

# EQUALITY COMMISSION FOR NORTHERN IRELAND

## 201<sup>st</sup> COMMISSION MEETING

HELD REMOTELY ON WEDNESDAY 26 APRIL 2023 AT 1.30 PM

### **PRESENT**

Geraldine McGahey  
Neil Anderson  
Maureen Brunt  
Lisa Caldwell  
Siobhan Cullen  
Ellen Finlay  
Jarlath Kearney  
Colin Kennedy  
Stephen Mathews  
Carmel McKinney  
Sheena McKinney  
John McCallister  
Preeti Yellamaty

Chief Commissioner  
Deputy Chief Commissioner

Harry Robinson

Boardroom Apprentice

### **APOLOGIES**

Duane Farrell  
Monica Fitzpatrick

### **IN ATTENDANCE**

Keith Brown  
Louise Conlon  
Craig Gartley  
Roisin Mallon  
Jacqui McKee  
Darren McKinstry  
Eoin O'Neill

Interim Chief Executive  
Director, Communications  
Director, Finance and Corporate Services  
Director, Dedicated Mechanism Unit  
Director, Advice and Compliance  
Director, Policy and Strategic Engagement  
Director, Legal Services

## 1. Introductions

The Chief Commissioner welcomed everyone to the meeting and thanked Commissioners for meeting online this month.

She noted that the style of the papers was evolving and asked Commissioners to bear with staff as they work on the format of the papers.

## 2. Minutes of the two hundredth meeting held on Wednesday 22 March 2023

EC/23/04/01

The minutes of the one hundredth meeting held on Wednesday 22 March 2023 were **signed** as a true and accurate record.

## 3. Matters Arising

**Page 3: Article 2:** The Chief Commissioner was to consider what further action is needed in respect to horizon scanning for potential cases.

**Page 3: Article 2:** Consideration to be given in next steps in relation to EU funding.

**Page 4: Fair Employment Monitoring Report (2021) No 32** - this was published on 21 April 2023 and was picked up by the media.

## 4. Conflict of Interest

None notified.

## 5. Policy Issues

- Evidence to House of Lords Protocol Sub-Committee Windsor Framework EC/23/04/02

Roisin Mallon, Director of DMU, updated Commissioners on developments since the publication of the Windsor Framework. She set out the draft policy positions in relation to the planned response to the House of Lords Sub-Committee on the Protocol inquiry on the Windsor Framework. It was planned to issue a response in time for the 2 May deadline and to engage with key stakeholders, including the Executive Office, on the Commission's policy recommendations.

Following discussion, Commissioners noted the updated paper and **approved** the proposed policy positions as set out in the attached submission to the HL Sub-Committee on the Protocol.

- Dedicated Mechanism – Powers and Duties EC/23/04/03

Roisin Mallon, Director of DMU updated Commissioners on the enforcement powers available to the Commission in respect to Article 2 commitments. She outlined the strategic approach being adopted in terms of current use of those powers. The Director explained that the Commission will continue, where appropriate and strategic, to seek changes to future draft legislation, including through submitting evidence to Parliamentary Committees, and through engaging with peers on tabling amendments. Awareness and outreach work was continuing, and staff were providing ongoing advice to individuals.

Commissioners **noted** the update.

- Judicial Mediation update EC/23/04/04

Eoin O'Neill, Director Legal Services, updated Commissioners on the Presidential Guidance issued by the Office of the Industrial Tribunal and Fair Employment Tribunal on the introduction of Judicial Assessments and Judicial Mediation. The Director outlined the key elements of the new Assessment and Mediation process and outlined the implications for the Commission's legal work. Currently, only a few Commission cases listed for June and July were affected. The impact of the new processes would be monitored closely over the coming months, including through the Tribunal Users Group, and Commissioners would be advised of any impacts.

Commissioners noted that this would clearly impact on cases the Commission were supporting and were keen to monitor the impact on costs and on the LFC staged assistance processes. It was noted that it would be a cultural change potentially and it would be useful to learn more about how it was operating in GB currently.

Commissioners **noted** this paper.

- Tribunal intervention EC/23/04/05

Eoin O'Neill, Director, Legal Services provided details of an invitation by an Employment Judge to intervene in an application to the Industrial Tribunal to remove the respondent's details from a decision published in 2016. The case was in relation to homophobic bullying and harassment.

It is understood that the NIHRC intended to intervene on this matter. The Director outlined three options for consideration – not to intervene; to intervene with NIHRC or for the Commission to intervene on its own. He outlined the scale of potential costs.

Commissioners noted that this decision was some years ago. It was noted that if the Court decided to expunge the record, it was likely that it was already in the public domain and it would be difficult to remove the person's name from online search engines.

Commissioners agreed, given that the Commission had supported claimants in their bid to have anonymity lifted in a number of sexual harassment cases recently, it would seem important that the Commission opposes this request.

The meeting discussed the possibility of making a written submission, on the Commission's opinion on the matter, to the Court in the first instance which might provide a more cost-effective option.

