Minutes of the 70th meeting of the Board of the Equality and Human Rights Commission

**9 March 2017, Fleetbank House, 2-6 Salisbury Square, London, EC4Y 8JX**

# Attending:

## *Commissioners*

David Isaac, Chair

Susan Johnson (by video)

Lorna McGregor

June Milligan

Lesley Sawers

Caroline Waters

Rebecca Hilsenrath, Chief Executive Officer and Commissioner *ex officio*

## *Officers*

Melanie Field, ED for Wales and Strategy and Policy

Karen Grayson, Principal – Institutional Strategy (minutes)

Jenny Oklikah, Director of Public Services (item 8)

Alastair Pringle, ED for Scotland and Corporate Delivery

Paola Uccellari, Director of Strategy and Policy (item 7)

Ben Wilson, ED for England, and Corporate Improvement & Impact

## *Guest*

Sarah Veale

# 1. Chair’s welcome, attendance and apologies for absence

1.1 David Isaac welcomed attendees. The Commission was awaiting confirmation from the Government Equalities Office (GEO) of new Commissioner appointments, and in the interim Sarah Veale had been invited to attend the meeting as a guest.

1.2 The Board noted apologies for absence from Commissioner Swaran Singh.

# 2. Declarations of interest:

2.1 Rebecca Hilsenrath advised that she had been appointed to the Board of the Office for Legal Complaints (which oversees the Legal Ombudsman) from 1 April 2017. This appointment was subject to the Board’s consent, which was duly given, and Rebecca was congratulated.

2.2 Caroline Waters noted her role on the National Audit Office Board working on board effectiveness.

2.3 No further declarations of interest were made additional to those already registered by Board members.

# 3. Round up of pre-meeting session

3.1 In its informal pre-meeting session, the Board had discussed the ongoing industrial dispute.

3.2 As part of the regular programme of Board development, Commissioners had been briefed on the Commission’s UN treaty monitoring work. This had been well-received and Commissioners expressed their continued support, and the importance of integrating treaty monitoring across the Commission’s workplans.

# 4. Minutes of the previous meeting

4.1 The minutes of the Board’s 69th meeting of 23 January (EHRC 70.01) were agreed as a correct record.

# 5. Matters arising

5.1 The Board noted that items on the actions log were either complete, in progress or were to be addressed at today’s meeting.

**6. CEO’s overview**

6.1 Rebecca Hilsenrath gave an overview, noting that following feedback this would deal more prominently with performance and risks. Recent engagements were as listed in the report.

6.2 On the Commission’s independence, Rebecca had met with the Department for Education Permanent Secretary (Jonathan Slater) who appeared to be sympathetic to the Commission’s aim of enhancing its independence. She noted that the delay to the appointments process was an area of risk. The executive would continue to pursue changes to the Commission’s accountability arrangements which would enhance its independence, being mindful of the UN re-accreditation process due in a future year.

6.3 On stakeholder engagement, Rebecca Hilsenrath updated the Board on the high-level Strategic Reference Group, which had met to discuss the Commission’s business planning. A new stakeholder and parliamentary strategy had been developed. In terms of international engagement, it was notable from attending the conference of the General Assembly of NHRIs that the Commission was held in high esteem by the NHRI community.

6.4 The Chair’s appointment had been welcomed by the Scottish and Welsh Governments. A ‘tri-nations’ meeting between the Executive Directors for England, Scotland and Wales and relevant Commissioners had been helpful.

6.5 The Commission’s messages on Brexit were getting traction, including in a meeting with Keir Starmer and at an event held by the Equality and Diversity Forum.

6.6 Rebecca noted that while there remained issues about the Target Operating Model and associated industrial dispute, the Commission was also implementing new ways of working as well as refreshing the Great Place Programme. Both the business planning process and the disability litigation pilot had been motivating for many staff, although this work also placed a particular burden on people’s time.

6.7 Finally, Rebecca advised the Board that the Spending Review budget allocation to the Commission had now been confirmed. The Chair stated his appreciation of the continued focus on delivery and quality, and asked that this be communicated to staff. **Action: Rebecca Hilsenrath**

**7. Business Plan 2017-18**

7.1 Paola Uccellari (joining by phone) outlined the proposals set out in the Business Plan paper. She noted that teams had been asked to consider how projects could be increased in size, in order to reduce the forecast underspend. This included commissioning work out, which would have the additional benefit of relieving pressure on staff resources. However many activities, such as influencing work, could not be outsourced.

7.2 Commissioner Lesley Sawers noted that Paola had spoken to the Scotland Committee at length, which was highly valued. The Committee’s comments had been reflected in the prioritisation criteria and in the summary of proposals with relevance to Scotland or Wales. Comments on individual projects had been fed back to project leads. Alastair Pringle noted that some aims set out in the draft Business Plan were timely, but not in all countries.

7.3 Commissioner Susan Johnson questioned whether allowing 20 per cent of all staff time for reactive work was necessary if the Commission’s work was becoming more streamlined. PU agreed this was a salient point and the allowance was not based on a measurement of current reactive work, but on taking soundings from staff. However it would be difficult to reduce reactive work particularly in the context of trying to influence policy, as when opportunities arise it is often important to respond.

7.4 The importance of setting aside time for learning and development was noted.

7.5 Commissioner June Milligan said that the Wales Committee had considered the paper with Melanie Field, and supported the move towards ‘fewer, bigger, better’. However the Committee was concerned to ensure that work on asylum seekers and refugees was included in the Business Plan. **Action: Paola Uccellari**

7.6 Rebecca Hilsenrath said that while she had only seen GEO’s high level business plan objectives so far, a senior management team meeting would take place in due course. The focus of work by GEO would be principally on gender and LGBT.

