

MINUTES OF THE 61ST COMMISSION MEETING

HELD AT 2.00 PM ON TUESDAY 20 JANUARY 2004

IN THE OFFICES OF THE NIHRC, TEMPLE COURT, BELFAST

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

Apologies: Christine Eames
Harold Good

In Attendance: Paddy Sloan, Chief Executive

1.0 Minutes

1.1 The minutes of the 60th Commission meeting of 8 December 2003 were agreed as an accurate record.

2.0 Matters arising

2.1 Attendance of Commissioners at the “On Board” seminar training on public sector governance scheduled for 26 January 2004 is to be reviewed. If a reasonable number of Commissioners cannot attend it may be necessary to postpone the training.

3.0 Chief Commissioner’s Report

3.1 “Withdrawn Commissioners”

3.1.1 No further communication has been received from Paddy Kelly or Frank McGuinness since the further invitation from the Chief Commissioner to meet with the Commission sent on 16 December 2003. The Minister John Spellar met with Paddy and Frank on 19 January 2004 at their request.

3.1.2 The Chief Commissioner has written again to the Secretary of State urging the initiation of new appointments to the Commission and the response to the Commission’s Review of Powers.

3.2 Action Plan

- 3.2.1 The Chief Commissioner reported on progress in implementing the commitments of the Commission's Action Plan. He had also met with NIO officials to press for the appointment of new Commissioners.

3.3 Report of QUB Research

- 3.3.1 A further draft of this research was delivered to the Chief Commissioner on 16 January 2004. It is an extensive document and the Commission's comments are to be with QUB by 9 February 2004. Any Commissioners who have been directly quoted in the research will be contacted by QUB prior to publication.

3.4 Memoranda of Understanding

- 3.4.1 The Chief Commissioner reported that the Memorandum of Understanding with the Assembly Ombudsman has been agreed and signed. The Director of Public Prosecutions has yet to reply to the latest draft of the Memorandum of Understanding with his office.

3.5 Meetings with Commissioners

- 3.5.1 The Chief Commissioner will arrange one to one meetings with each of the serving Commissioners to take place before the end of March 2004.

3.6 Casework

- 3.6.1 The Commission has sought leave to intervene in the *McKerr* case at the House of Lords. Commissioners agreed that should permission be granted, oral intervention should proceed, which may cost in the region of £10,000 to £15,000. If written only intervention is allowed costs will be more in the region of £300 to £500.

3.7 Deaths in custody

- 3.7.1 Further information is still awaited on the prison reports of the deaths of Mark Fulton and Annie Kelly.

3.8 Request for support

- 3.8.1 The Commission has been asked to lend its name to the call for an independent public inquiry into the case of Colin Warton. After some discussion it was agreed that the Commission would not at this stage call for a public inquiry but would refer the case to the Police Ombudsman for review. In addition the Commission would consider a review of the law regarding mistreatment of arrested persons, to be informed initially by an in house paper for Commissioners' consideration. These decisions are to be communicated to Colin Warton and interested parties.

3.8.2 All Commissioners have had information submitted in relation to Colombia circulated to them as individuals. The Commission will not make comment on other jurisdictions and Commissioners may consider this request independently.

3.9 Dates of Commission meetings

3.9.1 The previous decision to move the February Commission meeting is now no longer necessary and it will take place on 9 February 2004.

3.9.2 As the second Monday of April 2004 is Easter Monday it was agreed that the Commission meeting will be brought forward to the previous Monday, 5 April 2004.

3.10 Medical Negligence

3.10.1 The Chief Commissioner and staff met with Eamon Duffy to discuss issues of medical negligence and in particular those which affect his own situation. This work will be kept under review.

3.11 British Irish Rights Watch

3.11.1 The Chief Commissioner reported that he had met with Jane Winter of British Irish Rights Watch and a constructive working relationship continues.

