

Communities, Equality and Local Government Committee

Inquiry into : The future of equality and human rights in Wales

Response from : Professor Robert Moore - Emeritus Professor of Sociology
the University of Liverpool

Although I have been working and publishing in the field of ‘race relations’ since the mid-1960s my immediate perspective on equality and human rights issues is largely a North Wales perspective. I keep in touch across the field though attendance at conferences and training sessions organised by the EHRC, the BiHR, the Runnymede Trust and other organisations and through academic research and conferences, but my direct engagement is with public bodies in North Wales. I am a trustee of the North Wales Regional Equality Network, but I write this response in my personal capacity.

I am a member of the BCU Health Board’s Equality & Human Rights Strategic Forum and their Equalities Stakeholder Reference Group, of North Wales RSL’s Equality Partnership (NWREP) and the North Wales Police’s Diversity Steering Group

Since the passage of the 2010 Equality Act I have been asked to advise a number of public bodies in North Wales on the writing of their Strategic Equality Plans and their Equality Action Plans.

The first question you raise is:

How well the specific public sector equality duties are functioning in Wales

It is almost too early to answer this question because public bodies are only now writing their reports on the first year of implementation. Not all public bodies achieved a ‘flying start’ although North Wales Police and the Health Board were conspicuous in drafting and publishing relevant, proportionate information and setting equality objectives in good time. Both are aware as employers and service providers of the importance of equality in ensuring effective service delivery. The McPherson report plainly galvanised police forces into developing policies prior to the general adoption of current policies.

Local authorities in North Wales were perhaps slower to implement partly because of their unfamiliarity with equality issues and partly because of the pressure of other priorities. Considerable use was made of the template provided by the WLGA in producing policies and setting objectives. Local authority policies make reference to local and regional information, data sources and research. The North Wales local authorities all have SEPs and I believe they are writing their first annual reports. In North Wales there is also a collaborative working project *Shared Equality Objectives* between public sector bodies across the region. This is an important initiative that will enhance consistency in the application of policies across the region, ensure the use of common definitions and, I presume, common frameworks for data analysis and review. At this level the duties can be said to be functioning effectively.

But if we were to drill down below the level of organisational collaboration and policies documents¹ we would find a less clear picture.

1. Although considerable effort has been put into training and disseminating information in the organisations with which I am familiar, the equalities agenda is not always fully understood; councillors, for example, can be heard expressing racist views, or objecting to the ‘burden’ of equality policies or ‘political correctness’, and middle level managers do not always seem to understand the extent of their obligations for equalities. I recently viewed a draft equality impact assessment of a policy in which the impact on most of the protected characteristics was marked ‘N/A’ when this plainly was not the case and no evidence was offered to support such responses. Local authorities like to believe that they serve ‘the whole community’ and it is probably difficult for them to admit that certain groups may be disadvantaged by particular policy decisions. But honesty and openness is essential in pursuit of the specific duties, but perhaps not always politically palatable.
2. An equalities culture has not been created across all parts of the public sector. It may however be too early to expect this to be the case in North Wales. This I would attribute in part to a lack of strong leadership from the top.
3. The effective implementation of equality (and human rights) policies is especially difficult in situations where there is a degree of ‘churning’ of staff either through reorganisations, redeployments or the use of agency staff. One junior manager expressed this in terms of not being sure they would see the same faces two days running. In such conditions, ensuring that everyone is ‘on board’ and up to date with equality training and practice is extremely difficult.

The education sector is well-known for its lack of enthusiasm for equality policies, usually resisted by schools on the grounds that ‘we treat all pupils the same’. These are schools who have not learnt the lesson from *R v Aberdare Girls High School Governors and Rhondda Cynon Taf Unitary Authority (2008)*.

School leadership teams and governors are (or should be) well versed in the use of education data and target-setting. Reducing the performance gap between children on FSMs and the others, or the gap between boys and girls is well understood. Policies should already be in place to address these issues. It should not be difficult to address other equality issues. But the drive to improve literacy and numeracy, the imperative to improve performance in public assessments may all force the wider equality agenda to the margins for schools in which there may be very few visible minorities. The public sector equality duties may seem like just one amongst many additional burdens placed on schools. ESTYN should have an important role to play in ensuring that schools have effective equalities policies in place.

The question of consultation in the development and evaluation of equality policies is a difficult one for schools. Furthermore the voluntary sector could find itself almost permanently engaged in consultation with schools. This is a matter to which LEAs are giving some

¹ Similarly the North Wales RSLs, although not strictly ‘public bodies’, have for some years had an equality partnership – the first of its kind in the UK.

attention. This I would see as an ‘ironing out’ of issues arising from the implementation of new policies.

