

Equality Commission

FOR NORTHERN IRELAND

Section 75 of the Northern Ireland Act 1998

Guide to the Statutory Duties

*Obligations placed on public authorities to meet the statutory
duties in Section 75 of the Northern Ireland Act 1998*

February 2005

Guide to the Statutory Duties

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Introduction to the (Revised) Guide to the Statutory Duties

Equality considerations must be central to public policy processes. The main aim of Section 75 is to ensure that equality of opportunity is 'mainstreamed' by public authorities in their policy making, policy implementation and policy review.

The Equality Commission is committed to ensuring and monitoring the effective implementation of the statutory duties. The decision to review and revise the Guide to the Statutory Duties (the Guide) is a reflection of this commitment. This revised Guide has been produced to improve and update the previous Guide and draws on the work undertaken by the Equality Commission to assess the usefulness of the original Guide document.

It also takes account of the experience of public authorities and affected groups to date and their suggested improvements. The revised Guide reflects the need to move forward with the implementation of the statutory duties, whilst learning from experience. The revised document thus includes examples of Section 75 good practice.

The legal status of the Guide is as follows:

The '[blue](#)' sections of the document are approved by the Secretary of State for Northern Ireland; and

The '[green](#)' parts (chapters 1-5) of the Guide were included for further explanation of what is required from public authorities. While not legally binding these sections were produced by the Commission to help public authorities in implementation of the statutory duties.

The Statutory Duties: Legislative Context

Section 75 of the Northern Ireland Act 1998 (the Act) requires a public authority in carrying out its functions relating to Northern Ireland, to have due regard to the need **to promote equality of opportunity between:-**

- (a) persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- (b) between men and women generally;
- (c) between persons with a disability and persons without; and
- (d) between persons with dependants and persons without.

Without prejudice to these obligations, a public authority is also required, in carrying out its functions, to have regard to the desirability of **promoting good relations** between persons of different religious belief, political opinion or racial group (see Appendix 1).

The new duties apply to those public authorities included within Section 75 (3)(b) and (3)(c) of the Act. The duties also apply to a range of authorities designated through Orders in Council and enabling legislation. Schedule 9 of the Act (the Schedule) sets out a detailed procedure for the enforcement of the duties (see Appendix 2). In brief, each public authority is required to produce an **equality scheme** stating how it proposes to fulfil the duties. This must be submitted to the Commission for approval.

The Act provides that equality schemes produced by public authorities must conform to any Guidelines, as to form and content, issued by the Commission with the approval of the Secretary of State.

The public authority must conduct a review of the scheme within five years of submission of the scheme to the Commission. The Commission must be informed of the outcome of that review.

The date for submission of the first equality schemes was 30 June 2000 for those public authorities included within Section 75 (3)(b) and (3)(c) of the Act on 1 January 2000. For public authorities established on a date after 1 January 2000, the date for submission of equality schemes was/is six months after the date of their establishment. Appendix 3 lists designated public authorities as at 31 July 2004.

The legislation requires public authorities to conduct **equality impact assessments**. The results of equality impact assessments must be published and the equality scheme must state the authority's arrangements for this.

The legislation also requires that **consultation** is an integral part of the policy-making process.

Consultation must be both meaningful and inclusive, in that all persons likely to be affected by a policy should have the opportunity to engage with the public authority. Targeting consultation at those most affected by particular policies is also beneficial, in terms of identifying any adverse impact of policies or proposed policies at the earliest possible stage.

Section 75 is important to policy review (existing policies) and policy formulation (new or proposed policies) as public authorities will:

- recognise inequalities which exist in terms of any impact of policies on people;
- participate with those affected by policies, to check for inequalities and the extent of adverse impact; and
- revise policies, following assessment and consultation, so that equality of opportunity can be better delivered.

Role of the Equality Commission

The Equality Commission for Northern Ireland is required to:

- keep under review the effectiveness of the duties imposed by Section 75;
- offer advice to public authorities and others in connection with those duties; and
- carry out other functions conferred on it by the provisions of Schedule 9, including preparation of guidelines on equality schemes, approving equality schemes, investigating complaints of failure to comply with an approved scheme and in certain cases, referral of equality schemes to the Secretary of State.

The Commission is required to produce an annual report on the operation of the equality duties, and in particular the steps taken during the year by the Commission and by other public authorities to promote equality of opportunity.

The Commission reports on implementation of the statutory duties in its Annual Report. In addition the Commission has produced a more detailed report on progress for each reporting period.

The Commission will, through analysis of progress reports and other means, identify 'good practice' on development and implementation of equality schemes, and share this information with public authorities and affected groups.

Where to go for help

Advice and information on the statutory duties are available from

**Public Sector Statutory Duty Team
Equality Commission for Northern Ireland
Equality House
7 – 9 Shaftesbury Square
Belfast BT2 7DP**

**Tel: 028 9050 0600
Fax: 028 9031 5993
Textphone: 028 9050 0589
e-mail: jmcalister@equalityni.org
website: www.equalityni.org**

Assistance may also be obtained from organisations such as those listed in Appendix 4. This would include advice on other organisations to consult. Several of the organisations listed are themselves large umbrella groups that might be willing to involve their membership bodies. The Commission emphasises that the list is not exhaustive and includes just some of the voluntary, community, trades union and other groups active on equality matters. There is a wide range and number of groups operating across Northern Ireland and in more localised areas, often working on specific issues such as health or economic regeneration, which could help public authorities in their policy development work.

A list of publications drawn from the work of other governments and international organisations in Europe and around the world is included in Appendix 5.

Chapter 1 Importance of the Statutory Duties

Background to Mainstreaming

- 1.1 The duties on public authorities to promote equality of opportunity and good relations in the Northern Ireland Act 1998 grew out of attempts to make the earlier non-statutory Policy Appraisal and Fair Treatment (PAFT) initiative more effective, and from the Agreement reached in the multi-party talks on Northern Ireland (the Agreement).
- 1.2 In the report of its Review of Employment Equality¹, the Standing Advisory Commission on Human Rights (SACHR) highlighted the dissatisfaction in many quarters with PAFT. SACHR recommended significant strengthening of the process of mainstreaming equality, including a recommendation that PAFT be put on a statutory basis with a statutory obligation on the public sector to promote ‘full and effective equality’. In its White Paper ‘Partnership for Equality’², Government responded positively to some of SACHR’s recommendations.
- 1.3 The ‘Rights, Safeguards and Equality of Opportunity’ section of the Agreement included a commitment to introducing such a statutory duty. Subsequently, new statutory duties on public authorities to mainstream equality and good relations were included in the Northern Ireland Act 1998 (Appendix 1).
- 1.4 The new statutory duties make equality central to the whole range of public policy decision-making. This approach is often referred to as “mainstreaming”. The Council of Europe³, has defined mainstreaming as:

“the (re)organisation, improvement, development and evaluation of policy processes, so that a[n] ... equality perspective is incorporated in all policies at all levels and at all stages, by the actors normally involved in policy-making”.

¹ SACHR, Employment Equality: Building for the Future (The Stationery Office, London 1997, ISBN 0-10-136842-9)

² Partnership for Equality White Paper (The Stationery Office, London 1998, ISBN 070-138902-7)

³ Gender mainstreaming conceptual framework, methodology and presentation of good practices. Council of Europe, Strasbourg May 1998

- 1.5 The Scottish Parliament has adopted the following definition of mainstreaming:

Mainstreaming' equality is essentially concerned with the integration of equal opportunities principles, strategies and practices into the every day work of Government and other public bodies from the outset, involving every day policy actors in addition to equality specialists. In other words, it entails rethinking mainstream provision to accommodate the equal opportunities categories as identified in the Scotland Act.

The concept of mainstreaming is based on the philosophy that the achievement of equality should inform all aspects of the work of all the individuals within an organisation as they go about their business. The mainstreaming of equality is the route to achieving an equality-based culture throughout an organisation.⁴

- 1.6 Mainstreaming equality is important for several reasons. Experience in Northern Ireland and elsewhere shows that questions of equality may easily become sidelined in organisations. Effective attention to mainstreaming addresses this problem by requiring all public authorities to engage directly with equality issues through all stages of policy making and service delivery. Thus equality must be an important consideration in policy development, implementation, monitoring and review. The outputs and outcomes from policy delivery through services should demonstrate that equality has been effectively mainstreamed. This is complementary to making more effective those measures adopted specifically to tackle discrimination, such as anti-discrimination law.
- 1.7 The statutory duties in Northern Ireland underpin and influence policy-making in all spheres and at all levels of Government activity and public policy decision-making.
- 1.8 It should be noted that Section 75 requirements to date have enabled public authorities to:
- audit policies, written and unwritten, and their currency and effectiveness;
 - produce a written summary/version of each unwritten policy;

⁴ Report on Civic Participation Event on the Race Relations Acts. Questions of Equal Opportunities Scrutiny of Policy and Legislation, 3rd Report 2001

- utilise screening, equality impact assessment and consultation processes to make better public policy decisions, in terms of those who use services and those who, for whatever reason, do not know about or do not access those services;
- mainstream equality and good relations considerations into policy formulation and review to better deliver services to the public; and
- incorporate equality objectives and associated performance indicators into their Strategic and Operational Plans.

1.9 Mainstreaming of equality impact assessment time-tables into other policy review timetables e.g. Best Value, performance management strategies and good practice reviews, contribute to a ‘joined-up’ approach to policy review, ensuring better value for public money.

Example

Best Value performance reviews require a commitment to the Section 75 duties and a number of local Councils now ensure that proposed performance improvement plans are screened before implementation. Individual Best Value service review teams are briefed to ensure that their annual performance improvement plans comply with the terms of Section 75.

1.10 Mainstreaming of equality impact assessment processes into other policy review processes e.g. assessment of New TSN impacts, regulatory impact assessment, environmental impact assessment, economic impact assessment, rural proofing, could enable a more joined up approach to policy formulation and review, since a policy could be assessed in relation to various impact assessments. In terms of this process it is essential that there is no dilution of the seven-step EQIA process described in the blue section of this guide. The statutory equality impact assessment could form a template for mainstreaming other forms of impact assessment into policy formulation and review.

Example

A designated UK wide public authority undertook to mainstream equality and diversity across 74,000 employees in all of its services. It did this by:

- developing a strategy for mainstreaming diversity, race relations and equality;
- raising awareness and understanding of the strategy and related processes;
- mainstreaming diversity through effective communication and use of a range of enabling mechanisms;
- connecting the strategy to business issues – internal and external;
- developing managers' ability to deliver culture change arising from the strategy;
- embedding diversity and equality into business plans;
- establishing delivery of the strategy as a management issue by including objectives into employee results areas and appraisal processes; and
- setting targets to make sure the organisation is more representative of the communities which it serves; and working in partnership with voluntary and community groups in Northern Ireland, including the use of consultation fora and seconding of staff to such groups.

Benefits of Mainstreaming

1.11 Mainstreaming should:

- **encourage public authorities to develop criteria for alerting policy makers to potential problems in advance;**
- **contribute to better decisions being made by public authorities,** because it requires that these decisions are better informed by techniques of systematic policy appraisal and impact assessment. This enables policy makers to make decisions on the basis of fuller information about the effects of their decisions, and ensure better targeting of policies and programmes. Unless public authorities find out about the impact of policies on different groups, they cannot be sure whether their policies are having an adverse effect, even if unintentional;

- **encourage greater openness in government, and greater transparency in decision-making**, since it requires consultation among affected interests at an early stage of policy-making and publication of information. Public authorities should be aware that from January 2005, under the Freedom of Information Act 2000 (FOI Act), individuals may seek any information, including retrospective information, from a public authority covered by that legislation. Individuals may seek any information in connection with any decision or policy and that information may be disclosed subject to exemptions. Mainstreaming should enhance the crucial link between government and civil society, encouraging greater participation in government and leading to greater accountability in government decision-making. The use of consultation, engagement and participation will assist the relationships between public authorities and affected groups. Public authorities will have an opportunity to develop the capacity of affected groups to help the authorities examine public policies and improve them; and
- **assist public authorities to effectively and efficiently address issues of equality, targeting disadvantage and social need and promoting social inclusion** in policy development and implementation. Mainstreaming should enhance the link between all of these issues and encourage a co-ordinated approach to the development of managerial and data collection systems.

Further details are also to be found in Appendix 6.

Action to Ensure that the Statutory Duties are put into Effective and Visible Practice

1.12 Strong leadership is necessary within public authorities to ensure that the Section 75 duties are integrated into the development and design of all policies and services. An equality scheme brought into being without effort to effectively implement it is meaningless, and effort undirected by a specific and meaningful plan of action is unlikely to be effective. Effective implementation requires the development of an effective internal system within each public authority. Success in this area depends on the following key factors:

- **ongoing top-level commitment** to the implementation of the duties by the head of the public authority; this commitment must be maintained through decision-making and accountability processes within the authority. In addition this ongoing commitment should be demonstrable within the authority, by, for example ensuring that the statutory duties are a standing agenda item at top-level meetings;

Example

A Government Department has established a Section 75 Steering Committee chaired by the Permanent Secretary, comprising senior staff from each of the Department's business areas.

- **ongoing allocation of necessary resources** (in terms of people, time and money) to ensure that the equality scheme can be drawn up and implemented effectively on time. While many public authorities have appointed officers to help meet statutory responsibilities, all responsibility for effective implementation of schemes cannot rest solely with these officers. Mainstreaming will require organisation wide understanding and engagement in Section 75 processes. Consideration should also be given to making available appropriate support to those Section 75 groups whose engagement is crucial to the effective implementation of the statutory duties;
- **establishment of clear lines of responsibility** within each public authority to oversee mainstreaming and ensure its effective implementation. Individual managers will play an important role in mainstreaming of Section 75 duties, as effective mainstreaming will involve managers in different functions, and at differing management levels, playing their part. Leadership in implementation of the duties is required at all levels of public authorities, if mainstreaming is to be effective. To this end public authorities should ensure that managers' job descriptions and performance appraisal processes need to contribute to the delivery of the statutory duties;
- **effective communication and training;**
- **learning and reflecting, through engagement and co-operation with those affected by the statutory duties; and**
- **an effective system for monitoring and reviewing progress.**

1.13 All of the above are key aspects of the public authority's arrangements for ensuring compliance with its obligations under Section 75 and should therefore be included in the equality scheme. This is covered in more detail in the Commission's Guidelines on the form and content of equality schemes included in the second part of this Guide.

1.14 The Commission notes the need to examine how public authorities can be effective in their monitoring systems and arrangements. To this end the Commission will work with OFMDFM, the Northern Ireland Statistics and Research Agency (NISRA) and representatives of public authorities and affected groups, to provide guidance on how robust, accurate and timely monitoring systems can be developed by public authorities.

1.15 Since consultation and monitoring can involve the processing of personal information it is important that any monitoring systems that are adopted by public authorities comply with the common law duty of confidentiality and other statutory requirements such as the Data Protection Act 1998 and Human Rights Act 1998. All public authorities are subject to the Data Protection Act. Monitoring Section 75 information involves the processing of sensitive personal data (data relating to the racial or ethnic origin of individuals, political opinions, religious beliefs etc). There are special rules under the Data Protection Act relating to the processing of sensitive personal data. Further advice and guidance on how to carry out monitoring in a privacy friendly manner will be available from the office of the:

Information Commissioner

Wycliffe House

Water Lane

Wilmslow

Cheshire

telephone 016 2554 5700

web: www.informationcommissioner.gov.uk

There is now a regional office of the Information Commissioner at

Regus House

33 Clarendon Dock

Laganside

Belfast

BT3 1BG

telephone 028 9051 1270

or email: ni@ico.gsi.gov.uk

1.16 The Equality Commission will focus increasingly on outcomes achieved through implementation of the statutory duties by public authorities and will ask authorities for evidence of outcomes achieved.

Chapter 2 Scope of the Legislation

Public Authority

2.1 The statutory duties require **public authorities** to have due regard to the need to promote equality of opportunity and also to have regard to the desirability of promoting good relations. A **public authority** is defined by inclusion in several other statutory provisions and by designation by the Secretary of State. Four categories of public bodies are included:

- the first is those departments, corporations or bodies listed in Schedule 2 to the Parliamentary Commissioner Act 1967 and designated for the purposes of this section by order made by the Secretary of State. These are mostly United Kingdom-wide public bodies;
- the second is those bodies (other than the Equality Commission itself) listed in Schedule 2 to the Commissioner for Complaints (Northern Ireland) Order 1996;
- the third is those departments or other authorities listed in Schedule 2 to the Ombudsman (Northern Ireland) Order 1996; and
- the fourth is any other person designated for the purpose of Section 75 by order made by the Secretary of State.

A list of designated public authorities is included in Appendix 3. Designation is an ongoing process and further designations of public authorities will be added to this list.

Exemptions from the duty to produce an Equality Scheme

2.2 A public authority which would otherwise be required to produce an equality scheme, can only be exempted from producing such a scheme where it has been so notified in writing by the Commission. The Commission will only consider requests for such exemptions where they have been received in writing.

2.3 The Commission envisages that exemptions being granted by the Commission either to a body entirely, or to particular functions of a body, will continue to be rare. In Parliament, Government made clear the limited circumstances in which it envisaged such exemptions being granted by the Commission:

“We intend the exception to be used only in rare circumstances – for instance, when public authorities’ activities in Northern Ireland are minimal, and the effort involved in preparing the scheme, and having it validated by the Commission, would be disproportionate. In other circumstances, it might make sense to exempt a public authority. For instance, all sub-committees of district councils are defined as public authorities. Provided that their activities were fully covered by the district councils’ own equality schemes, an exemption could avoid each sub-committee having to draw up its own scheme.”

House of Commons, Official report, 18 November 1998, cols. 1069 (Mr Murphy)

- 2.4 In deciding whether to grant an exemption the Commission will take account of:
- the impact of the public authority's work on equality of opportunity in Northern Ireland;
 - whether the public authority's activities in Northern Ireland are minimal;
 - whether the effort involved in preparing the scheme and validating it is disproportionate to the public authority's impact on equality of opportunity in Northern Ireland; and
 - any other circumstances which in the opinion of the Commission would justify exemption.

Between whom must equality be promoted?

- 2.5 The relevant categories between which equality of opportunity is to be promoted are:
- persons of different religious belief;
 - persons of different political opinion;
 - persons of different racial group;
 - persons of different age;
 - persons of different marital status;
 - persons of different sexual orientation;
 - men and women generally;
 - persons with a disability and persons without; and
 - persons with dependants and persons without.

2.6 The duty imposed by Section 75(1) extends to categories of persons not yet covered by other Northern Ireland or UK anti-discrimination statutes. These are:

- persons of different ages - both the young and the old; and
- persons with and without dependants.

2.7 It is therefore important that when considering the impact of policies on the promotion of equality of opportunity, due regard is given to the need to promote equality of opportunity for all categories of people specified in Section 75 including those in paragraph 2.6 above.

Between whom must good relations be promoted?

2.8 The relevant categories of people between whom good relations are to be promoted are:

- persons of different religious belief;
- persons of different political opinion;
- persons of different racial group.

The Commission emphasises that this duty embraces and extends beyond the religious/ political dimension of 'community relations'. Consideration of the needs and interests of minority ethnic groups, including Irish Travellers, is important in this context.

Example

Using Section 75 as an initial driver for change, one local Council has shown its commitment to good relations in a pro-active manner by mainstreaming good relations considerations into all its activities including its policies, structures, procedures and service delivery. The Council's strategy is at an early stage of implementation. Actions undertaken to date include:

- adoption of a good relations strategic objective;
- development of a good relations strategy, involving Councillors and senior Council officers;
- establishment of a Good Relations Unit within the Chief Executives Department;
- establishment of a Lead Officer, with responsibility for the development and review of strategy and policy, and for liaison with service provision teams; and
- recruitment of Good Relations Officers.

Example

In the Further Education sector a Sectoral Section 75 Stakeholders Development Group has been established. This is made up of nominated stakeholders from various working groups and boards within the sector who feed into the further education sector's good relations strategic process.

The Northern Ireland Housing Executive has undertaken a substantial amount of work in collaboration with other agencies to promote good relations. This has included the "North Belfast Strategy". This area covering 26,000 households and a population of c. 70,000 contains 17 peacelines of which six are physical barriers constructed to separate the Protestant/Catholic communities. It is widely recognised that the area has suffered disproportionately from civil unrest, with 20% of all murders committed in North Belfast. The Strategy seeks to promote regeneration and social inclusion through partnerships at inter-agency and inter-departmental community levels. The Strategy aims to encourage community revitalisation and rejuvenation through physical investment programmes.

