



Northern Ireland Assembly Commission

Equality Impact Assessment (EQIA)

**Review of the Policy on the Flying of the Union Flag
at Parliament Buildings**

EQIA Consultation Report

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Consultation

This EQIA Consultation Report is now available for consultation. All comments are welcome and will be accepted in any format. The consultation period will last for a period of 14 weeks and the deadline for submission of comments is **Monday, 2nd February 2015.**

The consultation process is being facilitated by consultants (Policy Arc Limited). Please submit all comments to Policy Arc at:

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1. Background

1.1 Legislative base

The Northern Ireland Act 1998 states, “there shall be a body corporate known as the Northern Ireland Assembly Commission (“the Commission”) to perform:

- (a) the functions conferred on the Commission by virtue of any enactment; and
- (b) any functions conferred on the Commission by resolution of the Assembly.”

The Commission is the body corporate of the Northern Ireland Assembly. It has the responsibility, under section 40(4) of the Northern Ireland Act 1998, to provide the Assembly, or ensure that the Assembly is provided with the property, staff and services required for the Assembly to carry out its work.

The Assembly Commission may delegate any of its functions to the Speaker or a member of the staff of the Assembly and may determine its own procedures.

The Northern Ireland Assembly Commission (“the Commission”) currently operates to the Flags Regulations (Northern Ireland) 2000 (‘the Regulations’) made under the Flags (Northern Ireland) Order 2000 (‘the 2000 Order). Annex 1 sets out the specified days for flying the Union Flag at Parliament Buildings in 2014. Parliament Buildings is not, however, a government building or courthouse within the meaning of the 2000 Order and this observance is a matter of practice rather than a legal obligation.

At the Commission meeting on 5 February 2013, the motion set out below was agreed, namely:

“That the Assembly Commission tasks officers to bring back a report, within 3 months, following consultation with Assembly parties, reviewing the number of days upon which the Union Flag flies from Parliament Buildings and detailing a range of options and how a process of public consultation could be carried out and arrangements for carrying out an EQIA.”

At the Commission meeting of 20 November 2013 the Commission further tasked officers to table a paper detailing information on the consultation process to include timeframes and ‘the way forward’ concerning the motion on the flying of the Union Flag. This paper was tabled at the Commission meeting held on 29 January 2014. The Commission agreed the recommendations:

- (a) to procure an independent person/organisation to conduct an EQIA and associated consultation process, and;

(b) the indicative timings for the EQIA and consultation process to commence.

Section 75

This EQIA is being carried out in accordance with the Commission's statutory duties under Section 75 and Schedule 9 of the Northern Ireland Act 1998 ('the 1998 Act'). Section 75 requires the Commission, in carrying out its functions in Northern Ireland, to have due regard to the need to promote equality of opportunity –

between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
between men and women generally;
between persons with a disability and persons without; and
between persons with dependants and persons without.

Without prejudice to these obligations, the Commission is also required to have regard to the desirability of promoting good relations between persons of different religious beliefs, political opinion or racial group.

Schedule 9 of the 1998 Act sets out the detailed procedure for the implementation of these duties including the conduct of screening exercises and EQIAs of policies.

When undertaking an EQIA, the Commission follows the guidance issued by the Equality Commission for Northern Ireland in February 2005¹ which recommends that there should be seven stages in the EQIA process:

- Stage 1 : Definition of the aims of the policy
- Stage 2 : Consideration of available data and research
- Stage 3 : Assessment of potential and actual impacts
- Stage 4 : Consideration of measures
- Stage 5 : Formal consultation
- Stage 6 : Decision and publication of the results of the EQIA
- Stage 7 : Monitoring for adverse impact.

This report sets out the findings of the first four stages of the EQIA process.

¹ Practical Guidance on Equality Impact Assessment, Equality Commission for NI, 2005 (pp.3-4)

1.2. The policy and purpose of the EQIA

An Equality Impact Assessment (EQIA) is a thorough and systematic analysis of a policy to determine the extent of differential impact upon the groups within the nine equality categories and whether that impact is adverse. If it is decided that the policy has an adverse impact on one or more of the nine equality categories, the Commission must consider measures which might mitigate the adverse impact and alternative ways of delivering policy aims which have a less adverse impact on the relevant equality category.²

In order to determine whether a policy has any adverse differential impact, it is necessary to consider the people affected by the policy, their needs and experiences and the equality categories to which they belong. It is also important to note that while an EQIA must encompass and address the impact of a policy on all nine categories, it may not be that each category will be given equal emphasis throughout the assessment process; instead the EQIA must be responsive to emerging issues and prioritise accordingly³.

This EQIA concerns the Commission's policy in relation to the number of days upon which the Union Flag flies from Parliament Buildings.

(a) Policy background

On 2 June 2000, the Commission agreed that:

“The Commission agreed that the flags issue is a political matter best handled by the Assembly. It was agreed that the Commission would operate to the existing regulations⁴ and take its direction from the Assembly.”

At the plenary session of the Assembly on the 6 June 2000, the following motion was proposed:-

‘That this Assembly directs that the Union flag shall be flown on Executive buildings in Northern Ireland on all designated days, in keeping with the arrangements for other parts of the United Kingdom and, additionally, on Parliament Buildings on all sitting days.’

<http://archive.niassembly.gov.uk/record/reports/000606.htm>

The motion fell. On the 9 September, the Secretary of State wrote to the Assembly seeking views on a draft of the 2000 Regulations (Northern Ireland) (‘the draft Regulations’)⁵.

² Practical Guidance on Equality Impact Assessment, Equality Commission for NI, 2005 (pp.3-4)

³ Practical Guidance on Equality Impact Assessment, Equality Commission for NI, 2005 (pp.4)

⁴ This refers to the NICS practice and procedures prior to the implementation of the 2000 Regulations.

⁵ Article 4(3) of the 2000 Order provides that where the Secretary of State proposes to make regulations under Article 3, he shall refer a draft of the proposed regulations to the Assembly. Article 4(2) provides that the

The Ad Hoc Committee on Flags (Northern Ireland) Order was established on the 11 September 2000 following resolution by the Assembly in plenary session:-

‘That this Assembly appoints an Ad Hoc Committee to consider the draft Regulations laid by the Secretary of State under the Flags (Northern Ireland) Order 2000 and to submit a report to the Assembly by 16 October 2000.’

<http://archive.niassembly.gov.uk/record/reports/000911b.htm#5>

The Committee met six times from 19 September 2000 until 9 October 2000.

The report on the draft Regulations was ordered to be published at the plenary session on the 17 October 2000.

<http://archive.niassembly.gov.uk/record/reports/001017c.htm#4>

The Report was submitted to the Secretary of State on 18 October 2000. The Secretary of State considered the content of this report, along with the Belfast Agreement, and on 23 October 2000 laid before Parliament the draft Regulations made under Article 3 (1) of 2000 Order. The draft Regulations came into force on 11 November 2000, as the 2000 Regulations.

The Secretary of State again wrote to the Assembly on 26 April 2002 with draft amendments to the 2000 Regulations. The deadline for response was 8 May, and so it was decided that as there would not be time to set up an ad hoc committee, and as the amendments were considered to be minor, the issue would instead be debated in plenary, and a copy of the Hansard would then be forwarded to the Secretary of State as a response to the proposed amendments.

At plenary on the 7 May 2002 the following motion was considered and agreed in relation to draft amendments to the 2000 Regulations:

‘That this Assembly takes note of the proposed changes to The Flags Regulations (NI) 2000 as set out in the Draft Flags Regulations (Northern Ireland) (Amendment) 2002.’

<http://archive.niassembly.gov.uk/record/reports/020507b.htm>

Assembly shall, within such period as the Secretary of State may specify, report to the Secretary of State the views expressed in the Assembly on the proposed regulations.

(b) The current policy

Pursuant to the Commission agreement of June 2000 the Commission “operates to” the 2000 Regulations. Annex 1 sets out the specified days for flying the Union Flag at Parliament Buildings in 2014, as provided in the Schedule to the Regulations.

(c) Parliament Buildings

Users of Parliament Buildings include employees, Members, party staff, suppliers and contractors, service users and visitors. At the time of writing, Parliament Buildings is the principal workplace of 385 employees (which includes inward secondees, and agency staff). In addition 907 users (at the time of writing) are permanent pass holders, this total includes party support staff, service suppliers, Executive Information Service, the media etc who may not be based permanently within the building. The Assembly is the devolved legislature for Northern Ireland and has 108 Members. It is responsible for making laws on transferred matters in Northern Ireland and for scrutinising the work of Ministers and Northern Ireland Departments. The Assembly sits at Parliament Buildings, Stormont Estate, in Belfast.

Parliament Buildings offers services directly accessed by the public (and officials) such as tours, events, educational visits, attendance at Assembly Committees and watching plenary debates. There was a recorded 70,328 visitors participating in a range of services between January 2013 and December 2013.

Parliament Buildings has a wide significance as a public building and as home of the Northern Ireland Assembly. It is one of the best-known and most striking pieces of architecture in Northern Ireland. Parliament Buildings sits within the Stormont Estate which is a finely-landscaped public park and is popular with the public. The Stormont Estate is also home to a number of government departments.

1.3 Definition of the aims of the policy

The flying of the Union flag on Parliament Buildings is a matter for the Commission to decide; there are no statutory obligations on the Commission in relation to the flying of the Union Flag.

The current arrangements for the flying of the Union Flag were established by a decision of the Assembly Commission.

On 7 December 2012, during a Question Debate on Parliament Buildings: Flags in the Northern Ireland Assembly, the representative of the Assembly Commission, Mr. Pat Ramsey MLA, said:

“The arrangements for the flying of the Union flag from government buildings in Northern Ireland are set out by the Flags Regulations (NI) 2000, as amended by the

Flags Regulation (NI) (Amendment) 2002. The Northern Ireland Assembly Commission follows these Regulations⁶.”

The specified days on which the Union flag will fly on Parliament Buildings in 2014 can be viewed at Annex 1. These days are confirmed by publication in the Belfast Gazette on or before 31st January annually.

There are a number of policies which may have an influence on the policy on the flying of the Union flag. These are detailed below.

(a) Policies of Assembly Commission

(1) Promotion of equality of opportunity – NI Assembly Commission Equality Scheme 2012-2016

The Commission’s Equality Scheme commits the Commission to considering the promotion of equality of opportunity as part of the development or revision of every policy⁷. This means not only identifying and addressing any differential impacts on people in each of the nine equality categories, but also giving careful consideration in each case to alternative policies which might better promote equality of opportunity.

(2) Promotion of good relations – NI Assembly Commission Good Relations Strategy 2012-2016

The Commission is committed to equality of opportunity and good relations. In that context, the Commission will aim to ensure that the entire community can have full and fair access to, and participate in, the operations of the Northern Ireland Assembly.

