action and told her to 'grit her teeth'. She returned to work and the harassment reoccurred so she again took sick leave

and subsequently retired. This case was taken prior to the legislation outlawing sexual orientation discrimination. The House of Lords concluded that although the words used were sex specific this was not sex discrimination. Although in this particular example it was accepted that the pupils would have treated a male homosexual equally badly it does not necessarily follow. In a situation where pupils treat a lesbian teacher in this way but not a popular gay male teacher then a situation of multiple discrimination could occur.

Equality and Diversity Forum

Appendix 2 – Response to GEO questions

A. *Do you agree with the conclusions set out in our Impact Assessment on the impact of multiple discrimination claims being brought alongside single strands claims? If not, please explain why.*

The EDF considers that it is very difficult to estimate how many new claims would result from the introduction of a remedy for multiple discrimination. We estimate that the majority of multiple discrimination claims which would be brought would have been brought as single ground discrimination cases if there was no multiple ground remedy (although they would have been much less likely to succeed than if able to be argued on combined grounds). We expect no more than 5% more cases a year to be brought and of these we consider that only a few will come to trial.

B. *To what extent would you agree that the process for identifying a comparator in a multiple discrimination case would be no more onerous than in a single strand case?*

The EDF considers that this question is probably misplaced. The purpose of antidiscrimination legislation is not to identify a notional comparator but to determined whether adverse less favourable treatment took place because of or on the grounds of the combination of grounds or characteristics. If this is seen as the essential argument as it must be (see *Ahsan v Labour Party* [2008] IRLR 243 HL[10]) then it will probably be as easy to determine that question as in a case in which there is only one ground.

C. *Do you agree that the proposed multiple discrimination provision would not require businesses or organisations to do more to avoid the risk of multiple discrimination claim than they need to do to avoid single-strand claims? If not, please explain why. Please include what additional steps you think they would need to take.*

Yes.

D. *Do you agree with our assessment of how businesses and organisations will defend a claim, and the costs which will be incurred when they face a claim of multiple*

[10] Para 37. It is probably uncommon to find a real person who qualifies under section 3(4) as a statutory comparator. Lord Rodger's example at paragraph 139 of *Shamoon* of the two employees with similar disciplinary records who are found drinking together in working time has a factual simplicity which may be rare in ordinary life. At any rate, the question of whether the differences between the circumstances of the complainant and those of the putative statutory comparator are "materially different" is often likely to be disputed. In most cases, however, it will be unnecessary for the tribunal to resolve this dispute because it should be able, by treating the putative comparator as an evidential comparator, and having due regard to the alleged differences in circumstances and other evidence, to form a view on how the employer would have treated a hypothetical person who was a true statutory comparator. If the tribunal is able to conclude that the respondent would have treated such a person more favourably on racial grounds, it would be well advised to avoid deciding whether any actual person was a statutory comparator.

discrimination? If not, please set out how you think the process would differ from that described and how this would impact on the costs incurred.

Yes, although as noted above, we consider that the burden of proof will be slightly more onerous to overcome as evidence of both grounds and the intersection will have to be brought.

E. *Do you agree with our conclusion that multiple discrimination claims should not take significantly longer to consider than single strand claims? Do you agree with our conclusions that cases including a multiple discrimination claim would not take significantly longer to consider than cases only including single strand claims? If not, can you describe how much longer you think these claims and cases would take to consider, and what would be the subsequent cost burden to businesses or organisations from this additional time in courts and tribunals?*

Yes, whilst the inclusion of a multiple discrimination claim could take a little more time in order to consider the extra claim it could equally reduce the time taken by the tribunal to consider the case if multiple discrimination provided the more appropriate analytic framework than consideration of discrimination on a single ground. Accordingly EDF does not consider that on average there will be a material increase in the time taken over such cases.

