



Consultation response

Impacts of COVID-19: Open call for evidence

Consultation details

Title of consultation: Impacts of COVID-19: Open call for evidence

Source of consultation: Economy, Skills and Infrastructure Committee

Date: 27 July 2020

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About the Equality and Human Rights Commission

The Equality and Human Rights Commission (the Commission) is a statutory body established under the Equality Act 2006. It operates independently to encourage equality and diversity, eliminate unlawful discrimination, and protect and promote human rights.

Before the coronavirus pandemic our state of the nation reports, *Is Britain Fairer? 2018*¹ and *Is Wales Fairer? 2018*² identified that persistent disadvantages were having disproportionate impacts on particular groups. Despite some progress for certain groups, serious challenges remained. In particular ongoing challenges were identified for disabled people, certain ethnic groups and women, as well as those who are socio-economically disadvantaged. For people who share certain protected characteristics the situation is even graver.

Initial evidence from stakeholders shows that the groups identified as already being disadvantaged in the workplace, are experiencing further discrimination and so will need additional support from the UK and Welsh Governments both during and in the aftermath of the Coronavirus pandemic. We welcome the Economy, Infrastructure and Skills Committee's inquiry into the impacts of Covid-19.

This response is informed by emerging Wales evidence, and is consistent with our responses to other inquiries including the Department for Business, Energy and Industrial Strategy (BEIS), Women and Equality Committee (WEC), Welsh Select Affairs Committee and other Senedd Committee inquiries.

¹ [Equality and Human Rights Commission *Is Britain Fairer? 2018*](#)

² [Equality and Human Rights Commission *Is Wales Fairer? 2018*](#)

Summary of Recommendations

Summary of Recommendations

We recommend that the Welsh Government:

- Ensures compliance with Section 149(1) of the Equality Act 2010, the public sector equality duty. The General Duty ensures that equality considerations are built into the design of policies and the delivery of services and that they are kept under review.
- Ensures compliance with the Specific Duties which are a legal requirement under the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011. These include Equality Impact Assessments (EIAs) which are a useful tool to ensure the consideration of the likely impact of proposed policies using available evidence before any decision to implement a policy is made.
- Reminds listed bodies in Wales of their continuing obligations under the section 149(1) of the Equality Act 2010.
- Commences the socio-economic duty by the end of the year and takes into account the principles of the duty in its current strategic decision-making.
- Continues to embed the principles of Fair Work within Welsh workplaces to mitigate the effects of the coronavirus pandemic.
- Includes in all its guidance for employers links to the Equality and Human Rights Commission's Coronavirus employer guidance:

- **Coronavirus guidance for employers**³;
- **Reasonable Adjustments for Employees**⁴;
- **Your Duties on Pregnancy and Maternity**⁵.
- **Implements the recommendations of the Gender Equality Review as part of its strategy to tackle gender inequality in Wales.**
- **Reviews the Gender Equality Roadmap to respond to women’s experiences of work during the Coronavirus pandemic and in recovery.**
- **Monitors the impact of the recession on people with protected characteristics and puts in place measures to mitigate it.**
- **Takes immediate action to address the recommendations and key findings within the BAME Covid-19 expert advisory group report.**
- **Develops, resources and implements with a robust accountability mechanism their new Wales race equality plan. This needs to address the barriers that ethnic minorities face accessing fair, safe and secure work.**
- **Creates a framework for action to rebuild a more equal and fairer Wales. This should address key inequalities and human rights issues that have been exacerbated through the impact of the Coronavirus pandemic.**

³ Equality and Human Rights Commission, Coronavirus Guidance for Employers, July 2020

⁴ Equality and Human Rights Commission, Reasonable Adjustments for Employees, July 2020

⁵ Equality and Human Rights Commission, Your Duties on Pregnancy and Maternity, July 2020

