



Cynulliad Cenedlaethol Cymru **The National Assembly for Wales**

Y Pwyllgor Cymunedau, Cydraddoldeb a **Llywodraeth Leol** **The Communities, Equality and Local Government** **Committee**

Dydd Iau, 25 Ebrill 2013
Thursday, 25 April 2013

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Cynnig o dan Reol Sefydlog Rhif 17.42 i Benderfynu Gwahardd y Cyhoedd o'r Cyfarfod
Motion under Standing Order No. 17.42 to Resolve to Exclude the Public from the Meeting

Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynnddi yn y pwyllgor. Yn ogystal, cynhwysir trawsgrifiad o'r cyfieithu ar y pryd.

The proceedings are reported in the language in which they were spoken in the committee. In addition, a transcription of the simultaneous interpretation is included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Peter Black	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Christin Chapman	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Janet Finch-Saunders	Ceidwadwyr Cymreig Welsh Conservatives
Mike Hedges	Llafur Labour
Mark Isherwood	Ceidwadwyr Cymreig Welsh Conservatives
Gwyn R. Price	Llafur Labour
Jenny Rathbone	Llafur Labour
Kenneth Skates	Llafur Labour
Rhodri Glyn Thomas	Plaid Cymru The Party of Wales
Lindsay Whittle	Plaid Cymru The Party of Wales

Eraill yn bresennol
Others in attendance

Kate Bennett	Cyfarwyddwr Cenedlaethol y Comisiwn Cydraddoldeb a Hawliau Dynol National Director, Equality and Human Rights Commission
Dr Simon Hoffman	Cyd-gyfarwyddwr Arsyllfa Cymru ar Hawliau Dynol Plant a Phobl Ifanc Co-director of the Wales Observatory on Human Rights of Children and Young People
Marie Navarro	Aelod o Bwyllgor Cymru y Comisiwn Cydraddoldeb a Hawliau Dynol Equality and Human Rights Commission Committee Member Wales
Dr Alison Parken	Cyfarwyddwr Prosiect, Menywod yn Ychwanegu Gwerth at yr Economi (WAVE), Prifysgol Caerdydd Project Director, Women Adding Value to the Economy (WAVE), Cardiff University
Dr Victoria Winckler	Cyfarwyddwr, Sefydliad Bevan Director, Bevan Foundation

Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol
National Assembly for Wales officials in attendance

Sarah Bartlett Dirprwy Glerc
 Deputy Clerk
Hannah Johnson Y Gwasanaeth Ymchwil
 Research Service
Marc Wyn Jones Clerc
 Clerk
Dechreuodd y cyfarfod am 9.30 a.m.
The meeting began at 9.30 a.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon Introduction, Apologies and Substitutions

[1] **Christine Chapman:** Good Morning, everybody. Welcome to the Assembly's Communities, Equality and Local Government Committee. As the new chair of this committee, I look forward to working with all of you over the coming months. I welcome Jenny Rathbone to the committee, and I am sure that you would like me to thank, on your behalf, Ann Jones, who chaired this committee until now, and Joyce Watson who has left for another committee. If Members have any mobile phones or BlackBerrys, please switch them off, as they affect the transmission. In the event of a fire alarm, please follow directions from the ushers; we are not expecting a fire alarm this morning.

9.31 a.m.

Ymchwiliad i Ddyfodol Cydraddoldeb a Hawliau Dynol yng Nghymru—Sesiwn Dystiolaeth 1 Inquiry into the Future of Equality and Human Rights in Wales—Evidence Session 1

[2] **Christine Chapman:** Our first item today is the inquiry into the future of equality and human rights in Wales, with this, our first evidence session. I warmly welcome Kate Bennett, who is the Equality and Human Rights Commission national director for Wales, and Marie Navarro, who is an EHRC Wales committee member. A warm welcome to both of you. First, thank you for the paper, which all Members will have read. If you are happy, we will go straight into questions.

[3] **Ms Bennett:** I wondered whether it might be worth giving a sentence of introduction. Would that be useful?

[4] **Christine Chapman:** Yes.

[5] **Ms Bennett:** Thank you. What we would like to say is that, over the years since devolution, a strong and distinctive approach to equality has developed in Wales. That is an important point to note. The second point, which we have always been very proud of, is the strong cross-party consensus on the importance of equality. The point that we are at now is that if, in Wales, we want to go further than the promotional approach and the executive approach to equality, and have new legislation, we have to make some decisions on that, and now is the time with the Silk commission.

[6] **Christine Chapman:** We will be delving into some of these things, so if you are happy, we will go into questions. Your paper was obviously very good, Kate, and, as I said, Members will have read it. I will just start with a very broad question. Could you tell me what the commission's vision is for the future of equality and human rights in Wales? You started

to answer that, so please continue.

[7] **Ms Bennett:** Our vision for equality and human rights in Wales is a broad vision of ensuring that everybody is incorporated into it. We are very keen that the Welsh Government and National Assembly should be able to set that agenda, and that is why it is important to be thinking about the opportunities provided by the Silk commission. It is important that that agenda has wide buy-in, that it has champions, that it has guidance so that people know what is expected of them, and that it has an effective regulator to ensure that people are held to account.

[8] **Christine Chapman:** Thank you. You have touched upon the way in which devolution has developed this. Do you think that we should become more aligned to the rest of the UK, or should we continue to develop a distinct agenda?

[9] **Ms Bennett:** It is very important that the agenda is appropriate to Wales, its population and the problems, in particular the challenges, that exist in Wales. There is a very broad and strong foundation for equality and human rights in the legislation that has developed over the last 40 years. We would not want to deviate too much from that, and it is valuable that that is systematic across the UK.

[10] **Ms Navarro:** What is important is that Wales is in a position to choose whether or not to develop a distinctive agenda. It is important to make sure that Wales can develop that distinctive agenda if and when it decides to do so, but equally, it is important that Wales can continue to benefit from, and retain, the GB consistency when necessary.

[11] **Mark Isherwood:** Overall, how successful has the introduction of the public sector equality duty in Wales been?

[12] **Ms Bennett:** The public sector equality duty covers England, Scotland and Wales, but the distinctive feature in Wales is that there are different specific duties. Our job, as the Equality and Human Rights Commission, is to regulate those duties. We have defined regulating, certainly in the early years, as meaning to encourage, to guide and to monitor. We have just completed some monitoring of the first year of the specific duties in Wales. There is a large amount of information set out on our website that indicates how authorities have responded to that. There has been strong engagement from public authorities with those duties and, although only one year has passed, there is already impact from the duties. We are pleased that the research that we did to identify the biggest equality challenges in Wales has, by and large, been taken up by public authorities, the Welsh Government, the health sector, local government, the fire and rescue services, universities and so on. If you have the opportunity to look at the website, you will see what has happened so far.

[13] We have given detailed information about the 45 biggest authorities on the website. I will give one example, if I may, from Flint. Flintshire council carried out an equality impact assessment on its carers commissioning strategy, which was a requirement under the specific duties. As a result of that equality impact assessment, changes were made, such as direct payments for carers, strengthening support for young adult carers and addressing the needs of protected groups within Flint that were not accessing support. As a result, the council has also ended charges for carers and personal assistants supporting disabled people to use leisure centres. As a result, there are more people using leisure centres. That is one example; I am not saying that it is the best example, but it is typical. There are things that have happened in Wales that would not have happened without the specific duties. It is also important that the duties are not just written down and ignored. There are external champions in voluntary organisations and there are internal champions within public authorities. We are there to regulate and report to you, and you are there to scrutinise and to scrutinise the Minister. It is important that that entire circle remains in place if we want the duties to have the impact that

we would like them to.

[14] **Mark Isherwood:** That Flintshire case resulted in part from the case of a young man on the autistic spectrum disorder whom I represented, whose personal assistant was given a car parking fine when he took the young man to a leisure centre, because he was doing his job rather than reading the parking sign. However, I will not go further down that road; at least they have responded positively.

[15] In terms of consistency across the public sector in Wales, to what extent do you believe that the duties are being delivered consistently, or are we seeing different approaches in different places?

[16] **Ms Bennett:** If we stick with north Wales, the six local authorities, the university and the health board all worked together to set objectives that were the same. One of the things that we have found is that the public sector equality duty is encouraging partnership working. As we are only one year into a big and demanding change, we would not be in a position to give a comprehensive report on that. We will know a little bit more this time next year. These are generational changes that we are trying to achieve. Where we can say that there is consistency is that every authority that we spoke to, as far as I am aware, felt that the duties had been helpful, that they were helping them to focus and that they were encouraging partnership working.

[17] **Mark Isherwood:** In terms of the approaches themselves, is there a consistent approach to the way that the duties are being understood and implemented?

[18] **Ms Bennett:** I think there is a fairly consistent approach, because the duties are fairly detailed; it is fairly explicit about what you need to do. We have written detailed guidance, which is available on our website. As a commission, we often get equality officers and others together to exchange information and see what has worked well and what pitfalls to avoid, so there is a relatively consistent approach.

[19] **Janet Finch-Saunders:** Are local authorities working to one strategy, or are they still publishing their annual strategies individually? Are they working to one joined-up strategy now?

[20] **Ms Bennett:** Each authority has its own plan, which it is obliged to have. Often, the objectives within that plan are similar to those of other organisations. That is helpful, particularly when they coincide with what have been identified by evidence and research as the most pressing problems. The accountability relates to each organisation, which is why we have provided a report in which each organisation is named. This year, the reports are short and give a flavour of one aspect of the duty.

[21] **Mark Isherwood:** What evidence do you have to suggest that the duties are providing value for money?

[22] **Ms Bennett:** It is hard to measure that at this stage. The entire purpose of the duty is to use money more efficiently. One thing that must happen is our intervention in problems earlier. The earlier you can intervene in a problem, the less it escalates and, potentially, costs. This could mean, for example, intervening in the case of a child who is not learning well in school by providing an assistant to help them to learn better in school. Whether that lack of learning relates to a socioeconomic disadvantage, or the fact that the child does not speak English, has a disability or is being picked on by other children—whatever the problem might be—if you can assist that child to learn, it will save a massive amount of money. People who are not in education, employment or training cost a lot of money. People who do not have such a good education have worse health and are more likely to get into trouble with the

police and go to prison. So, the whole point of the duties is to look at evidence, to understand those problems and to intervene effectively at an early stage, and therefore save a lot of money.

