

Communities, Equality and Local Government Committee

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

Response from : Christian Action Research and Education (Care)

Introduction

CARE is a well-established mainstream Christian charity which provides resources and helps to bring Christian insight and experience to matters of public policy and practical caring initiatives. CARE works with the UK Parliaments and Assemblies, at the European Union in Brussels, in the Council of Europe at Strasbourg and at the United Nations in Geneva and New York.

CARE welcomes the opportunity to respond to The Communities, Equality and Local Government Committee Inquiry into the future of equality and human rights in Wales. Our focus is on how the Public Sector Equality Duty (PSED) is working in Wales with particular focus on the protected characteristic of religion and belief.

The aim of the general duty is to ensure that public authorities positively contribute to a fairer society through advancing equality and good relations in their day-to-day activities.

In order to do this public bodies are required to remove or minimise disadvantages experienced by people due to their protected characteristics, take steps to meet the needs of people from protected groups and encourage people with protected characteristics to participate in public life or in other activities where their participation is disproportionately low. There are nine protected characteristics. These are:

Age;

Gender Reassignment;

Sex;

Race – including ethnic or national origin, colour or nationality;

Disability;

Pregnancy and maternity;

Sexual orientation;

Religion or belief.

‘The aim of the general duty is to ensure that public authorities and those carrying out a public function consider how they can positively contribute to a fairer society through advancing equality and good relations in their day-to-day activities. The duty ensures that equality considerations are built into the design of policies and the delivery of services and that they are kept under review. This will achieve better outcomes for all.’¹

¹ http://www.equalityhumanrights.com/uploaded_files/Wales/1._psed_wales_essential_guide.pdf

It is very important to note that there is no hierarchy of protected characteristics. The Equality and Human Rights Commission report 84 states that the Equality Act is underpinned by the assumption that religion or belief should be protected in the same way and broadly to the same extent as other protected characteristics.²

The specific duty in Wales says that public authorities must engage people from the protected characteristics in relation to setting equality objectives and preparing and reviewing a strategic equality plan.

The importance of religion as a protected characteristic

a) Definition of Religious Freedom

Article 9 of the European Convention on Human Rights says:

'1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or the protection of the rights and freedoms of others.'

The scope for qualifying the right to manifest religious belief is narrower in Article 9 than in relation to any other qualified right. The provision of the narrow basis for restricting the right to manifest religion or belief was not accidental but the result of an exacting debate and a very deliberate decision. As Carolyn Evans observes in *Freedom of Religion Under the European Convention on Human Rights*, 'the drafting of the limitations clauses for Article 9 was a controversial process and the drafting rejected the notion that all the rights in the Convention should be subject to the same limitation clause (as had been the case for the Universal Declaration). The final draft of Article 9 (2) was the narrowest of the proposed articles ...'³

b) The Importance of Religion

Religious groups are able to offer a wide range of services to their local communities – including many that the Government are not equipped to deliver. These include hospital visiting, work with young people, social activities, marriage preparation and support for the bereaved. The Faith in Wales report says that two thirds of faith communities recorded at least one form of service to the wider community, and those that did so were involved in an average of five different areas of activity each. The report also reveals that activities organised by faith communities to serve their local communities are delivered by over 42,000 volunteers. The total number of hours put in by these volunteers is estimated at just under

² http://www.equalityhumanrights.com/uploaded_files/research/rr84_final_opt.pdf page 77

³ Carolyn Evans, *Freedom of Religion Under the European Convention on Human Rights*, Oxford, Oxford University Press, 2001, p. 137.

80,000 a week, equivalent to a little under 2,000 full-time workers. Faith communities therefore deliver important economic benefits to Wales.

In addition to this over 600 faith based communities are estimated to operate purpose-built community centres. 1,800 faith communities rent out rooms to outside groups, often at a nominal charge. The report even points out that faith and religion in Wales is supporting the Welsh language. Studies have shown that services in churches are conducted through the medium of the Welsh language in roughly one third of the churches in Wales. Many churches also promote the Welsh language in the wider community.⁴

Colin Rochester of Roehampton University argues that “religion continues to occupy a central place in the culture and identity of minority ethnic and refugee communities and provides or shapes the civil society within them.” He goes on to say that “Faith-based organisations are thus seen as key parts of the social infrastructure of black, minority ethnic and refugee communities, and their leaders as representatives of their communities.”⁵

Faith Based welfare provision has a strong reputation for connecting with ‘hard to reach’ groups.

It is therefore most appropriate that religion is a protected characteristic under the public sector equality duty.

c) The nature of religion in Wales.

The Faith in Wales report says that Wales has twice as many worshipping congregations per head of population as the rest of Great Britain. There are over 4,400; one for 670 people in Wales. 98% of congregations were Christian. 2% were from other faiths.⁶ Every week 7.2% of the population of Wales is expected to attend a religious service.

One of the most startling things about religious life in Wales is the far greater diversity that now exists within the Christian tradition. This was highlighted by the Churches Diversity Index which list over twenty denominations including a number of BME denominations.⁷

PSED in Practice

The Equality Act Code of Practice and Technical Guidance stresses that a public authority must involve people who represent the interests of persons who share one or more of the protected nine characteristics.⁸ However, it does not say that public authorities must involve people who represent each of the nine protected characteristics. As a result there is a serious danger that certain protected characteristics become overlooked by public authorities when fulfilling the specific duties such as developing strategic equality plans.

