Minutes of the Fifty Eighth Meeting of the Wales Committee

Tuesday 7th September 2021

**By weblink**

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## Present

Bethan Thomas
Faith Walker

Geraint Hopkins

Grace Quantock

Martyn Jones (Interim Chair)
Rocio Cifuentes

## In attendance

Melanie Field (Joint Acting Chief Executive)

Ruth Coombs (Head of Wales)
Christopher Corfield (Senior Associate, Manchester) *Item 8*

Luke Taylor (Director of Evidence and Human Rights Monitoring, London) *Item 5, Item 9*

Ewan Devine-Kennedy (Principal – Research, London) *Item 5*

Ruth Doubleday (Senior Associate, Wales)

Alessandro Ceccarelli (Senior Associate, Wales)

Nicholas Williams (Senior Associate, Scotland) *Item 8*

## Apologies

Mark Sykes

Alison Parken

## Absent

None

## 1. Welcome, Introductions and Declarations of Interest

1.1 The Interim Chair welcomed members and officers to the fifty eighth meeting of the Wales Committee and invited all present to offer a short introduction. Members agreed that the meeting was quorate.

1.2 Apologies were received from Mark Sykes and Alison Parken. Both offered written contributions in their absence.

1.3 Bethan Thomas noted that she is a member of the Labour Party. No further Declarations of Interest noted.

## 2. Minutes of 57th meeting of the Wales Committee (EHRC WC 58.01)

2.1 Members advised that the minutes of the 57th meeting of the Wales Committee require amendment. Faith Walker sent apologies for the June meeting however the minutes currently state that Faith was absent. Secretary to make amendments. With this change made, the Committee agreed the minutes of the 57th meeting will be an accurate record.

## 3. Current matters arising (EHRC WC 58.02)

3.1 The Committee noted the matters arising list.

3.2 With regards to WC 56/7 Action B, organising a drop in session at the Senedd is ongoing with Head of Wales. The Senedd is still in recess.

3.3 Concerning WC 56/7 Action C, members expressed a strong desire for a private session and agreed this would be of value. Organising these private sessions is to be deferred to when the new Commissioner is in post or reviewed in January 2022 – whichever occurs first.

3.4 With regards to WC/10.4 Action E, exploring internship opportunities is ongoing with Head of Wales.

3.5 Regarding WC/5.1, it was confirmed that the Scotland Committee and the Wales Committee are mutually keen to work closely together.

3.6 Concerning WC49/6.1(2) Action P, Head of Wales confirmed that the review of the PSED remains on the agenda however no review dates or consultation period dates have been announced yet. Further developments are expected in the next quarter.

3.7 With regards to WC50/9.2(2) Action S, members agreed that the appointment of a Vice Chair is to be deferred until the appointment of the new Commissioner for Wales.

3.8 With regards to WC55/8.5.5 Action C, the Welsh Government have been advised on the inclusion of case studies in their guidance. This is ongoing.

3.9 Regarding WC57/8.1.2 f), the Joint Acting Chief Executive was unable to provide an update on media reports that women have been underpaid pensions prior to seeking advice from the legal team.

**Action A: Joint Acting Chief Executive to seek advice from legal team regarding media reports that women have been underpaid in their state pension entitlement.**

## 4. IBF update (EHRC WC 58.03)

4.1 Luke Taylor and Ewan Devine-Kennedy provided an update to Committee members concerning the next Is Britain Fairer? (IBF) report. Committee members were asked to state their preferred new publication date for the report and the accompanying Is Wales Fairer? (IWF) and Is Scotland Fairer? (ISF) reports. The Commission has a statutory duty to lay the next iteration of the IBF report by June 2024.

4.2 Members were informed that publication of the IBF report has been negatively impacted by the pandemic and relevant statistical releases, necessitating a review of the report publication date. Competing demands must be considered, including the need to include up to date labour force data versus the need to maximise impact and policy influence. The prospective release date of April 2023 has been revised to a suggested release date of October 2023 to enable the inclusion of further labour force data and allow for one single report to be released. Committee members were further advised that the options under consideration had been carefully formulated based upon the expected course of the pandemic.