[23] We also have evidence that chief executives—when we spoke to them—and equality officers did not find that the duties burden them. In terms of the equality impact assessment, I do not think that when anybody has to make reductions in service, they deliberately make unhelpful reductions. If you need to save money, you try to do so in the most effective way. The equality impact assessment tool very strongly ensures that you have the evidence. It asks what the impact of a cut will be and what the impact of extra investment will be. Authorities have found that useful in understanding the best way to spend their limited resources and the best way to avoid the most damaging effects.

[24] **Mark Isherwood:** Finally, what are the main problems that public sector bodies have encountered? How can those be addressed, and how should the success of the duties be measured?

[25] **Ms Bennett:** It is very much about what I have said already; I do not think that they have been very problematic. We have not found reports that they have been problematic, nor have our colleagues in England reported a lot of problems caused by the duties. It is about learning to do them as well as possible, involving communities in consulting, making sure that staff are trained, working together, and having a plan and delivering it. We will continue to monitor, as we have done. We may be able to do much larger monitoring, or, indeed, the Welsh Government could do so, in advance of reports that Ministers have to make at the end of December 2014. It might be worth while having a bigger research project of some kind to do that monitoring. However, we are content that we have done sufficient monitoring to see how things are going at this early stage, before you would, in any circumstances, expect massive outcomes.

[26] **Mark Isherwood:** Would that monitoring include asking employees and service users themselves about their own experiences?

[27] **Ms Bennett:** Certainly, when we monitored the previous duties—you will remember the race duty, disability duty and gender duty—part of the work that we did was to survey users. We looked at that time at the experience of women, disabled people and so on, because those were the duties that we had, to see what gaps they felt remained. So, I feel that that would be an important part of comprehensive monitoring.

9.45 a.m.

[28] **Christine Chapman:** I know that Janet wants to come in, but Jenny also wants to come in on the back of one of Mark's questions.

[29] **Jenny Rathbone:** How clear are the outcomes and targets that organisations set themselves? Are they able to clearly measure the outcomes? Are they going in the direction that they have set themselves? It is easy, with lots of warm words—for example it must be pretty easy to be able to monitor progress in terms of the gender pay gap. However, with some of the other things that you are focusing on, it is much more difficult to be able to say, 'Yes, you can see here that progress has been made'.

[30] **Ms Bennett:** That is a fair point. I will use Mid and West Wales Fire and Rescue Service as an example here. It has often felt—and this is consistent with other organisations—that the duties have been helpful in strengthening, expanding and embedding existing initiatives. The fire service is obviously about saving people's lives, and last year in mid and west Wales, only four people, I think, died in a fire, which is a very good thing. So, in looking

at that most extreme target, it will be difficult to have a statistical measure. One of the things it has told us it has done, going back to Mark's point about working with other authorities, is that it is very anxious to target its community safety work on those people who need it most. So, one of the things that it has told us is measurable is that it has worked more closely with social services. It gets more referrals from social services in terms of homes in which it would be valuable to undertake fire checks and give advice about looking after individuals. The fire service itself also seeks to support social services. So, when it goes into people's homes to do fire checks, the staff will have had awareness training so that they can identify other safeguarding issues that might be relevant, such as domestic abuse or other kinds of abuse. So, it is very difficult to have a concrete measure of these things at this early stage, but there are promising signs.

[31] **Jenny Rathbone:** That is something you will be working on with organisations to try to get them to set measurable targets. Is that right?

[32] **Ms Bennett:** Yes, I think that we can look at that.

[33] **Janet Finch-Saunders:** What are your views on the current UK Government's review of the public sector equality duty?

[34] **Ms Bennett:** We are inclined to think that it is too early to tell. This is a fairly new duty and it feels very early to want it to prove whether it has been burdensome. That is our view.

[35] **Christine Chapman:** We will now move on to another theme that Members are concerned about. Rhodri Glyn has a question.

[36] **Rhodri Glyn Thomas:** Hoffwn holi yn y lle cyntaf ynglŷn â statws y Comisiwn Cydraddoldeb a Hawliau Dynol yng Nghymru, fel adain o'r comisiwn sy'n bodoli drwy'r Deyrnas Unedig. Pa mor rhydd ydych i benderfynu eich cylch gorchwyl eich hun? **Rhodri Glyn Thomas:** I want to ask in the first instance about the status of the Equality and Human Rights Commission in Wales, as a wing of the commission that operates throughout the United Kingdom. How free are you to decide on your own remit?

[37] **Ms Bennett:** The commission's remit is a GB remit, covering England, Wales and Scotland. However, as you are probably aware, the Equality Act 2006, which set up the commission, established a Wales committee. The Wales committee has a responsibility to ensure that the work of the commission in Wales is appropriate to Wales and to ensure that the work of the commission across Great Britain takes into account the considerations in Wales. Marie, as a member of the committee, do you want to say more on that?

[38] **Ms Navarro:** Yes, I do. There are statutory duties on the Wales committee of the commission. We also have a role in advising the Government and other functions. The Wales committee is made up of a commissioner and different members who have access to a wide range of areas of Welsh life.

[39] **Rhodri Glyn Thomas:** O ran eich cyfrifoldebau statudol, a ydych yn credu bod y gyllideb sydd gennych yn ddigonol i ateb y gofynion hynny? **Rhodri Glyn Thomas:** In terms of your statutory responsibilities, do you believe that the budget that you have is sufficient to meet those requirements?

[40] **Ms Bennett:** There is a paragraph in the Equality Act 2006 that says

[41] 'In allocating its resources the Commission shall ensure that the Wales Committee receives a share sufficient to enable it to exercise its functions.'

[42] I am confident that until 2015, the budget that has been allocated to the commission is sufficient for it to carry out its work. Based on past experience, I have no reason to think that the commission in Wales will not get an adequate and fair share of that budget. We only have budgets set to 2015.

[43] **Christine Chapman:** Before we move on, I think that we may have some problem with the sound. Please bear with us for a couple of minutes, because I want to make sure that Members are able to pick up the transmission.

*Gohiriwyd y cyfarfod rhwng 9.51 a.m. a 9.58 a.m.
The meeting adjourned between 9.51 a.m. and 9.58 a.m.*

[44] **Christine Chapman:** We will now move on to Lindsay's question.

[45] **Lindsay Whittle:** Good morning. Many respondents to this inquiry have called for an independent commission in Wales, with funding and competence fully devolved. I think that the Welsh Government's views to the Silk commission are well known. What do you think would be the benefits or disadvantages of an independent commission in Wales?

[46] **Ms Bennett:** I think that the word 'independent' has been used in two ways in the submissions that have been made. The major thing that we are saying about independence is that it is absolutely essential that, as a commission, we are completely independent of Government. We are an 'A' rated national human rights institution; that 'A' standard is rated by international bodies, and it is extremely important to us. To remain at that 'A' status, we need to be an independent organisation. So, where we have talked about 'independent' in our submission, we are talking about being independent of the UK Government or the Welsh Government. In other instances, when people have emphasised the importance of our independence, that is also the way they have been using 'independent'.

10.00 a.m.

[47] We are not advocating that the EHRC in Wales should be cut off from the EHRC in Britain, partly because a very large number of people in Wales are working in the private sector and are dependent upon private sector services which, under any circumstances, would continue to be covered by UK law. We think that there are great efficiencies in having a single organisation. The advice that would be needed for the private sector in England, Wales or Scotland is the same. A vast amount of expertise and knowledge is held by our colleagues in England and Scotland. We benefit in the commission in Wales from having a single system for such things as IT—which, as we have seen this morning, is very important—personnel procedures and so forth.

[48] We are not calling to be independent. However, we do think that it would be beneficial if there was a changed relationship between us and, not only the Welsh Government, but also the National Assembly. That seems to be very important to us. As we were kind of saying on the previous question, we already ensure that our work is tailored very strongly to the context in Wales. We were very gratified that so many people had responded to the call for evidence to this inquiry, and we were gratified at the tone in which people spoke about us as having been able to make sure that we are relevant to the Welsh context. I do not know whether you would like to come in on that, Marie.

[49] **Ms Navarro:** The key point here is that independence relates to our independence from Government. The EHRC Wales is not talking about independence from the GB EHRC.

[50] **Ms Bennett:** Nevertheless, the equality agendas potentially diverge, as they have

already diverged with different specific duties and, frankly, a different approach, not only to equality, which we talk about a lot, but to human rights. For example, when the Commission on a Bill of Rights came to Wales—not only for a meeting with the Government, but a meeting with others as well—there was a different feel about the approach to human rights. So, in moving forward, it may be valuable, if the agendas diverge more widely, and particularly if the Welsh Government moves forward on its objective to increase Welsh accountability for equality and human rights, for the National Assembly to be given legislative powers in relation to aspects of equality and human rights. If we are called upon, as a commission, to scrutinise and regulate in a different way, it may be that a relationship that enables us to tailor our work even more strongly to the Welsh context is worth exploring. We have talked about ideas of concordats, and we have already received some money from the Welsh Government for carrying out projects such as a scrutiny of the equality impact assessment of the budget on which we have previously given evidence here. So, we do think that there is room for a changed relationship, but it is extremely important to us that we are an independent organisation and that we do not become part of any government, and that we also have the opportunity to support you as a cross-party group in the way that you scrutinise the Minister for equality and the delivery of equality in the public sector.

[51] **Lindsay Whittle:** It is interesting because, in your first answer to the Chair, you said that Wales had, naturally, a more distinctive agenda for equality. No-one in this room, I hope, would argue with that. I know that you have suffered from Government cuts recently. You have lost staff, and you are not able to provide the service today that you did, perhaps, 12 months ago, which I think is a retrograde step. Do you think that a closer working relationship with the National Assembly, as opposed to the Welsh Government, would strengthen the commission in Wales?

[52] **Ms Bennett:** Yes, I do. However, I do not think that that necessarily means that we should sever our links with the commission that covers England and Scotland.

[53] **Lindsay Whittle:** Could you remind me who funds the commission in England and Scotland?

[54] **Ms Bennett:** The entire commission, including the commission in Wales, is funded by the UK Government.

[55] **Lindsay Whittle:** So, you still have a relationship with the UK Government, and you are happy with that relationship, but you are not happy with the relationship with the Welsh Government?

[56] **Ms Bennett:** No, we are very happy with the relationship with the Welsh Government. In fact, we already have a very positive relationship with the Welsh Government, and we believe that that could be improved and strengthened further. All I am saying is that we are independent from the UK Government, and that is how we wish to remain, which is a different issue—

[57] **Christine Chapman:** May I just check something, Kate? This is quite complex, in some respects, because there is that distinct Welsh agenda, but UK funding. Do you sometimes feel that there could be tensions between the UK Government and the Welsh Government regarding how you operate different priorities maybe, from your point of view, or from an organisation's point of view?

