



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

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

Dydd Mercher, 5 Mehefin 2013
Wednesday, 5 June 2013

Cynnwys **Contents**

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introductions, Apologies and Substitutions

Ymchwiliad i Ddyfodol Cydraddoldeb a Hawliau Dynol yng Nghymru—Sesiwn Dystiolaeth 4
Inquiry into the Future of Equality and Human Rights in Wales—Evidence Session 4

Ymchwiliad i Ddyfodol Cydraddoldeb a Hawliau Dynol yng Nghymru—Sesiwn Dystiolaeth 5
Inquiry into the Future of Equality and Human Rights in Wales—Evidence Session 5

Ymchwiliad i Ddyfodol Cydraddoldeb a Hawliau Dynol yng Nghymru—Sesiwn Dystiolaeth 6
Inquiry into the Future of Equality and Human Rights in Wales—Evidence Session 6

Papurau i'w Nodi
Papers to Note

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
Christine 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

Rhian Davies	Prif Weithredwr, Anabledd Cymru Chief Executive, Disability Wales
Miranda French	Rheolwr Polisi a Materion Cyhoeddus, Anabledd Cymru Policy and Public Affairs Manager, Disability Wales
Dean Lloyd	Swyddog Gweithle, Stonewall Cymru Workplace Officer, Stonewall Cymru
Emma Reeves	Swyddog Cydraddoldeb ac Amrywiaeth, Tai Pawb Equality and Diversity Officer, Tai Pawb
Mair Thomas	Swyddog Cydraddoldeb ac Amrywiaeth, Tai Pawb Equality and Diversity Officer, Tai Pawb
Andrew White	Cyfarwyddwr, Stonewall Cymru Director, Stonewall Cymru

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

Sarah Bartlett	Dirprwy Glerc Deputy Clerk
Marc Wyn Jones	Clerc Clerk

*Dechreuodd y cyfarfod am 9.16 a.m.
The meeting began at 9.16 a.m.*

Cyflwyniad, Ymddiheuriadau a Dirprwyon Introductions, Apologies and Substitutions

[1] **Christine Chapman:** Good morning, and welcome to the Communities, Equality and Local Government Committee. I remind Members to ensure that any mobile phones or BlackBerrys are switched off because they affect the transmission. As this is a formal public meeting, Members and witnesses do not need to operate the microphones themselves; they will come on automatically. We have not received any apologies this morning. The NHS Centre for Equality and Human Rights, which was due to give evidence in today's session, is no longer able to attend due to illness.

9.17 a.m.

Ymchwiliad i Ddyfodol Cydraddoldeb a Hawliau Dynol yng Nghymru—Sesiwn Dystiolaeth 4 Inquiry into the Future of Equality and Human Rights in Wales—Evidence Session 4

[2] **Christine Chapman:** I would like to welcome the representatives of Stonewall Cymru. I welcome Andrew White, the director, and Dean Lloyd, a workplace officer. Thank you for attending and for the paper that you have sent. Members will have read the paper, so are you happy to go straight into questions?

[3] **Mr White:** Certainly.

[4] **Christine Chapman:** Thank you. I want to start off with a broad question. What are the benefits and challenges of having an equality agenda in Wales that is increasingly divergent from that of the rest of the UK?

[5] **Mr White:** As you will have read in our paper, we do not claim that there are particular benefits. We note it as a fact of the devolution settlement and the evolution over the past decade or so of that settlement. So, in some senses, there are of course advantages to having elements of the equality agenda, if we can call it that, that are appropriate to non-reserved or devolved matters, and there are clearly benefits to retaining at Westminster some elements of equality law, legislation, regulation and the equality agenda, as it were, for reserved matters.

[6] **Christine Chapman:** I know that Mark wants to come in on the public sector equality duties.

[7] **Mark Isherwood:** Janet and I are sharing this topic, and we were just agreeing the order in which we would ask the questions. How successful do you feel the introduction of the public sector equality duty in Wales has been, specifically in the context of lesbian, gay and bisexual equality issues?

[8] **Mr Lloyd:** We think that it is a little too early to talk about successes. What we know it has provided is focus, particularly at a senior level in organisations, on protected characteristics that were not covered by public duties before. A particular example is sexual orientation. One of the things that it has also done is that, for the first time, it has given a voice to lesbian, gay and bisexual staff and service users that was not there before. Giving organisations the requirement to consult with their service users and staff has enabled gay

people to have their say on the way that their employer responds to their needs, and it challenges the issues that they are facing in terms of service delivery. That has been a really important part of that, and we have seen feedback from consultations leading into specific sexual orientation objectives in strategic equality plans. We have also seen that our diversity champions have been using our workplace equality index as a framework to work towards the Wales-specific duties. So, once they were announced, there was a lot of preparation in that, and they have been using our framework to help to develop further improvements.

[9] **Mr White:** A good example from that index is the issue of monitoring, which I know was a thorny issue on the drafting of the specific duties in Wales, where our members had been monitoring sexual orientation for some time. Our members in the public sector were far more comfortable about the introduction of that than people and organisations that had not been monitoring sexual orientation, for instance.

[10] **Mark Isherwood:** We will come back to monitoring shortly. You talk about the senior level cascading down effectively. I have had casework about not specifically LGB issues, but disability and equality issues. This work has ranged from things like car parking to school application processes, where an awareness does not yet apply or is not fully understood by the people making the decisions and it has to be pointed out to them that this is meant to be mainstreamed throughout the culture of the whole organisation and not simply be a tick-box process driven from the top floor. To what extent do you feel that this is becoming more culturally embedded and mainstreamed throughout organisations?

[11] **Mr White:** We say in our evidence that these are very early days. We are two years in in Wales, and Wales was the first part of the whole of the UK to implement this particular element of the Equality Act 2010. What we would say is that we work proactively, and have done so for several years, with many organisations and with the employers of over a quarter of the Welsh workforce. Our evidence, through the index, through marking submissions and through quite a detailed monitoring of what our members do, suggests improvement. Whether that is to do with the public sector equality duty or not is another matter where I think only time will tell.

[12] **Mr Lloyd:** I think that it is starting now. It has given a bit more of a business case to discuss things like sexual orientation in the workplace. It has given the opportunity for these issues to be discussed in training and in staff communication. So, it is making a start.

[13] **Christine Chapman:** I have Jenny next, and I will then come back to you, Mark.

[14] **Jenny Rathbone:** In your report, 'The School Report 2012', you mention that there has been a reduction in homophobic bullying, but, nevertheless, it is still a major issue. How often does Stonewall get invited to go into schools and make a presentation in the personal, social, health and economic education lessons?

[15] **Mr White:** We work currently with around 10 specific member schools. We work with many schools across Wales. We get an awful lot of requests. We have four members of staff in Wales, so our preference is to work structurally with the teachers and the local education authorities to ensure that they are able to implement those in a way that is effective and operational 24/7, as it were. That means that someone like Stonewall does not come in just once a year to do a PSHE lesson.

[16] **Jenny Rathbone:** No, but I can see that it would be very beneficial to a young person who is undecided about their sexual orientation to have someone saying, 'I am gay' or 'I am a lesbian', and 'This is what it means'. If there was someone who was publicly declaring that and able to answer questions in an adult way, I would have thought that that would be very beneficial to young people.

[17] **Mr White:** Yes, certainly. In January, we sent out information and resource packs to every primary school in Wales, for instance, to talk about different families. So, it is not just about people who are exploring their own sexual orientation, but those who have two mums or two dads, for instance, or those who have an older gay brother or sister. We have also worked with secondary schools on campaigns through the 'FIT' DVD resource, which is much more tailored towards secondary schools.

[18] **Christine Chapman:** Do you feel that this is down to individual schools? Is it consistent across schools—the fact that Stonewall may be invited? Is it down to certain schools contacting you? How consistent is it?

[19] **Mr White:** It is very inconsistent, to be concise.

[20] **Ken Skates:** On that point, is there a profile of schools that are more enthusiastic about approaching you? Would you say that urban schools are more so, and rural schools less so, and likewise northern and southern?

[21] **Mr White:** No, and, in fact, both the members and the non-members that we help out are spread right across Wales, in rural communities and more urban ones. There are several categories of schools that proactively contact us. The first is probably schools that have a problem, so they have identified an issue, and although we are glad that they have contacted us and are doing something about it, we much prefer an approach of preventing that from happening in the first place. Then there is a second category of schools that get in contact because they have enthusiastic staff or governors within that school. Then there are perhaps schools that we contact, and which see sense in what we are proposing they may be able to do.

[22] **Janet Finch-Saunders:** Good morning. How beneficial will it be for the public sector equality duties to have a stronger connection to section 77 of the Government of Wales Act 2006—the inclusivity clause?

[23] **Mr White:** Clearly, that would be a very useful vehicle in the absence of the general equality duty, should that be repealed in Westminster. We are aware that this is a live discussion, so we have been careful not to get involved in that in too much detail. It is as yet unresolved and has not concluded.

[24] **Christine Chapman:** I would like to move on to another aspect of this, the Equality and Human Rights Commission in Wales. Lindsay has the first questions.

[25] **Lindsay Whittle:** In your evidence you state that, in the absence of specific proposals for the future devolution of equality to Wales, it would be inappropriate at this stage for Stonewall Cymru to make specific recommendations as to the future role or function of the EHRC in Wales. It is not like you to be reticent, I must say. What additional functions, if I could tease an answer out of you, would you like the EHRC to undertake? I am thinking perhaps of whether you would look at an increase in funding, so that it could be more proactive in helping with the hard-to-reach groups like disabled, ethnic minority or elderly LGBT people here in Wales?

[26] **Mr White:** You are trying to tease more than I was willing to give in the evidence. My politician's answer, with all due respect—

[27] **Lindsay Whittle:** There are too many politicians around the table.

[28] **Mike Hedges:** But we have a good one now. [*Laughter.*]

[29] **Mr White:** We would like to see an EHRC that was appropriate for whatever the future devolution of equalities looks like. It would be inappropriate to structure that or plan the funding of that right now without the specific proposal on the future of the devolution of equality. It would be wholly appropriate for this body to make those recommendations when it knows what it is making those recommendations for. So, we are not reticent in that sense; we want the EHRC to be independent, robust, well resourced, and to be so in the context of whatever it is that comes in the future devolution of equality.

