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File 35/4/2

Meeting to discuss Consultative Paper on
Equality of Opportunity in Employment in
Northern Ireland which is due for publication
on Tuesday 16 September 1986

20705

Venue: Maryfield
Date: 12 September, 1986

Participants

Irish Side

Mr. E. O Tuathail, D.F.A.

Mr. B. Davenport, D.F.A.

British Side

Mr. D. Fell, Permanent Secretary,
Department of
Economic Development
Mr. R. Spence, Under Secretary,
(Central Secretariat)

Secretariat

Mr. M. Lillis
Mr. D. O'Ceallaigh
Mr. P. Scullion

Mr. S. Hewitt

The following account, taken from detailed notes, is presented in the form of direct speech. The meeting commenced at 6.00 p.m.

Mr. Lillis

I would like to thank you all for coming here this evening to talk to us about your consultative paper prior to its publication next Tuesday. We consider this area of equality of opportunity in employment to be a matter of major importance to the Nationalist community. We are therefore very interested to hear what you have to say here today.

Mr. Fell

I would like to thank you for assembling such an impressive team at such short notice and so late on a Friday evening. I have just received a copy of our document from the printers and I propose to give you a brief outline of the general direction of our proposals. I must stress that this document is not a report by officials. It is a Government Consultative Document (in other words a Green Paper.) It represents a statement of our Government's commitment in the area of equality of opportunity in employment and outlines options for changes in the existing institutions and legislation. The purpose of publishing a Consultative Paper is generally to test public opinion but also openly to demonstrate our Government's commitment in this area. The publication of our consultative paper will be launched at a press conference to be held by the Secretary of State on Tuesday next at 11.00 p.m. There will also be other Ministers present. The document contains about 70 pages. The main text is contained in the first 45 pages and the remainder is taken up with the various appendices. I propose to have a half a dozen copies delivered to you on Monday at around midday.

Mr. Lillis

Could you leave the copy you have behind for us to read and study?

Mr. Fell

No, I cannot do that because I have already promised the Chairmen of various groups such as the Fair Employment Agency, the Equal Opportunities Commission, the Standing Advisory Commission on Human Rights, copies on Monday. It would be inappropriate therefore for me to give out a copy to anyone else before Monday. (On a jocular note Mr. Fell pointed out that the document will be available from Her Majesty's Government Publications Office as and from Tuesday, at a price of £7.30 Stg.) I would like to stress that the Secretary of State is paranoid about the release of the document before Tuesday in view of the leak over the weekend. I will now give you a brief outline of the contents of the paper and hopefully my presentation will give you an idea of the strong flavour of our proposals.

(1)

The document deals with equality of opportunity in employment in Northern Ireland in the areas of religion, sex and disability. The major emphasis, however, is on the religious dimension. The first part of the report is a statement of the background and status of the consultative paper. Here I wish to emphasise that, while the Government are seeking reaction to the proposals contained in the paper, some of the basic principles are not negotiable, e.g. the principle of recruitment and promotion on the basis of merit. Likewise the concept of reverse discrimination (employment of persons of one religion in order to achieve a balanced workforce or to redress past discrimination) and the concept of quotas are unacceptable.

(2)

The paper then goes on to look at the wide differentials between the employment experiences of Protestants and Catholics which exist in Northern Ireland and readily accepts that there has been to date insufficient movement in this area.

