



CONS 579

Mr Chris Flatt
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Northern Ireland Office
Rights and International Relations Division
Human Rights and Equality Unit
11 Millbank
London SW1 4PN

7 February 2006

Dear Mr Flatt

Powers of the Northern Ireland Human Rights Commission

We welcome the opportunity to respond to the consultation on the powers of the Northern Ireland Human Rights Commission. Our comments are informed by NICVA's role as the representative body for the voluntary and community sector and by a vision of society where all citizens are treated fairly, where sectarianism and discrimination are not tolerated and where respect for human rights and equality is regarded as the norm.

We note the House of Lords decision in 2002 that granted the commission power to intervene as a third party or amicus curiae in court proceedings and therefore appreciate the reason for removing recommendations 14,15 and 16.

Before we comment further we would point to the need for a further recommendation, namely an additional criterion for the appointment of commissioners which highlights the need for knowledge, experience and expertise in the field of human rights. We recommend that this recommendation be given a statutory basis.

Recommendation 1 – we do not support the department's rejection of the commission's recommendation to establish an independent selection process. We would argue that it is important that the commission should be, and seen to be, independent of government.

Recommendations 5 and 6 – we would argue that the department should follow the Joint Committee on Human Rights (JCHR) recommendations that the department and

the commission should report to the JCHR each year in order that parliament oversees funding provision as well as government.

Recommendations 8 and 9 – we would argue that the original recommendations on keeping under review the adequacy and effectiveness of law, policy and practice relating to the protection of human rights, the implementation of the Human Rights Act and the Bill of Rights should be given a statutory basis.

Recommendation 11 – we understand the legal requirements on government to consider human rights compatibility in legislation and policy making but we would argue that government should seek the commission’s expert advice as early as possible in the policy development process.

Recommendation 12 – we would suggest reinstating this recommendation since advice on international human rights instruments forms an important part of the work of human rights commissions.

Recommendation 33 – we understand the case for parliamentary sovereignty but since the government originally accepted this recommendation we would argue that the Secretary of State and NI executive should have ‘due regard to the commission’s advice.’

Recommendation 17 – we would urge that the commission should be able to bring proceedings in its own name.

Recommendation 22 – we support the need to amend the Northern Ireland Act to give the commission the power to access places of detention to assure itself that human rights are being protected or to investigate an alleged violation of human rights. However we oppose the suggestion that the commission should negotiate terms of reference, give advance notice or allow those to be inspected the right to apply to a court to prevent it. Nor do we agree that there should be any limitation on type of location to which the commission can have access. In order to preserve independence, we would argue that the various oversight bodies and agencies should be left to agree memoranda of understanding between themselves.

Recommendation 24 – we welcome the positive response to the commission’s recommendation that it should have the power to compel documents and witnesses.

Above all, we would argue that the commission should have the powers recommended in the UN Paris Principles and by the JCHR in 2003. In order to be Paris Principles compliant, we would recommend that the commission should report to parliament and should also be funded by parliament.

We look forward to hearing from you.

Yours sincerely

Anne Moore
Public Affairs Officer