

**Equality Commission for Northern Ireland  
Response to EQIA**

**Derry City Council  
Consultation on the “Resolution to make application to the Privy  
Council to have the name of the City changed from Londonderry  
to Derry”  
September 2009**

**1. Introduction**

1.1 The Equality Commission for Northern Ireland (“the Commission”) is an independent public body established under the Northern Ireland Act 1998. The Commission is responsible for implementing the legislation on fair employment, sex discrimination and equal pay, race relations, sexual orientation, disability and age.

The Commission’s remit also includes overseeing the statutory duties on public authorities to promote equality of opportunity and good relations under Section 75 of the Northern Ireland Act 1998 and the positive disability duties under the Disability Discrimination Act (1995).

1.2 The Commission’s general duties include:

- working towards the elimination of discrimination;
- promoting equality of opportunity and encouraging good practice;
- promoting positive / affirmative action;
- promoting good relations between people of different racial groups;
- overseeing the implementation and effectiveness of the statutory duty on relevant public authorities; and
- keeping the legislation under review.

- 1.3 The Commission welcomes the opportunity to comment on Derry City Council's "Equality Impact Assessment of the Resolution to make application to the Privy Council to have the name of the City changed from Londonderry to Derry".
- 1.4 The Commission has addressed two principal considerations; it has assessed the extent to which the Impact Assessment has been carried out in a manner which is consistent with the Commission's *Practical Guidance on Equality Impact Assessment*. and it has commented on the substantive policy issues addressed in the EQIA where these have equality or good relations implications. Reference is made in particular to *Promoting Good Relations – a Guide for Public Authorities* and also *Embedding Good Relations in Local Government – Challenges and Opportunities*.

## **2. General comments**

- 2.1 Section 75 (1) of the Northern Ireland Act 1998 obliges designated public authorities in carrying out their functions relating to 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.

Section 75 (2) of the Northern Ireland Act places a legal duty on designated public authorities to have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group. Every public authority is required by the statute to take these specific matters properly into account and to give them the required weight when carrying out its functions relating to Northern Ireland.

- 2.2 The Equality Commission recognises that the Derry/ Londonderry naming debate is deeply resonant of the complex history of Northern Ireland and touches on some of the

fundamental issues of life in a diverse society with each of the respective names being associated with one of Northern Ireland's two main traditions. Derry City Council itself concludes on page 79 of its consultation document that "there is likely to be a differential impact on people of different religions, political opinions and nationalities" if the proposed name change is progressed. Good relations are clearly central to the issue under consideration in this consultation.

- 2.3 The good relations duty calls on public authorities to take a "pro-active initiating approach to contributing to a shared society, rather than responding to the effects of a divided one. [...] This means creating an ethos, a culture, of good relations and recognising the need to promote good relations both within, and between communities."<sup>1</sup>

Public bodies have a responsibility to use their authority and considerable influence to contribute to the creation of a shared society in which everyone feels not only physically safe, but also safe in their beliefs and opinions.<sup>2</sup> This poses a considerable challenge, one which cannot be achieved through process alone. Like the duty to promote equality of opportunity, the good relations duty requires imagination, commitment and leadership.

- 2.3 Looking forward, the Review of Public Administration ("RPA") in Northern Ireland presents a major and historic opportunity for local government to renew and revitalise its commitment to the twin duties in respect of equality of opportunity and good relations.<sup>3</sup> It is crucial, that every Council takes *positive* steps to promote good relations and tackle issues relating to cultural marginalisation.

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<sup>1</sup> Promoting Good Relations – A Guide for public authorities (October 2007) page 3. para 1.3.

<sup>2</sup> Promoting Good Relations – A Guide for public authorities (October 2007), page 17, para 2.1.8.

<sup>3</sup> Embedding Good Relations in Local Government – Challenges and Opportunities ( April 2007), p. 15, para. 5.1.1

### **3. Comments on the Equality Impact Assessment**

The Commission recognises the efforts undertaken by Derry City Council in compiling this consultation document. In its structure the document follows the 7-step process for Equality Impact Assessments as detailed in the Commission's Practical Guidance on Equality Impact Assessments. This process, however, is not an end in itself and we have considerable concerns regarding the way in which some of these steps have been completed.