4.3 The Committee expressed concerns regarding the October 2023 publication date due in part to the risk of ‘slippage’ beyond this deadline. It was agreed that even if deadlines were maintained, October 2023 could be problematic in Wales due to that timeframe reducing opportunities for impact, particularly when publication would occur so close to the 2024 election. It was speculated whether an interim date would be possible, between April and October 2023.

4.4 Luke Taylor advised the Committee that it would not be possible to choose an interim date, and reminded members of the value of including further labour force data after April 2023.

4.5 The Committee recognised that there were a number of issues to be balanced, not least due to the significant amount of work required to bring the IBF, IWF and ISF reports to completion. The Committee felt that the release of a statutory report prior to October 2023 would be advantageous in terms of better enabling the Welsh Government and public bodies in Wales to utilise the report in the setting of their Strategic Equality Objectives.

4.6 Consensus was reached amongst Committee members to recommend Option B (April 2023 publication) as this would maximise opportunities for impact. The Committee agreed that maximising influence should be prioritised over the inclusion of further, more contemporary labour force data.

## 5. Interim Chair report (EHRC WC 58.04)

5.1 The Interim Chair provided an update on activities since the last Committee meeting on 25 June 2021 and requested comments by exception.

5.2 The Interim Chair highlighted a commitment to working closely with the Scotland Committee, particularly where each Committee could alternately lead on different policy and other areas of mutual interest. The Interim Chair also noted that discussions have occurred within the organisation regarding the roles of EHRC Commissioners and Officers. The recent Impartiality Session was intended to refresh internal dialogue about impartiality and related issues such as acceptable terminology. It was agreed that discussion of NHRI accreditation would be set aside for Item 7 on the meeting agenda.

5.3 Committee members expressed interest in attending a Regulatory Approach workshop, having previously found additional sessions useful. Members requested to view the advice sent to the Board following Committee meetings as well as the results of external research recently undertaken into stakeholders. It was noted that the Commission are still awaiting the presentation slides and final report from this stakeholder research. Members additionally confirmed interest in holding a joint session with the Scotland Committee.

**Action B: Secretary to share advice for the Board arising from the 58th Wales Committee meeting with Committee members.**

**Action C: Interim Chair to share results of stakeholder research undertaken by external contractor with Committee members when received.**

**Action D: Head of Wales and Secretary to follow-up on organising joint session with Wales and Scotland Committees, potentially on our Regulatory Approach.**

## 6. Update from Joint Acting Chief Executive (EHRC WC 58.05)

6.1 Joint Acting Chief Executive, Melanie Field, provided an update on legal and corporate activities:

a) The Senior Management Team is in Manchester this week to discuss strategic issues, including the end to end offer and how our functions relate to being a regulator. This it to be picked up at a Board workshop. When the time is right, it will be useful to hold a joint session with the Wales and Scotland Committees.

b) We are looking forward to welcoming Marcial and feel heartened by Marcial’s vocation as a regulator.

c) Regarding Conversion therapy, we have not heard anything further from UK Government however we expect proposals to be published shortly. The Scottish parliament are undertaking a piece of work on Conversion therapy and we submitted a principled position to that process, resulting in us being invited to give evidence to the Scottish Parliament. Conversion therapy is included in the Welsh Government draft LGBTQ+ Action Plan, currently out for consultation.

d) The Joint Acting Chief Executive offered thanks to the Interim Chair for participating in the launch of the Strategic Plan, and noted that various stakeholder roundtable engagement activities are planned around this.

e) Regarding the spending review, we submitted our bid to the Cabinet Office comprised of a base line of £17.1million in year 1, with a 2% uplift in year 2 and a 5% uplift in year 3. This budget is intended to support the Transformation Programme set out in the Strategic Plan and to enhance our regulatory activity. Underpinning this is a commitment to building capacity in years 1 and 2, and upping delivery in year 3.

f) Kishwer Falkner, EHRC Chair, and Melanie Field are scheduled to meet the Conservative Party next week.

g) Reporting on the gender pay gap is due in October.

h) The Social Care enquiry is in the evidence-gathering stage.

i) Action is being taken to ensure staff engagement and protect staff morale. It was recognised that the Wales team is currently working at very low capacity.

j) Senior Structure is to be discussed in Manchester.

k) The reopening of the London office is delayed until the beginning of October due to issues with the building.

l) To reiterate point b) above, the Joint Acting Chief Executives have held several meetings with Marcial and are looking forward to the commencement of his appointment.