Following discussion, Commissioners **agreed** to write to the Employment Judge in the first instance and if not acceptable, the Commission would submit its intention to intervene in this application.

## 6. Business Reporting

- Finance Report: 1 April 2022 - 31 March 2023 EC/23/04/06

Craig Gartley presented the final finance report for the year end and noted that based on an initial year outturn, it was anticipated that there was a year-end positive variance of £28k (0.8%) in resource; a £5k (5%) variance in the capital line giving an overall budget variance (excl. DMU) of £34k. Of the £805k budget allocated to the DMU, £789k was spent, leaving a variance of £16k (2%).

It was noted that the draft Financial Statements for 2022/23 will be presented at the next Audit and Risk Assurance Committee and the audited Annual Report and Accounts presented to the June Commission meeting.

Commissioners **noted** the preliminary financial position at the year end.

- Progress Report: 1 April 2022 - 31 March 2023 EC/23/04/07

Keith Brown, Interim Chief Executive presented the year end progress report. There were 37 key actions covering the six priority areas. At the

year-end, 26 were achieved, 8 partly achieved, with performance close to targeted outcomes, and there were 3 areas where progress was substantially less than planned. He also highlighted some key achievements during the year.

In response to a query on the impact of industrial action to date, he advised that currently the Commission had managed to continue its day-to-day work during periods of industrial action.

The important partnership work in relation to the loss of EU funding was noted, as was the importance of the Commission continuing to support the sector in relation to funding.

There was a discussion on the ongoing engagement in relation to law reform. The Chief Commissioner provided some feedback from the various political party meetings and this would need consideration going forward.

Commissioners noted that the targets in relation to education had not been met and queried the reason for this. The Director of Policy and Engagement advised that due to the loss of staff leading on this work, it had not been possible to progress the work in relation to education attainment, although the anti-bullying work had been progressed.

Work on the website had not progressed as the budget was not available. A Website and Digital manager had been appointed recently so it was hoped that the budget would become available for a new website in the incoming year.

Commissioners **noted** the report and commended the work done this year and asked for their thanks to be passed onto staff.

- Communications Report: 1 April 2022 – 31 March 2023                      EC/23/04/08

Louise Conlon, Director, Communications, presented the Communications Report for the period 1 April 2022 – 31 March 2023, outlining highlights of the work undertaken this year.

Commissioners commended the work being done on communications and **noted** the Report.

## 7. Other Matters for Commission Decision

### 8. Chief Commissioner's Business

The Chief Commissioner held meetings with four of the five main political parties in Northern Ireland to discuss the need for equality law reform. She had met Emma Little Pengelly and Pam Cameron from the DUP; Matthew O'Toole and Cara Hunter from the SDLP; the UUP's party leader Doug Beattie and Naomi Long and Andrew Muir from Alliance. A meeting with Sinn Fein was being pursued. She also anticipated some "grassroots" engagement over the coming months and would keep Commissioners informed on this.

She attended many of the Good Friday Agreement events, including the dinner hosted by the Prime Minister in Hillsborough Castle, which provided an opportunity to engage with many high-level influencers including many politicians from across the UK and Ireland. She thanked Monica Fitzpatrick for representing the Commission at a Department of Foreign Affairs GFA event in Dublin also.

She reported on a useful engagement with the Tánaiste, which took place during the QUB GFA events.

The Chief Commissioner provided update in relation to recent media undertaken, following the publication of the 32<sup>nd</sup> Monitoring report which generated BBC TV news interview and a front-page article in the Belfast Telegraph.

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

### 9. Chief Executive's Report

EC/23/04/09

Keith Brown, Interim Chief Executive referred to his previously circulated report.

Commissioners noted that The Executive Office had advised to anticipate a 10% budget reduction and a costed and revised Business Plan will be presented to the next Commission meeting on that basis. Given the financial situation this would be difficult and would impact on the ability of the Commission to fill existing staffing vacancies. Discussions were ongoing with TEO in respect to the budget and Commissioners would be kept up to date on these discussions.

Keith Brown updated on sickness absence, noting that the cumulative

number of days lost per employee through sickness this year was 8.3 days. This compares with 6.8 days in 2021/22. Most of the absence this year was the result of the long-term sickness of a small number of staff.

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

## 10. Matters for Information

- Evidence to Human Rights Joint Committee EC/23/04/10  
Inquiry on Human Rights at Work

Commissioners **noted** the above matter for information.

Jarlath Kearney noted that he wanted to make a couple of points on the Single Equality Act but would email separately on this following the meeting.

## 11. Minutes of Committee Meetings

- Minutes of the Statutory Duties Investigation Committee EC/23/04/11  
held on Wednesday 16 February 2023.

Commissioners **noted** the Minutes outlined above.

## 12. Any Other Business

The impact of funding cuts across NI Departments was raised and the Chief Commissioner undertook to give this more consideration particularly in relation to the Section 75 duties. She would provide an update to the next meeting.

- 13. **Date of next meeting:** Two Hundred and Second Commission Meeting on **Wednesday 24 May 2023, at 1.30 pm** – in person

**The meeting ended at 16.15pm**