Minutes of the Sixtieth Meeting of the Wales Committee

Tuesday 11 January 2022

**By weblink**

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## Present

Alison Parken

Grace Quantock

Mark Sykes

Martyn Jones (Interim Chair)

Rocio Cifuentes

## In attendance

Chris Oswald (Principal, Special Projects) *­Item 6*

Jacqueline Killeen (Director of Regulation) *Item 8*

Julie Jarman (Senior Principal, Strategy) *Item 5*

Luke Taylor (Director, Evidence and Strategy) *Item 5*

Marcial Boo (Chief Executive Officer)

Melanie Field (Chief Strategy and Policy Officer)

Nathan Owen (Senior Associate, Wales) *Item 10*

Ruth Coombs (Head of Wales)

Ruth Doubleday (Senior Associate, Wales)

## Apologies

Bethan Thomas

Faith Walker

Geraint Hopkins

## Absent

None

## 1. Welcome, Introductions and Declarations of Interest

1.1 The Interim Chair welcomed members and officers to the sixtieth meeting of the Wales Committee. Members agreed that the meeting was quorate. The Interim Chair requested any items for Any Other Business, with nothing being raised.

1.2 Apologies were received from Bethan Thomas, Faith Walker and Geraint Hopkins.

1.3 Congratulations were offered to Rocio Cifuentes for her recent appointment to the post of Children’s Commissioner for Wales commencing in April 2022. No further Declarations of Interest noted.

## 2. Minutes of 59th meeting of the Wales Committee (EHRC WC 60.01)

2.1 The Interim Chair invited Members to consider the minutes of the previous meeting page by page. Members agreed that the minutes of the 59th meeting of the Wales Committee are an accurate record.

## 3. Current matters arising (EHRC WC 60.02)

3.1 The Committee noted the matters arising list. The Interim Chair highlighted Actions that have been updated since the last meeting.

3.2 WC59 Action A, Secretary to simplify Current Matters Arising numbering system for future meetings, was noted as complete.

3.3 With regards to WC59 Action B - Committee members to receive updates at future meetings on recruitment efforts and the diversity of the Commission workforce - this was included in the Head of Wales update.

3.4 WC58 Action F was noted as on-going. Head of Wales to ensure that active engagement with stakeholders continues. The Wales team have recently met or exceeded Commission targets for engagement with recent stakeholder communications and they are organising an online event for February 2022.

3.5 WC56 Action E was noted as on-going. Secretary and Head of Wales are now in active discussions with Academi Wales about apprenticeship opportunities. Director of People and Infrastructure to be looped in as appropriate.

3.6 WC49 Action P - advising Welsh Government on the review of the Public Sector Economic Duty (PSED) - was observed to be on-going. This work is being progressed by the Wales team. At present, Welsh government are delaying on specific duties but the Commission is engaging with the lead on the review. It has been recorded on the Commission’s Risk Register that the PSED review has been changed to a Rapid Review which has the potential to be less detailed. Head of Wales will keep the Wales Committee updated regarding progress.

## 4. Interim Chair Report (EHRC WC 60.03)

4.1 The Interim Chair provided an update on activities since the last Committee meeting held on 11 November 2021, including the interim Board meeting, requirements to complete mandatory training, and attendance at a prominent event in Swansea.

4.2 The Interim Chair noted that he was invited to speak at an event in Swansea in December, demonstrating the standing of the Commission in Wales. The event marked Swansea’s intention to become Wales’ first Human Rights City. The Interim Chair met the First Minister and other local dignitaries at the event.

4.3 The Interim Chair requested comments by exception. No comments voiced by Committee members.

## 5. Strategic Plan and Business Planning 2022/23: Proposed Workstreams (EHRC WC 60.04, EHRC WC 60.04 Annex A, EHRC WC 60.04 Annex B, EHRC WC 60.04 Annex C, EHRC WC 60.04 Annex D)

5.1 GB strategy team updated the Wales Committee on the Commission’s Strategic Plan for 2022-2025, with a particular focus on Business Planning and proposed workstreams. Whilst the Commission’s strategic priorities have now been agreed, it was explained that there is scope for revising proposed workstreams for the next three years. Ideas for specific project work are welcomed prior to the upcoming Board meeting in January 2022, during which decisions will be made about proposed workstreams. The Commission is keen to ensure capacity for responsive and agile work, as well as to justify all pieces of work undertaken.