[30] **Lindsay Whittle:** That is not too bad, is it? Independent and well resourced are perhaps the answers I was looking for.

[31] **Peter Black:** You have expressed a concern that if the general duty is repealed at Westminster, the Welsh Government's legislation will fall automatically. Have you made any representations to the Silk commission, for example, along those lines, so that it understands that particular issue?

[32] **Mr White:** No, we have not, but we intend to do that.

9.30 a.m.

[33] **Rhodri Glyn Thomas:** Heb geisio eich gwthio i ragweld y dyfodol ynglŷn â'r modd y bydd y comisiwn yn esblygu, o ystyried y sefyllfa bresennol, sut ydych yn meddwl y dylai'r berthynas rhwng y comisiwn, Llywodraeth Cymru a Chynulliad Cenedlaethol Cymru fodoli ar hyn o bryd er mwyn sicrhau bod cydweithio rhwng yr elfennau hynny i gyd?

Rhodri Glyn Thomas: Without trying to push you into foreseeing the future about the way in which the commission will evolve, given the current situation, how do you think the relationship between the commission, the Welsh Government and the National Assembly for Wales should exist at present to ensure that there is collaboration between all of those elements?

[34] **Mr White:** Wrth gwrs, dylai'r ddau gorff fod ynghlwm wrth ddeialog cyson. Mae hefyd yn bwysig bod y Comisiwn Cydraddoldeb a Hawliau Dynol yn annibynnol o Lywodraeth ac o'r Cynulliad. Mae sut mae'r berthynas yna yn esblygu yn llwyr ddiabynnol ar sut mae cydraddoldeb yn esblygu, ac mae'n briodol iawn bod y berthynas yn esblygu gyda'r fframwaith, wrth i'r fframwaith cydraddoldeb esblygu.

Mr White: Of course, both bodies should be involved in constant dialogue. It is also important that the Equality and Human Rights Commission is independent from Government and from the Assembly. How that relationship evolves depends wholly on how equality evolves, and it is very appropriate that the relationship evolves with the framework, as the equality framework evolves.

[35] **Rhodri Glyn Thomas:** Ydych chi'n hapus ar hyn o bryd bod perthynas ddigonol rhwng y comisiwn a'r Cynulliad? Hynny yw, mae'r berthynas rhwng y comisiwn a'r Llywodraeth yn un amlwg, ond nid yw'r berthynas rhwng y comisiwn a'r Cynulliad fel corff mor uniongyrchol. A ydych yn hapus bod yna berthynas ar hyn o bryd?

Rhodri Glyn Thomas: Are you happy at the moment that there is a sufficient relationship between the commission and the Assembly? That is, the relationship between the commission and the Government is obvious, but the relationship between the commission and the Assembly as a body is not quite as direct. Are you happy that there is a relationship at the moment?

[36] **Mr White:** Credaf mai cwestiwn i chi fel Aelodau'r Cynulliad.

Mr White: I think that that is a question for you as Assembly Members.

[37] **Rhodri Glyn Thomas:** Rwy'n credu **Rhodri Glyn Thomas:** I think that I am suggesting that it is not happening adequately. [*Laughter.*]
 fy mod yn awgrymu nad yw hynny'n digwydd yn ddigonol. [*Chwerthin.*]

[38] **Christine Chapman:** Thank you. I want to move on to another aspect now, which is poverty and inequality. Ken, will you start on this?

[39] **Kenneth Skates:** First, before we look at the possible development of a socioeconomic duty for public services, is the LGB community a socioeconomic group, or does it transcend socioeconomic groups?

[40] **Mr White:** The LGB community is one of those great misnomers. There are members of what we refer to as a community who are very well off and there are members of what we refer to as a community who are very poorly off. What we try to convey in our written evidence is that if you happen to belong to a protected characteristic, which, in our case, is sexual orientation, and you are also in an economically disadvantaged group, then the level of disadvantage experienced by lesbian, gay and bisexual people in economically disadvantaged groups is greater.

[41] **Kenneth Skates:** Do you believe that the link between poverty and inequality in respect of LGB people is sufficiently researched, or would we benefit from a greater degree of research?

[42] **Mr White:** Over the years, we have invested a lot of time and resource into producing an evidence base throughout the UK. Recently, we have started doing that on a Wales-specific basis. You would expect me to say, as we say in our evidence, that we think there is scope for greater research, and on the socioeconomic duty, for instance, there are two elements that we feel would merit further evidence. One is the long-term effect of homophobic bullying in schools in terms of economic disadvantage. If you do not achieve your full potential at school, because you are a victim of homophobic bullying, how does that then affect your long-term prospects? Although we have some anecdotal evidence and we can guess what that might be, there is no definitive evidence on that and we would say that that was one area that merited further research.

[43] The second element is research that has been conducted with our colleagues in Scotland on the rurality issue and whether our rural communities in Wales are at risk of losing good, talented community members because they are lesbian, gay or bisexual. So, it is about whether we as a nation are at risk of losing good, talented people who migrate to other areas—London being a very good example, and Manchester, Liverpool, Birmingham, Bristol—

[44] **Mike Hedges:** Brighton.

[45] **Mr White:** Yes, and Brighton. Are we at risk of losing talented people because they happen to be born lesbian, gay or bisexual?

[46] **Kenneth Skates:** It was that particular piece of your evidence that I found especially compelling. It made me think that, perhaps, when we talk about poverty and inequality, and the link between the two, we often talk about financial poverty, and we do not talk as much about the poverty of services in areas. We talk about intra-community inequality, but we should also talk about inter-community inequality. You say that the report from Scotland suggested that there is a disproportionate net migration, particularly from rural areas; that element of research would be very helpful in Wales.

[47] **Mr White:** Yes, we agree.

[48] **Kenneth Skates:** Could a socioeconomic element be integrated into the existing public sector duties, or do you believe that it would be preferable to have a stand-alone duty?

[49] **Mr White:** We believe that there are merits in both models and that there are risks in both models. The important thing with having a socioeconomic duty would be the outcomes; it should be structured in law in a way that merits positive, concrete outcomes. We would emphasise that it is important not to lose a specific focus—on the socioeconomic element of the equality duties, but also, from our perspective, on the sexual orientation element. Therefore, if it is brought in as a catch-all duty into the specific duties, is there a risk that the focus on the socioeconomic duty is lost when dealing with sexual orientation, for instance, or, if it is stand-alone, will people look purely at economic poverty, rather than examining how you can have social poverty within the socioeconomic duty?

[50] **Christine Chapman:** Jenny Rathbone has the next questions.

[51] **Jenny Rathbone:** You raise an interesting and important issue about the possible net migration of people who are being discriminated against. I would like to press you a little on what we might be able to do about that. Insular communities find it much more difficult to accept difference of any type—even if you just come from the next village. How do you believe we can challenge that and make small communities—including those in my own constituency that are slightly outside the city centre—be more diverse in their outlook?

[52] **Mr White:** I would start by challenging the premise that rural communities are not inclusive or cannot be inclusive. While some rural communities may traditionally be a certain way, if a member of that community comes out, I have evidence from my own life, as well as from other stakeholders, that that community comes together and rallies round that community member. At Stonewall Cymru, for more than a decade now, we have been working directly with communities and local groups to help facilitate that community action. We did a lot of work in Bala, where several young men tragically took their own lives, and the community really rallied against homophobia. It is important that we start from a can-do, empowering point of view. If we start from the premise that we have to challenge insular communities, we are almost fighting against those communities from the start. Therefore, that would be my starting point—you can serve all of your community members effectively. I would also not deny that there are insular communities, but they exist in a rural context, as well as in an urban context.

[53] **Jenny Rathbone:** Yes, and I represent an urban constituency. On the Bala experience, and the work that you did there, have you written that up? Is that available for the general public to absorb?

[54] **Mr White:** That was before my time at Stonewall. I believe that we are talking about four years ago. I do not believe that it has been written up, but we can provide you with more evidence on that.

[55] **Jenny Rathbone:** That would be quite important. It could even be used as a case study for secondary schools to reflect on, namely what the consequences are of being homophobic.

[56] **Mr White:** Yes. That work involved community groups, as well as local agencies—it was a real multi-agency approach.

[57] **Christine Chapman:** Could you send that to the committee, Andrew? That would be great.

[58] **Mr White:** Yes, certainly.

[59] **Christine Chapman:** Peter is next.

[60] **Peter Black:** One of the advantages of a socioeconomic duty that has been mooted is that it says to local authorities and other organisations that when they produce anti-poverty strategies, they should take equality into account as part of them, and that inequality in itself, as you have already said, can perpetuate disadvantage, poverty and economic inactivity. To what extent, in your experience, are authorities already taking equality strategies into account as part of their anti-poverty strategies?

[61] **Mr White:** It varies. There are examples. We have been invited to be a part of community cohesion events. So, we have been to those events, and, recently, Merthyr local authority was very keen for us to be involved in community cohesion, tackling poverty and this whole agenda. So, as a local authority, it saw the merits of tackling homophobia as part of its community cohesion and tackling poverty work. There are other areas of Wales where that just would not occur to the local authority and we are busy trying to convince local authorities and other organisations of the merits of that approach.

[62] **Peter Black:** So, if, for example, you were to amend the existing duty to say that there should be a social and economic element to it, do you think that local authorities would take that on board, or, in your experience, do you think that there will be resistance to that?

[63] **Mr White:** I would say that one of the risks of including the socioeconomic duty within the specific duty—if I am getting my duties correct—would be the risk of losing sight of the socioeconomic element. If it is made a part of what is often referred to as the equality agenda, by having a separate equality agenda for a local authority or any other organisation, it can be easy to forget that your team that is tackling poverty or your team that is dealing with education also has that same equality duty. I believe that the equality agenda should not be a stand-alone add-on; it should be part of the business case and part of the fundamental *raison d'être* of each local authority.

[64] **Peter Black:** So, how would you craft any new duty to try to overcome that danger of putting those issues in silos?

[65] **Mr White:** It would be done in the implementation, rather than the crafting of the duty. There are far more skilled people at crafting regulation—many of them are in this room—

[66] **Peter Black:** Do not count on it. [*Laughter.*]

[67] **Mr White:** The implementation and the narrative around that duty are almost as important as what the duty says on paper.

