

EQUALITY COMMISSION FOR NORTHERN IRELAND

ONE HUNDRED AND EIGHTY NINTH MEETING HELD ON WEDNESDAY 23 FEBRUARY 2022 AT 2.30 PM

PRESENT

Geraldine McGahey	Chief Commissioner
Neil Anderson	Deputy Chief Commissioner
Deepa Mann-Kler	(part)
Theresa Donaldson	
Duane Farrell	
Hazel Francey	
Helen Ferguson	
Jarlath Kearney	
Stephen Mathews	
Carmel McKinney	
Joe McVey	
Katy Radford	

APOLOGIES

June Best
Dawn Purvis

IN ATTENDANCE

Evelyn Collins	Chief Executive
Louise Conlon	Manager, Communications
Roisin Mallon	Director, Dedicated Mechanism
Jacqui McKee	Director, Advice and Compliance
Anne McKernan	Director of Legal Services
Darren McKinstry	Director, Policy and Strategic Engagement
Lisa King	Director, Investigations & Research
Tamlyn Stinson	Boardroom Apprentice

1. Introduction

The Chair welcomed everyone to the Commission meeting. She welcomed Craig Gartley, the newly appointed Director of Finance and

Corporate services to his first meeting.

2. Minutes of the one hundred and eighty eighth meetings held on 26 January 2022.

EC/22/02/01

The minutes of the one hundred and eighty eighth meeting held on Wednesday 26 January 2022 were **signed** as a true and accurate record.

3. Matters Arising

P5 Request for intervention in Judicial Review: in light of change in the hearing date for the Judicial Review, Counsel's advice had been taken on this and a recommendation had been circulated to Commissioners for consideration. The decision had been taken not to seek to intervene but to maintain a watching brief; this was communicated to Commissioners by email of 14 February.

P6 Commissioner appointments: the NIO recruitment for Commissioner appointments had commenced on 3 February with a closing date of 27 February 2022.

4. Conflict of Interest

Theresa Donaldson had previously declared a conflict in respect to the paper on the Judicial Review intervention and had not received the emailed papers in relation to this since the last Commission meeting. No further conflicts of interest were declared.

5. Policy Issues

- Human Rights Act Reform

EC/22/02/02

Kathryn McNicholl, Senior Policy Officer, presented the paper, outlining a number of issues highlighted in Counsel's opinion. She also noted one change to the text in respect to Section 75 duties. She outlined proposed key points for the Commission's response to the current UK Government consultation. These relate to two key areas in particular - implications of the proposals for equality rights and for Section 75 equality groups. Roisin Mallon, Director DMU, outlined aspects of the paper and proposed response which related to compliance with Article 2 (1) of the Ireland/Ni Protocol. There would be liaison with NIHRC with respect to the Article 2 aspects of our response to the consultation.

Following Commissioner consideration, the proposed policy positions would be further developed and used in the response to the consultation document, which would close on 8 March 2022.

Commissioners welcomed the comprehensive paper and also sight of the legal opinion which helpfully outlined the key issues in the consultation document and the potential implications for equality rights and in respect of the Article 2 commitment. There was a general welcome for the direction of travel in the policy recommendations, outlining concerns about the proposals, and it was agreed that the importance of protecting the Belfast/Good Friday Agreement should be stressed in any response..

There was a query on whether there should be two separate responses, one covering the general points about the implications and the other, together with NIHRC, covering points about implications for Article 2. It was agreed that one response from the Commission covering both aspects was the best approach. It was also agreed that there should be liaison with other equality and human rights bodies across the British Isles to ensure a consistent message, if possible. The Commission should also seek allegiances with other key stakeholders and influencers across Northern Ireland. The Chief Executive explained that there had been discussions already with the Equality and Human Rights bodies and consideration would be given to other strategic alliances. Suggestions were made about other organisations to contact. It was noted that the paper was a very detailed piece of work and could be used as an evidence base for others to base their responses. In response to a query regarding communications plans for the response, it was confirmed that there were plans to disseminate to key influencers and stakeholders once the Commission had agreed its approach.

