

MINUTES OF THE 64TH COMMISSION MEETING

HELD AT 1.00 PM ON MONDAY 24 MAY 2004

IN THE OFFICES OF THE NIHRC, TEMPLE COURT, BELFAST

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

In Attendance: Paddy Sloan, Chief Executive

1.0 Agenda

- 1.1 The agenda as proposed was agreed by all in attendance.
- 1.2 It was noted that the meeting had been postponed from 10 May 2004 to 24 May to accommodate Commissioners' attendance.

2.0 Minutes (HRC 64.1)

- 2.1 The Minutes of the 63rd Commission meeting of 5 April 2004 were agreed as an accurate record.

3.0 Matters Arising

- 3.1 Re minute 3.3.1, revised notes of the meeting with the Minister John Spellar had been circulated to Commissioners. These will be considered for accuracy by those who attended.
- 3.2 Re minute 3.14.1, the Report of the Mental Health Review, being prepared by Professor McClelland, is anticipated at the end of June 2004. The Report will have an introductory chapter outlining the overarching principles on which the review is based, which will include human rights standards.
- 3.3 Re minute 10.3, a copy of revised Standing Orders has been circulated to all Commissioners.
- 3.4 Re minute 11.1, no further information has been received from the Northern Ireland Office in response to the Commission's inquiry about the timetable for consultation on a Truth and Reconciliation Commission.

3.5 Women in Prison (minute 12.3.1)

3.5.1 The element of the research report referring to the transfer of women from Mourne House at Maghaberry to Hydebank Wood will be discussed by Commissioners at Item 16 on the agenda.

3.6 On the 22 June 2004 the Commission is hosting a conference on Articles 2 and 3 of the ECHR. Details are to be circulated as soon as possible to Commissioners.

3.7 Visit to United States (minute 12.3.5.1)

3.7.1 The Chief Commissioner had proposed to travel to the United States on behalf of the Commission before the summer. Tom Donnelly had originally agreed to go as well and Margaret-Ann Dinsmore volunteered time in August if necessary. There was some discussion regarding the need to send a balanced delegation reflecting the community in Northern Ireland and also that the Chief Executive ought to be part of any delegation, as a point of continuity to a new Chief Commissioner.

3.7.2 It was agreed that the Chief Commissioner should travel to the States in the autumn with a representative of the new Commission, once appointed, and the Chief Executive.

3.8 Victims' Working Group (minute 12.6)

3.8.1 The establishment of a Victims' Working Group within the Commission was discussed. Its purpose and terms of reference would be linked to the Commission's work on Articles 2 and 3, truth and reconciliation processes and preventing victimhood. Commissioners agreed that it would be important not to raise unrealistic expectations of what such a group can achieve.

3.8.2 It was agreed that external individuals should be co-opted on to the Working Group. These should include a representative from the victims' group WAVE, a representative from Relatives for Justice (RFJ) and former Commissioner, Harold Good, who is a member of the Healing Through Remembering Project.

4.0 Chief Commissioner's Report (HRC 64.2)

4.1 Withdrawn Commissioners

4.1.1 There is still no clear line in writing from the NIO with respect to Paddy Kelly's position. Further correspondence is to be sent to the NIO.

4.2 New Commissioners

4.2.1 Appointments are to be advertised within the next week.

4.2.2 Kevin McLaughlin and Christine Eames are to be offered a further term of appointment by the NIO in November 2004.

4.3 Mental Health Seminar in Armagh

4.3.1 This was Chaired by Christine Eames who reported to Commissioners that it had been a useful event. One of the researchers, Maura McCallion, will be presenting to the Mental Health Review Team later in June.

4.4 All other points on the Chief Commissioner's Report were noted.

4.5 Correspondence with the CAJ regarding the US Helsinki Commission was discussed. The Commission will submit evidence by the end of May which will be circulated to Commissioners in advance if possible.

