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Ysgrifennydd y Cabinet dros Gyfiawnder Cymdeithasol, y  
Trefnydd a'r Prif Chwip  
Cabinet Secretary for Social Justice, Trefnydd and Chief Whip



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref: JH/PO/320/24

Jenny Rathbone MS  
Chair, Equality and Social Justice Committee  
Welsh Parliament

8 November 2024

Dear Jenny,

Thank you for your letter dated 11 October regarding the Committee's scrutiny of progress on strengthening and advancing equality and human rights in Wales. The Welsh Government agreed to action several recommendations contained in the Strengthening and Advancing Equality and Human Rights in Wales Research Report 2021 (SAEHR) as set out in its response of May 2022. The Committee will be aware the Welsh Government has also published several individual equalities action plans including the LGBTQ+ Action Plan, Anti-Racist Wales Action Plan and the Gender Equality Action Plan, developed to progress equality for disadvantaged groups in Wales. Working with the Disability Taskforce, a new strategy for disabled people is under development and will be consulted on next year.

Responses to your questions are set out below.

### **1. Progress on delivery of each action agreed by Welsh Government in the response to the SAEHR report**

The Welsh Government agreed to take a phased approach to actioning the recommendations focussing on a) Preparatory Legislative Work; b) Guidance; c) Review of the Public Sector Equality Duty; d) Incorporation of Human Rights into Impact Assessment and e) Raising Awareness. Given the complexity and breadth of the work involved there is no time limit for this work.

a) Preparatory Legislative Work – recommendations 1 & 25:

The Welsh Government established the Human Rights Advisory Group (HRAG) in July 2022 to oversee and steer progress of the SAEHR actions. The group meet on a quarterly basis and has met eight times to date. Welsh Government Officials provide secretariat support for the meeting and report to them on actions.

The Legislative Options Working Group (LOWG) was established in September 2022 to advise the Welsh Government on next steps to progress recommendations 1 & 25 i.e. incorporation of international human rights treaties into Welsh law. As an independent group, the LOWG determines its own work programme and frequency. It currently meets every second month. Secretariat duties are provided by officials. The LOWG Chair regularly engages with officials and updates the HRAG on progress. The LOWG submitted a working interim report to Welsh Government in April 2023.

Until June 2023, both the LOWG members and Welsh Ministers held significant concerns about the then UK Government's stated aims to replace the Human Rights Act 1998 which were compounded by the introduction of the Bill of Rights Bill in Parliament. Reflecting those concerns, the LOWG considered steps to embed rights in Wales in such a way as to protect them from any potential regression, alongside the other factors identified in the SAEHR Report underpinning the need for incorporation.

However, these concerns relating to the threat of human rights protections in the UK under the Human Rights Act 1998 have lessened with the withdrawal of the Bill of Rights Bill in 2023.

Further clarity has emerged in relation to the legislative powers of the devolved governments. The then UK government successfully challenged the Scottish Government over their legislative competence to lay down the Gender Recognition Reform (Scotland) Bill in December 2023. The Court of Session held that because the Bill modified the meaning of "full gender recognition certificate" it unlawfully modified the law as it applies to reserved matters, including equal opportunities. Separately, in 2021, the Supreme Court ruled that Scottish Ministers did not have the legislative powers to incorporate the UN Convention on the Rights of the Child into Scots law in the manner they had drafted in two Bills, as the provisions modified the Scotland Act 1998. Similar restrictions are found within the Government of Wales Act 2006.

Finally, the exploratory work undertaken so far indicates the need to focus more broadly on viable recommendations to advance human rights in Wales. Charles Whitmore is currently leading this work. The complex and detailed nature of this work means it is not appropriate to apply a time limit to it.

