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Rt Hon Kenneth Clarke QC MP  
Ministry of Justice  
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Dear Mr Clarke

### **Bill of Rights Commission**

I write concerning the appointment of the commission on a UK Bill of Rights announced on 18 March.

I am delighted to note that two members of JUSTICE's Council are among the commissioners. However, Council has asked me to raise a general issue about its composition. Council recognises, of course, the entirely legitimate political considerations behind the appointments. However, in balancing various interests and approaches, the resulting commission of nine (including the chair) contains only one woman and all are white.

Such a narrow composition would be regrettable for a committee on any subject. It is doubly so in relation to a commission whose remit is to consider building upon our obligations under the European Convention on Human Rights. One of the fundamental principles underlying the Convention, and any Bill of Rights that builds on it, is the principle of equality and the concomitant obligation not to discriminate.

The Ministry is bound by existing race and gender duties to provide equal opportunities under the section 71 Race Relations Act 1976, section 76A Sex Discrimination Act 1975 and section 49A Disability Discrimination Act 1995. As from 5 April 2011, these will be replaced by the more rigorous duty under section 149 of the Equality Act 2010. Section 149(3) stipulates that the duty to have due regard to the need to "advance" equality of opportunity involves having due regard, in particular, to the need to remove or minimise disadvantages suffered by people

who share a protected characteristic and the need to encourage them to participate in public life. It is difficult to see that the commission provides the equality of opportunity and diversity to be expected of a government-appointed committee, let alone one which is to consider a topic directly relevant to equal treatment and non-discrimination.

I understand that you may be reluctant to add further members to the commission. However, it is difficult to think of any other step which will give it the credibility that will be vital to the adequate performance of its role. Moreover, the coming into force of section 149 Equality Act requires review of the commission's composition in the light of the duty set out above.

I have copied this letter to Sir Leigh Lewis, as chair of the commission, and to Sir David Normington, shortly to take up office as the Commissioner for Public Appointments. The issue of equality in the composition of the commission would seem sufficiently important for him to consider as a general issue even if, technically, the appointments do not come directly within his jurisdiction.

Yours sincerely

Roger Smith OBE  
Director, JUSTICE