Office of the Independent Chairmen

Castle Buildings Stormont Belfast BT4 3SG Northern Ireland
Telephone 01232 522957 Facsimile 01232 768905

SUMMARY RECORD OF LIAISON SUB-COMMITTEE MEETING ON CONFIDENCE BUILDING MEASURES ON TUESDAY 31 MARCH 1998 (14.30)

CHAIRMAN: Mr Holkeri

THOSE PRESENT: British Government
Irish Government

Alliance
Labour
Northern Ireland Women's Coalition
Progressive Unionist Party
Sinn Féin
Social Democratic and Labour Party
Ulster Democratic Party
Ulster Unionist Party

1. The Chairman convened the meeting at 14.43 and moved to approve the minutes from the session on 4 March. Hearing no objections he declared these approved as circulated. Moving on, the Chairman stated that at the end of the last meeting on 24 March, he proposed that today's discussions focus on policing issues. But the British Government, in a note circulated on 30 March, it had requested that the agenda be changed from policing to a discussion on the recently published White Paper "Partnership for Equality". At a meeting of leaders the previous evening no objections had been raised to this change occurring.

2. Sinn Féin objected to the change of agenda. It had prepared for the original meeting and circulated a document but at short notice it now

had to rethink its input. It said it had not agreed to the change. The party said this was an attempt to deflect views and comments away from a UN report being published that afternoon which accused the RUC of alleged systematic intimidation and harassment of lawyers representing republicans and loyalists. Sinn Féin said that, in addition to the above, there had been a complete silence from the RUC from the deaths of Samuel Devenney to Robert Hamill and a full and frank discussion was required on all of this. The Chairman said he had been present at the leaders' meeting the previous evening and no objection had been raised when the British Government request was outlined. The British Government said it was its understanding that the policing issue was tied in with Strand One business and therefore further discussion of it had to await other developments. Sinn Féin said it accepted the Chair's ruling but asked that the issues of policing be returned to at the earliest possible date.

3. The Chairman said he would consult the British Government on this but now wished to move on to the discussion on the White Paper "Partnership for Equality". He asked the British Government to begin with its opening comments.

4. The British Government said that it had been considering the recommendations made by SACHR since June 1997 following the latter's report "Employment Equality: Building for the Future". SACHR had made over 160 separate recommendations on changes to legislation, policies and practice. The report followed shortly after the new

Government had come into office and it therefore offered the opportunity not only to respond to SACHR's work but also to set out a detailed review of policies at an early stage in its administration. Consequently the White Paper "Partnership for Equality" launched on 11 March was more that just a response to SACHR's report.

5. The British Government said it had accepted over two thirds of SACHR's recommendations with three guiding principles: the need to reduce unemployment, especially long term unemployment and the unfair community differential; the need to promote equality of opportunity across a broad front; and the need to ensure that job creation was not unnecessarily hindered by red tape, because without new jobs in the private sector, unemployment could not be reduced. The British Government said some of the new policies which had been introduced, both in Northern Ireland and the UK, would contribute towards these objectives. For example there was New Deal for the unemployed, there were educational initiatives for literacy and numeracy and there was the commitment to long life learning and increased resources for child care.

6. The British Government said it agreed with SACHR's basic analysis that the current fair employment legislation was working effectively and had achieved fairness in recruitment. But the legislation benefited those in employment or with ready access to it and that was why the focus now had to shift to tackling unemployment and the unacceptable differential in its impact on Catholics and Protestants. The British Government said it proposed to clarify the law on the direct

recruitment of the long term unemployed; New Deal would seek to break the pattern of joblessness, especially for the younger unemployed; and under New TSN, the economic impact of Government policies should also have a greater impact on the younger unemployed. The British Government said that the White Paper acknowledged that the unemployment differential of 2:1 between Catholics and Protestants was unacceptable. This was an indicator of Catholic socio-economic disadvantage, though not a valid indicator of discrimination in recruitment, nor of the success of the fair employment legislation. It accepted, however, the principle of benchmarks for the future reduction of the differential, agreed by the social partners, political parties and other interests.