(3)

The following chapter deals with the various institutional bodies - Fair Employment Agency, the Equal Opportunities Commission, the Standing Advisory Commission on Human Rights, the Commissioners of Complaints etc. and contains factual information on how these bodies operate. There are many common assumptions as to the role and effectiveness of these various bodies. We have therefore endeavoured to try and establish if they will stand up to such scrutiny. The paper then goes on to deal with the central question of discrimination in employment. It is insufficient to expect employers to rely solely on statutory obligations to end discrimination in employment practices. It is essential that employers should also have the desire and commitment to end or avoid such discrimination. Discrimination can come about in many forms. It can be deliberate, accidental, covert or even overt. It is not always a matter of simple direct discrimination against an applicant by employers, because of his/her religious background, sex or disability. We have found that there is a direct relationship between wages threshold and social welfare benefits in the whole area of discrimination. It is a characteristic of the labour market in Northern Ireland that it is highly immobile. This is mainly due to demographic factors - statistics show that

there are 71% Catholics living on the Western side of the Province, whereas only 45% Protestants reside there. We have discussed the problem of the geographical spread with such bodies as the IDB and LEDU in the context of job creation. These discussions revealed that there is no strong bias towards the East side of the province in terms of the spread of apprenticeships available. On educational matters we found that there are differential subject choices between predominantly Catholic and predominantly Protestant schools. For example, we found that Protestants take greater advantage of Grammar School places than do Catholics. While we consider that the divergence between Protestants and Catholics is now closing, we do accept that where a Catholic and a Protestant have the same educational qualifications, the Protestant has a better access to the job than the Catholic. It is one of our aims, through this Consultative paper, to get rid of such inequality. There is no indication however that this would be achieved any easier with full employment. We have also come across what is often described here in Northern Ireland as the "chill factor". This factor exists where certain employers do not seek to employ from one side of the community; do not seek to employ females, or do not seek to employ disabled persons. The "chill" factor is experienced both by employers and employees - employees will not apply for certain jobs because they feel that they would not have a chance of success because of their religious background, sex or disability. Recruitment, selection procedures and promotion on the basis of merit are therefore essential to ensure equality

of opportunity in employment in Northern Ireland. Effective monitoring of these procedures is also essential to ensure equality of opportunity.

- (4) We believe that policy and legislation in the area of equality of opportunity are soundly based but can certainly be improved. By way of example, I would refer to the Guide to Good Manpower Policy and Practice which is essential but which requires revision and up-dating. We believe that the present Declaration of Principle and Intent is both useful and useless. When signature of the Declaration was linked to tender acceptance we found a significant increase in signatories. However, many of those employers or bodies who signed the Declaration thought that once they signed that was virtually the end of the matter. There was no mechanism for monitoring, no periodical review, or follow up procedures after the initial investigation carried out on them. The Declaration, therefore, needs to be radically improved. We would consider the term "Declaration of Employment Equity" as a suitable alternative to the Declaration of Principle and Intent. We have also found that many people are confused in their interpretation of the affirmative action programmes. Regrettably, some people think that the affirmative action programme and the concept of positive discrimination are one and the same. We propose, following the Canadian example, to use the term "employment equity programmes" instead of "affirmative action programmes" to reduce the confusion. We readily accept that existing institutional arrangements in the area of equality of opportunity are deficient. For example, the FEA is supposed to investigate cases

and to act in an educational manner which in fact means that the FEA acts as judge and jury in each case. Many employers are reluctant to seek help from the FEA because of this. We feel that there should be a functional separation of the educational and investigative powers on the one hand and the quasi-judicial decision-making role on the other. Government must give a lead in this area and must do so by example. In this context when I say Government should lead by way of example I am talking about the Public Service.

(5) Summary of Proposals

(i) We propose to revise the Guide to Good Manpower Policy and Practice which we feel gives useful advice to employers on, among other things, recruitment procedures. We propose to publish the revised Guide document about one week after the publication of our consultative paper. It will also be in the form of a consultative paper. The reason for the gap is to give interested parties time to absorb our main paper before hitting them with the second.

(ii) One of the main problems with the public sector is that it is very diverse. It is not unified. It is made up of Government Departments, State owned bodies, Councils etc. We accept that there is an insufficient unified drive in many areas of the Public Sector to bring about equality of opportunity. In the past it had been left to the discretion of each public sector employer to sign the Declaration of Practice and Intent. We consider that it is essential that a statutory obligation should be imposed on all public sector employers to ensure that they sign the Declaration and become an

equal opportunities employer. The Government would be prepared to take steps to enforce the Statutory Obligation on employers in the Public Sector if they refused to cooperate.