Having surveyed the strategic equality plans of all Wales’ 22 local authorities, CARE is very concerned at the lack of regard for the protected characteristic of religion or belief. The fact

⁴ http://www.gweini.org.uk/download/English%2003_03%20comp%20smaller.pdf

⁵ Rochester, Faith and Voluntary action: and overview of current evidence and debates, p.43
http://www.ncvovol.org.uk/uploadedFiles/NCVO/Publications/Publications_Catalogue/Sector_Research/Faith%20and%20Voluntary%20Action.pdf

⁶ http://www.gweini.org.uk/download/English%2003_03%20comp%20smaller.pdf

⁷ Evangelical Alliance Wales, *The Churches Diversity Index*, 2003.

⁸ <http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>

that no local authority said that they were engaging with faith and religious groups in developing the strategic equality plan, or in setting and meeting equality objectives, whilst groups representing other protected characteristics were afforded considerable attention, needs to be addressed.

For example, the Bridgend strategic equality plan says that the council will engage a number of different groups however it makes no mention of engaging religious groups or communities.⁹

The Cardiff strategic equality plan talks about entering into “constructive dialogue around what matters to various people across the city.” It intends to engage various groups such as Children In Wales, various youth groups, race equality first, Cardiff women’s aid and Stonewall and Transgender Wales. However, once again there is no mention of engaging any religious groups or communities.¹⁰ The plan makes reference to a number of interviews with members of the public who represent some of the protected characteristics. None of the various people interviewed represent a religious group or community.

The strategic equality plan for Carmarthenshire refers specifically to victim support for the disabled community, ethnic minority community and LGBT community. However, there is no mention of equivalent protection for religious groups.¹¹

The strategic equality plan for Flintshire says that an Involvement Group has been established which brings together different local groups to help promote aims relating to the Public Sector Equality Duty. The plan makes clear that the Council has joined The Stonewall Diversity Champions Programme which is a code of practice for employers on issues relating to sexual orientation and Positive about Disabled People which seeks to ensure that places of employment retain and develop people with disabilities.¹² However, the Council has not taken similar initiatives with groups dealing with issues of religion in the work place.

The strategic equality plan for Monmouthshire says that the council will “work in partnership with organisations that can support and help both the Council and people from protected characteristics.” The organisations it lists are “Stonewall, VALREC (a group that promotes equality and diversity), SEWREC (South East Wales Racial Equality Council), Transgender Wales, The Welsh Language Commissioner and Age Cymru.” None of the groups listed concern religion or belief.¹³

The strategic equality plan for Swansea says that one of the ‘Equality objectives’ is to ensure all engagement and consultation is ‘inclusive and representative.’ According to the report this will be done by consulting with lesbian, gay, bisexual and transgender (LGBT) forums, disability forums and race forums to identify any potential barriers to participation. However, there is no mention of consulting religious groups.¹⁴

The strategic equality plan for The Vale of Glamorgan refers to reviewing access to services for people with mental health issues, transgender people, asylum seekers and refugees and

⁹ <http://www.bridgend.gov.uk/web/groups/public/documents/policy/098181.pd>

¹⁰ <http://www.cardiff.gov.uk/content.asp?nav=2%2C2872%2C3257%2C6414>

¹¹ <http://www.carmarthenshire.gov.uk/english/council/documents/strategic%20equality%20plan%202012-16.pdf>

¹² <http://www.flintshire.gov.uk/wps/wcm/connect/c8e95f004ab0f2a4a3edebe3d509a9ba/Strategic+Equality+Plan22.03.12.pdf?MOD=AJPERES>

¹³ http://www.monmouthshire.gov.uk/fileadmin/Downloads/to_mcc_downloads/About_Your_Council/MCC_Strategic_Equality_Plan_19_11_2012.pdf

¹⁴ <http://www.swansea.gov.uk/sep>

sexual orientation. However, there is no mention of reviewing access to services for people belonging to a religious group or community.¹⁵

We find similar statements and objectives in the strategic equality plans for the other principal areas. Of the 22 principal areas there is no evidence of the relevant public authority engaging with faith and religious groups in developing the strategic equality plan, or in setting and meeting equality objectives.

Engaging religious groups and communities

The lack of representation of faith and religious groups in the strategic equality plans shows that the specific duties relating to Wales do not go far enough in ensuring that each of the protected characteristics receive equal representation.

The specific duties should make it explicit that public authorities have a duty to ensure that groups and communities from each of the protected characteristics are properly consulted and that there is equal representation from across the protected characteristics. Failure to do this will result in public bodies turning to those protected characteristics that are best resourced by specialist equalities charities and have the loudest voices. This is damaging because it will contradict the apparent commitment to the equal importance and value of all protected characteristics. Moreover, it will lead to unnecessary tension between the different protected characteristics.

As we have shown in this report faith and religion provide a crucial service to society. It is most important therefore that people who represent the protected characteristic of religion or belief are properly engaged and included by public authorities as they seek to fulfil their specific duties.

The specific duties should make clear that all public authorities must balance the competing rights and interests of different protected characteristics and not use one set of rights and interests to the detriment of another.

This would help to ensure that certain groups in society, representing certain protected characteristics, do not have their concerns, rights and freedoms elevated above the concerns, rights and freedoms of other groups, representing different protected characteristics.

Lastly, we recommend that when engaging with the protected characteristic of religion or belief public authorities should engage with the body that sponsored the Faith in Wales Report, [Gweini: The Council of the Christian Voluntary Sector in Wales](#).

CARE

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¹⁵http://www.valeofglamorgan.gov.uk/our_council/equal_opportunities/strategic_equality_plan.aspx