



Llywodraeth Cymru
Welsh Government

MEETING, DOCUMENT

Human Rights Legislative Options Working Group meeting: 17 May 2023

Summary of the minutes of the meeting held on 17 May 2023.

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Attendees

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

Welsh Government officials

- Chrisan Kamalan (CK), Equality and Human Rights Legislation Expert adviser
- 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

Apologies

- Nazir Afzal (NA), Independent member
- Rhian Davies (RD), Disability Wales

Welcome, apologies and administration

CW welcomed members to the meeting and noted apologies.

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CW confirmed actions from the previous meeting were all complete.

Discussion on next steps and forward workplan

CW invited comments from members on governance of the group and how the work should move forward and suggested that the group may wish to consider focussing on specific treaties. CW reminded members that initial feedback from the Council General and Minister for the Constitution (CGMC) suggested that there may need to be a question around prioritisation and specific rights.

Members discussed the meetings/work structure as per the terms of reference and agreed the approach is appropriate. Members also discussed the necessity to share the interim report with the HRAG and expressed disappointment that this wasn't done ahead of the HRAG meeting on 17 May. HT confirmed the interim report would be shared with the HRAG and was not done so sooner due to the timeliness of receiving the report and the proximity of the next HRAG meeting.

Members discussed the importance of publication and requested the interim report be published. HT informed members that the Human Rights Policy team are working with colleagues internally to develop a human rights web page that would provide access to information for the general public and could potentially host publication at the appropriate time. Publication of the report to be considered at the next HRAG meeting.

Next steps

The group considered the next steps of the work to follow-up the interim report and several potential avenues were discussed including whether the work was complete as per the terms of reference; the necessity to undertake a gap

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analysis to identify where gaps exist and action to address; and prioritisation of specific treaties in line with the Programme for government commitments.

Members expressed dissenting views on whether the group should undertake a gap analysis, on the one hand it was considered a necessary step to further the work for draft legislation but at the same time it was noted that it was a substantial piece of work and possibly outside the remit of the group. It was noted that this would be a considerable piece of work for either academics, civil servants or via a mixture of both then consulting with LOWG and HRAG. A question was posed as to whether a gap analysis was necessary if the point of incorporation is to set a broad framework bounded by human rights and applicable to all areas of work regardless if there are gaps or not. It was stated that the Human Rights Act 1998 provides a good model.

Views were expressed that a gap analysis did need to be completed to avoid confusion for local authorities as there might be overlapping duties. The overlap is a very practical problem for the public bodies. This could be addressed by trying to fill the gaps and the overarching nature of rights being more of a non-legislative piece of work around culture. There is a definite need for an overarching human rights approach within public bodies in Wales, including the Welsh Government.

Discussion followed about what rights should be considered should prioritisation be the next step. Starting with general covenants, the civil and political rights, and the economic social and cultural rights. It was felt the civil and political rights were straightforward as they already existed in other forms in Wales, but socioeconomic rights might be more difficult from a devolved perspective. An alternative is to look at the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) as existing Welsh Government commitments and look to see what needs to be redacted to bring them into scope of devolved powers.

It was noted that any analysis of competence needed to be undertaken by Welsh Government legal services as even if this is undertaken by the group, Welsh Government legal services will be required to repeat the task.

It was suggested the group could work on a draft bill and present this internally to officials to look at and then a separate piece of work with the community on what should be the initial focus. CW stated the potential of the group drafting a bill had been discussed at other meetings and looking at model legislative options is within the current terms of reference and the proposal for staging the work was helpful, adding that the paper already provides a strong basis for framework.

The group asked Welsh Government officials for feedback on the report. It was explained that analysis was not yet undertaken, and a view would need to be taken from Ministers. However, initial thinking by the policy team was the report was wide reaching with recommendations of several conventions to be incorporated which gives rise to issues of identification of competence and to impact assessment which is necessary to progress the work. HT highlighted that prioritisation of rights would be helpful and highlighted the Programme for government commitment was limited to CRPD and CEDAW advising that this should be minded in any conclusion for prioritisation.

A discussion followed about action points, and it was agreed that a one page brief setting out preferential options for further work would be helpful to assist the HRAG and Welsh Government. The paper will be circulated to the HRAG members with the interim report. Included in the list of options would be a gap and competence analysis and stakeholder engagement.

Provisional date and time for next meeting

27 June 10:30 to 11:45.

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Any other business

None raised meeting already over time.

CW brought the meeting to a close and thanked members for their valuable input.

Actions

Action 1: LOWG members to agree a one-page summary of preferred options for further work .

Action 2: one page summary to be shared by CW with secretariat so this can be shared with HRAG members prior to the next meeting.

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