



Llywodraeth Cymru
Welsh Government

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Human Rights Advisory Group meeting: 9 February 2023

Summary of the minutes of the meeting held on 9 February 2023.

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Attendees

- Jane Hutt MS (Chair), Minister for Social Justice (MSJ)
- Mick Antoniw MS, Counsel General and Minister for the Constitution (CGMC)
- Natasha Davies, Chwarae Teg (ND)
- Elisabeth Jones, Independent (EJ)
- Charles Whitmore, WCVA / Human Rights Consortium (CW)
- Joseph Lewis, WGLA (JL)
- Nicola Evans, Older People's Commissioner for Wales (NE)
- Sean O'Neill, Children in Wales (SON)
- Rhian Davies, Disability Wales (RD)
- Prof Robert Moore, NWREN (RM)
- Rhian Davies, Disability Wales (RD)
- Davina Green, Stonewall Cymru (DG)
- Alicja Zalesinska, Tai Pawb (AZ)
- Catherine Fookes, WEN Wales (CF)
- Fran Targett OBE, WCVA (FT)
- Cllr Mary Ann Brocklesby, WLGA (MAB)
- Shahien Taj, Women Connect First (ST)
- Maria Mesa, Women Connect First (MM)

Welsh Government officials

- Karyn Pittick, Human Rights Team (KM)
- James Gerard, Deputy Director, Justice Policy (JG)
- Chrishan Kamalan, Equality Team (CK)
- Kimberley Mortimer, Human Rights Team (KM)
- Amanda Woodrow, Human Rights Team (KM)
- Sam Edwards, Cabinet Division (SE)

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- Bethan Phillips, Cabinet Division (BP)
- Catrin Stephenson, Cabinet Division (CS)

Apologies

- Stuart Evans, Deputy Director, Equality and Human Rights (SE)
- Sian Pope, Communications (SP)
- Rev Aled Edwards OBE, Cytun (AE)
- Marie Brousseau-Navarro, Future Generations Commission Office (MBN)
- Sara Rees, Oxfam Cymru (SR)
- Prof Simon Hoffman, Swansea University (SH)
- Dr Emily Kakoullis, Cardiff University (EK)
- Rev Ruth Coombs, EHRC (RC)
- Lisa Reynolds, EHRC (LR)
- Rachel Thomas, Children's Commissioner for Wales (RT)
- Keithley Wilkinson, Cardiff and Vale UHB
- Julie Cook, Wales TUC (JC)
- Nancy Lidubwi, BAWSO (NL)
- Dr Alison Parken, Cardiff University (AP)

Welcome and opening comments by MSJ

The Minister for Social Justice (MSJ) welcomed all attendees to the third meeting of the Human Rights Advisory Group (HRAG).

MSJ introduced two new members to the HRAG. Elisabeth Jones and Councillor Mary Ann Brocklesby. MSJ confirmed Elisabeth was joining HRAG in an individual capacity, rather than a representative of any specific group.

MSJ confirmed Mary Ann is leader of Monmouthshire Council and has joined as

the new Welsh Local Government Association spokesperson for Equalities.

Minutes of the second meeting of HRAG: 8 November 2022

MSJ confirmed all actions from the previous meeting had been followed up and asked for any comments on the minutes which were circulated prior to this meeting. No comments were given and minutes for the meeting 8 November are now approved.

UK Government Bill of Rights Bill (BoRB): update and discussion

MSJ provided an update on the December meeting held with Lord Bellamy, Parliamentary Under Secretary of State, Ministry of Justice. Both MSJ and CGMC attended the meeting and expressed their strong concerns regarding continuing plans to repeal the Human Rights Act and replace it with the proposed UK Bill of Rights.

Since the recent UK Government changes in September and November, both MSJ and CGMC stated it was still unclear whether the Bill would progress during the remaining time of this UK Government. Lord Bellamy had indicated the Bill would be going ahead.

MSJ and CGMC referred Lord Bellamy to the Welsh Government consultation response and expressed concerns the recommendations of the independent Human Rights Act review were ignored.

There were further concerns about the impact repealing the 1998 Act would

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have on the devolution settlement.

Lord Bellamy suggested he would meet again with MSJ and CGMC, where he would address the constitutional concerns raised, when the Bill had progressed to the second stage reading.

MSJ referred to the [837-page report published on 25 January 2023](#), by the UK Parliament Joint Committee on Human Rights, which appears to conclude there is not significant support for the UK BoRB. MSJ requested a link be provided to the opening quote and report for attendees.

Action 1: share link to the UK Parliamentary Joint Committee on Human Rights.

MSJ stated the Welsh Government will continue to urge the UK Government to reconsider the decision to proceed with the Bill.