In September, the Scottish Cabinet Secretary Shirley-Ann Somerville, MSP announced a pause of the Scotland Human Rights Bill until after the Scottish elections, citing constraints on the devolution settlement, highlighted by the Supreme Court decision in the 2021 UNCRC Bill, which limit the scope for a new bill to advance rights, complexities of interaction with existing duties for rights bearers and rights holders, and the mismatch of plans and stakeholder expectations. Wanting to learn from the Scotland experience, I have requested a meeting with the Cabinet Secretary Shirley-Ann Somerville and have also recently written to Lord Ponsonby of Shulbrede, Parliamentary Under-Secretary of State in the Ministry of Justice who has human rights portfolio for the UK Government.

b) Guidance – Recommendations 2-4, 6-10, 12-13, 15-16

A statement of commitment to human rights has been developed by officials, working with stakeholders including Local Authorities, the TUC, the Equality and Human Rights Commission, the Future Generations Commission, academia; and an independent legal expert. The HRAG endorsed the statement at its meeting in February. The statement is: "Human rights belong to everyone. We will respect, protect, and fulfil these rights so that everyone in Wales can live with dignity, freedom, security, and without discrimination. We commit to a human rights approach prioritising people's well-being now and for future generations."

Officials are also working with stakeholders to further develop how a human rights approach can be taken forwards building on the Child's Rights Approach and Older People's Human Rights Approach in Wales. I will provide an update on this work in due course.

In March this year, I published a Written Statement announcing our new National Equality Objectives which includes a focus on human rights. National Equality Objective 2 states "We will create a Wales where everyone can be aware of their human rights, and where those rights are protected, promoted, and underpin all public policy". The inclusion of human rights as a National Equality Objective is another demonstration of our commitment to human rights.

Recommendation 6 recommends the amendment of the Well-being of Future Generations (Wales) Act 2015 (WFGA). The Welsh Government has no plans to amend the WFGA. Existing statutory guidance already encourages Public Services Boards to invite interested partners (who exercise functions of a public nature) to participate in activities as they see appropriate. The guidance also encourages due consideration and application of duties in respect of equalities, UN Convention on the Rights of the Child, poverty, and biodiversity in the development of local well-being plans. Officials are engaging with Public Services Boards regarding opportunities to improve the statutory guidance. As part of the exercise, officials will seek views on the annual reporting process.

c) Review of the Public Sector Equality Duty

Preliminary work was undertaken; however, we do not have the mandate to review the underpinning Public Sector Equality Duty. Whilst elements of the existing Welsh Specific Equality Duties may benefit from being updated, we are currently prioritising advancing equalities for the people of Wales through delivery of our action plans.

d) Incorporation of Human Rights into Impact Assessment

Officials are exploring options to incorporate human rights into wider impact assessment processes. We hope to update on progress in this area in early 2025.

e) Raising Awareness – Recommendations 34 – 39

In October 2022, the Welsh Government published an update on its website on the actions it has taken to strengthen human rights in the period of 2018 to 2022.

In December 2023, the Welsh Government worked in partnership with the Welsh Centre for International Affairs to raise awareness of human rights by commemorating the 75<sup>th</sup> anniversary of the UN Declaration of Human Rights in celebration of Human Rights Day (10<sup>th</sup> December). An in-person event was held at the Temple of Peace in Cardiff attended by 80 people which included human rights defenders. In the same month Welsh Government published a joint statement by myself and Mick Antoniw MS, then Counsel General and Minister for the Constitution, to raise awareness of human rights.

In December 2023, I gave the inaugural lecture at the Observatory on Human Rights and Social Justice at Swansea University. The lecture was streamed live online, and a recording is available on their website.

We are also planning an online event aligned to celebrate the 76<sup>th</sup> anniversary of Human Rights Day 2024.

### **Transparency and accountability**

2. All agreed minutes of the Legislative Options Working Group and the Human Rights Advisory Group have now been uploaded to the Welsh Government website. I agree that transparency and accountability is essential, and resourcing is now in place to ensure more timely updates going forwards.

3. A copy of the LOWG Terms of reference will be provided to you and can also be found on the Welsh Government website.

The LOWG are an independent group that determines its own work programme. The LOWG is currently applying the right-by-right analytical framework it has developed to CEDAW and CRDP. This work is novel and complex – we are not aware of any examples of a scientific systematic approach to developing incorporation models for international human rights in the context of comparable constitutional arrangements.

The chair of the LOWG has recently employed a member of staff to support this work. A delivery timeline for emerging recommendations can only be developed after this analysis has been completed.

4. A copy of the LOWG interim report will be provided to you. The Welsh Government has decided not to publish this report due to it being high level and work in progress. The report was discussed at the HRAG meeting in September 2023 where it was agreed that next steps was a more focussed course of action.

