

NORTHERN IRELAND HUMAN RIGHTS COMMISSION

Minutes of the 52nd Commission Meeting

Held on Monday 14th April 2003 at 2pm in the Armagh City Hotel

Present: Brice Dickson, Chief Commissioner
Margaret Ann Dinsmore
Tom Donnelly
Harold Good
Tom Hadden
Paddy Kelly
Kevin McLaughlin
Patrick Yu

Apologies: Frank McGuinness
Paddy Sloan (Chief Executive)

In attendance: Linda Moore, Investigations Worker (taking minutes)
Education Worker, Legislation and Policy Worker,
Development Worker.

1. Change to agenda.

- 1.1 To facilitate those staff present it was agreed that items 6, 7, 8, and 10 would be moved to the beginning of the agenda.

2. Committee Minutes and Staff Reports

- 2.1 The Bill of Rights Committee minutes were noted. It was agreed that substantive items arising from these would be discussed under the items on Committee Structure and Bill of Rights on the agenda.

The Chief Commissioner informed commissioners that he understands that the DUP response is currently being printed and will be presented to him once it is available.

Clarification was asked as to why only the PUP is being contacted regarding the Round Table. The Chief Commissioner noted that this is for information to let them know that the Commission wants the Round Table to be a success as other participants had indicated such a message may encourage the PUP to join.

The Development Worker confirmed that all political parties will be contacted in June regarding the Commission having a presence at their conferences. All parties are being treated the same in this regard.

2.2 The minutes of the meetings of the Casework Committee were noted. Margaret-Ann Dinsmore informed the Commission that she is involved in a case referred to in these which appeared before the Court of Appeal. On this occasion there was no material in these which would lead to any conflict of interests. However, as a rule it is important that Margaret-Ann Dinsmore does not see any information which may lead to a conflict. Therefore, her copies of minutes of committee and Commission meetings should be redacted to ensure that reference to any cases involving applications to place children in care or secure accommodation or applications for adoption are removed. Paddy Kelly wished it to be noted for the record that she was not in attendance at this meeting of the Casework Committee.

The Chief Commissioner informed Commissioners that the draft revised emergency application procedure for casework, together with other draft revised procedures, would be sent to counsel for an opinion. The draft revised procedures along with counsel's opinion will be brought to the next Commission meeting for approval.

It was noted that paper 52.5e should be removed from Commission papers and destroyed in case of possible breach of confidentiality and child protection procedures. Commissioners therefore handed their copies to a member of staff to take for shredding. It was noted that staff would have received this paper by email along with other Commission papers and should be asked to delete it. It was agreed that an anonymised version should be sent to Commissioners. It was noted that the Casework Committee had considered an anonymised version at its meeting.

In relation to the substance of paper 52.5e it was agreed that the Commission would call on the Departments to conduct a statutory inquiry into this case. It was further agreed that if the Departments do not take such effective action then the Commission would consider other avenues of investigation.

The Chief Commissioner informed the Commission that the Casework Committee has been following up the cost of cases with solicitors. A further meeting will be held with Madden and Finucane in this regard. It was noted that there was an overspend of £100,000 on last year's casework budget. The Commission is involved in further negotiations with the NIO on the possibility of getting additional funding to pay off this deficit. It was noted that changes in procedures have been introduced which should avoid such a situation happening in this financial year. These include (a) the committee's strategy of seeking to intervene in cases where possible rather than supporting applications (b) granting assistance for particular stages of cases (c) requiring solicitors to provide information about the progress of cases on a quarterly basis in relation to money spent and (d) criteria have been drawn up for reviewing the Commission's involvement in cases. The Commission noted that it is important to spell out in publications that the Commission may give assistance for particular stages of cases but may not be able to fund the whole case. The context of the Equality Commission situation should be referred to

in relation to this. It should be made clear to solicitors and applicants which stage of their case we are supporting.

- 2.3 The minutes of the Committee for Victims meeting were noted. It was agreed to record that the views expressed in the final sentence of page 2 do not necessarily represent the views of the Commission as the Commission has not discussed the issue.