[58] **Ms Bennett:** The key issue is the degree to which we are able to pursue an agenda that is responsive to Welsh circumstances. I believe that we have been able to do that. There is quite a lot of evidence from Government spokespeople, from spokespeople from other parties, and from many of our partners out there, that we have been successful in focusing on

a Welsh agenda. We have monitored the public sector equality duty in a completely different way to the way that our colleagues have done so. The work that we are keen to do to bring poverty and equality together is very much something that is being pursued by the commission in Wales. We have a distinctive work plan and we produce an annual report that reports on our work. That is laid before the Assembly, and there is a debate on it. Therefore, so far, I think that we have been able to pursue a relevant agenda in Wales.

[59] If the Assembly gets legislative powers in relation to equality and there is further divergence, then we need to ensure that we continue to be able to do that. The protection that we have in the Equality Act 2010—and Marie may want to say more on this—is that many of the commission’s powers are delegated specifically to the Wales committee. The power to advise Government is delegated to the Wales committee. The powers to carry out research, to promulgate ideas, and to bring partners and stakeholders together, as far as the commission in Wales is concerned, were delegated in 2006. We had already had devolution for some years by the time that that Act was passed, and it was apparent that there would need to be an opportunity for the commission to operate in a distinctive way.

[60] **Ms Navarro:** These questions link to the inconsistencies that we have highlighted in the current equalities Act. More can be done, so that the Wales branch of the EHRC can work better with the Welsh Government and with the Assembly. That is where we think there is an area of research to be done into how we can improve the system in relation to Wales—away from the GB agenda.

[61] **Lindsay Whittle:** Thanks for that. However, I simply cannot correlate your answers. You say that you are independent of London Government—and that is good to hear—but I cannot correlate that with why you cannot then tell us, ‘We can be independent from the funding from the Welsh Government’. The Children’s Commissioner for Wales is funded by the Welsh Government, but that post is independent. The Commissioner for Older People in Wales is funded by the Welsh Government, but that post is also independent. I do not see why the EHRC in Wales should not be funded by the Welsh Government, yet maintain its independence, which is important to you, and is also important to everyone in this room.

[62] **Ms Bennett:** We would be pleased to receive additional funding from the Welsh Government to focus on work that is necessary to do in Wales. However, we are in a time of austerity, and the vast majority of equality legislation—and human rights legislation—is the same in England, Wales and Scotland. If you work in a bank, a supermarket, or a double-glazing company—or anywhere in the private sector—or if you work in a voluntary organisation, the legislation is the same. Therefore, it does not seem to be sensible that you would have two commissions—and possibly three with one in Scotland, but let us confine our thoughts to England and Wales—that would need to issue the same guidance in relation to the private sector, and that we would have separate teams of lawyers, and that we would not be sharing that expertise. As you said, the commission has reduced in size, so it is absolutely essential for us, and the public purse in general, that that money is used as efficiently as possible. If we were here today and you had had 27 submissions saying that the commission was ineffective in Wales because it was dancing to a London tune, some of the points you would be making would be far more worrying. We have been successful in ensuring that we are consistent with GB where we can be, and focused on and working in partnership with organisations in Wales.

[63] **Ms Navarro:** Not everything is devolved in relation to equalities and human rights and that is why we have a GB agenda on these aspects, which we need to protect or continue to have, and the private sector is really the main non-devolved aspect in relation to Wales.

[64] **Ms Bennett:** You would not necessarily want to have a separate commission, or two equality commissions—one for the devolved sector and one for the non-devolved sector—or

indeed that the 70% of people working in the private sector were being regulated by a commission that had no presence in Wales.

[65] **Christine Chapman:** We can discuss this again, but the main point is that the commission is not seen as an add-on for Wales. We have had other organisations that are UK-based, but then there is almost an add-on issue with them. That is the main thing.

[66] **Lindsay Whittle:** I think you deserve your own autonomy; you are doing a good job.

[67] **Kenneth Skates:** I know my question is next, but before we move on to that, it strikes me that what you are saying is that if it was fully devolved, it could lead to the entire equalities agenda perhaps becoming less efficient across the UK, and that you would be weakened and there could, therefore, be an adverse impact on the equalities agenda in Wales, as well as in England and Scotland.

[68] **Ms Bennett:** Unless there was a great deal more money put in, that would be a danger.

[69] **Christine Chapman:** I am conscious of time. I know that we have had to interrupt the committee, but I would like to finish this at the latest by 10.30 a.m.; my apologies to Members. We are going to move on now to the next theme. Ken, you wanted to come in.

[70] **Kenneth Skates:** I find the link between poverty and inequality intriguing. Could you give us an idea of how the socioeconomic duty would work in practice?

[71] **Ms Bennett:** This is a question that will need to be looked at in much more detail. In general terms, the socioeconomic duty, which is section 1 on the very first page of the Equality Act 2010, talks about the need for public authorities, when taking decisions of a strategic nature, to pay due regard to the needs of people who have suffered socioeconomic disadvantage. That wording is quite similar to the public sector equality duty. There is a whole number of different ways that the socioeconomic duty could come into being. What we think needs to happen—and we are taking some steps with partners on this—is that we need to look at the different options as to how it could come in, both legislatively and legally, and how it would work in practice.

[72] It is a bit too early to say too much on that, but what is very important is that many people who are in socioeconomic disadvantage are also covered by some of the protected characteristics. So, disabled people are more likely to be poorer; people of particular ethnic backgrounds are more likely to be in that poorer category; and people of particular religions may be more likely to be there. What we also know is that those people do not necessarily live neatly in the Communities First areas or other areas. So, we think there are big opportunities to do more work on this, and we are also working in a hands-on way with one or two authorities that are quite interested in it. I cannot tell you in too much detail, but we do think that we need to get some experts' brains onto this, but fairly quickly, as we were saying earlier.

10.15 a.m.

[73] **Ms Navarro:** We can possibly imagine or envisage a socioeconomic duty operating as part of the public sector equality duty, or it could be a free-standing duty in its own right. As we say, we think that it is an important question with lots of legal implications and we would want to examine that question further.

[74] **Kenneth Skates:** How difficult would it be to monitor, or is it too early to look at that?

[75] **Ms Bennett:** There is a degree of monitoring. For example, if you look at school data from particular authorities and across Wales, you can tell in terms of the exam results—which is not the only way of monitoring, but it is the simplest way—how ethnic minority pupils have done, how children with special educational needs have done, and how children in receipt of free school meals, which is a measure of poverty, have done. We also know an absolutely massive amount from the census. We are in this period just after the 2011 census—the nearer that you are to the census, the better your data are—when you can tell how people are prospering according to their backgrounds. So, it is a bit like Jenny’s question about how we know whether the public sector equality duty is working. We have to be really careful that we do not set very mechanistic targets that are not the right ones, which is why having some experts in a room together, producing a report for us to see where to go with that, is a valuable next step that we are keen to pursue.

[76] **Jenny Rathbone:** To stick with the education theme, as you rightly said, there is a huge amount of data and also this enduring link between deprivation and low educational attainment. How do you think that including the socioeconomic duty in the Welsh context in the equalities duties would, in any way, change the way in which we tackle closing that gap?

[77] **Ms Bennett:** At the moment, particular authorities have their strategic equality plans and they probably have poverty plans of one kind or another. Sometimes, they will have staff attached to the equality plan, whether it is in schools or in the authority, and sometimes they will have people working in poverty projects. Resources are under greater pressure and some of the problems, particularly in terms of the readiness of three-year-olds to go to school, appear to be increasing, and there are smaller and smaller groups of people who are carrying out this work. So, whether you are going to be addressing children of a particular background who have a disadvantage in school or children who come into school who are economically deprived, the likelihood of there being more and more specialists coming in to do that work may be diminished. So, it will be really important to ensure that your bedrock of teachers, as a matter of absolute routine, is equipped as well as possible to make sure that there is an inclusive approach and that the steps are in place to support children, whatever their needs are. I am not saying that the specialists would go altogether—do not misunderstand me—but it tends to be the same budget and the same staff in the same buildings who are assisting children to advance. So, it is really valuable to make sure that we do not have two strategies criss-crossing over each other and that all the front-line staff are as equipped as they possibly can be to support children, whatever challenges they have.

[78] **Jenny Rathbone:** I absolutely agree, but what is stopping local authorities from doing that already?

[79] **Ms Bennett:** Nothing, probably, is stopping them from doing it, other than the fact that they have a lot on their plate, and so it is a question of our focusing on the most effective ways of working. A single strategy, which may be based on inclusivity or whatever, may be more efficient than more than one strategy. Certainly, as a commission, we are pleased that we have the responsibility for nine grounds of inequality, good relations and human rights. If local authorities had a gender strategy, a race strategy, a disability strategy, a sexual orientation strategy, a trans strategy, a religion strategy and an age strategy, you would imagine that this would be complex for them. So, if more things could be brought together with one strategy, but with tailored outcomes, that would be valuable.

[80] **Christine Chapman:** With the idea of this particular duty, do you think that local authorities understand the long-term links, in that, if you get more equality, you may start to eradicate poverty? Do they get that, or is it so far off that they cannot see that on a day-to-day basis?

[81] **Ms Bennett:** I think that it could be grasped more closely. I also think that it is very difficult, as all of us tend to make our decisions based on what we know and our backgrounds, and according to the people we are. Over the years, many people in this room have become advocates for a gender issue, a race issue or a disability issue, and there are many loud voices that have spoken up for those particular groups. The women's agenda will often have been set by women, and disabled people have very much said, 'Well, this is what disabled people want'—'nothing about us without us' and those kinds of slogans. It is very much more difficult to hear the voices of poor people, and it happens less frequently. It does not seem to be something that happens in that way, and so it is quite easy for those voices to be overlooked. Each of us has several of the characteristics of gender, race, disability, sexual orientation, poverty or non-poverty, so it is a complex picture to make sure that we are focusing as well as we can.

[82] **Peter Black:** What I am struggling with here is that we are talking about a duty and we are talking about strategies, and all local authorities have strategies on how they apply those strategies. The Welsh Government already has powers to issue guidance on the strategies that it expects local authorities to deliver—and not just local authorities, but health boards and a whole range of other public sector bodies. So, why do we need a duty, when it is a matter of just guiding the relevant authorities in what they should be delivering and how they should be delivering it?

