

Northern Ireland Human Rights Commission

Minutes of the 54th Commission Meeting

held on Monday 9 June 2003 at 1.30pm

in the offices of the NIHRC, Temple Court, Belfast

Present: Brice Dickson, Chief Commissioner
Tom Donnelly
Christine Eames
Margaret-Ann Dinsmore
Tom Hadden
Paddy Kelly
Frank McGuinness
Kevin McLaughlin
Patrick Yu

Apologies: Harold Good

In Attendance: Paddy Sloan, Chief Executive

1. Minutes of the 53rd Commission Meeting

- 1.1 At point 3.12, a sentence is to be inserted indicating that Commissioners were invited to contribute to the Human Rights and Mental Health and/or Learning Disability Working Group being co-ordinated by Christine Eames.
- 1.2 At point 4.2, a supplementary note is to be inserted at the end of paragraph 4, reading "*To include liaison with the proposed political Roundtable*".
- 1.3 There being no other amendments the minutes of the 53rd Commission meeting were agreed as an accurate record.

2. Matters Arising

- 2.1 Reference point 2.2. Counsel's opinion on Casework procedures has been received by the Casework Committee which will consider it at its next meeting on 23 June 2003.
- 2.2 Reference point 2.10. A meeting took place on 3 June between representatives of the Equality Commission and the NIHRC to discuss the possible implications of OSCE advice for the existing regulations on monitoring in Northern Ireland. It was agreed that the Equality Commission will include a recommendation on improving the monitoring regulations in their proposals for a Single Equality Bill. The NIHRC will forward a paper advising the

- 2.3 Reference point 2.12. An application for judicial review which had been threatened against the Commission for not supporting a particular case has now been withdrawn as, following further consideration of the case, the Casework Committee has now provided some support.
- 2.4 Reference point 3.1. The Chief Commissioner has written to the Secretary of State expressing concern and seeking assurance that there will be sufficient overlap between the appointment of new Commissioners and the retirement of existing Commissioners.
- 2.5 Reference point 3.2. The report of Ciarán Ó Maoláin's attendance at the meeting of the International Co-ordinating Committee of National Human Rights Institutions in Liechtenstein has been circulated to all Commissioners and to other NHRIs.
- 2.6.1 Reference point 3.5. A judicial review of the Prison Service's failure to disclose documents relating to the deaths of Mark Fulton and Annie Kelly will be lodged within a week or so. Counsel's advice has been provided and a single application has been lodged with respect to reports.
- 2.6.2 The Chief Commissioner has written to Anne Owers, HM Chief Inspector of Prisons to see if the reports could have been made available to her. The Chief Inspector has an agreement with respect to England and Wales but it does not apply in Northern Ireland. Anne Owers has agreed to visit the Commission in August at a date to be confirmed, to discuss, among other things, her recent report into conditions at Maghaberry prison.
- 2.7 Reference point 3.9. Commissioners are encouraged to attend the scheduled "On Board" training in governance for representatives of public bodies.

At 1.45pm Margaret-Ann Dinsmore joined the meeting

- 2.8 Reference point 6.4. Counsel has not yet provided advice to the Commission regarding the possibility of judicial review of police practice with regard to the Key Persons Protection Scheme and their responsibilities under Article 2. The Caseworker will follow this up.
- 2.9 There is still no progress in the Commission's efforts to secure access to the army's records on the use of baton rounds.
- 2.10 A copy of the summary of the Stevens report will be circulated to all Commissioners.
- 2.11 Reference point 5.3. The Chief Executive informed Commissioners that the landlord has not been able to provide any further information regarding

- 2.12 The Commission has not yet submitted a response to the Quigley report as further consultation among Commissioners has still to be carried out.
- 2.13 The Commission agreed that as consensus had not to date been reached on the restructuring of Committees, this will be re-visited at the September Commission meeting.
- 2.14 In the minutes of the April and May Commission meetings Patrick Yu's dissent is to be recorded from the decision to forward further questions on minority / community rights to John Packer at the OSCE.
- 2.15 Paddy Kelly thanked colleagues for their kind expressions of condolence and support following her recent bereavement

3. Chief Commissioner's Report

- 3.1 The NIO's advertisement for new Commissioners has not yet been placed in the press.
- 3.2 The NIO appraisal form, to be completed for Commissioners, has not as yet been finalised and is unlikely to be approved before the end of June.
- 3.3 The Commission approved the draft criteria for guiding the selection of Commission representatives, whether they be staff or Commissioners to speak at events. It was agreed to add that the primary criterion should be who can best represent the Commission at any particular event.
- 3.4 The Chief Commissioner reported that he has written to the Secretary of State seeking his help in securing a Memorandum of Understanding between the NIO and the NIHRC. He has also written to the Ombudsman for his views on the draft Memorandum which was sent to his office earlier this year.
- 3.5 There was some discussion regarding the Commission's commitment to engage with the Institute for Conflict Research, the Community Relations Council, Future Ways and the Parades Commission in seeking to connect human rights training and community relations training. Some Commissioners were concerned that this was not a priority within the Strategic Plan while others suggested it was an important element of the Commission's responsibility to promote awareness and understanding.
- 3.6 It was agreed that the Annual Report should include a separate and early section highlighting the key human rights issues of the year, as drafted by the Chief Commissioner.

