

NORTHERN IRELAND HUMAN RIGHTS COMMISSION

Minutes of the 50th Commission Meeting

Held on Monday 10th February 2003

**At 11.30 am in the NIHRC Offices, Temple Court,
39 North Street, Belfast**

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

Apologies: Kevin McLaughlin
Patrick Yu

Margaret-Ann Dinsmore (*arriving later*)
Christine Eames (*arriving later*)
Chris McGimpsey (*arriving later*)

In Attendance: Paddy Sloan, Chief Executive

1.0 Minutes of the Previous Meeting

- 1.1 Under point 9.3.1 it was agreed to add a further sentence reading “*It was agreed that in all it does the Commission should preserve its independence.*”
- 1.2 There being no other amendments the minutes of the 49th Commission meeting were agreed as an accurate record.

2.0 Matters Arising

- 2.1 A meeting to discuss the future of the Children and Young Persons’ Panel for the Bill of Rights had been held with two Commissioners and the Chief Executive. It was agreed that the panel would be reconvened for the period up until the end of the financial year, subject to appropriate facilitation. This is to include two qualified youth workers, both of whom have been PECS checked. The future of the panel will be discussed by the Bill of Rights Committee.
- 2.2 The Finance and General Purposes Committee had met on 7 February, and recommendations from that meeting will be tabled to the Commission. The meeting between NIO officials and the Chief Commissioner and the Chief Executive will take place on 11 February to discuss the Commission’s current budget.

- 2.3 The meeting with NIPSA scheduled for 28 January 2003 has been rearranged at their request, for 25 February 2003.
- 2.4 The seminar on the Mental Health Review has been arranged for 14 March 2003 at the NIHRC offices.

3.0 Chief Commissioner's Report

- 3.1 The opinion from the OSCE on the Bill of Rights proposals has not as yet arrived, although it is expected imminently.
- 3.2 The Chief Commissioner has written to the Department of Culture, Arts and Leisure seeking an explanation as to why the Commission was not included in the programme of meetings for the working group within the Committee of Experts which monitors state compliance with the European Charter for Regional or Minority Languages. The working group visited Belfast on 21 January and the Chief Commissioner and the Investigations Worker, having discovered by chance of their visit, were able to arrange a brief meeting at short notice. A copy of the UK's Periodic Report to the Committee has now been made available to the Commission.
- 3.3 The issue of the Commission's engagement with the reporting process to international treaty monitoring bodies has been raised with the various Whitehall departments, with Sir Joe Pilling, PUS at the NIO, and with the Minister, Des Browne. Correspondence from the Minister was circulated to Commissioners indicating the Government's intention to be more inclusive of the NIHRC in the reporting process.

The report of the Council of Europe Committee on Social Rights dealing with articles in the Social Charter was published on 4 February, finding the UK in breach in Northern Ireland through the Health and Safety Executive, Northern Ireland. The Chief Commissioner has written to the Chief Executive of HSE NI regarding this finding. The next report on the Social Charter is due on 3 June from the UK and the Commission will seek to make an input to that report.

- 3.4 Correspondence from the UN Special Rapporteur on the Right to Education was tabled relating to Commission concerns regarding the process of her mission in Northern Ireland. This will be further considered by the Chief Commissioner.
- 3.5 The NIHRC paper on "On the Runs" has gone to the British and Irish Governments, the British Irish Intergovernmental Secretariat and to all political parties represented in the Northern Ireland Assembly.
- 3.6 A meeting with the DPP is being arranged to discuss (amongst other things) the DPP's reluctance to give reasons to the Commission for not prosecuting in particular cases.

Commissioners expressed concerns regarding the implications of the recent decision in the Court of Appeal in the *McKerr Case* and agreed to write to the Minister, Jane Kennedy seeking the government's response to the judgment. In addition Tom Hadden will prepare an options paper with the Chief Commissioner on how the NIHRC ought to follow this through. Such a paper should also be informed by input from relevant external contacts including the families, the implementation team on the Justice (NI) Act and relevant NGOs.

- 3.7 The report by Lord Carlile on the Operation of the Terrorism Act 2000 has been produced and on receipt, the Commission will consider whether to comment.

12.30 pm Christine Eames joined the meeting

- 3.8 The Chief Commissioner wrote to Sir John Stevens, Colin Port, Judge Cory and the DPP seeking further meetings. No response has been received from Sir John Stevens; the deputy to Mr Port has written to say that when an officer is appointed to replace Mr Port, the Commission's request will be considered; a meeting has been arranged with Judge Cory for Monday 10 March at 11.00 am; the DPP would welcome a meeting when he has had time to consider further the matters raised.