4.6 NIHRC Consultative Forum

4.6.1 A paper prepared by the Chief Executive (HRC 64.2a) was discussed by Commissioners. It was agreed that the first meeting of a Consultative Forum should be scheduled for Monday 28 June. It will be designed as a one off meeting and will be facilitated with discussion groups on particular topics relevant to the Commission's work.

4.6.2 Commissioners made suggestions for additional potential contacts and the Chief Executive will take this forward.

5.0 **Chief Executive's Report (HRC 64.3)**

5.1 Staff

5.1.1 The appointment process for new staff was noted.

5.2 Bill of Rights discussion

5.2.1 The next Bill of Rights meeting for the full Commission will be held on 4 June 2004 in the Senate Room at Queen's University. Both staff and Commissioners will attend and an agenda will be circulated.

5.3 Audited Accounts 2000-2001

5.3.1 The Chief Executive has arranged to meet with the Northern Ireland Audit Office and the Commission's accountants to seek to address the backlog of auditing.

5.4 Casework Committee

5.4.1 It was noted that the date of the next Casework Committee meeting had been changed and it would now meet at 10.00 am on 28 May 2004.

5.5 Disability Access

- 5.5.1 The Chief Executive advised Commissioners that plans have now been drawn up for the necessary refurbishment of Temple Court to meet disability access requirements. The Valuation and Lands Agency is currently negotiating a revised rent to reflect these renovations and a resolution is expected soon.

6.0 Audited Accounts 2000-2001 (HRC 64.4)

- 6.1 The revised accounts for 2000-2001 were approved for submission to the Northern Ireland Audit Office for audit.

7.0 Recommendation from Casework Committee (HRC 64.5)

- 7.1 A paper (HRC 64.5) was considered regarding an application in the Commission's own name for judicial review of the decision of the NIO not to grant the Commission access to Rathgael Centre for Children and Young People. The Commission wishes to monitor the extent to which its recommendations in its own report, *In Our Care*, are being considered and implemented in Rathgael Centre. Commissioners agreed to proceed with the case against the Northern Ireland Office as a means of clarifying the extent of the Commission's powers.
- 7.2 Commissioners expressed their good wishes, through the Chief Commissioner, to the Children's Commissioner, for a speedy recovery from his current illness.

8.0 Bill of Rights

- 8.1 Commissioners discussed feedback received regarding the Progress Report, which has been widely distributed.
- 8.2 Not a great deal of negativity has been evident although both the SDLP and Sinn Féin felt that the publication was premature and should not have preceded the establishment of a political forum.
- 8.3 The Chief Commissioner met with the North West Disability Alliance and further advice from that group will be considered at the Bill of Rights meeting on 4 June.
- 8.4 Papers regarding proposals for Bill of Rights work should be prepared and circulated as soon as possible for discussion at the meeting on 4 June.
- 8.5 It was noted that Sinn Féin have published a Charter of Rights and have been hosting various discussion events to which the Commission has not as yet been invited. It was agreed that the Chief Commissioner would seek meetings with each of the main political parties before August.

9.0 Opinion Survey Report (HRC 64.6)

- 9.1 The results of the Public Opinion Survey conducted earlier in 2004 will be summarised and disseminated.
- 9.2 Commissioners discussed various strategies for publishing the outcome of the survey through main newspapers and media outlets.
- 9.3 It was agreed that the Chief Commissioner would draft an article summarising the outcome of the survey and, with the Chief Executive, discuss its circulation with newspaper editors. Tom Hadden offered to contribute to the preparation of the article.

10.0 Communications Strategy Report (HRC 64.7)

- 10.1 The first draft of Morrow Communications' analysis and recommendations to the Commission was discussed.
- 10.2 Commissioners did not see any benefit in a further oral presentation from Morrow.
- 10.3 A revised and restructured analysis report had just been received from Morrow Communications and copies were tabled to all Commissioners.
- 10.4 It was agreed that the Communication Working Group would meet and prepare recommendations for circulation to the next Commission meeting on 14 June.
- 10.5 Work with Morrow Communications is now complete.

