



Llywodraeth Cymru
Welsh Government

POLICY AND STRATEGY

Concordat between the Equality and Human Rights Commission and the Welsh Government

This concordat sets out an agreed approach for an effective relationship between the Equality and Human Rights Commission (EHRC) and the Welsh Government.

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Purpose clause

The purpose of the concordat is to provide a foundation for the relationship between the EHRC with the Welsh Government. This concordat recognises the need for the EHRC to have a fully effective presence in Wales.

The EHRC's role in Wales includes but is not limited to:

- fulfilling its equality and human rights duties in Wales at an appropriate level and in line with the Equality Act 2006
- monitoring and regulating the Welsh specific duties and other enactments, and

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- providing Welsh public authorities with quality information and guidance on equality and human rights.

Status of this document

The concordat is not a legally binding agreement or a contract between the EHRC and the Welsh Government, and it does not create any legitimate expectation that either party will act in any particular way in the future. Furthermore, it is not intended to cover every detailed aspect of the relationship between the 2 parties. Rather, it is a statement of the principles and intent that will guide relations between the EHRC and the Welsh Government. The concordat cannot and does not override or prejudice the legal duties and powers of either the EHRC or the Welsh Government. It is a document setting out both Parties commitment to good relations and working practices.

The EHRC Wales Committee

The Equality Act (2006) provided for the establishment of the EHRC Wales Committee to advise the EHRC Board about the exercise of its functions in so far as they affect Wales, to provide advice to the Welsh Government about the effect of an enactment and about the likely effect of a proposed change of law as well as to carry out the delegated functions set out in Section 24 to 31 inclusive Schedule 1 of the Equality Act 2006. A copy of the Equality Act Schedule is attached as Annex 1. Under the terms of this concordat, the Wales Committee will operate as the EHRC's point of liaison with the Welsh Government. The Wales Committee will consider requests for advice made by Welsh Ministers and respond on behalf of the EHRC.

Working relationship

The EHRC is a GB-wide body and requires a strong working relationship with the Welsh Government on equality and human rights related matters. The EHRC is currently funded by the UK government.

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This concordat acknowledges that current equality legislation provides only limited details (see Page 3) regarding relationships between the EHRC and the National Assembly for Wales (the National Assembly) and Welsh Government. This is particularly relevant with regard to regulation of the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011. These were made by the Welsh Government but are reliant on the EHRC for regulation.

This concordat presents a framework for the working relationship between the Welsh Government and the EHRC, but recognises that this must be within the context of, and be consistent with, the respective statutory roles and functions of the 2 organisations. In particular, the independence of the EHRC must be recognised.

The Welsh Government and the EHRC will work together to identify any aspects of their relationship which could be made more effective. As part of a constructive working relationship, the Welsh Government will share with the EHRC its equality and human rights priorities. The EHRC will share with the Welsh Government its work programme and give the opportunity for comment in relation to those parts that relate to Wales. All comments received will be given due consideration.

Guiding principles and remit for EHRC and Wales Committee

The guiding principles for the EHRC's operation in Wales mirror the general duty the EHRC is given under the Equality Act 2006. The Commission shall exercise its functions with a view to, but not limited to, encouraging and supporting the development of a society in which:

- a. people's ability to achieve their potential is not limited by prejudice or discrimination
- b. there is respect for and protection of each individual's human rights
- c. there is respect for the dignity and worth of each individual
- d. each individual has an equal opportunity to participate in society, and
- e. there is mutual respect between groups based on understanding and valuing

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of diversity and on shared respect for equality and human rights.

Functions delegated to the Wales Committee

The following functions, under the Equality Act 2006, are delegated to the EHRC Wales Committee to enable it to:

- publish or otherwise disseminate ideas or information
- undertake research
- provide education or training
- give advice or guidance (whether about the effect or operation of an enactment or otherwise)
- monitoring the effectiveness of the equality and human rights enactments
- advise devolved government about the effect of an enactment
- advise devolved government about the likely effect of a proposed change of law

The following function is delegated to the Wales Committee by the EHRC Board:

- monitoring performance of the EHRC in Wales

Resource

The EHRC is funded by the Secretary of State. The Equality Act 2006 requires the Secretary of State to pay the EHRC such sums as appear to the Secretary of State to be reasonably sufficient to enable the EHRC to perform its functions. That Act also requires the EHRC when allocating its resources to ensure that the Wales Committee receives a share sufficient to enable it to exercise the functions referred to above.

