



**Coimisiún na hÉireann um Chearta
an Duine agus Comhionannas**
Irish Human Rights and Equality Commission

**Minutes of the Irish Human Rights and Equality Commission
(Eighteenth Ordinary Plenary Meeting)
11 April 2017**

Present: Emily Logan, Chief Commissioner (EL); Frank Conaty (FC); Heydi Foster-Breslin (HFB); Liam Herrick (LH); Mark Kelly (MK); Professor Siobhán Mullally (SM); Dr. Mary Murphy (MM); Professor Ray Murphy (RM); Dr. Fidèle Mutwarasibo (FM); Orlagh O’Farrell (OOF); Betty Purcell (BP); and Kieran Rose (KR).

Apologies: David Joyce (DJ); Teresa Blake (TB); and Sunniva McDonagh (SMD).

In Attendance: Laurence Bond, Acting Director (LB); Michael O’Neill, Head of Legal (MON) (Agenda items 2.1, 2.2, and 2.3); Ruth Gallagher, Head of Policy, (RG) (Agenda items 4.2 and 4.3), Kevin De Barra (KDB).

The Eighteenth Ordinary Meeting of the Commission took place between 10:30 and 14:30 on 11 April 2017 at 16 – 22 Green Street, Dublin 7.

1.1 *Declarations of Interest*

There were no declarations of interest made in relation to any items on the agenda.

1.2 *Agreement of Agenda*

The Commission agreed the agenda which had been circulated in advance. It was agreed that items on the agenda relevant to the Head of Legal would be taken as the first item to accommodate MON, who joined the meeting by teleconference.

It was noted that the Code of Practice for the Governance of State Bodies proposes that ‘the Board should meet at least twice a year without executive Board members or management present to discuss any matters deemed relevant’. It was agreed that such a closed session, would be routinely tabled as the opening item on future agendas and availed of as and when required. [Actn_18_01]

1.3 *Minutes of previous Commission Meeting (08.02.2017)*

The Minutes of the Seventeenth Ordinary Commission Meeting of the 08 February 2017 were agreed, proposed by BP and seconded by KR.

1.4 *Matters arising, not otherwise dealt with on the Agenda*

It was agreed that the content of the 2017 work plan could be made available to the Section 18 advisory committees.

1.5 Chief Commissioner Key Correspondence, Meeting and Events

A summary of key correspondence to the Chief Commissioner along with a summary of recent events and meetings was tabled. EL provided further information and an update on related actions undertaken since the last meeting. EL highlighted recent events held in the Commission's new participation space, most of which related to thematic areas of strategic relevance to the work of the Commission. In addition, a calendar of events organised to the end of 2017 was circulated for information.

The matter of a public event on the theme of Brexit and its implications for human rights and equality was discussed. The Commission agreed that the Director should liaise with relevant organisations, including the NIHRC, in relation to the hosting of such an event. In the context of concern about the implications of Brexit, it was also agreed that consideration would be given to commissioning a high-level mapping exercise of the human rights and equality implications arising from Brexit. [Actn_18_02] [Actn_18_03]

MON joined the meeting by teleconference. FM joined the meeting.

2.1 Strategic Litigation and Enforcement Plan

The Commission considered a memorandum of 28 March 2017 submitted by MON in relation to a Strategic Litigation and Enforcement Plan 2017/18. Following a broad discussion, the proposed approach as outlined in the memorandum was endorsed. The Commission agreed that it would be useful, in addition to referencing the Commission's statutory mandate, to also include a statement recognising the legal framework of rights, including the international human rights framework and although implicit, an explicit reference to relevant equality and employment legislation. The Commission welcomed the approach and emphasised that the agreement of a Strategic Litigation and Enforcement Plan would not fetter its discretion in terms of other possible strategic interventions if required. [Actn_18_04]

2.2 S.40 Legal Assistance: Revised Guidelines

The Commission considered a memorandum of 30 March 2017 submitted by MON, revising the instrument of authorisation for the legal assistance function. The Commission agreed to revoke previous instruments in relation to this function, and to adopt a new instrument of authorisation in respect of the performance by the Commission of its functions under sections 10(2)(f), 10(2)(i), and 40 of the Irish Human Rights and Equality Commission Act 2014. In addition, the Commission also adopted revised guidelines on applications for assistance. [Actn_18_05]

2.3 S.41 Institution of Legal Proceedings by Commission

The Commission considered legal advice of 27 January 2017 submitted by MON. The Commission discussed the proposal and agreed the items presented merit further exploration, with, in the first instance, policy level engagement. The Commission suggested that other thematic areas remain under review and that efforts should be made to seek appropriate and proportionate mechanisms to advance these issues. [Actn_18_06] [Actn_18_07]

MON left the meeting. SM joined the meeting.

