

**Cyflwynwyd yr ymateb i ymgynghoriad y [Pwyllgor Iechyd a Gofal Cymdeithasol](#)
ar y [gweithlu Iechyd a Gofal Cymdeithasol](#)**

**This response was submitted to the [Health and Social Care](#)
[Committee](#) consultation on [Health and Social Care Workforce](#)**

HSC 38

**Ymateb gan: | Response from: Comisiwn Cydraddoldeb a Hawliau Dynol |
Equality and Human Rights Commission**





Consultation response

Health and Social Care Committee

Consultation details

Title of consultation: Health and Social Care Workforce

Source of consultation: Senedd Cymru

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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.

Consultation Questions

The Committee is seeking views on:

1. Plans for implementation of A healthier Wales: our workforce strategy for health and social care (published in October 2020), including progress made to date and whether delivery is on track for 2030.

The Equality and Human Rights Commission (the Commission) is pleased to respond to the Health and Social Care Committee (the Committee) consultation on the national strategy for the social care workforce. We welcome that the fundamental principles of the strategy highlight important actions to realise equality, including:

- embedding equitable opportunities for its workforce and embracing the recommendations laid out in the Commission's *Is Wales Fairer?* report
- ensuring that the workforce is treated fairly and recognised for the contribution they make
- strong compassionate inclusive leadership ensuring a clear focus on engaging and addressing inequalities for people from differing socio-economic circumstances, including those who share the same protected characteristics and those who do not.

As the regulator of the Equality Act 2010, we hold Welsh Government and public bodies in Wales to account for their compliance with the Public Sector Equality Duty and ensure that they use it to tackle inequalities and drive improvements in the delivery of public services, including social care.

The Commission has a number of priorities that relate to the national workforce strategy, including ensuring people have equal access to the labour market and are treated fairly in work. The Commission launched its inquiry into racial inequality in health and social care workplaces in November 2020. This inquiry focuses on the treatment and experiences of low paid ethnic minority workers in health and social care across Wales, Scotland and England and will make findings and recommendations for the Welsh Government and health and social care organisations in Wales. We respectfully suggest that our findings and recommendations will need to be taken into account in delivering the 10 year workforce strategy. We aim to publish our report later in the year.

Data gaps

This consultation response focuses primarily on data. Our 'Is Wales Fairer?' research found that, "there are clear data gaps in Wales which make it difficult to understand the experiences of people sharing protected characteristics." Improving data collation methods to better understand the workforce is highlighted as a key action within the strategy.

Under the requirements of the Public Sector Equality Duty (PSED) Wales specific duties, a public body must make appropriate arrangements to ensure that it periodically identifies relevant information it holds, and identifies and collects information that it does not have. Compliance with the PSED in relation to the duty to have due regard of relevant information, data and evidence to inform equality-related decisions may be an area the Committee wishes to examine further.

It is our understanding that NHS organisations in Wales have data gathering structures in place which allow staff to self-declare their protected characteristics should they wish to do so. The nature of social care and the vast number of independent providers in the sector does not lend itself to such a system, however the registration of the social care workforce is an opportunity to collate this data. This data can help understand the specific areas that require focus when implementing the strategy, and further help identify disparities in the success of the strategy so that they can be addressed.

Furthermore, data from the NHS workforce survey, if disaggregated by protected characteristic, would help inform the specific action required to address disparities and disproportionalities within the workforce. A similar approach is needed for the social care workforce to ensure that there is a mechanism for understanding the experiences of the workforce, disaggregated by protected characteristic.

When reviewing progress against the national strategy, we recommend the committee take this data into account in measuring progress for all protected characteristics. This will help identify where further action is needed to support certain parts of the workforce.

Health and Social Care organisations responsible for the implementation of the strategy must urgently prioritise collecting complete, intersectional data which can be disaggregated and used to better understand the experiences and treatment of the workforce. This in turn can inform much more targeted actions to realise the ambition of the strategy, address inequalities in the workforce and also help the Committee better measure progress. Examples of where data could be used to better effect are included in section 4.

2. The alignment of the strategy and its implementation with other priorities and actions, including those identified in the Welsh Government's Programme for Government for 2021-2026, and A Healthier Wales: our Plan for Health and Social Care (2018).

