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Consultation response

Climate Change, Environment and Infrastructure Committee: Priorities for the Sixth Senedd

Consultation details

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For more information please contact

Ruth Coombs

Equality and Human Rights Commission
Block 1, Spur D, Government Buildings, St Agnes Road,

Cardiff, CF14 4YJ

Contact number: 029 2044 7710

Wales@equalityhumanrights.com

About the Commission

The Equality and Human Rights Commission ('the 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. 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.

The Commission has been given powers to advise Governments and Parliaments across England, Scotland and Wales on the equality and human rights implications of legislation and policy. We can also publish information or provide advice, on any matter related to equality, diversity and human rights. We are here to offer our expert advice to support the work of the Economy, Trade and Rural Affairs Committee to ensure equality and human rights considerations are at the heart of the Sixth Senedd.

Consultation Response

This submission addresses two important issues within the Committee's remit. Firstly, it looks at the role that Infrastructure Investment can play in Wales's economic recovery and specifically how it can be used to make Wales a fairer country. Secondly the submission considers our International Human Rights obligations with reference to the binding concluding observations of Treaty monitoring bodies.

Recommendations for the Committees priorities are included in both sections.

1. Infrastructure, Investment & Equality.

The Challenge of Inequality.

Poverty

Just under one in four people in Wales were living in relative poverty in 2019-20. This is the highest rate in the UK, and this rate has remained relatively static for over 15 years¹. At least one in five children in every Welsh local authority is growing up in poverty, after housing costs are taken into account.

However, poverty is not distributed evenly across the population of Wales but concentrated in some specific areas and groups. For instance, Pembrokeshire is now the county with the highest child poverty rate in Wales (31%), once housing costs are taken into account. Of the six local authorities seeing a growth in child poverty rates, five are in rural or coastal areas: Carmarthenshire, Ceredigion, Gwynedd, Pembrokeshire, Powys and Blaenau Gwent have all seen rises in the

¹ <https://gov.wales/relative-income-poverty-april-2019-march-2020-html>

proportion of children living in poverty since 2015². Around 14% of children and 7% of pensioners living in Wales between 2017-18 and 2019-20 were in material deprivation and/or low income households³.

According to the Family Resources Survey (FRS)⁴, in 2019/20 in Wales:

- 49% of people living in relative income poverty are from households with children
- 46% of people who were living in relative income poverty (after housing costs) are lone parents, “and lone parent mothers were the most common type of lone parents, accounting for 86% of this family type”⁵
- 30% of people in single female households with no children lived in relative income poverty
- 31% of working age people who lived in a family where there was someone with a disability were in relative income poverty compared with 18% of those in families where no-one was disabled
- Non-white ethnicity is linked with a greater likelihood of relative income poverty: 29% of “non-white” headed households compared to 24% of families from a white ethnic group.
- The vast majority of households in Wales have a head who is from a white ethnic group, and 97% who were living in relative income poverty were from such households.

² End Child Poverty Media Release (October 2020):
<http://www.endchildpoverty.org.uk/wp-content/uploads/2020/10/FINAL-ECP-Media-release-Wales-AHC-data-Oct-2020-2.docx>

³ StatsWales, Material deprivation (2019-2020).
<https://statswales.gov.wales/Catalogue/Community-Safety-and-Social-Inclusion/Material-Deprivation/childrenandpensionersinmaterialdeprivation>

⁴ <https://gov.wales/sites/default/files/pdf-versions/2021/7/3/1626248922/relative-income-poverty-april-2019-march-2020.pdf>

⁵<https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/families/bulletins/familiesandhouseholds/2019>

- 71% of children who were living in relative income poverty lived in working households.

These concentrations of poverty in specific groups reflects wider issues in the Welsh economy.

For example, before and during the COVID19 pandemic:

- Provisional data presented by StatsWales suggest that in 2020 the Gender pay gap in Wales by year (median weekly earnings full-time employees excluding overtime) is around £ 41.90 less for female compared to male employees⁶ – a percentage different of c.7.7%⁷
- Data shows an improved Gender Pay Gap in 2020 narrowing from 14.5% to 11.6% in Wales⁸, however this figure does not always present the full picture of the key issues that women are facing, including the impact of COVID19.
- About 13% of males aged 16+ worked part-time in Wales in 2020, compared to c.40% of females⁹
- The female early-stage entrepreneurial activity rate in the UK in 2019 was 7.7% compared to 12.1% for males. Wales has a TEA (Total early-stage

