



**Cynulliad Cenedlaethol Cymru
The National Assembly for Wales**

**Y Pwyllgor Cyfle Cyfartal
The Committee on Equality of Opportunity**

**Dydd Mawrth, 16 Mehefin 2009
Tuesday, 16 June 2009**

Cynnwys
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Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynddi yn y pwyllgor. Yn ogystal,
cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg.

These proceedings are reported in the language in which they were spoken in the committee.
In addition, an English translation of Welsh speeches is included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Eleanor Burnham	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Ann Jones	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
David Lloyd	Plaid Cymru (yn dirprwyo ar ran Janet Ryder) The Party of Wales (substitute for Janet Ryder)
Jonathan Morgan	Ceidwadwyr Cymreig Welsh Conservatives
Joyce Watson	Llafur Labour

Eraill yn bresennol
Others in attendance

Laura Cole	Swyddog Deddfwriaeth a'r Mesur Cydraddoldeb, Llywodraeth Cynulliad Cymru Equality Bill and Legislation Officer, Welsh Assembly Government
Steve Chamberlain	Arweinydd y Tîm Deddfwriaeth ar Gydraddoldeb, Llywodraeth Cynulliad Cymru Equality Legislation Team Leader, Welsh Assembly Government
Brian Gibbons	Aelod Cynulliad, Llafur (Y Gweinidog dros Gyfiawnder Cymdeithasol a Llywodraeth Leol) Assembly Member, Labour (Minister for Social Justice and Local Government)
Natalie Lancey	Yr Is-adran Gwasanaethau Cyfreithiol, Llywodraeth Cynulliad Cymru Legal Services Division, Welsh Assembly Government

Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol
National Assembly for Wales officials in attendance

Jonathan Baxter	Gwasanaeth Ymchwil yr Aelodau Members' Research Service
Rita Phillips	Dirprwy Glerc Deputy Clerk
Helen Roberts	Cynghorydd Cyfreithiol Legal Adviser
Bethan Webber	Clerc Clerk

Dechreuodd y cyfarfod am 9.15 a.m.
The meeting began at 9.15 a.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions

[1] **Ann Jones:** Good morning and welcome to the Committee on Equality of Opportunity. I remind Members to switch off their mobile phones, pagers and anything else that will affect the translation equipment. We operate bilingually, so if you want to speak in

Welsh, you are welcome to do so. Translation is available on channel 1 and amplification is on channel 0. We have received apologies from Janet Ryder; we are pleased to welcome Dai Lloyd, who is here as a substitute. We are not expecting a fire drill, so should the alarm sound, we will take our instructions from the ushers, or, as I always say, you can follow me, because I will be one of the first out of the building.

9.16 a.m.

Mesur Cydraddoldeb y DU UK Equality Bill

[2] **Ann Jones:** This is the only item on our public agenda. We are grateful to the Minister for Social Justice and Local Government and his team for joining us. Thank you for your paper, Minister. Are you happy for us to go straight into questions, or did you want to say something first?

[3] **The Minister for Social Justice and Local Government (Brian Gibbons):** Carry on if you want. I had a few words prepared—

[4] **Ann Jones:** If you have a few words prepared, we will allow you to say them and then we will move into questions.

[5] **Brian Gibbons:** Thank you for the invitation to come to discuss the Equality Bill and its potential impact on Wales when it is, hopefully, enacted in 2010. You have already had a certain amount of evidence on the Bill, and that has given a fair flavour of what it involves. This is an area in which we in Wales have been given the lead, not least because we have had statutory duties in relation to equalities from the very start. We have used that to set up, for example, the children's and older people's commissioners, the single equality scheme and so forth. Despite the progress that we have made, people who are interested in equality and people who are being disadvantaged have great expectations for this Equality Bill.

[6] It is important to realise that this area is not devolved and, because of that, we are in discussions with the UK Government on the shaping of the legislation. It will provide a range of new powers, for example, for Welsh Ministers to impose specific equality duties on public authorities, and it will provide us with the opportunity to work with the Equality and Human Rights Commission in driving this agenda forward. We will get a flavour of the relevance of the whole equalities issue later on today. I do not know whether colleagues are aware of this, but the EHRC's inquiry into human rights will be published later today and there is an event this evening dealing with that, in which colleagues may be interested.

