

## Communities, Equality and Local Government Committee

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

Response from : Hawliau (response by Mike Lewis on behalf of Hawliau - Consultant in Equality and Human Rights)

### 1 Introduction

Despite over forty years of equality legislation in one form or another, we still live in a society where the impact and outcomes of discrimination shortens lives, reduces aspirations and life chances and diminishes people's quality of life.

A recent paper on 'discrimination in practice' by the Equality and Diversity Forum (2012) argues:

- Women on average are paid 14.9% less than men
- Just under 50% of Trans people face harassment or victimisation in work
- Gypsy and Travellers have poorer health than the general population and poorer healthcare
- Half of new cancer diagnoses occurs in over 70's yet mortality rates fell 16.5% in under 75's but only by 6% in the 75-84 age group
- 55% of gay, lesbian or bisexual young people face homophobic bullying in schools
- A third of people who are disabled have difficulty in accessing services
- Unemployment in the Black and Minority Ethnic population rose from 28% in 2008 to 47.4% in 2011

Some aspects of discrimination are becoming more pronounced; therefore I would like to see the general and specific equality duties under the Equality Act 2010 become broader in scope. In addition I would like to see their implementation being further enhanced, not diminished, within Wales.

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

I would like to see the duties better promoted so that users know of their existence. Public Authority staff who have to monitor them need to fully understand how the duties can improve peoples lives and that they are not seen as a tick box exercise. In broadening out the equality duty I believe that all organisations that receive public money should demonstrate their commitment to eradicating poverty and supporting effective inclusion, equality and sustainability.

In my work at Hawliau I use the mnemonic PIES, which stands for Poverty, Inclusion, Equality and Sustainability, as my focus for adding social value to organisations. It reminds us all that any organisation receiving public funding needs to deliver on broad Government strategy to reduce

**Website :: Gwefan**  
<http://hawliau.co.uk>

**Email :: Ebostr**  
[enquiries@hawliau.co.uk](mailto:enquiries@hawliau.co.uk)

**Phone :: Ffon**  
07748 367436

poverty and deliver on inclusion, equality and sustainability. I would therefore like to see the Equality Act 2010 (Specification of Relevant Welsh Authorities) Order 2011 being amended. This would mean that reporting and delivery requirements are attached as a condition to all organisations that receive public funding not just the current listed public authorities.

Whilst the focus on the protected characteristics is needed. The duty needs to be further extended to include language rights for English and Welsh speakers and speakers of other languages, where rurality and poverty are issues and where the needs of carers need to be recognised. Discrimination is a complex and multi faceted phenomena, which needs a multi faceted response. A focus only on protected characteristics does not do justice to the complexity that people face in their lives and also does not demonstrate how people are far more than their protected characteristics. The general duty asks all public authorities to have due regard to the need to

- Eliminate unlawful discrimination, harassment and victimisation
- Advance equality of opportunity between different groups
- Foster good relations between different groups

Being cynical in regards to due regard can mean '*do nothing*' and the specific duties need to be reframed around a number of key questions, which could include.

- So what have you done to deliver on equality?
- What outcome has been achieved?
- What outcome was expected?
- What progress can you demonstrate from year to year in relation to your equality duties?

Crucial to the success of the duties is the role, scope and function of Equality Impact Assessments. I know of both positive and negative examples in Wales of how Public Authorities respond to their equality responsibilities. Below are some key issues in relation to how the equality duties are implemented currently.

- Small Non Governmental Organisation's are expected to review equality plans often at short notice and with no extra resources
- Much of the analysis does not go beyond no impact often with a lack of creative understanding of what impact is or what outcome a policy could potentially mean
- Gender budgeting has changed how services are delivered and funds are allocated and this process needs to extend to other groups of people
- Early and positive engagement with people from protected characteristics to none or very late engagement
- Arguing that some people with protected characteristics are more deserving than others of resource allocation
- Failure to evaluate the impact of the process
- No feedback as a result of the process
- As well as providing on impact of individual characteristics, good analysis of multiple discrimination
- Analysis goes beyond protected characteristics e.g. poverty, rurality etc.
- The process of engagement is/is not linked to Welsh Government Participation Standards
- Some public authorities can demonstrate progress in their analysis from year to year and the process is obviously iterative

### 3 The Equality and Human Rights Commission in wales

There is evidence over many years that the EHRC has become subject to political influence in the UK rather than focussing on its core of building a better society. It needs to be independent of all governments similar to our Welsh Language, Older People and Children's Commissioners. Its role should be radical so that it has an enforcement, promotion and research role. I believe that competency for it should be devolved to the National Assembly for Wales and its role should be underpinned by statute. I believe that the current experiment of a separate advice line should stop and the provision should come back into the EHRC. This is because its role has been diluted to make its impact worthless in my view.

