

Communities, Equality and Local Government Committee

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

Response from : Tai Pawb

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Who we are

Tai Pawb (housing for all) is a registered charity and a company limited by guarantee. The organisation's mission is, "To promote equality and social justice in housing in Wales". It operates a membership system which is open to local authorities, registered social landlords, third (voluntary) sector organisations, other housing interests and individuals.

What we do

Tai Pawb works closely with the Welsh Assembly Government and other key partners on national housing strategies and key working groups, to ensure that equality is an inherent consideration in national strategic development and implementation. The organisation also provides practical advice and assistance to its members on a range of equality and diversity issues in housing and related services.

Tai Pawb's vision is to be:

The primary driver in the promotion of equality and diversity in housing, leading to the reduction of prejudice and disadvantage, as well as changing lives for the better.

A valued partner who supports housing providers and services to recognise, respect and respond appropriately to the diversity of housing needs and characteristics of people living in Wales, including those who are vulnerable and marginalised.

For further information visit: www.taipawb.org

Charity registration no. 1110078
Company No. 5282554

How well the specific public sector equality duties are functioning in Wales

1. Tai Pawb works with organisations from across the social housing sector in Wales. As a membership organisation we have members who are:

a. Local authorities - (housing departments). Local Authorities have a clear statutory obligation in relation to the general public sector equality duty and as listed bodies in Wales, the specific equality duties for Wales.

b. Housing Associations – Housing Associations are not listed under the specific equality duties for Wales (however there is scope within the legislation for them to be added to the list) but are viewed as having obligations under the general public sector equality duty in relation to their functions of a public nature (e.g. management, allocations and termination of tenancies) due in part to the legacy of the Weaver V London & Housing Quadrant Trust case. For Housing Associations who have core functions that are predominantly of a public nature the delineation between the statutory obligation for listed bodies and those who provide a public function but are not a listed public body causes confusion in the sector

2. Additional confusion is caused through the existence of two sets of duties (public sector equality duty and specific equality duty) particularly when there is differentiation between the bodies and organisations covered by the duties. For example housing associations and other bodies and organisations which are not listed do not have to comply with the specific public sector equality duties, and as a result they often do not fully understand the requirements placed on those who do. This can make co-production difficult. On the other hand, where housing associations understand specific equality duties placed on local authorities, they choose to, at least partly, comply with those (despite lack of legal requirement to do so) as they view such compliance as best practice (and the best way to comply with general duties). Tai Pawb sees this as a positive contribution that the specific equality duties have made to the housing sector in Wales. This is most clearly seen in relation to Equality Impact Assessments on Common Allocation policies, where local authorities will be working in partnership with housing associations operating in the area. A statutory code of practice in relation to equality in housing should be published to help listed and non-listed housing bodies understand their duties.
3. It would be beneficial for the legislation to clearly define functions of a public nature and the production of a statutory code of practice in relation to equality in housing with clear examples of what constitutes a function of a public nature would also be beneficial and help alleviate current confusion.
4. The current trend towards the introduction of more private finance being utilised by Housing Associations may mean there is further blurring and confusion with relation to ‘passing on’ duties due to organisations utilising public funds. As Housing Associations draw in a considerable amount of private finance it is likely they would be reticent to agree to any changes to their obligations on this basis. However; Tai Pawb feels that there is a strong case with relation to the fact that Housing Associations perform a public function and it is with this in mind we would support a statutory code of guidance as outlined above.