3.1 Director's Report

The Director's Report had been circulated in advance of the meeting and was taken as read. LB answered questions in relation to the content of the report, and updated Commission Members on recent activity beyond the dates of the report, including several HR items and an update on matters relating to the implementation of revised team structures. It was agreed that an update from the Director on thematic issues relating to human resources would be considered at the next Plenary meeting. LB presented two separate reports, one pertaining to legal assistance metrics for January and February 2017, and another which detailed statistics pertaining to the Commission's handling of public queries during 2016. The Commission commended this level of quantitative reporting and noted the strategic benefit of compiling such data and requested that consideration be given to the introduction of additional aged analysis in the reporting of metrics relating to the provision of legal assistance, and that further consideration be given to how to adequately capture queries relating to multiple grounds/intersectionality in reporting on the handling of public information queries. [Actn_18_08] [Actn_18_09] [Actn_18_10]

LB reported that a draft Appropriation Account for 2016 was provided to the Office of the Comptroller and Auditor General in advance of the required statutory deadline of 31 March 2017 and that fieldwork in relation to this external audit took place onsite from 20 March 2017 to 07 April 2017.

The Commission noted a final account statement, prepared by quantity surveyors Currie & Brown in relation to the office fit-out at 16-22 Green Street, Dublin 7 and a written report from the Chairperson of the Audit and Risk Committee.

Noting a written report from the Finance Committee which had been circulated in advance, the Commission discussed a decision that had been made at the 16th Ordinary Plenary meeting in relation to external funding, particularly in relation to funding received from Atlantic Philanthropies. The Commission acknowledged that the resourcing of the secretariat of the Joint Committee, while related to funding from Atlantic Philanthropies is essentially a separate issue, and asked that the Director continue to explore options of addressing the underlying requirement either through the operation of the current IHREC workplan, through negotiating an enhanced ECF or through another appropriate mechanism. [Actn_18_11]

The Commission requested that a guidance document be prepared in relation to assumptions and current practices pertaining to the outsourcing of work to legal counsel and noted that where possible legal work should be undertaken internally and should only be outsourced in circumstances where specific external expertise is required. [Actn_18_12]

MM joined the meeting 12:15.

3.2 Report from Worker Employer Advisory Committee

The Commission noted a written report from the Chairperson of the Worker Employer Advisory Committee following its first meeting on 30 March 2017.

4.1 Annual Report

A draft Annual Report for 2016 had been circulated in advance of the meeting. It was agreed that any feedback should be sent by e mail directly to KDB by 25 April 2017. [Actn_18_13]

RG joined the meeting.

4.2 Report to Council of Europe on Ireland's 14th National Report on the Implementation of the European Social Charter

The Commission considered a draft document in relation to Ireland's 14th National Report on the Implementation of the European Social Charter, which had been circulated in advance. The Commission endorsed the document, subject to final drafting changes agreed at the meeting. [Actn_18_14]

4.3 Proposed Priorities for Legislative Programme

The items discussed under this agenda item refer to discussions of the Policy and Legislation Committee, which met on 16 March 2017 but was not quorate.

The Commission considered a listing of proposed priorities for the 2017 Spring/Summer Legislative Programme which had been circulated in advanced, and endorsed the priorities proposed. In addition, the Commission agreed that scoping should commence to explore how best to address key concerns, in particular on family reunification, in relation to the commencement of the International Protection Act 2015. [Actn_18_15]

The Commission noted the upcoming consultations by the Citizens' Assembly in relation to challenges and opportunities of an ageing population and the manner in which referenda are held. The Commission agreed, in the first instance that a short submission would be made on the theme of challenges and opportunities of an ageing population to reflect policy positions of the Commission. [Actn_18_16]

In consideration of other matters related to the Terms of Reference of the Citizens' Assembly the Commission agreed that the Policy and Legislation Committee should consider the matter of a policy paper detailing the human rights and equality implications raised by reproductive rights. It was agreed that, in the first instance, a proposed Table of Contents be brought to the Policy and Legislation Committee. [Actn_18_17]

RG and FM left the meeting.

5.1 Policy for Recording Minutes of Meetings

A revised draft policy setting out the practice in relation to the recording of minutes, which had been circulated in advance, was considered and agreed. It was also agreed that from this meeting, future minutes of Plenary meetings would be published on the IHREC's website, once approved. [Actn_18_18]

5.2 Role of Commission Members

A final draft of the amended document, discussed at the Commission's strategy meeting in January, was considered. The Commission agreed, with some minor changes, this as the final document. This

document will serve as guidance in the forthcoming selection competition for members of the Commission. [Actn_18_19]

The Commission noted that 7 of its 15 members had been appointed for a three-year term which will expire on 31 October 2017. In anticipation of vacancies arising on the Commission it was agreed that EL would write to the Tánaiste and Minister for Justice and Equality to request that the selection process provided for under S.13(2) of the Irish Human Rights and Equality Commission Act 2014 be invoked to ensure that the process, as detailed in the 2014 Act, is complete in advance of 31 October 2017. [Actn_18_20]

5.3 *Proposal to Delegate Section 32(1) Equality Reviews and Action Plans*

The Commission considered a memorandum of 04 April 2017 submitted by EL which proposed the delegation of S.32(1) Equality Reviews and Action Plans. The Commission endorsed the strategic reasoning set forth within the memorandum and agreed that delegating this function to the Head of Legal, in consultation with the Director, would allow for a more responsive and agile approach to the exercise of this function.