- **Monitors and reviews the situation for small businesses, self-employed, gig-economy and precarious workers in Wales, who are more likely to be younger, female and/or from some ethnic minorities and ensure that they get the support they need.**
- **Ensures that any use of insecure employment contracts adequately protects the rights of workers.**
- **Strengthens and maximises the opportunities presented by the Economic Contract to:**
 - **improve Welsh businesses, including promoting equality and human rights;**
 - **promote fair work as a tool to create inclusive workplaces.**
- **Works with transport operators and disabled people to ensure that information about the availability of passenger assistance services and how they will operate is clear, available and accessible for disabled passengers.**
- **Monitors and reports progress on the effectiveness of action taken to increase participation of under-represented groups, including improvements made by apprenticeship providers and employers in Wales.**
- **Holds apprenticeship providers to account, including through procurement and funding mechanisms.**

We also recommend that:

- **The Welsh Government, National Training Federation for Wales, apprenticeship providers, employers and other relevant stakeholders should take action to address barriers to participation and ensure that apprenticeships at all levels are of good quality. This should include requiring apprenticeship providers to set and meet targets for improved participation and to use positive action provisions.**

- **The Welsh Government and other national agencies that routinely collect and use data, including the Office for National Statistics (ONS), Wales Audit Office, Data Cymru and Wales Observatories, should collect and publish data disaggregated by protected characteristic, particularly in relation to ethnic minorities.**
- **The Welsh Government and Local Authorities in Wales must comply with the relevant legislation and ensure that plans to redesign public spaces do not directly or indirectly discriminate against disabled people, or prevent reasonable adjustments to be made.**
- **The Welsh Government and other employers in Wales offer flexible working from day one, and offer all jobs (including the most senior) on a flexible and part-time basis unless there is a genuine justifiable business reason to prevent this, recognising that flexible work and part-time work are both now standard patterns of work.**
- **Employers must ensure they take equality obligations into account when supporting their employees, including making reasonable adjustments for disabled employees, and in making staffing and other employment decisions.**

Legal and Policy Context

The Equality Act 2010 ('the Act') provides a legal framework that protects individuals from discrimination, promoting a fair and more equal society. The Act protects people against discrimination on the basis of nine protected characteristics and sets out clear protections for employees from discrimination in all areas of employment, including terms and conditions, pay and benefits, and redundancy.

Section 149(1) of the Equality Act 2010 includes the public sector equality duty. The General Duty provides that public bodies must in exercising their functions have due regard to the need to:

- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Public Sector Equality duty.

Equality Impact Assessments (EIAs) are a legal requirement under the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 and a useful tool to ensure the consideration of the likely impact of proposed policies using available evidence before any decision to implement a policy is made. EIAs ensure that decisions are fair; and the regulations also include a requirement to continue monitoring the impact of policy change.

Workers' rights are also included in a number of international treaties that the UK has ratified, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), the UN Convention on the Rights of Persons with Disabilities (CRPD), the UN Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), and the UN Convention on the Elimination of Racial Discrimination (CERD).

The Welsh Government has committed to introducing Part 1, Sections 1 to 3 of the Equality Act 2010 (“the 2010 Act”) - the socio-economic duty on 31 March 2021.

Other opportunities exist in Wales to advance equality and well-being, as well as gender equality specifically, including via the Well-being of Future Generations (Wales) Act (FGA) 2015 and the Gender Equality Review (GER).

We recommend that the Welsh Government:

- **Ensures compliance with Section 149(1) of the Equality Act 2010, the public sector equality duty. The General Duty ensures that equality considerations are built into the design of policies and the delivery of services and that they are kept under review.**
- **Ensures compliance with the Specific Duties which are a legal requirement under the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011; including Equality Impact Assessments (EIAs) which are useful tools to ensure the consideration of the likely impact of proposed policies using available evidence before any decision to implement a policy is made.**
- **Reminds listed bodies in Wales of their continuing obligations under the section 149(1) of the Equality Act 2010.**
- **Commences the socio-economic duty by the end of the year and take into account the principles of the duty in its current strategic decision-making.**
- **Creates a framework for action to rebuild a more equal and fairer Wales. This should address key inequalities and human rights issues that have been exacerbated through the impact of the Coronavirus pandemic.**

Making Fair Work a reality

The Commission welcomes the Minister for Economy, Transport and North Wales, confirmation that fair work remains as one of the Welsh Government's ambitions.⁶

⁶ [The Economy, Skills and Infrastructure Committee, The Impact of COVID-19: Summary of initial findings. June 2020](#)

The Economic Contract is part of the Welsh Government's 'Prosperity for All - Economic Action Plan'.⁷ The Welsh Government states the Economic Contract “has been designed to enable the Welsh Government to develop a new and strengthened relationship with business and to drive inclusive growth and responsible business behaviours, including increasing the availability of fair work and decarbonisation.”