[68] **Peter Black:** Do we really need a duty then? Is it just a matter of saying to the various authorities, 'We expect you, as part of your anti-poverty strategies and other strategies, to mainstream equality issues'? Do we need to place a legal duty on them to do that?

[69] **Mr White:** Yes.

[70] **Christine Chapman:** I want to move on to the final theme, which is accountability for equality and human rights. Gwyn has the first question.

[71] **Gwyn R. Price:** Good morning. You note that you would be concerned if measures

passed in Wales were effectively repealed without reference to the legislature that had passed them. Is further devolution or better dialogue the best solution to this issue? I noticed in your evidence that you thought that that was the way forward.

[72] **Mr White:** It is for this committee and the Government to decide on the future devolution of equality. What we would say is that we hope that the inter-governmental dialogue that is happening right now on the duties is a warm and safe dialogue and one that will come up with productive outcomes. Certainly, my reading of the narrative around that is that Westminster appears to want to come to a solution that is appropriate for Wales. I have not sensed that there is a drive to pull the rug from under Wales. We would be concerned, obviously, if the work that we had supported and lobbied for in Wales was effectively taken away by default. It is an interesting constitutional question.

9.45 a.m.

[73] **Mike Hedges:** I have two questions. First, to talk about Chester and Wrexham, which run into each other, you will have one set of rules for people in Chester, but when they go 200 yards down the road into Wrexham, the rules will be different. Do you have any concerns about differences where people are—I will not say next-door neighbours—working alongside each other? If Wales and England have greater divergence in their rules, it might lead to confusion, depending on which side of the border you happen to be. I have talked about the north-east of Wales, because that is the area—Wrexham and Chester—

[74] **Kenneth Skates:** There is Boundary Lane in Saltney as well, where the boundary runs down the main road.

[75] **Mike Hedges:** There really are problems up there, much more so than in south-east Wales. Do you agree that a reserved-powers model would make life a lot easier, in that we would know what is devolved and what is not?

[76] **Lindsay Whittle:** Mike Hedges used the word ‘rules’; what does he mean by the rules that would affect people?

[77] **Mike Hedges:** I am sorry, I meant legislation. Legislation would bring something in that meant that you had powers, responsibilities or rights in Wrexham that you did not have in Chester, or vice versa. They would be changes to equality and human rights that would mean differences between people who lived a rugby drop goal away from each other.

[78] **Rhodri Glyn Thomas:** It would be a very long drop goal from Chester.

[79] **Mike Hedges:** Not on the boundary, no, or from the football ground— *[Interruption.]*

[80] **Christine Chapman:** Would you like to respond?

[81] **Mr White:** It is important to distinguish between not just the general equality duty but the general equality principles that are GB wide and the implementation— *[Interruption.]* I specifically used ‘GB wide’. UK wide, on employment law, there are certain rights that we expect in the workplace as gay people, that women expect in the workplace and that black people expect in the workplace, and the divergence is in how publicly funded organisations in Wales implement those principles. I do not see that the general public in Chester or Wrexham would find that an issue. There would be a risk if the overarching equality legislation in the UK was different—for instance, if you did not have employment rights in Wales, but you did in England. There may also be an opportunity for Wales to make things even better for LGB people, so that we get a net immigration of talented people.

[82] **Christine Chapman:** Thank you both, Andrew and Dean, for attending this morning and for responding to Members' questions. We will send you a transcript of the meeting so that you can check it for factual accuracy.

9.49 a.m.

**Ymchwiliad i Ddyfodol Cydraddoldeb a Hawliau Dynol yng Nghymru—Sesiwn
Dystiolaeth 5
Inquiry into the Future of Equality and Human Rights in Wales—Evidence
Session 5**

[83] **Christine Chapman:** We will make a start on the next part of the meeting. I welcome Mair Thomas and Emma Reeves, both equality and diversity officers for Tai Pawb. Thank you both for attending this morning and for sending us the paper. Members will have read your evidence in advance, so are you happy for us to go straight into questions? I see that you are. Thank you.

[84] I will start with a broad question. Could you tell me what the benefits and drawbacks are of having an equality agenda in Wales that is increasingly divergent from the rest of the UK?

[85] **Ms Thomas:** One of the benefits is that it is very structured to some of the issues affecting Wales, in that it is perhaps keeping a focus on Welsh issues that really matter to it. However, it does come under increasing challenges when you have a divergence, because, if you have some non-devolved functions and some devolved functions, that can cause problems when you then think about where individuals fall in a case in relation to it.

[86] **Ms Reeves:** It can prove to be an added layer of complexity for people to understand. From the housing context in which we work, part of it might be to do with how it is publicised. We get a lot of information through the media about what England is doing or what the UK is doing, but we do not necessarily always get the information about the delineation, so we get people coming to us with ideas that are a little more confused, shall we say, simply because they do not have the right information to begin with. That is a challenge, but, as Mair said, the benefit and the focus of it, which is to be able to have a Welsh focus to best serve the people of Wales, is definitely something that should be encouraged.

[87] **Ms Thomas:** One of the issues is that we have not had a test case relating to the public sector duties in the Wales context. So, currently, you are viewing it very much from the English perspective of those test cases from the general public duties. Really, it would be interesting to see a test case coming through on the specific duties in a Welsh context in relation to that.

[88] **Christine Chapman:** I want to move on now to another aspect of the inquiry and look in particular at the public sector equality duties. I would like to ask Mark and Janet to come in. Mark, do you want to start, or Janet? It is up to you.

[89] **Mark Isherwood:** How successful do you think the introduction of the public sector equality duty in Wales has been, specifically in relation to the housing sector?

[90] **Ms Thomas:** One of the things is to put it in the context that, for housing associations, there has been a lot of confusion going back to before the introduction of the housing Act itself, because of the issue of whether they are considered to be public bodies, whether they consider that they carry out functions of a public nature, which comes back to R (Weaver) v. London & Quadrant Housing Trust. So, leading up to the equality Act, there was

quite a lot of confusion. What we have seen is that local authority housing departments are involved in the processes through that, but housing associations have acknowledged that, yes, perhaps they do have duties in relation to the functions of a public nature, and we have seen them, proactively in some cases, carry out elements of those specific duties, even though they are not listed bodies. We are seeing examples of them looking to carry out equality impact assessments, and we are seeing them looking at equality monitoring and those other elements. However, we have seen that housing association regulation has had an effect in feeding in to them actually looking at the public sector equality duties, or the specific duties, as a mechanism for them to improve their performance.

[91] **Ms Reeves:** Yes, definitely. They seem to understand or look to the public sector equality duties as tools, as they are designed, and they are looking to embrace that, because they can see that, outside of the equality Act, it can help them with their regulatory framework, business development and things like that. So, they are very proactive about that.

[92] **Ms Thomas:** It is about seeing specific duties as tools in Wales to help you to achieve those overarching public sector duties. There are challenges, though, in that process; I do not think that it has been easy for organisations. There are issues about data gathering. We are seeing examples of issues with common allocation policies, because people collect different sorts of equality information and they categorise it differently. So, if you have a number of organisations looking to analyse their equality monitoring duties, it becomes very difficult.

[93] **Christine Chapman:** This is obviously relatively new. Do you foresee that this will be much more embedded in 10 years' time, or will there still be confusion? How optimistic are you that this will be much more embedded in a few years' time?

[94] **Ms Reeves:** That depends on there being a continuity of approach, as long as we ask people to do the same things over a certain amount of time. If organisations like ours and other organisations are working with people and explaining, I do not see any reason why it would not be embedded. However, if we chop and change, that becomes more difficult, because people have to get their heads around those changes as well.

[95] **Ms Thomas:** It is about the outcomes as well. If people are not seeing the benefits of carrying out those and they are not achieving the desired outcomes, it becomes harder to embed it. It is also about up-skilling people and about streamlining those processes to make it easier for people to carry out.

[96] **Mark Isherwood:** What major difficulties does the public sector face in meeting the duties?

[97] **Ms Thomas:** If you are looking at specific duties and some of those skills aspects, there can be capacity issues. There are issues around data-gathering, in ensuring that you get good quality data. If you want data to inform the decisions that you are making, we still have stages to go in relation to that. There will be cost implications, so it is about ensuring that there are ways of embedding these processes into service improvement, and not seeing them as an add-on but rather as a key aspect, so that the organisation can use them to improve service delivery and customer service in that way.

[98] **Ms Reeves:** There are also some challenges around the use of data, namely the skill sets of the people that are necessarily involved in undertaking aspects such as equality impact assessments, and whether teams have a data analyst who has that ability to get to grips with the data, so that people understand that that is what needs to happen. That is also an issue.

[99] **Ms Thomas:** A key part of equality impact assessments is consultation. An important

part of that is that you have to avoid consultation fatigue among people who are constantly being asked something, if they are not seeing any changes happening. That could be a potential challenge.

[100] **Ms Reeves:** We do a lot of work around ensuring that the feedback loop is complete, so when they do their consultation, we try to encourage people to do broad-based consultations on more than one impact assessment at one time. They then feed back on what the changes will be, so that people understand the importance and feel that their voices are not only being heard, but being valued as well.

[101] **Mark Isherwood:** You mentioned housing allocation, and in my casework I have encountered breaches in relation to housing allocation, schools admissions and even car parking, as I mentioned earlier. Sometimes, you encounter a situation whereby someone says ‘We have somebody who does equality—we have an equality officer’, rather than, ‘This is the responsibility of all departments in terms of service delivery, and we need to factor rights and duties culturally into everything that we do’. How do we help them—it need not necessarily be a resource issue, as it is a culture and management issue—to embed that understanding in, to put it crudely, all customer-facing people?

[102] **Ms Thomas:** Leadership has a really important role. We are seeing that with some housing organisations, where you have a chief executive who is really determined and that cascades through the organisation. So, it is important that everyone in the organisation understands what it means and the importance of it. One of the important things about the public sector duties in relation to it is that it has brought in other equality strands. So, we are beginning to see an increased understanding of the need. Whereas the previous focus was on race, gender and disability, we are seeing organisations having to acknowledge that they have obligations around gender reassignment and gender identity, which is an area that they perhaps did not previously acknowledge. Discrimination might have happened in that context. It is about leadership, which has a key role in relation to that.

