



NORTHERN  
IRELAND  
HUMAN  
RIGHTS  
COMMISSION

## **108<sup>th</sup> COMMISSION MEETING (GOVERNANCE)**

**HELD ON MONDAY 6 JULY 2009 AT 10:00AM  
AT THE NORTHERN IRELAND HUMAN RIGHTS COMMISSION,  
TEMPLE COURT, 39 NORTH ST, BELFAST, BT1 1NA**

**Present:** Monica McWilliams, Chief Commissioner  
Jonathan Bell  
Tom Duncan  
Alan Henry  
Ann Hope  
Colm Larkin  
Eamonn O'Neill  
Geraldine Rice  
Daphne Trimble

**In attendance:** Don Leeson, Head of Corporate Services  
Ciarán Ó Maoláin, Head of Legal Services, Policy and Research  
David Russell, Head of Communications and Education  
Nazia Latif, Research / Investigations Worker  
(agenda items 10–13)  
Angela Lloyd-Stevens, Caseworker (agenda item 12)

Commissioners passed on their congratulations to Alan Henry on the award of an OBE to him in the Queen's Birthday Honours List 2009.

### **1. Minutes of previous meetings**

- 1.1 A change to the minutes of the special Commission meeting held on 26 May 2009 was agreed to reflect the Commission's intention to complete the job evaluation process by the start of the next financial year at the latest.

- 1.2 The minutes of the 107<sup>th</sup> Commission meeting (Policy) held on 8 June 2009 (HRC 108.1(a)) were agreed as an accurate record, subject to a number of agreed changes.
- 1.3 The minutes of the special Commission meeting held on 18 June 2009 (HRC 108.1(b)) to approve the Annual Report and Accounts for 2008–09 were agreed as an accurate record.

## **2. Matters arising**

- 2.1 Commissioners noted advice provided by the NIO on the implications for corporate governance of a Commissioner giving evidence on their own behalf to a Parliamentary Committee (paragraph 2.2 of the minutes of the 107<sup>th</sup> Commission meeting (Policy) refers). It was further noted that Daphne Trimble gave oral evidence to the Northern Ireland Affairs Committee in respect of its inquiry into the Bill of Rights on 1 July 2009, in response to a request from the Committee.
- 2.2 Commissioners noted that the Commission's longstanding request to meet the First Minister and deputy First Minister to discuss devolution of policing and criminal justice and a range of other issues, including the Bill of Rights, remains pending (paragraph 2.6 of the minutes of the 107<sup>th</sup> Commission meeting (Policy) refers). The Chief Commissioner will write to the First Minister and deputy First Minister to stress the importance of the meeting.
- 2.3 Commissioners noted that the Chief Executive is in the process of agreeing with NIO officials the record of the Commission's meeting with the Secretary of State for Northern Ireland on 18 June 2009 at Hillsborough Castle (paragraph 3.2 of the minutes of the 107<sup>th</sup> Commission meeting (Policy) refers). This will be circulated to Commissioners in due course.
- 2.4 Commissioners noted the programme of meetings that the Commission is undertaking to discuss human rights in the devolved policing and criminal justice arrangements with the main political parties (paragraph 4.4 of the minutes of the 107<sup>th</sup> Commission meeting (Policy) refers). Meetings with two of the parties are outstanding and are in the process of being scheduled. The Commission has used these meetings to highlight the impact of the delay in devolving policing and criminal justice. Notes of the meetings will be circulated to Commissioners in due course.

2.5 Commissioners noted that the Chief Commissioner has written to the Omagh Support and Self Help Group following the outcome of the civil case in respect of the Omagh bombing on 15 August 1998 to convey the Commission's continuing interest in the matter (paragraph 8.1 of the minutes of the 107<sup>th</sup> Commission meeting (Policy) refers).

### **3. Report from the Chief Commissioner (HRC 108.2)**

- 3.1 Commissioners noted the Chief Commissioner's report.
- 3.2 The Chief Commissioner reported on her meeting with Owen Paterson MP, the Shadow Secretary of State for Northern Ireland, on 3 July 2009 to discuss a range of issues, including the Bill of Rights. The Chief Commissioner will seek a meeting with Dominic Grieve MP, Shadow Secretary of State for Justice and Shadow Attorney General, to follow up on issues raised.
- 3.3 Commissioners noted that the Northern Ireland Policing Board had found the Commission's report on its visit to the Antrim PSNI station useful. The report will be discussed at the next meeting between the Commission and the Policing Board's Human Rights and Professional Standards Committee. The report was published by the Commission on 3 July 2009.

