

EQUALITY COMMISSION FOR NORTHERN IRELAND

ONE HUNDRED AND SEVENTY NINTH MEETING HELD
ON WEDNESDAY 24 FEBRUARY 2021 AT 1.30 PM
BY MICROSOFT TEAMS

PRESENT

Geraldine McGahey	Chief Commissioner
Neil Anderson	Deputy Chief Commissioner
June Best	
Theresa Donaldson	Part
Duane Farrell	
Helen Ferguson	
Hazel Francey	
Jarlath Kearney	
Carmel McKinney	
Joe McVey	
Deepa Mann-Kler	Part
Stephen Mathews	
Dawn Purvis	Part
Katy Radford	

APOLOGIES

IN ATTENDANCE

Evelyn Collins	Chief Executive
Keith Brown	Head of Corporate Services
Lisa King	Director, Research and Investigations
Roisin Mallon	Director, Dedicated Mechanism
Jacqui McKee	Director, Advice and Compliance
Anne McKernan	Director of Legal Services.
Darren McKinstry	Director, Policy and Strategic Engagement
Louise Conlon	Manager, Communications
Patricia Cosgrove	Dedicated Mechanism Unit
Mary Kitson	Senior Legal Officer
Lisa Taggart	Senior Legal Officer
Lai Pang	Boardroom Apprentice

1. Introduction

The meeting was taking place by Microsoft Teams video conference due to Government guidance on the Coronavirus pandemic.

2. Minutes of the one hundred and seventy eighth meeting held on 27 January 2021.

EC/21/02/01

The minutes of the one hundred and seventy eighth meeting held on Wednesday 27 January 2021 were **signed** as a true and accurate record. June Best's name to be removed from the list of Commissioners present as she had not attended and was noted under Apologies.

3. Matters Arising

Pg 2 Draft Business Plan: the working draft Business Plan was submitted to The Executive Office prior to 31 January deadline. It will be submitted for the Commission's further consideration once the budget for next year is known.

4. Conflict of Interest

No conflicts of interest were declared.

5. Policy Issues

- Paper for Ad Hoc Committee on Bill of Rights EC/21/02/02

Roisin Mallon, Director, Dedicated Mechanism Unit, presented this paper, seeking approval of updated Commission recommendations on a Bill of Rights for Northern Ireland. The proposed positions were based on previous policy positions. She explained that Counsel's advice had been sought and had been received just prior to the meeting and, as a result, some further refinement of the positions would be required. Approval was being sought in advance of the Commission giving evidence to the Ad Hoc Assembly Committee on a Bill of Rights in March 2021.

Commissioners welcomed the paper. There were queries in respect to references to both the rights of disabled people and of older people. It was noted that the paper made particular reference to the international

standards set out in the UN Convention for Rights of People with Disabilities. It was agreed that these references would be made more explicit in the submission. Reference was also made to the need for equality law reform, particularly in respect of protections for older people accessing good, facilities and services.

Roisin Mallon related the advice received by Counsel and it was agreed that the draft would be amended in light of this, and a further draft would be forwarded to Commissioners by email for approval.

- Draft Memorandum of Understanding: Article 2 All Island Dimension
EC/21/02/03

The Chief Executive presented a draft Memorandum of Understanding (MoU) to underpin the arrangements for joint working between the Commission, the Northern Ireland Human Rights Commission and the Irish Equality and Human Right Commission in respect of monitoring the all island dimension of the Article 2 commitment. . She noted that this had been discussed by Commissioners at the November 2020 meeting and the draft MoU was considered by the by the joint Working Group at its first meeting on 9 February 2021. She outlined the detail in the draft and sought Commissioners' approval.

Following discussion, Commissioners **approved** the Draft Memorandum of Understanding: Article 2 All Island Dimension.

[Dawn Purvis joined the meeting]

- Revised Legal Advice and Assistance Policy
EC/21/02/04

Anne McKernan, Director, Legal Services, presented a revised draft Policy for the Provision of Legal Advice and Assistance. She outlined the background to the revised draft Policy noting that it reflected much of the current policy but also builds upon previous Commissioner discussions on strategic considerations in respect to legal cases. The draft also considered the approach to strategic litigation taken by other European Equality Bodies. She sought Commissioners' approval of the draft Policy noting the intention to consult with stakeholders on the revised draft policy.

A Commissioner noted that, whilst he supported progressing this draft Policy to consultation, he wanted to take the opportunity to raise again the need to explore how the Commission's powers across its remit could

be employed strategically. He suggested that this could include the Commission monitoring issues in real time and looking at emerging themes and horizon scanning and that the “Measuring Equality” research project initiated recently could also inform these discussions. These considerations could lead to the development of a Strategic Litigation Policy encompassing the use of all the Commission’s powers.