To assist in achieving its vision, the Commission, at its meeting of 10 December 2009, reiterated and formalised its commitment to Good Relations; it stated:

“The Northern Ireland Assembly Commission is committed to the promotion of good relations between persons of differing religious belief, political opinion or racial group and is committed to challenging sectarianism and racism⁸.”

The Commission’s Good Relations Strategy⁹ contains the Commission’s Good Relations Policy and its second Good Relations Action Plan for the 2012 – 2016 period.

The principles that inform this policy are those which are common to good relations work in Northern Ireland. The Commission is committed to, and supports, the principles of equality,

⁶ Written Answers to Questions (Hansard), Friday 7 December 2012, Volume 80,WA170 (AQW 17085/11-15)

⁷ Equality Scheme for the Northern Ireland Assembly Commission, 2012-2016 (pp. 18-19).

⁸ <http://www.niassembly.gov.uk/commission/2007mandate/minutes/2009/091210.htm>

⁹ <http://www.niassembly.gov.uk/Documents/Corporate/Commission/Commission-Good-Relation-Strategy.pdf>

diversity and interdependence, through the promotion of good relations within its work, in the secretariat and with all other stakeholders affected by our policies.

(3) NIA Dignity at Work policy

This policy is applicable to all Commission employees. The Commission is committed to equality of opportunity and to creating and sustaining an environment where everyone is treated with respect and dignity, free from any form of inappropriate behavior, and one in which all employees can give of their best.

The aim of the Dignity at Work policy is to “...make staff aware of the types of behaviour that might cause offence... and the procedures for dealing with unwanted, unreasonable and offensive behaviours. “

(4) NIA Equal Opportunities Policy

The Commission’s Equal Opportunities Policy, which is applicable to all Commission employees, makes clear that the Commission is opposed to all forms of unlawful and unfair discrimination; and that the Commission, through this policy, is committed to promoting a good and harmonious working environment where everyone is treated with respect and dignity and in which no form of intimidation or harassment will be tolerated. The policy recognises that diversity in the workplace is to be welcomed and also seeks to obtain and maintain the confidence of the whole community. The policy promotes equality of opportunity and fair participation and aims to achieve a workforce which is representative of the society that it serves.

(b) Northern Ireland Executive

(1) Together: Building a United Community

This document reflects the Executive’s commitment to improving community relations and continuing the journey towards a more united and shared society. The strategy states that:

“a united community, based on equality of opportunity, the desirability of good relations and reconciliation - one which is strengthened by its diversity, where cultural expression is celebrated and embraced and where everyone can live, learn, work and socialise together, free from prejudice, hate and intolerance¹⁰.”

1.4 Advice by the Equality Commission for Northern Ireland

The Equality Commission for Northern Ireland has issued guidance on promoting a good and harmonious working environment which distinguishes between a “harmonious” working environment and a “neutral” one. The guidance states that:

¹⁰ Together: Building a United Community, May 2013 (pp.11)

“a good and harmonious working environment is one where all workers are treated with dignity and respect and where no worker is subjected to harassment by conduct that is related to religious belief or political opinion....This of course does not mean that working environments must always be devoid of anything that happens to be more closely associated with one or other of the two main communities in Northern Ireland....In other words an ‘harmonious’ working environment does not necessarily mean a ‘neutral’ one.” (Promoting a Good and Harmonious Working Environment, A Guide for Employers and Employees, October 2009)

The guidance includes the following advice on workplace emblems:

“...the Commission recommends that where an employer is seeking to provide or maintain fair participation, or to ensure that all services and facilities are widely utilised by all sections of the community, there is sensitivity concerning displays wholly or mainly associated with one section of the community.” (Promoting a Good and Harmonious Working Environment, A Guide for Employers and Employees, October 2009)

The guidance also includes the following specific advice on the flying of the Union flag:

“the flying of the Union Flag must be viewed within the context in which it is flown or displayed. Factors affecting the context include the manner, location and frequency with which flags are flown. The Union Flag is the national flag of the United Kingdom and, arising therefrom, has a particular status symbolising the constitutional position of Northern Ireland. On the other hand, the Union Flag is often used to mark sectional community allegiance. There is a world of difference between these two approaches. Thus, for example, while it is acceptable and appropriate, in the Commission’s view, for a local Council to fly the Union Flag at its Civic Headquarters, the rationale for its display at every Council location, facility and leisure centre would be questionable.” (Promoting a Good and Harmonious Working Environment, A Guide for Employers and Employees, October 2009)

1.5 Relevant Legislation and Agreements

(a) Belfast Agreement

In the Belfast Agreement, the participants endorsed the commitment:

“that whatever choice is freely exercised by a majority of the people of Northern Ireland, the power of the sovereign government with jurisdiction there shall be exercised with rigorous impartiality on behalf of all the people in the diversity of their identities and traditions and shall be founded on the principles of full respect for, and equality of, civil, political, social and cultural rights, of freedom from

discrimination for all citizens, and of parity of esteem and of just and equal treatment for the identity, ethos, and aspirations of both communities.”

(b) Flags (Northern Ireland) Order 2000

The 2000 Order gives the Secretary of State the power to make regulations regulating the flying of flags at government buildings and court-houses. In exercising these powers, the 2000 Order requires that the Secretary of State shall, among other things, have regard to the Belfast Agreement.

(c) Flags Regulations (NI) 2000 (as amended)

The 2000 Regulations govern the flying of the Union flag on government buildings. Under the 2000 Regulations, the Union Flag must be displayed at specified government buildings on 15 specified days per year, and on other specified occasions, e.g. on the occasion of a visit by the Queen (in certain circumstances) or other Head of State. Except as provided by the 2000 Regulations, it is not permissible to fly the Union Flag, on any government building, except on these specified days.

(d) Fair Employment and Treatment (NI) Order 1998 – Equality Commission for Northern Ireland Advice on flying the Union Flag in Councils

In January 2013 the Equality Commission for Northern Ireland issued advice to Councils in relation to the flying of the Union Flag. The Equality Commission’s remit in this area stems from their duties under the Fair Employment and Treatment (Northern Ireland) Order 1998 (‘FETO’) to promote equality of opportunity, affirmative action and to work for the elimination of religious/political discrimination¹¹, and their duty to offer advice to public authorities in relation to Section 75 of the 1998 Act¹².

The advice included the following:

“[FETO] does not make any express reference to flags but makes discrimination on the grounds of religious belief and political opinion unlawful, both in the workplace and in the provision of goods, facilities and services. Also, in the workplace, it bans “harassment” on these grounds¹³. In addition to the issue of discrimination and harassment, employers also have legal obligations which require them to promote fair participation in employment and associated responsibilities to promote a good and harmonious workplace.

¹¹ Article 7, FETO.

¹² Paragraph 1(b), Schedule 9, Northern Ireland Act 1998.

¹³ The definition is: Harassment occurs where, on the ground of religious belief or political opinion, an employee is subjected to unwanted conduct that has the purpose or effect of violating his/her dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment for him or her.

In the field of employment, the Fair Employment Code of Practice provides general guidance for employers on these matters. The Code has been cited with approval by the Fair Employment Tribunal when upholding complaints against employers in numerous discrimination cases. A small number of these concerned the display of flags and emblems¹⁴. The relatively new statutory definition of harassment under FETO, first enacted in 2003, has not yet been explicitly considered by the Tribunal in any case dealing specifically with flags and emblems issues. However, the case law that preceded 2003 can, with a reasonable degree of confidence, be used to predict how the Tribunal would approach these questions if raised today. It is noted that the Tribunal has not considered a complaint relating solely to the official display of a Union Flag at a Council's premises.

In relation to fair employment obligations on the provision of goods, facilities and services, it is also not clear to what extent FETO impinges on the issue, as there has not been any case law to date in respect of these provisions in relation to the display of flags and emblems. Furthermore the coverage of the statutory provisions differs from those which apply to employment-related matters¹⁵."

(e) Section 75 of the Northern Ireland Act 1998

As a designated public authority within the meaning of section 75 of the 1998 Act the Commission is also bound by the applicable statutory duties. Under Section 75(1) designated public bodies are required, in carrying out their functions, to have due regard to the need to promote equality of opportunity between certain groups, including persons of different religious belief and political opinion. Such bodies are also required by section 75(2) to have regard to the desirability of promoting good relations between persons of different religious belief, political opinion and racial group.

Where a screening analysis reveals that a policy or proposed policy is likely to be a major impact on the promotion of equality of opportunity or good relations then the Commission's Equality Schemes specify further commitments to subject those policies to a more detailed assessment through an Equality Impact Assessment (EQIA).

¹⁴ For example, the cases of *Brennan v-Short Brothers Plc* [1995] and *Johnston v Belfast City Council* [2000] case ref 00241/97FET.

¹⁵ In the context of the relationship between a service provider and service users there is no corresponding definition of harassment or express ban on "harassment" like that which applies in the case of the employer/employee relationship. Instead, aggrieved service users must allege that, on the ground of religious belief or political opinion, they have been subjected to less favourable treatment compared to others in relation to the quality or manner or terms on which they received a service.

2. Analysis of available data and research

The second step of the equality impact assessment process considers whether available data and research can provide an insight into the potential impacts on people in the various Section 75 categories. This section of the report sets out the available information.

The main stakeholder groups in relation to the policy are:

- Members of the Legislative Assembly (MLAs)
- Visitors to Parliament Buildings;
- Secretariat staff;
- Party support staff;
- Contract staff;
- Trade Unions;
- The general public.

A range of relevant data and research is available including:

- data on residents of Northern Ireland;
- data on Commission staff;
- data on visitors to Parliament Buildings;
- policies of other public authorities;
- the findings of previous EQIAs on similar policies;
- legal advice;
- results from annual Life & Times Surveys;
- findings of the Commission's Good Relations Audit 2011.

In addition, as part of the EQIA process, a pre-consultation exercise was carried out in the first two weeks of October 2014. The methodology and findings of the pre-consultation are included in the analysis of data and research set out below.

2.1 Data on residents

The 2011 Census provides information on residents of Northern Ireland in relation to a range of Section 75 equality categories including religion or religion brought up in, ethnic group, country of birth, age, marital/civil partnership status, gender, disability and dependants. Details are set out in Annex 2, showing a comparison between 2001 and 2011.

While this information helps to establish a general profile of Northern Ireland residents, for the purposes of this EQIA, the key data relate to religion (or religion brought up in) and political opinion. In summary:

- In 2001, 53% of the population said that they were from a Protestant community background and 44% said they were from a Catholic community background; by 2011, the gap had narrowed to 3%, with 48% from a Protestant community background and 45% from a Catholic community background.
- In the latest elections to the Northern Ireland Assembly (May 2011) the DUP and UUP won 43.2% of the vote while Sinn Féin and the SDLP won 41.1%; this resulted in a small gain in terms of seats for both the DUP and UUP.