### **4. Reports from Commissioners**

- 4.1 There were no reports from Commissioners.

### **5. Reports from Committees**

#### **Audit and Risk Management Committee**

- 5.1 Geraldine Rice reported on the work of the Audit and Risk Management Committee.
- 5.2 Commissioners noted that the most recent Audit and Risk Management Committee meeting, which took place on 15 June 2009, was observed by the Chief Commissioner, at the invitation of Committee members.

- 5.3 Commissioners noted the level of engagement by the Committee with external representatives, including the NIO and the Internal Auditor, which is considered good practice. It was also noted that the Commission's work in respect of its financial management and audit-related activities are being shared by the Internal Auditor with other organisations as examples of good practice.
- 5.4 Commissioners noted the Audit and Risk Management Committee's intention to review the Commission's strategy in respect of legal costs. It was agreed that this strategy should first be considered by the Legal Committee.

### **Bill of Rights Committee**

- 5.5 Ann Hope reported on the work of the Bill of Rights Committee.
- 5.6 Commissioners noted that the NIO has approved the Commission's request to receive funding from The Atlantic Philanthropies for further work on the Bill of Rights. In giving its approval, the NIO suggested that one of the proposed projects might be revisited and that a separate business case should be submitted for an alternative project.
- 5.7 Commissioners noted that work on the summary of the Commission's advice on the Bill of Rights is nearing completion and is expected to be published in August 2009. Progress on other strands of the Commission's work on the Bill of Rights was noted.
- 5.8 Commissioners noted that the Commission will seek to schedule meetings with the leaders of the main churches to discuss the Bill of Rights.
- 5.9 Commissioners noted the results of an independent survey, commissioned by the Human Rights Consortium, which showed strong cross-community support for a Bill of Rights for Northern Ireland.
- 5.10 It was agreed that the current membership of the Bill of Rights Committee will remain until the report on the outcome of the Commissioners' 'awayday' on 26 June 2009 has been discussed (see agenda item 8 below).

## **Detention, Policing and Justice Committee**

- 5.11 Eamonn O'Neill reported on the work of the Detention, Policing and Justice Committee.
- 5.12 Commissioners noted the forthcoming programme of meetings planned by the Committee, including one with the Police Ombudsman.
- 5.13 Commissioners noted that the Prisoner Ombudsman is seeking to have her position put on a statutory basis.
- 5.14 Commissioners noted the impact that industrial action being taken by prison officers is having on the conditions in prisons. This issue will be considered further at the next meeting of the Detention, Policing and Justice Committee.
- 5.15 It was agreed that Colin Harvey will join the Detention, Policing and Justice Committee.

## **Economic, Social and Cultural Rights Committee**

- 5.16 Daphne Trimble reported on the work of the Economic, Social and Cultural Rights Committee.
- 5.17 Commissioners noted that, in developing the programme of work for the year ahead, the Economic, Social and Cultural Rights Committee had identified a number of issues of overlap with the work of other committees. It was agreed that the Economic, Social and Cultural Rights Committee will lead on issues concerning mental health, particularly those arising out of the Bamford Report. The Detention, Policing and Justice Committee will, however, maintain an interest in mental health issues as they affect prisoners, particularly those concerning personality disorders. It was also agreed that the Detention, Policing and Justice Committee will lead on issues concerning human trafficking, economic, social and cultural rights in respect of the Bill of Rights will be progressed by the Bill of Rights Committee, and work on the UN Convention on Disability Rights will be progressed by a joint committee to be established with the Equality Commission. Commissioners noted that this joint committee will report progress to Commission (Governance) meetings in the same way as other committees.

5.18 Commissioners noted the Concluding Observations issued following the examination in May 2009 of the UK's 5th Periodic Report under the International Covenant on Economic, Social and Cultural Rights, which included a number of points made to the UN Committee by the Commission. Commissioners expressed concern that, unlike other parts of the UK, OFMdFM did not send a representative to the examination. This matter will be raised at the meeting the Commission is seeking with the First Minister and deputy First Minister.

5.19 Commissioners noted that the Department of Culture, Arts and Leisure has written to the Commission to acknowledge its failure to consult the Commission on the Northern Ireland contribution to the UK report on the European Charter for Regional and Minority Languages and to undertake to do so in future.

5.20 Commissioners noted that Colin Harvey and Geraldine Rice have stood down from the Economic, Social and Cultural Rights Committee.

