

NORTHERN IRELAND HUMAN RIGHTS COMMISSION

Minutes of the 36th Commission Meeting

Held on Monday 10 December 2001

**At 2.00 pm in the NIHRC Offices, Temple Court,
39 North Street, Belfast**

Present: Brice Dickson, Chief Commissioner
Margaret-Ann Dinsmore (*from 4.55 pm*)
Tom Donnelly
Christine Eames
Tom Hadden
Paddy Kelly
Inez McCormack
Chris McGimpsey
Frank McGuinness
Kevin McLaughlin
Patrick Yu

Harold Good (*By telephone*)

In Attendance: Paddy Sloan, Chief Executive

Apologies: Christine Bell

1.0 Welcome

The Chief Commissioner welcomed the four new Commissioners, Lady Eames, Chris McGimpsey, Kevin McLaughlin and Patrick Yu to their first Commission meeting.

2.0 Minutes of the Previous Meetings

2.1 Minutes of the Special Commission Meeting held on 26 October 2001

There was some discussion regarding the level of detail that ought to be included in the Minutes of this meeting. Normal Commission practice is to record decisions with limited reference to the preceding debate. It was agreed that the Chief Executive would amend the Minutes as presented, to include any submissions from individual Commissioners which should be sent to the office in writing prior to the circulation of the Minutes along with the next Commission papers.

2.2 Minutes of the Commission Meeting held on 12 November 2001

- 2.2.1 At 4.8 an additional sentence should be added to the end of this paragraph to read, “If such consensus could not be agreed, the issue would return to the full Commission for further discussion”.
- 2.2.2 At 6.6 the last sentence is to be amended to read, “While some Commissioners felt that the case should have been referred to the full Commission for further discussion, it was agreed that existing procedures had been followed”.
- 2.2.3 At 6.8 the first sentence is to be amended to read, “The Chief Commissioner explained that the meeting on 5 November was arranged at very short notice (though Harold Good noted that the Commission had not succeeded in contacting him) and that he had personally spoken to all Committee members on the previous evening”.
- 2.2.4 At 6.9 the last sentence is to be deleted.
- 2.2.5 The reference to Tom Hadden leaving the meeting at 4.30 pm should be deleted.
- 2.2.6 There being no other amendments the Minutes were agreed as an accurate record.

2.3 Minutes of the Resumed 35th Commission Meeting held on Monday 26 November 2001

- 2.3.1 The Minutes of the resumed meeting were agreed as an accurate record.

3.0 Matters Arising

3.1 35th Commission meeting held on Monday 12 November 2001

3.1.1 Programme for Government

The Legislation and Policy Committee did not prepare any response to the Programme for Government. Inez McCormack will draft a holding letter through the Chief Commissioner as the Commission is interested in monitoring the allocation of public finance.

3.1.2 Holy Cross Girls’ School

A meeting has still to be arranged with the Governors and teachers of the school and also with the North & West Belfast Health & Social Services Trust. A meeting has taken place with Minister Jane Kennedy and a record of that meeting is included in the information papers.

3.1.3 Induction of New Commissioners

The Chief Commissioner has met with Kevin and Christine and plans to do the same with Chris and Patrick to go through a preliminary induction process. A lot of material has already been circulated to the four new Commissioners. The Chief Executive will arrange a half-day session for all Commissioners to revisit procedures and review the values informing Commission's work early in the new year.

3.2 Matters Arising from the Resumed 35th Commission Meeting held on Monday 26 November 2001

3.2.1 Holy Cross Girls' School

3.2.1.1 Copies of correspondence to counsel and counsel's advice on the Casework Committee criteria are included in the information papers for the 36th Commission meeting.

3.2.1.2 There followed discussion regarding correspondence from the Chief Commissioner to the Chief Constable concerning his position and that of three other Commissioners on the Holy Cross Girls' School case. Paddy Kelly and Inez McCormack wished to record their concerns regarding this correspondence as a potential breach of confidentiality.

4.0 Chief Commissioner's Report

4.1 Committee Membership

The four new Commissioners have agreed to join the following Committees:

Christine Eames	Legislation and Policy Committee Committee for Victims
Chris McGimpsey	Education Committee Committee for Victims
Kevin McLaughlin	Education Committee Equality Committee
Patrick Yu	Investigations and Research Committee Equality Committee

In addition, Margaret-Ann Dinsmore is withdrawing from the Education Committee.

4.2 Parades Commission

At a meeting with Andrew Elliott, Secretary to the Parades Commission, the NIHRC has been invited to join a Working Group with the Parades Commission and others to discuss the applicability of the European Convention on Human Rights to the parades issue. It was agreed that the Commission join such a Working Group subject to further information on its composition and terms of reference. The Chief Commissioner will provide such information to the next Commission meeting.

