



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

Minutes of the Irish Human Rights and Equality Commission
34th Ordinary Plenary Meeting
16 July 2019

Present - Commission Members:

- Emily Logan, Chief Commissioner (EL)
- Teresa Blake (TB)
- Heydi Foster Breslin (HFB)
- Paddy Connolly (PC)
- Colm O' Dwyer (COD)
- Salome Mbugua (SMb)
- Sunniva McDonagh (SMcD)
- Fidèle Mutwarasibo (FM)
- Siobhán Mullally (SM)
- Ray Murphy (RM)
- Frank Conaty (FC)
- Tony Geoghegan (TG)
- Caroline Fennell (CF)

Apologies:

- Orlagh O' Farrell (OOF)

In Attendance:

- Laurence Bond, Director (LB)
- Iris Elliott, Head of Policy & Research (IE)
- Ruth Gallagher, Acting Head of Strategic Engagement (RG)
- Gail Malone, Head of Corporate Services (GM)
- Michael O' Neill, Head of Legal (MON)
- Walter Jayawardene, Policy and Research (WJ)
- Muireann Ní Thuairisg, Minute Taker
- John Maher, Chairperson, IHREC Audit and Risk Committee

The 34th Ordinary Plenary Meeting of the Irish Human Rights and Equality Commission took place between 10:30am and 1:30pm on 16 July 2019 at the Irish Human Rights and Equality Commission offices, 16-22 Green Street, Dublin 7.

1.1 Apologies, Quorum and Declarations of Interest

Apologies: Orlagh O' Farrell

Declarations of Interest: No declarations of interest.

1.2 Minutes of previous Commission Meeting

Commission members approved the addition of the following paragraph in the draft minutes of the plenary meeting held on 11 June 2019.

"The Commission was joined by Valerie Molay, Peer Facilitator - National Youth Council of Ireland Natasha Muldoon, Youth Worker - ARD Family Resource Centre Youth Group, Doughiska, Galway and their colleagues Linda, Diane, Bushra and Queen, who addressed Commission members on their experience of the Youth Consultation on the Convention on the Elimination of All Forms of Racial Discrimination held on 30 March 2019. This was followed by a wide-ranging discussion on their everyday experiences as minority ethnic young people in Ireland today. The Members warmly thanked all those attending for their very valuable engagement and for sharing their experience and insights."

The draft minutes were proposed by RM and seconded by TB.

1.3 Matters arising, not otherwise dealt with on the Agenda

The Commission agreed to send a letter of congratulations to the newly appointed UN Youth Delegates 2019-2020. LB confirmed that the delegates have been invited to meet with the Commission.

It was agreed to hold a meeting of the Policy and Research Committee the week beginning 22nd July 2019.

The President of the High Court is inviting submissions on High Court Practice Direction 81. The Commission agreed to make a submission to Mr Justice Richard Humphreys before the closing date of 26th July. Commission members will receive the draft submission by email for their comments and observations.

It was agreed to make available the minutes of the biannual meeting of IHREC and the Department of Justice and Equality.

EL confirmed that that she had been in touch with the Galway Coroner's office and hoped to meet him in due course. It was agreed that statistics on people who have died in Direct Provision centres will be sought from the Department of Justice and Equality.

Members raised specific issues of concern in respect of Direct Provision, including the mooted introduction of a voucher system for residents and the rising numbers of asylum seekers living in emergency accommodation. It was agreed that the Executive would prepare a note summarising Commission work to date on the issue and identifying emerging issues. This paper will inform a discussion at a future plenary meeting on shaping the future model of provision.

Due to rising concerns around housing and homelessness, Commission members discussed having a dedicated session on the issue with a Government Minister.

2.1 CERD Reporting

IE and WJ joined the meeting,

The Commission considered and approved on the revised draft Submission on the List of Themes for the examination of Ireland on its Combined 5th to 9th Report.