[7] At the heart of this proposed legislation is the aim of identifying what are called protected characteristics—in other words, characteristics that may leave people particularly vulnerable to discrimination, harassment or victimisation on the basis of age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex or sexual orientation. It also provides helpful definitions in relation to the types of discrimination that exist and clarifies issues such as harassment and victimisation.

9.20 a.m.

[8] **Ann Jones:** Will the Equality Bill meet the needs of people in Wales? If so, how can it help to address the inequalities and discrimination that still exist in Wales?

[9] **Brian Gibbons:** The purpose of the Bill, as I see it, is twofold. First of all, it is to consolidate and to bring some order to the vast amount of legislation, guidance and regulation that already exist. I understand that, as things stand, there is no consistency across all duties,

and it can be difficult for people who are working with such a wide spread of legislation to be able to implement it. The consolidation, simplification and clarification of that must be a good thing.

[10] Equally, there will be further strands to the legislative duties, other than the three that we already had, namely race, gender and disability. The strands have been expanded to cover a wide range of other activities. We in Wales will be given the opportunity to place specific duties in relation to the expanded range of areas, in order to bring forward equality proposals here.

[11] **Ann Jones:** Did Welsh Ministers or officials have any involvement in the drafting of the Equality Bill?

[12] **Brian Gibbons:** There is a standard process in all of this. Under devolution guidance note 9, we and the Westminster Government are involved in discussions on all of the legislative proposals from a very early stage, even before documents that look like pieces of proposed legislation appear. A tremendous amount of background discussion takes place on these Bills that goes back and forth, and those discussions are very much of an exploratory nature in the first instance. Then, as the issues become more crystallised, the process develops in a more formal way. At times, there is ministerial involvement in the Bill in order to clarify policy intent where that is necessary.

[13] **Ann Jones:** Were any proposals put forward by Welsh Ministers for issues to be included that were rejected by the UK Government?

[14] **Brian Gibbons:** No, I do not think that anything was rejected. We have tried to maximise the devolution potential of this piece of legislation. There are one or two areas where we are still hopeful that some of the approaches that we are adopting here in Wales will be more solidly represented in the legislation. There is nothing that we wanted to have included that has not been included.

[15] **Jonathan Morgan:** From looking at the Bill, are you content that the powers given to Welsh Ministers are sufficient to make a real, positive and long-lasting difference in Wales? From looking at the provisions of the Bill and what you can do at the moment, what are the big differences that make this Bill worth while?

[16] **Brian Gibbons:** It is part of a renewed commitment to tackling equalities issues. If you look at the Equality and Human Rights Commission report, you see that many people think that equality is about political correctness, ticking boxes and that it is something for a small minority in society. We have not fully grasped how fundamental the whole equalities agenda is for ordinary people to have opportunities to live their lives to their full potential. The Bill will give us much greater opportunities to do that as its scope will be broader and more people will come under the aegis of it. As we develop our own specific duties here in Wales, we will be able to give particular emphasis to what we feel is important as the broad principles of the equality duties are elaborated.

[17] The primary legislation will set the broad, general duties, but we will then be able to put flesh on those broad duties within a Welsh context. I do not think that we, as an Assembly Government, have reached a final conclusion as to what should be in those specific duties, because we would want to engage with colleagues here in the Assembly, and particularly citizens and stakeholders out in the community. The public engagement is a key part of this to find out what is important under these headings.

[18] **Ann Jones:** Eleanor has a brief supplementary question.

[19] **Eleanor Burnham:** Many cynics believe that equality is something that everyone talks about but no-one delivers. In this time of economic stress, much needs to be delivered by local authorities, which are very hard-pressed. If you are a councillor, the last thing on your mind may be delivering equality. How will you persuade them and what carrot do you have to show them that this is vital?

