

Consultation response

Response to the Finance Committee's Inquiry into the Welsh Government Draft Budget 2021/22

Consultation details

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Executive Summary

The Equality and Human Rights Commission (the Commission) welcomes the opportunity to respond to the Finance Committee's Inquiry into the Welsh Government's Draft Budget 2021/22.

The Commission would welcome the Committee's scrutiny of the draft budget with regards to our recommendations that the Welsh Government should:

- Use budgetary opportunities to close existing inequalities, such as by taking forward priorities and recommendations identified in the Commission's ['How coronavirus has affected equality and human rights'](#) and [Is Wales Fairer? 2018](#) reports, and the Welsh Government's own [Public Sector Equality Duty \(PSED\) equality objectives](#).
- Act in the spirit of the incoming socio-economic duty by demonstrating strategic intent and funding allocation aimed at reducing inequalities of outcomes that result from socio-economic disadvantage.
- Fully comply with the PSED in a timely manner, with particular reference to the specific duties on assessing impact and engagement.
- Conduct and publish a Cumulative Impact Assessment of the varied impact on people with different protected characteristics alongside the budget.
- Build further on the recommendations of the ['Appreciative Inquiry into the Welsh Government's approach to assessing equality impacts of its budget'](#) report.

Related to the above, the Commission would welcome the Committee following up the findings and recommendations of the Inquiry carried out last year by the Children, Young People and Education Committee, the Equality, Local Government and Communities Committee, and the Finance Committee: [Assessing of the impact of budget decisions](#).

The [Commission's letter of June 28, 2019](#) (meeting 17/07/2019), responded to the Welsh Government's response to the Committees' joint-report following that Inquiry. We highlighted priorities that required further development, including:

- The use of cumulative impact assessments in the assessing the impact of budget decisions
- The timely publication of impact assessments
- Improvements in the Welsh Government's Integrated Impact Assessment tool

Full consultation response

Introduction

The Commission welcomes the opportunity to respond to the Committee's Inquiry into the Welsh Government Draft Budget 2021-22.

The Inquiry is an opportunity to scrutinise the Welsh Government's stated commitment towards equality and human rights, particularly in light of the Coronavirus pandemic that has highlighted, and exacerbated, existing inequalities.

This Inquiry is also an opportunity to assess if and how the Welsh Government has taken forward recommendations in last year's joint report by the Children, Young People and Education Committee, the Equality, Local Government and Communities Committee and the Finance Committee into the Welsh Government's Assessing of the impact of budget decisions.

How Coronavirus has affected equality and human rights and Is Wales Fairer? 2018 reports

In October 2020, the Commission published '[How Coronavirus has affected equality and human rights](#).' This report summarises evidence that helps us understand the effects of the Coronavirus (COVID-19) pandemic on different groups in society. It highlights potential long-term risks to equality and human rights covering key issues

The report shows that hard-won equality and human rights in Wales are at risk of going backwards with clear and long-lasting damage to society and the economy as a result of the Coronavirus pandemic, according to our analysis. The pandemic is affecting hard hit groups across all regions of Britain. However, the evidence shows that groups already experiencing hardship and inequality are likely to be disproportionately impacted. Nearly one in four people in Wales live in poverty. Overall, it is clear that the economic impact of the pandemic has been unequal, widening and entrenching existing inequalities.

Coronavirus threatens to hit the poorest and most disadvantaged groups in Wales hardest, and it shines a light on deep rooted racial inequalities. We are in danger of reversing some of the progress that had been made towards equality in Wales, particularly for young people - whose education has been disrupted and employment prospects diminished by Coronavirus and who are at risk becoming a lost generation. The report also identifies concerns about the rights and well-being of older people, whether in social care or isolated at home.

Is Wales Fairer? 2018

In October 2018, the Commission published [Is Wales Fairer?](#) This report is a comprehensive state-of-the-nation report that brings together evidence to assess levels of inequality in Wales. The report highlights key findings and recommendations across all areas of life, including health, housing, education, participation, justice and work. The Commission has called on the Welsh Government to act on the report's findings and recommendations. Priorities identified in the report informed the Welsh Government [equality-objectives for 2020-24](#). Key findings in our report include:

Socio-economic disadvantage

A continuing increase in rough sleeping, increased poverty rates and the adverse effects of UK-wide social security reforms on the poorest groups have contributed to an overall fall in living standards in Wales since our last review.

Disabled people falling further behind

Disabled people are being denied their right to independent living and in many cases are not experiencing the progress seen for other groups, with gaps in educational attainment and employment widening rather than narrowing.

Challenges to women's safety and career progression

While women have some of the most equal outcomes they have ever had, the prevalence of societal gender norms in education and employment, and experiences of harassment and violence, obstruct this progress.