7. The British Government said some of the more far reaching proposals in the White Paper related to the role of its mainstream policies. It was seeking views on a consultative proposal that there should be a statutory obligation imposed on the public sector to promote equality of opportunity, in terms of the categories listed in the current PAFT guidelines. This proposal envisaged a major culture change throughout the Northern Ireland public sector. To oversee, advise on and enforce the implementation of this obligation in each public body, it had proposed that the four existing statutory equality agencies, FEC, EOC, NIDC and CRE should amalgamate into a unified Equality Commission. It said it believed this to be the most effective way to draw on the expertise and experience of these bodies to drive forward this new

obligation. It was a radical proposal and comments on it were required by 12 June.

8. The British Government said with regard to TSN, it proposed to take forward a new initiative which would have a particular focus on unemployment and would draw from the experience of the Social Inclusion Initiative in GB, by applying innovative techniques to harness Government at all levels, the private and community sectors in a Promoting Social Inclusion initiative. Returning to SACHR, the British Government said it had accepted proposals for change on fair employment legislation where there was clear justification. The basic principle of recruitment and promotion on merit had to remain. Unnecessary new burdens on employers should be avoided. Hence it had rejected SACHR's proposals on the Section 31 review system. However it did see a growing need for the monitoring of part-time employees in employers annual returns because this was a growing sector of the workforce. Similarly, in considering SACHR's proposals for changes to the powers and procedures of the FEC and FET, it had applied the tests of workability and need.

9. Finally, the British Government said it wished to extend the law on religious discrimination to make unlawful discrimination on grounds of religion or political opinion in the provision of goods, facilities and services and the disposal of premises. This would permit harmonising to occur with the law on sex and race discrimination. It wanted to make a clear stand against discrimination in these areas. However it was also

aware that there might be a need for statutory exemptions and it would be consulting on what those exemptions should be with input required by 12 June. The British Government said it hoped the White Paper's proposals would have an impact beyond the economy. Though the review of these policies had been envisaged for the past ten years, it hoped that it could contribute positively to the work of the Sub-committee. It looked forward to hearing the views around the table on these issues.

10. The Irish Government said its successors had placed particular emphasis on the equality agenda in Northern Ireland. It regarded equality of opportunity and fair participation in the economic and social life as a right to be enjoyed by all sections of the community, regardless of their religion or political affiliation. It was not prepared to see rights being progressed from a unionist or nationalist perspective but rather as essential to all. In this context, it welcomed the publication of the "Employment Equality Review" by SACHR in June 1997. It believed the SACHR review represented a thorough and comprehensive report into equality matters and everyone owed it a great debt. The Irish Government welcomed the White Paper which contained a series of proposed changes and the British Government had invited public consultation on many of them. It acknowledged the commitment to change contained in the White Paper and, in particular, the proposals to extend anti-discrimination legislation to cover the supply of goods, facilities and services and the new statutory obligation on public authorities to promote equality, though it was concerned that the British

Government appeared to have externalised the enforcement of this to an outside agency. The Irish Government questioned whether Government Departments would be as responsive to this as an internal mechanism.

11. Moving on it said it welcomed the new emphasis on the need to attack the unemployment differential that existed between Catholics and Protestants as well as taking the point with regard to the separate effort being made on the long term unemployed and the socially excluded where the Republic itself had problems. The Irish Government said it would like to have seen a greater number of the SACHR recommendations accepted in the White Paper. It also understood the misgivings some organisations had expressed about the proposal to amalgamate the existing equality agencies into one new Equality Commission. The equality agenda was an important aspect of an overall agreement and it looked forward to hearing the views of the participants on these issues.

12. Alliance broadly welcomed the White Paper and acknowledged that it was a sensible reflection of and response to the SACHR report as well as going further than this. The party said it also acknowledged the British Government's remarks on the success of the current Fair Employment legislation in terms of removing any systematic discrimination in the workplace, that there was still a serious problem with unemployment and the substantial differential which still existed within the community. One had to remember that unemployment was unemployment irrespective of the person's gender or any other

characteristics. In attempting to solve the problem, Government, in its conduct of public policy, could not make any arbitrary distinctions other than to apply its actions universally. Its priority was to tackle unemployment by pursuing economic policies geared at promoting growth and the market, rather than concentrating on social policy which was secondary to creating jobs.