[20] **Brian Gibbons:** We accept that women, for example, make up 51 per cent of the population. If you are not going to provide full equality of opportunity for women, you will run an organisation that is not availing itself of the talents of 51 per cent of the population. That is just dealing with one segment. Equally, if we do not accommodate people who may have a particular disability and work to give them equality of opportunity, their skills, talents and commitment are not being made available to those organisations. This is about allowing all citizens to have equality of opportunity for themselves as individuals so that they can reach their full potential as an equal citizen. This will also allow us as a society to benefit from their contribution. So, there is a strong case in terms of fair play. There is a good sense of fair play in Wales. There is also a strong business case, or a strong case, for society as a whole to ensure that everyone who lives in Wales has an opportunity to contribute to making our society better.

[21] **Jonathan Morgan:** Minister, looking at the provisions of the Bill, in future, if you want to amend the list of public authorities on whom duties will fall, to get that amendment, you will need to seek the permission of a Minister of the Crown. Why is that the case? What indication did Westminster give you as to why that permission would need to be sought? Did you, at any point, ask for the flexibility to have that power devolved to Wales so that you could determine as a Minister which public bodies would fall within that list?

[22] **Brian Gibbons:** One of the areas of debate between us and Westminster related to where the balance should be. Ultimately, we did not think that it was unreasonable that Westminster should be consulted on these matters. We would have liked the balance to be slightly different to what is in the Bill. The argument from the Westminster end was that these are non-devolved areas and that it is important to have consistency across the boundaries between England and Wales. That was the judgment. We made the case that it was not quite in the spirit of devolution, because many of the activities that flow from making these duties a reality—in other words, education, transport and job opportunities—are all devolved functions. There was a strong intellectual case for allowing these issues to be decided in Wales. However, at the end of the day, Westminster felt that the balance tipped in favour of its argument. We have to work with where we are at the moment. Let us see how it works out in practice.

[23] **Jonathan Morgan:** You used the word ‘consulted’, but, of course, it is more than that; it is consent. It is a matter of getting the approval of Westminster Ministers.

[24] **Brian Gibbons:** Yes. I am sorry, what I was trying to say was that we accepted that as equalities is a non-devolved area that, even if we had the power to bring organisations onto Schedule 19, we should do that in consultation. We thought that that would be the way to proceed. However, as you said, we were not able to win that argument, so we have to gain their consent as opposed to consulting with them.

[25] **Jonathan Morgan:** There is obviously potential for conflict here. If you had said that you wanted a public body to be added to the list that is not currently on the list and we therefore have to ask for the consent of the relevant Minister of the Crown, you could see a situation where a Minister of the Crown might say that they were not happy with that.

9.30 a.m.

[26] Was any thought given to how that sort of disagreement would be handled or even resolved? Admittedly, the power to say 'no' rests with the Minister of the Crown, but one would imagine that the basis for saying 'no' would have to be rational and based on a reason as opposed to just saying, 'Well, no we do not like the idea, therefore you are not doing it.'. Did they outline a framework for resolving such conflicts?

[27] **Brian Gibbons:** No. My officials may want to speak about this. The First Minister and I had various discussions on this, but their view ultimately was that equality was not a devolved matter and that the UK state was therefore responsible, on an international stage, for how equality duties were implemented and so on. So, that seemed to be their bottom line. We all know that we are not in a stable constitutional position and that these things will certainly be revisited in the fullness of time. As events unfold, people will want to revisit this area.

[28] **Ann Jones:** Is this something that you would like us to recommend in our report on the Equality Bill? Should we recommend that we be given these powers?

[29] **Brian Gibbons:** I would prefer the committee to make up its own mind about this. I have told you our view. The view of the UK Government is intellectually coherent. Given that so many levers in these public bodies deal with devolved functions, we should, as Jonathan suggested, be able to include these organisations in discussions with the UK Government. That is an entirely credible position and as time goes on, we need to work these issues out.

[30] **Ann Jones:** I am sure that we will discuss it as a committee. Jonathan, you have another question.

