



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

MINUTES OF THE 103rd COMMISSION MEETING

**HELD ON MONDAY 19 JANUARY 2009 AT THE
NORTHERN IRELAND HUMAN RIGHTS COMMISSION
TEMPLE COURT, 39 NORTH STREET, BELFAST, BT1 1NA**

Present: Monica McWilliams, Chief Commissioner
Jonathan Bell
Tom Duncan
Alan Henry
Ann Hope
Colm Larkin
Eamonn O'Neill
Geraldine Rice
Daphne Trimble

In attendance: Peter O'Neill, Chief Executive
Don Leeson, Head of Corporate Services
Ciarán Ó Maoláin, Head of Legal Services, Policy and
Research
David Russell, Head of Communications and Education
Angela Lloyd-Stevens, Caseworker (agenda item 9)

Apologies: Colin Harvey

Ciarán Ó Maoláin was welcomed back as Head of Legal Services, Policy and Research following his career break.

1. Minutes of the 102nd meeting (HRC 103.1)

- 1.1 The minutes of the 102nd Commission meeting held on 15 December 2008 were agreed as an accurate record.

2. Matters arising

- 2.1 There were no matters arising.

3. Report from the Chief Commissioner

- 3.1 The Chief Commissioner gave an oral report on her activities since the last Commission meeting.
- 3.2 The Commission has been invited by the Downing Street policy team to discuss the Commission's advice on a Bill of Rights for Northern Ireland on 28 January 2009.
- 3.3 A meeting is being arranged with the First and deputy First Ministers to discuss the Commission's advice on the Bill of Rights.
- 3.4 The Chief Commissioner reported that the NIO is planning to consult on its response to the Commission's advice on the Bill of Rights in spring 2009.
- 3.5 The Chief Commissioner has been invited to address the British Institute of Human Rights annual conference on 28 January 2009, in London.
- 3.6 The Chief Commissioner will meet the Permanent Secretary of the NIO on 23 January 2009 to discuss a range of issues, including the Commission's supplementary bid for additional resources.

4. Reports from Commissioners

- 4.1 Alan Henry reported on his attendance at the Eastern Health and Social Services Board's human rights event on 5 December 2008.

5. Minutes of committee and working group meetings (HRC 103.2)

- 5.1 Commissioners noted the minutes of the Audit and Risk Management Committee meeting, which was held on 9 September 2008.

- 5.2 Daphne Trimble reported on the outcome of the last Audit and Risk Management Committee, held on 16 December 2008, which included a review of its terms of reference, discussion of the outcome of the Commission's recent internal audit, approval of a revised health and safety policy, approval of a Business Continuity Plan for the Commission, and approval of a revised Financial procedures Manual and a review of the Risk Register.
- 5.3 Commissioners noted that the outstanding minutes of Bill of Rights Working Group meetings are being finalised and will be submitted to the next Commission meeting for ratification.

6. Chief Executive's report (HRC 103.3)

- 6.1 Commissioners noted the Chief Executive's report.
- 6.2 The Chief Executive reported that the development of a summary version of the Commission advice on a Bill of Rights for Northern Ireland is being considered.
- 6.3 Commissioners noted government's intention to jointly designate the Commission and the Equality Commission under Article 33(2) of the UN Convention on Disability Rights as the independent mechanism to promote, protect and monitor implementation of the convention in Northern Ireland. The Chief Executive reported that discussions with the Northern Ireland Office and the Office of the First Minister and deputy First Minister about funding for this role are ongoing, although initial indications are that few, if any, additional resources are likely to be made available to the Commission.
- 6.4 Commissioners noted that the Commission's Memorandum of Understanding with the Equality Commission will be revised to take account of the respective roles and responsibilities and joint working arrangements under the Article 33(2) designation.
- 6.5 Commissioners endorsed a proposal to form a joint committee with the Equality Commission to oversee the two commissions' work on the UN Convention on Disability Rights. Commissioners were invited to volunteer to join the committee.

- 6.6 Commissioners noted that the Commission will be represented by a member of staff at a round table of representatives of government and designated bodies on the UN Convention on Disability Rights on 9 February 2009 at Bristol University to discuss a framework for the monitoring mechanism.