F. *In defending claims of discrimination, do you/does your organisation rely on evidence of the treatment of similar people within your organisation? How would a multiple discrimination provision impact on this? By limiting the combination to 2 characteristics, we consider that this approach will still be feasible. Do you agree?*

This question is directed at employers. However, as a comment the EDF would add that this assumes more than is often the case. It is unlikely that employers will have come across all 36 possible combinations of two grounds. Moreover, the circumstances are unlikely to be similar. So this may not be material. The case law deals with this by making relevant comparisons from similar but not identical circumstances – see cases such as *Ahsan v Watt*[11].

G. *To what extent does your business or organisation demonstrate good practice in making sure you can point to the non-discriminatory reasons for the decisions your business or organisation makes?*

N/a, this question is directed at employers.

H. *Do you consider there would be any other costs involved in defending a claim of multiple discrimination which we have not addressed in these questions? Can you please describe what these costs might be?*

No.

I. *What would guidance need to cover to ensure that businesses and organisations are clear about what they do and do not need to do? What do you consider to be the*

[11] [2008] IRLR 243.

best way to communicate this guidance? Where would you normally go to for guidance on discrimination law?

The Equality and Human Rights Commission should supply this Guidance which should differentiate between the needs of smaller and larger businesses. The key points are to include a number of examples of good practice and rational decision making.

J. *Do you think our estimation of up to two hours for familiarisation time is correct? If not, how much time do you think would be needed to familiarise your business or organisation with this provision? Can you please describe the size of your business or organisation?*

No, we do not think that two hours for this topic will be necessary. Businesses and organisations are going to have to offer re-training on this Act generally and this topic will constitute only a small increment to that. We believe that it would take less than one hour in this context. We would not expect that businesses would have to re-think all their HR systems rather that they should act to prevent all the primary grounds for discrimination occurring with an awareness that people can be picked out for discriminatory treatment because they belong to a sub-group of a protected characteristic.

K. *We think that the large majority of people who have experienced multiple discrimination are already bringing cases relying on single strand claims and if a provision for multiple discrimination were introduced, that approximately 7.5% of the existing caseload would include a claim for multiple discrimination. From your business or organisation's perspective, do you agree with this conclusion? If not, please explain why.*

Yes, but they are not always being dealt with properly, see commentary above.

L. *Were protection from multiple discrimination to be introduced, we estimate that there would be a 10% increase in the number of cases brought. From your business or organisation's perspective, would you agree with this conclusion? If not, please explain why.*

No, we think that 5% would be the maximum.

M. *We conclude that there is likely to be a 20% increase in the number of cases that include a multiple discrimination claim which businesses or organisations choose to settle. From your business or organisation's perspective, would you agree with this conclusion? If not, please explain why.*

N/a.

N. *How can we work with businesses and organisations to discourage unmeritorious claims of multiple discrimination?*

The Employment Tribunals and Courts are well practiced at doing this. Clear Guidance can help and the Equality and Human Rights Commission should produce this.

O. *What can Government do, either through guidance or other means, to help individuals to understand their rights in relation to multiple discrimination?*

This is a task primarily for the Equality and Human Rights Commission – see question I above. However, there are also a number of sources of information, training and advice available to employers such as Business Link and ACAS.

P. *Can you please describe how you think a multiple discrimination provision would affect your business or organisation? Please indicate the size of your business or organisation when answering this question.*

N/a.

Q. *Do you consider that the proposed provision could have unintended consequences? If so, please explain what they are and how the risk could be reduced.*

No, we consider that the proposed new provision would enable courts and tribunals to make the law fit the facts more appropriately and effectively.

R. *What benefits could the proposed provision have for you or your organisation?*

Our members would consider that a gap in equality law protection had been partially closed.

S. *Do you think the provision we are proposing would fill the gap we have described?*

Yes, to a degree; we strongly consider that indirect discrimination and harassment should be included. Further, the limitation to two grounds only should be revisited within two years of this provision being introduced to consider whether the number of grounds should be extended.