**Minutes of the Fifty First Meeting of the Wales Committee**

**Equality and Human Rights Commission**

**Wednesday 26 February 2020
Butetown Community Centre, Loudoun Square, Cardiff**

**Attending:**

Alison Parken (Interim Chair)
Faith Walker
Geraint Hopkins
Martyn Jones
Nicola Williams
Rocio Cifuentes

**EHRC**
Rebecca Hilsenrath (Chief Executive)
Ruth Coombs (Head of Wales)
Ewan Devine-Kennedy (Principal, Research) – item 11 only, joined remotely
Melissa Wood (Senior Associate, Wales)
Geraint Rees (Senior Associate, Wales)

# Welcome and introductions

* 1. The Chair welcomed members and officers to the fifty first meeting of the Wales Committee. Apologies were received from Mark Sykes.

# Declarations of interest

* 1. No declarations were made.

# Minutes of December Meeting (EHRC WC 51.01)

* 1. The Committee agreed the minutes of the last meeting.

# Current matters arising (EHRC WC 51.02)

* 1. Committee members asked officers for an update for the roundtable with Police and Crime Commissioners (PCC) and discussed the timings and themes. Officers confirmed that the roundtable would take place following the PCC elections in May and would include police responses to reporting on domestic abuse and sexual violence as well as hate crime reporting. Members enquired whether there was capacity to engage with Sexual Assault Referral Clinics. Members re-iterated their view that the discussion should include senior officers. Officers encouraged members to share any intelligence on hate crime with the Access to Justice lead.

Action A: Committee members to share intelligence on hate crime to Angharad Davies by 20 April 2020.

* 1. In response to a question regarding Action Q (WC50/9.2(2)) about holding a Committee meeting in the London office twinned with an event with Welsh MPs and Peers, officers confirmed that it remained under consideration and would be organised if linked to a useful opportunity, such as the socio-economic duty or the review of the Public Sector Equality Duty.
	2. Members requested that officers ensure that the vacancies and opportunities in the Cardiff office were circulated at the earliest possible stage to enable wide circulation through networks.

# Reflections on the senior stakeholder engagement

* 1. The Committee discussed the positive engagement with members of the Equality, Local Government and Communities Committee (ELGC). Members noted the positive reception to the suggestion of holding an event together to mark the tenth anniversary of the Equality Act. Members requested that officers follow up the offer with the ELGC Committee.

## Action B: Follow up with ELGC on suggestion of holding a joint event on the tenth anniversary of the Equality Act.

* 1. Members commented on the interest of the Committee Chair in the work on Growth/City Deals and the suggestion of inviting the Welsh Government Permanent Secretary for a scrutiny session with the ELGC on the Welsh Governments performance on equality and human rights.
	2. Members discussed the interest of individual ELGC members’ in disability matters and migrants rights post Brexit. Members discussed the education discrimination case in North Wales that the Commission had supported and suggested that a summary of the case be circulated to all AMs.

## Action C: Send summary of the North Wales education case to all AMs.

* 1. Members noted the ELGC’s forthcoming inquiry on community cohesion and suggested that the Commission should engage with the ELGC Committee as it develops its terms of reference.

## Action D: Engage with ELGC on the development of the ToRs for the Community Cohesion Committee.

* 1. Members reflected on the positive mentions of the Commission’s work that had been evident during the Plenary session, with many AMs speaking up for the important role of the Commission.

# Update from the Chief Executive (EHRC WC 51.03 & 03a)

* 1. The Chief Executive shared with the Committee some key recent highlights. The Commission’s work on the two ongoing investigations into the Labour Party and the BBC were entering the final stages. Members were informed of the changes in the equality infrastructure in Whitehall. Members discussed the UK Government’s commitment to initiate the Constitution, Democracy and Human Rights (CDHR) Commission. Members were informed that the Commission, alongside the other National Human Rights Institution in the UK, would ensure collective engagement with the CDHR including highlighting the devolution impacts. Members discussed the Lord Dunlop Review on the Union and the impact of post Brexit of the devolution settlement for rights. Members suggested that an engagement with Welsh MPs on this topic could be useful.
	2. The Chief Executive provided an update to members on accommodation and recent senior staff appointments.