[103] **Ms Reeves:** Cultural change is always difficult. As Mair said, it is about leadership but it is also about an organisation understanding that it is good for business, that it will improve the services that they deliver, that it will make them more streamlined, and that there is a value for money aspect in it. In terms of housing, what has particularly helped a cultural shift towards being more inclined to do such things as equality impact assessments has been the regulatory framework, because they need to be able to demonstrate that they meet equality duties, and equality impact assessments really help them to do that, and they can see that. That then filters through into that kind of business mindset. That is the mainstreaming agenda. It not ‘equality’ sat on a shelf: it is, ‘We are doing this because it is good for everyone across the whole business’.

10.00 a.m.

[104] **Mark Isherwood:** As long as the poachers are not also the gamekeepers. I have just one final, very short question. The Equality Act 2010 also referred to the rights of families of people who are in an equality strand, particularly disability. How have you measured the awareness of housing departments, in particular, in allocation and service provision, that their duty goes beyond just the individual and extends to the family or household unit?

[105] **Ms Thomas:** That is something that we would measure, because the promotion of things around carers is a really important issue that is being highlighted. Sometimes, perhaps, it still requires further publicity of their roles in relation to that.

[106] **Ms Reeves:** Yes. To use an awful analogy, it is a journey. We started off with people looking at equality as something that affects the person that has that protected characteristic.

We are now several years down the line and it is being broadened and widened. People do understand that there is a wider context. There is still work to be done, but we are getting there.

[107] **Ms Thomas:** I suppose that it is also how they—. If you go back to the specific duties, it is about asking the question as to whether people are gathering data around carers. Are they asking on equality monitoring forms for information about carers, are they gathering data that they can then use, and are they then incorporating that into equality impact assessments? That would then be one of the tools, through the specific duties, that you would be using to address, potentially, some of the issues that they may face. When, say, going through an allocation policy, you would want the issues that had affected carers to have been considered at that stage when it was being equality-impact assessed.

[108] **Mark Isherwood:** Along with siblings, I would suggest.

[109] **Ms Thomas:** Yes.

[110] **Christine Chapman:** Janet has the next question.

[111] **Janet Finch-Saunders:** Good morning. In terms of resources currently being under pressure and so on, and efficiencies in due process, do you think that these duties provide value for money?

[112] **Ms Thomas:** It is probably too early to say, but I think that there are mechanisms that you can put in place to help organisations to become more efficient around a kind of centralising of data collection within organisations, and knowing where people can go to get that information. So, it is partly about streamlining. However, it is at a very early stage, because it is hard to see the outcomes in relation to that.

[113] **Janet Finch-Saunders:** Do you feel that there is a lot of duplication?

[114] **Ms Thomas:** Often, within organisations, you might have one department that is collecting the said information and you might have another department for which there is no central hub, or you might have a need for some broader kind of general equality information somewhere on the internet, say, that people can draw from. So, sometimes it is about the resources to really help people in carrying out those processes.

[115] **Ms Reeves:** The other thing is that, as we said, people are now beginning to understand that it is not 'equality' sat on a shelf for equality's sake, and that it has an ability to increase business, and to make you more cost-aware in business in the way that you deliver those services so that you do not spend money in the wrong places. There is that ability in there, and we are seeing that begin to filter through. That is certainly the approach that seems to be coming through, going back to that regulatory framework. As Mair said, these are still early days in terms of our being able to definitively give a 'yes' response on that. However, I would say that it seems to be going that way.

[116] **Janet Finch-Saunders:** Do you think that we have moved on a great deal from just producing an annual equality policy strategy? As you say, it is about how you then get the culture embedded through the service delivery in every single department. Do you think that we have moved on from just seeing it as important to write up that strategy and ticking the box that we have done it? Do you think that we have moved on a great deal from that, collectively, across a lot of the public bodies?

[117] **Ms Thomas:** I think that there is still a long way to go. Often, the issue with it is seeing that they are just tools to help you to meet the general duty. If you lose sight of the

general duty, all of those processes become meaningless. If you lose sight of what it is actually there for, doing an equality impact assessment is meaningless. Also, with processes such as that, you always need to check that you are thinking about what it is, whether you have actually achieved it, what outcomes you are getting from this and what is actually being achieved from the plans. Scrutiny also has an important role to play in that. If people are producing a plan, what are we doing to check that they are not just doing a tick-box exercise in that process?

[118] **Janet Finch-Saunders:** That leads on to my final question. You note that there is insufficient monitoring of equality impact assessments in the public sector. Who should have responsibility for that: the Welsh Government, the EHRC or the Assembly?

[119] **Ms Thomas:** Potentially, the EHRC would have a key role in relation to that, but I also think that, in relation to the Welsh Government reporting to the general public on its performance of the duty in Wales, there is perhaps a role for the National Assembly to scrutinise in that sense as well. So, there should probably be different levels of scrutiny in relation to that.

[120] **Ms Reeves:** It is about having a sensible approach that fits across the board, because you all work at different levels, looking at slightly different things. I do not necessarily think that just sitting it with one person or one organisation is the answer. The issue then, if that organisation is doing everything, is whether it has the capacity and whether that is going to be the right approach. So, it is something that would need very careful consideration.

[121] **Christine Chapman:** Emma talked previously about cultural change. Do you think the pace is right? Obviously there are changes, but is the pace right? Should it be quicker, or are you fairly satisfied with the way things are changing, particularly with the tools that are being used and the leadership, I suppose, in these matters?

[122] **Ms Reeves:** From an equalities organisation point of view, we would probably say that we always want things to be done slightly quicker, because nothing can be quick enough, but with the caveat that it is better to do it slowly and correctly, rather than push and lose focus and have things done in a matter that is not going to get the means that we want. So, at the moment, I would say that it could be a little bit quicker, but the caveat would be that I would want to really consider what we are going to lose if we push too hard, too quickly.

[123] **Christine Chapman:** Okay, thank you. I would like to move on now to look at the Equality and Human Rights Commission in Wales in particular. Rhodri, do you want to come in here?

[124] **Rhodri Glyn Thomas:** Diolch yn fawr iawn, Cadeirydd. Rydych yn sôn yn eich tystiolaeth y byddech am weld y Comisiwn Cydraddoldeb a Hawliau Dynol yng Nghymru yn gweithredu yn llawer mwy rhagweithiol. Rydych yn nodi y byddai angen mwy o adnoddau ar y comisiwn i wneud hynny. Pa bwerau ychwanegol y byddech am weld y comisiwn yng Nghymru yn derbyn?

Rhodri Glyn Thomas: Thank you very much, Chair. You mention in your evidence that you would want to see the Equality and Human Rights Commission in Wales operating much more proactively. You note that the commission would need more resources for that happen. What additional powers would you like to see the commission in Wales receive?

[125] **Ms Thomas:** For us, the important issue is increasing the EHRC's role to carry out more of the regulatory checking processes. We need to ensure that people are complying with the duty, and, for us, that is one of the issues. There has not been a test case in Wales, and, for us, the question is why that has not happened and who is there to check that organisations are complying with the duty. Our view is that the EHRC has a strong role to do that. However, in

order for it to be able to do that, it will probably need more resources, because it has lost a number of its functions. So, it is perhaps about changing its role in particular and thinking about the fact that, in the past, it has been very much about advice-giving and other roles, so it is about strengthening. However, a change in function would require more resources, potentially, and the question then is who would provide those resources.

[126] **Rhodri Glyn Thomas:** Felly rydych yn gweld yr angen yng nghyd-destun newid y rôl yn hytrach na newid y statws. Nid ydych yn teimlo'n gryf ynglŷn â'r angen i ddatganoli mwy o bwerau i'r comisiwn yng Nghymru. **Rhodri Glyn Thomas:** So, you see the need in the context of changing the role rather than changing the status. You do not feel strongly about the need to devolve more powers to the commission in Wales.

[127] **Ms Reeves:** I think that there could be an argument for devolving more powers to the commission in Wales. However, again, we have to look at the wider equality context, and at how that sits within that UK framework. As an organisation, we would not be at all adverse to increased powers and that increase in devolution. However, it is vital that Welsh interests are not only promoted, but protected, in the Welsh context and in the wider UK context. That would need very careful consideration to ensure that, one way or the other, the Welsh focus and context is not lost. Given that there are issues that are not devolved, we have to maintain that voice in the UK context as well, to ensure that we get the broadest possible protection for people in Wales.

[128] **Lindsay Whittle:** To follow up on that point, you are perhaps hinting that there may be a danger that Wales could lose its voice at a UK level if it became more independent. However, looking at the reverse, do you think that Wales's voice could be strengthened if there were more independence?

[129] **Ms Reeves:** It could be, but that is why I say that it would need to be managed very carefully. We would need to ensure that our voice is heard, and respected, within that wider UK remit. I am not saying that we should not be doing it—I am just saying that we need to be very aware. What we would like to see, ideally, if there was increased devolution, is that we would be a beacon and a place that could say, 'Look at what we are doing—we are doing this well, and you want to be following our lead.' However, that takes time and negotiation and ensuring that it is done right.

[130] **Lindsay Whittle:** Yes, I agree. Looking to the future, we hope that the EHRC in Wales will be strengthened, and I hope, like some, that it will also have more independence. If that happens—I am sure that it will—what would be an ideal relationship between the EHRC, the Welsh Government and the National Assembly for Wales? Do you see them working more closely together, or do you think that there may be a fear of the imposition of more laws from Wales, as we have more law-making powers now?

[131] **Ms Reeves:** There is an issue, ultimately, around independence, and around ensuring that the approach is taken so that you have scrutiny and know that your scrutinisers are going to be independent, or as independent as they possibly can be, but maintain strong relationships, because, evidently, you have to have a working relationship with the National Assembly and with the Welsh Government for when there are issues and problems and when things need to be fed along the chain. Again, it is about relationship management. It would be difficult, and it would need to be explored over time.

[132] **Lindsay Whittle:** Would it perhaps be a similar working relationship to the one that we have with the Children's Commissioner for Wales, the Commissioner for Older People in Wales, the Welsh Language Commissioner, and, I hope, the disabled person's commissioner in the future? Is that what you see?

[133] **Ms Thomas:** I think that that would be a good model to look at, as well as looking at the work that they have been able to do in Wales. I think that it is a good example, given some of the positive things that have come out through having the commissioners.