### **Equality Committee**

5.21 Ann Hope reported on the work of the Equality Committee.

5.22 Geraldine Rice agreed to join the Equality Committee.

5.23 Commissioners noted that it is the intention to nominate a new Chairperson at the next Equality Committee meeting.

### **Legal Committee**

5.24 Alan Henry reported on the work of the Legal Committee.

5.25 Commissioners noted that new arrangements for the handling of applications for legal assistance were agreed at the last meeting of the Legal Committee.

### **Minutes of committees and working groups (HRC 108.3)**

5.26 Commissioners noted the minutes of the following meetings:

- Audit and Risk Management Committee – meetings held on 23 February and 7 May 2009.
- Bill of Rights Committee – meeting held on 27 April 2009.
- Detention, Policing and Justice Committee – meeting held on 28 April 2009.

- Economic, Social and Cultural Rights Committee – meeting held on 3 March 2009.
- Equality Committee – meeting held on 23 September 2009.
- Legal Committee – meeting held on 31 March 2009.

5.27 Commissioners noted that the format of the minutes of Legal Committee meetings will in future be in the same format as those of the other committees.

## **6. Report from the Chief Executive (HRC 108.4)**

- 6.1 Commissioners noted the Chief Executive's report.
- 6.2 Commissioners noted the Chief Executive's meeting with officials from the Commission for Victims and Survivors on 4 June 2009 to discuss a range of issues, including the development of a Memorandum of Understanding between the two organisations.
- 6.3 Commissioners noted the Chief Executive's meeting with officials from the Department of Foreign Affairs on 10 June 2009 to discuss a range of issues including the Bill of Rights and the recommendations made by the Consultative Group on the Past. It was also noted that Micheál Martin TD, the Minister for Foreign Affairs, hopes to visit the Commission in due course.
- 6.4 Commissioners noted the outcome of the Strategic Plan consultation meeting with stakeholders on 19 June 2009.
- 6.5 Commissioners noted that a report on the inaugural meeting of the four UK and Irish national human rights institutions, which was held on 24–25 June 2009 in Edinburgh, is being prepared by the Scottish Human Rights Commission and will be circulated in due course.
- 6.6 Commissioners noted that the Management Team is considering how additional employment costs resulting from regrading following the completion of the job evaluation exercise, and any further cuts imposed on the Commission as a result of public expenditure reductions, might be handled, and a report will be presented to the September Commission meeting.

## 7. Team reports

### 7.1 Corporate Services (HRC 108.5)

- 7.1.1 Commissioners noted the Corporate Services report.
- 7.1.2 Commissioners noted the staff changes that had recently occurred and proposals for handling vacancies. It was agreed that a note of exit interviews should be tabled at Audit and Risk Management Committee meetings.
- 7.1.3 A Moderating Panel of Commissioners, to be chaired by the Chair of the Audit and Risk Management Committee, will be formed to oversee the administration of the performance bonus scheme for staff. A number of Commissioners volunteered to join the panel, which will be formed on the basis of availability to meet in mid-August 2009 and balanced in terms of gender and community background. The panel will also review the Chief Commissioner's assessment of the performance of the Chief Executive, in line with guidance on performance management and pay arrangements for Senior Civil Servants, produced by the Cabinet Office.
- 7.1.4 It was agreed to compile details of the participation on panels by Commissioners since 2005.
- 7.1.5 Commissioners noted the Secretary of State's decision not to make pension provision for Commissioners. It was agreed to write to the Secretary of State to seek the rationale for this decision and take legal advice on it.
- 7.1.6 Commissioners noted that the Annual Report and Accounts for 2008–09 will be audited by the National Audit Office during the week commencing 20 July 2009. It is expected that the Annual Report and Accounts for 2008–09 will be laid before Parliament shortly after the summer recess, and then published in October / November 2009. Commissioners also noted that, in line with government policy, the Commission's accounts for 2008–09 will be restated using International Financial Reporting Standards (IFRS) and submitted to the NIO in September 2009.

## **7.2 Communications and Education (HRC 108.6)**

- 7.2.1 Commissioners noted the Communications and Education report.
- 7.2.2 Commissioners noted the positive feedback received in respect of the latest issue of the Commission's magazine, 'NIHRC Review', which included articles on the Bill of Rights and a contribution from the outgoing Chief Constable.
- 7.2.3 Commissioners noted that three round table events are being organised to discuss the Bill of Rights with community / voluntary sector organisations, policy advisers, and political parties respectively.

