



Llywodraeth Cymru  
Welsh Government

PUBLICATION, DOCUMENT

# Human Rights Advisory Group meeting: 19 September 2023

Summary of the minutes of the meeting held on 19 September 2023.

**First published:** 19 September 2023

**Last updated:** 19 September 2023

**This document was downloaded from GOV.WALES and may not be the latest version.**

Go to <https://www.gov.wales/human-rights-advisory-group-meeting-19-september-2023.html> for the latest version.

Get [information on copyright](#).

# Contents

## Attendees

Welcome and opening comments by MSJCW

Minutes of HRAG meeting on 10 May 2023

Update UK Government Bill of Rights Bill and Illegal Migration Act 2023

Welsh Government SAEHR Action Plan update and Legislative Options Working group: Chairs update and discussion

Welsh Government SAEHR Action Plan update

Recommendation 2 of the Strengthening and Advancing Equality and Human Rights report: formulating a human rights statement

Human Rights Day 2023

Any other business

Future dates / meeting close

**This document was downloaded from GOV.WALES and may not be the latest version.**

Go to <https://www.gov.wales/human-rights-advisory-group-meeting-19-september-2023-html> for the latest version.

Get [information on copyright](#).

# Attendees

- Jane Hutt MS (Chair), Minister for Social Justice and Chief Whip (MSJCW)
- Mick Antoniw MS, Counsel General and Minister for the Constitution (CGMC)
- Hannah Blythyn MS, Deputy Minister for Social Partnership (DMSP)
- Elisabeth Jones, Independent (EJ)
- Charles Whitmore, WCVA / Human Rights Consortium (CW)
- Nicola Evans, Older People's Commissioner for Wales (NE)
- Sean O'Neill, Children in Wales (SON)
- Prof Robert Moore, NWREN (RM)
- Rhian Davies, Disability Wales (RD)
- Alicja Zalesinska, Tai Pawb (AZ)
- Jessica Laimann, WEN Wales (JL)
- Cllr Mary Ann Brocklesby, WLGA (MAB)
- Katie White, Equality and Human Rights Commission Wales (KW)
- Reverend Gethin Rhys, Cytûn (GR)
- Sarah Rees, Oxfam Cymru (SR)
- Dr Emily Kakoullis, Cardiff University (EK)
- Dr Alison Parken, Cardiff University (AP)
- Cerri Harris, Betsi Cadwaladr University Health Board (CH)
- Rachel Thomas, Office of Children's Commissioner for Wales (RT)
- Davinia Green, Stonewall (DG)

## Welsh Government officials

- Lorna Hall, Deputy Director, Equality and Human Rights Team (LH)
- Karyn Pittick, Human Rights Team (KP)
- Hena Thorne, Human Rights Team (HT)
- Amanda Woodrow, Human Rights Team (AW)

This document was downloaded from GOV.WALES and may not be the latest version.

Go to <https://www.gov.wales/human-rights-advisory-group-meeting-19-september-2023-html> for the latest version.

Get [information on copyright](#).

- Chrishan Kamalan, Equality Team (CK)
- Lyndon Evans, Cabinet Division (LE)
- Amanda Williams, Cabinet Division (AW2)
- Sam Edwards, Cabinet Division (SE)

## Apologies

- Fran Targett OBE, WCVA
- Ellis Peares, Youth Parliament
- James Gerard, Justice team
- Sian Pope, Communications
- James Walsh-Heron, Communications
- Professor Simon Hoffman, Swansea University

## Welcome and opening comments by MSJCW

The Minister for Social Justice and Chief Whip (MSJCW) welcomed all and noted changes to membership of the group. The Future Generations Commissioner will no longer attend quarterly meetings but will be kept informed by Elisabeth Jones. Natasha Davies from Chwarae Teg has resigned from the group and Victoria Vasey representing WEN Wales will replace Catherine Fookes.

MSJCW thanked all departing members for their contributions and commitment to the Human Rights agenda.

**This document was downloaded from GOV.WALES and may not be the latest version.**

Go to <https://www.gov.wales/human-rights-advisory-group-meeting-19-september-2023-html> for the latest version.

Get [information on copyright](#).

# Minutes of HRAG meeting on 10 May 2023

All actions from the previous meeting are complete and the minutes were agreed.

## Update UK Government Bill of Rights Bill and Illegal Migration Act 2023

MSJCW re-iterated the news the UK Bill of Rights Bill will no longer proceed through Parliament and the Illegal Migration Bill (now Act) received Royal Assent on 20<sup>th</sup> July.

