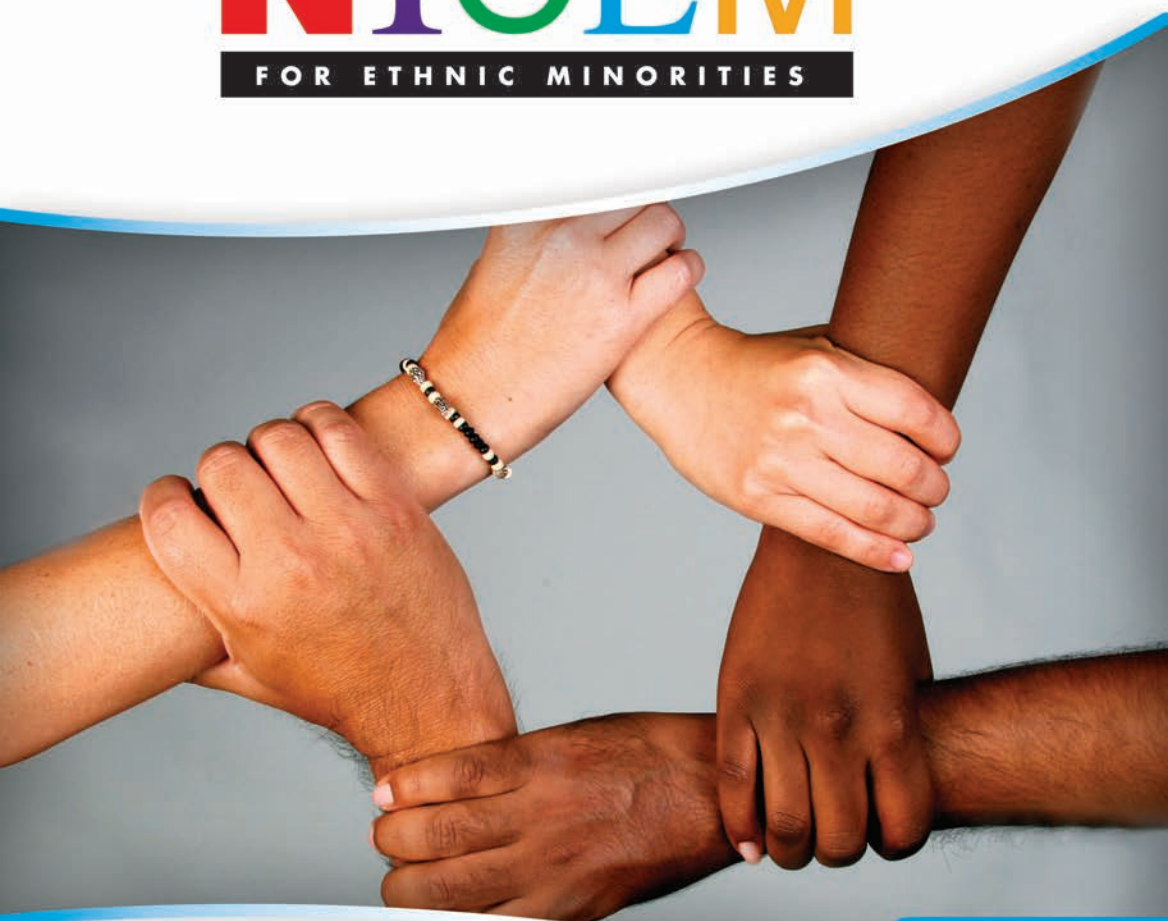


● Northern Ireland Council

N1CEM

FOR ETHNIC MINORITIES



FOCUS ON: USING THE EQUALITY
DUTY AND HUMAN RIGHTS WITH THE
NORTHERN IRELAND ASSEMBLY

Booklet
Number

4

Human Rights and Equality
Framework Booklet series





Introduction

This booklet is intended to provide a practical tool for use by members of ethnic minority communities in their work with the Northern Ireland Assembly.

The booklet explains how you can increase accountability and good governance by engaging with our politicians on issues of equality and human rights.

The booklet covers the role of the Assembly, its structure, how it works, and key points, which might help you work with it effectively.

