

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

Response from : Age Cymru



## **Consultation Response**

### **Inquiry into the future of equality and human rights in Wales**

#### **Communities, Equality and Local Government Committee National Assembly for Wales**

**April 2013**

#### **Introduction**

**1.** Age Cymru is the leading charity working to improve the lives of all older people in Wales. We believe older people should be able to lead healthy and fulfilled lives, have adequate income, access to high quality services and the opportunity to shape their own future. We seek to provide a strong voice for all older people in Wales and to raise awareness of the issues of importance to them.

**1.2** We welcome this opportunity to submit a written response to the Committee's Inquiry and trust this paper offers a valuable update on the written and oral evidence we offered the Equality of Opportunity Committee on the potential impact of the Equality Act in Wales in 2009.

#### **General comments**

**2.** Age discrimination remains the most widely experienced form of discrimination in the UK and has a direct impact on the inclusion and social isolation of older people. In addition to the negative impact this discrimination has on individuals, there is also a wider cost to society in terms of lost productivity of older workers and the associated long term health costs. Negative stereotyping of later life is firmly embedded in our culture and is becoming increasingly apparent across an array of policy areas such as employment, housing and health.

**2.2** We welcomed the inclusion of age as a 'protected characteristic' under the Equality Act 2010 and the repeal of legislation allowing for the use of mandatory retirement ages, but have been disappointed by the UK Government's decision to allow exceptions from the ban on age discrimination in the financial services sector. We believe that despite the introduction of UK legislation and a significant policy framework in the devolved context, there is still much to be done if we are to achieve meaningful equality for older people and that this will require the development of radically new approaches to challenging discriminatory assumptions and attitudes about later life.

#### **Terms of Reference**

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

**3.1** In Autumn 2011 Age Cymru hosted two seminars in North and South Wales entitled 'Seizing the moment - The age equality agenda for older people in Wales'. The purpose of these cross sector events was to raise awareness of the Equality Act 2010 as a means of raising the profile of older people's equality issues and influencing the development of public sector equality objectives that addressed these needs. We received favorable feedback following the events which led to discussions with the EHRC on how this work could be extended.

**3.2** However, irrespective of our wider policy and influencing work, our efforts in relation to monitoring the function of specific public sector equality duties in Wales has primarily focussed on the Welsh Government and we are members of the Strategic Equality Plan (SEP) Board. Our concern is that Objective 4 of the Welsh Government's SEP, which contains the only specific mention of older people through a commitment to reduce the incidence of, amongst other things, 'elder abuse' has no tangible implementation details and lacks the degree of policy integration required to achieve meaningful and sustained change.

**3.3** We welcome the Ministerial commitment in SEP Action Area 4.13 to develop a coherent legal framework to protect adults at risk and stamp out elder abuse via the Social Services (Wales) Bill. However, we fear this focus may not be sufficiently broad to encompass the multiple manifestations of elder abuse. We feel this must be addressed by an integrated approach to policy and devolved legislation that makes the necessary connections between the Social Services (Wales) Bill, the White Paper on violence against women, domestic abuse and sexual violence (Wales) and all proposed activity to tackle hate crime.

**3.4** Similarly, we are glad to see that SEP Action Area 4.14 commits to the elimination of age discrimination and tackling ageism and negative stereotypes of older people in the media. However, we are again concerned that delivery of this action is attributed only to Phase 3 of the Strategy for Older People as this does little to ensure that age equality is mainstreamed more broadly across all public services. The unfortunate consequence of a lack of a co-ordinated response to tackling age discriminatory practices and behaviour, as they affect older people, is that this area of equality remains a poor relation when compared to other 'protected characteristics' and lacks the prioritised focus it deserves in light of the demographic shift arising from an ageing population.

**3.5** Unfortunately, our work with the WLGA and NHS would seem to indicate that there has been very limited focus amongst public bodies in Wales to develop equality objectives in respect of older people. To date, we believe that the inclusion of age as a protected characteristic in the Equality Act 2010 has done little to advance understanding of the impact of discriminatory practice on older people. We feel this can be evidenced at UK level through the weak sanctions put in place to enforce the financial services aspects of the age provision of the Equality Act 2010 but is also evident in the devolved implementation of the Act which has thus far mostly failed to address older people's experiences and needs. There remains a clear need for improvements in the use of Equality Impact Assessments (EIA) and the adoption of 'Age Proofing' as a means of ensuring the needs of older people are identified and addressed. This must be reflected in the future equality plans and objectives of Welsh Government and in the design and delivery of public services more broadly.