In particular, “the Economic Contract will require businesses seeking investment ...to demonstrate Fair Work (as defined by the Fair Work Commission), including permitting trade union access as a minimum requirement

The Economic Contract, therefore presents a significant opportunity to drive inclusive growth and responsible business behaviours, including increasing the availability of fair work – and promoting equality and human rights considerations within the workplace.

We recommend that the Welsh Government:

- **Continues to embed the principles of Fair Work within Welsh workplaces to mitigate the effects of the coronavirus pandemic.**
- **Strengthens and maximises the opportunities presented by the Economic Contract to:**
 - **to improve Welsh businesses, including promoting equality and human rights**
 - **promote fair work as a tool to create inclusive workplaces**

⁷ [Welsh Government. Prosperity for All – Economic Action Plan. May 2019](#)

Flexible working practices

There are elements of change to working practices that employers should consider holding on to as we recover from the Coronavirus pandemic. Social distancing measures have required many employers to implement flexible working practices in order to survive, and this has demonstrated that it is possible, and beneficial to both employer and employees. Recent reports indicate⁸ that many employees are worried their employer will revert to previous inflexible working practices. We hope to see increased flexibility continue as we move into the recovery phase; as flexible working enables many more people to participate in the labour market; particularly those with caring responsibilities, and disabled people; leading to greater efficiency, reducing stress and increasing employees' motivation and commitment.

We recommend that the Welsh Government and other employers in Wales offer flexible working from day one, and offer all jobs (including the most senior) on a flexible and part-time basis unless there is a genuine justifiable business reason to prevent this, recognising that flexible work and part-time work are both now standard patterns of work.

⁸ [Half of workers expect remote working reversal after Covid-19, Personnel Today, April 2020](#)

Potential Impact of a recession

There are clear signs that Wales is now entering a period of recession. This is likely to impact on people across Wales, further exacerbating inequalities experienced by people already living in socio-economic disadvantage, ethnic minorities, children and young people, women and disabled people.

Our analysis of the 2008 recession showed that women with childcare responsibilities were at a greater disadvantage than either men or other women in continuous employment. Our research into pregnancy and maternity discrimination also found that 1 in 20 pregnant workers or those on, or recently returning from, maternity leave experienced redundancy⁹. Our assessments of the impact of changes to tax and welfare found those most affected included children, disabled people and lone parents.

Evidence from Business in the Community shows that ethnic minority groups fared worse as a result of the 2008 recession than the white majority, exacerbating pre-existing inequalities with higher unemployment, lower earnings, lower self-employment rates and higher housing costs.¹⁰

⁹ [Pregnancy and maternity-related discrimination and disadvantage: Experiences of Employers EHRC](#)

¹⁰ <https://www.bitc.org.uk/wp-content/uploads/2020/04/bitc-race-factsheet-ethnicity-economic-impact-april20.pdf>

The employment rate for disabled people in Wales (48.6%) is lower than in England (53.7%) and Scotland (46.9%). Our State of the Nation report, *Is Wales Fairer? 2018* showed that the employment rate of disabled people in Wales is less than half than that of non-disabled people. Disabled people are disproportionately employed in low-skill, low paid work of a type that is vulnerable to any economic downturn.¹¹

We recommend that the Welsh Government monitors the impact of the recession on people with protected characteristics and puts in place measures to mitigate it.

Impact on gig economy workers, employees in low-paid industries, and the self employed

High numbers of people work in low paid insecure employment in Wales. The number of zero hour contracts rose by more than a third in Wales between 2018 - 2019, which equates to 3.4% of people employed in Wales. The New Economics Foundation found that 17% of workers in Wales are employed in low paid, insecure work.¹²

This unprecedented situation has revealed the lack of basic employment rights such as sick pay that mean many gig economy workers or people on zero hours contracts have no choice but to continue working. This type of work is predominantly low paid, precarious, with an overrepresentation of young workers, and ethnic minorities.

