



**A report of Section 75 Equality  
Consultation Exercise**

**Equality Scheme  
Including Audit of Inequalities and Action  
Plan**

**December 2011**

If you have any comments on this report or require this document in an alternative format (such as large print, Braille, disk, Easy Read, audio file, audio cassette or in minority languages to meet the needs of those not fluent in English) please contact:

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<b>Equality Commission for Northern Ireland</b> <b>NICEM</b> <b>Unison</b> <b>Committee on the Administration of Justice</b> <b>Older Person’s Advocate</b>	

## **Introduction**

This is a report of the consultation exercise conducted in relation to our equality duties under Section 75 of the Northern Ireland Act 1998. From the outset we wish to acknowledge the time and effort taken by consultees to respond with both detailed written submissions and face to face meetings. We trust that we have reflected views and comments raised and that our responses provide you with the necessary detail to better understand how we have considered any issues raised.

## **Background**

This consultation exercise has arisen in response to the new statutory guidance in relation to “Section 75 of the Northern Ireland Act 1998: A Guide for Public Authorities” (2010). Public authorities are now required by the Equality Commission for Northern Ireland to produce an equality scheme and associated action plan informed by an audit of inequalities.

Section 75 of the Northern Ireland Act (1998) requires public bodies to comply with two statutory duties. The first duty relates to “*the duty to promote equality of opportunity*” between nine equality categories including religious belief, political opinion, racial group, age, marital status, sexual orientation, gender, disability and dependants. The second duty relates to the “*desirability of promoting good relations*” for three categories, religious belief, political opinion and racial group.

Health and Social Care Organisations identified below\* received the formal request to carry out the audit of inequalities on the 1<sup>st</sup> August 2010. This provided a three months preparatory time in advance of the formal request by the Equality Commission for Northern Ireland for the production of an Equality Scheme. This request was issued on 1<sup>st</sup> November 2010 with an expectation that after a formal consultation exercise organisations would be in a position to submit its Equality Scheme and the Action Plan resulting out of the Audit of Inequalities work to the Equality Commission Northern Ireland by 1<sup>st</sup> May 2011.

The purpose of this report is to provide details on the formal consultation exercise which was launched on 17<sup>th</sup> December 2010 until 18<sup>th</sup> March 2011.

Specifically it outlines:

- The organisations involved;
- Methods used;
- Level of response;
- Analysis of Equality Scheme and Audit of Inequalities comments received specifically to the Public Health Agency (PHA) including responses to these comments;
- Next steps; and,
- Conclusions.

### **Organisations involved in the consultation exercise**

Table 1 highlights the organisations who took part in the consultation exercise. Coordination of the exercise was undertaken by the Equality Unit in the Business Services Organisation who are responsible for providing equality and human rights services to each of the organisations listed.

**Table 1**  
**Organisations involved in consultation**

Blood Transfusion Service	<a href="http://www.nibts.org">www.nibts.org</a>
Business Services Organisation	<a href="http://www.hscbusiness.hscni.net">www.hscbusiness.hscni.net</a>
Health and Social Care Board	<a href="http://www.hscboard.hscni.net">www.hscboard.hscni.net</a>
NI Guardian Ad Litem Agency	<a href="http://www.nigala.hscni.net">www.nigala.hscni.net</a>
NI Practice and Education Council for Nursing and Midwifery	<a href="http://www.nipec.hscni.net">www.nipec.hscni.net</a>
Northern Ireland Social Care Council	<a href="http://www.niscc.info">www.niscc.info</a>
Patient and Client Council	<a href="http://www.patientclientcouncil.hscni.net">www.patientclientcouncil.hscni.net</a>
Public Health Agency	<a href="http://www.publichealth.hscni.net">www.publichealth.hscni.net</a>
Regulation and Quality Improvement Authority	<a href="http://www.rqia.org.uk">www.rqia.org.uk</a>

## Methods used

As part of the pre engagement exercise the Business Services Organisation, on behalf of and inclusive of the other health and social care organisations listed, established an Advisory Group with a range of representatives from organisation representing those categories covered by Section 75 Equality Duties. This group was invaluable in helping to steer the work of the audit of inequalities.

The consultation exercise was formally announced on 17<sup>th</sup> December 2010 through a joint newspaper advertisement placed in the Belfast Telegraph.

An announcement of intention to consult was also communicated by email or by post to 349 Consultees on the organisations' Consultee List and placed on each organisation's website at the same time. This included an early indication that the organisations were also planning to undertake further direct engagement with individuals and groups during the consultation period. Staff within the respective organisations were also advised of the consultation exercise via newsletter bulletins.

A follow up press release on 14th January 2011 provided details on the dates and venues of four meetings scheduled for face to face engagement. The dates initially agreed included in Table 2.

**Table 2**  
**Date and venues of meetings**

<b>Date</b>	<b>Venue</b>
14 February 2011 at 11-1pm	NI Social Care Council, 7 <sup>th</sup> floor Millennium House, Great Victoria Street, Belfast BT2 7AQ
16 February 2011 at 2-4pm	Fire Station, 77 Loughall Road, Armagh
21 February 2011 at 11-1pm	Antrim Enterprise Agency, 58 Greystone Road, Antrim
23 February 2011 at 2-4pm	St Columb's Park, Limavady Road, Derry/Londonderry

These venues were chosen to ensure geographical coverage across Northern Ireland and the planning and organisational arrangements addressed the range of accessibility issues.

