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**Public Consultation**

**Proposals to amend the Commission’s Policy for the Provision of Legal Advice and Assistance**

**Closing date for responses: 5pm 10 September 2021**

**Published: 18 June 2021**

# **Seeking your views**

This document sets out the Commission’s proposals for amending our *Policy for the Provision of Legal Advice and Assistance*. The document is intended to inform stakeholders, enable views to be given on the proposals and to gather additional data or evidence to inform the Commission’s decisions on amendments to the Policy.

We are consulting until **Friday 10 September 2021** and would welcome your response by this date.

You can submit written comments by email or post. We have suggested questions at section 7 below that you may wish to use to guide your response.

# **To submit your response, or for further information**

If you would like any further information, information in an alternative format, or to submit your response, please contact us, as follows:

Email: LegalAssistancePolicy@equalityni.org

Post:

Consultation on *Policy for the Provision of Legal Advice and Assistance*

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1. **Introduction**

This document sets out the Commission’s reasons and proposals for amending our *Policy for the Provision of Legal Advice and Assistance.* The document is intended to inform stakeholders, to enable views to be given on the proposals and gather additional information to inform the Commission’s decisions on amendments to the Policy.

1. **Background**

The Commission has powers to provide advice and assistance to *individuals* who are prospective complainants or claimants and who

believe they may be the victims of discrimination on grounds of -

* disability (including SENDO);
* sex (including pregnancy/maternity; equal pay; and gender re-assignment);
* religious belief and/ or political opinion (including philosophical or other belief);
* race (including colour, ethnicity, national origin/identity);
* sexual orientation; and
* age.

Each year the Commission allocates resources to providing advice and, in some cases, legal assistance to individuals.

1. **Legislative Framework**

The Commission can **only** grant assistance if the application comes within the statutory grounds as specified in the relevant provisions of the legislation (**see Appendix 1**), all of which in broad terms provide that the Commission may grant an application for assistance to an individual, if it thinks fit to do so, on the grounds that:

(a) the case raises a question of principle;

(b) it is unreasonable having regard to the complexity of the case or the Applicant’s position in relation to the Respondent, or another person involved, or to any other matter to expect the Applicant to deal with the case unaided;

(c) or by reason of any other special consideration.

1. ***Policy on the Provision of Legal Advice and Assistance***

The statutory grounds allow the Commission a very wide discretion as to which cases it should support. The Commission usually receives many more applications for assistance than it has funds to assist.

The Commission decides which cases to assist based on whether or not each particular case meets the statutory grounds for assistance AND the extent to which each application for assistance meets the discretionary factors as set out in the policy

These strategic grounds for the grant of assistance are set out in the Commission’s *Policy for the Provision of Legal Advice and Assistance*.

1. **Rationale for proposals to review the Commission’s *Policy for the Provision of Legal Advice and Assistance***

The Commission wishes to ensure that its policy for fulfilling its statutory responsibilities in respect of complainant assistance remains relevant and is up to date. It has reviewed its current policy and has updated the policy, particularly in relation to the discretionary criteria against which the Commission will assess applications for assistance.

The Commission seeks to ensure that it is open, transparent, consistent and accountable in respect of how it selects cases to assist.

The Commission also aims to ensure that the cases it decides to assist help meet the overall strategic objectives of the Commission as set out in its Corporate and Business Plans and that the impact of support for individual cases is likely to have positive ‘ripple effect’ beyond the circumstances of the individual applicant.

**6. Revised** **Draft** **Policy for the Provision of Legal Advice and Assistance**

* [Consultation draft of policy](https://www.equalityni.org/ECNI/media/ECNI/Publications/Corporate/Consultation-LegalAdvicePolicy/Consultation-DraftPolicy-LegalAdviceAssistance.docx) (Word doc)

**7. Assist us:** Please answer the following questions about the revised draft of our ‘*Policy for the Provision of Legal Advice and Assistance.’* And email your answers to LegalAssistancePolicy@equalityni.org

Question 1: Do you wish to draw the Commission’s attention to information or evidence about unlawful discrimination on the grounds of disability, sex, race, religion/politics, age and/or sexual orientation?

Question 2: Do you agree with the proposed selection criteria for case assistance?

Question 3: Do you have any other suggestions for alternative selection criteria?

Question 4: Do you have any comments about the practical implications?

Question 5: Do you have any other comments to make on the issues raised in this consultation?

**Thank you for your consideration and response.**

**Appendix One**

The Equality Commission for NI is empowered to provide legal assistance in discrimination cases under the following legislative provisions

**Disability** - Article 9 (2) Equality (Disability etc) (Northern Ireland) Order 2000; Article 9(1) Special Educational Needs and Disability (Northern Ireland) Order 2005;

**Sex** - Sex Discrimination (Northern Ireland) Order 1976, as amended, Article 75.

**Religion/Politics** - Fair Employment and Treatment (Northern Ireland) Order 1998, as amended, Article 45;

**Race** - Race Relations (Northern Ireland) Order 1997, as amended, Article 64;

**Sexual Orientation** - Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003 Article 40; and Equality Act (Sexual Orientation) Regulations (NI) 2006 Article 45

**Age** - Employment Equality (Age) Regulations (Northern Ireland) 2006 Article 47