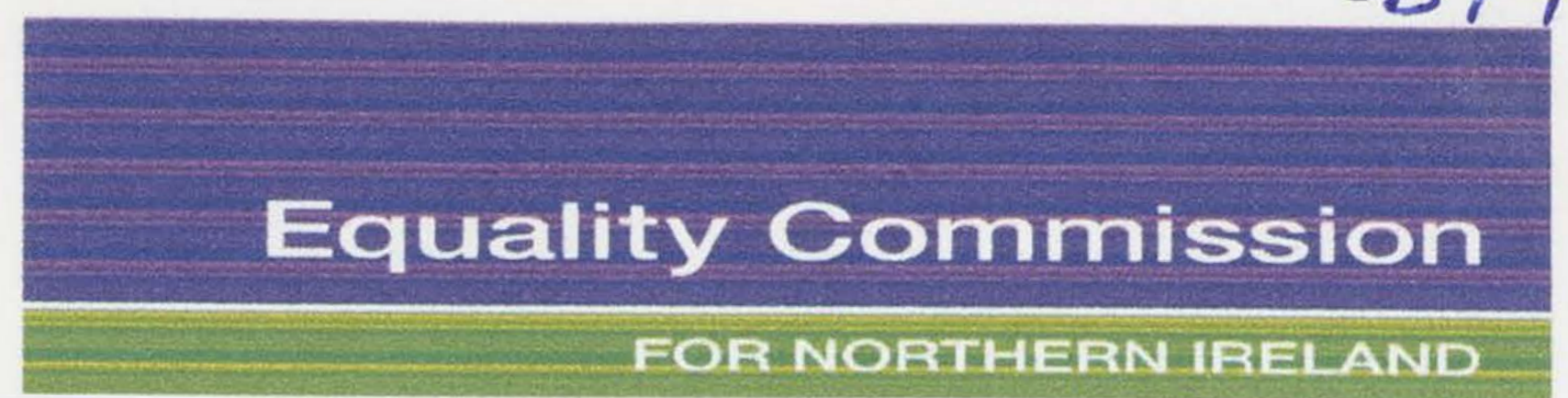


Linda  
LD 17/10  
To see & return

Jim  
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Our Ref: EL/JC

16 October, 2003

Linda Bateman  
Home Office  
Immigration and Nationality Policy Directorate (INPD)  
Room 311  
India Buildings  
Water Street  
Liverpool L2 0QN

Dear Ms Bateman,

**Re: Citizenship Ceremonies**

The Equality Commission for Northern Ireland ("the Commission") has responsibility for implementing the legislation on fair employment, sex discrimination and equal pay, race relations and disability discrimination. The Commission's remit also includes overseeing the statutory duties on public authorities to promote equality of opportunity and good relations. The Commission welcomes the opportunity to comment on 'Citizenship Ceremonies Consultation Document'.

The Commission is concerned that the proposals for Citizenship Ceremonies have been made from a perspective of an English national identity with little attempt to recognise the diversity of cultures within the United Kingdom. In particular there is no recognition of the contested issue of nationality within Northern Ireland. The significant efforts on the part of the UK Government, the Irish Government, the political parties in Northern Ireland with the support of the US administration to assist the people of Northern Ireland to move away from the conflicts over national identity have effectively been ignored in the proposals for Citizenship Ceremonies. Our comments refer to procedures, oaths and pledges, children, national features, local involvement and venues.



## Procedures

The Commission welcomes the discretionary element to exempt some people in exceptional circumstances from the citizenship ceremony due to infirmity or disability. We would be concerned that this in itself does not become discriminatory due to stereotypical notions regarding disabled people by excluding them. For example if all those with learning disabilities were not permitted to take part in citizenship ceremonies, then this may constitute unlawful discrimination under the Disability Discrimination Act 1995. Also, the final phase of Part III of the DDA in relation to goods, facilities and services will come on board in October 2004, therefore all venues will need to be accessible.

The Commission is concerned that the language and knowledge component may deter older people from applying for citizenship, due to a fear of testing and maybe having little or no formal education. We therefore recommend that consideration be given to exempting persons aged 50 and over from the language and knowledge requirement.

We also have concerns over the exclusion of Irish and Ulster Scots under the requirement to have sufficient knowledge of English, Welsh or Scottish Gaelic. The Commission understands that guidance from Government on the implementation of the European Charter for Regional or Minority Languages is currently being drawn up. Furthermore, in our considerations on language in the Single Equality Act we call for further exploration of language through a white paper, again we understand that this is forthcoming this Autumn. It is therefore important that this is kept under review and if necessary revised to include Irish and Ulster Scots.

We believe that the programmes of language tuition should have been developed in parallel with this consultation document. If ceremonies are to be held from April 2004, this does not leave much time for English for Speakers of Other Languages (ESOL) courses to be established. A recent report, 'ESOL, Interpreting the Way Forward'<sup>1</sup>, concluded that current ESOL provision in Northern Ireland is incoherent and patchy insofar as it does not allow for an acknowledgement of ESOL learning as a long term process that requires long-term planning, specific and consistent funding.

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<sup>1</sup> ESOL, Interpreting the Way Forward, Fee Ching Leong, Belfast, March 2002



Whilst not part of this consultation process, the Commission hopes that the proposals to be drawn up by the Advisory Group on Life in the UK, on the language and citizenship education for people seeking naturalisation, will be subject to wide consultation and debate recognising the specific issues that are relevant to Northern Ireland.