A review of the responses received for each location necessitated the cancellation of two of these sessions. The reduction in opportunity for engagement was however off set by the invitation by the Equality Coalition to organisations to participate in a cafe style event hosted at Unison on 9<sup>th</sup> March 2011. The organisations represented at this event included:

- Business Services Organisation
- Health and Social Care Board
- Northern Ireland Social Care Council
- Patient and Client Council
- Public Health Agency
- Regulation and Quality Improvement Authority.

This representation reflected advice received from the Equality Coalition about with whom consultees wished to engage.

### **Analysis of responses**

In total 5 detailed written responses were received by the Public Health Agency to the joint consultation exercise. Face to face dialogue took place with 5 organisations or individuals.

See Table 3.

**Table 3**  
**Consultees who provided responses**

<b>Name of Organisation</b>	<b>Name of consultee</b>	<b>Date Received</b>
<b>Face to Face Meetings</b>		
CarersNI	John McCormack	Coalition Event
Mencap	Pascal McKeown	Coalition Event
NICEM	Patrick Yu	Coalition Event
Rainbow	Matthew McDermott	Coalition Event
Commission for Administration for Justice	Debbie Kohner	
Older Person's Advocate	Kate McCullough	Belfast Event
<b>Written responses</b>		
Unison		16th March 11
Equality Commission		16th March 11
NICEM (Northern Ireland Council For Ethnic Minorities)		18th March 11
CAJ (Commission for Administration of Justice)	Debbie Kohner	10th March 11
Older People's Advocate	Joan Harbison	18th February 11

The comments received from consultees by the Public Health Agency in relation to its Equality Scheme are presented in Table 4. Comments in relation to the Audit of Inequalities and Action Plan are presented in Table 5. These comments have been examined in detail and are presented alongside responses to the issues raised.



**Table 4: Summary of consultees’ comments and PHA responses – Equality Scheme**

Comment	Response
<b>Consultee: Equality Commission</b>	
welcome the fact that the approach taken by the Agency in producing a revised scheme is one which is broadly consistent with the Commission’s model scheme	Comment noted
pleased to note that Agency has undertaken an audit of inequalities to inform the development of its draft Action Plan	Comment noted
<b>Foreword</b> recommend that the foreword is appropriately signed by the Chair and Chief Executive	implemented
<b>Chapter 1 Introduction</b> advise that the Agency may wish to include some further information on its employment functions	Further details on each of the organisation’s functions (including employment) have now been added to the Scheme.
<b>Chapter 2 Our arrangements for assessing our compliance with the section 75 duties</b> recommend that the Agency includes in the section on Responsibilities and Reporting (page 8) more details on its internal reporting arrangements and decision-making in	The following text has now been added to the Scheme: “The Agency’s Management Team reviews progress on Section 75 implementation on the basis of quarterly reports.”

<p>respect of its effective implementation of the Section 75 statutory duties</p>	
<p><b>Chapter 3 Our arrangements for consulting</b> Page13, para 3.2.3, footnote 6, recommend that this information is included in the body of the text</p>	<p>The Scheme has been amended accordingly.</p>
<p>Page 13 para 3.2.5, the Agency might wish to provide more detailed information on the arrangements for or the development of awareness raising programmes for consultees in general, in addition to the arrangements given in this section of the draft equality scheme.</p>	<p>Comment now added in Equality Scheme to read: “To ensure effective consultation with consultees<sup>1</sup> on Section 75 matters, we will develop a programme of awareness raising on the Section 75 statutory duties and the commitments in our equality scheme by undertaking the following:</p> <ul style="list-style-type: none"> <li>• We will include a comprehensive explanation of our statutory duties including commitments made in our Equality Scheme in the consultation documentation, or, where appropriate, alternative steps will be taken to raise such awareness, e.g. public consultation meetings.</li> <li>• We will produce an accessible document outlining the functions of the PHA and the commitments in our Equality Scheme.</li> <li>• In addition we will approach consultees with a proposal for the establishment of an Advisory</li> </ul>

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<sup>1</sup> Please see Appendix 3 for a list of our consultees.

	<p>Group.</p> <ul style="list-style-type: none"> <li>• If screening of a particular policy or decision identifies any external stakeholders who may not have the ability to respond to consultation effectively we will engage with the individual(s) in the first instance to find out how to best facilitate their input to the consultation, and where this is not effective or appropriate we will make contact with relevant Section 75 representative groups to find out how best we can encourage their input.”</li> </ul>
<p>note page 23, para 4.25 commitment within scheme to review the effectiveness of sending quarterly screening reports to consultees; advise that if the Agency subsequently decides post review of effectiveness of this approach to alter its commitment in respect of screening reports, the Commission should be informed of any changes to scheme commitments</p>	<p>The Equality Scheme now uses the text of the model scheme with no proviso.</p>
<p><b>Chapter 6 Our arrangements for ensuring and assessing public access to information and services we provide</b>  The Commission notes the Agency’s arrangements for public access to information and its services. The Commission would recommend that the Agency may wish to further outline at para 6.3 any other arrangements it has</p>	<p>Comment now added in Equality Scheme to read:  “For children and young people we aim to produce information in a language and in a format that meet their needs. In such cases, we also seek to draw on the support of relevant organisations including the Participation Network.</p>

