

Rebecca Evans AM
Minister for Social Services and Public Health

29 March 2017

Dear Rebecca

Public Health (Wales) Bill

Thank you for your [letter of 10 March 2017](#) outlining your response to our recommendation in our [Report on the Public Health \(Wales\) Bill](#).

You reject our recommendation that the Bill should be amended to ensure enforcement authorities are fully aware of their human rights obligations because:

“Local authorities are already bound by and are very familiar with their obligations under section 6 of the Human Rights Act 1998. They are therefore well versed in the duties placed upon them. In view of this I believe it would be unnecessary and inappropriate to add specific provision on the face of the Bill, and could unintentionally lead to confusion if such a provision was included in this Bill and not in other legislation.”

However, human rights issues facing public bodies have been highlighted on a number of occasions recently.

First, a report by the Human Rights Commission [“Is Wales Fairer: The state of equality and human rights 2015”](#) identified seven key challenges facing Wales as “major, entrenched inequalities and human rights abuses that will require substantial efforts of public, private and third-sector organisations and of individuals to reduce them”.



Secondly, a report based on the human rights roundtable discussion held in partnership by the Equality and Human Rights Commission, Children's Commissioner for Wales and the Older People's Commissioner for Wales in July 2015 stated that:

"There are opportunities for the human rights agenda in Wales to be developed further at both Welsh Government and public authority level, as well as in grass-roots projects developed by third sector and community organisations.

Perpetuating a purely rosy narrative on human rights in Wales is unhelpful and is often a block to positive and evidence-based change. Therefore, authenticity is important in discussions on the state of human rights in Wales. Even if good policies are in place, implementation is central to ensuring people's human rights and promoted and protected."

Finally, in its judgment in the Christian Institute and others (Appellants) v The Lord Advocate (Respondent) (Scotland) [2016] UKSC 51, the Supreme Court gave a clear warning about the dangers of legislation simply relying on a public authority being aware of its human rights obligations. In paragraph 101 of its judgment, the Supreme Court said that guidance was needed in order to reduce the risk of disproportionate interferences that breach human rights.

While the issues raised in both the above reports and the Supreme Court judgment include human rights abuses in non-devolved areas, they are also completely relevant to human rights abuses in devolved areas. We believe that the principles and safeguards noted in both the above reports and the Supreme Court judgment can, and should, be applied generally to all human rights interferences, and particularly to the exercise of powers of entry.

We are not persuaded by your argument that amending the Bill as we suggest would lead to confusion because it is not included in other legislation. This is an opportunity for the Welsh Government to take the lead in placing even greater emphasis on human rights obligations.

In light of the above, I would be grateful if you would reconsider our recommendation and table an appropriate amendment to the Bill.

We look forward to hearing from you in due course.

I am copying this letter to the Chair of the Health, Social Care and Sport Committee.



Yours sincerely

Huw Irranca-Davies

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Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

