

NORTHERN IRELAND HUMAN RIGHTS COMMISSION

Minutes of the 51st Commission Meeting

held on Monday 10 March 2003 at 1pm in the NIHRC Offices,

Temple Court, 39 North Street, Belfast

Present: Brice Dickson, Chief Commissioner
Tom Donnelly
Christine Eames
Tom Hadden
Paddy Kelly
Frank McGuinness
Kevin McLaughlin

Apologies: Margaret Ann Dinsmore
Patrick Yu
Harold Good (*arriving later*)
Chris McGimpsey (*arriving later*)

In Attendance: Paddy Sloan, Chief Executive

1. Minutes of the Previous Meeting

- 1.1 At point 3.11 an additional sentence is to be inserted reading “It was also agreed that the Commission would actively seek to give evidence to any forthcoming relevant Congressional hearings”.
- 1.2 At point 9.5 it is to be recorded that at 3.30pm Paddy Kelly left the meeting.
- 1.3 Chris McGimpsey joined the meeting after 3.9, and not after 3.11 as noted.
- 1.4 There being no other amendments the minutes of the 50th Commission meeting were agreed as an accurate record.

2. Matters Arising

- 2.1 Members of the former Children and Young Persons’ panel have been contacted regarding their interest in continuing with this project. Due to examination pressures those particular individuals are unable to return to the regular weekly meetings which had been ongoing up until Christmas 2002. It was agreed that the future of this panel be discussed by the Bill of Rights Committee and that Margaret-Ann Dinsmore and Paddy Kelly, as two Commissioners particularly interested in work with children and young people, should be invited to attend that discussion.

- 2.2 The Chief Commissioner wrote to the Department of Culture, Arts and Leisure seeking an explanation as to why the Commission was not included in the programme of meetings for the Working Group of the Committee of Experts monitoring state compliance with the European Charter for Regional and Minority Languages. The Permanent Secretary replied to the Chief Commissioner explaining the process of scheduling meetings for the Working Group within her department. The Chief Commissioner is confident that the NIHRC will be included in any future relevant programmes that are being co-ordinated by DCAL.
- 2.3 The Chief Commissioner and Investigations Worker met with the Health and Safety Executive NI to discuss the report of the Council of Europe Committee on Social Rights which dealt with articles in the Social Charter, published on 4 February 2003 and finding the UK in breach through the HSENI. The meeting was useful and the Commission helped identify actions needed to be taken by HSENI to comply with their obligations under the Charter. A calculation mistake was identified in the report which implied HSENI had been more at fault than was in fact the case.
- 2.4 The Chief Executive reported to Commissioners that the Staff Manual had been presented to the NIPSA official and staff representatives at a meeting on 25 February 2003. On receipt of their comments, the Manual will be finalised.
- 2.5 The Chief Commissioner and Tom Hadden will prepare an options paper on how the NIHRC ought to follow through on the implications of the recent decision of the Court of Appeal in the *McKerr* case. The Government has sought leave to appeal this judgment. The options paper will be considered at the April Commission meeting.
- 2.6 A date has not as yet been arranged for Commissioners to visit Mourne House at Maghaberry in order to complete visits to all places of detention in Northern Ireland.

It was noted that the next bi-annual meeting with the Prison Service will take place on the 10 April 2003 Commissioners are invited to attend.

At 2.10pm Chris McGimpsey joined the meeting.

- 2.7 The Chief Commissioner has not received a reply from either the DPP or Sir John Stevens regarding his request for meetings to be arranged. It was agreed that the Chief Commissioner should write to the Chief Constable asking if Colin Port has as yet been replaced on the Rosemary Nelson Inquiry team.

It was agreed that the Commission would issue a press release on Friday 14 March 2003 restating its call for independent, international, public, judicial inquiries into the murders of Pat Finucane, Rosemary Nelson and Billy Wright; highlighting the anniversary on 15 March of Rosemary Nelson's murder and referring to the recent meeting with Judge Cory

regarding his review of the need for public inquiries into a series of murders.