<p>in place for the provision of information to children and young people and people with a learning disability.</p>	<p>For people with learning disabilities we aim to produce information in Easy Read format.”</p>
<p>Page 30, para 6.8, advise that the Agency may wish to provide more specific detail in this paragraph on its timeline for monitoring</p>	<p>The para has been amended to refer to monitoring on an annual basis unless otherwise specified.</p>
<p><b>Chapter 7 Timetable for measures we propose in this equality scheme</b> Paragraph 7.2 refers to Appendix 4 - recommend that Appendix 4 also includes a measure ‘to implement/deliver an action plan’</p>	<p>The action plan at Appendix 4 now includes an action point which reads: Implementation of Actions - Lead Responsibility Directors - Timetable: May 2011-March 2013</p>
<p><b>Chapter 9 Publication of our equality scheme</b> welcome that the Agency will produce its Equality Scheme in Easy read; recommend that the Agency provides further information in this section on its arrangements for communicating effectively to children, young people and people with disabilities</p>	<p>Comment now added in Equality Scheme to read: “For children and young people we aim to produce information in a language and in a format that meet their needs. In such cases, we also seek to draw on the support of relevant organisations including the Participation Network. For people with learning disabilities we aim to produce information in Easy Read format.”</p>
<p><b>Section 75 Action Plan</b> advise that the Agency should review and update its action plan over the life time of its equality scheme to ensure that the action plan remains effective and relevant to its functions and work. The Agency should inform the Commission of any changes or amendments to its action</p>	<p>Comment noted</p>

	<p>plan and should also consider including this information in its annual progress report to the Commission.</p>
<p><b>Consultee: Older People's Advocate</b></p>	
<p>We will produce an accessible document (an easy to read and understand version) following scheme approval.</p>	<p>equality scheme should be user-friendly especially in the use of language</p>
<p>comment noted</p>	<p>equality schemes need to identify internal vs. external actions</p>
<p><b>Consultee: Unison</b></p>	
<p>comment noted</p>	<p>Welcome that the organisation has followed to a large extent the Model Equality Scheme produced by the Equality Commission NI a number of key issues which we believe must be addressed</p>
<p>paragraph 1.1 of the scheme refers to Good Relations A brief explanation has been added to explain the differences in the two duties. the importance of both duties is also reiterated in the course of staff training</p>	<p>the Scheme needs to clarify the precise relationship between the s.75 equality duty and the good relations duty</p>

<p>The Scheme requires a section to outline the social, economic and health context within which the organisation and wider health and social care system operates</p>	<p>As the social, economic and health context in which the Agency operates is highly dynamic we consider other publications to be the more appropriate place for providing this information, such as the joint commissioning plan by the Health and Social Care Board and the Public Health Agency.</p>
<p>UNISON recommend that the organisation use the data and information available to it much more systematically to expose, analyse and then monitor inequalities</p>	<p>comment noted The audit of existing information systems will examine gaps, produce baseline information and result in the development of actions to fill gaps. A regular review will also be incorporated.</p>
<p>Understanding and implementing the recommendations from recent reports produced by Professor Sir Michael Marmott<sup>2</sup> would be a good first step in tackling specific health inequalities faced by s.75 groups. A comprehensive, joined-up approach across the system is essential.</p>	<p>We acknowledge with thanks this suggestion. The organisation will consider the relevance of the report and its findings to its functions alongside other new and emerging publications and relevant other documents</p>
<p><b>Foreword</b> suggest that a common definition of functions is used throughout the Scheme - specifying that functions</p>	<p>Section 1.1 and section on 'Who we are and what we do' refers</p>

<sup>2</sup> See Marmott's World Health Organisation Commission report on the Social Determinants of Health and his 3 more recent reports on Health Inequalities in England concluding with the 2010 report 'Fair Society, Healthy Lives'

<p>includes powers and duties, is of wide import and includes service provision, employment and procurement functions.</p>	
<p><b>Foreword</b></p> <p>The organisation should make it clear that the existence of the Action Plan does not detract from its statutory responsibility to ensure that all its functions and policies are scrutinised to determine where equality of opportunity can be promoted and inequality tackled.</p>	<p>comment noted</p> <p>the organisation follows the model scheme</p> <p>we will make the Commission aware of all comments received relating to the model scheme</p>
<p>decision-makers should utilise all available qualitative and quantitative data, including the Audit of Inequalities, when applying s75 to the organisation’s functions and policies not contained within the Action Plan.</p>	<p>all data/information identified in the course of the audit is to inform screening exercises in the future</p>
<p>suggest that the Foreword states the organisation’s commitment to taking, all <i>necessary</i> steps to ensure that it complies with its statutory duty and the effective implementation of the Equality Scheme.</p>	<p>comment noted</p> <p>the organisation follows the model scheme</p> <p>we will make the Commission aware of all comments received relating to the model scheme</p>
<p><b>Introduction</b></p> <p>wording in the Foreword to the draft Scheme commits the organisation to providing “the necessary resources” to effectively implement the duty. However, the wording of</p>	<p>comment noted</p> <p>the organisation follows the model scheme</p> <p>we will make the Commission aware of all comments received relating to the model scheme</p>