CGMC highlighted he had chaired a recent Inter-Ministerial standing committee between all UK Nations, and confirmed he raised the concerns regarding the UK BoRB and the outcome of the recent meeting with Lord Bellamy. A busy agenda and tight timescale prevented a detailed discussion.

CGMC referenced a recent Sunday Times article regarding the UK Government's comments report on immigration legislation and the potential action of withdrawing from the European Court of Human Rights (ECHR) if there was a judgement against the UK Government.

CGMC stated the article echoes the general concerns and questions the Welsh Government has. Whilst it is of great concern and this, along with the UK BoRB will be raised with Lord Bellamy for further discussion. Whilst the position of the UK BoRB is still unclear, current Welsh Government policy work on Strengthening and Advancing Human Rights in Wales will continue.

CGMC will write to Lord Bellamy requesting more detail in relation to the UK BoRB and to discuss the reported withdrawal from the ECHR further.

Members discussed the need to not become complacent in relation to the UK BoRB and the fact the UK Government was stating they would be going ahead with the UK BoRB should not slow down the progress in Wales.

Action 2: CGMC to write to Lord Bellamy for detail in relation to the UK BoRB and potential withdrawal from the ECHR.

Welsh Government Human Rights Action Plan update

a. Scotland Day 2023: update

MSJ invited Chair of the Legislative Options Working Group (LOWG) to discuss the recent 'Scotland Day' where members of the LOWG spoke to the Scotland Taskforce in relation to the Scottish Taskforce's learning points from their similar work.

CW gave an open invitation for any HRAG members who would like to input into the work of the LOWG to get in touch.

Action 3: any HRAG members who want to input into the work of the LOWG to directly contact CW or the HRAG secretariat via email.

CW updated on the Scotland evidence sessions as follows:

- Sessions were grouped into 14 different sectors across 4 sessions. The 4 sessions were:-
 1. Independent Civic Society who were not formal members of the Independent Taskforce
 2. Civic Society members of the taskforce
 3. Academic advisory group

4. Official groups and authorities

- Wales was coming from a different position as they already had the Strengthening and Advancing Equality and Human Rights research work commissioned and responded to by the Welsh Government in 2022.
- A holistic consideration of economic, social and cultural rights underpinned much of the thinking in Scotland, perhaps more than it has for our work in Wales so far.
- Wales has a different legal context with the well-being of future generations Act in Wales doing some of this work and placing us within that context as well.
- Considering bespoke rights led to quite a strong work strand around the right to a healthy environment, which the LOWG might want to consider in Wales.
- There was a large scale of engagement across sectors that informed their work, and a lot was done to achieve a critical mass of momentum for the reforms.
- Some regrets by expressed by stakeholders that judiciary and legal practitioners were emitted as a stakeholder group because they found a sense of pushback later in the work.
- An important point to emerge during discussions was ensuring that the quieter rights representative voices were also listened to and heard throughout the work.
- The importance of having an expression of the requirement of progressive realisation on the face of the legislation.
- The use of interpretative clauses, which can serve as a means of keeping pace with international legal frameworks as they develop over time.
- The importance of equality clauses and the role of minimum core obligations crucially, how that list of minimum core obligations was arrived at in Scotland.
- The Istanbul Convention, the Convention on Preventing and Combating Violence against Women in domestic violence came up and the views were expressed in in favour for its incorporation.
- A key option to emerge with the inclusion of the duty to develop a human

rights scheme which would address things like reporting human rights, budgeting, giving further effects to the framework, reporting parliamentary scrutiny and promotion and awareness duties.

- Key thoughts of embedding a framework into teaching about devolution, for example, about Welsh law and about human rights in Welsh universities.
- Cautionary advice around impact assessments, that legislative proposals should be transformative in terms of culture and not to fall into tick box exercises.
- A key strand to emerge around discussions for judicial and nonjudicial routes.
- The drive in Scotland to address civil and political rights as a part of their incorporation, which is something that the LOWG may want to consider.
- How devolved legislation can go further without hitting limitations around the world for example, competencies associated with the Equality Act so issues for example, around developing care experience as a protected characteristic.

MSJ thanked CW for the informative update and invited thoughts and questions from HRAG members.

CW responded that work in Wales for the LOWG is still at a very early stage and they were unable to delve into the detail of many points with Scottish colleagues.

EJ asked for clarity in relation to human rights not becoming a tick box exercise and seen as a burden for public authorities and if there were any lightbulb moments that may be valuable to know.

CW stated human rights budgeting came into this quite significantly in terms of how we plan the cost of these measures, and whether we have the data to achieve the reporting requirements that we talk about.

Concerns were raised around avoiding something that is a bit too procedural also questions around the striking, the right balance between traditional and

non-traditional enforcement and also having non judicial routes to enforcement, which essentially will make this a living instrument for people.

