Minutes of the Fifty Fifth Meeting of the Wales Committee

Thursday 25 February 2021

**By weblink**

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## Present

Baroness Falkner of Margravine (EHRC Chair) (*Items 1-5*)

Martyn Jones (Interim Chair)
Alison Parken

Beth Thomas (*Item 4 onwards*)

Faith Walker
Grace Quantock (*Item 1-4, Item 8 onwards)*

Mark Sykes
Rocio Cifuentes (*Items 1-6, Item 10 onwards*)

## In attendance

Melanie Field (Executive Director, Wales & Corporate Strategy and Policy)

Ruth Coombs (Head of Wales)
Hannah Warf (Principal, External Affairs, Wales)

Carla Garnelas (Principal, Treaty Monitory) (*Item 12)*
Geraint Rees (Senior Associate, Wales)

Rachel Hodge (Business Support, Wales)

## Apologies

Geraint Hopkins

## Absent

None

## 1. Welcome and introductions

1.1 The Interim Chair welcomed members and officers to the fifty fifth meeting of the Wales Committee, and Rachel Hodge, new member of the Wales team and the new Commission Chair, Baroness Kishwer Falkner to her first Wales Committee since joining as the Chair in December. Apologies were received from Geraint Hopkins.

## 2. Declarations of interest

2.1 None received.

## 3. Minutes of 54th meeting of the Wales Committee – 12 November (EHRC WC 55.01)

3.1 The Committee agreed the minutes of the 54th meeting of the Wales Committee as being accurate.

## 4. Matters arising (EHRC WC 55.02)

4.1 The Committee noted the matters arising list.

## 5. Introduction of the new Commission Chair – Baroness Falkner of Margravine

5.1 The Commission Chair was welcomed to her first meeting of the Wales Committee and introduced her background and interest in the role.

5.2 The Commission Chair updated the Wales Committee on the Commission’s engagement on the spending review and its potential implications.

## 6. Update on the Wales Commissioner recruitment process and interim arrangements – Verbal update

6.1 The Commission Chair provided an update on the recruitment process for a new Wales Commissioner and acknowledged members’ concerns about the length of time since the last Commissioner had left the post.

6.2 Members were advised that a meeting was scheduled with the Commission Chair and the Welsh Government’s Deputy Minister and Chief Whip on 10th March.

6.3 The Commission Chair informed members that she would advise the UK Government to ensure that the Welsh Government was represented on the interview panel.

6.4 The Commission Chair proposed that Martyn Jones continues to represent Wales at the Board and remained as Interim Chair of the Wales Committee until a new Wales Commissioner appointment is agreed. It was hoped that a substantive appointment will be in place by September.

6.5 Interim Chair of the Wales Committee Martyn Jones confirmed he was happy with the proposal if it was supported by Wales Committee members.

**Action A: Members to email the Executive Director with any concerns around the proposed interim arrangements.**

## 7. Interim Chair report - Verbal update

7.1 The Interim Chair of the Wales Committee provided a brief update on matters arising from the Board meeting held on the 13 January, which included an update on the spending review, the business plan and a paper on the development of the new strategic plan. All of which were covered in detail later on the agenda.

7.2 The Board held a further development session on balancing of rights on 17th February which the Chair was unable to attend. This was an opportunity for Commissioners to discuss and learn about the complexities of the debate around Trans issues.

7.3 The Interim Chair provided an update on the recent successful EHRC Wales Equality and Human Rights Exchange event on the implementation of the new Socio-economic Duty in Wales. The webinar was attended by 118 attendees with Sophie Howe, Future Generations Commissioner delivering the keynote speech.

7.4 The Interim Chair suggested that at future meetings Committee members should receive an update from its representative on the Disability Advisory Committee.

**Action B: Wales Committee meeting agendas to include an update from Disability Advisory Committee meetings.**

7.5 Alison Parken provided an update on the Is Britain Fairer? programme from the Commissioner Working Group (CWG). The Board would consider a revised publication date taking into account of the CWG’s suggestion of December 2022 to inform the Commission’s strategic plan as well as considerations over alignment with Governments new five year strategy. The delayed date would allow time to obtain longitudinal data to get sense of the impact of the Covid-19 pandemic.

7.6 Ahead of the publication, members acknowledged a need for the Commission’s evidence to remain visible and the Commission was considering a number of interim reports. Products for consideration, which were dependent on capacity and the outcome of spending review, were; violence against women and girls, employment, social care and or mental health, work, education.

## 8. Implementation of the Socio-Economic Duty in Wales (EHRC WC 55.03)

8.1 The Head of Wales provided an update on the socio-economic duty paper and the proposed engagement event with Wales Committee members and senior leaders at the end of March, which aimed to build relations with senior leaders and share results of our research findings.

