



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

Minutes of the Irish Human Rights and Equality Commission
(Twenty First Ordinary Plenary Meeting)
20 September 2017

Present: Ms. Emily Logan, Chief Commissioner (EL); Ms. Teresa Blake (TB); Mr. Frank Conaty (FC); Ms. Heydi Foster-Breslin (HFB); Mr. Liam Herrick (LH); Mr. David Joyce (DJ); Mr. Mark Kelly (MK); Ms. Sunniva McDonagh (SMD); Professor Siobhán Mullally (SM); Dr. Mary Murphy (MM); Dr. Fidèle Mutwarasibo (FM); Ms. Orlagh O'Farrell (OOF); Ms. Betty Purcell (BP); and Mr. Kieran Rose (KR).

Apologies: Professor Ray Murphy (RM).

In Attendance: Laurence Bond, Director (LB); Ruth Gallagher, Head of Policy, (RG) (Agenda items: 3.1 and 3.2); Michael O'Neill, Head of Legal (MON) (Agenda items: 4.0 to 4.4); Kevin De Barra (KDB).

The Twenty First Ordinary Meeting of the Irish Human Rights and Equality Commission took place between 10:30 and 14:00 on 20 September 2017 at 16 – 22 Green Street, Dublin 7.

TB attended the beginning of the meeting by teleconference, but due to technical difficulties was unable to contribute or participate fully and confirmed that the meeting should proceed in her absence.

SECTION 1.0

1.1 Closed Session

LB and KDB joined the meeting.

1.2 Agreement of Agenda

The Commission agreed the agenda which had been circulated in advance, and agreed that further discussion in relation to the *Policy Paper on the Eighth Amendment* would be accommodated as a discrete item under *Any Other Business*.

1.3 Declarations of Interest

In relation to the following agenda item *Policy Paper on the Eighth Amendment*:

- LH declared that the Irish Council for Civil Liberties, of which he is CEO, had adopted a policy position in relation to the Eighth Amendment.
- SM declared that she was engaged with Lawyers for Choice and that she was a former Board Member of Amnesty Ireland.

In relation to the following agenda item *Amicus Curiae Assessments*:

- SMD declared that she would be recusing herself from discussion in the matter of [REDACTED]
- HFB declared that she would be recusing herself from discussion in the [REDACTED]

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

1.4 Minutes of previous Commission Meeting (28.06.2017)

The Minutes of the Twentieth Ordinary Commission Meeting of the 28 June 2017 were agreed as amended, proposed by MK and seconded by FC.

1.5 Matters arising, not otherwise dealt with on the Agenda

In relation to Actn_20_06, it was confirmed that a meeting with Minister of State with Responsibilities for Disability Issues, Finian McGrath, T.D., had been sought, but a date had yet to be confirmed for this meeting.

There were no other matters arising from the minutes, other than those already tabled for discussion on the agenda.

1.6 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 and answered questions from members particularly in relation to:

- Address to the Citizens' Assembly on 'How we best respond to the challenges and opportunities of an ageing population';
- Appearance before the Committee on Budgetary Oversight;
- Meeting with Workplace Relations Commission;
- Meeting with Director of the Dublin Regional Homeless Executive;
- Meeting with Minister for Housing, Planning, Community and Local Government Eoghan Murphy T.D.;
- Visit to the Crosscare Family Hub;
- Informal meeting with Chairperson of the Joint Committee on the Eighth Amendment of the Constitution;
- Meeting with the Bar Council of Ireland;
- Meeting with the CEO of the Health Information and Quality Authority (HIQA).

EL confirmed that an invite had been received from the Joint Committee on Housing, Planning, Community and Local Government to appear before the Committee on 20 September 2017 on the matter of 'Investing in the Right to a Home: - Housing, HAPS and Hubs Report'. As this date conflicted with the date of the Commission's Plenary meeting, the invitation was declined in this instance with an open letter for future engagement sent to the Chair of the Committee.

At the meeting with the Chairperson of the Oireachtas Committee on the Eighth Amendment, the Chief Commissioner was briefed on the three modules to be undertaken by the Committee. The Committee was due to meet in private on 13 September 2017 and following that meeting invitations to appear before the Committee would be issued. The Committee indicated that with the Oireachtas

Committee agreement, an invitation would issue to Prof. Siobhán Mullaly and the Chief Commissioner, given that the second module related to international human rights standards.

It was confirmed that Commission-related correspondence received directly by Members should be brought to the attention of the Director so that it may be appropriately processed and responded to through the correct channels.

It was confirmed that an invitation had been issued to the Minister for Foreign Affairs and Trade with responsibility for Brexit, Simon Coveney, T.D., to attend the next meeting of the Joint Committee which would focus on the theme of Brexit and its implications for human rights and equality. A date has not yet been confirmed for the meeting of the Joint Committee. The Commission discussed Actn_18_02 and agreed that it would not be wise to seek to host an event, in conjunction with the NIHRC, to consider the implications of Brexit in the absence of an Assembly in Northern Ireland but a later date would still be pursued with the DFA.