Members the draft outline table of contents for the Commission's Shadow Report and proposed a number of amendments. The draft Shadow Report will be circulated to the Policy and Research Committee and will be tabled at the next Commission meeting in September. The final report will be tabled for the plenary meeting on 31 October 2019 and will be submitted to CERD at the beginning of November. The UN Committee will examine Ireland's report during its 100 session from 25 November – 13 December 2019.

IE and WJ left the meeting.

2.2 Update from Inquiries Working Group

RG joined the meeting.

Commission members were briefed on the draft assessment on the issue of restraint and seclusion for children on the autism spectrum in schools which had been circulated in advance.

In order for the matter to be considered by the Commission in the proper sequence, the Commission agreed that this item should be considered at a meeting of the Commission's Section 35 Inquiry Working Group.

An important factor to consider by the Commission is the Department of Education and Skills guidelines on the use of physical intervention in the prevention and management of crisis student behaviour in school.

The Commission agreed that the S 35 Inquiry Working Group should meet on the proposal and revert to the Commission with a recommendation.

RG left the meeting.

2.3 Code of Practice on Rights of Families at Inquests

HFB recused herself for this item and left the meeting.

MON joined the meeting.

Commission members were briefed on the draft Code of Practice on the Rights of Families at Inquests.

Members discussed their concerns that many people are not aware that they can apply for legal aid to attend inquests, in particular those who attend an inquest of a person who has died by suicide. Due to the lack of awareness around this issue members highlighted the need for practical and accessible information on the rights of families at inquests, in addition to the Code of Practice. It is important to link this work with the Commission's strategic aim of promoting Access to Justice.

It is also important to engage with families and advocacy organisations to hear their views.

The Commission approved to proceed to public consultation on the draft *Code of Practice on the Rights of Families at Inquests* and agreed that the Commission should develop accessible information for families with a focus on access to justice to complement the Code.

2.4 Proposal re Section 30 Review ILA

HFB re-joined the meeting.

Commission members were briefed on the proposal pursuant to section 30 (5) of the Act, on the review of section 19 of the Intoxicating Liquor Act 2003. The next steps would be to proceed to public consultation over the summer and to report to the Commission in the autumn.

The Commission agreed, subject to revision of terminology, the proposal on the review of section 19 of the Intoxicating Liquor Act 2003, pursuant to section 30 (5) on the IHREC Act,

2.5 A Proposal re Amicus

SMD recused herself and left the meeting.

The Commission considered a proposal to seek leave to intervene as *amicus curiae* before the Supreme Court in the appeal [REDACTED]

The Casework Committee had considered the proposal at its meeting on 16 July 2019 and recommended that the Commission should seek to intervene.

The Commission agreed the proposal to seek leave to intervene as *amicus curiae* before the Supreme Court in this case.

2.5 (b) Proposal re Amicus

SMD re-joined the meeting.

The Commission considered a proposal to seek leave to intervene as *amicus curiae* before the Supreme Court in the case [REDACTED]

The Casework Committee had considered the proposal at its meeting on 16 July 2019 and recommended that the Commission should seek leave to intervene.

The Commission agreed the proposal to seek leave to intervene as *amicus curiae* before the Supreme Court in this case.

MON left the meeting.

3.1 Finance & Risk Update

GM joined the meeting.

Commission members were briefed on the Mid-Year Financial Report which had been circulated in advance.

Commission members appreciated the update on the budget and asked that future quarterly reports would provide more information linking the budget reporting to the workplan and to the Commissions Strategic Plan priorities.

In relation to the monies spent on the Disability awareness campaign, members asked if the success of the campaign can be measured i.e. effectiveness and impact including the impact on attitudes. LB noted that campaign metrics were being compiled and would be presented to the Commission.

GM updated members on the risk register. The Audit and Risk Committee and Corporate Services are working to mitigate the risks that have been identified. Following discussion, members requested that an updated risk register be tabled at the next plenary meeting.

John Maher, Chairperson, Audit and Risk Committee meeting joined the meeting.

