



**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-Seventh Ordinary Plenary Meeting
19 September 2018

Present:

Emily Logan, Chief Commissioner (EL)
Teresa Blake (TB)
Heydi Foster Breslin (HFB)
Frank Conaty (FC)
Paddy Connolly (PC)
Colm O' Dwyer (CO'D)
Caroline Fennell (CF)
Tony Geoghegan (TG)
David Joyce (DJ)
Salome Mbugua (SMb)
Sunniva McDonagh
Siobhán Mullally (SM)
Ray Murphy (RM)

Apologies:

Orlagh O'Farrell (OO'F)
Fidèle Mutwarasibo (FM)

In Attendance:

Laurence Bond, Director (LB)

Michael O'Neill, Head of Legal (Items 4.1, 4.2, 4.3)
Jean O'Mahony, Head of Strategic Engagement (Item 4.6)
Dr Iris Elliott, Head of Policy and Research (Item 3.3, 4.5, 4.6)

Muireann Ní Thuairisg, (Minute Taker)

The Twenty-Seventh Ordinary Plenary Meeting of the Irish Human Rights and Equality Commission took place between 12:30pm and 4:30pm on 19 September 2018 at IHREC, 16–22 Green Street, Dublin 7.

1.1 Apologies, Quorum and Declarations of Interest

Apologies: Orlagh O' Farrell, Fidele Mutwarasibo

Declarations of Interest: There were no declarations of interest made in relation to any item on the agenda.

1.2 Minutes of previous Commission Meetings

In relation to the draft minutes of the ordinary plenary meeting held on 12th June, PC queried a reference regarding a point OO'F raised regarding undertainga a scoping around EU engagement. LB agreed to examine the notes of 12 June to clarify the agreed action. LB also confirmed that a tender for a monthly EU briefing had issued.

The draft minutes of the Ordinary Plenary Meeting on 12 June 2018 were agreed.

The draft minutes of the Extraordinary Plenary Meetings held on 21st June 2018 and 21st August 2018 were agreed.

1.3 Matters arising, not otherwise dealt with on the Agenda

There were no matters arising.

1.4 Update from Chief Commissioner

EL informed members of the appearance of the Commission before a meeting of the Oireachtas Joint Committee on Justice and Equality. The meeting was held at 10:00am that morning on Article 41.2 of the Constitution. SM, FC and EL addressed the Committee.

2.1 Director's Report

The Director's Report had been circulated in advance of the meeting and was taken as read.

LB updated members on staffing and recruitment, noting in particular the recent sanction of the recruitment of a Principal Officer to Corporate Services which is an important step towards strengthening the corporate services function.

LB noted the current budget position outlined in the report and members discussed the expected year-end underspend on both the pay and non pay budgets. LB noted that it was expected that IHREC's 2019 Vote would be at the same level as 2018.

Members noted that in part the projected underspend arose because we had not yet engaged the S35 inquiry power. Following discussion it was agreed that a renewed focus on effective use of the inquiry power was needed. In this regard it was suggested that the Commission would need to agree thematic priorities and it was agreed that this would be addressed by the Commission at a future meeting. LB indicated that a significant amount of technical scoping of the inquiry power had been carried out in 2015/2016 and that the relevant documents could be recirculated to members.

SMB raised the matter of possible discriminatory practices in our where Irish or EEA citizenship is a requirement when applying for a position. It was noted that IHREC is governed by the rules of the civil service recruitment, which are compatible with equality law.

There was a successful visit by TB and SMD to Limerick Prison, and organisers were pleased of the presence of two Commission members at the event.

3.1 Nomination of Chair and Vice Chair for (a) Research Advisory Committee and (b) Worker Employer Advisory Committee

The following Commission members were appointed members of Research Advisory Committee:

- Salome Mbugua
- David Joyce

The following Commission members were appointed members of the Worker Employer Advisory Committee:

- Tony Geoghegan
- It was agreed to follow up directly with current Vice-Chair, Orlagh O' Farrell to confirm her membership of the Committee.

The role of the Casework Committee was discussed, with some members recognising the value of the Committee as a separate forum to discuss legal cases, and other members viewing the committee as duplicating discussions of legal cases that would have to be decided at either a plenary meeting or extraordinary plenary meeting. It was decided to discuss the Committee meetings at either a later plenary meeting or at a Strategy day.

3.2 Nomination of Members of the Audit and Risk Committee

The following Commission members were appointed members of Audit and Risk Committee:

- Heydi Foster Breslin
- Paddy Connolly

3.3 Disability Advisory Committee TOR and Nomination of Chair and Vice Chair

The following Commission members were appointed members of the Disability Advisory Committee, with a decision on a rotating Chair and Vice Chair to be made by Commission Committee members.