- 2.9 The Commission will advise on the implementation of the good relations duty generally, monitor the implementation of the duty and share information on progress with public authorities and those affected by the duty. The Commission recognises the developmental work being undertaken by the Community Relations Council (CRC) and views this as complementary to the Commission's **statutory** advisory role.

The Section 75 categories

- 2.10 Without exception every individual is included in one or more of the nine Section 75 categories described in para 2.5. In practice, individuals may associate themselves with particular Section 75 categories. For example, a female lone parent with a disabled child may identify more with categories such as those with dependants, gender and disability than other categories. This will pose challenges for public authorities, particularly in assessing the equality impacts of policies and in monitoring adverse impact.

- 2.11 While Section 75 identifies nine specific categories (equality of opportunity), and three specific categories (good relations) the legislation or Guide does not list these in any particular order of importance. In other words, all categories must be given consideration in terms of impacts, mitigation and alternative measures to better promote equality of opportunity. But there may be different responses and actions for different categories as a matter of judgement. That judgement would, of course, have to be justified.
- 2.12 It should also be remembered that individuals do not neatly fit into one Section 75 category or another. Individuals will invariably be members of a number of Section 75 categories. Thus Section 75 enables multiple identity issues to be considered as well as issues regarding particular categories of people.

“Regard” and “due regard”

- 2.13 A public authority must have **due regard to the need** to promote equality of opportunity, while it must also have **regard** to the **desirability** of promoting good relations.

What does having **regard** or **due regard** mean?

- 2.14 The term **due regard** was intended to be, and is, stronger than **regard**, but in either case the authority is required by the statute to take the specified matters into account and give them the required weight when carrying out its functions relating to Northern Ireland. Authorities must appreciate Parliament’s stated assessment that there is a **need** to promote equality of opportunity between the categories of persons specified in Section 75 (1) and a **desirability** of promoting good relations between persons of different religious belief, political opinion or racial group (Section 75 (2)). Recognition of the inter-dependence of equality and good relations is crucial.

What is the relationship between the equality duty and the good relations duty?

2.15 In the Parliamentary debates on the Northern Ireland Bill, the then Secretary of State Dr Marjorie Mowlam said:

“[W]e regard equality of opportunity and good relations as complementary. There should be no conflict between the two objectives. Good relations cannot be based on inequality between different religions or ethnic groups. Social cohesion requires equality to be reinforced by good community relations. ... I repeat that we see no conflict between these two objectives”. (Commission emphasis)
House of Commons, Official Report, 27 July 1998, col. 109.

2.16 The two duties are also treated somewhat differently in Schedule 9, which sets out a method of enforcement of the duties. Nevertheless every public authority must now as a universal rule of practice take both factors properly into account in the way they carry out their functions relating to Northern Ireland.

2.17 To the extent that public authorities perceive, in particular circumstances, a tension between the two duties, the primary duty of a public authority is its equality duty. The good relations duty cannot be invoked to justify a failure or refusal to comply with the equality duty.

2.18 There is an inter-relationship between the duties. Essentially good relations cannot be delivered without equality also being delivered, as equality provides a baseline on which to build good relations. In recognition of this many public authorities have been conducting equality impact assessment of policies which have specific impact on good relations, e.g. good relations strategies, flying of flags policies within local government.

Consultation

2.19 Consultation enables an assessment to be made of the views of those who are affected by policy decisions or the design of services. It can help authorities to become aware of issues and problems which policies may pose for various groups which the organisation might not otherwise discover. Consultation provides an important means of enabling those who may be adversely affected by public policy to participate in the process of policy making.

The legislation requires:

- **consultation on matters to which the statutory duties are likely to be relevant.** Equality schemes must include the public authority's arrangements for this consultation, including details of the persons to be consulted;
Schedule 9 paragraph 4 (2)(a)
- **consultation on the equality scheme itself.** Once a draft equality scheme has been prepared, and before submitting it to the Equality Commission, a public authority is required to **consult with representatives of persons likely to be affected by the scheme** regarding its contents; and
Schedule 9 paragraph 5
- **consultation on the impact of policies.** The public authority must engage in consultation about the likely impact (on the promotion of equality of opportunity) of its existing and proposed policies, and in making decisions about such policies, it must take the consultation into account.
Schedule 9 paragraphs 4 (2)(b) and 9 (2)

2.20 Consultation underpins and is an integral part of the process of implementation of the duties. Consultation must be both meaningful and inclusive. It is not adequate to exclusively consult with large umbrella organisations and credible efforts must be made to actively engage a wide range of representative groups. Building relationships through the active participation of affected groups and individuals is precisely what Section 75 is about. In addition, targeted consultation with representatives of those most affected by a policy has been beneficial to date, particularly if the engagement is early in the process. The formal consultation phase on schemes and equality impact assessments is more effective if earlier engagement with representative groups has taken place. For example, it enables adverse impacts to be identified and meaningful ways of mitigating such impacts can be discussed in the formal consultation document.

Example

A local Council has developed a consultative forum within its geographic area. This forum has proved useful in:

- monitoring overall implementation of the equality scheme;
- obtaining the views of Section 75 group representatives;
- ensuring participative approaches to the early assessment of the equality impacts of existing, new or proposed policies.

2.21 Section 75 is about mainstreaming equality through the building of relationships between those who make and deliver public policy and those affected by such policy. As public authorities will want to ensure that they are providing the best possible services within available public monies the development of relationships, through consultation and participation, can help to ensure better service delivery and accessibility to services. The business case for Section 75 is that it enables public authorities to identify the usefulness of their policies in terms of service provision to people, in the nine groups, and to improve service provision and accessibility by asking them how policies can be improved.

Example

An important event organised by one public authority network was a two day consultation with groups representing the nine groups under Section 75, in order to highlight the issues of most concern to each category. This information was also used in the development of in-house training resources.

A Government Department has held a number of events with consultees to see how they feel about the Department's implementation of Section 75, to review progress to date and to further improve implementation of the Section 75 duties.

2.22 Targeting consultation is beneficial. The Commission has provided general advice to public authorities on an ongoing basis to enable them to focus consultation on those likely to be most affected by a policy, whilst also ensuring that all consultees on a public authority's list can be aware of consultation exercises and take part if they wish.

The general advice given by the Commission is that:

- all consultees must be aware of upcoming consultation exercises, on any revision of a scheme, on screening or on equality impact assessment of existing or new policies. This information can be provided annually, with an opportunity for a consultee to request involvement in a particular consultation exercise;
- the communication sent should inform consultees about upcoming consultation exercises and how and when consultees can engage in them;
- public authorities may also wish to ensure that a response is received from a particular representative group, and follow up where such a group has not responded to a consultation exercise; and
- public authorities should continue to ensure the public notification of consultation exercises (including documents and public meetings) as individual members of the public may also wish to engage directly in a consultation exercise.

2.23 Feedback from consultees indicates that mass mailing of a full consultation document to all groups on the public authority's list of consultees is not effective, in terms of method of communication, size of document and language used, value for public money, or meaningfulness of the engagement. It is recommended that a public authority should circulate large consultation documents in executive summary, so that consultees can decide whether or not they would like to obtain the full document or respond to the consultation. The summary document could:

- contain a yes/no feedback sheet for completion by the consultee, on whether a group will be responding or not;
- use language which avoids technical terms as far as is possible; and
- enables consultees not wishing to engage in the exercise to be given the opportunity to tell this to the public authority.

2.24 Public authorities should ensure that they have in place a system, electronic or otherwise, to effectively manage consultation processes. Such a system should include information on past, present and planned consultations. This is invaluable in order to obtain information from previous consultation exercises, which may be relevant to an upcoming consultation exercise and which may help to avoid asking the same questions again. Public authorities should consider using e-consultation software packages now available for consulting those with this facility. However, e-consultation must not be used as a substitute for face to face engagement with consultees. When contemplating the use of e-consultation consideration must be given to those groups within section 75 categories, for example older people, or disabled people that may not have ready access to Information and Communication Technologies.

Example

One local authority developed a database of previous, current and future consultation exercises. This database helped the authority to: source information for equality impact assessment; to co-ordinate different consultation exercises seeking the views of the same target groups; and to plan future consultation exercises.

2.25 Public authorities should ensure that there is no duplication of effort on the part of the public authority or affected groups in terms of planned consultations. Public authorities should ensure that consultation can be 'joined-up' within the organisation and that there can be one exercise on related policies with affected groups. They should also, in planning future consultations consider the target groups involved, to ensure a joined-up approach to consulting such groups is undertaken, even if the policies for consultation are not related. In addition a number of public authorities should consolidate consultation exercises where possible on the same, or similar, policies. Such consolidated or consortium consultation methodologies should fully engage all the relevant policy makers. However 'centralised' methods where consultation is carried out on behalf of policy makers, effectively placing them at one remove from the consultation process, should not be used.

Example

The authorities in the health family undertake a region-wide EQIA timetable so that each policy area is subject to equality impact assessment by all health family authorities at the same time. This joined-up approach enables one consultation exercise for each EQIA.

- 2.26 Public authorities should also move towards participation with affected groups, as far as is possible. This could ensure more direct, face-to-face engagement with such groups and the development of working relationships. Listening directly to the views of groups will help to identify policies which adversely impact on people in these groups. The benefits of participation for public authorities would be in directly engaging with those affected, as well as gaining access to communication mechanisms, skills and understanding within the affected groups. For consultees, participation could ensure meaningful dialogue with representatives of public authorities dealing with matters that are most relevant to the affected groups. Building the capacity of affected groups is key to such an approach and could ensure that public authorities make best use of resources available for Section 75 work, in terms of people, time and money.

Further detail on consultation is included in the Commission's Guidelines on the form and content of equality schemes which is included in the second part of this Guide.

Example

Equality Officers' networks have proved to be very valuable in establishing contacts between equality officers in different public sector organisations, allowing them to share knowledge and expertise and discuss problems experienced. The networks meet formally and members keep in regular contact via telephone and e-mail.

In Government an Inter-Departmental Equality and Social Needs Steering Group has been set up to review progress, share ideas, and to discuss further implementation plans in relation to Section 75 and New TSN.

Example

In the Higher Education Sector the Universities have created a Higher Education Consortium to take forward the work on the implementation of equality schemes.

A number of education authorities have joined together and set up a Statutory Duty Co-ordination Group. The Group was initially set up to develop equality schemes for the authorities, but is now taking forward the work on the implementation of schemes, such as a joint approach to screening, impact assessment and training (this minimises the duplication of work, allows knowledge to be pooled and benefits from economies of scale).

The Equality Commission has set up an UK wide Public Bodies Network. This involves all UK wide bodies designated for Section 75 purposes, many of which are based in Great Britain. The network has been used to:

- raise awareness of Section 75;
- assist in development and implementation of equality schemes;
- share experiences and challenges; and
- provide training e.g. on EQIA processes.

One public authority network is working in partnership with consultants from the voluntary sector on the design of a consultation skills training package which aims to train the authority's staff in good practice in consultation. This project incorporates comprehensive learning outcomes.

One public authority consortium, along with consultants, has produced a three year Good Relations Training Programme. The aim of the programme is to mainstream the principles and practices of Equity, Diversity and Interdependence. The programme is sector-wide and has been accredited by the NI Open College Network.

Example

One sector has produced guidance documents which include:

- an EQIA Workbook for staff involved in carrying out EQIAs;
- a Consultation Skills Training Package, to be used by those involved in consultations; and
- guidance on consulting with young people and people with learning disabilities.

A number of public bodies have ensured that their websites are compatible with accessibility software for people with visual impairments. Some of these are also compatible with guidelines set out by the Web Accessibility Initiative (WAI) approved by the World Wide Web Consortium.

A public authority has put language line in place, as well as providing interpreters on request.

A public authority conducted research to identify gaps in its customer base. It responded to these gaps by developing an action plan of outreach measures to reach under-represented groups.

A lottery funding body has developed a summary version of its equality scheme in a format for people with learning disabilities. The short booklet uses plain English and short sentences and includes simple graphics to illustrate the points. It was developed in partnership with Mencap and was user-tested.

Chapter 3 Preparation, Approval and Implementation of Equality Schemes

- 3.1 Under Schedule 9 of the Northern Ireland Act 1998 (the Act) most public authorities operating in Northern Ireland are required to submit an equality scheme to the Commission. The Commission's Guidelines on the form and content of equality schemes are included in the second part of this Guide.
- 3.2 It is important to recognise that the statutory duties do **not** end once the equality scheme has been submitted to the Commission. The public authority is legally required to implement the equality scheme once it has been adopted by the authority and approved by the Commission.
- 3.3 Once designated for Section 75 purposes, a public authority is bound by the legislative requirements of Section 75, in relation to the mainstreaming of equality of opportunity and good relations into policy development. Once designated the public authority must begin to implement its statutory obligations under Section 75. Equality proofing of new or proposed policies is therefore possible at this stage.

Approval of its equality scheme by the Commission further enables the public authority to deal with its Section 75 requirements, particularly complaints, screening and equality impact assessments.

There are in effect three stages in the implementation of the statutory duties:

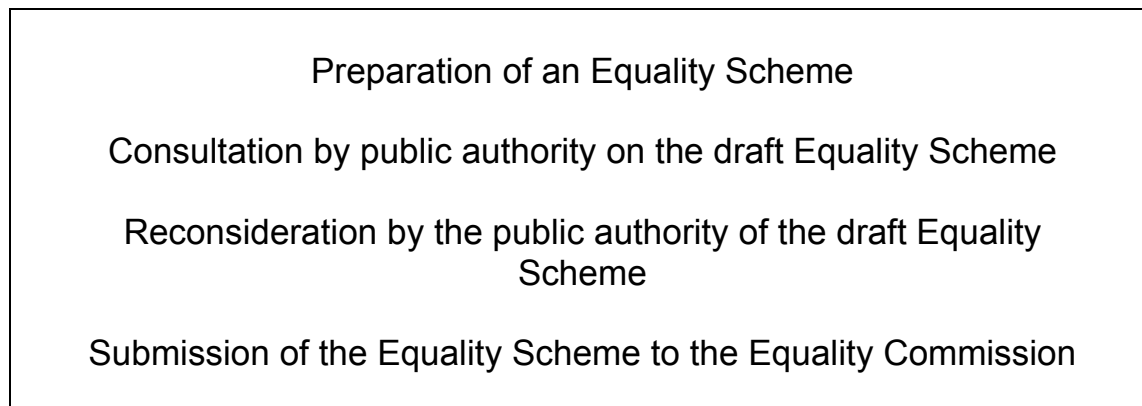
Stage 1: Preparation of the Equality Scheme

Stage 2: Approval of the Equality Scheme

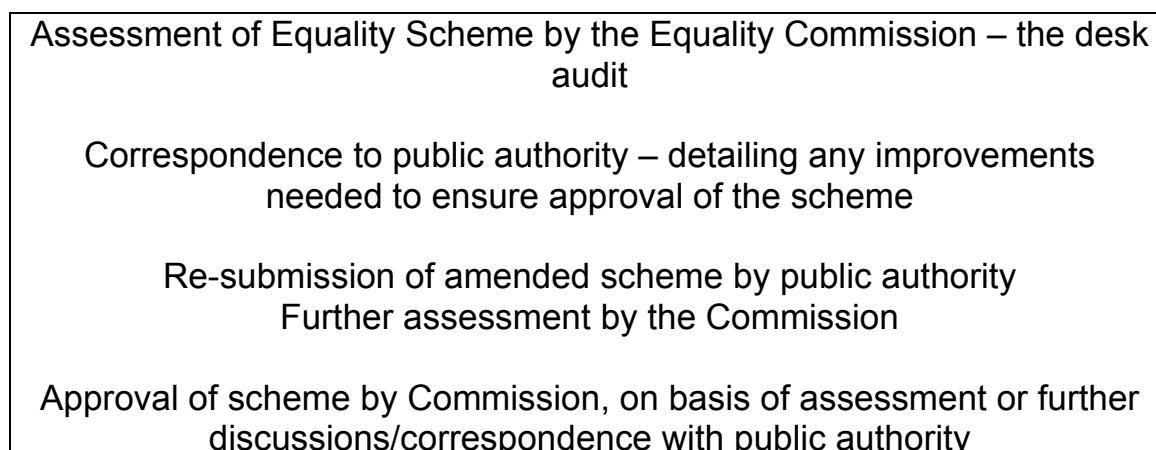
Stage 3: Implementation of the Equality Scheme

An outline of each of these stages is presented below.

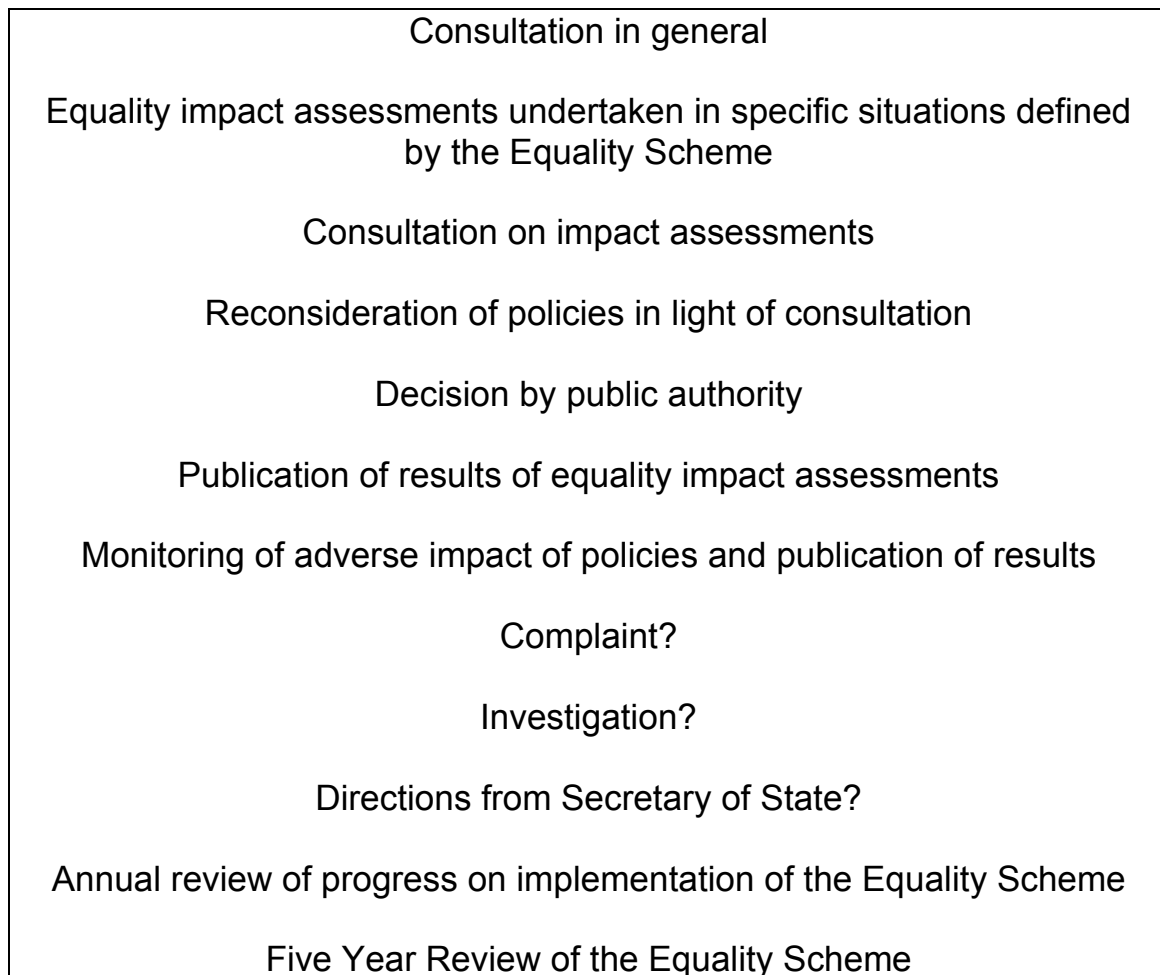
Stage One: Preparation of an Equality Scheme



Stage Two: Approval of an Equality Scheme



Stage Three: Implementation of the Equality Scheme



Note: The elements in Stage 3 are not necessarily in sequence.