The Commission broke for tea from 3.15 pm to 3.40 pm.

11.0 Report on Investigation of Deaths

- 11.1 This is a substantial report on which the Chief Commissioner and Tom Hadden have been working, with the Investigation Worker. Further editing is required for publication later in the year.

12.0 Report on Medical Negligence (HRC 64.8)

- 12.1 Commissioners agreed that this was a very good report.
- 12.2 The need for comparative figures in the UK to be inserted was proposed.
- 12.3 There is a need to identify what is the trigger, or critical point, for an independent investigation to be carried out into a death compliant with Article 2 of the ECHR.

- 12.4 The right to die was also highlighted as relevant to this debate.
- 12.5 It was agreed that the Chief Commissioner should discuss with the researcher the issues of informed consent, the trigger for an independent inquiry and the level of discretion available to the coroner.
- 12.6 A meeting will be arranged to discuss the report with the author, to which Commissioners and staff will be invited. Both Christine Eames and Margaret-Ann Dinsmore expressed a particular interest in attending.
- 12.7 The report will be published later in the summer.

13.0 Report of the Independent Monitoring Commission (HRC 64.9, 64.9a, 64.9b)

- 13.1 Commissioners discussed the need to distinguish between political commentary and commentary on the human rights implications of the report.
- 13.2 With respect to paragraph 8.7 of the IMC Report, which describes the requirement to avoid contact with anyone associated with paramilitary groups, a meeting is being arranged with CFNI and NICVA to discuss concerns within the voluntary sector regarding this statement.
- 13.3 The PUP has produced a position paper and circulated it, seeking comments.
- 13.4 At present the Commission will not be making any public statement.
- 13.5 With regard to the IMC imposing financial sanctions, several issues need to be explored. It was agreed to check whether funds have been withheld or if salaries have been stopped; also to be checked is the extent of immunity of the IMC.

At 4.30 pm Linda Moore and Angela Stevens joined the meeting.

14.0 Anti-Social Behaviour Orders

- 14.1 Staff were advised of the Commission's decision to proceed with a judicial review application against the NIO regarding access to Rathgael Centre.
- 14.2 Legal opinion had also been sought regarding the failure of the NIO to consult adequately or to undertake an Equality Impact Assessment on their proposed ASBOS legislation. Any such legal challenge would be based on the NIO's duty under section 75 of the Northern Ireland Act 1998.
- 14.3 The opinion said there are some merits to the case, that it could be a "novel challenge" to section 75 but that it is unlikely to be successful.

- 14.4 Commissioners noted that the Minister, John Spellar, had shortened the consultation period and stated in Parliament his intention to bring in ASBOS legislation as soon as possible.
- 14.5 The NIO screened out the policy for Equality Impact Assessment concluding that no adverse impact was predictable on any section 75 group.
- 14.6 As the orders are likely to affect young people and in particular young men disproportionately, there is a strong lobby querying whether or not the NIO's decision to screen out the policy is open to challenge.
- 14.7 The Children's Commissioner's Office is keen to challenge the NIO's decision on the basis of Article 12 of the UNCRC.
- 14.8 It was noted that the children's sector have complained formally to the Equality Commission but have not themselves applied to review the NIO's decision.
- 14.9 It was agreed that the NIHRC should also complain formally to the Equality Commission; that the NIHRC should encourage the Children's Commissioner to do the same; that a public statement criticising the process and seeking a postponement of the introduction of ASBOS should be made jointly with the Children's Commissioner and, if appropriate, the Equality Commission; that a letter should go to the Minister at the Northern Ireland Office expressing the above concerns, and that the Commission should not at this stage seek judicial review of the NIO's consultation process.

At 5.15 pm Angela Stevens left the meeting.

