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Y Pwyllgor Cyfrifon Cyhoeddus a Gweinyddiaeth Gyhoeddus	Public Accounts and Public Administration Committee
Craffu ar weinyddiaeth gyhoeddus	Scrutinising public administration
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Ymateb gan Ginger Wiegand, Y Comisiwn Cydraddoldeb a Hawliau Dynol	Evidence from Ginger Wiegand, Equality and Human Rights Commission

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1. Introduction

About the Equalities and Human Rights Commission

The Equality and Human Rights Commission ('the Commission') is Great Britain's national equality body and has been awarded an 'A' status as a National Human Rights Institution (NHRI) by the United Nations. Our job is to help make Britain fairer. We do this by safeguarding and enforcing the laws that protect people's rights to fairness, dignity and respect. The Commission has been given powers to advise Governments across England,

Scotland and Wales on the equality and human rights implications of legislation and policy. We can also publish information or provide advice, on any matter related to equality, diversity and human rights.

Scrutinising Public Administration – The Legal Context

The Equality Act 2010, the Public Sector Equality Duty (PSED), Section 149(1) of the Equality Act, the Specific Duties for Wales under the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 and the forthcoming Socio-economic Duty, include obligations on all sectors that if embraced by organisations, could lead to significantly improved equality and diversity outcomes for the people of Wales across all areas of life. The PSED requires that equality considerations are built into the design of policies and the delivery of services and that they are kept under review.

The three general aims of the PSED require that public bodies give due regard to

- Eliminating unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- Advancing equality of opportunity between people who share a protected characteristic and those who do not; and
- Fostering good relations between people who share a protected characteristic¹ and those who do not.

Wales-specific duties include the requirement for listed bodies to state strategic equality objectives and report on progress toward them, to engage with people with protected characteristics when making policy decisions, and to consider the impact of policy decisions on people with protected characteristics through Equality Impact Assessments. The purpose of the specific duties in Wales is to aid transparency and to help listed bodies in their performance of the general duty².

¹ Age, Civil Partnership, Disability, Gender, Race, Pregnancy and Maternity, Religion or Belief, Sexual Orientation and Gender Reassignment.

² For a full discussion of the Wales specific duties, see the Commission's **[Essential Guide to the Public Sector Equality Duty: An Overview for Listed Public Authorities in Wales](#)**

Furthermore, the Socio-Economic Duty requires that Government officials and listed bodies consider the impact of policy decisions on those who are disadvantaged due to low income or other material deprivation.

2. Response to the Consultation Letter

Principles and best practice in scrutinising public administration

Effective scrutiny of public administration should give central consideration to how effectively Welsh Government and other public bodies are meeting their duties in relation to the Equality Act 2010, including general and specific Public Sector Equality Duties as well as the Socio-economic Duty.

Equality Objectives: Welsh Government and other public bodies are required to publish strategic equality plans which identify outcomes and priorities for addressing the most pressing inequalities and to publish reports on progress toward those objectives. Equality objectives should be expressed as SMART outcomes, be ambitious and aimed at tackling the most entrenched inequalities in society. They should be based on the most relevant and up to date evidence and also underpinned by engagement with people considered representative of one or more of the protected groups and who have an interest in how an authority carries out its functions.

National Priorities: In our response to Welsh Government's consultation on the Socio-economic Duty (SED), the Commission recommended that Welsh Government identifies and sets out in its Interim Guidance the National Inequalities of Outcome to be addressed by public bodies in complying with the duty. Our Equality and Human Rights Measurement Framework, referenced below, may be helpful in setting those priorities and in ensuring greater transparency and accountability, which in turn, would assist the Committee with its scrutiny work.

Procurement: This committee also has potential to scrutinise whether Welsh Government and public bodies are using all the levers available to them, including in procurement processes, to influence other organisations in Wales including in voluntary and private sectors to address inequality. Contracting authorities must have due regard to whether it would be appropriate for the award criteria for a contract to include considerations to help meet the general duty and also to have due regard to whether it would be appropriate to stipulate conditions relating to the performance of the contract to help meet the three aims of the general duty. It is vital that any new commissioning practices are underpinned

by strong compliance with the PSED in that they aim to eliminate discrimination, advance equality of opportunity and seek to foster good relations between groups with protected characteristics as well as complying with the Welsh specific duties at each stage. For example, assessing the equality impact of proposals and engaging with groups with protected characteristics throughout the process.

