

Equality of Opportunity Committee

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Venue:Committee Room 2, National Assembly Building, Cardiff Bay

Title:The Government of Wales Bill – equality implications

Purpose

1. This paper highlights equality aspects of the Government of Wales Bill to be considered by the Committee under item 5 of today's agenda. The paper has been produced in consultation with Members' Research Service and the Committee's legal adviser.

Recommendation

2. Members are invited to consider the equality implications of the Government of Wales Bill that was published on 8 December 2005, and to agree any further action they wish to take following that discussion.

Background

3. The Government of Wales Bill was introduced to the House of Commons on 8 December 2005 and gives effect to the proposals in the White Paper 'Better Governance for Wales. It received its second reading in the House of Commons on 9 January 2006.

The Better Governance for Wales Committee

4. The Chair of the Equality of Opportunity Committee gave evidence to the Assembly's Better Governance for Wales Committee on 7 July 2005. The Chair stressed the importance of retaining the statutory equality duty in new legislation.

5. Paragraphs 32-34 of the Better Governance for Wales Committee's report relate to statutory duties of the Assembly, including the duty on equality (Sections 48 and 120 of the Government of Wales Act). In paragraph 34 the Committee recommended that separate equality of opportunity duties be placed upon the Government and the Assembly Commission as is appropriate to their different roles, and that both be required to lay a report annually before the Assembly.

6. Following the report's publication the Chair of the Equality of Opportunity Committee wrote to the Better Governance Committee Chair on 13 September to reiterate her concerns about any watering down of an equality duty that would apply to all parts of the Assembly including the legislature, and the three statutory equality commissions in Wales also made submissions in support of the Assembly's equality arrangements.

7. In a letter to the Business Minister on 10 November 2005 regarding the duties on equality of opportunity, the Secretary of State for Wales stated that, "Nobody should be under the illusion that the bill arising out of the proposals in the White Paper will diminish in any way the statutory equality duties created by the Government of Wales Act 1998."

The Government of Wales Bill – clauses relating to equality

Clause 35 - Equality of Treatment

8. Clause 35 (Part 1 – National Assembly for Wales) of the Government of Wales Bill states that:

(1) The Assembly must, in the conduct of Assembly proceedings, give effect, so far as is both appropriate in the circumstances and reasonably practicable, to the principle that the English and Welsh languages should be treated on a basis of equality.

(2) The Assembly must make appropriate arrangements with a view to securing that Assembly proceedings are conducted with due regard to the principle that there should be equality of opportunity for all people.

9. The wording of sub-section (2) above is identical to Sections 48 and 120(1) of the Government of Wales Act 1998 (GoWA) except for the use of 'must' rather than 'shall'.

Equality of Opportunity

10. Clause 77 (Part 2 – Welsh Assembly Government) of the Bill states that:

(1) The Welsh Ministers must make appropriate arrangements with a view to

securing that their functions are exercised with due regard to the principle that there should be equality of opportunity for all people.

(2) After each financial year the Welsh Ministers must publish a report

containing—

(a) a statement of the arrangements made in pursuance of subsection (1) which had effect during that financial year, and

(b) an assessment of how effective those arrangements were in promoting equality of opportunity,

and must lay a copy of the report before the Assembly.

11. This clause replaces Section 120(2) of the GoWA as it applies to the Welsh Assembly Government. It places a duty on the Welsh Assembly Government to assess its equality arrangements and lay an equality annual report.

12. Currently the assessment of equality arrangements falls on 'the Assembly' and in effect the Equality of Opportunity Committee's consideration of the Welsh Assembly Government's report, and the Committee's subsequent report to plenary forms part of this assessment process. There is no requirement in the Bill for the Welsh Assembly Government's report to be debated in Plenary session.

Schedule 2 – Assembly Commission

13. Paragraph 8 of Schedule 2 states that:

Principles in accordance with which functions are to be exercised

8 (1) The Assembly Commission must make appropriate arrangements with a view to securing that its functions are exercised with due regard to the

principle that there should be equality of opportunity for all people.

(2) In the exercise of the functions of the Assembly Commission due regard must be had to the principle of promoting sustainable development.

(3) In the exercise of the functions of the Assembly Commission effect must be given, so far as is both appropriate in the circumstances and reasonably practicable, to the principle that the English and Welsh languages should be treated on a basis of equality.

14. Paragraph 8(1) in the Schedule place a duty on the body corporate "the Assembly Commission" to give regard to equality. Paragraph 9 places a duty on the Commission to lay a report on the exercise of its functions after each financial year (Schedule 2, paragraph 9). The explanatory notes to the Bill note that the Assembly can flesh out the detail of this duty through Assembly directions under clause 27(5), for example to direct what the report is to cover and/or for its publication and laying to tie in with the Assembly's audit timetable.

Transitional Provisions – Schedule 11

15. Schedule 11 contains detailed provisions dealing with arrangements necessary to ensure an effective transition between the old Assembly and the new National Assembly constituted by the Government of Wales Bill. Paragraph 43 provides for equality of opportunity arrangements made by the old Assembly under section 120(1) of GoWA to continue to have effect as if made under the Government of Wales Bill.

The Welsh Language

16. Chapter 35 of the Better Governance for Wales Committee' report relates to equality of the English and Welsh languages, beginning by stating that "we would be content to see the existing section 47(1) re-enacted" but that section 47(2) was less relevant to a Legislature."

17. The Committee will note that Section 47(1) of the Government of Wales Act 1998 is provided for in the Government of Wales Bill in clauses 35(1) as it applies to the National Assembly for Wales and its proceedings, and paragraph 8(3) of Schedule 2 as it applies to the functions of the Assembly Commission.

Future Committee Structure

18. Clauses 28-30 of the Government of Wales Bill are about Assembly Committees. The Bill's explanatory notes state that "Generally speaking it will be for the Assembly in future to decide what committees it wishes to establish via its standing orders, but there is a requirement for an Audit Committee."

Other equality-related issues

Working Hours – Work-life balance

19. Paragraphs 141-142 of the Better Governance for Wales report relate to working hours in the new Assembly arrangements. It notes the effect on current sitting patterns of the time needed for proper legislative scrutiny, in plenary and committee, by an Assembly with new powers. Clause 29 of the Bill deals with composition of Committees, and workload implications for Members are being considered by the Panel of Chairs as part of the exercise in identifying options for Committee structures in 2007. Workload implications for officials will follow from this.

Action

20. To consider the equality implications of the Government of Wales Bill.

Members' Research and Committee Services