## **4. The Equality and Human Rights Commission in Wales**

**4.1** Following the establishment of the Equality and Human Rights Commission (EHRC) we were pleased by the honest admissions at UK and Welsh levels that knowledge and experience of age equality was lacking in the new composite arrangements and there was a clear willingness to learn. This led to our organisation being involved in the EHRC 'The Equality and Human Rights Jigsaw – Where Age Fits In' event in London in March 2008 and to coincide with the appointment of the first Older People's Commissioner we were also involved in the 'Roundtable on Older People' event hosted later that year by the EHRC in Wales. Our legacy charities, Age Concern Cymru and Help the Aged in Wales both contributed to the Human Rights Inquiry and were commended as best practice examples in the EHRC's final report.

**4.2** Our strong working relationship with the EHRC was supported by our membership of the Wales Equality Reference Group (WERG), facilitated by the EHRC, which acted as a cross sector advisory group to the Commission in Wales. We have facilitated workshops at the annual national Equality Exchange Conference and attended information gathering sessions with the Wales Committee.

**4.3** The publication of How Fair is Wales (EHRC 2011) documented the impact of inequality on older people in Wales. However, this document did not lead to concrete proposals for action on the part of the EHRC and also, in our view, did not significantly influence the development of equality objectives in the public sector. It was also unfortunate that at around this time the UK Coalition Government announced its intention to review the EHRC and its future structure and remit came into question.

**4.4** The relationship we have developed with the EHRC in Wales has been positive and based on mutual support. We feel that despite the extensive reductions in funding and capacity the EHRC has undergone in recent times it remains the only body independent of Government and the public sector that can offer a space for cross fertilisation between various equality groups. We acknowledge that the UK Government has refocused the EHRC as a regulatory enforcement body and we are to some extent supportive of this, as the only criticism we would make of the EHRC is that there has been a perceived lack of activity in this area. However, we feel given the distinct and ever growing divergence of the equality and human rights landscape in Wales, there remains a pressing need for the EHRC to continue to 'promote good relations' within the devolved context.

**4.5** This arrangement must however be linked to a well publicised memorandum of understanding or similar agreement with the Older People's Commissioner's Office and the third sector. Welfare Reform and cuts to Legal Aid mean that it has become increasingly important for older people to know who to go to for information, advice and advocacy services, as recognised in the Welsh Government's SEP Objective 1. However, when faced with discrimination on the grounds of age, an older person must also know who would champion their case and indeed assist with potential litigation.

**4.6** We fear the reduction in capacity and funding of the EHRC in Wales may have now reached levels that have adversely impacted on its ability to perform its statutory duties. Given the level of policy divergence around human rights, as noted by the UK Commission on a Bill of Rights and the potential for greater legislative competence in respect of equality legislation, the current governance and funding arrangements of the EHRC in Wales are difficult to reconcile with both its current and potential future devolved remit.

## **5. The link between poverty and equality and the socio-economic duty**

**5.1** We were extremely disappointed by the UK Government's decision not to commence the socio economic duty under the Equality Act 2010. The aforementioned 'How Fair is Wales' publication, the Bevan Foundation<sup>1</sup> and other research, have all highlighted the impact of socio economic inequality on older people in Wales.

**5.2** We believe the recent changes to Ministerial portfolios will facilitate strategic dovetailing of these two inextricable linked agendas. This is a key area of policy divergence from the UK with the Welsh Government maintaining its commitment to social justice irrespective of developments at UK level, and we support the direction of travel in Wales.

**5.3** However, in relation to age equality and poverty, we strongly believe that more must be done to combat the numbers of people on low incomes in later life. We believe that there should be greater understanding and recognition of poverty as it affects older people in Wales and improved Welsh Government action to support older people living on a low income. To help achieve this we believe that it is essential that there is a higher profile for older people within a revised Welsh Government Tackling Poverty Action Plan, as this group were conspicuous by their almost complete absence from the first iteration of this work.

