

McNally, Frank

From: Price, Sean
Sent: 14 May 2001 15:21
To: McNally, Frank
Subject: RE: Meeting with Equality Commission

Frank,

I will be in Spain from 19/5 to 2/6, it is not essential for me to attend, any of the DRM's would do. Happy to go if you wish to postpone.
Sean.

-----Original Message-----

From: McNally, Frank
Sent: 14 May 2001 15:16
To: Carlisle, Jim; Price, Sean; Cargo, Jack; Price, John
Subject: Meeting with Equality Commission

You will recall at our meeting with Jacqueline McKee from the EC on 8th May it was suggested we should set up a meeting with the Dept's Solicitor's to discuss our current policy on issues such kerb painting, flags, arches, bonfire material etc.

I have since contacted Philip Gunn, Solicitor's Branch who has agreed to meet with us. He has put forward the **30th/31st May** as possible dates for this meeting. Please confirm which date, if any, would suit you to attend.

In the meantime Philip has asked me to forward copies of the recent correspondence from the Councillor in Downpatrick, including our response and the letter received from the Equality Commission which resulted in our meeting with them.

Frank McNally
Policy and Communications Branch
Strategic Planning Unit (SPU)
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NOTE OF A MEETING HELD WITH THE EQUALITY COMMISSION ON 8TH MAY 2001

Present: Aiden Kirkpatrick – Equality Commission

Jackie McKee - Equality Commission

Jim Carlisle - Roads Service

Sean Price - Roads Service

Frank McNally - Roads Service

FLAGS, GRAFFITI, ARCHES AND BONFIRES

This meeting was arranged with the Equality Commission to discuss issues raised by Councillor Carlin in correspondence sent to Sean Price and the Equality Commission. The purpose of the meeting was to discuss Roads Service policy in relation to graffiti, kerb painting, flags, bonfires and arches and clarify if possible if this policy would be seen as reasonable in terms of equality.

Mr. Price outlined in detail Roads Service policy/procedures for handling these issues on the ground and highlighted the practical difficulties faced. He explained that if an arch, flag or bonfire material is judged to prejudice the safety or convenience of traffic then a decision would be made to remove it. Guidance would be obtained from the local police to see if it would be safe for Roads Service staff to go into the area to remove the material.

Mr. Carlisle explained that the Roads Service had met with the Orange Order in 2000 to discuss the requirements for erecting traditional arches. He explained that Road Service place an advert in the newspaper advising that consents are required to be obtained for the erection of arches. The consent requires that an arch is covered by £5 million Public Liability Insurance and a structural engineers certificate verifying the safety of the arch. Mr. Carlisle said that the Orange Order pointed out that most of the arches erected in July were not erected by its members.

Mr. Carlisle asked if the policies employed by Roads Service to deal with these issues would be deemed reasonable in terms of meeting equality obligations. Mrs. McKee said that as there has not yet been a test case on this it would be difficult to give us an answer. However, she suggested that we should seek advice from the Departmental Solicitor's Office.

Mrs. McKee thanked us for coming along and explaining the Roads Service policy/procedures in these areas which she said had helped the Equality Commission to understand the difficulties faced.

I was asked to arrange a meeting with the Departments' Solicitor to verify if our policies would be deemed reasonable and sufficient to resist a challenge.

Frank McNally

Policy and Communications Branch

9th May 2001

From: J Carlisle
Director of Corporate Services

Date: 7 March 2001

To: Mr J J Price
Divisional Roads Manager
Southern Division

KERBS, ARCHES AND BONFIRES – DOWN DISTRICT COUNCIL AREA

I refer to your minute of 23 February enclosing copies of letters your Division received from Councillor Aiden Carlin of Down District concerning the Roads Service position on the above.