Harold Good reported on the progress of the Victims' Rights Report. Brice informed Commissioners that due to other commitments on the time of the Information Worker it was unlikely that the report would be published on the previously anticipated date of 12th May. Brice also noted that chapter 5 of the report had been further amended by Louise Mallinder, a research student at QUB. It was agreed that the revised chapter would be circulated to Commissioners prior to publication. Commissioners are to be informed of the publication date once agreed. Commissioners also agreed that the NIO should be given an advance copy of the report, prior to it being printed, for their information.

- 2.4 The minutes of the Education Committee meeting were noted. The Education Worker informed the Commission that the Committee has now decided not to comment on the Equality Impact Assessment of the proposals for the curriculum, in line with Commission policy.
- 2.5 The Education Worker reported on the work being done on monitoring human rights training for police officers. The Commission agreed that Mark Kelly and the Commission staff involved in this work should attend the June meeting of the Commission to discuss the Commission's strategy in this area.
- 2.6 The Information Worker's report was noted.
- 2.7 The Investigation Workers' report was noted. Thanks were recorded to Linda Moore for her work in managing this research. The Minister's recent statement on baton rounds was discussed.
- 2.8 The report from the Legislation and Policy Workers was discussed. It was noted that the last meeting of this committee had been inquorate and a further meeting had been arranged for 9th May. At this it is intended to discuss possible ways ahead for this committee.

The need to establish formal channels of information with contacts at Westminster was confirmed. One of the Legislation and Policy Workers reported that while good information flow had been developed in terms of treaty monitoring, this was not the case in relation to other matters. It was agreed that making direct contact with Westminster should be a priority for this team. It was agreed that a letter should be written to the chair of the Joint Committee at Westminster asking how the Commission can best be kept informed of legislative developments.

The Legislation and Policy Worker left the meeting at this stage.

3 Developments on Policing

- 3.1 The Chief Commissioner's report on developments on policing was noted. Commissioners were informed that a meeting was being organised with the Chief Constable to discuss Article 2 concerns. There would be a pre-meeting before this and Commissioners would be informed once final arrangements had been made.
- 3.2 It was noted that there had been no response to the Chief Commissioner's correspondence regarding a replacement for Colin Port. Neither had there been responses to the correspondence to PSNI regarding information on child protection policies and on CS spray.
- 3.3 It was agreed that it may be useful to contact individual District Policing Partnerships to find out what training in human rights members are getting.
- 3.4 It was noted that the Commission's position on 50/50 recruitment is not totally dependent on whether or not the police, due to lack of resources, are able to comply with Article 2 of the European Convention.

4. Steering Group on Courtney Process

- 4.1 Tom Donnelly reported on the work being carried out by the Steering Group which oversees the progress of the Courtney report recommendations. This group comprises himself, the Chief Commissioner, the Chief Executive, a NIPSA representative and a staff representative. The Education Worker (as the staff representative on the group) also informed Commissioners about the progress being made through this work. She thanked the Chief Commissioner for his leadership role in this process. Notes were made available to Commissioners of the latest meeting of the Steering Group on Thursday 10th April.

The Education Worker left the meeting at this point.

5. Bill of Rights

- 5.1 Patrick Yu expressed concern (which he had previously communicated to the Chief Commissioner by email) about the circulation of the advice supplied by the Office of the OSCE's High Commissioner on National Minorities regarding minority and community rights to external bodies without the status of this first being agreed by the full Commission and prior to clarification on some of the issues having been received. He expressed concern as to whether the correct procedures had been followed in this matter. Brice Dickson indicated that he had used the discretion vested in him as Chief Commissioner in deciding to make the paper available, bearing in mind the OSCE's own position regarding the public nature of the document and the Commission's own policy on transparency. Following discussion it was agreed that if any

Commissioner wishes to make a proposal for tightening Commission procedures this would be discussed at the May Commission meeting.