<p>para 1.3 waters down this commitment by stating a commitment to ‘the necessary available resources’ is required. This is a weak formulation of words and should be amended to that contained in the Foreword.</p>	<p>being bound by its legal obligations regarding financial accountability the organisation will inevitably need to take resource implications into consideration</p>
<p><b>Chapter 2: Arrangements for Assessing Compliance</b> include examples of <i>how</i> compliance will actually be assessed in practice.</p>	<p>These arrangements are articulated at paragraph 2.10</p>
<p>recommend to make clear in para 2.12 that the Audit is a living document and requires an ongoing and comprehensive ‘analysis’ of inequalities</p>	<p>Comment added to Scheme at paragraph 2.12 to take account of this suggestion</p>
<p>recommend re-wording para 2.16 to make it clear that monitoring can take place at an earlier stage than every 12 months if new data or information is received.</p>	<p>Comment added to Scheme at paragraph 2.16 to take account of this suggestion</p>
<p>welcome more information on the <i>specific discussions</i> the organisation is entering into with users of the services and their representatives, in particular affected s.75 groups and service users in TSN areas</p>	<p>In line with the nature of our work, these take place in a range of contexts including, for example:</p> <ul style="list-style-type: none"> <li>• in the development and implementation of the Agency’s Action Plans for improving the health and well-being of black and minority ethnic groups as well as lesbian, gay and bisexual people in Northern Ireland</li> <li>• in the development and evaluation of public</li> </ul>



	<p>information campaigns (such as through focus groups with members of the public)</p> <ul style="list-style-type: none"> <li>• in relation to equality and human rights screening exercises.</li> </ul>
<p><b>Comments on Chapter 3 Consultation arrangements</b></p> <p>encourage the organisation to follow the advice of (and resource) groups with specialist knowledge in this domain, including about how, when, and who to approach; people with disabilities could be involved in developing the consultative methods to be used and involved in delivering that training.</p> <p>However, the primary responsibility must remain with the organisation itself to do the necessary work, and to reach out beyond organised groups.</p> <p>some of the legacy health bodies have in the past undertaken an inclusive consultation process but approach needs to be revisited on a system-wide basis although the consultation list is comprehensive, organisation needs to ensure it is constantly reviewed</p>	<p>We currently engage with representative groups on a range of issues and will continue to take advice in the area of consultation and training. We have involved people with disabilities and other equalities categories in training and awareness activity and will continue to build on this good practice. We will continue to liaise with representative groups and individuals.</p> <p>Consultation mechanisms and consultation lists will be regularly reviewed to ensure that they are both effective and contemporary, and build on past good practice.</p>
<p>Para 3.1 should be amended to ensure that the Audit of Inequalities will be consulted upon in addition to the Scheme, action measures And Equality Impact Assessments.</p>	<p>The current draft Audit of Inequalities was consulted upon at the same time as the Equality Scheme but it is not the organisation's intention to commit to annual formal consultation on the Audit of Inequalities and</p>

	Action Plan
<p>Scheme must set out a clear procedure to ensure that the consultees' views have been fully considered and either incorporated into the decision-making process or where not reasons are given for their exclusion</p>	<p>This is articulated in the Equality Scheme at 3.2.11 but for point of clarity we can advise that arrangements for dealing with consultation responses are:</p> <ul style="list-style-type: none"> <li>Log of consultees responses</li> <li>Copies of original responses made available on organisation's website as part of the consultation report</li> <li>Consultation report will include issues and organisational response and made available on organisation's website</li> <li>Final documents with amendments highlighted made available on organisation's website</li> </ul>
<p>essential that consultations on all matters involve all designated groups and individuals; therefore essential that any 'targeted approach to consultation' as specified in para 3.2.1 does not create a 'hierarchy' of consultation and excludes groups from inclusive participation.</p>	<p>Comment noted. This view will be articulated in screening and consultation training</p>
<p><b>Comments on Chapter 4: Arrangements for assessing, monitoring and publishing the impact of policies</b></p> <p>The Scheme to impart a sense of what the policies mean</p>	<p>The scheme includes details on functions.</p> <p>Policy authors are advised of the importance of clarifying their policy area in jargon free language and of identifying all the key stakeholders in their initial</p>