5.2 The Wales Committee welcomed the opportunity to reflect on proposed workstreams under the Strategic Plan 2022-25. Despite work relating to poverty not being defined as a strategic priority, Wales Committee members recommended that the Commission strongly recognises that people across all protected characteristics in the UK are going to acutely experience socio-economic disadvantage in the short- to long- term, including crises in standards of living, reliance on food banks and the rising cost of living.

5.3 *Senior Principal, Strategy* noted that the Commission currently uses a socio-economic lens alongside protected characteristics to shape its work, for example relating to attainment gaps and future work places. In response, Wales Committee members queried whether the Commission would be willing to publicly state: ‘In all our work, we look at socio-economic status’. *Director, Evidence and Strategy* assured the Wales Committee that this would be picked up during decision-making discussions about how the business plan is ultimately framed and strategies for engaging with external stakeholders.

5.4 The Wales Committee queried whether some of the projects under ‘Fairness in a Changing Workplace’ could be broadened to include the impact of precarious contracts and carers’ responsibilities, and related impacts on in-work poverty. Committee members also pointed to existing divergences in terms of pay gap reporting in England and Wales.

5.5 Wales Committee members expressed strong support for work relating to digital inclusion, particularly where such work supports accessing public services. It was acknowledged that some individuals are digitally disenfranchised and disadvantaged/excluded. Committee members were able to provide tangible examples of the overlap between social exclusion and lack of high speed internet. The *Interim Chair* noted that while there is awareness of the impact of digital exclusion on older and disabled people, we are yet to see the full implications of digital exclusion beyond the pandemic and on areas such as education. Similarly, whilst it would appear that hybrid working has been implemented smoothly, it is possible that moving support services online has exacerbated social exclusion. It is therefore important that the Wales Committee are highlighting digital exclusion as a potential societal issue in the future.

5.6 *Head of Wales* asked the Committee whether they are interested in seeing the effects of the extension of the free childcare offer to two year olds in Wales. In response, members confirmed their interest.

**Action A: Head of Wales to consider the feasibility of a business plan activity exploring the effects of the extension of free childcare to two year olds in Wales.**

5.7 *Senior Principal, Strategy* thanked the Wales Committee for their input and welcomed further feedback on workstreams via email.

5.8 *Head of Wales* welcomed Commission plans to explore the experiences of older workers, particularly because older women from ethnic minority backgrounds are often acutely disadvantaged. It is therefore vital that the Commission keeps intersectionality at the fore during all levels of planning.

5.9 The *Interim Chair* offered thanks to *Senior Principal, Strategy* and *Director, Evidence and Strategy* for their paper and reiterated that the Wales Committee are keen to contribute to the delivery of the Strategic Plan and workstreams, as well as play their part in translating work plans into the devolved context in Wales.

## 6. Advancing equality of opportunity through investment decisions (EHRC WC 60.05)

6.1 The Wales Committee were provided with an update on a special project currently being undertaken in the Wales team by a Principal member of staff on Secondment to the Wales team (*Principal, Special Projects)*. This project focuses on advancing equality of opportunity through investment decisions.

6.2 In response to previous Wales Committee concerns about economic recovery and youth unemployment, the Wales Team have developed a work stream which focuses on equality and economic development. The specific focus of the work is on the Four Growth Deals in Wales which together will total £3.75bn and promise to create 40k jobs. The work engages both the Socio-Economic Duty (SED) and the PSED. It aims to ensure that women, disabled people, ethnic minorities and people from Wales’ most deprived communities benefit from these investments. The principles of this work can be applied to other forms of investment and economic development such as Levelling Up.

6.3 The Deals have a strong focus on infrastructure and new technology. There is a danger that without our intervention the Deals will replicate the same inequalities present in current sectors in relation to women, lower-skilled workers and ethnic minority workers, rather than being a transformative force for better, fairer, more accessible work.

6.4 The Commission is working with the three largest deals in Wales to support them in incorporating in/equality outcomes in business cases and learning how to conduct Equality Impact Assessments. The Commission is also providing advice on sustainable procurement, measurement and benefits realisation.

