

Minutes

62nd Ordinary Commission Meeting

26 January 2023 | 10:00am – 3:00pm

Irish Human Rights and Equality Commission, 16-22 Green St., Dublin 7

Present:

- Sinéad Gibney, Chief Commissioner (SG)
- Heydi Foster Breslin (HFB)
- Jim Clarken (JC)
- Dr Frank Conaty (FC)
- Prof Caroline Fennell (CF)
- Tony Geoghegan (TG)
- Michael Finucane (MF)
- Prof Kathleen Lynch (KL)
- Dr Salome Mbugua (SM)
- Dr Lucy Michael (LM)
- Dr Rosaleen McDonagh (RMcD)
- Colm O'Dwyer SC (COD)

Apologies:

- Adam Harris (AH)
- Sunniva McDonagh SC (SMcD)
- Prof Ray Murphy (RM)

In attendance:

- Éimear Fisher, Acting Director
- Dr Iris Elliott, Head of Policy and Research – Items 3.1, 4.1, 6.1
- Maria Mullan, Policy and Research – Items 3.1, 6.1
- Kieran Timmons, Policy and Research – Item 3.1
- Dr Nuala Connolly, Policy and Research – Item 4.1
- Michael O'Neill, Head of Legal – Items 6.1, 7.1, 8.1, 9.1
- Muireann Ní Thuairisg, Minute taker

The 62nd Ordinary Plenary Meeting of the Irish Human Rights and Equality Commission took place at the IHREC offices, 16-22 Green Street, Dublin 7 between 10:00am – 3:20pm on 26 January 2023.

1.1 Apologies, Quorum and Declaration of Interest

Apologies were noted from AH, SMcD and RM. The meeting was quorate. CF declared an interest regarding Agenda Item 8.1 *Amicus Curiae* and recused herself from this part of the meeting.

1.2 Closed Session for Members

The Commission met in closed session. There were no action items arising.

1.3 Draft Minutes

The draft minutes of the 61st Ordinary Commission meeting of 8 December 2022 were approved, proposed by CF and seconded by KL.

The draft minutes of the Extraordinary Commission meeting of 8 December 2022 were approved, proposed by COD and seconded by CF.

The draft minutes of the Extraordinary Commission meeting of 6 January 2023 were approved, proposed by SM and seconded by FC.

1.4 Matters Arising

The Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) will meet with the Commission as part of their evaluation visit on 30 January. Details will be circulated to commission members who are welcome to attend.

JC requested that commission members are involved in any induction of new commission members.

SG agreed to SM's request to discuss the situation regarding newly arrived applicants for International Protection.

1.5 Director's Report

The Director's Report was taken as read. ÉF updated members on a number of key items in the report.

The Public Appointments Service (PAS) is progressing the competition for the appointment of a permanent Director. The advertisement for the competition will be published on 27 January, with a closing date of 17 February. The role of commission members in the recruitment process is not yet confirmed and will be determined by the PAS. SG noted that in previous discussions on this matter, the Commission identified JC as the commission member who could participate in the process.

Members emphasised the importance of publishing without delay the *Second Generation Minority Ethnic Young People in Ireland* study with DCU.

ÉF noted that work is ongoing on the 360 review of the Your Rights information service. A tender process is in place and it is hoped to have the contract finalised by the end of March. IHREC has commissioned 19 legal fact sheets which will be made available on the website and in plain language. Work is also ongoing on improving the functionality of the website.

The Policy Statement on Constitutional Recognition of Economic, Social and Cultural Rights will be published in January.

1.6 Chief Commissioner Update

The Chief Commissioner Report was taken as read. SG updated members on a number of key items in the report.

The Public Appointments Service went live with the Commission member recruitment on 5 January, with applications open until 2 February. There are six vacancies and members are encouraged to share the advert with their contacts.

SG chaired an optional session with commission members on 9 December to discuss how the Commission is working and where they might make process improvements to work better together. A note of this meeting will be incorporated into the board evaluation process.

Subcommittee and Advisory Committee meeting dates for 2023 will be circulated to members and will be available to view on *Decision Time*.

SG attended a gathering in the Netherlands Institute of Human Rights in Utrecht on 12-13 January, along with representatives from NHRIs in Belgium, Denmark, Germany and Norway, to discuss strategic planning, with a specific focus on monitoring and evaluation. SG will advance work on strategic planning throughout 2023 to prepare for a planning cycle to begin in earnest early in 2024 for a milestone strategic plan for IHREC as it hits ten years in existence.

SG met with John O'Connor, chair of the Housing Commission and discussed the work of the Housing Commission, their hopes for the pathway towards a referendum and the comparison to other European countries. IHREC has been invited to follow up with written on the clarity on the human rights and equality obligations that should inform their reporting, and hopefully an opportunity to engage directly with the Commission.