<p>and how someone could identify if relevant</p> <p>In setting out its functions, duties and powers: the Scheme must be more explicit about who else is involved, particularly in the mixed economy of health care delivery including contractors and sub contractors</p> <p>Must set out clearly arrangements on how it will ensure that decisions or directives from others both ‘upstream’ and ‘downstream’ in the will be independently assessed to fully comply with its section 75 obligations;</p> <p>Must ensure that when functions overlap with another public body or agency there is clarity on the action required by each to discharge their statutory obligations.</p>	<p>discussion of their policy area.</p> <p>We do not feel that the degree of change suggested is consistent with the model scheme proscribed by the Equality Commission. Pursuing such change would necessitate complex discussions with the Equality Commission and consequently delay the organisation’s ability to gain the necessary approval for its Scheme. We feel that these suggestions can be more appropriately addressed by other methods for example the organisation will explore the value of a document to articulate in easy to understand language the functions of the organisation including its linkages with other health and social care organisations, other public bodies and other key independent, community and voluntary providers.</p> <p>Responsibilities for screening both upstream and downstream are clearly articulated in screening training activity.</p>
<p>UNISON welcome a more explicit recognition by the organisation that many practices are not the subject of written policy documents, but are nevertheless established policies. Consequently need indicate measures that will be put in place to reflect this more systematically for the purposes of screening and impact</p>	<p>the organisation follows the model scheme, see para 4.1 . This is reinforced in screening training, template and guidance.</p>

assessment.	
<p><b>Procurement</b></p> <p>The organisation must clearly acknowledge throughout its scheme that procurement is a function to which the equality duty applies.</p> <p>As a minimum standard for the full promotion of equality, it is also essential that the organisation commits to implementing the 2008 joint '<i>Equality of Opportunity and Sustainable Development in Public Sector Procurement</i>' Guidance produced by the Equality Commission NI and the Northern Ireland Central Procurement Directorate</p> <ul style="list-style-type: none"> <li>• acknowledge responsibility to ensure that commissioning documents and reviews to which it is a party contain a proper process of equality assessment</li> <li>• commit both the provider and purchaser to delivery and review of the service in light of the equality groups in the legislation</li> <li>• commit to a specific and integral reporting framework by which the purchaser and provider can publicly account for the equality proofing and performance of commissioned services</li> <li>• where procurement is through purchasing consortia commit to developing its partnership and influence with such bodies to ensure contracts in which it</li> </ul>	<p>Comment noted</p> <p>The Agency is committed to promoting equality and good relations in its procurement functions. Since 2009 support services in relation to procurement have been purchased from the Business Services Organisation on a Service Level Agreement. All the issues raised in this response in respect of procurement and equality issues will be raised directly with the Business Services Organisation.</p> <p>We will engage with the BSO and other HSC organisations to explore further the roles and responsibilities of procuring organisations vis-à-vis the BSO Procurement and Logistics Service with regards to opportunities for further mainstreaming equality in procurement processes.</p>

participates test at listing and award stage the competence and capability of suppliers in respect of the equality categories

- commit within its Scheme to participating with such bodies to specific initiatives to brief existing suppliers as to the obligations and standards they need to develop
- develop awareness amongst potential (and in particular local) suppliers of equality good practice to assist them in participating in contracting, particularly when such participation would promote equality in e.g. TSN areas
- where the organisation contracts directly it should state within the Scheme a defined materiality threshold over which the competence of suppliers in demonstrating their adherence and understanding of the equality groups is mainstreamed into the processes of advertisement, listing, award and contract review
- commit to promoting suppliers awareness and participation as described above
- procurement of services and works, it should commit within the Scheme to the following:
  - ensuring that any advisors/Consultants/Supervisors retained

<p>have an appropriate understanding of the legislation and the Scheme;</p> <ul style="list-style-type: none"> <li>○ reflecting the requirements of the legislation and Scheme in all contractual documentation;</li> <li>○ ensuring the testing of provider equality competencies is mainstreamed into advertisement, listing, award and monitoring processes;</li> <li>○ specifically testing employment policy, employment practice and provider track record against the equality groups, including consideration of adverse findings in the courts or at tribunals over statutory factors</li> </ul>	
<p><b>Employment</b></p> <p>The organisation must make a specific commitment in its Scheme to discharging the equality obligation in its function of employment.</p> <p>The above should include:</p> <ul style="list-style-type: none"> <li>• a commitment to the systematic creation and review of employment policies covering all the designated equality groups;</li> <li>• a clear commitment in the Scheme to equality of treatment between the different groups, and the</li> </ul>	<p>We are fully committed to taking all reasonable opportunities to promote equality and good relations in our employment functions, including in the creation of policies and practices.</p> <p>Since April 2009 support services in relation to employment have been purchased from the Business Services Organisation on a Service Level Agreement. All the issues raised in this response in respect of employment and equality issues will be raised directly with the Business Services Organisation</p> <p>We will engage with the BSO to explore further the</p>