(iii) We considered a parallel set of guidelines for the private sector but rejected however, the idea of a statutory obligation on the private sector, for the following reasons:

- (a) There is gross misunderstanding of the concept of equality of opportunity in the private sector. We consider therefore that the first step is to conduct a major educational programme in this sector. We consider that this would lead to less resentment in the end and hopefully to greater co-operation.
- (b) There would be an on-cost factor to the private sector. They would be required to spend money on, for example, additional personnel managers, additional forms, changes in recruitment policies and practices etc. This is not something which could be affected overnight. We therefore feel that we must have a series of "carrot/stick" designed measures to entice them to become equal opportunity employers. We would see merit in linking such measures to the proposed changes in the Declaration. These changes are set out in an illustrative list in our paper and contain the following guarantees:

promotion based on merit;

regular monitoring;

proposals to identify inconsistencies in applications;

remedial action on imbalances;

maintenance of records of religion of applicants;

confidentiality of information.

The Private Sector has a potential employer base of 8,000 firms and therefore from a practical point of view we would have no alternative but to opt for self certification for this sector to begin with. We would also see it as being essential to stagger the terminal date between the use of the old Declaration and the introduction of the new Declaration, at least for a limited period. This would be essential to allow the proposed new Agency to examine progress in the new area. Against the background of a new form of the Declaration, we propose to link tender acceptance to possession of an equal opportunity certificate. We also propose to withhold Government grants to those who fail to sign the Declaration or to hold a Certificate. This is extremely effective in Northern Ireland where most new investment relies heavily on Government grants. In this connection, we will also consider providing grants to defray initial costs to employers who opt to become equal opportunity employers and also to defray costs of additional staff which might be required to give advice and assistance.

(iv) We are proposing a new institutional model with a distinct separation between the

investigative function and the quasi-judicial function. There are two options for institutional change:

(a) either to concentrate on the religious dimension only and to establish a new Fair Employment Commission

or

(b) to cover the three dimensions, of religion, sex and disability, and to establish a new Equal Employment Opportunities Commission.

Either of the proposed new Commissions would have the following functional split:

- a Directorate which would be responsible for investigative, educational, promotional and development work only. It would form opinions and views but would have no legal function.
- Three full-time Commissioners appointed by the Secretary of State. These would be high-calibre people who would deal with the quasi-judicial decision-making role.

Both of these would be complemented by an Independent Appeals Tribunal. It is envisaged that the Tribunal will have the final decision in law and will be subject only to judicial review.

In our consultative document we envisage the winding up of the FEA. We are aware that in such circumstances a hiatus could develop in the interim. This could result in the FEA being seen by some as having been discredited. In order to avoid such a situation we are proposing to set up an Interim Industrial Advisory Unit.

Such a Unit would be established within an existing Government Department. There is a precedent for such action in Great Britain where the Race Relations Advisory Service is part of the Department of Employment.

With regard to the two options for institutional change proposed in our paper we consider that if we were to concentrate on the religious dimension (option (a) above) only there could well be political concern that we are putting too much emphasis on the religious issue. We would also be openly stating that in the area of sex and disability, matters would remain the same as they are now. In contrast, however, by concentrating on the religious area only, we would be able to move ahead more quickly. One major drawback to this option is that it could lead to inconsistency in the Civil Service.

The alternative option is to deal with all three areas of discrimination - viz religion, sex and disability - together in an all-embracing Commission. (The three areas would however have the same functional split as with the proposed Fair Employment Commission to deal with the religious dimension only). An all-embracing Commission could operate on the basis of separate legislation for religion, sex and disability or on the basis of a single new law.

The advantages of selecting the all-embracing Commission are

- Most employers prefer to deal with one body only. In point of fact, I have been told this by many employers.