4.3 Committee of the Centre Discussion on the Bill of Rights

The Hansard of this debate is to be sent to Paddy Kelly together with the Hansard of the debate on the Justice Bill attended by the NIHRC.

4.4 Human Rights Commission in Scotland

It has recently been announced that the Scottish Parliament has agreed to create a Human Rights Commission in Scotland. The Commission will keep in close contact with this development.

4.5 Standing Orders

The Chief Commissioner will prepare a paper for the next Commission meeting reviewing the Commission's Standing Orders. In particular consideration needs to be given to longer Commission meetings and the definition of consensus. Until any amendments are agreed, current Standing Orders will apply.

4.6 Irish Human Rights Commission

The second meeting of the two Commissions and the Joint Committee will be held in Dublin on Thursday 13 December 2001. Apologies were offered from Kevin McLaughlin, Harold Good, Patrick Yu and Christine Eames.

4.7 European Council Roundtable on Human Rights Institutions Bi-Annual Conference

This conference, due to be jointly hosted by the IHRC and NIHRC, may have to be postponed at the request of the Council of Europe due to budgetary timetables. The NIHRC preference is that it be organised in June 2002 and that an event organiser be employed jointly with the IHRC.

4.8 Rosemary Nelson's Murder

A paper is to be prepared reviewing the Commission's position on the Pat Finucane case and Rosemary Nelson's murder and making recommendations for further action. It was agreed that this paper would be presented to the

February Commission meeting and that new Commissioners would receive all previous papers.

4.9 Meetings during 2002

A list of all meeting dates during 2002 will be circulated to Commissioners. Commissioners agreed that it would be appropriate to hold Commission meetings outside of Belfast, initially in Derry/Londonderry and/or Armagh.

Prior to leaving the meeting at 3.30 pm Harold Good requested that the Report on Punishment Attacks at item 8 on the Agenda be prefixed with the words "so-called" or a similar qualification. This was agreed. The Chief Commissioner said that the paper referred to in the Agenda needed to go to the Committee for Victims for discussion before coming to the full Commission for its consideration.

5.0 **Chief Executive's Report**

5.1 Staffing

- 5.1.1 Commissioners sent good wishes to Nadia Downing on her prolonged illness.
- 5.1.2 It was proposed and agreed by Commissioners to close the NIHRC offices for the period 24 December 2001 to 1 January 2002 inclusive.
- 5.1.3 A very useful training session on the implementation of the Commission's Equality Scheme was undertaken by staff. There was some discussion as to how the Commission might undertake an initial impact assessment on the Bill of Rights Consultation process and it was agreed that this would be taken further by the Equality Committee meeting later in December. It was also agreed that an element of the Equality Training should be introduced to the Commissioners' half-day session scheduled for the new year.

5.2 Office

- 5.2.1 Progress was reported on the creation of drop kerbs on the footpath outside the office premises. There has been some difficulty in identifying ownership of this part of the footpath and staff are working with the DOE to progress this as soon as possible.

5.3 Finance

- 5.3.1 A response was tabled from the Northern Ireland Office indicating that a further £100,592 would be made available to the Commission as a result of our Supplementary Bid. This was announced by way of a press release on Friday 7 December 2001. Some Commissioners expressed concern at the level of detail included in the letter of offer, which in their eyes appeared to challenge the Commission's independence and discretion on the allocation of

resources. It was agreed that the Finance and General Purposes Committee would look at the points made in detail and revert to the full Commission.

5.4 Evaluation

5.4.1 The Chief Executive explained the qualified support from the NIO for this evaluation. They had agreed in principle to provide £25,000 to cover the costs but included several provisos in terms of how the evaluation might be structured. The Chief Executive is currently in correspondence with the NIO on this matter and will keep Commissioners informed of progress.

5.5 Finance and General Purposes Committee

5.5.1 The Finance and General Purposes Committee Minutes were then discussed as relevant to the Chief Executive's Report. Commissioners agreed to reduce from £10,000 to £5,000 the discretion of the Casework Committee to take decisions without referring to the full Commission. This brings Casework Committee into line with all other Committees.

5.5.2 The Chief Executive agreed to provide financial details to Commissioners of expenditure on a particular case.

5.5.3 It was noted that the NIO had requested changes to the job description of the Chief Executive. Commissioners expressed concern that whilst the NI Act requires the Secretary of State's approval for the terms and conditions of employees of the Commission, this does not extend to details of job descriptions.

