

**MINUTES OF THE 60<sup>TH</sup> COMMISSION MEETING**

**HELD ON MONDAY 8<sup>TH</sup> DECEMBER 2003 AT 1.45 PM**

**IN THE OFFICES OF THE NIHRC, TEMPLE COURT, BELFAST**

**Present:** Brice Dickson, Chief Commissioner  
Margaret-Ann Dinsmore  
Tom Donnelly  
Christine Eames  
Harold Good  
Kevin McLaughlin (*by telephone*)

**Apologies:** Tom Hadden  
Paddy Kelly  
Frank McGuinness

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

**1.0 Agenda**

1.1 The proposed agenda was agreed.

**2.0 Minutes**

2.1 The minutes of the 59<sup>th</sup> Commission Meeting of 10<sup>th</sup> November 2003 were considered for accuracy.

2.1.1 At point 4.2.7 insert "..., but no decision was taken."

2.1.2 At point 8.7, delete "should be" and insert "were not".

2.1.3 The minutes were then agreed subject to the above changes.

2.2 The minutes of the Special Commission Meeting held on 17<sup>th</sup> November 2003 were considered for accuracy.

2.2.1 Point 6 is to be re-written to read "It was suggested that the Commission's public statement may have given the impression that there should be no further discussion of pertinent issues, but all Commissioners agreed that they remained committed to discussion, albeit within Commission meetings, not through the newspapers."

2.2.2 At point 8, the last 2 sentences should be deleted.

- 2.2.3 Point 11 is to be amended to read “Within the wider discussion of the Commission’s response to criticism, a paper was tabled by Harold Good outlining what he saw to be possible options for the Commission.”
- 2.2.4 At point 20, amend the last phrase to read “to Commissioners who have withdrawn from the work of the Commission.”
- 2.2.5 At point 28, insert an additional sentence “This point was noted to inform further discussion, if appropriate.”
- 2.2.6 At point 30, insert “it was agreed that ...”
- 2.3 The Chief Commissioner advised Commissioners that if a number of amendments are to be proposed to the draft minutes, it would be helpful if prior notification could be given to the office in advance of the meeting.

### **3.0 Matters Arising**

- 3.1 Matters arising from 59<sup>th</sup> Commission Meeting minutes of 10<sup>th</sup> November 2003 were addressed.
  - 3.1.1 There had been no further response from the Secretary of State nor the Minister John Spellar regarding a meeting with the Commission.
  - 3.1.2 The Chief Commissioner met with Jane Winter of British Irish Human Rights Watch to discuss her concerns as expressed in correspondence to the Commission. Jane believes that there is no need for a further meeting with the full Commission. She re-enforced her concerns regarding the Summary of Submissions document and the Holy Cross case, and went on to discuss casework matters of mutual concern.

### **4.0 Chief Commissioner’s Report**

- 4.1 A letter had been received on the morning of the Commission Meeting on 8<sup>th</sup> December 2003 from Paddy Kelly and Frank McGuinness. Copies of the letter were circulated for Commissioners. Following discussion of the content of the letter it was agreed that the Chief Commissioner should write again to Paddy and Frank inviting them to meet with the full Commission and engage in dialogue regarding their concerns. In addition senior counsel’s advice would be sought on continuing to forward Commission papers to non-participating Commissioners.

*The Commission broke for tea from 3.45 pm to 4.05 pm.*

### 4.2 **Action Plan**

- 4.2.1 A revised paper on the Commission's committee structure was almost complete for circulation to Commissioners.
- 4.2.2 The Bill of Rights Interim Paper was under preparation and should be circulated to Commissioners over the Christmas holidays.
- 4.2.3 A response to the Joint Committee Report was being amended by staff and will come to the January Commission Meeting for approval.
- 4.2.4 There had been no further response from the NIO to the Action Plan or any response to the suggestion that Frank McGuinness' and Harold Good's term of office should be extended beyond February 2004.
- 4.3 Report of QUB Research - there was nothing further to report on the research being carried out by QUB, School of Law on a comparative study of the NIHRC and the South African Human Rights Commission. The draft report was, however, reported in the Andersonstown News despite Professor Stephen Livingstone's request that the document, circulated at a conference at the Wellington Park Hotel on 31<sup>st</sup> October 2003, should not be cited.
- 4.4 A Memorandum of Understanding with the Assembly Ombudsman has been agreed, signed and returned.
- 4.5 Appraisal forms for Commissioners have been circulated although not all Commissioners are content with the format. The Chief Commissioner will discuss this individually with Commissioners.
- 4.6 The Commission's response to *A Shared Future* and *The Luce Review*. Final drafting of both these responses is underway for submission later in the week.
- 4.7 Response to *The Future of Queen's Counsel*  
A response to this document was submitted on 27<sup>th</sup> November and a copy has been circulated to all Commissioners. Margaret-Ann Dinsmore did not participate in this consultation response.

