

Submission to Belfast City Council draft Equality Impact Assessment (EQIA) of proposed policy on ‘Proposal to Erect Bilingual External Naming and Internal Directional Signage at Olympia Leisure Centre’

Consultation 12 June 2023 to 17 September 2023

About the Respondent

1. This is a response from the Committee on the Administration of Justice (CAJ) an independent human rights organisation with cross community membership, established in 1981, that works to ensure compliance with obligations under international human rights law. CAJ engages regularly with the Council of Europe and United Nations treaty bodies.
2. In 2019, in collaboration with the Ulster University and Conradh na Gaeilge, CAJ produced the report *Comhairlí Áitiúla, Dualgais agus an Ghaeilge: Creatlach Comhlíonta / Local Councils, Obligations and the Irish Language: A Framework for Compliance*.¹ This report assessed the extent to which NI Councils complied with treaty-based standards towards the Irish language. CAJ previously responded to a Belfast City Council draft EQIA on bilingual street signage.²
3. This submission is a response to the Belfast City Council public consultation on the draft Equality Impact Assessment (EQIA) of proposed policy on ‘Proposal to Erect Bilingual External Naming and Internal Directional Signage at Olympia Leisure Centre’.³
4. This CAJ response focuses largely on elements of the methodology followed by the draft EQIA. We are concerned that these elements depart from the framework provided by the legislation and Council’s Equality Scheme and instead construe the statutory duties as more of a political veto than an assessment as to impacts on equality of opportunity. We are concerned at the broader ripple effect of the adoption of this approach.
5. This response is divided into the following sections:
 - Executive Summary
 - The Purpose of an EQIA
 - The GFA and the shift from ‘English only’ policies to linguistic diversity
 - The background to the current Councils policy.
 - How the draft EQIA assesses impacts.
 - Conclusions

¹ <https://pure.ulster.ac.uk/en/publications/local-councils-obligations-and-the-irish-language-a-framework-for>

² <https://caj.org.uk/publications/submissions-and-briefings/submission-on-belfast-city-councils-proposed-policy-on-dual-language-street-signs/>

³ <https://www.belfastcity.gov.uk/Documents/Proposal-to-Erect-Bilingual-External-Naming-and-In>

Summary

6. The following is a summary of the key issues in our response that are evidenced in the text of the full submission:
 - This is a CAJ response to the summer 2023 **Belfast City Council consultation** on a draft Equality Impact Assessment (**EQIA**) **into the proposed policy for bilingual (English-Irish) signage at Olympia Leisure Centre** (a council facility).
 - The **purpose of an EQIA** is to assess whether a proposed policy positively impacts on equality of opportunity or whether the policy would constitute a discriminatory detriment (adverse impact) on equality against one or more section 75 groups.

The process to date

- The usual intended trigger for an EQIA is where an equality screening exercise concludes that there are potential major adverse impacts on equality of opportunity. In this instance the Council's equality screening (rightly) concluded that this was not the case with this policy. Yet an EQIA has proceeded on minor 'good relations' grounds.
- Further to the Councils' linguistic diversity and language strategies a consultation took place in 2019 on bilingual signage in four leisure centres (including Olympia). This evidenced support and demand for bilingual signage. In 2020 the DUP hosted a City Hall meeting advocating an 'English only' policy citing 'grave concerns' about the 'damage to good relations' should bilingual signage proceed against the wishes of 'local residents.'
- In September 2021 a Council Committee took a decision to proceed with bilingual signage at Olympia. The decision was however 'called in' by DUP representatives arguing such bilingual signage would meet the legal threshold of a decision that would 'disproportionately affect adversely' a section of the community (specifying the Protestant/British/Northern Irish community and Blackstaff/The Village residents). A legal determination subsequently determined this call in had 'merit'. This generated significant concern among the Irish speaking community and human rights NGOs about the reasoning behind the determination that a bilingual sign could meet a legal threshold of a disproportionate adverse impact. The Council declined to release the documentation evidencing the reasoning and the matter is currently before the First Tier Information Rights Tribunal further to an appeal taken by Conradh Na Gaelige with the support of CAJ and Public Interest Litigation Support NI (PILS).
- In January 2022 a decision was taken to proceed with the present EQIA. A screening was concluded in February 2022. The draft EQIA was released for consultation between June and September 2023.

Policy context: treaty-based commitments

- The proposed bilingual signage policy is an opportunity to promote equality for and progress the rights of a linguistic minority, the Irish speaking community.
- From the establishment of Northern Ireland the Irish language continued to face active discrimination in law and policy with the imposition of 'English only' policies. The GFA was to mark a reset in this relationship with a framework for linguistic diversity and specific commitments to redress the past marginalisation of the Irish language signed up to by the UK in human rights treaties. Whilst there has been some positive action many

of these commitments remain unfulfilled. Despite significant progress Irish speakers also continue to face varying degrees of demonisation, hostility and intimidation.

The previous consultation referenced in the draft EQIA

- The Council's 2019 consultation records support and demand for bilingual signage at leisure centres. The consultation data is detailed in the draft EQIA.
- It can be derived from the data in the draft EQIA that the proposed bilingual signage will constitute a positive impact on a number of Section 75 groups that are particularly reflected in the demographic of the Irish Speaking community, including young Catholics. The policy can also benefit Protestants and unionists with an interest in the language.
- The consultation also records that the bilingual signage policy is strongly opposed by the DUP and 'local community representatives' who instead advocate an 'English-Only' policy. Opposition or hostility to a policy does not mean the policy is 'discriminatory' against the groups opposing it. The test to be applied in an EQIA is whether the policy constitutes an adverse impact (i.e. a form of discriminatory detriment).
- It would be incompatible with the legislation and Council's Equality scheme to substitute the framework of an EQIA for an alternative test, grounded as to whether a policy is politically contentious or opposed. This would risk turning the EQIA process into a subjective unionist and nationalist veto. Should there be a pattern of EQIAs doing this only on policies which concern the Irish language, or which are politically opposed by a particular constituency this would raise questions of a discriminatory approach.

Draft EQIA: Assessment of positive impacts on Equality of Opportunity

- As set out above the role of an EQIA is also to assess positive impacts on equality as well as any adverse impacts on equality.
- The present draft EQIA makes no attempt at all to assess potential positive impacts of the policy on equality of opportunity.
- Furthermore, one reading of the draft EQIA is that it suggests that consultation responses demonstrating support for bilingual signage is not to be given weight as it was 'disproportionately' filled in by young Catholics from West Belfast. There appears to have been no consideration that this demographic may broadly reflect the rights-holders with a specific interest in the policy – the Irish speaking community, and hence be an indicator of positive impacts.
- This prompts the question as to whether a differential approach has been taken to this policy because it concerns the Irish language. It is highly unlikely that, for example, any consultation data on the issue of older persons concessionary bus passes would be downgraded as unreliable on the ground that most of the people responding to the consultation were older persons. Clearly such a demographic has a specific interest in the policy.
- **We recommend the final EQIA should incorporate these revisions, including a section added assessing positive impacts on equality of opportunity of the policy.**

Draft EQIA: Assessment of adverse impacts (discriminatory detriment)

- The EQIA rightly finds that there is no evidence that the bilingual signage policy would constitute an adverse impact (less favourable treatment/discriminatory detriment) on equality of opportunity for any of the Section 75 Groups.
- This appears a fairly straightforward contention as, put simply, nobody experiences discrimination by having to look at Irish alongside English on a sign.
- By contrast it would be an odd contention to argue that a group who are advocating for continued exclusion of the Irish language are themselves victims of discrimination if 'English-only' policies do not prevail.
- The EQIA does raise the 'chill factor' question as to whether if those opposed or hostile to bilingual signage decided to essentially stop using the leisure centre in the future, this would mean they have faced an adverse impact on equality that should be remedied by a change in policy. Whilst understanding monitoring needs for uptake of services we would caution that parameters are placed on such an approach. *It would conflict with the purpose of the statutory duty if boycotts based on prejudice or intolerance of the rights of others were institutionalised into policy.* Such a prospect would be better addressed by positive good relations actions measures such as the Council engaging in measures to promote understanding of linguistic diversity as recommended in the Council's Screening exercise. Comparable situations would be unthinkable, for example if a particular group ceased to use a leisure centre as they objected to persons from an alternate community background or different ethnicity also using the facility, that this objection would be accommodated into policy by discouraging others from using the facility.