- Northern Ireland is over-institutionalised and it is therefore preferable to have all sources concentrated into one single Agency.

The disadvantages as we see them are that:

- It could be said that Government is not giving sufficient attention to the religious problem.
- Difficulties could arise in the area of withholding of grants, where for instance, an employer was not discriminating on religious grounds but was on sex or disability matters.
- The concept of differential legislation applying to the three areas. For example the FEA act as judge and jury while the Equal Opportunities Committee does not - it merely supports applications but does not act as judge. Quotas do exist for disability discrimination but are not in practice used. There could be legislative headaches if it became necessary to operate these quotas.

What we have in essence is uniform legislation versus differential legislation. We feel that a uniform code of legislation is required in this area. An all-embracing Commission could work within existing legislation but it would require the establishment of a new Equal Employment Opportunities Commission. Whatever option is finally agreed upon there will be a delay before it can be implemented.

Our action in the short term will be in the areas of;

- issuing immediately the Guide to Manpower Policy and Practice, and
- within the public sector, where we feel we have a good model which comes near to what we are trying to establish generally, we would hope to promote further the practice of equality of opportunity by way of seminars to encourage other public bodies to implement our proposals. We have the support of such bodies as the CBI for this proposed action;
- Government Ministers have committed themselves to talk to the Chairmen of all public service bodies in an effort to get them to lend their support to the new proposals.
- If we can reach consensus the proposed Temporary Advisory Unit will be set up to assist with grant and trainee schemes for the private sector.

Mr O Tuathail Thank you for your presentation. We will of course have to study it in more detail when we receive copies on Monday. You are at an advantage in that you have already seen our paper.

The main question in the short term is how far to go. There will be problems in the area of institutional changes but action must be taken, and must be seen to be taken quickly, in this area. What is the position on the SACHR review? Is it still going on?

Mr. Fell

My understanding is that the report is about one year away from completion. (I might add that I spoke recently to Seamus O'Hara, Chairman of the SACHR, and he said that he felt our proposals in the Consultative Paper had done it all). However, as our paper allows a six month period for consultation after publication it will be next March at the earliest before we have received back all comments and suggestions. It will be Autumn before we have firm proposals, so in fact both reports could well be released at around the same time. The SACHR intend to publish their report in stages and I am told that they expect to publish something on PSI by around Christmas.

Mr O Tuathail Will the document on the Guide on Manpower Policy be a definitive or consultative document?

Mr. Fell

It will be a consultative document.

Mr O Tuathail What do you feel about the prospect of the new Commission being tied to your Department? We had proposed that the FEA (and not the Department) should be responsible for issuing and revising the Guide.

Mr. Fell

I am, if I may use such language, an agnostic on this question.

Mr O Tuathail I think that the area of statutory obligation needs to be teased out a little more. You have spelled out the implications of the Declaration for the private sector. However, you have not spelled out what will happen in practice, if employers in the Private Sector fail to act. Have you deliberately avoided spelling this out? Would

you envisage criminal charges? Would you propose to implement grant denial?

Mr. Fell We feel that it would be sensible to restrict any action to companies with over 50 employees.

Mr O Tuathail There could well be niggling problems with the Article 42 situations.

Mr. Fell We have not gone into the same detail in our paper as you have in your document on the question of Complaints Procedures. Neither have we mentioned Article 42.

We have firm proposals on industrial location. We provide training even where an area is disadvantaged. We maintain a spread throughout the province. By contrast, in Great Britain, such training provision would cease in areas where there was no concentration of work. Derry and Newry would be good examples of where our policy in this matter is operating.

Mr O Tuathail On the question of the Affirmative Action Programmes, have you devised a new model programme or have you any intentions of strengthening the present Programme?

