Minutes of the Fifty Fourth Meeting of the Wales Committee

**EHRC WC 54.01**

**Thursday 12 November 2020  
By weblink**

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Attending

Martyn Jones (Interim Chair)   
Alison Parken

Beth Thomas  
Faith Walker  
Geraint Hopkins

Grace Quantock

Mark Sykes  
Rocio Cifuentes

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

Alastair Pringle (Executive Director, Scotland & Corporate Delivery) – Item 11  
Jackie Killeen (Director of Compliance) – Item 1-5  
Ruth Coombs (Head of Wales)   
Charles Hamilton (Principal, Human Rights) – Item 8  
Laura Mingins (Head of Stakeholder Engagement) – Item 10   
Geraint Rees (Senior Associate, Wales)

1. Welcome and introductions
   1. The Interim Chair welcomed members and officers to the fifty fourth meeting of the Wales Committee, and Beth Thomas to her first formal meeting as a member of the Committee. No apologies were received.
2. Declarations of interest
   1. Geraint Hopkins and Beth Thomas declared an interest as members of the Labour Party. Grace Quantock declared an interest as a member of the Fabian Society, affiliated with the Labour Party and Alison Parken declared an interest with her partner being a member of the Labour Party.
3. Minutes of 53rd meeting of the Wales Committee – 3 September (EHRC WC 54.01)
   1. The Committee agreed the minutes of the 53rd meeting of the Wales Committee as being accurate.
4. Current matters arising (EHRC WC 54.02)
   1. The Committee noted the matters arising paper. In relation Action B (51/5.1) Committee members asked about progress on plans to mark the 10th anniversary of the Equality Act with the Senedd’s Equality, Local Government and Communities (ELGC) Committee suggesting that it could be linked to either the Plenary debate on the Commission’s Annual Review or Human Rights Day. Members agreed it was important to mark the anniversary.
   2. Members were provided with an update on Action A (EHRC 53/4.1) to write to the Chair of the ELGC Committee to encourage the Committee to undertake its planned inquiry on Community Cohesion. Members were informed a letter was being prepared on that basis to send to the Chair. Members additionally suggested engagement with Welsh Government’s Equality Team on its action on community cohesion.
   3. The Head of Wales provided the Committee with an update on the work of analysing the equality objectives set by public bodies in Wales this year. There was an audit check underway with some analysis of the objectives set by Local Authorities and Health Boards. Early indications were that a high number of the objectives set by these organisations were outcome focussed.

**Action A: Engage with Welsh Government’s Equality Team on its action on community cohesion**

1. Update on the race inquiry – Verbal update
   1. Jackie Killeen provided members with an update on the race inquiry, informing members that the terms of reference had been launched on 5 November. The inquiry would focus into racial inequality of ethnic minority workers in lower paid roles in the health and social care sectors. There had been considerable media interest in the launch and positive response from health and social care stakeholders.
   2. Members were given an overview of the proposed methodology for evidence collection, including quantitative and qualitative research, literature reviews a call for evidence and interviews. The Commission was establishing an External Advisory Panel, with one representative from Wales already appointed and a second representative being sought. Members provided the Director of Compliance with some suggested names to approach.
   3. In response to members questions the Director of Compliance confirmed that the Commission was engaging with the No.10 and the UK Government’s Commission on Racial and Ethnic Disparities to avoid duplication of work. The Commission would be drawing on existing health sector survey evidence.
   4. The Committee noted that the UK Government’s Commission on Racial and Ethnic Disparities did not include any members from Wales and were concerned that its work would not sufficiently address the context of Wales. Members were informed this issue was being raised at the First Minister’s BAME advisory group.
2. Update on social care programme - Verbal update
   1. The Committee received an update from the Head of Wales on the social care programme work in Wales. In October the Commission had published a well-received policy briefing on the impact of coronavirus in care homes in Wales and delivered a presentation on the briefing to the Welsh Government’s Health and Social Care Department. The Commission, along with the Older People’s Commissioner, continued to scrutinise and advise Welsh Government’s decision making in relation to care homes during the pandemic. The Wales Team was currently holding a number of stakeholder meetings to gather feedback on the Commission’s longer term plans for the programme. Members noted the positive collaboration with the Older People’s Commissioner on this work.
3. Update from Executive Director including CEO report (EHRC WC 54.08)
   1. The Executive Director provided the Committee with an update on a paper that went the Board on Trans work. The paper outlined the Commission’s work in developing guidance for schools; on single sex service provision; the reform of the Gender Recognition Act and the role of the Commission as a convenor in the polarised debate on trans issues. The Board had agreed that the Commission was not currently well placed to play a convenor role and the Commission should scope the work on single sex service provision.
   2. Members were provided with an update on the Gender Recognition Act, on which the UK Government had decided not to proceed but were looking at introducing a ban on conversion therapy. Members were informed that the Scottish Government were proceeding with their reform of the Gender Recognition Act. A bill would not be presented ahead of the May election but Scottish Government have made clear their intention to introduce the legislation should they form the next administration.
   3. The UK Government had informed the Commission that guidance for schools should be published by the Government and cover broader issues including safeguarding. The Scottish Government would publish their own guidance in December. The Board had asked officers to engage with education leaders across the three nations to understand the need for guidance in the nations. The feedback from education leaders in Wales had been that guidance was needed but that now was not the right time to publish given the education sector’s focus on qualifications and assessments during the pandemic. Stakeholders in Wales had suggested this should be revisited in the Spring Term. A member noted that it would be important to balance timing of the guidance so it has impact and recognise how important this was for the people involved.
   4. Members agreed that this was a complex area and suggested the Commission could develop training materials on Trans issues. Members were informed that alongside guidance the Commission was developing a top tips document. The Executive Director outlined the Commission’s position on a number of issues and explained that our guidance sought to clarify the issues. This was an area of law that was largely untested and part of the Commission’s role is to provide its expertise to clarify the law.
   5. Members asked whether they would be able to see a draft of the schools guidance and top tips. Officer agreed to circulate the draft guidance on a strictly confidential basis and to share the top tips once they had been developed.