Judge Cory has also requested copies of any relevant documentation held by the NIHRC in relation to the cases he is investigating. It was agreed that subject to the agreement of those who either gave the Commission the information or were party to meetings recorded, the Chief Commissioner would make such documentation available to Judge Cory.

- 3.9 It was agreed that the Commissioners would visit Mourne House at Maghaberry to complete visits to all places of detention in Northern Ireland. Paddy Kelly, Christine Eames and Harold Good expressed an interest in attending with a member of staff. A report on this visit will be considered together with the paper prepared by the Chief Commissioner last year regarding visits to places of detention.

The Prison Service is still considering whether to release to the Commission a copy of the internal report into the death of Mark Fulton in June 2002. The Commission agreed to refer this matter to the Casework Committee for consideration.

12.40 pm Chris McGimpsey joined the meeting.

- 3.10 Paddy Kelly will represent the Commission at a British Council workshop for Commonwealth Human Rights Commissions being held in Uganda in the last week of February. The topic for discussion is the holding of inquiries and investigations.
- 3.11 The Commission discussed the merits of the Chief Commissioner organising a visit to the USA. It was agreed, funding permitting, that there would be merit in such a visit. It was also agreed that if the opportunity arose to contribute to

any imminent Congressional hearings concerning human rights issues in Northern Ireland, the Commission should strive to do so. It was also agreed that the Commission would actively seek to give evidence to any forthcoming relevant Congressional hearings.

- 3.12 It was reported that Patrick Yu has been appointed by the Minister, Des Browne to serve on the panel of experts providing advice on a Single Equality Bill for Northern Ireland.
- 3.13 The protocol with the NIO was discussed with Sir Joe Pilling when he visited the Commission. He undertook to discuss this further with his officials.
- 3.14 Christine Eames has agreed to represent the Commission as Chair of a working group on the Mental Health Review Team. Professor Bamford, Chair of the Mental Health Review Team invited the Chief Commissioner to nominate a Commissioner to chair the working group on human rights for people with a mental health problem or a learning disability.
- 3.15 The next meeting of the Joint Committee with the Irish Human Rights Commission has been rearranged for Friday 11 April in Belfast.
- 3.16 The Chief Commissioner's speaking engagements and meetings/events attended over the last month were noted.
- 3.17 On 17-18 February the Chief Commissioner will attend a meeting organised for NGOs and National Human Rights Institutions at the Council of Europe on the Reform of the European Court of Human Rights. The NHRI sub-group was established at the Council of Europe Roundtable for National Human Rights Institutions held in Belfast and Dublin in November 2002. A paper on the Reform of the European Court of Human Rights prepared by the Chief Commissioner has been circulated to Commissioners for comments by the end of the week. A final paper will be submitted in March.
- 3.18 The NIO sent to the Commission for comment a tender document for the appointment of new Commissioners, which will be handled by an external recruitment agency. Commissioners had considerable comments on the document and these have been forwarded to the NIO.
- 3.19 Justice Albie Sachs of the South African Constitutional Court will be in Belfast on 19 February and giving a public lecture at Queen's University at 4.30 pm on that day. Justice Sachs has kindly agreed to meet with the Commission the following morning 20 February from 11.15 am to 12 noon. It was agreed that, subject to Justice Sachs agreement, representatives of political parties should be invited to join Commissioners and staff at this meeting, which will focus on the impact of a Bill of Rights.

4.0 Chief Executive's Report

- 4.1 The report on premises development was noted.

- 4.2 Planning meetings regarding the Business Plan for 2003-2004 and the Strategic Plan for 2003-2006 were noted and these draft Plans will be discussed later on the agenda.
- 4.3 A meeting has been arranged with the Secretary of State on 11 February 2003, after which the NIO will press release the Commission's budget for the next three years. The NIHRC will also issue a release welcoming the increase in its core budget but highlighting the continued need for additional resources in order to function effectively.

At 12.55 pm Patrick Yu joined the meeting.

It was agreed that Commissioners would discuss the forthcoming meeting with the Secretary of State after item 8 on the current agenda.

- 4.4 Casework finance was discussed. Meetings are to be arranged with the relevant firms of solicitors to discuss, amongst other things, the provision of uplifts in their fees. If necessary the Taxing Master will be engaged.

Angela Stevens' work in clarifying the Casework position was acknowledged.

The Commission broke for lunch at 1.15 pm.