7. Team reports

7.1 Corporate Services (HRC 103.4)

- 7.1.1 Commissioners noted the Corporate Services report.
- 7.1.2 The Head of Corporate Services reported that, following a collective grievance by NIPSA, it has been decided to re-open the process for staff to appeal the outcome of the job evaluations for their posts. Commissioners noted that this has delayed submission of the business case to the NIO for the regrading of a number of posts approved at the Commission meeting held on 17 November 2008.
- 7.1.3 The Chief Commissioner will discuss Commissioners' pay arrangements, which have not changed since the Commission was established in 1999, with the Permanent Secretary at the NIO. In the meantime, it was noted that proposals from the NIO in respect of pension arrangements for Commissioners are pending.
- 7.1.4 Commissioners noted the outcome of the Staff Survey 2008. The Commission is consulting staff through NIPSA about the key issues arising from the survey, who are due to provide views by the end of January 2009. An action plan will then be developed with staff to address issues that arise.
- 7.1.5 Commissioners noted the arrangements for a workshop for Commissioners and staff on understanding and appreciating anti-prejudice, good relations and diversity, which is scheduled for 20 January 2009.
- 7.1.6 Commissioners reviewed the Commission's expenditure and financial commitments to date. Commissioners noted that the outcome of the Commission's supplementary bid to the NIO for additional resources is pending.

- 7.1.7 Commissioners noted that the Equality Committee is in the process of reviewing the Commission's equality monitoring arrangements.
- 7.1.8 The Head of Corporate Services briefed Commissioners on the Commission's revised emergency evacuation procedures.

7.2 Communications and Education

- 7.2.1 The Head of Communications and Education gave an oral report on the team's activities since the last Commission meeting.
- 7.2.2 Commissioners noted the evaluation report on the human rights training programme delivered by the Commission in September 2008, and the positive feedback from participants. Commissioners asked that their congratulations be passed on to Rebecca Dudley, who delivered the training programme.
- 7.2.3 Commissioners noted the increased press coverage of the Commission's work during the last three months.
- 7.2.4 Commissioners passed on their appreciation to everyone concerned with the production of the Commission's Annual Report and Accounts for 2007–08, which was laid in Parliament and published on 8 December 2008.
- 7.2.5 Commissioners were briefed on plans for the Commission's stakeholder conference. A detailed programme will be presented for discussion at the Policy Committee meeting on 16 February 2009.

7.3 Legal Services, Policy and Research

- 7.3.1 Commissioners noted reports prepared by the Heads of Legal Services and Investigations, Policy and Research in respect of the teams' activities during December 2008.
- 7.3.2 The Head of Legal Services, Policy and Research expressed his appreciation to Nazia Latif and Virginia McVea for managing the team's work during his career break.

- 7.3.3 Commissioners noted that the draft report of the Commission's investigation into immigration detention is currently being reviewed by the UK Border Agency for factual accuracy, prior to publication in spring 2009.
- 7.3.4 Commissioners noted that the draft report of the Commission's investigation into homelessness and no or limited recourse to public funds is currently being written up, with a view to it being considered at the next Commission meeting.
- 7.3.5 Commissioners noted that a review of the Commission's strategy in respect of legal costs, which draws on a report prepared by the Cost Drawer on legal fees paid by public bodies, is underway. The outcome of this review will be reported to the Audit and Risk Management and Legal Committees in due course.
- 7.3.6 The Head of Legal Services, Policy and Research reported on a number of policy consultation responses that staff are preparing. It was agreed that, given the imminent second reading of draft legislation to reform the Coronial system, staff should submit a response to it based on pre-existing Commission policy, without further recourse to Commissioners.

8. Review of corporate governance issues in relation to the presentation of the Commission's advice on a Bill of Rights for Northern Ireland

- 8.1 Commissioners were asked to respond to a questionnaire circulated by the Chief Executive concerning their understanding and action in respect of corporate governance issues raised in finalising the Commission's advice in respect of a Bill of Rights for Northern Ireland.
- 8.2 Commissioners noted that refresher training on corporate governance will be arranged. The training will be tailored to meet the needs of the Commission and include a review of the Standing Orders for Commission meetings and the Code of Practice for Commissioners.
- 8.3 Commissioners noted that, contrary to reports in the media, a 'minority report' on the Commission's Bill of Rights advice does not exist.