[134] **Ms Reeves:** Yes, and particularly around those issues around having independence, but still having that strong connection. That is a very good model.

[135] **Lindsay Whittle:** Okay, thank you very much.

[136] **Christine Chapman:** I want to move on now to another aspect of this, which is to do with poverty and inequality. Ken Skates has the first questions on this.

[137] **Kenneth Skates:** Thank you for your evidence. Looking at one point in your evidence, you state that

[138] ‘the links between poverty and belonging to a protected group are often deeply entrenched and difficult to prove although it is widely accepted that they exist.’

[139] Why is it difficult to prove?

[140] **Ms Reeves:** It is about a body of research, and whether the research is actually there. It is difficult to find distinct research that looks at, for example, poverty and disability, as opposed to somebody who has the same socioeconomic background, but does not have a disability. There needs to be more research across all of the protected characteristics with relation to the intersection between poverty and a protected characteristic.

10.15 a.m.

[141] **Kenneth Skates:** That is consistent with other evidence that we have had. Could it be that we would be putting the cart before the horse if we saw a socioeconomic duty developed prior to that body of research being carried out?

[142] **Ms Reeves:** When Mair and I discussed this, we said that, in effect, yes. When you are going to introduce anything, you want to make sure that it will have the desired outcome. In order to make sure that it will have that, you need to understand and get to grips with what the problems are, because a socioeconomic duty might be the way to tackle that, but, equally, it might not, and without the research, you simply would not know. So, yes—

[143] **Kenneth Skates:** There is a very big difference between something being generally accepted and it actually being definitive.

[144] **Ms Reeves:** Exactly.

[145] **Kenneth Skates:** If we were to move to a point where a socioeconomic duty would be introduced, how would it work in practice?

[146] **Ms Thomas:** We wondered whether you could include it in your thinking about what specific duties you have already got and how it might be used with those tools. For example, in the equality impact assessments, having a category looking at the socioeconomic duties might be useful. If you were looking, for example, at the closure of libraries, you would think about the potential impact on specific socioeconomic groups in relation to that—impacts around digital inclusion, transport, access and those sorts of things. So, we were thinking about how it would sit within the existing tools that you are asking people to use. You also have to think about how you would scrutinise it and what the comeback would be if people

were not meeting the socioeconomic duty in relation to it.

[147] **Ms Reeves:** There is also an issue about when you have a socioeconomic duty as opposed to something like discrimination. In some respects, it is very easy to mitigate those circumstances. How much of a functional tool would it be? Would you be able to mitigate or would you end up having an equality impact assessment that says, 'This is going to adversely affect this group of people, but there is nothing that we can do about it'? In which case, it does not prove much use. Again, it needs lots of careful consideration. We would hope, once that consideration has taken place, that it can be a useful tool, because we suspect that it can be, but that goes back to that research and understanding that it will enable you to reach your aim.

[148] **Christine Chapman:** Peter, do you want to come in?

[149] **Peter Black:** Do we need to have a separate duty, or is it a question of rewriting existing duties?

[150] **Ms Thomas:** That is quite a technical question.

[151] **Peter Black:** It is a technical question, but it is an important one, because when you start to impose additional duties, local authorities and health boards et cetera start to get a bit panicky. However, if you said to me, 'You have to do things slightly differently around what you are doing at the moment', that tends to be easier to introduce.

[152] **Ms Thomas:** The question is whether you want to incorporate it into the equality legislation, because the focus of that legislation is around protected characteristics. So, the question is: are you treating the socioeconomic duty as a protected characteristic or are you putting it separately within the legislation slightly differently, or does it need to sit somewhere else in relation to it?

[153] **Ms Reeves:** That goes back to the previous question about the body of research and really understanding what the problem is and the best way to tackle it. Ultimately, whether it is separate or included within other elements, it would need to be based on that body of research and that understanding of what the problems are and the best way to tackle them.

[154] **Peter Black:** If you put it in the equality side of the duty, how do you then still make local authorities, health boards, et cetera, understand that the work that they are doing in terms of anti-poverty strategies and bending their programmes towards dealing with economic disadvantage needs to take account of the equality strands, which is something that they might not be doing at the moment?

[155] **Ms Reeves:** That goes back to the first discussion that we had on issues of cultural change, education and some of the same types of questions that were raised when we looked at introducing the equality Act to begin with. We all have questions about how it works, how people will understand what they need to do or do not need to do, and how it fits in with existing schemes and strategies et cetera, and where there is conflict and where there is not. I think that perhaps what we could do is learn from that body of experience about what worked and what did not work and try to take a similar approach.

[156] **Peter Black:** What I do not understand is that if equality and poverty are intimately tied up with each other—and I think that they are—why are local authorities not doing this now?

[157] **Ms Reeves:** You could flippantly say the same for certain other protected characteristics before the equality Act came in as well. It is a difficult question and you would

hope that they would be doing it, but sometimes there is a need for it to be in legislation for people to actually have that recourse. The point of equality from our standpoint is that you would always hope that people would choose to be doing it and you would hope to get to the point when you did not actually need that piece of legislation. However, the piece of legislation is there to protect people. So, if you have it written down in legislation and if people are not choosing to do it, you have that ability to go back and say, 'Actually, there is a legal obligation here'.

[158] **Peter Black:** The legal obligations do not tend to be fall-backs; they tend to be requirements.

[159] **Ms Reeves:** Yes, but from our point of view, when we go to train, what we will say is, 'We want you to do it because you choose to do it'. If you do not have to do it, it is that element of fall-back, but it is about the approach that you take with people. So, there is that legal obligation and that is the bottom line: you have to do it. However, there is a difference between that cultural choosing to do it and doing it because we have to. That is probably what I was trying to say in a very ineloquent way.

[160] **Peter Black:** So, the issue really is whether you need the duty, or is it just a matter of education and changes in culture and guidance. Do you need to have the duty to enforce that and to make that happen?

[161] **Ms Thomas:** The research will be key in influencing that.

[162] **Peter Black:** Okay, thanks.

[163] **Christine Chapman:** We wanted to look at accountability for equality and human rights. I know that some of this has been covered, but, Gwyn and Mike, did you have any extra questions?

[164] **Gwyn R. Price:** As I said, the full devolution of powers in relation to equality in the National Assembly for Wales would be the best solution. What assessment have you made of the potential for further devolution in the areas of equality and human rights?

[165] **Ms Thomas:** Some of it will be in relation to the political context around it, I think, because what happens in England and on the UK side, around following the red tape challenge and those elements, will potentially influence what Wales and the National Assembly and the Welsh Government want to do on that. However, there will be legislative complexities through that process. So, from our point of view at the moment, it is quite a confusing time in relation to that.

[166] **Gwyn R. Price:** So, you would see some of the dangers and drawbacks; it could be one way or the other really and you would like to see it pan out.

[167] **Ms Reeves:** Yes. You would want to see it pan out and you would want to take a measured approach. The most important thing is that we have come a very long way in terms of broad-based equalities across the UK and in Wales in particular. What you do not want is to take retrograde steps. It is about having a measured approach, looking at that whole-scale picture and working out what is going to best suit the people of Wales because that has to be the primary driver.

[168] **Ms Thomas:** If more devolution can ensure that, or guarantee that for the people of Wales, then that is an appropriate way forward.

[169] **Mike Hedges:** You say that listed public authorities in Wales are not required to

report their performance on equality duties to the Welsh Government. Do they do it? Does the Welsh Government request that information? Has the Welsh Government ever asked anybody for it? A lot of bodies do not have a duty to report things to the Welsh Government, but they have a tendency, if the Welsh Government asks, to respond by providing that information, especially those that are funded by the Government.

[170] **Ms Thomas:** They are required to produce annual reports, so the question is whether the Welsh Government has been taking up the opportunity to scrutinise and look at those annual reports on their plans. I am not sure what is happening currently in relation to that, but that is a really important question, namely: what is currently happening and what is the Welsh Government's response in relation to annual plans?

[171] **Mike Hedges:** That is something that we should perhaps ask the Welsh Government.

[172] **Christine Chapman:** Yes; those are questions that we can put forward. I think that we will now draw this session to a close. I thank you both, Mair and Emma, for attending this morning and responding to Members' questions. We will send you a record of the meeting to check for any factual inaccuracy. Thank you very much for attending this morning.

[173] We are now going to take a short break before we bring in the next witnesses. I suggest that we come back at 10.40 a.m.; would that be okay? I see that Members are content; thank you.

*Gohiriwyd y cyfarfod rhwng 10.25 a.m. a 10.40 a.m.
The meeting adjourned between 10.25 a.m. and 10.40 a.m.*

10.40 a.m.

**Ymchwiliad i Ddyfodol Cydraddoldeb a Hawliau Dynol yng Nghymru—Sesiwn
Dystiolaeth 6
Inquiry into the Future of Equality and Human Rights in Wales—Evidence
Session 6**

[174] **Christine Chapman:** I welcome Rhian Davies, chief executive of Disability Wales, and Miranda French, policy and public affairs manager of Disability Wales. Welcome to you both. Thank you for the written evidence that you sent in. Members will have read the evidence, so are you happy to go straight into questions?

[175] **Ms Davies:** Yes.

[176] **Christine Chapman:** Okay, that is good. I will start with a general question. What are the benefits and drawbacks of having an equality agenda in Wales that is increasingly divergent from the rest of the UK?

[177] **Ms Davies:** Being part of the GB set-up means that there is that big overview in terms of how equality is being promoted and delivered across GB. Within Wales, developing an equality agenda means that then it can be more specific to the particular needs and circumstances of people in Wales, and, from our point of view, particularly disabled people in Wales. It means that there is an opportunity to focus on specific issues or emphasise particular areas. Also, you can learn from what goes on elsewhere. In Wales, the public sector equality duty is regarded as particularly robust and I know that colleagues in England and Scotland have been quite envious of the strength of that in Wales. So, that is good, but, equally, we can learn, for example, from what is going on in Scotland and bring that back to Wales. It is a varied picture.

[178] **Christine Chapman:** I know that Members want to ask some questions about the duties. Are there any drawbacks? You have said that there are definite advantages, but what about the drawbacks? Do you see any drawbacks at all with having an equality agenda in Wales that is increasingly different or divergent from the rest of the UK? There may not be; I am just asking.