2.2 Data on staff

The Commission monitors its staff on appointment in terms of community background and gender and submits an annual report to the Equality Commission under the provisions of the Fair Employment and Treatment (NI) Order. Figures for the last four years (as at 31st December of each year) are:

Year		Protestant	Roman Catholic	Non-determined	Total
2010	No.	156	120	17	293
	%	53.2	41.0	5.8	
2011	No.	229	158	24	411
	%	55.7	38.4	5.8	
2012	No.	225	154	22	401
	%	56.1	38.4	5.5	
2013	No.	216	147	17	380
	%	56.8	38.7	4.5	

The table reveals that over the last four years, around 56% of staff define their community background as Protestant while 38% of staff are defined as Roman Catholic.

2.3 Data on visitors

There are a large number of visitors to Parliament Buildings and the latest figures are shown in the table below. Further breakdowns by community background are not available at this time.

	2012	2013	2014 (to 30 th Sep)
Education programme	14,873	14,307	9,858
Tours and functions	64,208	56,021	41,791
TOTAL	79,081	70,328	51,649

Ipsos MORI facilitated public engagement exercises in both December 2009 and January 2010, on behalf of the Northern Ireland Assembly, to learn more about public attitudes towards the Assembly. The findings included the following with respect to visitors to Parliament Buildings:

- Three in ten (29%) have visited Parliament Buildings, although less than a third of these people visited within the last year (8%).
- Significantly fewer Nationalists (23%) compared with Unionists (38%) have ever visited Parliament Buildings.

2.4 Policies of other public authorities

In Northern Ireland the Flags Regulations (NI) 2000 apply to seven specified government buildings only; they do not apply to local councils or other public authorities. A range of policies has therefore been adopted by local councils. Several councils follow the principles of the Flags Regulations and fly the Union flag at their main civic centre on designated flag days. Some fly no flag or a neutral, civic flag while others fly the Union flag on a permanent basis, some at several different locations.

In the context of the development of the Flag Regulations, it should be noted that the Secretary of State emphasised that the Union flag should not be flown from government buildings on days when it was not flown in other parts of the United Kingdom. The flying of flags is not the subject of statute law in England, Wales or Scotland but the Department for Culture, Media and Sport (DCMS) has responsibility for issuing guidance on the flying of national flags on government buildings. At present the DCMS designates the following annual flag days across the UK:

Dates for flying the Union Flag on UK government buildings in 2014

- 9 January Birthday of the Duchess of Cambridge
- 20 January Birthday of the Countess of Wessex
- 6 February Her Majesty's Accession
- 19 February Birthday of the Duke of York
- 1 March St David's Day (in Wales only, see note 1)
- 10 March Birthday of the Earl of Wessex
- 10 March Commonwealth Day (second Monday in March)
- 17 March St. Patrick's Day (in Northern Ireland only, see note 5)
- 21 April Birthday of Her Majesty the Queen
- 23 April St George's Day (in England only, see note 1)
- 9 May Europe Day (see note 4)
- 2 June Coronation Day
- 10 June Birthday of the Duke of Edinburgh
- 14 June Official celebration of Her Majesty's birthday

- 21 June Birthday of the Duke of Cambridge
- 17 July Birthday of the Duchess of Cornwall
- 15 August Birthday of the Princess Royal
- 9 November Remembrance Day (second Sunday in November, see note 2)
- 14 November Birthday of the Prince of Wales
- 20 November Her Majesty's Wedding Day
- 30 November St Andrew's Day (in Scotland only, see note 1)

Also:

- The day of the opening of a Session of the Houses of Parliament by Her Majesty (see note 3)
- The day of the prorogation of a Session of the Houses of Parliament by Her Majesty (see note 3)

Notes

1. Where a building has two or more flag poles the appropriate national flag may be flown in addition to the union flag but not in a superior position. UK government buildings within the wider Whitehall area may fly the national flags alongside the union flag on their appropriate saint days.
2. Flags should be flown at full mast all day.
3. Flags should be flown on this day even if Her Majesty does not perform the ceremony in person. Flags should only be flown in the Greater London area.
4. Where the European flag is flown on this day, the Union Flag should fly alongside the European flag and, on UK government buildings that only have one flagpole, the Union Flag should take precedence.
5. The Union Flag only should be flown.

The 15 designated days in Northern Ireland do not include those specified for England, Scotland or Wales, nor the following:

9 th January	Birthday of the Duchess of Cambridge
21 st June	Birthday of the Duke of Cambridge
17 th July	Birthday of the Duchess of Cornwall

It should be noted that there has been a change in attitude in GB in recent years towards flying the Union flag; proposals for changing flag flying rules were set out in the Green Paper *The Governance of Britain* published on 3 July 2007, followed by a consultation process. The rationale for the changes included the government's view that:

“..in other countries, such as France and the United States, the national flag is regarded as a source of pride, in recent years the Union flag has all too often become the preserve of political extremists, a symbol of discord rather than harmony. It is

critical that this symbol is not hijacked by those who seek to work against the fundamental British values of tolerance and mutual respect.”

Over 60% of respondents to the consultation supported flying the Union flag on all government buildings on a year round basis. Following the consultation, the White Paper *The Governance of Britain: Constitutional Renewal* was published on the 25 March 2008 which contained the proposed changes to the rules on the guidance relating to the flying of flags. Briefly, UK Government buildings in England, Scotland and Wales were given the freedom to fly the Union flag when they wish. The change was not extended to Northern Ireland because of the existence of the Flag Regulations.

The DCMS guidance does not apply to the Palace of Westminster or to buildings of the Scottish Executive, the Scottish Parliament, Welsh Assembly Government and the National Assembly for Wales. Until 2010 the Union flag was flown from the Victoria Tower of the Palace of Westminster only when Parliament was sitting and on designated days. These regulations were queried by the Flags & Heraldry Committee (formally established as the All-Party Parliamentary Flag Group) who together with the Flag Institute, had long campaigned to see the flag flown permanently. In early 2010 Black Rod agreed that this should be so and since then the Union flag has been flown from the Victoria Tower of Parliament and all other flag poles on a permanent basis.

The Scottish Executive revised its guidance in 2006 to require the flying of the Saltire each day from Executive buildings and the flying of the Union flag on designated flag days. The National Assembly for Wales flies the Union flag, the Red Dragon and the European Flag on their main building on a daily basis.

A number of major city councils in England and Wales have recently adopted the policy of flying the Union flag every day (for example, Birmingham, Bradford, Coventry, Leeds, Newcastle, Sheffield, Cardiff and Swansea).

2.5 EQIAs carried out by other public authorities

A number of local councils in Northern Ireland have carried out EQIAs of their policies with respect to the flying of the Union flag. The following summaries illustrate some of the findings of the EQIAs in respect of different flag policies.

(a) Newtownabbey Borough Council 2003

In 2003 Newtownabbey Borough Council undertook an EQIA¹⁶ of its existing policy that the Union flag should be flown at all times on its administrative buildings and leisure centres.

¹⁶ This report can be accessed on the website of Newtownabbey Borough Council at http://www.newtownabbey.gov.uk/council/policies/downloads/equality/ImpactReport_flags.pdf

In carrying out the EQIA the Council acknowledged that there were alternative policies that would reduce the perceived barrier to Nationalists or Republicans and challenge the stereotype that Newtownabbey was a Unionist controlled Council which did not take account of the views of other traditions. It was recognised that if the Council did not adopt an alternative policy then those from a Nationalist or Republican tradition would continue to perceive the Council facilities as being unwelcoming, i.e. the perception of the Council would not change. However, the Council determined that the existing policy should be retained on the basis that:

- the policy was lawful;
- although an adverse impact had been identified, the greater number of respondents had indicated that they would not wish to see a change in the policy;
- altering the policy would have an adverse impact on a greater number of people.

(b) Armagh City & District Council 2004

In 2004 Armagh council conducted an EQIA¹⁷ of a composite policy which included the flying of the Union flag at the headquarters building (Palace Demesne) on designated days. The council reported that strong opinions were voiced by the Unionist/Protestant community who generally felt that the Union flag was often singled out for causing offence. There was a, 'genuine sense of hurt' that 1st and 12th July were not included in the designated days and that this indicated a lack of recognition for Unionist/Protestant traditions. There was not the same depth of feeling expressed by the Nationalist/Republican/Roman Catholic community and several organisations made no comment on the issue of flag flying. Others were of the opinion that the council should fly no flags.

As a result of the EQIA the Council decided to continue to fly the Union flag on designated days. It was acknowledged that both main communities might feel that the policy created an adverse impact for them, but the Council considered that the policy best suited its corporate aim of "creating an inclusive place".

(c) Limavady Borough Council 2004

In 2004 Limavady Borough Council conducted an EQIA¹⁸ on the adoption of a 'No-Flags' policy; the Council had previously flown the Union flag at its main headquarters building on designated flag days.

¹⁷ This report can be accessed on the website of Armagh C&DC at <http://www.armagh.gov.uk/wp-content/uploads/2011/09/EQIA-Flags-and-Emblems-Policy-Results.pdf>

¹⁸ This report can be accessed on the website of Limavady Borough Council at <http://www.limavady.gov.uk/filestore/documents/publications/final-eqia-on-flags.pdf>

The EQIA considered that there was a possibility that the policy on flags may have a differential impact upon people as to whether they feel free to fully access the public services available to them. It suggested that there was a possibility that people may experience a 'chill factor' in their dealings with Council or visits to the Council offices. This 'chill factor' may not prevent people from entering a building or accessing a service but may detract from their ability to participate and benefit fully.

The EQIA also recognised that some employees may experience a 'chill factor' when working in a building displaying a flag which would lead them to associate the building with a different political identity. Also, that some employees may experience a 'chill factor' when working in a building where their political identity was not recognised in the flag flying practice.

Having taken into account the findings of the EQIA and the consultation responses, the Council adopted the No-Flags policy, noting that the stated intent behind the policy, 'in the interests of creating a neutral environment' was reflective of the Council's own policies in relation to promoting equal opportunities and combating harassment.

(d) Craigavon Borough Council 2005

Craigavon Borough Council conducted an EQIA in 2005 of the policy on flying the Union flag on civic occasions. This EQIA raised the question of adding additional days to those designated under the Flags Regulations, such as 1st July and 12th July. The Borough Solicitor advised at that time that the Equality Commission would probably not view these additions as sustainable as both dates have political significance and their commemoration could be divisive.