7.7 The Chair concluded that the Executive should look at the detail of the Business Plan based on the Board’s guidance as follows: seeking to do fewer, bigger, better; being a muscular regulator; and working in partnership rather than overlapping with others. The Executive should consider the phasing of projects and when they are stopped. Treaty Monitoring and Communications work can maintain the Commission’s engagement with and relevance on issues without undertaking a ‘project’. The Board confirmed that final sign-off of the Business Plan was delegated to the Chief Executive and Chair, but it was to be circulated to the Board and statutory committees before it being finalised. **Action: Paola Uccellari**

7.8 Commissioner Susan Johnson noted that the Commission’s success rate in strategic litigation has been behind target. The success rate may be subject to external scrutiny in the context of the Commission acting as a muscular regulator. Rebecca Hilsenrath highlighted the distinction between regulatory activity and strategic litigation; a high success rate might suggest an overly cautious approach to strategic litigation given that its purpose is often to test the limits of the law.

7.9 Rebecca Hilsenrath explained that a planned paper on cases that had been lost in court but had a policy or communications dividend, had been delayed because of a recent upturn in success rates. A paper would follow at a subsequent meeting. **Action: Rebecca Hilsenrath**

# 8. Disability Committee transition arrangements

8.1 Jenny Oklikah explained that the proposed terms of reference for the new advisory committee included amendments from the last Board meeting as well as the Disability Committee.

8.2 The Chair said he had a recent positive meeting with the Disability Committee, and members were reconciled to it no longer having a statutory status.

8.3 It was noted that while the terms of reference were silent on the Committee’s role in governance and decision-making, they made clear that it had an advisory role; and additionally the Equality Act 2006 was clear on its status.

8.4 The Board agreed to delegate to the Chair, in consultation with the new Disability Commissioner (if appointed), the appointment to the Committee of members joining from the existing Disability Committee.

**9. Scotland and Wales Chairs’ reports and 3-nations meeting readout.**

9.1 Commissioner Lesley Sawers set out highlights from the Commission in Scotland:

1. The team was soon to welcome a new Head of Scotland.
2. There were concerns about a lack of ethnic diversity among Scotland Committee members. They had sought advice and identified potential barriers in the appointment process, which could be addressed when two new members are recruited in November. In the meantime the Committee would coopt a member in an advisory role. It was noted that this is also a problem for the Board, which the Chair intended to raise with the Secretary of State.
3. Work had been taking place in Scotland on cities and on socio-economic status and rights.
4. A meeting had taken place with Kezia Dugdale, leader of Scottish Labour, and a meeting with the First Minister was planned.

9.2 Commissioner June Milligan set out highlights from the Commission in Wales:

1. A new Head of Wales was due to start soon.
2. Although there had been a large number of applications for Wales Committee membership, only two had been shortlisted (compared to five vacancies). The process had been paused because the pool of candidates had lacked diversity and a sufficient range of skills.
3. The publication of Who Runs Wales? had been a significant landmark for the Commission.
4. There had been some useful stakeholder engagement, such as a meeting with the Abertawe Bro Morgannwg University Health Board which has an ethos of rights-based public services; and with the Governor of HMP Berwyn who is committed to prison reform.

9.3 David Isaac commented that the three nations meeting which took place prior to the Board meeting offered the opportunity for more joined-up working. There would be more to discuss concerning governance at the next meeting.

**10 DC Deputy Chair’s report**

10.1 The report was noted.

**11 ARAC and HRRC Chairs reports**

11.1 ARAC had considered the matter of income generation by the Commission, but issues concerning independence had been identified by the auditors. The risks and benefits were under consideration.

11.2 The Business Plan paper being reviewed by ARAC includes a greater focus on risks, and the Committee’s discussion will inform the Executive’s decision-making.

11.3 HRRC had noted that while the number of interim staff in the Commission was being managed downwards, the overall reduced headcount meant an increase in interims as a proportion of staff.

11.4 There had been reductions in reported sickness absence, and improvements in the number of grievances and disciplinaries.

**12 Information papers and AOB**

12.1 There were no comments on Committee minutes.

12.2 Commenting on the Legal Highlights paper, the Board commended the Legal team. The options for getting more exposure for the Commission’s involvement in legal cases was discussed, with a plan to be developed. **Action: Ben Wilson**

12.3 This could include targeted communications to key stakeholders, noting that the general public was not always the relevant audience for some cases – for example law schools (and their alumni networks) may be interested in technical aspects. Where possible common threads should be emphasised through legal and policy work, in terms of the messages about the Commission’s impact and the themes being addressed.

12.4 Commissioner Susan Johnson asked whether, following the large number of cases received through the disability litigation pilot, a similar response might be expected from an appeal for casework on other protected characteristics. In particular it may be fruitful to identify people who had used the EASS service but ultimately were not able to resolve their issue. Rebecca Hilsenrath said that the disability litigation pilot was not yet complete and that a ‘lessons learned’ exercise would be needed; but any further expanded litigation work in future was more likely to focus on domains rather than on specific protected characteristics.

12.5 Rosemary Palmer received the Board’s thanks and appreciation for all her work supporting Commissioners and Committees over the years.

12.6 The Chair reminded Commissioners that the next Board meeting was scheduled for 11 May 2017 in London. With no other matters arising for discussion the Chair thanked attendees and closed the meeting.