Mr. Fell The illustrative list I read out earlier in connection with the proposed new Declaration would form the general basis for the guarantees we would wish employers to adhere to or to strive towards. We also have the Guide. These two taken together should form the basis of a good model. On the question of the Guide I should say that I agree that the new Commission will be the centre of expertise and as such should issue the Guide. However, we are statutorily obliged

to issue it from our Department (although I cannot find where this obligation emanated from).

Mr O Tuathail Your proposals on the new Declaration are, in fact, a big step forward. We agree with your proposals that employers should be required to monitor and review the composition of the work force on a regular basis.

Mr. Fell Yes. There will be no Government grants if employers fail to sign the declaration.

Mr O Tuathail As I said before, we see your paper as a useful beginning towards achieving equality of opportunity in employment in Northern Ireland.

Mr. Lillis Can you give us any indication of the timescale involved or of the steps to be taken to set up the proposed new Commission?

Mr. Fell Unfortunately one of the key areas of uncertainty is the likelihood of an election in the UK. However, leaving that aside it will take the draughtsmen about a year to draft the legislation which, on this occasion will have to be laid before the House in the form of a Westminster Bill. It cannot be done by order in Council. We will therefore need to slot it into a legislative timetable. It will be June '87 at the earliest before we have a firm policy statement on the matter (the consultation stage expires at the end of March '87 and discussions will then follow.) We will then have to book a place in the legislative programme which normally commences in November '87. I would imagine that it will be towards the end of '87 at the earliest before the legislation will be placed on the statute books.

Mr. Lillis

Can you explain your earlier comment concerning the separate quasi-judicial function for the proposed new Commission. I think I recall you saying that the decision of the tribunal, which would complement the new Commission, could not be appealed to another court.

Mr. Fell

Yes. The proposed Directorate would be responsible for carrying out the investigative function. The Commissioners would then make the judgement i.e. for restitution etc. There would then follow the right of appeal to a tribunal. The Tribunal is therefore the final Arbitrer. There would be no appeal to the judicial system except on a point of law.

Mr O Tuathail

This is in fact the opposite to what applies in the U.K.

Mr. Fell

Yes. We are trying to speed matters up here. Our proposals in this area are similar to those which apply in the planning area in Northern Ireland.

Mr. Lillis

You have made several references to "The Public Sector". Can you explain the extent of the term "Public Sector" as it applies here in Northern Ireland?

Mr. Fell

Yes. The Public Sector accounts for about 45% of all employees in Northern Ireland. There is approximately 23,000 employed in the non-industrial Civil Service, the remainder work in areas such as the Education and Library Boards, Health and Social Services, Police, Prisons, Northern Ireland Electricity Service, LEDU, Haarland & Wolff, Shorts etc.

Mr O'Ceallaigh What you are saying is that the Public Sector here includes publicly owned companies.

Mr. Fell Yes. The choice open to us if a public body fails to sign the Declaration of intent is to either cut off Government grants to the body or impose the statutory obligation on the body.

For example, in the case of Haarland & Wolff, the statutory obligation could be enforced by removing the board or we could just cut off the money supply.

Mr Davenport Does the Public Sector also include Local Authorities?

Mr. Fell Yes. But in point of fact there are only 10,000 people employed in the local authorities.

Mr O Tuathail Have you considered in your Consultative paper the possibility of introducing numerical targets.

Mr. Fell No. We have not gone into this area in our consultative document.

Mr O Tuathail And in relation to the Consultative paper on the Guide?

Mr. Fell I'm afraid I'm not sure about this one point.

Mr. Lillis I am sure that there will be enormous interest, not only on the single dimension but also in the area of provocation from flags and bunting, and I think such interest will be especially measured against the recent events in Shorts.

Mr. Fell

We will be setting out our position on the issue of flags, bunting etc. in the revised Guide. The measures will not, of course, be compulsory but we will be urging employers to avoid deliberate provocation by the flying of the flags and emblems in workplaces. There is nothing, however, in our paper on the Flags and Emblems Act. This is a separate matter entirely from my area of work.