6.5 The *Interim Chair* offered thanks for the paper and invited questions from the Wales Committee.

6.6 A Committee member agreed that the Deals are repeating the past, rather than being future-proofed or considering the SED and other aspects of equality. This procurement work is also important because it enables the Commission to gauge the influence it has and the levers it can use to influence the outcomes of deals. The question for everyone is – how do we make sure we can get a shift in thinking from the City Deals?

6.7 A Committee member highlighted the importance of starting with a clear understanding of the Commission’s influence and capacity in this area of work. For example, as part of these Deal plans there has been some discussion of making things accessible and to look across different needs. Yet there is a danger that this is done in a way that doesn’t actually work in practice. Therefore, we need to consider how this could be approached in a co-creative way. When we talk about things being accessible or socio-economically inclusive, how do we know what we mean by these things, and are they actually accessible for the people on the ground?

6.8 The *Interim Chair* thanked Members for their input, and reiterated that it is important to consider the following questions: ‘What does good look like? How do we influence this? How do we address the obvious equality issues that aren’t being covered?’

6.9 A Committee member echoed that this is a vital topic for the Committee to be discussing, and that it is imperative to consider how decisions will have a bearing on people’s lives in reality. How will this be scrutinised? Who is monitoring the implementation of the SED in these City Deals which are worth billions of pounds? Is it the Public Services Board? Who is supposed to be doing this?

6.10 Other Committee members agreed that governance and oversight is essential, but highlighted an issue in that partners involved in these Deals will likely have their own scrutiny mechanisms, as occurred previously with work on the PSED and the Well-being of Future Generations Act. Furthermore, these City Deals were not established with the promotion of equality in mind, therefore nothing in the deals themselves require equality outcomes.

6.11 In response, the paper author noted that equality was built into these deals to an extent. Almost a decade ago when the Deals were initially set up there was indeed nothing on equality, but things have moved on since. For example, whilst undertaking a similar investment project in Scotland the Commission was able to secure equality as conditionals to the Scottish Government funding. The UK Government was not concerned in this regard, but it is possible that we can do this in Wales. It would be down to the Senedd.

6.12 The paper author went on to acknowledge that the deals are very murky, with little public engagement. There are opportunities in terms of procurement – it is moving quicker than other parts of public policy. The Social Partnerships and Procurement (Wales) bill would aim to make fair work conditions mandatory in public contracting and the advancement of equality of opportunity for protected groups would be conditional across forms of public contracting. Of course, the question remains - how is this going to be measured and monitored? This is an opportunity for the EHRC. There is also risk.

6.13 A Committee member suggested that the Welsh Government needs to include these City Deals in their annual reports. The paper author agreed that the Welsh Government needs to be able to say what good looks like. They are open to discuss this, but likely would not have talked about it if we didn’t bring it up.

6.14 The *Interim Chair* enquired as to whether the Budget Advisory Group (BAGE) still exists, to which the *Head of Wales* responded that they have technically been disbanded. *Head of Wales* asked the Committee whether they would like this to be mentioned during an upcoming meeting with the Head of Equalities at the Welsh Government, including annual reporting and what is happening with BAGE. The Wales Committee confirmed that they would like this listed as an Action.

**Action B: Head of Wales to discuss annual reporting of the City Deals and what is happening with BAGE during upcoming meeting with Head of Equalities at the Welsh Government.**

6.15 A Committee member drew attention to a related mainstream equality project involving Welsh Government and Cardiff University that is taking Net Zero to set out strategic principles on equality. The aim is to ensure that equality is considered at the outset of projects rather than as a ‘checklist’ at the end. A further Committee member agreed that equality does not retrofit effectively.

6.16 In response to queries regarding the team’s capacity to undertake this work, *Head of Wales* noted that capacity is limited. The paper author explained that it is fortunate that there are only four deals in Wales, making it more manageable, particularly as the project management offices of each deal are being targeted. Plus, issues are common across the deals. The Commission has a lot of resources already but they need to be translated into the Welsh policy context, such as how to conduct an Equality Impact Assessment of an infrastructure project or how to write a business case which integrates equality and business issues. The idea is that the Commission is sensitive to economic development, people, and equality issues. It is broader than just the Deals. The aim is to get everyone involved in the Deals to think: how can we do this better?