Consideration of 'good relations'

- The legislation and ECNI Practical Guidance on EQIAs provide that the duty to assess adverse impacts relates to the equality limb of the Section 75 duty only and not the 'good relations' limb.
- The draft EQIA departs from this statutory framework and contains a 'good relations impact assessment'. It is the predominant focus of the assessment in the draft EQIA.
- The definitions of good relations recommended by ECNI guidance and incorporated into the Council's Equality Scheme focus on good relations being about tackling prejudice, promoting understanding and 'embracing diversity in all its forms'.
- The draft EQIA departs from these definitions and instead appears to substitute them for a lay interpretation that there is an 'adverse impact' on good relations if there is opposition and hostility to a policy, risking turning the section 75 duties into a political veto.
- The draft EQIA goes on to conclude that the evidence to date does indicate that the policy of bilingual signage would have an 'adverse impact' on good relations for Protestants and unionists. This is largely grounded in the opposition to and anger about the policy from the DUP and representatives from 'local communities' recorded in an addendum process to the original consultation.
- This is the incorrect interpretation of the good relations duty.

- Should the good relations duty be misinterpreted in this way as a lay assessment of subjective impacts, its application is still inconsistent in the draft EQIA. The assessment only focuses on the good relations ‘impacts’ on those opposed to the policy. There is no ‘good relations impact assessment’ in the same terms of the positive impacts on those supportive of the policy. This is despite such an assessment concluding positive impacts have been recorded in the Council’s Equality Screening exercise that preceded the EQIA. Furthermore, using the same methodology of ‘good relations impacts’ the Council would also have to conclude that not adopting the policy would equality constitute a ‘major adverse impact on good relations’ for the Section 75 groups making up the demographic of the Irish speaking community. None of this was the approach intended by the statutory duties.
- It would be of particular concern if the ‘good relations’ test in an EQIA was tilted in favour of a particular outcome due to anger and threats of the consequences if the policy was adopted. *Such an approach at worst would risk both incentivising and institutionalising intimidation into policy making.*
- An additional concern is that the way the draft EQIA is phrased, the views of a political party and ‘community leaders’ who are strongly opposed to the bilingualism policy and Irish language provision and wish to see an ‘English-Only’ policy risk stigmatising unionists and Protestants in general as holding such views, despite the growing visibility of Protestants and unionists learning and supporting the Irish language.
- None of this should be interpreted as precluding the EQIA from recording the views and reasoning of those strongly opposed to the policy. However, such opposition does not mean an alternative policy must be pursued because of the EQIA. The purpose of an EQIA is to assess whether a policy would constitute a discriminatory detriment against a Section 75 group, not whether a particular constituency is opposed or angry about a policy.
- The correct application of the good relations duty in the EQIA is to consider positive action measures to support the implementation of the policy *in a way that would promote good relations in line with the Council’s and ECNI’s definitions of good relations.* Measures to promote tolerance and understanding of linguistic diversity would be particularly relevant to this proposed policy. Such measures are already referenced in the Equality Screening as a potential action – but not in the draft EQIA.
- It should also be noted that the face of the Section 75 legislation expressly provides for the primacy of the equality duty over the good relations duty precisely to prevent the risk of policies that promote equality being blocked by lay interpretations of good relations.

We recommend the final EQIA should remove the ‘good relations impact assessment’ and instead follow the intended statutory framework for an EQIA.

Duty to consider mitigating measures and alternative policies.

- The legislation and Equality Scheme provide that there is a duty to consider mitigating measures or alternative policies *where there are adverse impacts on equality of opportunity.* This duty does not attach to the good relations limb of the statutory duty.

- It is undisputed that the bilingual signage policy does not constitute an adverse impact on equality of opportunity. The duty to consider alternative policies is not triggered.
- Given the inclusion of a ‘good relations impact assessment’ in the EQIA and the indication that the policy would entail an ‘adverse impact’ on good relations, it is foreseeable there is a risk that the EQIA will seek to promote ‘alternative policies’ on ‘good relations’ grounds. This would conflict with the legislation and equality scheme, including with the primacy of the equality duty for a policy given the positive impacts the policy will have on the Irish speaking community.
- To this end the draft EQIA states that it is imperative alternative options are made available for consideration as part of the present consultation process. The draft EQIA then suggests the alternative policy options include “monolingual naming and signage.”
- The legislation and Equality Scheme however qualify the types of alternative policies that can be considered as a result of an EQIA to those which would *better promote equality of opportunity*. The proposed alternative policy will not ‘better promote equality of opportunity’ rather it would be regressive in equality terms. It would also be incompatible with the Council’s own definition of good relations.

We recommend the assessment section of the final EQIA is significantly revised to bring it in line with the legislation and ECNI Practical Guidance on EQIAs – as both are obligations under the Council’s Equality Scheme. This would include the inclusion of an assessment of positive impacts on the policy on equality; the removal of the ‘good relations impact assessment’ and its replacement with suggested positive actions to support the policy in line with the definition of good relations focusing on linguistic diversity measures; the proposed alternative policy section should also be revised accordingly.

The purpose of an EQIA

7. The Belfast or Good Friday Agreement (GFA) provided for the introduction of a statutory public sector equality duty. This was legislated for under Section 75 of the main GFA implementation legislation (the Northern Ireland Act 1998) and covers nine protected characteristics (in summary: *age, disability, sex, ethnicity, religious belief, political opinion, disability, dependents and sexual orientation*).
8. Schedule 9 of the Northern Ireland Act 1998 provides an implementation framework for the Section 75 statutory duty which requires public authorities such as the Council to adopt ‘Equality Schemes’ setting out how they will implement Section 75. Mandatory elements of Equality Schemes are arrangements for (emphasis added):
 - assessing and consulting on the likely impact of policies adopted or proposed to be adopted by the authority on the promotion of equality of opportunity.
 - for monitoring any adverse impact of policies adopted by the authority on the promotion of equality of opportunity.⁴
9. In order to do this, public authorities have adopted a two stage methodology recommended by the Equality Commission for Northern Ireland (ECNI) and set out in Equality Schemes. The first stage is an initial ‘Equality Screening’ of a proposed policy. Then if the screening identifies major adverse impacts, the screening decision is

⁴ <https://www.legislation.gov.uk/ukpga/1998/47/schedule/9/paragraph/4>.

usually to proceed to a full Equality Impact Assessment (EQIA). The Council has adopted this approach.⁵

10. As set out ECNI Guidance on EQIAs:

The primary function of [an] EQIA is to determine the extent of differential impact of a policy upon the groups and in turn whether that impact is adverse, that is, whether it has a negative impact on one or more of the nine equality categories.⁶ (emphasis added).

11. The Council's Equality Scheme commits to following this ECNI Guidance and reflects this specific provision, also emphasising that an EQIA "is also an opportunity to demonstrate the likely positive outcomes of a policy."⁷
12. The draft EQIA itself reiterates the ECNI Guidance, stating that "*An EQIA is a thorough and systematic analysis of a policy to determine the extent of differential impact upon the groups within the nine equality categories and whether that impact is adverse.*"⁸ (emphasis added).
13. It appears uncontested therefore that the purpose of the present EQIA is to impact assess *differential impacts* (i.e., including any positive impacts, as well as negative impacts) of a policy across the nine equality categories in the equality duty.
14. The concept of 'adverse impact' on equality of opportunity is similar to 'discriminatory detriment' on a protected characteristic and should not be misinterpreted as mere political opposition or contention over a policy. The Equality Commission has produced the following definition of adverse impact which the Council has incorporated into its Equality Scheme (emphasis added):
- Adverse impact:** Where a Section 75 category has been affected differently by a policy and the effect is less favourable, it is known as adverse impact. If a policy has an adverse impact on a Section 75 category, a public authority must consider whether or not the adverse impact is unlawfully discriminatory. In either case a public authority must take measures to redress the adverse impact, by considering mitigating measures and/or alternative ways of delivering the policy.⁹
15. It would conflict with the purposes of the statutory duty if objections grounded in prejudice or intolerance (including sectarianism) – in this case towards a minoritized language - were institutionalised into policy making as a result of the Section 75 process. These objections would not be indicative of 'less favourable' treatment.

⁵ <https://www.belfastcity.gov.uk/Documents/Equality-Scheme-for-Belfast-City-Council>

⁶

<https://www.equalityni.org/ECNI/media/ECNI/Publications/Employers%20and%20Service%20Providers/PracticalGuidanceonEQIA2005.pdf> page 4.

⁷ <https://www.belfastcity.gov.uk/Documents/Equality-Scheme-for-Belfast-City-Council> paragraph 4.16.

