

The Rt Hon Dominic Raab MP  
Lord Chancellor and Secretary of State for Justice

22 March 2022

Dear Dominic

### UK Government consultation to reform the Human Rights Act 1998

The Equality and Social Justice Committee considered your letter and the UK Government's consultation at its meetings on 10 January 2022 and 7 March 2022. We asked a limited number of stakeholders in Wales to share their views on the consultation with us, and we are aware that some have also responded to you independently. While timescales have not allowed us to contribute a more thorough response at this stage, we have set out our main comments in relation to the consultation below, based on Members' views and the input we have received to date.

### Independent Review of Human Rights

We note the findings of the Independent Review of Human Rights and in particular its conclusion that the Human Rights Act 'has been a success, and does not advocate for radical change'. We support in particular its recommendation for the need for more education on the Human Rights Act (the Act) to increase public ownership of the Act and to create a culture of human rights.

### Wales' progress on human rights

We acknowledge that human rights are not devolved, however we are mindful that responsibility for the observation and implementation of human rights in Wales is held by Welsh devolved institutions, including the Welsh Parliament, and that the *Government of Wales Act 2006* incorporates Convention rights. One of our stakeholders noted:

*"The proposed changes set out in the consultation are a constitutional matter with implications for the exercise of legislative and executive competence in Wales and other devolved contexts."*

The Welsh Government has taken steps to strengthen and enhance the rights of people living in Wales, and continues to do so, having recently commissioned its own research into this area.

Our stakeholders have highlighted particular concern about the possible implications for the Welsh Government's proposed incorporation of the United Nations Convention for the Elimination of all forms of Discrimination against Women (CEDAW) and the United Nations Convention of the Rights of Disabled People (UNCRPD) into Welsh law.

From both the responses we have received directly and those that we are aware of more broadly, it is evident that there is considerable concern in Wales about the impact of what is proposed on the potential for Wales to continue its progress on human rights.

### **Status of the European Convention on Human Rights**

We welcome the UK Government's commitment to remaining party to the European Convention on Human Rights (ECHR), and to continue to uphold its international human rights obligations. However, we are concerned that the consultation lacks clarity about what status it would have in the Bill of Rights, including to what extent the reforms would involve changes to substantive rights in domestic law and, further, if any changes would result in changes to the devolved competences of the Welsh Government and Senedd.

Our stakeholders have stressed the need for rights to be protected to at least the same extent and no lower than those in the ECHR, with one in particular noting the proposed changes to Section 3, which they warn could weaken human rights protections in Wales if it is not upholding Convention rights to the standard that has been deemed necessary by the European Court of Human Rights in Strasbourg.

### **Impact of the proposals on protected characteristics**

We understand there is concern around current issues with the practical barriers to the enforcement of human rights and access to justice, some of which has a disproportionate impact on people with protected characteristics. In this case our stakeholders have suggested that it would be necessary to assess the impact of the proposals on protected characteristics and take steps to mitigate any obstacles to the enforcement of rights affecting particular groups.

As a Committee, the consideration and scrutiny of human rights strikes to the heart of the work we do and we will therefore be taking a keen interest in the development of your proposals. While we were disappointed that the consultation contained little reference to devolution, and to Wales in particular, we would encourage further engagement with the devolved institutions at every step of the process.

We would like to thank you for the opportunity to offer our views as part of the process so far and will consider further engagement at the next iteration of the proposals, when further detail is available.

I am copying this letter to the Chair of the Legislation, Justice and Constitution Committee.

Yours sincerely

A handwritten signature in black ink on a light yellow background. The signature reads "Jenny Rathbone" in a cursive, flowing script.

Jenny Rathbone MS

Chair, Equality and Social Justice Committee

