



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
Summary**

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This document can be made available on request and where reasonably practicable in the following alternative formats:

- Easy Read;
- Braille;
- Audio formats (CD, mp3 or DAISY);
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To ask for an alternative format, please contact:

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Address: Room 23
Parliament Buildings
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Consultation

The 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:

Consultation Response

PO Box 424

Lisburn BT28 9ER

Telephone: 075 9839 7596

Email: consultation@policyarc.co.uk

If there is any information in the report which is not clear or if you require further information, please contact Policy Arc on the above number. All relevant documents can be accessed on both the Northern Ireland Assembly and the Policy Arc websites at

www.niassembly.gov.uk

www.policyarc.co.uk

Please note that all responses will be treated as public, and may be published on the Northern Ireland Assembly website. If you do not want your response to be used in this way, or if you would prefer it to be used anonymously, please indicate this when responding.

1. Introduction

The Northern Ireland Assembly Commission (“the Commission”) is currently reviewing the policy on the flying of the Union flag at Parliament Buildings. An Equality Impact Assessment (EQIA) is being carried out to consider the potential equality and good relations impacts of any changes to the policy.

The Commission currently operates to the Flags Regulations (Northern Ireland) 2000 made under the Flags (Northern Ireland) Order 2000, which apply to specified government buildings; Annex 1 sets out the 15 specified days for flying the Union flag 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. The review of the policy is being carried out as a result of a motion considered by the Commission at a meeting in February 2013.

When undertaking an EQIA, the Commission closely follows the guidance published by the Equality Commission for Northern Ireland which recommends that there should be seven steps in the process. The EQIA Consultation Report has been written mainly to provide information to consultees during the formal consultation phase (Step 5) and includes the findings of the first four steps of the process. When the consultation is complete, a Final EQIA Report will be prepared to assist with decision making and will then be published. This document is an executive summary of the EQIA Consultation Report; the full report can be accessed on the Northern Ireland Assembly website www.niassembly.gov.uk.

2. Analysis of available data and research

The main stakeholders who will be affected by any change 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 to provide an opportunity for MLAs, staff and building users (including party support and contract staff) to express their views at an early stage in the EQIA process.

This data and research has been analysed to provide an insight into the potential impacts of any changes to the policy on people in the various Section 75 categories.

3. Assessment of Impacts

The analysis in Section 2 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.

The preliminary findings of the EQIA 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: 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 provided to Belfast City Council in 2002 and 2011 makes it 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. 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. Policy options

The EQIA 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 are being sought:

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 may be willing to adopt a compromise position. Views on this approach are also being sought.

5. 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

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 those adopted in Great Britain. 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

Should the decision on the policy be perceived as having a negative impact on the workplace, the Commission may consider adopting a policy on the promotion of a good and harmonious working environment. This might include a diversity action plan to engender an environment where differences are acknowledged, respected and celebrated as well as rules on the prohibition of the display of flags and emblems within 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 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 a further recommendation attaching to the present EQIA.

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