⁸ Draft EQIA Section 2 'purpose of an EQIA' [Proposal to Erect Bilingual External Naming and Internal Directional Signage at Olympia Leisure Centre \(belfastcity.gov.uk\)](https://www.belfastcity.gov.uk/Proposals/Proposals/Proposal-to-Erect-Bilingual-External-Naming-and-Internal-Directional-Signage-at-Olympia-Leisure-Centre)

⁹ <https://www.belfastcity.gov.uk/Documents/Equality-Scheme-for-Belfast-City-Council#appendix5>

16. Where an adverse impact on equality of opportunity is properly identified within an EQIA the Council is then under a duty to consider mitigating measures and alternative policies that would better promote equality of opportunity.
17. Schedule 9 of the Northern Ireland Act 1998 provides that when a public authority publishes an EQIA they must give detail of any consideration given to:
 - (a) measures which might **mitigate** any adverse impact of that policy **on the promotion of equality of opportunity**; and
 - (b) **alternative policies** which might **better achieve the promotion of equality of opportunity**.¹⁰
18. This is reflected in the Council's Equality Scheme which commits to EQIA reports including consideration of 'measures which might mitigate any adverse impact' and 'alternative policies which might better achieve the promotion of equality of opportunity'.¹¹ The Council's Equality Scheme also commits to ongoing monitoring any adverse impact *on equality of opportunity* of an adopted policy.¹²
19. In summary, therefore, the purpose of an EQIA properly conducted in accordance with the legislative framework, ECNI Practical Guidance, and Council's Equality Scheme is to systemically assess both positive and adverse impacts on equality of opportunity, and only where adverse impacts on equality of opportunity are identified to consider mitigating measures and alternative policies *that might better achieve the promotion of equality*.

The application of the Good Relations limb of the Section 75 duty

20. Whilst there was no reference to 'good relations' in the GFA, a second limb was added to the Section 75 duty that a NI public authority shall 'have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group'.¹³
21. Following concerns by CAJ and others a safeguard was placed on the face of the Section 75 legislation that the 'good relations' limb of the duty must be discharged in *without prejudice* to obligations under the equality duty. This was to prevent the scenario whereby a policy that promotes equality is blocked by a *lay interpretation* of the 'good relations' duty that a policy offends 'good relations' (i.e., as it is politically contested) which would defeat the purpose of the equality duty.
22. Despite this safeguard such problematic interpretations of the good relations duty have been prevalent in a number of areas engaging economic, social and cultural (ESC) rights, including provision for the Irish language.¹⁴
23. Regarding an authoritative interpretation of the concept of 'good relations' in international standards, the Council of Europe has set out that that:

¹⁰ Schedule 9, paragraph 9: <https://www.legislation.gov.uk/ukpga/1998/47/schedule/9>

¹¹ Belfast City Council Equality Scheme, paragraph 4.22.

¹² As above, paragraph 4.28.

¹³ <https://www.legislation.gov.uk/ukpga/1998/47/section/75>

¹⁴ See CAJ 'Unequal Relations' report – including the case study on Irish language policy: <https://caj.org.uk/wp-content/uploads/2017/03/No.-64-Unequal-Relations-%E2%80%93-Policy-the-Section-75-duties-and-Equality-Commission-advice-etc-May-2013.pdf>

Promoting good relations between different groups in society entails fostering mutual respect, understanding and integration while continuing to combat discrimination and intolerance.¹⁵

24. The equivalent concept in legislation Great Britain, in the Equality Act 2010, explicitly frames the focus of the good relations duty as “*tackling prejudice and promoting understanding*”.¹⁶ Whilst there remains no definition of ‘good relations’ on the face of the Section 75 duty in Northern Ireland it is clearly not intended to be an entirely different concept.
25. There has been significant criticism from Council of Europe treaty-bodies about the interpretation *in practice* of the good relations duty in NI, where the lack of proper definition has been a contributory factor. The Advisory Committee on the Framework Convention for National Minorities has referred to interlocutor reports of the ‘good relations’ duty appearing “*on several occasions to take priority over wider equality and minority rights initiatives, which were blocked on grounds that they would lead to ‘community tensions’*” and elaborated that:

This would be due to the fact that, unlike the rest of the country, Northern Ireland does not interpret the ‘good relations’ duty as including a duty to tackle racism, including sectarianism. Instead, the lack of proper definition allows this notion to be used rather as a ‘tool’ to set aside politically contentious issues, such as legislating on the Irish language, and to justify a “do-nothing” attitude, eventually based on ‘perceptions’ rather than objective criteria. The Advisory Committee reiterates its opinion that the concept of ‘good relations’ apparently continues to be substituted for the concept of intercultural dialogue and integration of society, which would include other national and ethnic minorities present in the region, and regrets that this is used to prevent access to rights by persons belonging to these minorities. [85]¹⁷

The Committee recommended that:

The authorities should begin to implement the ‘good relations’ duty as provided for under the Northern Ireland Act 1998 in a manner that does not run counter to the equality duty and that does not prevent access to rights by persons belonging to all national and ethnic minorities. [89].¹⁸

26. Following a CAJ report raising concerns on the issue in 2013 the Equality Commission for Northern Ireland, which has a statutory function to advise on the Section 75 duties, has also promoted the ‘*tackling prejudice, promoting understanding*’ definition in the Equality Act 2010. In addition, also drawing on legislation in Britain in guidance to NI Councils, the Equality Commission elaborates that:

¹⁵ [ECRI General Recommendation no 2 \(revised\), explanatory memorandum](#), para graph 21

¹⁶ s149 of the Equality Act 2010.

¹⁷ <https://www.coe.int/en/web/minorities/-/united-kingdom-publication-of-the-4th-advisory-committee-opinion>

¹⁸ <https://www.coe.int/en/web/minorities/-/united-kingdom-publication-of-the-4th-advisory-committee-opinion>

Good relations can be said to exist where there is a high level of dignity, respect and mutual understanding; an absence of prejudice, hatred, hostility or harassment; a fair level of participation in society.¹⁹

27. The Commission on Flags, Identity Culture and Tradition (FICT) report (2021) raises the lack of definition of ‘good relations’ in NI law, drawing on the definition in Great Britain, and the representations of the Equality Commission on the utility of this definition. The FICT commission consequently recommends that “the legal duty of Good Relations should be clearly defined in law.” and that “the delivery of Good Relations interventions, has reductions of sectarian and race hate incidents as key outcomes.”²⁰
28. Notably the Councils’ own equality scheme defines good relations as *inter alia* seeking to promote respect and ‘embrace diversity in all its forms’.²¹
29. These definitions provide a sound basis of how ‘good relations’ at least *should be* interpreted by public authorities in NI.
30. It should be noted that there is no obligation to conduct ‘good relations impact assessments’ in the Section 75 legislation. The impact assessment provisions of the Section 75 duties, cited above, expressly relate to the ‘equality of opportunity’ limb of the duty only. The duties to consequently consider mitigating measures and alternative policies also likewise only relate to the equality of opportunity duty.
31. There was a proposal under the Executives T:BUC strategy to amend the legislation and provide for ‘good relations impact assessments’ with EQIAs becoming Equality and Good Relations Impact Assessments. This was opposed by the Equality Coalition and was never legislated for.
32. The ECNI Practical guidance on conducting EQIAs makes no reference at all to ‘good relations’ or ‘good relations’ impact assessments, rather EQIAs are entirely focused on the equality limb of the duty only.²² The Councils Equality Scheme expressly commits to following this ECNI Guidance.²³
33. The 2010 ECNI general guide on the Section 75 duties issued by the ECNI does confuse matters in recommending good relations ‘impacts’ be measured in Equality Screening, although the guidance on EQIAs remains largely focused on the equality

¹⁹ Equality Commission advice on Good Relations in local Councils’ 2015

²⁰ [Commission on Flags, Identity, Culture and Tradition - Final report | The Executive Office \(executiveoffice-ni.gov.uk\)](https://www.executiveoffice-ni.gov.uk)

²¹ The Councils Equality Scheme references a previous ECNI ‘working definition’ of Good relations as follows: Although not defined in the legislation, the Commission has agreed the following working definition of good relations: ‘the growth of relations and structures for Northern Ireland that acknowledge the religious, political and racial context of this society, and that seek to promote respect, equity and trust, and embrace diversity in all its forms’. (<https://www.belfastcity.gov.uk/Documents/Equality-Scheme-for-Belfast-City-Council#appendix5>)

²² ECNI ‘[Section 75 of the Northern Ireland Act 1998: Practical Guidance on Equality Impact Assessment](#) February 2005. Notably this document setting out the methodology for EQIA’s does not mention good relations at all, rather the focus is on the equality limb of the duty in line with the legislation. The only use of the term is where the document reproduces the whole text of Section 75.