## Action E: Circulate details of new senior staff members to Committee.

* 1. The Committee received a draft paper setting out proposals for the Social Security Inquiry. Members were informed that the redrafted paper that would be considered by the Board would include the Hostile Environment. Members were informed that the Board would be taking a holistic view of the balance of the Commission’s work. This meant that the content in the paper on the proposed social security inquiry stood and could be added to by other priorities.
	2. The Committee discussed the hostile environment and the ‘carve out’ on immigration in the Public Sector Equality Duty. Members discussed what else could the Commission do in this space, noting that problems in looking into the hostile environment as it crossed a number of policy areas and use of the Commission’s specific powers were not strong. Members enquired about the approach the Board would take to reviewing the two proposals. The Chief Executive informed members that each proposal would be viewed on its merits individually and that it was important for the inquiries to have a focussed remit. The Committee noted that hostile environment was much broader than immigration matters. The Committee noted the overlap between the two proposed inquiries in particular that the policies around social security could be viewed as part of the hostile environment. Members suggested looking at the specific impacts of social security on wider groups including ethnic minorities.
	3. The Committee discussed the economic as well as moral costs of the social security appeals process noting the large numbers of appeals that were upheld. Members commented that in addition to the impact on individuals there was significant inefficiency and cost to the public purse of the current social security assessment processes that could be a lens through which the inquiry looked. Members noted that the decisions made by tribunals and courts were not flowing into systematic change.
	4. Members discussed whether the Commission should view its work on the hostile environment and social security through the lens of human rights. The Committee noted that the Commission had limited powers to take action via human rights framework which could limit the impact of the work.
	5. The Committee noted the ongoing discussion in the National Assembly for Wales, raised by members of the ELGC Committee about the potential for the administration for social security to be devolved to Wales.
	6. The Committee agreed to keep a watching brief on the development of the potential inquiries. Members agreed that should a decision be taken not to proceed with an inquiry into the hostile environment it advised that other actions should be considered on this theme. Officers agreed to come back to the Committee with an update on the inquiries.

Action F: Provide update to the Committee on decisions regarding the inquiries

# Workshop session – External environment (EHRC WC 51.04)

* 1. The Interim Chair introduced the workshops session to the Committee. Members first looked at the proposals around human rights included in the Conservative manifesto 2019. These proposals included updating Human Rights Act, reviewing Judicial Review and establishing a Constitution, Democracy & Rights Commission. Committee members broke into small groups to discuss the implications of these proposals, the proposed responses prepared by the Executive Group and specific Welsh actions.
	2. The Committee discussion included scenario planning, the extent to which Human Rights were enshrined in the Government of Wales Act, the proposals to develop a Welsh Human Rights Bill and the need for the Commission to develop a clear policy position on such legislation.
	3. The Committee discussed the need for the Commission and Welsh Government to ensure their voice was heard in the work of the Constitution, Democracy & Rights Commission.
	4. Members discussed the need to be clear on the time frame for this work and to collate the Commission’s existing positions, research and legal advice on strengthening equality and human rights in Wales. Members agreed that it was important for the Commission to be seen as a leading voice in the debate in Wales. Members agreed that a follow up session on this item should be scheduled for the next meeting.

Action G: Schedule discussion on the external environment in relation to human rights at the next Wales Committee meeting.

