

A FORUM ON A BILL OF RIGHTS FOR NORTHERN IRELAND

RESPONSE TO CONSULTATION

Introduction

1. Following discussions at St Andrews the Government committed to establish a Forum on a Bill of Rights and to convene its inaugural meeting in December 2006. On 14 November, the Government published a consultation paper, inviting comments on how the Forum should be established. The consultation closed on 28 November; this paper sets out some of the views expressed by consultees and the decisions the Government has taken, after reflecting upon those views.

The Consultation

2. The Government was very pleased with the high number of responses received (39) as well as the quality, particularly given the very short time period available for responses. Many consultees commented on this, regretting that so little time was being allowed for consideration of an important issue. The Government agrees that it would have been preferable to allow longer for responses but, given the commitment to hold the first meeting in December, it would not have been possible to consult for a longer period and the Government took the decision that a short consultation was preferable to none at all.

3. The full list of respondents to the consultation is set out at Annex A. Set out below are the Government decisions on the establishment of the Forum, taking account of the views expressed by consultees.

Decisions on the establishment of the Forum

Remit

4. The consultation paper suggested that the role of the Forum will be to inform the work that the Northern Ireland Human Rights Commission (NIHRC) will be undertaking to fulfil its statutory remit to provide advice to Government. The proposed terms of reference therefore focussed on asking the Forum to produce agreed recommendations that were consistent with the remit given to NIHRC in the Belfast Agreement. The proposed draft terms of reference read:

“To produce agreed recommendations to inform the Northern Ireland Human Rights Commission’s advice to Government on the scope for defining, in Westminster legislation, rights supplementary to those in the European Convention on Human Rights, to reflect the particular circumstances of Northern Ireland, drawing as appropriate on international instruments and experience.”

5. We received many responses on this issue, reflecting a great variety of views. Some suggested that because the Forum would have a wide range of politicians and representatives of civic society the Forum’s agreed recommendations should *become* the advice on a Bill of Rights for Northern Ireland given to the Secretary of State to fulfil the Belfast Agreement commitment. NIHRC’s role would be to provide expert advice on the legal and human rights provisions of the proposals.

6. Some consultees also wished to see a return to the full text of the Belfast Agreement reference to a Bill of Rights so as to include reference to providing “additional rights to reflect the principles of mutual respect for the identity and ethos of both communities and parity of esteem”. Others wished to ensure that developments in human rights law since the Agreement should

be taken into account, and that it was important not to constrain the Forum's discussions.

7. At paragraph 7 of the consultation paper, the Government proposed that the Forum would be an opportunity 'to consider the structure and content of a Bill of Rights'. Some consultees were concerned that this reference would lead to confusion as to whether the Forum was to 'consider' or 'agree' the structure and content. However, consultees were divided over whether a requirement to achieve agreement would invigorate the debate and focus attention on reaching consensus or alternatively would lead simply to sterile argument. There was also some concern that what was meant by agreement itself needed to be more clearly defined.

8. The Government welcomes the opportunity for debate that the Forum will provide and believes that clear and public agreement by the Forum will provide a strong basis for building widespread support for its findings across the community. But the statutory obligation to provide advice to the Secretary of State remains with the NIHRC. It will be for the NIHRC to judge how to respond to the Forum's findings when preparing its advice but the Government would obviously expect it to consider very carefully findings of the Forum where there is clear agreement. It will of course be open to the Government to bear in mind the Forum's findings when considering how to respond to the NIHRC's advice.

9. The Government believes the terms of reference as provided in the consultation document already provide for the Forum to reach agreement on its recommendations. Some arrangements for how this agreement might be indicated are suggested below. The Government accepts that there is merit in using a fuller version of the text from the Belfast Agreement and proposes that the terms of reference should be:

"To produce agreed recommendations to inform the Northern Ireland Human Rights Commission's advice to Government on the scope for defining, in Westminster legislation, rights

supplementary to those in the European Convention on Human Rights, to reflect the particular circumstances of Northern Ireland, drawing as appropriate on international human rights instruments and experience. These additional rights to reflect the principles of mutual respect for the identity and ethos of both communities and parity of esteem, and – taken together with the ECHR – to constitute a Bill Rights for Northern Ireland. “

Procedures

10. The Consultation Document proposed that the Forum should arrange its own operating procedures. Respondents have tended to limit their comments to a requirement that the Forum should be as open as possible. Some have asked for detailed operating procedures to be published. However, one issue of particular interest to respondents was to have a definition of what would constitute agreement.