6.2 A committee member requested that the Committee be kept up to date with developments regarding staff culture.

6.3 A committee member requested an update on actions relating to the Windrush report. The Joint Acting Chief Executive has been liaising closely with Wendy Williams in terms of how our work complements each other with regard to Home Office action plans.

**Action E: Joint Acting Chief Executive and Head of Wales to provide updates on staff culture during future Wales Committee meetings.**

## 7. NHRI Accreditation (EHRC WC 58.06)

7.1 Christopher Corfield and Nicholas Williams provided an update on NHRI reaccreditation and asked the Committee to provide their feedback so that it could be fed into discussions at the Board.

7.2 Committee members were informed that the reaccreditation process is anticipated to occur in 2022, most likely in June, and were asked to consider the risk of EHRC losing its “A” status. The level of risk was informed by reflections on progress made against NHRI recommendations given in 2015. . In June 2021 Nicholas Williams and Cath Denholm attended a meeting of the NHRI Sub-Committee on Accreditation (SCA) where they gained insight into the issues considered during reaccreditation decisions. Cath attended as an observer prior to taking full membership of the SCA at its next meeting in October 2021.

7.3 Committee members were also informed of the risks surrounding reaccreditation in that if “A” status is lost it could have significant consequences in terms of restricting our ability to participate in decision-making, reputational damage, and our standing amongst stakeholders. The NHRI Accreditation report prepared by Christopher Corfield and colleagues also demonstrates the potential impact of losing “A” status on the UK Government and the UK as a whole, including the UK’s image as a world leader. The report also set out some mitigations and potential governance arrangements in managing this risk.

7.4 The Wales Committee was requested to provide feedback on proposed actions, the Wales context and governance, which would then be shared with the Board.

7.5 Nicholas Williams outlined the steps involved in gaining reaccreditation, including the preparation of a statement of compliance in advance of June 2022. The Commission will then have a meeting with the SCA, during which SCA representatives will ask a series of questions and raise any concerns based upon the submitted statement and other relevant factors. After addressing these concerns and questions, the reaccreditation decision is made and shared with the Commission in a report. During the decision-making process, progress made in previous accreditation rounds will be scrutinised and the SCA focus heavily on enabling laws, legal analysis work and the Paris Principles. Nicholas Williams sent an overview of the Paris Principles to all present: <https://ganhri.org/paris-principles/>.

7.6 The Interim Chair invited all Committee members to provide their feedback. Committee members expressed strong concerns regarding any risk of the Commission losing its “A” status. It was further remarked that the risks that could lead to the loss of “A” status are risks of the UK Government, which raises questions about how far the Wales Committee can act on this issue.

7.7 Nicholas Williams reminded the Committee that the UK is in a unique position because there exists three NHRIs across the UK. Therefore, concerns exist regarding NHRI accreditation becoming inconsistent across the UK which could threaten the Commission’s ability to meet its mandate. Christopher Corfield additionally stated to the Committee that practical risks and reputational risks interact, and that the reaccreditation process encourages reflection on what has been done and progress made.

7.8 Committee members reiterated that the recommendations given by the SCA in 2015 remain under the remit of the UK Government, with some members reiterating calls for the UK Government to act on recommendations, whilst others reflected on whether this would be appropriate or effective. Members speculated regarding the devolution of human rights and all agreed that losing “A” status would be problematic for Wales.

7.9 The Joint Acting Chief Executive noted that it is unclear what action the UK Government may take in relation to the EHRC’s reaccreditation, and that it is highly unlikely that the UK Government will introduce primary legislation to amend the Equality Act 2006. It was recommended that the Commission highlights how we have advocated for improvements and, within a constrained environment, realised changes such as amendments to the appointment of Commissioners, such as the Wales Commissioner, and will continue to realise changes. Questions remain regarding the approach the Welsh Government may take to safeguard the Commission’s “A” status and whether there are issues that the Welsh Government would like to press the UK Government on. It was acknowledged that the lack of a Commissioner for Wales has presented difficulties, but this should be resolved prior to our NHRI statement submission in 2022.