Why engage with the Assembly

The Assembly is the highest elected body in Northern Ireland. The Assembly (and the Executive, explained later) governs by making legislation and overseeing the work of government departments.

The Assembly was set up as a result of the peace agreement of 1998 (known as the Belfast/Good Friday Agreement), which recognised human rights and equality as central to peace building.

So when the Assembly makes legislation and oversees the work of government, it is required to scrutinise how human rights and equality standards are being met in legislation, policy and practice in Northern Ireland.





What is the Assembly and how does it work?

The Northern Ireland Assembly is the legislature for Northern Ireland, meaning that it is an institution made up of your elected representatives who together make laws and oversee the work of government.

It consists of 108 members (Members of the Legislative Assembly, MLAs) elected from across Northern Ireland. Each MLA represents voters from a particular geographic area. Elections to the Assembly take place every four years.

The Assembly is a devolved institution, which means that certain powers have been transferred to it from the UK government in Westminster.

It legislates on things like:


- ▶ Health
- ▶ Education
- ▶ Housing
- ▶ Criminal Justice

However, the Assembly has no power to legislate on some matters such as immigration law, which remains with Westminster.

Most Assembly decisions are taken by simple majority, but certain decisions require something called “cross community” support.

As a direct result of past divisions, Assembly decisions requiring “**cross community**” support must attract support from a majority of MLAs from both the Unionist and Nationalist tradition.

“Cross community” support is needed for major decisions such as the number of government ministers and adopting the budget.



The Assembly is located at Parliament Buildings, Stormont, Belfast, and for this reason it is sometimes called “Stormont”. Regular public sittings are held, so you can go and observe debates (you can check the website: www.niassembly.gov.uk for details on how to do this).



The Executive – drawn from members of the legislature (the Assembly) – is made up of the First Minister, deputy First Minister, two Junior Ministers and 11 departmental ministers.

The Office of the First and Deputy First Ministers, who head the Executive, is specifically responsible for equality and human rights. But all ministers have direct responsibility for equality and rights regarding their own departments.

The Executive is 'power sharing', which means that government ministers are drawn from all major parties, not just the one that has the most seats. This is also why some Assembly decisions need cross community support.

Departmental ministers have responsibility for a specific government department and, collectively, the Executive carries out important functions such as developing the Programme for Government (an overarching plan for Northern Ireland), and setting the budget.



Human rights and equality in the Assembly

There are four main ways that human rights and equality are relevant to the work of the Assembly:

1. The law that set up the Assembly (the Northern Ireland Act 1998) makes it clear that the Assembly and government departments will be acting outside their powers if they breach the European Convention on Human Rights (ECHR – this is part of UK law through the Human Rights Act 1998). Departments therefore need to show that they are sure proposals for legislation are compatible with the rights in the Convention and the Assembly needs to be sure this is the case.
2. All government departments are public authorities under the equality duties. They therefore need to show the Assembly that they have considered equality in proposing legislation and in developing policy.
3. There is a Ministerial Code, that places significant importance on equality, which all government ministers must abide by.
4. As part of the wider role of the Assembly to ensure that Northern Ireland is governed properly, the Assembly needs to use human rights and equality standards to scrutinise and hold the Executive and government departments to account.



Making it happen: Leading on equality and human rights

Members of the Legislative Assembly (MLAs) are elected to be leaders for Northern Ireland. This includes political, non-partisan, leadership on equality and human rights.

While all MLAs have a responsibility to show leadership, ministers, who are responsible for government departments and together form the Executive, have a particular responsibility to do so. The Ministerial Code explicitly requires ministers to act in accordance with the general obligations on government to promote equality and prevent discrimination. All ministers pledge to comply with the Ministerial Code, and if this pledge is breached they can be sanctioned by the Assembly, which can remove a minister from their post.

A motion (proposal) to sanction a minister can only be brought forward if it is supported by at least 30 members of the Assembly; if it is moved by the First Minister and the deputy First Minister acting jointly; or the Secretary of State can require it, subject to certain criteria.

HOW CAN I USE THIS?