²³ Paragraph 4.17 of the Councils Equality Scheme contains the following commitment “we will carry out the EQIA in accordance with Equality Commission guidance.”

limb of the duty.²⁴ A more recent ECNI Short Guide on Screening and EQIAs from 2017 indicates that ‘good relations’ assessments are not mandatory for Screening or EQIAs.²⁵

34. Whilst some Councils have wisely removed the notion that equality screening should also measure ‘good relations impacts’ Belfast City Council continues to incorporate the notion of ‘good relations impacts’ into its equality *screening* methodology.²⁶ In terms of EQIAs however the relevant section of the Equality Scheme does not reference good relations impacts being part of an EQIA, rather it commits to following the ECNI EQIA Guidance that only relates to the equality limb of the duty.²⁷
35. The Equality Scheme references the EQIA being an opportunity to demonstrate the likely positive outcomes of a policy and to seek ways to more effectively promote equality and good relations.²⁸ This is very different to the notion of a ‘good relations impact assessment.’ Rather it is to focus on how the policy could effectively promote good relations. Such measures could include the Council taking steps to promote linguistic diversity and tolerance, and measures to tackle prejudice and promote understanding, given as they are particularly relevant to this consultation.
36. In summary we highlight that:
 - There is no basis for *the EQIA* to contain a ‘good relations impact assessment’ regarding the proposed policy. It is not provided for by the Section 75 legislation, ECNI Guidance on EQIAs, or the Council’s Equality Scheme.
 - A lay subjective interpretation of ‘good relations’ impacts (essentially an interpretation that a policy is politically opposed) is a misapplication of the duty and, particularly, on a policy where rights and equality are engaged, risks conflict with the purpose of the duty and Equality Scheme.
 - Any good relations measures that would obstruct policies which would have a positive impact on equality of opportunity will also conflict with the legislation and Equality Scheme.
 - Any good relations promotional measures should be in line with the authoritative definitions of ‘good relations’ set out in international standards, by the ECNI, and in the Councils Equality scheme. These focus on good relations being about tackling prejudice, promoting understanding, and embracing diversity in all its forms. Any good relations measures that conflict with these objectives will not be in conformity with the Council’s obligations.

²⁴ ECNI Section 75 of the [Northern Ireland Act 1998: A Guide for Public Authorities](#): April 2010. See pages 40-41. The section on screening makes reference to its purpose being to identify policies that are likely to have an impact on either equality or good relations. Whilst the section on EQIAs, states that an EQIA can be triggered by good relations considerations the focus on the EQIA itself is only in reference to equality, in line with the legislation.

²⁵ ECNI [‘Effective Section 75 Equality Assessments: Screening and Equality Assessments’](#) (2017) See footnotes 4 & 7 in particular.

²⁶ Belfast City Council, Equality Scheme, paragraphs 4.4-4.14.

²⁷ As above, paragraphs 4.16-17.

²⁸ As above, paragraph 4.16.

The GFA and the shift from ‘English only’ policies to linguistic diversity

37. The policy of monolingual ‘English-only’ signage introduced first as part of the colonial process was continued under the old Stormont administration from 1922-1972 which legislated, for example, to ensure Irish was banned from street signage. At an early stage of the peace process the UK Government repealed this legislation and replaced it in 1995 with the current statutory basis for bilingual street signage.²⁹
38. After this the UK entered into treaty-based obligations towards the Irish language under the provisions of the Belfast/Good Friday Agreement 1998 (GFA) that were to ‘reset’ the relationship between the state and the Irish speaking community and mark a departure from ‘English-only’ approaches to one that embraced linguistic diversity.
39. The GFA affirmed the *“importance of respect, understanding and tolerance in relation to linguistic diversity, including in Northern Ireland, the Irish language, Ulster Scots and the languages of the various ethnic communities [sic], all of which are part of the cultural wealth of the island of Ireland.”*
40. The GFA also contained specific commitments upon public authorities towards the Irish language including to ‘take resolute action’ to promote the Irish language, to ‘facilitate and encourage’ the use of written Irish in public life where there is demand, and to *‘seek to remove, where possible, restrictions which would discourage or work against the maintenance or development of the language’*.
41. The GFA led to the UK entering further specific treaty-based obligations under the European Charter for Regional and Minority languages (ECRML - Council of Europe Treaty no. 148).
42. GFA duties (including that of taking ‘resolute action’ to promote Irish) are also reflected in the Charter. The duty to remove restrictions (i.e., to end the unjustified exclusion and discrimination against Irish in provision) is found under Article 7(2) whereby there are undertakings to eliminate *“any unjustified distinction, exclusion, restriction or preference relating to the use of a regional or minority language and intended to discourage or endanger the maintenance or development of it.”*
43. Article 7(4) of the Charter provides a framework whereby public authorities are to *“take into consideration the needs and wishes expressed”* by the groups representing Irish *speakers* in determining policy with regards to Irish language provision.
44. The Council of Europe at its highest level has extolled the use of bilingual official signage as a key measure to promote minority languages.³⁰ The Committee of

²⁹ Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1995, Section 11 of which provided for Councils to erect bilingual street signage with subsection 11(12) repealing a series of previous provisions, including the Public Health and Local Government (Miscellaneous Provisions) Act (Northern Ireland) 1949, which bound Councils to an ‘English only’ street signage policy.

³⁰ *“...Council of Europe reiterates that the use of minority languages in official signage is a promotional measure with a considerable positive effect for the prestige and public awareness of a minority language. This position is supported by the Committee of Ministers of the Council of Europe, which in recent years adopted several recommendations calling on states to use minority languages on public signs”* in ‘Council of Europe supports use of minority languages in official signage’ Press Release <http://www.coe.int/en/web/portal/-/council-of-europe-supports-use-of-minority-languages-in-public-signs> also citing: CM/RecChI2013(1)

Ministers has linked signage with duties to promote awareness and tolerance in relation to minority languages.³¹ The Council of Europe has expressed concerns when municipal authorities take regressive steps in relation to bilingual signage.³² The Committee of Experts has also urged authorities to remove legal and practical obstacles to bilingual signage, including in contexts where there is hostility to such signage in some local government areas.³³ This framework provides that hostility or ‘tensions’ should not be regarded as a sufficient rationale for not providing signs, indeed there are other provisions under the Charter and Framework Convention whereby public authorities are duty bound to proactively promote tolerance. The international framework therefore implies that when a Council decides to provide bilingual signs, it should not simply seek to ‘balance’ a demand for signage with opposition to minority language promotion, as such a position may not be consistent

concerning the Czech Republic, CM/RecChI2013(3) concerning Serbia, CM/RecChI2013(6) concerning Bosnia and Herzegovina, CM/RecChI2014(1) concerning Ukraine.

³¹ For example, in April 2015 the Committee of Ministers recommended:

“that the Croatian authorities continue their efforts to promote awareness and tolerance vis-à-vis the minority languages, in all aspects, including usage of signs and traditional local names with inscriptions in Cyrillic script, based on the conclusions of the Committee of Experts [...], and the cultures they represent as an integral part of the cultural heritage of Croatia” Recommendation CM/RecChL(2015)2 on the Committee of Ministers on the application of the European Charter for Regional or Minority Languages by Croatia (adopted by the Committee of Ministers on 15 April 2015 at the 1225th meeting of the Ministers’ Deputies).

³² See concerns regarding a City Council (Vukovar / Вуковар) who had amended its policy and would no longer provide bilingual signs at Council buildings, institutions, city squares and streets. The Council of Europe stated that it ‘strongly regrets’ the removal of such minority language signs, whether through vandalism or official policy, instead calling on “all relevant public authorities” to fully implement the Charter ‘Council of Europe supports use of minority languages in official signage’ Press Release <http://www.coe.int/en/web/portal/-/council-of-europe-supports-use-of-minority-languages-in-public-signs>

³³ “185. The Committee of Experts has been informed by the representatives of the Polish speakers that there are still problems with respect to the bilingual signs and these often create tensions. The situation differs in each municipality and in some cases no steps have been taken to set up bilingual signs. Furthermore, bilingual signs are often destroyed and are not always replaced, partly due to funding problems. Moreover, funds from the state budget are provided with delays, causing problems in the municipal budget and further hesitation from the authorities in approving the bilingual signs. As to the railway stations, no further bilingual signs have been installed on the new corridor, in stations such as Třinec-Konska and Ropice. Where Polish signboards have been installed, these remain switched off. Problems have been indicated as well at the railway stations in Třinec and Vendryně. 186. The authorities are aware that bilingual signs have been destroyed and the former Minister for Human Rights and Government Commissioner for Human Rights has publicly protested against such actions. Furthermore, the authorities explain that bilingual signs are a sensitive issue and the majority population is reserved in this respect. 187. As to the legislation, the authorities have informed the Committee of Experts that an amendment to the relevant legislation has been prepared, which is expected to enter into force in the near future. The amendment maintains the 10% threshold and foresees that an application for bilingual signs can also be submitted by a civic association which represents the interests of the minority in question and has been present on the territory of the municipality for at least five years. The authorities explain that the request of the representatives of the national minorities through the committee for national minorities would remain the main method, while the application submitted by an association would be an exceptional solution in cases where the committee does not properly fulfil its role. The amendment has been prepared by the Committee for Co-operation with Local Authorities of the Government Council for National Minorities, the Secretariat of this Council and the Ministry of the Interior. **The Committee of Experts urges the Czech authorities to remove the legal and practical obstacles to the use of Polish place names and topographical signs in accordance with the Charter.**” (Application of the Charter in the Czech Republic 2nd monitoring cycle, paragraphs 185-7 [ECRML (2013) 2], emphasis in original).

with the concepts of minority rights or pluralism in a democratic society. Unless there is some rationale and objective basis for opposing bilingual signage, a ‘balancing’ approach risks institutionalising prejudice and intolerance into decision-making.