### **Communications and awareness raising**

5. A Human Rights Communications Plan will be developed once sufficient progress has been made on the policy work necessary to underpin this. In the meantime, we continue to engage with stakeholders to raise awareness and are developing more detailed proposals which we will update on in due course.

6. As noted in our published response to the report in May 2022, Recommendation 39 is a recommendation for the Law Society and the Law Council of Wales to actively promote among the legal professions in Wales awareness of equality and human rights legislation, in particular legal frameworks unique to Wales.

While we recognise the importance of the legal professions having a good awareness of equality and human rights legislation in Wales, neither the Law Society nor the Law Council is responsible for legal education and continuing professional development. The Solicitors Regulation Authority has that responsibility with regard to solicitors in Wales, and the other legal regulators are responsible for the other legal professions they regulate, for example the Bar Standards Board in relation to barristers in Wales. We would suggest it is for the legal sector as a whole, including the Bar, law schools and other legal education and training providers, and other organisations with relevant roles and responsibilities such as the EHRC, the Future Generations Commissioner for Wales and Public Law Wales, to consider how awareness of equality and human rights legislation in Wales may be promoted among the legal professions and other organisations and networks in Wales.

The Law Council of Wales was established after the report was published. It has an education and training group which has been working on two initial priority projects since 2022, one on a Welsh law curriculum for undergraduate law degrees and one on public legal education in Wales. We will write to Lord Lloyd-Jones, the President of the Law Council of Wales, and Dylan Rhys Jones and Huw Pritchard, who jointly lead the education and training group, to alert them to the *Strengthening and Advancing Equality and Human Rights in Wales* report.

The EHRC is a member of both the HRAG and the LOWG. The Future Generations Commission was a member of LOWG until recently but have scaled back their attendance due to their staff resources and now receive the minutes. Both the Future Generations Commission and the EHRC were part of the working group to develop a statement of commitment to human rights.

## **Resources**

7 – 11 amalgamated

Given the recommendations span across government, it is not possible to provide a full or meaningful break down of resource involved. In the immediate human rights policy team, I remain assured that the resources reflect the evolving needs of the work as the ambitions have grown. Allocation of resources are a matter for the Permanent Secretary. The resources originally allocated to this team were based on the provisional understanding of the nature of work required and as the work evolved. Currently the team comprises of one Grade 7; one Senior Executive Officer; and 1 FTE Higher Executive Officer. An Executive Officer has recently been recruited starting in November.

This team covers the work in response to the SAEHR report recommendations and support for the HRAG and LOWG discussed above, and covers work on human rights impact assessments, engagement with other UK Governments and the EHRC in relation to human rights, and reporting on international human rights treaties in the UK. The work of the team has included supporting Welsh Government engagement on three Dialogues with UN Committees within the last 12 months - the UN Convention on the Rights of Disabled People; the International Covenant on Civil and Political Rights (March 2023); and the International Convention on the Elimination of All Forms of Race Discrimination. The team are also starting preparations for attendance at the UK Dialogue with the UN Committee on the International Covenant on Economic Social and Cultural Rights in February 2025.

## **Rest of the Senedd term**

12. As outlined, the actions on incorporation are subject to the outcomes of the work of LOWG. We intend to provide an update on progress across our Human Rights work in early 2025.

13. I will consider making an oral statement on incorporation at the appropriate time once the work of LOWG is sufficiently advanced to enable a meaningful update to the Senedd.

**Justice recommendations**

Several recommendations in the SAEHR relate to actions on Justice. The Welsh government position in the May 2022 response still stands. In respect of Recommendation 26, Welsh government published an update in February this year on the progress it has made taking forward the Thomas Commission's recommendations. The report can be found [here](#).

I hope this update provides you with the information you require.

Yours sincerely,

A handwritten signature in black ink that reads "Jane Hutt". The signature is written in a cursive style with a long horizontal stroke above the first name.

**Jane Hutt AS/MS**

Ysgrifennydd y Cabinet dros dros Gyfiawnder Cymdeithasol, y Trefnydd a'r Prif Chwip  
Cabinet Secretary for Social Justice, Trefnydd and Chief Whip

Cc: Charles Whitmore, Professor Simon Hoffman and Dr Sarah Nason