

EQUALITY COMMISSION FOR NORTHERN IRELAND

Final Report of Commission Investigation under Paragraph 10 of Schedule 9 of the Northern Ireland Act 1998

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SUBJECT OF INVESTIGATION

This investigation relates to an alleged failure by Lisburn City Council to comply with paragraph 10.3 of its approved Equality Scheme.

This paragraph provides;

“The Council in taking any decision with respect of a policy adopted or proposed to be adopted by it will take into account any equality impact assessment and consultation carried out in relation to that policy”.

The Council examined, inter alia, its policy in relation to the display of the Union Flag in the context of an Equality Impact Assessment (EQIA) titled “Promotion of Equality and Social Inclusion/Civic Leadership” and issued for consultation on 31 October 2002. This document set out the interim decision of the Council that the Union Flag would only be flown at the Civic Offices for the 17 days designated by the Secretary of State for N. Ireland in the Flags Regulations (Northern Ireland) 2000 and two additional days. Following consultation, the Council issued its Equality Impact Assessment in 2003. The outcome of the EQIA was that the Union Flag be flown only at the Civic Headquarters (Lagan Valley) on the 17 designated days, and two additional days, namely the 1st and the 12th of July.

In May 2005 a “Notice of Motion” was passed at Council that;

- *“with immediate effect the National Flag be flown on every day of the year at locations where it has existing flag poles within Council limits, and*
- *that the Council will give consideration to other communities who would wish to have the National Flag flown in their area in a similar manner, and*
- *that an EQIA be carried out with a view to flying the National Flag permanently at the Council’s Headquarters (Lagan Valley)”.*

As a consequence the Union Flag began to be flown from May 2005 on a permanent basis at six Council locations, departing from the policy introduced following the Equality Impact Assessment to fly the Union Flag only at Civic Headquarters.

In January 2006 the Council removed the aforementioned flags pending the outcome of a screening exercise on this policy. However the Commission was nevertheless concerned that the Council appeared to have introduced a policy which departed from the decision arrived at following an equality analysis to limit such display to Civic Headquarters. Investigation was authorised to establish whether the introduction of the policy in May 2005 to fly the Union Flag permanently at (six) locations represented a failure to comply with the Council’s commitment at Section 10.3 of its approved Equality Scheme to take into account any equality impact assessment and associated consultation when making its decision with respect to a policy adopted or proposed to be adopted.

INVESTIGATION FINDINGS

The document issued for consultation on 31 October 2002 had outlined that the previous Council policy was to fly the Union Flag at all times at the Council’s (previous) Headquarters. The Council’s Chief Executive recommended that the Council agree to a policy of flying the Union Flag only at the Civic Headquarters, and this

recommendation was adopted by the Council on 27th November 2002. The consultation document records that;

Council agreed to accept the recommendations made by the Chief Executive, namely, acceptance of the flying of the Union Flag on the 17 designated days along with the 1st July and the 12th July, and to fly the appropriate flag on occasions deemed appropriate by the Mayor. This was described as an interim decision to be confirmed following EQIA consultation.

The subsequent 2003 EQIA document confirmed that the Council had ratified its earlier interim decision. It states;

“Council, after taking advice on the matter, agreed to the flying of the Union Flag at the Civic offices on the designated days in accordance with the Department of the Environment guidelines, along with the 1st July and the 12th July, and to fly the appropriate flag on other exceptional occasions deemed suitable by the Mayor.

Accordingly, the Council had, as a result of its 2003 EQIA, decided that display of the Union Flag should only take place at the Council’s Civic Headquarters. The EQIA interim and final decisions are clearly stated to be based on the Chief Executive’s recommendation; that recommendation clearly stated that the Council should display the Union Flag only at the Lagan Valley headquarters, and amendments to that recommendation, such as the inclusion of 2 additional days for display at Civic headquarters, are clearly stipulated.

Following the Notice of Motion at a full Council meeting in May 2005, Union Flags began to be flown as soon as possible thereafter at 6 Council locations. This represented a major departure from the policy implemented following the 2003 EQIA. The policy introduced in May 2005 is inconsistent with the previous policy, determined following an EQIA process, to limit display of the Union Flag to Civic Headquarters.

Lisburn City Council concluded a further EQIA to examine whether the Union Flag should be flown permanently at Civic Headquarters in January 2006. This assessment recommended;

that the proposal (ie, to fly the National Flag permanently at the Council's Headquarters) should not be accepted, and that the Chief Executive bring forward a further report on a more appropriate policy taking account of the mitigating actions identified by the EQIA and that

"in the interim period the present policy of flying the Union Flag on designated days continue until the further report is made to Committee and a decision reached by Council in due course.

This recommendation was based on Existing Legislation, Legal Advice, Advice provided by the Equality Commission, Responses from Political Parties, and the Data and Information obtained in the EQIA.

This EQIA and recommendation was presented to the members of the Strategic Policy Committee on 17th January 2006, who decided to reject the Chief Executive's recommendation and voted for an amendment to fly the Council flag in conjunction with the Union flag permanently at Civic Headquarters. The full Council adopted the Strategic Policy Committee's decision and amendment on 24th January.

The EQIA on the proposal to fly the Union Flag at Civic Headquarters permanently also led to a further decision to screen the policy relating to the display of the 6 Union Flags at other Council locations. This has now resulted in a decision to EQIA this policy, and display of these flags was suspended during the screening and the period of the EQIA.

CONCLUSIONS

The Commission considers that the alleged failure by Lisburn City Council to comply with paragraph 10.3 of its approved equality scheme has been established. The Commission acknowledges that Council staff have sought to promote equality of opportunity. Nevertheless, the Council's decision to commence flying Union Flags in various Council locations is inconsistent with the policy adopted by

the Council as a result of its 2003 EQIA to confine such display to Civic Headquarters.

RECOMMENDATION

The Council is currently subjecting its policy in relation to the 6 Union Flags to Equality Impact Assessment. Display has been suspended pending the completion of this assessment. The Commission recommends that the display of the Union Flag should be confined to Civic Headquarters in accordance with the policy implemented as a result of Council's 2003 Equality Impact Assessment titled "Promotion of Equality and Social Inclusion/Civic Leadership".

The Commission further recommends that such display is limited to designated days in accordance with the policy implemented as a result of Council's 2003 Equality Impact Assessment, and recommended by the further Equality Impact Assessment concluded in January 2006.

The Commission recommendation is to follow the outcome of the Council's own equality impact assessment. More generally, the preferred position of the Equality Commission is that the Council should abide by the Department of Environment recommendation in respect of the 17 designated days for the Union Flag as previously advised to the Council and should not add additional days to the calendar.

28 June 2006