



Llywodraeth Cymru  
Welsh Government

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# Human Rights Legislative Options Working Group meeting: 27 June 2023

Summary of the minutes of the meeting held on 27 June 2023.

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# Contents

**Attendees**

**Welcome and Introductions**

**Next steps and agreement of a workplan up to next HRAG meeting in September**

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## Attendees

- Charles Whitmore (CW) (Chair), Wales Council for Voluntary Action (WCVA) / Human Rights Consortium (CW)
- Rhian Davies (RD), Disability Wales
- Catherine Fookes (CF), Women's Equality Network (WEN) Wales
- Simon Hoffman (SH), Swansea University
- Elisabeth Jones (EJ), Independent member
- Sarah Nason (SN), Bangor University
- Alicja Zalesinska (AZ), Tai Pawb

## Welsh Government officials

- Lorna Hall, Deputy Director
- Kimberley Mortimer (KM), Human Rights officer (meeting notes)
- Karyn Pittick (KP), Senior Human Rights Policy manager
- Hena Thorne (HT), Human Rights Policy lead
- Amanda Woodrow (AW), Human Rights officer
- Chrisan Kamalan (CK), Equality and Human Rights Legislation expert adviser

## Apologies

- Nazir Afzal (NA), Independent member
- Katie White (KW), Equality and Human Rights Commission

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# Welcome and Introductions

The Chair welcomed members and introduced Welsh Government's new Deputy Director for Equalities and Human Rights. The Chair informed the LOWG that the Secretariat was moving to a new role within WG.

A member announced their departure from the LOWG from September. Both were thanked for their support to LOWG.

Members were requested to review the previous meeting minutes outside of the meeting and email any requests for revision to the Chair by 7 July 2023.

Apologies were noted.

## Chair's update with input from Welsh Government

The LOWG were updated about the Welsh Government consultation on adequate housing. The **Securing a path towards adequate housing including fair rents and affordability** was launched on 6 June 2023 and the deadline for completion is 15 September 2023. It was noted that the private rented sector forms a large part of the consultation and adequate housing forms a much smaller section. There was a question of whether human rights are considered strong enough in the paper and some members felt that views should be sought on what a right for housing could achieve, then work towards adequate housing.

The Chair updated members on the **Scottish Government's Consultation on the Human Rights Bill** and made the following observations:

- Views are sought on incorporation of four treaties that Scotland are calling the 'Equality Treaties' i.e., United Nations Convention on the Rights of the Child (UNCRC); the Convention on the Elimination of All Forms of

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Discrimination against Women (CEDAW); the United Nations Convention on the Rights of People with Disabilities (UNCRPD) and the International Convention on the Elimination of Racial Discrimination. Scotland also seeking views on incorporating International Economic Social and Cultural Rights (ICESCR); and introducing a right to healthy living.

- The Scottish Government plan to incorporate the exact text of the treaties, redacted to ensure that they are not acting outside of devolved powers.
- Introduction of a sunrise clause.
- Introduction of a duty of compliance in respect of ICESCR only.
- Introduction of a 'procedural duty' in respect of the other 'equality treaties'.
- Introduction of 'dignity' as an interpretive tool.
- Deadline for response is Autumn (5 October).

The LOWG discussed salient points noting that the Scottish Government are recommending a 'procedural duty' which is considered weak compared with a 'duty of compliance', this was a clear shift in position.

The LOWG noted the consultation references an alternative option of textual incorporation, which would draw together [transpose] text across the treaties amalgamating them into expressions for specific rights.

The LOWG further noted the Scottish consultation discussed re-stating civil and political rights and highlighted that during the Scotland / Wales evidence sessions, Scottish Government were opposed to incorporating this treaty. There was a general sense that Scottish Government were cautious in their approach to enacting legislation that did not encroach on reserved powers, and it was felt that a general preference across the consultation was to avoid enacting legislation where there is already protection at a UK level. LOWG noted that Welsh Ministers could potentially encounter similar legislative competence issues.

It was suggested, the LOWG review the consultation responses as part of research to inform thinking.

## Ministerial update

The Chair updated members that officials had met with the Minister for Social Justice and Chief Whip and the Counsel General and Minister for the Constitution to seek views on the LOWG Interim report and next steps. Both Ministers had expressed thanks to the LOWG for their work and provided the following direction for next steps:

- a deep dive into treaty rights for incorporation including consideration of existing non-legislative measures which give effect to rights
- a focus on Programme for Government commitments. (PfG commitments are incorporation of United Nations Conventions on the Rights of Disabled People (UNCRPD); and incorporation of the Convention on the Elimination of Discrimination against Women (CEDAW))
- seek clarity on what legislation would achieve above and beyond the current position
- realistic approach in relation to the likelihood of delivering legislation within this Senedd term
- preference not to publish the paper at this time given that it appears to be a working paper. Consideration of publication at the appropriate time

Members agreed to create a methodology and framework to identify rights and noted that reference to the SAEHR recommendations is important going forward as well as consideration of intersectionality.

Members were keen to look at what could be achieved in the remaining Senedd term and suggested the production of a green paper would be advantageous. Officials informed the group it would be difficult to put timescales on policy work and publication of a green paper until the content is known and more work is completed.

## Next steps and agreement of a workplan up to next HRAG meeting in September

The LOWG agreed to work on a methodology as a tool to identify treaty rights, and then split into two groups to identify rights with consideration of existing legislative or non-legislative measures in place that currently give effect to rights.

SH offered to draft a basic framework, which can then be shared with the chair and circulated to members via email.

Members agreed and a further meeting was scheduled for 10:30am on 1 August 2023.

CW thanked members for productive discussions and brought the meeting to a close.

Action 1: CW to email outgoing Welsh Government Interim Deputy Director to thank them for working with the group.

Action 2: CW to email HT / KP with finalised one page brief and interim report and confirm agreement of previous meeting note.

Action 3: secretariat to share finalised versions of LOWG interim report with members of the HRAG.

Action 4: SH to look to draft a suggested methodology to share with the Chair and then the wider LOWG group before the next meeting on 1 August 2023.

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