(e) Banbridge District Council 2009

In 2009 Banbridge council carried out an EQIA on its existing policy of flying the Union flag at the Civic Headquarters all year round. The council had previously flown the flag at a number of additional sites. There were 4630 responses to the public consultation; the vast majority of respondents (91%) favoured the current policy and the most common reason given was that this reflected the constitutional position of Northern Ireland. A small number of respondents (6%) suggested that either no flag be flown or both the Union flag and the Irish Tricolour be flown simultaneously, with a few favouring the option that the Union flag be flown only on designated days (3%).

In deciding to adopt the option of flying the Union Flag at the Civic Headquarters only throughout the year, the Council took account of the view that this reflected the constitutional status of Northern Ireland, that not to fly the Union Flag would cause offence to a large number of people, that the current presence of the Union flag had not deterred the Council from recruiting and retaining a workforce that was broadly in line with expected

rates for the local Protestant and Catholic communities, and, in particular, noted the advice of the Equality Commission that, 'this would be an option that would be within the general context of a policy which symbolises the constitutional position of Northern Ireland'.

(f) Belfast City Council 2012

In 2012 Belfast City Council undertook an EQIA¹⁹ of the review of its flag policy which allowed for the flying of the Union flag at the City Hall on a permanent basis and at two other venues on designated days. After extensive consultation, which attracted a high level of response, the Council decided to fly the Union flag on designated days at the City Hall and to fly no other flags on Council buildings. The rationale for this decision was that the policy reflected the sovereignty of Northern Ireland, as confirmed in the Good Friday Agreement and accepted by all its signatories, and demonstrated recognition that society and the city were made up of people who were British, Irish and both. The Council determined that flying the Union flag at the City Hall on designated days did justice to these principles; the agreement by all on British sovereignty; the fact of a shared society; and the need for respect and avoiding all triumphalism.

Following the decision there was an extended period of civil unrest which appeared to be focused on the Council's policy, although other factors may have been involved.

As part of the consultation on the EQIA, the council undertook two surveys: an in-depth face-to-face survey of visitors to the City Hall and a written survey of council staff. The visitor survey showed that 56% of Catholic visitors and 26% of Protestant visitors had no particular feelings about the flag. 12% of Catholic visitors said that the flying of the flag made them feel offended and unwelcome and a further 20% said it made them feel uncomfortable. 72% of Protestant visitors and 12% of Catholic visitors said that they felt pleased and proud or comfortable to see the flag flying every day.

The staff survey showed that 72% of Catholic respondents felt uncomfortable or offended and unwelcome because of the flying of the flag. 92% of Protestant respondents felt pleased and proud or comfortable to see the flag flying every day. Staff were also asked how they would feel if the flag no longer flew from council buildings; 88% of Protestant respondents said they would feel displeased or offended and unwelcome whilst 72% of Catholic residents said that they would feel highly satisfied or pleased.

In reflecting on this EQIA, the damage to good relations across Belfast and Northern Ireland that occurred subsequently cannot be ignored, and gives a strong indication of the likely

¹⁹ This report can be downloaded from the website of Belfast City Council at <http://www.belfastcity.gov.uk/council/equality/eqia.aspx#EQIA>

adverse impact on good relations of any change in policy where one or more communities may feel disadvantaged by that change.

2.6 Legal advice

During consideration of the policy on the flying of the Union flag, Belfast City Council took advice from two Senior Counsel (Mr Nicholas Hanna QC and Mr David Scoffield QC) on various occasions. The Council published Counsels' advice in full and the following extracts are relevant to this EQIA.

(a) Flags Regulations (NI) Order 2000

In 2001, Conor Murphy MLA applied for judicial review of the Secretary of State's decision to introduce the Flags Regulations. The Secretary of State explained that he was anxious to avoid a situation whereby individual Ministers from different political parties adopted conflicting practices. He maintained that the Flags Regulations represented a balance and that the Union flag should not be flown in Northern Ireland on days when it was not flown in other parts of the United Kingdom. Mr Murphy argued that the Regulations were inconsistent with the Good Friday Agreement in that they failed to have regard for 'partnership, equality and mutual respect' between opposing political parties.

The judge (Kerr J) ruled that the Regulations were not in conflict with the Belfast/Good Friday Agreement and endorsed the position adopted by the Secretary of State, stating that the Secretary sought to strike the right balance between acknowledging Northern Ireland's constitutional position and not giving offence to those who oppose it. He also stated that the introduction of the legislation was not designed to favour one tradition over the other and that it was misconceived to view equality as being about the elimination of that to which one objects.

Both Counsel advised Belfast City Council that the principle of 'striking the right balance' between acknowledging Northern Ireland's constitutional position and not giving offence to those who oppose it, was key to any decision on the flag policy and that, the more balanced the approach, the less risk there is likely to be of a successful challenge.

(b) Fair Employment and Treatment Order (FETO) 1998

The Order makes it unlawful for an employer to discriminate against employees on the ground of religious belief or political opinion. It includes the duty to promote a good and harmonious working environment in which no worker feels under threat or intimidated because of his or her religious belief or political opinion. This means prohibiting the display of flags and emblems which are likely to give offence or cause apprehension among particular groups of people.

Mr Hanna commented on the potential for a challenge to Belfast City Council's flag policy under FETO in 2002:

'At first sight it might be thought that the flying of the Union flag on the *exterior* of the City Hall or the other two Council buildings would be unlikely to have an intimidatory or chilling effect on persons who worked within those buildings. It is, however, possible that a tribunal might conclude, at least to some extent, that they did have that effect. ...in the absence of some good reason (which to date has not been articulated) there is a degree of risk that the flying of the Union flag at the City Hall on days other than designated flag days and at other premises even on designated days only, could be held to infringe the concept of a neutral working environment for those who work in those buildings.'

Mr Scoffield commented as follows in 2011:

'The present policy of flying the Union flag every day at City Hall is *prima facie* lawful. There is a risk of this being successfully challenged in a discrimination claim by an employee of the Council but I consider this risk to be low.'

Mr Scoffield also said that he considered the risk of a successful discrimination claim in the County Court from a member of the public who uses services provided at City Hall to be low.

Counsel also drew attention to two cases heard by the Fair Employment Tribunal which established the importance of determining motive.

The Johnston case (*Johnston v Belfast City Council*, 2000) dealt with emblems within the Belfast City Council's Dunbar Depot and, in particular, the hanging of a portrait of the Queen following refurbishment. The Tribunal decided there was no justification for the display of a portrait of the Queen in a council cleansing depot because the Council had failed to explain or justify the presence of the portrait and there was therefore unlawful discrimination (*Johnston v Belfast City Council*).

In the Brennan case (*Brennan v Short Bros plc*, 1995), the Tribunal held that the applicant had suffered less favourable treatment on the grounds of his religious belief and political opinion by reason of his employer's toleration of manifestations of sectarianism in the workplace and of victimisation of the applicant when he complained of these manifestations. Mr Brennan, a Roman Catholic, complained about a number of matters which he alleged constituted sectarian harassment including the display of Union flag stickers on a number of tool boxes, the painting of a tool box red white and blue and the wearing of Glasgow Rangers football shirts and scarves, in such a way as to display the Union flag. In upholding the complaint, the Tribunal commented that 'anything which identifies community allegiance needs justification in the workplace' and that:

'Flags are prohibited because of the implications which they have in a workplace for the religious beliefs and/or political opinions of the workforce in that they tend, within Northern Ireland, to mark the ascendancy of one community over another.'

(c) Section 75 of the Northern Ireland Act 1998

Mr Hanna commented on Section 75 in 2002, stating:

'If the Council failed to give consideration to the question of whether flying the Union flag at the City Hall every day in the year might be excessive or provocative, it would, in my opinion, be at risk of being found to have failed to comply with the provisions of its Equality Scheme.' and

'It is likely, in the event of a complaint, that the Equality Commission would follow the judge's lead in *Murphy* and regard a policy which was similar to that of the Flags Regulations as striking the right balance, while a policy which required or permitted flying of the Union flag more frequently, or more extensively than permitted for government buildings by the Flags Regulations as excessive and in disregard of the desirability of promoting good relations. By the same token a policy which banned the flying of the Union flag entirely would probably also be regarded as being in disregard of the desirability of promoting good relations.'

In 2011, Mr Scofield commented on the risk attaching to the policy of flying the Union flag on a permanent basis:

'I also do not consider there to be a substantial risk of this policy, if maintained, being found to be in breach of the Council's equality obligations under section 75 of the Northern Ireland Act 1998, provided that decision is taken (as currently envisaged) after full and proper consideration of the EQIA which is being prepared and of the possible effects of the decision on equality of opportunity (which are likely, in my view, to be minimal) and on the promotion of good relations (which might well be more significant).'

Mr Hanna also advised on various other policy options in 2004. On the issue of the flying of the Irish Tricolour alongside the Union flag, he stated:

'If the flying of the Union Flag by the Council is limited to the City Hall, and is also limited to designated flag days only, such a practice could and would almost certainly be justified on the basis that it would be acknowledging Northern Ireland's constitutional position as part of United Kingdom in a balanced and moderate way, and without giving undue offence to those who oppose that position; i.e. the approach approved by Kerr J in his judgment in *Murphy*: However, if the reason for

flying the Union Flag is to acknowledge Northern Ireland's constitutional position as part of the United Kingdom, such a reason could not be deployed to justify flying the flag of any other state, and in particular the Irish Tricolour. Put simply, since Belfast is not in the Republic of Ireland, there is no equivalence.

On the other hand, if the flying of the Union Flag by the Council is not limited there is a risk of it being inferred that the underlying reason for such a policy was either "to assert the ascendancy of one community over another" (*Brennan*), or to acknowledge Northern Ireland's constitutional position in a way which was neither balanced nor moderate, but was intended to give offence to those who opposed it. In such circumstances, while the flying of the Irish Tricolour alongside the Union Flag might possibly be regarded by some as "redressing the balance", I think it would be very difficult indeed to justify such a course of action (which could be seen as a form of counterbalanced or mutual provocation/irritation) as paying proper regard to the desirability of promoting good relations.'

2.7 Life & Times surveys

One of the key issues in this EQIA is the impact of flags policies on good relations in Northern Ireland. The Northern Ireland Life & Times Survey²⁰ includes a number of key indicators that have been used consistently to monitor public perception of the state of good relations. The 2013 results showed that:

- the proportion of respondents who believe that relations between Protestants and Catholics are better now than five years ago has fallen from 62% in 2010 to 45% in 2013;
- respondents are also less optimistic about future relations with only 35% of Protestants (down from 59% in 2007) and 45% of Catholics (down from 71% in 2007) thinking that relations will be better in five years' time;
- there is clear evidence of increased annoyance towards Loyalist displays of identity within the Catholic community (up from 27% in 2011 to 33% in 2012 and 38% in 2013);
- there is some evidence of increased annoyance towards Republican markers of identity within the Protestant community (up from 23% in 2010 to 30% in 2013).

