

**MINUTES OF THE 66<sup>TH</sup> COMMISSION MEETING**

**HELD AT 1.00 PM ON MONDAY 5 JULY 2004**

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

**Present:** Brice Dickson, Chief Commissioner  
Margaret-Ann Dinsmore  
Tom Donnelly  
Christine Eames (from 1:35pm)  
Tom Hadden

**In Attendance:** Paddy Sloan, Chief Executive  
Brenda Madden, Administrative Officer

**Apologies:** Kevin McLaughlin

**1.0 Agenda**

1.1 The agenda as proposed was agreed.

**2.0 Minutes (HRC 66.1)**

2.1 The minutes of the 65<sup>th</sup> Commission meeting of 14<sup>th</sup> June 2004 were agreed as an accurate record.

**3.0 Matters Arising**

3.1 Re minute 3.4, a meeting for Commissioners and staff with Prof Tony McGleenan from the University of Ulster, was held on Wednesday 30<sup>th</sup> June, to discuss the report on medical negligence which he had prepared for the Commission.

3.2 The Chief Commissioner confirmed that since this meeting Prof McGleenan had made some changes to his report, which will be emailed and posted to Commissioners for discussion at the August Commission meeting.

3.3 Re minute 5.3.2, the Chief Executive confirmed that invitations had been sent to the agreed list of individuals to attend the Consultative Forum planned for 29<sup>th</sup> July.

3.4 It was agreed that the Forum should meet even if only a small number of invitees are available. The Chief Executive will keep Commissioners informed.

*At 1:35pm Christine Eames joined the meeting.*

**4.0 Chief Commissioner's Report (HRC 66.2)**

- 4.1 The Chief Commissioner spoke to his written report and highlighted the following points.
- 4.2 The Chief Commissioner confirmed that Patricia Kelly had resigned, although no formal communication had been sent to the Commission. The Chief Commissioner noted that he had received confirmation of her resignation from the NIO.
  - 4.2.1 At a recent meeting with the SDLP, concerns were expressed that Ms Kelly's resignation might affect applications for Commissioner posts. The SDLP confirmed that they planned to write to Government to request a slowing down of the recruitment process.
- 4.3 The Chief Commissioner advised that the Judge's ruling on costs for the 'E' case is expected in the next few weeks.
  - 4.3.1 It was noted by the Commission that current casework criteria are to be amended with regard to the obligation to pay legal costs in cases supported by the Commission. A paper will be prepared for consideration by the Commission at a future meeting.
  - 4.3.2 To date no application has been made to lodge an appeal in the 'E' case.
- 4.4 Re point 2 of the Chief Commissioner's report regarding the appointment of new Commissioners, the Chief Commissioner confirmed that existing Commissioners nearing the end of their first term of office would be considered for reappointment for a second term and are not required to reapply through the current recruitment process.
  - 4.4.1 It was agreed that the Chief Commissioner would request the NIO to issue a letter of reassurance to the relevant Commissioners to this effect.
  - 4.4.2 The Chief Commissioner drew attention to a tabled letter from the CAJ expressing their concerns regarding the appointment process.
- 4.5 Points 3 and 4 of the Chief Commissioner's report were noted for report.
- 4.6 The Chief Commissioner drew attention to his draft letter to the IMC contained in the information papers, which was considered by the Commission. It was agreed that an amended letter would be produced by the Chief Commissioner and forwarded to Commissioners for their comments prior to submission.