11. The Government continues to believe that it should not intervene in decisions on the operating mechanisms of the Forum. But there would appear to be a number of options for the Forum to consider in terms of how it reports its final recommendations. It may be able to reach a unanimous report via a consensus approach; work via a weighted, proportional representation or simple majority voting system; or decide ultimately to provide a majority report and allow for a minority report to be provided. The Forum may wish to adopt any of these arrangements or a different model, and it is free to publicise in due course what it intends to do.

Role of the NIHRC and access to background material

12. The consultation document proposed that it should be for the Forum to decide, in consultation with NIHRC, what involvement NIHRC might have in assisting the Forum's discussions. Most respondents welcomed the extensive consultation and other preparatory work that NIHRC had already carried out and expected that the Forum would wish to make extensive use of

this material. One respondent suggested that the Forum should not set about 'reinventing the wheel'. Some consultees were concerned that not all documents produced by the NIHRC had received general support and the Government should not lead the Forum to consider particular documents. The Government does not wish to direct the Forum in any particular direction; rather the Forum should be willing to consider equally all the relevant information available to it. The NIHRC have indicated that they will be ready to co-operate with the Forum and to provide the Forum with published papers and archived materials on request.

13. The Government remains of the view that it should be for the Forum and the NIHRC to discuss directly the detail of the assistance NIHRC can provide, all the while respecting the two different but complementary roles that each will bring to the development of a Bill of Rights for Northern Ireland. It will be for the Forum to respond to requests from organisations to be given observer status although there is an expectation from respondents that the Forum will conduct its business in an open and inclusive manner.

Staffing

14. In the consultation paper the Government proposed that the Forum will be provided with adequate financial and staff resources to complete its work within an agreed timescale. A number of respondents to the consultation stated that the staff of the Forum should be independent and a number believed that staff should be chosen by the Chair. The Government will discuss staffing with the Chair once she or he has been appointed. We will make appropriate arrangements to ensure that the Forum is properly staffed in consultation with the Chair.

Timescale

15. In the consultation paper, the Government proposed that the Forum should be asked to report by 30 September 2007. Respondents to the consultation were divided over this proposed duration. Some accepted the

useful focus this would give to the Forum but the majority of those who commented on this issue believed that time was too short and argued that a period of at least twelve months was needed. The work of the Forum, it was felt by some, could be disrupted by the prospective election in Northern Ireland, holiday periods and the time it might take to select and appoint an independent chair. In the light of these comments the Government agrees that the Forum should be required to produce its final agreed recommendations by **31 December 2007**. A number of consultees proposed International Human Rights Day (10 December 2007) as an appropriate day for the Forum to report on. That is open to the Forum to do, if it is ready in time, but the Government does not want to require it to report on any given day.

Chairperson

16. The consultation paper set out the Government's intention to identify a fully independent chairperson possessing the skills appropriate to the performance of this high profile and demanding role; in particular the capacity to facilitate discussions effectively and an understanding and experience of human rights, including international human rights instruments.

17. Many consultees stressed the importance of the Chair's independence. A large number also endorsed the Government's view that the Chair must have a background in, or experience of human rights issues. Many consultees also called for the Chair to be from outside the United Kingdom or Ireland; although a few thought that the Chair should or could be from the United Kingdom or Ireland, or in one case drawn from within Northern Ireland.

18. The Government is clear that chairing the Forum will be a challenging and stretching role, requiring someone with significant skills and experience. It is important that the right person is chosen and in a fair and reasonable way. We have judged that this can not be achieved by the time of the first meeting and will instead ensure that the best available Chairperson is selected as early as possible in the New Year.

19. However, the Government is also aware that considerable momentum has been built up by the announcement at St Andrews that the Forum will hold a first meeting in December and by the many responses made to the consultation. The Government is keen that this momentum should not be lost. We will therefore hold a preliminary meeting of the Forum, on **18 December**. All the Forum members will be invited to attend. **David Hanson MP**, Minister of State with responsibility for human rights, will formally chair this first meeting but the meeting itself will be given over to the members of the Forum as an opportunity for them to make some opening remarks, setting out their opening positions and what they hope the Forum will achieve.