MSJCW expressed concern that human rights are being undermined through this law, which is at variance with international human rights. MSJCW is providing an oral statement on 19<sup>th</sup> September providing an update on the Nation of Sanctuary and taking the opportunity to raise those concerns again concerning migration.

## Welsh Government SAEHR Action Plan update and Legislative Options Working group: Chairs update and discussion

All group members had received the Legislative Options Working Group (LOWG) interim report and a short briefing document to consider during the summer recess.

MSJCW confirmed she had met with the CGMC to discuss the report contents

This document was downloaded from GOV.WALES and may not be the latest version.

Go to <https://www.gov.wales/human-rights-advisory-group-meeting-19-september-2023-html> for the latest version.

Get [information on copyright](#).

and next steps.

MSJCW noted the report had raised important issues for consideration. These include the extensive nature and wording of international obligations in the treaties could mean that the formulation of a clear duty in Welsh legislation may be difficult; there are limitations of legislative competence to be considered; there is a need to balance competing rights and the potential of creating a complex legal framework for duty bearers.

To progress this work, the Minister had requested the LOWG conduct a deep dive focussing on 2 treaties only i.e. UNCRDP and CEDAW. Both of which are Programme for government commitments.

MSJCW thanked all LOWG members for their continuing commitment and work to date and asked CW to provide an update.

CW gave a presentation to (1) summarise key aspects of the LOWG's interim report and (2) to provide an update on the group's forward workplan.

The presentation noted the LOWG report represented early thinking of the underlying principles for a legislative framework. It was noted to be expansive in the rights considered, including ICESCR rights and maximalist in going as far as possible in having enforceable duties within the limits of devolved competence. CW noted that there were still many questions to explore however, including how to arrive at clear actionable rights and duties, and how all the rights in the framework work together.

The presentation then gave an update on the forward workplan and reflected on developments in Scotland around the Scottish UNCRC Bill and Scottish Human Rights Bill consultation.

- Following the interim report LOWG envisages the work being broken down into 2 major strands:

- (1) Continued development of the legal framework and principles.
- (2) Deep dives into specific treaties and rights with a view to determining which ones could be included within the scope of the legislation.
- LOWG proposes progressing strand (2) first, not least because this would give time for work in Scotland around the UNCRC Bill and the Scottish Human Rights Bill to progress, which the group thinks will be useful information to inform a potential Welsh legal framework.
- The presentation noted following key aspects of the proposed Scottish framework and wider Scottish context:
  - Responses to the Supreme Court decision regarding the UNCRC Bill are expected this autumn.
  - The Scottish consultation discusses different models of incorporation (direct treaty text transposition, amalgamation of rights...). The Scottish Government proposal is for direct treaty text transposition.,
  - While the restatement of civil and political rights was considered in earlier Scottish work (and features in the LOWG interim report) as a means to mitigate legislative risks faced at the UK level, more recent thinking suggests that this may increase risks of future legal challenge by the UK Government.
  - Within the consultation itself, the proposal is incorporation by direct treaty text replication for ICESCR, CERD, CEDAW and CRDP and it also introduces proposals to a right for a healthy environment.
  - The consultation also proposes, inter alia:
    - an equality provision within the bill to provide equal access to the rights in the legislation,
    - statements of compatibility,
    - new powers for the Scottish Human Rights Commission.
  - For ICESCR rights and the right to a healthy environment, The Scottish Government is proposing an initial procedural duty to build rights into decision making, with an eventual introduction of duty to comply, operationalised via a minimum core of rights to be immediately met and

progressive realisation.

- For CEDAW, CRDP and CERD rights, the proposals are limited to procedural duties and do not foresee this developing into compliance duties. The reasoning behind this appears to be an interpretation of these treaties as 'equality' treaties, and thereby falling outside of the scope of Scottish devolved competence.
- Instead, the proposals envisage CEDAW, CRDP and CERD being used as an interpretative equality framework for the ICESCR rights and the right to a healthy environment.
- The proposals are being welcomed by civil society at the Scottish and UK levels, but there is broad concern about the approach taken to CEDAW, CRDP and CERD. As a result, the Scottish government is being asked to be transparent on their assessment of the competence for each of the rights and current opinion is the implementation may not be as detailed as initially thought.
- As a first step in strand 2 of the work (deep dives into treaty rights) LOWG is working on developing a pilot analytical framework to conduct a right-by-right analysis. The group will test this on the UNCRPD and CEDAW in the autumn with a view to refining / reviewing the framework based on the initial test.
- Subgroups on CEDAW and UNCRDP are being supported with input from EJ and SH.
- The pilot analysis aims first to consider the question of devolved competence, and will then progress to examining broader policy considerations and how incorporation would enhance individual rights.
- The framework in the presentation proposed:
  - reviewing section 7A of the Government of Wales Act, to see if there are any restrictions or if the Senedd has previously exercised competence
  - examining whether there are any further indications of competence within state party reports concluding observations or recommendations
  - looking at how incorporation will deliver positive impacts on people's lived experience; how it will impact on public authorities; the need for further resourcing, training, guidance (statutory and non-statutory) and

**This document was downloaded from GOV.WALES and may not be the latest version.**

Go to <https://www.gov.wales/human-rights-advisory-group-meeting-19-september-2023-html> for the latest version.

