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Llywodraeth Cymru
Welsh Government

26 October 2022

To: The Auditor General for Wales

**Making Equality Impact Assessments more than just a tick box exercise?
Welsh Government response**

Dear Adrian,

Thank you for your report on Equality Impact Assessments and apologies that this response is arriving with you a day or so late. I am writing on behalf of the Welsh Government to welcome this important report and to set out our initial responses to your recommendations. I fully agree with you that "Equality Impact Assessment (EIA) is an important part of the approach to tackling discrimination and promoting equality in Wales" (p.7).

I am pleased to acknowledge that your team engaged closely with our officials in the preparation of this report, both in the early stages as well as prior to publication. I recognise that this was part of much wider engagement with public bodies in Wales as well as other stakeholders. Your report makes clear that an effective response to your findings will require collaboration between many partners and that, while the Welsh Government has a leading role to play, we cannot achieve the changes and improvements you are seeking alone.

I have set out our initial response to each of your four recommendations, focussing mainly on the first three which are addressed primarily to the Welsh Government, while including the fourth since, although that is mainly for public bodies, the Welsh Government will have a role there too. There will be ongoing dialogue and engagement as we progress follow up action in response to the recommendations.



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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Clarifying the scope of the duty to impact assess policies and practices

R1 There is scope for confusion about which type of policies and practices must be subject to an assessment for their impact on the public sector equality duty. The Welsh Government should clarify its interpretation of the duty, including whether and how it expects public bodies to apply any test of proportionality and relevance.

Response: Accept

I consider that, in general, the report sets out fairly the situation regarding current practice in relation to EIAs in Wales at present. I am glad you have recognised there is much good practice and many cases where effective use of EIAs has helped to improve policy making and delivery of services. There is also good guidance available, from the Equality and Human Rights Commission (EHRC) and others, to help those responsible to undertake EIAs well, so that they do contribute to reducing inequality in Wales.

Nevertheless, there is clearly substantial room for improvement, and I am broadly in agreement with your analysis of the key issues, as summarised on p.10 of the report. In particular, I recognise the need, both within Welsh Government and more widely, to move away from the “tick-box” mentality you describe in favour of making EIAs integral to policy making processes from the outset, including strong engagement with stakeholders and people with lived experience of inequality.

This is one of the factors which led us to begin the review of the Public Sector Equality Duties mentioned in your report. The review began before the pandemic but was suspended in 2020 as resources were diverted elsewhere. It has now recommenced and is progressing well, supported by a reference group which includes representation from the EHRC, Cardiff Business School, public bodies and third sector stakeholders. This review will be the main vehicle we will use to address the recommendations in your report; I will say more about this in relation to your third and fourth recommendations.

It is important, however, to recognise the challenges we face in our efforts to achieve the sort of changes in thinking and practice you recommend, particularly at present. You recognise that “conducting an EIA can be complicated” (p.18) but the report could perhaps have been clearer that, if an EIA is done well, grappling with such complexity is inevitable and demanding. Identifying potential impacts on people with a wide variety of protected characteristics, while also considering intersectionality and socio-economic factors is difficult, even in relation to a straightforward policy or programme, more so for larger or multi-faceted issues.

Meaningful engagement with stakeholders, though certainly desirable and perhaps essential, requires resources of time, money and personnel which may all be in short supply. Proportionality is therefore a key consideration, as your report indicates, to enable us to achieve the sustainable and widely applicable practice around EIAs which is needed.

I welcome that your report considered the additional layer of complexity created by Integrated Impact Assessments (IIAs), since it will not be sufficient to deliver excellent EIAs if that means neglecting consideration of other impacts. Our commitment to improving EIA

practice must therefore be set in this wider context, although it will be challenging to do so, as reflected in our response to your second recommendation

Building a picture of what good integrated impact assessment looks like

R2 Many public bodies carry out integrated impact assessments that include consideration of the PSED alongside other duties. But practice is inconsistent and often involved collating multiple assessments in one place, rather than being truly integrated, to help maximise the intended benefits of integrated impact assessments, the Welsh Government should work with key stakeholders with an interest in the areas commonly covered by integrated impact assessments and those with lived experiences, to share learning and work towards a shared understanding of what good looks like for an integrated impact assessment.

Response: Accept in Principle

Your report looks primarily at Equality Impact Assessment. In doing so, it identified that a number of public authorities have introduced some means of combining the various impact assessments they carry out and the report has provided observations and comments about the practice of “Integrated impact assessment”. We share a mutual desire to improve all forms of impact assessment, including “integrated impact assessment” and thank you for raising broader issues alongside your detailed consideration of Equality Impact Assessment.

