

**Response to the Northern Ireland Assembly's consultation on
proposed amendments to 'The Code of Conduct' and
'The Guide to the Rules Relating to the
Conduct of Members'**

August 2008

Introduction

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 age, fair employment and treatment, sex discrimination and equal pay, race relations, sexual orientation and disability. 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 disability duties under the Disability Discrimination Act 1995.
2. The Commission welcomes the opportunity to respond to the Northern Ireland Assembly's consultation on proposed amendments to 'The Code of Conduct' and 'The Guide to the Rules Relating to the Conduct of Members'. The Commission's response reflects our position as discussed when we gave oral evidence to the Committee. We were grateful for the Committee's allocation of time which allowed us to cover our principles and points and respond to the concerns and questions of the Committee. This written response is provided to endorse the oral evidence already presented and to confirm that we will be pleased to work with the Committee further on any of matter relating to the revision of the code.
3. The Commission welcomes the opportunity to contribute to the revision of the code to recommends that equality of opportunity and good relations are central to it and are at the

heart of the institutions which benefit from the leadership you provide. The Commission believes that leadership is a key dimension to equality considerations in public life and in public bodies. We know that the Assembly will be perceived as a role model at this time when Northern Ireland is establishing new institutions and mechanisms across public service. Consequently we welcome the fact that the code of conduct is being reviewed and particularly recognise the Committee's move beyond the Nolan principles in setting out the fundamental principles of the code.

Overarching principles

4. Leadership is a key dimension for all public bodies and for all who hold significant public positions of any kind. For the Assembly, excellence in leadership is required throughout all aspects of the public lives of Members. The principles in the code should reflect this and assist support the continuing development of leadership shown by elected representatives.
5. Equality of opportunity and good relations are positive and dynamic concepts. They go beyond the avoidance of discriminatory practice. Positive steps must be taken to express and embrace these principles in their richest interpretation.
6. Freedom of belief and freedom of expression are inalienable rights as reflected in the European Convention on Human Rights. The exercise of these rights, though, must demonstrate adherence to the law and also understanding of the perceptions of others.
7. Achieving this balance always requires continuing attention and it is essential not to lose sight of the public good.
8. The Review of Public Administration has created new bodies and refreshed others across Northern Ireland. Fundamental to the Equality Commission's position is the belief that political and public leadership is critical to ensuring that the new institutions across deliver equality of opportunity and good relations. The Assembly's code will encourage and support them in this about.

Commentary

9. The responsibility to promote equality of opportunity and good relations is an active one and is not adequately embraced by the code. Respect and the absence of discrimination do not capture the full potential of equality of opportunity. The Commission asks that the Committee seeks to make the sections defining and addressing equality of opportunity and good relations more ambitious. The Commission will be pleased to work with the Committee and its clerks towards a full expression of equality of opportunity.
10. Such principles will ensure a good foundation for other codes, for instance that for local government, so that public life and public service is permeated with the finest of leadership, public accountability, participation and inclusion.
11. Members have roles as legislators, public people and employers. The Commission remains unclear about the Committee's distinction that complaints may be made in regard to "Assembly duties" only. We would welcome clarification of what the Committee understands by the distinction made between the Member as an MLA and as a member of a political party.
12. As legislators Members enact legislation which has real impact on Departments and other public authorities designated to promote equality of opportunity and good relations and in this role should adhere to the principles of the code.
13. As public persons the attitudes, positions, policies and utterances of Members can be – and are – powerfully influential.
14. As employers, while political opinion is inevitably a consideration, elected representatives and political parties are not exempt from the law on employment contained in the Fair Employment and Treatment (Northern Ireland) Order 1998
15. Freedom of belief is absolute and the freedom to express that belief should be as open and rich as possible. The code should provide the context within which Members can find the

means to exercise the freedom of speech and expression responsibly, sensitively and with regard to the impact of the words or actions. It should allow the identification of the intersection for public people of public policy and personal belief.

16. The code should recognise the public good. It should assist in balancing majoritarianism with the protection of the interests of minority groups. While recognising the challenges in developing a powerful code a way must be found to give full expression in the body to the principles of equality of opportunity and good relations. Thus there will be a link between the code, these principles and quality of public services including value for money for public good.

Matters raised by the Committee

17. The Commission recognises and welcomes the Committee's attention to Section 75 of the Northern Ireland Act 1998. While the Assembly itself is not a designated body, s 75 has a legitimate place for political office bearers who make public policy decisions or recommendations which impact on the lives of everyone in Northern Ireland including people in s 75 groups.
18. Promulgation of such a code and assisting awareness amongst the public of the rights and responsibilities for Members and the public alike is a challenge. The Commission welcomes the Committee's concern that this be done well in order to maximise the value of the code and the use of the mechanisms afforded by it.

Conclusion

19. The Commission looks forward to providing further advice as the review is completed, in particular, developing the fundamental principles in order to ensure that equality of opportunity and good relations are at the heart of this code. We will be glad to contribute to any work on developing the definition and understanding of the fullness of equality of opportunity and good relations.

20. The Commission understands that it is proposed to revise the local government code. We anticipate the publication by the Assembly of a significant code and look forward then to working with other authorities who embrace its principles in order to make equality of opportunity and good relations central to public life and services in Northern Ireland.

**Equality Commission NI
September 2008**