Membership

20. In the consultation paper, we proposed that the Forum should be reflective of a broad range of political opinion and sections of civic society. We also suggested that it should have a maximum size of 27, plus the chairperson. This would be made up of 14 political representatives, allocated in accordance with the structure of the Preparation for Government sub-committee, and 13 civic society representatives.

21. In response, consultees largely agreed with the number of political representatives and the method for choosing them. However, many consultees argued that political parties and civic society should be equally represented, with some believing that it was important that the make-up of the Forum signalled that the Bill of Rights debate was for politicians and civic society to enter into equally. The Government understands this argument and therefore agrees that **civic society representation should be increased to 14**.

22. We also invited views on who the civic society representatives should be. While there were a number of endorsements for individual groups or sectors to be selected, and a number of consultees argued that those most vulnerable in society must be represented, there were few detailed suggestions on how the civic society element overall should be composed.

Several consultees called for churches to be represented. Some consultees proposed that Forum members should not be representative of particular groups, but a larger number of consultees disagreed and believed that Forum members should represent particular sectors. Several consultees proposed that there should be a representative from the Human Rights NGO sector, to ensure that there is specific human rights knowledge and expertise on the Forum. Taking account of the views received, we have decided upon the following allocation of places:

Sector	Places
Trade unions	2
Employers	2
Churches	2
Human rights NGO sector	1
Community / voluntary sector	7

Within the community / voluntary sector, we intend to allocate the seven places to representatives who can, as far as possible, bring perspectives from the following sectors:

- Children and young people
- People with disabilities
- Ethnic minorities
- Older people
- People of different sexual orientations
- Women
- The community / voluntary sector as a whole

23. The Government will contact the main representative groups for each sector and ask them to agree a representative who can reflect views from that sector. If the sector is not able to agree on a single representative (which we hope will not be the case) the Government will select a representative. In so far as is practicable given the commitment made by the Government at St

Andrews that the Forum should meet during December 2006, the Government will seek to make any such decisions on the basis of human rights expertise and standing within the sector. At the same time, we acknowledge that given the Government's stated intention that the Forum should be of a manageable size, there may be instances where individual groups are disappointed with the outcome. Representatives will be expected to consult widely within their own sector on all issues discussed at the Forum. We would also expect that the Forum will take steps to allow anyone not represented to put forward proposals.

24. The Northern Ireland Human Rights Commission, the Equality Commission for Northern Ireland and the Human Rights Consortium all asked to be given observer status at the Forum. The Government recognises the reasons for these requests. However, we believe that this also should be a matter for the Forum to determine, in deciding how it will operate. The Government hopes that the Forum will conduct itself in an open manner and will be accommodating to those organisations not represented on the Forum but which have a real interest in its deliberations.

Northern Ireland Office

12 December 2006

List of respondents to the consultation

Annex A

Alliance Party
Amnesty International
Archbishop Lord Eames, Primate of All Ireland
Committee on the Administration of Justice
Children in Northern Ireland
Children's Law Centre
Children and Young Peoples Sector Bill of Rights Group
Church in Society Committee, Church of Ireland
Community Relations Council
Conference of Religious of Ireland (CORI)
Disability Action
Democratic Unionist Party
Equality Commission for Northern Ireland
Help the Aged
Home Office
Human Rights Consortium
Jeffrey Dudgeon
Law Centre Northern Ireland
Northern Ireland Council for Ethnic Minorities
Northern Ireland Council for Voluntary Action
Northern Ireland Catholic Council on Social Affairs
Northern Ireland Commissioner for Children and Young People
Northern Ireland Human Rights Commission
Northern Ireland Women's European Platform
Presbyterian Church in Ireland
Professor Brice Dickson
Professor Chris McCrudden
Save the Children
Sinn Fein
Social Democratic and Labour Party
The Superintendent's Association of NI
The Workers' Party
T J McCullough
Ulster Human Rights Watch
Ulster Unionist Party
UNISON
Women's Aid Federation Northern Ireland
Women's Resource and Development Agency
Women's Support Network
Youth Council Northern Ireland