#### **3.1 Aim of the policy**

3.1.1 The Council states that the aim of the proposed policy is to "change the name of the City to reflect the needs of this City for a single, clear identity and to reflect the wishes of the vast majority of the citizens, while respecting the views of all sections of the community".

3.1.2 The consultation document also identifies the Council's stated objectives as

- reflecting the needs of this city for a single clear identity and
- reflecting the wishes of the vast majority of citizens.

These objectives are the basis on which the Council rests its view of the proposed name change. ( see p 80)

3.1.3 The Commission recognises that a clear and agreed decision about the naming of the second city of Northern Ireland will be very difficult to achieve in a situation where there is no consensus, especially when the issues are sensitive and deeply divisive. However, the Commission is of the view that these difficulties are compounded by the objectives chosen by the Council.

3.1.4 There is further confusion added by the fact that the Council's stated objectives and the aims of the policy are different in a significant way. Even within the policy aims there is a real conflict to the extent that it is virtually impossible to reconcile

the differences between them. The stated objectives of the Council, which appear to be the yardstick against which the Council measures any approach to its proposal, pose an even more fundamental problem as they make no provision for taking into account the views of those who are not part of the majority.

3.1.5 This inconsistency and, it might be said, mutual exclusivity involved, represent a serious weakness in the EQIA and do not provide a basis on which satisfactory conclusions can be built.

3.1.6 Moreover, we would stress that while it is often important that policies have wide public support, policy-making should not simply be about reflecting the wishes of the majority. This approach has the potential to convert the EQIA process into a quasi referendum which runs contrary to the spirit of the legislation. One of the main aims of the EQIA process, as clearly outlined in the statute, is to ensure that adequate consideration is given to mitigating the adverse impact of policies on different sections of the community, so that the needs and wishes of those likely to be adversely affected are not overlooked.

## **3.2 Consideration of available data**

3.2.1 We commend Derry City Council for having commissioned the Name Change Research to collect relevant data and inform the assessment. It is also positive to note that the council is presenting the data by relevant equality category.

3.2.2 We note with concern, however, that the EQIA focuses disproportionately on statistical data and percentage figures.

While statistics are a valuable source of information and provide a basis for the analysis of impacts, statistics alone do not adequately reflect the nature and complexity of the issue under consideration here. Especially where debate is likely to be highly contentious, over reliance on statistical data may not reflect the strength of feeling over a particular issue or its potential to create or intensify sectarian division. Qualitative

data are indispensable to help interpret and contextualise statistical findings.

3.2.3 Further to the findings from the Population Change and Social Inclusion Study included in the consultation document, the Council may wish to consider the Summative Conference Report “Negotiating Change” 2008,<sup>4</sup> which found that there is “a strong sense of political and cultural decline within the Protestant community” and “a widespread perception among Protestants that Derry City Council is working towards a Nationalist agenda and was biased against the Protestant population”.

The report recommends with respect to “Londonderry” that

- two way communication needs to be promoted to market Derry City Council input and dispel the myth of social exclusion towards Protestants;
- the legal name Londonderry should be used where possible to promote Protestant inclusion.

3.2.4 In terms of promoting a single identity, the Council states that “it is *felt* (emphasis added) that the city suffers from confusion that exists among investors as well as tourists created by the plethora of names and ruses favoured by all sorts of people to side-step the name issue”.

While the Commission acknowledges the importance of image-building in encouraging economic growth, there is a lack of independent evidence within the consultation document to support the view that the city “suffers” economically from the lack of a *single* clear identity. Additionally, an appropriate attempt does not appear to have been made to establish a proper balance between the desire for a single clear identity for the city and the potential detrimental effect of the policy on good relations. While much research remains to be conducted on the economic benefits of peace, it seems intuitive to suggest

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<sup>4</sup> available at [http://www.stcolumbsparkhouse.org/public\\_html/Negotiating\\_Change\\_Conf\\_final\\_summary\\_report.pdf](http://www.stcolumbsparkhouse.org/public_html/Negotiating_Change_Conf_final_summary_report.pdf)

that stable societies have a greater propensity for inward investment and economic growth.

3.2.5 It is the Commission's view that there is also a lack of evidence presented in the EQIA report to support the Council's conclusion that the change of the name of the City to Derry is the *only* (emphasis added) way by which the objective of creating a single, clear identity can be achieved.

