

Y Gwir Anrh/Rt Hon Carwyn Jones AC/AM

Prif Weinidog Cymru/First Minister of Wales



ELGC(5)-24-18 Papur 3 / Paper 3

Llywodraeth Cymru  
Welsh Government

David Rees AM  
Chair  
External Affairs & Additional Legislation Committee

23<sup>rd</sup> July 2018

Dear David

### **Equality and human rights implications of Brexit**

I am writing in response to your letter of 28 June. Please see the response below to your request for further clarification on points raised in my last letter.

#### **The EU Charter of Fundamental Rights: how the Welsh Government will ensure that Charter Rights continue to apply in Wales.**

The Welsh Government had previously supported efforts to amend the EU (Withdrawal) Bill in the House of Lords to ensure that the Charter was fully incorporated into UK law after Brexit. We are therefore disappointed that the Charter will not form part of domestic law after the exit day.

The 'Charter of Fundamental Rights of the EU: Right by Right Analysis'<sup>1</sup> sets out the UK Government's analysis of the effect of the treatment of fundamental rights in the EU (Withdrawal) Bill.

The UK Government's position can be summarised as follows:

- The UK Government has chosen not to incorporate the Charter into domestic law on the basis that the Charter does not create any new rights, freedoms or principles but instead catalogues the rights and principles already protected by EU law.

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<sup>1</sup> [Charter of Fundamental Rights of the EU Right by Right Analysis](#) 5.12.2017

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

- The UK Government notes that the Charter is only currently applicable to Member States when they are ‘acting within the scope of EU law’.
- The UK Government argues that the removal of the Charter will not affect the rights that individuals already benefit from as the Charter is not the source of these rights.

The Right by Right Analysis document suggests that the Human Rights Act 1998 and European Convention on Human Rights will be integral in ensuring the continued protection of the Charter rights following the withdrawal from the EU.

These are matters which require careful consideration. We will work with the UK Government to seek assurances on individual rights in the coming months. We will also continue to engage actively with the Equality and Human Rights Commission on these issues.

**Non-regression: how the Welsh Government intends to ensure that existing rights and obligations (particularly equality and human rights standards in devolved competence) are not eroded or removed as a result of Brexit.**

Human rights are built into the DNA of the Welsh Government. In addition to the current requirement to act compatibly with EU law, the Government of Wales Act 2006 also requires the Welsh Government to act compatibly with “the Convention rights”, as reflected in the Human Rights Act 1998, and likewise the Assembly cannot legislate in a way which is incompatible with those rights. This legislation will on exit, rightly continue to influence everything we do.

The Welsh Government believes that the mechanisms contained within the Human Rights Act are an important and appropriate means for the people of Wales to challenge inequality and injustice and the Convention rights enshrined within that Act rightly continue to influence its policies, legislation and decisions. We have consequently continued to be fundamentally opposed to any withdrawal from the European Convention on Human Rights or any repeal of the Human Rights Act 1998.

We therefore welcomed the fact that when the UK Government recently published its White Paper, ‘The Future Relationship between the United Kingdom and the European Union’ on 12 July 2018 it confirmed that ‘the UK is committed to membership of the European Convention on Human Rights’.<sup>2</sup>

The Government of Wales Act 2006 also includes provision relating to international obligations beyond the Convention rights and we similarly remain committed to reflecting the principles of our international obligations in our policies, legislation and decisions.

An example of this commitment is the Social Services and Well-being (Wales) Act 2014 which places duties on persons exercising functions under the Act to have regard to the United Nations Convention on the Rights of a Child and the United Nations Principles for Older Persons. Likewise, the Rights of Children and Young Persons (Wales) Measure 2011 made provision in connection with giving further effect in Wales to the rights and obligations set out in the United Nations Convention on the Rights of the Child.

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<sup>2</sup> [The Future Relationship between the United Kingdom and the European Union](#) – 12.07.2018, Page 52

The Well-being of Future Generations (Wales) Act 2015 further reinforces our resolve to maintain and drive forward our commitment to equality by placing a legal duty on specified public bodies to set and publish well-being objectives, which maximise achievement of the well-being goals, including a more equal Wales. This coordinated action will help ensure that equality and human rights are safeguarded in Wales.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Carwyn Jones', written in a cursive style.

**CARWYN JONES**