¹¹ T. Hogarth et al, *The Equality Impacts of the Current Recession* (2009) https://www.equalityhumanrights.com/sites/default/files/research-report-47_the-equality-impacts-of-the-current-recession_0.pdf

¹² [Wales TUC Press Release, 25th November 2019](#)

The Commission notes the comments from Professor Ewart Keep (Department of Education at Oxford University) at the Economy, Infrastructure and Skills Committee on 1st June 2020 that an uncertain economy would lead to employers looking to increase 'labour by the hour' and precarious, insecure, zero hours contracts.¹³

Concerns have been raised about the lack of support available to the self-employed, where certain ethnic groups, particularly Pakistani men, and Gypsy, Irish and Traveller groups, are concentrated. Low paid work also has an over-representation of women, and disabled people who often fail to meet the earnings threshold for either Statutory Sick Pay (SSP) or the Coronavirus Job Retention Scheme (CJRS).

Analysis by the Institute for Fiscal Studies (IFS) shows that people aged under 25 were two and a half times as likely as other employees to work in a sector that is shut down. It also found that low earners and women were more likely to work in these sectors. The Bevan Foundation estimate that 211,500 people are employed in these sectors in Wales, which is about 16% of all employment.¹⁴

Again we note Professor Ewart's comments at the Committee meeting on 1st June 2020¹⁵ that there is a huge looming issue of youth unemployment and that there is a likely to be quite a significant rise in young people who are not in employment, education or training.

¹³ <https://senedd.wales/laid%20documents/cr-ld13247/cr-ld13247-e.pdf>

¹⁴ [Sector shutdowns during the coronavirus crisis: which workers are most exposed?](#), Institute for fiscal studies briefing note, 6th April 2020

¹⁵ [Economic, Infrastructure and Skills Senedd Committee 1 June 2020](#)

We recommend that the Welsh Government monitors and reviews the situation for small businesses, self-employed, gig-economy and precarious workers in Wales, who are more likely to be younger, female and/or from some ethnic minorities and ensure that they get the support they need.

Skills and Apprenticeships

Apprenticeship and skills provision has been affected by the pandemic. The Commission agrees with the Committee that having a skilled workforce in Wales will be key for economic recovery.¹⁶ This means it is important that the Welsh Government fully understands the effects the pandemic is having on the skills sector, including apprentices and training providers.

To reduce gender segregation and improve the participation and progression of women, ethnic minorities and disabled people across a range of apprenticeships:

We recommend that the Welsh Government¹⁷:

- **Monitors and reports progress on the effectiveness of action taken to increase participation of under-represented groups, including improvements made by apprenticeship providers and employers in Wales.**
- **Holds apprenticeship providers to account, including through procurement and funding mechanisms.**

¹⁶ [The impact of COVID-19 : Summary of initial findings. June 2020](#)

¹⁷ [Is Wales Fairer? 2018](#)

We recommend that the Welsh Government, National Training Federation for Wales, apprenticeship providers, employers and other relevant stakeholders should take action to address barriers to participation and ensure that apprenticeships at all levels are of good quality. This should include requiring apprenticeship providers to set and meet targets for improved participation and to use positive action provisions.

BAME Workers

There is also evidence that Covid-19 is having a disproportionate impact on some ethnic minority workers, and ethnic minority women in particular. This is because long standing labour market inequality has led to certain ethnic groups being concentrated in low-paid, insecure or agency work in elementary occupations including in health and social care, cleaning and public transport.

The report by the BAME Covid-19 expert advisory group¹⁸, which was set up by First Minister Mark Drakeford, makes more than 30 recommendations to the Welsh Government.

The advisory group was set up to look at the reasons why people from BAME communities were more likely to be adversely affected by coronavirus. The report revealed a number of key socio-economic and environmental risk factors, including:

- Communication of health information, and how effective it is
- Cultural issues relating to the suitability of health and social services for BAME communities
- Income and employment insecurity, which is experienced disproportionately by BAME communities

¹⁸ [BAME COVID-19 expert advisory group report. June 2020](#)

- Poor quality of ethnicity data, which is preventing accurate analysis
- Housing overcrowding and environment
- The financial burden created by migration status
- The role of structural and systemic racism and disadvantage.