Get [information on copyright](#).



the intersection with the UK legal framework for example

LOWG's subgroup meetings will take place in October and CW will report back on progress at the next HRAG meeting.

## Comments from group members:

1. In the LOWG interim report (page 11), there are 2 possible options suggested for overlapping rights: 1) to incorporate the exact wording of the treaty article; and 2) to create a composite of treaty articles instead. If the composite approach is preferred, how would this work?
2. In respect of Scotland's experience on reserved rights in terms of UK legislation. Is LOWG thinking particularly around anti-discrimination? Where is the impact around the public sector duty and the specific equality duties regarding Wales?
3. There is a risk that cherry picking rights will lead to a hierarchy of rights which is not desirable. Rights in treaties support and build upon each other.
4. CGMC stated the LOWG report highlights the complexity of legislation, due to the devolution settlement and how much more work there is to be done. CGMC directed that there is a need to be very specific and focus on what can be achieved within competence, but also give additional rights and obligations beyond what Wales already has.

## Comments and Responses

CW confirmed the purpose of the interim report is to put forward ideas and whilst it is now widely acknowledged the amalgamation option brings a level of complexity, the early stages of the report were to leave it on the table. CW referred to Scotland's preferred option of direct text treaty incorporation, the CGMC comments, and reassured that although it remains an option currently, LOWG recognises the additional work involved which would be addressed in the

This document was downloaded from GOV.WALES and may not be the latest version.

Go to <https://www.gov.wales/human-rights-advisory-group-meeting-19-september-2023-html> for the latest version.

Get [information on copyright](#).

analysis work now being conducted in the LOWG subgroups.

The public sector equality duty stems from a different piece of legislation and is a specific power for the Welsh Government to deploy. This means it is not directly affected by this process, but consideration must be given to the interaction between the two.

CW restated the overall aim of LOWG is to be as maximalist in its approach as far as it can within the limits of devolved competence. This is what civil society is advocating in response to the Scottish Government's more piecemeal approach. The purpose of LOWG's detailed analysis is to review the constitutional limitations on a right-by-right basis, taking into account the treaty limitations and what can be devolved because of reservations in the GOWA.

The Childrens Measure 2011 was highlighted as an example of Welsh Ministers using its powers to indirectly incorporate the UNCRC.

MSJCW concluded by thanking CW for the presentation and confirmed that they are both (CGMC) in regular engagement with Scottish Government law officers. MSJCW requested the CGMC explore some of the points raised by CW in his next meeting with them on further engaging civil society groups to improve stakeholder co-production.

## **Welsh Government SAEHR Action Plan update**

### **Curriculum specific duties**

HT informed the group the all-Wales platform (the "Hwb") for the provision of resources to schools and education providers to support the delivery of the curriculum in Wales had published the first models of the Convention on the Rights of the Child and the Convention on the Rights of Disabled People.

**This document was downloaded from GOV.WALES and may not be the latest version.**

Go to <https://www.gov.wales/human-rights-advisory-group-meeting-19-september-2023-html> for the latest version.

Get [information on copyright](#).

Module 1 will promote knowledge and understanding of children's human rights and Module 2 is about children's human rights in the curriculum for Wales. Work is underway to develop a 3rd module, focussing on how to implement the Conventions in practice, when working with children and young people. In respect of the CRDP, the resource will focus on the social model of disability and how both Conventions work together. Further resources have also been developed through a Welsh government funded pilot project led by Disability Wales, in partnership with the World of Inclusion. These resources were also be made available on the Hwb.

UNCRC and UNCRPD professional learning links: '[Promoting knowledge and understanding of children's human rights](#)' and '[Children's human rights in Curriculum for Wales](#)'.

RD highlighted the UNCRDP in the curriculum materials had been developed through [Rights Here, Rights Now Disability Wales](#) and stated the materials had been trialled in schools and was well received.

## **Raising awareness of Human Rights (Recommendation 2)**

A small baseline exercise was carried out over the Summer to provide some insight into awareness of human rights in Wales with a view to help inform a future targeted comms plan.