[179] **Ms Davies:** I suppose the big issue is political changes. The UK Government has a particular approach to equality issues and regulation and things like the Equality and Human Rights Commission and the Welsh Government has taken a different approach. I suppose that that is the issue—the fact that there is political difference. For outside organisations such as ours, it is about how we influence those changes and highlight what is good practice, as well as how we encourage the Government that we are dealing with to stress particular things. The challenge is in the way that we interact with the differences and how we make them work. That is a skill that we have had to learn at organisations such as DW, which are specifically Welsh organisations.

[180] **Ms French:** There are much more positives than drawbacks. If all the local authorities were sitting here talking to you they might have a different perspective on how bureaucratic they see the duties—the amount of paperwork and the exercises that they have to go through. However, the fact is that, for us, as an equality organisation, it is extremely crucial because it helps to focus their minds on the poverty and inequality issues facing people in Wales. We would hate to lose that.

[181] **Christine Chapman:** I will move on to look at the public sector equality duty. Mark, would you like to start?

[182] **Mark Isherwood:** Yes. Good morning. How successful do you feel the introduction of the public sector equality duties has been, particularly in the context of disabled people?

[183] **Ms Davies:** As I mentioned, in Wales, the public sector equality duties are regarded as particularly strong and there are particularly good examples, especially when it comes to, for example, the engagement of disabled people, the requirement to undertake equality impact assessments and the work with disabled people and other people from the protected characteristic groups to identify priorities.

10.45 a.m.

[184] The role that we have played with the Welsh Government has been particularly effective. As a result, following on from our Independent Living NOW! campaign, the Welsh Government introduced the framework for action on independent living. That is one of the Welsh Government's strategic equality objectives and it is one of the eight objectives in the strategic equality plan. We have been able to work very closely and the development of the framework has been quite a good example of co-production. However, there is an issue—Miranda touched on this—around how that operates at the local level. We did a snapshot review of how local authorities have responded under the Wales-specific duties. We had a look at their SEPs and we were particularly interested in seeing where local equality plans were reflecting the Welsh Government's plan, and where there was some overlap, they were issues that had just not been picked up. For example, independent living as a concept is not mentioned in any local authority strategic equality plan. I know from the feedback that we get from our members on the work at a local level that it has been a varied picture in terms of the extent to which they have been able to engage with their local authority and be able to influence a plan. So, there is work to be done around the duty when it comes to the local authority level in particular.

[185] **Ms French:** Yes, that is right. We did our research between July and October last year. As Rhian has mentioned, very few—if any—local authorities referred to independent living. Some key areas were identified as being of particular concern, such as lack of information, advice and advocacy—particularly now in welfare reform situations—changes to benefits and the need for increased support for disabled people to know what their entitlements are. We were pleased to see that. There are many positive examples, but we were disappointed that it did not reflect the good work that has happened with the Welsh Government across all the areas around independent living that we have been campaigning for over the last few years. We feel that there is a lot more work that we need to do to make sure that we are engaging with local authorities and service providers to ensure that they pick up some of those issues.

[186] **Mark Isherwood:** You referred to the framework for action on independent living and national and local-level decision making and implementation. How do you think that we should, or could, be better at ensuring understanding and implementation of the social model, as opposed to the medical model, recognising that people are being disabled by the barriers that society has put in place, rather than by their particular condition or impairment? At national and local level, I note that you refer to the framework, which is encouraging. We also took evidence on that in the cross-party group. For example, the Social Services and Well-being (Wales) Bill uses the medical model and does not refer to independent living or citizen-directed support. To what extent should we be integrating those into the rights agenda in driving forward that awareness?

[187] **Ms Davies:** Yes, that is right. A case in point is that, when we were looking at the strategic equality plans, even though there is a requirement on the face of the Equality Act 2010 for information to be fully accessible in a range of formats, it was quite difficult, in some cases, to find the local authority's strategic equality plan. Where it could be found, it was often in a PDF format, which is not accessible to all disabled people. So, there is a disjuncture in the statutory requirement to address equality issues and remove discrimination. The gap in terms of implementation is around something as simple as a council not providing its SEP in an accessible format on the homepage of its website. That is a small but illustrative example of that gap. The Welsh Government and a lot of public bodies have signed up to the social model of disability, but the outworking of it is not there. I know that many of our members still find that they go along to a consultation meeting and it is not in an accessible venue. Other access issues, such as palantype, have not necessarily been addressed either. These are basic issues. At the very least, public bodies should be getting those right before they even start addressing inequality or looking at housing policy or whatever. So, a huge amount of work needs to be done. Clearly, the Welsh Government has a leadership role in this, but there is still a lack of understanding across the public sector and outside equality units of what equality actually means, and what you have to put in place to ensure equal participation for all.

[188] **Mark Isherwood:** How should we be helping local government and the Welsh Government to address that issue? Should it be taken out of the equality unit, whether it is in a county hall or beyond, and embedded into departmental thinking and customer service at every point? Schools, housing allocation policies and so on have been mentioned.

[189] **Ms Davies:** We would say that the Welsh Government has done good work, for example through its own equality division, which led on the framework for action. As you mentioned, the definition of disability in the social services Bill is a medical model definition, and there is no reference to the UN Convention on the Rights of Persons with Disabilities or the issues around citizen-directed support, so there is still a long way to go. This has to be done across all of the Welsh Government's legislation. The Welsh Government has to be looking at how it brings up the level of understanding around equality issues, whether that is through toolkits, training, procurement, or whether it is through looking at the role of equality

impact assessments. There is a range of things that can be done that would make public sector equality duties more real and even more effective.

[190] **Jenny Rathbone:** Picking up on the social services Bill, what representations have you made to try to amend it to ensure that the social model rather than the medical model of disability is included?

[191] **Ms Davies:** We were involved in the consultation on the sustainable social services framework. We were also involved in a group that was working with the Welsh Government on citizen-directed support. There was going to be a consultation on citizen-directed support in the context of the Bill but it did not happen. We have given evidence twice to the Health and Social Care Committee and we are identifying amendments to put forward. So, we feel that we have done quite a few things.

[192] **Jenny Rathbone:** At the moment, you are confident that the Assembly is listening to your concerns.

[193] **Ms Davies:** We hope so. A range of task groups have been set up, for example on direct payments. So, we have been involved in the one on direct payments and I expect that we will be involved in the one on charging issues et cetera. So, we feel that we are in there representing the views of our members. Our submission to the Health and Social Care Committee was signed by, I think, 37 organisations. We have had quite a strong co-ordinating role and we have worked alongside other organisations to get support for the issues that we are putting forward.

[194] **Janet Finch-Saunders:** In terms of efficiencies and due process, given the current pressure on resources, do you think that the actual duties provide value for money?

[195] **Ms Davies:** We were interested in that question when we first saw it. [*Laughter.*]

[196] **Janet Finch-Saunders:** I thought that you might be. [*Laughter.*]

[197] **Ms Davies:** It has potential, because, from our point of view, if you get equality right, you develop policies and services that actually meet people's needs in terms of living independent lives in the community. You address barriers to housing and barriers to the built environment, you look at how personal support can be made available so that people are in control of their own lives and are less dependent on perhaps more traditional approaches. So, potentially, it will offer good value, but you have to put in the effort upfront to get it right, and I imagine that, to a hard-pressed local authority or local health board, this could seem bureaucratic and is just producing yet another plan and another set of meetings—where is this going? You have to consider the outcomes that the duties are trying to achieve, seeing the investment of time upfront as having long-term benefits.

[198] **Janet Finch-Saunders:** The impression that I have had, since taking evidence, is that an awful lot of work is taking place in many public bodies and service deliverers, but there seems to be some concern, or a lack of clarity, as to what is done with that information and whether there is duplication in process. You have referred to the plans, but, as I asked earlier, do you think that we have moved on from the annual strategic report that has to go before people? I know, from past experiences, of the resources that you have to use to write up the plans, and then try to get buy-in and get each department to acknowledge that they are signed up, so that the thread of equality goes through right across the board. Do you think that we have moved on from that, or do you think that there is still a tendency to go scurrying around, drawing up the plans, collecting all of the information? I just wonder how all that dovetails in. That is why I ask the question about value for money. How do you think we could do it better?

[199] **Christine Chapman:** Obviously, Janet has painted the scenario, but do you recognise that now?

[200] **Ms Davies:** Yes, I think so. For example, in north Wales, I know that the local authorities, Betsi Cadwaladr University Local Health Board and North Wales Police work together. I think that that is a really good model and potentially avoids duplication. It also avoids consultation fatigue on the part of groups, our own members and others. Even there, I think that there is a huge sigh of relief where one might think, 'We have done the plan. Hurrah. It is on our website', and then it is forgotten about.

[201] **Janet Finch-Saunders:** I have a small question on the back of that. You have quite rightly referred to north Wales where other authorities are joining together, but in addition to each local authority, you then have the one across north Wales. Is there not a tendency, if you are doing that at three different levels, to have some duplication in process there?

[202] **Ms Davies:** Yes. I do not know how you might address that. I suppose that, in some ways, duplication can also be about reinforcement. If issues are constantly coming up, that obviously will have to be addressed.

[203] **Janet Finch-Saunders:** Finally, in your experience, how effective is the monitoring of the equality duties, specifically the strategic equality plans and objectives?

[204] **Ms Davies:** I think that that is a real area to be addressed. I am not aware, certainly across Wales, of an instance where the local authority regularly brings groups together to conduct surveys, holds focus groups and consultation events, and asks, 'How are we doing? How can we improve? Is this objective still relevant? If we have achieved it, how can we go beyond?' It has become about the plan. Obviously, they will have to report on the plan in the next year. However, I think that the engagement is ongoing.

[205] **Janet Finch-Saunders:** I now have a teeny-weeny question, but it is really important. Whose job is it, really, in Wales to draw all of this together and to make sure that we are not just paying lip service to it? Is it the job of the Welsh Government, the Assembly, or the Equality and Human Rights Commission?

[206] **Ms Davies:** The EHRC has a regulatory role, and I know that it has been involved in scrutiny. I know that it has been looking at the fire and rescue service plans in terms of disability, for example. So, it has been highlighting particular issues. Obviously, the EHRC has capacity issues. In terms of the Welsh Government, I know that there will be a Minister's report in due course on the fulfilment of the public sector equality duties, so there is an opportunity to gather that in, and the Assembly will perhaps have the role of calling the Minister to account on that.