Chapter 4 Approving Equality Schemes

Consideration by the Equality Commission of schemes which have been submitted

4.1 What happens after a scheme is submitted for approval to the Equality Commission depends on what type of public body is involved. A distinction is made between United Kingdom Government departments which have been designated by the Secretary of State, and other public bodies. The inclusion of bodies under Section 75 which are United Kingdom-wide Government departments has resulted in different arrangements being devised relating to the procedures with which they must comply regarding their equality schemes.

Public authorities which are not United Kingdom Government departments

4.2 On receipt of a scheme the Commission is required to:

- approve it; or
- refer it to the Secretary of State.

Schedule 9 paragraph 6 (1) (a) and 6 (1) (b)

Referral to the Secretary of State

4.3 Where the Commission refers a scheme to the Secretary of State, the Commission is required to:

- notify the Northern Ireland Assembly in writing that it has done so; and
- send the Assembly a copy of the scheme.

Schedule 9 paragraph 6(2)

4.4 Where a scheme is referred to the Secretary of State, s/he has three options:

- to approve it;
- to request the public authority to make a revised scheme; or
- to make a scheme for the public authority.

Schedule 9 paragraph 7(3)

4.5 A public authority shall respond to a request from the Secretary of State to make a revised scheme by submitting a scheme to the Commission before the end of the period of six months beginning with the date of the request.

Schedule 9 paragraph 7(2), read with paragraph 3(2)

4.6 Where the Secretary of State requests a revised scheme, or makes a scheme, s/he shall notify the Assembly in writing that s/he has done so. Where the Secretary of State has made a scheme for the public authority, s/he is required also to send the Assembly a copy of the scheme.

Schedule 9 paragraph 7(3)

United Kingdom Government departments which have been designated by the Secretary of State

4.7 On receipt of a scheme submitted by a Government department which is a public authority as is mentioned in Section 75 (3) (a), the Commission shall:

- approve it, or
- itself request the Government department to make a revised scheme.

Schedule 9 paragraph 12(2)

4.8 The department shall respond to this request by submitting a scheme to the Commission before the end of the period of six months beginning with the date of the request.

Schedule 9 paragraph 3(2), read with paragraph 12(3)

4.9 Where such a request is made, the Government department shall, if it does not submit a revised scheme to the Commission before the end of the period of six months beginning with the date of the request, send to the Commission a written statement of the reasons for not doing so.

Schedule 9 paragraph 12(4)

The remaining paragraphs in this section apply to all public authorities designated by the Secretary of State

- 4.10 The Commission will consider draft equality schemes under the requirements of the legislation and Commission guidance. Therefore the Commission's 'desk audit' of an equality scheme will notify a public authority if its scheme has met its obligations. The Commission will recommend any changes required to ensure that the scheme can be approved by the Commission - the '**musts**' of ensuring scheme approval. The Commission will also provide written advice to a public authority in relation to its view of best practice in implementation of the duties - these '**shoulds**' represent suggested ways of better delivering on equality of opportunity and good relations by means of an equality scheme.
- 4.11 The Commission will provide examples of model schemes and approved schemes to each public authority to assist in scheme production. The Commission will expect a public authority to have considered all the requirements of producing its equality scheme before submission to the Commission. The Commission will try to assess the scheme, and reply to the public authority concerned promptly. The Commission will also meet with a public authority, on request, in relation to ensuring that its scheme can be approved as soon as is possible. The Commission aims to ensure approval of a scheme within three months of a draft scheme being submitted. Meeting this target will, to a degree, depend on how well the draft scheme complies with Section 75 obligations.

Requiring a revised scheme to be produced

- 4.12 Where it thinks appropriate, the Commission may request any public authority to make a revised scheme. A public authority shall respond to this request by submitting a scheme to the Commission before the end of the period of six months beginning with the date of the request.
Schedule 9 paragraph 3 (1) (b) and 3 (2)
- 4.13 If a public authority itself independently wishes to revise a scheme it may submit a revised scheme to the Commission. Such a scheme shall be treated as if it were in response to a request for a revised scheme from the Equality Commission.
Schedule 9 paragraph 8 (1) and (2)

4.14 There must be consultation on the revised equality scheme. This consultation must explain the reasons for scheme revision and highlight the changes from the previous scheme, in order to ensure effective consultation on the changes. The public authority will consult on the revised scheme, as opposed to the changes only, as changes in one part of the scheme may have implications for implementation of other elements.

Progress reporting on Equality Scheme Implementation

4.15 The Commission will provide guidance on progress reporting for public authorities for each year. Such guidance is designed to ensure consistency in and completeness of progress reporting by public authorities. The Commission will review its guidance on progress reporting each year, in conjunction with a sample of public authorities, to ensure that such guidance takes account of each stage of implementing an equality scheme.

4.16 The Commission will monitor progress on the implementation of equality schemes and will comment on progress made to public authorities. This will take the form of meetings with public authorities and an overall annual report on progress made in implementing the duties.

Chapter 5 Complaints and Investigations of Failure to Comply with an Approved Scheme

- 5.1 The following sections outline the legislative provisions governing both:
- the investigation of complaints, under paragraph 10 of Schedule 9, made by individuals and other persons who claim to be affected by an alleged failure to comply with an approved scheme by a public authority (described as ‘paragraph 10’ investigations); and
 - the Equality Commission itself generating an investigation, under paragraph 11 of Schedule 9, where it believes that a public authority may have failed to comply with an approved scheme (described as ‘paragraph 11’ investigations).

The distinguishing feature between these two types of Commission investigation is that the former is initiated by a person who claims to have been directly affected by the alleged failure, whereas the latter is not dependent on such a complainant coming forward. The Commission has a duty to investigate complaints under paragraph 10 unless it has reasons not to do so. It **may** investigate under paragraph 11 so long as it believes that there may have been a failure to comply with an approved scheme.

It is important to appreciate that it is an alleged failure to comply with an equality scheme which may be the subject of a Commission investigation and not a more general alleged failure to comply with section 75.

Individual complaints under Schedule 9 paragraph 10

- 5.2 If the Commission receives a complaint of failure by a public authority to comply with an equality scheme approved by the Commission or made by the Secretary of State, it is required to investigate the complaint, or give the complainant reasons for not investigating.
Schedule 9 paragraph 10(1)
- 5.3 A complaint must be in writing by a person who claims to have been directly affected by the failure. A complaint must also be sent to the Commission during the period of 12 months starting with the day on which the complainant first knew of the matters alleged. The complainant in the first instance must bring the complaint to the notice of the public authority, and give the public authority a reasonable opportunity to respond.
Schedule 9 paragraph 10 (2), (3) and (4)

As paragraph 10 refers to a 'person', rather than an 'individual', it is open to a 'legal person', e.g. a company limited by guarantee, to make a complaint under paragraph 10. The Commission reserves the right to conclude that the complainant's 'claim' is not a genuine one under paragraph 10, i.e. there is no basis upon which the complainant could claim to be 'directly affected'. The Commission will, in any event, consider, under 'reasons for not investigating', under paragraph 10(1)(b).

5.4 A potential complainant must follow certain procedural requirements before the Commission can authorise an investigation under Schedule 9 paragraph 10. These are set out below in chronological order.

5.5 (1) Before making a formal complaint to the Commission, the complainant must first bring the complaint to the notice of the public authority, and allow it a reasonable opportunity to respond.
Schedule 9 paragraph 10 (4)

A potential complainant can bring the matter to the authority's attention by simply contacting its named section 75 equality contact, for whom contact details are provided in the approved equality scheme.

It is important that a potential complainant should contact the Commission before making a complaint to a public authority in order to receive general advice on the paragraph 10 complaints procedure. In particular, it is the complaint made to the public authority which will eventually be investigated by the Commission. Hence the complaint to the public authority must be clear about the alleged failure to comply with the approved equality scheme.

The Schedule does not say what period of time is reasonable but generally the Commission would take the view that two months may be enough, depending of course on the particular circumstances and complexity of the matter under consideration. In some circumstances a shorter period may be appropriate.

There may be scope at this early stage for the Commission to attempt to encourage a resolution of the matter. It is therefore important that a copy of any complaint made to a public authority is copied to the Commission. Given the approach adopted towards section 75, which encourages collaboration and support between the public and voluntary sectors, the Commission will encourage efforts to resolve such matters at an early and informal stage, if possible. Examples of such interventions include:

- advising the complainant at the outset, when bringing the matter to the authority's attention, that s/he should specifically ask the authority to include the matters in its EQIA Assessments plans, or if already included, to specifically consider and consult upon the matters complained of when conducting that EQIA;
- if the public authority has already included the matter in its EQIA timetable, advising the complainant, that when s/he contacts the authority, s/he should specifically ask to be included in the consultation list for that EQIA. This will allow the complainant to bring his/her concerns about the policy to the authority's attention as part of the policy making process;
- providing the complainant with the contact details for complaints as set out in the approved scheme; and
- general advice to the potential complainant on how to draft an initial letter of complaint to the public authority, particularly if a reasonable adjustment is necessary.

5.5 (2) After having raised the matter with the public authority and allowing it a reasonable period to resolve the matter, a complainant who remains dissatisfied can submit a formal written complaint to the Commission. Such a complaint must be made in writing, by a person who claims to have been directly affected by the alleged failure to comply with the approved scheme.

Schedule 9 paragraph 10 (2)

The Commission has developed a straightforward pro forma complaint form to be signed by the applicant and/or his/her representative to overcome any potential barriers created by the need for complaints to be submitted in writing. It is vital to make a formal complaint to the Commission **after** bringing the complaint to the attention of the public authority and giving it a reasonable opportunity to respond. It is not sufficient to have copied to the Commission the complaint to the public authority or to complain to the Commission at the same time as complaining to the public authority.

The requirement that the complaint must be made by “a person who claims to have been directly affected by the failure” is the primary distinguishing feature between paragraph 10 and paragraph 11 investigations. The former is appropriate for people claiming to be directly affected by the alleged failure to comply with an approved scheme, whilst the latter allows the Commission to generate an investigation in the absence of such a person.

Paragraph 10 refers to people who claim to have been directly affected by the failure. As already stated in section 5.3 since paragraph 10 refers to a ‘person’, rather than an ‘individual’, it is open to a ‘legal person’, e.g. a company limited by guarantee, to make a complaint under paragraph 10. The Commission reserves the right to conclude that the complainant’s ‘claim’ is not a genuine one under paragraph 10, i.e. there is no basis upon which the complainant could claim to be ‘directly affected’. The Commission will, in any event, consider, under ‘reasons for not investigating’, under paragraph 10(1)(b), whether there is a sufficient connection between the person making the complaint and the alleged failure to comply with an approved scheme. (Matters brought to the Commission’s attention by interested third parties who do not have that connection can be considered for investigation under paragraph 11).

- 5.5 (3) Such written complaints must be sent to the Commission within 12 months of the day on which the complainant first knew of the matters alleged.

Schedule 9 paragraph 10 (3)

The complaint is ‘sent to’ the Commission simply by writing to the Commission or by signing and returning the pro forma complaint form initiating a complaint. A written complaint must make clear the precise failure to comply with the equality scheme which is alleged.

Occasionally the matter complained of may be ongoing or may be revisited annually by way of renewed application, and the complainant may wish to exhaust other potential remedies before formalising a complaint to the Commission. However in view of the length of the statutory deadline within 12 months, complainants should treat the earliest date as relevant for the purpose of the statutory deadline. If a complaint is being internally appealed or reviewed, Commission investigation can be suspended, once the complaint is made, pending the outcome of this review.

The Commission will let any potential complainants know procedural requirements and what s/he needs to do.

Commission Generated Investigations under Schedule 9 Paragraph 11

- 5.6 In addition to investigating on the basis of a complaint, the Equality Commission itself has power to carry out an investigation into the compliance by a public authority with an approved equality scheme.
Schedule 9 paragraph 11 (1) (b)
- 5.7 The distinguishing feature between Schedule 9 paragraph 11 investigations and the investigation of individual complaints is that the former does not depend on a complainant coming forward. Paragraph 11 investigations are therefore subject to only one of the requirements for investigation which apply to paragraph 10, that is, the matter under investigation is a potential failure of a public authority to comply with its approved scheme.
- 5.8 The Commission must form a 'belief' that there may have been a failure to comply with an equality scheme under paragraph 11 before it can proceed to undertake a paragraph 11 investigation.
- 5.9 Matters of general importance brought to the Commission's attention by way of 'complaints' made by interested third parties who are not claiming to have been directly affected by the alleged failure to comply will not be subject to the investigation process under paragraph 10.
- 5.10 Schedule 9 paragraph 11 can be followed in three distinct situations:
- when a complaint as described at 5.9 above is brought to the Commission's attention by interested third parties e.g. unions, political parties and representatives, interest and lobby groups or other concerned individuals;
 - where a potential failure to comply with an approved scheme emerges out of a paragraph 10 investigation; and
 - where investigations are wholly generated by the Commission, e.g. as a result of its analysis of a completed EQIA.

Although paragraph 11 does not require the bringing of the alleged failure to comply with an approved scheme to the public authority's attention and allow it a reasonable opportunity to respond, nevertheless the Commission would advise interested third parties that all matters relating to compliance with an approved equality scheme should be raised with the public authority in the first instance.

Matters relating to both paragraph 10 and paragraph 11 investigations under Schedule 9

5.11 Both paragraph 10 and paragraph 11 investigations are limited to situations where a public authority may have failed to comply with its approved scheme, and not where it has failed to give due regard to the need to promote equality of opportunity or regard to the desirability of promoting good relations.

5.12 The following is a list of matters that could potentially amount to such a breach of approved scheme (this is not an exhaustive list):

- failure to follow Annex 1 of the Guide to the Statutory Duties when conducting a formal EQIA;
- failure to comply with scheme commitments on public access to information and services;
- failure to carry out consultation in accordance with the general principles set out in Section 4;
- failure to screen an existing policy within the time specified in the approved scheme;
- failure to screen a new/proposed policy;
- failure to consult as part of screening decisions;
- failure to properly comply with the public authority's complaints procedure in its approved scheme;
- failure to put systems in place to ensure that information is available in accessible formats in a timely fashion;
- failure to put appropriate internal arrangements in place to ensure that the duties are effectively complied with;
- failure to deliver the planned programme of Section 75 training set out in the approved scheme;
- failure to commit adequate resources to ensure that the statutory duties are complied with;
- failure to conduct an annual review of progress or to forward this to the Commission; and
- failure to conduct the 5-year review.

Commission investigation under both paragraphs 10 and 11 are limited to a potential failure to comply with an approved scheme. However, this does not necessarily preclude a complainant from raising a more general type of complaint with a public authority under its Section 75 complaints procedure that due regard has not been, or is not being given to the promotion of equality of opportunity, even though this might not ultimately be within the scope of a Commission investigation. Indeed, many public authorities' Section 75 complaints procedures as set out in their approved scheme include a commitment to investigate these types of complaint. Should such a complaint not be resolved under the authority's complaints procedure, it may be possible for a complainant to pursue the matter by way of judicial review.

Statutory Duty Investigations Committee

5.13 The Commission has established a Statutory Duty Investigations Committee to consider investigations under paragraphs 10 and 11, and has established Complaints and Investigations Procedures subject to review. These are available on the Commission's website.

5.14 The Investigations Committee will initially consider whether such complaints satisfy the threshold criteria for Commission investigation. To further consider the matter for investigation, the Committee must be satisfied that the complaint discloses a potential failure to comply with an approved scheme, and, in the case of individual complaints, that the complaint has been made in accordance with the requirements of paragraph 10 (see paragraphs 5.7, 5.8 and 5.9 above). If the Investigations Committee decides that these necessary requirements have not been met, investigation cannot be authorised. The complainant will be told of this decision and given an opportunity to respond. Any such comments will be brought to the Committee's attention, and it will review its decision on the basis of the representations made.

If the Investigations Committee decides that the necessary threshold criteria have been met, it will consider the complaint for full investigation.

5.15 The Investigations Committee will investigate any complaint made in accordance with paragraph 10 or give the complainant reasons for not investigating. Such reasons may include consideration of one or more of the following:

- Has the public authority agreed to submit the matter to EQIA or, if already doing so, has it agreed to consider the particular issue and consult about it as part of that EQIA?
- Has the public authority satisfactorily responded to the complaint?
- Could the policy/matter properly be considered to be affirmative action to correct disadvantage or combat inequality?
- Could the policy/matter properly be considered to be necessary and desirable to promote social inclusion, target disadvantage, or otherwise tackle pressing social need?
- Is the policy/matter under consideration due to be reviewed/discontinued/superseded by the public authority?
- Is there a more appropriate form of redress provided by anti-discrimination legislation?
- Is the complainant co-operating with Commission staff?
- Any other relevant consideration; for example, where, although the complainant 'claims to be directly affected', the Committee is not satisfied that the complainant has a sufficient interest in the alleged failure to comply with an approved equality scheme.

In the case of paragraph 11 investigations, the Commission will also consider the potential strategic importance of the potential failure to comply with the approved scheme.

In the case of paragraph 10 investigations, the complainant will be given the opportunity to respond to a decision not to investigate. Any comments received will be communicated to the Investigations Committee which will review its original decision on the basis of any representations made.

Full Investigation

- 5.16 The Commission will adopt an inquisitorial approach to complaint investigation to allow both the complainant and the public authority to fully set out any information they wish to put forward, and to gather necessary information. This approach should enable both sides to consider together how to resolve the issue. An investigation will focus on the question of whether there has been a failure to comply with an approved equality scheme, as alleged in the original complaint.

In the course of an investigation, the Commission may seek the views of relevant interest groups with particular expertise in the area or other public authorities in the same sector, particularly if the matter is complex or technical.

- 5.17 Following such an investigation the Investigations Committee will draft a report on the basis of the evidence collected which will set out the facts established by the investigation. If it considers that there has been a failure to comply with an approved scheme, the Investigations Committee can include a 'recommendation for action by the public authority' and a 'reasonable time scale for implementation'.

Relevant parties will be given a copy of the draft report and given an opportunity to contest any of the facts included in it, any conclusions drawn on the public authority's alleged failure to comply with the approved scheme and any recommendations and time scales for action.

- 5.18 Any responses received will be considered by the Investigations Committee which will draw up its final report including any recommendations and time scales for action. The final report will be submitted to the full Commission for approval.

A copy of the report will be sent to the public authority concerned, the Secretary of State and the complainant. A copy of the report is also sent to the Assembly.

If a report recommends action by the public authority, and the Commission considers that the action is not taken within a reasonable time, the Commission may refer the matter to the Secretary of State, who may give directions to the public authority in respect of the matter.

Schedule 9 paragraph 11(2)-(5)

- 5.19 If the public authority is a Government Department, the Secretary of State does not have the power to issue directions but the Commission has discretion to lay the report before Parliament and the Assembly.
Schedule 9 paragraph 12(5)

Section 1 Form of an Equality Scheme

- 1.1 The equality scheme is an important document. It is both a statement of the public authority's commitment to fulfilling the statutory duties and a plan for their performance. The scheme must be in written form and must be both comprehensible and accessible. In particular, the scheme should be available on request in formats such as Braille, disk, audiocassette and in minority languages. Public authorities must ensure that systems are in place to ensure that the scheme is available in such accessible formats in a timely fashion. Specific consideration should also be given to how best to communicate the scheme to young people and people with learning disabilities.

Section 2 Key Terms and Concepts

Promotion of equality of opportunity

- 2.1 The **promotion of equality of opportunity** entails more than the elimination of discrimination. It requires proactive measures to be taken to secure equality of opportunity between the groups identified in Section 75 (1). The equality duty should not inhibit action to counter disadvantage among particular sections of society – indeed such action may be an appropriate response to redressing inequalities of opportunity. There should therefore be no conflict with affirmative action or positive action to counteract disadvantage or accommodate difference. Likewise there should be no conflict with specific policy initiatives such as New Targeting Social Need (New TSN), including the Promoting Social Inclusion (PSI) initiative.
- 2.2 The statutory duty under Section 75 (1) of the Act requires public authorities in carrying out their functions relating to Northern Ireland, to have due regard to the need to promote equality of opportunity: –
- (a) between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
 - (b) between men and women generally;
 - (c) between persons with a disability and persons without; and
 - (d) between persons with dependants and persons without.
- 2.3 Discrimination of various kinds is already prohibited under the various anti-discrimination statutes listed in Appendix 6. The duty imposed by Section 75 (1) extends to categories of persons not yet covered by other Northern Ireland or UK anti-discrimination statutes. These are:
- persons of different ages - both the young and the old; and
 - persons with and without dependants.
- 2.4 It is therefore important that when considering the impact of policies on the promotion of equality of opportunity, due regard is given to the need to promote equality of opportunity for all categories of persons specified in Section 75 including those in paragraph 2.3 above.