²⁰ The *Northern Ireland Life and Times survey* (NILT) is carried out annually and documents public opinion on a wide range of social issues. NILT is a joint project involving Queen's University Belfast and the Ulster University and aims to provide an independent source of information on what the public thinks about the social issues of the day. The web site provides full information on all survey findings (www.ark.ac.uk/nilt)

In 2013 the Survey also asked people about the flying of flags on public buildings. The most popular view among both Protestants (48%) and Catholics (59%) was that flags should be flown from public buildings on designated days only. 28% of Catholics preferred that the Union flag should not be flown at all and 44% of Protestants felt that the Union flag should be flown all the time. The figure for young Protestants (aged 18-34) who felt that the flag should fly all the time was particularly high, at 61%.

2.8 Good Relations Audit

The Assembly Commission has a Good Relations Strategy which sets out its commitment to the principles of equity, diversity and interdependence and includes a four year action plan for the period 2012-16. The action plan addresses issues relating to exhibitions and artefacts within the building as well as a language policy. The latest action plan was developed as a result of an internal Good Relations Audit, carried out by consultants in 2010 through a mix of interviews, focus groups, observation, online surveys and desk research. The findings of the audit included the following, which are relevant to this EQIA:

(a) Changing relationships

The audit found that the relationships between elected representatives had softened over recent years as a result of development of contact through a well-functioning committee system and associated legislature. This low key public change was welcomed by consultees in that it demonstrated the establishment of positive working relationships which can be the foundation for long-term collaborative working.

(b) Flags and emblems

The audit stated that flags and emblems will continue to be a divisive issue within the Assembly and pointed out that a limited understanding of the meaning and significance of some flags and emblems can lead to increased divisions and tensions.

(c) Location of Parliament Buildings

The audit suggested that the location of Parliament Buildings, in East Belfast, means that it is relatively inaccessible to people in the West of Northern Ireland. Of the people consulted to inform the 'Public Attitudes Survey 2009' only 10% of those consulted in counties Tyrone and Fermanagh had ever visited Parliament Buildings compared with 39% of people consulted from the Greater Belfast area.

In addition, accessing Parliament Buildings means passing through predominantly Loyalist areas of Belfast and this can be off-putting for members of the Nationalist community, particularly at certain times of the year.

(d) Impact of Parliament Buildings

The audit pointed out that the building is impressive and, to the uninitiated, somewhat daunting and recommended that efforts should be made, through a co-ordinated outreach programme, to familiarise the public with the building.

2.9 Pre-consultation

The guidance on the conduct of EQIAs published by the Equality Commission for Northern Ireland in 2004 makes clear that there should be 'formal consultation' on an EQIA before any final decision is made on the policy. Along with a period of formal consultation however, the guidance also recommends the inclusion of more informal engagement and dialogue with relevant affected groups and in particular to inform the emerging EQIA process. This is often referred to as 'pre-consultation'.

On four separate days in early October 2014, pre-consultation was undertaken at Parliament Buildings, thereby providing an opportunity for MLAs, staff and building users (including party support and contract staff) to meet with the consultants and express their views at an early stage in the EQIA process. Specifically, the purpose of the pre-consultation exercise was to:

- inform key stakeholders about the EQIA process and the forthcoming formal consultation;
- familiarise them with some of the key issues that the EQIA will consider;
- gather perceptions of these key issues and, in particular, any need for changes to the current policy (without prejudice to any comments they may wish to make during the formal consultation period);
- identify any problem areas that may need special attention during the development of the Draft EQIA Consultation Report.

Face to face meetings were subsequently held with individuals or small groups who volunteered to attend and pre-booked appointments. These meetings were informal in that no official records were kept and the consultants guaranteed that individuals and their comments would remain anonymous and would not be identified in the Draft EQIA Consultation Report. There was no set agenda to the meetings but instead an opportunity was offered to inform the emerging EQIA process. There was no intention at this stage of the EQIA to record the number of responses associated with any option but instead to capture the breadth of views expressed by all stakeholders. In total, 65 individuals were interviewed over the four days and two others made their views known by telephone/email.

A wide range of views on the flying of the Union flag were obtained, reflecting the diverse political opinions that characterise both MLAs and staff. Not surprisingly, no consensus emerged on a preferred option although it was significant that while strongly held personal

preferences were clearly articulated , a number of interviewees also stressed the importance of maintaining a good and harmonious environment within the building, and thereby either tacitly or explicitly acknowledging that accommodations to personal preferences may be necessary to continue to help foster this environment.

While interviewees generally reflected on their personal views, and clearly presented these views, it was also noteworthy that a number commented on their perceptions as to how visitors to the building responded to the flying of the Union flag on designated days. Among those who commented on visitors' reactions, consistently it was reported that the flying of the flags provoked spontaneous and often adverse comment, given their prominence on the roof of the building. The flag was seen as especially problematic and divisive when cross-community groups were visiting, often stirring heated argument and debate that carried through and coloured the entire visit, and in stark contrast to the days when the flag was not flown.

The results of the pre-consultation are summarised below.

(a) Policy options

A range of opinions were expressed regarding the current policy and other policy options, including:

- Maintain the current policy; those who supported this option mainly did so on the grounds that it is a good compromise and represents a balanced position in the present climate. It was often suggested that any change to the policy (for example, to increase the number of days) would be likely to exacerbate an already delicate atmosphere and would be seen as a victory for one tradition, and in particular when set against the backcloth of a building and its memorabilia which have such strong historical associations with only one community.
- Maintain the current approach of flying the Union flag on designated flag days but consider reviewing the days to align with the UK-wide DCMS designated days, while also perhaps exploring opportunities to recognise significant local anniversaries (e.g. Ulster Day, July 12). Some consultees suggested as an alternative that it would be appropriate to fly the Union flag to indicate when the Assembly was in session, as is the practice of parliaments in other countries.
- Fly the Union flag on a permanent basis; those who supported this option pointed out that the constitutional position of Northern Ireland had been established through both the Belfast and St. Andrew's Agreements and that the Union flag was simply representative of this position. Some who supported this option in principle

nevertheless said that they would be willing to accept the designated days' option in the interests of helping maintain good relations.

- Fly either no flag or fly the Union flag but alongside the Irish Tricolour; those who supported this option suggested that it provided either neutrality or equality/parity to both communities. It was often suggested that the Union flag, in the context of Northern Ireland, will never be seen as a symbol that brings different cultures together; instead, it would always be regarded by one section of the community as a symbol of domination. Some of those who strongly supported this option in principle nevertheless said that they would be willing to accept the designated days' option as a compromise position, in the interests of helping maintain good relations
- Fly a neutral flag. A number of interviewees did make reference to exploring opportunities for flying alternative or neutral flags which were not more closely associated with any one community. The Assembly flag (the flax plant) was cited as a potential emblem in this regard. It was also recognised that Northern Ireland was made up of a wide diversity of ethnic and religious communities, and opportunities for celebrating this diversity should not be missed.

(b) Impact of the flying of the Union flag

Comments were made regarding the current impact of the flying of the Union flag on designated days; it was suggested that there is a chill factor for those of a Nationalist or Republican community which makes the building less welcoming on such days, and it was reported that visitors had regularly commented likewise. Some consultees said that, on designated days, issues of identity were raised in consciousness and there was greater sensitivity to such matters, highlighting in particular the fact that neither the fabric nor public content of Parliament Buildings contained any emblems or memorabilia reflective of the Nationalist or Republican communities in Northern Ireland. A number of interviewees felt that the flying of the Union flag was not in keeping with the spirit of the Good Friday / Belfast Agreement, and was not likely to encourage mutual respect, nor did it help present the building as a shared space for all communities.

(c) Parliament Buildings

Consultees had differing views as to how welcoming the building is for people from a variety of traditions. Some said that there is nothing in the public areas of the building to reflect traditions other than Unionism and that no attempt has been made to make the building a shared space or welcoming for those of other traditions. Others said that the memorabilia merely reflected the history of the building and its previous functions, but did not impact adversely on current working relationships, or create a 'cold house' for those of a non-Unionist tradition.

(d) Working environment

Several consultees noted that there is a duty to ensure that Parliament Buildings remains a good and harmonious working environment for all employees. There were differing views on the effectiveness of the current approach with some consultees arguing that the working environment is pleasant and welcoming while others maintained that it is still a 'cold building' for Nationalists and Republicans, albeit perhaps changing slowly. It was suggested by some that any deviation from the present policy would make it less likely that a good and harmonious working environment could be maintained, especially as all existing displays of identity in and around the building are already associated exclusively with one tradition, i.e. Unionism.

(e) EQIA process

Many comments were made regarding the scope of the EQIA; several consultees considered that the EQIA should be broadened to include wider issues regarding identity and culture, such as use of the Irish language and the symbols and emblems within Parliament Buildings and its grounds. It was argued that by considering the flying of the Union flag in isolation then the backcloth against which the flag was flown was effectively disregarded, and this 'in vacuo' approach was likely to distort the outcome of the EQIA process.

Some consultees suggested strongly that the policy should not be addressed by the Commission but should be determined by the Assembly as a whole, given that the Commission's voting procedures are based on the principle of majority rule and hence do not contain the same safeguards for protecting and reflecting minority opinion as is true of the Assembly.

3. Assessment of Impacts

The next stage of the EQIA process is to assess whether the current policy or any changes to it may have a differential impact on people in one or more of the Section 75 groups, and then to determine the extent of differential impact and whether that impact is adverse. This section sets out conclusions based on the information detailed above.

The evidence set out in Section 2 above has been used to determine whether there are particular Section 75 groups that might be differentially impacted by the policy, in terms of:

- whether the policy has the potential to impact negatively on equality of opportunity for people in any of the Section 75 categories;
- whether the policy has the potential to affect the promotion of good relations;
- whether the policy has the potential to affect the good and harmonious working environment at Parliament Buildings.

There is no evidence to suggest that the policy on the flying of the Union flag at Parliament Buildings has a significant impact on people of different ethnic origin²¹, age, marital status, sexual orientation or gender or on disabled people or non-disabled people or people with dependants or people without. This EQIA therefore focuses on the impacts on people of different religious belief or political opinion, and specifically the two main communities in Northern Ireland.

3.1 Equality of opportunity

The EQIA process requires that the Commission consider whether the current policy or any proposed change have an impact on access to goods, facilities and services which is different for people in different equality categories.