JM introduced himself to Commission members and confirmed that the next meeting of the Audit and Risk Committee will take place in September. A further meeting will take place before year end. The protocol for the Audit and Risk Committee meetings is that the members meet first without the executive present.

JM gave an overview of the internal audit plan and confirmed that the draft ARC Terms of Reference are being finalised and will be signed off at the next meeting. Since the appointment of members of the Audit and Risk Committee significant work has been done by the Committee.

The C&AG are currently on site finalising the 2018 Audit and an internal audit of legal expenditure is in progress.

It was confirmed that the internal audit function would be retendered at the end of the current contract with Mazars.

JM proposed that he would brief the Commission 4 times a year following each Audit and Risk Committee meeting.

Mr. Maher left the meeting.

4.1 Update from Chief Commissioner

The Commission were updated on a number of key issues.

The Commission welcomed the decision of Mr Justice Iarfhlaith O'Neill, that survivors of child sexual abuse in National Schools cannot be excluded from the State's ex gratia payment scheme because they have not established a 'prior complaint' against their abuser. Following the Commission's rule 9

application on this matter, the Commission has been raising concerns, at both European and national level, about the State's ex gratia scheme since 2015. EL confirmed she will be following up on the matter with the Government to ensure effective remedy to those who are being denied justice by inaction.

The Joint Committee research report '*Evolving Justice Arrangements Post-Brexit*' authored by Amanda Kramer, Rachael Dickson, and Anni Pues will be published over the summer.

The annual conference of the European Commission against Racism and Intolerance will take place in Paris in September. Members were asked to express their interest if they wish to attend.

EL mentioned recent comments by Senator Michael McDowell on RTÉ Radio on the Judicial Appointments Bill. She may arrange a meeting with the Senator to explain the role of the Commission.

4.2 Director's Report

The Director's Report had been circulated to the Commission prior to the plenary meeting and was taken as read.

Arising from discussion it was agreed that the Commission would be provided with dates and more information on the 'Other Commissioned Research'.

On the issue of de-institutionalisation, it was noted that the issue is broader than movement from larger traditional setting and must take account of institutionalisation in 'modern' care institutions which may also fail to meet the rights of the individual residents. There is also the phenomenon of 'institutionalisation' of adult persons with intellectual disabilities in family settings in the absence of alternatives. Members suggested that there is a need to revisit state policy and reconsider what deinstitutionalisation means. EL's noted that her understanding is that the office of the Ombudsman is looking into this matter.

4.3 Update on Committees

(a) Disability Advisory Committee

TB, Chair of the Committee updated members on the Committee's activities, in particular the roll out of the '*Because we're all human. Means we're all equal*' national awareness campaign which aims to inform attitudes towards people with disabilities.

A conference on Reasonable Accommodation and achieving work equality will take place on 7th October 2019.

It was agreed that the Commission would write to the Department of Education regarding the July Provision Scheme.

(b) Legal Casework Committee

COD, Chair updated members on the work of the Casework Committee and confirmed it is intended to bring revised Amicus Curiae guidelines to a future plenary meeting.

The Committee is also advancing work on own name proceeding's Guidelines which will also be brought to the Commission in due course.

The Committee recommended that the Commission apply for leave to appear as *amicus curiae* in two cases.

(c) Audit and Risk Committee

This matter was discussed under *Agenda Item 3.1 Finance and Risk Update*.

The next meeting of the Audit and Risk Committee will take place in September.

5.1 AOB

The failures of the Cervical Check Programme were raised at the meeting. The Right to Health is one of the Commission's strategic priorities. The situation is worrying, and it does raise human rights issues-the right to the highest level of health, access to information and gender equality.

EL noted the previous work of the Commission on Article 41.2 and the upcoming Citizens Assembly in October on gender equality which will give the Commission an opportunity to comment publicly on the matter.

Signed:


Emily Logan
Chief Commissioner

Date:

17 September 2019

