

EQUALITY ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: The Commission for Equality and Human Rights

Section 16: Inquiries

56. *Section 16* gives the CEHR a power to conduct inquiries into matters relating to its duties in respect of equality and diversity, human rights and groups. These could be thematic (for example into the causes of unequal outcomes), sectoral (looking at inequality in, for example, the uptake of health screening services or at the employment of disabled people in particular sectors, e.g. the retail sector) or relate to one or more named parties.
57. *Subsection (2)* provides that if the CEHR begins to suspect that a person who is the subject of an inquiry may have committed an unlawful act (i.e. a breach of the equality enactments, as set out in sections 33 & 34), it should not continue to consider that act as part of the inquiry. The CEHR can, however, use the information acquired in the course of an inquiry as the basis on which to launch an investigation. The CEHR is under a duty to ensure that so far as possible, those aspects of an inquiry which concern the person being investigated or which require his involvement are not pursued while the investigation is in progress.
58. *Subsection (3)* provides that the report of an inquiry may not conclude, expressly or by necessary implication, that a specified or identifiable person has committed an unlawful act. Nor may the report refer to the activities of a person in terms that will harm the person unless it is necessary in order that the report adequately reflect the results of the inquiry.
59. *Subsection (4)* provides that restrictions on the CEHR considering unlawful acts under the equality enactments should not impact on the CEHR's consideration and reporting of human rights matters in the course of an inquiry.
60. *Subsection (5)* provides that the CEHR, in circumstances where the findings are in the opinion of the CEHR of an adverse nature, must allow a specified or identifiable person at least 28 days in which to make written representations on the draft of a report which records findings which relate to that person, and requires the CEHR to consider any such representations.
61. *Schedule 2* sets out the provisions relating to terms of reference, representations, evidence, reports and recommendations and effects of reports in relation to inquiries, investigations and assessments. Commentary on Schedule 2 can be found below.