<p>avoidance of any hierarchy, including any distinction between statutory and non statutory discrimination;</p> <ul style="list-style-type: none"> <li>• recognition within policies and the Scheme of the nature of multiple oppression and discrimination;</li> <li>• a clear commitment to link a policy-driven employment framework to equality of pay and remuneration;</li> <li>• a recognition that all training and development should reflect mainstreamed equality as per the Scheme, not just Scheme-specific training.</li> <li>• a commitment to the visible integration of equality policy/practice and Health and Safety policy/practice given such strategic links as sexual harassment;</li> <li>• a commitment that section 75 obligations will form part of the induction training of all PHA members and employees;</li> <li>• integration where appropriate between the section 75 employment obligation and professional practice protocols involving employee obligations for fair treatment;</li> <li>• specific recruitment, grievance and disciplinary policies which reflect section 75 obligations;</li> <li>• specific training for all those charged with the operation of such policies;</li> </ul>	<p>roles and responsibilities in employment matters of the organisation's managers vis-à-vis the BSO Human Resources Directorate with regards to opportunities for further mainstreaming equality in employment.</p>
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| <ul style="list-style-type: none"><li>• appropriate and confidential facilities which allow individuals or groups facing discrimination to raise their concerns;</li><li>• systematic audits of workforce composition and employment policy effectiveness;</li><li>• clear and explicit policy measures, remedies and sanctions for acts of discrimination and harassment in respect of all designated groups;</li><li>• a commitment to review and modernisation of policies in the light of positive legal developments that promote equality of opportunity;</li><li>• effective consultation with stakeholders (e.g. recognised trade unions) over the implementation and ongoing review of all section 75 employment obligations;</li><li>• a mainstreamed approach promoting equality within all bargaining structures;</li><li>• a commitment in any screening process to incorporate specific consideration of employment factors;</li><li>• acceptance that the employment function covers the definition of “worker” in the widest sense;</li><li>• commitment to measures to protect all employees from discriminatory violence or harassment from</li></ul> |  |
|---|--|



<p>users of the its services.</p>	
<p><b>Screening and Equality Impact Assessments</b></p> <p>the lack of equality expertise amongst senior decision-makers has often led to the screening out of policies which have had implications for equality of opportunity</p> <p>it is essential that the decision on whether an equality impact is minor, major or none is subject to objective criteria; a report on all screening recommendations should be issued for endorsement by the Senior Management Team with the full participation of the organisation's Equality Unit at the earliest possible stage</p>	<p>the organisation has made the commitment to ensure that all staff involved in screening have attended specialist training; staff will be supported on an ongoing basis in strengthening their skills in screening effectively, such as through support, advice, guidance and feedback</p> <p>we consider it essential that the ownership of screening decisions rests with policy decision makers in order to genuinely progress the mainstreaming of equality in the organisation</p>
<p>The organisation should commit to ensuring that affected groups are facilitated through whatever techniques are appropriate to participate in the screening process at the earliest possible stage,</p>	<p>this issue is addressed in guidance notes for staff on screening which have been developed alongside the new screening template</p>
<p>essential that the organisation commits to informing consultees when screening forms are issued and posted on the organisation's website</p>	<p>We will explore the feasibility of facilitating this request in the context of designing a process for implementation. The outcome will be shared with consultees.</p>
<p>essential that the organisation makes it clear that financial considerations will not be a basis for restricting or limiting</p>	<p>being bound by its legal obligations regarding financial accountability the organisation will inevitably need to</p>

<p>the impact of equality assessment</p>	<p>take resource implications into consideration in considering the impact of equality assessment with regards to mitigation or consideration of alternative policies and decisions</p>
<p>clarify the measures that it will undertake to ensure that practices that are not the subject of written policy documents but which are established policies of the organisation are both screened and an impact assessments undertaken</p>	<p>screening of policies and decisions covers both documented and undocumented practices</p>
<p>Scheme should strongly acknowledge that, policies which may appear at first glance to be devoid of equal opportunities implications require a fresh look in order to determine whether there are in fact implications for equality of opportunity. The screening of new and proposed policies must also be subject to this criteria</p>	<p>comment noted the organisation follows the model scheme we will make the Commission aware of all comments received relating to the model scheme</p>
<p>it is essential that specific data is available and baselines established on specific impacts to establish how the Agency has related to the affected groups in the past and how it will relate in the future in the context of the Statutory duty.</p> <p>There is clear scope for collaboration. Where a 'lead responsibility' is identified for a particular Equality Impact Assessment the scheme must identify the boundaries of</p>	<p>comment noted</p>

<p>each public authority's responsibility for decision-making to ensure that responsibilities are not passed on or hived off.</p>	
<p><b>Staff Training</b></p> <p>Scheme make more explicit that training will not be dependent on grade, responsibilities or any training needs assessment that will in any way dilute their obligations under the Guidelines. The resources for this should be set out in the scheme.</p>	<p>comment noted</p> <p>the organisation follows the model scheme</p> <p>we will make the Commission aware of all comments received relating to the model scheme</p>
<p><b>Access to Information and Services</b></p> <p>Must provide the <i>necessary resources</i> to ensure that both the information which is disseminated and, the services provided, are made accessible in a way which ensures equality of opportunity.</p>	<p>comment noted</p> <p>the organisation follows the model scheme</p> <p>we will make the Commission aware of all comments received relating to the model scheme</p>
<p>More imaginative methods of distribution would be welcome such as in public libraries, stalls set up in local shopping centres etc.</p>	<p>comment noted</p>
<p><b>Complaints</b></p> <p>Implementation of the Scheme should be constantly reviewed to ensure that S.75 groups are confident that they will get support and redress.</p>	<p>comment noted</p>