- 4.7 The Anti-Social Behaviour (NI) Order 2004 was discussed. The Children's Commissioner failed to obtain leave to bring judicial review proceedings against the NIO in regard to the consultation process. In addition, the Chief Commissioner confirmed that the draft ASBO had now been introduced to Parliament.
- 4.7.1 It was noted that a briefing paper was being prepared for the Parliamentary Committee and that several organisations were interested in co-producing a joint paper. This will be further explored by staff and a briefing paper circulated to Commissioners before submission to the Parliamentary Committee.
- 4.7.2 It was agreed that a copy of the judgment of the judicial review hearing would be sent to Commissioners.
- 4.7.3 The awards scheme "Taken a Stand" was noted. The Commission is not in a position to nominate anyone for an award for having taken a stand against anti-social behaviour.
- 4.8 The Chief Commissioner noted the request by Omagh Support and Self Help Group to meet with Commissioners at the next Commission meeting in August. It was agreed that a separate meeting could be held with available Commissioners on the morning of 9<sup>th</sup> August 2004.
- 4.8.1 A background briefing of the Commission's involvement with this group will be prepared for Commissioners in advance of the meeting.
- 4.9 A recommendation from the Casework Committee was discussed with regard to instigating judicial review proceedings to challenge the Employment Equality (Sexual Orientation) Regulations. It was noted that this recommendation was not unanimous.
- 4.9.1 Reservations were expressed regarding this recommendation and it was agreed that further information would be sought with regard to the following points: (a) whether the Human Rights Commission has standing to bring a challenge in the High Court against the Regulations; (b) the prospects of success in any such case; (c) would it be more appropriate for the Equality Commission to challenge the Regulations, and (d) the position of the Equality Commission on this matter. Senior Counsel's advice is to be sought.
- 4.9.2 It was agreed that further discussion of this recommendation and additional information would take place at the August Commission meeting.
- 4.10 The Chief Commissioner drew attention to a letter tabled from Christine Bell. It was agreed the Chief Commissioner would reply offering to meet at a mutually convenient date and time, in response to the Commission's invitation.

## **5.0 Chief Executive's Report (HRC 66.3)**

### **5.1 Staff**

- 5.1.1 The Chief Executive noted an encouraging response to recent advertisements for the three new management posts.
- 5.1.2 Olivia Nunez a student intern from Dartmouth College USA, is currently archiving the Bill of Rights materials and process to date.
- 5.1.3 There was no progress to report on a resolution to the industrial action being taken by staff in support of the civil service pay claim.

### **5.2 Finance**

- 5.2.1 The annual accounts for 2003-04 are being prepared. Commissioners will meet to approve the accounts, prior to their submission to the C&AG by the end of July.
- 5.2.2 The Chief Executive will review the current accounting procedures for consideration by the Finance and General Purposes Committee and report back to the Commission.
- 5.2.3 It was noted that a Cost Drawer has been engaged to analyse the bills of costs associated with four cases supported by the Commission.

### **5.3 General Matters**

- 5.3.1 Two Parliamentary Questions were responded to during the previous month.
- 5.3.2 Negotiations continue via the Valuations and Land Agency for tenancy of the first floor of Temple Court. It was noted that the landlord should be alerted to the statutory requirement to implement the renovations recommended in the Disability Access Assessment, before October 2004.

*Miriam Titterton and Olivia Nunez joined the meeting at 2:50pm.*

## **6.0 The Bill of Rights**

- 6.1 The Chief Commissioner provided an update on recent developments and most recent meetings regarding the Bill of Rights.
- 6.2 Meetings had been held with both the Alliance Party and the SDLP to discuss the Bill of Rights Progress Report.

- 6.3 A meeting was held with Include Youth on 1<sup>st</sup> July to discuss the Bill of Rights Progress Report at which several concerns were expressed with regard to protections for children and young people.
- 6.4 Miriam Titterton and Olivia Nunez presented their proposals for archiving the existing Bill of Rights materials and submissions. They highlighted the need for the archive to be accessible, informative and a valuable resource for future Commissioners. It was agreed that a paper would be drafted summarising the Bill of Rights progress to date.
- 6.5 Discussion followed on the date for the next Bill of Rights meeting. It was agreed that the next meeting would take place on Monday 20<sup>th</sup> September, between 6pm and 9pm. In addition, the afternoon of Monday 27<sup>th</sup> September was reserved for a further meeting to discuss the Bill of Rights, if required.

*Miriam Titterton and Olivia Nunez left the meeting at 3:20pm.*

**7.0 Awareness-raising Guide on ECHR Articles 2 and 3 (HRC 66.4)**

- 7.1 There followed a discussion of Mark Kelly's report on Article 2 implementation. It was noted that medical negligence is not noted as a breach of Article 2.
- 7.2 It was agreed that the Chief Commissioner would ask Mark Kelly to draft a paragraph on this issue to insert into the report.
- 7.3 There was a discussion of Prof Tony McGleenan's report on deaths in hospital in relation to Article 2. It was agreed that the Chief Commissioner would send Prof McGleenan's amended report to all Commissioners.
- 7.4 Commissioners will forward any further comments to the Chief Commissioner for incorporation into the Article 2 report.