15.0 Transfer of women prisoners to Hydebank Wood

- 15.1 Women prisoners, currently based in Mourne House at Maghaberry Prison, are scheduled to be transferred to Hydebank Wood on 13 June.
- 15.2 Whilst the conditions at Mourne House have nothing to commend them, the physical resources are, in fact, better than those existing at Hydebank Wood.
- 15.3 There is, for example, no sanitisation in the cells at Hydebank and mixed education is anticipated, running completely counter to a recent HMIP report which recommends total segregation of male and female prisoners.
- 15.4 There is a very complex mix of issues to be addressed in accommodating 20-25 women prisoners.
- 15.5 A report has been prepared by the Investigation Worker and Professor Phil Scraton of Queen's University outlining the Commission's concerns regarding the proposed transfer.

- 15.6 This report has been prepared in parallel with the ongoing investigation into conditions of women prisoners in Maghaberry and in discussion with officials from HMIP.
- 15.7 Commissioners agreed to accept the report as prepared and to send it to the Prison Service and to those Governors who are named in the report to be checked for accuracy.
- 15.8 The Commission will then publish the report and press release it.
- 15.9 The report needs a final paragraph identifying actions to be taken.
- 15.10 The Investigations Worker reported that she had also been called to give an affidavit on the case of a child on suicide watch in the punishment block at Maghaberry.
- 15.11 Commissioners welcomed the action orientated approach of this investigation, which had the potential to change both practice and policy within the Prison Service.

At 5.40 pm Linda Moore left the meeting.

16.0 Levels of Commission intervention in conflict situations (HRC 64.10)

- 16.1 A revised paper prepared by Tom Hadden outlining a range of options for Commission activity in situations of conflict was considered.
- 16.2 The importance of establishing clear criteria describing situations in which the Commission could be proactive was agreed.
- 16.3 The need for relevant training in undertaking on-site investigations and in managing conflict was identified. An element of mediation was also considered appropriate.
- 16.4 Given the range of activity, and the enthusiasm among both Commissioners and staff to move in this direction, it was agreed to establish a working group to develop this concept further.
- 16.5 Christine Eames and Tom Hadden will join a working group with staff representatives and may, at their discretion, identify external co-options to this working group.

17.0 Special Educational Needs and Disability (Northern Ireland) Order (HRC 64.11)

- 17.1 The paper presented to Commissioners was an initial outline of key points to be considered in a Commission response. A final paper for submission will be presented to Commissioners in June.

- 17.2 It was recommended that the response should be less general and should include suggestions for particular amendments.
- 17.3 Approximately 10 main points should be the maximum, with a draft amendment produced for each.
- 17.4 As an Order in Council cannot be amended once it has been introduced in Parliament, it is necessary to submit proposed amendments before the end of June.
- 17.5 It was agreed that staff should prepare a paper in this vein for consideration at the June Commission meeting.

18.0 UN Convention on Disability Rights

- 18.1 A two week meeting on this matter is being hosted by the UN in New York starting today. William Binchy is attending on behalf of the Irish Human Rights Commission and ourselves and the Chief Commissioner has submitted his own personal comments on the draft Convention to William Binchy.
- 18.2 Any additional comments from Commissioners should be sent to the Chief Executive or Chief Commissioner, who will forward them to William Binchy.
- 18.3 There is a daily bulletin on the web of developments in New York posted by a Landmine Survivors organisation. Kevin McLaughlin will circulate the web address to Commissioners.

19.0 Report of work on policing and criminal justice (HRC 64.12)

- 19.1 The content of this report was noted.
- 19.2 Observation of baton round training with the army has still to be arranged.
- 19.3 There has to date not been any reaction to the latest monitoring report on human rights training in the Police Service, the report on the Course for All Programme prepared by Mary O'Rawe and Jim McManus.

20.0 Staff Reports

- 20.1 Reports were considered from Casework, Development, Investigations and Research, Information and Legislation and Policy.
- 20.2 All reports were noted.

21.0 Any Other Business

21.1 The British-Irish Inter-Parliamentary Body is due to meet with the Commission at 1.00 pm on 14 June and join Commissioners for lunch. A presentation will be given on the work of the Commission and in particular on the Bill of Rights.

21.2 There being no other business the meeting closed at 6.00 pm.