Affirmative action and positive action

- 2.5 As stated in paragraph 2.1, the statutory duties require more than the avoidance of discrimination. Public bodies should actively seek ways to encourage greater equality of opportunity and good relations through their policy development such as, for example, the kind of measures taken under fair employment and treatment, sex discrimination, race relations, and disability discrimination legislation.
- 2.6 It was made clear in the parliamentary debate on the legislation that the statutory duty concerning equality of opportunity does not inhibit action to counter disadvantage among particular sections of society. As Mr. Murphy, the responsible Government Minister, made clear in the House of Commons:

*“[Section 75] in no way calls into question the ability of public authorities to take affirmative action in appropriate cases to correct disadvantage. Affirmative action in appropriate circumstances is an important method of combating inequality, and it is our firm intention that that should remain so. The clause does not call that into question, and does not render unlawful what would be lawful affirmative action under current anti-discrimination legislation. **Furthermore, [Section 75] means that public authorities are bound to have regard to the need for affirmative action when considering their duty under the clause**”.* (Commission emphasis)

House of Commons, Official Report, 18 November 1998, cols. 1069-1070 (Mr. Murphy).

Targeting disadvantage and social need

- 2.7 There should be no conflict with specific policy initiatives to target disadvantage and social need such as New Targeting Social Need (New TSN) including the Promoting Social Inclusion (PSI) initiative. In the House of Lords, Lord Dubs referred to the relationship between the statutory duty and New TSN:

*“The obligation relates to equality of opportunity, not equal treatment, so it is hard to see an incompatibility between it and addressing disadvantage among women, Travellers, or people with disabilities. The Government are fully committed to tackling disadvantage wherever it is found through major policies such as Targeting Social Need, recently re-launched. **The statutory obligation will not constrain or hamper such initiatives.**”* (Commission emphasis)

House of Lords, Official report, 26 October 1998, Lord Dubs.

Functions and policies

2.8 The duties imposed by Section 75(1) and (2) on a public authority are that *“in carrying out its functions relating to Northern Ireland”* it must have due regard to the need to promote equality of opportunity: -

- (a) between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- (b) between men and women generally;
- (c) between persons with a disability and persons without; and
- (d) between persons with dependants and persons without.

Without prejudice to these obligations, a public authority is also required, in carrying out its functions, to have regard to the desirability of promoting good relations between persons of different religious beliefs, political opinion or racial group (see Appendix 1).

2.9 Schedule 9 of the Northern Ireland Act 1998 (the Schedule) deals with enforcement of the statutory duties. Paragraph 4 (1) of the Schedule specifies that the overarching purpose of an equality scheme is *“to show how the public authority proposes to fulfil the duties imposed by Section 75 in relation to the relevant functions.”*

Functions

2.10 According to Section 98(1) of the Act, “functions” includes *“powers and duties”* and is of wide import. The expression “carrying out” also embraces a wide range of activity. For example, a health authority is carrying out its powers, duties and other functions not just when its employees are performing surgical procedures but also when it is recruiting nursing or medical staff to perform the procedures and procuring the equipment and facilities to enable them to do so. However, the new duties only apply where the public authority is carrying out its functions *“relating to Northern Ireland”*.

Policies

2.11 Paragraph 4 (2) of the Schedule specifies particular elements that an equality scheme must contain. In particular Paragraphs 4 (2) (b) and (c) of the Schedule require a scheme to state the public authority's arrangements for assessing and consulting on the likely impact of its policies and for monitoring any adverse impact of its policies on the promotion of equality of opportunity. The content of a scheme will therefore depend on which policies have to be included in these exercises.

2.12 With regard to **policies**, three particular points should be noted. First, policy is a broad, inclusive term. A policy is defined in the New Oxford Dictionary of English as:

“a course or principle of action adopted or proposed by a government, party, business or individual”.

2.13 In the present context, the term **policies** covers all the ways in which an authority **carries out or proposes to carry out** its functions relating to Northern Ireland. As has been indicated above (paragraph 2.10), an authority's employment and procurement policies are an integral aspect of the way in which an authority carries out its functions. Accordingly, the scheme must cover the arrangements for assessing the impact of such policies. Policies include unwritten as well as written policies.

2.14 Secondly, the policies referred to in the Schedule are not just policies on the promotion of equality of opportunity. It is the likely impact (on the promotion of equality of opportunity) of any of the authority's policies that has to be assessed. As Lord Dubs stated in the House of Lords during the course of the debate on the Bill:

*“To clarify the position, I should state that it is the Government's intention that impact assessments should relate to the general run of a public authority's policies. **It is not intended that the assessment should be restricted only to policies aimed at promoting equality of opportunity**”.* (Commission emphasis)

House of Lords, Official report, 11 November 1998, col.814 (Lord Dubs).

2.15 Thirdly, most policies are not static, but dynamic. Policies are often reviewed and amended, or the way they are implemented changes, in response to new situations. A change to a policy must be screened for impact on equality of opportunity in the same way as the original, existing or new policy, that is, by applying the four screening criteria and consulting, as set out in Section 4, sub section 3 (a)(ii).

Section 3 Key Elements of an Equality Scheme

Schedule 9 of the Act specifies that an equality scheme must show:

"how the public authority proposes to fulfil the duties imposed by Section 75 in relation to the relevant functions"

Schedule 9 paragraph 4(1)

The Schedule specifies particular elements that a scheme must contain without being exhaustive. The key elements of a scheme that are listed below are particularly important. The scheme must include:

1. a general introductory statement specifying the purpose of the scheme and the public authority's commitment to the statutory duties; this statement of commitment must be signed by the Chair and the Chief Executive of the public authority;
2. the authority's arrangements for assessing its compliance with the Section 75 duties and for consulting on matters to which a duty under that section is likely to be relevant;
Schedule 9 paragraph 4 (2)(a)
3. the authority's arrangements for assessing and consulting on the impact of policies adopted or proposed to be adopted on the promotion of equality of opportunity;
Schedule 9 paragraph 4 (2)(b)
4. the authority's arrangements for monitoring any adverse impact of policies adopted by the authority on the promotion of equality of opportunity;
Schedule 9 paragraph 4 (2)(c)
5. the authority's arrangements for publishing the results of equality impact assessments and of monitoring for any adverse impact of policies adopted by the authority on the promotion of equality of opportunity;
Schedule 9 paragraph 4 (2)(d)

This must include a commitment to including in the published results of an equality impact assessment:

- a statement of the aims of the policy to which the assessment relates;

- details of any consideration given by the authority to measures which might mitigate any adverse impact of that policy on the promotion of equality of opportunity; and
- details of any consideration given by the authority to alternative policies which might better achieve the promotion of equality of opportunity.

Schedule 9 paragraph (9)(1)

6. a commitment, that in making any decision with respect to a policy adopted or proposed to be adopted by it, that the public authority shall take into account any equality impact assessment and consultation carried out in relation to the policy;

Schedule 9 paragraph 9 (2)

7. the authority's arrangements for training staff on issues relevant to the duties;

Schedule 9 paragraph 4 (e)

8. the authority's arrangements for ensuring, and assessing, public access to information and to services provided by the authority;

Schedule 9 paragraph 4 (f)

9. the authority's timetable for measures proposed in the scheme;

Schedule 9 paragraph 4 (3)(b)

10. details of how the scheme will be published;

Schedule 9 paragraph 4 (3)(c)

11. the authority's arrangements for dealing with complaints arising from a failure to comply with the scheme; and

Schedule 9 paragraph 10

12. a commitment to conducting a review of the scheme within five years of its submission to the Equality Commission and to forwarding a report of this review to the Equality Commission.

Schedule 9 paragraph 8 (3)

Section 4 What Should Each Element of the Scheme Include?

In this section the Commission provides more detailed guidelines on the content of the key elements of an equality scheme listed in Section 3.

1. A general introductory statement specifying the purpose of the scheme and the public authority's commitment to the statutory duties.

This must include at least the following:

- 1(a) an outline of the statutory duties and the purpose of the scheme. This must specify that the scheme will relate to how the public authority carries out all its functions, powers and duties relating to Northern Ireland (based on the Guidelines at paragraphs 2.8 - 2.15 above);
- 1(b) an introductory statement of commitment to the statutory duties from the Minister and Permanent Secretary in the case of Government departments or the Chairperson and Chief Executive in the case of other public authorities to show that there is top level commitment to the effective implementation of the statutory duties;
- 1(c) a commitment to the allocation of necessary resources (in terms of people, time and money) to ensure that the statutory duties are complied with and that the equality scheme can be drawn up and implemented effectively, and on time;
- 1(d) a commitment to ensuring that there are effective internal arrangements in place to ensure that the duties are effectively complied with and for monitoring and reviewing progress;
- 1(e) a commitment to the development and delivery of a planned programme of communication and training on the equality scheme. Further detail on this is required as a specific element of the scheme (see (7) below).

2. An outline of how the public authority intends to assess its compliance with the Section 75 duties and for consulting on matters to which a duty under that section is likely to be relevant. Schedule 9 paragraph 4 (2)(a)

This must include at least the following five parts:

- (a) an outline of internal arrangements;
- (b) a commitment to conducting an annual review of progress;
- (c) details of arrangements for consultation;
- (d) a list of those to be included in consultation on matters relating to the duties; and
- (e) a list of those to be consulted on the equality scheme.

2(a) An outline of the internal arrangements for dealing with and reporting on the statutory duties and a point of contact for those affected by it. Clear lines of responsibility must be established within each public authority to ensure the effective implementation of the statutory duties. This will require consideration of whether any structural or organisational changes are needed to draw up the equality scheme and subsequently to monitor and review its implementation – for example, by designating primary responsibility to a specific senior member of staff or high level policy unit. It will be for each public authority to decide on how to proceed to ensure optimum effectiveness.

As part of the corporate planning process, objectives and targets relating to the statutory duties should be built into corporate and annual operating plans. These should be reflected at all levels of strategic planning within the organisation including staff objectives and annual plans. Progress on meeting objectives relating to the statutory duties should be monitored and reported upon at the most senior level within the organisation on a quarterly basis. A formal report of progress should be included in the authority's annual report or review. Staff performance should be monitored and reviewed through performance review arrangements.

2(b) A commitment:

- to conducting an annual review of progress made in implementing the arrangements specified in the equality scheme and in complying with the statutory duties;

- to forwarding a report of this review to the Equality Commission by 31st July in each year; and
- to liaising with the Equality Commission with a view to ensuring that such progress is maintained.

2(c) Details of how consultation on matters relating to the duties will be carried out including the authority's arrangements for ensuring that consultation is timely, open and inclusive.

Consultation enables an assessment to be made of the views of those who are affected by policy decisions or by the design of services. It can help authorities to become aware of issues and problems which policies may pose for various groups and which the organisation might not otherwise discover. Consultation provides an important means of enabling those who may be adversely affected by public policy to participate in the process of policy making.

Guiding Principles on Consultation

Approaches to consultation will vary, but the equality scheme must include the public authority's commitment to carrying out consultations in accordance with the following seven Guiding Principles:

- consultation with groups and individuals should begin as early as possible;
- consideration must be given to which method of consultation is most appropriate in the circumstances. Consideration should be given as to whether face-to-face meetings, small-group meetings, focus groups, discussion papers with the opportunity to comment in writing, questionnaires, or internet discussions are best;
- engagement with affected groups or umbrella groups to identify how best to consult or engage with stakeholders is recommended;
- the accessibility of the language and the format of information must be considered to ensure that there are no barriers to the consultation process. Information should be available on request in accessible formats for example Braille, disk, and audiocassette and in minority languages to meet the needs of those who are not fluent in English. Public authorities must ensure that systems are in place to ensure that information is available in such accessible formats in a timely fashion. In addition, specific consideration should be given to how to best communicate information to young people and those with learning disabilities;
- specific training should be considered to ensure that those facilitating consultations have the necessary skills to communicate effectively with consultees;
- adequate time should be allowed for groups to consult amongst themselves as part of the process of forming a view. The Commission recommends a period of at least two months for consultation exercises;
- appropriate measures should be taken to ensure full participation in any meetings that are held. Different groups have different needs and may have different customs. Public authorities will need to consider the time of day, the appropriateness of the venue, in

particular whether it can be accessed by those with disabilities, how the meeting is to be run, the use of appropriate language, whether a signer is necessary, and the provision of childcare. Public authorities should recognise and in good faith meet access related costs; and

- information should be made available to ensure meaningful consultation. This should include relevant quantitative and qualitative data and other documentation such as consultants' reports.

2(d) A list of those to be included in consultation on matters relevant to the duties; it will be for the public authority to decide whom it will consult and a list should be included within the scheme. The list should include the Equality Commission, the Community Relations Council, and voluntary, community and trades union groups and organisations representing the various categories included in Section 75. It should be made clear that the list is not exhaustive and that it may be amended in the light of experience.

It should be noted that the Commission must be consulted as part of a public authority's consultation programme, whether the consultation is on an equality scheme, screening exercise or equality impact assessment.

2(e) A list of those to be consulted on the equality scheme. Once a draft equality scheme has been prepared, and before submitting it to the Equality Commission, a public authority is required to consult, in accordance with any directions given by the Commission, with:

- representatives of persons likely to be affected by the scheme; and
- such other persons as may be specified in the directions.

Schedule 9 paragraphs 5(a) and (b)

The scheme submitted to the Equality Commission must specify with whom the public authority has consulted in relation to the draft scheme, the substance of the comments received, and the response by the public authority to those comments.

While reserving the right to give particular directions to individual authorities, the Equality Commission's general directions on consultation on draft equality schemes are as follows:-

The public authority shall consult:

- the Equality Commission; and
- other public authorities and voluntary, community, trades union and other groups who have a legitimate, particular interest in the work of the public authority and/or the impact of the authority's policies on equality of opportunity and good relations.

The purpose of consultation at this stage is, in particular, to enable those likely to be affected to indicate in the course of consultations whether they consider that:

- the arrangements included in the equality scheme have taken full account of requirements relating to training, publication of information and access to information and services;
- the list of those to be consulted and the arrangements for consultation fully meet their needs;
- the public authority's arrangements for assessing and consulting on the impact of policies on the promotion of equality of opportunity (see (3) below) fully meet their needs;
- the timetables included in the scheme (see (9) below) are appropriate.

3. The authority's arrangements for assessing and consulting on the impact of policies adopted or proposed to be adopted on the promotion of equality of opportunity.
Schedule 9 paragraph 4 (2) (b)

This section of the equality scheme includes three parts. It must:

- (a) specify the authority's procedure for screening;
- (b) specify the authority's arrangements for consulting on the likely impact of policies; and
- (c) specify a timetable for undertaking equality impact assessment.

3(a) Specify the public authority's procedure for identifying those of its policies that will be subject to a full equality impact assessment and how these will be prioritised. This is known as screening. Its purpose is to identify those policies that are likely to have a significant impact on equality of opportunity so that greatest resources can be devoted to these. It requires a systematic review of existing and proposed policies.

Screening of existing policies is an important part of initial development of an equality scheme. Once a scheme is approved and in place, all new policies must also be screened to see if an equality impact assessment is required.

In deciding what constitute policies for the purpose of this review, public authorities should draw on the guidance on functions and policies included in Section 2 at paragraphs 2.8 – 2.15. The Commission wishes to emphasise that **policies** is a broad inclusive term and covers all the ways in which a public authority **carries out or proposes to carry out** its functions relating to Northern Ireland.

In some cases, the equality of opportunity dimension is central to the policy in question, or well known to be of particular importance. Other policies may appear, at first glance, to be devoid of equal opportunity implications. But it must not be assumed that areas which have been immune from challenge or question in the past do not have implications for equality of opportunity. A fresh look must be given to all areas of existing policy.

The review of policies must be conducted in accordance with the screening procedure detailed in Section 4 paragraph 3(a)(i).

3(a)(i) Screening Procedure

As stated above, the purpose of screening is to identify those policies that are likely to have a significant impact on equality of opportunity so that greatest resources can be devoted to these. In order to achieve this, a systematic review of each policy is required.

A public authority will take the following steps when screening:

- identify all policies, written and unwritten;
- internally appraise the significance of equality of opportunity and good relations for each policy, taking account of the screening criteria and prioritisation factors detailed below;
- produce a list of policies to be subject to equality impact assessment, together with a draft timetable for conducting the assessments. This should take account of the need to join up equality impact assessments of related policies;
- consult with Section 75 groups to seek their views on whether all policies have been identified, whether all equality impacts have been identified, and whether they agree with the list of policies to be subject to equality impact assessment and the proposed timetable;
- consider and take account of feedback from the consultation exercise; and
- provide information to consultees on the conclusions reached following the initial consultation on screening, on amendments made to the list of policies, and on the final equality impact assessment timetable, in a screening report.

3(a)(ii) Screening criteria

For each policy, the following criteria must be considered:

- Is there any indication or evidence of higher or lower participation or uptake by different groups?
- Is there any indication or evidence that different groups have different needs, experiences, issues and priorities in relation to the particular policy?
- Have previous consultations with relevant groups, organisations or individuals indicated that particular policies create problems that are specific to them?
- Is there an opportunity to better promote equality of opportunity or good relations by altering the policy or working with others in government or in the larger community?

If the answer to any of these four questions is yes, consideration must be given to whether to subject the policy to the equality impact assessment procedure. Public authorities must remember that the statutory duties apply to internal policies (relating to people who work for the organisation), as well as external policies (relating to those who are, or could be, served by the organisation).

Notes on Screening Criteria

Evidence

Evidence may be either quantitative or qualitative, or both. Evidence may indicate that there are equality impacts associated with a policy or that there are not. The absence of evidence or indicators does not mean that there is no impact on equality. Arrangements must be made to obtain relevant information, whether quantitative or qualitative, so that an authority can clearly demonstrate why a policy is screened in for impact assessment or screened out as not requiring an equality impact assessment.

Evidence may include information from the public authority's own information management systems, including service monitoring and complaints handling systems, or from engagement in research, surveys or consultation exercises. Information to help assess the equality impact of a policy may also be sourced from commissioned research or from research produced by other public authorities, representative groups, umbrella groups, and trades unions or universities. In the absence of researched information there may be anecdotal evidence, feedback from service users and affected groups or ongoing experience within the authority, which may indicate equality impacts.

Consultations

These may be any consultations undertaken, for example, in relation to service provision and service development, customer satisfaction, best value and good practice reviews. Consultation exercises on previous equality impact assessments, or those undertaken by other public authorities within the same sector may also be useful.

Opportunities to Better Promote Equality and Good Relations

Public authorities should be alert to the fact that the statutory duties are positive duties. Whilst the main purpose of screening is to identify adverse impact, it also offers the opportunity to identify how to better promote equality of opportunity and good relations. Noting the Secretary of State's statement that "Good relations cannot be based on inequality between different religions or ethnic groups" (see Chapter 2, paragraph 2.15), the Commission recommends that policies specific to the promotion of good relations, or which have an impact on good relations, are 'screened in' for further assessment. The relation between the two duties is relevant here, as is the need to assess the equality impacts of good relations policies.

3(a)(iii) Factors to be considered in prioritising policies for equality impact assessment

Having screened existing policies or new policies using the four criteria set out above, a view must then be reached on prioritising policies for equality impact assessment.

Priorities may be established based on factors such as:

- social need;
- effect on people's daily lives;
- effect on economic, social and human rights;
- significance of the policy in terms of expenditure; and
- significance of the policy in terms of strategic importance.

The Equality Impact Assessment procedure is described more fully in Annex 1, which is part of these Guidelines. The equality scheme must include a commitment to conducting impact assessments in accordance with this procedure. Further advice may be found in a separate Commission publication: Practical Guidance on Equality Impact Assessment.