<b>Consultee: Committee on the Administration of Justice (written submission)</b>	
encouraged to see organisations have used model scheme as basis, suggest a few additions	comment is welcome
screening – would be useful for consultees to be informed as soon as screening forms are posted on websites, concerned about timelag, especially for policies for which ‘no’ or ‘minor’ impact is found	We will explore the feasibility of facilitating this request in the context of designing a process for implementation. The outcome will be shared with consultees.
explain relationship between equality of opportunity duty and good relations duty	paragraph 1.1 of the scheme refers to Good Relations A brief explanation has been added to explain the differences in the two duties. the importance of both duties is also reiterated in the course of staff training
add statement to address common misunderstanding that ‘universal application’ implies a neutral impact on equality groups, when it can of course exacerbate inequalities	We share the Committee’s view of the importance of clarifying this matter. This is addressed in the context of staff training. Also, we have recently developed a resource for our staff aimed at tackling common ‘screening myths’ which includes the one referred to by the Committee.
add statement on positive action	We share the Committee’s view of the importance of clarifying this matter. An explanation has been added to

	<p>this effect under 1.1.</p> <p>This is also addressed in the context of staff training.</p>
Verbal comments	
Any deviations from the model Scheme need to be highlighted and explanations provided as to why.	any changes will be highlighted
broad policy statement provided by the Equality Commission perceived as appropriate; organisations need to use a common sense approach to reduce burden on consultees	Comment noted.
<b>Consultee: Northern Ireland Council for Ethnic Minorities (written submission)</b>	
<p>disappointing in that Schemes repeat exactly the wording of the Model Scheme with minimal attempt to make the scheme a reflection of what the authority actually does so that groups can see relevance to them; particularly important for the less well-known health and social care bodies coordinated by the BSO</p>	<p>The need to follow the model scheme limits our scope for customising it. The main area of customisation foreseen by the Commission relates to the description of functions ('Who we are and what we do'). Further information has now been added to this section. The status of the scheme poses further limitations as to specifying measures or arrangements that are of limited duration.</p> <p>Following approval, we will produce a summary version of the scheme that is easy to read and understand.</p>

<p>there should be one Equality Scheme from the DHSSPS that applies across to all health and social care bodies</p>	<p>under Section 75 each public authority must develop their own scheme and action plan; each Chief Executive and Board is accountable for their own scheme and plan and thus must have ownership; given the diversity of functions across Health and Social Care organisations, we would argue that each audit must reflect the consideration of equality issues against the specific functions of the respective organisation; the diversity of audits therefore reflects the diversity of functions across organisations.</p>
<p>organisations should highlight deviations from Model Scheme with an explanation</p>	<p>any deviations will be highlighted</p>

**Table 5: Summary of consultees' comments and responses – Audit of Inequalities and Action Plan**

Comment	Response
<b>Consultee: Older People's Advocate</b>	
Organisations should have picked 5 or 6 key areas that all could have worked on together. Format of action plans of the nine organisations should be uniform and consistent.	Comment accepted. The nine HSC organisations will work together to identify those areas where joint action is feasible and meaningful.
plans need to be explicit on how information is used and progress reviewed on a regular basis	The Agency will review its Audit and Action Plan on an annual basis.
include commitment to review audit and evidence base and undertake research to fill gaps; evidence base to go beyond Northern Ireland.	The audit of existing information systems will examine gaps, produce baseline information and result in the development of actions to fill gaps. A regular review will also be incorporated. National and international evidence will be taken on board where relevant.
audit should contain statistical evidence of main users and a profile of its staff, including breakdown of managerial roles / Board members particularly those S75 groups who might be under-represented	Comment noted, and will be progressed in the context of our audit of information systems, see Equality Scheme paragraph 4.29.

<p>there needs to be more sharing of information and good practice across organisations.</p>	<p>This issue is being addressed including through our joint equality fora with our partner organisations, facilitated by the Business Services Organisation (BSO), and for instance through a recent meeting on Public Health Agency (PHA) access to relevant primary care information held by the BSO.</p>
<p><b>Employment</b> females are in the majority of those employed within the agencies and this has an impact on designing timeframes for training, childcare / caring needs and maternity provision</p>	<p>Comment noted.</p>
<p>more action on employment needed particularly as staff are getting older need to also consider caring roles of staff, increasing in line with ageing population audit should have recognised that increased longevity and retirement age affects women more so than men, women will be working longer and older section of workforce will become increasingly female older women face particular difficulties in: returning to work after childcare, not being able to carry on with a job requiring physical strength, retraining to be able to</p>	<p>In recognition of these suggestions, the PHA has included new action points in its plan relating to older people and employment. Moreover, the PHA has in place a number of work-life balance policies that recognise the needs of carers, for example, carers leave, flexible working arrangements, employment break policy, special leave policy, equality of opportunity policy. Training needs are identified through the performance appraisal process. The PHA will participate in any regionally agreed</p>