11.00 a.m.

[207] I know that, when the Minister reported on the disability equality duty a few years ago, it was recognised that there was still a lot of learning to be done, and a disability equality advisory group was set up, which the Minister chairs. That is still in place, and brings together stakeholders both internally to Welsh Government and externally. Disability Wales is on that group. So, those mechanisms are in place. It would be good to see those at local level as well, whether that is like the north Wales example, with public bodies joining together to avoid duplication—that would be an interesting one to explore.

[208] **Christine Chapman:** We move on now to looking particularly at the Equality and Human Rights Commission in Wales. I will ask Lindsay to begin.

[209] **Lindsay Whittle:** You have raised concerns about the budget cuts, and you have highlighted in your evidence the loss of the type 1 diabetes helpline, which I did not know about, but thank you for informing us. Nearly two thirds of the calls, you told us, were regarding disability-related issues. That is to be hugely regretted, and, as you know, we fought against the loss of the budget and members of staff there. Let us talk about the future and strengthening the EHRC in Wales, which I would like to think is what will happen. How would you suggest that there would be some benefit in strengthening the EHRC in Wales, between perhaps the Welsh Government, the Assembly itself and the EHRC? I guess you may focus on the finances of the organisation, but I am interested in your comments.

[210] **Ms Davies:** We are aware of the budgetary cuts across the public sector, and the EHRC has not been able to escape that. There has been a reduction in funding to the commission as a whole and, obviously, that is passed on to the office in Wales. We have always had a good, positive working relationship with the EHRC. To declare an interest, for a time I was on the Wales committee of the EHRC as well. I guess the way forward is to look at the powers of the Assembly in relation to equality, and then the role that the commission plays within that. Obviously, the UK Government's policy is to strengthen or identify the role of the commission as a regulatory body, so I guess it is to what extent it is able to be a regulatory body in relation to the public sector duties in Wales. Also, I know the commission has set up an expert group to consider, if the Assembly was to have powers around equality, what that would look like. It is about being able to have that specialist advice and the research capacity to do that. Those are some of the ways in which the commission could be strengthened in relation to its work with Welsh Government and the Assembly.

[211] **Lindsay Whittle:** Disability Wales is a very important organisation here. What was your working relationship like with the EHRC?

[212] **Ms Davies:** It was very positive. We have enjoyed and benefited from its support on a number of our campaigns—for example, the Streets Ahead campaign, which is about access to the high street, and the Independent Living NOW! campaign. On the other side, we have done a lot of work around disability hate crime through the EHRC's formal inquiry into disability-related harassment, which culminated in the 'Hidden in Plain Sight' report. In Wales, the commission was able to build on the work that has been done with the police and the development of the hate crime action group, which Miranda is particularly involved with, to strengthen it. So, I suppose it has been a mutually beneficial relationship.

[213] **Ms French:** Just to add to that, we did some really good work with the EHRC and the Welsh Government as part of its listening exercise, when exploring duties for Wales. That was good partnership working, involving other organisations, not just Disability Wales.

[214] **Lindsay Whittle:** I am not suggesting that it was a marriage of convenience; you probably interacted well with each other and learned from each other's experiences. The work that you did on disability hate crime was first class, by the way.

[215] **Ms French:** We are, however, concerned about the capacity issues of the EHRC with all the restructuring and the impact that that is already having on the involvement of EHRC representatives in equality networks. For example, we have lost the person who was on the disability hate crime action group due to the restructuring. So, we are particularly concerned about that.

[216] **Rhodri Glyn Thomas:** O ystyried yr hyn rydych newydd ei ddweud ynglŷn â'r ffaith bod yr adnoddau sydd ar gael i'r comisiwn yn cael eu lleihau oherwydd yr **Rhodri Glyn Thomas:** Given what you have just said about the fact that the resources that are available to the commission are being reduced because of the restructuring, which is

ailstrwythuro, sydd yn dod yn bennaf o Lundain, a ydych yn meddwl bod unrhyw fanteision posibl o ddatganoli'r comisiwn yn gyfan gwbl a chael mwy o atebolrwydd i Lywodraeth Cymru? A fyddai Llywodraeth Cymru yn fwy tebygol o gefnogi comisiwn ar gyfartaledd, gan gofio bod gennym gyfrifoldeb statudol am gyfartaledd yng Nghymru, sy'n golygu ein bod mewn sefyllfa wahanol i'r Deyrnas Unedig?

coming mainly from London, do you think that there are any advantages to devolving the commission entirely and having more accountability to the Welsh Government? Would the Welsh Government be more likely to support an equality commission, given that we have a statutory responsibility for equality in Wales, which means that we are in a different position to the UK?

[217] **Ms Davies:** That is an interesting one. There could be a whole piece of work and symposium on those issues. The commission is a GB commission, so there are benefits from it having that view across GB. It is also an internationally recognised body, because of its accredited status on human rights. There would be issues if there was a devolved commission in Wales, because it would have to take on that international human rights accreditation. Although the funding has been reduced by the UK Government, the issue is whether the funding would still be available and could be matched by the Welsh Government. I do not know. There is a case for strengthening the role of the commission in Wales. Whether that should be an entirely devolved body while equality and human rights remain at that GB and supranational level is a moot point.

[218] **Rhodri Glyn Thomas:** Diolch yn fawr am yr ateb. Rwy'n tueddu i gytuno gyda chi; mae eisiau gwneud mwy o waith ar hynny ac edrych yn fanwl ar y goblygiadau o unrhyw fath o newid i statws y comisiwn. O ran y berthynas rhwng y comisiwn a'r Llywodraeth neu'r Gweinidog, mae honno yn weddol uniongyrchol. Fodd bynnag, roeddech yn awgrymu yn eich ateb i Janet Finch-Saunders yn gynharach eich bod yn gweld rôl graffu i Gynulliad Cenedlaethol Cymru hefyd. A ydych yn credu bod lle i gael mwy o atebolrwydd gan y comisiwn i'r Cynulliad yn ogystal â'r Llywodraeth? A ydych yn meddwl bod eisiau cryfhau'r berthynas honno?

Rhodri Glyn Thomas: Thank you very much for the answer. I tend to agree with you; there needs to be more work on that and a detailed look at the implications of any sort of change to the status of the commission. In terms of the relationship of the commission with the Government or the Minister, that is quite direct. However, you suggested in your response to Janet Finch-Saunders earlier that you see a scrutiny role for the National Assembly for Wales as well. Do you think that there is scope for more accountability from the commission to the Assembly as well as to the Government? Do you think that that relationship needs to be strengthened?

[219] **Ms Davies:** My understanding is that the commission comes before this committee once a year and that the commissioner presents the EHRC in Wales's report and takes questions. I think that that is right.

[220] **Christine Chapman:** It has not as yet, but we took evidence from it as part of this inquiry.

[221] **Rhodri Glyn Thomas:** Perhaps, Chair, we should invite the commission. Thank you for that, Rhian; it was very useful. [*Laughter.*]

[222] **Christine Chapman:** That has alerted us to that. Is that okay, Rhodri?

[223] **Rhodri Glyn Thomas:** Yes, that was a great answer.

[224] **Christine Chapman:** Okay, I want to move on to another aspect of this inquiry, namely poverty and inequality, and I ask Ken to come in.

[225] **Kenneth Skates:** What are your views on the possible introduction of a socioeconomic duty in Wales?

[226] **Ms Davies:** Originally, the socioeconomic duty was going to be part of the Equality Act, but the Government pulled that. That was a disappointment, because it would have added a new dimension to tackling inequalities. From our point of view, it is important that any socioeconomic duty interacts with equality duties. We are aware that one of the issues for disabled people is that they tend to be among the poorest in society and are more likely to be unemployed and living on benefits. However, poverty is not the only issue; it is also about people's access and their opportunity to participate. So, in some ways, poverty is almost a symptom of inequality. There has been an emphasis, particularly in Wales, on poverty in relation to place, but I think that it needs to be in relation to people as well, because, although a lot of disabled people live in poorer communities in Wales, not all disabled people do, because of the patterns of how people become disabled and such things as housing policy, et cetera. So, it is very important that any socioeconomic duty operates in tandem with an equality duty and that it kind of teases out the equality aspects of poverty and differentiates between the issues.

[227] **Ms French:** People often focus on employment as the only route, but, for many disabled people, employment is practically impossible, due to impairment-related issues and also due to the attitudes of employers, inflexible work practices—the whole lot. There is a raft of barriers. I think that what people often forget is the additional cost of living life as a disabled person, such as additional transport expenses. For instance, I was talking to one of our members last week, who mentioned the amount she spends on taxi fares to get her children, and herself, as a disabled person, to doctors' appointments and hospital appointments. It is incredible, and people fail to recognise that, you know? So, the associated costs really need to be featured when looking at the socioeconomic issues.

[228] **Kenneth Skates:** How practicable would it be to implement and enforce and monitor?

[229] **Ms Davies:** Yes, well, I suppose we have spent quite a lot of time talking about those issues in relation to equality, and now we are adding another one—I am sure that local authorities around the country will be happy about that. I know the whole issue is about the definition of what is socioeconomic, what it covers and who is covered by it; I think that the key to it will be how it works within the current system with regard to the development of strategic equality objectives, as I think it has to be part of the development of the strategic equality plan. I do not think that it can be separate; I think that would be a major mistake. It has to be integrated into the current approach to equality.

[230] **Kenneth Skates:** Thank you.

[231] **Jenny Rathbone:** How would it apply, though, in relation to people applying for a job? Do you envisage an additional tick box on the equality monitoring form to do with people's family socioeconomic circumstances?

[232] **Ms Davies:** On the employment issue, I think it is about looking at public sector policies on employment. In Wales in particular, the public sector is the major employer, so there is an opportunity for the NHS, local authorities, the police and others to look at how they recruit people, the areas from which people are recruited and the kind of support that people need, such as with travel to work or access to transport. Sometimes, the barriers to working can be to do with access or sometimes income, in that people do not have the wherewithal. So, I think it is about placing a positive duty on public bodies to look at the socioeconomic factors, as well as the broader equality factors, and build them into their

policies.

[233] **Jenny Rathbone:** On the link between poverty, inequality and disability, how do you ensure that disabled people are not discriminated against in the increasingly competitive job market, where there are so many applicants for every vacancy?

