

EQUALITY AND DEVOLUTION IN WALES: A DISTINCT APPROACH?

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Introduction

Wales is often characterised as demonstrating a distinct approach to equality and human rights, before, through and since, its constitutional devolution settlement (Chaney, 2007, 2011). Welsh politicians and advocates for gender equality were at the forefront of campaigning for devolution and the ambition to constitutionalise a commitment to ‘equality of opportunity for all’ (s.120 Government of Wales Act, 1998). Various types of women, including the institutional influence of ‘strategic women’ (Chaney 2007) or ‘norm entrepreneurs’ drawing on ‘principled issue networks’ (Minto and Parken, 2020), these women and their political allies succeeded in establishing equality as a founding principle of the National Assembly for Wales (now the Senedd/Welsh Parliament). Equality was to be both the substance of debate and underpin the way in which it was debated.

As the following review and timeline will show, collaboration has been a key feature of developing Welsh equalities legislation and over-coming resistance to change. Collaboration between the Welsh Government, the Wales Trades Union Congress (WTUC) and the Equal Opportunities Commission (EOC) was at the heart of a three phases *Close the Pay Gap Campaign* between 2001 and 2007. Public sector employers, academics, civil servants, the Wales Trades Union Congress and third sector organisations also worked together on the design of the ‘pay differences’ specific duty in Wales (Parken et al. 2009). A National Conversation on ‘the Wales we want’ presaged the introduction of the world’s first Well-being of Future Generations Act 2015 (Cynnal Cymru, 2015).

However, it can be argued that the developing distinctiveness of the mainstreaming equality approach, in which all policy formation is mobilised to promote equality (transversal), was undermined by equality objective setting (vertical) as required by the Public Sector Equality Duty (PSED) and the Welsh Specific Equality Duties (WSED) (Parken, 2018). Recent reviews of equality policy critique an ‘implementation gap’ between equality policy ambition and outcomes (EHRC, 2018, Parken, 2018, Parken et al. 2019, Hoffman et al, 2021).

A recent critique of the increasing influence of neo-liberalism in policymaking, where focus on individual progress leads policy direction away from redistributive intent (Evans et al. 2021), is echoed in a critique of current feminist ambition having been diminished by working within the neo-liberal frame (Siriol Jones, 2021). This critique sits alongside a new anti-racist approach (Welsh Government, 2021a), the adoption of a new vision for gender equality based on the Swedish model of economic independence, the adoption of the social model for disability, an emphasis on supporting Fair Work, valuing the foundation economy, and new social partnership commitments to strengthen collaboration between government, business, and the trades unions. A counter argument might be that the introduction of the Socio-Economic Duty (31st March 2021) and distinctive policymaking during the COVID-19 pandemic evidences a return to the Welsh devolved mainstreaming equality approach.

This summary report (non-exhaustive), which accompanies the report on equal pay and tackling gendered pay inequalities commissioned for the 'Gender Equalities at Work' project (Parken, 2022), considers equality policymaking in Wales pre and post devolution, assesses where we are now on the journey to the 'Wales We Want', and how to address the gap between ambition for greater equality and outcomes.

Past: Pre Devolution Approach to Equality in Wales

Until 1998, governance of Wales was held at the UK level, led by the Secretary for State for Wales, with a Welsh Office split between Whitehall and Cardiff. There was little equality policymaking under the Welsh Office (Chaney, 2010). Chaney (2007), largely attributes this to limited policymaking capacity in the Welsh Office (1964-99), a lack of equalities training for its staff, the tight constraints of the British constitutional framework (largely employed in implementing policy made outside of Wales), and crucially a lack of political will:

For example, in 1996 William Hague, then Secretary of State, refused to meet the Equal Opportunities Commissioner for Wales stating: 'there's nothing to talk about' (Chaney et al., 2007: 156 in Chaney 2010: 31).