- 5.2 The Commission discussed plans for an event to attract professional lawyers to discuss the implementation issues arising out of the Bill of Rights. It was agreed that an evening meeting from 5pm – 7pm would be most suitable for this event. To maximise attendance this should be held in the Belfast Hilton with a light snack available.
- 5.3 The Chief Commissioner noted that he would keep Commissioners informed about arrangements for the meeting involving the Chief Justice of Canada, Beverley McLachlan, on Wednesday 28 May from 10.30 to 12.30.
- 5.4 The idea of a residential for Commissioners and staff on the Bill of Rights was discussed. It was agreed that three evening sessions would be more cost-effective and potentially productive. One meeting each would be organised for May, June and July. At the first of these the Commission's future strategy on the Bill of Rights will be discussed.

The Development Worker left the meeting at this point.

6. Minutes of the previous meeting and reconvened meeting of the Commission

- 6.1 The second sentence of point 2.9 (meeting 10th March) should be amended to read that “Paddy has agreed to lead a discussion with staff on the content of the workshop.”
- 6.2 On point 2.5 of the reconvened meeting, the final sentence should read: “It was agreed to ask the Equality Commission for its views on the possible implications of the OSCE advice for the existing regulations on monitoring in Northern Ireland.
- 6.3 The minutes of the previous meeting and reconvened meeting were otherwise agreed as an accurate record.

7. Matters arising from the previous meeting

- 7.1 On point 2.1 (meeting 10th March), it was noted that neither Paddy Kelly nor Margaret-Ann Dinsmore had yet been approached regarding a discussion on the future of the young people's panel. It was reaffirmed that such a discussion should be arranged by the Bill of Rights Committee and that both Commissioners should be invited to attend.
- 7.2 On point 2.5 (meeting 10th March) the Chief Commissioner informed Commissioners that the Crown has now been given leave to appeal to the House of Lords in the *McKerr* case. It was agreed that the Chief Commissioner should write a brief paper for the June Commission meeting

proposing a strategy on dealing with the issues raised by *McKerr* and by *Jordan et al.* He reported that staff had recently had a useful discussion on these issues and that he would liaise with staff in preparing this paper.

- 7.3 On point 2.4 (meeting 10th March) the Chief Commissioner informed Commissioners that NIPSA had responded to the draft contract and staff handbook given to it for consultation at the last management/union meeting on 25th February. There remained some areas of disagreement between management and the trade union. The Commission agreed that it is important to prioritise getting these issues resolved and contracts agreed with staff. It was agreed that every effort should be made to resolve the issues prior to the next management/union meeting so that the contracts and handbook can be formally agreed at that meeting.
- 7.4 On point 2.7 (meeting 10th March) the Commission discussed a report in the Sunday Times which stated that only 15 pages of the Stevens inquiry would be published on Thursday (17th April). Following discussion it was agreed to write tomorrow to John Stevens reaffirming that the Commission would like to see the report published in full and to circulate a press release to this effect. It was also agreed that the Commission would reiterate its call for a public inquiry into the death of Pat Finucane.
- 7.5 It was agreed that if possible a member of Commission staff should attend the launch of the Stevens report.
- 7.6 On point 2.5 (reconvened meeting) the Equality Commission has not formally been asked for its views yet, but the Chief Commissioner and the Chief Executive have met with the Chief Commissioner and Chief Executive of the Equality Commission and it has been agreed that the issue of minority/community rights should be discussed in the near future.
- 7.7 On point 2.7 Patrick Yu wished it to be recorded that he is no longer willing to be consulted by the Chief Commissioner on the clarification to be sought from the OSCE in the light of the decision to release the OSCE paper, as discussed at point 5.1 above. It was agreed that the Chief Commissioner will bring the questions he intends putting to the OSCE for clarification to the next Commission meeting for discussion.
- 7.8 On point 7.1.1 the Chief Commissioner reported that he had received an acknowledgement letter from the Secretary of State's office stating that a response to his correspondence will be forthcoming in due course. He also reported that a greater number of supportive, rather than hostile, comments had been received regarding the Commission's position on the war launched against Iraq.