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<sup>1</sup> Equality issues in Wales: a research review, Bevan Foundation / EHRC, 2009

**5.4** We believe work on socio-economic inequality must include consideration of age as a factor in determining whether a household will be in poverty, as well as the causes of poverty in later life. Analysis of current figures reveals distinct patterns of poverty amongst older people:

- In general, the older a person is, the greater the likelihood is that they have a low income.<sup>i</sup>
- A higher proportion of single pensioners living alone are in low-income households than any other group in society,<sup>ii</sup> and single older people are more likely to be in poverty than couples, irrespective of their age.<sup>iii</sup>
- Pensioners living in a household headed by someone from an ethnic minority are more likely to be in a low-income household. This is particularly the case in households headed by someone of Pakistani or Bangladeshi ethnic origin.<sup>iv</sup>

**5.6** Age Cymru will be undertaking specific research and policy work into the causes and realities of poverty amongst older people during 2013 and would be very happy to share the findings in relation to socio-economic inequality with the National Assembly for Wales and the Welsh Government.

## **6. Accountability for equality and human rights legislation in Wales**

**6.1** We are in full agreement with the proposals made by both the Welsh Government and the EHRC in their submissions to the Silk Commission and support the proposal for powers in respect of equality being further devolved. We reiterate the three EHRC recommendations:

- The National Assembly should be given powers to build on equality and human rights legislation including the Equality Act 2010 and the Human Rights Act 1998.
- The National Assembly should be given full primary legislative competence in relation to the Public Sector Equality Duty.
- The National Assembly should be given competence to strengthen its relationship with the EHRC.

**6.2** Age Cymru would suggest that further competence would be commensurate with the policy divergence in equality that has emerged following devolution and the introduction of the Welsh Specific Duties. Additional powers would offer tangible assistance to the Welsh Government in its promotion of equality, in accordance with Section 77 of the Government of Wales Act 2006.

**6.3** Our position is informed by an expectation that any further devolution of powers in this area would enhance the position of older people within the context of both the equalities and human rights policy and legislative frameworks in Wales.

**6.4** In particular we would like to see the distinctive approach to children's human rights, culminating in the National Assembly passing the Rights of Children and Young Person's Measure transposed to older people. We feel that the UN Principles for Older Persons (1991) could be built upon in a very similar manner to the obligations of the United Nations Convention on the Rights of Children that informed the Measure. Pursuit of such a course of action would be conducive to the replication of similar principles and practices for older people by the Welsh Government and in public services.

**6.5** To this end, we welcomed news that the Deputy Minister for Social Services had gained the support of the First Minister in exploring such a proposal. We are extremely pleased that an Advisory Group on a Declaration of Rights for Older People, chaired by the Older Peoples Commissioner, has been established to progress this matter. Age Cymru believes movement here will positively impact upon many of the equality and human rights concerns we have raised in this submission and ultimately contribute to the development of a fairer and more inclusive society for older people in Wales.

## **7. Conclusion**

**7.1** In summary Age Cymru would assert that:

- The Equality Act 2010 has done little to advance understanding of age equality, in respect to older people and that 'Age Proofing' has not been employed as a means of ensuring EIA processes lead to equality objectives and plans that address the needs of older people.
- In light of the policy divergence that has emerged following devolution and the implementation of the Welsh Specific Duties, there is a distinct role for the EHRC in Wales which differs significantly from that of the UK. Its future relationship with Welsh Government will by necessity require a review of its, governance, funding and remit within the devolved context.
- We believe there is an inextricable link between socio economic inequality and poverty. However, we are concerned that the impact of these social constructs on older people is not fully understood. Older people must become a central focus within a revised Welsh Government Tackling Poverty Action Plan.
- The National Assembly should be given extended powers in relation to equality and human rights legislation and full legislative competence in relation to the Public Sector Duty and its relationship with the EHRC. We believe such moves would strengthen the position of older people within the devolved equality and human rights frameworks and facilitate the introduction of a Declaration of Rights for Older People, based on the UN Principles for Older Persons.

**7.2** We trust this submission will productively inform the Inquiry and would welcome further opportunities to assist the National Assembly for Wales and Welsh Government in this area.

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<sup>i</sup> *Households Below Average Income*, Department for Work and Pensions. 2010

<sup>ii</sup> *ibid.*

<sup>iii</sup> *Gender, marital status, and ageing: linking material, health, and social resources*, Arber, S., *Journal of Ageing Studies*. 2004

<sup>iv</sup> *Households Below Average Income*, Department for Work and Pensions. 2010

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