

## **WELSH GOVERNMENT RESPONSE TO RECOMMENDATIONS FROM THE COMMUNITIES, EQUALITY AND LOCAL GOVERNMENT COMMITTEE: THE FUTURE OF EQUALITY AND HUMAN RIGHTS IN WALES OCTOBER 2013**

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I welcome the Communities, Equality and Local Government Committee's report and recommendations on the Future of Equality and Human Rights in Wales.

The Welsh Government has a deep commitment to equality and human rights and we are taking our own distinctive approach in Wales.

Within the Welsh Government, equality and human rights is enshrined in our founding legislation and reflected in our guiding principles. Equality and Inclusion are woven throughout the Programme for Government and addressed specifically in Chapter 8 Standing up for Equality. Equality and inclusion are also key requirements for sustainable development.

Wales was the first country in Great Britain to create specific duties under the 2010 Equality Act, further demonstrating our commitment to equality and the Public Sector Equality Duty.

Our Programme for Government states that all our policies and programmes will reflect our commitment to sustainability and fairness and includes (at Chapter 8) an action to "*Explore how stronger Welsh accountability for equality and human rights legislation, including enforcement of Welsh-specific duties, can be achieved*".

The Welsh Government's evidence to the Silk Commission highlighted equality as an area for further devolution. The Welsh Government believes that the Assembly's existing legislative competence over equal opportunities needs to be clarified and strengthened. While the Welsh Government considers that the Assembly already has competence to some extent over the aspects of equality identified in the Government's evidence, this needs to be put beyond doubt. In addition, that competence needs to be enhanced.

Welsh Government is committed to bringing forward a Future Generations Bill, a key purpose of which is to seek to future proof our communities. The Bill will do this by reinforcing the fundamental role that public bodies in Wales play by putting the needs of communities, now and in the future, at the heart of the decisions these organisations make. This will help us collectively make better choices for a better, more sustainable and fairer future in Wales. Equality is a fundamental part of this and this Bill therefore provides a unique opportunity to explore how we can strengthen action on equality in Wales.

Working with a range of partners and organisations across Wales, we strongly believe that we have the commitment and drive to further develop and embed Equality and Human Rights within decision-making and delivery throughout the public sector, as well as in the third and private sectors. I want us all to take the lead in taking forward our distinctive Welsh approach which will, in turn, have a lasting impact on the lives of people across Wales.

**Detailed Responses to the report's recommendations are set out below:**

### **Recommendation 1**

**The Welsh Government should seek primary legislative competence for the National Assembly in relation to the general public sector equality duty, so that if the UK Government ever repeals it, the Welsh specific public sector equality duties would not automatically fall.**

#### **Response: Accept**

The Welsh Government has proposed to the Silk Commission that the Assembly should be given clear legislative competence in relation to the three aims of the general Public Sector Equality Duty (PSED) in the Equality Act 2010, in relation to the devolved public sector. The competence should include the ability to place duties on the devolved public sector for the purposes of those three aims.

Giving the Assembly primary legislative competence would mean that, should the UK Government seek to repeal the PSED, the duty could be retained by the Assembly for the devolved public sector in Wales; it would also allow it to be amended to suit devolved circumstances. Primary legislative competence over this area would give the Assembly certainty of being in full control of the duty's scope including the list of organisations covered and its monitoring and regulation. As a result, our distinctive approach to equality will be safeguarded and can flourish further. Both the National Assembly and the Welsh Government will benefit from clarity and the certainty in this area.

**Financial Implications** – To be scoped by officials following the outcome of the Silk Commission.

### **Recommendation 2**

**The Welsh Government should explore the potential for establishing a more explicit link between the specific public sector equality duties and the Government of Wales Act 2006 inclusivity clause.**

**Response: Accept**

Section 77(1) of the Government of Wales Act 2006 provides that Welsh Ministers must make appropriate arrangements with a view to securing that their functions are exercised with due regard to the principle that there should be equality of opportunity for all people.

Depending on the outcome of the Welsh Government's submission to Silk, further consideration will be given to the links between the Public Sector Equality Duty and s77 of the Government of Wales Act 2006.

**Financial Implications** – To be scoped by officials following the outcome of the Silk Commission.

**Recommendation 3**

**The Welsh Government and Equality and Human Rights Commission in Wales should establish a Concordat or agreement to formalise their relationship on devolved policy areas**

**Response: Accept**

Officials are currently working closely with the Equality and Human Rights Commission (EHRC) to develop a Concordat between the Welsh Government and the EHRC in Wales. The aim is to establish a framework for an effective relationship between the EHRC and the Welsh Government.

The EHRC in Wales is a key partner in evaluating the outcomes of the Welsh specific equality duties. The Welsh Government already has a positive and constructive relationship with the Wales EHRC and this relationship strengthens the implementation of the Equality Act 2010 within Wales. The Welsh Government wants to ensure that the EHRC retains its strong and distinct presence in Wales.