Mr. Lillis

I feel strongly that interest in the revised Guide will be focussed in this area, i.e. the recent situation in Shorts, flags and emblems, bunting etc. Have you looked at a revision of the Guide in the context of the McBride principles.

Mr. Fell

I want to get away totally from the McBride Principles. We have found them to be difficult. We opposed them as being unnecessary and as possibly being illegal. The recent judgement in the New York Courts, however, makes our opposition to them from a legal point of view more difficult, even though we consider that judgement to have been perverse. The main problem is that there is a perception among some people that we are opposed to the McBride principles because we are opposed to equality of opportunity in employment. We hope that our consultative document will show that this is not the situation. A charter for employment equity is the banner under which we wish to proceed.

Mr. Lillis

We share your concerns about the McBride principles and have in fact done something positive in that area. However, the reality is that the McBride principles will be measured against your proposals. I would need to examine

both in detail to see just how your paper fares out.

Mr. Fell

I feel that our document takes the basic principles outlined by McBride and puts our own slant on to them. Everything that is in the McBride principles are also covered in our consultative document, except reverse discrimination and an obligation on employers to provide security to their workers on their way to and from work.

Mr O Tuathail

Perhaps you could tell me a little about the position at the moment in Shorts. Is it true that the option on the additional part of the contract is not being taken up by the U.S.? I would also be grateful if you could give me the facts on the following issues:

- (1) The Report which is now due from Shorts under the Affirmative Action Programme.
- (2) The position on the display of flags and bunting.
- (3) Your overall action in these areas.
- (4) The position on when and if the Tavistock Institute Report will be published.
- (5) Apprenticeship and recruitment.
- (6) The situation on the alternative site in Dunmurray and
- (7) The possibility of sub-contracting.

Mr. Fell

Shorts have options on two sets of orders for 24 planes. These contracts normally have terminal dates but in the past have always been extended. (This process of extension rather than renegotiation enables Shorts to continue without having to compete by way of tender for a new contract.) I have no information available to me to indicate that the contracts will not be extended. I understand that the U.S. side intends to strike a cost inflation clause from the new options to purchase. The information I have is that it is highly likely that the U.S. Airforce will not require the additional planes. However, there is information that they might be required by the U.S. Army. We are therefore examining the possibility of transferring the options from the U.S. Airforce to the U.S. Army.

On the question of bunting I can only say that an uneasy peace now reigns in Shorts. There has been a substantial removal of bunting and flags in the factory and I understand that the Union Jack flag now flies only over the Headquarters.

Mr O Tuathail The problem as I see it is, how many pictures of the Queen, how many flags etc. can be flown?

Mr. Fell

Yes, I agree with you, I just don't know where you draw the line on this one. I must say that it is my private view that the recent management negotiations with the DUP which by-passed the Trade Unions was most unhealthy.

On the Dunmurray site I should say that there are 30 employees there at the moment making parts. In point of fact the factory has opened.

Mr O Tuathail Was there not a trade union problem there?

Mr. Fell No. There was never a Trade Union problem there. Parts were never blacked from the Dunmurray site. They are in fact producing these at the moment. The problem with Dunmurray is that it is commercially unviable to develop it further. This year has been the worst year financially for Shorts. They are under severe pressure in all areas of production - the rockets area, parts, etc. They need a British defence contact or their missile section will virtually go down the drain. Neither Haarland & Wolffs nor Shorts is in a healthy financial state at the moment. Haarland & Wolffs need new orders immediately or there will certainly be redundancies

Mr O'Ceallaigh What percentage of the Shorts workforce operate in the Missiles section?

Mr. Fell Approximately 1,400. On the Tavistock Institute Report, I understand that the Report in draft form is with the Fair Employment Agency and the Shorts Management. We expect something on this within a month. I should say that the Tavistock Report did not look further than the period it was set up to examine, while the FEA of course, on the other hand, will continue to monitor the situation on a regular basis.