[31] **Jonathan Morgan:** You say in your evidence that specific duties considered as a result of the new Act will be subject to public consultation. That is a standard process. I assume that that is the same type of public consultation that would apply to a proposed Measure or to a Government strategy. Are you thinking about any specific proposed Measures? On the duties that you will want to place on public bodies, once this becomes an Act, how will you go about that? What form will they take? Will they be part of a proposed Measure or a ministerial letter?

[32] **Brian Gibbons:** I think that I will let Steve give you a flavour of how we propose to deal with that, but, given the nature of equality, the level of engagement needs to be greater than would be the case with a formal consultation where we put something out there and someone else responds. A buzz phrase at the moment is a 'sense of co-production'. We need that level of engagement with the key stakeholders so that they can be more actively involved rather than reacting and responding to something that we have put out there. However, ultimately, having gone through that engagement process, something will have to be put on the table through which these organisations will respond. I hope that whatever is put on the table will be developed with the key stakeholders and the representatives.

[33] **Mr Chamberlain:** I think that the Government Equalities Office issued its consultation document on the duties that will apply in England on 10 or 11 June. We have had sight of it and we will outline the equality duties that might apply in Wales on the basis of that, which need to be reasonably consistent so as not to confuse people when they are introduced. Our challenge is to ensure that any duties that we think about reflect the Welsh policy context in the first instance and that we have an opportunity in Wales to undertake what we call a 'listening exercise' with our key stakeholders. That can be held during the summer, and can be used to inform more detailed proposals towards the end of this year, but we would not expect it to be too far removed from the proposals put forward by the Government Equalities Office.

[34] **Brian Gibbons:** I think that we have had a certain amount of experience with

equality activity since the Assembly was established. There has been a lot of emphasis on process and maybe there has not been a strong enough emphasis on outcomes. What we would like to do, rather than get bogged down in the process across a very wide front, is to pick out a number of key areas that we think are particularly important and which will make a difference and have a greater emphasis on the desired outcome, rather than an elaborate emphasis on how we get there.

[35] **David Lloyd:** Turning to the socio-economic duty under the Equality Bill, Minister, will you outline what criteria Welsh Ministers will adopt and apply to determine which bodies will be subject to the socio-economic duty?

[36] **Brian Gibbons:** First, we know that, under the legislation, the bodies have to broadly reflect the types of organisations that will be included under this duty by the UK Government. So, whatever bodies we would have here, they would have to have some sort of comparator status with what is in Westminster. Other than that, I do not think that we have a hierarchy of bodies that we will be looking to include, hoping to work our way through the list. Our view is that, as an Assembly Government, a lot of the policy intent in terms of programme bending to tackle social disadvantage and so on is very much a mainstream activity for us already. So, I do not think that we would be adding organisations to the list just to prove that we could do it. I think that we would want to look at it and see whether there are organisations that are not going with the flow in terms of what we are doing at the minute. We will have to wait and see. I do not think that we have a list of organisations that are waiting in the wings. As soon as the starting gun is fired, I think that it will be a much more measured and pragmatic process, depending on how organisations commit themselves to delivery.

[37] **David Lloyd:** Will the duty cover all local authorities in Wales?

[38] **Brian Gibbons:** I think that there is a fairly high level of certainty about that, if we choose to do it. Remember, as Jonathan indicated, that we have to get the okay from Westminster to add to these lists.

[39] **David Lloyd:** The Welsh Ministers are not listed in Part 1 of the Bill as being subject to this duty. Can you see a situation where Welsh Ministers will be subject to this socio-economic duty? If not, why not?

[40] **Brian Gibbons:** I will let Steve answer that.

[41] **Mr Chamberlain:** At the moment, only the English authorities are listed in Part 1 of the Bill; we would have to bring forward a recommendation, as if we were amending Schedule 19, to add the Welsh authorities to Part 1 of the Bill. So, Welsh Ministers would be brought forward under that. It would be with the consent of the Minister of the Crown that the Welsh Ministers would be added on.

