



Cynulliad National
Cenedlaethol Assembly for
Cymru Wales

National Assembly for Wales' Equality of Opportunity Committee Report on Welsh Issues arising from the Equality Bill

Introduction

1. The National Assembly for Wales is the democratically elected body that represents the interests of Wales and its people, makes laws for Wales and holds the Welsh Government to account.
2. During the first decade of devolution, Wales has made many advances in the field of equality which include the establishment of the Offices of the Children's Commissioner for Wales and the Older People's Commissioner for Wales. The National Assembly is also required by law to conduct proceedings, as far as reasonably practicable, in line with the "principle that the English and Welsh languages should be treated on a basis of equality"¹.
3. Currently in Wales, equality of opportunity is a non devolved issue; however, in accordance with the Government of Wales Act 2006, 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"².
4. The National Assembly's Standing Orders state that the Equality of Opportunity Committee's remit is to "consider and report on the relevant duties contained in the [Government of Wales] Act placed on the Assembly, the First Minister, Welsh Ministers or the Commission"³. The Committee frequently scrutinises Welsh Ministers on the impact of their policies to ensure that all people in Wales have equality of opportunity.

Background

5. The National Assembly's Equality of Opportunity Committee welcomes the inclusion of the Equality Bill in the 2008-09 Parliamentary legislative programme. The Committee is pleased that the Bill clarifies and consolidates existing legislation and that it expands the list of protected characteristics.

¹ Government of Wales Act 2006, Clause 35 (1)

² Government of Wales Act 2006, Clause 77 (1)

³ National Assembly for Wales, Standing Order 17

6. Due to time constraints, the Committee agreed to undertake a short inquiry into the Bill, as published on 27 April 2009, to explore some of its implications for Wales. On 2 June, the Committee took evidence from a small number of key stakeholders: the Equality and Human Rights Commission; Disability Wales; Stonewall Cymru; and, Age Concern Cymru and Help the Aged in Wales. Issues raised in their evidence fed in to another scrutiny session with Brian Gibbons AM, Welsh Minister for Social Justice and Local Government, on 16 June.

Issues and Recommendations

7. The following issues emerged from the evidence received, and the Equality of Opportunity Committee would like the following recommendations to be considered as the Equality Bill progresses through Parliament.

Issue 1 – List of Authorities Covered by Public Sector Duty Regarding Socio-Economic Inequalities

8. The Committee notes that the public sector duty regarding socio-economic inequalities applies to Ministers of the Crown, the majority of government departments and other English bodies. It is concerned, however, that currently no Welsh bodies are listed in Part 1 Clause 1. This intimates that Welsh Ministers and Welsh bodies are not required to have regard to reducing socio-economic inequalities when making decisions of a strategic nature.
9. The Committee believes that Welsh Ministers and the Welsh Assembly Government should be named so that they are also subject to the public-sector duty regarding socio-economic inequalities when exercising their functions in Wales. This approach would be consistent with the Welsh Ministers' ability, by Regulations, to add or remove Welsh authorities from the list in Clause 1 of the Bill.

Recommendation 1

The Committee recommends that Welsh Ministers and the Welsh Assembly Government be included in the list of authorities which are subject to the public sector duty regarding socio-economic inequalities detailed in Part 1 Clause 1 of the Bill.

Issue 2 – List of Welsh Public Authorities in Schedule 19

10. The Equality of Opportunity Committee notes that the list of Welsh public authorities in Schedule 19 is not comprehensive. The Committee feels strongly that the list in Schedule 19 should be as comprehensive as possible and is concerned that if additional Welsh public authorities are not added during the Bill's progress through Parliament this may lead to a long delay in their addition at a later date.

Recommendation 2

The Committee recommends that the Auditor General for Wales, Public Services Ombudsman for Wales and the National Assembly for Wales Commission be included in the list of public authorities in Schedule 19.

Issue 3 - Consent to Amend List in Clause 1 and Schedule 19 Part 2

11. The Committee is concerned about the process by which Welsh Ministers would be required to ask permission of a Minister of the Crown in order to amend the list of Welsh public authorities in Clause 1 and Schedule 19 Part 2. When questioned by the Committee, the Welsh Minister for Social Justice and Local Government said “there was a strong intellectual case for allowing these issues to be decided in Wales”⁴. The Welsh Minister also confirmed that there was no framework to resolve conflicts over amendments to the list. The Committee maintains that, in line with the spirit of devolution and in order to allow greater flexibility, the Bill should confer the power of amending the list to Welsh Ministers.

Recommendation 3

The Committee recommends that Clauses 2(4) and 146(2) be amended so that when amending the list of Welsh public authorities in Clause 1 and Schedule 19 Part 2, Welsh Ministers may inform the Minister of the Crown rather than gain his/her consent.

Issue 4 – Children and Young People

12. The Committee is concerned that, while age is introduced as a protected characteristic in the Bill, children and young people under the age of 18 are excluded from the provisions of the Bill with respect to goods, facilities and services. The Committee received evidence from Rhian Davies, Chief Executive of Disability Wales, that “they [disabled children] should have the same opportunities, rights of access and rights of redress as anyone else”⁵.

13. Furthermore, Kate Bennett, National Director for Wales in the Equality and Human Rights Commission, said that “in relation to the delivery of public and private services for under 18s, because of the lack of a specific duty...young people cannot say that they have been discriminated against in a shop, or in the provision of mental health services, for example, and that, if they were adults, they would get better services”⁶.

⁴ [Record of Proceedings](#), p6, 16 June 2009, Equality of Opportunity Committee

⁵ [Record of Proceedings](#), p14, 2 June 2009, Equality of Opportunity Committee

⁶ [Record of Proceedings](#), p8, 2 June 2009, Equality of Opportunity Committee

14. Members of the Committee note that young people, under the age of 18, are able to work for a living and serve in the Armed Forces and are of the view that, therefore, this exclusion discriminates against children and young people because of their age.

Recommendation 4

The Committee recommends that children and young people under the age of 18 be included in the provisions of the Bill with respect to goods, facilities and services.

Issue 5 – Third-Party Harassment

15. The Committee noted that the Equality Bill makes sexual orientation a protected characteristic; however, Kate Bennett was “extremely surprised”⁷ that the Bill does not make it unlawful to harass someone because of sexual orientation in a range of settings. The Committee agrees with this view and suggests that the Bill be amended.

Recommendation 5

The Committee recommends that the Bill be amended to ensure that third-party harassment because of sexual orientation is made unlawful.

⁷ [Record of Proceedings](#), p8, 2 June 2009, Equality of Opportunity Committee