* 1. The Chief Executive outlined broad scenarios, implications for the Commission’s budget of the Spending Review and potential responses. Members were informed that the Board had given a steer to the Executive to bid for an increase in the budget which could be used to expand the Commission’s regional work in the north of England and seek to address regional inequalities.
	2. Members discussed the risks to the Commission’s independence in too closely aligning with the Government’s agenda. Members noted that the Commission had already begun developing an England regional strategy and that tackling regional inequalities was an important issue, backed up by evidence in Is Britain Fairer? 2018. The Committee discussed the perspective that the Commission could offer in terms of working in the devolved context.
	3. The Committee discussed the principles for responding to a negative settlement. Members discussed proposals to reduce the number of priority aims in the event of significant reductions. Committee members highlighted the progress on the Transport aim in Wales; and transport is key to enabling disabled people to access work, training and education opportunities, as well as social activities. Members commented that they would be reluctant for the transport aim to be de-prioritised but could see the rationale for de-prioritising the Institutions Aim as there are other key players in this space. Members commented that the Commission should prioritise its work by where it is uniquely placed to deliver.

# Wales Activity Plan 2020/21 (EHRC WC 51.05)

* 1. The Committee received a paper that set out the success measures and indicators for the Wales Activity Plan 2020/21. The Committee suggested that the Plan needed to be flexible to ensure the Commission in Wales had the capacity to respond to the potential changing landscape of equality and human rights structures and frameworks. Members suggested that the Wales team may need to reprioritise to respond to major changes. Members were asked about the areas they considered that could be de-prioritised. Members were asked to send officers feedback by 15 March. Members commented that all the activities were important but some could be scaled if the landscape changed.

Action H: Members to feedback by 15 March on Wales Activities that could be deprioritised or scaled.

# Transgender guidance for schools –verbal update

* 1. The Committee received a verbal update from the Chief Executive on the Transgender guidance for schools. The Commission had developed guidance and remained in discussion with the UK Government about who should publish the document. Members were informed that the UK Government’s view was that the guidance should be published by the Government Equalities Office (GEO). Members were informed of the Commission’s concerns about the plan for the GEO to publish the guidance. Committee members commented that given that education was devolved to Wales and Scotland whether there was scope or appetite for the Commission to publish the guidance in the devolved nations.
	2. TheCommittee were informed that the Board would take a decision on whether to publish, not published or publish in the devolved nations.

## Action I: Members to be updated after the Board meeting

# Maximising the impact of investigations (EHRC WC 51.06)

* 1. The Committee received a paper which set out the proposals for maximising the impact of the Commission’s investigations work. The Committee noted the need to ensure that the Commission does not duplicate the work of other regulators. The Chief Executive reported that follow up provided a platform for thought leadership for Commission. The work following up the equal pay investigation could be a platform for legislative change. The Committee commented that Welsh Government reviewing the pay duty in Wales could provide learning to the Commission. The Office of Fair Work in Wales could provide scope for early adoption for the statutory recognition for Trade Union equality representatives.
	2. Members agreed that the plans to broaden the learning from the Labour Party investigation to help improve standards in public life and protections for people in political life was positive.
	3. The Committee asked about the Commission’s action relating to alleged islamophobia in the Conservative Party. The Committee were informed that the Board would be discussing the matter shortly. The Commission continued to engage with the Conservative party on its internal inquiry into prejudice.

Action J: Update the Committee on any action decided by the Board relating to the Conservative Party.

# Is Britain Fairer (EHRC WC 51.07)

* 1. The Committee received a paper providing an overview of the approach for delivering the Is Britain Fairer report. The proposed approach builds on the evaluation of Is Britain Fairer 2018. The Committee noted the phased release of the Is Britain Fairer suite of reports including an overview summary report, a final report, nation reports and ‘deep dives’ and subject specific reports. The final report would be laid in Parliament by December 2021.
	2. In response to a question about the membership of the Commissioner Working Group members were informed that Alison Parken sat on the group and could feed in views of the Wales Committee.
	3. Members asked whether the structure of the reports and products have to be replicated across the nations. Members discussed the possibility of producing protected characteristic reports.
	4. Members enquired whether the Commission would be working to address the data gaps to improve baseline date for Is Wales Fairer. Committee members offered to link the Commission’s Evidence team with Welsh Government’s Social Research department. Members noted the challenge of addressing certain data gaps in Wales including ethnicity statistics. Officers confirmed that the Evidence team were keen to engage with the Welsh Government to address data gaps and welcomed that introduction.