9. Review of the Commission's involvement in E (a child) (AP) (Appellant) (Northern Ireland) [2008] UKHL 66 (HRC 103.5)

- 9.1 Commissioners considered a report on the Commission's intervention in the House of Lords in the E case, which concerned the policing of civil disturbances that occurred outside the Holy Cross primary school in 2001, following criticism of the Commission by one of the Law Lords.
- 9.2 Commissioners noted that the House of Lords and all parties to the case agreed to the Commission's petition to intervene, which meant that there was acceptance that the intervention had merit. Furthermore, the intervention succeeded in clarifying that the Court of Appeal applied an incorrect legal test to the case (the *Smith* test) in 2006, which did not accurately reflect the effect of the coming into force of the Human Rights Act. Counsel advised that other aspects of the intervention, on which the Commission was unsuccessful, flowed from this.
- 9.3 Commissioners also noted that third party interventions are a cost effective way for the Commission to bring legal points to the attention of the courts. The Chief Executive reported that the costs of Commission's intervention in the House of Lords in the E case were not at the expense of other cases.
- 9.4 Commissioners recommended that the Commission's criteria for intervening in cases, which was developed with legal advice in 2003, should be reviewed by the Legal Committee to ensure it is current and builds on learning from this intervention.
- 9.5 It was agreed that, in deciding to intervene in the House of Lords in the E case, all procedures had been followed correctly and the decision had been taken in good faith with all due regard to Counsel's advice.

10. Review of the effectiveness of committees and working groups (HRC103.6)

- 10.1 Commissioners considered a number of issues in respect of the operation of committees and working groups.
- 10.2 Commissioners approved an extension to the contract of the independent Chair of the Audit and Risk Management Committee.

- 10.3 Commissioners agreed that the Bill of Rights Working Group, which developed the Commission's advice on a Bill of Rights, should be formally stood down. It was also agreed to form a Bill of Rights Committee to promote and oversee the implementation of the Commission's advice.
- 10.4 Commissioners approved proposed changes to the terms of reference to the Audit and Risk Management and Legal Committees.
- 10.5 Commissioners agreed that the terms of reference for each committee should include a requirement for the Chairperson or nominated Commissioner to normally provide an oral report to each Commission meeting on the committee's activities.
- 10.6 Commissioners noted that committee papers are not routinely sent to non-members and that there is a particularly sensitivity concerning Legal Committee papers, which contain confidential information. Whether committee papers should be circulated to all Commissioners will be considered as part of a review of the Commission's information management and security arrangements, which is being conducted by the Head of Corporate Services. In the meantime, the Head of Corporate Services will look at the most effective way of providing feedback to Commissioners on the outcome of applications for Commission support they pass on to the Legal Committee for consideration.
- 10.7 Commissioners agreed that the membership and chair of the committees should be rotated. The Head of Corporate Services will write to all Commissioners seeking their preferences for committee membership, which Commissioners noted should continue to be balanced as far as possible in terms of gender and community background.

11. Strategic Plan 2009–12 (HRC103.7)

- 11.1 Commissioners agreed to meet separately to consider the Commission's priorities for its next Strategic Plan.

12. Report on progress against Business Plan 2008-09 (HRC103.8)

- 12.1 Commissioners noted the progress made during April to December in achieving the objectives set out in the Commission's Business Plan for 2008–09.

- 12.2 Commissioners commended staff for their work to date in implementing the Business Plan.

13. Any other business

- 13.1 Commissioners noted that the Irish Human Rights Commission has joined with some other national human rights institutions in intervening as *amicus curiae* in a case at the European Court of Human Rights. The Irish Human Rights Commission will be invited to brief Commissioners on this at the next Joint Committee meeting on 21 January 2009 in Belfast.

14. Dates of next meetings

- 14.1 The next meeting of the Policy Committee, comprising all Commissioners, will be held on 16 February 2009, in Temple Court, Belfast.
- 14.2 The next business meeting of the Commission will be held on 9 March 2009 in Downpatrick.

The meeting closed at 4.10 pm.

Approved: _____

Date: 9 March 2009