45. Despite this framework, as set out in our 2019 report, compliance by Councils with these obligations has been mixed.³⁴ In general our experience of Councils is that where there is no political will in the elected body to discharge obligations towards the Irish language, the framework is largely ignored and the equality impact tools are rarely harnessed to compel compliance. By contrast our experience of Councils where there is political will to embrace the new reality of GFA and treaty-based obligations, is that the equality tools can be paradoxically stretched beyond credible interpretation to impede implementation of minorized language rights.

The background to the current Council policy

46. The following is a summary of the background to the present draft EQIA consultation based on information in the draft EQIA itself and the ‘call in’ process:
- The Council adopted a Language Strategy in 2018, superseding a previous linguistic diversity strategy. Based on ‘principles of equality and linguistic diversity’ part of the strategy was the initiation of consultations on linguistic diversity in the naming and signage used in Council leisure centres.
 - In 2019 a decision was taken to consult on the installation of bilingual and multilingual signage in four leisure centres (including Olympia). There were just under 4,000 responses to this with a majority supporting / demonstrating demand for bilingual English-Irish signage.
 - After the consultation in early 2020 a DUP member of council hosted a City Hall meeting with other DUP councillors and representatives of the Blackstaff and Windsor areas who objected to Irish being included in signage in Olympia and advocated an ‘English Only’ policy citing ‘grave concerns’ about the ‘damage to good relations’ should bilingual signage proceed against the wishes of ‘local residents.’ A petition with 571 signatures was also received.
 - In light of this an addendum was added to the Consultation report. While the addendum refers to linguistic diversity among the service users of Olympia, including Irish medium schools and the increasingly ethnic (and hence linguistic) diversity in the local area, the conclusions of the addendum only reference and reflect the concerns of those attending the DUP meeting. The addendum records that
 - *“Those representatives present at the meeting unanimously agreed that naming and signage in Olympia should be in English only, and expressed grave concerns as to the potential damage to good relations, locally and city-wide, should bilingual signage be imposed against what were described as the wishes of local residents.”*
 - Citing the potential for ‘major adverse impact on good relations’ the addendum suggests the Council reflect on its Section 75 obligations. It should be noted this conclusion, grounded in a lay interpretation of the concept of

³⁴ <https://pure.ulster.ac.uk/en/publications/local-councils-obligations-and-the-irish-language-a-framework-for>

good relations, was not reached on the basis of a screening exercise in accordance with the Council's Equality Scheme.

- On the 24 September 2021 a decision was taken by the Council Strategic Policy and Resources (SP&R) Committee to erect bilingual signage at Olympia leisure centre.³⁵
- This decision was however 'called in' by DUP representatives arguing that the bilingual signage at Olympia would meet the legal threshold for call in namely that the "*decision would disproportionately affect adversely any section of the inhabitants of the district*". The call in referenced the "1. The community of Blackstaff/The Village; 2. The Protestant Community; 3. The British Community; and the 4. Northern Irish Community" as the section of the district and argued that the 'disproportionate' adverse affect was grounded in the opposition of these groups to bilingual signage. The call in also argues that the Council should have reviewed a previous screening decision and conducted an EQIA, citing the addendum report.³⁶
- A legal determination subsequently found this call in had 'merit', holding that bilingual signage would meet the legal threshold of disproportionately adversely affecting a section of the population. The Council declined to release this legal determination publicly citing legal professional privilege. This generated significant concern among the Irish speaking community and human rights NGOs relating to both the secrecy among 'call in' and in the reasoning as to how in essence having to look at Irish alongside English on a sign could meet a legal threshold of a disproportionate adverse impact. The matter is currently before the First Tier Information Rights Tribunal further to an appeal taken by Conradh Na Gaelige with the support of CAJ and PILS.³⁷ (A further ground for 'call in' – that the correct procedure had not been followed was not successful.)
- The matter having been tabled at full Council in early January 2022 was then referred back to the SP&R Committee of the 21 January 2022. At this committee meeting it was resolved by members to proceed with the present EQIA.³⁸
- In February 2022 an Equality Screening was completed. This concluded some minor-positive impacts on equality and no adverse impacts on equality. The Screening assessed 'good relations impacts' finding both positive and negative minor impacts. In relation to positive impacts the screening cites promoting linguistic and cultural diversity, challenging stereotypes, and inclusion. In relation to adverse impacts on good relations the screening, with reference to

³⁵ <https://minutes3.belfastcity.gov.uk/ieListDocuments.aspx?CId=163&MId=10232&Ver=4>

³⁶ Belfast City Council Call in Requisition form, 21 September 2021, released under FoI.

³⁷ <https://www.belfasttelegraph.co.uk/news/courts/legal-advice-which-stalled-erection-of-irish-signs-at-belfast-leisure-centre-should-be-disclosed-in-public-tribunal-hears/a1051840661.html>

³⁸ <https://minutes3.belfastcity.gov.uk/ieListDocuments.aspx?CId=163&MID=10735>

the consultation, states “only a minority indicat[ed] the potential for adverse impact if community relations are harmed.”³⁹

- The trigger usually necessary for an EQIA is an Equality Screening finding a ‘major adverse’ impact. In this instance, an EQIA has proceeded without this threshold being met. It appears from the date on the Equality Screening the Committee’s decision to undertake an EQIA was taken *before* the screening was conducted. This may of course have influenced the screening assessment decision to proceed to an EQIA without the threshold being met.
- The draft EQIA was opened for public consultation *some 18 months later*, in June 2023, and runs until September 2023.

The analysis of data and research

47. The analysis of data and research section of the draft EIQA contains evidence under the following headings:

- Legal position
- Central government strategies
- Advice from language agencies
- Policies of other councils in Northern Ireland
- Language legislation in the UK and Republic of Ireland
- Demand for minority languages
- Other Council policies and decisions
- Advice from Equality Commission NI
- Academic research
- Feedback from pre-consultation on Language Strategy
- Feedback from consultation on City-wide leisure centre naming and signage
- Census data by DEA and ward (religion, ethnicity, national identity, language)

48. The advice from the ECNI, helpfully includes the following submission from the ECNI to the Committee of Experts on the European Charter for Regional and Minority Languages which states:

Our response had made the point that the notion that providing equality or protection for one group limits their availability for another is both unfounded in itself and acts to the detriment of all who seek to live in a society that is fair and equitable and should be avoided in the drafting of public policy.

49. This is an important point which directly aligns with a provision in the languages Charter that:

The adoption of special measures in favour of Irish aimed at promoting

³⁹ Equality Screening Report for the Council decision to erect dual language signage at Olympia Leisure Centre, February 2022.

equality between the users of Irish and the rest of the population or which take due account of their specific conditions is not considered to be an act of discrimination against the users of more widely-used languages.⁴⁰

50. It has been long established as a principle of legal policy that, where possible, legislation should be interpreted compatibly with international treaty-based obligations. This is directly relevant to an interpretation of Section 75 that is compatible with treaty-based obligations to the Irish language. This principle is elaborated on in an ECNI commissioned paper which sets out that:

... the courts apply a standard presumption in interpreting legislation that the legislature will be deemed to intend to adhere to its international legal obligations. Therefore, according to well-established precedent ...where an ambiguity exists in the interpretation of legislation, the courts will prefer to adopt the interpretation that does not create inconsistency with the treaty commitment in question.⁴¹

How the draft EQIA assesses impacts

51. As set out above the role of an EQIA is to use the evidence gathered to assess whether a policy has a differential impact on equality of opportunity. This is both in the sense of positive impacts – but also negative (adverse) impacts (i.e. a discriminatory detriment) on equality of opportunity.
52. Neither the legislation, nor ECNI guidance on EQIAs, nor the Council's Equality Scheme, requires a 'good relations impact assessment'.
53. In short, Equality Impact Assessments, as their name suggests, are about assessing equality impacts of a policy– both positive and negative.
54. The assessment of impacts section of the draft EQIA is divided into three sections:
- The first section is introductory but cites a conclusion of potential 'adverse impact' tied to neither limb of the duty, but with apparent reference to good relations.
 - There is no section assessing or consideration at all of positive impacts on equality.
 - There is a section focussing on adverse equality impacts, which (rightly) concludes there is no evidence of any adverse impacts.
 - There is a 'good relations impacts section' on focusing on adverse impacts on persons of a Protestant, unionist or loyalist (PUL) community background.
 - There is then a brief conclusion citing the good relations impacts.