There is a different cross party approach to equality and rights within Wales and this should be reflected within the context of a Welsh EHRC. This is because the statutory obligations laid down under the Government of Wales Acts have a clear focus on equality. In addition there is broader cross party support for the development of a rights based agenda in Wales and again this could be built into statute. There is a considerable amount of debate currently as to whether in the context of the UK the EHRC is falling below the standards expected by the Paris Principles (1993) on the minimum standards for human rights monitoring organisations. It would be helpful if there is a review in Wales of the role and function of the EHRC to ensure that it has not fallen below this standard. This review could also strengthen its role and reach in Wales.

I am concerned that the current proposals by the UK Government are to remove key principles of the Equality Act 2010 namely Section 3 making society fairer, Section 8 equality and diversity duties, Section 9 human rights duties, Section 10 the good relations duty, Section 12 monitoring progress re a fairer society, Section 19 good relations duty for the EHRC. The impact on Welsh society if these proposals take place will be to dilute the general duty and potentially build in discrimination for a generation. It will remove some of the necessary tools to challenge discrimination and promote inclusion.

### 4 The link between poverty and equality and the socio economic duty

Under the Equality Act 2010 the socio economic duty focuses on '*reducing the inequalities of outcome which result from socio economic disadvantage*' and has never been enacted.

The UK government has used the Red Tape Challenge and the argument of ineffectiveness to ensure its abolition. However within the Welsh context it could be argued to have some specific benefits if it were implemented such as

- Supporting the argument for a living wage rather than a minimum wage
- Challenging poverty and ensure that all organisations effectively engage and deliver to reduce poverty
- Review their supply chain in terms of the Welsh £
- Support and use Guerrilla economics approach which will have a positive impact on reducing poverty and promoting sustainability
- Strategize so that organisations work to challenge both poverty and the economic impacts of discrimination in a 'smart' and joined up way

It might therefore be helpful to formally evaluate the potential of the social economic duty and ascertain if it has any role within the Welsh context.

## 4 Accountability for equality and human rights legislation in Wales

Since its beginning in 1999 the National Assembly has had a commitment to equality and challenging discrimination. This has been broadened out over the years in terms its general equality duty if the 1999 and 2006 Government of Wales Acts are compared. Whilst there are lots of good examples of implementing equality policy in Wales, the Welsh Assembly and Welsh Government in my view are less clear about their human rights responsibilities. As an example the recent draft Social Services Bill consultation on two occasions mentioned using a human rights approach without contextualising or defining it. As there is much evidence that the public broadly does not understand what human rights are and are not. The government on this occasion did not help move the situation forward. It therefore needs to do more on its Programme for Government commitment to

“Strengthen accountability for equality and human rights legislation in Wales”.

Welsh Government could have produced a definition of human rights, as they understand it. They could have for example said we will use the FREDA<sup>1</sup> principles to implement a human rights based approach within health and social care in Wales. That would have added to the debate and ensured that vulnerable people had their fundamental rights protected. Implementing the FREDA principles could have a major positive impact upon quality of care and introduce better outcomes on a range of issues which effects people’s quality of life.

An example, which is worth celebrating, is the work of the NHS Centre for Equality and Human Rights is using Rights Based Approaches to develop a care pathway for people who are Trans. Using Rights Based Approaches needs to be developed further in Wales as they have real potential for improving peoples lives.

### Conclusion

I welcome the opportunity to respond to this consultation as it explores issues that I care deeply about. The issues of equality and human rights, in particular their implementation in public sector policy-making, should be the subject of informed public debate.

I am currently undertaking a part time PHD exploring:

“The outcomes of human rights approaches within the Welsh public sector: Strategy & Leadership”.

I have worked in the Welsh Public Sector since 1983 and in 2013, set up Hawliau to make a positive difference using human rights, values and ethics as part of Transformational Leadership approaches. I hope my response contributes to the debate on ending poverty and ensuring that Wales is an inclusive, equal and sustainable society.

---

<sup>1</sup> Fairness, Respect, Equality, Dignity and Autonomy