⁶ StatsWales <https://statswales.gov.wales/Catalogue/Business-Economy-and-Labour-Market/People-and-Work/Earnings/genderpaydifferenceinwales-by-year>

⁷ StatsWales <https://statswales.gov.wales/Catalogue/Business-Economy-and-Labour-Market/People-and-Work/Earnings/genderpaydifference-by-ukcountry-englishregion>

⁸ Chwarae Teg, State of the Nation 2021 report. <https://chwaraeteg.com/wp-content/uploads/2021/02/State-of-the-Nation-2021.pdf>

⁹ StatsWales <https://statswales.gov.wales/Catalogue/Business-Economy-and-Labour-Market/People-and-Work/Employment/Persons-Employed/statusofemployedpersons-by-welshlocalauthority-measure>

Entrepreneurial Activity) rate of 7% in 2019, significantly lower than in England (12.8%).¹⁰

- Just under half (48.6%) of all disabled people of working age in Wales are in work, compared with c.81% of non-disabled people.¹¹
- Black (56%) and Asian (62%) people have lower levels of employment than "White" and "White British" and "White Other" groups in Wales (between 74% and 81%).¹²
- "...in-work poverty is also higher among black and ethnic minorities due to them being concentrated in low-paid sectors and lower-paid roles".¹³

Securing well paid work is often more difficult for women, disabled people and people from ethnic minority communities. Parents, women and particularly lone parents may struggle to secure full time work due to a lack of flexible and accessible childcare. Disabled people may struggle to secure work due to a lack of accessible housing, support, and accessible transport and workspaces. For ethnic minority people lower skills may prevent them from accessing higher paid work. These factors affect people from Wales's most deprived (and rural) communities, but can be exacerbated by intersectionality.

Current planned new investments in infrastructure in Wales could significantly benefit people at the edges of the Welsh economy, but this will only happen if it is a planned outcome. Without such a conscious effort the investments could inadvertently widen the already evident inequality gaps.

¹⁰ Global Entrepreneurship Monitor United Kingdom 2019 Monitoring Report. <https://www.gemconsortium.org/economy-profiles/united-kingdom-2>

¹¹<https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/disability/bulletins/disabilityandemploymentuk/2019#employment-by-disability>

¹² UK Government (2020) Ethnicity facts and figures. <https://www.ethnicity-facts-figures.service.gov.uk/work-pay-and-benefits/employment/employment/latest#by-ethnicity-andarea>

¹³ [Poverty_in_wales_2020_0.pdf \(jrf.org.uk\)](#)

Infrastructure Investment in Post Pandemic Wales.

Infrastructure investment always provides a stimulus to the economy and can support increased economic growth. This is never more important than in the current post pandemic situation where infrastructure investment. In addition to its usual function – to boost productivity and stimulate innovation – the current high levels of public sector investment in Wales provide a focus for increased growth based on place based needs.

City Region Deals & Levelling Up Fund.

Taken together the 4 Welsh City Region Growth Deals (CRDs) amount to a £2.75bn investment in the Welsh economy over the next 10 – 15 years which will result in over 40, 000 jobs being created. Every area of Wales will benefit from these investments. The primary focus on the CRDs is to stimulate new growth through infrastructure investment. The main areas of investment are in transport, digital, the green economy, power, business infrastructure, and housing. These investments will also stimulate shorter term growth in the construction and fabrication sectors. ¹⁴

The UKG will invest “a share” of £800k through the Levelling Up Fund (LUF), and a further “share” of the available £200m of Community Renewal Funds. These funds are focused on skills development, economic recovery and transport and also likely to result in new jobs.

However, the sectors in which the CRD investments are focussed are highly gender segregated, and without oversight these investments could result in the widening of the gender pay and inequality gap across Wales. For example,

¹⁴ Data taken from <https://publications.parliament.uk/pa/cm201919/cmselect/cmwelaf/48/48.pdf>

women made up 14% of the construction industry workforce in Wales and 8% of engineering, 18% of STEM employees¹⁵.

There is less data available about the participation of ethnic minority communities or disabled people in these sectors but drawing on UK data. For people living in areas of multiple deprivations there will be barriers in participating in these sectors unless there is a significant investment in skills.

CRD and LUF investments will also benefit service users particularly in the areas of transport, digital, energy, and housing. As such they present an opportunity to develop critical infrastructure for Wales's older and disabled people through the development of accessible and affordable transport and housing. However as with jobs, these benefits will not automatically follow.