Socio-Economic Duty

The commencement of the socio-economic duty earlier this year provides a further opportunity for public bodies to address inequalities of outcome for ethnic minorities in Wales. Socio-economic disadvantage impacts on people's life chances and intersects across other forms of inequality, including racial inequality. Many of the racial inequalities in employment are linked to the socio-economic status of ethnic minorities.

The enactment of the duty is a positive step which means that public bodies must consider how strategic decisions can reduce inequalities of outcome associated with socio-economic disadvantage. With that in mind, the Committee may wish to examine how the reduction of inequalities of outcome associated with socio-economic disadvantage were considered in the development of the national workforce strategy.

Race Equality Action Plan

The Welsh Government's Race Equality Action Plan highlights a lack of publicly available ethnicity data on both workforce and service users. This hinders the ability to hold organisations accountable and to ensure fair and equitable working practices for all including recruitment, retention and progression. In setting out the case for change, it was noted that steering group members felt that public bodies did not routinely publish data on under-representation as is required by the PSED and failed to use this to promote positive action.

Several actions identified in the Race Equality Action Plan aim to improve the available data, intelligence and understanding to drive progress in the health and social care sector. This includes using workforce data to monitor the diversity of the workforce and take action to increase the number of ethnic minority staff.

It is equally important that, when collecting and monitoring data relating to ethnicity, it is appropriately disaggregated to better understand differences in outcomes for different ethnic minorities. Disaggregated data is essential to understanding and addressing the racial inequalities faced by certain groups, which may not be identifiable by looking at ethnic minority data as a whole.

Analysis must take into account not just the number of ethnic minority staff in the workforce, but also their pay, terms and conditions, treatment and experiences, career progression and training opportunities and level of seniority.

In our response to the Race Equality Action plan consultation, we made the case for strengthening the specific duties under the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011. We believe strengthened PSED regulations could help ensure public bodies take action to address the most significant inequalities. In addition, we recommended that the regulations should require public bodies in Wales to take action to address pay and employment differences, report on progress and publish pay gap data across protected characteristics.

We also recommended that Welsh Government consider and mandate methodological changes to data collection processes that can improve sample sizes to an adequate level to be able to understand the experiences of different ethnic minorities in Wales, including for those identified in *Is Wales Fairer?*

The Committee may wish to scrutinise relevant health and social care regulators on progress towards improving their data collection methods in order to meet the ambitions of the Race Equality Action.

4. The mechanisms, indicators and data that will be used to measure progress in implementing the workforce strategy and evaluate its effectiveness.

One of the four stated ambitions of the national workforce strategy is to ensure that the health and social care workforce is reflective of the population's diversity, language and cultural identity. Yet there continues to be serious data gaps in Wales that make it very difficult to fully understand the experiences of workers sharing protected characteristics and to effectively address inequalities.

Disparity between local authority and commissioned care

Data published by Social Care Wales indicates that there are disparities in workforce diversity between commissioned care and local authority provided care.¹ A 2020 study commissioned by Welsh Government examined the disparities in pay and terms and conditions across private adult social care, local authority provided adult social care and health care support work in the NHS on Agenda for Change pay scales. It found that, "local authority social care employers and the NHS appear to pay more and offer more favourable terms and conditions compared to independent and third sector providers." This study also found that basic pay is enhanced by more factors (such as paid overtime,

¹ Social Care Wales (2019), [Social Care Workforce Development Partnership Reports](#)

reimbursement of registration fees or opportunities for job shares and flexible working) in the NHS and local authority when compared with independent providers.²

When setting diversity targets, organisations need to focus on more than simply increasing percentages of ethnic minority workers employed in the sector. Efforts should be made to monitor and understand recruitment, retention and progression by grade or level, where people are employed, the roles they are in, the terms of their employment and their day to day working experiences and treatment. In order to fully understand the social care workforce and take positive action to advance equality of opportunity, workforce data must also be disaggregated by pay band, role seniority, and terms and conditions.