- ▶ Ask the MLA representing your area what they are doing on equality and human rights for you and your community. Do they know what human rights issues are important to you? If not, tell them and ask them to speak up about them.
- ▶ If you feel that a government minister has breached the Ministerial Code you can ask the First and Deputy First Ministers, or other MLAs, to ask the Assembly to sanction him or her.

The Assembly in action

ISSUE: A group approach their MLA to ask for help when members of their community are subject to verbal racist harassment in the local area. The MLA initially does not understand why this is a serious problem and hopes that it will just go away on its own.


ACTION: After talking to the group and hearing their experiences she starts to take it seriously and helps them contact the police and report all such incidents.

IMPACT: Later, when a debate on levels of crime takes place in the Assembly, the MLA reports to colleagues on this experience and uses it to convince them to take racist harassment seriously.

Making sure others do it: scrutiny and holding to account

The Assembly plays a central role in the scrutiny of legislation and government – making sure that decisions are made properly and in a democratically accountable way. As discussed in other booklets in this series (such as booklet no. 3: 'Tools for equality'), understanding the equality impact of decisions is necessary if public authorities, including government departments, are to do their jobs well.

The same is true for human rights impact, which affects all aspects of our lives from how we are treated if we come into contact with the police to how effective our health service is. There are not the same legal obligations to assess impact, but human rights impact assessment can be a useful tool. Government departments can use human rights impact assessment to make sure that they do not propose legislation that may breach human rights, and therefore be outside of the power of the Assembly to make.



The Assembly also has specific ways to enable it to scrutinise legislation and government. These are mainly through:

- a) Assembly debates and Question Time
- b) Assembly Committees
- c) All Party Groups

Assembly Debates and Question Time

This is when the Assembly works as a whole. It will debate issues, pose questions to ministers and debate and pass legislation.

The Assembly will debate 'motions' proposed by MLAs. The MLA submits a motion for debate by the whole Assembly, if they think there is a serious issue requiring debate or want agreement that action is needed.

GET INVOLVED

You can ask the MLA for your area to propose a motion for debate. Or if you learn that an Assembly motion of interest to you is going to be debated, you can provide MLAs (the motion sponsor, your local MLA, or all of them) with information and evidence that you think would be relevant to the debate.

The Assembly holds specific 'Question Time' sessions where MLAs ask questions of ministers. These can be written questions or oral questions. These sessions can be used for a range of purposes, including getting information on a particular subject, making sure something has been considered (such as asking if an equality impact assessment has been done), or raising awareness of the importance of an issue by drawing the attention of the responsible minister to a new piece of research.



GET INVOLVED

You can ask the MLA representing your area to ask questions of ministers. You may be asked to draft suggested questions, or simply provide information and evidence to support your request.

The Assembly debates and votes on all Northern Ireland legislation.

If it approves laws that are not compatible with certain human rights (for example, those included in the European Convention on Human Rights) the legislation will be invalid.

It is therefore very important that MLAs are encouraged to ask questions about how the government has checked that the legislation is indeed compatible with human rights.

MLAs could for example:

- ▶ Ask, to study any human rights impact assessment carried out on the draft legislation;
- ▶ or ask what specific legal advice has been sought;
- ▶ or ask to see any advice offered by the Northern Ireland Human Rights Commission.

Proposing legislation is an important function of government departments.

The equality and good relations duties (Section 75 of the Northern Ireland Act 1998) apply to this function, and MLAs help ensure that this happens by asking questions about the equality impact assessment: was one done, and what was the outcome.

HOW CAN I USE THIS?

- ▶ Ask an MLA to propose motions and ask questions on issues of importance to you
- ▶ If the Assembly is debating and proposing to adopt legislation that affects you and your community, ask yourself if it has equality or human rights issues and if so ask your MLA to challenge these aspects






Assembly Committees

Assembly debates can be important, but are usually quite high level without much space for detail or subtlety. They are also often the focus of media reporting and can tend toward political point scoring. So if you want to influence the content of legislation or get into the details of an issue it may be best to work with the relevant Assembly Committee.