- Emily Logan
- Teresa Blake
- Frank Conaty

It was agreed that the role of Chair and Vice Chair could be rotated annually.

Dr Iris Elliot (IE) and Jean O' Mahony (JOM) joined the meeting.

IE briefed members on the draft Terms of Reference of the Disability Advisory Committee, and outlined the proposed approach and timeline for the recruitment of members.

Following discussion the Terms of Reference were agreed subject to a number of amendments. In addition members emphasised the importance of supporting the participation of advisory committee members.

IE and JOM left the meeting.

MON joined the meeting.

4.1 Decision re amicus

Following discussion in the matter of *Marie Daly v Nana Nagle School*, the Commission agreed to apply to the Supreme Court for liberty to appear as *amicus curiae*.

4.2 Memo on Trafficking Case

MON updated members on the case. [REDACTED]

The case is to be listed for hearing on 2nd October. Due to the important human rights issues at stake, it was agreed that the case would be discussed at a later meeting and in the interim, EL instructed that Counsel's opinion be circulated to members.

4.3 Draft Code of Practice on Sexual Harassment

The Commission approved the draft Code of Practice on Sexual Harassment and Harassment at Work for consultation, in accordance with section 31(2) of the Irish Human Rights and Equality Commission Act 2015, with appropriate bodies, persons and Ministers.

MON left the meeting.

RG joined the meeting.

4.4 Update on Joint Committee

RG summarised the work of the Joint Committee of the Irish Human Rights and Equality Commission and Northern Ireland Human Rights Commission in 2018, including ongoing tendered research and a planned roundtable discussion on a date to be confirmed, organised by the Northern Ireland Office. The growing visibility and profile of the Joint Committee was noted by members, as well as the valuable engagement between the offices of the IHREC and NIHRC.

EL noted the date of the next meeting of the Joint Committee on 14th November 2018.

RG left the meeting.

4.5 Observations on General Scheme-Health (Regulation of Termination of Pregnancy) Bill 2018

The Commission approved the Observation by the Irish Human Rights and Equality Commission on the General Scheme of a Bill Entitled Health (Regulation of Termination of Pregnancy) Bill 2018.

Members discussed the paper, including that the scheme has more provisions that the Commission might want to comment on but that there is a caveat that the Commission could make further comment on legislation in the future.

TB referenced an email sent by her to Commission members on 18th September 2018 outlining her views that further work is required on the legislative observations, in particular further detail is required on Article 9, European Convention on Human Rights and a more detailed explanation is needed on the meaning of conscientious objection.

Members also made the following suggested amendments:

- (a) that paragraphs should be numbered;
- (b) the comment on the waiting period on page 6 should be removed;
- (c) a footnote to be added to the paper as per approved Commission policy that this is the majority view of the Commission and that one member did not support the view.

As unanimity was not reached, as per r S.16(3) of the IHREC Act 2014, the question was determined by a majority of the votes of the members of the Commission present and voting on the question.

The matter was agreed 7 votes to 1 vote.

4.6 Briefing on ESRI Research Report "Disability and Discrimination in Ireland"

Due to time constraints, the briefing did not occur however members were reminded that the ESRI research report is available on the IHREC portal.

5.1 Update on Strategy

Alistair Hodgett, Polwarth Strategy and Hugh O'Connor, OCS Consulting joined the meeting and briefed members on the progress with the consultation on the IHREC Strategy Statement 2019-2021.

5.2 Any Other Business

EL referred to two letters from the Minister for Justice and Equality:

- 31st July 2018: Requesting IHREC take on the role of Independent Rapporteur in relation to Human Trafficking. EL noted the ongoing communication between the Policy and Research team and DJE officials on this matter.
The Commission agreed to continue engaging with Department officials and explore the matter further.
- 31st July 2018: **Criminal Law (Sexual Offences) Act 2017** -requesting IHREC prepare a report on assessing the impact on the safety and well-being of persons who engage in sexual activity for payment (a) how a report might be formulated (b) whether it might consider undertaking this report as part of its work programme).
The Commission agreed to respond to the Minister declining the request.

Under AOB, SM asked if the Commission should comment on the recently published report- '*Dr Gabriel Scally's Scoping Inquiry into Cervical Check*' now or engage on this in the future. EL confirmed

that the IHREC is mentioned in the report but it would be better for now to reflect and consider the findings of the report.

There being no other business, the meeting concluded at 4.30pm.

Signed: Emily Logan
Emily Logan, Chief Commissioner

Date: 31 Oct 2018