MAB commented that the core principles of human rights are about embedding in a culture transforming the way that we work, ensuring that the voices of those who are less loud are heard and these principles ensure that we work in certain ways. It is MAB's belief we need to be very, very clear about that and be very, very clear in our documentation that we are working against those principles and standards.

SON asked: there have been several discussions and difficulties in terms of the challenge from the UK Government to the competencies of the Scottish Government in realising the Convention on the Rights of the Child and the implementation of that legislation, and whether there were any reflections on that process you can share with us today in terms of our learning here in Wales.

CW responded It was forefront in our conversations with colleagues in Scotland because they had not long had the UK Government's challenge to the Gender Reform Acts. Scottish colleagues have seen significant opposition in terms of what can and can't be done within scope of Scottish devolution. But certainly, around the UNCRC bill but stakeholders were undeterred. There was a bit of frustration around how they hadn't had an outcome from the Scottish Government on this yet and how options were still being explored, but there was no sense that it wouldn't be possible.

CW concluded the LOWG had reconvened to debrief from the Scotland sessions and members had agreed that there is a need to be inclusive and to build momentum amongst stakeholders and recognise the need to engage further with stakeholder experts as we move forward towards more perhaps more specific work.

CW shared members wanted to press ahead with the work quickly, so members are aiming to produce an outline of which rights and treaties to recommend for

incorporation by the 31st of March.

ST asked: here in Wales and beyond there's a lot of work that's being done around peace building and peaceful coexistence and around Wales' commitment for creating a new generation of internationalists, should this be a focus of Wales to connect it up?

CW responded the work of the LOWG is very much underpinned by the well-being of future Generations Act, which includes that duty to a globally responsible Wales, and this is very much driving the work and that it will continue to be a thread throughout.

RM asked (via chat) To what extent are we taking the public with us?

CW responded an aspect of the legislation that is being considered is very much around promotion and awareness. There has been talk in relation to the potential inclusion of a human rights scheme that that would include duties on promoting and raising awareness of human rights within the Wales.

CGMC added There is lots of work going on and it is important this work is started in relation to the importance of identifying treaties and international conventions and rights that are to be incorporated. The real questions are:

- What do we want to incorporate?
- Why do we want to incorporate?
- What change will it actually make?
- How do you enforce or implement and interpret what they are?
- How does it add to some of the things that we already have?

Those are things that are really, really important. In terms of incorporation into Welsh law, because there are areas where we can't incorporate or impact depending upon what may happen in non-devolved areas as well.

Once further work is done, we need to have a clarity check about what it is we

would want legislation to actually do because otherwise you end up with something which is aspirational in many ways but doesn't actually change anything.

Part of the purpose to legislating is to actually not only incorporate into Welsh law, but also to give it that protection against change and the threat of it being undermined externally. I don't think you can really assess that until that further work is done.

MSJ thanked CW and members for their inputs and invited KP and JG to update members on other action areas.

KP sated:

- meetings had been held with the Welsh Government team working on impact assessments. They are very keen to develop new tools for officials to do human rights integrated impact assessments but are waiting for more policy details to see what these may look like
- comms is progressing and recent meetings held with Liberty and Amnesty looked at their key messages and how they work effectively with external stakeholders
- we are looking to develop a bank of real story case studies, and ask members to contribute anything they feel relevant to this

Action 4: any HRAG members with any real-life human rights examples that could be used for case studies to share these with the secretariat.

- We are looking to focus on an infographics package and training for staff once we have more detail in relation to specific policy areas.

c. Update on Justice Policy

JG updated on justice policy work:

- There is a growing possibility of some devolution of justice functions to Wales, which is a big positive step towards being able to do better and provide better rights protection.
- Work is now happening in preparation for the possible devolution of youth justice and probation which give clear opportunities to advance rights, especially children's rights.
- We are keen to support the Law Commission proposals on tribunals reform and we are taking them forward to create a first-tier tribunal and appeals tribunal in Wales.
- We are working on a White Paper that would set out the detail of our proposals and hope to bring that out in the spring or early summer.
- We have a team now who are responsible for: "The justice system impact identification process". This is effectively working with and other parts of Welsh Government, the civil servants who are producing devolved legislation, trying to ensure that across the board Welsh Government legislation is informed by consistent understandings.
- Working collaboratively with the Law Council of Wales, which is a real attempt to bring together the different elements of the legal sector and identify the areas where and they can work together to address problems around access to justice.
- Work in conjunction with the Law Council Wales on developing a first undergraduate syllabus on Welsh law. The executive committee has been meeting for some time and it has established some working groups and which contains all eight of the law schools in Wales.

MSJ thanked officials for the updates and stated that both MSJ and CGCM were working hand in glove in relation the devolution of justice as a Social Justice agenda.

Update following UN Universal Periodic review of the UK Geneva dialogue

KP updated members.