You are no doubt familiar with the Roads Service general line on each of these issues and have copies of previous correspondence. The points below are taken from recent responses from the Minister to questions raised in the Assembly. I suggest you respond to Mr Carlin in a general way, using the existing 'party line', without attempting to address the specific points he raises. In relation to his attempt to draw in Equality and Fair Employment legislation it should be made clear to Councillor Carlin that the Roads Service's operational practice in dealing with such issues is applied equally across the board and there is no discrimination in how we provide our services. It should also be stressed that the actions taken by Roads Service are informed by the degree of local support that is forthcoming, police advice and the safety of our staff and contractors.

i. Kerb Painting

"It is an offence under The Roads (Northern Ireland) Order 1993 for any person who without lawful authority, paints on public roads, kerbstones and other fixtures. It would not however, be practical for my Department's Roads Service to police this matter to identify offenders (with a view to taking prosecutions) as such a task would be extremely labour-intensive and would be at the expense of other higher priority work, much of it related to road safety. I do not believe that painting on public properties whether it be roads, kerbstones or other

Departmental property, is a problem that my Department alone can resolve. It will require a general consensus across the political spectrum."

ii. Arches

"I do not condone any unauthorised use of Departmental property and my Department's Roads Service will remove materials that have been erected illegally on its property and are a danger to road users. Where there is no danger, Roads Service will seek to remove such materials on the advice of the police and where there is strong local support. To act without local support is likely to lead to a proliferation of such materials and put at risk the safety of staff tasked with the removal work."

iii. Bonfires

Similar principles to (i) and (ii) apply.

We do not have an Equality Advisor, as such. However Frank McNally has recently joined the Policy and Communications Branch in SPU, on promotion to DP, and will be responsible for the development and implementation of Roads Service policy on the Equity Agenda (New TSN, Equality Obligations and the Human Rights Act).

If you need copies of earlier correspondence, Maurice Galbraith can supply the detail.

I hope you find this information helpful.

J CARLISLE

001 10:15 FROM DM. TRAFFIC MGMT

TO

CRAIGAVON F.02/00

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Aiden Carlin
Down District Councillor

Bertie Ellison
Roads Service
Rathkeltair House
DOWNPATRICK

20 February 2001

Dear Mr. Ellison,

Re: Red, White and Blue painted kerbstones in Ballynahinch

I would like the views of your Equality Advisor on the Red, White and Blue painted kerbstones in Ballynahinch town centre. While it is recognised such displays of Britishness are an important part of the Unionist tradition they might well conflict with the following pieces of legislation.

Under Article 28 of the Fair Employment and Treatment (NI) Order 1998 it would be unlawful for the Roads Service to discriminate in the manner in which it provides services. This would include pedestrian access to Red, White and Blue painted footpaths in Ballynahinch. Surely it would be the view of your Equality Advisor that Nationalists and Republicans could regard the presence on the above kerbstones in the town centre as offensive? Further is it not possible that the Roads Service could be challenged in this respect under the above Order?

Section 75 of the N. Ireland Act also requires the Roads Service in carrying out its functions to have due regard to the need to promote equality of opportunity between certain individuals and groups. Without prejudice to this obligation, is it true to say the Roads Service is also required to have regard to the desirability of promoting good relations between persons of

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13-3-01
Bertie

different religious beliefs, political opinion or racial group? Does the Roads Service not need to consider whether the presence of Red, White and Blue kerbstones in Ballynahinch could be perceived as "marking out territory" and thus inhibit use of the relevant footpaths by ALL of the community? Further would there not be particular problems from a good relations perspective if the Roads Service were to allow such displays by one section of the community to continue?

I look forward to hearing from you soon,

Yours sincerely,

Aiden Carlin
Councillor Aiden Carlin

Dear Mr. Elliott,

Re: Eleventh Night bonfires at Lisburn and Mount Crescent car parks, Downpatrick

I would like to view your Equality Adviser on the planned use of the above car parks for Eleventh Night bonfires. While such events are considered as an important part of Ulster heritage, they still constitute an unauthorised use of Roads Service property and might well conflict with the following pieces of legislation.