[42] **Brian Gibbons:** There is a substantial issue here. The bodies that would be included would have to have some sort of equivalence with an organisation that has been included in the Westminster list. I do not know whether the Welsh Ministers would fit tidily into a category. Certainly local government, the health bodies and most of the public bodies would fit, but there may be some organisations in Wales that would not. It will probably not be the case, but we might establish a public body here in Wales, as we did with the office of the children's commissioner, well ahead of the rest of the UK, which means that it would not have a UK equivalent. That might be a bit more problematic. However, I am not sure about the Welsh Ministers—I am not sure whether or not it is the purpose to include us in that way.

9.40 a.m.

[43] **David Lloyd:** Are you trying to say that you would expect, as Welsh Ministers, to be included in the future, once we have got over a technicality of legislation, or do you not expect to be included?

[44] **Brian Gibbons:** No, I do not think so particularly. I would not say particularly that we would be included. It would obviously have to be the UK Government that would include us in it. I do not think that we are listed as an organisation that is potentially to be included, are we, Steve?

[45] **Mr Chamberlain:** No.

[46] **Brian Gibbons:** I am not too sure that there is particular merit in including us in it as a Government and an Executive in our own right.

[47] **David Lloyd:** Is there no merit in our showing a lead? I see that Natalie is anxious to burst in at this point before we get lost.

[48] **Ms Lancey:** Thank you very much. I just want to say that, potentially, Welsh Ministers could be listed with the consent of the UK Government, because Government departments are among the listed bodies in relation to England, so Welsh Ministers would correspond to those bodies. Therefore, in theory, Welsh Ministers could be listed, with the consent of the UK Government.

[49] **Eleanor Burnham:** I have a question about the list of relevant Welsh authorities in Part 2 of Schedule 19 to the Bill. Is it sufficiently broad? Are there any additional relevant bodies that should be added to it, such as the Wales Audit Office? You mentioned in response to Dr Lloyd's question, Natalie, having to have the consent of the Westminster Government. That is still an interesting hurdle for us on our journey to autonomy. I see that Scotland is just about to have some more autonomy, according to some recent reports. Should you not be taking a lead to press for Welsh Ministers to be listed? Do you agree that the Wales Audit Office should certainly be included on this list?

[50] **Brian Gibbons:** It is certainly arguable that it should be included on the list. Again, we recognise that a number of the inspectorates and the audit office and so forth are not currently included among the bodies that are covered by this legislation. I do not think that we should hold up the process for the organisations that will be included in this, but we should nonetheless keep an open mind in looking to the future as to whether or not there is merit in including these other organisations within the scope of the Bill as it is currently proposed. As an Assembly Government, we would not have taken a principled position in opposition to that. The balance, after discussion, has been drawn at the Westminster level. We would not be saying that the approach that you are suggesting would be wrong, however.

[51] **Eleanor Burnham:** You are not putting pressure on, though, are you?

[52] **Brian Gibbons:** No. We have made the argument, and having made it, the view has been taken at the Westminster level that this is where the line should be drawn. As Jonathan mentioned, however, there is scope in the legislation for us to come back to this at a future date if we think that not having these regulators and inspectorates within the scope of the Bill is a substantial problem. It is not a closed door, and at least we will have an opportunity under the legislation to come back to these things to reopen the debate on this as we feel necessary. However, we would need the consent of UK Ministers to deliver that.

[53] **Eleanor Burnham:** Is this not the relevant time to assert yourself?

[54] **Brian Gibbons:** We have tried to assert ourselves.

[55] **Jonathan Morgan:** Does this not underline the problem in that we have a number of inspection bodies in Wales on very different footings? The ability of the Welsh Assembly Government to affect the governance and structure of the Care and Social Services Inspectorate for Wales is fundamentally different from its ability to regulate Estyn. We have no powers to regulate the Wales Audit Office, which is a completely separate body. It underlines the nature of the problem that we have—in what is seen as a very strict dividing line between devolved and non-devolved areas, there are several grey areas. I understand that there is scope within the new constitutional Bill to resolve some of these problems. I am not sure whether that will happen, but there is scope for that to occur, surely.

[56] **Brian Gibbons:** That is a fair comment—it is a grey and jagged edge to devolution, and that is the nature of the beast with which we are dealing.

[57] **Ann Jones:** I am sure that we will discuss this later.