## **7.3 Legal Services, Policy and Research (HRC 108.7)**

- 7.3.1 Commissioners noted the Legal Services, Policy and Research report.
- 7.3.2 The Head of Legal Services, Policy and Research briefed Commissioners on his attendance at the Fundamental Rights Agency's annual liaison meeting with EU-based national human rights institutions on 29–30 June 2009 in Vienna.
- 7.3.3 Commissioners noted that 'No Home from Home', the Commission's report on the circumstances of people who are homeless with no recourse to public funds, will be launched on 1/2 September 2009 at events in Belfast and Dungannon respectively.
- 7.3.4 It was agreed to discuss the Commission's role as part of the independent monitoring mechanism for the UN Convention on Disability Rights at the next Commission meeting.
- 7.3.5 Commissioners noted that a training workshop is being arranged with the Law Centre (NI) on legislation in respect of mental incapacity. Details will be circulated to Commissioners.
- 7.3.6 Commissioners noted the policy and legislative responses provided by the Commission.
- 7.3.7 Commissioners noted the list of consultation documents received, which are being considered for a response by the Commission.

## **8. Commissioners' 'awayday' on 26 June 2009: next steps**

- 8.1 Commissioners noted that a report on the outcome of the Commissioners' 'awayday' on 26 June 2009 is being prepared by the external facilitator. This will be presented to the next Commission meeting.
- 8.2 Commissioners noted that the Irish Human Rights Commission has recently reviewed its Standing Orders. The Commission will seek a copy of these, together with those of the Equality and Human Rights Commission and the Scottish Human Rights Commission, to feed into its own review.
- 8.3 It was further noted that the Audit and Risk Management Committee has recommended that the scope of the Code of Practice for Commissioners should be expanded to include guidance on how the Commission's personnel policies impact on Commissioners.

## **9. Business Plan for 2009–10 – progress report (HRC 108.8)**

- 9.1 Commissioners noted progress achieved during the first three months of the year in implementing the Commission's Business Plan for 2009–10. Staff were commended for their work to date in taking forward the objectives set out in the Business Plan.
- 9.2 It agreed that development of the Commission's strategies for engagement with Protestant, Unionist and Loyalist communities and representatives of vulnerable groups should be discussed at a future Commission (Policy) meeting.

## **10. Review of Justice and Security Act 2007 (HRC 108.9)**

- 10.1 Commissioners noted that the Justice and Security (Northern Ireland) Act 2007, which gave the Commission's new powers in respect of legal proceedings and investigations, requires the Commission to make recommendations to the Secretary of State concerning the effectiveness and adequacy of these aspects of the legislation within two years of enactment.

- 10.2 Commissioners noted the shortcomings of the legislation, particularly in respect of limitations placed on the Commission in respect of access to places of detention and issues involving national security, and the impact this has.
- 10.3 It was agreed that the Commission will write to the Secretary of State to recommend that the legislation is amended to remove the limitations to the Commission's powers.

## **11. Response to the report by the Consultative Group on the Past (HRC 108.10)**

- 11.1 Commissioners noted that the Commission has made submissions to the Secretary of State and the Northern Ireland Affairs Committee in respect of the Consultative Group on the Past's recommendations concerning Article 2 of the European Convention on Human Rights.
- 11.2 The NIO has published a consultation document on the Consultative Group on the Past's recommendations. It was agreed to consider the Commission's position in respect of other recommendations in the context of the consultation document. Commissioners noted that the deadline for responses to the consultation exercise is 2 October 2009.

## **12. Proposed investigation into the rights of older people in nursing care (HRC 108.11)**

- 12.1 Commissioners were briefed on a proposed investigation by the Commission into the rights of older people in nursing care.
- 12.2 The investigation was agreed in principle. Detailed terms of reference for the investigation, including budget implications, will be drafted and submitted to the Commission for approval.

## **13. Any other business**

- 13.1 Commissioners noted the Commission's draft response to the call for evidence by Joint Committee on Human Rights on the Government's Green Paper 'Rights and Responsibilities: developing our constitutional framework', and were asked to approve the draft, or suggest changes to it, by email by 10 July 2009.

#### **14. Dates of next Commission meetings:**

- 14.1 The next Commission (Policy) meeting will be held on 24 August 2009, in Temple Court, Belfast.
- 14.2 The next Commission (Governance) meeting will be held on 21 September 2009, in Coleraine.

**The meeting closed at 3.50pm.**

Approved: \_\_\_\_\_

Date: 24 August 2009