8. Paper on proposed Committee Structure

- 8.1 The Chief Commissioner spoke to his tabled paper on proposals for the future of the committee structure of the Commission. It was agreed at the outset

that longer consideration is needed and that no decision on changing the structures would be taken at this meeting. Following discussion it was confirmed that for the present the Committee for Victims and Bill of Rights Committees would remain as committees rather than becoming working groups. It was noted that this means that neither committee can take decisions unless it has a quorum at meetings.

- 8.2 It was agreed that staff should be asked to discuss and prepare a paper on the operational workload arising from the present committee and working group structure. This would be available to aid Commissioners' deliberations at their next meeting on 12 May.

Harold Good left the meeting at this stage.

9. The Quigley Review

- 9.1 Tom Hadden reported that he is redrafting the Commission's response to the Quigley review taking into account Paddy Kelly's comments. It was agreed that on completion this would go to the Chief Commissioner, noting any issues which remained unresolved. He would then circulate this to all Commissioners.

10. Report on Human Rights and Mental Health

- 10.1 The Commission considered the report by Maura McCallion, Gavin Davidson and Michael Potter on human rights and mental health. Following discussion it was agreed that the researchers should be asked to look in more depth at the issues around the section 75 groups, especially children and young people and ethnic minorities, as there are areas of particular concern about the human rights of both of these groups in relation to mental health services. It was noted that Dr Angela O'Rawe has been working on these issues and should be approached regarding her findings. It was agreed that the researchers should be contracted to do the additional work attached to making the necessary changes to the report.
- 10.2 It was further agreed that a medical opinion should be sought on the draft report. It was agreed that Dr Mamoun Mobayed should be approached to see if he was willing to provide such a review.
- 10.3 It was agreed that the final report should be sent to Commissioners as soon as it is available so that it can be formally endorsed at their meeting on 9 June and published as soon as possible after that date.

11. Chief Commissioner's Report

- 11.1 On point 2, Commissioners had received copies of appraisal forms developed by the NIO. It was agreed that Commissioners would undergo this appraisal

process, although it was noted that some Commissioners had reservations regarding the implications of this process for the Commission's independence.

- 11.2 On point 4, Commissioners would like to receive copies of the Joint Parliamentary Committee on Human Rights Report.
- 11.3 On point 5, the Chief Commissioner informed commissioners that a judicial review of the Commission had gone to the High Court last week. Mr Justice Weatherup suggested that the Commission should consider an application for assistance from the applicant. It was agreed that an emergency meeting of the Casework Committee should be convened to discuss this application for assistance, in accordance with the usual criteria, if and when it was submitted. Counsel has been approached in case an opinion is needed.

12. Chief Executive's Report

- 12.1 Commissioners had also received a tabled supplementary report from the Chief Executive, who had sent her apologies for this meeting.
- 12.2 On point 1.2, the Chief Commissioner explained that although the NIO had previously indicated that they would be prepared to pay for the job evaluation exercise, they are now not willing to do so. Commissioners agreed that the money would have to be found from the Commission budget for this exercise. The importance of getting agreements in writing was noted.
- 12.3 On point 1.6, some Commissioners expressed concern about this research and particularly about the nature of the questions. It was agreed that all Commissioners should be sent the draft research report when the Chief Commissioner receives a copy for comment.
- 12.4 On point 2.4, Commissioners sought clarification from the Chief Executive on where ownership of these works would lie.
- 12.5 On point 1.6 of supplementary report, there was agreement in principle to the idea of the role of Commission minute taking being taken on by a member of administration staff, subject to negotiation with the trade union and suitable training being undertaken. It was agreed that this is a matter of urgency.

13. Truth and Justice

- 13.1 Discussion on this item was deferred pending the production by Tom Hadden and Brice Dickson of an updated version of their paper discussed at the March Commission meeting.

There being no other business the meeting ended at 5.25pm.