- 2.8 The Chief Executive is to investigate the opportunities for the Commission to contribute to Congressional hearings in the US.
- 2.9 Paddy Kelly represented the Commission at a British Council workshop for Commonwealth Human Rights Commissions held in Uganda. Paddy will provide a report of this visit and has also agreed to lead a discussion with staff on the content of the workshop.
- 2.10 Justice Albie Sachs of the South African Constitutional Court met with some Commissioners and staff on 19 February 2003 to discuss progress on the Bill of Rights. The political parties were not able to be invited as it was not possible to contact Justice Sachs in time to secure his agreement to their involvement.
- 2.11 The ACPO document providing guidance on the use of juveniles as Covert Human Intelligence Sources is designated a restricted document. The Chief Commissioner has sought the co-operation of the National Crime Squad, asking for a copy of the guidance despite its restricted status.
- 2.12 A letter has been drafted but not yet sent to the PSNI regarding its policies in relation to engagement with children.
- 2.13 A submission on the Bill of Rights is still expected from the DUP but has as yet not been received.
- 2.14 Notes of the meeting with the Secretary of State on 11 February 2003 are included in Commissioners' Information Papers.
- 2.15 The report of the Steering Group monitoring the implementation of the recommendations contained in the Courtney Review was considered. The Chief Executive will prepare a paper for the Finance and General Purposes Committee and subsequently to the Commission on the need for a Minutes Secretary to be appointed.

It was agreed that members of the Steering Group would attend the April Commission meeting to discuss progress.

- 2.16 The final report prepared by the Omega Foundation on the use of plastic baton rounds will be published before the end of March 2003 once all comments have been incorporated.

3. Chief Commissioner's Report

- 3.1 The Chief Commissioner attended a consultative meeting on the reform of the Council of Europe's human rights mechanism, held on 17-18 February in Strasbourg. A report of the meeting is enclosed in Commissioners'

Information Papers. A copy of the agreed European HNRI document on the reform of the European Court will be circulated when complete.

- 3.2 A note of the meeting with Judge Cory will be prepared by the Chief Executive and circulated to all Commissioners.

It was agreed at that meeting that the Chief Commissioner would prepare a document, based on the NIHRC submission to the Council of Ministers, which would reflect the potential Article 2 obligations of Judge Cory in his role in carrying out a public function.

There followed discussion regarding the implications of the inter-relationships between public inquiries, truth and reconciliation processes and dealing with On the Runs. It was agreed that Tom Hadden and the Chief Commissioner would prepare a paper outlining the range of issues which need to be considered by Commissioners.

Commissioners agreed to hold a Special Commission Meeting on 24 March at 2pm at the NIHRC to discuss these issues. This will involve both the Equality and Investigations & Research Committee meetings, already scheduled for that afternoon, being to be rearranged.

In addition the Chief Constable is to be asked for clarity on his statement regarding the Bloody Sunday Inquiry and any further information on the position of the Hillsborough talks on this issue should be sought from the Minister Des Browne. Paddy Kelly agreed to forward papers on the right to truth.

It was agreed that staff could participate in part of the meeting which would then be followed by discussion among Commissioners themselves.

- 3.3 Christine Eames reported on her work as Chair of the Working Group on Mental Health and Human Rights, a sub-committee of the Mental Health Review Team. It was agreed that she would continue to liaise with staff on this work.
- 3.4 Correspondence from the NIO regarding the Commission's comments on the recruitment of new Commissioners was discussed. Commissioners registered their disappointment that any new appointment will not be required to have a knowledge of human rights. It was agreed that the Chief Commissioner should write to the NIO registering that disappointment and asking for further information on the timeframe etc for the appointment of two replacement Commissioners.
- 3.5 It was agreed that two Vice-Chairs selected by the Chief Commissioner would have a role only with respect to chairing meetings in the absence of the Chief Commissioner. They would not be Deputy Chief Commissioners but simply there to support the Chief Commissioner in the preparation running of meetings.