7.10 The Wales Committee felt strongly that the Commission should be taking robust action to protect our “A” status. The Committee further expressed a need to consider the context surrounding the level of risk relating to the Commission’s “A” status, despite the Commission continually advocating for changes, such as through the work of the Institutional Strategy team. The Wales Committee desire further time to thoroughly consider the implications of NHRI re-accreditation for Wales and in discussion with the Welsh Government. The Board are therefore asked to consider whether the Commission can and should use their relationship with the Welsh Government to lever the improvements that are needed. Committee members agreed that if there is a Commissioner Reference Group dedicated to NHRI re-accreditation, representation from Wales should be part of that group to ensure that the Wales context is considered. Finally, the Wales Committee would like to ask the Board for their input regarding the appropriateness of Martyn Jones and Ruth Coombs discussing NHRI re-accreditation during their meeting with the Social Justice Minister on 16 September 2021.

## 8. Advice on first year priorities for Wales of new Strategic Plan (EHRC WC 58.07)

9.1 The Head of Wales asked the Committee to provide feedback on what impact they would like to see, which will then shape the Strategic Plan. The Strategic Plan was discussed section by section.

1. Regarding ‘upholding an effective framework for protecting equality and human rights’, Committee members voiced no comments.

1. Regarding ‘fairness for children and young people’, a member asked whether the EHRC in Wales would be working with the Children’s Commissioner for Wales. The Head of Wales confirmed this, and stated that a good working relationship would also be established with the new Children’s Commissioner when appointed.
2. In relation to ‘upholding rights and equality in health and social care’, it was noted that the Welsh Government have taken an interest in this work and that the Commission is advising the newly established Chief Social Care Officer as they develop their work programme. A Committee member offered the view that it would be positive to see impact in terms of post-Covid recovery and to see any work that improves the reputation and tangible influence of the Wales Commission beyond cosmetic reputational improvements.
3. Concerning ‘fairness in a changing workplace’, this relates to the post-Covid world. Follow-up work can be undertaken, such as with the Well-being of Future Generations Commission, but we should take care not to duplicate work. The EHRC is in a strong position in terms of working with the Welsh Government on this issue. Committee members hoped that any actions would not be delayed until ‘post-Covid’ and that, in relation to the Race Equality Action Plan, the Commission remains actively engaged with and listens to stakeholders. Without engagement, the Commission will be unable to advise the Welsh Government effectively.

**Action F: Head of Wales to ensure that active engagement with stakeholders continues.**

1. In terms of ‘Fostering good relations, promoting respect between groups and understanding of rights’, nothing further added as this was covered during foregoing discussion.
2. Regarding ‘Artificial intelligence (AI) and emerging digital technologies’, this is a new, exciting and mysterious area for the Commission and in Wales. Groundwork will be laid this year to kick-start work next year. There is a need for greater understanding of the AI and Tech landscape in Wales beyond Covid-related-tech such as Track &Trace. Outside of this, there is a great deal more innovation and design to be engaged with in Wales and we are pleased that Mark Sykes has agreed to Chair an equality and human rights exchange event in October to shape this developing work.
3. A Committee member highlighted the importance of considering the Digital Divide, poverty and access to services, and the impact of Covid, whilst discussing emergent technologies. For example, anti-natal classes in Wales are only available to those that have Facebook or those that can pay for private support. The Head of Wales agreed that whilst digital exclusion has reduced, the precise rates are unknown. The Interim Chair pointed to the interesting work being undertaken by some disability charities who are utilising technology to enhance support in the home. This is an example of charities being at the cutting-edge of developments which demonstrates that there are both positive and negative aspects of technology. The Interim Chair and Head of Wales agreed that stronger links must be forged between AI and Tech and the independent living strategy. A Committee member warned of the dangers of removing digital access post-Covid, as anytime things are made inaccessible, people become excluded.

h) The Interim Chair will provide a verbal update on the first year priorities to the Board when appropriate.