Although the women's movement in Wales before devolution has been described as fragmented (Chaney, 2007), Beddoe's review of women's grassroots activism draws out actions on equal pay, abortion rights, unemployment, rape, pornography, and sexual violence in the 1970s and 1980s (2002, p159-164).

Beddoe argues that the predominant issue in the 1980s was nuclear disarmament, prompting the women's march from Cardiff, which subsequently became the long-term women's peace camp at Greenham Common (p.163). She also notes women's mass protests and independent organisation during the 1984-5 Miner's Strike and the network of women's support groups formed to support strikers and communities (Beddoe, 2001: 165, Chaney 2007).

The founding of the campaigning group *Wales Assembly of Women* established more formal routes for activism by engaging with institutional structures; 'more respectable' as Beddoe types it (2001:167). This more formal engagement is typified by the networks of 'strategic women' (Chaney, 2007) or 'norm entrepreneurs' (Minto and Parken, 2020) in the civil service, local government and academia, connected to the women's movement, who were central to realising the first positive action initiative to increase women's employment through the South Glamorgan Women's Workshop 1994 (Minto and Parken, 2020).

Collaboration between 'strategic women' (Chaney 2007) in local government, the statutory equality agency for women and men (Equal Opportunities Commission, Wales), campaigning groups, and left leaning political parties was also key to the YES Cymru campaign, which secured devolution and the 'mainstreaming duty' in the *Government of Wales Act 1998*.

Devolution in Wales

Devolution of central government decision-making within the UK in 1999 resulted in separate governance structures in Wales, Scotland, and Northern Ireland. The *Government of Wales Act 1998* established the National Assembly for Wales and conferred powers to enact secondary legislation (in specified areas) and provided executive powers over how UK legislation was enacted in Wales. The Assembly was created as a single body, encompassing the legislature with limited law-making powers and the executive (with powers delegated to the First Minister/Ministers by the NAW).

The resulting confusion of powers led to the *Government of Wales Act 2006*, which separated the Executive (Welsh Assembly Government, later the Welsh Government) and the National Assembly (accountability mechanism) (law.gov.wales). The National Assembly for Wales was renamed the Senedd/Welsh Parliament following the *Wales Act 2017*, and now has a similar reserved power model to Scotland - all primary law-making powers are devolved unless reserved to the UK government.

Post Devolution Approach to Equality in Wales

Since the first *Government of Wales Act 1998* (GOWA, 1998) established the National Assembly, Wales has had a Welsh Labour Government (either by majority or in coalition).¹ Rhodri Morgan, First Minister from 2000 until 2009, famously described the vision for equality and social justice in Wales as putting ‘clear red water’ between the Welsh Assembly Government and the, then, UK Labour government. At inception, the National Assembly set out a distinct equality agenda underpinned by the principles of gender mainstreaming but extended to all inequality strands:

s120 GOWA 1998 Equality of opportunity.

(1) The Assembly shall make appropriate arrangements with a view to securing that its functions are exercised with due regard to the principle that there should be equality of opportunity for all people.

(2) After each financial year the Assembly shall publish a report containing—

(a) a statement of the arrangements made in pursuance of subsection (1) which had effect during that financial year, and

(b) an assessment of how effective those arrangements were in promoting equality of opportunity.

This has been described as an ‘absolute duty’ (Chaney, 2004) to promote equality of opportunity for *all* people. This approach was championed as gender mainstreaming was emerging in EU policy, by an established feminist presence within Welsh political

¹ The Welsh electoral system is based on proportional representation making coalition governments more likely than ‘first past the post’ systems.

institutions, social movements, the academy, statutory equality bodies and the public service (Charles and Aull Davies, 2010).