Taken together these investments have the potential to develop new talent across Wales's diverse communities. However, to be inclusive they need to be supported by extensive and effective talent development programmes which equip those furthest from the labour market with the skills to take advantage of these new opportunities.

The Equality Act and Infrastructure Investment.

The Public Sector Equality Duty and Socio-economic Duty can assist Public Bodies in Wales to ensure that these investments are managed in such a way as to create greater opportunities and fairness for people in Wales as a whole.

Section 1 of the Equality Act 2010 requires public bodies in Wales to ensure that strategic decisions are taken in such a way as to “reduce the inequalities of outcome which result from socio-economic disadvantage”. Investments of this size and significance clearly fall within the definition of “strategic decisions”.

¹⁵ <https://gov.wales/sites/default/files/publications/2020-11/baseline-evidence-and-research-project-for-gender-equality-in-stem-final-report-data-review.pdf>

Section 149 of the Equality Act 2010 (The General Equality Duty) requires public bodies in Wales to ensure that they carry out their duties in a way which eliminates unlawful discrimination, advances equality of opportunity and fosters good community relations. Subsidiary regulations help public bodies to discharge these duties by requiring them to conduct Equality Impact Assessments, and using procurement assessment criteria and contractual conditions to further the General Equality Duty.

The Commission encourages public bodies to think beyond simply creating a “level playing field” by ensuring non-discriminatory decision making, and embracing the full scope of the Equality Acts ambitions by focussing on the need to **advance equality of opportunity** in employment - by ensuring that those groups who are currently unrepresented as employees in these sectors are assisted to secure jobs through training and positive action measures. Similarly, the new services developed by the investment must be fully accessible to those who currently face barriers accessing them. Overall the objective of the Deal and LUF partnerships should be to reduce socio economic inequality and advance equality of opportunity as a direct result of the investments.

Recommendation.

The Committee takes an active role in scrutinising the role of the Welsh Government and Public Bodies performance on equality and investment issues.

The Role of Public Procurement.

“Public bodies in Wales spend over £6 billion each year procuring a range of goods, services and works; this represents nearly a third of total devolved Welsh annual expenditure, and it is estimated that over the next decade Welsh public services will spend over £60 billion”.¹⁶

Future Generations Commissioner for Wales. 25 Feb 2021

The Equality Act Specific Duties for Wales require public bodies to pay “due regard” to the Equality Duty when considering applying award criteria and contractual conditions to any public contract, irrespective of its value. This conditionality applies only to those people employed through the contract but it does allow the awarding body scope to set out who and how any new employees and trainees are recruited and the terms and conditions under which they are employed.

These conditions could include the minimisation of zero hour’s contracts and the payment of the real living wage. Ensuring fair and equal pay between men and women, disabled and non-disabled people and ethnic minority and white staff could also be applied as a contractual condition. This broadens the approach of public contracting from simply ensuring non-discrimination to a more interventionist approach to advancing equality and reducing socio economic disadvantage. Tenders can also require that all new buildings and renovations are barrier free promoting full access for disabled people.

The Equality Act approach supports and develops that of community benefits, although community benefits only apply to contracts of over £1m. “*Community Benefits Policy - maximising value for the Welsh pound*”¹⁷ notes that Community benefits can be used to provide

¹⁶ <https://www.futuregenerations.wales/work/procurement/>

¹⁷ <https://gov.wales/sites/default/files/publications/2019-09/community-benefits-policy-maximising-value-for-the-welsh-pound.pdf>

“Job opportunities for economically inactive; training opportunities for economically inactive; retention and training opportunities for existing workforce, and; contribute... to community initiatives that support tackling poverty across Wales and leave a lasting legacy within the community”.

Given that construction will be a major part of the CRD and LUF spend public bodies may wish to introduce contractual conditions and community benefits which require contractors to increase the diversity of the construction sector in Wales, and ensure that local people benefit from these programmes.

Taken together these two policy initiatives could maximise the impact of the infrastructure investment spend in Wales over the next 15 years.

Recommendation - The Committee may wish to take evidence on how community benefits policy and the Equality Act provisions on procurement are being used to advance equality of opportunity and reduce socio-economic disadvantage infrastructure investment programme.

Comparable Practice.

The Committee may wish to take evidence from elsewhere in the UK on how other administrations have approached Equality & Investment issues in Infrastructure development.

The Scottish Government has been working with the EHRC for 4 years on a programme of embedding equality Act Section 1 and 149 duties in the City Region Deal Programme.