Each Committee is supported by Assembly staff, with the 'Committee Clerk' the key point of contact. You can find the contact details of the Committee Clerk on the website: www.niassembly.gov.uk/Assembly-Business/Committees/

There are three types of Committees:

- ▶ Statutory: these are committees established by law to oversee the work of government departments.
- ▶ Standing: these are permanent committees set up by the Assembly on specific issues such as to look at the Assembly's own procedures.
- ▶ Ad hoc: These are temporary committees that can be set up by the Assembly to look at specific issues.



Statutory Committees play a crucial role in scrutinising the work of the Executive through their powers to hold inquiries, publish reports, scrutinise legislation, question ministerial actions, and advise on policy. Most legislation will have a 'committee stage', which is where the draft law is examined in detail by the relevant departmental committee.

As with debates in the Assembly, committee members need to ask questions about how human rights and equality have been considered. As the committee will be able to go into more detail than a plenary Assembly debate, MLAs can also use human rights standards to guide them on what to ask. So when examining a new strategy on social housing, committee members can ask how this secures the right to housing for those most in need.

GET INVOLVED

If you have evidence that your community has particular housing needs, this would be a good time to bring it to the attention of the Committee.

Committees will issue calls for evidence and invite witnesses to give evidence directly in the form of a question and answer session. Witnesses can be drawn from a wide range of sources, such as government, public bodies, business, academia, the voluntary or community sectors.

Assembly committees provide advice and make recommendations to government and specific government departments. While there is no legal way of enforcing these recommendations, they are politically very powerful, and the department will respond seriously.



HOW CAN I USE THIS?

- ▶ You can provide information to the committee in response to a call for evidence, in writing, in person or both. You can use this platform to share information on issues of concern to your community, and encourage the committee to take action.
- ▶ You can include in your evidence questions that you think the relevant government department should answer.
- ▶ You can propose specific amendments to draft legislation the committee is considering. If you do this, it is a good idea to get help from someone with legal knowledge, as legal drafting can be quite technical. You should provide evidence as to why the amendments are needed.
- ▶ If you have evidence that there is a significant problem, you can encourage the committee to initiate an inquiry.
- ▶ You can write to the committee to get an issue on the record, raising awareness of the problem even where there may not be space for the committee to have a specific discussion.
- ▶ You can ask the clerk to arrange an informal meeting with the chair, where you can share your information and evidence of concerns and discuss the possibility of the committee looking into them further.
- ▶ You can use committee reports and recommendations when talking to government departments.

The Assembly in action

COMMITTEE WORK:

A statutory committee looks at the audit of inequalities (see booklet 1 in this pack) of the department whose work it oversees.

The committee decides to initiate an inquiry to scrutinise how effectively the department is tackling the inequalities identified.

EVIDENCE FROM COMMUNITIES:

Witnesses are invited from a range of equality groups, who provide evidence that the current policy and practices of the department means that these inequalities will get worse, not better.

USING EVIDENCE OF COMMUNITIES TO IMPACT POLICY:

The committee makes recommendations to the department and as a result the department updates its action plan with new activities.

It also commits to reporting back within one year to the committee on action taken.



All Party Groups

All Party Groups (APGs) provide another forum by which MLAs and outside organisations and individuals can meet to discuss shared interests in a particular cause or subject.

At the time of writing (September 2012) there were 21 APGs, including one on Ethnic Minority Communities for which NICEM provides secretariat support.

APGs do not have the same scrutiny powers as statutory committees, but this can mean that they are more flexible and responsive to outside concerns.

APGs also have the advantage that they can look at issues that cut across several different government departments and use one report to recommend actions for a variety of government agencies. This is very important as equality and human rights concerns rarely respect departmental boundaries this can be important.

APGs also provide an important route to educate MLAs on issues of concern.

Since the MLAs who comprise a particular All Party Group may also be members of statutory committees, they can use the information provided at the APG in subsequent Committee or Assembly debates, or when asking questions during ministerial question times.

HOW CAN I USE THIS?

- ▶ Look at the list of All Party Groups on the assembly website and see if any are relevant to your issue. There are several that are likely to be interested in human rights and equality issues of concern to ethnic minority groups – e.g. the All Party Groups on human trafficking, on mental health, on children and young people, and on international development – but others may be even more directly working on an issue of concern to you. You could attend a meeting, provide evidence on an issue being debated, or propose a new issue for discussion.
- ▶ Contact NICEM to find out if you or your organisation could get involved in the APG on Ethnic Minority Communities.
- ▶ As with the findings of statutory committees, you can use the conclusions of the APG to support your wider lobbying efforts, adding extra weight to your arguments.

