



# Equality of Opportunity Committee

**EOC(3)-08-09 (p2): 2 June 2009**

## **Equality Bill Summary**

Age Concern Cymru and Help the Aged in Wales are pleased to respond to the Equality of Opportunity Committee's request to provide evidence on the UK Government's Equality Bill and its effects on equalities in Wales. We hope that this briefing paper will provide useful background for the Committee in considering our evidence. Age Concern Cymru and Help the Aged in Wales have joined together to form a single new charity dedicated to improving the lives of older people in Wales.

We believe the Equality Bill represents a milestone in achieving equality for older people. Evidence suggests that age discrimination is the most common form of discrimination in the UK, we believe in part due to the failure to place it on the same legal footing as other forms of discrimination. The Bill provides an opportunity to respond to the needs of an ageing population, promote a more age-friendly society and prompt a sea change in social attitudes to ageing and older people.

Unfortunately, the Bill also represents a missed opportunity to abolish forced retirement. Forcing people to retire at 65 runs counter to the many positive age provisions contained within the Bill. We are campaigning for it to be amended to remove the national default retirement age.

## **Major provisions**

### **Outlawing age discrimination in the provision of goods, facilities and services**

The Equality Bill will provide vital protection to older people in preventing arbitrary age discrimination in the provision of goods, facilities and services in the private and public sectors. This kind of protection is already offered to people on the basis of their gender, disability, religion or belief, sexual orientation and race. The Equality Bill offers a very welcome extension of protection on the basis of age.

The only difference will be that where age discrimination can be objectively justified and is proportionate then it will still be legal to treat people differently on the basis of age. For example, this power could be used to protect some concessions currently offered on the basis of age which meet useful social outcomes such as the bus pass which increases mobility and social interaction for older people living on a fixed income. The insurance and financial service industries should not be generally exempted from the Bill and age based differences in treatment should be banned except where they can be objectively justified by evidence. To do anything other than this would undermine the Equality Bill, since this is the form of financial discrimination older people care most about.

Recommendation: That the Welsh Assembly Government makes representations at Westminster to address the issue of exemptions to the legislation being dealt with through regulations rather than being an intrinsic part of the Bill and therefore not fully debated.

### **Discrimination in health and social care services**

The Equality Bill also aims to tackle age discrimination that exists in health and social care services. A recent Joint Committee on Human Rights' report into The Human Rights of Older People in Healthcare found strong evidence that 'historic and embedded ageism within healthcare for older people are important factors in the failure to respect and protect the human rights of older people.' The report recommended that a public duty to promote equality for older people should be adopted and that older people should also be protected by prohibiting age discrimination in the provision of services.

An assessment of clinical need must always come first in providing health and social care services. By removing needless age barriers in treatment, health professionals should be able to deliver treatment on the basis of a patient's needs rather than their age. But in some areas of health and social care delivery, ageist attitudes persist, damaging people's health, wellbeing and in some cases costing them their lives. The Equality Bill provides an opportunity to transform the experience of older people in health and social care settings.

Recommendation: The Welsh Assembly Government should ensure that social services and the reconfigured NHS in Wales outlaws all age discriminatory practices in the provision of health and social care.

## **An age equality duty**

The public duty to promote equality is also particularly welcome. It should ensure that all councils and public authorities are responsive to the needs of an ageing population as they design and deliver services. This should also help public authorities to spread best practice in achieving equality amongst people of different ages. An Age Equality Duty will be the single most influential tool in the mainstreaming of age equality and this process would be significantly enhanced by the adoption of robust 'age proofing' mechanisms throughout the public sector.

Recommendation: The National Assembly for Wales and Welsh Assembly Government should ensure that this duty is complied with and that all councils and public authorities in Wales are responsive to the needs of an ageing population as they design and deliver services.

### **End forced retirement**

Despite their focus on removing age discrimination in employment, The Employment Equality (Age) Regulations 2006 actually introduced a policy of allowing employers to force people to retire at 65. This is completely at odds with the aim of extending working lives and promoting a positive vision for our ageing society. A default retirement age creates a barrier to opportunities for selection, promotion, training and job mobility for people in their late 50s and early 60s. A 'fixed' point at which individuals can be asked to retire inevitably influences employer decisions about their personal development and opportunities in the years leading up to it. Older workers who do leave their jobs are far less likely than other age groups to find employment subsequently.

Age Concern and Help the Aged are actively campaigning for the removal of the National Default Retirement Age (NDRA). There is considerable support for its removal from the general public, the media, some business leaders and unions. In an ICM Research opinion poll commissioned by Age Concern Cymru and Help the Aged in Wales in February 2009, 79% of people of all ages in Wales stated they believe that employers should support and encourage people who want to continue to work past the age of 65. We are campaigning for the UK Government to amend the Equality Bill to remove the national default retirement age contained in Schedule 9.

Recommendation: The National Assembly for Wales and Welsh Assembly Government exert influence upon the public sector in Wales and provide an example of good practice to other employers by emphasising the benefits of ceasing the use of mandatory retirement ages.

### **Powers for Welsh Ministers**

Clause 147 of the Equality Bill gives powers to Welsh Ministers to impose specific duties on relevant Welsh authorities. We are looking forward to receiving more information on what these duties might look like and how the Welsh Assembly Government intends to use them to take forward equalities work in Wales. Older people have waited a long time to be given equal access to goods, facilities and services and it is vital that older people in Wales see real change in their lives as a result of the Equality Bill. This requires the National Assembly for Wales and the Welsh Assembly Government to fully utilise their powers in order to ensure that the contents and essence of the Equality Bill are successfully enacted and implemented in Wales.

"Recommendation: " That the National Assembly for Wales and the Welsh Assembly Government fully embrace their leadership in role mainstreaming of age equality across the public sector in Wales. We trust that the Bill will be integrated into the existing Welsh policy framework and as such will be implemented in a joined up manner that is cognisant of the Strategy for Older People in Wales, the National Service Framework and the overarching commitment to promoting equality enshrined in the Government of Wales Act.

### **Recommendations for Wales**

In conclusion we would like to reiterate our recommendations.

That the Welsh Assembly Government makes representations at Westminster address the issue of exemptions to the legislation being dealt with through regulations rather than being an intrinsic part of the Bill and thus not fully debated.

The Welsh Assembly Government should ensure that social services and the reconfigured NHS in Wales outlaws all age discriminatory practices in the provision of health and social care.

The National Assembly for Wales and Welsh Assembly Government should ensure that this duty is complied with and that all councils and public authorities in Wales are responsive to the needs of an ageing population as they design and deliver services.

The National Assembly for Wales and Welsh Assembly Government exert influence upon the public sector in Wales and provide an example of good practice to other employers by emphasising the benefits of ceasing the use of mandatory retirement ages.

That the National Assembly for Wales and the Welsh Assembly Government fully embrace their leadership in role mainstreaming of age equality across the public sector in Wales. We trust that the Bill will be integrated into the existing Welsh policy framework and as such will be implemented in a joined up manner that is cognisant of the Strategy for Older People in Wales, the National Service Framework and the overarching commitment to promoting equality enshrined in the Government of Wales Act.

We thank the Equality of Opportunity Committee for offering Age Concern Cymru and Help the Aged in Wales the opportunity to explain both our contentment and reservations regarding the Equality Bill and look forward to supplementing this information with oral evidence.

Age Concern Cymru and Help the Aged in Wales

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