At 2.00 pm the Commission reconvened.

5.0 Committee Reports

Staff joined the meeting at this point:

Nadia Downing

Angela Stevens

Miriam Titterton

Edel Teague

- 5.1 The Bill of Rights report was noted.
- 5.2 Casework Committee Reports again highlighted the issue of finance. The Casework Committee is reviewing its criteria for support and all firms engaged are being urged to provide regular costs information to the Commission. The imperative to be selective in identifying cases to be supported was reinforced. The Chief Commissioner and Chief Executive will meet with NIO officials on 11 February to discuss finance, of which Casework costs will be a major element.
- 5.3 In the Education Report Commissioners sought confirmation on whether the Guide to the Human Rights Act for Principals and School Governors is being done in-house. This was confirmed by the Education Worker.

- 5.4 The Information Worker's Report highlighted the publication of the Strategic Plan, which is scheduled for dissemination in March. The Victims' Report will also be published as a designed document, hopefully in that month also.
- 5.5 The Investigations Report was noted.
- 5.6 The Report on the Committee for Victims suggested the potential for a student intern to work on this issue.

6.0 Developments on Policing

- 6.1 The Chief Commissioner's Report on Developments on Policing was noted.
- 6.2 The extent to which juveniles in Northern Ireland are used as Covert Human Intelligence Sources is not known. The ACPO document which provides guidance on this topic has not been made available to the Commission and the Chief Commissioner has now written to the National Crime Squad seeking a copy of the guidance. There has as yet been no response.
- 6.3 The Chief Commissioner wrote to the new GOC in Northern Ireland, Lieutenant General Philip Trousdell, to ask for a meeting on human rights training for soldiers and on the use of baton rounds. A response was received indicating that the GOC is not able to agree to a meeting at the present time and suggesting that the Chief Commissioner write to a member of his staff.
- 6.4 A meeting to discuss the Commission's concerns over the PSNI's use of CCTV images has been arranged for 21 February at 2.00 pm at PSNI Headquarters in Belfast.
- 6.5 The Chief Commissioner and Tom Hadden attended PSNI training on the use of baton rounds. This provided useful supplementary information relevant to the Commission's current investigation.
- 6.6 Specific inquiries are being prepared to send to the PSNI regarding its policies in relation to engagement with children.
- 6.7 The Commission is still awaiting a response from the PSNI regarding its position on threats against individuals. The Chief Commissioner is to write to ACC Sam Kinkaid urging a response.
- 6.8 Commissioners were reminded that they are welcome to attend meetings of the Policing Sub Group at any time.

7.0 Bill of Rights

- 7.1 Details of the conference on Social and Economic Rights arranged for 24 February 2003 in Derry/Londonderry were tabled. Commissioners again reinforced their commitment to holding these meetings on the basis of sharing

information and building capacity to discuss key issues in relation to the Bill of Rights. Such support and information processes will not be confined to conferences and will be part of an ongoing process of work with the various relevant sectors.

- 7.2 At the Stormont event organised by the Human Rights Consortium on 3 February, it had been announced that an Implementation Group sub group working on the Bill of Rights had been set up and would be chaired by Monica McWilliams of the Women's Coalition. This group met last week and meets again on 11 February. This is not the proposed Roundtable on the Bill of Rights but a group appointed to establish the Roundtable. At present this group involves the Women's Coalition, SDLP, Sinn Fein and Alliance parties and other parties are being encouraged to engage. It is anticipated that there will be four or five meetings of the working group in the advance of the establishment of the Roundtable on the Bill of Rights.
- 7.3 The role of the NIHRC in the development and implementation of this Roundtable was discussed and again the criteria agreed at the Armagh residential were affirmed. It was agreed that the Chief Commissioner would contact Monica McWilliams as Chair of the working group to initiate the Commission's involvement.
- 7.4 A submission on the Bill of Rights is anticipated from the DUP by the end of the week.
- 7.5 Rogers Brubaker is coming to Northern Ireland at the invitation of Democratic Dialogue. A joint seminar will be held at the NIHRC on 27 March to consider ethnic identity and groupism in the context of the Commission's proposed Bill of Rights.

At 2.45 pm staff left the meeting.

8.0 Meeting with the Secretary of State

- 8.1 Commissioners then discussed the forthcoming meeting with the Secretary of State and the Minister, Des Browne scheduled for 4.30 pm on 11 February 2003.
- 8.2 Draft agenda items were agreed including: Bill of Rights; NIHRC powers; Protocol with the NIO; NIHRC role with respect to treaty monitoring bodies; "On the Run"; update on the political process.
- 8.3 Most Commissioners will attend the meeting and will meet at 4.20 pm at Block B, Castle Buildings, Stormont.