4.0 Chief Executive's Report

4.1 Staff

4.1.1 It was agreed that a member of the Admin team can reduce her working hours to part time with effect from 1 February 2004. It was also agreed that a part time Admin post could subsequently be advertised, ideally with a focus on database development.

4.1.2 Commissioners who agreed to participate in recruitment and selection will attend training provided by the Equality Commission. Staff will also be invited to participate and dates will be circulated.

4.1.3 The Chief Executive reported on current industrial action being taken by staff through the recognised Trade Union NIPSA, in support of an acceptable resolution to the 2003 NIO pay dispute. This has to date manifested in a strict "work to rule" which is currently under discussion with members and the NIPSA rep. The Chief Executive is concerned that staff are not attending weekly information meetings and are operating fixed hours over lunchtime but retaining flexibility at other times. This has yet to be resolved. Commissioners expressed concern and wished to be kept informed of progress.

4.2 Venture I

- 4.2.1 The report produced by Mark Conway describing the three proposed managerial posts and the working relationship among Commissioners, Chief Commissioner and Chief Executive was considered as a final draft. Commissioners did not feel it necessary to meet with Mark Conway to discuss the report and any further comments will be submitted to the Chief Executive by lunchtime on Thursday 22 January.

4.3 Communications Strategy

- 4.3.1 The initial outline development plan for a Communications Strategy as proposed by Morrow Communications was shared with Commissioners. It was agreed that the Morrow team would attend the February Commission meeting to give an interim report on progress.

4.4 Finance

- 4.4.1 The financial report was noted.
- 4.4.2 The breakdown of casework expenditure was discussed.
- 4.4.3 Commissioners requested further information identifying the particular areas of concern that had been addressed.

5.0 Draft report on Transsexualism

- 5.1 The Commissions' draft report on the Rights of Trans People in Northern Ireland had been circulated to Commissioners for discussion.
- 5.2 Some concern was expressed regarding the terminology used and more clarity sought.
- 5.3 The paper deals only with trans people who have been identified as gender dysphoric, and not with the issues relating to transvestites who are also included in the term transsexual.
- 5.4 It was agreed that further clarity in the introductory sections of the report would be provided.
- 5.5 Caselaw has also to be amended in light of a recent European Court of Justice decision.
- 5.6 Commissioners were uncomfortable with the report making recommendations to the Commission for action – this will be addressed.
- 5.7 The recommendations will also be made more succinct.

- 5.8 An amended copy of the report will be circulated for approval at the March Commission meeting.
- 5.9 Overall, this was considered to be a good piece of work dealing with the rights of a small number of vulnerable people, but it was acknowledged that the draft required considerable further editing.

6.0 Draft paper on monitoring

- 6.1 A draft position paper on employment monitoring procedures was considered. When finalised, the paper is to be submitted to the Equality Commission for further discussion.
- 6.2 Comment was made that the paper provided a useful description of the current situation but positive recommendations could be enhanced.
- 6.3 There followed further discussion regarding the extension of the current monitoring data collection to include other section 75 categories.
- 6.4 The recommendation was agreed that if the “residuary method” is used to determine an employee’s community background, the employer should be put under a duty to tell the employee what determination has been made.
- 6.5 It was agreed that the development of the monitoring system should not be discussed in the Commission’s Bill of Rights proposals.
- 6.6 The Chief Commissioner will redraft the conclusions section of the paper and bring it back to the February Commission meeting prior to submission to the Equality Commission.

At 4.00 pm the Commission broke for tea and reconvened at 4.15 pm.

7.0 Duty to investigate killings

- 7.1 A paper had been circulated to Commissioners discussing the duty to investigate killings. It had been prepared with the intention of providing information to the Chief Constable of the PSNI regarding the international human rights standards relating to the investigation of killings. The paper is designed to be helpful to the Chief Constable when he is considering the more than 1,800 unsolved killings which he has recently intimated he may not have the resources to investigate further.
- 7.2 A screening exercise was discussed to identify whether or not anything useful can be done in any of the unresolved killings and to identify cases where progress can usefully be made. A parallel with the cot deaths review about to be established in Britain was discussed and the similar, though smaller, exercise carried out by the DPP on “On the Runs”.