6.0 Response to the NIHRC Review of Effectiveness

6.1 The Commission's Review of Powers was submitted to the Secretary of State in February 2001. No response has as yet been received and this issue is to be discussed by the Equality Committee on 17 December at its next meeting.

6.2 Commissioners also expressed concern that the Secretary of State has not yet met with the Commission and it was agreed that the Chief Commissioner would write again to his office seeking such a meeting.

6.3 A Parliamentary Question has been asked directly to Government regarding a response to our Review of Powers and the UN High Commissioner on Human Rights has also been approached to intervene by the Chief Commissioner.

6.4 It was agreed that if there has been no response from the Secretary of State's office by 7 January 2002, the Chief Commissioner will write to the Prime Minister Tony Blair and the Taoiseach Bertie Aherne, as well as to the UN High Commissioner on Human Rights, Mary Robinson, seeking their support for a response from Government.

7.0 World Conference on Racism

- 7.1 A sub-committee on racism has been established by the Joint Committee of the two Human Rights Commissions, North and South. Notes of the first meeting held on 13 November in Dublin were circulated to Commissioners. This sub-committee will meet again on Thursday 13 December in Dublin. The sub-committee is reviewing the overall position and will make recommendation to the two Commissions.
- 7.2 The official document from the World Conference on Racism has not yet been released but there will be a need for both Commissions to participate in the development of National Action Plans for the UK and Ireland to address racism. It will be important also to liaise with the Equality Commission in the North and the Equality Authority in the South.
- 7.3 It was agreed to include the World Conference paper on the Agenda for discussion at the February Commission meeting.

8.0 Punishment Attacks

- 8.1 A note of the meetings held to date was circulated to Commissioners.
- 8.2 Commissioners asked the Committee for Victims to consider both the justification and the legality of our contact with various paramilitary groups, those on and off ceasefire.
- 8.3 The Committee was also asked to consider whether the Commission is trying to create a forum for victims, or just for victims of paramilitary violence.
- 8.4 A list of those who attended the Punishment Attacks meetings will be provided to Commissioners.
- 8.5 The overlap in this work with the Justice Bill and Restorative Justice Programmes was noted by Commissioners.
- 8.6 It was agreed to refer this issue to the Committee for Victims for discussion and recommendations to be provided to a full Commission meeting.

9.0 Bill of Rights

9.1 Submissions

- 9.1.1 A copy of every submission will be made available to all Commissioners. This is a substantial administrative task for the office and whilst a central copy of all submissions will be available in the office and at subsequent meetings, Commissioners are asked to take responsibility for the maintenance of their own records.

- 9.1.2 An internal record will be held in the office which will, where possible, categorise each submission according to its sector and area of interest, as well as a section 75 analysis.
- 9.1.3 Submissions from political parties need to be reviewed at an early stage and where necessary, the Commission should proactively seek responses.
- 9.1.4 Initial responses from the Irish Government and the UK's Government were tabled.

9.2 Chairing the Meetings

It was agreed to rotate the Chair alphabetically during the Bill of Rights drafting meetings.

9.3 Servicing the Meetings

- 9.3.1 Rachel Rebouche will take responsibility for recording decisions made and providing a copy of such notes of the meetings to Commissioners.
- 9.3.2 In addition meetings will be taped for transcription *only when necessary*.
- 9.3.3 The Chairs will take responsibility for ensuring that Rachel is clear as to what decision has been taken.
- 9.3.4 Staff who are interested will be welcome to attend drafting meetings with Commissioners.
- 9.3.5 It was agreed to have a facilitated debate prior to drafting on how Commissioners might deal with dissent.
- 9.3.6 The decision as to how or when the Commission will meet in public session will be taken at that planning meeting.
- 9.3.7 It was agreed that Commissioners, interested staff and a facilitator would meet to resolve any complex issues and ensure an effective Bill of Rights drafting process.

9.4 Bill of Rights Conference at Queen's University

- 9.4.1 The Conference on the Bill of Rights held at Queen's University on 8 December was discussed.
- 9.4.2 Clear points emerged from that Conference that people would like more time to consult on the document and that the document should be more accessible.