Race inequality persists in Wales

Some ethnic minority people are experiencing improvement but deep inequalities remain, and hate crime motivated by race is still far too prevalent in Wales.

The Commission would welcome the Committee's scrutiny of if the Welsh Government is using the budget to close existing inequalities, such as by taking forward priorities and recommendations identified in the Commission's 'How Coronavirus has affected equality and human rights' and Is Wales Fairer? reports, as well as the Welsh Government's own Public Sector Equality Duty (PSED) equality objectives.

Acting in the spirit of the socio-economic duty

The socio-economic duty is due to come into force in Wales on March 31, 2021. The duty aims to reduce inequalities of outcome related to socio-economic disadvantage. As set out above, the Coronavirus pandemic threatens to hit the poorest and most disadvantaged groups in Wales hardest. The duty is an opportunity for Welsh Government to address specific inequalities of outcome.

In its response to the Equality, Local Government and Communities Committee Inquiry into 'Inequality and the pandemic', the Welsh Government accepted the Committee's recommendation that it should 'adhere to the spirit and intent of the socio-economic duty in all of its decision-making until it is commenced in March 2021, and develop interim arrangements to monitor how it is meeting the spirit of the duty ahead of full commencement.'

The response stated: 'We are aware the Permanent Secretary has encouraged officials to lead by example, and to be applying the ethos of the Duty in their advice to Ministers on strategic decisions. By acting now and leading in building socio-economic considerations into strategic decision making, Welsh Ministers will be able to demonstrate a clear commitment to tackling inequality and ensure we're well placed to deliver the statutory requirements expected of us next year.'

We would expect to see this commitment being demonstrated in the budget's strategic intent and funding allocation, and for it to be evidenced in supporting documentation.

The Commission would welcome the Committee's scrutiny of if there is evidence of the Welsh Government setting its budget in the spirit of the socio-economic duty. The Welsh Government should be able to demonstrate clear strategic intent and budget allocations that aim to reduce the most significant inequalities of outcome related to socio-economic disadvantage.

Public Sector Equality Duty and assessing impact

The Welsh Government must comply with the Public Sector Equality Duty when assessing the impact of its budget.

The Equality Act 2010 public sector equality duty (PSED) is intended to ensure equality considerations are built into the design of policies and the delivery of public services. Under the duty, public bodies, including the Welsh Government, are required to have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Act

- advance equality of opportunity between people who share a relevant protected characteristicⁱ and those who do not
- foster good relations between people who share a protected characteristic and those who do not.

The specific duties, passed by the (then) National Assembly set out the steps that listed bodies in Wales must take in order to demonstrate that they are paying due regard to the general duty. Assessing the equality impact of proposed policies and practices is one of the specific duties.

Budget-allocation is a fundamental practice for which the Welsh Government is required to demonstrate it has assessed the equality impacts and, having considered this, have 'due regard' (i.e. give appropriate weight) to the results of the assessments. This requires the Welsh Government to consider taking action to address any issues identified, such as addressing negative impacts within the budget setting process.

What the duty requires on assessing impact

- assess the likely impact of proposed policies and practices on its ability to comply with the general duty
- assess the impact of any policy which is being reviewed and of any proposed revision
- publish reports of the assessments where they show a substantial impact (or likely impact) on the Welsh Government's ability to meet the general duty
- monitor the impact of policies and practices on its ability to meet that duty.

The specific duties require the Welsh Government to meet the engagement provisions as part of assessing the impact on people with protected characteristics. Therefore, in setting its budget, the Welsh Government must involve people who it considers are representative of one or more of the protected groups and who have an interest in how it sets its budget.

In assessing equality impacts, it is important that the Welsh Government has as much up-to-date and reliable evidence as possible about the needs and experiences of the different groups the budget is likely to affect. Where there is insufficient information appropriate action should be taken to fill these gaps, such as involving relevant people or groups. A lack of evidence should never be used as a reason for inaction.

The 'assessing impact' duty involves considering whether the evidence indicates that there is a different impact on people with particular characteristics, and whether this impact is disproportionately negative. It is seldom acceptable to state simply that a policy or practice (such as a budget) will universally benefit/disadvantage everyone, and therefore individuals will be affected equally whatever their characteristics. The analysis should be more robust than this.

It is important to ensure that the conclusions reached can be explained, particularly where the evidence can be interpreted in different ways. Documenting the budget assessment is important to ensure that the general and specific duties are being met. It is important that the Welsh Government makes its assessment public, in the interests of transparency and accountability. The report should highlight 'impacts', rather than be a commentary on budget allocation.

The Commission would welcome the Committee's scrutinising if the Welsh Government has fully complied with the PSED in a timely manner, with particular reference to the specific duties on assessing impact and engagement.