[58] **Eleanor Burnham:** My next question is about something just beyond, namely the reference to subsidiaries of Welsh Ministers. Everyone accuses politicians of speaking in jargon, so I assume in plain English that subsidiaries are the former quangos. Whatever they are, can you give an example of subsidiaries for people, who are interested, obviously, in what we are doing in this committee? Are there any subsidiaries of Welsh Ministers that would be covered by the public sector equality duty?

[59] **Brian Gibbons:** This was something in which I was interested myself, so I asked Natalie earlier what it was about. I will give her an opportunity to reply.

[60] **Ms Lancey:** It follows the definition in section 134 of the Government of Wales Act 2006. It does not refer to the former quangos, such as the Welsh Development Agency, because they are now a part of the Welsh Assembly Government. I am happy to read out the definition, if the committee is interested.

[61] **Eleanor Burnham:** It would be useful for the people watching, who are keen to know what these things mean in plain English.

[62] **Ms Lancey:** There are three categories of body that could be a subsidiary. The first is,

[63] ‘any body corporate or other undertaking in relation to which, if the Welsh Ministers were an undertaking, the Welsh Ministers would be a parent undertaking’.

[64] **Eleanor Burnham:** Can you give us an example?

[65] **Ms Lancey:** Yes. What that is getting at is a company set up and owned by Welsh Ministers, such as Finance Wales. I am afraid that I cannot give you examples of the other two categories, but they are easier definitions to understand. The second category is,

[66] ‘any trust of which the Welsh Ministers are settlors’.

[67] So, that would be a trust set up—

[68] **Eleanor Burnham:** Surely, you must know of an example?

[69] **Ms Lancey:** I am afraid that I do not.

[70] **Eleanor Burnham:** Can you clarify that by letter? Would that be all right, Chair?

[71] **Brian Gibbons:** It does not necessarily follow that there must be a physical embodiment of these things in the Welsh context. The legislation covers contingencies as well as what already exists. Sometimes, there will be an example of these things here and now, but the purpose of the legislation is also to cover eventualities.

[72] **Eleanor Burnham:** To press you further, the third category is ‘any charitable institution’. Surely, you must have an example of that.

[73] **Ms Lancey:** I am sorry, but I do not.

[74] **Ann Jones:** There may not be an example. If there are examples, without delving too much into archives, because we do not want you to spend hours on it, perhaps you could let us know.

[75] **Eleanor Burnham:** I was intrigued by this when reading my notes before the committee.

[76] **David Lloyd:** Turning to specific equality duties under the Bill, the Equality and Human Rights Commission suggested that this could involve aspects such as procurement and equal pay. So, how will the specific duties be determined by Welsh Ministers?

9.50 a.m.

[77] **Brian Gibbons:** I think that Steve touched on the fact that we have already given preliminary thought to this, in looking at what is being proposed in Westminster but also in developing our own ideas in a Welsh context. We are starting to engage with stakeholders to get the flavour of their views on what should be included in the specific equalities duties. As I have said, in inserting specific duties, we must be proportionate, pragmatic and focused on what will make a difference. When deciding the priorities, we then have to look at how far we need to outline the process by which the equalities will be achieved. For example, we could look at the reporting and accountability mechanisms of organisations, so at how they behave internally as employers. We could also look at the duties in light of how those organisations deliver their public services, to ensure that they treat all the people in the various equality streams consistently with the law.

[78] Going back to what we discussed a while ago, there is an issue with the socioeconomic duty and how the Welsh Assembly Government reports on all of this. My view is that we report equalities in a somewhat ritualistic way, and it may be interesting to hear the committee’s view on that. The formal reporting to the Assembly has something of the ritual about it, and of looking up last year’s speech and repeating it. However, that is not so much the case with committees, because there is always a lively exchange of views there. So, if possible, I would like the reporting mechanism to be made a much livelier interchange. We then need to think about the key issues to identify, while accepting that we cannot do everything all at once.