It was agreed to circulate the submission from April 2022 to the Minister for Justice on the General Scheme of the Garda Síochána (Digital Recording) Bill.

2.1 Committee Updates

(a) Casework Committee

An update note on the Casework Committee meetings of 7 December, 8 December, 19 December, 6 January and 16 January were taken as read.

Members requested future update notes to include the reason why the Casework Committee decide not to seek leave to intervene on a legal case.

(b) Future of Equality Legislation Advisory Committee

An update note on the Future of Equality Legislation Advisory Committee meeting of 19 December was taken as read.

(c) Worker Employer Advisory Committee

An update note on the Worker Employer Advisory Committee meeting of 5 December was taken as read.

Members discussed the importance of incorporating business and human rights into their work and in particular due to its alignment with the Strategic priority of economic equality. SG noted that, as was agreed in a meeting last year, the Commission could engage with the European Commission on a recurring basis and give consideration to submitting legislative observations at EU level in addition to domestically – the directive on Due Diligence could potentially be prioritised for this. SG noted that there was otherwise not additional capacity to advance this work, particularly with the departure of the key staff member with expertise in this area.

3.1 Submission on the Review of the Education for Persons with Educational Needs ('EPSEN') Act 2004

A draft submission on the Review of the Education for Persons with Educational Needs Act 2004 was circulated to members prior to the meeting.

The submission was approved and will be finalised taking into account feedback from Commission members.

During the discussions, it was agreed that the Public Sector Equality and Human Rights Duty will be tabled for discussion at a future plenary meeting.

4.1 Policy Statement on Just Transition

A draft policy statement on Just Transition was circulated to members prior to the meeting.

The statement was approved and will be finalised taking into account feedback from Commission members. Members are welcome to send any additional comments by email as soon as possible.

X.X Discussion on International Protection

SG and staff have been working on communicating a clear message across media and civil society that Ireland is currently in clear breach of its international obligations regarding newly arrived applicants for International Protection. A letter will issue shortly to Minister for Children, Equality, Disability, Integration and Youth Roderic O' Gorman T.D.

On 19 December 2022, SG wrote to the Department to place on the record the Commission's concerns regarding standards of emergency accommodation both for people claiming International Protection and for those arriving under the Temporary Protection Directive. SG informed members that staff from the Commission have visited a number of temporary accommodation sites, on foot of engagement to date with civil society organisations working with applicants for International Protection and those under the Temporary Protection Directive. SG will join them on a visit in the coming weeks.

SG and ÉF have arranged to meet with the National Coordinator of the Ukraine Civil Society Forum. Members requested she also meet with the Irish Refugee Council and to also engage with housing groups.

SG noted members are welcome to contact her directly if they are approached to comment on the matter or should they have any questions. SG agreed to circulate the current media briefing notes to members.

5.1 Commission Handbook

Due to timing difficulties, the Commission agreed to table this matter for discussion at the next Commission meeting.

6.1 Gender Identity Paper

A draft paper '*Gender Identity in Irish Equality Law*' was circulated to members prior to the meeting.

Members discussed the current law and options for the inclusion of gender identity in equality legislation, agreeing that any review of equality legislation must address improved protections of rights for Trans people.

The Future of Equality Legislation Advisory Committee will be discussing Gender Identity as part of their work on the review of the Equality Acts.

7.1 Section 35

A number of documents were circulated in advance of the meeting including section 35 process map, a document list and draft terms of reference for the Section 35 Triage Group.

Members approved the Terms of Reference and agreed to add the Chairperson of the Casework Committee to the fixed membership of the Triage Group. Commission members who are legal practitioners and lay persons will be represented at meetings. The Financial assessment will be more visual in the process map.

The Triage Group meetings will be minuted and update notes will be provided at Commission meetings.

8.1 Amicus Curiae

A memo from the Head of Legal was circulated in advance of the meeting.

Following discussion, the Commission agreed to no longer apply for liberty to appear as amicus curiae in *Lavin v. Minister for Housing, Planning and Local Government* (High Court Record No. 2019/1760 P) in light of the enactment of the Electoral Reform Act 2022.

9.1 Code of Practice on Reasonable Accommodation

A memo and *Code of Practice on the Nature and Extent of an Employer's Obligations to Provide Reasonable Accommodation to Employees with Disabilities* was circulated to members in advance of the meeting.

Members agreed to send the draft Code to the Minister for Children, Equality, Disability, Integration and Youth pursuant to section 31 of the Irish Human Rights and Equality Commission Act 2014.

There being no further business, the meeting concluded at 3:00pm.