[83] **Ms Bennett:** Well, what we could say is that all authorities could have been doing five years ago exactly what they are doing now under the specific equality duties of the public sector equality duty. We think that there has been significant progress. We think having it written down as a law, with guidance available on our website—both guidance for users and technical guidance—for it to be enforceable and for there to be clarity, is what is required. That enables people outside yourselves, voluntary organisations, to say, 'You need to be doing this'. For people who are inside the organisation and are accountable for delivering it, it is part of their job. Those on the commission are responsible for finding out what is going on and reporting it. In relation to the authorities that we have looked at, we have written to the Minister for local government to tell her what is going on in local government. We have written to the Minister for health to tell him what is going on in health. If he has further queries that he would like us to report back to him, it gives him the opportunity to go back to those health bodies and ask what is being done and what is not being done.

[84] So, I think that it does strengthen things. I do not think that having a law is in itself sufficient to change things, but I think having a law, and, if there was a socioeconomic duty, a legal responsibility to pay due regard to socioeconomic issues when you are taking your strategic decisions and, although we have yet to explore what this would be, some level of accountability and enforceability, would improve the situation.

[85] **Ms Navarro:** Building on that, we think that it will help the scrutiny process if the socioeconomic duties operate in a similar way to the public sector equality duty, with organisations having to set out objectives formally and then be held to account on those objectives.

[86] **Peter Black:** Okay, but I am a local councillor, and I do not remember ever scrutinising the equality duty of my council. A local councillor might say that you are trying to micromanage the council through a law. Would it not be better if you actually gave them more general powers of wellbeing to actually do the things that they need to do and extended their powers?

[87] **Ms Bennett:** I do not think that that is for me to comment on.

[88] **Peter Black:** Well, we are talking about changing the law here in terms of a council.

If you want a council to be more effective in terms of tackling poverty and socioeconomic inequality, surely the most important thing is to empower it to do that rather than to make it do more strategies?

[89] **Ms Bennett:** That is why we feel a very strong need to make sure that, before we have any legislation, we have looked into the best way of doing it. We would be delighted if you wanted to be involved in that discussion. If there is to be legal change, it will clearly happen in the next couple of years—this is when the commission on devolution has taken its written evidence; it is going to take some oral evidence. It is over the next couple of years that, I think, it will be decided. So, people in the Assembly and the Government need to decide if that is what they are going to go for. With regard to the exact detail of it, I think that we could work that up in parallel.

[90] **Christine Chapman:** We have about five minutes left. Gwyn is first.

[91] **Gwyn R. Price:** Can you give the committee an overview of the current legislative powers that Wales has in relation to equality and human rights? What assessment have you made of the need for further devolution in this area?

[92] **Ms Navarro:** Okay, I will start answering this question with a warning that this is a very complex legal assessment. We will not go into the details; we do not have the time today to do so. However, there is a very important point to be made. Let us take equality as an example: in Wales, equal opportunities in relation to public authorities are in Schedule 7 of the Government of Wales Act 2006, so we need to work out the restrictions under Part 2 and assess the exact scope of that power. However, in Northern Ireland, equality is not reserved or excepted, so it means that it is devolved. The Northern Ireland Act 1998 even makes specific provisions in relation to equality that include the creation of a duty, the creation of the Equality Commission for Northern Ireland and also the Northern Ireland Human Rights Commission. Again, this contrasts with the Scottish model, where equality of opportunities is reserved and the EHRC is expressly listed as a reserved body. So, that tells us that all the devolved settlements are very different in relation to these issues. It is very important that we find a settlement and a system tailored to the specific needs of Wales. Again, we believe that this requires experts to look at the issues and the options thoroughly.

[93] **Mike Hedges:** I have looked at appendix 3 and have seen that there is almost a full page where you talk about gaps and inconsistencies in the current legislation. There are obviously problems there. My first question is simple: do you think that if we had the reserved powers model, an awful lot of those problems would disappear? I think that you have probably missed some, too, because, every time you start looking at things that are devolved and not devolved, there is confusion where a small part may not be. So, do you think that the reserved powers model would make life a little easier?

[94] **Ms Navarro:** Personally, I think so. What we highlighted in our evidence to Silk is that, because there are two models, the Northern Ireland model and the Scottish model, we should ensure that equality and human rights are not reserved as in the Scottish model. So, it is again about finding the right balance as to what should be reserved in relation to equality and human rights, which needs to be worked out very carefully.

[95] **Ms Bennett:** Unlike Marie, I am not a constitutional lawyer, but what we are saying should definitely happen, building on what Lindsay said, is that there needs to be a stronger relationship. Our submission to Silk said that there should be a stronger relationship between us and the Government. We think that the public sector equality duty should be devolved in its entirety to Wales, so that, if the review in England were to repeal it, then it would not affect Wales. That also means that, if the Welsh Government—the National Assembly, in fact, would do the legislating—wanted to add an extra strand to the public sector equality

duty, such as protection for carers or the introduction of a socioeconomic duty, it would be able to do that. The third thing is that we think that the National Assembly should have the power to build on the equality and human rights legislation so that it can make improvements.

10.30 a.m.

[96] **Mike Hedges:** I would not disagree with anything that you have said there, but, and this is probably for your constitutional lawyer, even if it was apparently fully devolved, like a number of items that appear to be fully devolved, because of the complexity of the law—. We have been told, in relation to another issue, that we cannot affect criminal law, for example, in terms of legislation from the Assembly. We cannot interfere with it; that is a statement that the Deputy Minister for Social Services made earlier this week. So, if we cannot affect criminal law, that part would be non-devolved if we did not have a reserved situation. So, it could all be devolved, but, if we wanted to make it a criminal offence to do something, we would not be able to do it because that part is not devolved, or have I got it wrong?

[97] **Ms Navarro:** Actually, you can create criminal offences. However, I take your point: the current devolution settlement is so complicated that it is hard to operate. I often describe it as *Gruyère* cheese: you have a nice round cheese, and you do not know how many holes there are in the middle. If you cut it in half, what are you left with? That is why the Silk commission's work is so important. What we are saying is that, if we keep the current model of listed powers, or if we go to the reserved model of powers, we need to make sure that the system works within our devolution context.

[98] **Mike Hedges:** I missed the first few words that you said, I am afraid.

[99] **Ms Navarro:** With regard to whether we would choose one system or the other?

[100] **Mike Hedges:** No, I think it was about criminal law. I think you started off with that.

[101] **Ms Navarro:** Oh, yes. With regard to criminal law, the Assembly can create criminal offences under the current system. However, the discussion that is being had relates to the fact that we do not have an official list of what is not devolved. We have these ghost subjects, which include employment law and criminal law, which are used as big words, but we have no legal list for them. They have no legal existence and that is why many people are arguing for a reserved model, so that we can see on the face of a piece of legislation what we cannot do.

[102] **Christine Chapman:** Thank you very much. I am going to draw this session to a close. I thank both of you for coming here today to answer Members' questions. It has been very interesting and useful. We will send you a copy of the transcript so that you can check it for any factual inaccuracies. Thank you both for attending today.

*Gohiriwyd y cyfarfod rhwng 10.33 a.m. a 10.40 a.m.
The meeting adjourned between 10.33 a.m. and 10.40 a.m.*

**Ymchwiliad i Ddyfodol Cydraddoldeb a Hawliau Dynol yng Nghymru—Sesiwn
Dystiolaeth 2
Inquiry into the Future of Equality and Human Rights in Wales—Evidence
Session 2**

[103] **Christine Chapman:** We continue with our inquiry. I would like to welcome Dr Alison Parken, the project director of Women Adding Value to the Economy, Cardiff University; and Dr Simon Hoffman, co-director of the Wales Observatory on Human Rights

of Children and Young People. Do you have a colleague with you, Simon?

[104] **Dr Hoffman:** No, I do not. They could not come along.

[105] **Christine Chapman:** Okay. Thank you for your paper, which Members will have read carefully. In our questions, we will develop some of these themes. I will start off with a broad question. Should Wales aim to become more aligned to the rest of the UK in relation to equality, or should it continue to develop a distinct agenda?

[106] **Dr Parken:** We started out with a distinct agenda in 1998 when we brought in the unique mainstreaming equality duty. There was a clear vision that government by the people, for the people meant ameliorating the disadvantage that comes with our economic and social organisation. We have carried that through in the latest iteration, with the Welsh-specific duties being quite distinct. In particular, I would point to the equal pay duty under the employment duty, of which other parts of the UK are envious.

[107] **Dr Hoffman:** I would agree with that. For me, what is important is not so much whether we align with the rest of the UK, but whether or not Wales is pursuing a distinctive agenda, which is about equalities and tackling poverty. As far as the structure and framework of equalities in Wales are concerned, it seems to me that we have a distinctive structural framework on inclusivity that is about Wales-specific duties. If you are asking whether we continue to pursue an agenda that is about inclusivity and opportunity for all, I would say 'yes'. If you are asking whether or not the Wales-specific equality duties contribute to that, I would say 'yes' and that they should be continued.

[108] **Christine Chapman:** The previous witnesses talked about the links with the UK agenda. Have you any thoughts on that? We have talked about the distinct Welsh agenda, but, obviously, while maintaining links with the UK.

[109] **Dr Parken:** What Kate was saying was that, in relation to the UK legislative agenda—which, in part, comes from Europe following the treaty of Amsterdam—there would not necessarily be any advantage in taking all that apart while you can draw on that expertise for the overall commonality of the UK framework and also create space to support the distinct agenda.

[110] **Dr Hoffman:** There are benefits in drawing on a common agenda in relation to equalities. Also, Wales should not be afraid of pursuing its own agenda. Indeed, I am pleased—I make this point early on in my evidence—that Wales, through the Welsh Government and the National Assembly for Wales, has been prepared to pursue a distinct agenda in relation to equalities and human rights.

[111] **Christine Chapman:** Thank you. We will move on to another theme and to questions from Mark.

10.45 a.m.

[112] **Mark Isherwood:** What have been the main successes and difficulties for the public sector in Wales in introducing and meeting the duties?

[113] **Dr Parken:** That is a good question, Mark, and, like Kate, I have to say that it is a bit early to tell. They have only been in for 12 months, and the EHRC is now collecting evidence for the first set of published reports. It will take some time to go through the monitoring on those and then make further recommendations. In my experience of talking to people with whom I have worked quite closely in the NHS and local government, the fact that the duties are there is enabling, particularly in terms of equality officers being able to go to policy

makers and service deliverers and say, 'We need to do this'. So, they enable the inclusion of equality on the service delivery agenda. As for official reporting and monitoring, it is too early to say as we are only a year in.

[114] **Mark Isherwood:** Have you noted any inconsistencies in the operation and scrutiny of the duties across different bodies in Wales?

