

**NORTHERN IRELAND HUMAN RIGHTS COMMISSION**

**Minutes of the Resumed 35<sup>th</sup> Commission Meeting**

**Held on Monday 26 November 2001**

**At 2.00 pm in the NIHRC Offices, Temple Court,  
39 North Street, Belfast**

**Present:** Brice Dickson, Chief Commissioner  
Tom Donnelly  
Harold Good  
Tom Hadden  
Paddy Kelly  
Inez McCormack  
Frank McGuinness

Margaret-Ann Dinsmore will arrive late

Christine Bell (*By telephone from 3.35 pm*)

**In Attendance:** Paddy Sloan, Chief Executive  
Peter Hosking

**1.0** The Chief Commissioner welcomed Peter Hosking, a senior consultant with the United Nations currently on contract with the Commission to undertake an independent evaluation of its policies and procedures. Peter was attending the meeting simply to observe proceedings.

**2.0 New Commissioners**

Four new Commissioners have been appointed to begin their tenure on 1 December 2001. Lady Christine Eames, Patrick Yu, Dr Chris McGimpsey and Kevin McLaughlin are the persons in question. All current Commissioners have been reappointed, except for one who is to reconsider her position when her maternity leave is complete.

**3.0** The Commission resumed the agenda from two weeks previously at the item **Powers Delegated to Committees.**

**3.1** The Chief Commissioner proposed that, whilst the Casework Committee does have delegated powers, if it is considering taking a case in the Commission's own name, that decision needs to come before the full Commission. He referred to a memo circulated by him to Commissioners on 20 November in

which he also proposed that some other potentially controversial decisions should also be brought to the full Commission.

- 3.2 Concern was expressed that decisions are taken in Committee by a majority vote, whilst in the full Commission decisions are taken by consensus.
- 3.3 It was noted that the Casework Committee operates very well, usually taking decisions unanimously. It operates by and is tied in very closely to criteria agreed by all Commissioners and with counsel's advice. It is therefore unlikely, though possible, that a majority decision in Committee could engage the Commission in a process that would not enjoy consensus support within the full Commission.
- 3.4 It was argued strongly that with respect to Casework, Commissioners needed to stick to the agreed criteria approved by counsel, as to introduce subjectivity to the process could leave the Commission open to judicial review.
- 3.5 The point was also made that procedures with respect to emergency cases should be reviewed. Some Commissioners are unhappy with the process for taking quick decisions.
- 3.6 The complexity of identifying some cases as "controversial" and therefore treating them differently from other cases was discussed. It was agreed that this differential treatment on a subjective basis could be problematic. It was explained that the intention behind the proposal was simply to involve more Commissioners in the decision-making process.
- 3.7 It was suggested that all Committees should, like the Commission itself, operate by consensus and should make every effort to ensure that all Commissioners who are members of those Committees have an opportunity to participate.
- 3.8 It was suggested that cases which are complex, rather than controversial, should be referred to the full Commission, but the point was repeated that treating cases differently at all might leave the Commission open to judicial review. The contrary view was expressed that if the Commission disqualified itself from ever reviewing a decision taken by the Casework Committee this might be a more likely ground for judicial review.

*Christine Bell joined the meeting by telephone at 3.35 pm.*

It was agreed that the Commission should consult counsel on developing the appropriate criteria to be used by the Casework Committee when considering whether the Commission should take a case in its own name. The point was made that the Commission should not be fettered from responding as quickly as possible when necessary, as in some instances an effective remedy is time limited. The status quo will be maintained until counsel's advice has been considered.

- 3.9 It was also agreed that counsel should be asked to consider whether criteria should and could be developed for referring applications from individuals to the full Commission.

*At 4.00 pm Inez McCormack left the meeting.*

*At 4.05 pm Tom Hadden left the meeting but said he would like the Commission to return to the consensus issue at its next meeting.*

- 3.10 Some Commissioners expressed concern at the tone of some of the memos circulating from Commissioners and at the potential breach of confidentiality through the discussion of Commission business outside the meetings.
- 3.11 It was reported that affidavits had been sought by counsel from several Commissioners with regard to the Holy Cross Girls' School case.
- 3.12 The Chief Commissioner reported that he had received a telephone call from the Chief Constable raising some concerns in connection with the Commission's modus operandi concerning the dispute at Holy Cross Girls' School. It was agreed that the Chief Constable should be invited to write to the Commission outlining his concerns.

*4.55 pm Margaret-Ann Dinsmore joined the meeting.*

- 3.13 Following further discussion it was again agreed to undertake a half-day session with all Commissioners in the near future to review Commission values and procedures.

*At 5.05 pm Paddy Kelly left the meeting.*

#### **4.0 Billy Wright**

- 4.1 The Commission was asked to lend its name to the call for an independent public judicial inquiry into the murder of Billy Wright. Commissioners have been considering this request for some time and a decision is urgently sought.
- 4.2 An Article 2 case under the Human Rights Act was discussed. Some Commissioners considered this to be more effective than a call for an inquiry. The Weston Park document has already indicated that a public inquiry will be considered into this case among others if an international judge so recommends. The Commission could perhaps be more effective by considering support for an Article 2 case.
- 4.3 It was agreed to refer the case back to the Casework Committee for it to explore the possibility of an Article 2 case. No decision would be taken by the Commission on calling for an inquiry until the possibilities of an Article 2 case had been fully explored.

**5.0 Development on Policing**

- 5.1 The Commission met today, 26 November 2001, with the Minister, Jane Kennedy to discuss plastic baton rounds. Notes of that meeting will be circulated. The content of the report of developments on policing was noted.

**6.0 Committee Reports**

- 6.1 The reports from the Bill of Rights, Education and Investigations Committees and from the Information Worker, were all noted without question.

- 7.0 The Chief Commissioner reported that the UN Special Representative on Children will be in Belfast during the period 17-19 December 2001 and would like to meet with Commissioners. This will be arranged through Lisa in the office.

- 8.0 There being no other business the meeting closed at 6.15 pm.