[79] **Joyce Watson:** Talking about not doing things all at once, my question is whether there will be a specific duty to cover equal pay. We have certainly not done that all at once, considering that the Equal Pay Act came in 1970—

[80] **David Lloyd:** It was before you were born, Joyce. [*Laughter.*]

[81] **Joyce Watson:** Absolutely. We have come to the point at which people’s patience has been tested to the limits. As a woman, I can say that. I came into the equalities agenda to fight for equal rights on issues such as this so that my daughters would not have to, but, lo and

behold, they are doing the same, and they are in their 30s. It is ridiculous. So, will there be a specific duty covering equal pay?

[82] **Brian Gibbons:** You are right. All the strands are important and it would be invidious of me to say that one is more important than another, but equal pay was probably the first of these equality duties that we had in law and we still have not got there. So, we need to look at the opportunities afforded by this legislation to drive particularly the gender pay issue further forward. However, unequal pay is not just a gender issue. Black and ethnic minorities and people with a disability are often discriminated against in relation to pay.

[83] You may recall that we had an interesting short debate on this a couple of weeks ago, and the point was made that addressing equal pay is not just an issue of the rate paid for an hour's work; it is a much trickier issue. People are trapped in part-time jobs, or are forced to work to certain patterns because there is no childcare. There is occupational segregation and the glass ceiling—or, as someone said, the concrete ceiling if you are from a minority ethnic group. Equal pay has to be a big issue, but we have to be fairly innovative in how we deal with it in the legislation. Narrowing it down to hourly rates of pay—although important, as it is illegal to pay less than the minimum wage—will not crack that particular nut, I do not think, so we do not want to deal just with the legalities and leave it at that. It is a much wider agenda and issue. As we seek to develop the duties under this legislation, I hope that we can have a creative and imaginative debate about this issue, and about what we require from it to secure equal pay. I do not want to be prescriptive at this stage. We genuinely need to have a wider debate on the issue, focusing on the issues that matter and those on which we can realistically hope to make progress. Hopefully, all colleagues here will take part in that debate, as well as trades unions, employers and women's groups.

[84] **Joyce Watson:** Thank you for your answer, Minister. You are absolutely right: equal pay does not just affect women, but also ethnic minorities and people with disabilities. There is a group of people that does not feature, namely the 50-plus age group, and I respectfully ask you to give them consideration. At a time when many people are losing their jobs, disproportionately large numbers of them are from the 50-plus age group. They are now trying to re-enter the workforce. I was pleased to hear your reply that it is a much bigger issue than just the hourly rate, as it is about the wider elements of discrimination that can determine whether you get a good pay rate or not. Sometimes, it can determine whether you are given a pay rate and employment or no employment. There is a growing body of evidence to show that if you are made redundant at the age of 50 or over, you are more likely to die before you reach 65 years of age than you are to get a job. So, in the provisions on equal pay and on the reporting mechanisms that you have already talked about, rather than just ritualistic reporting, would you be minded to include a section that looks at that 50-plus age group?

[85] **Brian Gibbons:** There is no doubt that the purpose of this legislation is to prevent discrimination, including on the basis of age. However, legislation is already in place dealing with discrimination in the workplace on the basis of age. Westminster is expanding the grounds of age as discrimination into a wider range of activities across society. As I said, up to now, we had just three main equality strands: disability, race and gender. However, this expands that to include age, which will be a key feature of the Bill.

[86] In response to the specific points that you have made, however, I would say that the real victims of the recession, as regards unemployment and lost job opportunities, are the young people. Everyone affected is clearly a victim, and I do not want to say that some people are less deserving than others, but, as a group, it is young people who are taking the hit. I think that it was David Blanchflower—although I do not know whether he is still on the monetary policy committee that advises the Treasury—who pointed out that, overwhelmingly, it is young people who have taken the hit in this economic recession.

10.00 a.m.

[87] In the last 10 days, we held an economic summit on the social consequences of the recession in Merthyr Tydfil. Overwhelmingly, the message was that young people are the most vulnerable. We all know the problems that were caused by young people lacking engagement in meaningful work during the recessions of the 1980s and 1990s. Those problems are still with us. These people are now in their 30s and 40s, bringing up families, but the social scars still run very deep, and we have not been able to heal them. So, while everyone must be given an opportunity, if we have to prioritise our efforts, I suggest that we focus on young people and learn the lessons of the two previous recessions.