The Assembly in action

The All Party Group on Ethnic Minority Communities took the initiative to organise an event called 'Questions That Matter: An Evening With Political Representatives And Officials'. The purpose was for the APG to engage directly with BME community members – especially those unable to attend the regular monthly meetings – and to reach out to politicians and officials who usually did not attend.

The event covered a range of issues of concern to minority communities and enabled people to ask questions directly of politicians. An action plan resulted from the event, which was followed up by the APG and NICEM to make sure it happened.



Human Rights and Equality Advice on legislation

Government departments should not put forward legislation unless they are confident that it is compatible with human rights, in particular the European Convention on Human Rights. In fact, the Assembly does not even have the power to make laws that are incompatible with the Convention. Similarly, the relevant department should be sure that it has fully considered the implications for equality and good relations as part of its equality duties.

However, this may not always be the case and the Assembly needs to satisfy itself independently that legislation meets equality and human rights standards. To help it do this, it has specific ways to secure formal advice on human rights and equality as well as the normal means of gathering evidence and information.

The Northern Ireland Human Rights Commission often offers advice to the Assembly on human rights, but it can also be specifically requested to provide advice if someone wants to verify if a draft law is compatible with human rights. There is a formal mechanism for this request to be made; it must be agreed to by the Assembly; and the advice must be published and circulated to all MLAs.

If an MLA wants to request formal advice on equality the request must be made by a member of the Executive or the relevant Committee chair, and it must also be agreed to by the Assembly. The request, once agreed, will trigger the establishment of a specific Ad Hoc Committee on Conformity with Equality Requirements, that provides the advice and must report before the legislation can be passed.

Both of these mechanisms are very formal and it may be better to use the regular 'mainstream' scrutiny to bring out equality and human rights concerns. Nevertheless, they can provide a useful way of ensuring that human rights and equality issues are explicitly and openly examined.



HOW CAN I USE THIS?

- ▶ You can ask an MLA to bring forward a motion to ask for advice from the Northern Ireland Human Rights Commission. You should be prepared to provide evidence on why this is needed.
- ▶ You can provide evidence to the relevant committee asking the committee chair to request advice on equality compliance.
- ▶ You can use the advice provided through either of these means to argue for or against particular legislation, or for specific changes to the draft legislation

Other ways to engage with the Assembly

The Assembly is an important part of Northern Ireland's system of governance. As well as MLAs, there is an entire staff team that services MLAs and the various Assembly bodies. These people can also support the achievement of greater equality and respect for rights in Northern Ireland.

TAKE ACTION ▶ ▶ ▶

Find out who your local MLA is and use the methods in this booklet to ask them to act: List of MLA contacts: <http://www.nicva.org/niassembly/mlas>

EVIDENCE

The Assembly provides a research and information service to MLAs. You can support this by providing the service with research that you produce, which will also help MLAs find and use the research.



GETTING INVOLVED AND LEARNING MORE

There is also a dedicated education and outreach department, and a specific goal arising from the Assembly's own audit of inequalities is to increase the political participation of ethnic minorities in the work of the Assembly.

They are seeking to do this by outreach and involvement in a range of events. You can invite representatives of the Assembly outreach department to come and speak at a meeting of your group.

If you have other ideas of how they can help you to encourage more people from your community to get involved in politics, you can talk to them about this.

TAKE ACTION ► ► ►

Get in touch (outreach@niassembly.org.uk) if you would like to organise an information session or if you would like to get involved in Community Link.

STAY INFORMED

- Watch an Assembly debate:
www.niassembly.gov.uk/Assembly-Business/Live-Coverage
- Follow the work and take part in an All Party Group
- Find out what is going on in the Assembly through NICVA's Assembly Monitor and Assembly Insider: <http://www.nicva.org/niassembly>



To find out more about any of the information contained in this leaflet
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NOTICE

This booklet is intended to explain how the law works in practice. It is not however a legal document and many of the terms have been simplified for easier understanding.