Sections 48 and 120 of the *Government of Wales Act 1998* required the Assembly, 'to have due regard to the promotion of equality for all people in all its duties and functions'. By requiring equality for *all*, the duty predates public sector equality duties in GB, such as those for race, disability and gender introduced in a succession of Acts in 2000, 2005 and 2006 respectively. It also exceeded the delineation of individual dimensions of inequality in the *Amsterdam Treaty 1999*, as well as the protected characteristics listed by *Equality Act 2010*. Known as the 'equality mainstreaming duty', it presaged early interest in an intersectional approach to promoting equality through policymaking in Wales (Parken 2010, Hankvisky 2013). However, the Duty, as a form of responsive law, does not convey additional rights, and challenge must be via judicial review, which, underpinned by 'due regard', has in recent judgements been found to be inadequate for driving substantive change (Parken et al. 2019, 33-35).

Nevertheless, several of the first Assembly Measures had equality goals (for example, on mental health, Special Educational Needs provision, and carers' assessments) (Chaney, 2009). In the first Assembly (1999- 2003) 42% of Labour Assembly Members were women. In the Second Assembly (2003-2007), women accounted for 50%, 30 of the 60 seat assembly members, with women from all parties represented. This means that Wales was the first legislature in the world to have equal numbers of women and men. Since the 2021 election, women constitute 47% of Members of the Senedd and 60% of Cabinet Ministers. The substantive difference that having a gender balanced National Assembly made to the inclusion of equality in policymaking and the tenure of debate has been evidenced (Chaney, 2009).

The first and second Assembly terms (1999-2003, 2003-2007) demonstrated strong commitment to tackling gender inequality in the workplace since devolution. For example, the first phase of a three phase *Close the Pay Gap Campaign* (2001- 2007) was created principally to support local authorities implement the National Joint Council (NJC) Single Status Agreement 1997.

The Welsh Government also incorporated a requirement for the United Nations Convention on the Rights of the Child (UNCRC) to be given 'due regard' in policymaking (2004) and achieved another world first by legislating for an Older People's Commissioner (2006), as well as having a Children's Commissioner.

The *Government of Wales Act 2006* (s.77) strengthened the 'equality duty' by placing responsibility directly upon Welsh Ministers, who must report annually on how effectively they have promoted equality within their portfolios.

In 2011, Welsh Ministers were granted powers to introduce their own Specific Equality Duties under the Public Sector Equality Duty (PSED, Equality Act 2010). Wales has an extensive suite of equality duties requiring engagement to create their strategic equality plan, the setting of equality objectives, the collection of data on employment across the protected characteristics, a duty to address gender 'pay differences', the promotion of equality through procurement, the conduct of equality impact assessments and annual reporting on progress.^{2 3}

GOWA 2006 also established a duty on Welsh Ministers to promote or improve the economic, social and environmental well-being of Wales (Section 60, GOWA 2006). This duty was given effect by the *Well-being of Future Generations Act 2015* (WBFGA), which uniquely also adds goals for cultural well-being. The Welsh Government is the first legislature in the world to put the safeguarding of future generations on a legal footing, and first in the UK to enact supporting legislation, such as the 'plastic bag tax'.⁴

The WBFG Act established a Future Generations Commissioner, whose job it is to be the guardian of future generations by ensuring public authorities and government understand the long-term impact of their decision-making.⁵

The seven well-being goals (a More Prosperous, More Equal, More Resilient, More Healthy Wales; a Wales of Cohesive Communities, of Vibrant Culture and a thriving Welsh Language, and a Globally Responsible Wales), were developed through a national conversation (Cynnal Cymru, 2015), with communities, stakeholders, public sector employers, state institutions, business and trades unions. This collaboration reflects UN principles that nations should contextualise the Sustainable Development Goals (SDGs) to reflect national circumstances and priorities. All the goals should be integrated; a More Equal Wales for example, should be applied to health, economy, environment, society and culture.

The WBFG requires all public bodies to act in accordance with the Sustainability Principle to meet seven national well-being goals, which are underpinned by the Sustainable Development Goals (SDGs). This includes how policy is developed – the sustainability principle is carried through the '5 ways of working, such that public bodies are required to work collaboratively (co-production is at the heart of WFG and social care legislation in Wales), for the long-term, in ways that prevent inequality and poor well-being, and to fully involve the citizen in decision-making.

² Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011

³ EHRC webpage on the Welsh Specific Equality Duties: <https://www.equalityhumanrights.com/en/advice-and-guidance/guides-psed-wales>

⁴ Incorporation of Future Generations: <https://www.oxfordmartin.ox.ac.uk/news/2015-wales/http://theconversation.com/wales-is-leading-the-world-with-its-new-public-health-law-78302>

⁵ Wales, world's first Future Generations Act <https://www.futuregenerations.wales/about-us/future-generations-commissioner/>

More than 90% of SDG targets are embedded in human rights treaties - without embedding human rights in policymaking, the sustainability goals cannot be met (Danish Institute of Human Rights, 2018).⁶ Over the years since devolution, this has led to further thinking in Wales on integrating equality and human rights (Parken, 2010), equality and well-being (Parken et al. 2019) and human rights and well-being (Hoffman et al. 2021).

At the time of its enactment, adding an understanding of socio-economic inequality into the More Equal Wales goal in the WBFGA was seen as a way of encompassing a requirement to act on socio-economic inequalities, in the context of the UK Conservative government's choice not to commence s.1 of the Equality Act 2010 - the socio-economic duty.

This refusal was maintained despite the recommendation of the UN Committee for Economic, Social and Cultural Rights, that it should do so, to bolster the public sector duty, create the conditions for intersectional analysis, increase the effectiveness of human rights legislation (social, economic, and cultural) and to meet the SDGs (UN, 2016). Academics, politicians, and civil society organisations in Wales have long argued for the introduction of the socio-economic duty⁷. The Welsh Government made the commitment to introduce the duty in 2018, and it was introduced, through new regulations, in Wales on 31st March 2021 (the duty has also been commenced by the Scottish Government).⁸

Furthermore, the *Violence Against Women, Domestic Abuse and Sexual Violence Act 2015* (VAWDASV) broke new ground in requiring all relevant Welsh public authorities to have a strategy to end violence against women and girls. New religious, sex, sexuality, and relationships guidance has been embedded in a new curriculum (Renold and McGeeney, 2017).

This brief review demonstrates how successive Welsh Governments have legislated to embed 'responsive law' through the operations of public sector bodies in Wales. Responsive law should seek to understand and respond to the needs of the citizenry (Conley, 2016). Seeking to understand inequalities to inform policymakers, has been a key approach - four national equality organisations have been funded since the first assembly (1999-2003) with a remit to consult and engage stakeholders to inform Ministerial groups and policy consultations. The current four are Disability Wales, Ethnic Youth Support Team, Stonewall Cymru and Women's Equality Network Wales.

Wales has also displayed strong collaboration between equality organisations – the four Directors of the statutory Commissions for Disability, Equality and Race and Stonewall

⁶ Links SDGs on inequalities to Human Rights Treaties: <http://sdg.humanrights.dk/>

⁷ See for example the Equality of Opportunity Inquiry into the future of equality and human rights in Wales, 2013: p.16-17: <https://senedd.wales/media/rorhtiv0/cr-ld9460-e-2-english.pdf>

⁸ Welsh Government Socio-economic Duty, first set of guidance: <https://gov.wales/socio-economic-duty-guidance>

Cymru who were the Standing Invitees to the Equality of Opportunity Committee (first and second assemblies), worked together and supported each other's causes.

The Wales Equality Reference Group (WERG), comprising 46 organisations (community, voluntary, public services, regulators, and trades unions) worked closely together to agree the provisions that they wanted to see in the *Equality Act 2006*, that would govern the operations of the Equality and Human Rights Commission and its operations in Wales.