[115] **Dr Parken:** The guidance is very clear. There have been seminars to explain to people what is meant by various parts of the duties and the building blocks—the Welsh specific duties are the building blocks to meeting and advancing equality and eliminating discrimination. However, each authority will interpret those differently according to their geographical, demographic and political context. I cannot say that I have noted them because we would need to do a piece of reflective work on that.

[116] **Mark Isherwood:** Again, it is early days, but to what extent do the duties provide value for money in your views and observations?

[117] **Dr Parken:** Again, this is a hypothetical, as it is early days. I think it is about the opportunity costs and asking, 'What if we do not do it?' That is the question and it needs careful consideration. If you think about the 'An anatomy of economic inequality in Wales' report that the EHRC sponsored in 2011, the difference in Wales between the lowest 10% and the top 10% in terms of overall wealth is about 90 times. So, we have been able to say that, in Wales, we are less unequal than other parts of the UK. Therefore, you need to have policy that reaches everybody. Part of the equality duties are to ensure that we do not produce policy that only the most advantaged can make use of. Other people who are furthest from the labour market and have less social, economic and cultural capital need policies that reach them too. So, if you are talking about measures and outcomes, that is something that we need to build in over time. The work that was done through 'An anatomy of economic inequality in Wales' and the 'How Fair is Britain?' and 'How Fair is Wales?' EHRC programmes, provides those benchmarks. When the equality duties have been in operation for two or three years, we might be able to go back and reassess that against those large data sets, so there are ways of doing it.

[118] **Janet Finch-Saunders:** This is a question for Simon; good morning.

[119] **Dr Hoffman:** Good morning.

[120] **Janet Finch-Saunders:** You say in your written evidence that there should be a clearer understanding of the relationship between the public sector equality duties and the inclusivity objectives inherent in Welsh devolution, how do you consider that this could be achieved?

[121] **Dr Hoffman:** As I say, there is a need to develop a clearer understanding. There is obviously some intersection between the public sector equality duty and the inclusivity provisions in the Government of Wales Act 2006, most particularly in relation to section 77, which is a duty on Welsh Ministers to have due regard to equality of opportunity for all. There is also the potential for overlap with other inclusivity provisions that provide for engagement with different sectors within society. To my mind, the best way to develop a clearer understanding of how these intersect and interrelate is to consider it further through investigation and examination. Part of that would be looking at how these duties intersect in practice in terms of how they are operated by Ministers and their officials, and how the various inclusivity provisions operate in practice. So, it is an opportunity to go away and further reflect on what inclusivity means for the public sector equality duty and what that means for inclusivity.

[122] **Janet Finch-Saunders:** Thank you. This question is to you both. What evaluation

have you made of the Welsh-specific duties compared with the English and Scottish duties?

[123] **Dr Parken:** I have not specifically undertaken an evaluation. I was involved in the consultation exercise for the Wales-specific duties, so we know about their distinctiveness; that is what we do know. So, when the evaluation comes in, we will be able to do a comparative analysis with other parts of the UK.

[124] **Dr Hoffman:** It is not something that I have undertaken.

[125] **Christine Chapman:** We will now move on to Rhodri Glyn.

[126] **Rhodri Glyn Thomas:** Yn dilyn ymlaen o'r cwestiwn hwnnw, fe fyddwch wedi clywed y cwestiynau y bu i Lindsay Whittle ofyn i'r comisiwn yn gynharach ynglŷn â statws y comisiwn. Mae nifer o bobl sydd wedi ymateb i'r ymgynghoriad wedi dweud y byddai'n fanteisiol i'r comisiwn gael annibyniaeth yng Nghymru, â'i gymhwysedd a'i gylch gorchwyl ei hunan. I ba raddau yr ydych yn credu y gallai'r comisiwn weithredu â chylch gorchwyl penodedig i Gymru o ystyried ei statws presennol fel rhan o gomisiwn y Deyrnas Unedig?

Rhodri Glyn Thomas: Following on from that question, you will have heard the questions that Lindsay Whittle asked the commission earlier regarding the commission's status. Many people who responded to the consultation have said that it would be advantageous for the commission to have independence in Wales, with its own competence and terms of reference. To what extent do you believe the commission could operate within specific terms of reference for Wales, given its current status as part of the United Kingdom's commission?

[127] **Christine Chapman:** Who would like to go first? Simon?

[128] **Dr Hoffman:** The first thing that needs to be said is that I would not disagree in any way with what Kate said in relation to the need for the commission to be clearly an independent body. As for the way in which it operates in the Welsh context, there are difficulties with the current formalities, but it is certainly the case that the EHRC Wales committee is a very advantageous resource in Wales and a source of expertise. However, the formal position seems to be problematic.

[129] The Wales committee has a role to advise the EHRC on its function in relation to Wales and to advise Welsh Ministers on legislation affecting only Wales. These arrangements provide a very basic framework for engagement between the EHRC and the Welsh context, but there is no formal basis for the EHRC, for example, to engage in relation to the Welsh equality duty and the inclusivity agenda. There seem to be problems with the formalities of the way that the EHRC operates.

[130] As to whether or not it should be totally cut loose from the EHRC for the UK, I think that people like Kate, for example, are far better placed to comment on something like that than I am.

[131] **Rhodri Glyn Thomas:** Hoffwn ofyn cwestiwn ynglŷn â'r gyllideb. A ydych yn credu bod y gyllideb sydd gan y comisiwn yng Nghymru yn ddigonol i gyflawni'r gwaith?

Rhodri Glyn Thomas: I would like to ask a question on the budget. Do you believe that the budget of the commission in Wales is adequate to fulfil its work?

[132] **Dr Parken:** I have to go with what Kate said. She said that she is assured that she can do what she wants to do between now and 2015. That is not to say that, if there was additional funding in Wales to concentrate on areas that are distinctive to Wales, that there is not more

that could be done.

[133] **Lindsay Whittle:** I will throw away question 3(b). I will tell you why I want the EHRC to be independent in Wales: we know, and it has been proven, that we have a distinct agenda in Wales that is different from those of England and Scotland. I am afraid, in these austere times, as has been mentioned by previous witnesses, we have witnessed cuts and, eventually, I fear that, in the next five years, the cuts will be so devastating that somebody, somewhere in Whitehall—some person who looks at Wales through the wrong end of a pair of binoculars—will say, ‘What is the point of having a separate commission in Wales, because it is all the same, isn’t it?’ I do not think that we are, of course. Do you have any views on that? The EHRC does a magnificent job in Wales and that is the reason for my previous question. I want to protect it and strengthen it.

[134] **Christine Chapman:** It is a question to focus on Lindsay’s views on this one.

[135] **Dr Hoffman:** Once again, I have to go back to what Kate said. The commission is independent in Wales. The question is this: do we have an EHRC in Wales that is independent of the EHRC in the UK, or do we maintain the EHRC Wales committee with a strengthened role? I have to be frank, I do not know the answer to that and, again, I would defer to someone like Kate. It seems to me that an independent EHRC body in Wales—as in independent from the UK EHRC—or a strengthened EHRC Wales committee would be advantageous.

[136] **Lindsay Whittle:** Who pays the ferryman? That is what I am worried about. Cuts have been mentioned and we know that the commission has suffered recently. I fear that in future it will be swallowed up, and I want to avoid that at all costs. I am not sure whether there is legislation, but, at the moment, there is a distinct Welsh agenda. I want to ensure that that remains and is strengthened. Thank you for that.

[137] **Christine Chapman:** Do you want to come back on that point, Dr Hoffman?

[138] **Dr Hoffman:** As I understand it, the EHRC has to make sufficient provision in terms of its funds to ensure that the commission in Wales can carry out its work. However, if there is more work that could be done, will that be funded? I think that may be an issue.

[139] **Christine Chapman:** Mark has a supplementary question.

[140] **Mark Isherwood:** As Ken knows, north-east Wales has a large population that depends on services that are provided in north-west England. This is the only coterminous urban border in the UK. To what extent does having a quasi-federal UK EHRC enable the cross-border needs of people in Wales to be met?

[141] **Dr Parken:** That is a good question. I really do not know, Mark. I think you are raising a fantastic amount of interesting questions. Perhaps Lindsay is right that this needs to be funded, so that the EHRC can continue its research. That is a part of the issue. There is an issue of independence and an issue of funding. There is also an issue of political drivers in Westminster, which are distinct from the Welsh agenda. The kinds of things you are asking about will potentially enable further distinction in the Welsh agenda, but the work has not yet been done.

[142] **Jenny Rathbone:** Turning the question on its head, I am intrigued, having listened to the earlier witnesses, as to why there has been divergence already in the Welsh emphasis on socioeconomic issues that has not been experienced in England and Scotland. Given that there is no devolution of equality duties, I am unclear as to why that would be and why England and Scotland are not equally concerned about this.

[143] **Dr Parken:** I do not know that the populations of England and Scotland are not equally concerned. It has been the policy of the Lib Dem-Conservative coalition Government not to commence section 1 of the Equality Act 2010, which was introduced by the previous Labour Government, because there is a recognition that equalities legislation has been brought in vertically. What we have done in the last 10 years is to add on strands of inequality, which are now called protected characteristics, but interwoven with those are significant overarching economic inequalities. It could well be that that is more prescient here in Wales; we are one of the poorest regions in the UK. It could be that there is more of a political will and more of an understanding of the need to ensure that equality duties and anti-poverty duties cohere. What has happened in the past is that they have been in the same portfolio, but in separate departments, so they have been working to slightly different agendas. If you go back to the origin of mainstreaming the equality duty—the duty to promote equality for all—instead of just looking at the equality strands, and adding more strands in the process, we should have been thinking more about it in terms of economic and social inequalities. So, this was underpinned in the first devolution settlement in the first Government of Wales Act. There is an understanding in Wales that we have particular issues around intergenerational poverty, de-industrialisation et cetera. There is a political will and a better understanding of what this could do for Wales, but I would not say that the populations of England and Scotland do not think that they ought to have a socioeconomic duty.

11.00 a.m.

[144] **Jenny Rathbone:** Your paper hints that the UK Government may repeal it.

[145] **Dr Parken:** It has not commenced it. It is a Government issue, but I am not sure that the populations of England and Scotland do not want—

[146] **Jenny Rathbone:** Fair enough.

[147] **Christine Chapman:** We will now move on to another theme. Ken, did you want to come in?

[148] **Kenneth Skates:** Thank you, Chair, yes. This is the same question I asked before. How would a socioeconomic policy work in practice?