The Commission has produced guidance for public bodies listed under the PSED on the collection of employee information, pay differences and staff training. This guidance can be used to identify what information should be collected and used to ensure that equality is properly considered and that it influences decision-making at all levels.³

Equal access to education, learning and development opportunities

We fully support the commitment to provide opportunities for education and learning (strategic theme 5). The strategy notes that the fragmented nature of continuous professional development can result in certain occupational and professional groups, both from those who share protected characteristics and those who do not, feeling undervalued, and not having opportunities to develop.

In order to ensure opportunities for education and learning are equitable, health and social care organisations need to understand who in their workforce is accessing training. Disaggregated data by protected characteristic, pay bands and types of employer would help to identify whether specific groups are given fewer opportunities than others and take mitigating actions to ensure opportunities are equitable.

² Welsh Government (2020), [Review of Evidence of Variation in Terms and Conditions for Social Care Employment Contracts in Wales](#)

³ EHRC (2014) [Employment Information, Pay Differences and Staff Training and the Equality Duty: A Guide for Listed Public Authorities in Wales](#)

The importance of data equally applies to strategic theme 6. We are pleased to see the strategy acknowledge the need for leadership to be diverse across all services and settings. Complete workforce data, disaggregated by protected characteristic, role, pay band and level of seniority, contract type and working pattern will help the committee hold relevant organisations to account in terms of how the action they're taking to improve career progression are translating for different groups of workers.

6. The extent to which the strategy and its implementation are inclusive, reflect the needs/contribution of the whole workforce—for example, on the basis of profession, stage of career or protected characteristics—and also take into account the role of unpaid carers and volunteers.

Fair work, contractual arrangements and precarious employment

The Welsh Government have identified fair work as a policy priority for a number of years. In 2019, they accepted the recommendations of the Fair Work Commission's report including the definition of fair work 'where workers are fairly rewarded, heard and represented, secure and able to progress in a healthy, inclusive environment where rights are respected.'⁴

The Fair Work Commission also recommended that 'public money should be provided only to organisations fulfilling, or working towards fulfilling our definition and characteristics of fair work.'

The Programme for Government 2021-26 pledges to progress the Fair Work Commission's recommendations and to 'build an economy based on the principles of fair work.'

Precarious employment is a particularly prevalent issue in social care. Those employed in the social care workforce are far more likely to be experience precarious employment than the general population. [ONS data](#) suggests that in 2019, only 3% of UK workers were on zero hours contracts across all sectors. In comparison, [a study conducted on behalf of Welsh Government](#) found in the same period, 22% of local authority employed care workers, 22% of independent employed care workers, and 4% of third sector social care employees were on zero hours contracts. Lower rates were reported in more senior roles, with fewer than 10% of local authority and independent employed senior care workers and supervisors on zero hours contracts.

⁴⁴ Fair Work Commission (2019) [Fair Work Wales report](#)

Welsh Government recognise that the social care workforce is a gendered and ageing workforce.⁵ Evidence also suggests that ethnic minority workers are more than twice as likely to be employed in the health and social care sectors as those of white British ethnicity.⁶ Therefore from an equality perspective low pay, poor terms and conditions and low value of social care work is having a disproportionate impact on these groups. This correlates with UK wide statistics, which show that ethnic minority workers are more likely to be on zero-hour contracts⁷, be in temporary employment⁸ and have lower median hourly earnings⁹ than their white counterparts.

In line with the Welsh Government's commitment to fair work, we recommend that public bodies should use the Public Sector Equality Duty to ensure those employers contracted by the public sector address pay differences, occupational segregation and employment gaps and demonstrate equality in employment practices, including using the National Living Wage as the wage floor and ensuring zero-hour contracts and other forms of insecure employment are used appropriately and do not erode the rights of workers to just and favourable conditions of work.

⁵ Social Care Wales & Health Education and Improvement Wales (2020), [A Healthier Wales: Our Workforce Strategy for Health and Social Care](#)

⁶ Cardiff University, Wales Fiscal Analysis (2020), [Covid-19 and the Welsh economy: shutdown sectors and key workers](#)

⁷ Trade Union Congress (2021), [BME workers on zero-hours contracts](#)

⁸ Trade Union Congress (2021), [Analysis of ONS Labour Force Survey Q4 2018](#)

⁹ EHRC (2018), [Is Wales Fairer? The State of Equality and Human Rights](#)