Following on from this, the statutory commissions worked together with representatives of equality dimensions that had not had statutory commissions (sexual-orientation, religion and belief, and age), to set out how to mainstream equality for all in Welsh policymaking and consider how intersectional working might be achieved (Parken, 2010). Years of austerity, and the rise of individualised identity politics, may have weakened these alliances, and brought about the predicted competition 'to be heard' and for resources (ibid.) but co-operation is still apparent in Ministerial working groups.

The Welsh specific equality duty on 'pay differences' (2011) was collaboratively designed by academics, equality officers from public sector bodies, trades unions, and equality organisations (Parken et al. 2009). The duty is unique in the UK in requiring an employment and pay analysis, comprising gendered occupational segregation and segmentation, in conjunction with working patterns, contract types and pay, so that employers understand the drivers of gender pay gaps and are enabled to act (annual action plans and progress reports are required) (Parken and Ashworth, 2019). Progress on addressing pay inequalities is discussed in a separate linked report (Parken, 2022b).

This broad legislative review demonstrates the creation of equality infrastructure and ambition, but there has been a growing recognition that the 'implementation gap' between the intention of Welsh equality legislation and the realisation that aims must be bridged. Equality remains largely confined to equalities plans (vertical), which does not drive the promotion of equality in all policy areas; it is process and compliance driven and Equality Impact Assessments (EIAs) have become the main vehicle for operationalising the PSED (Parken, 2018). The breadth and depth of equality objectives has diminished, resulting in becoming too internally workforce focused and lacking in ambition (EHRC, 2018).

Sadly, these are not new observations. In 2004, a Mainstreaming Equality Task and Finish Group was established by the Equality of Opportunity Committee, with a remit to consider how far the Assembly had achieved its mainstreaming goals (National Assembly for Wales, Ministerial Statement 2005, EOC(2)03-05(p2-annex a)e). A new definition of mainstreaming equality was adopted, in which equality was to be considered at the outset of all policymaking and mainstreaming equality was the responsibility of all Ministers, Assembly Members and officials in their everyday work. The success of mainstreaming was to be measured by a reduction in inequality.

Similar disappointment with the lack of impact of the Public Sector Equality Duty and the Welsh Specific Equality Duties was a focus of the Welsh Government's *Gender Equality Review* (the GER, led by Chwarae Teg 2018-2019). The GER was established by the then, First Minister, Carwyn Jones, to set out how the Welsh Government could become a Feminist Government and make Wales the safest place for women in Europe.⁹

The findings set out international best practice (Parken, 2018), resource and capacity requirements for better equalities outcomes within Welsh Government (Chwarae Teg, 2018), and called for the renewal of the specific duties so that they would become action-oriented and outcome focused (Parken et al. 2019, Chwarae Teg, 2019), the adoption of an equity approach to equality, and for the mainstreaming equality method to be embedded to ensure a proactive approach to equality in policymaking (Parken et al, 2019, Chwarae Teg, 2019). The GER also considered intersectional working and how to improve equality outcomes by integrating equality and well-being aims and outcomes (Parken et al. 2019).¹⁰

The Welsh Government accepted the recommendations, which included a new vision for gender equality in Wales, adapted from that of the Swedish government:

The vision - A gender equal Wales means an equal sharing of power, resources and influence for all women, men, and non-binary people. This is a vision where the government aims to create the conditions for equality of outcome for all. (Welsh Government, 2020, Chwarae Teg, 2019).

Among an extensive list of legislative and policy recommendations, the GER also called for the 'due regard' mechanism under the specific duties to be strengthened (Parken et al. 2019) and suggested the requirement to assess how far human rights were activated by the WBFGA. This recommendation, together with considerable pressure from equalities groups in Wales to incorporate UN conventions on the rights of women and disabled people, and concerns over the UK government manifesto pledge (2019) to reform the *Human Rights Act* 1998, led to a subsequent major research and engagement project on strengthening equality and Human Rights in Wales (Hoffman et al. 2021).