International Human Rights Obligations: Scrutiny of public administration must also consider Welsh Government obligations regarding seven United Nations (UN) human rights treaties. The Commission has recommended that UK and Welsh Governments establish a national mechanism for reporting, implementation and follow up of UN recommendations relating to human rights. In absence of such a mechanism, we have developed a **Human Rights Tracker**, a searchable online tool which you can use to review the progress the Welsh & UK governments have made towards fulfilling their international human rights obligations and find out what the UN has said about a particular human rights issue (such as education, living standards or work) or population group (such as disabled people or children) in the UK.

Information and evidence needed to maintain effective oversight of public administration

Data on equalities in Wales has numerous gaps, especially relating to certain characteristics including ethnicity and sexual orientation. The Commission's report **Is Wales Fairer? 2018** makes a number of recommendations to improve the collection of data in Wales.

Improved data would enhance public bodies' ability to analyse and take better account of inequalities, particularly those related to intersectionality, where the most pressing inequalities in Wales are found.

The Commission welcomes the Welsh Government commitment to create an Equalities Data Unit and a Race Disparity Unit. Key to its effectiveness will be: a commitment to address data gaps, improving the quality of data, and ensuring comparability in collection of data across departments and public bodies.

The Commission's **Measurement Framework for Equality and Human Rights** includes five components of evidence collection and analysis: protected characteristics; socio-economic group; geographical analysis; people at risk of harm, abuse discrimination or disadvantage; and intersectional analysis. We recommend that where possible each of these components is considered in analysis of progress towards equality objectives.

Providing such disaggregated data is essential to understanding progress on equality and human rights in Wales. Where such data is not currently available we recommend that Welsh Government plan to improve data collection to allow for further disaggregation and more sophisticated analysis.

In addition, the Committee may find the following sources of data useful:

- Strategic Equality plans for Welsh Government and specific bodies as well as their commitments within other equality action plans relating to specific characteristics such as the Race Equality Action Plan, LGBTQ Action Plan and others.
- Equality Impact Assessments relating to specific Government departments, public bodies or policies under scrutiny, particularly those relating to major policy changes or new initiatives. How transparent and detailed are these assessments and have they been central to administration?
- Taking evidence from people who are impacted by public policy and administration, being sure to engage people who share groups of protected characteristics and also people who experience socio-economic disadvantage to understand the impact on their lived experience.
- The recent report **Implementing the socio-economic duty: a review of evidence on socio-economic inequalities of outcome**³ employs our measurement framework to summarise key existing evidence on how socio-economic disadvantage affects people in Wales, focusing on those with protected characteristics and communities of place and interest.
- **Is Wales Fairer? 2018** Is the most comprehensive review of how Wales is performing on equality and human rights across all areas of life, including; education, work, living standards, health, justice and security and participation in society. This is the Welsh supplement to the Commission's report on equality and human rights progress in England, Scotland and Wales, **Is Britain Fairer? 2018**.

³ Mills, C. (2021). Implementing the Socio-economic Duty: A review of evidence on socio-economic disadvantage and inequalities of outcome. Cardiff: Welsh Government, GSR report number 68/2021> Available at: **<https://gov.wales/evidence-review-socio-economic-disadvantageand-inequalities-outcome>**

Priority Issues

Priority areas for scrutiny include the following:

- Ensuring that Welsh Government and public bodies mitigate the impact of the pandemic on the groups which have been most effected by Coronavirus pandemic, which has exacerbated existing inequalities. The Commission's report **How Coronavirus Has Impacted Equality and Human Rights** details how certain groups including older people, younger people, disabled people, some ethnic minority groups, and people at socio-economic disadvantage are more likely to have had adverse employment, health or education outcomes during the pandemic.
- Ensuring that economic development efforts, including initiatives relating to recovery from the pandemic, greening and decarbonising, and City deals are inclusive, benefit those at most disadvantage in society and do not further entrench existing inequalities. For instance, women and some ethnic minority groups are underrepresented in the construction and green economy sectors underpinning most of these initiatives. Likewise, disabled and ethnic minority people are underrepresented in apprenticeships, which also continue to be characterised by occupational gender segregation.
- Scrutinising how effectively Welsh Government departments and public bodies are implementing and aligning various equalities plans such as the Right to Independent Living Framework, the Gender Review, the LGBTQ+ Action Plan and Race Equality Action along with their own Strategic Equality Plans.
- Scrutinising how effectively Welsh Government and other public bodies are delivering on their Public Sector Equality Duties and the Socio-Economic Duty, including whether action taken is focused on the most entrenched and persistent inequalities and whether action taken has achieved positive outcomes in meeting the PSED gender duty and impact.
- Scrutinising Equality Impact Assessments for new Government initiatives or major policy changes.

