

HR 07

Ymchwiliad i hawliau dynol yng Nghymru

Inquiry into Human Rights in Wales

Ymateb gan: Bwrdd Iechyd Prifysgol Hywel Dda

Response from: Hywel Dda University Health Board

## **Hywel Dda University Health Board's response to the National Assembly for Wales Consultation on Inquiry into Human Rights in Wales – Closing 10 February 2017**

### **1. The impact of the UK's withdrawal from European Union on human rights protection in Wales.**

The Human Rights Act 1998 incorporates the rights set out in the European Convention on Human Rights into domestic British law. The European Convention on Human Rights originates from the Council of Europe, which is a completely different organisation from the European Union (EU). Leaving the EU would have no effect on the UK's obligations under the European Convention of Human Rights, nor on the Human Rights Act, which is a piece of UK legislation ( quality and Human Rights Commission).

### **2. The impact of the UK Government's proposal to repeal the Human Rights Act 1998 and replace it with a UK Bill of Rights.**

2.1 This may offer an opportunity to strengthen human rights legislation; however:

The Equality and Human Rights Commission has identified where EU law has led to changes in UK law which protect equality and human rights, including the following examples:

\* **Data protection:** the EU Data Protection Directive contains privacy rights which have been transposed into domestic law through the Data Protection Act 1998. These rights include: access for individuals to information held about them, a right to object to information being held, a right to correct inaccurate information or have it erased, and a right to claim compensation for breaches of these rights\* **Human trafficking:** Directive 2011/36 on preventing and combating trafficking in human beings, and protecting its victims, puts into place minimum rules around the definition of criminal offences and penalties for people trafficking. It also requires that victims of trafficking get help, support and protection.

This has meant, for example, that civil legal aid is available for an individual who has been proven to be a victim of trafficking when applying for leave to enter or remain in the UK, or for a claim under employment law which is connected to the exploitation of someone who is a trafficking victim, which supports victims' rights to access to justice.

\* **Rights of victims of crime:** the Victims' Rights Directive ensures that victims of crime and their family members have the right to information, support and protection. It also sets out procedural rights for victims in criminal proceedings, and requires that EU member states provide appropriate training on victims' needs to professionals who are likely to come into contact with victims. In England and Wales, this directive has been implemented by way of statutory guidance, which can be found in the [Code of Practice for Victims of Crime](#). This places obligations on organisations that work within the criminal justice system in England and Wales, such as the Crown Prosecution Service and all police forces. It also provides victims of crime with other rights, for instance to make a Victim Personal Statement to explain how they were affected by the crime.

\***Disability rights:** a number of directives and regulations have led to improved protection for disabled people. These include ensuring that employment protection standards apply to all employers, not just larger employers, requiring assistance to be provided for disabled people when travelling (including by air, sea, and coach), and, a requirement that the packaging of medicinal products must include Braille labelling.

**Protection from discrimination in employment on grounds of religion or belief, sexual orientation and age:** the EU Equal Treatment Directive provided protection against discrimination in employment for people with equality characteristics, which had not previously been protected in domestic UK law, namely sexual orientation, religion or belief, and age.

**Equal pay:** the Equal Pay Act 1970 was enacted before the UK joined the European Economic Community as the UK wanted to put into practice Article 119 of the EEC Treaty (now Article 157 of the TFEU), which requires that men and women should receive equal pay for equal work.

**2.2.1 Comment HDUHB** - Conversely, in contrast to 2.1 above, changes made within a UK Bill of Rights may dilute or eliminate the above protections currently afforded under the Human Rights Act 1998. There is therefore a risk that changes made within a new UK Bill of Rights may discriminate against or disadvantage vulnerable groups. It will therefore be imperative that a robust equality impact assessment involving groups and individuals likely to be affected (and their representatives) is undertaken on any proposals. Arrangements will need to be made to ensure that disabled people, people for whom English is not their first language and other marginalised groups have an opportunity to be involved. Any dilution or elimination of current protections may have a severe negative impact on the rights of disabled people in potentially reducing their opportunities for employment and access to social interactions through travel etc. There may also be a risk to health and safety if labelling of medicines in Braille is eliminated.

**2.3 Comment HDUHB** - If there are any restrictions imposed on freedom of movement of workers for EU citizens, this may adversely impact EU citizens living in the UK who do not otherwise have a right to reside. Potentially, this could have a negative impact on organisations (such as Health Boards) recruitment of medical and nursing staff and to professions allied to medicine, where there are long-standing problems with recruiting UK citizens and it has been necessary to recruit from overseas. This would impact adversely on service provision, also potentially contributing to health inequalities. eg. children's services, A&E, Mental Health (and other services) may be particularly affected. Such restrictions may also have a negative impact on the family life of some children born in the UK to non-EU parents, although the children

would retain their rights under Article 8 of the European Convention of Human Rights.

Restrictions to freedom of movement may also impact on UK citizens wishing to work elsewhere. In the case of organisations like Health Boards, this may inhibit career development of professional staff who may seek to gain innovative and pioneering experience elsewhere and bring their skills back to the UK. Again, this could potentially impact on quality of service delivery.

### **3. Public perceptions about human rights in Wales, in particular how understandable and relevant they are to Welsh people**

**3.1** Many of the findings of the Equality and Human Rights Commission Report on the UK “Public Perceptions of Human Rights” (2009) may broadly still appear to hold for many areas in Wales today:

- The values people hold most dear are being treated with dignity and respect, having freedom of expression and being treated fairly.
- There is a close alignment between the values that people think are important for society and those which people identify as being fundamental human rights.
- A proportion (two-thirds in the study) of people feel that human rights are meaningful to them in everyday life.
- There is support for a law to protect human rights in Britain.
- People endorse human rights as a means of governing the way that public services treat people and for creating a fairer society.

However, amongst populations, there is a lack of detailed understanding of human rights and the legislation which surrounds these.

**3.2 HDUHB comment** - Some people believe that human rights protect “minorities” only and do not realise that they offer protection to every citizen.

**3.2.1** Some people believe that human rights are not relevant in Wales and only see them applying in countries where there are significant human rights abuses.

- 3.2.2** There is sometimes a perception that some people are more “deserving” of human rights than others – eg. why should “criminals” have human rights?
- 3.2.3** Disabled people can sometimes be inappropriately labelled “scroungers”
- 3.2.4** Negative views about “women in the workplace” can persist
- 3.2.5** Opinions between different groups and individuals may vary according to personal experience/media influence etc.
- 3.2.6** Human Rights are relevant to Welsh people as they are to all people in the UK, though, as in every area of the country, some people in Wales are at higher risk of having their human rights compromised than others.