Equality Impact Assessments (EIAs)

5. Tai Pawb views assessment of impact on various groups as a crucial element of the Public Sector Equality Duty and the promotion and advice on Equality Impact Assessments is a core element of our strategy. Tai Pawb advises Local Authorities and Housing Associations on Equality Impact Assessments in relation to their housing policies, procedures and practices when such assistance is required.
6. In general, we see the requirement to assess impact as having made a positive contribution to the promotion of equality in housing in Wales and the removal of this specific duty would have a detrimental impact on equal outcomes for people in Wales. Although Housing Associations do not have the duty to assess impact, some of them choose to do so as a matter of good practice and a good way to ensure compliance with the general duty.
7. In our experience, in organisations where the impact was assessed in a meaningful way with clear commitment from senior management, senior ownership and training for staff, these led to positive outcomes for organisations. In some cases policies were changed or amended, in others the Equality Impact Assessment led to greater awareness of equality issues amongst staff responsible for given policy or service – we must not forget about this important awareness raising element.
8. In our view, there is more need for senior commitment and ownership of the Equality Impact Assessment process in organisations, which is linked to the need for greater mainstreaming of this process, embedding it within organisational planning, analysis, implementation and evaluation processes. Too often the process is “detached” from the above cycle and seen as “additional”. This is reflected by e.g. the makeup of the teams carrying out an Equality Impact Assessment at times with lack of appropriate senior and frontline representation. Too often is the process carried out by one or two people with responsibility for “equalities” or other team members with little awareness of the process. Some organisations still choose to use consultants to carry out the whole Equality Impact Assessment, which in our view further detaches the process from organisational ownership.
9. There is little or no public accountability at cabinet or board level (as appropriate) within the public sector as an internal auditing and monitoring process to ensure that Equality Impact Assessments have been completed in an adequate manner.
10. Where housing associations choose to carry out Equality Impact Assessments they often fail to consult and engage with people (a specific duty for local authorities) although local authorities are sometimes reluctant to do this as well.
11. There remains a fundamental misunderstanding about the use of evidence within the Equality Impact Assessment and there is an inadequate review system. This is not helped as there is no routine monitoring regarding the standard of Equality Impact Assessments neither is there any meaningful consequence if either Equality Impact Assessments or the Public Sector Equality Duty is not adhered to.
12. In general Tai Pawb views the assessment of impact as a crucial part of Public Sector Equality Duty which should remain as a specific duty in Wales and be further promoted as a positive and mainstream organisational tool. We also feel that the current guidance on Equality Impact

Assessments would benefit from greater focus on outcome for service users/employees etc. rather than the process itself. This would not only help highlight the potential for positive contribution of Equality Impact Assessments to the promotion of equality but also the potential to deliver more effective and tailored services and the links to corporate strategies.

13. Devolution has resulted in different approaches being taken in relation to the requirement on listed public bodies to carry out equality impact assessment. For example there is a requirement on listed public bodies in Wales to carry out Equality Impact Assessments under the Welsh specific duties however there is no such requirement on English bodies. It is important that further clarity is provided and a stronger voice is given to the Welsh approach in Wales to ensure it is heard – we believe this should be the joint role of the Welsh Government and The Equality and Human Rights Commission in Wales.
14. Tai Pawb has also carried out work with organisations that operate across both England and Wales and further clarification needs to be provided in relation to expectations on these bodies in terms of the public and specific duties when they are delivering services in Wales

The Equality and Human Rights Commission in Wales

15. Although we do not know the exact impact of recent changes to the provision of service level in Wales, we can predict that they will have a detrimental effect on the delivery of Equality and Human Rights Commission duties in Wales. In our view Equality and Human Rights Commission has had a positive role in Wales especially in relation to raising awareness of equality and human rights issues, for example through inquiries and research.
16. It is our view that the Equality and Human Rights Commission in Wales could and should be taking a proactive role in Wales in particular with ensuring compliance with the Public Sector Equality Duty (general and specific) and wider Equality Act 2010. However, in order for this to be a viable option for the Commission, there would need to be a substantial increase in funding for the Commission and also an expansion of staffing to meet the increased demands on their responsibilities. This is very important especially in light of the distinctive and strong commitment to equality and Public Sector Equality Duty from the Welsh Government and the need for the Equality and Human Rights Commission to work closely with the Welsh Government. As example of this is the inclusion of equality standards and expectations in the Welsh Government Regulatory Framework for Housing Associations in Wales and in our view this has led to the strengthening of equality agenda within the Registered Social Landlord sector with more work being done in the sector. Since the Equality and Human Rights Commission has a duty to work with and advise the Welsh Government, the strengthening of equality standards within Welsh Government work programmes will inevitably lead to more work for the Equality and Human Rights Commission. In light of the above, more power should also be given to the National Assembly for Wales in relation to Welsh Government accountability and scrutiny, especially with the increasing divergence between English and Welsh approaches to Public Sector Equality Duty. This would also require strengthening the relationship between National Assembly for Wales, Welsh Government and the Equality and Human Rights Commission through, for example devolved funding, and devolved role and function of the Equality and