The cumulative impact of tax and welfare reforms

In March 2018, the Equality and Human Rights Commission published [a report](#) (commissioned from Landman Economics and Aubergine Analysis) looking at the cumulative impact of the UK Government's tax, welfare, social security and public spending from 2010 to 2017. The report sets out recommendations to UK Government for evaluating financial decisions resulting from this analysis. This was a ground-breaking report, with its model offering huge potential for the development of robust cumulative impact assessments. The recommendations are relevant to the Welsh Government as it develops its approach to assessing the cumulative impact of spending decisions. We recommended that the Welsh Government takes forward opportunities that the model presents. The report's recommendations include:

- more ongoing and collaborative preparation in advance of budget-setting
- a clearer decision-making process, with respective responsibilities across departments understood throughout the budget-setting process
- ongoing monitoring and evaluation of the impact of spending measures on people sharing different protected characteristics both during and after implementation.

The Commission would welcome the Committee scrutinising if the Welsh Government has taken forward the report's findings and recommendations.

The Welsh Government should target its spending decisions on minimising and reducing disadvantage experienced by different groups, and it should conduct and publish a Cumulative Impact Assessment of the varied impact on people with different protected characteristics alongside the budget.

Appreciative Inquiry into the Welsh Government's approach to assessing the impact of its budget

The Equality and Human Rights Commission previously commissioned an [appreciative inquiry](#) into the Welsh Government's approach to assessing equality impacts of its budget. The report identified how equality issues could be appropriately identified and used to inform decision making in the future. The Welsh Government's approach to equality impact assessment has developed significantly since this report, but its key findings and recommendations remain relevant.

The findings included:

- Welsh Government departments should take responsibility for conducting EIAs and ensure they have clearly defined and appropriately resourced roles for carrying out and quality assuring EIA. Equalities considerations should become part of the day to day activity of departments and need to be embedded into day to day roles.
- It is recommended that targeted training is provided to enable officials to carry out robust EIAs.
- It is recommended that the Welsh Government develops and sets in place mechanisms for assessing the cumulative effects of budgetary decisions. Cumulative effects should include the impacts of UK Government decisions and how they affect decisions subsequently made by the Welsh Government as well as decisions made by the Welsh Government in its own right.
- It is recommended that the Welsh Government more clearly sets out how strategically significant decisions impact on people with protected characteristics as well as, but distinct from, setting out how decisions impact on groups facing socio economic disadvantage.
- It is recommended that the Welsh Government makes clearer the evidence and engagement activity used to inform strategically important decisions and how this information was used. This information should be presented in a clear way to enable effective decision making and scrutiny.
- The EIA process should be ongoing and not a one off intervention. Individual departments should not necessarily be starting from the beginning when budgetary equalities

assessment commences but should be building on ongoing and continuous equalities analysis. This should also mean that EIAs are developed throughout the policy making process. Cabinet and ministerial level decisions need to be informed by EIA as part of this iterative process.

The Commission would welcome the Committee scrutinising if and how the Welsh Government continues to build on the recommendations of the 'Appreciative Inquiry into the Welsh Government's approach to assessing equality impacts of its budget' report.

Findings from last year's Inquiry into assessing the impact of budget decisions

Last year, the Children, Young People and Education Committee, the Equality, Local Government and Communities Committee, and the Finance Committee published a report into the Welsh Government's Assessing of the impact of budget decisions.

The Commission's letter of June 28, 2019 (meeting 17/07/2019), responded to the Welsh Government's response to the Committees' joint-report following that Inquiry. We highlighted priorities that required further development, including:

- The use of cumulative impact assessments in the assessing the impact of budget decisions
- The timely publication of impact assessments
- Improvements in the Welsh Government's Integrated Impact Assessment tool

The Commission would welcome the Committee scrutinising if the Welsh Government has taken forward the findings and recommendations of the Inquiry report into Assessing of the impact of budget decisions.

Equality and Human Rights Commission

The Equality and Human Rights Commission is Great Britain's national equality body and has been awarded an 'A' status as a National Human Rights Institution (NHRI) by the United Nations.

Our job is to help make Britain fairer. We do this by safeguarding and enforcing the laws that protect people's rights to fairness, dignity and respect.

As a statutory non-departmental public body established by the Equality Act 2006, the Commission operates independently. We aim to be an expert and authoritative organisation that is a centre of excellence for evidence, analysis and equality and human rights law. We also aspire to be an essential point of contact for policy makers, public bodies and business.

We use our unique powers to challenge discrimination, promote equality of opportunity and protect human rights. We work with other organisations and individuals to achieve our aims, but are ready to take tough action against those who abuse the rights of others.