The recommendations call for a Human Rights taskforce, on the Scottish model, to consider incorporation into Welsh domestic law and assess mechanisms for Welsh courts to make judgements. The Welsh Government has yet to respond to these recommendations but together with the Commission for Justice in Wales's report on devolving the justice system, moves to have more control over equality and human rights will be a key part of the

⁹ Senedd (2021) update briefing paper on progress towards a Feminist Government and links to GER reports: <https://research.senedd.wales/research-articles/is-wales-on-track-to-become-a-world-leader-for-gender-equality/>

¹⁰ The legislative duties under the PSED, WBFGA and VAWDASV (aims and coverage etc) are set out in Appendix 1 of Parken et al. 2019.

deliberations of the new Independent Commission on the Constitution of Wales, which is holding a national conversation on less or more devolution of powers and legislation, and Welsh independence.¹¹¹² This has the potential to create further distinction between Welsh and UK equality and human rights approaches and legislation.

Equalities Policymaking During the Coronavirus Pandemic

The anguish caused by the murder of George Floyd by police in the United States in May 2020, and the subsequent Black Lives Matter (BLM) movement, in conjunction, with evidence of disproportionate mortality rates for Black and Asian people during the first wave of COVID-19 in 2020, led to the establishment of the First Minister's Black, Asian and Minority Ethnic Group on COVID-19.

The far-reaching conclusions and recommendations of the socio-economic subgroup (Ogbonna, 2020) have culminated in a draft Anti-Racist Wales Action Plan (Welsh Government, 2021a)^{13 14} Legislation is in train to enable Wales to become the first UK state to mandate the teaching of Black, Asian and Minority histories in the Curriculum.¹⁵ The need to tackle structural racism in Wales underpins these developments, creating a distinction with the UK government's response to the Commission for Race and Ethnic Disparities Report and subsequent action plan, which does not acknowledge this dimension of inequality.

Macbride-Stewart and Parken (2021) reviewed policymaking in Wales during the Coronavirus pandemic, highlighting the Welsh Government's distinct approach to tackling economic and social inequalities through mainstreaming equality into policymaking:

- The founding of the Coronavirus Ministerial Ethical Advisory Committee (CMEAG) - comprising medics, academics, health experts and representatives of equality and human rights organisations in Wales.
- Independent health policy on the introduction of lockdown restrictions and their easing, the wearing of face masks and social distancing measures.

¹¹ Summary report of the 'Justice in Wales for the people of Wales (2019) report:

https://gov.wales/sites/default/files/publications/2019-10/Justice%20Commission%20Summary%20ENG%20DIGITAL_0.pdf

¹² The Independent Commission on the Constitutional Future of Wales: <https://gov.wales/independent-commission-constitutional-future-wales/broad-objectives>

¹³ Senedd Blog on Ogbonna (2020) findings and consultations on the anti-racist plan <https://research.senedd.wales/research-articles/the-draft-race-equality-action-plan-creating-an-anti-racist-wales/>

¹⁴ Welsh Government's draft Anti-Racist Equality Plan <https://www.gov.uk/government/publications/inclusive-britain-action-plan-government-response-to-the-commission-on-race-and-ethnic-disparities/inclusive-britain-government-response-to-the-commission-on-race-and-ethnic-disparities#opportunity-and-agency>

¹⁵ Welsh Government, ethnic minority histories and the curriculum: <https://gov.wales/learning-black-asian-and-minority-ethnic-histories-included-new-welsh-curriculum>

- The introduction of a COVID-19 workforce employer risk assessment tool for all workplaces developed collaboratively with unions, clinicians, and equality organisations.¹⁶
- Free school meal vouchers quickly transposed to cash, so that they could be spent locally in almost all local authority areas (Welsh Government 2020) and helping to destigmatise voucher use. Payments were also extended over school holidays, again a distinction to policymaking in England.
- Around 130,000 digital devices were provided to school children in Wales (Children’s Commissioner for Wales 2021) so that those without devices could learn on-line while schools were closed.
- Additional payments to NHS Wales health and social care staff in recognition of their efforts during the pandemic, and a payment of £500 to unpaid carers in Wales who carried an additional care burden while services were disrupted.¹⁷