Section 75 of the N. Ireland Act 1998 and the Human Rights Act 1998 require the Roads Service to ensure that it does not discriminate in the manner in which it carries out its functions. This includes access to the Lisburn Street car park, Ballynahinch and Mount Crescent car park, Downpatrick. Surely it would be the view of your Equality Adviser that Nationalists and Republicans would regard the presence in the above car parks of Eleventh Night bonfires, which are directly linked to the community conflict here as offensive? Further is it not possible that the Roads Service could be regarded as in breach of the above Order?

Section 75 of the N. Ireland Act also requires the Roads Service in carrying out its functions to have due regard to the need to promote equality of

DAM/00/2/12126

MVP
MVP

Draft Reply to DAM by
9/3/01

1:50

SINN FEIN

NO. 201

P. 1/2

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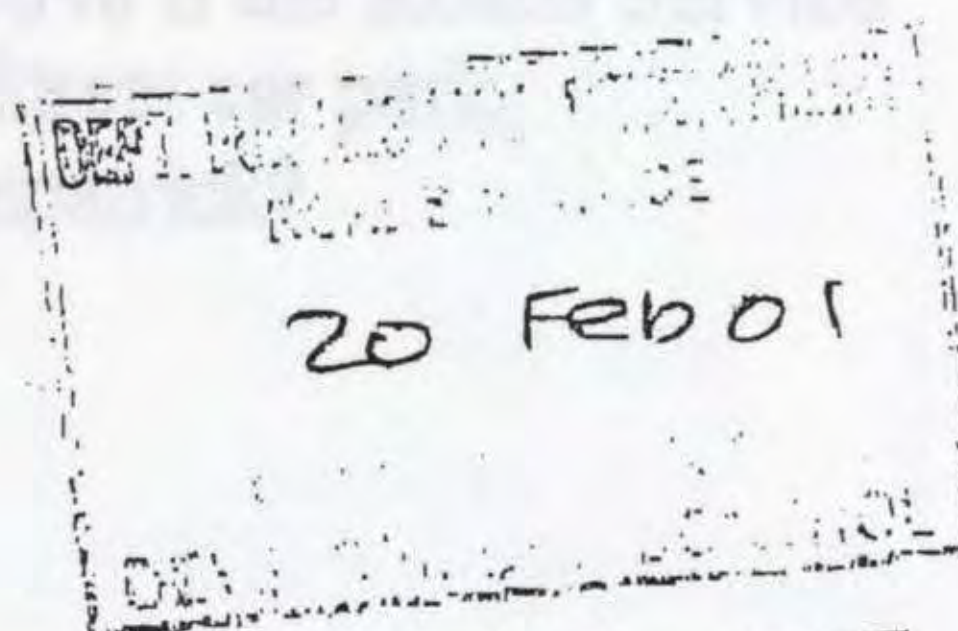
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Aiden Carlin
Down District Councillor

Bertie Ellison
Roads Service
Rathkeltair House
DOWNPATRICK

20 February 2001

Dear Mr. Ellison,



12105

13-3-2001

Bertie

Re: Eleventh Night bonfires at Lisburn Street car park, Ballynahinch
and Mount Crescent car park, Downpatrick

I would like the views of your Equality Adviser on the annual use of the above car parks for Eleventh Night bonfires. While such events are recognised as an important part of Unionist heritage, they still constitute an unauthorised use of Roads Service property and might well conflict with the following pieces of legislation.

Under Article 28 of the Fair Employment and Treatment (NI) Order 1998 it would be unlawful for the Roads Service to discriminate in the manner in which it provides services. This would include access to the Lisburn Street car park, Ballynahinch and Mount Crescent car park, Downpatrick. Surely it would be the view of your Equality Adviser that Nationalists and Republicans could regard the presence in the above car parks of Eleventh Night bonfires, which are directly linked to the community conflict here as offensive? Further is it not possible that the Roads Service could be challenged in this respect under the above Order?