3(a)(iv) Reporting on Screening

Where the screening exercise has been completed before submission of the scheme to the Equality Commission, this section of the scheme must include details of those policies to be subject to equality impact assessment. It must also detail which policies proposed by those consulted as appropriate for impact assessment have not been included in the scheme submitted to the Equality Commission and why.

Where the screening exercise has not been completed before submission of the scheme to the Equality Commission the scheme must include:

- a commitment to consultation on the screening exercise and details of who will be consulted (see 3(b) below). This must include relevant interest groups as well as the Equality Commission, other public bodies, voluntary, community, trades union and other groups with a legitimate interest in the matter, including those directly affected by the policy to be assessed, whether or not they have a direct economic or personal interest;
- the outcome of consultation on the proposed procedure for screening including details of those consulted; and
- a commitment to including a detailed report of the screening exercise in the annual review report to the Equality Commission as described at Section 4 (2)(b) above. The report on the screening exercise should detail which policies will be subject to impact assessment and which policies proposed by those consulted as appropriate for impact assessment have not been so included and why.

3(a)(v) Proposed policies

Likewise, proposed policies must be subject to screening and to consultation on the outcomes of the screening exercise (see **Schedule 9 paragraph 4 (2)(b)**), and those policies identified as having significant implications for equality of opportunity must be subject to full impact assessment. The same screening criteria and prioritisation factors as those identified above should be applied when considering which new policies should be subject to equality impact assessment.

In the case of proposals for legislation, an assessment of the implications for the Section 75 duties must be included in any proposal which seeks Executive Committee approval for the policy to which the proposed legislation is to give effect, and in the Memorandum accompanying a Bill which goes to any Committee of the Assembly considering legislative proposals.

Consultation on the screening of new and proposed policies helps to identify those policies that have most impact on equality of opportunity. It provides an important means of enabling those who may be affected by public policy to participate in the process of policy making. Public authorities should therefore provide, at least annually, a list of new and proposed policies (with summary information on the policy aims) to consultees, as specified at Section 4, 3(b) below, and in line with the Guiding Principles on Consultation included in Section 4, 2(c). This list should identify policies included or excluded for equality impact assessment through screening. In much the same way that initial screening exercises helped public authorities to finalise their first equality impact assessment timetables, asking consultees about new and proposed policies ensures that those with most significant equality impact are impact assessed.

The above guidance does not preclude consultation taking place more frequently if this is appropriate. For example, the volume of new and revised policies introduced may indicate the need for more frequent consultation. Similarly, the screening process as detailed in Section 4, 3(a)(i) and (ii) will have internally identified any potential adverse impact, in which case it would be logical, reasonable and appropriate to consult with affected groups immediately. When there is ambiguity, the public authority should consult on whether a new or proposed policy should be subject to equality impact assessment.

New policies identified for equality impact assessment (and existing policies newly identified for equality impact assessment) must be incorporated into the public authority's EQIA timetable as appropriate to their priority.

3(b) Specify the authority's arrangements for consulting on the likely impact of policies.

This section of the scheme must include a commitment to consult on the likely impact of policies. The scheme must list those who will be consulted. This must include relevant interest groups as well as the Equality Commission, other public bodies, voluntary, community, trades union and other groups with a legitimate interest in the matter. This must include those directly affected by the policy to be assessed, whether or not they have a direct economic or personal interest.

Consultation must be conducted in accordance with the Guiding Principles detailed in Section 4, 2(c).

3(c) Specify a timetable for undertaking equality impact assessments.

Where the screening exercise has been completed before submission of the scheme to the Equality Commission, a timetable for the conduct of equality impact assessments must be included in the draft scheme that will be subject to consultation. The timetable arrived at following consultation must be included in the scheme submitted to the Equality Commission.

Where the screening exercise has not been completed before submission of the scheme to the Equality Commission, a timetable for conducting impact assessments must be included as part of the screening exercise which will be subject to consultation. The timetable arrived at following consultation must be included in the report of the screening exercise in the authority's annual review report to the Commission as described in Section 4, 2(b).

4. The authority's arrangements for monitoring any adverse impact of policies adopted by the authority on the promotion of equality of opportunity.
Schedule 9 paragraph 4(2)(c)

This section must specify how the authority will monitor any adverse impact of policies. This will involve the collection and analysis of information. Systems must be put in place to collect both quantitative and qualitative information. Policies referred to are all policies of the authority.

Annex 1 of these Guidelines provides further guidance on the collection and consideration of available data and research and on monitoring for adverse impact in the future. Advice is also contained in Section 4 paragraph 3(a)(i) in the Evidence section of Notes on Screening Criteria, and in the Commission publication, Practical Guidance on Equality Impact Assessment.

5. The authority's arrangements for publishing the results of equality impact assessments and of monitoring any adverse impact of policies adopted by the authority on the promotion of equality of opportunity.

Schedule 9 paragraph 4(2)(d)

This section of the scheme must detail **how** and **where** the results of equality impact assessments and of monitoring adverse impact of policies will be published. It must:

- 5(a) Detail how and where the information will be published to ensure equality of access to the information (Schedule 9 paragraph 4(2)(f)). The format of the published information should be based on the guidance included at Section 1 of these Guidelines.
- 5(b) Include a commitment that the published information on equality impact assessments will include:
- the aims of the policy to which the assessment relates;
 - details of any consideration given by the authority to measures which might mitigate any adverse impact of that policy on the promotion of equality of opportunity; and
 - details of any consideration given by the authority to alternative policies which might better achieve the promotion of equality of opportunity.

Schedule 9 paragraph (9)(1)

6. A commitment that in making any decision with respect to a policy adopted or proposed to be adopted by it, that the public authority shall take into account any equality impact assessment and consultation carried out in relation to the policy.

Schedule 9 paragraph 9 (2)

This is an important commitment and failure to comply with it could lead to complaints of failure to comply with a scheme.

7. The authority's arrangements for training staff on issues relevant to the duties.

Schedule 9 paragraph 4 (2)(e)

This section of the scheme must:

- include a commitment to the development and provision of an effective communication and training programme on the content of the equality scheme for all staff; and

- detail a planned programme for the delivery of training.

The communication and training programme must include at least the following:

- effective internal and external communication of the commitment of the head of the public authority to the statutory duties;
- the provision of a copy of the equality scheme to all staff and awareness training to ensure that they fully understand their role in implementing the scheme;
- more focused training for staff in management roles, and other specialist staff, such as trainers, lawyers and staff involved in research and data collection, policy development, service design, conducting equality impact assessments, consultation, monitoring and evaluation;
- induction training for new staff; and
- monitoring and evaluation of training.

8. The authority's arrangements for ensuring and assessing public access to information and to services provided by the authority. Schedule 9 paragraph 4 (f)

This section of the scheme must specify how the authority will ensure that both the information which it disseminates, and the services which it provides are made accessible in a way which ensures equality of opportunity. This would include making arrangements for the provision of information in accessible formats, including non-written formats and minority languages. It will also require a commitment to monitoring access to information and services, across all functions, to ensure equality of opportunity.

9. The authority's timetable for measures proposed in the scheme.

This section of the scheme must detail a timetable for the measures included. Given the importance of the statutory duties, it is important that the measures are implemented in a timely fashion. For as long as there is a failure to implement the measures, the authority is at risk of failing to comply with the statutory duties.

**10. Details of how the scheme will be published.
Schedule 9 paragraph 4 (3)(b) and (c)**

The scheme must be published widely and in a manner that will ensure equality of access (see Section 1 of these Guidelines). This may include press releases, prominent advertisements in the press, the Internet and direct mail shots to groups representing the various categories in Section 75.

**11. The authority's arrangements for dealing with complaints arising from a failure to comply with the scheme.
Schedule 9 paragraph 10**

This section of the scheme should detail a procedure for dealing with complaints including where and how complaints may be raised and a timetable for responding.

**12. A commitment to conducting a review of the scheme within five years of its submission to the Equality Commission and to forwarding a report of this review to the Equality Commission.
Schedule 9 paragraph 8(3)**

This review is a formal review of the scheme to evaluate its effectiveness in meeting the public authority's statutory duties. (It is therefore different to the annual review of progress on the implementation of the measures in the scheme described in Section 4, paragraph 2 (b)). If the scheme is not effective a revised scheme may be required. The Commission will produce guidance on how schemes should be reviewed after experience of the operation of the legislation.

Annex 1 Procedure for Conduct of Equality Impact Assessments

The Commission considers that equality impact assessment requires seven separate elements:

1. Defining the aims of the policy
2. Consideration of available data and research
3. Assessment of impacts
4. Consideration of:
 - measures which might mitigate any adverse impact; and
 - alternative policies which might better achieve the promotion of equality of opportunity
5. Consultation on the actual impact of existing policies and the likely impact of proposed policies
6. Decision by public authority and publication of report on results of equality impact assessment
7. Monitoring for adverse impact in the future and publication of the results of such monitoring.

Each of these elements is considered in more detail below.

1. Defining the aims of the policy

- 1.1 At the beginning of an EQIA, it is important to spend time determining the aims of the policy. This is the foundation stage in the development of an EQIA and should therefore be afforded due attention. The policy aim is the focal point defining the public authority's intended outcomes, in terms of results and visible effects ultimately on members of the public, and will guide the subsequent development of an EQIA.

2. Consideration of available data and research

- 2.1 Public authorities will need to consider how they will collect the information which will enable them to make a judgment of the extent of impact on the nine equality categories. The Commission encourages public authorities to work collectively on this. For example authorities operating within the education or health and social services sectors may wish to work together both to ensure the most effective and efficient use of public resources and to access the optimum information. Likewise, information available within the public sector should be made available to those likely to be affected by policies to enable them to be fully informed of the basis on which decisions are made. The following guidance outlines the approach to be adopted at this stage:

- collect and analyse existing quantitative data by relevant equality category as a minimum base from which to judge outcomes;
- use qualitative or evaluative research or information gathered by government and bodies such as voluntary, community and trade union organizations;
- identify gaps in available information for equality categories and where more detailed data are needed take steps in order to have the optimum information on which to consult and base subsequent decisions;
- if necessary, commission new data (qualitative or quantitative). As outlined above co-operation within and between sectors should be considered; and

- relevant, reliable and up-to-date information is essential. Statistics alone do not provide reasons or explanations for differences. Public authorities must therefore institute a system of information gathering across all nine equality categories to supplement available statistical and qualitative research. While the collection of relevant data is important, public authorities must be aware that particular issues of sensitivity and confidentiality may arise in relation to disability, sexual orientation and political opinion. Public authorities must recognise the particular benefit of discussion and information gathering with groups representing people with disabilities and of different sexual orientations, in the absence of extensive data on these matters, among their employees and recipients of services.

3. Assessment of impacts

- 3.1 The authority must use the information gathered to decide whether there is, or is likely to be, a differential impact, whether direct or indirect, upon the relevant group (or groups).
- 3.2 If an adverse effect on any of those groups can be identified, policy makers will need to assess whether the policy is unlawfully discriminatory taking into account that some policies are intended to increase equality of opportunity by requiring or permitting affirmative or positive action, or action to redress disadvantages. They will then have to decide how to ensure that the public authority acts lawfully.
- 3.3 Even if the policy is not unlawful, policy makers need to consider what to do in light of the adverse impact identified. The following is provided as guidance by the Commission:
 - a policy intended specifically to address the needs of a particular group may well be justifiable, indeed necessary, in order to promote equality of opportunity for that group; and
 - If this is not the case, policy makers must consider whether there is any alternative measure which would achieve the aim desired without the differential impact identified. In this context, the Commission re-emphasises the importance of very careful consideration of policies which adversely impact on those categories defined by age (both younger and older people), and persons with dependants which are not currently covered by anti-discrimination legislation in Northern Ireland.

4. Consideration of

- Measures which might mitigate any adverse impact and**
- alternative policies which might better achieve the promotion of equality of opportunity**

4.1 The consideration of mitigating measures and alternative policies is at the heart of the EQIA process. Different options must be developed which reflect different ways of delivering the policy aims. The consideration of mitigation of adverse impacts is intertwined with the consideration of alternative policies. Mitigation can take the form of lessening the severity of the adverse impact.

4.2 Ways of delivering policy aims which have a less adverse effect on the relevant equality category, or which better promote equality of opportunity for the relevant equality category, must in particular be considered. Consideration must be given to whether separate implementation strategies are necessary for the policy to be effective for the relevant group. The following must be considered:

- How does each option further or hinder equality of opportunity?
- How does each option reinforce or challenge stereotypes which constitute or influence equality of opportunity?
- What are the consequences for the group concerned and for the public authority of not adopting an option more favourable to equality of opportunity?
- How will the relevant representative groups be advised of the new or changed policy or service?
- If an economic appraisal is necessary; what are the costs of implementing each option? Will the social and economic benefits to the relevant group of implementing the option outweigh the costs to the public authority or other groups?
- Does the public authority have international obligations which would be breached by, or could be furthered by, each of the options?

5. Consultation on the actual impact of existing policies and the likely impact of proposed policies

- 5.1 An equality impact assessment requires consultation. Consultation must be carried out with relevant interest groups as well as the Equality Commission, other public bodies, voluntary, community, trade union and other groups with a legitimate interest in the matter. Consultation should also include those directly affected by the policy to be assessed, whether or not they have a personal interest (detailed in the Equality Scheme, see Section 4 paragraph 3(b)). Consultation should be timely, open and inclusive, and conducted in accordance with the Guiding Principles detailed in Section 4 paragraph 2(c).
- 5.2 The method by which the public authority chooses to conduct consultation at this stage must ensure a fair opportunity to present pertinent information and to provide the public authority with a sound basis for decision, without rendering decision making by the public authority unmanageable. It will be important to ensure that necessary time and resources are dedicated to the consultation process to encourage and maximise participation particularly by marginalised groups.
- 5.3 Wide awareness raising of the consultation exercise is essential to inform the public and relevant groups about the policy being assessed, and to invite comments on it. This may include press releases, prominent advertisements in the general press and specialist press of affected groups, the Internet and direct invitations to groups which are likely to be interested in and able to represent interests and views which would otherwise be inadequately represented.
- 5.4 The information used by the public authority in assessing the impact of the policy must be made available on request to those consulted. This will include any quantitative and qualitative data and other documentation such as consultants' reports. In making information available it will not be sufficient or appropriate for a public authority to state that no data are available and therefore no impact or adverse impact has been identified.

6. Decision by public authority & publication of report on results of Equality Impact Assessment

- 6.1 The legislation requires that in making any decision with respect to a policy adopted or proposed to be adopted by it, the public authority shall take into account any Equality Impact Assessment and consultation carried out in relation to the policy (Schedule 9 paragraph 9 (2)). A commitment to this is included within Equality Schemes (see Section 3 paragraph 6). It is therefore essential that the public authority fully complies with this commitment. Clear evidence of the consideration of mitigation of impacts must be apparent, and details of mitigation and plans for its implementation must be included in the final recommendations presented during decision making. Justifications must be given if these alternatives have not been accepted.
- 6.2 On occasions the EQIA process may lead a public authority to conclude that the existing policy is appropriate and no opportunities exist to better promote equality of opportunity. However, this conclusion is in itself a decision on the policy and must be made by the public authority, with top level involvement, and arrangements for future monitoring planned and agreed.
- 6.3 The legislation (Schedule 9 paragraph 9) requires public authorities to publish a report on the results of Equality Impact Assessments. The equality scheme must detail both how and where the report on EQIA results will be published (see Section 3 paragraph 5). It is therefore essential that this commitment is fully adhered to.

7. Monitoring for adverse impact in the future and publication of the results of such monitoring

- 7.1 A system must be established to monitor the impact of the policy in order to find out its effect on the relevant groups and sub groups within the equality categories. The results of ongoing monitoring must be reviewed on an annual basis. The public authority is required to publish the results of this monitoring (Schedule 9 paragraph 4 (2)(d)). The results of monitoring must be included in the public authorities annual review on progress to the Equality Commission. The Equality Scheme must specify how and where such monitoring information will be published (see Guide Section 3 paragraph 5). It is therefore essential that monitoring is carried out in a systematic manner and that the results are widely and openly published.

7.2 If the monitoring and analysis of results over a two year period show that the policy results in greater adverse impact than predicted, or if opportunities arise which would allow for greater equality of opportunity to be promoted, the public authority must ensure that the policy is revised to achieve better outcomes for the relevant equality groups.

Appendix A Glossary of Terms

Adverse Impact

Where a Section 75 category has been affected differently by a policy and the effect is less favourable, i.e. adverse. 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.

Consultation

In the context of Section 75, consultation is the process of asking those affected by a policy (i.e. service users, staff, the general public) for their views on how the policy could be implemented more effectively to ensure equality of opportunity across the 9 groups. Different circumstances will call for different types of consultation. Consultations could, for example, include meetings, focus groups, surveys and questionnaires.

Differential Impact

Differential impact occurs where a Section 75 group has been affected differently by a policy. This effect could either be positive, neutral or negative. A public authority must make a judgement as to whether a policy has a differential impact and then it must determine whether the impact is adverse, based on a systematic appraisal of the accumulated information.

Direct Discrimination

Direct discrimination consists of treating a person less favourably than others are or would be treated in the same circumstances. Direct discrimination may arise, for example, if a public authority has:

- a policy which precludes giving grants to certain religious groups; or
- a policy to charge only a certain racial group a deposit for use of facilities to cover damages.

A similar formula is used - in the Fair Employment and Treatment (NI) Order 1998, the Race Relations (NI) Order 1997, the Sex Discrimination (NI) Order 1976 (amended 1988) and the Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003 - to describe direct discrimination: that is the treatment of a person on the grounds of race, his or her sex, religious belief or sexual orientation etc. less favourably than another person is or would be treated. The Disability Discrimination Act 1995 however applies only to persons with a disability. In addition the Disability Discrimination Act provides that discrimination occurs as a result of unjustified failure to comply with the duty of reasonable adjustment. The Race Relations Order also includes segregation as a form of direct discrimination.

Equality Impact Assessment

The mechanism underpinning Section 75, where existing and proposed policies are assessed in order to determine whether they have an adverse impact on equality of opportunity for the relevant groups. EQIAs require the analysis of both quantitative and qualitative data.

Equality of Opportunity

The prevention, elimination or regulation of discrimination between people on grounds of characteristics including sex, marital status, age, disability, religious belief, political opinion, dependants, race and sexual orientation.

The promotion of equality of opportunity entails more than the elimination of discrimination. It requires proactive measures to be taken to secure equality of opportunity between the categories identified under Section 75.

Equality Scheme

A document which outlines a public authority's arrangements for complying with its Section 75 obligations. An equality scheme must include an outline of the public authority's arrangements for carrying out consultations, screening, equality impact assessments, monitoring, training and arrangements for ensuring access to information and services.

Good Relations

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.'

Indirect Discrimination

Indirect discrimination traditionally referred to the application of a requirement or condition equally to persons but which (i) has a disproportionate impact on a particular group(s), (ii) cannot be shown to be justifiable and (iii) has a detrimental impact on the individual concerned. For example:

- a residency requirement in a policy may indirectly discriminate on racial grounds; or
- a policy which requires participation on a full-time basis may indirectly discriminate against women or those with dependants.

This definition remains in relation to discrimination based upon colour or nationality. The law changed in 2003 in respect of religion and belief and together with the new rules on sexual orientation in 2003 and changes which occurred in the definition of indirect discrimination on the grounds of sex in the Sex Discrimination (Indirect Discrimination and Burden of Proof) Regulations (Northern Ireland) 2001 adopted a new approach. The new rules under the Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003 and the Fair Employment Order (Amendment) Regulations (Northern Ireland) 2003 have changed the term 'condition or requirement' in the above definition with the broader phrase 'provision, criterion or practice', as existed in the area of sex discrimination. This means that the law will now cover less formal practices as well. The law used to require that 'a smaller proportion of one group could comply with a requirement etc.' to be proved in discrimination cases involving indirect discrimination. This has now been changed and there is less of a reliance on statistical evidence allowing complaints to be made without such evidence. This change did not however apply to discrimination cases solely based upon colour or nationality.

Mainstreaming Equality

The integration of equal opportunities principles, strategies and practices into the every day work of public authorities from the outset. In other words, mainstreaming is the process of ensuring that equality considerations are built into the policy development process from the beginning, rather than being bolted on at the end. Mainstreaming can help improve methods of working by increasing a public authority's accountability, responsiveness to need and relations with the public. It can bring added value at many levels.