In terms of access, there are concerns regarding the effect which the flying of the Union flag may have on the perception of visitors from the Nationalist or Republican communities, particularly on days when the two Union flags are flying from the building. (Concerns regarding the effect on staff are dealt with in Section 3.3 below.) There are a large number of visitors to Parliament Buildings each year and outreach work has been undertaken to encourage more people – from both communities – to visit and to emphasise the importance of the Assembly to everyone’s daily life. There is anecdotal evidence from the pre-consultation that visitors comment on the presence of the Union flag and that their attitude to the building is strongly affected by it. For example, several people stated, during the pre-consultation, that the flying of the Union flag creates a chill factor for those from

²¹ Issues attaching to an individual’s ethnicity, including nationality/citizenship, may relate to community background, but these will be dealt with under religious belief and/or political opinion

the Nationalist/ Republican communities which makes the building less welcoming on such days. Evidence collected by Limavady Borough Council in the EQIA carried out in 2004 showed that, whilst a chill factor might not prevent people from entering a building or accessing a service, it may detract from their ability to participate and benefit fully from the facilities and services on offer.

Furthermore, during the pre-consultation, a number of staff and MLAs did comment that on days when the flags were flown, there was heightened sensitivity around identity which, in their view, could have a tangible impact on working relationships and, in turn, the promotion of equality of opportunity.

Taking this evidence into consideration, it is likely that, if the policy were to be changed, i.e. to increase the number of days on which the Union flag flies at Parliament Buildings, there may be a tangible impact in terms of (a) a reduction in visitor numbers, with consequent implications for the effectiveness of the outreach strategy, and (b) working relationships between staff within the building, with potential adverse effect on the promotion of a good and harmonious working environment.

It is therefore considered that the current policy of flying the Union flag on designated days may have an impact on the promotion of equality of opportunity in terms of staff relations and full and open access to the goods, facilities and services offered within the building, albeit primarily on the 15 designated days per year. With this in mind, the policy option of flying the Union flag on a permanent basis may have a greater adverse impact on the promotion of equality of opportunity. To help clarify the extent of adverse impact, the views of visitors to Parliament Buildings will be sought during the formal consultation phase of this EQIA.

3.2 Good relations

Further to the primary duty, to promote equality of opportunity, under Section 75(2) the Commission also has a secondary duty to have regard to the desirability of promoting good relations; this goal must be taken into account when a final decision is made and the Commission must ensure that the decision is arrived at as a clear result of considering the findings of the EQIA and the comments made during the consultation process.

It is evident that there are strong feelings in both communities about the flying of the Union flag. In general terms, many members of the Unionist community see the flag as a visible symbol of the constitutional position of Northern Ireland and a source of pride. Conversely, many members of the Nationalist and Republican communities see the flying of the Union flag as a means of promoting one political aspiration over another and as showing a lack of respect for the cultural identity of the large Nationalist and Republican electorate of

Northern Ireland. It therefore follows that any decision on the flying of the Union flag has the potential to harm good relations.

While Section 75 makes a distinction between the promotion of equality of opportunity and the promotion of good relations, in practice these two duties have the potential to overlap considerably, most obviously when the workplace also has a considerable stake and involvement in the promotion of good relations. Nowhere is this more likely to be the case than Parliament Buildings.

The following analysis takes this overlap in to account when considering:

- the impact of the current policy in terms of promoting good relations both within Parliament Buildings and throughout Northern Ireland as a whole;
- the potential impact of a change to the policy to increase or decrease the number of days on which the Union flag is flown at Parliament Buildings, including:
 - increase/decrease the number of days on which the Union flag is flown;
 - fly the Union flag on a permanent basis;
 - cease to fly the Union flag.

For the sake of completeness and to ensure that the Commission has full information when making a decision, the analysis also considers the potential impact of alternative scenarios put forward during the pre-consultation process, including flying the Irish Tricolour alongside the Union flag and the flying of a neutral and/or civic flag.

(a) Current policy

The current policy on the flying of the Union flag at Parliament Buildings has been in place for 14 years. During this time, good relations across Northern Ireland have generally improved, although the Life & Times Survey shows that there has been a dip in the last two years. It is not possible to measure the impact of the current policy on good relations in Northern Ireland, but it is widely accepted that the Assembly's lead has a major influence on other public authorities and therefore it is likely that the current policy has made a contribution to the overall situation.

Over the last five years, the Assembly has made good progress in terms of its outreach strategy, encouraging greater use of Parliament Buildings by the general public. Actions have also been taken, under the aegis of the Good Relations Strategy, to develop an exhibitions policy and consider artworks and artefacts that symbolise the diverse nature of Northern Ireland society. It is therefore considered that progress has been made towards improving good relations within Parliament Buildings, although it is acknowledged that this progress may not have been as rapid as some people would wish, and that, as a

consequence of its history, the building itself and its permanent artefacts continue to be more closely aligned with the Unionist community.

The Life & Times Survey indicates that the current policy reflects the preferences of many people in both communities; the latest survey showed that 48% of Protestants and 59% of Catholics felt that the Union flag should be flown from public buildings on designated days only. The current position also reflects the approach set out in the Flags Regulations and legal opinion is clear that this policy is unlikely to be successfully challenged, either by a member of the public or an employee, as it would be regarded as striking the right balance between acknowledging Northern Ireland's constitutional position and not giving offence to those who oppose it. Senior Counsel advised Belfast City Council in 2011 that the more balanced the approach the less risk there is likely to be of a successful challenge.

While there were without question strongly held, principled views regarding the flying of the flag among those interviewed, the pre-consultation demonstrated that the current policy was regarded by many as a necessary compromise which helped to promote good relations. Among those who support a change in the policy, there were a number who said that, although they had a preference for another policy, they acknowledged the need for accommodations to personal preferences in order to continue to help foster a good and harmonious environment within the building.

Taking these views into consideration, it appears that the current policy has a positive impact on the promotion of good relations.

(b) Increase/decrease the number of days on which the Union flag is flown

Various suggestions have been made regarding the potential to increase the number of designated days, including:

- adopt the 18 days determined by the DCMS for England, Wales and Scotland;
- add the days when the Assembly is sitting;
- add days of particular local significance (for example, Ulster Day and July 12).

The Equality Commission offered written advice to Belfast City Council during the recent EQIA which commented on the option to increase the number of flag days. They indicated that any such decision would need to take due account of concerns about context, proportionality and sensitivity. Legal opinion offered to Craigavon Borough Council in 2005 suggests that the commemoration of dates which have political significance (for example, 12th July) could be divisive and therefore would have the potential to damage good relations.

There is also an option to decrease the number of designated days, although this has not been widely considered by other public authorities.

Following the logic applied to the option of designated flag days only, the courts and tribunals would be less likely to regard either increasing or decreasing the number of designated days as striking the right balance, but such an option could be justified on the grounds that the selected occasions for flying the Union flag were appropriate and not divisive. The views expressed during the pre-consultation regarding the impact of the current policy and the negative consequences of any change to the policy should also be taken into account. There was a lack of consensus among interviewees, with some arguing for an increase in number while others felt any increase would further harm good relations within the building.

(c) Fly the Union flag on a permanent basis

Equality Commission advice emphasises the importance of the context in which a flag is flown and states that factors affecting the context include the purpose, manner, location and frequency. The Equality Commission is of the view that it is appropriate to fly the Union flag at a civic headquarters and that there will be a range of legitimate policy options which may be adopted.

It would therefore not be unlawful for the Commission to adopt a policy of flying the Union flag on a permanent basis at Parliament Buildings, provided that, in making the decision, the Commission had regard to the potential impact of such a policy on the promotion of both equality of opportunity and good relations. Legal opinion suggests that, in the event of a complaint, a policy similar to that of the Flags Regulations would be regarded as striking the right balance, while a policy which required the flying of the Union flag more frequently may be regarded as excessive. In 2004, Mr Nicholas Hanna QC said:

‘there is a risk of it being inferred that the underlying reason for such a policy was either “to assert the ascendancy of one community over another” (*Brennan*), or to acknowledge Northern Ireland’s constitutional position in a way which was neither balanced nor moderate, but was intended to give offence to those who opposed it.’

However, the approach has been adopted by a number of local councils without legal challenge.

It must also be noted that UK government buildings in England, Wales and Scotland were given the freedom to fly the Union flag when they wish, following consultation on the White Paper *The Governance of Britain: Constitutional Renewal* in 2008.

Strong support for this option was expressed during the pre-consultation, on the grounds that the constitutional position of Northern Ireland was established through both the Belfast and St. Andrew's Agreements and the Union flag is simply representative of this position. Strong opposition was also expressed, on the grounds that, in the context of Northern Ireland, the Union flag will never be seen as a symbol that brings different cultures together; instead, it would always be regarded by one section of the community as a symbol of domination.

Further evidence of public opinion will be gathered during the formal consultation process.

(d) Cease to fly the Union flag

Several councils in Northern Ireland have adopted the approach of flying no flag on public buildings. The Equality Commission has indicated in the past that this is within the range of reasonable options. The rationale for this approach is that it demonstrates neutrality.

The Life & Times Survey shows that 28% of Catholics and 3% of Protestants feel that the Union flag should not be flown at all from any public building. This is considerably lower than the percentage who feel that the flag should fly on designated days (59% of Catholics and 48% of Protestants) but is still significant.

There is very little legal advice on this approach but, in the opinion written for Belfast City Council in 2002, Nicholas Hanna QC stated that a policy which banned the flying of the Union flag entirely would probably be construed as disregarding the second Section 75 duty, i.e. the desirability of promoting good relations. He based this advice on the judgement in the Murphy case and the need to strike the right balance between acknowledging Northern Ireland's constitutional position and not giving offence to those who oppose it.

The reaction by elements of the loyalist community to Belfast City Council's decision to reduce the number of days on which the flag flies, and the protests and widespread unrest which followed, suggest that this approach would be unlikely to improve good relations, and may well trigger civil disturbance.

(e) Fly the Irish Tricolour alongside the Union flag

It was suggested by a number of interviewees during pre-consultation that flying the Irish Tricolour alongside the Union flag would provide equality/parity, in line with the commitment in the Belfast Agreement to ensure just and equal treatment for the identity, ethos and aspirations of both communities.

Legal advice suggests that it would be difficult to justify this option; if the reason for flying the Union flag is to acknowledge Northern Ireland's constitutional position as part of the United Kingdom, the reason would not extend to the flying of a flag of another state. In his

advice to Belfast City Council in 2004, Senior Counsel suggested that it would be very difficult indeed to justify such a course of action (which could be seen as a form of counterbalanced or mutual provocation/ irritation) as paying proper regard to the desirability of promoting good relations.

It should be noted that flag protocol indicates that, where there are two flag poles, the senior flag is the first flag on the left of an observer facing the main entrance of the building. It is therefore not possible to give equal prominence to two flags. However, the practice of flying two flags is fairly common in Scotland and Wales where the Union flag is given precedence over the Saltire or the Red Dragon.