6.17 The *Interim Chair* offered thanks for the paper and directed the Committee to the next item on the agenda.

## 7. CEO update with input from Chief Strategy and Policy Officer

7.1 The *CEO* provided an update firstly on regulatory activity in the Commission, including work on gender pay gap reporting. It was explained that the Commission pursues bodies that are not reporting and that this number has reduced by a third in the last two months. The Commission are also working with the Labour Party and Conservative Party to tackle allegations of Anti-Semitism and Islamophobia, respectively. The Commission is also conducting work on challenging adult social care decisions, as well as with Yorkshire County Cricket Club, and working with other organisations to implement PSED requirements. The *CEO* recently met with an MP and agreed to support their campaign to support those with afro hair. The Commission has signed up to Halo Initiative. Finally, on regulation, the Commission is producing guidance on single-sex spaces.

7.2 In policy work, the *CEO* outlined that the Commission has responded to consultations on flexible working, the Health and Social Care Bill, online safety, and the Police Bill. The *CEO* offered further detail on these, if desired. Work is also on-going in relation to Conversion therapy and the Commission has written to some UK Ministers regarding the equality impact of raising the retirement age, Sharia-compliant student loans, and PSED. In Wales, on Human Rights Day, the Commission published their Human Rights Tracker and spoke at an event in Swansea.

7.3 The *CEO* provided an update on internal and corporate affairs, explaining that there has been some re-structuring of the organisation and work to better coordinate issues in GB, Wales and Scotland. The staff survey is now closed and received a good response rate, the results of which will be shared with the Wales Committee in due course.

7.4 The *CEO* handed over to *Chief Strategy and Policy Officer* to provide an update on gender reassignment, as discussed at the last Board meeting. The Wales Committee offered insights on the Wales context in relation to the issue.

## 8. EHRC Regulatory Functions (EHRC WC 60.06)

8.1 *Director of Regulation* provided an update to the Wales Committee regarding the Commission’s function as a regulator. In the process of developing the new Strategic Plan the Commission has articulated the aim of becoming a more effective regulator. This represents a stepping-up and a centralisation of regulatory work, including making regulation the Commission’s driving force. This is with a view to increase confidence that equality and human rights exists in a regulated space and that non-compliance will have consequences and implications, as well as giving people confidence that the EHRC are using their full suite of powers available. It will also help people to feel that their rights are protected.

8.2 The paper being presented included some wider context on regulation including how the EHRC sits alongside other regulators. It builds on the Commission’s new end-to-end model which sets out powers from prevention, to compliance, to remedial action.

8.3 The Commission intends to use their powers and levers more holistically, looking at every issue in terms of the best regulatory approach that could be used. For example, the Commission wishes to enhance understanding of compliance with the PSED in England in line with the picture currently held in Wales. This work will then inform where follow-up activity is targeted. The Commission is also looking to improve its ability to share good practice and build compliance, informed by joined-up intelligence and a programme of PSED monitoring. Partnership working will be mapped alongside the Strategic Plan, such that the Commission becomes part of an active community of regulators across GB as a whole.

8.4 *Director of Compliance* noted that these are the key points from the paper, which was received by the Wales Committee in draft format. *Director of Compliance* invited comments from the Wales Committee.

8.5 The *Interim Chair* of the Wales Committee offered thanks for the paper, noting that it aligns with the new CEO’s vision of the EHRC as a strong regulator. The *Interim Chair* drew attention to policy divergence between the nations in that there are more onerous responsibilities on the public sector in Wales compared to in England.

8.6 The Wales Committee remarked that the paper proposes increased monitoring of PSED compliance in England, querying what this means for resource levels in Scotland and Wales.

8.7 *Director of Compliance* reiterated that the Commission currently does not undertake as much work on PSED compliance in England as in other nations, partly because the sector is so large in England. The Commission hopes to create an equally comprehensive picture of PSED compliance in England as in Scotland and Wales, sharing resources and drawing on existing expertise. There is a desire to avoid setting an expectation that if something happens in one country, it is needed elsewhere too. The Senior Management Team in the Commission is keen to work closely with the *Head of Wales* to ensure that the programme of activity is firmly in the Wales team’s timeline and planning, including anticipated stakeholder expectations and messaging.

