



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

**Northern Ireland Office Consultation Paper:
A Forum on a Bill of Rights for Northern Ireland**

Response of the Northern Ireland Human Rights Commission

1. The Northern Ireland Human Rights Commission (the Commission) was established on 1 March 1999 as a result of the Belfast (Good Friday) Agreement 1998. Its core functions, the protection and promotion of human rights in Northern Ireland, are detailed in sections 69 and 70 and Schedule 7 of the governing legislation, the Northern Ireland Act 1998.
2. At section 69(7) of that Act, the Commission is required to provide, to the Secretary of State for Northern Ireland, advice on the scope for a Bill of Rights:

s69 (7) *The Secretary of State shall request the Commission to provide advice of the kind referred to in paragraph 4 of the Human Rights section of the Belfast Agreement.*

The relevant passage in the Agreement provides as follows:

The new Northern Ireland Human Rights Commission [...] will be invited to consult and to advise on the scope for defining, in Westminster legislation, rights supplementary to those in the European Convention on Human Rights, to reflect the particular circumstances of Northern Ireland, drawing as

appropriate on international instruments and experience. These additional rights to reflect the principles of mutual respect for the identity and ethos of both communities and parity of esteem, and - taken together with the ECHR - to constitute a Bill of Rights for Northern Ireland. Among the issues for consideration by the Commission will be:

- the formulation of a general obligation on government and public bodies fully to respect, on the basis of equality of treatment, the identity and ethos of both communities in Northern Ireland; and*
- a clear formulation of the rights not to be discriminated against and to equality of opportunity in both the public and private sectors.*

3. The Commission has since its inception regarded the formulation of this advice as one of its highest priorities. It is clear from the particular phrase in the Agreement, "to consult and to advise", that prior consultation is an essential element of the exercise, and that responsibility for formulating the advice lies with the Commission. The Commission needs to ensure that consultation with the general public, with political parties and with civil society organisations, is properly conducted, extensive and inclusive, and at the same time, that it does not in any way compromise the independence of the Commission derived from its statutory mandate.
4. On 1 March 2000, the Commission launched a major consultation process on a Bill of Rights, which has involved several major public events, a large scale advertising campaign, capacity building exercises including 'training for trainers', and direct engagement with dozens of community organisations. Literally thousands of people, including children and those vulnerable groups whose rights are in most need of protection, have been engaged in meetings, conferences and seminars, submitting hundreds of responses and other correspondence throughout this process. While acknowledging and paying due regard to the submissions received during the consultation to date, and to the work already done, Commissioners are committed to taking their own minds and fulfilling their statutory obligation to formulate their advice independently.

5. The Commission has always acknowledged the desirability of securing the greatest possible degree of popular and political support for its proposals prior to submitting final advice to the Secretary of State. To this end, the idea of a round table, or forum, of political parties and civil society was proposed by the Commission, and the UK and Irish Governments confirmed their support for this proposal in the Joint Declaration of April 2003. Since then, the Commission, amongst others, has actively encouraged the establishment of the Forum. It has engaged constructively with political parties and civil society groups, including regular liaison with the Human Rights Consortium and a meeting on 5 October 2006 with what was then the Preparation for Government Committee. The Commission welcomed the agreement at St Andrews to establish a Forum, with its inaugural meeting in December 2006.
6. It does need to be acknowledged however, that having discussed this initiative for some three years, it is unfortunate that the implementation should have to be condensed into such a short period of time. It is important that the constitution and functioning of the Forum are not compromised by this timescale.
7. The Commission agrees that the appointment of a Chairperson who is, and has been, independent of the process to date and who is of international standing, will be very important. She/he should have proven international experience of negotiation, and have relevant human rights knowledge and expertise. To identify and secure the services of such an individual at such short notice and for an extended period of time will no doubt be difficult. It is, however, critical to the success of the Forum that this appointment should not be devalued in any way as a result. The role of the Chair will be pivotal to the effective functioning of the Forum.
8. Conscious that not all parties were engaged in the discussions on a Bill of Rights round table leading up to the Joint Declaration in 2003, it is important that the Forum be inclusive of all Assembly parties. The representation of wider civil society should be equally inclusive and should reflect the

9. In light of its statutory responsibility to submit the final advice on the Bill of Rights to the Secretary of State, the Commission is committed to retaining its independence from the Forum. Wishing to be kept apprised of its progress, we would recommend that the Commission be afforded observer status, with a permanent, non-participative presence at Forum meetings. Any direct engagement of the Commission would be through the Chief Commissioner, in a process quite distinct from the observer role.
10. The Chairperson should also determine the appointment of an independent secretariat and the Government should make available whatever resources are deemed necessary by the Chair to ensure that the Forum is adequately provided with the support and information needed to function effectively. This may include securing the advice of independent experts on international human rights law, constitutional law, domestic human rights issues and any other topics on which the Forum requires support.
11. The Commission agrees that it is helpful to have a time frame within which to complete the work of the Forum. In December 2005 the Commission factored the Forum into its work plans and the period of its deliberations will clearly have an impact on the Commission's own output. There may however be a need for some flexibility in the proposed date of completion given the wider political timetable of elections in March. Much will depend on the commitment of members and the Chair's ability to secure the necessary support and advice within the given period.
12. Conscious of its mandate through the Belfast (Good Friday) Agreement 1998 and the Northern Ireland Act 1998, the Commission looks forward to receiving the report of the Forum which will be of great value in informing the Commission's final advice on a Bill of Rights for Northern Ireland to the Secretary of State. The outcome of the deliberations of the Forum should be of great benefit to this process. To avoid any possible fettering of our discretion in providing final advice, the Commission needs to protect its independence from the Forum and will not therefore comment

13. The Commission will be happy to accommodate the Forum in the provision of published documents and archived materials on request. In addition, a paper will be provided which outlines the process to date and the core elements of potential advice. This will include an earlier paper provided to the Minister of State, David Hanson MP, on the Commission's current thinking. The Commission will be readily available to contribute to the Forum's deliberations as appropriate, and would suggest that this would best be done by way of written communication between the Chair and the Chief Commissioner. The Chief Commissioner would welcome an early opportunity to make a presentation to the Forum.
14. In conclusion, the Commission wishes the Forum every success and assures its Chairperson and members of the fullest cooperation possible, while protecting a necessary independence from the process. The Commission looks forward to receiving the agreed conclusions of the Forum.

28 November 2006