Shorts have in fact just completed the required three years of their Affirmative Action Programme. There have as yet been no discussions between Shorts and the FEA on whether a further Programme will be initiated.

Mr. Lillis

You said that it was your private view that the Shorts Management should not have conducted their recent business with the DUP over the flags and bunting issue and thereby ignoring the trade union movement. Is management aware that this is also the view of Ministers?

Mr. Fell

No. This is due mainly to the fact that there was a change of Minister. The Shorts Management was in fact due to meet with Mr. Boyson this week.

Mr O Tuathail

Have you any ideas or opinions on the question of sub-contracting ?

Mr. Fell

I'm afraid I don't really know the spread in this area. Shorts say they sub-contract to about 200 firms.

Mr. Lillis

I must say that we are encouraged by what you say is in your paper. We will, of course, examine if further on Monday. It is unfortunate that it may eventually be finalised in a different political season. We still have a lot to talk about on this subject. I would propose that we would have a further meeting at which time we will offer you a chance to talk about our paper which was handed over on 3 September and to put the questions to us. We are grateful for your frankness and cooperation here this evening.

Mr. Spence

I should mention at this point, that the Secretary of State sees our Consultative paper as being a British Government discussion paper. He will of course express openly that you regard it as important in the context of the Agreement and that in this context you recently put forward preliminary views on the subject and that the

matter will be considered and discussed at future meetings of the Intergovernmental Conference.

Mr. Lillis

I must emphasise that the whole question of equality of opportunity in employment was discussed briefly at the first Conference and that it has been mentioned here by us to our British colleagues on many occasions. Our position was extensively outlined to you at our meeting over dinner here in the Secretariat in June. We have therefore put forward our views firmly on the issue. It was as a matter of courtesy that we used the term "preliminary" when describing the paper we handed over on 3 September. It is essential that we want to avoid a situation arising where we might have to gloss or contradict anything the Secretary of State might say when he announces the publication of the Consultative Paper next week. Our Government was strongly criticised during the last session of Dail Eireann for alleged failure to make representations in the area of discrimination in employment. It is, of course, totally untrue, but now you can see why it is essential that it be made known publicly that we have had a very positive input into this area. We want to avoid the use of problematic adjectives and even adverbs in the Secretary of State's statement. For example, it would be most embarrassing for us if the words "background discussions" are used when describing our discussions in the Secretariat on the subject. Our views have been given in detail and on paper. I am asking you therefore to please avoid the use of such words as "background", and any other words e.g. "recently", which would be likely to be difficult for us to accept when you are briefing the Secretary of State. I can say

here that we will be rather positive in our approach (in a cautious manner) to your consultative paper.

Mr. Spence The problem is that the Secretary of State will want to refute any allegations that this document was forced upon him by virtue of the Agreement.

Mr. Fell I think that the timetable of events on this issue will show that that is not the case. The work which led to the publication of our paper was instituted back in July '85.

Mr. Lillis Nevertheless, the Secretary of State should be sensitive to our position and should not therefore suggest in his statement next Tuesday that it is not an important issue to us, or one on which we have not put our views.

Mr O Tuathail The problem as I see it is that even if this matter was never raised in the Conference people will say that it emanated from there. In point of fact, we have had views on this subject long before the Agreement. I am thinking here of during the negotiations leading up to the Agreement.

Mr. Lillis We want to avoid having to make counter statements which would embarrass you.

I would like to return for a moment to the international area. You must be aware that in the U.S. that there is a certain sympathy and support for the McBride principles. I feel, if I may say so, that your ideas for your presentation in the U.S. against the McBride Principles should be done in a wider context. The publication of your document should be

coupled with proposed changes in the Public Order legislation which includes the Flags and Emblems issue. I think it would also be in your own interest, and certainly in ours, to include a decision in principle on the introduction of a Bill of Rights.