It must be concluded that, although it would not be unlawful to adopt a policy of flying the Irish Tricolour alongside the Union flag, there is a possibility that each flag would be regarded as representing one specific community. This option is therefore unlikely to better promote good relations and might be regarded as “mutual provocation”.

(f) Fly a neutral, civic flag

During the pre-consultation, it was suggested that the Assembly should explore opportunities for flying alternative or neutral flags which were not more closely associated with any one community. The Assembly flag (the flax plant) was cited as a potential emblem in this regard. It was also recognised that Northern Ireland was made up of a wide diversity of ethnic and religious communities, and opportunities for celebrating this diversity should also be explored.

The Equality Commission has advised that this is within the range of reasonable options. Legal advice suggests that flying a neutral flag would be broadly similar in effect to flying no flag, provided that the flag was genuinely neutral and had cross community support.

At the present time the only flag to be flown alongside the Union flag on designated days is the flag of the European Union, on Europe Day. To date, this policy has not been seen as controversial, although it is unlikely that this flag could be regarded as strictly neutral.

3.3 Good and harmonious working environment

It is clear that the policy on the flying of the Union flag also has an impact on staff and other employees who work within Parliament Buildings, including party support staff and contract staff. The Commission has a duty to promote a good and harmonious working environment within the Building. The Equality Commission’s Code of Practice makes it clear that a good and harmonious working environment does not necessarily have to be devoid of anything that is more closely associated with one or other of the two main communities, but at the same time must allow all workers to be treated with dignity and respect in an environment

that is not hostile and where they are not subject to unwanted conduct on grounds of religious belief or political opinion.

If a member of staff feels that a good and harmonious working environment is not being promoted, the Fair Employment and Treatment Order provides a mechanism for bringing a complaint to a tribunal. To date, there have been no tribunal cases based solely on the flying of a Union flag. Legal advice suggests that the likelihood of a successful complaint being brought under the current policy would be low but at the same time, the context within which the flag flies cannot be ignored.

The pre-consultation indicated that some staff perceived the building to be a 'cold building' for Nationalists and Republicans, albeit perhaps changing slowly. It was suggested by some that any deviation from the present policy would make it less likely that a good and harmonious working environment could be maintained, especially as all existing displays of identity in and around the building are already associated exclusively with one tradition, i.e. Unionism.

However, if the Commission decided to cease flying the Union flag this might be seen by some Unionist staff as an indication of a lowering of esteem for their traditions and aspirations. The Belfast City Council survey showed that 52% of Protestant staff and 5% of Catholic staff would feel offended and unwelcome if the flag no longer flew and a further 36% of Protestant staff and 4% of Catholic staff said they would feel displeased.

Further evidence on the potential impact of options on the maintenance of a good and harmonious working environment will also be sought during the formal consultation phase.

Although legal advice suggests that the likelihood of a successful complaint based solely on the flying or absence of the Union flag is low under all the potential approaches, the Commission should give careful consideration to the potential negative impact of moving away from the current policy on the promotion of a good and harmonious working environment and good relations among staff.

3.4 Conclusions

This report contains the preliminary findings of the EQIA. The next stage of the EQIA process is to undertake formal consultation on the report with a wide range of interested parties, including staff, Trade Unions, users of Parliament Buildings and visitors as well as the general public and consultees listed in the Commission's Equality Scheme. This consultation will seek to gather views on the preliminary findings and further information. At the end of the consultation period, a further EQIA report will be prepared setting out the findings of the consultation process, conclusions and recommendations.

The preliminary findings can be summarised as follows:

1. There is no evidence to suggest that the policy on the flying of the Union flag at Parliament Buildings has a significant impact on people of different ethnic origin, age, marital status, sexual orientation or gender or on disabled people or non-disabled people or people with dependants or people without.
2. In terms of promoting a good and harmonious working environment among those who work in the building or regard the building as their place of work, there are concerns regarding the effect that the flying of the Union flag may have on those from the Nationalist or Republican communities; this may be regarded as an adverse impact on equality of opportunity.
3. In terms of promoting equality of access to goods, facilities and services for those who visit the building, there are concerns regarding the effect of the flying of the Union flag on those from the Nationalist or Republican communities; this may be regarded as an adverse impact on equality of opportunity.
4. It is evident that there are strong feelings in both communities about the flying of the Union flag and that any decision on the flying of the Union flag therefore has the potential to damage good relations.
5. Current policy: given a lack of consensus, as a compromise position it appears that the current policy has a positive impact on the promotion of good relations.
6. Increase the number of days on which the Union flag is flown: the courts and tribunals would be less likely to regard this option as striking the right balance, but it could be justified on the grounds that the selected occasions for flying the Union flag were appropriate and not divisive. However, this option would be likely to have a greater negative impact on good relations than the current policy.
7. Fly the Union flag on a permanent basis: previous but related legal opinion suggests that, in the event of a complaint, a policy similar to that of the Flags Regulations would be regarded as striking the right balance, while a policy which required the flying of the Union flag more frequently may be regarded as excessive. This option would be likely to have a greater negative impact on good relations than the current policy.
8. Cease to fly the Union flag: previous but related legal opinion suggests that a policy which banned the flying of the Union flag entirely would probably be construed as disregarding the second Section 75 duty. The reaction by elements of the loyalist

community to Belfast City Council's decision to reduce the number of days on which the flag flies suggests that this approach would be unlikely to improve good relations.

9. Other options: it has been suggested that flying the Irish Tricolour alongside the Union flag would provide equality/parity, although legal opinion indicates that that it would be very difficult to justify such a policy (which could be seen as a form of counterbalanced or mutual provocation/ irritation) as paying proper regard to the desirability of promoting good relations. The option of flying a neutral, civic flag would be broadly similar in effect to flying no flag, provided that the flag was genuinely neutral and had cross community support.

10. The Assembly Commission has a duty to promote a good and harmonious working environment and some staff clearly perceive the building to be a 'cold building' for Nationalists and Republicans. Although legal advice suggests that the likelihood of a successful complaint based solely on the flying or absence of the Union flag is low under all the potential approaches, the Commission should give careful consideration to the potential negative impact of moving away from the current policy on the promotion of a good and harmonious working environment and good relations among staff.

4. Consideration of alternative policies and measures to mitigate adverse impact

The EQIA process requires that, if it is decided that the policy may have an adverse impact on people in one or more of the Section 75 groups, then the authority must consider alternative policies and measures which might mitigate the adverse impact.²² This section of the report therefore sets out the alternative policies under consideration and looks at whether additional measures need to be put in place to minimise the negative impact of any changes to the current policies and to better promote good relations in the Assembly.

4.1 Policy options

Section 3 above analyses the potential impacts of maintaining the current policy and other options for the flying of the Union flag, together with other scenarios identified during the pre-consultation. For the sake of completeness and to ensure that the Commission has full information when making a decision, views on the following will be sought during the formal consultation:

Policy options

1	No change – continue to fly the Union flag at Parliament Buildings on existing designated flag days (currently 15 days per year)
2	Increase/decrease the number of designated days <i>Sub-options:</i> (a) fly the Union flag on fewer days (than the current 15 days per year) (b) adopt the 18 days determined by the DCMS for Great Britain (c) add the days when the Assembly is sitting (d) add days of particular local significance (e.g. Ulster Day, July 12) (e) any combination of the above
3	Fly the Union flag on a permanent basis
4	Cease to fly the Union flag

Other scenarios

1	Fly the Irish Tricolour alongside the Union flag
2	Fly a neutral, civic flag
3	Other preference

Pre-consultation revealed that although many respondents held deep and principled views on the flying of the Union flag, in the interests of helping to promote good relations they

²² Practical Guidance on Equality Impact Assessment, Equality Commission for NI, 2004 (pp.30-31)

may be willing to adopt a compromise position. In framing questions to be issued during consultation, this matter must be taken into consideration.

4.2 Mitigating measures

The Commission recognises that the flying of the Union flag is a contentious issue and that any changes to the current policy have the potential to affect the good and harmonious working environment within Parliament Buildings and good relations generally. It is suggested that the following actions may help to reduce the impact of any changes.

(a) Communication of the decision

Legal experts and the Equality Commission have emphasised that the purpose of adopting a policy other than designated days must be clearly stated and that any investigation or legal proceeding would look closely at the defined aims of the policy. The Equality Commission has said that flying the Union flag with the aim of acknowledging the constitutional position of Northern Ireland would be a legitimate aim as would flying the flag as a mark of commemoration, in a manner which symbolises the dignity and respect for those it is remembering.

The Assembly Commission is mindful of the need to ensure that the reasons for any changes to the policy are clearly communicated. It would be useful to incorporate a clear statement on the aims of the policy into the final decision, demonstrating that the Commission has had due regard to the promotion of equality of opportunity and regard to the desirability of promoting good relations and that the decision reflects current legislation and comparative data.

(b) Review of designated days

It is evident that there is some confusion regarding the current list of designated days, and the rationale for exclusion/inclusion of days relative to the DCMS UK-wide list. While pre-consultation did highlight sensitivities around increasing or decreasing the number of designated days, there may be opportunities for reviewing those days that are marked, and for raising awareness as to why the flag is being flown on a particular day.

(c) Promotion of a good and harmonious working environment

Several public authorities have recently adopted policies on the promotion of a good and harmonious working environment that typically include:

- a diversity action plan to engender an environment where differences are acknowledged, respected and celebrated;
- rules on the prohibition of the display of flags and emblems in the workplace and/or the circulation of material or articulations of slogans or songs which are likely to give offence or cause apprehension to a particular group of employees;

- the conduct of audits every six months to ensure maintenance of a good and harmonious working environment;
- steps to minimise the impact of behaviour by members of the public (suppliers, customers and visitors) which has the potential to disrupt good and harmonious working;
- a process for addressing sensitive issues, including the removal of emblems, symbols or other items placed at or near council sites by members of the public without permission.

This may be an appropriate approach for the Commission to take in order to demonstrate a willingness to promote a good and harmonious working environment, should the decision on flags policies be perceived as having a negative impact on the workplace.

(d) The wider context

A number of those interviewed during pre-consultation felt that to consider the flag alone was to take the symbol out of its context and that instead the EQIA should be wider in scope in order to encompass all symbols and emblems in and around Parliament Buildings. While the Assembly Commission continues to address good relations on an ongoing basis and through a regular auditing process, opportunities for considering the wider context of the building and its grounds in relation to promoting a good and harmonious environment could be explored further, perhaps through a subsequent EQIA. This could include further consideration of issues raised during the pre-consultation, such as the display of the Irish Tricolour and greater use of the flax flower emblem.

(e) Civic occasions policy

While the existing policy deals with the flying of the Union flag on recurrent, annual civic occasions, it does not contain any provision for recognising other ad hoc events, including significant visits, births and deaths. Recognition of such occasions may not be confined to the flying of a flag but could be heralded in other ways.

