

Chairperson, David J Rowlands AM
Petitions Committee
National Assembly for Wales
CF99 1NA.

SeneddPetitions@Assembly.Wales

December 18, 2018

Dear David J Rowlands AM,

Petition P-05-806: We call for all premises in Wales to be awarded an Access Certificate Number similar to the Food Hygiene Certificate

Many thanks for your letter dated November 2.

We warmly welcome the Committee's consideration of the petition calling for all premises in Wales to be awarded an Access Certificate Number similar to the Food Hygiene Certificate. We consider this an interesting proposal and we would welcome further exploration being carried out into how this would operate in practice, with a voluntary scheme being one potential option.

Having fully accessible buildings is a central tenet of disabled people's right to Independent Living. The Welsh Government's current consultation on its revised Framework for Action on Independent Livingⁱ is a key opportunity for progress to be made towards this aim. The Commission will be highlighting this matter during the consultation process and the Committee may wish to consider making representation to the Welsh Government too. It will be necessary for the Welsh Government to consider its legislative competence in relation to equality and the built environment, with the Equality Act 2010 being UK legislation.

Bydd y Comisiwn yn croesawu gohebiaeth yn y Gymraeg a'r Saesneg.

The Commission welcomes correspondence in Welsh or English.

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Thank you for raising with us concerns expressed during your evidence sessions that the Equality Act 2010 provisions in relation to access to buildings and, more broadly, access to services, are not being adhered to.

As you may be aware, the UK Parliament's Women's and Equality Committee is currently undertaking an Inquiry into 'Enforcing the Equality Act: the law and the role of the EHRC'ⁱⁱ. This inquiry is looking at similar points that you have highlighted and, in response, the Commission has raised concerns about how difficult it is for individuals to understand their rights under the Equality Act 2010 and to access tribunals and courts to seek redress. Below we outline our key concerns that we have shared with the Women's and Equality Committee.

Compliance with the Equality Act 2010

Enforcement of equality rights in Great Britain is principally based on legal action brought by individuals. The Commission has called on the UK Government to take urgent action to address the serious and ongoing failings in access to justice.

As long as enforcement of equality rights is based on civil litigation, the accessibility of the justice system is undermined by:

- Lack of awareness of equality rights, compounded by limits on access to early legal advice introduced by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO);
- The complexity and expense of litigation and inadequate remedies, which can be prohibitive for individuals enforcing their EA 2010 rights, or create strong disincentives to bringing a claim;
- Cuts to legal aid, particularly in England and Wales, including barriers posed by the operation of the mandatory telephone gateway;
- Failure to make reasonable adjustments in the court system;
- Lack of data and information sharing, including about the protected characteristics of court users, which results in an unclear picture of court users and how many EA 2010 claims are brought in the county and sheriff courts.

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You may wish to refer to our full submissionⁱⁱⁱ for further detail and our recommendations to overcome these concerns.

The Commission's role

The Commission was established by Parliament with a broad remit and the expectation that it would act as a strategic enforcer of equality law. It is important to understand that the Commission was not established, and has never been resourced, to support large numbers of individual discrimination cases or high-volume enforcement activity.

As a strategic enforcer, the Commission focuses on how it can achieve improvements to law, policy and practice by using all the powers at its disposal in a coordinated way. Our compliance and enforcement activity consists of a spectrum of activities aimed at ensuring compliance with the law, from providing information and advice to individuals and organisations on equality law to undertaking litigation and enforcement action using formal enforcement powers.

In order to maximise our effectiveness as a strategic enforcer, the Commission has called for improvements to our powers to gather intelligence to inform our enforcement. In particular, we seek the return of the telephone helpline offering advice to the public on discrimination and human rights (which we previously held before the UK Government passed its operation to the Equality Advisory Support Service). The helpline is a vital tool to support the Commission to connect with people in Great Britain at a grassroots level, understand their experience of discrimination and take action where appropriate. Using the intelligence and data provided by the service, we would be able to take targeted action to support more people to resolve complaints, as well as to challenge systemic discrimination.

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The Commission's Strategic Plan 2019 - 2022

The Commission's Draft Strategic Plan for 2019 – 2022^{iv} includes a priority aim for public transport and the built environment to be accessible to disabled and older people so as to support their economic and social inclusion.

We would welcome any views the Committee may have to inform the development of our Strategic Plan 2019 - 2022, as well as on enforcement of the Equality Act 2010, towards the aim of further protecting and promoting the rights of disabled people in Wales.

If you require any further information to inform your consideration of the petition, please let us know.

Yours sincerely,



Ruth Coombs

Head of Wales

Equality and Human Rights Commission

ⁱ Action on Disability consultation: <https://beta.gov.wales/action-disability-right-independent-living>

ⁱⁱ Enforcing the Equality Act: the law and the role of the EHRC:
<https://www.parliament.uk/business/committees/committees-a-z/commons-select/women-and-equalities-committee/news-parliament-2017/enforcing-the-equality-act-launch-17-19/>

ⁱⁱⁱ Available under October 2018: <https://www.equalityhumanrights.com/en/legal-responses/consultation-responses>

^{iv} Equality and Human Rights Commission Draft Strategic Plan 2019 -2022 consultation:
<https://www.equalityhumanrights.com/en/publication-download/draft-strategic-plan-2019-2022>. Survey available:
<https://www.equalityhumanrights.com/en/our-work-have-your-say>

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