Human Rights Commission and primary legislative powers granted to National Assembly for Wales in relation to Public Sector Equality Duty.

17. It is imperative that the remit and reach of the Equality and Human Rights Commission in Wales is strengthened. However of equal importance is to ensure the ability to have a voice that is heard and respected within a UK national context is not unintentionally lost as a result of developing any additional Welsh specific remit for the Equality and Human Rights Commission.

The link between poverty and Equality and the soci-economic duty.

18. There are clear links between poverty and equality. It is not our intention to provide evidence for this in this submission as we believe that the subject has been widely covered in research. For example, Equality and Human Rights Commission research “The anatomy of economic inequality in Wales” and “How Fair is Wales?” provided a plethora of evidence showing the unequal outcomes which exists for people from different groups. Some of these groups are protected under the Equality Act 2010, others are not.
19. There are two main reasons why we believe that current legislation does not allow for the promotion of equality and prevention of discrimination to full extent:
 - a. Where groups living in poverty are protected under the Equality Act 2010, the evidence for the link between poverty and inequality is often difficult to establish and such thorough intersectional analysis of outcomes is rarely undertaken by listed bodies in their data analysis for planning and monitoring service provision and service outcomes. If a claim was to be made against a public authority, it would have to be a claim for indirect discrimination and it would be extremely difficult to provide evidence – the links between poverty and belonging to a protected group are often deeply entrenched and difficult to prove although it is widely accepted that they exist. While anti-poverty strategies often have some equality elements (e.g. focus on children, women or older people), they often lack a more sophisticated analysis of unequal outcomes linked to both poverty and a protected characteristic.
 - b. Some people living in poverty are not directly protected under the current law although it is proven that for some groups “disadvantage begins at birth and continues through education and employment into retirement - often carrying on into the next generation” (Equality and Human Rights Commission, 2011) – for example single parents, people living in social housing, children in receipt of free school meals or simply people on lower incomes. There is clearly a need to focus on analysing the causes of such disadvantage, alleviate it and create equal opportunities and outcomes for such groups. Through our work (particularly when delivering equality training and talking about protected characteristics with those attending) we have heard from tenants and housing associations staff members about the issue and impact of people’s negative perceptions of certain estates and the impact of the stigma this can create in terms of tenants self-esteem and their experiences when accessing services.

20. The above factors are the two main reasons why we believe that Socio-Economic Duty should be commenced in Wales and not repealed by the UK Government. Such duty would enable greater promotion of equality for all people.

Accountability for equality and human rights legislation in Wales.

21. There are several aspects of equality legislation which Tai Pawb considers important in terms of equality and accountability in Wales.

- a) National Assembly for Wales has limited powers in relation to the Equality Act 2010 in Wales. It cannot fully scrutinise Welsh Government's performance on the duties or in fact the performance of the public sector. This also limits the capacity of the Equality and Human Rights Commission to assess the Welsh Governments and public sector's performance as a whole.
- b) Listed public authorities in Wales are not required to report their performance on equality duties to the Welsh Government.
- c) Although the Equality and Human Rights Commission has powers to enforce Equality Act 2010 including public sector equality duties we believe that listed bodies in Wales would benefit from more direct and regular assessment of their compliance with general and specific equality duties, e.g. through whole sector reviews in relation to particular duties.

22. In relation to the points above we believe that full devolution of powers in relation to equality to the National Assembly for Wales would be the best solution.