Operation and review of bilateral concordats

The EHRC and the Welsh Government are committed, wherever possible, to resolving any disagreements under this concordat, through normal

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administrative channels.

Amendments to this concordat may be made at any time by agreement between the EHRC and the Welsh Government. In addition, this concordat will be reviewed at intervals to be agreed between the EHRC and the Welsh Government, and be updated as necessary in the light of experience of its operation in practice. The first review of this Concordat will be in 6 months from the date of signature. Addendums may be included in this concordat that have been mutually agreed in writing between the parties.

To comply with obligations under the Freedom of Information Act and Government transparency each party to this concordat may publish it, once signed by both parties, without prior notice to the other party.

Signatories

Signed by Jeff Cuthbert, Minister for Communities & Tackling Poverty, on behalf of Welsh Government

Signed by Baroness Onora O'Neill, Chair, on behalf of the Equality and Human Rights Commission

Signed Monday 10 March 2014



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Annex: Key points in Equality Act 2006

Wales Committee

24 (1) The Commission shall establish a decision-making committee to be known as the Wales Committee.

(2) The Commission shall ensure that the Wales Committee is established before any of sections 8 to 12 comes into force (to any extent).

25 The Commission shall appoint as the Chairman of the Wales Committee a Commissioner appointed for the purpose of satisfying paragraph 2(3)(c).

26 The Commission shall appoint each member of the Wales Committee for a period of not less than two years or more than 5 years, subject to the possibilities of—

- a. reappointment, and
- b. dismissal in accordance with the terms of appointment.

27 The Wales Committee shall advise the Commission about the exercise of its functions in so far as they affect Wales.

28 Before exercising a function in a manner which in the opinion of the Commission is likely to affect persons in Wales, the Commission shall consult the Wales Committee.

29 (1) The power under section 13:

- a. shall be treated by virtue of this paragraph as having been delegated by the

- Commission to the Wales Committee in so far as its exercise, in the opinion of the Commission, affects Wales, and
- b. to that extent shall not be exercisable by the Commission.

(2) Sub-paragraph (1) does not apply to the power under section 13 in so far as it is treated as delegated to the Disability Committee in accordance with paragraph 52.

(3) Sub-paragraph (1) shall not prevent the Commission from making arrangements under section 13(1)(d) or (e) for the provision of advice or guidance to persons anywhere in Great Britain.

30 (1) The power under section 11(2)(c)—

- a. shall be treated by virtue of this paragraph as having been delegated by the Commission to the Wales Committee in so far as it concerns the giving of advice to devolved government about enactments which, in the opinion of the Commission, affect only Wales, and b) to that extent shall not be exercisable by the Commission.

(2) The power under section 11(2)(d)—

- a. shall be treated by virtue of this paragraph as having been delegated by the Commission to the Wales Committee in so far as it concerns the giving of advice to devolved government about proposed changes in the law which, in the opinion of the Commission, would affect only Wales, and
- b. to that extent shall not be exercisable by the Commission.

(3) Sub-paragraphs (1) and (2) shall not apply to the powers under section 11(2)(c) and (d) in so far as they are treated as delegated to the Disability Committee in accordance with paragraph 52.

31 In allocating its resources the Commission shall ensure that the Wales Committee receives a share sufficient to enable it to exercise its functions.

Relevant sections in Equality Act referred to in Wales Committee schedule

13 Information, advice, &c.

(1) In pursuance of its duties under sections 8 to 10 the Commission may—

- a. publish or otherwise disseminate ideas or information
- b. undertake research
- c. provide education or training
- d. give advice or guidance (whether about the effect or operation of an enactment or otherwise)
- e. arrange for a person to do anything within paragraphs (a) to (d)
- f. act jointly with, co-operate with or assist a person doing anything
- g. within paragraphs (a) to (d).

11 Monitoring the law

(1) The Commission shall monitor the effectiveness of the equality and human rights enactments.

(2) The Commission may:

- a. advise central or devolved government about the effect of an enactment (including an enactment in or under an Act of the Scottish Parliament);
- b. advise central or devolved government about the likely effect of a proposed change of law.

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