8.2 The Committee was asked to consider the next steps and role of Commission, particularly in the first phase of the duty’s implementation. Activity would be reported at Board level. The Committee was asked to reflect on the Commission’s role as a regulator and how best to manage enforcement powers.

8.3 We are proposing to adopt a supportive approach during 2021/22. Commission officers would gather evidence to inform a one year on briefing report, promote our research and findings, work alongside other regulators and encourage proactive activity amongst public bodies.

8.4 Members were invited to feedback on the proposed approach and provide a strategic steer on where they thought the Commission’s efforts should be focussed. Members were also asked to offer suggestions as to what roles they might be able to take in this space and highlight any conflicts of interest*.*

8.5 Members raised the following points:

8.5.1 It was important to learn from the implementation of the duty in Scotland. Ruth Coombs advised that the Commission would be sharing findings from research undertaken around this area once completed.

8.5.2 Lessons should be learned from the implementation of the Public Sector Equality Duty in Wales and a need to ensure that public bodies’ implementation was more outcome focused. The Commission would need to judge when to transition away from the supportive approach to ensure public bodies were complying with the duty and to hold organisations to account, when they were non-compliant.

8.5.3 Messages should be aimed at senior leaders to ensure that they are on board and understand the significance of the duty and its opportunity as a lever for change.

8.5.4 Sharing best practice and case studies with public bodies would both be useful tools.

8.5.5 The Commission should be mindful of a changing outlook post-election and ensure its keeps promoting the duty.

**Action C: Advise Welsh Government to include case studies in their guidance or for the Commission to produce a guide, which includes case studies of policies organisations have adopted.**

## 9. Update from Executive Director (EHRC WC 55.04)

9.1 The Executive Director updated the Wales Committee on key corporate issues.

9.2 The Committee were informed that the Board were currently undergoing the end of year financial evaluation and we are entering the pre-election period. It was noted that there was currently an underspend projected on the Commission’s budget.

9.3 The Board had held a meeting on the strategic plan and provided feedback on the way the Commission uses evidence, the rigour of our work and our impartiality.

9.4 Members were informed that the Spending Review was underway, the Commission was hopeful that UK Government would take into account our transitional stage with a new Chair needing time to make an impact.

9.5 An update was provided on the Commission’s focus on staff wellbeing and the introduction of weekly Q&A session with the senior leadership team to increase staff engagement.

9.6 The Executive Director provided an update on programme delivery which included:

* + - The report on the Inquiry into Restraint in Schools had been delayed.
		- The Section 31 assessment of the Home Office was in final stages of agreeing an action plan.
		- The TUC had contacted the Commission concerning the Women and Equalities Committee Inquiry into Covid and the workplace. The Commission was considering its response and possible engagement with the Department for Business, Energy and Industrial Strategy on the matter.
		- A session was held with the Board to discuss the complexity of the Trans landscape and plans were in place to hold similar sessions for Wales and Scotland Committees. The Commission was continuing to develop a litigation strategy around this issue where the law needs further clarification.
		- The Commission was expecting to see an advance copy of the report on Conservative Party investigation into Islamophobia, commissioned by the Conservative Party, which would not be published until after the elections. The Commission would consider its response.
		- In light of the pandemic the Commission was suspending Gender pay gap enforcement for private sector and public sector bodies in England for six months. In Wales and Scotland the existing position for PSED compliance would continue with a pragmatic approach in relation to particular bodies, for example the NHS.
		- The Commission was undertaking a stakeholder survey to improve our understanding of external perceptions and measure progress against the 2017 survey. There would be approximately 50 in-depth interviews including around 10 – 15 with stakeholders in Wales to inform the impact of our work and effectiveness of communication and engagement strategies.

9.7 In response to queries, for clarification of the Board’s view on the Commission’s use of evidence, the Executive Director advised that our approach to evidence had been discussed with new Commissioners as it related to how the Commission was perceived externally. There was a recognition of the importance in understanding the methods used around collating data and use of other sources. The Commission was exploring the need for an Expert Challenge Panel to support its evidence gathering.

**Action D: A request by members for the opportunity to discuss the Maternity Bill in detail was noted.**

## 10. Progress on the race programme in Wales (EHRC WC 55.05)

10.1 Hannah Wharf, Principal, External Affairs Wales, thanked the Wales team for their work to date on the inquiry and introduced the paper on progress on the race programme to the Wales Committee.

10.2An update was provided on two strands of work, which had provided opportunities to prioritise stakeholder relationships with successful impact;

10.2.1 Race Equality Action plan - The Commission was working with and advising the Welsh Government on the development of the WG plan to ensure robust accountability mechanisms would be used in its post-election delivery.

10.2.2 Inquiry into Racial Inequality in the Health and Social Care sectors - members were advised that the evidence collection period has been extended and that a company had been procured to undertake additional focus group interviews.