We note that the Council has not considered any evidence of how naming issues are dealt with in other countries in which societies comprise multiple nationalities and/or where more than one official language is recognised. Such evidence shows that identity can be promoted and achieved in different ways. The need for a clear identity, where it exists, does not inevitably predetermine one particular outcome.

For example, in Canada, geographical names have been approved in both French and English (e.g. Sandy Hill / Côte-de-Sable, Ontario); in Belgium, some municipalities officially have both a Dutch and a French name (e.g. Ixelles – Elsene); in Finland, the capital city is known in Finnish as Helsinki and in Swedish as Helsingfors and in Belgium, a similar reality applies to the naming of the capital.

Thus, the range of options considered in this EQIA and on which views are invited is narrower than the complexity of the issue requires and includes:

- The possibility of a joint use of Derry and Londonderry is rejected as incompatible with the stated objectives but that has implicit weaknesses for reasons already outlined.
- The possibility of petitioning the Privy Council to amend the Charter to provide for two or more official names, thus giving expression and formal status to the three historic names given to the city over the centuries.
- Changing the spelling of the current official name to LondonDerry
- Renaming the city as DoireLondonDerry.

### **3.3 Assessment of impacts and consideration of mitigating measures**

#### **Impacts**

- 3.3.1 When assessing the potential impacts of a policy proposal, all the available information should be carefully considered and analysed. Relative weight should be attached to the various data according to their significance.<sup>5</sup>
- 3.3.2 The Council's assessment of impacts however relies almost exclusively on percentage figures and statistical information, with little attention being paid to the qualitative data and their implications in terms of good relations.
- 3.3.3 The analysis and presentation of statistics also shows a tendency to emphasise those figures and percentages which support the proposed policy.

While overall 53% of those surveyed found the proposed name change acceptable this aggregate figure masks community differences, whereby it is mostly Catholics/ Nationalists who support the change (75% / 77% respectively) while only 6% of Protestants do so. Around half of Protestants (52%) find the proposal unacceptable.

Similarly, stating that 70% of residents surveyed prefer Derry when referring to the city does not take account of community differences: as is stated on page 71, there is a strong preference (94%) for the use of the name Derry among Nationalists whereas Londonderry is preferred by Unionists (79%).

Furthermore, the fact that 42% ( table on page 25 indicates 43%) of those surveyed indicated that the current name Londonderry was very acceptable/acceptable, with a further 43% having no strong views on the issue, (p 25) does not

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<sup>5</sup> Section 75 of the Northern Ireland Act – Practical Guidance on Equality Impact Assessment ( February 2005), p 45, para. 6.5.

necessarily support the Council's conclusion that the appropriate name for the city is Derry.

3.3.4 However, we wish to re-emphasise that an equality impact assessment (EQIA) is not a referendum where percentage figures alone are the decisive factor. An EQIA is not a tool which was designed to ensure that the wishes of the majority prevail.

The purpose of an equality impact assessment is to promote equality of opportunity and deliver better equality outcomes for everyone.

### **Mitigating measures**

3.3.5 The Commission's Guide clearly states that consideration of mitigating measures is at the heart of the EQIA process. If adverse impacts are identified, policy makers are required to consider what to do in light of these. This consideration of mitigating measures/alternative policies is not a tick-box exercise. Different options should be developed which reflect different ways of delivering the policy aim(s) and which might better achieve the promotion of equality of opportunity and/or mitigate against adverse impacts.<sup>6</sup>

3.3.6 The Council identifies that the name change is a "potent source of Protestant alienation" and would "put the relatively tenuous identification which many Protestants have with the city under even greater stress." (p 30/31) It continues that "the proposed name change may further add to the cultural decline perceived by the Protestant community and impact negatively on good relations if the concerns of this community, potentially across a number of areas, cannot be addressed." (p 74)

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<sup>6</sup> Section 75 of the Northern Ireland Act – Practical Guidance on Equality Impact Assessment (February 2005), p 30.

In our view the Council has paid insufficient attention to possible alternatives in light of the significant adverse impacts identified:

On page 75 the Council lists three policy alternatives -

Option 1: No change in the name

Option 2: Change name to Derry/Londonderry

Option 3: Change name to Derry but retain Londonderry for Walled City

Option 1 and 2 are rejected on the basis that they do not reflect the need for a single clear identity and do not reflect the wishes of the vast majority of citizens.