13. Alliance continued saying it was important not to burden employers with red tape and it welcomed the White Paper's comments on this. It also fully agreed with the British Government's comments regarding the merit principle. The party said it placed strong emphasis on equality of opportunity. It cherished this for everyone since it provided a basis for individuals to use their talents, not just for themselves but for society at large. Alliance said it did have some issues of concern and it wished to briefly raise these. The White Paper contained constant references to the "two communities" within Northern Ireland. This language was inaccurate, simplistic and dangerous since it could institutionalise divisions within society. The current Fair Employment legislation overly pigeon-holed people into two groups. If one refused to state which group one belonged to then the individual was labelled by his/her educational background. There was no opt out here and the White Paper didn't address this.

14. Alliance said it supported the concept of a unified Equality Commission as a reasonable measure but the legislation needed to be amalgamated, otherwise discrepancies could occur, for example, over

goods and services. The party said it was also concerned that such an Equality Commission might end up delivering a hierarchical structure with rights and equality, religion, political affiliation coming first followed by others until factors such as disability were at the bottom. There was no distinction on discrimination and it wished to seek clarification from the British Government on this aspect. The party also flagged up the additions to PAFT and said it was concerned as to how much this would bring people together as opposed to creating two separate worlds in terms of the public and private sectors. On TSN, the party said more thought should be given to labour flexibility and how this could be better addressed. It recognised the difficulties here but hoped that inward investment wouldn't be directed into Northern Ireland without bearing this point in mind.

15. Labour said it supported the SACHR report and supported almost all of the Government's proposals. The party added that the Northern Ireland Forum produced a very good report on long term unemployment and those who hadn't read it should do so. The party referred to the differential in unemployment as a historical inheritance and, while it supported the concept of New Deal, it was the actual environment in which it had to work which was important. Labour said that when one considered that Northern Ireland had a communal ghettoised unemployment problem it was unlikely that New deal would flourish here. Furthermore the inter-generational problem of unemployment was not taken into account in Northern Ireland. The party was on record as pointing up the problems of those over 40 who had never ever been in

employment. What was needed was a medium to long term policy to create social employment. The long term unemployed were suffering and one problem in all of this was mobility. It was not a case of bringing jobs to the people; society was enriched by movement; there were separate industrial and living sectors everywhere in Northern Ireland and, in order to help match opportunities with potential applicants and hence enable people to seek jobs beyond their own communities, there was a responsibility on the paramilitaries who threaten mobility to relent.

16. The NIWC welcomed the opportunity to hold a debate on the issue. As a confidence building matter, equality was a key measure which needed to be embedded in a settlement. The party said the onus was on everyone to use appropriate terms such as openness, fairness, justice and equality when discussing the issue and participants had followed this theme in their contributions to the Sub-committee today. The NIWC said the White Paper was a marker which needed to be supported by the introduction of legislation to give effect to the principles contained in it and then have these implemented. The party welcomed the document but had some concerns on its contents.

17. The party said there was a broad fear in the communities that "equality" was not understood at both adult and school levels and that any commitment to change was merely window dressing. On employment/unemployment the positive note here was that no discrimination was occurring at the recruitment point. The FEC statistics showed a more representative workforce and the party welcomed the

further proposed amendments to this legislation and that of the Race Relations. On New Deal, the party welcomed the initiative but was concerned about the impact of the minimum wage on young people and the possibility that recruitment for exploitation could occur. It also questioned the likely work environment facing young people after they had completed their training. Would sufficient opportunities be available to put this training to good use? The NIWC said the availability of affordable child-care was a must for women seeking job opportunities but was less sure about how this might dovetail with the associated problems of mobility. The party said the unemployment differential had to be addressed. It was a structural problem and the British Government had stated that the differential could rise even if unemployment itself fell. The party had some queries on terms in the White Paper such as "sub-reduction" and also points regarding affirmative action and contract compliance measures. Moving on, it noted that the British Government was providing some 2200 additional pre-school places in 1998/99. However, the party needed the British Government to give a commitment to provide a one year free pre-school place for all children in this category.

18. On PAFT, the party said it had concerns that there was no statutory obligation to undertake quality impact assessments. It also had serious reservations about the proposed Equality Commission which could emerge as a divisive mechanism developing a hierarchical approach to addressing inequality and in doing so demoting gender equality issues among others. The party said it hoped the Equality Commission

wouldn't be put in place without full consultation with the other affected bodies. On TSN, the party said it hoped the re-focusing of this referred to in the White Paper would be translated into action. With regard to Fair Employment law, the NIWC said it welcomed those working 16 hours or less being included for monitoring purposes and that direct methods to gain employee community backgrounds for annual monitoring returns should be used as the main means. It was, however, disappointed that provision for free legal aid was not included for Fair Employment Tribunal cases and asked the British Government to reconsider this position. It did welcome the decision to extend FE law to goods and services.