10.3 Committee members were asked to consider the questions set out in the paper.

10.4 Members acknowledged that the accountability issue was challenging and questioned whether there was a genuine willingness from the Welsh Government to be held accountable.

10.5 Members felt that EHRC evidence could be dismissed and questioned whether there was a need for the Committee to communicate concerns over the current relationship between the EHRC and Welsh Government. The Head of Wales was however able to offer some reassurance that relationships remain strong with both Government and the Deputy Minister.

10.6 Members noted that engagement on the Race Equality Action Plan by the Welsh Government had been positive with useful discussions held with stakeholders.

10.7 Members reflected that there had been little progress with Welsh Government in implementing their strategies to deliver improvements. A wider plan needed to be implemented to create more capacity for prompting equality through institutional mechanisms. The Committee suggested that they should discuss how best to advise the Welsh Government on closing the implementation gap.

10.8 Members highlighted the need to work with other stakeholders, and across policy themes, to deliver the action plan. A way of validating the success of this approach was through projects we had successfully delivered and/or case studies that can demonstrate the process.

10.9 Members agreed that the issue of under representation at WG was crucial to implementation and a lack of representation was holding back race equality issues and long term change.

**Action E: Evidence gathering process for the inquiry was still open and the Committee was asked to share details and encourage participation amongst their networks.**

## 11. Principles for EHRC’s roles in public debates (EHRC WC 55.06)

11.1 The Executive Director introduced the paper, which would be going to the next Board meeting for discussion to discuss/agree to the principle of the EHRC as a more active commentator and thought leader in public debates.

11.2 The Wales Committee’s input and advice was sought to inform the Board’s discussion on any implications of the paper for the devolved context in Wales.

11.3 The Committees reflections were noted as follows:

11.3.1 In the absence of an agreed definition for the terms like ‘cancelling’ or ‘re-writing history’ it would be helpful to clarify and provide context when using them.

11.3.2 This is a very contested and contentious space and a challenge for the Commission to plot a course. The Commission should be visible and have a voice in this space, even if that is just to re-iterate the law.

11.3.3 As an inclusive and active democracy we require citizens to be able to explore and negotiate differences in a constructive way. However, the Commission should be courageous and commit to some positions. We will be unable to avoid getting in to political territory.

11.3.4 There is a distinction between providing a platform for a person and, being ‘no/de-platformed’ and freedom of expression.

11.3.5 The public discourse about ‘respect for the rule of law’ (e.g. BLM protests), needs to reflect that Human Rights are part of that law.

11.3.6 The Commission should be clear if and what are the ‘no go areas’ on which to engage. For example, criticisms of religion and faith.

11.3.7 The Committee would like more time to consider these important and complex issues, which touch on the important theme of social cohesion. Members will provide additional feedback in writing to the Executive Director, Wales.

**Action F: Wales Committee to provide additional feedback to the Executive Director on the Principles for the EHRC’s role in public debate following the meeting.**

## 12. Development of the Strategic Plan (EHRC 55.07)

12.1 The Committee received an update from the Strategy Hub team on the progress on the development of the strategic plan.

12.2 The Committee was asked to feedback on the approach and timetable ahead of the plan been discussed at Board level.

12.3 Members commented that the Commission should consider the risks and challenges of engaging with stakeholders over August and September when people may have a focus on responding to the pandemic or a potential clash with the holiday period.

12.4 The Committee agreed with the Board’s view that the themes of climate change, AI & tech and the intersection with equality and human rights were important for the Commission to consider. These themes were relevant in Wales, the Welsh Government was beginning to address this challenge. The Welsh Government’s recently published ‘Economic resilience and reconstruction mission’ had a vision for a wellbeing economy, which drives prosperity, is environmentally sound and helps everyone realise their potential.

12.5 Members asked what was the Commission’s interpretation of wellbeing, as a potential theme? People understand wellbeing as a term in broad and loose ways. In the Welsh context there are two major pieces of legislation that use the term ‘Wellbeing’ and the Commission needed to be clear that it was not duplicating the work of other regulators in this space.

## 13. Head of Wales report (EHRC 55.08)

13.1 The Head of Wales provided an update on the delayed office move and advised that there was minimal impact on staff as currently no appetite from staff to return to the office.

13.2 The Commission was currently recruiting for Policy and Public Affairs Officer in a fixed term role.

**Action G: RH to share job role description with the Committee members.**

## 14. Any other Business

14.1 Given the current external environment, the Committee was asked to consider whether it would be useful to find time for an informal meeting.

14.2 The Chair asked members to consider whether they would find benefit for short Committee only sessions ahead of formal meetings.

14.3 The Chair asked members to consider what a virtual EHRE conference might look like.