

# REPORT BY THE EQUALITY OF OPPORTUNITY COMMITTEE

## Equality Bill

The Committee considered the Bill at its 30 June 2005 meeting. The Bill was remitted to the Committee on 21 June, following a change to Standing Orders on 22 February to allow primary legislation included in the Queen's Speech to be remitted to the Equality of Opportunity Committee.

The Bill implements measures outlined in the White Paper 'Fairness for All: A New Commission for Equality and Human Rights'. It provides for the establishment of the Commission for Equality and Human Rights (CEHR), a single integrated body to underpin legislation on race, gender, disability, religion or belief, sexual orientation, the proposed legislation on age and human rights. An Equality Bill was introduced in the last session of Parliament but ran out of time. The current Equality Bill was re-introduced to the House of Lords on 18 May 2005 and had its second reading on 15 June 2005.

The Committee has been exercised about the proposals for a new Commission for Equality and Human Rights for some time. It responded to the White Paper 'Fairness for All: A New Commission for Equality and Human Rights' in August 2004 and issued a further statement to the CEHR Steering Group in December 2004, following the UK Government's response to consultation. Whilst some of the Committee's concerns about the role of the CEHR in Wales have been addressed in the Bill, a number of outstanding issues are still to be resolved to ensure that the new arrangements will adequately meet the needs of people in Wales. The Committee welcomes the undertaking by the Minister with responsibility for equality of opportunity, Jane Hutt AM, to take forward these issues in representations to the UK Government. This report will also be sent to the Parliamentary Under-Secretary of State for Wales and Welsh representatives in the UK Parliament::

- **Finance** - the Committee remains concerned that the funds allocated to the Commission may not be adequate for it to take on the work of the existing commissions as well as that associated with bringing in the newer equality strands - an adequate budget will be vital to prevent opening up competition for funding between the different strands.
- **Need for a consistent definition of a public body across all equality legislation** - The Committee would wish to see the Bill containing a consistent definition of a 'public body' applied in legislation across all the equality strands.
- **Section 73 of the Sex Discrimination Act 1975** - this section currently allows the Equal Opportunities Commission to tackle persistent discrimination, where cases are brought against a particular body or company

time and time again. This option should be maintained in the Equality Bill, to prevent a situation where richer private sector organisations could simply settle legal cases and then continue to discriminate.

- **Appointment of a Wales Commissioner** - The Committee notes the move from 'consultation with' to 'consent of' the National Assembly for Wales in appointing a Wales Commissioner, following representations from the Committee and at inter-Ministerial level. However the wording is still open to interpretation and the Committee feels strongly that the Commissioner should be nominated by the Assembly, particularly in light of the Assembly's statutory equality duty set out in Sections 48 and 120 of the Government of Wales Act. The Committee welcomes the Minister's continued engagement with her counterpart in the Scottish Parliament and with the UK Government to define how the process of appointment would be managed.
- **Transitional Arrangements - Appointment of a Wales Commissioner at transitional stage** - The Committee wishes to see the appointment of a Wales Commissioner at the earliest stage to be involved in the transitional arrangements for the new Commission.
- **Goods, facilities and services - protection from discrimination and harassment on grounds of sexual orientation** - The Bill provides for protection from discrimination and harassment in the provision of goods, facilities and services on grounds of religion or belief. The Committee wishes to see the Bill extend that protection to include lesbian, gay and bisexual people. Research in Wales<sup>1</sup> and Scotland has demonstrated that the service needs of LGB people are not being met. Extending this protection to other strands would also help to further level up the legislative playing field between the equality strands in advance of the outcome of the DTI/Cabinet Office Equalities Review.
- **Consistency with the social model of disability** - the Bill should in all parts be consistent with the social model of disability, which the National Assembly for Wales and many other public bodies have adopted. In particular, whilst the Committee understands the need for the Bill to contain some specific measures with regard to disability, it is not helpful that **the duty to promote good community relations** in Clause 11 does not include disability. Disability should be included in this clause and not marginalised by being kept separate from the other equality strands.
- **Multiple identity discrimination** - The new Commission is intended to promote cross-strand working but this is not embedded in the Bill. For example, **Multiple-identity discrimination** should also be included in the section on good community relations.
- **Consistency with proposals set out in the White Paper 'Better Governance for Wales'** - it is important that nothing in the legislative framework of the new Commission will prevent it from operating effectively in the context of the legislative proposals set out in 'Better Governance for Wales'.

<sup>1</sup> 'Count Us In' report, Stonewall Cymru, 2004

- **Advice giving and the 'advice desert' in Wales** - The advice-giving role of the new Commission is crucial. The 2002 'Snakes and Ladders' report<sup>2</sup> by the statutory equality commissions identified the 'advice desert' existing in Wales, and this situation must be addressed in the transitional phase before the new Commission comes into force. The Committee supports the inclusion of a duty on the new Commission for capacity-building in advice and advocacy services and a duty to consider all cases brought to it, even if not all those cases are ultimately taken on.
- **Wales advice helpline** - The Commission will need to have a good understanding of casework and the issues for people in Wales and the DRC helpline currently plays an important role in advising disabled people and identifying specific disability discrimination issues. It is worth considering whether a special Wales helpline should be established to pass people in Wales onto sources of appropriate Welsh advice and support.
- **Voluntary sector compact** - The Committee welcomes the intention to develop Memoranda of Understanding with relevant Welsh bodies such as the Children's Commissioner, planned Older Person's Commissioner and Welsh Language Board. However there is very little detail in the Bill about how the new Commission will work with the Voluntary Sector in Wales. In light of the Assembly's current partnership arrangements with the voluntary sector, as set out in its statutory Voluntary Sector Scheme, and the issues related to advice-giving, the relationship with the voluntary sector should be formalised in legislation. The capacity and resources must also be found to support such a partnership when the new Commission is in place.
- **Grant-giving powers for the Wales Committee** - The Wales Committee will be best placed to set specific equality priorities that recognise the unique situation in Wales and to take forward the necessary work to meet those priorities. The Committee therefore wishes to see the Wales Committee given devolved powers to give grants to the voluntary sector.
- **CEHR presence in Wales** - The Disability Rights Commission (DRC) has offices in both North and South Wales and it will be crucial for the CEHR to have an adequate presence in Wales, with more than one office.

**Gwenda Thomas AM**  
**Chair, Equality of Opportunity Committee**

<sup>2</sup> 'Snakes and Ladders: Advice and Support in Employment Discrimination Cases in Wales', 2002, available from the websites of DRC, CRE, EOC.