

**NORTHERN IRELAND HUMAN RIGHTS COMMISSION**

**Minutes of the 53<sup>rd</sup> Commission Meeting**

**Held on Monday 12 May 2003**  
**at 1.40 pm in the NIHRC Offices, Temple Court**

**Present:** Brice Dickson, Chief Commissioner  
Tom Donnelly  
Christine Eames  
Harold Good  
Tom Hadden  
Frank McGuinness  
Kevin McLaughlin (*by telephone*)  
Patrick Yu

**Apologies:** Margaret-Ann Dinsmore  
Paddy Kelly  
Chris McGimpsey  
Paddy Sloan, Chief Executive

**In attendance:** Linda Moore (Investigations Work) taking minutes. Paddy Sloan, Chief Executive was unable to attend the meeting.

**1. Minutes of the previous Commission meeting**

- 1.1 It was agreed that in point 2.3 the word ‘necessarily’ should be added so that the sentence now read “the views expressed in the final sentence of page 2 do not necessarily represent the views of the Commission ...”
- 1.2 It was noted that apologies from Frank McGuinness had been sent for the meeting and should be included.

Subject to these amendments the minutes of the previous meeting were agreed as an accurate record.

**2. Matters arising**

- 2.1 Re 2.1: The Chief Commissioner has been informed that the DUP’s document on the Bill of Rights was to be printed in about a week’s time.
- 2.2 Re 2.2: Draft procedures for the Casework Committee have been sent for counsel’s opinion and a reply is expected imminently. This will be considered at

- the next Casework Committee meeting and the procedures will then come to the Commission for approval.
- 2.3 Re 2.2: In relation to the call for a statutory inquiry into a child protection case, it was noted that letters were being sent to the Department of Health, Social Services and Public Safety and that the Chief Commissioner and Assistant Caseworker met with the young person's father last week.
  - 2.4 Re 2.2: A letter has been received from a firm of solicitors regarding the cost of cases. Another meeting with the firm is still to be arranged.
  - 2.5 Re 2.2: It was noted that all commissioners had received a letter from Dara O'Hagan MLA (Sinn Féin) regarding the Equality Commission's withdrawal of support from some cases. It was noted that the judgment of Mr Justice Kerr in a recent court case was not yet available in writing. When this is available it will be studied by the Casework Committee.
  - 2.6 Re 2.8: It was noted that the next meeting of the Legislation and Policy Committee is not 9 May as stated but has been rescheduled for the 23 May.
  - 2.7 Re 2.8: A letter had been sent to the Chair of the Joint Committee at Westminster about how the Commission may best be kept informed of legislative developments but no response had yet been received.
  - 2.8 Re 3.2: The Commission has been informed that Mr Arthur Provoost has succeeded Colin Port. Mr Provoost has agreed to meet the Commission on 21 May.
  - 2.9 Re 5.3: Invitations have been distributed for the visit of Beverley McLachlin, Chief Justice, Supreme Court of Canada. Mr Justice Kerr has agreed to act as respondent to the Chief Justice's paper. The event will take place on 28 May in the Europa Hotel.
  - 2.10 Re 6.2: The Chief Commissioner has written to the Chief Executive of the Equality Commission suggesting a meeting between representatives of both Commissions on the possible implications of OSCR advice for the existing regulations in monitoring in Northern Ireland. The date has not been finalised.
  - 2.11 Re 7.1: It was noted that Margaret-Ann Dinsmore would be unable to attend the 22 May Bill of Rights Committee meeting, at the end of which future strategy regarding children and young people would be discussed. It was agreed that Paddy Kelly should attend the meeting as agreed and the issues be discussed with Margaret-Ann Dinsmore following the meeting.
  - 2.12 Re 11.3: It was noted in relation to the judicial review taken against the Commission that an emergency meeting of the Casework Committee had been

convened, as agreed, to consider a request for assistance. It was agreed at this meeting that assistance should be granted to the applicant to help him lodge his case in Strasbourg, up to the stage of a decision being taken on the admissibility of his application. Counsel's advice had been received to the effect that there was a possible Article 6 point on the facts.