We recommend that the Welsh Government:

- **Should take immediate action to address the recommendations and key findings within the BAME Covid-19 expert advisory group report.**
- **Develops, resources and implements with a robust accountability mechanism their new Wales race equality plan. This needs to address the barriers that ethnic minorities face accessing fair, safe and secure work.**

Gender inequality in the workplace

Women are most likely to be over-represented in jobs in retail and hospitality – low pay sectors that account for about a quarter of all employment in the UK economy, and which are particularly affected by social distancing requirements. As a result Covid-19 is likely to have a greater effect on the earnings of these groups now and in the future with many employers within these sectors under threat as their long term future is uncertain.

The Gender Equality Review (GER) commissioned by the Welsh Government and undertaken by Chwarae Teg was a rapid review of gender equality in Wales, to determine what the Welsh Government is doing well, what they could do better and what could be learnt from around the world. The scope of the review included a focus on tackling the causes of unequal pay, culminating in July 2019 with the ‘Deeds not Words’¹⁹ report and a Roadmap²⁰ focusing on specific policy areas.

We recommend that the Welsh Government:

- **Implements the recommendations of the Gender Equality Review as part of its strategy to tackle gender inequality in Wales.**
- **Reviews the Gender Equality Roadmap to respond to women’s experiences of work during the Coronavirus pandemic and in recovery.**

Pregnancy and Maternity at work

Pregnant employees are currently being told by the UK Government to practice social distancing in case they are at a particular risk during the Coronavirus pandemic. Initial evidence from our stakeholders highlights concerns that pregnant workers are:

- Being forced to take unpaid leave, start maternity leave early, or being placed on sick leave, rather than furloughed.
- Being refused furlough despite male colleagues being placed on the Coronavirus Job Retention Scheme, because they have childcare responsibilities and are not deemed to be working.

¹⁹ [Chwarae Teg, Deeds not words, June 2019](#)

²⁰ [Chwarae Teg, Gender Equality a roadmap for Wales, June 2019](#)

- Being forced to work without proper health and safety risk assessments.
- Facing financial penalties due to salary calculations for furlough support schemes, which are based on an employee's actual salary at 28 February 2020. This disadvantages parents who have just returned from maternity or paternity leave, especially women who may be returning from a period of unpaid maternity leave.

We recommend that the Welsh Government includes in all its guidance for employers links to the Equality and Human Rights Commission's Coronavirus employer guidance:

- [Coronavirus guidance for employers](#)²¹;
- [Reasonable Adjustments for Employees](#)²²;
- [Your Duties on Pregnancy and Maternity](#)²³

This will remind employers of their obligations under equality law in relation to unlawful pregnancy and maternity discrimination.

²¹ [Equality and Human Rights Commission, Coronavirus \(COVID-19\) guidance for employers. June 2020](#)

²² [Equality and Human Rights Commission, Reasonable Adjustments for Employees, June 2020](#)

²³ [Equality and Human Rights Commission, Your Duties on Pregnancy and Maternity, June 2020](#)

Disability and Reasonable adjustments for home workers

The employment rate for disabled people in Wales (48.6%) is lower than in England (53.7%) and Scotland (46.9%). Our State of the Nation report [Is Wales Fairer? 2018](#)²⁴ showed that the employment rate of disabled people in Wales is less than half than that of non-disabled people.

Current Welsh Government regulations require all those who can work from home to continue to do so.

The barriers that disabled workers face are likely to have changed due to the current crisis. Disabled employees have reported that their employers are struggling to provide reasonable adjustments so that they can work effectively, or are placing them on unpaid leave. In some cases, disabled workers have been furloughed instead of having their requests for reasonable adjustments met. Disabled workers should not be disadvantaged financially, or forced to work in unsuitable or unsafe ways.

We recommend that employers must ensure they take equality obligations into account when supporting their employees, including making reasonable adjustments for disabled employees, and in making staffing and other employment decisions.

²⁴ [Equality and Human Rights Commission, Is Wales Fairer? 2018, 2018](#)

Data

There are clear gaps in the data in Wales that make it difficult to understand the experiences of people sharing all protected characteristics. There is a particular lack of data broken down by the protected characteristics of sexual orientation, gender reassignment, religion or belief, and race.