19. The PUP began by asking how the issue had got on to the agenda, though it pointed out that it had no objections to it being discussed. The party was simply not sufficiently prepared to give a detailed response on the issues but did want to focus on one aspect - New Deal. The party said New Deal, in relation to its community, appeared to focus on the disadvantaged and was an attempt to bring them off the scrap heap to give them jobs which didn't exist. The party said it hoped New Deal would create the same opportunities in both working class and middle class communities. There were no incentives for 16 year olds to obtain work in its community so how would New Deal work here? The party said New Deal was designed in such a way as to have these individuals working for their welfare benefit. There were no incentives for self development. The party said a three year project for 16 year olds in its community would be a much more productive approach to the problem

as well as putting working class 16 year olds on a par with their contemporaries from middle class areas.

20. Sinn Féin said that an important dimension of the process was the necessity that whatever emerged from it had tangible benefits for people. The White Paper spoke about perceptions of discrimination, but discrimination was a reality. The party had problems with the merging of equality bodies into a super agency. This meant the Government was not taking responsibility itself for equality, but was giving it to a quango. The Government's noble statements in opposition had to be acted on now. There were clearly good intentions in the document, but effective action was now needed, not merely goals and timetables. The Government should be handling this directly. The document was very cautious in places, as if the Government was afraid of upsetting some people. Equality shouldn't be seen as offensive to anybody. Inequality and exclusion were the enemies of peace.

21. The SDLP said that given the extent of the White Paper, it could only comment on a few points. It described the White Paper as a series of baby steps rather than a giant leap. Many of the steps were welcome, if overdue, and were to be applauded, but other matters had not been addressed. The party differed from the views put forward by Alliance in that it sought not just equality of opportunity but equality of outcome. It acknowledged the importance of creating jobs, but this had to be wedded to the eradication of disadvantage. The SDLP agreed that there was no longer serious direct discrimination in new recruitment, but it could not

be denied that there was still a legacy of past discrimination, including by some of the largest employers. This had been successfully addressed only quite recently, and was still not fully achieved in management grades. The party shared the view of the NGO sector that the Government bureaucracy was hindering developments, for instance in relation to PAFT. The party was concerned at the delegation of responsibility to an agency outside Government: this responsibility should be located centrally in the public service.

22. The SDLP said the goal of a "substantial reduction" in the employment differential by 2011 sounded like what an Irish Government official - not Ray Bassett - had called "warm, meaningless phrases", and the date of 2011 would inspire nobody. This needed real action over the next four or five years. The party was seeking a legal opinion, but it felt the claim (page 39) that EU obligations prevented the use of public contracts for policy objectives was highly suspect. The party said the Fair Employment Tribunal had turned out to be very effective, and it was regrettable that legal aid was not to be extended to cases before it, nor was it to have power to award plenary damages. The party welcomed the advances in TSN, but was concerned that the focus on employment was leaving out groups like the elderly. The UDP representative said he had come prepared for a debate on policing, and would not pretend to be up to speed with the White Paper, but he did want to put on record his party's total opposition to any forms of discrimination, be they on grounds of religion, politics, disability or gender.

23. The UUP supported measures to eliminate unemployment, such as New Deal. It supported fairness and equality for all. The party noted that the British Government had said that there was no evidence of systematic discrimination. Despite numerous legislative and other strategies, the differential in unemployment rates between the two communities had persisted. Statements and remarks by many parties and commentators, and indeed by the Government, continued to give credence to the idea of a causal relationship between discrimination and this differential, in other words that there must be discrimination to explain the differential. The Government had taken on board the SACHR Report, which had not taken into account the economics of the employment market. That report had done a disservice to both communities by reinforcing the myth of continuing discrimination. The key fact was that more Catholics than Protestants were leaving school and seeking jobs. If the demographics of the two communities had been the same - in terms of school leavers, retirees etc - the differential would have disappeared years ago. Finally, the UUP said that if the employment market was now working fairly, then the only way to reduce the differential by setting targets would be to discriminate against Protestants.