## 9. Update on race and social care inquiries – Verbal update

9.1 Race Inquiry:

The Head of Wales explained that there has been a great deal of engagement in Wales in terms of the draft recommendations of the inquiry and a lot of appetite from different organisations stating that our recommendations align with what they are hearing from their own employees. This is a highly positive development. The Welsh Government have indicated that the inquiry will be useful in the implementation of the Welsh Government Race Equality Action Plan. The Race Inquiry report which will be a GB report is likely to be published in November, together with separate briefings for Wales and Scotland.

9.2Social Care Inquiry:

The Social Care inquiry team have received positive stakeholder reactions in Wales. The team met with academics from the University of South Wales (USW) to ensure that our work on the inquiry and their work on the review of the Social Services and Wellbeing (Wales) Act 2014 are complementary. Some technical queries from regulators have been resolved, and we are presently in the evidence-gathering phase, compiling evidence from Wales alongside a local authority survey going out in Wales and England.

## 10. Head of Wales report (EHRC WC 58.08)

10.1 The Head of Wales provided a corporate update, asking for comments by exception. Regarding the First 100 Days, engagement and responses to Senedd Committees remain ongoing.

10.2 The Interim Chair and Head of Wales are to hold a meeting with the Social Justice Minister next week. It was noted that members of the Senedd have utilised EHRC briefings during debates and they remain highly interested in the Commission’s work.

10.3 Efforts to relocate and re-enter the office are on-going and the Wales team is being kept up to date. Of high importance are issues regarding staffing, people, and the well-being of the team. Eight recruitment exercises have been completed in the last quarter, resulting in several new starters. The team is still experiencing long-term absences which have been flagged in terms of risk to GB colleagues. A member of the wider team is returning to us in Wales from the Scottish Government to lead on special projects around AI and Tech and Green Economy. The Head of Wales is undertaking line-manager duties and offers sincere thanks to the entire team for pulling together.

10.4 Regarding the Impact Report, this is currently in draft format and requires quality checking. This report is due to be debated in the Senedd in January to February 2022.

10.5 The Interim Chair invited comments from Committee members. The Committee praised the Draft Impact Report for highlighting the good work of the Wales team and for stimulating debate in the Senedd.

## 11. Wales impact report Q2 2021/22 (EHRC WC 58.09)

11.1 The Head of Wales introduced the report for comment by exception. The Interim Chair highlighted and praised the level of activity emanating from the Wales team during these difficult times, something that the Head of Wales and the team should be formally and personally commended for. The Interim Chair offered a warm thank you for all that has been achieved during a very challenging period. The Joint Acting Chief Executive is also to be commended for their work during these challenging times. It is recognised that the Commission is working within a highly complex environment where it is increasingly difficult to know how best to act to effect meaningful change in terms of human rights in Wales. The Interim Chair also offered thanks to the Committee for maintaining energy and for asking stimulating, and sometimes difficult questions. The Interim Chair invited Committee members to voice concerns or comments regarding the Wales Impact report Q2 2021/22.

11.2 Committee members asked for clarification regarding when the Commission in Wales will resume stakeholder engagement activities and face-to-face Committee meetings. It was agreed that stakeholder engagement activities will resume as soon as possible, aided by the appointment of the new secretary who is also responsible for stakeholder engagement. It was also agreed that one of the first tasks to be assigned to the new Commissioner for Wales will be to contribute to organising stakeholder meetings and steer on holding Committee meetings face-to-face once again.

**Action G: The new Commissioner for Wales is to lead on resuming stakeholder engagement and returning to face-to-face or hybrid Wales Committee meetings.**

## 12. Any Other Business

12.1 The Interim Chair asked for Any Other Business. None was noted

12.2 Members did not wish to escalate any issues to the Board.

12.3 Members agreed that meeting agendas commonly have too many items and that options to mitigate against this should be discussed and agreed.

**Action H: The Committee is to discuss and agree upon a way to streamline meeting agendas.**

12.4 With no other business being raised, the Interim Chair thanked Committee members and staff for their contributions, and drew the formal meeting to a close. The Committee would next meet on 11 November 2021.