

Cross Party Group on Human Rights

Minutes 29 June 2011

Conference Room 24 Tŷ Hywel

Chair: Bethan Jenkins AM

In attendance: Alun Thomas, Older People's Commissioner's Office

Angela Harries

Barbara Natasegara,

Safer Wales

Cathy Owens

Amnesty International

David Rees AM

Dr Simon Hoffman

Swansea University School of Law

Edward Stubbs

Emma Ward

EHRC

Gwion Evans

Children's Commissioner's Office

Julie James AM

Kate Bennett

EHRC

Lisa Jones

Amnesty International

Lynne Evans

Monica Dennis

A Dignified Revolution

Wayne Crocker

Mencap

Martyn Jones

Age Cymru

Colin Nosworthy

Cymdeithas yr Iaith

Rebecca Evans AM

William Powell AM

Cecilia Love

AMSS

Carol Owen

Mark Williams

Safer Wales

Mervyn Cartwright

Love and Care for Moldova

Apolgies: Simon Thomas AM

Darren Millar AM

Lindsay Whittle AM

Ken Skates AM

Vaughan Gething AM

Aled Edwards Cytun

Mike Lewis & Daisy Cole, Welsh Refugee Council

1 Matters Arising

Bethan Jenkins opened the meeting by welcoming new faces and giving a brief history of the CPGHR , explaining how it has evolved and highlighting the issues previously discussed

UKBA

Bethan discussed the previous work that the CPG had undertaken following the Louise Perret whistle-blowing issue. An internal report had been undertaken by the UKBA and she had met with representatives of the organisation. Cathy said the group had been successful in raising awareness of the issues that Louise had highlighted, though it would be good to hear from the Asylum Seeker community whether improvements had been seen in the way in which people were treated.

Action point: Chair to invite a representative from UKBA and the Asylum Seeker community to present to a future meeting.

Human Rights Education

We have received a letter from Leighton Andrews as Education Minister. Human rights are explicit in the PSE guidelines, but not compulsory, so the CPG had written to ask how many schools taught human rights, and how. He notes that all the work in his department is based on the UN Convention on Rights of the Child, but that the PSE framework is non-statutory.

He notes that the PSE framework and the Welsh Bac are designed to be flexible, and “relevant and sensitive to learner’ requirements”, and that is why the delivery of the curriculum is delegated to schools, and consequently, it is the responsibility of school governing bodies to ensure that the statutory curriculum requirements are being delivered.

Estyn monitors schools every six years and inspect provision, making judgments about the quality and balance of PSE provision.

Action point: invite a representative from Estyn to speak about the results of monitoring school’s performance in delivery of Human Rights within the curriculum.

Sex Workers

We received a letter from **Edwina Hart** when she was Health Minister regarding protection of sex workers. She noted that though everyone in Wales had free access to healthcare, she recognised that some vulnerable groups required special consideration because they were at higher risk. She noted that the soon to be published the Sexual Health and Wellbeing Action Plan must take account of the specific needs of sex workers.

Mervyn Cartwright asked if trafficking had been considered in the review. He was disappointed that not it didn’t appear to be included. Mervyn also made reference to Tracy Sagar’s presentation omitting this element. Cathy said that The Welsh Assembly government strategy included looking at both trafficking and violence against sex workers. Mervyn Cartwright noted that the Palermo Protocol had a much broader definition of trafficking which should be adopted.

2 Kate Bennett: EHRC

Kate commenced her talk by giving a short history of the origins of the EHRC as an independent, statutory human rights organisation since 2009. EHRC produces a report every 3 years on the state of Human Rights in Britain. *How fair is Wales?* is an introductory booklet to a fuller 900 page document which looks in detail at Equality. The report covered issues such as varying attitudes in society; increasing employment; closing gaps between the achievements boys from different backgrounds; access to education; reducing health inequality etc.

Now the EHRC is working on a human rights equivalent of the above across the whole of Britain with a strong Welsh element. The review will focus on public authorities, how did they identify where the gaps are and what works well. There will be two events held in Wales to canvas opinion: 15th July in South Wales and the last week of July in North Wales.

She asked the group how they felt the review should be undertaken:

- by looking at evidence as per the UDHR and relevant legislation or
- by identifying which areas people have serious problems, ie start with the problem and see what human rights have been breached.

Kate went on to say how people still don't understand what human rights are and think that they are only breached in foreign countries, or are to do with footballers' privacy, or not being able to smoke in public places. We need to identify the real issues in Wales.

Kate referred to the **Not Another Statistic** report which looked at outcomes for groups such as gypsy travellers, transgender people, refugees and asylum seekers - groups who've experienced breaches of their human rights. They have now set up a group from various organisations such as Job Centre Plus to find out what life is like.

They had contributed to the disability harassment inquiry – exploring issues as to why this is happening by interviewing lots of people. Due out in September, it is designed to hold public bodies to account, and provides a good starting point at looking at where individuals have had their human rights abused.

Kate invited opinions from the audience on best way forward.