⁴⁰ Article 7(2) European Charter for Regional and Minority Languages.

⁴¹ O'Conneide, Colm 'Equivalence in Promoting Equality: The Implications of the Multi-Party Agreement for the Further Development of Equality Measures for Northern Ireland and Ireland (Dublin, Equality Authority and Equality Commission for Northern Ireland 2005, page 11. See also *R v Lyons* [2002] UKHL 44 §27 (Lord Hoffman) See also: *A v Secretary of State for the Home Department (No.2)* [2005]; UKHL 71, [2006] 2 AC 221 at §27 (Lord Bingham); *R v Secretary of State for the Home Department, Ex p Brind* [1991] 1 AC 696, 747.

Introductory section

55. The introductory section makes reference to the evidence gathered in the previous public consultations in 2019 and 2020. The introduction states that whilst they remain ‘valid to some degree’ they are dated and ‘political times have undoubtedly changed in the meanwhile.’ Reference is also made to the ‘changing political circumstances in the city.’ The draft does not spell out what the intended meaning of this is.
56. In terms of interpreting this statement – which appears to influence the assessment, we would offer the following observations, that in recent years:
- There continues to be significant support and growth in the usage and learning of the Irish language.⁴² There has also been significant progress in supportive attitudes and actions towards the language across the community, including growth in interest and learning in the language across the community. There has been increased visibility of persons from a Protestant / unionist background learning and using Irish. Some progress has also been made in the belated adoption of Irish language legislation.
 - However, the Irish speaking community remains disadvantaged and marginalised. Many treaty-based commitments remain unfulfilled. A number of public authorities have retained or reintroduced pre-GFA ‘English-Only’ policies. There continues to be obstruction at a political level of the delivery of key previously agreed commitments to the Irish language. This political barrier is reflected in the recent 2022 High Court holding which found that the NI Executive had acted unlawfully for a second time in not adopting an Irish language strategy. The Court found that a paper to progress an Irish language strategy had been obstructed from inclusion on the Executive agenda at over 30 meetings from December 2020 to June 2021, and concluded that the “*issue was being blocked from substantive consideration*”.⁴³
 - In a further positive development, the political centre has increasingly been visibly supportive of measures to promote the Irish language. This has been evident in Alliance and Green support for the Council to adopt a progressive policy grounded in international standards and best practice in relation to street signage.⁴⁴
 - A climate of hostility and intimidation persists for speakers and supporters of the Irish language, at times with a paramilitary dimension. This is seen in the defacement of Irish on hundreds of bilingual signs erected by different Councils, some of which have been recorded as sectarian incidents.⁴⁵ The first Irish-medium nursery in the mainly unionist East Belfast received strong

⁴² For further details and statistical indicators, including language profiles by municipality, see part II <https://caj.org.uk/2021/04/30/submission-2021-independent-review-of-local-government-boundaries-and-names/>

⁴³ *Conradh na Gaeilge’s Application (no 2)* [2022] NIQB 56 (Aug 2022)

⁴⁴ <https://www.belfastcity.gov.uk/streetnaming>

⁴⁵ See ‘Bilingual signs vandalised 300 times in five years costing councils almost £40,000’

<https://www.belfastlive.co.uk/news/northern-ireland/bilingual-signs-vandalised-300-times-22666841>

support from a local Primary School and others in the area, with the primary school agreeing to host the facility. However, the nursery, Naischol na Seolta, was forced to relocate, stating that *“Due to an ongoing social media hate campaign against some individuals and the integrated Naiscoil na Seolta, it is with great sadness that it is choosing to relocate to an alternative location.”*⁴⁶

57. The introductory section also mentions that the previous consultations concerned broader practice in Leisure centres rather than Olympia specifically, indicating the previous consultations may be given less weight in the impact assessment.
58. This section also makes reference to the addendum to the consultation concerning Olympia (in reference to the DUP meeting, petition etc), stating this evidenced:

...strong local support was forthcoming for English only signage, with concerns raised that bilingual signage could heighten local community tensions and may serve to provoke a hostile response from certain elements within these communities.
59. None of the above elements are indicators *of an adverse impact on equality of opportunity – the question to be addressed by an EQIA*. Whilst it is important that this perspective is recorded, alongside others, the question to be addressed by an EQIA is the extent to which there are positive or adverse impacts on equality of opportunity.
60. It would be particularly concerning if the latter (‘a hostile response from certain elements’) is accommodated in policy making. This would risk incentivising threats and intimidation as a method to prevail in Council policy making. The role of an EQIA is to objectively assess impacts on equality of opportunity.
61. This section of the draft EQIA acknowledges *“the installation of bilingual external naming and internal directional signage would continue to fall comfortably within the scope of the Council’s Language Strategy, as well as relevant local, national and international minority language charters and guidance...”*
62. However, this is followed with the contention that *“there are those, predominantly from Protestant, Unionist and Loyalist communities, who would argue that the Irish language has been overtly politicised within the context of Northern Ireland.”* This is then described as is *‘an important dimension good relations’* and appears to be the evidence base for the initial conclusion that the policy may constitute an adverse impact (‘on good relations’).
63. Whilst this view (that some persons think Irish has been ‘politicised’) is rightly recorded in the EQIA, this itself is not an indicator of an adverse impact on equality of opportunity – the question to be addressed by an EQIA.
64. Nevertheless, considering the weight that the view is given, it is worth unpacking this contention. The assertion that Irish has been ‘politicised’ tends to be a cliché which is routinely alleged as a justification to block Irish language provision. In addition, it would be an untenable contention to argue that the Irish language has been ‘politicised’ by those promoting it in line with international standards, but not ‘politicised’ by those blocking the delivery of Irish language commitments in conflict

⁴⁶ <https://www.irishnews.com/news/northernirelandnews/2021/07/28/news/first-irish-language-school-in-east-belfast-to-relocate-after-hate-campaign--2402397/>

with such standards and the broader statutory framework. Yet this section of the draft EQIA seems to accept that those opposing Irish language provision suffer an 'adverse impact' based on the assertion that the Irish language has been 'politicised.' This appears to accept the contention that the language is only 'politicised' by those promoting it.

65. In essence, the logic of the draft EQIA is that a matter which is politically contested or controversial or is the subject of political debate is 'politicised' and therefore bad for good relations.
66. If this is the threshold for 'adverse impact' that the Council is now adopting for EQIAs it would have widespread implications. The Council would have to screen in every single policy decision that is politically contested (by unionism or nationalism) as a major impact on good relations, conduct an EQIA that would also have to determine an adverse impact on good relations and then – if the methodology in the draft EQIA was consistently followed - consider an alternative policy instead of implementing the policy. *This would turn an EQIA into a political veto and is outside the statutory framework for EQIA.* If the Council *just* took this approach about policies concerning the Irish language or others opposed by unionist parties but not nationalists this would clearly be a discriminatory approach.
67. None of this is the intended role of an EQIA, the purpose of which is to measure positive and adverse impacts on equality of opportunity. The above approach

The assessment of positive impacts on equality of opportunity

68. It is undisputed that an EQIA is to consider the potential for a policy to have positive impacts on equality of opportunity.
69. The assessments section of the draft EQIA however makes no attempt at all to assess positive impacts on Equality of Opportunity of the policy.
70. Therefore, there is no consideration of the positive equality impacts, which in itself would trump any attempt to roll back the policy on 'good relations' grounds. Given the primacy of the equality duty in Section 75.
71. The policy in question will have positive impacts on promoting equality of opportunity on the Irish speaking community and those with an interest in the Irish language. Indeed, bilingual signage and visibility of the language has been extolled by international experts as a key mechanism to promote equality between users of Irish and the broader population.
72. There is evidence within the data gathered and contained within the consultation report reproduced within the EQIA that there is significant crossover in the demographics of rights-holders within the Irish speaking community who will be the primary beneficiaries of the policy and a number of Section 75 groups. This includes the demographic of the Irish-speaking community being predominantly young persons, Catholics and of Irish national identity.
73. Although a minority within the demographic of the Irish speaking-community, those from a Protestant or unionist background with an interest in and knowledge of Irish would also be beneficiaries of the policy.