8.8 Wales Committee members highlighted that whilst resource allocation inevitably dictates work that is undertaken, it has always been difficult to undertake monitoring work in Wales due to monetary restraints. Monitoring work has historically not been as in depth as would have been liked – hence the call in Wales to make the socio-economic duty (SED) and PSED more outcome-focused. Finally, with regards to the policy position outlined in the paper on influencing, it is important to acknowledge that this is a new direction for the Commission. It was suggested that Codes of Practice could be used to undertake some influencing work.

8.9 *Director of Compliance* agreed that the Commission is keen to use Codes of Practice when setting standards. The Commission will plan work that is useful in England, Wales and Scotland. Stepping-up monitoring of PSED in England is designed to be outcome-focused and meaningful.

8.10 The *CEO* noted that he hopes that over time, as links between the nations become even stronger, resources from across the Commission can be drawn upon across nations rather than being compartmentalised. In terms of influencing, it is important to distinguish between influencing and campaigning. The Commission has a great deal of influence in terms of encouraging policy makers to be mindful of their responsibilities under the law and PSED, and in terms of encouraging inclusivity. Influencing is a word that can and should be used to describe what the Commission does, but not in a campaigning or antagonistic manner. The EHRC should be seen by policy makers as the expert body.

8.11 Wales Committee members advised that the paper in its current form makes it very clear that the Commission does not intend to take on an influencing capacity. If this is not the case, this needs to be clarified moving forward. Members also requested further clarification regarding what regulation means in terms of human rights, and how this might change in the future.

8.12 The *Director of Compliance* agreed that the Commission is more confident when thinking about regulation in terms of the Equality Act rather than with regard to human rights. This is something the Commission is reflecting upon, with the aim of becoming clearer on the work that needs to be completed on regulation and human rights, such as through gaining intelligence via legal channels.

8.13 The *Interim Chair* noted that is it heartening to hear such searching questions about how the Commission engages with their requirements in terms of human rights and how this relates to our NHRI Re-accreditation.

8.14 The Wales Committee were invited to submit further comments on the EHRC’s regulatory functions via email, either directly to the *Director of Compliance* or via the Committee’s Secretary.

## 9. Conversion Therapy (EHRC WC 60.07)

9.1 *Chief Strategy and Policy Officer* outlined to the Wales Committee that since the Commission’s statutory Committees and Board last discussed the issue of Conversion Therapy, the UK Government has launched a public consultation on limiting the use of Conversion Therapy. This consultation is due to remain open until 4 February. The Wales Committee is asked to provide feedback on the Commission’s draft consultation response which will also be discussed at the upcoming Board meeting.

9.2 The *Chief Strategy and Policy Officer* outlined the Commission’s proposed position on limiting the use of Conversion Therapy. The Wales Committee noted that the issue of Conversion Therapy is highly nuanced and discussed issues of consent, harm, criminalisation and practice.

9.3 The *Chief Strategy and Policy Officer* thanked all Wales Committee members for their comments.

## 10. Social Care Inquiry (EHRC WC 60.08)

10.1 *Senior Associate, Wales* provided an updated on the on-going Social Care Inquiry. The inquiry is looking at how older and disabled adults are able to challenge social care decisions in England and wales. The Commission is exploring means of challenge, whether avenues for challenge are accessible, whether individuals have enough information, and if they can access advocacy support.

10.2 The inquiry launched in July and is in the final stages of the evidence-gathering stage. *Senior Associate, Wales* provided the Wales Committee with an update on initial findings.

10.3 The Wales Committee were grateful for the paper and oral update on the Social Care Inquiry and discussed the interim findings presented. The *Interim Chair* noted that the Inquiry has, impressively, been able to access practitioners during data collection.

## 11. Head of Wales report (EHRC WC 60.09, EHRC WC 60.10)

11.1 *Head of Wales* requested comments from Committee members on the Head of Wales report paper. No comments offered at this stage.

11.2 *Head of Wales* offered several updates on personnel in the Wales team and asked Committee members for feedback on the Quarterly Impact Report. The Committee confirmed that they are satisfied with the length and level of detail contained within the report.

## 12. Any other business

12.1 The Interim Chair asked for any other business. None was noted.

12.2 Members did not wish to escalate any issues to the Board.

## 13. Close

13.1 With no other business being raised, the Interim Chair thanked Committee members and staff for their contributions, and drew the formal meeting to a close. The Committee would next meet on 17 March 2022.