24. The NIWC disagreed with this analysis, and considered that the unemployment differential was evidence of past systematic discrimination against Catholics. It accepted that this had now stopped, and many Catholics and Protestants had worked against it. The Coalition asked the UUP if it could not accept that there had been discrimination.

This had not been in the remote past but could be remembered by many. This should not become a political football. It was important to look at geographical black spots, and see where the need was greatest. The UUP said it was not disputing the past, but the present differential was a result of differences in birth-rate, not a legacy of discrimination. On the second point, the party agreed with TSN, and concentrating on the have nots, whomever they were.

25. The British Government said it would respond to as many of the points raised as it could. It was not true that the Government was externalising responsibility for equality. It was bringing in a statutory duty for every Minister and public body to adopt plans for combating inequality, and there needed therefore to be an independent body monitoring the Government's own compliance with this. These plans would be tested against the requirements of the Equality Commission. The Government did not think the nervousness of the individual "sectors" about a possible hierarchy of discrimination would be borne out. Equality issues were being put at the centre of Government and made more powerful. There was an element of tidying up the proliferating bodies in this area, and indeed the Irish Government was understood to be doing much the same. On the PUP's criticism of New Deal, the Government had started with the 18-24 age group, but would be moving on to adult unemployment. The Government was creating 500,000 new places in further education. The door was open, and the Government was interested in hearing parties' ideas.

26. The British Government said the NIWC had spoken about schools and the curriculum. There had been a moratorium on curriculum changes in recent years, after a period of rapid changes. This was now being lifted so that changes for the school year 2001 could be considered. The CCA would look, for instance, at the area of citizenship. The Government was bringing in a minimum wage, which it was sure the NIWC would agree was a powerful step forward. This would be of particular benefit to people in Northern Ireland, as it would be set at a uniform rate for the UK. The Government had started moving on child care, and a further policy statement would be made next month. On the employment differential, how it occurred was much less important than how it was tackled. It was not a simple matter, and had proved very obstinate. A lot of things contributed to it, many of them beyond Government control. Equality of outcome could be readily achieved, but perhaps only by means offensive to human rights. The Government was not just going to declare targets without having a clear mechanism to achieve them. It would like to take giant steps, but what were they?

27. Sinn Féin observed, in response to the UUP, that in any effort to tackle the unemployment differential, areas of greatest unemployment would need to be targeted, wherever they were. The greater part of them were west of the Bann, and the party asked the British Government what plans it had, for example, for this area. Parties would find it very difficult to explain the timescale of 2011 to people. The party acknowledged that the spirit in the White Paper seemed to be willing, but the flesh, on past experience, was likely to prove very weak. The UUP

agreed with Sinn Féin about targeting areas of greatest need. The party welcomed the Government's frankness and balance, and hoped the final report would not confuse the employment differential with inequality or discrimination.

28. The SDLP noted that the Minister had felt the Equality Commission to be a great opportunity for those engaged in this field, and asked had the Government consulted with the existing bodies, who did not seem to be too happy? The Government had asked for ideas. The SDLP said it had made substantial proposals directly to the Government and also through this Subcommittee, and the SACHR report would also represent a giant leap. The party said it was important to be mindful that disadvantage extended to working people in the unionist community as well, and it had to be ensured that there was no reverse discrimination against them.

29. The British Government said Government policy was to use its best endeavours to get jobs into the most disadvantaged areas. Two thousand and eleven had been mentioned as it was the date of the next census, which would give a chance to measure progress. A White Paper had to go first to the House of Commons, and there was now a consultation period. It would be frankly surprising if the bodies being merged expressed enthusiasm at this stage. Labour drew attention again to the surprisingly useful document produced in the Forum on long term unemployment. The party said there had undoubtedly been massive discrimination in the past, but there was no point getting paranoid about

it now. The differential was really a social inheritance now. The Government should keep an open mind to any innovative ideas on how to tackle it.

30. The Chairman concluded the debate. He had noted the requests for a further meeting on policing and prisoners, and would consult on these. Participants were aware, of course, that time was very tight. The Committee was a liaison body, not a decision making one, and could only really happen when the Governments were able to prepare papers on subject areas. The Chairman adjourned the meeting, to the call of the Chair, at 16.46.

Independent Chairmen Notetakers
3 April 1998