74. However, rather than provide this assessment, the summary of the consultation within the draft EQIA instead suggests that consultation responses, which demonstrated majority support for bilingual signage, were not to be given weight as the survey was ‘disproportionately’ filled in by young Catholics from West Belfast.⁴⁷
75. There appears to have been no consideration that this demographic may broadly reflect the rights-holders with a specific interest in the policy – the Irish speaking community, and hence be an indicator of positive impacts.
76. This prompts the question as to whether a differential approach has been taken because the policy concerns the Irish language. It is highly unlikely that, for example, any consultation data on the issue of older persons concessionary bus passes, would be downgraded as unreliable on the grounds that most of the people responding to the consultation were older persons, as clearly such a demographic has a specific interest in the policy.
77. The cited consultation data also first highlights that a slight majority of those supporting bilingual signage, were male. Yet no data is provided at all on gender in relation to those opposing the policy. It is unclear why if the former is to be highlighted, the latter is omitted.
78. Rather than assessing a correlation between beneficiaries of the policy and Section 75 groups (to ascertain positive impacts on equality) the draft EQIA in summarising the evidence from the consultation places significant emphasis on opinion being ‘divided’.
79. The draft EQIA sets out that a majority (61.4%) of overall respondents expressing an opinion advocated for bilingual (English-Irish) signage. It then goes on to stress *“However, this headline figure does not take into account the deep divisions of opinion across the sample and in particular in terms of preferences by national identity and community background.”* Statistics are then provided that indicate about 80% of Catholic respondents preferred bilingual signage with around 80% of Protestant respondents preferring ‘English-only’ provision.
80. The purpose of an equality impact assessment is not to determine a head count of views based on community background. The purpose of an EQIA is to ascertain if a policy will constitute a positive impact or discriminatory detriment (adverse impact) on one or more Section 75 groups.
81. Furthermore, as set out above the higher levels of demand among Catholics (and young persons) for bilingual signage provision may be reflective of the demographic of rights-holders within the Irish-speaking community. It is notable also that in fact a those who identify as Irish and Catholic are still minorities (i.e. under 50%) of a sample the majority of which were supportive of bilingual signage.

⁴⁷ “The profile of questionnaire respondents (n = 3393) tended to be characterised by an over-representation of men (56.3 per cent), those from the west of the city (35.5 per cent), those whose national identity was Irish (47.9 per cent) and those who self-identified as Catholic (48.9 per cent), in comparison with 21.4 per cent who identified as British and 28.8 per cent Protestant. It was also noteworthy that of those aged under 18 years who completed the survey (n = 320), 90.3 per cent were self-identified as Catholic.”

82. The draft EQIA emphasises that persons opposing bilingual signage were quite angry about the policy. The document records:

The atmosphere at larger meetings was far more confrontational. There was a considerable level of emotion at these meetings, and a deep suspicion among participants as to the true purpose of the exercise, and the Council's long-term objectives. During these events it was often difficult to maintain order or follow an agenda, as many participants' contributions were fuelled by considerable levels of anger and frustration at the Council, and this was seen as an opportunity to vent that anger. In particular, the consultation exercise was characterised as a conspiracy to impose language forms on local facilities against the will of that community.

83. The purpose of an EQIA is not to measure who is angrier or has stronger feelings about a policy. The purpose of an EQIA is to ascertain if a policy will constitute a positive impact or discriminatory detriment (adverse impact) on equality of opportunity of one or more Section 75 groups.

84. Sections in the draft EQIA appear to imply that the majority support for bilingual signage should be set aside as those opposed feel more strongly about it:

In any consultation, the number of people expressing a preference for a particular option cannot be ignored but must also be considered in the context of all other relevant concerns, including the strength and depth of feeling expressed by all respondents.

85. The draft EQIA goes on to (rightly) state that an EQIA is not a referendum where the views of the majority prevail. Equally, however, it is not a competition for who is angrier or feels more strongly about a policy. Any such approach would incentivise opponents or advocates of a policy alike to demonstrate the most anger and strong opinions to prevail. This is not the purpose of an EQIA. The purpose of an EQIA is to ascertain if a policy will constitute a positive impact and/or discriminatory detriment (adverse impact) on equality of opportunity for one or more Section 75 groups.

86. There is considerable focus in the draft EQIA on the 'local residents' in two of the areas in the vicinity of the leisure centre strongly opposing bilingual signage and advocating English-only policy. The view that bilingual signage should not be 'imposed' against the wishes of local residents is highlighted. Whilst it is important that such views are recorded in the EQIA they appear to have been given considerably more weight and consideration than those of the broader service users of the leisure centre. As alluded to above there is no assessment of the potential positive impacts on equality of opportunity for particular groups who use the leisure centre from other areas in the vicinity or school groups, despite reference to the proximity of Irish-medium schools. In taking this approach the draft EQIA risks tacitly endorsing the notion that one section of the community both has greater ownership of the leisure centre than others, and that that section of the community alone is more entitled to have solely its identity and ethos reflected in the leisure centre.

87. This issue arises also in the conclusions in the Olympia addendum report reproduced in the draft EQIA. The only point of view in the conclusions report refers to the "strong local support for *English only* signage, along with concern that good

community relations could potentially be damaged if bilingual signage was to be installed.” No positive equality impacts are referenced, rather this is the sole basis for the conclusion that the policy has “potential for major adverse impact on good relations, and possibly also equality of opportunity grounds” and that this “cannot be ignored.”

88. There is no question that opposition to the policy be ‘ignored’. However, a subjective assessment based on perception is not the role of an EQIA. An EQIA is to test if there are actual positive or adverse impact on equality of opportunity.

Equality of Opportunity adverse impacts

89. A section of the report then deals specifically with the question of potential adverse impacts on equality of opportunity.
90. It concludes that there presently is no evidence of any adverse impacts of the policy on equality of opportunity. It considers two specific areas.
91. The first is whether those opposed or hostile to bilingual signage would experience a ‘chill factor’ if they were installed and become discouraged from using the leisure centre in the future. The draft EQIA finds there is ‘no hard evidence to substantiate this assertion.’
92. Whilst understanding monitoring needs for uptake of services and lower participation rate we would caution that parameters are placed on such an approach. It would conflict with the purpose of the statutory duty if boycotts based on prejudice or intolerance of the rights of others were institutionalised into policy. Such a prospect would be better addressed by positive good relations actions measures such as the Council engaging in measures to promote understanding of linguistic diversity as recommended in the Council’s Screening exercise.
93. It would be unthinkable for example that if a particular group ceased to use a leisure centre as they objected to persons from an alternate community background or different ethnicity also using the facility, that this would be accommodated into policy by, for example, discouraging others from using the facility.
94. The second area raised is the contention that persons whose first language is not English, or who have literacy issues, could be ‘confused’ or left ‘uncertain’ by the presence of bilingual signage.
95. Whilst we recognise this issue may have been raised in consultation we consider it unfounded. Bilingual or multilingual signage is commonplace in many parts of the world including our neighbouring jurisdictions (the south of Ireland and Wales in particular) without evidence it disorients sections of the population. Indeed, those who are speakers of other languages are more likely to ‘get’ linguistic diversity than monolingual persons. The draft EQIA concurs that there is no indication that this issue raises significant concerns.

Good Relations

96. As set out in detail above, the legislation and ECNI Guidance that the Council has committed to following states that EQIAs are to solely focus on the equality of opportunity limb of the Section 75 duties. There are no obligations to conduct ‘good relations impact assessments.’

97. The draft EQIA however departs from the statutory framework and includes a 'good relations impact assessment.
98. The definitions of good relations adopted by the Council and recommended by the ECNI lend themselves to positive action measures but not lay assessment as to whether a policy is good or bad for good relations. Such definitions focus on good relations being about tackling prejudice, promoting understanding and 'embracing diversity in all its forms'.
99. The Screening Exercise which preceded the draft EQIA identified both positive and negative minor good relations 'impacts.' The draft EQIA, however, only considers 'adverse impacts' on good relations if the policy is implemented.
100. The draft EQIA states that the policy 'may have an adverse impact on residents, visitors and employees' of a Protestant, unionist and loyalist (PUL) community background adding 'as well as those of different ethnic origins'. The justification for this assessment is that these groups will have an *'expectation that the Council will have regard to the desirability of promoting good relations through its policies'*.
101. This implies that in proceeding with bilingual signage the Council *would not be having regard to good relations*. This assertion departs from the Council's own definition of good relations, which is to focus on 'embracing diversity in all its forms'.
102. Instead, this contention appears to rely on a lay definition of good relations that it the policy would be bad for good relations as it is facing opposition.
103. This would be a zero-sum approach, as by using the same methodology of 'good relations impacts', the Council would also have to conclude that not adopting the policy would equally constitute a 'major adverse impact on good relations' for the Section 75 groups making up the demographic of the Irish speaking community. None of this was not an approach intended by the statutory duties.
104. In the alternative, to avoid taking a discriminatory approach, the 'good relations impact assessment' would have to objectively distinguish why one policy decision over another would be 'worse' for 'good relations.' If such an approach was adopted it must surely involve some interrogation of the validity and reasonableness of the arguments being made, but also crucially some linkage to the actual concept of good relations in law.
105. The draft EQIA states that the 'evidence that is available to date' does indicate that the policy will potentially adversely impact on good relations. The evidence base being relied upon for this assessment is largely grounded in the evidence gathered in the previous round of consultation. The assessment states that:

Previous consultations on related matters, and including the introduction of dual language signage in leisure centres, have suggested that there may be the potential for those who do not support languages other than English to see dual language signage as potentially challenging to their sense of identity. These concerns appear to be most notable, and emotive, when decisions are seen to impact on local areas or facilities and against the perceived wishes of those communities.