“Integrated impact assessment” does not have a statutory basis of its own and our priority is for impact assessments to be undertaken effectively. In particular, ensuring public bodies gather the relevant evidence and consider the relevant issues to ensure effective and integrated policy making and service delivery, avoiding negative detrimental impact and maximising positive impact on people and the environment. How public bodies choose to organise and in some cases integrate the work required needs to be considered in context.

It is perhaps not surprising that public bodies take differing approaches and this may be beneficial if it means the public bodies are effectively assessing impact in a way which is tailored to the operation of their organisation. A ‘compendium’ approach may also have advantages, for example if it enables easier access and greater transparency. An approach where impact assessments are managed in some central manner, but remain distinct impact assessments within a compendium, with the relevant assessments being selected for use, may be easier to operate than trying to bring together disparate impact assessments (with different statutory requirements for when they need to be conducted) into a more integrated whole. The Welsh Government itself is currently using a compendium approach and planning how we improve on that approach over time, rather than attempting to create a one-size-fits-all approach.

I am keen to support further learning in relation to effective impact assessment to support integrated policy making and service design. This is an aspiration which allows scope for a variety of approaches, as best suits different public authorities.

There are opportunities to discuss developing and sharing best practice in effective impact assessment with the Well-being of Future Generations National Stakeholder Forum to see whether a consensus could be formed on the importance and best means of taking this forward (research, guidance and/or stakeholder exchange events would all be possibilities).

The Forum would also need to consider timescale and resourcing possibilities if there was appetite to take work forward in this area. In taking this approach, I am mindful of the current resourcing constraints on all public bodies.

Applying the equality duties to collaborative public bodies and partnerships

R3 The public sector landscape has changed since the introduction of the PSED and the Welsh specific duties, with an increasing focus on collaborative planning and delivery. The Welsh Government should review whether it needs to update the Wales specific regulations to cover a wider range of collaborative and partnership arrangements. These include public services boards, regional partnership boards and other service specific partnerships.

Response: Accept

The terms of reference for the review of the PSED recognise the changed context since the existing regulations were introduced in 2011. In particular, they identify the Covid pandemic, the commencement of the Socio-economic Duty in Wales in 2021 and the introduction of the Social Partnership and Public Procurement (Wales) Bill into the Senedd in June 2022 as key drivers for the review. The terms of reference state the review “will take this changed and challenging context into account.”

In preparation for the review, work has already been undertaken between the Welsh Government and the EHRC to clarify [which bodies are currently subject to the duties](#) and the process to agree any future changes. This was done, in part, in recognition that the new ways of work highlighted in your report may make such changes desirable.

The Welsh Corporate Joint Committees were made subject to the duties when they were established in 2022 and, without wishing to pre-empt the work of the review, I envisage there may well be further additions in line with your recommendation. The reference group will take your report into account throughout its work and consider whether any revision of the terms of reference would be appropriate, with due regard to this recommendation in particular. They will also take account of the progress of the SPPP Bill when formulating their own recommendations and proposals for change.

Reviewing public bodies’ current approach for conducting EIAs

R4 While there are examples of good practice related to distinct stages of the EIA process, all public bodies have lessons to learn about their overall approach. Public bodies should review their overall approach to EIAs considering the findings of this report and the detailed guidance available from the EHRC and the Practice Hub. We recognise that developments in response to our other recommendations and the Welsh Government’s review of the PSED Wales specific regulations may have implications for current guidance in due course.

Response: not for Welsh Government

Although this recommendation is directed at public bodies rather than the Welsh Government, I am happy to confirm, in line with my responses above, that we are keen to work collaboratively with public bodies on these issues. In doing so, we will of course respect the autonomy of each body and recognise that each is responsible for fulfilling their statutory duties in the manner they see fit. Similarly, we remain mindful that the EHRC is

the regulatory body which is responsible for monitoring and enforcing the compliance of each Welsh Relevant Authority with duties under the Equality Act.

On this basis the PSED review will be undertaken in the spirit of co-production, with engagement with stakeholders throughout, overseen by the cross-sectoral reference group which has already been established. I anticipate that this will lead to formal consultation during 2023, prior to any new regulations being introduced.

Although the review will need to consider a wide range of issues, I am clear that strengthening Equality Impact Assessments will be a central element of this work and your report is therefore both timely and welcome.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Iolme Rees', written in a cursive style.

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