It was agreed that the submission to the Policing Authority on the draft *2018 Policing Priorities* would be circulated to members for their information. [Actn_21_01]

SECTION 2.0

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.

LB informed the Commission that he had received a personal invitation to partake in the Strategic Human Rights Advisory Committee (SHRAC) of An Garda Síochána which is to be reconvened.

LB confirmed that following approval of the indicative financial strategy to year-end at Plenary on 28 June 2017, a revised budget 2017 has been prepared which will be discussed at the next meeting of the Finance Committee meeting on 06 October 2017. LB also confirmed that the estimates process for 2018 is in train, and that an increased ECF has been sought for 2018.

LB updated the Commission on a number of matters pertaining to human resources, and indicated that the filling of all remaining vacancies will continue to be prioritised and to facilitate this, discussions with the staff unions on the issue of the sequencing of recruitment across all grades have commenced.

LB confirmed that the call for proposals under the Human Rights and Equality Grant Scheme 2017 closed to applications on 06 September 2017 and that it is anticipated that the assessment process will be completed by mid-October.

The Commission welcomed the descriptive summary of 2017 Legal Assistance activity to end-August and congratulated the Executive on its accreditation under the international client care and practice management 'Lexcel Standard'.

The Commission discussed the detailed examination of Ireland by the UN Committee against Torture which took place in July 2017, and the associated concluding observations published in August, which offer detailed recommendations to the State. The Commission discussed the State's engagement with the UN Committee and the related matters more generally, and discussed the ongoing attention required in this area.

The Commission discussed the ongoing work on family reunification, including monitoring the progress of the International Protection (Family Reunification)(Amendment) Bill 2017. While the policy team was working on family reunification, it was suggested that this be combined with the use

of our statutory powers on keeping the effectiveness of law and practice under review at a reasonable time following the operationalising of the legislation, possibly early 2018.

MM joined the meeting: 11:35

The Commission discussed the ongoing project which aims to raise awareness of the United Nations' Universal Human Rights Index, and discussed the development of a tool to track implementation of UN recommendations. The Commission agreed that consideration should also be given to developing a similar tool for the parallel set of issues within the EU legislative equality framework which could also be profiled on the Commission's website.

In the context of discussion on the *Your Rights* activity report, it was noted that the issue of homelessness attracted the highest proportion of queries, and the Commission reiterated the need to continue to highlight in its policy work recommendations which would address the underlying causes of homelessness.

The meeting broke from 12:10 – 12:25. RG joined the meeting.

SECTION 3.0

3.1 Observations on the Casualisation of Work

The Commission received a Draft Scheme of the Terms of Employment (Information) (Amendment) and Organisation of Working Time (Amendment) Bill 2017 from the Department of Jobs, Enterprise and Innovation in June 2017 along with an accompanying Regulatory Impact Assessment.

The Commission considered a draft policy document which included observations prepared in anticipation of the publication of the legislation later this year. The Commission commended the early engagement with the Department on this matter, and in discussing the document agreed that further consideration should be given to the potential to weight the series of recommendations in line with the Commission's own strategic priorities. The Commission also agreed that further consideration should be given to the parallel issue of the Constitutional right for citizens to form associations and unions and any indirect penalties experienced by those who exercise this right. It was agreed that the Commission's observations should be shared with the Department of Jobs, Enterprise and Innovation but are not to be published at this time. [Actn_21_02]

3.2 Irish Research Council co-funded research

RG provided an update on a current project co-funded with the Irish Research Council under their Research for Policy and Society Awards 2016. The project aims to develop a methodological tool for the identification, collection and tracking of racist hate materials on public Facebook pages and on Twitter. The Commission noted the intended outputs in 2018 which included a report outlining key policy recommendations, a public event which will launch the report and provide a platform to discuss the attendant issues, and two academic papers – one focusing on methodological aspects and one drawing on the findings of the research.

LH left the meeting: 12:54. RG left the meeting. MON joined the meeting.

SECTION 4.0

MON updated the Commission in relation to a recent decision by Donegal County Council to agree to quash its decision to defer housing support to a Traveller family, including two children with serious medical needs, who have been living in the County without basic facilities, including running water.

4.1 Guidelines on Retirement and Fixed Term Contracts

The Commission considered draft Guidelines on Retirement and Fixed Term Contracts, which had been circulated in advance, along with accompanying advices from MON. The Commission approved the guidelines for issue to the public, subject to textual amendments agreed at the meeting. The Commission agreed that a separate accessible text to accompany the guidelines would also be produced and published. It was agreed that MON will liaise with EL to coordinate a suitable date for publication. [Actn_21_03]

4.2 Proposal: Code of Practice on Pay Equality

The Commission considered a memorandum of 24 August 2017 prepared by the legal team and requested that a draft text of Code of Practice on Equal Pay, in accordance with S.31 of the Irish Human Rights and Equality Act 2014, be prepared by the Executive for consideration by the Commission at a future date. [Actn_21_04]

4.3 Amicus Curiae Assessments

[REDACTED]

SMD recused herself and left the meeting.