The Equality and Human Rights Commission in Wales

The Commission in Wales has played an invaluable role in launching the Equality Act 2010 by providing training and training materials. My impression is that it increasingly relies on a process of cascading training downwards, largely through the voluntary sector. The Commission has had its resources reduced over the years and no longer has the presence of its predecessors (notably the CRE and the EOC). It can be difficult to make a casual ‘phone call to the Commission to get advice on legal or policy matters, which leaves Race Equality Councils and other voluntary sector equality bodies very much on their own. The Commission’s enforcement functions are rarely used, being reserved for cases of particular legal or strategic importance. This means that private citizens are less able to seek redress for discrimination or breaches of their human rights. The support and advocacy provided by the voluntary sector for complainants who lack the resources to retain a lawyer are themselves much diminished. There are occasional rumours that the North Wales office of the Commission may be closed.

There is therefore, in my opinion, an alarming diminution in the role of the Commission. In the event of its functions being devolved to the Welsh government a strong case could be made for some reinstatement of the Commission and the strengthening of its enforcement powers.

The link between poverty and equality and the socio economic duty

Poverty entails inequality and social exclusion. The policies of the Westminster government are plainly increasing both poverty and inequality – we are seeing a very significant redistribution of resources away from the poorer sections of society whilst over recent years very substantial income and wealth has accumulate in the top 5 per cent – and prodigious wealth in the top 1 per cent. It might be argued that this is the intention of current policies, but whether it is or not, the most that may be hoped for through the socio-economic duty is to mitigate the impact of poverty. It is not easy to see how this can be done when, for example, local authorities will be required to administer policies likely to lead to increased indebtedness and homelessness in the poorest parts of Wales.

It could be argued that with devolved taxation and social security policies Wales could address issues of poverty more effectively but the political climate may militate against the levels of redistribution required.

The original wording of the duty is, however, convoluted and ambiguous, requiring public bodies to have ‘due regard to the desirability of exercising [their functions] in a way designed to reduce the inequalities of outcome which result from socio-economic disadvantage’. In a minimalist interpretation this could only require public bodies to agree to a good idea – but not to do anything.

My minimal interpretation would be that poorer people should be treated with the same respect and consideration as everyone else and not denied access to public services on the

grounds of their poverty. This in itself may become increasingly difficult, with the poorest increasingly pilloried by the popular press and Westminster Ministers. Even if we could improve the regard in which poorer people are held, and their own self-esteem, it would not address the key issues; firstly poverty means people go without at least some of the necessities of life and being denied the opportunity of full participation in mainstream society. Children from poorer families are likely to do less well at school and thus be less able to secure even an average income. Furthermore poverty can quite literally be a fatal condition.

Secondly an unequal society is an unhappy society. As shown in Pickett and Wilkinson's *The Spirit Level*, in its supporting data and many other publications, high degrees of inequality reduce the life expectancy of whole populations, reduce productivity and are associated with increased crime, poor mental health and lower educational achievement. Addressing the problem of inequality would be to be a primary objective for any nation that hopes to thrive and prosper, but it is not one that our national government accepts. Therefore while we may hope that the socio-economic duty will be implemented as far as is possible I do not believe it is an adequate means of addressing the major structural and policy issues of inequality and poverty. I have seen no evidence that the duty is effective. Regrettably the duty can only address the bruises but not the fist that cause them.

Accountability for equality and human rights legislation in Wales

It is quite widely believed (and I have heard such views expressed in North Wales) that human rights are for foreigners and criminals, and especially for foreign criminals. The UK government is obviously not striving to dispel these views and as noted above is pursuing *inequality* policies whilst contemplating some backtracking on human rights, although how this could be squared with our international obligations is not clear.

In an ideal world every citizen would be accountable for the human rights of every other citizen. But in regard to the question I am unable to make any evidence-based response but only to observe that aspects of the history and culture of Wales probably make it especially amenable to the development of the human rights agenda. Therefore whatever the constitutional relationship between England and Wales, administration and accountability for human rights legislation might best be devolved to Wales. Welsh social security administration could, for example, have as one of its objectives the reduction or removal of the stigma attached the benefit claimants (Baumberg *et al*, 2012, *Benefits Stigma in Britain*, www.turn2us.org) Such an administration would address issues of poverty, human rights, equality and dignity. England and Wales are, however, already diverging on equalities legislation and as the gap widens Wales will find its position increasingly unsustainable. The devolution of responsibility for both human rights and equalities, would, in my opinion, be highly desirable.