**Action B: Share the draft schools guidance on Trans issues with the Committee on a strictly confidential basis and the top tips document once developed.**

* 1. The Executive Director provided members with an update on issues raised in the CEO report (EHRC WC 54.08). Members noted the launch of the Investigation into antisemitism in the Labour Party, and that the BBC Equal Pay investigation was being launched that day. There was ongoing engagement with the Conservative Party on its independent inquiry into discrimination. Members were informed that there was good progress on the S.31 PSED assessment of the Home Office which was due to launch in late November.
  2. The Committee were informed that the Spending Review would provide a one year budget settlement rather than a three year settlement and the Commission would likely be expected to find some savings on its budget. Members were updated on the restructure of executive decision making within the Commission and the inclusion of the Heads of Wales and Scotland in the Senior Leadership Team.
  3. Members were updated on the UK Government’s announcements of the new Chair and four new Commissioners who would take up their roles in December. The Committee noted that there was no appointment announced of a Wales Commissioner and stated their concern that there had not been a permanent Commissioner for Wales in the role since May 2019. The Executive Director informed members that the Commission was engaged with both the UK and Welsh Government’s on the matter. Members suggested when the Commission’s new Chair was in post that it would be something that she could help take forward.

1. The future of UK Human Rights legislation (EHRC WC 53.05)
   1. The Committee received a paper on the future of UK Human Rights legislation. The paper had been developed in light of the upcoming review by the UK Government, which could have significant Implications for the Commission’s mandate and remit. Members were informed that the Commission was keen to learn from the devolved nations and to steer towards some positive change. The Committee noted the key elements of the proposed strategy were non regression in human rights standards; emphasise the universality and interdependence of human rights; and protecting the substance not the form of the Human Rights Act. The Commission would seek to engage constructively in the review to emphasise the importance of the UK role as a global leader; to promote rights and to amplify the voice of civil society.
   2. In response to the questions raised by members, the Committee were informed that the Commission had been heavily involved in the Overseas Operations Bill and engaged with the Ministry of Defence to raise concerns about regressive elements of the Bill in relation to human rights.
   3. The Wales Committee commented on the significantly diverging policy agendas across the three nations. In Wales, Welsh Government have commissioned research to look at options to further incorporate UN treaties into Welsh legislation and have publically discussed the potential for a Human Rights Act for Wales. The Committee highlighted its concern about what this might mean in terms of the universality of rights across the UK nations. The Committee suggested it would be crucial for it and the Wales team to be well sighted on Welsh Government’s proposals on the human rights framework going forward and advise the Board accordingly.
   4. The paper proposes using the developments in the devolved nations to influence the UK Government’s action. The Committee highlighted that this was a significant challenge. Members commented that the strategic approach of protecting the substance of the legislation rather than its form had significant risks attached to it.
   5. Members noted the Commission’s remit to protect and strengthen rights and asked at what point the Commission, as a National Human Rights Institution, might say rights have regressed too far. Members asked what the Commission’s back stop position was and what steps could the Commission take in the event of a regression of rights being proposed.
   6. The Committee discussed how the Commission should use its thought leadership role to challenge negative narratives around human rights. Members highlighted the social care programme as an opportunity to address negative narratives, but that the Commission needed to be mindful not to allow others to further develop narratives that chip away at rights for groups that enjoy less widespread public empathy, e.g. migrant workers. In response members were informed that the Commission were working on thought leadership pieces but emphasised that changed public attitudes could require significant resources.
2. Business Planning – Priorities 2021/22 (EHRC WC 54.05)
   1. The Head of Wales introduced the Business Planning paper to the Wales Committee and explained that officers were looking for advice from the Wales Committee on the top three priorities for Wales specific work; top three priorities for three nations work and work to be deprioritised. The Head of Wales outlined to the Committee some of the key opportunities for the Commission’s work in Wales.
   2. Members noted that there were a lot of proposed activities and it would be important to balance what needed to be achieved against what we would like to achieve.