10.0 Policing

- 10.1 The paper prepared by the Chief Commissioner was discussed.
- 10.2 It was noted that the NIO had approved support through the Supplementary Bid for continued monitoring of the Human Rights training of the Police Service and for the engagement of Omega to carry out further investigations into the use of plastic baton rounds.
- 10.3 A further meeting with the Oversight Commissioner Tom Constantine will be arranged by staff and reported to the Commission.
- 10.4 There was some discussion regarding the need for a Memorandum of Understanding with the Police Service of Northern Ireland and the Policing Board, similar to that with the Police Ombudsman. The Chief Commissioner will draft two such protocols and bring them to the Commission for further discussion.
- 10.5 It was agreed that the Commission would review its position on plastic baton rounds at the February Commission meeting and in the interim all relevant information would be collated for Commissioners.
- 10.6 The Chief Constable has asked to meet with the Commission. It was agreed to meet with the Chief Constable at the NIHRC to talk generically about the relationship between the Police Service and the Commission, using the Chief Commissioner's draft protocol as a basis for discussion. The Chief Constable will have sight of this draft document prior to the meeting. It is not possible to discuss any particular case which is currently *sub judice*.
- 10.7 The reply from the Ministry of Defence to the Chief Commissioner refusing the Commission access to its guidelines on the firing of plastic baton rounds was discussed. Commissioners were not satisfied with the MOD's public immunity reasoning and the Chief Commissioner is to seek a meeting with the MOD to discuss their position further. It was agreed to side copy the correspondence to the Police Ombudsman and to tell the MOD that we have done so. The Chief Commissioner will register concern that the guidelines are restricted and will seek to meet to explore the situation further, prior to the Commission taking a position.

11.0 Review of the Rights of Lesbian, Gay and Bi-Sexual People

- 11.1 A proposed strategy was presented to Commissioners from the Investigations Worker.
- 11.2 Commissioners agreed that, as Harold Good had particular views on this Report and was not present, the Commission should discuss the Report at the January meeting.

- 11.3 In the interim a letter should go to all the relevant consultees during the week beginning 10 December explaining that the Commission will be deciding on its strategy at the January meeting and that any further views would be welcomed.

12.0 Juvenile Justice Report

- 12.1 This is an extensive Report which Commissioners had not yet had time to read. The discussion of the Report will therefore be deferred until the January meeting.
- 12.2 The cost of preparing this Report will be made available to Commissioners at the January meeting.
- 12.3 It was agreed that the draft Report should be sent to consultees to check for factual accuracy as part of the investigation process. Such a distribution will be on a confidential basis and it will be made clear that the Report is still in a draft form and has not as yet been adopted as Commission policy.

13.0 Committee Reports

13.1 Bill of Rights Committee

- 13.1.1 It was agreed that Gerard Quinn and Ciaran White should be contacted to see if they could provide further information on disability and race issues.
- 13.1.2 Relationship with political parties and the level of their responses is to be considered at the Bill of Rights planning day. The political strategy document developed after the Limavady residential should be re-circulated to all Commissioners.
- 13.1.3 The Faith Communities event involving Roelf Meyer had to be postponed until January. Given that the drafting process will run until May Commissioners suggested that this event should still take place.
- 13.1.4 The staff, in particular Christine Loudes and Rachel Rebouche, have undertaken a Bill of Rights promotion at Queen's University Students' Union throughout Human Rights day and night. The event has been very impressive, including debates and workshops, and has provided a Bill of Rights theme throughout the Students' Union. Staff were thanked by Commissioners for this initiative.

13.2 Casework

The Holy Cross Girls' School case was deferred for consideration in the High Court until 7 January 2002.

13.3 Committee for Victims

The visit of Ms Justice Laffoy will be rearranged to allow Commissioners to share in the *modus operandi* of the Irish Child Abuse Commission.

13.4 Education Committee

Commissioners are asked to note the launch of the Department of Education Conference Report scheduled for 30 January at Stormont.

13.5 Legislation and Policy Committee

The Minutes of the 5 November meeting were approved.

13.6 Investigations and Research Committee

Commissioners were asked to discuss the terms of reference for the partnership between the NIHRC and Help the Aged to undertake research on older people in the health service. Commissioners agreed the terms of reference with some minor amendments from one Commissioner that had been made directly to Christine Loudes. In addition a preamble is required to put the research into a human rights context as distinct from a social policy perspective.

13.6 The dates of relevant Committee meetings now need to be circulated to all new Commissioners.

14.0 Any Other Business

14.1 The Chief Executive is to follow up her correspondence with the BBC seeking a copy of the Hearts and Minds programme in which new Commissioners were portrayed as belonging to particular political perspectives. The Chief Executive has requested a copy by telephone twice and by letter and as soon as it is available Commissioners will have sight of the programme.

14.2 Kevin McLaughlin advised the Commission that the Children and Young Person's version of the Bill of Rights document had been highly recommended by the Civic Forum as a model of good practice.

14.3 There being no further business the meeting closed at 6.15 pm.