- 7.3 It was agreed that the Commission would write to the PSNI for further clarification on their proposal to establish a Serious Crime Review Team. It was also agreed that the Commission would then ask to meet with ACC Sam Kinkaid and his team to discuss the Commission's current proposals prior to submitting the paper.
- 7.4 The Chief Commissioner will rework the final section of the paper to make it more specific on the rights of the family.
- 7.5 The Commission has called in its response to the Luce Review for legal aid to be provided for inquests.
- 7.6 Amplified recommendations will be circulated and a meeting arranged with the PSNI as soon as is practicable.

8.0 Draft response to the report of the Joint Parliamentary Committee

- 8.1 The Commission has prepared a report to update the Joint Parliamentary Committee on how the Commission and others have responded to the various recommendations made in its report of 15 July 2003. Amendments were agreed to paragraph 7 and paragraph 8. The Chief Commissioner has additional amendments to insert.
- 8.2 A revised response will be circulated to Commissioners prior to submission to the Joint Committee.

9.0 Draft Business Plan 2004 – 2005

- 9.1 A preliminary paper outlining the key considerations for expenditure during the 2004/2005 financial year was discussed.
- 9.2 Based on an available budget of £1.3 million, once core expenditure including running costs and employment costs has been identified, there is little scope for additional programme costs.
- 9.3 A proposed breakdown of the approximately £200,000 available was discussed.
- 9.4 It was proposed to allocate £100,000 toward the cost of Casework which will be required to incorporate an increase in scale fees, which are currently under review.
- 9.5 There followed some discussion regarding the prioritisation of Casework expenditure. There has been an increase in the proportion of interventions made by the Commission compared with individual cases supported.
- 9.6 Commissioners recognised the value of providing an individual inquiry service where the outlay is limited to staff time.

- 9.7 There followed further discussion regarding the allocation of expenditure to outreach work on behalf of the Commission. It was proposed that the Commission should seek to secure from within its budget, resources to engage a part time temporary outreach worker to help promote the Bill of Rights and human rights awareness.
- 9.8 It was agreed that the Chief Executive would seek to secure a further £15,000 to accommodate this expenditure.
- 9.9 The Casework budget should be retained at £100,000.
- 9.10 The Chief Executive is to prepare a revised draft plan for circulation to Commissioners and staff prior to submission to the Northern Ireland Office.

10.0 Report of work on policing and criminal justice

- 10.1 Two papers reporting on this area of work for the periods December 2003 and January 2004 were circulated for information.
- 10.2 A response to the request from the Minister for Security, Jane Kennedy, for the Commission's views on 50:50 recruitment arrangements, was submitted before Christmas.

11.0 Other reports

- 11.1 Reports from the various members of staff and the Working Group on Victims were noted for information.
- 11.2 The recommendations of the Working Group on Victims were discussed. It was agreed that there should be an internal staff and Commissioner discussion on Truth and Reconciliation Commissions to inform a subsequent paper. The paper would then be the basis of a roundtable discussion on TRCs which would involve others working in the field, including QUB, University of Ulster and other international contacts.

12.0 Bill of Rights

- 12.1 In view of the low number of Commissioners able to be physically present for the meeting on the Bill of Rights Interim Paper, due to start at 6.45 pm, it was agreed that the discussion would be postponed until 9 February, when the monthly Commission meeting would be devoted almost entirely to this topic, from 10.00 am to (potentially) 9.00 pm. Commissioners were encouraged to consider the draft Interim Paper carefully and to submit any queries about it in writing to the Chief Executive on or before 4 February.

13.0 Any other business

13.1 Kevin McLaughlin noted that the UN Ad Hoc Working Group on Disability met in New York last week. Kevin will forward a paper outlining progress for circulation to Commissioners.

13.2 *There being no other business the Commission meeting closed at 6.00 pm.*