Mitigation of Adverse Impact

Where an equality impact assessment reveals that a particular policy has an adverse impact on equality of opportunity, a public authority must consider ways of delivering the policy outcomes which have a less adverse effect on the relevant groups; this is known as mitigating adverse impact.

Monitoring

Monitoring consists of continuously scrutinising and evaluating a policy to assess its impact on the Section 75 categories. Monitoring must be sensitive to the issues associated with human rights and privacy. Public authorities should seek advice from consultees and Section 75 representative groups when setting up monitoring systems.

Monitoring consists of the collection of relevant information and evaluation of policies. It is not solely about the collection of data, it can also take the form of regular meetings and reporting of research undertaken. Monitoring is not an end in itself but provides the data for the next cycle of policy screening.

New TSN

In 1991 the Secretary of State launched Targeting Social Need, an initiative designed to skew resources to those most in need. Following a series of critical reports the 1998 White Paper 'Partnership for Equality' relaunched the initiative as 'New TSN.'

New TSN aims to tackle social need and social exclusion by targeting efforts and available resources towards people, groups and areas in greatest social need. It is a principle which runs through relevant spending programmes across NI Departments and the NIO and which requires efforts and available programme resources to be skewed towards those objectively defined as being in greatest social need.

The policy is being advanced through three complementary elements: tackling unemployment and increasing employability; tackling inequality in other policy areas such as health, housing and education; and Promoting Social Inclusion (PSI).

The Promoting Social Inclusion (PSI) element of New TSN involves Departments working together and with partners outside Government to identify and tackle factors which can contribute to social exclusion and undertake positive initiatives to improve and enhance the life and circumstances of the most deprived and marginalised people in our community.

This element of New TSN addresses a series of issues, usually requiring a multi-agency approach, and concentrating on a small number at any one time. It emphasises prevention, co-ordination and evidence-based decision making.

Northern Ireland Act

The Northern Ireland Act, implementing the Good Friday Agreement, received Royal Assent on 19 November 1998. Section 75 of the Act created the statutory equality duties.

Northern Ireland Human Rights Commission

A statutory body established under Section 69 of the Northern Ireland Act 1998, which works to ensure that the human rights of everyone in Northern Ireland are fully protected in law, policy and practice.

OFMDFM

Office of the First Minister and Deputy First Minister, which has responsibility for co-ordinating the implementation of Section 75 across government departments.

PAFT

The Policy Appraisal and Fair Treatment (PAFT) Guidelines constituted the first non-statutory attempt at mainstreaming equality in Northern Ireland in January 1994. The aim of the PAFT Guidelines was to ensure that issues of equality and equity informed policy making and activity in all spheres and at all levels of government. PAFT has now been superseded by Section 75 of the Northern Ireland Act 1998.

Policy

The formal and informal decisions a public authority makes in relation to carrying out its duties. Defined in the New Oxford English Dictionary as ‘a course or principle of action adopted or proposed by a government party, business or individual’. In the context of Section 75 the term **policies** covers all the ways in which a public authority carries out or proposes to carry out its functions relating to Northern Ireland. Policies include unwritten as well as written policies.

Qualitative Data

Qualitative data refers to the experiences of individuals from their perspective, most often with less emphasis on numbers or statistical analysis. Consultations are more likely to yield qualitative than quantitative data.

Quantitative Data

Quantitative data refers to numbers, typically derived from either a population in general or samples of that population. This information is often analysed by either using descriptive statistics, which consider general profiles, distributions and trends in the data, or inferential statistics, which are used to determine ‘significance’ either in relationships or differences in the data.

SACHR

The Standing Advisory Commission on Human Rights (SACHR) has now been replaced by the Northern Ireland Human Rights Commission. SACHR, as part of their review of mechanisms in place to promote employment equality and reduce the unemployment differential, recommended that the PAFT Guidelines should be made a statutory requirement.

Screening

The procedure for identifying which policies will be subject to a full equality impact assessment, and how these impact assessments will be prioritised. The purpose of screening is to identify the policies which are likely to have a significant impact on equality of opportunity so that greatest resources can be devoted to improving these policies. Screening requires a systematic review of existing and proposed policies.

Schedule 9

Schedule 9 of the Northern Ireland Act 1998 sets out detailed provisions for the enforcement of the Section 75 duties, including an outline of what should be included in an equality scheme.

Section 75

Section 75 of the Northern Ireland Act provides that each public authority is required, in carrying out its functions relating to Northern Ireland, to have due regard to the need to promote equality of opportunity between:-

- persons of different religious belief, political opinion, racial group, age, marital status and sexual orientation;
- men and women generally;
- persons with a disability and persons without; and
- persons with dependants and persons without.

Without prejudice to these obligations each public authority in carrying out its functions relating to Northern Ireland must also have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.

Section 75 Investigation

An investigation carried out by the Equality Commission, under Schedule 9 of the NI Act 1998, arising from the failure of a public authority to comply with the commitments set out in its approved equality scheme.

There are two types of Commission investigation, these are as follows:

1. An investigation of a complaint by an individual who claims to have been directly affected by the failure of a public authority to comply with its approved equality scheme.
2. An investigation initiated by the Commission, where it believes that a public authority may have failed to comply with its approved equality scheme.

Appendix 1 Northern Ireland Act 1998, Section 75

Statutory Duty on Public Authorities

- 75.** (1) A public authority shall in carrying out its functions relating to Northern Ireland have due regard to the need to promote equality of opportunity -
- (a) between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
 - (b) between men and women generally;
 - (c) between persons with a disability and persons without; and
 - (d) between persons with dependants and persons without.
- (2) Without prejudice to its obligations under subsection (1), a public authority shall in carrying out its functions relating to Northern Ireland have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.
- (3) In this section “public authority” means -
- (a) any department, corporation or body listed in Schedule 2 to the Parliamentary Commissioner Act 1967 (departments, corporations and bodies subject to investigation) and designated for the purposes of this section by order made by the Secretary of State;
 - (b) any body (other than the Equality Commission) listed in Schedule 2 to the Commissioner for Complaints (Northern Ireland) Order 1996 (bodies subject to investigation);
 - (c) any department or other authority listed in Schedule 2 to the Ombudsman (Northern Ireland) Order 1996 (departments and other authorities subject to investigation);
 - (d) any other person designated for the purposes of this section by order made by the Secretary of State;
- (4) Schedule 9 (which makes provision for the enforcement of the duties under this section) shall have effect.

(5) In this section -

“disability” has the same meaning as in the Disability
Discrimination Act 1995; and

“racial group” has the same meaning as in the Race Relations
(Northern Ireland) Order 1997.

Appendix 2 Northern Ireland Act 1998, Schedule 9

Equality: Enforcement of Duties

The Equality Commission

1. The Equality Commission for Northern Ireland shall -
 - (a) keep under review the effectiveness of the duties imposed by Section 75;
 - (b) offer advice to public authorities and others in connection with those duties; and
 - (c) carry out the functions conferred on it by the following provisions of this Schedule.

Equality Schemes

2.
 - (1) A public authority to which this sub-paragraph applies shall, before the end of the period of six months beginning with the commencement of this Schedule or, if later, the establishment of the authority, submit a scheme to the Commission.
 - (2) Sub-paragraph (1) applies to any public authority except one which is notified in writing by the Commission that that sub-paragraph does not apply to it.
3.
 - (1) Where it thinks appropriate, the Commission may -
 - (a) request a public authority to which paragraph 2(1) does not apply to make a scheme;
 - (b) request any public authority to make a revised scheme.
 - (2) A public authority shall respond to a request under this paragraph by submitting a scheme to the Commission before the end of the period of six months beginning with the date of the request.

4. (1) A scheme shall show how the public authority proposes to fulfil the duties imposed by section 75 in relation to the relevant functions.
- (2) A scheme shall state, in particular, the authority's arrangements
 - (a) for assessing its compliance with the duties under Section 75 and for consulting on matters to which a duty under that section is likely to be relevant (including details of the persons to be consulted);
 - (b) for 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;
 - (c) for monitoring any adverse impact of policies adopted by the authority on the promotion of equality of opportunity;
 - (d) for publishing the results of such assessments as are mentioned in paragraph (b) and such monitoring as is mentioned in paragraph (c);
 - (e) for training staff;
 - (f) for ensuring, and assessing, public access to information and to services provided by the authority.
- (3) A scheme shall -
 - (a) conform to any Guidelines as to form or content which are issued by the Commission with the approval of the Secretary of State;
 - (b) specify a timetable for measures proposed in the scheme; and
 - (c) include details of how it will be published.
- (4) In this paragraph -

“equality of opportunity” means such equality of opportunity as is mentioned in Section 75(1);

“the relevant functions” means the functions of the public authority or, in the case of a scheme submitted in response to a request which specifies particular functions of the public authority, those functions.
5. Before submitting a scheme a public authority shall consult, in accordance with any directions given by the Commission -
 - (a) representatives of persons likely to be affected by the scheme; and
 - (b) such other persons as may be specified in the directions.

6. (1) On receipt of a scheme the Commission shall -
 - (a) approve it; or
 - (b) refer it to the Secretary of State.
- (2) Where the Commission refers a scheme to the Secretary of State under sub-paragraph (1)(b), it shall notify the Assembly in writing that it has done so and send the Assembly a copy of the scheme.

7. (1) Where a scheme is referred to the Secretary of State he shall -
 - (a) approve it;
 - (b) request the public authority to make a revised scheme; or
 - (c) make a scheme for the public authority.
- (2) A request under sub-paragraph (1)(b) shall be treated in the same way as a request under paragraph 3(1)(b).
- (3) Where the Secretary of State -
 - (a) requests a revised scheme under sub-paragraph (1)(b); or
 - (b) makes a scheme under sub-paragraph (1)(c),he shall notify the Assembly in writing that he has done so and, in a case falling within paragraph (b), send the Assembly a copy of the scheme.

8. (1) If a public authority wishes to revise a scheme it may submit a revised scheme to the Commission.
- (2) A revised scheme shall be treated as if it were submitted in response to a request under paragraph 3(1)(b).
- (3) A public authority shall, before the end of the period of five years beginning with the submission of its current scheme, or the latest review of that scheme under this sub-paragraph, whichever is the later, review that scheme and inform the Commission of the outcome of the review.

Duties arising out of equality schemes

9. (1) In publishing the results of such an assessment as is mentioned in paragraph 4(2)(b), a public authority shall state the aims of the policy to which the assessment relates and give details of any consideration given by the authority 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.
- (2) In making any decision with respect to a policy adopted or proposed to be adopted by it, a public authority shall take into account any such assessment and consultation as is mentioned in paragraph 4(2)(b) carried out in relation to the policy.
- (3) In this paragraph “equality of opportunity” has the same meaning as in paragraph 4.

Complaints

10. (1) If the Commission receives a complaint made in accordance with this paragraph of failure by a public authority to comply with a scheme approved or made under paragraph 6 or 7, it shall -
 - (a) investigate the complaint; or
 - (b) give the complainant reasons for not investigating.
- (2) A complaint must be made in writing by a person who claims to have been directly affected by the failure.
- (3) A complaint must be sent to the Commission during the period of 12 months starting with the day on which the complainant first knew of the matters alleged.
- (4) Before making a complaint the complainant must -
 - (a) bring the complaint to the notice of the public authority; and
 - (b) give the public authority a reasonable opportunity to respond.

Investigations

11. (1) This paragraph applies to -
- (a) investigations required by paragraph 10; and
 - (b) any other investigation carried out by the Commission where it believes that a public authority may have failed to comply with a scheme approved or made under paragraph 6 or 7.
- (2) The Commission shall send a report of the investigation to -
- (a) the public authority concerned;
 - (b) the Secretary of State; and
 - (c) the complainant (if any).
- (3) If a report recommends action by the public authority concerned and the Commission considers that the action is not taken within a reasonable time -
- (a) the Commission may refer the matter to the Secretary of State; and
 - (b) the Secretary of State may give directions to the public authority in respect of any matter referred to him.
- (4) Where the Commission -
- (a) sends a report to the Secretary of State under sub-paragraph (2)(b); or
 - (b) refers a matter to the Secretary of State under sub-paragraph (3)(a),
- it shall notify the Assembly in writing that it has done so and, in a case falling within paragraph (a), send the Assembly a copy of the report.
- (5) Where the Secretary of State gives directions to a public authority under sub-paragraph (3)(b), he shall notify the Assembly in writing that he has done so.

Government departments

- 12.** (1) Paragraphs 6, 7 and 11(2)(b) and (3) do not apply to a government department which is such a public authority as is mentioned in section 75(3)(a).
- (2) On receipt of a scheme submitted by such a government department under paragraph 2 or 3 the Commission shall -
- (a) approve it; or
 - (b) request the department to make a revised scheme.
- (3) A request under sub-paragraph (2)(b) shall be treated in the same way as a request under paragraph 3(1)(b).
- (4) Where a request is made under sub-paragraph (2)(b), the government department shall, if it does not submit a revised scheme to the Commission before the end of the period of six months beginning with the date of the request, send to the Commission a written statement of the reasons for not doing so.
- (5) The Commission may lay before Parliament and the Assembly a report of any investigation such as is mentioned in paragraph 11(1) relating to a government department such as is mentioned in sub-paragraph (1).

Appendix 3 Public Authorities Designated for Section 75 Purposes

(For ease of reference, the bodies are grouped within the main government departments).

Department of Agriculture and Rural Development	Date designated
Department of Agriculture and Rural Development	1 January 2000
Agricultural Research Institute for Northern Ireland	1 January 2000
Livestock and Meat Commission for Northern Ireland	1 January 2000
Loughs Agency	1 January 2000
Northern Ireland Fishery Harbour Authority	1 January 2000
Rural Development Council	1 January 2000
Department of Culture, Arts and Leisure	
Department of Culture, Arts and Leisure	1 January 2000
Arts Council for Northern Ireland	1 January 2000
Board of Trustees of National Museums and Galleries	1 January 2000
Fisheries Conservancy Board	1 January 2000
Northern Ireland Film Commission	5 April 2001
Northern Ireland Museums Council	1 January 2000
North-South Language Body	1 January 2000
Sports Council for Northern Ireland	1 January 2000
Waterways Ireland	1 January 2000
Department of Education	
Department of Education	1 January 2000
Belfast Education and Library Board	1 January 2000
Council for Catholic Maintained Schools	1 January 2000
North Eastern Education and Library Board	1 January 2000
Northern Ireland Council for Curriculum, Examinations and Assessment	1 January 2000
South Eastern Education and Library Board	1 January 2000
Southern Education and Library Board	1 January 2000
Staff Commission for Education and Library Boards	1 January 2000
Western Education and Library Board	1 January 2000
Youth Council for Northern Ireland	1 January 2000

Department for Employment and Learning	
Department for Employment and Learning	1 January 2000
Construction Industry Training Board	1 January 2000
Enterprise Ulster	1 January 2000
Governing body of the Armagh College of Further Education	5 April 2001
Governing body of the Belfast Institute of Further and Higher Education	5 April 2001
Governing body of the Castlereagh College of Further and Higher Education	5 April 2001
Governing body of the Causeway Institute of Further and Higher Education	5 April 2001
Governing body of the East Antrim Institute of Further and Higher Education	5 April 2001
Governing body of the East Down Institute of Further and Higher Education	5 April 2001
Governing body of the East Tyrone Institute of Further and Higher Education	5 April 2001
Governing body of the Fermanagh College of Further and Higher Education	5 April 2001
Governing body of the Limavady College of Further and Higher Education	5 April 2001
Governing body of the Lisburn Institute of Further and Higher Education	5 April 2001
Governing body of the Newry and Kilkeel Institute of Further and Higher Education	5 April 2001
Governing body of the North Down and Ards Institute of Further and Higher Education	5 April 2001
Governing body of the North East Institute of Further and Higher Education	5 April 2001
Governing body of the North West Institute of Further and Higher Education	5 April 2001
Governing body of the Omagh College	5 April 2001
Governing body of the Queen's University of Belfast	5 April 2001
Governing body of the St Mary's University College, a College of the Queen's University of Belfast	5 April 2001
Governing body of the Stranmillis College, a College of the Queen's University of Belfast	5 April 2001
Governing body of the University of Ulster	5 April 2001
Governing body of the Upper Bann Institute of Further and Higher Education	5 April 2001
Labour Relations Agency	1 January 2000
Office of the Certification Officer for Northern Ireland	1 January 2000
Ulster Supported Employment Limited	1 January 2000

Department of Enterprise, Trade and Investment	
Department of Enterprise, Trade and Investment	1 January 2000
General Consumer Council for Northern Ireland	1 January 2000
Health and Safety Executive for Northern Ireland	1 January 2000
InterTradeIreland	1 January 2000
Invest NI	8 April 2002
Northern Ireland Tourist Board	1 January 2000
Office of Director General of Electricity Supply for Northern Ireland	1 January 2000
Office of Director General of Gas for Northern Ireland	1 January 2000
Department of the Environment	
Department of the Environment	1 January 2000
Antrim Borough Council	1 January 2000
Ards Borough Council	1 January 2000
Armagh City and District Council	1 January 2000
Ballymena Borough Council	1 January 2000
Ballymoney Borough Council	1 January 2000
Banbridge District Council	1 January 2000
Belfast City Council	1 January 2000
Carrickfergus Borough Council	1 January 2000
Castlereagh Borough Council	1 January 2000
Coleraine Borough Council	1 January 2000
Cookstown District Council	1 January 2000
Craigavon Borough Council	1 January 2000
Derry City Council	1 January 2000
Down District Council	1 January 2000
Dungannon and South Tyrone Borough Council (Dungannon District Council)	1 January 2000
Fermanagh District Council	1 January 2000
Larne Borough Council	1 January 2000
Limavady Borough Council	1 January 2000
Lisburn City Council	1 January 2000
Local Government Officers Superannuation Committee	1 January 2000
Local Government Staff Commission for Northern Ireland	1 January 2000
Magherafelt District Council	1 January 2000
Moyle District Council	1 January 2000
Newry and Mourne District Council	1 January 2000
Newtownabbey Borough Council	1 January 2000

Department of the Environment (Cont'd)	
North Down Borough Council	1 January 2000
Omagh District Council	1 January 2000
Strabane District Council	1 January 2000
Department of Finance and Personnel	
Department of Finance and Personnel	1 January 2000
Ilex Urban Regeneration Company Limited	23 July 2004
Special EU Programmes Body	1 January 2000
Strategic Investment Board	30 October 2003
Department of Health, Social Services and Public Safety	
Department of Health, Social Services and Public Safety	1 January 2000
Altnagelvin Hospitals HSS Trust	1 January 2000
Armagh and Dungannon HSS Trust	1 January 2000
Belfast City Hospital HSS Trust	1 January 2000
Causeway HSS Trust	1 January 2000
Craigavon and Banbridge Community HSS Trust	1 January 2000
Craigavon Area Hospital Group HSS Trust	1 January 2000
Down Lisburn HSS Trust	1 January 2000
Eastern Health and Social Services Board	1 January 2000
Eastern Health and Social Services Council	1 January 2000
Fire Authority for Northern Ireland	1 January 2000
Food Safety Promotion Board	1 January 2000
Foyle HSS Trust	1 January 2000
Green Park HSS Trust	1 January 2000
Homefirst Community HSS Trust	1 January 2000
Mater Infirmorum Hospital HSS Trust	1 January 2000
Mental Health Commission for Northern Ireland	1 January 2000
Northern Ireland Practice And Education Council For Nursing And Midwifery	7 October 2002
Newry and Mourne HSS Trust	1 January 2000
North and West Belfast HSS Trust	1 January 2000
Northern Health and Social Services Board	1 January 2000
Northern Health and Social Services Council	1 January 2000
Northern Ireland Ambulance Service HSS Trust	1 January 2000
Northern Ireland Blood Transfusion Service Agency	1 January 2000
Northern Ireland Central Services Agency for Health and Social Services	1 January 2000