The research was conducted in June, by Beaufort Wales surveys and the fieldwork for which took place between 5th and 25<sup>th</sup> June. A total of 1000 interviews were completed and analysed.

Research colleagues have agreed to present findings at the next meeting. The report will also be shared to all members when the meeting minutes are distributed.

**This document was downloaded from GOV.WALES and may not be the latest version.**

Go to <https://www.gov.wales/human-rights-advisory-group-meeting-19-september-2023-html> for the latest version.

Get [information on copyright](#).

## Website

Further in relation to the raising awareness recommendation, work is progressing with a dedicated Human Rights page on the Welsh Government website. The website will publish HRAG and LOWG minutes.

Action point: secretariat to invite WG research team to attend the next HRAG meeting.

## Recommendation 2 of the Strengthening and Advancing Equality and Human Rights report: formulating a human rights statement

Following the last HRAG meeting a working group had been set up to draft a statement of commitment to human rights that could be adopted by Welsh Government and public authorities. This work relates to recommendation 2 of the SAEHR.

The working group had agreed the statement needed to be short, succinct and to use plain language so it could be easily understood by all. The draft statement was shared with the group:

“ Human rights are basic rights and freedoms that belong to everyone. We know that delivering on our equality and human rights duties is fundamental to enabling citizens to live their lives based on shared values of dignity, fairness, equality, respect and independent living. We acknowledge our legal duty to respect, protect and fulfil these rights, without discrimination, and commit to taking a human rights based approach to put people at the centre of all we do. ”

**This document was downloaded from GOV.WALES and may not be the latest version.**

Go to <https://www.gov.wales/human-rights-advisory-group-meeting-19-september-2023-html> for the latest version.

Get [information on copyright](#).

KP invited HRAG members to provide comments verbally or by e-mail to the Secretariat by 3<sup>rd</sup> October.

KP requested for volunteers to help take forward work to define the statement/ what it means in practice and help to determine the definition of “a human-rights based approach” so accompanying literature/suite of guidance could be provided.

Action point: members to contact Karyn Pittick with comments and/or offers to participate on the next stage of formulating a human rights statement.

KP also informed the group the policy team had already liaised with some key stakeholders including Professor Simon Hoffman, Rachel Thomas from the Children’s Commissioner’s office and Sean O’Neill from Children in Wales, to discuss approaches of embedding and evidencing rights in organisations.

It was noted there is already a definition of a human rights based approach in relation to Childrens rights and that it maybe desirable, for consistency to adopt that definition.

Comments on the draft included:

“ What is meant by fairness as its not defined in legislation. Is this an opportunity to do that?

“ The notion of fairness is very weak and could dilute what we want to achieve. We don’t want a fair society. We want a society with justice and equality. ”

CGMC noted the difficulties of overcomplicating words and its meaning and considered that the statement should set out what is supposed in the framework of human rights. It should focus on what are those rights actually contained and then how those rights should be implemented.

MSJCW thanked all members for their continued hard work on the statement.

## Human Rights Day 2023

With the 75<sup>th</sup> anniversary of the Universal Declaration of Human Rights approaching and the previous request by the Chair for ideas to mark the event, MSJCW took the opportunity to thank members who have contributed to far, but also wanted to bring attention to the budget pressures, which are now facing the Welsh Government and the written statement by the First Minister on this. With public funds under significant pressure, it is now requiring a rethink of priorities in delivery of all events in the most cost-efficient manner, and this may impact on size and delivery of the 75<sup>th</sup> anniversary. MSJCW requested all members continue to submit ideas, but with the budgetary pressures in mind.

SR mentioned Oxfam Cymru supported Sahar Saki, an Iranian artist based in Cardiff, with a contribution of £500, to paint murals within a short distance from the Senedd, as part of the anniversary of the Women Life Freedom Movement. SR can provide her contact details if required, along with other contacts which could help.

MSJCW thanked SR and asked suggestions also consider projects beyond the reach of Cardiff, use of social media, how to reach and engage individuals via statements and would not require physical gathering as well. MSJCW and CGMC will also be in discussions about how they could issue relevant statements or host debates.

## Any other business

None raised.

## Future dates / meeting close

MSJCW thanked all members for their attendance and contributions and closed the meeting.

The next meeting will be held as scheduled on 6<sup>th</sup> December 2023 at 10:45 and will be chaired by CGMC.

**This document may not be fully accessible.**

For more information refer to our [accessibility statement](#).

**This document was downloaded from GOV.WALES and may not be the latest version.**

Go to <https://www.gov.wales/human-rights-advisory-group-meeting-19-september-2023-html> for the latest version.

Get [information on copyright](#).