- 2.13 Re 12.2: It was noted that the NIO had previously indicated in writing that it was prepared to pay for the evaluation of staff posts (the minutes of the last meeting had suggested that this was not the case). However, the NIO now states that it is not willing to pay for this work.
- 2.14 Re 12.4: The Chief Executive had confirmed that ownership and copyright of the works of art would lie with the Commission.

### **3. Chief Commissioner's Report**

- 3.1 The Chief Commissioner reported that the NIO had indicated that it would be some time before new Commissioners were appointed. The Chief Commissioner had expressed his disappointment to Anita Bharucha (Head of Rights and International Relations, NIO) when he met her recently. It was agreed that the Chief Commissioner would write a letter to the Secretary of State Paul Murphy (copied to Des Browne MP) seeking an assurance that there will be sufficient overlap between new Commissioners being appointed and existing Commissioners retiring.
- 3.2 Ciarán Ó Maoláin, research worker, attended the UN's meeting on reform of the treaty-monitoring process, held in Liechtenstein from 4 to 7 May (at no expense to the Commission). The NIHRC was the only NHRI invited to participate. Ciarán was able to ensure that the potential role of NHRIs in the treaty-monitoring process was borne in mind throughout the discussions.
- 3.3 It was noted that Kevin McLaughlin will be attending the British Council training event on disability in New Delhi, India at the end of May. Kevin will circulate information about the event to Commissioners on his return. There is a further event in New York in June, on the prospects of a UN Convention on disability, at which the Commission may wish to be represented. It was agreed that the Chief Commissioner should contact Prof Gerard Quinn or the UN itself for further information about this event.

It was also agreed that the Chief Commissioner would contact Dr Maurice Manning, President of the Irish Human Rights Commission, to get details of the Irish Commission's work to date on co-ordinating an input from European NHRIs to the process of drafting a UN Convention on Disability.

- 3.4 It was agreed that, given the postponement of Assembly elections, distribution of the Joint Committee's pre-consultation document on a Charter of Rights should go ahead. The consultation period would remain unchanged (i.e. responses would be due by 1 September 2003).
- 3.5 The Chief Commissioner reported that the Casework Committee was recommending that the Commission should initiate judicial review proceedings against the Northern Ireland Prison Service in respect of the Service's failure to disclose documents to the Commission relating to the deaths of Mark Fulton and Annie Kelly in June and September 2002 respectively. It was agreed that this action should be taken.
- 3.6 The Chief Commissioner reported that the Director of Public Prosecutions had written stating that he was considering the draft Memorandum of Understanding with the Commission which had been sent to him. It was agreed that agreement on such a Memorandum should be progressed as quickly as possible.
- 3.7 There was discussion of the publication details for the Victims Rights' Report. Given the number of publications being managed in-house over the next few weeks, and the desire to have this report published by the end of June 2003, it was agreed that serious consideration should be given to contracting out the work required to prepare the report for publication. It was agreed that the Chief Commissioner should liaise with the chair of the Committee for Victims regarding the preferred date of publication.
- 3.8 There was some discussion of the Annual Report, which is now being drafted. It was agreed that it is important to stress the priority areas of concern for the Commission when launching it.
- 3.9 It was noted that the Steering Group on the implementation of the Courtney Report recommendations had met last week. The group had agreed to appoint *Venture I* to act as external advisors on some of the recommendations (in line with Courtney's recommendations). It is intended to establish a group of Commissioners and staff to work together on strategic planning. It was agreed that the Chief Commissioner would contact Commissioners to see if they would volunteer to take part in this work.
- 3.10 It was agreed that discussion on whether to publish the Courtney report would be put on the agenda for the August meeting of the Commission.
- 3.11 It was agreed that Rob Fairmichael should be asked to submit a short paper relating to the training session on chairing meetings which he had delivered on 28 April.
- 3.12 Christine Eames and Kevin McLaughlin reported orally on work they are doing for the Commission on other bodies. Christine spoke of her involvement as chair

of the working group on human rights within the Independent Review of Mental Health and Learning Disability, established by the DHSSPS (the Bamford Review). Christine noted that there is a broad range of representation on the group and that the group meets in the Commission's offices. This has been a very positive experience. The Commissioners were invited to contribute to the Human Rights and Mental Health and/or Learning Disability Working Group being co-ordinated by Christine Eames. Linda Moore reported on the progress of the review being carried out for the Commission on mental health and human rights.