It was agreed that the Commission would authorise the Head of Legal, in consultation with the Director, to exercise its functions under S.32(1) of the Irish Human Rights and Equality Act 2014, and that the operation of this delegation would be reviewed by the Commission within six months. As the function has yet to be invoked, the Commission was keen to be kept informed of the exercise of this function as appropriate. [Actn_18_21]

6.1 *Application of Blanket Anonymity Rules to Decisions of the WRC.*

EL briefed members in relation to an information note to be published in the coming days, which would clarify issues arising in relation to the publication of decisions of the Director General of the Workplace Relations Commission (WRC) in respect of proceedings under the EEA and ESA. This information note will clarify that there is no statutory requirement for all decisions of the WRC arising from complaints of discrimination to be published in anonymised form. Members welcomed this clarification noting the disadvantages of the application of blanket anonymity rules to decisions of the WRC.

6.2 *Nominations*

It was agreed that in circumstances where the Chief Commissioner is unable to attend an event and an alternative Commission Member is required to deputise on her behalf that she should have the discretion to select a member based on relevant expertise and availability. It was also agreed that the most collegiate approach to requests for Commission Members to represent the Commission is to self-nominate. It was confirmed that any such requests have not and will not be dealt with on a first-come first-served basis.

6.3 Date of Next Meeting

The 19th Ordinary Meeting of the Irish Human Rights and Equality Commission is due take place on the 17 May 2017 at 10:30am. There being no other business, the meeting concluded at 14:30.

Signed: Emily Logan

Date: 17 May 2017

Emily Logan, Chief Commissioner

Summary of all action points

No.	Action Point	By Date	By Whom
Actn_18_01	A closed session for Commission Members only to be tabled as the opening item on future agendas.	Ongoing	EL
Actn_18_02	Explore the hosting of an event, in conjunction with the NIHRC, to consider the implications of Brexit.	Q3	EL/LB
Actn_18_03	Consider commissioning a high-level mapping exercise of the human rights and equality implications arising from Brexit.	Q3/Q4	LB
Actn_18_04	Finalise Strategic Litigation and Enforcement Plan 2017/18.	Next Plenary	MON
Actn_18_05	Revoke previous instruments and adopt a new instrument of authorisation in respect of functions under sections 10(2)(f), 10(2)(i), and 40 of the Irish Human Rights and Equality Commission Act 2014 and adopt accompanying revised guidelines on applications for assistance.	April 2017	EL/LB
Actn_18_06	Further exploration for policy level engagement or a possible basis for a S.41 action in relation to identified issue in MON memo of 27 January 2017.	Q2/Q3	MON
Actn_18_07	Seek to find appropriate proportionate mechanisms to advance the other thematic areas referenced in MON memo of 27 January 2017.	Ongoing	LB/MON
Actn_18_08	Update from the Director on thematic issues relating to human resources to be considered at the next Plenary meeting.	Next Plenary	LB
Actn_18_09	Consider the introduction of additional aged analysis in the reporting of metrics relating to the provision of legal assistance	Ongoing	MON
Actn_18_10	Consider how to adequately capture queries relating to multiple grounds/intersectionality in reporting on the handling of public information queries.	Ongoing	MON
Actn_18_11	Explore options of addressing the underlying requirement of the Joint Committee.	Q2/Q3	LB
Actn_18_12	Prepare a brief guidance document in relation to assumptions and current practices pertaining to the outsourcing of work to legal counsel.	Q2/Q3	LB/MON

Actn_18_13	Provide feedback on Annual Report for 2016 to KDB by 25 April 2017.	April 2017	Commission Members
Actn_18_14	Finalise and submit document in relation to Ireland's 14 th National Report on the Implementation of the European Social Charter.	April 2017	RG
Actn_18_15	Explore how best to address key concerns, in particular on family reunification, in relation to the commencement of the International Protection Act 2015.	Q2/Q3	RG
Actn_18_16	Make submissions to the Citizens' Assembly in relation to challenges and opportunities of an ageing population.	Q2	RG
Actn_18_17	Prepare an initial table of contents to structure a policy paper on the human rights and equality issues raised by reproductive rights and present to the Policy and Legislation Committee.	Q2/Q3	RG
Actn_18_18	Future minutes of Plenary meetings to be published on the Commission's website once approved.	Ongoing	KDB
Actn_18_19	Finalise drafting changes to the document setting out the roles and responsibilities of Commission Members.	April 2017	KDB
Actn_18_20	Write to the Tánaiste and Minister of Justice and Equality to request that the selection process provided for under S.13(2) be invoked.	April 2017	EL
Actn_18_21	Revise instrument of authorisation to reflect the delegation to the Head of Legal, in consultation with the Director, of S.32(1) and report on any instances of exercise of this function.	April 2017	MON