THE PURPOSE OF THE MEMORANDUM

1. The purpose of this Memorandum of Understanding is to clarify the ways in which the Northern Ireland Human Rights Commission and the Equality Commission for Northern Ireland will deal with matters which fall within the remit of both Commissions. The Northern Ireland Human Rights Commission and the Equality Commission for Northern Ireland recognise that each Commission is fully committed to performing its statutory functions independently of any outside interference. Without prejudice to this independence, this Memorandum has been prepared with a view to enhancing the effectiveness of the two Commissions and helping the general public understand how the two Commissions function.

THE REMITS OF THE COMMISSIONS

2. The Northern Ireland Human Rights Commission (NIHRC) is a statutory body created by the Northern Ireland Act 1998. It has a range of functions including reviewing the adequacy and effectiveness of Northern Ireland law and practice relating to the protection of human rights, advising on legislative and other measures which ought to be taken to protect human rights, advising on whether a Bill is compatible with human rights and promoting understanding and awareness of the importance of human rights in Northern Ireland. In all of this

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1 Northern Ireland Act 1998, s. 69 (1).
2 Ibid, s. 69 (3).
3 Ibid, s. 69 (4).
4 Ibid, s. 69 (6).
work the Commission bases its positions on the full range of internationally accepted human rights standards, including the European Convention on Human Rights (ECHR), other treaty obligations in the Council of Europe and United Nations systems, and the non-binding ‘soft law’ standards developed by human rights bodies.

3. The Equality Commission for Northern Ireland (ECNI) is an independent public body established under the Northern Ireland Act 1998. The Commission is responsible for implementing the legislation on fair employment and treatment, sex discrimination and equal pay, race relations, sexual orientation, age and disability. The Commission’s remit also includes overseeing the statutory duties on public authorities to promote equality of opportunity and good relations under Section 75 of the Northern Ireland Act 1998. The Commission’s general duties include:

- working towards the elimination of discrimination;
- promoting equality of opportunity and encouraging good practice;
- promoting positive / affirmative action;
- promoting good relations between people of different racial groups;
- overseeing the implementation and effectiveness of the statutory duties including disability duties on relevant public authorities; and keeping legislation under review.

**WORKING RELATIONSHIP**

4. The Equality Commission for Northern Ireland and the Northern Ireland Human Rights Commission are each committed to the development of a positive and constructive working relationship between the two organisations. They consider that equality and human rights are inextricably linked, that progress is required in both areas in Northern Ireland and that a human rights and equality culture needs to be developed in Northern Ireland. While they are aware that there are many issues on which the two Commissions will each want to take a position and undertake substantive work, they pledge to co-operate with each other in deciding how such work should be undertaken so that unnecessary duplication of effort and waste of public money can be avoided.

5. Where a matter of conflict of interest arises, the two Commissions will keep each other informed of their respective
positions and the reasons underpinning their views. Where appropriate, such information will be made available publicly, in the interests of transparency.

THE REFERRAL OF COMPLAINTS

6. When an individual, or his or her representative, contacts the Northern Ireland Human Rights Commission with a complaint relating to alleged discrimination which apparently falls within the remit of the Equality Commission for Northern Ireland (see point 3 above), the Northern Ireland Human Rights Commission will refer the individual as quickly as possible to the Equality Commission. Likewise, when an individual, or his or her representative, contacts the Equality Commission for Northern Ireland with a complaint relating to an alleged human rights abuse which apparently does not fall within the remit of the Equality Commission, the Equality Commission will refer the individual as quickly as possible to the Northern Ireland Human Rights Commission. Neither Commission will give the impression to any individual, or his or her representative, that the other Commission will be able to take up the complaint in question. Neither Commission will commit the other to any course of action.

7. Each organisation, when referring an individual to the other, will make it explicit that it is the individual’s responsibility to get a decision from the other body on whether it can be of assistance, that there are specific time limits affecting any possible claim the individual may have, and that the individual should get back to the referring body by a particular date if that body is to be in a position to take a decision on any application for assistance before the time limit expires. When dealing with a referred case the organisation in question will seek to ensure that decisions relating to it are taken in time to allow the referring organisation to deal with the case if that is necessary.

8. When applications from individuals raise both human rights and discrimination issues which are of interest to both Commissions, consideration may be given to the two Commissions jointly granting assistance.

9. When an individual, or his or her representative, contacts either Commission with a complaint relating to alleged discrimination which apparently breaches section 76 of the Northern Ireland Act 1998, the Commission in question will,
as expeditiously as possible and subject to the authority of
the complainant, contact the other Commission to advise of
the consideration being given to the complaint and action
being taken as deemed appropriate.

OTHER FORMS OF CO-OPERATION

10. The two Commissions undertake to work jointly on a number
of issues, including:

- the production of information explaining to members of the
  public and to specific interest groups how the roles of the
two Commissions inter-relate,
- the organisation of conferences and seminars on matters of
  mutual concern,
- the design of model policies and practices on equality and
  human rights issues for use within the Commissions and
  within other organisations,
- the undertaking of relevant research initiatives, and
- liaison with the Equality and Human Rights Commission in
  Great Britain and the Scottish Commission for Human
  Rights and in addition the Equality Authority and the
  Human Rights Commission in the Republic of Ireland.

11. Each Commission is committed to supporting the work of the
other in respect of a number of matters, including:

- the efforts of the Equality Commission for Northern Ireland
to enhance the commitment of public authorities to the
equality duties imposed by section 75 of the Northern
Ireland Act 1998,
- the efforts of the Northern Ireland Human Rights
Commission to advise government on the content of a Bill
of Rights for Northern Ireland, and
- the operation of European and international human rights
law relating to equality and non-discrimination.

12. Each Commission undertakes to share with the other, on a
regular basis at an early stage of development and subject to
any confidentiality requirements, information which it feels
may be of interest to the other, including:

- drafts of annual business plans,
- information on what response is being made to
  consultation papers and Government reports that are likely
to be of interest to both Commissions,
views on actual or proposed laws, policies and practices in Northern Ireland and at European level, and
relevant work on equality and human rights issues being raised with the Assembly and Government
information arising out of policy development, research and casework.

13. The Chief Commissioners and the Chief Executives of the two Commissions will maintain regular contact with one another and will keep this Memorandum of Understanding under review. In addition there will be regular, informal contact between equivalent staff in the two organisations, particularly with respect to policy and casework.

14. The two Commissions will meet together from time to time, and at least annually, in order to consider matters that are of mutual concern.

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Monica McWilliams
Chief Commissioner, Northern Ireland Human Rights Commission

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Bob Collins
Chief Commissioner, Equality Commission for Northern Ireland

28 May 2008