The 2021 co-operation agreement between Welsh Labour and Plaid Cymru states that new legislation will be brought forward in the current programme for government to increase the number of Members of the Senedd (MS) to 80 or 100 to improve legislative scrutiny and that gender quotas will be brought forward in the current programme for government (Welsh Government, 2021b, p.7).

Since 2020 new action plans for race, disability, and LGBTQ+ have been drafted, consulted upon and work is underway to implement their ambitions, including the distinctive ambition that Wales will become an anti-racist nation. In keeping with the mainstreaming approach to ‘treat the whole person’ (Rees 2005, Parken, 2010) and to keep a focus on outcomes - rather than processes, these plans now need to be integrated.

That the Welsh Government does not have all the levers to bring all its social justice ambitions to fruition particularly in relation to employment regulations, further encourages determination to increase the breadth and depth of devolved powers. Indeed, the Welsh Government’s ability to support the implementation of distinctive equalities ambition has been undermined by the loss of, and loss of control of administration of, European social, regeneration and research funds, since Brexit.

An EHRC review of the impact of EU funding related to promoting equality, human rights, and inclusion, and anticipating the transition to the Shared Prosperity Fund, noted that Wales received €2.1 billion from European Social funds during the period 2007–13 (Broughton et al, 2019). The majority of this has been spent on employability, particularly for young people’s education, skills, and entry to employment but the introduction of the cross-cutting themes for equality and sustainability ensured that women, ethnic minority,

¹⁶ Welsh Government Covid-19 workforce risk assessment tool: <https://gov.wales/covid-19-workforce-risk-assessment-tool>

¹⁷ Pandemic social care recognition scheme <https://gov.wales/nhs-and-social-care-financial-recognition-scheme-guidance-social-care-workers>, and Welsh Government additional payments for unpaid carers <https://gov.wales/unpaid-carers-wales-receive-500-payment-part-29m-investment>

and disabled people were beneficiaries within the programmes. Wales has significant areas of high disadvantage, and so, Wales received considerably more per person funding in the 2014-2020 period than England or Scotland, standing at €27 and €47 per person respectively:

Wales receives €140 per person per year on average – approximately €3.5 billion in total over the period 2014–20, in combination with match funding. EU funding helps people into work and training and supports research and innovation in the business community. (Broughton et al. 2019:9)

Minto and Parken's (2020) research on the influence of the EU requirement for gender mainstreaming in the structural funds, and the Welsh Government's addition of race and disability, and sustainability to the cross-cutting themes, demonstrated increasing institutionalisation of equality actions from the first round of funding to the most recent (p.7). They also highlight an evaluation report which demonstrates a different approach to mainstreaming between Wales and Scotland:

Although Scotland has continued to have a commitment to gender mainstreaming, there is evident resistance in committing fully to the strategy as compared with the Welsh Government who has a specific gender mainstreaming horizontal theme. Furthermore, they have a Crosscutting theme team who are there to offer guidance through the life cycle of funded projects. (Wilson and Campbell, 2020:74).

The UK Government has offered £585million to Wales over 3 years, which is much less money over a shorter timeframe than EU 7-year funding programmes. The funds will also largely by-pass Welsh Government control through its managing agent – Wales European Funding Office (WEFO) which has built considerable expertise in supporting programmes to convert the cross-cutting equality and sustainability themes into improved outcomes. Funds will be administered by local authorities. Efforts to mainstream equality for all and strengthen long-term thinking to achieve equality and well-being outcomes will now need considerable capacity building and greater resourcing at the local level (MacBride-Stewart and Parken, 2021),

Conclusion

Wales has developed a distinct approach to equality and social justice founded in the labour movement. Twenty years of Labour governance in Wales has created an accepted norm that there should be equality for all. However, there are concerns about an implementation gap, creeping neo-liberalism overly focused on individual progress and away from redistribution/universalism (Evans et al. 2021), an erosion of powers as they return from Europe, and undermining of the Welsh approach to equality and sustainability in social and regional development programmes as EU funding streams cease.