**Financial Implications** – None

**Recommendation 4**

**The Welsh Government should consider funding specific Equality and Human Rights Commission work, especially around the monitoring and enforcement of the equality duties in Wales**

**Response: Accept**

The EHRC's funding from the UK Government is not nation-specific. It is for the Commission to determine how much resource it allocates to Wales but the EHRC is legally required to ensure that the Wales Committee receives a share that is sufficient to enable it to exercise its functions.

Where appropriate, the Welsh Government will consider funding specific EHRC work as it has done with the Appreciative Inquiry of the Budget.

The Welsh Government's evidence to Part II of the Silk Commission seeks legislative competence for the Assembly to change the EHRC's accountability structure and to add to its functions, in order to reflect the extended and clearer equality competence that is being sought for the Assembly. The Welsh Government agrees that it would be appropriate to consider future funding of the EHRC within the context of its future accountability.

**Financial Implications:** To be scoped by officials following the outcome of the Silk Commission.

## **Recommendation 5**

**The Welsh Government should request a report from or consider the advice of the expert group of lawyers, convened by Simon Hoffman of Swansea University, looking into the practicalities of commencing the socio-economic duty.**

**Similarly, the Welsh Government should request a report from or consider the advice of the policy group, convened by Professor Teresa Rees of Cardiff University, looking at how the duty can best contribute to addressing the causes of persistent poverty.**

## **Response: Accept in Principle**

Officials will engage with Simon Hoffman and Professor Teresa Rees and take account of their views in further consideration of tackling socio-economic disadvantage. The Welsh Government has commissioned a report on persistent poverty which is due to be published this autumn. The report will be shared with Simon Hoffman and Professor Rees once available.

Socio-economic considerations are firmly embedded within the consideration of the impact of decisions on the long term economic, social and environmental wellbeing of Wales. This has helped to shape the development of the Future Generations Bill.

**Financial Implications –** To be scoped by officials following the outcome of the

Silk Commission and further considered in the Regulatory Impact Assessment of the Future Generations Bill.

### **Recommendation 6**

**Within this research, consideration should be given to re-drafting the socio-economic duty from how it currently stands in the Equality Act 2010, and whether such a duty could be integrated into the existing specific duties or as a standalone duty.**

### **Response: Accept in Principle**

The Welsh Government has made clear in its submission to the Silk Commission that the National Assembly should have full competence over the socio-economic duty in section 1 of the Equality Act 2010 Act and its objective of reducing inequality of outcome resulting from socio-economic disadvantage, in respect of the devolved public sector. The causal factors behind poverty and inequality are closely inter-linked and need to be tackled together. The Welsh Government is therefore working to take forward its Tackling Poverty Action Plan and its statutory Strategic Equality Objectives in tandem. Work on equality for people with protected characteristics and work on socio-economic inequality can be integrated more effectively if the National Assembly has competence in respect of the devolved public sector over the socio-economic duty under section 1 of the 2010 Equality Act, and its objective of reducing inequality of outcome resulting from socio-economic disadvantage. Further consideration is being given to this pending the outcome of the Silk Commission.

In recent Ministerial correspondence between the Welsh and UK Governments, the desire to retain Part 1 of the Equality Act has been made clear, alongside the powers to commence it.

**Financial Implications** – To be scoped by officials following the outcome of the Silk Commission

### **Recommendation 7**

**The Welsh Government should clearly align its anti-poverty and equality strategies ahead of the introduction of any new socio-economic duty.**

### **Response: Accept**

Through dovetailing the Strategic Equality Plan and the Tackling Poverty Action Plan, we are continuing to strengthen the way in which a clear understanding of

equality issues is embedded in our thinking about poverty, so that we can design the most effective interventions, and ensure that they are delivered in ways that are tailored to take account of the diverse needs and circumstances of people. Departments have detailed actions and interventions that contribute to achieving the outcomes in the equality objectives. The ways in which these in turn contribute to the Tackling Poverty Action Plan will be clearly articulated within annual reporting.

**Financial Implications** – None. This recommendation will utilise existing resources.

### **Recommendation 8**

**The Welsh Government should seek further powers in the field of equality and human rights to build on the Equality Act 2010 and the Human Rights Act 1998**

#### **Response: Accept in Principle**

As stated in the first recommendation above, the Welsh Government has proposed to the Silk Commission that the Assembly should be given clear legislative competence in relation to the three aims of the Public Sector Equality Duty (PSED) in the Equality Act 2010, in relation to the devolved public sector. It is ultimately for the Assembly to decide whether to confer new powers on the Welsh Government using its competence.

**Financial Implications** - To be scoped by officials following the outcome of the Silk Commission