Department of Health, Social Services and Public Safety (Cont'd)	
Northern Ireland Medical and Dental Training Agency	1 April 2004
Northern Ireland Guardian Ad. Litem Agency	1 January 2000
Northern Ireland Health Promotion Agency	1 January 2000
Northern Ireland Regional Medical Physics Agency	1 January 2000
Northern Ireland Social Care Council	18 December 2000
Royal Group of Hospitals and Dental Hospitals	1 January 2000
South and East Belfast HSS Trust	1 January 2000
Southern Health and Social Services Board	1 January 2000
Southern Health and Social Services Council	1 January 2000
Sperrin Lakeland HSS Trust	1 January 2000
Ulster Community and Hospitals HSS Trust	1 January 2000
United Hospitals HSS Trust	1 January 2000
Western Health and Social Services Board	1 January 2000
Western Health and Social Services Council	1 January 2000
Department for Regional Development	
Department for Regional Development	1 January 2000
Belfast Harbour Commissioners	1 January 2000
Carlingford Lough Commissioners	1 January 2000
Coleraine Harbour Commissioners	1 January 2000
Londonderry Port and Harbour Commissioners	1 January 2000
Northern Ireland Transport Holding Company	23 July 2004
Warrenpoint Harbour Authority	1 January 2000
Department for Social Development	
Department for Social Development	1 January 2000
Abbeyfield (NI DEV) Society (Registered Housing Association)	1 April 2004
Abode (Registered Housing Association)	1 April 2004
Ark (Registered Housing Association)	1 April 2004
Ballynafeigh (Registered Housing Association)	1 April 2004
Belfast Community (Registered Housing Association)	1 April 2004
BIH (Registered Housing Association)	1 April 2004
Broadway (Registered Housing Association)	1 April 2004
Choice (Registered Housing Association)	1 April 2004
Clanmil (Registered Housing Association)	1 April 2004
Clonard (Registered Housing Association)	1 April 2004
Connswater (Registered Housing Association)	1 April 2004

Department for Social Development (Cont'd)	
Coral Crescent (Registered Housing Association)	1 April 2004
Corinthian (Registered Housing Association)	1 April 2004
Covenanter (Registered Housing Association)	1 April 2004
Craigowen (Registered Housing Association)	1 April 2004
Donacloney (Registered Housing Association)	1 April 2004
Dungannon and District (Registered Housing Association)	1 April 2004
Filor (Registered Housing Association)	1 April 2004
Flax (Registered Housing Association)	1 April 2004
Fold (Registered Housing Association)	1 April 2004
Gosford (Registered Housing Association)	1 April 2004
Grove (Registered Housing Association)	1 April 2004
Habinteg (Registered Housing Association)	1 April 2004
Hearth (Registered Housing Association)	1 April 2004
Laganside Corporation	1 January 2000
Larne and District (Registered Housing Association)	1 April 2004
Newington (Registered Housing Association)	1 April 2004
NI Co-Ownership (Registered Housing Association)	1 April 2004
North and West (Registered Housing Association)	1 April 2004
Northern Ireland Housing Executive	1 January 2000
Oaklee (Registered Housing Association)	1 April 2004
Open Door (Registered Housing Association)	1 April 2004
Presbyterian (Registered Housing Association)	1 April 2004
Rural (Registered Housing Association)	1 April 2004
Shac (Registered Housing Association)	1 April 2004
South Ulster (Registered Housing Association)	1 April 2004
St Matthew's (Registered Housing Association)	1 April 2004
Triangle (Registered Housing Association)	1 April 2004
Ulidia (Registered Housing Association)	1 April 2004
Wesley (Registered Housing Association)	1 April 2004
Woodvale and Shankill (Registered Housing Association)	1 April 2004
Office of the First Minister and Deputy First Minister	
Office of the First Minister and Deputy First Minister	1 January 2000
Northern Ireland Community Relations Council	1 January 2000
Northern Ireland Commissioner for Children and Young People	27 February 2003

Northern Ireland Office	
Northern Ireland Office	7 July 2000
Chief Electoral Officer for Northern Ireland	5 April 2001
Civil Service Commissioners for Northern Ireland	1 January 2000
Northern Ireland Human Rights Commission	7 July 2000
Northern Ireland Policing Board	3 December 2001
Office of the Independent Assessor of Military Complaints Procedures	5 April 2001
Police Ombudsman for Northern Ireland	3 December 2001
Police Service of Northern Ireland	3 December 2001
Probation Board for Northern Ireland	7 July 2000
Northern Ireland Assembly Commission	
Northern Ireland Assembly Commission	15 January 2003
Northern Ireland Audit Office	
Northern Ireland Audit Office	15 January 2003
Northern Ireland Court Service	
Northern Ireland Court Service	7 July 2000
Northern Ireland Legal Services Commission	23 July 2004
Department for Culture, Media and Sport (UK)	
Department for Culture, Media and Sport	7 July 2000
British Library Board	7 July 2000
Community Fund ⁵	7 July 2000
National Endowment for Science, Technology and the Arts	5 April 2001
New Opportunities Fund ⁵	7 July 2000
Trustees of the National Heritage Memorial	7 July 2000
Department of Education and Employment (UK)	
Governing body of the Open University	5 April 2001
Qualifications and Curriculum Authority	5 April 2001
Department for Environment Food and Rural Affairs	
Food from Britain	5 April 2001
Home Grown Cereals Authority	5 April 2001
Wine Standards Board of the Vintners' Company	5 April 2001
Wool Marketing Board	5 April 2001

⁵ From June 2004 'Big Lottery Fund' is the joint operating name of Community Fund and New Opportunities Fund; until legislation in 2006, they will retain separate duties under Section 75.

Department of Health (UK)	
National Biological Standards Board	15 January 2003
UK Transplant	5 April 2001
United Kingdom Xenotransplantation Interim Regulatory Authority	5 April 2001
Unrelated Live Transplant Regulatory Authority	5 April 2001
Department of Trade and Industry (UK)	
Department of Trade and Industry	7 July 2000
Consumer Council for Postal Services	15 January 2003
Exports Credits Guarantee Department	7 July 2000
Office of Communications (OFCOM)	23 July 2004
Postal Services Commission	15 January 2003
Electoral Commission (UK)	
Electoral Commission	23 July 2004
Foreign and Commonwealth Office (UK)	
British Council	7 July 2000
HM Customs and Excise	
HM Customs and Excise	7 July 2000
Home Office (UK)	
Information Commissioner's Office	7 July 2000
Inland Revenue	
Inland Revenue	7 July 2000
Social Fund Commissioner	
Social Fund Commissioner	23 July 2004

Appendix 4 Where to go for Help

Assistance may be obtained from organisations such as those listed below. Some of these are “umbrella” organisations. All the organisations listed, but especially the umbrella organisations, will be able to advise on other organisations for consultation and on how consultation can be conducted.

The Commission emphasises that the list is not exhaustive and includes just some of the voluntary, community, trades union and other groups active on equality matters. There is a wide range and number of groups operating across Northern Ireland and in more localised areas, often working on specific issues such as health or economic regeneration, which could be of assistance to public authorities in their policy development work. In addition some of the groups have sub-groups working on specific areas with a more targeted focus. The list, therefore, should be seen for what it is - a useful starting point.

<p>Age Concern Northern Ireland 3 Lower Crescent BELFAST BT7 1NR Phone: 028 9024 5729 Fax: 028 9023 5497 Email: info@ageconcernni.org</p>	<p>Age Sector Reference Group c/o Help the Aged, Northern Ireland Ascot House 24-31 Shaftesbury Square BELFAST BT2 7DB Phone: 028 9027 8636 Fax: 028 9024 8133 Email: slynch@hta.org.uk</p>
<p>Association of Chief Officers of Voluntary Associations (ACOVO) 97 Malone Avenue BELFAST BT9 6EQ Phone: 028 9068 7755 Fax: 028 9068 7755 Email: acovo@nireland.com</p>	<p>Barnardos 542 -544 Upper Newtownards Road BELFAST BT4 3HE Phone: 028 9067 2366 Fax: 028 9067 2399 Email: margaret.kelly@barnardos.org.uk</p>

<p>British Deaf Association (NI) Suite 3 Cranmore House 611b Lisburn Road BELFAST BT9 7GT Phone: 028 9038 7700 Fax: 028 9038 7707 Textphone: 028 9038 7706 Email: northernireland@bda.org.uk</p>	<p>Cara-friend Cathedral Buildings 64 Donegall Street BELFAST BT1 2GT Phone: 028 9027 8636 Fax: 028 9027 8636 Email: admin@cara-friend.org.uk</p>
<p>Carers Northern Ireland 58 Howard Street BELFAST BT1 6PJ Phone: 028 9043 9843 Fax: 028 9032 9299 Email: helen@carersni.demon.co.uk</p>	<p>Children in Northern Ireland 216 Belmont Road BELFAST BT4 2AT Phone: 028 9065 2713 Fax: 028 9065 0285 Email: jennifer@ci-ni.org.uk</p>
<p>Children's Law Centre 3rd Floor, Philip House 123-137 York Street BELFAST BT15 1AB Phone: 028 9024 5704 Fax: 028 9024 5679 Email: info@childrenslawcentre.org</p>	<p>Chinese Welfare Association 133-135 University Street BELFAST BT7 1HP Phone: 028 9028 8277 Fax: 028 9028 8278 Email: annalo@cwa-ni.org</p>
<p>Coalition on Sexual Orientation (CoSO) 2-6 Union Street BELFAST BT1 2JF Phone: 07788570007 Fax: 028 9031 9031 Email: admin@coso.org.uk</p> <p>(Contact details for member organisations of CoSO can be found at www.coso.org.uk)</p>	<p>Committee on the Administration of Justice (CAJ) 45-47 Donegall Street BELFAST BT1 2BR Phone: 028 9096 1122 Fax: 028 9024 6706 Email: tim@caj.org.uk</p>

<p>Community Development and Health Network (NI) 30a Mill Street NEWRY BT34 1EY Phone: 028 3026 4606 Fax: 028 3026 4626 Email: ruthsutherland@cdhn.org</p>	<p>Community Relations Council (CRC) Glendinning House 6 Murray Street BELFAST BT1 6DN Phone: 028 9022 7500 Fax: 028 9022 7551 Email: info@community-relations.org.uk</p>
<p>Derry Well Woman 17 Queen Street DERRY BT48 7EQ Phone: 028 7136 0777 Fax: 028 7137 0103 Email: info@derrywellwoman.org</p>	<p>Disability Action Portside Business Park 189 Airport Road West BELFAST BT3 9ED Phone: 028 9029 7880 Fax : 028 9029 7881 Textphone:028 9029 7882 Email: hq@disabilityaction.org</p>
<p>Down's Syndrome Association Graham House Knockbracken Healthcare Park Saintfield Road BELFAST BT8 8BH Phone: 028 9070 4606 Fax: 028 9070 4075 Email: donnalynch2004@yahoo.co.uk</p>	<p>East Belfast Community Development Agency 269 Albertbridge Road BELFAST BT5 4PY Phone: 028 9045 1512 Fax: 028 9073 8039 Email: info@ebcda.org</p>

<p>Employers' Forum on Disability Banbridge Enterprise Centre Scarva Road Industrial Estate BANBRIDGE BT32 3QD Phone: 028 4062 4526 Fax: 028 4066 9665 Email: info@efdni.org</p>	<p>Equality Coalition 45/47 Donegall Street BELFAST BT1 2BR Phone: 028 9096 1120 Fax: 028 9024 6706</p>
<p>Falls Community Council 275-277 Falls Road BELFAST BT12 6FD Phone: 028 9020 2030 Fax: 028 9020 2031 Email: fallscouncil@yahoo.com</p>	<p>Fermanagh Women's Network 32 Paget Lane ENNISKILLEN BT74 7HT Phone: 028 6632 8998 Fax: 028 6634 0160 Email: fwn@care4free.net</p>
<p>FPA 113 University Street BELFAST BT7 1HP Phone: 028 9032 5488 Fax: 028 9031 2212 Email: belfast@fpa.org.uk</p>	<p>Gay and Lesbian Youth Northern Ireland Cathedral Buildings 64 Donegall Street BELFAST BT1 2GT Phone: 028 9027 8636 Fax: 028 9027 8636 Email: terry@glyni.org.uk</p>
<p>Gingerbread Northern Ireland 169 University Street BELFAST BT7 1HR Phone: 028 9023 1417 Fax: 028 9024 0740 Email: enquiries@gingerbreadni.org</p>	<p>Help the Aged, Northern Ireland Ascot House 24-31 Shaftesbury Square BELFAST BT2 7DB Phone: 028 9023 0666 Fax: 028 9024 8183 Email: helptheagedni@helptheaged.org.uk</p>

<p>Indian Community Centre 86 Clifton Street BELFAST BT13 1AB Phone: 028 9024 9746 Fax: 028 9027 8922 Email: info@iccbelfast.org.uk</p>	<p>Information Commissioner Regus House 33 Clarendon Dock – Laganside BELFAST BT3 1BG Phone: 028 9051 1270 Fax: 028 9051 1201 Email: ni@ico.gsi.gov.uk</p>
<p>Lesbian Line Cathedral Buildings 64 Donegall Street BELFAST BT1 2GT Phone: 028 9023 8668 (Thursday 7.30pm - 10.00pm) Email: admin@cara-friend.org.uk</p>	<p>Magherafelt Women's Group The Learning Lodge 27-29 Moneymore Road MAGHERAFELT BT45 6AG Phone: 028 7930 1601 Fax: 028 7963 3306 Email: thelearninglodge@yahoo.co.uk</p>
<p>MENCAP Segal House 4 Annadale Avenue BELFAST BT7 3JH Phone: 028 9069 1351 Fax: 028 9064 0121 Email: mencapni@mencap.org.uk</p>	<p>Multi-Cultural Resource Centre 9 Lower Crescent BELFAST BT7 1NR Phone: 028 9024 4639 Fax: 028 9032 9581 Email: info@mcrc-ni.org</p>
<p>Newry & Mourne Senior Citizens' Consortium Ballybot House 28 Cornmarket NEWRY BT35 8BG Phone: 028 3026 6024 Fax: 028 3026 1411 Email: denise-nmscc@btconnect.com</p>	<p>Newry & Mourne Women Ltd Ballybot House 28 Cornmarket NEWRY BT35 8BG Phone: 028 3025 6148 Fax: 028 3025 6148 Email: newwoman@globalnet.co.uk</p>

<p>Newtownabbey Senior Citizens' Forum 6a Ballyclare Road NEWTOWNABBEY BT36 5EX Phone: 028 9083 0425 Fax: 028 9083 0425 Email: nsf@hotmail.com</p>	<p>NIGRA (Northern Ireland Gay Rights Association) 46 Malone Avenue BELFAST BT9 6ER Phone: 028 9066 5257 Fax: 028 9066 4111 Email: nigra@dnet.co.uk or alainlongchamp@hotmail.com</p>
<p>Northern Ireland African Cultural Centre 12 Upper Crescent BELFAST BT7 1NT Phone: 028 9023 8742 Fax: 028 9023 8742 Email: info@naicc.org</p>	<p>Northern Ireland Anti-Poverty Network Room 3 58 Howard Street BELFAST BT1 6PJ Phone: 0845 120 3771 Fax: 028 9024 4553 Email: info@niapn.org</p>
<p>Northern Ireland Association for Mental Health 80 University Street BELFAST BT7 1HE Phone: 028 9032 8474 Fax: 028 9023 4940 Email: a.ferguson@niamh.co.uk</p>	<p>Northern Ireland Human Rights Commission (NIHRC) Temple Court 39 North Street BELFAST BT1 1NA Phone: 028 9024 3987 Fax: 028 9024 7844 Email: nihrc@belfast.org.uk</p>
<p>Northern Ireland Committee, Irish Congress of Trade Unions (NIC-ICTU) Congress House 3 Crescent Gardens BELFAST BT7 1NS Phone: 028 9024 7940 Fax: 028 9024 6898 Email: info@ictuni.org</p>	<p>Northern Ireland Council for Ethnic Minorities (NICEM) 3rd Floor Ascot House 24-31 Shaftesbury Square BELFAST BT2 7DB Phone: 028 9023 8645 Fax: 028 9031 9666 Email: info@nicem.org.uk</p>

<p>Northern Ireland Council for Voluntary Action (NICVA) 61 Duncairn Gardens BELFAST BT15 2GB Phone: 028 9087 7777 Fax: 028 9087 7799 Email: seamus.mcaleavey@nicva.org</p>	<p>Northern Ireland Office Human Rights and Equality Unit 11 Millbank LONDON SW1P 4PN Phone: 020 7210 0891 Fax: 020 7210 0248 Email: HREU@nio.x.gsi.gov.uk</p>
<p>Northern Ireland Office Central Management Unit Stormont House Annexe Stormont Estate BELFAST BT4 3SH Phone: 028 9052 3533 Fax: 028 9052 3528 Email: simon.marsh@nio.x.gsi.gov.uk</p>	<p>Northern Ireland Public Service Alliance (NIPSA) Harkin House 54 Wellington Park BELFAST Phone: 028 9066 1831 Fax: 028 9066 5847 Email: info@nipsa.org.uk</p>
<p>Northern Ireland Statistics and Research Agency (NISRA) McAuley House 2-14 Castle Street BELFAST BT1 1SA Phone: 028 9034 8104 Fax: 028 9034 8106 Email: norman.caven@dfpni.gov.uk</p>	<p>Northern Ireland Women's Aid Federation 129 University Street BELFAST BT7 1HP Phone: 028 9024 9041 Fax: 028 9023 9296 Email: info@niwaf.org</p> <p>24 Hr Domestic Violence Helpline: 028 9033 1818</p>

<p>NSPCC Jennymount Court North Derby Street BELFAST BT15 3HN Phone: 028 9035 1135 Fax: 028 9035 1100 Email: creid@nspcc.org.uk</p>	<p>North West Community Network 6-8 Pump Street DERRY BT48 6JG Phone: 028 7127 9090 Fax: 028 7127 9357 Email: info.nwcn@dnet.co.uk</p>
<p>North West Forum of People with Disabilities 58 Strand Road DERRY BT48 7AJ Phone: 028 7130 9191 Fax: 028 7130 9191 Email: northwestforum@utvinternet.com</p>	<p>NUS USI The Student Movement NI 29 Bedford Street BELFAST BT2 7EJ Phone: 028 9024 4641 Fax: 028 9043 9659 Email: info@nistudents.org</p>
<p>Office of the First Minister and Deputy First Minister Statutory Duty and Human Rights Unit Room E3.04 - Castle Buildings Stormont Estate Upper Newtownards Road BELFAST BT4 3SG Phone: 028 9052 3144 Fax: 028 9052 3323 Email: claire.archbold@ofmdfmni.gov.uk</p>	<p>Omagh Women's Area Network 2nd Floor, Unit 8 - Community House 2 Drumragh Avenue OMAGH BT78 1DP Phone: 028 8224 0990 Fax: 028 8224 0496 Email: owan@btinternet.com</p>

<p>Parents and Professionals and Autism Knockbracken Healthcare Park Saintfield Road BELFAST BT8 8BH Phone: 028 9040 1729 Fax: 028 9040 3467 Email: info@autismni.org</p>	<p>Press for Change 4 Glenside Road DERRY BT48 0BW Phone: 07779916519 Email: brownar@eircom.net</p>
<p>Queer Space PO Box 160 BELFAST BT1 2AU Email: queer_space@yahoo.com</p>	<p>Royal National Institute for the Blind (NI) 40 Linenhall Street BELFAST BT2 8BA Phone: 028 9032 9373 Fax: 028 9027 8119 Email: martin.walls@rnib.org.uk</p>
<p>Royal National Institute for Deaf People (NI) Wilton House 5 College Square North BELFAST BT1 6AR Phone: 028 9023 9619 (Voice/Text) VideoPhone: 028 9043 8354 Fax: 028 9031 2032 Email: helpline@rnid.org.uk</p>	<p>Rural Community Network 38a Old Town Street COOKSTOWN BT80 8EF Phone: 028 8676 6670 Fax: 028 8676 6006 Email: info@ruralcommunitynetwork.org</p>
<p>Save the Children 15 Richmond Park Belfast BT10 0HB Phone: 028 9043 1123 Fax: 028 9043 1314 Email: niinfo@savethechildren.org.uk</p>	<p>Sense NI The Manor House 51 Mallusk House NEWTOWNABBEY BT36 4RU Phone: 028 9083 3430 Fax: 028 9084 4232 Email: senseni@senswest.org.uk</p>