The Chief Commissioner will draw up a specification for the role of the Vice-Chairs. It was agreed that the Vice-Chair roles should hold the position for a period of six months and the Chief Commissioner will now identify his recommendations for the initial four appointments.

- 3.6 The Chief Commissioner's speaking engagements and attendance at meetings / events since 31 January 2003 were noted.
- 3.7 Comments on the draft NIHRC response to the NIO's consultation on Race Crime and Sectarian Crime Legislation in Northern Ireland should be received by the Chief Commissioner by 11 March 2003.
- 3.8 The Chief Commissioner and staff met with Keir Starmer QC, who is the human rights counsel to the Policing Board. It was a useful meeting and the Commission was requested to provide further information to him regarding the history of the Commission's work on policing.

It was agreed to provide a copy of the Chief Commissioner's Reports on Policing which have been provided to the Commission over the past year. The documents will be cleared by the Chief Executive and the Chief Commissioner to ensure that there is no breach of confidentiality and that no-one is inappropriately identified.

The Chief Commissioner is to highlight, when providing this information, that this again raises the importance and value of establishing a Memorandum of Understanding with the Policing Board, which so far has been unwilling to undertake that commitment.

- 3.9 The Chief Executive and Chief Commissioner met with Sir Joe Pilling, Permanent Under-Secretary of the NIO. One outcome from that meeting has been that the Chief Executive has now been designated Accounting Officer for the NIHRC as opposed to the Chief Commissioner, who has been in that position since the establishment of the organisation.
- 3.10 The Register of Interests completed by Commissioners is due to be updated. All Commissioners will receive a copy of their current statement and are asked to check and amend it as appropriate as soon as possible.
- 3.11 No Commissioner is available to attend the Sinn Féin Annual Conference being held in Dublin on 28-30 March 2003. This conference will be treated as all other political party conference and if possible a representative of the Commission will attend.

At 3.30pm Harold Good joined the meeting.

4. Chief Executive's Report

- 4.1 Staffing developments were noted.

- 4.2 The job evaluation agreed by the NIO in the Commission's supplementary bid for funding for this financial year 2002-2003 is now able to proceed. However at a meeting with DFP and NIO representatives on 5 March 2003 it became clear to the Chief Executive that, in fact, the NIHRC was expected to pay for this evaluation. The Chief Executive has written to the NIO seeking clarification of this in the light of the commitment given in the supplementary bid offer that the costs would be met by the NIO. When this issue is resolved the DFP representative is content to proceed immediately with the job evaluation exercise. It was noted that there will be a facilitated operational planning day with staff on 27 March.
- 4.3 Thanks were noted to Lorraine Hamill for her work in compiling the Commission's financial statement to the Consolidation Pack for the whole of government accounts which has been submitted and approved. The Chief Executive and Chief Commissioner met with Kirsten McFarlane of the NIO on 11 February 2003 to discuss the current financial position of the HRC related to the Casework budget and projects for which supplementary funding had been awarded but which will not be undertaken in this financial year. The meeting was helpful and the Chief Executive has since met again with Kirsten and will be writing formally to identify financial issues to be resolved before the end of March this year.
- 4.4 On 11 February 2003 the Chief Executive, Chief Commissioner and Caseworker began a series of meetings with solicitors to discuss the issue of mark-ups on costs. The Chief Executive is to arrange a meeting with the Taxing Master to explore this issue further. Both the Commission and the NIO press released the NIO announcement of the Commission's budget for the next three years.
- 4.5 The Chief Executive attended a conference in Edinburgh looking at the role of the Scottish Human Rights Commission. The issue of separate Human Rights and Equality Commissions was discussed and the Commission will in its response to the consultation document on a Scottish Human Rights Commission be clear that separate roles for the Equality Commission and Human Rights Commissions, and for any potential Children's Commissioner, is the NIHRC's preferred option.

At 3.45pm the meeting stopped for tea and staff joined the Commission meeting.