However, the distinct Welsh approach to equality, and one that exceeds the constraints of neo-liberal withdrawal from state intervention, is very visible in plans to renew the specific duties, and the possibility of a Human Rights Act for Wales if the UK government repeals or amends the Human Rights Act 1998 in a way that diminishes rights. A proposed Social Partnership and Procurement Bill intends to bring unions onto a peer footing with business and may go some way to mitigating a lack of powers over employment legislation. Further, the Welsh Government has recently set out plans to safeguard gender balance in the Senedd through gender quotas as membership increases from 60 to 96 Members (MSs)¹⁸

As the Independent Commission on the Constitutional Future of Wales begins its work – through another national conversation – calls for greater power in the areas of equality, employment, human rights, welfare, and justice can be anticipated. The Welsh Government will need the legislative competence to safeguard existing protections and enhanced powers to enable delivery on the ambition of equality for all.

¹⁸ Welsh Government Proposal to increase Senedd Members and introduce gender quotas
<https://www.bbc.co.uk/news/uk-wales-politics-61392204>

Appendix One: Timeline - Equality Legislation, Workplace Equalities, and Equalities Infrastructure¹⁹

- 1964 - 1998 - Welsh Office has responsibility for equality
- 1972 - founding of Disability Wales - advocacy, advice, research
- 1978 - founding of Welsh Women's Aid
- 1984 - founding of the South Glamorgan Women's Workshop - gender atypical training, employability, childcare, welfare advice
- 1985 - founding of Wales Assembly of Women - women's rights/ accredited to UN Social and Economic Council - CEDAW reports
- 1992 - founding of Chwarae Teg - workplace equality support
- 1995 - founding of Black Association Women Step Out (BAWSO) - employability, training, domestic violence services
- 1996 - founding of Minority Ethnic Women's Network Wales (MEWN)
- 1996 - founding of Say Yes for Wales - devolution campaign
- 1997 - Women Say Yes for Wales - devolution and equality campaign
- 1998 - Government of Wales Act - includes statutory duty to promote equality for all
- 2000- founding of LGB Forum - becomes Stonewall Cymru in 2003
- 2002 - Race Relations Amendment Act
- 2004 - Welsh Government Mainstreaming Equality Review
- 2005 - Disability Discrimination Act
- 2005 - EOC sets up Wales Equality Reference Group (WERG) to coordinate a response to draft Equality Act legislation - over 30 members - equality organizations, statutory commissions, government, academics, voluntary sector, equality officers across the public sector. Act establishes the EHRC - including Wales Committee with decision making powers
- 2006 - Government of Wales Act - mainstreaming duty placed upon Ministers
- 2007 - Equalities Review published.
- 2008 - Intersectional equality mainstreaming and human rights research - model for mainstreaming equality in public policy developed.
- 2011 - Welsh Specific Equality Duties including pay differences duty
- 2015 - Violence Against Women Domestic Abuse and Sexual Violence Act
- 2015 - Well-Being of Future Generations Act

¹⁹ Not exhaustive

2018 - Fair Work Commission Report

2019 - Gender Equality Review Report

2020 – First Minister’s Black, Asian and Minority Ethnic Advisory Group

2021 - Socio-Economic duty commenced

2021 – Disability Equality Forum Report for Welsh Government on the Impact of Covid-19 on disabled people in Wales (Foster, 2021).

2021 – New Welsh Government draft action plans on Race, disability, and LGBTQ

In process - Social Partnership and Public Procurement (Wales) Bill

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