- Stuart Evans attended the UN Universal Periodic Review in Geneva, alongside the parliamentary Under Secretary of State for the Ministry of Justice and colleagues from the Scottish Government.
- UN Member States had an opportunity to speak and to make recommendations to the UK. In total, 115 other states spoke and between them they made 302 recommendations.
- Welsh Government had submitted a wide range of evidence to demonstrate how human rights and equality are being safeguarded and advanced in Wales, but due to word limits, much of the material had not been included in the state report so consequently, and for the first time, Welsh Government provided an **overview of activity to strengthen and advance human rights in Wales**.
- In partnership with the Scottish and UK governments, we have considered the initial 302 recommendations put forward by members of the UN and we will contribute to a combined response which will outline where additional action will be taken and where this is needed.

MSJ thanked KP.

DG raised they had not seen **LGBTQ plus action plan** in the agenda and asked if the link could also be shared in case people were not aware of it.

MSJ agreed it was an important development and the plan which was launched on Tuesday by the Deputy Minister for Social Partnership, Hannah Blythyn.

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Human Rights Day statement and discussion

MSJ spoke about the joint statement between MSJ and CGMC for Human Rights Day on 10 December 2022. Links were provided to members with meeting papers. MSJ stated in relation to communications around messages in relation to human rights are so important.

MSJ reference that it is the 75th anniversary of the Universal Declaration of Human Rights this year and perhaps members could plan and work together for something to be put together for this milestone.

MSJ shared the initiative 'UDHR 75' and asked members to prepare and share any thoughts around preparations.

MSJ asked at the last meeting for members to share any events or communications they had undertaken in relation to Human Rights Day 10 December 2022 but had not noted any responses.

MSJ invited members to share anything they had done or were planning. No members offered any input.

MSJ spoke of the importance of sharing and linking to other legislation such as the Wellbeing of Future Generations Act and Social Services and Well-Being Act, as well as Violence against Women, Domestic Abuse and Sexual Violence. MSJ noted there were lots going on in these areas but there may be something in relation to these areas all members could work on.

MSJ noted that there had been no update in relation to the Public Sector Equality Duty (PSED) and asked this was put forward as a separate agenda item next meeting for update.

Action 5: secretariat to add PSED as full separate agenda item to next meeting

and CK to lead on update.

CK agreed and also noted the 75th Anniversary of the Universal Declaration of Human Rights Mr Malcolm Evans from Bristol University may be able to offer some involvement and input with his expertise.

MSJ thanked CK and highlighted that in relation to a public awareness campaign around the anniversary, there are many specialised people that could also help.

Any other business

No other items were raised by members.

Future dates / meeting close

MSJ thanked members for their input today and reminded members the importance of making this about where we are going and how we are progressing. It is important we are responsible for looking at and getting the evidence, but also sharing and understanding public understanding is crucially important. All members are doing so much in all their spheres of work. And this has to be very cross sectoral as well and shared.

MSJ then closed the meeting and gave future meeting dates for the year.

- 10 May 2023
- 19 September 2023
- 6 December 2023

Appendix 1: Microsoft teams chat comments

Links shared

- [Committee urges Government not to proceed with the Bill of Rights Bill, Committees, UK Parliament](#)
- [Bonavero Reports Series | Faculty of Law](#)
- [LGBTQ+ Action Plan for Wales](#)
- [Action to strengthen human rights in Wales: 2018 to 2022](#)
- [Professor Sir Malcolm Evans - Regent's Park College](#)

Summary of member comments

With regard to UNCRC Scotland were still progressing with developing tools for embedding rights, this did not stop, e.g. on budgeting.

With regard to legislation Scottish stakeholders referred to a 'maximalist' approach including: shared leadership among duty bearers; participatory processes; and managing the transition from a duty of 'due regard' to the duty to comply.

With regard to legislation, the aim is to make a real difference on the ground. In this regard, it seems that the main purpose of legislation is to produce preventative improvements in human rights, rather than simply giving individuals a tool to assert their rights - especially as the people who need rights most are the most marginalised and burdened members of society. This will obviously need significant financial resources - not simply to support impact assessment tools and reporting but to make those changes on the ground.

In terms of choice of repeating international rights or incorporating them as a "package", the benefit is the status those rights already have; the disadvantage

is lack of clarity in many cases. Also, the very general drafting of those rights may make them a poor and unambitious fit for a relatively very wealthy nation. Interpretative clauses can obviously help with this but lengthy legislation, and legislation which refers to other instruments, such as reports by UN committees, place a heavy burden on the public authorities who have to implement the rights that that legislation sets out.

The LGBTQ+ Action plan for Wales was highlighted as an important and landmark plan for Wales.

Legal advice to the HRAG should be provided by Welsh Government Legal Services.

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