### 4.8 **Casework**

- 4.8.1 It was agreed that the Commission would not now pursue a case in its own name to challenge the Key Person Protection Scheme procedures. However it will continue to assist two individual cases.
- 4.8.2 It was agreed that the Commission would seek to intervene in the House of Lords in the *McKerr* case (on the extent of the duty to investigate a killing). The Commission "successfully" intervened in the *McIlwaine* case, where the judge ordered that a full inquest be held, and supported the successful

applicant in the *Hackett* case, where the police have agreed to undertake a fresh investigation of the killing.

- 4.8.3 It was agreed that when outstanding, disputed bills of costs with solicitors are resolved, an audit trail of the negotiations will be presented to the Commission.
- 4.9 The Chief Commissioner will be attending a UN workshop in New Zealand in early February. It was therefore agreed to postpone 9<sup>th</sup> February 2004 Commission Meeting to the following Monday, 16<sup>th</sup> February 2004.
- 4.10 The Chief Commissioner reported that three further deaths in custody have occurred, two at Maghaberry and one at Magilligan prisons. The Commission is still considering the redacted reports from the Prison Service on the deaths of Mark Fulton and Annie Kelly. In the light of this further information, and details of suicides in psychiatric units in Northern Ireland during the last year, a paper will be presented to Commissioners in January with recommendations for future work in this area.

### **5.0 Chief Executive's Report**

- 5.1 It was noted that Lisa Gormley has now formally resigned from the Commission having secured alternative employment at the University of Ulster. It was agreed that the Chief Commissioner would write to Lisa on behalf of the Commission thanking her for her contribution.
- 5.2 Given that there has to date not been any negotiated pay settlement between the Trade Union and the Civil Service either in Northern Ireland or Great Britain, Commissioners agreed to an interim payment of 2% to all staff at this stage. When negotiations are complete and when a revised pay structure has been agreed for the Commission, any resulting underpayment can be reimbursed. Permission to make such a payment has been secured from the NIO and there is provision within the budget to accommodate the increase.
- 5.3 The Commission offices will be closed for the Christmas holidays on 24<sup>th</sup>, 25<sup>th</sup> and 26<sup>th</sup> December 2003 and 1<sup>st</sup> and 2<sup>nd</sup> January 2004.
- 5.4 Commissioners agreed in principle to the arrangement of a staff exchange with the Danish Institute for Human Rights (DIHR) for a period of six weeks to two months. Costs to the NIHRC would be travel for NIHRC staff and accommodation for DIHR staff in Belfast.
- 5.5 The monthly financial report was noted.

*At 4.35pm the agenda was reprioritised.*

**6.0 Draft Report on Migrant Workers**

- 6.1 A paper prepared by Nazia Latif scoping the human rights issues associated with undocumented migrant workers in Northern Ireland was considered. Commissioners had had an opportunity to read the paper in advance of the meeting and were impressed with the content and accessibility of the report.
- 6.2 It was agreed that Nazia should be asked to provide some further information regarding other activity in this area, in particular any work being undertaken by the Equality Commission.
- 6.3 It was also felt that the Commission should be seeking to regularise the status of undocumented migrant workers in Northern Ireland.
- 6.4 It was agreed that Nazia would be asked to prepare an action plan coming out of the recommendations in her paper, which currently is an internal document for further consideration by the Commission.

**7.0 Casework Procedures**

A series of papers were submitted by the Casework Committee for consideration by the Commission. These outline the Commission's current casework strategy and criteria for assistance.

- 7.1 Further clarification is to be provided on the relationship between these criteria and the Standing Orders which govern all committee procedures.
- 7.2 No further information has yet been provided by counsel on the legality of capping casework fees.
- 7.3 It was agreed that all relevant documentation should be sent to applicants as well as to his/her legal representatives.
- 7.4 The proposed procedures for reviewing assisted cases were agreed as described.
- 7.5 The criteria for deciding whether to grant assistance from senior counsel were agreed as described.
- 7.6 It was agreed that the procedure for emergency applications for assistance should be re-ordered with other papers and that all the papers should be put into a casework manual for circulation to all Commissioners.
- 7.7 It was agreed that the criteria described in the papers presented to the Commission should be kept under review.

**8.0 Employment Monitoring**

- 8.1 Commissioners did not feel fully enough informed to discuss this issue at this time and it was therefore deferred until the January Commission Meeting.
- 8.2 Correspondence from the Chair of the Equality Commission regarding an article written independently by Tom Hadden on monitoring procedures was discussed. Commissioners agreed that the article was very clear that Tom Hadden was writing in his personal capacity and not representing the views of the NIHRC. The Chief Commissioner will respond to the Chair of the Equality Commission accordingly.

**9.0 Any Other Business**

- 9.1 Commissioners agreed to make themselves available for the “On Board” seminar training on public sector governance which will be held at the Commission on Monday, 26<sup>th</sup> January 2004.
- 9.2 The next meeting of the Legislation and Policy Committee has been rearranged for 3.00pm on 22<sup>nd</sup> December 2003.

- 10.0** There being no other business, the meeting closed at 6.00pm.