Kevin reported on his involvement on the Northern Ireland Regional Steering Group set up to coordinate activities for the European Year for People with Disabilities (2003). He noted that 22 local organisations had received Government funding in relation to this work and a paper giving further details of the awards was distributed for Commissioners' information.

#### **4. Bill of Rights**

*Edel Teague (Education Worker) and Miriam Titterton (Development Worker) joined the meeting for this item.*

- 4.1 This item was moved up the agenda to facilitate a Commissioner who needed to leave the meeting at 3.30pm.
- 4.2 Tom Hadden spoke to a paper previously circulated to Commissioners on strategic options for the Bill of Rights.

Commissioners were broadly supportive of the proposals in the paper. Commissioners reaffirmed their previous decision to hold three evening meetings for Commissioners on the Bill of Rights. These would start by agreeing a process for producing a position paper on the Bill of Rights in September 2003. This would require agreement on a clear timetable, an agenda, how decisions are to be reached by Commissioners and how the position paper is to be structured. It was agreed that more than three meetings may be needed (there was not general support for a residential meeting) and that these would be arranged as appropriate.

It was agreed that the purposes of the position paper would be twofold, as described on page 2 of Tom Hadden's paper, namely (a) to achieve agreement within the Commission on as many aspects of the Bill of Rights as possible on which there seems to be general consensus and (b) to set out the arguments for and against the adoption of particular provisions on issues on which there is less or no consensus.

Commissioners dedicated themselves to full participation in this process. It was agreed that there is a need to move forward, restore momentum and provide

leadership to the Bill of Rights process to include liaison with the proposed political Roundtable.

*Edel Teague left the meeting at 3.15pm*

It was agreed that working with Commissioners on producing a position paper on the Bill of Rights should be a priority for the Chief Commissioner over the summer. It was also agreed that the Commission's plans and timetable for this work should be announced when launching the document summarising responses to the Bill of Rights consultation document.

It was agreed to approach the NIO for additional funding to appoint a worker over the summer to work specifically on the Bill of Rights (with specific reference to the proposed Round Table).

4.3 There was discussion of the proposed Round Table on the Bill of Rights and Commissioners welcomed the commitment to this in Annex 3 of the British and Irish Governments' recently published Joint Declaration. It was agreed that the Chief Commissioner should write to Monica McWilliams, copied to NIO, to seek information about developments in relation to the Round Table and to share information about the Commission's activities on the Bill of Rights.

4.4 The Development Worker's report was noted.

*Christine Eames left the meeting at 3.40pm.*

*The meeting broke for refreshments and resumed at 3.55pm.*

## **5. Chief Executive's Report**

5.1 The financial report was considered by the Finance and General Purposes Committee at its meeting on 9 May.

5.2 It has been arranged for graffiti on the exterior of the premises to be removed. It was noted that there had also been damage to the main doors of the building, but this was the landlord's responsibility.

5.3 The building itself has been purchased by Blackwood Associates. The Chief Executive would pursue with them the issue of improving accessibility for wheelchair users at the front of the building. If necessary she will consult the Commission lawyers regarding who owns the land outside the front door of the Commission.