Section 75 of the N. Ireland Act also requires the Roads Service in carrying out its functions to have due regard to the need to promote equality of

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NO. 20

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opportunity between certain individuals and groups. Without prejudice to this obligation, is it true to say the Roads Service is also required to have regard to the desirability of promoting good relations between persons of different religious beliefs, political opinion or racial group? Does the Roads Service not need to consider whether the presence in the above car parks of Eleventh Night bonfires could be perceived as "marking out territory" and thus inhibit use by ALL of the community? Further would there not be particular problems from a good relations perspective if the Roads Service were to allow such events to continue at Lisburn Street car park, Ballynahinch and Mount Crescent car park, Downpatrick?

I look forward to hearing from you soon,

Yours sincerely,

Aidan Carlin
Councillor Aidan Carlin

I would like the views of your Equality Adviser on the annual illegal erection of Orange arches in Down District without the consent of the relevant authority. While it is recognised these symbols are an important part of the Unionist tradition the Department of the Environment's consent is required under the Planning (Access to Neighbourhood and Premises) Act 1993. In the 8 years since this requirement was introduced, Orange Arches have been erected in Killyleagh, Saintfield, Ballynahinch, Dromore, Clough and Newcastle without evidence being provided to the Department verifying adequate insurance cover and the safety of the arches.

As you know, under Article 28 of the Fair Employment and Treatment (Northern Ireland) Order 1998 it would be unlawful for the Roads Service to discriminate in any manner in which it provides services. This would include providing access to car parks affected by Orange Arches. Surely it would be the view of your Equality Adviser that Nationalists and Republicans could regard the presence on a public road of an Orange Arch as offensive? Further is it not possible that the Roads Service could be challenged in this respect under the above Order?

DRM/0012/12118

M. Price
M. Atkinson

✓ *per 1/2*

20 FEB 2001

Draft reply to DRM by 9/3/01

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Aiden Carlin
Down District Councillor

Mr. Bertie Ellison
Roads Service
Rathkeltair House
DOWNPATRICK

20 February 2001

Dear Mr. Ellison,

Re: Illegal Orange Arches in Down District

I would like the views of your Equality Adviser on the annual illegal erection of Orange arches in Down District without the consent of the relevant authority. While it is recognised these symbols of loyalism are an important part of the Unionist tradition the Department for Regional Development's consent is required under Article 73 of the Roads Service Order 1993. In the 8 years since this requirement became law Orange Arches have been erected in Killyleagh, Saintfield, Ballynahinch, Dundrum, Clough and Newcastle without evidence being produced to the Department verifying adequate insurance cover and the safety of each.

As you know, under Article 28 of the Fair Employment and Treatment (NI) Order 1998 it would be unlawful for the Roads Service to discriminate in the manner in which it provides services. This would include pedestrian/vehicle access to the roads affected by Orange Arches. Surely it would be the view of your Equality Adviser that Nationalists and Republicans could regard the presence on a public road of an Orange Arch as offensive? Further is it not possible that the Roads Service could be challenged in this respect under the above Order?



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Bertie

13-3-01

Section 75 of the N. Ireland Act also requires the Roads Service in carrying out its functions to have due regard to the need to promote equality of opportunity between certain individuals and groups. Without prejudice to this obligation, is it true to say the Roads Service is also required to have regard to the desirability of promoting good relations between persons of different religious beliefs, political opinion or racial group? Does the Roads Service not need to consider whether the presence on certain public roads of Orange Arches could be perceived as "marking out territory" and thus inhibit use by ALL of the community? Further would there not be particular problems from a good relations perspective if the Roads Service were to allow such displays by one section of the community to continue?

I look forward to hearing from you soon,

Yours sincerely,

Aiden Carlin

Councillor Aiden Carlin

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M/A ~~Carlin~~

M/A ~~Thurson~~

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Draft Rph to DEM by
9/3/01