Action K: Link EHRC evidence team with Welsh Government Social Research

* 1. In response to a Committee member question, officers confirmed that the Commission was engaged with the Disability Dashboard team and the Office of National Statistics to advise them.
	2. Committee members asked about the rationale for not including policy recommendations from the overview report. Officers confirmed that this was addressing themes from the evaluation that an overview report should be aimed at providing key evidence and challenges for public bodies to address. Members were informed that policy recommendations would be included in the final report.
	3. Members noted the impact the Is Wales Fairer 2015 & 2018 had made in Wales, shaping public bodies work and that the next iteration must have the potential for similar impact.
	4. Members asked about the process for publishing Is Britain Fairer. Members were informed that it was only Is Britain Fairer that was a statutory requirement for the Commission. The publishing and laying of Is Britain Fairer is the responsibility of the Secretary of State.
	5. The Committee commented that it had been useful to be briefed on the approach at such and early stage of the programme and confirmed it was content with the plan and the Terms of Reference for the Commissioner Working Group.
	6. The Committee invited Ewan Devine-Kennedy or members of the Is Britain Fairer team to update the Committee on progress.

**Action L: Invite Is Britain Fairer team to Wales Committee to provide updates as the project progresses**.

# Wales Impact report 2019/20 December 2019 - February 2019 (EHRC WC 51.08)

* 1. The Committee received the Wales Impact Report which covered the period 1 December 2019 to 31 January 2020. The Head of Wales reported to the Committee that all the success measures were rated Green apart from the Institutions aim, which was rated Amber. Members noted that the Amber rating was a result of capacity issues to deliver the work this year. Members were informed that the Wales team had been successful in securing agreement to recruit a Compliance Officer who would take a lead on the Institutions aim. With that mitigation in place the Performance and Effective Unit had confirmed that from 1 April the aim could be re-rated as Green.
	2. Members enquired about progress on the Institutions Aim. Officers confirmed that activities related to the Notification of Rights pilot project and the Mental Health Act Code of Practice for Wales. Members noted that the Notification of Rights resource was not yet published and it was being re-written based on finding from the pilot which included Wales.
	3. The Committee discussed the challenge of delivering such a broad programme of work with the available resources. Members discussed whether the Wales Activity Plan could be reviewed and proposed considering de-prioritising the Institutions Aim should capacity for delivery continue to be an issue. Members noted that much of the activities in that aim related to non-devolved sectors and was less visible.
	4. Members commented that it was good to see progress on the Access to Justice Aim since the last report. Members highlighted the recent Legislation (Wales) Act 2019 to the team and suggested that the Access to Justice Aim should makes links to the implementation of the Act which has a focus on awareness of rights. The Committee offered its thanks and congratulations to the team for the delivery of the Wales Activity Plan.
	5. Members asked about the spend position on the Wales Budget and the Committee agreed it would be good to get a report each year at the December and March meetings on the budget position. The Chief Executive informed members that it was useful to take a holistic view across the Commission on the budget as teams are asked to accurately report spend forecast so budgets can be reallocated during the year. Members noted that the Commission was currently forecasting a small underspend for 2019/20.

**Action M: Wales budget position to be shared with the Wales Committee in the December and March impact reports.**

1. **Any other business**
	1. The Committee discussed the recent Wales Committee recruitment noting the update from the Interim Chair’s report. Members commented positively on the high number of applications from young people and discussed the challenge in translating the applications into appointable candidates. Committee member Nicola Williams shared her experience of recruiting younger members to the Dŵr Cymru/Welsh Water Board, which included reviewing the required criteria and taking an overview of the skillset of the whole Board. The Committee agreed to review recruiting criteria for the Committee as well as other solutions such as mentoring, peer support and shadowing.

**Action N: Review Wales Committee recruitment criteria. Nicola Williams to share learning for that discussion and paper.**

* 1. The Committee noted that there was no development to report on the process for appointing a Wales Commissioner.

**Close of meeting**