

Rt Hon Iain Duncan Smith MP
Secretary of State for Work and Pensions
Caxton House
Tothill Street
London SW1H 9NA

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16 September 2015

Dear Secretary of State

Welfare Reform and Work Bill 2015 - 16

I am writing to enquire whether there might be opportunities for the Commission to work more closely with your Department in relation to the further development of the equality impact assessments which accompany the Welfare Reform and Work Bill. Staff from the Commission met the Bill Team on 3rd September to offer our advice and support and we are keen to build on this dialogue going forward, recognising the constraints of the legislative timetable.

Section 149 of the Equality Act 2010 imposes a public sector equality duty (PSED) requiring Government Departments and Ministers of the Crown to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations. This is an ongoing duty which applies throughout the policy-making process, from the development of options and draft proposals through to legislation and implementation.

Assessments need to include sufficient detail and analysis to demonstrate that the draft proposals have been adequately considered for their potential impact on equality. We have considerable expertise in this area and are able to offer support which would assist the process of the Bill in two ways. Undertaking a thorough exercise will

help Parliamentarians to fully understand and debate the different provisions contained within the Bill and also to consider alternative options and appropriate mitigation where this is appropriate¹. In addition to this, the Bill has significant relevance to the UK's legal obligations under national and international human rights enactments. Understanding the potential impact on human rights through the production of a human rights memorandum will help to deepen your own Department's analysis of the impact of the proposals on people with different protected characteristics.

You may be aware, in particular, of our shadow reports on the UK's performance against the UN Convention on the Rights of the Child (UNCRC) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), which highlight concerns about disabled people and also in relation to the proposed changes in the measurement of child poverty and the impact of benefit caps on women and children.² We have in mind the need to address, in the impact assessments, the decision in *R (on the application of SG and others) v Secretary of State for Work and Pensions* [2015] UKSC 16 on the previous welfare cap, urging that any review should take into account 'the best interests of the child', as set out in UNCRC Article 3(1).

The Welfare Reform and Work Bill and the steps that have been taken to understand its equality and human rights implications will be important considerations for the UN Committee on the Rights of the Child and the Committee on Economic, Social and Cultural Rights. These committees will be meeting next month to consider their lists of issues on the UK's performance.

¹ <http://www.equalityhumanrights.com/publication/meeting-equality-duty-policy-and-decision-making-england-and-non-devolved-public-authorities>

² EHRC, Socio-Economic Rights in the UK, August 2015, available at:

[http://www.equalityhumanrights.com/sites/default/files/uploads/documents/humanrights/UN/ICESCR%20-%20FINAL%2014-08-15%20\(2\).pdf](http://www.equalityhumanrights.com/sites/default/files/uploads/documents/humanrights/UN/ICESCR%20-%20FINAL%2014-08-15%20(2).pdf)

EHRC, Children's rights in the UK, August 2015, available at:

[http://www.equalityhumanrights.com/sites/default/files/uploads/documents/humanrights/UN/ICESCR%20-%20FINAL%2014-08-15%20\(2\).pdf](http://www.equalityhumanrights.com/sites/default/files/uploads/documents/humanrights/UN/ICESCR%20-%20FINAL%2014-08-15%20(2).pdf) ³ <http://www.equalityhumanrights.com/about-us/our-work/key-projects/managing-pregnancy-and-maternity-workplace/report>

I set out below some suggestions, by way of example, for strengthening the impact assessment on the welfare cap. We would be pleased to send more comprehensive recommendations about all six impact assessments, if this would be of assistance:

- Drawing on equality information from other sources. For instance, the analysis of the impact of the welfare cap proposals in the Bill on pregnant women or those on maternity leave could draw on the research³ recently published by the Commission and the Department for Business, Innovation and Skills.
- The section on the problems that may arise for people who share different protected characteristics should identify any potential adverse impacts of the measures in the Bill. For instance, the section on disability simply points out that certain disability benefits will not be taken into account, but does not identify how the policy might affect families with disabled members or, for example, the relationship between the measures in the Bill and ongoing work to narrow the disability employment gap.
- Once the potential problems have been identified it should be possible to provide more detail about alternative policy options which might mitigate adverse impacts.
- In relation to the UK's international obligations, the assessments state they have taken into account the UN Convention of the Rights of the Child so the analysis should address the potential effect on children.

Please let me know what your thoughts are on ensuring that the impact assessments are sufficient to address these issues and support the proper scrutiny of the Bill. I look forward to hearing what steps your Department plans to take and the timetable for this, and whether or not we can be of assistance. In this regard, your Department may find helpful the report of our work with HM Treasury on Future Fair Financial Decision Making (2015)⁴. We have also published technical

³ <http://www.equalityhumanrights.com/about-us/our-work/key-projects/managing-pregnancy-and-maternity-workplace/report>

⁴ <http://www.equalityhumanrights.com/publication/future-fair-financial-decision-making>

PSED guidance⁵ and more general advice on considering equality within policy and decision making⁶.

The Commission will be monitoring the Bill as it progresses and may brief on certain provisions. We will, of course, ensure that the Bill Team has sight of any analysis we undertake.

Yours sincerely



Rebecca Hilsenrath
Interim Chief Executive

CC: Nicky Morgan, Secretary of State for Education and Minister for Women and Equalities

Alison Pritchard, Director, Government Equalities Office

⁵ <http://www.equalityhumanrights.com/publication/technical-guidance-public-sector-equality-duty-england>

⁶ <http://www.equalityhumanrights.com/publication/meeting-equality-duty-policy-and-decision-making-england-and-non-devolved-public-authorities>