9.0 Quigley Review

- 9.1 The NIO has extended the consultation period until April 2003.

9.2 The Commission discussed its latest draft response on the Parades Commission and Public Processions (Northern Ireland) Act 1998 for submission in due course to the NIO.

9.3 Concerns were expressed regarding protections in the legislation additional to those under Article 11 of the ECHR. Consistency with the NIHRC's position on a Bill of Rights was also discussed. The distinction between protections in legislation and a Bill of Rights was also explored.

At 3.25 pm Harold Good left the meeting.

9.4 Commissioners discussed the value of specifying European Court case law to illustrate the Commission's position.

9.5 It was agreed that Tom Hadden would further amend the draft response and, in the light of the extended consultation period, Commissioners will discuss the paper again at the next Commission meeting on 10 March 2003.

At 3.30 pm Paddy Kelly left the meeting and Margaret-Ann Dinsmore joined the meeting.

10.0 Courtney Report

10.1 With some reservations, the Courtney Report was accepted by the Commission.

10.2 Further discussion is required on the implementation of the report together with some clarification of the recommendations.

10.3 The Commissioner/staff steering group will continue to develop the implementation of the report, which will be revisited by Commissioners at the May Commission meeting.

At 4.20 pm Patrick Yu and Margaret-Ann Dinsmore left the meeting.

11.0 Victims' Report

11.1 Appreciation was expressed to the Chief Commissioner for the work he had done in editing the report, which is an amalgam of several different pieces of work.

11.2 Harold Good introduced the report for Commissioners to make comment.

11.3 Tom Donnelly made a series of comments on content and style and emphasised the need for the final report to be properly designed and well presented as a publication. Other comments included the need for a clearer reference to a Truth and Reconciliation Commission; a separation of the issue of the "On the Run" and amnesties; a distinction to be made more clearly

- 11.4 Commissioners agreed the report and the Chief Commissioner will work with the Chair of the Committee for Victims, Harold Good and the Information Worker to prepare it for publication during March 2003.

12.0 Omega Report

- 12.1 The final draft document prepared by the Omega Foundation on the use of plastic baton rounds was discussed.
- 12.2 It was acknowledged that the recommendations made were those of the Omega Foundation, written for the Commission. Commissioners need to decide which of those recommendations to accept and support.
- 12.3 On the provision of a binding timetable, Commissioners agreed that it is necessary to introduce a binding timetable for finding an acceptable alternative to the use of baton rounds.
- 12.4 It was agreed that the calculated likelihood to cause injury of the latest model of baton round is a weak statistical calculation. This section will be redrafted and sent to the Omega Foundation to consider.
- 12.5 The operational difficulties of distinguishing the age of people in a riot situation was acknowledged. The report should require that special care be taken to avoid firing at or hitting children.
- 12.6 Any overlap with the role of the Police Ombudsman needs to be clarified.
- 12.7 It was agreed that the reference to the historical context of the use of baton rounds should be retained but that the details currently provided in Appendix 1 should be removed.
- 12.8 Subject to the changes identified being made, it was agreed that the report should proceed to publication.

13.0 SENDA Consultation Paper

- 13.1 The NIHRC's response to the consultation on a proposed Special Educational Needs and Disability Bill has already been submitted and was not therefore further discussed.

14.0 Strategic Plan

- 14.1 After some discussion it was agreed that the current performance indicators are unrealistic both in number and intent and should be reduced.
- 14.2 Further consideration should be given to the breadth of focus of the Strategic Plan.
- 14.3 Further comments are to be submitted by Commissioners to the office by 21 February 2003.

15.0 Business Plan

- 15.1 Similarly further responses from Commissioners to the Business Plan should be submitted by 21 February 2003.
- 15.2 A financial element of the Business Plan connected to targets will be circulated to Commissioners.
- 15.3 The proposals by the Finance and General Purposes Committee that the Assistant Caseworker post be retained to provide legal advice across the Commission and that Education, Development and Information work be supported through the appointment of a database/events manager, were agreed.

16.0 Joint Committee

- 16.1 The papers on a Charter of Rights and emergency legislation will be discussed at the Commission meeting on 10 March 2003. Both papers need to have been considered by the Commission prior to the next meeting of the Joint Committee in April 2003.

- 17.0 There being no other business the Commission meeting closed at 6.00 pm.