It was agreed that Commissioners needed the opportunity to consider this broader issue. Commissioners were reminded that alongside the revised draft Policy on Legal Advice and Assistance, there was a commitment in the Business Plan to produce an Investigation Strategy and this was being progressed. It was noted that the issue had been highlighted previously for inclusion in an “away day” discussion and further thought would be given to how to bring this forward for a Commissioner discussion including as part of the next strategic planning cycle. Current strategic priorities were set in the Corporate Plan 2019 – 2022.

Further queries were raised in respect to the cost/benefit reference, and it was also suggested that the consultation would benefit from producing an easy read of the document.

Commissioners **approved** the revised Legal Advice and Assistance Policy for consultation

- Dedicated Mechanism: Proposed Article 2 Legal Advice and Assistance Policy EC/21/02/05

Roisin Mallon, Director, Dedicated Mechanism Unit, presented this paper and outlined the proposed approach as regards decision making in terms of the exercise of its Article 2 related enforcement powers. It was noted that some minor changes needed to be made to the current draft to reflect some late amendments to the draft Commission’s Policy for Legal Advice and Assistance.

The meeting discussed the approach proposed and queried whether individual applications should be considered by the Legal Funding Committee; it was suggested that applications should be considered by all members of the LFC as an alternative. Following discussion, and in light of the proposal to have ‘own motion’ actions and requests for interventions considered by the Commission, it was agreed that the Commission should decide individual applications for assistance also.

This could be reviewed in due course as the volume and type of potential cases became clearer.

Commissioners **agreed** that proposals for the use of ‘own motion’ powers, of requests for intervention and applications for assistance should be considered by the Commission and the draft Article 2 Policy for Legal Advice and Assistance would be amended to reflect this.

- Legal Funding Committee: Terms of Reference EC/21/02/06

Anne McKernan, Director, Legal Services presented the updated Legal Funding Committee Terms of Reference which have been amended in light of the proposed revised draft Policy for the Provision of Legal Advice.

Given the previous discussion on strategic litigation and how to ensure a focus on this, it was **agreed** that the LFC Terms of Reference would remain unchanged at present. The Chief Executive undertook to bring forward proposals to progress discussion on patterns and trends and the strategic use of the Commission’s litigation powers.

- Audit and Risk Committee: Terms of Reference EC/21/02/07

Keith Brown, Head of Corporate Services, presented the updated Terms of Reference and Work Programme for the Audit and Risk Committee, these are reviewed each February and were presented to the ARC Committee at its meeting on 3 February 2021. There are only minor presentational changes and timings have been updated.

Commissioners **approved** the ARC Terms of Reference and Work Programme for 2021/2021.

[Deepa Man Kler and Theresa Donaldson left the meeting]

- Proposal for Commissioner Risk Discussion EC/21/02/08

Keith Brown, Head of Corporate Services, outlined a proposed framework for the discussion on risk and risk management.

Commissioners reviewed and **agreed** the proposed objectives and key areas for the virtual discussion and confirmed this will take place on Wednesday 24 March 2021 prior to the Commission meeting.

6. Business Reporting

7. Other Matters for Commission Decision

8. Chief Commissioner's Business EC/21/01/08

The Chief Commissioner updated on a number of engagements during the previous month including on meetings with the Co-Convenors of the Equality Coalition; Pat Catney MLA; and with officials from the Department of Health in respect to Advanced Care Planning. She also attended an interim briefing by the Head of the Civil Service at the Chair's Forum and reported on ongoing engagement, alongside other stakeholders, with the Secretary of State.

Commissioners **noted** the Chief Commissioner's update.

9. Chief Executive's Report EC/21/01/09

The Chief Executive referred to her previously circulated report including noting that the TEO's Accounting Officer Mark Browne would leave TEO to take up the post of Permanent Secretary in the Department of Education. She also reported on her meeting with the Director General for Regulation, Office of Statistics Regulation, with the UK Statistics Agency; this included useful discussion on work being progressed across the UK on the enhanced need for equality data.

Commissioners **noted** the report.

10. Matters for Information

11. Minutes of Committee Meetings

Minutes of the Audit and Risk Committee Meeting held on 3 November 2020.	EC/21/02/11
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Minutes of the Statutory Duty Investigations Committee held on 18 November 2020.	EC/21/02/12
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Commissioners noted the Minutes of ARC and SDIC Committee meetings outlined above.

12. Any Other Business

- 13. Date of next meeting:** One hundred and eightieth Commission Meeting on **Wednesday, 24 March 2021, at 1.30 pm** via Microsoft Teams.

The meeting ended at 3.45pm

Signed: 

Date: 24 March 2021