The Scottish Government includes a clause in the annual grant letter which requires CRD Partnerships to advance equality of opportunity and reduce socio economic disadvantage. This is located in the broader policy context of Inclusive Growth. Progress against the Duties is discussed during Annual Conversations held between the two funding Governments and the CRD. The Scottish Government also expects all CRDs to complete the [Inclusive Growth Diagnostic](#) as part of their initial suite of planning documentation.

The Scottish Government has published a range of resources for CRDs on the Scottish Centre for Inclusive Growth website – see [SCRIG resources](#). These include guidance on how to embed inclusive growth into Outline and Full Business cases, guidance and training on Equality & Fairer Scotland Impact Assessments, and complementary guidance on [Community Wealth Building and Equality](#). The Scottish Government has also issued guidance to all CRDs on Benefits Realisation planning which includes examples of how to include equality indicators that will be monitored over time.

The UK Government has produced [helpful guidance](#) on how to include equality indicators in public procurements. This guidance includes model evaluation questions and award criteria sample indicators, measurement and evaluation metrics and response guidance for tenderers and evaluators.

Recommendation – The Committee may wish to invite representatives from the Scottish Government and CRDs, and the UK Government to give evidence and consider how this practice could inform infrastructure investment in Wales.

The Commission now wishes to consider how we can give time limited support to CRDs to Wales. We will be writing to the 4 CRDs in Wales this month to offer them some support, such as in writing inclusive Outline and Full Business Cases, reviewing Equality & Socio-economic Impact Assessments, and developing Benefits Realisation Plans which track key equality outcomes.

2. Climate Change & the Environment.

Governments have adopted a series of international human rights treaties, which set out the basic rights and freedoms that belong to everyone.

The UK has signed and ratified seven of the nine core UN human rights treaties. These include:

- International Convention on the Elimination of All Forms of Racial Discrimination (CERD)
- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (CAT)
- Convention on the Rights of the Child (CRC)
- Convention on the Rights of Persons with Disabilities (CRPD)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)

Although the rights contained in the treaties cannot be directly enforced in UK courts, they represent binding obligations in international law. By agreeing to follow the treaties, the Welsh Government has promised to make sure it respects, protects and fulfils the human rights standards they contain.

Until recently there has been no easy means of understanding the UK and Welsh Governments' obligations under international human rights law, or assessing what they are doing to implement them. Information is fragmented and often difficult to understand, and governmental action takes place across various jurisdictions, departments and bodies.

To help to remedy this the Commission have developed [HumanRightsTracker.com](https://www.humanrightstracker.com) – the UK's first tool to make human rights transparent and hold Governments to account. HumanRightsTracker.com is a searchable online tool that provides summary information on each of the UN treaties the UK is signed up to plus the Universal Periodic Review, including links to all the relevant reports, and information on the timelines for each process. Uniquely, it pulls together in one place all the UN's recommendations to the UK from the last round of reviews, which amounts to around 500 fully searchable recommendations. The tracker takes the human rights issues identified, maps against them what action UK and Welsh Governments are taking to address them, and then provides the Commission's assessment of any progress made. Between 10 December 2020 and 10 December 2021, we are publishing assessments of the progress the Welsh Government has made across a range of different human rights issues, such as Just and Fair Conditions at Work, Living Standards and Access to Employment.

We would like to see the Welsh Government establish a coordinated national mechanism to oversee the implementation of the UK's international human rights obligations.

We believe that the Tracker is essential reading for parliamentarians looking to put equality and human rights at the heart of the response to the pandemic and future recovery

Recommendation - The Committee may wish to use the Tracker to monitor the progress of the Welsh Government on its obligations under international human rights law and identify the areas where it is falling short and more action is required.

Other sources of evidence the Committee may wish to consider

Is Wales Fairer?

Is Wales Fairer? is the most comprehensive review of how Wales is performing on equality and human rights across all areas of life, including; education, work, living standards, health, justice and security and participation in society.

This is the Welsh supplement to our report on equality and human rights progress in England, Scotland and Wales, Is Britain Fairer?

We have also recently produced a follow-up “How Coronavirus has affected equality and human rights” report which summarises evidence to help us understand the effects of the coronavirus (COVID-19) pandemic on different groups in society.

Housing and Disabled People Wales’s hidden crisis

Our Inquiry, published in 2018, highlighted the impact of inaccessible housing and the challenges that finding appropriate housing has on disabled people’s right to independent living.

We made a number of recommendations to The Welsh Government and Local Authorities to improve the situation for disabled people living in Wales.