[149] **Dr Parken:** At the moment, strategies such as the economic strategy for jobs and growth—which focuses on science, technology, engineering and mathematics subjects and realising the commercial potential of university ideas in products and services—kind of rely on the trickle-down effects of that so that it does not just advantage those who are, if you like, already advantaged because they have very high education levels and are in employment. We do not think that the trickle-down effects work. Where in that strategy are the educational improvements, the improvements to basic to intermediate skills and the shifting of the focus onto social mobility? If you have a socioeconomic duty that says that each strategy must show how it is going to reduce economic inequality—that is, shift those stuck at the bottom—then it has to be there on the face of the strategy.

[150] **Kenneth Skates:** Rather than just having the words ‘due regard to’, so that the focus is turned around. How would you go about monitoring it?

[151] **Dr Parken:** We have talked about administrative school data sets, and workforce monitoring, but there are also larger data sets, such as the work done on ‘An anatomy of economic inequality in Wales’ using our annual population surveys, which will show earnings, employment and those kinds of economic outcomes. What we are saying is that economic outcomes are an issue for equality. In addition, there are certain social groups that

are more likely to experience poor economic outcomes. So, through the data on education, employment and earnings, we can track different populations.

[152] **Kenneth Skates:** Do you think that a socioeconomic element could be wrapped up within current duties or is it best to have it as a stand-alone duty?

[153] **Dr Parken:** Kate alluded to the fact that we need to talk about this. We need the expertise in the form of academics, politicians and local government, and we need to talk about how this works and what we want to do with it. It is quite complex, because one of the things that we tend to do is to talk about poverty and inequality. Poverty is not only about poor economic outcomes, it is about all those things that the Centre for the Study of Poverty and Social Justice at the University of Bristol has recently been talking about in terms of what the UK population thinks poverty is, things such as the basic necessities of life—being able to fix electrical items if they go wrong, being able to afford to go to a family wedding or funeral, having an outside play area for children, and so on. That is poverty and there are lots of different aspects to it.

[154] Then there is economic inequality. We understand that your parents' income and their occupational status can pretty much predict, by the age of three, what your educational outcomes will be, and if you have poor educational outcomes you will have poor employment outcomes and poor earnings outcomes. So, economic inequality is cumulative over their lifetime.

[155] So, we need to think about what poverty is, what economic inequality is and what the social divisions are and how they coalesce. I think it is about getting a group together to think about exactly what we are aiming for and whether the original idea of mainstreaming in the equality duty—which was, I think, about economic inequality and not just about inequalities in terms of discrimination—can be carried through into the understanding of the existing public sector duties, or, because it is quite complex and you tend to have one department in local government doing social justice and anti-poverty strategies and another doing equality, that you, at least initially, have a duty that brings these things together and is very clear about what the intention is and has separate guidance.

[156] **Kenneth Skates:** My next question is perhaps for Dr Hoffman. Are you confident that we have sufficient academic research regarding the link between inequality and poverty to be able to address the very immediate questions that have been raised about it?

[157] **Dr Hoffman:** Alison is probably better placed to speak about the evidential base. It is my understanding that there are clear correlations between poverty and inequality. I can offer a slightly different perspective on how the socioeconomic duty might work in practice and how practical it might be to implement and monitor the duty. As was indicated by the previous witnesses, there is a need for experts to sit down to think about the sort of data that Alison might be able to talk about, but also to think about legal mechanisms and how we go about giving effect to a socioeconomic duty, if you like, in Wales. Wales is in a particularly advantageous position when it comes to thinking about how you develop that kind of duty and the sort of legal mechanism that might be appropriate. I am sure that the Chair and others in this room will be fully aware of the thinking that went into the Rights of Children and Young Persons (Wales) Measure 2011, which has a due regard duty within it. It also has associated mechanisms for accountability. I know that officials within the Welsh Government have worked very hard on tools for impact assessment, for example. So, there is a degree of expertise and experience that academics and others within the Welsh Government, the Assembly and the academic community can bring to thinking about what legal mechanisms might be appropriate to achieve what is wanted to be achieved in Wales.

[158] **Jenny Rathbone:** How would introducing the socioeconomic duty make a difference

to what we are already doing? For example, we already have anti-poverty strategies, such as Communities First and Flying Start. I would like to assume that they already focus on the hardest to reach by virtue of the terms set out in them, for example those in relation to educational or physical disability, which makes them the primary beneficiaries of those programmes. However, I admit that that is an assumption and does not always happen. How would that make a difference to the way that people behave?

[159] **Dr Hoffman:** We should not underestimate the value of law as being symbolic, even if we can find similar duties or responsibilities elsewhere, or even strategies that are taking place that seem to reflect the sorts of strategies that might be anticipated if we brought in a legal duty. So, I think that there is a symbolism to law, and also a direction given by the National Assembly for Wales. However, once you have a law in place that imposes a socioeconomic duty, in whatever form it might be, it places an imperative on bodies that are bound by that law to take that responsibility seriously. One hopes that they would take their responsibility seriously in any case, but once you have a law in place, they cannot do anything but take that responsibility seriously. So, I think that it would lead to better co-ordination strategies, better thinking about the relationship between socioeconomic disadvantage and inequality at the level of organisation at which policies and strategies have to be implemented. However, I come back to my first point: we should not lose sight of the fact that law has a strong symbolic and directional value.

[160] **Dr Parken:** I would echo what Simon said about symbolism, and that goes back to the previous question about whether or not it comes in under the existing duties if it can be understood and whether it needs a separate mechanism to have it fully explained in separate guidance.

[161] Social justice and the equalities agenda have co-existed in the same department, but have been focused on quite different things. So, things such as the Communities First programme have tended to focus on the index of multiple deprivation, which tends to focus on geographical areas and household level—so household income as a proxy. It has not looked at the different income by gender within households. This is part of the reason for having a duty. Equality of income has been assumed at the level of the household, because within that set of strategies, it has not been thought interesting to look at how poverty plays out differently, coalescing with your social difference and how that affects your access of routes into work, the importance of childcare et cetera. It has been thought about, but not necessarily in gender-specific terms. So, there is a need to bring these two things together.

[162] The other thing that a socioeconomic duty would do is—. If we think about an employment strategy, we tend to think about jobs and growth and how we need higher-value industries or services, but the report ‘An anatomy of economic inequality in Wales’ showed specifically that people with disabilities, people from certain ethno-religious groups and people who live in social housing, and, within those groups, women, are the most disadvantaged in terms of educational outcomes, access to employment, earnings and poverty over the lifecycle. If you think about what we want as a strategy to promote employment, we are simply saying that it is about ‘who’, not just ‘where’, and bringing those two things together, because who you are will affect your mobility of social capital et cetera and your ability to take advantage of the strategy that is being offered.

[163] Finally, we potentially already have an example in Wales of a socioeconomic duty. The equal pay duty requires employers at the level of the organisation, as Simon was saying, to examine the occupational distribution of employees, particularly by gender, in terms of their jobs and their contracts—where men and women work in the organisation and how they are employed. We know that, particularly in the public sector, Wales is the third highest user of women’s part-time labour in the UK. So, there is something about the default use of low-hours, part-time contracts for women. It is not an equal pay duty that says ‘Here’s Janet and

here's John, and they're doing the same job—this is an issue of equal treatment'; it asks why a disproportionate number of women are on a particular contract and why a disproportionate number of women are in the workforce but not reaching the higher levels. So, it looks at societal and economic structuring and the ways that those inequalities are transposed into the workforce. It is a structural mechanism.

[164] **Peter Black:** Alison, you note in your written evidence that further research would need to be undertaken before a socioeconomic duty was introduced in Wales. You seem to have the whole thing down pat, from what you have just said.

[165] **Dr Parken:** Well, thank you. [*Laughter.*]

[166] **Peter Black:** What sort of research were you thinking about?

[167] **Dr Parken:** We do not have it down pat. There is poverty, there are different sorts of poverty, there are economic inequalities and then there is how the social divisions coalesce. It is quite complex, because we are talking about the mechanisms that generate inequality over generations. We will not fix this quickly. We need a better understanding, not only of what we are aiming to do, but of the mechanisms that flow out through local government and other structures to enable that. So, we need to think about what it looks like, who is responsible for it, how we make it happen and what kind of outcome measures there might be. It would be that kind of thinking. There also needs to be thinking about the governance issues around devolution and taking this distinct agenda forward. As we have all said, let us have an expert forum or some sort of thinktank. I do not know whether or not this is an issue where the Welsh Government could use its relationship with the EHRC to facilitate such a thing, but that is the kind of further research that we need to understand.

[168] **Christine Chapman:** Is there work going on at the moment with the Welsh Government? Did you say that there was existing work?

[169] **Dr Parken:** The equality division is very interested in how to bring these two agendas together, and so, in part, the equalities people, who have this vertical issue of nine strands, are going out to the social justice people and saying 'There's an intersection here; we should be able to work together'. So, I think that it is going on.

[170] **Christine Chapman:** What about the Welsh Government? Is it undertaking some of this work?

[171] **Dr Parken:** There is a signal in the new ministerial portfolio, is there not, that the community, equality and poverty agendas are coming together? There is a sense at ministerial and governmental level of wanting to look at this, but needing to think very carefully about what it is, and how it is brought together.

11.15 a.m.

[172] **Peter Black:** You also note that the socioeconomic duty as drafted in the Equality Act 2010 would need to be modified for it to be introduced. Could you expand on that?

[173] **Dr Parken:** What I actually meant was that the regulations around the equality impact assessment would need to be modified to bring it in. I think that this is important. This is a very positive duty that requires you to demonstrate how your policy will reduce inequality; it is not, as some of the other impact assessments have tended to be, about demonstrating how it is not going to increase inequality. It is more of a positive. Every time you bring forward a policy, you have to show how it will promote equality, rather than this retrospective checking that has been transported into the Equality Act 2010 from the Race

Relations (Amendment) Act 2000. So, there is a difference of emphasis.

[174] **Dr Hoffman:** I have a view on that as well, in that, if there is to be a discussion at Wales level about the mechanism for introducing a socioeconomic duty in Wales, then I am not sure—it may be the starting point, but I do not think that the end point should be the duty as it is currently set out in the Equality Act 2010. We would need to look at it and start at the level of what the basic duty should be. I have some concerns about the wording of section 1, not least the reference to ‘strategic functions’. Some of us may recall the battle that we had about the wording of the Rights of Children and Young Persons (Wales) Measure 2011; it certainly does not talk of a pervasive duty, and of course ‘strategic functions’ is fodder for lawyers in terms of interpretation.

[175] **Peter Black:** So what we are looking at is, effectively, rewriting the equality duty to take into effect socioeconomic factors.

[176] **Dr Hoffman:** Yes, in the context of Wales, and what is desired to be achieved in Wales.

[177] **Christine Chapman:** I have a supplementary question from Mark.