11.15 a.m.

[234] **Ms Davies:** It is a major concern, what with the changeover from incapacity benefit to the employment support allowance and the work capability assessments, which we feel are in themselves discriminatory. A recent court case has found that they discriminate against people with mental health conditions in particular, and conditions such as autism. There are now a lot of people who have been assessed as being able to work and who are having to go through the system and to go to interviews at Jobcentre Plus and to look for work. We are concerned—again, research seems to back this up—that those work programmes are not geared up to meet the specific needs of disabled people. The fact that many people who were on incapacity benefit were on it for the long term presents issues, but there are also the issues of people's access requirements, the attitudes of employers, and of support in terms of technology or equipment. So, it is a major concern. The policy directive behind these welfare reform changes is to get people off benefits and into work. However, the people who need the most support are not getting it and yet they are being penalised, because they have lost a lot of their benefits. So, it is a major issue for us and something that we have done a lot of work on; we recently published our report, 'Cap in hand?', on the impact of welfare reform on disabled people in Wales.

[235] That is also interacting with other things. For example, disability living allowance has changed and is now the personal independence payment. The Welsh Government's figures indicate that around 40,000 people in Wales who are currently on DLA will not be eligible for PIP. That is a huge number of people who are currently getting cash support through DLA to pay taxi fares, to get help in the house or whatever, and to meet extra costs, who will no longer be eligible for that. That will have a knock-on effect on our public services in Wales, in trying to pick up the pieces on that.

[236] **Ms French:** People often forget that disability living allowance enables people to work; it enables people to hold down a job and to get the right care and support that they need to be able to get out of bed in the morning, to get dressed and washed, to help to look after their families and enable them to get into employment. It removes barriers right from the start. The situation that we are in at the moment is that those barriers will be recreated, because people will not have that financial support available to them to enable them to break down the barriers.

[237] **Jenny Rathbone:** How receptive are Jobcentre Plus and other organisations to the case that you are putting regarding the 40,000 who will just have the rug removed from under them?

[238] **Ms Davies:** Jobcentre Plus is an agency of Government and its task has been to implement the policy. Miranda is on the stakeholder group in Wales, so we have the opportunity to feed into that. However, we are coming at this from a social model perspective, and welfare reform is the biopsychosocial model, which is about impairment and the fact that people need to overcome their impairment. It is almost seen as people's fault that they are not working, not as society's. It is a culture clash.

[239] **Christine Chapman:** I am going to bring Mark in, because I think he wanted to ask a question. Do you still want to come in, Mark?

[240] **Mark Isherwood:** Yes, if I may. It is because the work capability assessment was not fit for purpose that there have been three reviews by Professor Harrington. Have you had any input into those? Do you feel that the latest recommendations will address the problems that you are highlighting? Related to that, you said that poverty is a symptom of inequality and that we need to remove barriers to participation. If those barriers are removed, people who have been in isolation for long periods of time need extra support to cross that bridge. What support do we need in place to enable people to access work, training, employment, recreation or whatever it might be that barriers had previously excluded them from?

[241] **Ms Davies:** The design of current work programmes tends to favour those who are most job-ready—those who are, perhaps, recently unemployed or who, with some additional support, could enter the job market. They are less geared up, and the people who work in those schemes are less geared up, to working with people with quite complex conditions in complex circumstances. That needs tailored, individual and very intensive support. Our understanding is that that is not available through the work programme process at the moment. It is potentially quite rigid to have to go to so many interviews and take part in so many work-related activities. For people who have been out of work and who are in complex situations, it is a long-term process to enable them to even contemplate being able to get back into work. So, you have to design support that enables that to happen—you cannot have a one-size-fits-all model.

[242] **Mark Isherwood:** So, an individual, person-centred model. In terms of Professor Harrington's recommendations, have you looked at those?

[243] **Ms Davies:** Professor Harrington has done some really good work—three reviews, as you said. There has just been a court case where a legal challenge found that, even now, the work capability assessments are not appropriate for people with mental health conditions or autism. The UK Government could appeal, but I think that the evidence is there that work capability assessments are not fit for purpose. I do not know how many reviews we need to have before there is a fundamental redesign of the assessments.

[244] **Mark Isherwood:** Well, it is about how we monitor, because the recommendations were accepted, but it is about whether they are being implemented properly.

[245] **Ms Davies:** Yes, and the company that was awarded the contract for work capability assessments, Atos Healthcare, also won many of the contracts for PIP. In Wales, the company awarded the contract is Capita, and we have been working with Capita, not because we particularly agree with PIP, but because there are 140,000 working-age people on disability living allowance in Wales and we want to ensure that, as those people go through assessments, they get the best possible experience, and that it is sensitive, compassionate and recognises people's human rights. We want to try to get it right.

[246] The other thing is that, as we know, a huge number of assessments are overturned on appeal. That is a catastrophic waste of public money. If the assessment was done properly in the first place, and people were supported, were able to get their documentation ready and had—. Legal aid has been abolished as well. There are so many issues that we could be here all day talking to you on this one. *[Laughter.]*

[247] **Christine Chapman:** Did you want to ask anything else on this, Mark?

[248] **Mark Isherwood:** I just wanted to suggest that we ask work programme providers to give us some written evidence on the matters that have been highlighted.

[249] **Christine Chapman:** Okay. We will do that. I am going to move on to accountability for equality of human rights. Gwyn, do you have any questions on this?

[250] **Gwyn R. Price:** Yes. Good morning. What would be the benefit of enshrining the United Nations Convention on the Rights of Persons with Disabilities in Welsh legislation?

[251] **Ms Davies:** I think that that would be excellent. [*Laughter.*]

[252] **Gwyn R. Price:** It is a very easy answer. [*Laughter.*]

[253] **Ms Davies:** Yes. We are aware of how powerful the Assembly and the Welsh Government's adoption of the UN Convention on the Rights of the Child has been. It has had a massive impact. We would love to see the same happening for the disability convention. We are disappointed, because apart from being in the independent living framework—quite rightly, because, if it is not there, where is it going to be?—the UNCRPD has not been embraced in the same way by the Assembly and the Welsh Government. It has to be a bedrock, because it lays out the rights of disabled people in terms of the individual, but also how institutions such as the Assembly should approach disability issues and equality.

[254] **Gwyn R. Price:** Thank you.

[255] **Mike Hedges:** Following on from that, you say that the UNCRPD should be

[256] 'fully embraced by the National Assembly and Welsh Government and enshrined not only in Welsh legislation but in the way in which both institutions carry out their functions.'

[257] What, practically speaking, do you want the Assembly and the Welsh Government to do?

[258] **Ms Davies:** I would like them to go beyond the adoption of it and embrace it. What the UNCRPD is about is access. We have talked about access issues and access for the Assembly is about the legislative process that allows people's voices to be heard, the kind of information support that enables people to participate, and the engagement that the Assembly has with the citizens of Wales, who include disabled people.

[259] **Mike Hedges:** We have at least one Commissioner in here—in fact, two Commissioners in here. What would you want the Commissioners to do for the National Assembly for Wales in order to make things better? What practical things would you want them to do that we are not doing now?

[260] **Ms Davies:** The UN convention is part of the Human Rights Act. I think it is actually taking that human rights approach from a policy and principle basis into reality.

[261] **Mike Hedges:** Thank you.

[262] **Christine Chapman:** What practical things? Miranda?

[263] **Ms French:** It is about using it as a tool, really—using the convention to compare policies and practices within the organisation, and those of Welsh Government as well as the Assembly, to make sure that we are delivering disabled people's human rights. It is about making sure that everything necessary is in place and, where it is not, making sure that we make every effort to get it in place.

[264] **Ms Davies:** The UN convention covers this. We particularly promoted article 19, which is the right to live independently in the community. There are other articles around education, information and advocacy, the right to receive fair treatment and freedom from harassment. So, yes, it provides that benchmark that the policies and legislation can be

measured against.

[265] **Christine Chapman:** I do not think there are any other questions. Thank you, Miranda and Rhian, for attending this morning and responding to Members' questions. We will send you a transcript of the meeting, so that you can check it for any inaccuracies. Thank you both for attending this morning.

[266] **Christine Chapman:** Item 5 should have been evidence from the NHS Centre for Equality and Human Rights and Public Health Wales, but as I said earlier, they are unable to attend. We do have some papers to note—

[267] **Lindsay Whittle:** Sorry, Chair, but I think that we should note somewhere the fact that the Welsh Local Government Association and the NHS in Wales combined to give us evidence—admittedly, we have written evidence from them—and I think that it shows that it is almost lip service to the equalities issue when two pretty major organisations in Wales fail to send someone to give evidence to the Assembly. I think that that is really pretty poor. I really do think that it is very poor indeed. I do not know what we ought to do about it, unless you want to write to them.

[268] **Christine Chapman:** Yes, we will relay that to the organisations.

[269] **Lindsay Whittle:** They probably employ more people in Wales than the rest of the employers put together.

[270] **Christine Chapman:** Okay.

[271] **Mark Isherwood:** What powers do we have, if any, to compel people to attend if they refuse to do so?

[272] **Christine Chapman:** There was sickness.

[273] **Mark Isherwood:** Oh, right; fine.

[274] **Christine Chapman:** In fact, it was not the WLGA that was due to attend; it was just one organisation.

[275] **Lindsay Whittle:** As it was joint evidence, they should have liaised with each other—it is all about collaboration. It is fantastic that they collaborated to give us evidence, but, surely, between the two of them—two pretty large organisations; the two largest in Wales, I would have thought—they could have sent at least one person here. I think that it is extremely poor. It sends a terrible message to the people with special characteristics in Wales.

[276] **Christine Chapman:** We will relay that message.

11.29 a.m.

Papurau i'w Nodi Papers to Note

[277] **Christine Chapman:** There are some papers to note. The next meeting is next week, Thursday 13 June. We will be looking at Stage 2 amendments to the Mobile Home Sites (Wales) Bill. If the amendments are not all disposed of in the morning session, the meeting will resume in the afternoon. Before I close the meeting, may I ask Members to stay for a couple of minutes after we close? I would now like to close the meeting.

Daeth y cyfarfod i ben am 11.29 a.m.
The meeting ended at 11.29 a.m.