- 3.7 The Victims Report will be launch on 2 July 2003 at a relatively small press launch with some victims representatives invited. The Victims Minister Des Browne will also be invited to attend.
- 3.8 Consideration was given to the request from the Human Rights Commission in Dublin for NIHRC views on their proposal to change their name to the Irish Human Rights Commission or to the Human Rights Commission of Ireland. At present, and through statute, it is known as the Human Rights Commission, which is difficult when the Commission seeks to be identified internationally. Concern was expressed that either of the proposed new names might challenge the ethic of the Belfast Agreement by undermining the status of Northern nationalists. It was suggested that the name of the state was the Republic of Ireland, but it was then pointed out that this is the British name for the state, not that of Irish law. Following further discussion it was agreed that the Chief Commissioner would indicate to the Human Rights Commission in Dublin that most Commissioners felt they should express no opinion on the matter while some Commissioners felt the proposed new names were unacceptable..
- 3.9 Further items in the Chief Commissioner's report were noted.
- 3.10 Commissioners discussed the rationale for meeting with individuals who criticise the Commission in the media. It was agreed that the Chief Commissioner would seek to identify the "Commission source" quoted in a recent article in Fortnight.
- 3.11 The "E" case was heard on Thursday 5 June and on 9 June Mr Justice Kerr ruled the respondents' objection that the application was now entirely academic. He rejected the objection, noting that the dispute in question could flare up again in the future. The respondents have apparently decidedly not to appeal. A date for a substantive hearing is likely to be identified during the vacation period, possible early in July. If a date cannot be arranged the substantive hearing will take place in the autumn. A costs reserved application needs to be made by the Commission as the objections were raised by the police and should not be our costs.
- 3.12 The Police Ombudsman would like to meet with all Commissioners. It was agreed that such a meeting should be tied into the July Commission meeting agenda if possible.
- 3.13 Commissioners discussed the membership of the Joint Committee and agreed that it was valuable for all Commissioners to continue to be members of the Joint Committee.
- 3.14 Kevin McLaughlin reported on his recent trip to Delhi on behalf of the Commission to attend a British Council conference on disability. This discussion was linked to the forthcoming UN event on the proposed Convention on Disability being held in New York on 16 June for two weeks. Kevin McLaughlin will represent the Commission at that meeting also. It was agreed that Kevin would seek views from and share feedback with the Equality Commission, OFMDFM, the Irish Human Rights Commission and

- 3.15 It was agreed that attendance at the conference in New York should be discussed with the British Council for possible support.

4. Chief Executive's Report

- 4.1 The Chief Executive's report was noted.
- 4.2 It was agreed that the Chief Commissioner would write to the Minister Des Browne regarding the Commission's proposal to employ a political researcher as a direct result of the Joint Declaration and its reference to the political Roundtable and political developments within the Bill of Rights process.
- 4.3 Commissioners discussed the allocation of resources with regard to Casework. It was noted that new procedures had been put in place to seek to control expenditure on individual cases. Counsel's opinion has been sought on the kind of financial controls that can legitimately be introduced to restrict NIHRC support. The importance of controlling expenditure and not simply monitoring expenditure was highlighted.

At 3.50pm the Commission broke for tea and re-convened at 4.10pm. Linda Moore, Edel Teague and Mark Kelly joined the Commission at this point.

5. Human Rights Training for the PSNI

- 5.1 Mark Kelly reported to the Commission on the research he had undertaken on its behalf on human rights training for the PSNI. This was the second report prepared by Mark and he noted that the PSNI were very co-operative throughout. The report should be complete by the end of June. Following Mark's outline of the content of the report there was a valuable discussion among Commissioners with a series of questions answered by Mark.

At 4.45pm Margaret-Ann Dinsmore left the meeting.

Some reticence from PSNI had been experienced on the conflict management course and this information will be slotted in prior to the final report being produced. PSNI will have an opportunity to comment on a draft of the report.