[178] **Mark Isherwood:** You referred to communities, equality and poverty coming together, but we are largely talking about doing things to or for people rather than with them. To what extent should a citizen-directed empowerment approach be embedded into this?

[179] **Dr Parken:** It should. I guess that, in a forum like this, we tend to talk about evidence, strategies and bringing in legislation—as a legislative body. However, the can-do approach—absolutely, definitely, because that is what works in communities. That is part of what we are trying to do here—knit those things together. There is legislation, there is what organisations do every day, and then it is about connecting up with people on the ground and getting them involved with that.

[180] **Christine Chapman:** Do you agree with that, Simon?

[181] **Dr Hoffman:** Yes, I do. To some extent, we keep coming back to the child rights Measure, where there is a model for that in terms of the children’s scheme, which does require consultation with children and those who represent children, so yes.

[182] **Mark Isherwood:** [*Inaudible.*] strategic design and delivery—

[183] **Dr Hoffman:** No, it has to be meaningful.

[184] **Christine Chapman:** We just have a few minutes left now, but Gwyn wants to come in.

[185] **Gwyn R. Price:** Good morning. What assessment have you made of the potential for further devolution in the area of equality and human rights?

[186] **Dr Parken:** That is not my area, so I am passing over to Simon.

[187] **Dr Hoffman:** I have not made any assessment as such, or carried out any research with a product at the end, but it does seem to me that one of the areas that could be further clarified, just thinking about this issue of equality and the socioeconomic duty, is the import of the social welfare competence under Schedule 7 to the Government of Wales Act 2006. We tend to think about the socioeconomic duty as something that is derived from equalities, because that is the starting point for equalities legislation, but it could also share a root with

human rights, and there are human rights treaties that are specifically about socioeconomic rights. Thought could be given, as part of the process of thinking of introducing a socioeconomic duty, to whether there is scope to think about that in terms of social welfare. Certainly, under the previous Schedule 5, social welfare included wellbeing, which included securing rights. So, there could be a discussion about whether the competences of the National Assembly for Wales already extend to a power to introduce such a duty.

[188] **Mike Hedges:** That leads me to my normal question. Do you think that the reserved powers model would make life a lot simpler in terms of what is and what is not devolved, considering your last answer? The other thing is that you do say in your paper that

[189] ‘it would be preferable if the NAW scrutiny function in respect of equalities were strengthened’.

[190] Would it help if we had annual scrutiny of this function as part of the role of this committee?

[191] **Dr Parken:** It used to be.

[192] **Christine Chapman:** Yes, in the old days, was it not?

[193] **Mike Hedges:** Leave us youngsters out of it. [*Laughter.*] What do you say, Lindsay?

[194] **Lindsay Whittle:** I agree with you there, Mike.

[195] **Dr Hoffman:** On the reserved model, I think that it largely depends on what is reserved. So, picking up a little on what Marie was saying, there is no perfect model, but it seems to me that the reserved powers model is the least imperfect.

[196] **Mike Hedges:** It gives you clarity, does it not?

[197] **Dr Hoffman:** It gives you clarity to a certain extent—a greater degree of clarity, yes.

[198] **Mike Hedges:** The other question is: would it be helpful if we were to look at this every year?

[199] **Dr Hoffman:** I think so, yes.

[200] **Jenny Rathbone:** Do we have public bodies setting measurable targets, so that we can have meaningful scrutiny? If you cannot get a handle on it, then why do it? We would just be fighting clouds.

[201] **Dr Parken:** If you were to call for evidence on an annual basis on the operation of the duties, it would galvanise people to come up with a set of outcomes. They would be variable, though, by LHB or service area, but you should be able to look at benchmarking.

[202] **Jenny Rathbone:** Yes, loads of circumstances would dictate it, but as long as you can see the direction of travel—

[203] **Dr Parken:** There is a requirement for the Minister to lay a report in September 2014, but you may want to do something in the interim.

[204] **Mike Hedges:** Let me just ask about this. Would people get better at it with time if they knew that they had to produce an annual report? Do you not think that things would improve? I would suggest that you would get a direction of travel anyway, but if people knew

that they had to bring an annual report to us every year, they would get better at it, would they not?

[205] **Dr Parken:** They do produce an annual report. Each public sector authority will produce an annual report. Their first one was in on 31 March this year. So, if we come back in 12 months' time, it may be that the EHRC has had a better opportunity to bring those things together.

[206] **Christine Chapman:** We need to get copies of those, I think, in due course.

[207] We have to finish this part of the session now. I thank both of you for attending this morning and for answering Members' questions. We will send you a copy of the transcript of the meeting so that you can check the factual accuracy. Thank you for attending.

[208] **Dr Parken:** Thank you very much.

[209] **Dr Hoffman:** Thank you.

11.23 a.m.

**Ymchwiliad i Ddyfodol Cydraddoldeb a Hawliau Dynol yng Nghymru—Sesiwn
Dystiolaeth 3
Inquiry into the Future of Equality and Human Rights in Wales—Evidence
Session 3**

[210] **Christine Chapman:** Good morning to Dr Victoria Winckler, director of the Bevan Foundation. Welcome, Victoria; thank you for attending. You have sent the paper and Members will have read it, so we shall go straight into questions.

[211] **Dr Winckler:** That is fine.

[212] **Christine Chapman:** I want to start off with a broad question. Do you think that Wales should aim to become more aligned to the rest of the UK in relation to equality, or should it continue to develop a distinct agenda?

[213] **Dr Winckler:** Is that just the starter question? [*Laughter.*] I think that the answer is a bit more complex than a straight 'yes' or 'no'. There are a number of areas where it would be quite difficult for Wales to develop its own agenda, particularly on non-devolved matters such as benefits and taxation, which are the obvious ones, and perhaps on pay as well—things like maternity pay and so on. It would be difficult for Wales to develop its own agenda unless those issues were devolved.

[214] In those matters where Wales, or the Welsh Government, has control of services, it makes sense for it to be able to develop its own equality agenda. When you have the ability to develop the agenda in other aspects of service delivery, it seems nonsense to me that you are not able to do it in terms of equality.

[215] **Mark Isherwood:** How successful thus far has been the introduction of the public sector equality duty in Wales, and what difficulties have bodies encountered?

[216] **Dr Winckler:** In terms of the duties that emerged from the Equality Act 2010, it is too early to say. Those duties have not had long enough to be embedded. They are quite different in their approach to the earlier equality duties and I think that it is too early to reach a conclusion one way or the other. The views that you may have of people's experiences of

developing and implementing those duties are going to be the experiences of the early years. So, my own view is that it is premature to reach a conclusion about those duties. We do have some evidence about the previous duties that suggested that their implementation was patchy. However, we should not necessarily read off from that experience to the current experience.

[217] **Mark Isherwood:** We need to separate process and procedure from outcome and engagement. To what extent has a lack of awareness among decision makers and customer-facing members of staff been a barrier? To what extent do we, or should we, engage the groups that we are trying to help with training and awareness raising among the people who have to deliver the service?

[218] **Dr Winckler:** There is always a difficulty in trying to implement an approach that is described as ‘cross-cutting’, because it ends up being everybody’s job and nobody’s job, or it gets pushed off into a silo and it becomes the job of the poor equalities officer, or whoever, to try to make sure that there is compliance across a very big organisation. So, I think that that is quite a challenge. The idea of empowering groups with protected characteristics is extremely important. As you suggest, that may well be an area for focusing future work.

[219] **Janet Finch-Saunders:** Good morning. Are there any inconsistencies in the operation and scrutiny of the duties in Wales?

[220] **Dr Winckler:** I could not really comment on that; it is not something that we have looked at. I would not like to say anything on that, I am sorry.

[221] **Janet Finch-Saunders:** Do you think that the duties provide value for money?

[222] **Dr Winckler:** At this stage, it is too early to say. I am not aware of any studies on the costs and benefits of the duties to date. If there were such a study, I think that it would pick up on quite high start-up costs compared with not very many impacts yet. As I said earlier, it is premature to reach a conclusion about the effectiveness or otherwise of those duties. There may be ways in which the duties can be refined and tweaked—that is always the case with implementing something for the first time from scratch—but it is just too early to say whether the costs and benefits are worth it.

[223] **Rhodri Glyn Thomas:** Byddwch yn ymwybodol ein bod wedi cael trafodaeth fywiog iawn ynglŷn â statws y Comisiwn Cydraddoldeb a Hawliau Dynol y bore yma. I roi o’r neilltu y cwestiwn ynglŷn â’i annibyniaeth, a ydych yn credu bod y comisiwn, fel y mae wedi ei sefydlu ar hyn o bryd, â digon o reolaeth dros ei gylch gorchwyl, o ystyried bod cyfrifoldeb statudol ar Lywodraeth Cymru i hyrwyddo cydraddoldeb? A ydych yn credu bod y gyllideb yn ddigonol i gyflawni’r gwaith hwnnw?

Rhodri Glyn Thomas: You will be aware that we had a very lively discussion this morning about the status of the Equality and Human Rights Commission. Setting aside the question in relation to its independence, do you believe that the commission, as it has been established currently, has sufficient control over its remit, considering that there is a statutory responsibility on the Welsh Government to promote equality? Do you think that its budget is sufficient to fulfil that work?

11.30 a.m.

[224] **Dr Winckler:** There is clearly a misalignment or mismatch, which you have recognised yourselves in undertaking this inquiry, between the remit of EHRC and the Welsh Government’s responsibilities. It puts EHRC in Wales in quite a difficult position. It is looked at by the policy community and by the wider community as a Welsh body, with a Welsh remit, and yet its accountability is elsewhere. With all respect to colleagues over there, they

are caught between a rock and a hard place. They are seen as a Welsh body, although in some ways, they are half-Welsh, if they will forgive me for saying that.

[225] In terms of budget, it has a very tough call. It clearly has its regulatory function and it is looked at as having much more than that in terms of an awareness-raising function, an advice-giving function and an evidence-gathering function. While we clearly are in austere times, I think that its budget is undoubtedly stretched. I would not like to say whether it is sufficient for the job because I do not know enough about that, but the commission is certainly in, at best, an ambiguous position and, at worst, an untenable position.

[226] **Rhodri Glyn Thomas:** Diolch yn fawr iawn; dyna'r ateb rwyf wedi bod yn chwilio amdano drwy'r bore.
Rhodri Glyn Thomas: Thank you very much; that was the answer that I have been seeking all morning.

[227] **Lindsay Whittle:** You will see from my question that I want to see the Equality and Human Rights Commission here in Wales as a full Welsh body and totally independent. What do you think would be the ideal relationship, if that were the case, between the commission, the Welsh Government and the National Assembly?