<p>Staff Commission for Education and Library Boards Forestview Purdy's Lane BELFAST BT8 7AR Phone: 028 9049 1461 Fax: 028 9049 1744 Email: patricia.weir@scelb.org.uk</p>	<p>The Cedar Foundation Malcolm Sinclair House 31 Ulsterville Avenue BELFAST BT9 7AS Phone: 028 9066 6188 Fax: 028 9068 2400 Email: info@cedar-foundation.org</p>
<p>The Guide Dogs for the Blind Association Lanesborough House 15 Sandown Park South - Knock BELFAST BT5 6HE Phone: 028 9047 1453 Fax: 028 9065 5097 Email: guidedogs.org.uk</p>	<p>The Local Government Staff Commission for Northern Ireland (LGSC) Commission House 18-22 Gordon Street BELFAST BT1 2LG Phone: 028 9031 3200 Fax: 028 9031 3151 Email: info@lgsc.org.uk</p>
<p>The Rainbow Project 2-6 Union Street BELFAST BT1 2JF Phone: 028 9031 9030 Fax: 028 9031 9031 Email: policy@rainbow-project.com</p>	<p>The Women's Centre Béibhinn House DERRY BT48 6BB Phone: 028 7126 7672 Fax: 028 7126 6766 Email: info@thewomencentre.co.uk</p>
<p>Traveller and Gay (TAG) c/o BTEDG 12 (Unit 2) Blackstaff Complex 77 Springfield Road BELFAST BT12 7AE Phone: 07815099583 Email: travellerandgay@aol.com</p>	<p>Traveller Movement Northern Ireland 30 University Street BELFAST BT7 1FZ Phone: 028 9020 2727 Fax: 028 9020 2727 Email: info@tmni.org</p>

<p>UNISON Unit 4 Fortwilliam Business Park Dargan Road BELFAST BT3 9JZ Phone: 028 9077 0813 Fax: 028 9077 9772 Email: p.mckeown@unison.co.uk</p>	<p>West Belfast Economic Forum 148/158 Springfield Road BELFAST BT12 7DR Phone: 028 9087 4545 Fax: 028 9087 5050 Email: info@wbef.org</p>
<p>Women's Forum Northern Ireland Steadfast 72 Jordanstown Road NEWTOWNABBEY BT37 0GC Phone: 028 9031 5100 Fax: 028 9031 4864 Email: annking@line1.net</p>	<p>Women's Information Group 6 Mount Charles BELFAST BT7 1NZ Phone: 028 9024 4119 Fax: 028 9024 4119 Email: women@infogroup.club24.co.uk</p>
<p>Women's Resource and Development Agency (WRDA) 6 Mount Charles BELFAST BT7 1NZ Phone: 028 9023 0212 Fax: 028 9024 4363 Email: info@wrda.net</p>	<p>Women's Support Network Downtown Women's Building 109 - 113 Royal Avenue BELFAST BT1 1FF Phone: 028 9023 6923 Fax: 028 9031 0307 Email: co-ord@womenssupportnetwork.org</p>
<p>Youth Council for Northern Ireland Forestview Purdy's Lane BELFAST BT8 7AR Phone: 028 9064 3882 Fax: 028 9064 3874 Email: info@youthcouncil-ni.org.uk</p>	

Appendix 5 Some Useful Publications

This is not an exhaustive list of publications. It will be periodically updated by ECNI and forwarded to all public bodies and the voluntary and community organisation and groups, as an update, for inclusion in their Revised Guide(s).

European Community

Commission of the European Communities,
Communication of the Commission on Incorporating Equal
Opportunities for Women and Men into all Community Policies and
Activities,
COM(96) 67 final, Brussels, 21.02.1996.

Commission of the European Communities,
Communication of the Commission on Equality of Opportunity for
People with Disabilities,
COM(96) 406 final, 30.07.1996, p. 12.

Commission of the European Communities,
A Guide to Gender Impact Assessment,
September 1997

Commission of the European Communities,
Progress Report from the Commission on the follow-up of the
Communication: "Incorporating equal opportunities for women and
men into all Community policies and activities",
COM(1998)122 final, Brussels, 4 March 1998

A User's Guide to the International Convention on the Elimination of
Racial Discrimination, Joint Committee of the Irish Human Rights
Commission and the Northern Ireland Human Rights Commission,
September 2003, Phone Contact 00 353 1858 9601 and (0) 28 9024
3987

Council of Europe

Council of Europe,
Rapporteur Group on Equality between Women and Men, Gender
Mainstreaming,
GR-EG (98)1, 26 March 1998

Council of Europe, Committee of Ministers,
Recommendation No. R(98)14 of the Committee of Ministers to
Member States on Gender Mainstreaming

Northern Ireland

A Mighty Silence : A report on the needs of Lesbians and Bisexual Women in Northern Ireland, Marie Quiery - Lesbian Advocacy Service Initiative (March 2002)

Charting the Equality Agenda - A coherent Framework for Equality Strategies in Ireland North and South by Katherine E. Zappone, Equality Commission (2001)

Osborne, R et al., "The implementation of the Policy Appraisal and Fair Treatment Guidelines in Northern Ireland", in Policy Aspects of Fair Employment in Northern Ireland (Eithne McLaughlin and Padraic Quirk eds. SACHR, 1996)

Seen and Heard? Consulting and involving young people within the public sector – Youth Council for Northern Ireland (2001)

Taking the Initiative: Promoting young people's involvement in public decision making in Northern Ireland – Rodney Green for Save the Children and the Youth Council for Northern Ireland

Consulting with Children and Young People: Office of Law Reform's Experience, Claire Archbold and Claire Irvine, Child Care in Practice, Vol 8 No1, 2000

Getting It Right? The State of Children's Rights in Northern Ireland at the end of the 20th Century, Teresa Geraghty, Save The Children and The Children's Law Centre, 1999

Effective Consultation, MENCAP, 2000

Breaking Point, MENCAP, Understanding Learning Disability, www.mencap.org.uk/breakingpoint

Enhancing the Rights of Older People in Northern Ireland-Maura McCallion-Northern Ireland Human Rights Commission, October 2001

Agenda for the Age: The Road Ahead for Older People in Northern Ireland- Contact Age Sector Reference Group

Out of the Shadows-An Action Research Report into Families, Racism and Exclusion in Northern Ireland –Contact NICEM

The Chill Factor or Kill Factor, Sectarianism Intimidation and its Impact on Work Patterns in West Belfast, McVeigh, Robert and Fisher, Charlie, February 2002

Accommodating Nomadism, Siobhan Molloy, Traveller Movement (NI) 1998

The Northern Ireland Assembly and Women-Assessing the Gender Defecit, Margaret Ward, Democratic Dialogue, December 2000

Enhancing the Rights of Lesbian, Gay and Bisexual People in Northern Ireland, Northern Ireland Human Rights Commission, 2001

Hinds B, Mainstreaming Equality in Northern Ireland in 'Women Making Constitutions: New Politics and Comparative Perspectives', eds Dobrowolsky A, Hart V, Palgrave Press (expected 2004)

Ireland

National Economic and Social Forum,
Equality Proofing Issues,
National Economic and Social Forum, February 1996, Dublin

Building the Picture: The role of data in achieving equality by Ursula Barry - Women's Education Research and Resource Centre, University College Dublin, Equality Authority, May 2000

Gender Proofing and the European Structural Funds: Outline Guidelines. Report Commissioned by the Department of Justice, Equality and Law Reform July 1999 - Siobhán Mullally Law Faculty, NUI (Cork)

United Kingdom

Equal Opportunities Commission,
Mainstreaming Gender in Local Government,
Equal Opportunities Commission, 1997, Manchester

The Women's Unit, Cabinet Office,
Policy Appraisal for Equal Treatment,
November 1998 (available at: <http://www.cabinet-office.gov.uk/womens-unit/1999/equal.htm>)

Assessment of Innovative approaches to testing community opinion -
Andra Laird, Jo Fawcett, Fiona Rait and Sharon Reid - The Scottish
Executive Central Research Unit 2000

Code of Practice pack containing, Code of practice on the duty to
promote race equality, A Guide for public authorities, A Guide for
schools, A Guide for institutions of further and higher education and
Ethnic monitoring: A Guide for public authorities, Commission for Racial
Equality

Consulting children and Young People: Charter Mark Assessor Toolkit
Lina Fajerman and Phil Tresseder, Save the Children

Empowering children and young people – Children's Rights Office and
Save the Children

Equality and Sexual Orientation, A Guide to involving and consulting
the Lesbian, Gay, Bisexual and Trans Community, May 2001

Learning from Experience: Lessons in Mainstreaming Equal
Opportunities - Fiona Mackay and Kate Bilton - Governance of Scotland
Forum University of Edinburgh
- Scottish Executive

Listen Up! Effective Community Consultation (Management Paper)
Audit Commission

McCrudden, C. Mainstreaming equality in the governance of Northern
Ireland. *Fordham International Law*, 22.

Participation Works! 21 techniques of community participation for the
21st century New Economics Foundation 1998

Pathways to Participation: Openings, Opportunities and Obligations - A
new model for enhancing children's participation in decision-making, in
line with Article 12.1 of the United Nations

Canada

Status of Women Canada,
Setting the Stage for the Next Century: The Federal Plan for Gender
Equality,
August 1995

Status of Women Canada,
Discussion Paper on Approaches to Consultation,
September 1997

Status of Women Canada,
Gender-Based Analysis: A Guide for policy-making (Working
Document), March 1996 (available at: <http://www.swc-cfc.gc.ca/>)

New Zealand

Ministry of Women's Affairs,
The Full Picture: Guidelines for Gender Analysis,
Ministry of Women's Affairs, 1996 (available at:
<http://www.mwa.govt.nz/fullpicture/>)

Codes of Practice

Age diversity in employment: A Code of Practice,
(Department of Education and Employment, 1999, Nottingham)

Code of Practice for the Elimination of Discrimination in the field of
employment against disabled persons or persons who have had a
disability,
(Department of Economic Development, 1996, available from The
Stationery Office)

Guidance on matters to be taken into account in determining
questions relating to the definition of disability
(Department of Economic Development, 1996, available from The
Stationery Office)

Code of Practice Rights of Access, Goods, Facilities, Services and Premises,
(Department of Health and Social Services, 1996, available from The Stationery Office)

Code of Practice for Employers for the Elimination of Race Discrimination and the Promotion of Equality of Opportunity
(Commission for Racial Equality for Northern Ireland, 1999, Belfast)

Code of Practice on Equal Pay
(Equal Opportunities Commission for Northern Ireland, 1999, Belfast)

Removing Sex Bias from Recruitment and Selection: A Code of Practice
(Equal Opportunities Commission for Northern Ireland, 1995, Belfast)

Fair Employment in Northern Ireland: Code of Practice
(Fair Employment Commission, 1999, Belfast)

Appendix 6 Northern Ireland, UK, European and International Legal Obligations

Northern Ireland and UK

Northern Ireland Act 1998

Fair Employment and Treatment (Northern Ireland) Order 1998

Disability Discrimination Act 1995

Sex Discrimination (Northern Ireland) Order 1976, as amended by the Sex Discrimination (Northern Ireland) Order 1998

Equal Pay Act (Northern Ireland) 1970

Human Rights Act 1998

Race Relations (Northern Ireland) Order 1997

Employment Rights (Northern Ireland) Order 1996

Data Protection Act 1998

Freedom of Information Act 2000

European Community

Equal Treatment Directive 76/207/EEC, as amended by Directive 2002/73/EC (to be implemented by 5 October 2005)

Equal Pay Directive 75/117/EEC

Pregnant Workers Directive 92/85/EEC

Social Security Directive 79/7/EEC

Parental Leave Directive 97/75/EC

Burden of Proof Directive 97/80/EC, as amended by Council Directive 98/52/EC (application to UK)

Equal Treatment in Occupational Social Security Schemes Directive
96/97/EC

Equal Treatment in Self-Employment Directive 86/613/EEC

Part-time Work Directive 97/81/EC

General Framework for Equal Treatment in Employment and Occupation
Council Directive 2000/78/EC (to be implemented by 2 December 2003 for
religion or belief and sexual orientation and by 2 December 2006 for age and
disability)

Equal Treatment between persons irrespective of racial or ethnic origin (Race
Directive) Council Directive 2000/43/EC (to be implemented by 19 July 2003)

Article 119 Treaty of Rome (now after amendment Article 141-EEC)

International

International Covenant on Civil and Political Rights 1966

International Covenant on Economic, Social and Cultural Rights 1966

UN Convention on the Elimination of All Forms of Racial Discrimination

UN Convention on the Elimination of All Forms of Discrimination against
Women

UN Convention on the Rights of the Child

UN Standard Rules on Equalisation of Opportunities for People with
Disabilities

Council of Europe Framework Convention on the Protection of National
Minorities

The European Charter for Regional or Minority Languages (came into force
2 July 2001)

Overview of Legislative Requirements

There are a large number of laws that protect people against discrimination in Northern Ireland. The main pieces of legislation protect people against being discriminated against on the basis of sex or gender – this includes men and women and those who are transgendered (sometimes referred to as transsexuals or people who have undergone a sex change), marital status - protection for married people – but not single people, religion – both Catholics and Protestants and other religions including Muslims, Sikhs and Jews, and those with no religious beliefs, political belief which includes issues to do with how a person votes and their general political opinion includes unionist, nationalist, republican and loyalist beliefs, racial grounds – including race, colour, nationality, ethnic and national origins and Irish Travellers. The legislation also protects disabled people from being discriminated against and, since 2 December 2003, there is protection on grounds of sexual orientation – This includes gay men, lesbians, bi-sexual people and heterosexuals. There are also protections in employment law for people with caring responsibilities and those with dependants.

Since October 2000, Section 6 of the Human Rights Act 1998, made it unlawful for a public authority to act in a way that was incompatible with a right under the European Convention on Human Rights, including the right to enjoy Convention rights without discrimination. This adds to the general protection against discrimination in society.

The law has been strengthened further by a number of European Directives. There has been a Gender Directive dating back to 1976⁶ which has provided strong protections within the European Union on the grounds of sex, marital status, pregnancy and maternity. This was strengthened by the Burden of Proof Directive in 1997⁷ which made it easier to complain against sex discrimination in employment.

⁶ Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and working conditions.

⁷ Council Directive 97/80/EC of 15 December 1997 on the burden of proof in cases of discrimination based on sex.

More recently there have been three Directives emanating from the European Union which have an impact on equality law. Firstly, the Race Directive 2000⁸ required Member States to bring in laws to protect against discrimination on the grounds of race by 19th July 2003. Secondly, the Framework Employment Directive 2000⁹ required Member States to bring in changes to the law in respect to protections in employment on the grounds of religion and political opinion and to bring in new protections in employment for sexual orientation by 2 December 2003. There were also requirements to change the law in relation to employment and disability and to extend protection in employment to cover age by December 2006. And thirdly, the Gender Directive 2003¹⁰ amended the original 1976 Gender Directive and was designed to bring it up to the same standard as the Race and Framework Employment Directives. Its provisions are very similar to the Framework Employment Directive and have to be complied with by October 2005. There is also another fourth Directive due to be agreed by the EU Member States in 2004 which, when agreed, will cover sex discrimination in the provision of goods, facilities and services.

To comply with the EU Directives a number of changes to the law have occurred in Northern Ireland. The Race Relations Order (Amendment) Regulations (Northern Ireland) 2003 came into effect on 19th July 2003. This made a number of positive changes to race relations law in the areas of employment, goods, facilities and services and included new protections against discrimination in the area of social advantages e.g. concessionary schemes and social protections e.g. social security. There was also, importantly, a new duty on public authorities not to discriminate.

The race regulations were followed by the Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003 and the Fair Employment and Treatment Order (Amendment) Regulations (Northern Ireland) 2003 which took effect in December 2003 and all together included a new definition of indirect discrimination, the adoption of a definition of harassment, new rules on genuine occupational requirements, and changes to the burden of proof requirements in Tribunals¹¹.

⁸ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

⁹ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

¹⁰ Council Directive 2002/73/EC of 23 September 2003 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and working conditions.

¹¹ The Race Directive also changed the law in respect to burden of proof in the County Court.

The Regulations extended protection inter alia to office holders and private households and made changes to the list of exemptions in the legislation. Whilst comprehensive these changes have however created some confusion. The Race Regulations only covered race, ethnic or national origins but do not amend the law in respect to colour or nationality.

There are currently proposals for a Single Equality Act for Northern Ireland late in 2006.

Appendix 7 Consultation – What works and what doesn't?

Equality Commission Survey, August 2002

It was suggested that the 'big bang' approach had created unrealistic and ill-formed expectations both in the public sector and in the community and voluntary sectors and that a 'gearing up' and 'phased' approach would have been more appropriate.

Questions about consultation drew a range of views. There was consensus that blanket mail shots to everyone on a public authority's consultation list is rarely appropriate and should not be routinely advocated. Good consultation is dependent upon the engagement and involvement of the Section 75 groups and where the policy area or issue is understood and appears to directly affect consultees. It is hard to get away from the reality that without the involvement of the Section 75 Groups, the process becomes bureaucratic and has minimal impact on policy decisions. Some voluntary/community respondents said that many draft schemes did not meet the minimum standards set by the Commission's Guide. As a result much of consultee responses and time taken to respond was in attempting to ensure minimum standards were met.

Good consultation practice

- deploying a range of consultation methods;
- not relying exclusively on written consultation;
- developing personal contact with relevant groups;
- going to external groups early in the formulation of policy;
- ensuring specific needs are met e.g. information in alternative formats, interpreter service, provision of child care facilities, travel assistance and targeting of groups;
- showing willingness to outreach and visit consultees in their localities;
- consultations that are more focused on users who are directly affected by services;
- consultation using existing links with service users, voluntary and community groups;
- pre-consultation letters to ascertain level of interest following up telephone calls to consultees to encourage participation/attendance;
- providing brief focused documentation with use of plain language;
- documents sent out before workshop/seminar to form basis of open discussion about the proposed policy;

- face-to-face focus groups that allow some informal discussion and questioning;
- providing details of responses to consultees as to how comments were taken on board;
- when a poor response, reminder issued to all consulted and deadline extended by three weeks;
- publishing a summary of responses received;
- specific consultation events highlighted included:
 - collaborative approach within Department of Health Social Services and Public Safety;
 - joint consultation by Belfast City Council, Housing Executive, Belfast ELB/EHSSB event in the Waterfront Hall;
 - Greater Craigavon Network Equality Forum;
 - Arts Council on Access to Arts; and
 - Further Education Sector collective group meetings;
- specific consultation approaches highlighted included:
 - Office of Law Reform consultation on physical punishment including web consultation with young people, and use of focus groups with a narrative story based consultation for 4 to 6 year olds;
 - telephone consultation with carers arranged through carers' umbrella group;
 - lunch time consultation events in venues to act as incentive for older people to attend and having these where people are located rather than fixing the meeting to suit civil servants; and
 - applying guidance in the Youth Council's "Seen and Heard" publication.

Poor consultation practice

- general 'mailshots' with no targeting and no follow-up;
- continuously consulting the list when little feedback coming;
- public authorities adhering to the traditional two-way written consultation process and ignoring other methods of consultation to directly engage with the affected groups;
- not requesting information on specific requirements of consultees - parking, directions, signers;
- failing to take account of the needs of specific groups e.g. mothers with young children, disabled people;
- public meetings which produce disappointing attendance and are not always a productive means of consultation with considerable cost in terms of time, people and other resources often outweighing benefits;

- viewing EQIA consultation as a one-off event rather than a process to start at policy making;
- documents presented as a fait accompli without any chance to change;
- EQIAs that do not attempt to gather further data/research;
- artificial separation of policies e.g. driving theory, practical test and obtaining a provisional licence;
- issuing huge complex and technical consultation documents which were not relevant to consultees' work;
- bulky and jargon-filled documents where there is no possibility of having face-to-face information sharing /discussions;
- issuing another document draft after some slight revision thus confusing consultees;
- neglecting to include consultee name and address in screening report consultation;
- assuming that all consultees are starting from the same knowledge level with respect to their awareness of the issues under discussion;
- comments apparently ignored or no feedback on consultation exercise, no information about how the policy area is progressing, usually get feedback in form of finished document difficult to see if and where consultee response has been taken on board;
- use of external consultants who act as a barrier to direct contact between consultee and policy maker and prevent partnership building;
- lack of interest from category groups and little preparation by them before attending the sessions;
- consultees sending generic responses which are of limited value; and
- limited consultation feedback indicating consultees have limited interest in UK body because of its 'small role in Northern Ireland'.

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