

Background

Stonewall Cymru is Wales's leading lesbian, gay, bi and trans (LGBT) equality charity. We were founded in 2003, and we work with businesses, public bodies, schools, the Welsh Government, the National Assembly for Wales and a wide range of partners in communities across Wales to work towards our vision of a world where lesbian, gay, bi and trans people are accepted without exception.

Overview

1. Stonewall Cymru welcomes the opportunity to respond to this consultation by the External Affairs and Additional Legislation Committee and looks forward to providing further evidence to the Committee following their intention to specifically consider the impact of Brexit on equalities.
2. We believe that the current framework for equalities and human rights has been central to the progression of LGBT equality across the UK. Many are fortunate enough to have never had to worry about their rights being denied or abused. But for LGBT people who have wanted to start a family, to be recognised as who they are, to serve in the military or to access services the human rights framework has offered valuable protection.

Equalities legislation after Brexit

3. While existing UK equalities legislation surpasses EU requirements, it has in several areas been influenced, improved and strengthened by EU law – whether through the EU's Charter of Fundamental Rights, anti-discrimination directives or the Court of Justice of the European Union (CJEU) case law.
4. As we note in *paragraph 3*, UK legislation, including the Equality Act 2010, often already exceeds the minimum standards set by the EU. However, in exiting the EU we lose the guarantee that EU law provides that protections and rights could never be reduced below that minimum floor in future. This presents a potential risk to the rights of LGBT people and others.
5. We agree with the view expressed in this committee's last report on the *Implications for Wales of leaving the European Union*, that '[t]here should be no weakening of equalities legislation and employment protections when we leave the European Union.'. We also welcome the commitment outlined in the joint paper by Welsh Government and Plaid Cymru, *Securing Wales' Future*, that '[o]ur guiding principle is that leaving the EU should in

no way reduce our focus on promoting equalities and challenging discrimination wherever it exists'.

6. We were disappointed to see the decision of the UK Government to single out the Charter of Fundamental Rights as the only piece of legislation not to be incorporated into UK law as part of the EU Withdrawal Bill. Furthermore, the Bill contains proposed changes to the enforceability of General Principles contained in EU law.
7. This means that as the Bill stands, people will lose a number of valuable legal rights, including rights which empower them to challenge discrimination, when the UK leaves the EU.
8. Some of these protections have been critical in LGBT people's struggles for equality. As an example, just this summer, the UK Supreme Court ruled in favour of John Walker in his claim that an exemption in the Equality Act which permitted pensions companies to pay same-sex partners less in spousal benefits than opposite-sex partners was discriminatory. It based its decision on rights contained within EU law which are not currently protected by the EU Withdrawal Bill, as referred to in *paragraph 6*, meaning that under the current Bill this progress could be undone after Brexit, and a similar challenge would not be able to be brought.
9. We support Liberty and Amnesty International's campaign to add a 'People's Clause' to the EU Withdrawal Bill. This clause would include a guarantee that ministers will not use their powers to weaken our legal rights, would give the UK parliament the ability to scrutinise how ministers change laws and would properly incorporate the Charter of Fundamental Rights and the other legal protections we have through EU law.
10. Welsh Government and the National Assembly for Wales should make representations to the UK Government opposing any weakening of human rights or equalities protections as part of Brexit, including with reference to the EU Withdrawal Bill.