5. Committee Minutes and Staff Reports

- 5.1 The Casework Reports were noted.
- 5.2 The Education Report was noted with clarification being provided that the document under production on providing guidance on the Human Rights Act to the Department of Education is still being finalised and will be published soon.
- 5.3 Harold Good tendered his apologies for missing the last Finance and General Purposes Committee meeting. The costings for the Business Plan

2003-2004 were discussed with some minor amendments. They were approved for submission to the NIO.

- 5.4 The Information Worker's Report was noted with some discussion of imminent publications. It was agreed that the Victims' Report is not likely to be published in this financial year. The Chief Executive is to resolve any financial implications of this. The report prepared by the Omega Foundation into the use of plastic baton rounds will be published before the end of March.
- 5.5 Under Investigations and Research, congratulations were tendered to Christine Loudes for production of the NIHRC chapter on multiple identity, which is being published as part of a joint exercise among the human rights and equality agencies in UK and Ireland. The mental health review seminar will be held on 14 March at NIHRC. Christine Eames, Kevin McLaughlin and Paddy Kelly will probably attend.

6. Developments on Policing

- 6.1 The next meeting of the policing group will be held at 12 noon on 25 March 2003. All Commissioners are invited.
- 6.2 A draft version of the Omega Report was leaked to the Irish News prematurely. The Chief Commissioner is content that this was not an internal leak and it was therefore agreed that the Investigations Worker should be asked to write to all who received copies of the draft report and express the Commission's concern and disappointment that this had happened.

7. Bill of Rights

- 7.1 The event on Social and Economic Rights held on 24 February 2003 in Derry/Londonderry was reviewed. The Commissioners who attended thought it was a very good event, well received and with a useful spectrum of people there. In particular the guest speakers, Paul Hunt and Les Allamby, together with the Chief Commissioner, were commended. However, other Commissioners reported feedback from the children's sector and disability sector that the event was intimidating and the information too dense.
- 7.2 Following some discussion it was agreed that, after April, any further Bill of Rights events would be preceded by some preparatory work with those who might want to attend.
- 7.3 It was proposed that people attending these events should understand the Commission's key concerns and how such concerns might be incorporated into a Bill of Rights.
- 7.4 Commissioners agreed to read the current draft of the summary of submissions and submit their comments as soon as possible. This

publication is being prepared by Rachel Rebouché with the assistance of an intern, Amanda Wetzel and the Information Worker, Nadia Downing, who are reporting to the Bill of Rights Editorial Committee.

- 7.5 Commissioners considered the proposals for establishing a Roundtable on the Bill of Rights, which is being developed by the Implementation Group working group comprising representatives of the Women's Coalition, SDLP, Sinn Fein and Alliance parties.

Staff left the meeting at this point.

- 7.6 A paper e-mailed from Patrick Yu was tabled for consideration in this debate.
- 7.7 This was taken with the Chief Commissioner's options paper on how the Commission might proceed to work with the proposed Roundtable.
- 7.8 There was considerable discussion among Commissioners regarding the role and status of the Commission in the proposed Roundtable process.
- 7.9 It was agreed that the Commission would seek its own independent status as an expert body providing advice to the Roundtable, therefore with speaking rights but not seeking voting rights. The Commission would continue to retain any contact with political parties which do not engage with this process.
- 7.10 With respect to the role of the Commission in the procedural issues relating to the Roundtable, it was agreed that the Commission would provide guiding principles on matters such as the appointment of Chair, Secretariat and rules of procedure, in its role as expert adviser. The Commission would not be proposing names for any position within the Roundtable.
- 7.11 It was also agreed that the Commission would continue to organise events and activities in support of the development of its final advice to the Secretary of State.
- 7.12 It was agreed that the Chief Commissioner should write to the Chair of that working group, Professor McWilliams, to inform her of the Commission's preferred options in this regard.
8. At 6.10pm the meeting closed. It was agreed that outstanding agenda items would be addressed on 24 March following the Special Meeting on public inquiries.