The Commission welcomes the Minister's comments at the Committee meeting on 11th May 2020²⁵ that “the more data we can get at a Wales level the better” and the intention of the Welsh Government Director of Business and Regions, Sioned Evans that this data could be used to establish a better idea of the impact of government actions. The data the Minister receives should be disaggregated to highlight the impact on particular protected characteristic groups.

The Commission agrees with the Committee's recommendation in its report 'The Impact of COVID-19: Summary of initial findings (June 2020) that the Welsh Government should make publicly available any data on the uptake of support and the impact of covid-19 on different groups within society, such as those with protected characteristics.

We recommend that the Welsh Government and other national agencies that routinely collect and use data, including the Office for National Statistics (ONS), Wales Audit Office, Data Cymru and Wales Observatories, should collect and publish data disaggregated by protected characteristics, particularly in relation to ethnic minorities.²⁶

²⁵ [Economy, Infrastructure and Skills Senedd Committee transcript, 11 May 2020](#)

²⁶ [Equality and Human Rights Commission, Is Wales Fairer? 2018, 2018](#)

Access to Transport

Public transport should support older and disabled peoples' access to services and opportunities. Public transport is about much more than reaching an end destination, it should also enrich people's wellbeing, and their right to live independently. Evidence from our report *Is Wales Fairer? 2018* shows that public transport in Wales often does not meet the needs of older and disabled people. The challenges presented by the Coronavirus pandemic have further exacerbated some of these barriers.

We are working with the Welsh Government as it develops its *Wales Transport Strategy* to advise on how it can deliver a truly inclusive transport system for Wales.

Restarting public transport guidance

We welcome the guidance that the Welsh Government has issued to operators and passengers in relation to restarting public transport. We provided advice to the Minister for Economy, Transport and North Wales on this guidance and were pleased to note the clarity in the guidance for operators that equality legislation relating to accessible travel remains in place as does the duty to make reasonable adjustments and comply with the Public Sector Equality Duty, where applicable. We were pleased to see the guidance encourage the use of Equality Impact Assessments by operators to ensure their actions meet the needs of people with protected characteristics, and that there was guidance to ensure information was available and accessible for people with different communications needs.

Successive weekly surveys by Transport Focus highlighted that disabled people are less confident with the idea of returning to use public transport than non-disabled people. We are concerned that without clear and accessible information, guidance and advice many disabled people will not be confident to use the public transport system, which will impact on their right to independent living.

We recommend that the Welsh Government should work with transport operators and disabled people to ensure that information about the availability of passenger assistance services and how they will operate is clear, available and accessible for disabled passengers.

From 27 July wearing face masks on public transport in Wales will be made mandatory. The Commission supports the steps that the Welsh Government are taking to ensure that the public and staff are safe when using and working on public transport. For some groups of disabled people wearing masks will be difficult including some people with respiratory conditions. Some groups of disabled people will find it challenging to communicate with people wearing mask, for example people who lip read or have other communication needs. The regulations brought forward by the Welsh Government will include exemptions for certain groups including some groups of disabled people.

It is important that there is widespread awareness, amongst passengers and staff, of the exemptions to the requirement to wear face coverings on public transport for disabled people, in order to avoid the risk of placing them at a particular disadvantage.

We recommend that the Welsh Government and Transport for Wales work with transport operators to ensure widespread publicity of the exemptions to the requirement to wear face coverings, to ensure that disabled passengers are not denied access to travel.

The future of accessible transport

The financial impact of Coronavirus, and the continued need to contain its spread, raise new challenges for inclusive transport and public spaces. For example, the redesign of streets to encourage more walking and cycling may make travelling more difficult for blind and partially sighted people. In response to the Coronavirus pandemic we have seen a number of local authorities in Wales bring forward proposals to encourage safe public spaces and pedestrianise towns and city centres.

It is vital that the needs of disabled people are factored into these plans, including the impact of removing parking bays close to shopping areas. The Public Sector Equality Duty requires that public bodies engage with people with protected characteristics and conduct Equality Impact Assessment on the actions they plan, they also continue to have a duty to make reasonable adjustments.

We recommend that the Welsh Government and Local Authorities in Wales must comply with the relevant legislation and ensure that plans to redesign public spaces do not directly or indirectly discriminate against disabled people, or prevent reasonable adjustments to be made.