## **6. Committee minutes and worker reports**

- 6.1 The minutes of the Casework Committee were noted.
- 6.2 The Education Worker's report was noted.
- 6.3 The Investigation Workers' report was noted. The Chief Commissioner gave an oral report of some issues arising out of the meeting of the Investigations and Research Committee which had taken place that morning.
  - 6.3.1 It had been agreed to recommend that an updated version of the research on the health care of young gay, lesbian and bisexual people would be produced. This would be circulated to Commissioners for comment and would be brought to the meeting of 7<sup>th</sup> July for endorsement. The Commission endorsed this recommendation.
  - 6.3.2 The Committee had agreed to recommend that, given the delay in getting co-operation from the British Army in relation to access to its records on baton rounds, an interim report on the Army use of baton rounds would be produced. This would be available for the July Commission meeting. The Commission endorsed this recommendation. It was noted that if the Commission does not get access to this material it may consider judicial review of the Army's refusal.
  - 6.3.3 The Committee had been agreed to invite Her Majesty's Inspector of Prisons, Ann Owers, to come to the Commission to discuss work on prisons and to speak at a seminar on prisons and human rights. The Commission endorsed this recommendation.

A discussion on human rights and prisons followed. This included discussion of the detention of children in adult prisons and of the visit of several Commissioners to Mourne House on 28 April. These Commissioners reported on their concerns about conditions for women prisoners in Northern Ireland.

It was agreed that an investigations proposal on the concerns relating to women prisoners should be brought to the June Commission meeting.

- 6.4 The Chief Commissioner talked to his report on the Commission's work on policing over the past month.
  - 6.4.1 The Chief Commissioner raised the recent arrests by the PSNI of journalists in connection with alleged breaches of the Official Secrets Act. This had been discussed earlier at the Commission's working group on policing. The Commission agreed that staff should be asked to gather further information on the extent of the police operation in these cases, on international standards and on relevant case law to inform the Commission at its next meeting.

- 6.4.2 The Chief Commissioner noted that the scheduled meeting with the Chief Constable of the PSNI had been postponed (at the Chief Constable's request) and Commissioners would be informed of the rearranged date.
- 6.4.3 The Chief Commissioner reported that the PSNI's response to the Commission's question regarding protection schemes for individuals had been sent to counsel for an opinion on the possibility of initiating judicial review of police practice in this area.
- 6.4.4 The Commission discussed issues relating to the launch of the summary of the Stevens report. It was agreed to review the Commission's previous contact with Sir John Stevens in light of the summary report. It was agreed that staff be asked to gather further information on guidance on the use of Covert Human Intelligence Sources, especially young sources.
- 6.5 The Commission noted the report of the Legislation and Policy workers. It noted that, for a number of reasons, the Legislation and Policy Committee of the Commission had not met since 16 January. The next scheduled meeting was to be on 23 May.
- 6.6 The minutes of the meeting of the Finance and General Purposes Committee on 9 May were noted. Linda Moore left the meeting during discussion of item 2.1 from this report. On this, the Commission agreed that a NIPSA representative should be invited to attend future meetings of the F&GP Committee as an observer, with the proviso that he or she may be asked to leave the meetings during discussions where there may be a conflict of interests. Linda Moore rejoined the meeting following discussion of this item.
- 6.7 A memo from the Chief Commissioner outlining draft questions for the OSCE was discussed. The Commission agreed the wording of the questions and asked for them now to be sent to the OSCE.

### **Other matters**

7. Commissioners noted the updated paper from Tom Hadden and the Chief Commissioner on Investigations, Truth and Justice.
8. Comments from a Commissioner who wished to contribute to the draft response to the Quigley report had not yet been received. The Chief Commissioner agreed to contact the Commissioner.
9. The Chief Commissioner reported that the Investigations and Research Committee had agreed at its meeting that morning (which had been inquorate) that it wished to invite an external representative to join the group. This would not only assist in ensuring that a quorum was reached for each meeting but also



enhance the expertise of the Committee. It was decided that further discussion of this should form part of a broader discussion on committee structure and membership at a subsequent Commission meeting.

10. The Commission asked the Chief Commissioner to record Commissioners' sympathy for Paddy Kelly's recent bereavement.

The meeting ended at 5pm.