One attendee said that human rights were not being taught in schools and if children not educated in this, then they won't be able to challenge. Kate added to this the very serious question over future of the HRA and it being replaced by Bill of Rights. The hope would be that there will be no reduction of rights as they stand but she didn't feel this was the way the current UK government is thinking.

Another attendee said that even the Human Rights Act is problematic as not all areas are covered, and international conventions would have to be considered. Kate said the EHRC Board were keen on this approach ie drawing in different conventions.

There is a need to identify specific groups of people who don't have access to eg decent housing – this is a human rights as well as an equality issue.

Alun Thomas from the Older People's Commissioner's office said that there the problem in Wales was that many issues occurred outside public bodies eg 75-80% care for older people is carried out in the private sector, and their recent review raised issues of poor quality care.

Case law shows that breaches of human rights are only raised when something has already been done to an individual rather than preventing something being done. Alun cited the case of an elderly couple who had been together for some years in a care home, who were due to be separated. The husband had full mental capacity, his wife didn't. This did not amount to a breach of their rights under the HRA, as long as provision was put in place for them to visit each other. This resulted in significant distress for the husband.

Cathy said that the Welsh Government has provided excellent guidance on human rights but there is an enormous gap between that and implementation. How do we achieve this on the ground? Access to justice is also a tricky issue here in Wales.

Colin from Cymdeithas yr Iaith said that the UDHR articles are a good reminder of how people can be made aware that breaches have been made, and he quoted the recent high profile case of people being banned from speaking their own language in the workplace.

Gwion Evans from Children's Commissioner's Office pointed out that awareness of what human rights are and the implementation of the same are a clear issue for Keith Towler who wants a clear voice for all young people. Keith will be undertaking a review of youth advocacy and will be holding the Welsh Government to account in implementation. This report will be published in February 2012.

Julie Morgan AM said that although there is good guidance in the HRA, it's very difficult on the ground to recognise and bridge the gap. Julie asked Kate, starting with everyday experiences of people on the ground, where would you start?

Kate responded that it's hard to know where to start. They have gone through huge amount of data from various agencies and condensed it down to acutest problems eg areas where large numbers of people are affected; or where disadvantages are greatest. Kate referred to the refer to EHRC's 7 challenges and Trevor Phillips use of opening *gateways*. If you fail to get through these gateways, you are cut off from you potential eg access to good education or physical access to a building.

Important to use language of HRA. Kate referred to EHRC's DVD: *Dignity Drive* which tells the story of each house on the drive illustrating a breach of an article .

Kate mentioned the dilemma of using the language and mentioned the Older People's Commissioner's report which used words such as lack of respect, lack of dignity etc. and didn't talk about violation of human rights. Kate said she would be interested to see language used in Children's Commissioner's report on advocacy.

3 Discussion on Future Work

There were a number of ideas about a future work programme.

- The Welsh Refugee Council has suggested having a speaker from the Scottish Guardianship Project for **unaccompanied asylum seeking children**. Out of the 1st 10 children supported through this independent advocacy initiative over half were identified as trafficking victims - what can we do for children in Wales?
- **Legal aid**: the UK Government proposals are damning to all groups, those subject to immigration rules including children, trafficking victims in the asylum process will be limited in use of human rights law, without legal aid, if the proposed bill goes through. While the policy and legislation around this remains a non-devolved issue, the lack of legal aid immigration solicitors in Wales has previously concerned AMs particularly where there is a strong welfare cross-over.
- **Cymdeithas yr Iaith**: consider what can be done to tackle workplace discrimination against speaking Welsh. Issue around which statutory body is responsible for promotion and legal protection. Colin has contacted the Welsh Language Board and Human Rights Commission and neither has been equipped to advise. EHRC is the only organisation that can give limited advice but even this may be taken away.
- **Hate Crime**: there new Communities, Equality and Local Government Committee may be considering looking at this matter shortly, and there is a petition opening next week until 3 December 2011.
- Bill Powell AM suggested that one possible area is that some members of Welsh judiciary want to devolve function of **Court of Appeal** to Wales. Could we invite Mr Justice Roderick Evans to speak to the group on this?
- Monica Dennis raised concern about **whistle-blowing in the workplace**, staff not being able to speak without fear. Action: how can we make something work for people to make them feel comfortable in speaking out?
- Cecilia praised Jane Hutt in her review of the **budget**. Jane is undertaking a vigorous assessment to ensure that there is equality across the board in each portfolio and policy formation. We could invite Jane and ask for an outline of what she'd done so far and what she plans to do,
- We need to actively promote *human rights in schools* as human rights are often presented negatively in the media. Cathy suggested that it would be interesting to hear the view of the new **Counsel General**, Theo Huckle, on issues to do with human rights and Welsh Government legislation.
- Human Rights should be raised by committees, particularly when **scrutinising legislation**. Need to be able to scrutinise new legislation to ensure that it human rights legislation. Committee chairs need to take this into account also.
- Dr Steven Hoffman from University of Swansea ended by pointing out how Wales really is the star of show when it comes to **children's rights**. The Children's Measure provides an excellent example of good practice.

Action Point: Cathy to plan potential work programme for agreement.