[88] **Joyce Watson:** I am glad to see that you have given this a lot of thought, and so it will be more than a tick-box exercise. Moving on, what are your views on the UK Government not taking the opportunity to abolish the mandatory retirement age through the Equality Bill?

[89] **Brian Gibbons:** As an Assembly Government, we have not taken a view on that, so any view that I express today will be personal. Whenever he is asked about this, the First Minister points out that the United States has no retirement law, in effect, and people there continue working well past the ages that would be acceptable in Europe, sometimes out of economic necessity.

[90] **Joyce Watson:** There has been some discussion about the mandatory retirement age. I do not expect you to answer this here and now, but, if we abolish it, will that have an impact on people receiving their state pension? That is my concern. If people want to carry on working, I agree with allowing them to do so, but how can we safeguard the pensions of those who need to retire at the mandatory age if were abolished?

[91] **Brian Gibbons:** You are absolutely right. Much of the debate on this has been about people's right to continue in work if that is what they want, for all sorts of reasons, such as the social support and extra income that it brings. Certain employers could put pressure on individuals who are fit to continue working not to retire, or they could want them out for whatever reason, some of which might even be covered by this legislation. So, there is a downside to this, along the lines that you suggested. These issues are not currently devolved, so we have not taken a position on them, but this is an important area for debate and discussion, without a doubt.

[92] **Ann Jones:** There are two more questions from Jonathan, Minister, but I am conscious of the time. Are you alright to stay for five minutes? We said that you would be here until 10 a.m., and we are now five minutes past.

[93] **Brian Gibbons:** I have a meeting with the fire chiefs, Chair.

[94] **Ann Jones:** Oh, that is okay. They can wait. *[Laughter.]*

[95] **Jonathan Morgan:** I will be quick. The Bill excludes children and young people from its provisions with regard to goods, services and facilities. The Equality and Human Rights Commission described the approach as 'inconsistent', which is not a particularly robust term, but I will accept that the commission was not happy. By excluding young people under the age of 18, do you accept that inequality for that age group will continue and there will be little that you can do about it?

[96] **Brian Gibbons:** Assembly Government policy is guided by the United Nations Convention on the Rights of the Child. That is at the heart of our approach, and it does not sit easily with what is covered by this piece of legislation. Again, it is a point that we have made

to our colleagues in Westminster that it does not sit comfortably with the development of devolution in relation to children's services here in Wales.

[97] **Jonathan Morgan:** The Equality Bill makes sexual orientation a protected characteristic, but the Bill does not make it unlawful to harass someone because of sexual orientation in a range of settings. What are your views on this?

[98] **Brian Gibbons:** Again, I do not think that we have taken a view on that. We, as the Assembly Government, have not commented on that in particular. I do not know whether Natalie or Steve have received any recommendations from stakeholders on that, but it is not a matter that we have taken up.

[99] **Ann Jones:** Are you happy with that, Jonathan?

[100] **Jonathan Morgan:** That is fine.

[101] **Ann Jones:** I thank the Minister for coming in to give us the view of the Welsh Assembly Government. We intend to produce a short report and send it to the Bill committee and to Harriet Harman who is the lead Member of Parliament taking the Bill through. We will send a copy to you too.

[102] **Brian Gibbons:** Thank you.

[103] **Ann Jones:** If the fire chiefs are cross with you, you can send them to me and I will deal with them. [*Laughter.*]

[104] **Brian Gibbons:** You will give them equality of opportunity.

[105] **Ann Jones:** I will, yes. Thank you.

10.06 a.m.

Cynnig Trefniadol Procedural Motion

[106] **Ann Jones:** I am going to propose that we move into private session in order that we can discuss the evidence that we have received on the Equality Bill.

[107] I move that

the committee resolves to exclude the public from the remainder of the meeting in accordance with Standing Order No. 10.37(vi).

[108] I see that there are no objections.

*Derbyniwyd y cynnig.
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 10.06 a.m.
The public part of the meeting ended at 10.06 a.m.*