



David Melding AM

Chair, Constitutional and Legislative Affairs Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

03 February 2015

Dear David,

Equality and Human Rights - Welsh Devolution Settlement

I write to you in your capacity as Chair of the Constitutional and Legislative Affairs Committee, as the date for determining the new devolution settlement for Wales approaches, I thought it would helpful to remind you of the EHRC's recommendations to the Commission on Devolution in Wales, which are set out at the end of this letter.

Paragraph 4.6, of our submission, sets out the risk of unintended consequences in a new devolution settlement:

"There are concerns that introducing the reserved model could inadvertently harm the equality and human rights agenda in Wales. It is important that care is taken to safeguard against this and that competence in this area is increased in the drafting of the new competence of the National Assembly." ¹

Although equal opportunities is reserved in the Scotland Act 1998 the position in Wales is different. As Elisabeth Jones, Director of Legal Services, National Assembly for Wales, said in August 2014:

"The Scottish settlement is generally considered to be wider than the Welsh one. However, even before 9th July (Supreme Court Judgement on Agricultural Wages Board), the Welsh settlement was in fact wider in some limited respects. For instance, the Assembly has some competence in relation to equality law, whereas the Scottish Parliament has none."

¹ Government of Wales Act 2006, Schedule 7, Part 1, Section 14 Public Administration, equal opportunities public authorities

As you will know, this has enabled the Welsh Government to build equality into regulatory regimes for health and social care, while this has not been an option in Scotland. The National Assembly's competence in relation to equality law has considerable value.

In the event of a move to a reserved model, care should be taken to maintain the ability of the National Assembly for Wales and Welsh Government to promote equality and human rights, challenge discrimination and hold public authorities to account.

Please do let me know if you would like any further information.

Yours sincerely,

A handwritten signature in black ink that reads "Kate Bennett". The signature is written in a cursive, flowing style.

Kate Bennett
EHRC National Director for Wales

EHRC recommendations to the Commission on Devolution in Wales

1. The National Assembly should be given powers to build on equality and human rights legislation including the Equality Act 2010 and the Human Rights Act 1998.
2. The National Assembly should be given full primary legislative competence in relation to the Public Sector Equality Duty.
3. The National Assembly should be given competence to strengthen its relationship with the EHRC.