The Commission considered advices in relation to an assessment on whether IHREC would seek liberty to intervene as amicus curiae in proceedings pursuant to S.10(2)(e) of the Irish Human Rights and Equality Commission Act, 2014 in relation to the following case:

- [REDACTED]

The Commission agreed with the advices submitted and recorded its decisions to apply for liberty to appear as amicus curiae before the Supreme Court in this matter, as per Decision #1 of September 2017.

SMD returned to the meeting.

[REDACTED]

The Commission considered advices in relation to an assessment on whether IHREC would appear as amicus curiae in proceedings pursuant to S.10(2)(e) of the Irish Human Rights and Equality Commission Act, 2014 in relation to the following case:

[REDACTED]

The Commission agreed with the advices submitted and recorded its decision to appear as amicus curiae before the Court of Appeal in this matter, as per Decision #2 of September 2017.

[REDACTED]

HFB recused herself and left the meeting.

The Commission considered advices in relation to an assessment on whether IHREC would seek liberty to intervene as amicus curiae in proceedings pursuant to S.10(2)(e) of the Irish Human Rights and Equality Commission Act, 2014 in relation to the following case:

[REDACTED]

The Commission agreed with the advices submitted and recorded its decision to appear as amicus curiae before the Court of Appeal in this matter, as per Decision #3 of September 2017.

HFB returned to the meeting.

4.4 S.40 Indemnity

The Commission considered advices dated 05 September 2017 and following considerable discussion, agreed to provide a limited and specified indemnity as to costs to S.40 recipients in named proceedings and recorded its decision as per Decision #4 of September 2017.

MON left the meeting.

SECTION 5.0

5.1 Appropriation Account 2016

The Commission noted that as Director, and as Accounting Officer for Vote 25, Laurence Bond is responsible for the preparation and submission of the appropriation account for the Vote, to the Comptroller and Auditor General (C&AG). The Commission considered the 2016 Appropriation Account which has been audited by the C&AG and had been previously reviewed by the Audit and Risk Committee. The Commission noted the statutory deadline of 30 September 2017 for publication of the Appropriation Account as part of the Annual Report of the Comptroller and Auditor General. It was noted that when published on the IHREC website, additional material would be included to address business reporting requirements under the Code of Practice for the Governance of State Bodies which do not form part of the Appropriation Account.

The Commission noted a declaration in relation to public procurement within the Appropriation Account by the Accounting Officer. The Commission noted that a surplus of €134,747 is liable for surrender to the Exchequer, and also noted the specifics of Notes 2.1 and 6.2 which related to unspent pre-incorporation state grant funding of €179,000 repayable to the Exchequer.

SECTION 6.0

6.1 Any Other Business

6.1.1 Policy Paper on the Eighth Amendment

The Commission discussed the Policy Paper on the Eighth Amendment which had been approved by a majority vote at its last meeting and agreed to include in the body of the text material concerning the basis for choosing a gestational limit which had previously been cited as a footnote.

In anticipation of the Commission being invited to appear before the Joint Committee on the Eighth Amendment of the Constitution on 04 October 2017, it was agreed that this policy document would be circulated to members of this Committee in advance, and published on the day of the Joint Committee meeting.

6.1.2 Climate Change

Members agreed that the human rights concerns relating to the broad topic of climate change would be discussed at a future strategy Away Day.

6.1.3 Acquittal of Ibrahim Halawa

Having previously expressed concern in relation to the situation of Ibrahim Halawa, who had been detained without trial in Egypt since August 2013, the Commission welcomed the recent news that he and his sisters have been acquitted on all charges

6.1.4 The Electoral Acts – Standards in Public Office Commission

The Commission discussed the Electoral Acts which provide that donations must be disclosed in a form determined by the Standards in Public Office Commission. It was brought to the Commission's attention that a number of complaints to the SIPO which have interpreted the provisions by the Standards Commission as "political purposes" include the legitimate advocacy and campaigning work in any democracy of a number of non-governmental organisations (NGOs) based in Ireland.

6.2 Date of Next Meeting

Noting that the upcoming vacancies at the Irish Human Rights and Equality Commission will be advertised by the Public Appointments Service shortly, EL thanked all members for their contributions to date and emphasised that the Public Appointments Service will independently manage the entire recruitment process.

The 22nd Ordinary Meeting of the Irish Human Rights and Equality Commission will take place on the 06 December 2017 at 10:30.

There being no other business, the meeting concluded at 14:30.

Signed: 
Emily Logan, Chief Commissioner

Date: 06 December 2017