



## EQUALITY COMMISSION FOR NORTHERN IRELAND

### Response to Department of Communities Review of the Northern Ireland Local Government Code of Conduct for Councillors

February 2017

#### 1 Executive Summary

1.1 The Equality Commission welcomes the opportunity to respond to the Review of the Northern Ireland Local Government Code of Conduct for Councillors. We have consistently stated our support for a mandatory Code of Conduct to set and ensure principles, standards and responsibilities.

1.2 In summary,

- we **recommend** the inclusion in the *Rules of General Conduct* of an enforceable clause in respect of upholding equality law;
- we **support** the proposed principle on equality, and subject to an amendment outlined below, we **support** the proposed principle on good relations;
- we continue to **recommend** training on equality and good relations is placed on a *mandatory* footing for all elected representatives.

#### 2 Introduction

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

2.2 We welcome the opportunity to respond to the Department's Review of the Northern Ireland Local Government Code of

Conduct for Councillors. We have consistently stated our support for a mandatory Code of Conduct for Councillors, as such a Code is of critical importance in setting and ensuring clear principles, standards and responsibilities for elected representatives undertaking both established work and the functions transferred more recently in completion of the reform of local government.

- 2.3 This response reflects the recommendations highlighted in our previous responses to the draft Code of Conduct for Councillors (April 2014)<sup>1</sup> and the draft Northern Ireland Assembly Code of Conduct for Members (2014)<sup>2</sup>.

### **3 Equality duty**

- 3.1 We **recommend** the inclusion in the *Rules of General Conduct* of an enforceable clause in respect of upholding equality law.
- 3.2 We note the intention to establish a new *public duty* and to remove it from the *aspirational* principles to stand as an enforceable duty. However, we note that this duty solely refers to the requirement for elected members to act within the *criminal law*.
- 3.3 Critically, it is clear that, unlike the Assembly Code of Conduct for Members, there is no proposed inclusion of an enforceable duty in respect of upholding equality law.
- 3.4 Further, we note that the consultation document makes it clear that the Review Group indicated that “*it would be advantageous to have as much consistency between the Councillors’ Code and the MLA Code as this would help to build both the public and elected members’ understanding of the requirements placed on all elected representatives*”. There is no explanation given in the consultation document or the review working group report as to why a different approach has been adopted to the Assembly Code of Conduct for Members, as regards the inclusion of this important duty.
- 3.5 Whilst we welcome the proposed continued inclusion of an obligation on councillors to ensure that they are *aware of* their responsibilities under equality legislation and obligations under

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<sup>1</sup> ECNI (2014) [Response to DoE Consultation on Code of Conduct for Councillors](#)

<sup>2</sup> ECNI Response to Assembly Committee on Standards and Privileges Review of MLA Code of Conduct (2014)

councils' equality schemes, we consider that there is also the need for a *separate and different duty* to uphold equality law.

3.6 It is of note that the current Code of Conduct for Members of Parliament contains a duty on Members to “*uphold the law, including the general law against discrimination*”<sup>3</sup>.

3.7 Councillors are subject to the duties under equality legislation, including the duties under the non-discrimination legislation. There are also equality and good relations duties on councils under Section 75 of the Northern Ireland Act 1998 which apply to decision making in councils. Councils are also subject to obligations under their equality schemes.

3.8 We therefore **recommend** that the Code of Conduct makes it clear that councillors must comply with their legal duties under the equality legislation, including not to discriminate on any of the equality grounds protected under the equality legislation.

## 4 Equality principle

4.1 We **support** the proposed principle on equality and welcome the proposed amendment to the principle on equality, in line with our recommendations in 2014<sup>4</sup> and with amendment to the Assembly Code for Members. In particular, we welcome that the proposed principle now reads ‘.....***treating people with respect***....’<sup>5</sup>.

## 5 Good Relations principle

5.1 Subject to the amendment recommended below, we **support** the proposed principle on good relations. We welcome the proposed amendment to this principle, in line with our recommendations in 2014<sup>6</sup> and with the amendment to the Assembly Code for Members.

5.2 However, we note that the proposed principle reads as follows:

*“Members should act in a way that is conducive to promoting good relations by tackling prejudice, promoting understanding and respect and encouraging participation between people on*

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<sup>3</sup> House of Commons [Code of Conduct](#) (2015) at p3.

<sup>4</sup> ECNI (2014) [Response to DoE Consultation on Code of Conduct for Councillors](#)

<sup>5</sup> The Commission had considered that the current wording ‘by treating’ implies that one promotes equality / does not discriminate simply by treating with respect and had recommended that, to avoid ambiguity, the wording be amended as now proposed.

<sup>6</sup> ECNI (2014) [Response to DoE Consultation on Code of Conduct for Councillors](#)

*the grounds of **different** religion, political opinion, race, gender, age, sexual orientation and disability.”*

- 5.3 Whilst we aware that the Assembly Code for Members includes the word “different”, in line with our recommendations in April 2014<sup>7</sup>, we **recommend** that the word ‘different’ is removed, as we do not consider it is necessary or aids understanding.

## **6 Mandatory training on equality and good relations**

- 6.1 We continue to **recommend** training on equality and good relations is placed on a *mandatory* footing for all elected representatives.
- 6.2 We consider that this is in line with the current and proposed obligation on councillors to ensure that they are aware of their responsibilities under equality legislation and obligations under councils’ equality schemes. This training will both assist councillors to comply with the Code and ensure a visible high level commitment to the principles of equality of opportunity and good relations by leaders across local government.

**Equality Commission for Northern Ireland  
28 February 2017**

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<sup>7</sup> ECNI (2014) [Response to DoE Consultation on Code of Conduct for Councillors](#)