- 5.2 The Chief Commissioner has written to the Policing Board asking for an official response to the Commission's monitoring of PSNI training. A Human Rights and Professional Standards Committee has now been established by the Policing Board, so it is possible that a response will be received through its work.

- 5.3 Mark Kelly was thanked for his contribution and he and Edel Teague left the meeting.

6. Investigation on women prisoners

- 6.1 Linda Moore discussed her proposal on an investigation into women prisoners. Linda recommended that, rather than initiate a new investigation at this stage, the Commission should work with Her Majesty's Inspector of Prisons to review their analysis to date and identify where the Commission could add value to HMIP's reports. Anne Owers, Chief Inspector of Prisons, has agreed to come to the Commission in August and it was suggested that a small seminar might be organised at that time to take views from those active in the field.
- 6.2 It was agreed that Linda would draw up a suggested strategy for taking forward the Commission's concerns for consideration at the July Commission meeting.
- 6.3 It was agreed that the Chief Commissioner would write to the Prison Service seeking information as to how the Prison Service is responding to the recommendations of the recent HMIP report into Maghaberry prison.

At 5.25pm Miriam Titterton and Nadia Downing joined the meeting and Linda Moore left the meeting.

7. Staff Reports

- 7.1 Casework: The Chief Commissioner noted a response received from the Chair of the Board of Governors at Cabin Hill School as a result of the Commission's public call for a statutory inquiry into the handling of sexual assaults on pupils at the school.
- 7.2.1 Education: It was noted that the Commission was advertising for a Bill of Rights in Schools worker in partnership with the Department of Education.
- 7.2.2 A series of events are being planned on terrorism, disability and police training later in the year.
- 7.3.1 Information Work: Submissions on the Bill of Rights are now all prepared for publication on the website. 251 submissions will be available.
- 7.3.2 Commissioners agreed that the Strategic Plan was very well presented.
- 7.3.3 The recent negative reference to the Commission in The Independent has been identified as to the author but not to the source. The Chief Commissioner will refer to it when he next speaks to Des Browne.

- 7.4.1 Investigations: A series of issues need to be discussed at the July Commission meeting including:
- Our report on the rights of young lesbian, gay and bisexual people
 - Our research on army use of plastic baton rounds
 - Our commissioned research on the rights of persons who are mentally ill
 - Our co-sponsored research on older people's treatment in the health service

- 7.4.2 It was agreed that the Chief Commissioner would write to the Minister Des Browne expressing concern that the juvenile detention centre, Lisnevin, is still open and functioning.

At 5.45pm Paddy Kelly left the meeting.

- 7.4.3 Two papers had been prepared by Virginia McVea which were noted for information. Copy of the Luce Review has been ordered for the NIHR in order to prepare a response.

- 7.5 Legislation and Policy papers were noted.

8. Policing

- 8.1 Robin Masefield has been invited to attend the August Commission meeting to make a presentation on the use of baton rounds and alternatives.

- 8.2 The establishment of a Human Rights and Professional Standards Committee by the Policing Board was noted.

- 8.3 There followed discussion of the KPP Scheme and the recent high profile of alleged informers and the kind of protection that might be available for them. The Chief Commissioner had written to the Chief Constable in relation to one such case. It was agreed that the Chief Commissioner would both identify and seek a meeting with the Commissioner for Surveillance.

- 8.4 It was also agreed that the Chief Commissioner would raise with the Chief Constable at their imminent meeting the Walker and Blelloch guidelines and seek copies of each.

- 8.5 The Chief Commissioner would seek clarification from the Chief Constable as to who it is who controls undercover operations in England.

- 8.6 Issues of press freedom also need to be considered in this context.

At 6pm, Frank McGuinness left the meeting.

9. Bill of Rights

- 9.1 Commissioners agreed to the proposed terms of reference for a Human Rights Forum for Young People so long as it is clearly communicated to participants

- 9.2 There was some discussion regarding the publication of the summary of submissions and it was agreed that the Next Steps section would be highlighted and free-standing in the report.

At 6.05pm Miriam Titterton left the meeting.

10. Journalists' Rights

- 10.1 It was agreed that the Commission would seek to produce a statement of facts, relevant human rights principles and conclusions to inform any decision to make a public statement and that, where possible, the Commission should avoid simply reacting to unforeseen events.
- 10.2 Some Commissioners expressed reservations about one recent press statement and it was agreed that, where possible, Commissioners would be circulated with relevant drafts in advance.

11. Any Other Business

- 11.1 Patrick Yu raised his concerns regarding the selective exclusion from the Special Olympics of participants from the Far East on the basis of the SARS virus. He asked for the discriminatory nature of this exclusion to be raised at the Joint Committee on 19 June.
- 11.2 There being no other business the meeting closed at 6.20pm.