Mr O Tuathail I agree with Michael. Your document will certainly be a help in your bid to combat the McBride principles but I think that any campaign launched in the U.S. will need more if it is to succeed.

Mr. Lillis It will in fact need a great push.

Mr O'Ceallaigh I would like to change the subject, if I may, and ask you what is the temperature in the NIES at the moment with regard to their strike potential?

Mr. Fell I would say the position there is the same as it was six months ago. Management are aware of the problems and have quietly moved some people around who were in strategic positions.

Mr. Lillis Yes, I think it is important to realise that the NIES is one of the few areas which could certainly choke the situation here or hold you to ransom.

Mr. Fell Yes, I agree. It is commonly thought that the simple solution to a power strike is to move in "Army Sappers" to run the power stations whereas in point of fact this just doesn't work. Power distribution is the problem. Getting the power outside the gates of the Power station and into the houses is extremely technical. It requires people manning a lot of switches at

the right time. It is an area that can be sabotaged easily by simply turning off the right switches. A strike by NIES employees I agree, is a potent weapon for the Unionists but it could also backfire. The ordinary people will certainly complain if they have no electricity or no heat.

Mr O'Ceallaigh It didn't backfire in 1974.

Mr. Fell Yes, but the strike was held during the summertime.

Mr. Spence To return to the question of the Shorts management negotiating with the DUP, while disregarding the TU movement, I should say that it was probably the political reality on the shop floor at the time. It is interesting to note that none of the Missiles section people came out during the recent walk-out.

Mr. Davenport I would like to return to your proposals for linking tender acceptance to those bodies which sign the Declaration. You say that this will not be negotiable.

Mr. Fell The principles of selection and employment on the basis of merit and the rejection of quotas is contained in the existing legislation.

Mr Davenport However, your proposals on sanctions go well beyond the existing legislation.

Mr. Lillis I would like for a moment to go back to something you said earlier. I am interested that you use the words "Ministers have concluded" instead of "Ministers have

negotiated" when referring to this aspect of your paper.

Mr. Fell

I think the exact words in the paper are "Government have decided that" it would propose to restrict sanctions to the dimension of discrimination on the grounds of religion.

Mr Davenport

I think your proposal that if an employer does not sign the Declaration of intent that he will not receive a grant is a matter which should be positively pushed in the U.S. in your campaign against the McBride Principles.

Mr. Fell

I should say that some of our own people involved in the drafting of our paper thought that the sanction on grants would be viewed as imposing just another barrier to investment here in Northern Ireland. However, we spoke to the IDB and other groups who in fact, said no, on the contrary, the decision to impose sanction shows a commitment by the Government which will certainly be welcomed.

Mr. Lillis

What in your own private view is likely to be the outcome, as between a separate approach on religious discrimination and a single approach to the three dimensions?

Mr. Fell

At first I thought the best way to proceed was to concentrate on the religious discrimination dimension only.

I personally think that the multi-dimensional options covering the three dimensions is the best way to proceed. By concentrating on the religious dimension only we could arrive at a situation which would be dealt with by the new

Fair Employment Commission. However, any policy matters on sex and disability could be held up because in fact these would be dealt with by different agencies. I personally feel that political and public opinion will eventually go the other way towards the option of dealing separately with the three problems.

Mr O Tuathail Was the institutional debate gone into in Great Britain?

Mr. Fell Yes. They have always been separated (historically).

On a final note I should explain that when I used the term Ministers, I was speaking collectively i.e. Ministers in Great Britain and in Northern Ireland as distinct from just referring to Ministers in Northern Ireland. One of the main stumbling blocks for the Secretary of State was that he had to sell the package to Ministers in Great Britain where there were certain fears expressed because of the knock-on effect it might have there.

Mr. Lillis I would again like to thank you for coming here this evening. We look forward to receiving your paper on Monday and to have further discussions on the subject as I have already mentioned.

The meeting lasted for approximately $2\frac{1}{4}$ hours.

P. Scullion
13 September, 1986