The meeting considered Section 4 of the paper in detail and Commissioners provided comment on a number of areas including the need to be more explicit and to strengthen the language about our concerns in the policy positions, reflecting the points highlighted in the legal opinion.

Commissioners **approved** the new and updated positions for inclusion in the consultation response, subject to making the suggested amendments particularly in respect of points made in Section 4 of the paper.

- Public opinion survey on Equality in Northern Ireland EC/22/02/03

Simon Hookham, Senior Research Officer, presented Commissioners with the results of the “Public Opinion Survey on Equality in Northern Ireland: Winter 2021”, the fourth Public Opinion Survey. He provided background

information on its development and highlighted key points from the findings based on responses to a series of questions.

There was a query about the sample size, and it was confirmed that it was based on a sample size of 500. It was suggested that, for future work, consideration should be given to increasing the sample size although it was recognised that this would have cost implications.

It was noted that the full and summary reports will be published in the weeks following the Commission meeting and will be available on the Commission's website.

Commissioners **noted** the findings from the Public Opinion Survey and the planned next steps.

- Judicial Review in SPUC Pro-Life Ltd & Secretary of State: EC/22/02/04 Briefing on Article 2 Protocol aspects

Roisin Mallon, Director, Dedicated Mechanism Unit updated Commissioners on the recent decision of the Northern Ireland High Court in relation to the judicial review application brought by the applicant, SPUC Pro-Life Limited, challenging the validity of the Abortion (Northern Ireland) Regulations 2021.

Commissioners welcomed the briefing, noting that the decision supported the Commission's understanding that in order to establish a breach of Article 2(1) of the Protocol, there is a need to show that the right in question had a relevant underpinning EU law prior to end of the Brexit transition period.

Commissioners **noted** the update.

6. Business Reporting

There were no items discussed.

7. Other Matters for Commission Decision

- Article 2 Protocol: Reporting to Governments EC/22/02/05

The Chief Executive presented this paper and recommendations in respect to reporting to Government on the implementation of Article 2. This had been considered and approved by the Article 2 Working Group at its meeting on 3 February 2022.

Commissioners considered and **approved** the recommendations.

8. Chief Commissioner's Business

EC/22/02/06

The Chief Commissioner updated on several meetings and events she had attended. This included, along with the NIHRC Chief Commissioner, meetings with Lord Jay of Ewelme, Baroness Margaret Ritchie, Baroness Goudie, Lord Dubs, Baroness Hamwee and Lord Morrow in respect to the Nationality and Borders Bill.

The Chief Commissioner also provided evidence to the Executive Office Assembly Committee, on the Teachers' Exception from the Fair Employment and Treatment Order. She had also spoken at a STEM Webinar.

The Commissioner recruitment exercise would be closing shortly, and the Chief Commissioner noted that several days were set aside for interviews in March.

Commissioners were reminded of the upcoming meeting with the Board of the Labour Relation Agency, 2 March, and of the meeting of LFC Commissioners planned for 9 March.

Commissioners **noted the** update from the Chief Commissioner.

9. Chief Executive's Report

EC/21/10/07

The Chief Executive referred to her previously circulated report, noting that the Commission's budget allocation for 2022/23 was awaited. She reported on the readvertisement for the post of Director of Legal Services. The recruitment of the Director of Communications was ongoing.

The Chief Executive also highlighted a number of meetings she had attended over the month, detailed in the report.

Commissioners **noted** the update from the Chief Executive's Report.

10. Matters for Information

- Audit and Risk Committee: Terms of Reference

EC/22/02/08

Commissioners **approved** the ARC Terms of Reference and Work Programme for 2022/2023.

11. Minutes of Committee Meetings

- Minutes of the Audit and Risk Committee Meeting held on 10 November 2021. EC/22/02/09
- Minutes of the Statutory Duty Investigations Committee held on 17 November 2021. EC/22/02/10

Commissioners noted the Minutes of ARC and SDIC Committee meetings outlined above.

12. Any Other Business

- 13. Date of next meeting:** One hundred and ninetieth Commission Meeting on **Wednesday, 23 March 2022.**

Meeting ended at 3.20pm