   3. Members commented that currently the proposed focus of the education work in Wales, on the curriculum was too narrow and should be broadened to tackle the disproportionate impact of the pandemic on the education for some groups. Members agreed that on education we should be working collaboratively with Children’s Commissioner for Wales in a similar way we are doing with Older People’s Commissioner on older people and care homes.
   4. Members highlighted the significant concern about the impact of the pandemic on work, in particular on insecure work, low pay, unemployment and that this was not strongly enough reflected in the priorities list for three nations work.
   5. The Committee discussed its priorities for 2021/22 and advised on its view that the Wales specific priorities for next year should be the influencing first 100 days of new Government/Parliament in Wales; Work to ensure successful implementation of Socio Economic Duty; Strengthening the PSED through the Welsh Government’s review (N.B although linked to GB aim this would be additional work in Wales) and influencing implementation of new Welsh curriculum.
   6. The Committee discussed work that could be deprioritised for 2021/22. They highlighted the advice sector work in the Access to Justice aim; non-social care related Institutions aim work; Transport. The follow up on the restraint inquiry and the social partnerships work could also be scaled back.
   7. The Committee advised that in its view the priorities for three nations work should be completion and follow up on the race inquiry; social care interventions (including the potential inquiry); education work including the impact of the pandemic and work focussed on the economic recovery and addressing gaps exposed by the pandemic.
   8. At this point, as a result of the meeting running over time, Geraint Hopkins, Grace Quantock, Faith Walker and Beth Thomas left the meeting
3. Stakeholder strategy (EHRC WC 54.06)
   1. The Wales Committee received a paper setting out the new Stakeholder Strategy and seeking its views on implementation in Wales. The Committee were informed that the new strategy was developed following an independent review of stakeholder engagement. There was a renewed focus on institutional objectives a greater emphasis on the deeper two way stakeholder relationships and a review of the advisory group structure. The paper made suggestions for strengthening the Wales Committee engagement including closing the feedback loop following engagement with civil society groups.
   2. The Committee discussed the proposals in the paper. Members agreed that the review of the advisory group structure should ensure that Wales representation is secured, and not solely rely on Wales Committee representatives to represent Welsh civil society on particular groups. The Committee suggested that any new advisory groups established should include Wales’s civil society representation alongside a Wales Committee representative. The Committee commented that there should be equity among the protected characteristic groups in the new advisory group structure.
   3. The Committee welcomed the proposal for deeper two way engagement with stakeholders, and the Wales specific recommendations on closing the feedback loop with our civil society stakeholders in Wales through initiatives such as a newsletter article on the engagement was welcomed.
4. Labour Party investigation update – Verbal update
   1. The Wales Committee received an update following the launch of the Labour Party investigation report. The report had been well received by a broad audience and generated significant media and public interest. It has been viewed as an exemplary piece of work and there had been no criticism of the Commission’s approach.
   2. The Committee were informed that the Labour Party had accepted all the Commission’s recommendations and were developing an action plan. Follow up work would include the Commission developing top tips advice for membership groups on tackling anti-Semitism; thought leadership work for the Commission on freedom of expression and ongoing engagement with the Conservative Party on their independent inquiry into discrimination.
   3. In response to a question on how the Commission would apply the similar standards from the Conservative Party as applied to the Labour Party, members were informed that one aspect to review was whether a party or group had shown that they had taken action on any significant issues highlighted. For example there had been three previous reviews of the Labour Party looking at antisemitism. The Commission would keep a watching brief on how the Conservative Party take forward their inquiry.
   4. The Committee noted that the First Minister had been questioned about the investigation at a recent press conference and expressed his disappointment that the report had found that the Labour Party had acted unlawfully. The Committee suggested that the Commission make contact with Labour Party officials in Wales to gather their feedback on the impact and implications of the report in Wales.

**Action C: Make contact with senior Labour Party officials regarding the impact of the report in Wales.**

1. Wales Impact Report 2020/21 (EHRC WC 54.07)
   1. The Committee received and noted the Wales Impact Report.