Option 3 is rejected on the basis that this option has no perceived cross-party political support.

However, the option currently proposed does not have cross-party political support either. (p 36 of the consultation document).

The EQIA identifies only one mitigating measure, i.e. the current council policy of recognising the name used by private correspondents and using it in response to them (p 7).

3.3.7 The Commission is of the view that the Council has failed to give proper consideration to the various options identified in the mitigation section of its report. They appear to be simply listed and rejected.

There is generally little evidence to suggest that any serious effort was made to address the concerns of and potential negative impact of the proposed policy on the Protestant/Unionist community, despite recognition that “there is a need to act in a manner that demonstrates open-mindedness and generosity” (p 8) and the Council’s explicitly stated support for the “principles of good relations: equity, respecting diversity and interdependence, and the development of relationships built on trust and respect” (p 3).

3.3.8 We also note that while the Council lists the ten strategic aims of its Good Relations Strategy in the mitigation section of the consultation document, it does not offer any suggestions/practical steps as to how these aims, in particular aims 5, 8 and 9, could be realised in regard to this policy. Instead, the Council uses the argument that a name change would “reflect the wishes of the vast majority of citizens” and leaves the potentially negative impacts virtually unaddressed.

3.3.9 We wish to re-emphasise that Section 75 places a statutory duty on public bodies to address good relations. Each public authority must consider how the policies it makes and implements affect relationships amongst the people it serves and employs.

3.3.10 While the Commission recognises the impact on good relations of the current name of the city, we are concerned that the draft policy being considered by Derry City Council will have a detrimental impact on good relations. The Council may be at risk of undermining and marginalising a significant number of Protestants/Unionists and contributing to a further alienation of Protestants/Unionists in the City.

#### **4. Other comments**

4.4.1 The Commission wishes to emphasise the requirement of the section 75 legislation <sup>7</sup>, that in making any decision with respect to a policy adopted or proposed to be adopted by it, a public authority shall take into account any equality impact assessment and consultation carried out in relation to the policy. Consultees need to know that their involvement has been influential and not merely tokenistic. It is important that the Council fully complies with this commitment.

In order to fulfil this requirement we would recommend the Council seek engagement and dialogue with those groups who have been identified as being potentially adversely affected by

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<sup>7</sup> Schedule 9, paragraph 9.2

the proposed policy (Protestant/Unionist/Loyalist) and carefully consider their views in order to demonstrate that the Council is serious about its objective of “inclusive communities, where no-one feels alienated or marginalised”.

- 4.4.2 It would be useful if the Council’s consultee list had been included in the EQIA report. In the absence of such information it is not possible to comment on whether all relevant interest groups have been invited to contribute.
- 4.4.3 The Commission appreciates that the document has been prepared in font size 14 for ease of reading and is available in alternative formats on request.
- 4.4.4 Page numbers should have been included within the contents page. This would have improved the user-friendliness of the document.
- 4.4.5 Chapter 4.1.3 contains acronyms relating to socio-economic groupings which are not explained and thus making it difficult for consultees who do not have access to the original research paper to understand the information provided.

## 5. Conclusion

- 5.1 The Commission appreciates that Derry City Council wishes to promote and develop the City and the region. This aim however must not be pursued at the expense of good relations and community cohesion.

The EQIA analysis and report does not convince the Commission that the policy currently proposed by the Council is the appropriate way to achieve its aim.

- 5.2 **It is the Commission's view that good relations in this instance have been insufficiently addressed by the Council.**

**In the light of the serious adverse impacts on people of different religion/political belief within the Council area, and possibly for the region as a whole, the Equality Commission strongly advise Derry City Council not to proceed with the policy as it is currently proposed since a range of possible options has not been adequately considered and a significant amount of good relations work remains to be done before any official name change is considered. The Council should demonstrate that every possible effort has been made to mitigate any adverse impacts identified by the EQIA process.**

This response is made without prejudice to any consideration or determination which the Commission might make in performance of its statutory function to investigate individual complaints under Schedule 9 of the 1998 or conduct any other investigation under that Schedule.