[228] **Dr Winckler:** I do not think that I can answer that without giving you an off-the-cuff answer. That is something that needs more development and investigation than I have been able to undertake to date. What is very clear is that if the Welsh people and Welsh institutions have expectations of EHRC, that should be reflected in its duties, its accountabilities and in its budget. I would certainly like to see EHRC accountable to Welsh Ministers in terms of responsibility for scrutinising and regulating compliance with duties. That seems to be a real anomaly at the moment. However, how that would work in practice would need to be looked at carefully.

[229] **Lindsay Whittle:** We heard evidence earlier from the commission that there was a danger that Wales could lose its voice at a UK level if it became more independent. Do you have any thoughts on that?

[230] **Dr Winckler:** I think that it would depend on what the mix of its powers was. There is a risk of it losing its voice on UK-wide issues, but then there is a question of how much influence its voice has at the moment. There is always a risk; we all know that Welsh voices get marginalised in Westminster anyway. There is a risk, but that needs to be offset against the advantages of it having clear power and responsibility in respect of Welsh issues.

[231] **Lindsay Whittle:** I thank you for saying that Welsh voices get marginalised in London; that is the purpose of my questioning, namely to ensure that we do not have to worry about that and that we are confident in ourselves as a nation.

[232] **Dr Winckler:** I will come back on that. There would need to be arrangements in place, for example, on the equal pay duty—which I cannot imagine could be devolved—and there would need to be a Welsh voice on that issue in Westminster because Wales's pay structures and the gender pay gap are quite distinctive to those of England. There would need to be arrangements in place that were robust and that worked.

[233] **Lindsay Whittle:** With respect, I would not quote the Equal Pay Act 1970 because that is a 40-year-old Act that is still not working in full, not only in Wales, but perhaps also in England, Scotland and Northern Ireland, but there you go. Thank you very much.

[234] **Christine Chapman:** I think you were talking about the principle. Mark, did you want to come back in?

[235] **Mark Isherwood:** Two thirds of the population in Wales live within 50 miles of the border with England. In north-east Wales, as I mentioned earlier, we have the only national border in the UK that is within an urban area. So, to what extent do we need cross-border scrutiny and accountability for cross-border services and demographics?

[236] **Dr Winckler:** That is a very interesting question. However, we have to get it right within our borders first. There would need to be arrangements in place; I do not think that it is a deal-breaker or a reason not to do something, and it would be within our competence to make appropriate arrangements. I need to think through an example to get at the kind of problem that you have in mind.

[237] **Christine Chapman:** Do you have an example, Mark?

[238] **Mark Isherwood:** Yes. In north-east Wales and, to an extent, north-west Wales, people have access to specialist hospitals for critical mass conditions on Merseyside or in Manchester. A proportion of the population of Flintshire is even referred to a general hospital in Chester before being sent to the nearest hospital in Wales, which is in Wrexham. Therefore, the services that they are receiving from the NHS, although commissioned within Wales, are being delivered within the English system. That is one example.

[239] **Dr Winckler:** Yes, but they would then go to that English hospital with its own requirements, and if those requirements in terms of equality were lesser than in Wales, so be it. I do not think that that is a significant issue or a reason not to develop a strong and robust equality framework for Wales.

[240] **Mark Isherwood:** I agree, but it is whether it is within a federal structure or a stand-alone one. Similarly with employment, there are huge cross-border flows both ways.

[241] **Dr Winckler:** Yes.

[242] **Kenneth Skates:** What Mark is raising is important, because if it were to be fully independent, it would have implications for areas such as north-east Wales, where you have a huge population on the border, looking over the border at what is happening. If the Equalities and Human Rights Commission in Wales were to lose its voice at a UK level, it would potentially exacerbate those differences along the border and would not give us a voice in Wales regarding what is happening just across the border.

[243] **Dr Winckler:** I am sorry to cop out of this, but I have nothing useful further to say; it is something that would need to be looked at, but I do not think that I can say much more.

[244] **Christine Chapman:** Okay, thank you; it is something for us to ponder as this inquiry goes on. Ken, did you have any further questions?

[245] **Kenneth Skates:** Yes; thank you, Chair. How would the socioeconomic duty work in practice?

[246] **Dr Winckler:** First, a great deal more work needs to be done on it. As a socioeconomic duty is so broad, it risks being meaningless and what exactly is meant by it needs to be specified. Some work has been done in Scotland, for example, that suggests that it should be defined as an income measure so that it allies with the definition of poverty, which has some merit. It would then be clear that public bodies would be expected to look at the impact of their decisions on people who are in income poverty. We would need to draw lessons from how the equality duties in respect of the protected groups are working. There is only any point in doing this if it is going to make a difference. It should not be done lightly; a lot of work went into the public sector duty for the protected groups and this duty needs the

same development for it to be effective.

[247] **Kenneth Skates:** Presumably, a lot more thought would need to go into how it would be implemented and monitored.

[248] **Dr Winckler:** Yes; absolutely.

[249] **Jenny Rathbone:** We have heard earlier how the law can be an effective way of changing attitudes, and you have made a strong case for having a socioeconomic duty in the way that we implement reductions in public spending in local authorities, so that we do not increase inequalities. However, I am grappling with why specific anti-poverty strategies of the Welsh Government—Communities First and Flying Start, for example—have not, in themselves, melded together the socioeconomic challenges and the inequalities in the way that they have drafted their aims and objectives, because then you have full control. Why do we need to change the law to have an impact on that sort of thing?

[250] **Dr Winckler:** I think that there is a fundamental difference between tackling poverty through strategies that are aimed at specific groups of people, or specific places, and an approach that takes account of the impact on poverty and socioeconomic inequality in every decision that one takes. So, for example, Communities First relates to specific places—it does not address the circumstances of the very large numbers of people who live outside those Communities First areas. It does not necessarily cover decisions that affect people who are not covered by Communities First activities. Therefore, I think that the socioeconomic duty can bring a great deal of added value, and, to paraphrase that awful advert, can reach the parts that other initiatives do not reach.

[251] **Jenny Rathbone:** Okay. Thank you.

[252] **Peter Black:** We have been exploring all morning how the socioeconomic duty in Wales will strengthen the strategic approach—linking poverty with inequality. Do you have any further views on that, and on how it would be integrated into the existing public sector duties, or is that the extra work that we need to do?

[253] **Dr Winckler:** Yes, it is partly. To be honest, when the socioeconomic duty was first floated, and became the Equality Act 2010, part of me welcomed it, but the other part thought, ‘What exactly will this achieve?’, because we are not necessarily clear about what it is that we need to do to tackle poverty. There is a school of thought that says that it is all in the tax and benefits system—and, certainly, part of the answer lies in the tax and benefits system, but not all of it, by any stretch of the imagination. However, what we see now is that, in many small ways, public bodies take decisions without recognising that a substantial number of their service users, customers, consumers, or clients—or whatever you wish to call them—do not have the same means as the rest. Assumptions are made about people’s ability to pay, and about their circumstances, and the decisions of public bodies not only do not take those into account, but actually exacerbate those decisions. Therefore, I have come to the view that, in fact, this could be very helpful. In the same way as you have to think about how a decision plays out for people from minority ethnic groups, or for disabled people, you should also be thinking about how a decision plays out for people on low incomes.

[254] **Peter Black:** I sometimes think that there should be a similar duty on some of the private sector, such as utility companies, but that is a separate debate.

[255] **Dr Winckler:** Yes, it is a separate debate.

[256] **Peter Black:** Do we need to have a completely separate duty, or are we talking about modifying the existing equality duty, to refocus it in that way?

[257] **Dr Winckler:** That is an interesting question. I think that there needs to be an addition, because this is separate from saying that these are protected characteristics; this is a quite different approach, and this is about an economic inequality that, if we lived in a different society, might not exist. So, I think that it needs to be separate. Whether it is a separate duty or not, I am not sure—I think that that falls into the category of the further work that is needed.

[258] **Christine Chapman:** We will now move on to another theme. I believe that Gwyn wants to come in on this issue.

[259] **Gwyn R. Price:** What assessment have you made of the potential for further devolution in the area of equality and human rights?

[260] **Dr Winckler:** The answer to that is ‘very limited’, because, unfortunately, the way that the Bevan Foundation is funded means that, unless we are funded specifically to do something like that, then we do not do that work. I think that what we would see in general is that there is merit in being part of international and national commitments, but, when it comes to practicalities in the public sector in Wales, which, for the most part, the National Assembly for Wales controls and is responsible for, then it makes sense for those elements to be devolved. I do not think that we should be completely unhinged from international conventions and go off and do our own thing, but it should be at the appropriate level for what we are trying to achieve.

11.45 a.m.

[261] **Mike Hedges:** I have two questions, Victoria. You probably heard me ask this first question to other witnesses earlier: do you think that a reserved powers model would make life clearer in terms of what is or is not devolved in relation to human rights? I could have said almost any other area, too. Secondly, do you think that there is any merit in this committee holding an annual review?

[262] **Dr Winckler:** I think the case for a reserved powers model is very strong indeed, when you consider that almost all of the evidence that has gone into the Silk commission argues for a reserved powers model. I think that the next stage of the argument is what is and is not reserved. The detail is, perhaps, where the argument will be.

[263] Whether there is a case for an annual review depends upon what you would want to review and what you would do with that material. I do think that there is a strong case for at least a biennial state-of-the-nation stocktake, asking, ‘Where are we now? Where are we going?’ et cetera. Perhaps annually is too frequent; I am not sure whether things change that much in a year, but certainly every couple of years is a good time for a stocktake.

[264] **Christine Chapman:** I assume that, when the Minister submits his report, it will be up to this committee to scrutinise it carefully.

[265] **Dr Winckler:** Yes.

[266] **Christine Chapman:** Okay. That brings us to the end of this session. Thank you, Victoria, for coming here today and answering Members’ questions. It has been very interesting. We will send you a transcript of the meeting so that you can check it for factual accuracy, but thank you very much to you and our other witnesses for attending this morning.

11.47 p.m.

**Cynnig o dan Reol Sefydlog Rhif 17.42 i Benderfynu Gwahardd y Cyhoedd o'r
Cyfarfod**
**Motion under Standing Order No. 17.42 to Resolve to Exclude the Public from
the Meeting**

[267] **Christine Chapman:** I move that:

the committee resolves to exclude the public from the remainder of the meeting in accordance with Standing Order No. 17.42(vi).

[268] I see that the committee is in agreement.

*Derbyniwyd y cynnig.
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 11.47 p.m.
The public part of the meeting ended at 11.47 p.m.*