**8.0 Update on the report on the "publicity" requirement for investigations of killings (HRC 66.5)**

- 8.1 There followed a discussion this report.
- 8.2 It was noted that this report is unlikely to be considered as a 'stand alone' paper but would be included within a larger report on the investigations of deaths.
- 8.3 It was agreed that the Chief Commissioner would speak to Mark Kelly and staff with regard to the points made.

## **9.0 Report on women in prisons (HRC 66.6)**

- 9.1 An outline report on women in prisons was discussed. The full report will be available for the August Commission meeting.
- 9.2 The report related to the transfer of women prisons on 21<sup>st</sup> June 2004 from Mourne House at Maghaberry Prison to Hydebank Wood. The Commission confirmed its opposition to the move, based on the inadequate facilities at Hydebank, as reported by staff and researcher Prof Phil Scraton.
- 9.3 The Commission was interviewed for a BBC Spotlight programme relating to women prisoners. This has not been aired as yet due to further research by the programme makers. A date for the release of this programme is not known.
- 9.4 It was noted that an all-party delegation is planning to visit the women's facilities at Hydebank Wood.
- 9.5 It was noted that this has been an effective investigation and staff involved were commended. Further discussion will follow at the August Commission meeting.

## **10.0 Report on the rights of trans people (HRC 66.7)**

- 10.1 The Chief Commissioner welcomed comments on this draft report. As the Gender Recognition Bill is now awaiting Royal Assent, the final draft of the report will be produced at a later date.
- 10.2 There was a discussion of the definition of trans people. Amendments to the text of the report were agreed.

## **11.0 Report on the rights of arrested persons (HRC 66.8)**

- 11.1 The Chief Commissioner spoke to this paper.
- 11.2 It was agreed to re-draft sections of the paper, with particular attention paid to the terminology used and to the situations when legal arrest procedures have been followed but individuals are in receipt of inappropriate treatment as an outcome.
- 11.3 The provisional recommendations were considered and agreed with minor amendment.
- 11.4 It was agreed that the Chief Commissioner would provide another draft for consideration for the August Commission meeting.

## **12.0 Counter-Terrorism Measures (HRC 66.9)**

- 12.1 A paper produced by Prof Clive Walker was considered. It was noted that Prof Walker had not received the Commission's previous comments. The two versions will need to be merged.
- 12.2 Issues related to indefinite detention and clearly defined offences of terrorism and preparation for terrorism were discussed.
- 12.3 Tom Hadden will prepare a paper for consideration on this point.

*Margaret-Ann Dinsmore left the meeting at 4:45pm*

## **13.0 Paper on economic, social and cultural rights in the UK (HRC 66.10)**

- 13.1 The Chief Commissioner noted that the UK government has already submitted its 24<sup>th</sup> periodic report on the European Social Charter, to the European Committee without reference to the NIHRC. Details of the key Articles under consideration were discussed in paper HRC 66.10.
- 13.2 It was agreed that a draft shadow report should be prepared by the Commission, in discussion with non-governmental organisations, as recommended.
- 13.3 Staff will take this forward and prepare an initial briefing for the Commissioners, to supplement the paper enclosed.

## **14.0 Report of work on policing and criminal justice (HRC 66.11)**

- 14.1 The Chief Commissioner identified meetings planned for 4<sup>th</sup> August with ACC Sam Kincaid to discuss historic cases and later on the same day the regular quarterly meeting with the PSNI. Individual Commissioners agreed to attend.
- 14.2 The remainder of the report was noted.

## **15.0 Staff reports were noted:**

Casework	(HRC 66.12)
Development	(HRC 66.13)
Education	(HRC 66.14)
Investigations and research	(HRC 66.15)
Legislation and policy	(HRC 66.16)

15.1 The fourth session of the ad hoc committee on the draft UN Convention on the rights of persons with disabilities will be held on 23<sup>rd</sup> August – 3<sup>rd</sup> September 2004 in New York. A representative of the IHRC will attend and it was agreed that the Chief Commissioner will ask the President of the IHRC if their representative can provide feedback to and input from the NIHRC also.

**16.0 Any Other Business:**

16.1 The Chief Commissioner confirmed that letters had been sent to several experts in the human rights field to attend a seminar to review the Bill of Rights proposals. Six positive responses had been received and it was agreed that a meeting would be arranged with the experts in the autumn in Belfast.

16.2 Commissioners noted the need to agree a theme for an event on Human Rights Day on 10<sup>th</sup> December 2004.

16.3 There being no other business the meeting ended at 5.30pm.