### **The Citizenship Oath and Pledge**

The Commission is concerned that the requirement to take the oath to God and a pledge to Her Majesty the Queen may in the Northern Ireland environment not be regarded as neutral by the Catholic nationalist community. For example Lord Justice Kerr in his opinion in a judicial review in 2000 said, "...any decision with political implications is virtually certain to be opposed by some members of the community and welcomed by others."<sup>2</sup> This had been in the matter of Seamus Tracey and Barry McDonald who refused to make the necessary affirmation in order to become Queen's Counsel. Whilst they did not object to being called 'Queen's Counsel' and accepting an appointment from the 'Queen' they were not prepared to affirm that they would undertake to render the same service to the Queen as they would to any other client.

Furthermore this concentration on Christianity and 'Britishness' may reinforce the view that there is no place for cultural or religious diversity in the United Kingdom. The Commission also considers the option for non-Christians to affirm in place of a their religious entity, unacceptable, as this does not allow for religious diversity.

It is important that the focus is on joining the citizens of the United Kingdom that is Great Britain and Northern Ireland. This focus should not specifically be limited to Britain. We would recommend that the proposals are revised to take account not only of the specifics of contended nationality in Northern Ireland, but religious diversity as well.

### **Children**

Point 3.9 refers to children under the age of 18 not being required to attend the ceremony. The Commission would recommend that children between the ages of 16 and 18, with their parents consent, should be able to apply for citizenship in their own right, attend the ceremony and receive their certificate. This would help reinforce their rights and responsibilities as active citizens. Children under the age of 16, where they wish and with

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<sup>2</sup> [200] NIQB 6 (2<sup>nd</sup> May 2000) (per Kerr J)



parental consent should also be given an opportunity to be actively involved in such ceremonies further reinforcing the aims and objectives of citizenship for young people.

### **Role of Registration Officers**

The Commission assumes the Registrar will fulfil this role in Northern Ireland, alongside their counterparts in England, Scotland and Wales

### **National Features and Venues**

The Commission is concerned at the concentration on 'Britishness' attached to the ceremonies which fails to reflect the constitutional dialogue and discussion that takes place in Northern Ireland.

The Fair Employment Code of Practice provides general guidance for employers with regard to good practice in the promotion of equality of opportunity and is important in this regard. In relation to the working environment the Code states that employers should:

"promote a good and harmonious working environment and atmosphere in which no worker feels under threat or intimidated because of his or her religious belief or political opinion. e.g. prohibit the display of flags, emblems, posters, graffiti, or the circulation of materials, or the deliberate articulation of songs which are likely to give offence or cause apprehension among a particular group of employees."

Furthermore, the statutory obligations under Section 75 of the Northern Ireland Act 1998<sup>3</sup>, require specified public bodies to review the implications of its policies on both equality of opportunity and good relations as it will be public buildings which are used for these ceremonies. It is the Commission's view that the widespread display of the Union flag would have significant implications for equality of opportunity and good relations.

The Tribunal decision in Johnston -v- Belfast City Council (2000)<sup>4</sup>, reported that the display of an 'emblem' identifying a 'community allegiance', in this case a portrait of Her Majesty the Queen, is capable in our society of causing offence to certain sections of the workforce.

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<sup>3</sup> The Northern Ireland Act, Chapter 47, Section 75, 1998

<sup>4</sup> Johnston -v- Belfast City Council [2000] FET Case No 00241/97FET



The Flags (Northern Ireland) Order 2000 and its associated regulations set out the position on the flying of the Union Flag on specific government buildings on 17 days each year, both specified and listed in the regulations.

While the Flags (Northern Ireland) Order 2000, relate only to specified government departments, Lord Justice Kerr in a recent decision subject to judicial review, gave an important steer to how the courts may view complaints involving the flying of the flag<sup>5</sup>. He held that, "the purpose of this legislation is to reflect Northern Ireland's constitutional position, not to discriminate against any section of its population." LJ Kerr also pointed out that,

"....the regulations follow the principle that it is the inappropriate or excessive use of symbols, including flags, which should be eliminated, not their constitutional significance. The Regulations achieve a balance based on respect for diversity and tolerance of difference, in full account with the spirit of the Belfast Agreement."

The Commission is of the view that the whole process of citizenship ceremonies need to reflect and take on board issues that are relevant here in Northern Ireland and which promote equality of opportunity and good relations.

### **Local Involvement**

The Commission has concerns over the attendance of local politicians as it may prove to be problematic in some instances. Also as the majority of schools in Northern Ireland are segregated, this again could cause problems for citizenship ceremonies. Specific consideration will need to be given to this issue in relation to Northern Ireland.

### **Conclusion**

In conclusion the Commission is not objecting to the concept of citizenship being celebrated and would in principle agree with rights and responsibilities being at the forefront for all citizens. However, we strongly recommend that serious consideration be given to the citizenship ceremonies and the language and knowledge component required for

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<sup>5</sup> [04/10/01] LJ Kerr, Ref: KERF3506



acceptance and how they apply in Northern Ireland, given the specifics and reality of Northern Ireland life.

Whilst the Home Office is not designated for the purposes of Section 75 of the Northern Ireland Act 1998, we understand that the Northern Ireland Office has agreed to adhere to the principles of Section 75 on a voluntary basis. We recommend that this document is revisited in consultation with all stakeholders in Northern Ireland to ensure that it reflects the reality for people here, ensuring that you adhere to the principles outlined in Section 75. The Commission would only be too pleased to offer assistance or advice. Please do not hesitate to contact me should you require any further information or clarification.

Yours sincerely

Eileen Lavery  
Director Policy and Research

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