106. This appears to refer to 'good relations' 'adverse impacts' on PUL communities. No evidence is provided to substantiate the suggestion that persons 'of different ethnic origins' will also face adverse 'good relations impacts' due to bilingual signage.
107. The above assessment summarised information gathered in the consultation regarding the views of opponents of bilingual signage. The consultation elaborates on the factors influencing these views as follows:

...those who may not have objected to the Irish language per se but who felt that, at the present time, the use of the language had been politicised and in their view now posed a threat to their culture and heritage. It was argued that this feeling had grown as the relative sizes of the two communities had shifted over recent times within Belfast. English was often described as sufficient, as it was seen to represent the main language of the UK. A smaller number voiced a concern that the imposition of Irish in areas where it may not be welcome had the potential to damage community relations and would be resisted by local communities.

108. In relation to further probing these arguments:

- A view is expressed that opposition to the Irish language is only occurring at the present time due it being 'politicised'. However, this clearly is not the case - opposition to Irish language provision from the same political constituency has been a consistent long-term approach.
- A view is expressed that respondents consider the Irish language now poses 'a threat to their culture and heritage.' This appears to involve a conceptualisation of cultural ethos grounded in excluding the cultures of others. Endorsing such an approach (by way of institutionalising it into policy through the EQIA), as well as interfering with the rights of others, would be inconsistent with the definition of 'good relations' which is framed around embracing diversity in all its forms, not providing for only one cultural ethos to the exclusion of others.
- A view is recorded that the 'threat' of the Irish language has grown as there are now more Catholics/nationalists in Belfast. Whilst ambiguous, at worst this could be read as suggesting that provision should only be made for the Irish language if the number of Catholics in Belfast is kept below a particular level. If this is the case acting on this would risk institutionalising sectarianism in the decision-making process.
- It is put forward that English is the main language of the UK. This is of course correct. However, the proposed signage policy provides that all signage will include English. Linguistic diversity with other indigenous languages is also commonplace in Wales and parts of Scotland.
- The draft EQIA states that there is a view from a small number that bilingual signage 'would be resisted by local communities.' It would be of particular concern if the 'good relations' test in an EQIA was tilted in favour of a particular outcome due to anger and threats of the (potentially violent) consequences if the policy was adopted. Such an approach would risk both incentivising and institutionalising threats and intimidation into policy making.

109. None of this should not be interpreted as precluding the EQIA from recording the views and reasoning of those strongly opposed to the policy. Such opposition does not however mean an alternative policy must be pursued as a result of the EQIA. The purpose of an EQIA is to assess whether a policy would constitute a discriminatory detriment against a Section 75 group on grounds of equality of opportunity.
110. The correct application of the good relations duty in the EQIA is to consider positive action measures to support the implementation of the policy *in a way that would promote good relations in line with the Councils and ECNIs own definitions of good relations*. Measures to promote tolerance and understanding of linguistic diversity would be particularly relevant to this proposed policy. Such measures and are already referenced in the Equality Screening as a potential action – but not in the draft EQIA.
111. It should also be recalled that the face of the Section 75 legislation expressly provides for the primacy of the equality duty over the good relations duty precisely to prevent the risk of policies that promote equality being blocked by lay interpretations of good relations.
112. An additional concern is that the way that the views of a political party and ‘community leaders’ who are strongly opposed to the bilingualism policy and Irish language provision and wish to see an ‘English-Only’ policy have been presented in the draft EQIA risk being read as indicating unionists and Protestants in general hold such views. This risks generalisation and stigmatisation of a whole group. It is also despite the growing visibility of Protestants and unionists learning and supporting the Irish language. This context is not presented in the draft EQIA which hence risks presenting views as binary.
113. The Council of Europe in its most recent report on compliance with the Framework Convention for National Minorities, makes reference to Irish and Ulster Scots being spoken by both Protestants and Catholics, holding that “the fact that both languages are spoken across communities in Northern Ireland offers the possibility for these languages to be tools of integration, rather than division.”⁴⁸ The current draft EQIA takes an entirely different approach by only focusing on opposition rather than the broader context for the language.
114. The draft EQIA also summarises the following from the consultation:
- While the consultation did not provoke many responses in relation to Section 75 considerations and including the draft equality screening report the adverse impacts that may attach to any decision on naming and signage cannot be ignored. These adverse impacts were alluded to by a number of respondents who suggested either that good relations generally may be damaged by the imposition of a Council decision on a local facility or that a centre may be less welcoming to members of certain communities depending on the languages on display. At this time these concerns are only conjecture and have yet to be tested but should be borne in mind nevertheless.

⁴⁸ ACFC/OP/V(2022)003 Advisory Committee on the Framework Convention for the Protection of National Minorities, Fifth Report on the UK, May 2023, para 158.

With this in mind, the decision must also be married with the Council's Good Relations Strategy, and including a commitment to the development of shared spaces across the city.

115. For the avoidance of doubt there is no suggestion from us that the opposition to the policy 'be ignored.' These views are, however, not indicative of a discriminatory detriment which is the question to be tested in an EQIA. As emphasised above, good relations measures to promote linguistic diversity and tolerance would be the correct complimentary 'good relations' response emerging from the process. It is not clear however, what is intended by the marrying of the policy with a 'shared spaces' approach is intended to mean here. By definition an 'English only' policy would not be a shared space.

Duty to consider mitigating measures and alternative policies.

116. The legislation and Equality Scheme provide that there is a duty to consider mitigating measures or alternative policies *where there are adverse impacts on equality of opportunity*. This duty does not attach to the good relations limb of the statutory duty.
117. It is undisputed at present that the bilingual signage policy does not constitute an adverse impact on equality of opportunity. The duty to consider alternative policies is not triggered.
118. Given the inclusion of a 'good relations impact assessment' in the EQIA and the indication that the policy would entail an 'adverse impact' on good relations, it is foreseeable there is a risk that the EQIA will seek to promote 'alternative policies' on 'good relations' grounds. This would conflict with the legislation and equality scheme, including with the primacy of the equality duty for a policy given the positive impacts the policy will have on the Irish speaking community.
119. The draft EQIA states that it is imperative alternative options are made available for consideration as part of the present consultation process. The draft EQIA then suggests the alternative policy options include "monolingual naming and signage."
120. The legislation and Equality Scheme expressly qualify the types of alternative policies that can be considered as a result of an EQIA to those which would "*better promote equality of opportunity*".
121. The proposed alternative policy, an 'English-Only policy' will not 'better promote equality of opportunity', rather it would be regressive in equality terms.
122. The proposed alternative 'English-only' policy would also be incompatible with the Council's own definition of good relations in its Equality Scheme as well as the dimensions of good relations advised by the ECNI. The Council's own definition refers to structures that acknowledge the political context of this society, rather than one section of it, and that 'embrace diversity in all its forms'. The proposal for monolingual signage would only reflect the preferred identity and ethos of one political constituency to the exclusion of other forms.
123. A second alternative policy option is put forward of 'alternative types of signage'. It is not clear however what is being suggested here and if this signage is inclusive or exclusive of the Irish language.

124. An assessment that alternative policies/mitigating measures should be considered on 'good relations' grounds would be incompatible with the Section 75 duties and Equality Scheme. The suggested 'alternative policy' of English only signage would not better promote equality of opportunity and would therefore not be a valid mitigation option.

Overall assessment

125. **Overall, we contend that elements of the methodology followed by the draft EQIA are incompatible with the letter and spirit of the Section 75 legislation, ECNI Guidance and the Councils' Equality Scheme.**
126. **The assessment of adverse impacts in the draft EQIA departs entirely from the definition of this concept in the legislation, guidance, and Equality Scheme to instead construe a novel definition whereby policies that are politically opposed constitute discrimination.**
127. **At worst the methodology adopted risks institutionalising prejudice, intolerance and sectarianism in the Council's policy making process.**
128. **The draft EQIA should be revised for its final version and be brought in line with the legislative framework, ECNI Guidance and Council Equality Scheme.**

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