Further to this EQIA there may be opportunities to explore how the Assembly may choose to celebrate or commemorate significant events in the future, including the decision-making process for identifying such occasions, and this could be further recommendation attaching to the present EQIA.

5. Formal consultation

The next stage of the EQIA process involves formal consultation with interested parties to obtain:

- views on the assessment of impacts (section 3 above);
- any further information which could be useful in assessing the impacts;
- comments and suggestions on the mitigating measures (section 4 above)
- comments and suggestions with regard to the consultation process.

5.1 Principles of consultation

The Commission's equality scheme includes a commitment to ensure that the accessibility and format of every method of consultation contributes to removal of barriers to the consultation process. The equality scheme makes clear that all consultations will seek the views of those directly affected by the policy; in the case of the review of the policy on the flying of the Union flag at Parliament Buildings, this will include all users of the building and the public in general.

The Commission anticipates that the EQIA may attract a significant response and welcomes comments from any individual or organisation with an interest in the policy. However, it should be noted that the Equality Commission has made it clear that an EQIA consultation process should not be considered as a referendum whereby the views of consultees from a majority are counted as votes to decide the outcome.²³

5.2 Publication of information

The Commission's equality scheme ensures that, as a matter of course, all consultees listed in Appendix 3 of scheme will be notified (by email or post) of the EQIA being consulted on. Information about the EQIA (including all relevant background documents) will be placed on the Northern Ireland Assembly website and attention will be drawn to the consultation process through social media. A standard response form will be available to assist individuals and organisations to respond, but responses will be accepted in any format (e.g. letter, email, telephone, SMS).

The Commission is also committed to making information available in alternative formats on request and ensuring that consultees who require alternative formats have equal time to respond. Alternative formats may include Easy Read, Braille, audio formats (CD, mp3 or DAISY), large print or minority languages to meet the needs of those for whom English is not their first language; the Commission has arrangements in place to provide alternative formats in a timely manner.

²³ Letter from the Equality Commission to Strabane District Council, 29th July 2011

As much background information as possible has been included within this report. If there is any information which has not been provided, the Commission will make every effort to do so on request. If any consultee has difficulty accessing the background information, the Commission will consider providing summaries in other formats.

(a) Equality Scheme consultees

All consultees listed in Appendix 3 of the Commission's equality scheme will be notified (by email or post) of the availability of the documentation on the website and given details of how to respond. This list includes all political parties, government departments and Trade Unions.

(b) General public

A public notice drawing attention to the consultation will be placed in the Belfast Telegraph, Irish News and Newsletter in the first week of the consultation period. This will indicate that the documentation is available on the website and will provide details of how to respond.

(c) Staff and users of the building

Commission staff and users of the building (including MLAs, party support staff and contract staff) have already been informed by email that the EQIA is taking place and have been given an opportunity to make their preliminary views known through the pre-consultation process. At the start of the formal consultation period, staff and users of the building will be informed by email of the availability of the documentation and the arrangements for responding to the consultation (see below).

(d) Visitors

The Commission has already instigated a method of obtaining feedback from visitors to Parliament Buildings on issues relating to the promotion of good relations. During the formal consultation, information will be added to the questionnaire outlining the EQIA process and providing an opportunity to comment on it.

5.3 Opportunities to respond

The Commission has appointed consultants (Policy Arc) to assist with the EQIA process and facilitate the consultation. All responses will be directed to the consultants who will be responsible for ensuring that a comprehensive report on the comments made will be prepared for the Commission's consideration at the end of the consultation period.

A standard response form will be provided to assist respondents and it is envisaged that this will be the primary means by which members of the public and equality scheme consultees will respond. The response form can be returned by email or can be downloaded and sent by post.

As stated above, secretariat and party staff will be contacted via email to inform them of the consultation process. This email will include a questionnaire. There will be an option to return the response form anonymously and the form will be returned directly to the consultants.

The consultants will also arrange four, half day sessions on dates that will be notified to consultees well in advance, when they will be available at Parliament Buildings to meet with MLAs, Commission staff, contract staff and party support staff either individually or in small groups. Attendance will be purely voluntary and consultees will be able to telephone or email the consultants to arrange a suitable time. Consultees will also have an opportunity to make individual responses to the consultants by telephone or email.

The consultants will also be available to meet with Trade Union representatives and any of the consultees listed in the Commission's equality scheme on request.

5.4 Timescale

The consultation period in respect of this EQIA will last for fourteen weeks to allow adequate time for groups to consult amongst themselves in order to form a view. The closing date for responses is **Monday, 2nd February 2015**.

Contact details are set out on page 3 of this report.

6. Decision and publication of the results of the EQIA

At the end of the consultation period, the EQIA report will be revised to take account of all comments received from consultees. The final EQIA report will then be submitted to the Commission to assist them to make a final decision on the review of the policy. The Commission's decision will be incorporated into a summary report which will set out the consideration given to the impact of alternative policies and mitigating actions.

The final summary report will be made available on the Northern Ireland Assembly website and consultees will be notified of the availability of the report. This will complete Step 6 of the EQIA process.

7. Monitoring

The final stage in the EQIA process is the establishment of a system to monitor the impact of the policy. The results of the monitoring must be reviewed on an annual basis and must be published in the Commission's annual Section 75 report to the Equality Commission²⁴.

If the monitoring and analysis of results over a two year period show that there has been a greater adverse impact than predicted, or if opportunities arise which would allow for greater equality of opportunity to be promoted, the Commission will take steps to achieve better outcomes for the relevant equality groups.

Full details of the proposed monitoring framework will be included in the final EQIA report.

²⁴ Practical Guidance on Equality Impact Assessment, Equality Commission for NI (2004) p50

2014

DAYS FOR HOISTING FLAGS ON GOVERNMENT BUILDINGS IN NORTHERN IRELAND
IN ACCORDANCE WITH THE FLAGS REGULATIONS

20 January	Birthday of The Countess of Wessex
6 February	Her Majesty's Accession
19 February	Birthday of The Duke of York
10 March	Birthday of The Earl of Wessex
∴10 March	Commonwealth Day#
17 March	St Patrick's Day
21 April	Birthday of Her Majesty The Queen
9 May	Europe Day
2 June	Coronation Day
10 June	Birthday of The Duke of Edinburgh
∴14 June	The Queen's Official Birthday*
15 August	Birthday of The Princess Royal
∴9 November	Remembrance Sunday**
14 November	Birthday of The Prince of Wales
20 November	Anniversary of Her Majesty's Wedding

NOTE: # Commonwealth Day is the second Monday in March
 * The day appointed for the official celebration of Her Majesty's Birthday
 ** Remembrance Sunday is the second Sunday in November. Flags should be flown right up all day and not at half mast.
 ∴ Dates confirmed by publication in the Belfast Gazette on or before 31st January annually

ON THE ABOVE DAYS FLAGS SHOULD FLY FROM 8AM UNTIL SUNSET

DATA ON RESIDENTS OF NORTHERN IRELAND²⁵

Totals

	2001	2011
All residents	1,685,267	1,810,863
All residents aged 16+	1,287,211	1,431,540
Number of households	626,718	703,275

Religious belief (religion or religion brought up in)

	2001		2011	
	No.	%	No.	%
Catholic	737,473	43.76	817,385	45.14
Protestant & other Christian (including Christian related)	895,382	53.13	875,717	48.36
Other religion	6,573	0.39	16,592	0.92
None	45,839	2.72	101,169	5.59

Ethnic group

	2001		2011	
	No.	%	No.	%
White	1,670,988	99.15	1,778,449	98.21
Chinese	4,145	0.25	6,303	0.35
Irish Traveller	1,710	0.10	1,301	0.07
Indian	1,567	0.09	6,198	0.34
Pakistani	666	0.04	1,091	0.06
Bangladeshi	252	0.01	540	0.03
Other Asian	194	0.01	4,998	0.28
Black Caribbean	255	0.02	372	0.02
Black African	494	0.03	2,345	0.13
Black Other	387	0.02	899	0.05
Mixed	3,319	0.20	6,014	0.33
Other	1,290	0.08	2,353	0.13

²⁵ Data from Northern Ireland Census (unless otherwise indicated)

Country of birth

	2001		2011	
	No.	%	No.	%
Northern Ireland	1,534,268	91.04	1,608,853	88.84
Great Britain	81,389	4.83	82,724	4.56
Republic of Ireland	39,051	2.32	37,833	2.09
Other EU prior to 2004 expansion	N/A	N/A	9,703	0.54
Other EU after 2004 expansion	N/A	N/A	35,704	1.97
Other	30,559	1.81	36,046	1.99

Note: Eight countries joined the European Union in May 2004: the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia.

Age

	2001		2011	
	No.	%	No.	%
Under 16	398,061	23.62	379,323	20.95
16-24	211,501	12.55	227,634	12.57
25-44	489,256	29.03	498,046	27.50
45-64	363,343	21.56	442,140	24.42
65-84	200,041	11.87	232,324	12.83
85+	23,426	1.39	31,396	1.73

Marital and civil partnership status

	2001		2011	
	No.	%	No.	%
Single	426,195	33.11	517,393	36.14
Married	658,023	51.12	680,831	47.56
In a civil partnership	N/A	N/A	1,243	0.09
Separated	49,429	3.84	56,911	3.98
Divorced /civil partnership dissolved	53,033	4.12	78,074	5.45
Widowed/ surviving partner of civil partnership	100,531	7.81	97,088	6.78

Gender

	2001		2011	
	No.	%	No.	%
Male	821,399	48.74	887,323	49.00
Female	863,868	51.26	923,540	51.00

Disability

	2001		2011	
	No.	%	No.	%
Disability / long term health problem	343,120	20.36	374,646	20.69
No disability / long term health problem	1,342,147	79.64	1,436,217	79.31

Dependents

	2001		2011	
	No.	%	No.	%
Households with dependent children	262,076	36.47	238,094	33.86
Lone parent households with dependent children			63,921	9.09
People providing unpaid care	185,066	10.98	213,980	11.82

Political opinion

The elections to the Northern Ireland Assembly in May 2011 indicated the following voting pattern:

	DUP	UUP	Alliance	Others	SDLP	SF
Seats won	38	16	8	3	14	29
Change from 2007	+2	+2	-1	=	-2	-1
Vote share	30.0%	13.2%	7.7%	7.9%	14.2%	26.9%
Change from 2007	-0.1	+1.7	+2.5	-0.1	-1.0	+0.7

Source: Economic & Social Research Council (www.ark.ac.uk/elections)

Sexual Orientation

The Rainbow Project estimates that, on the basis of national and international research, 1 in 10 people in Northern Ireland would not identify as being heterosexual.