<p>diversify and use their skills differently as they grow older, requirements for flexible working hours and part time working</p> <p>include actions to address particular training needs of older women</p>	<p>equality audit of pay and human resources issues.</p>
<p>develop new ways of including under-represented S75 groups such as examining where positions are advertised, considering affirmative action, using different criteria such as experience and skills rather than academic qualifications (people with a disability and older women in particular), introducing shadowing or mentoring schemes, ensuring layout of buildings is suitable and convenient for staff</p>	<p>Personnel specifications include equivalencies to qualifications in the form of experience.</p> <p>Consideration of proposals relating to recruitment may be limited in light of current recruitment restrictions and the impending removal of the default retirement age which is likely to result in a low staff turnover</p>
<p>joint training in respect of S75 groups should be ongoing and include engagement and delivery by S75 organisations; training should challenge ageist attitudes and include positive messages about older people</p>	<p>Learning and development opportunities will continue to be offered in respect of Section 75 groups and with their input.</p>
<p><b>Engagement</b></p> <p>need more evidence of actions to include engagement with service users</p>	<p>Community Development and engagement is a key element of many health improvement programmes supported and developed by the PHA. The PHA and HSC Board (HSCB) have drafted a community development strategy which will be issued for full consultation in the next few weeks. In addition the PHA</p>

has a Community Development Action Plan which links carefully with other thematic action plans e.g. Travellers and is monitored regularly. The Action Plan sets direction and specifically addresses community engagement across a wide range of issues and geographies. The PHA engages communities and voluntary groups to gather views and actively shape the delivery of services in a range of fields such as drugs and alcohol, mental health and suicide prevention as well as regularly consulting the public in the development of public information, research, and evaluation. Recent examples include the tobacco (giving up smoking) and promoting positive mental health campaigns.

The PHA have been given a lead role in Personal and Public Involvement (PPI) by the Department of Health, Social Services and Public Safety (DHSSPS). From 2010 the PHA has demonstrated its commitment to PPI and the concept of promoting involvement in action by:

- Recruiting a senior manager as the Regional Lead for PPI
- Securing further in-house investment for the appointment of a second PPI Officer to support internal and external PPI work
- Meeting Priorities for Action Targets relating to

PPI, including (1) Established and Chaired the Regional HSC PPI Forum (2) Developed an Annual PPI Report across the HSC (3) Developed a PPI Strategy for the Agency & HSCB

- Developing a Regional Expenses Reimbursement Policy & Guidance for Service Users & Carers
- Driving forward work on a Regional HSC Training Framework for PPI
- Piloting a number of Action Research projects on different elements of PPI, in particular, engagement
- Exploring the use of new technology to support and facilitate involvement including, Sensemaker, Turning Point etc.

The Regional HSC PPI Forum is a senior cross organisational body driving forward the ethos and practice of PPI. It has on it by right, 5 members who are service users, carers or from the wider community.

The Regional PPI Lead is working to inform, persuade and press for more effective and tangible expressions and evidence of commitment to PPI both in the PHA, but also across other HSC organisations.

In terms of best practice, the PHA have led an

	<p>innovative exercise on Neurological Conditions, where the views of service users and carers are being proactively sought through a variety of mediums. Service users, carers and their advocates and support organisations are members of the Steering Group for this project. A separate reference group is being established to review the work of this Network. Innovative approaches including the use of new technology such as Sensemaker are being utilised to assist in the involvement of people who find it difficult to express their needs or have them listened to.</p>
<p><b>Board composition</b></p> <p>Need to consider how Section 75 categories get opportunities to participate on Boards.</p> <p>consider offering mentoring opportunities to skill up people for joining Boards</p> <p>consider making joint representation to Office for Public Appointments regarding (a) greater efforts to be undertaken to appoint diverse boards and (b) use of experience as equivalent to academic qualifications in appointment process to remove barriers for participation of people with a disability and older women in particular</p>	<p>The Agency will work with the BSO and partner organisations to make joint representation to the Office for Public Appointments in this regard.</p>

<p><b>Communication</b></p> <p>consideration should be given to the communication needs of older people, who may not have IT skills, or may have sensory impairments, learning disability or low literacy levels; also those in nursing home settings and those who live in isolation with little access to modern technology especially in rural areas</p>	<p>With regards to our staff, we will conduct a survey of communication needs of all staff.</p> <p>PHA editorial team will continue to guide staff in preparing texts in straightforward language as well as alternative formats including using MAKATON for those people with learning disabilities.</p>
<p><b>Complaints</b></p> <p>work with other HSC organisations to provide overview information on how to raise a complaint and who to raise it with. It will often be the family of an older person who raises a complaint rather than the individual.</p>	<p>We will work with other HSC organisations to produce accessible information on how to make a complaint and who to raise it with.</p>
<p><b>Consultee: Committee on the Administration of Justice (written submission)</b></p>	
<p>Section 75 continues to apply in addition to action plan</p>	<p>The Agency shares CAJ's view that the mainstreaming duty under Section 75 requires us to give consideration to equality on an ongoing basis across all of our functions; we see screening as the key vehicle for doing so; this is also highlighted in training for staff.</p>
<p>data gaps identified in the audit should be addressed; newly emerging inequalities may not be captured in original audit</p>	<p>The Agency recognises that ultimately equality impacts can only be fully assessed if comprehensive data is gathered; at the same time, building a robust database</p>

<p>hope that audit will provide useful tool for policy-makers when applying Section 75 beyond action plans</p>	<p>is a long-term project.</p> <p>The Agency shares CAJ’s view of the potential of the data gathered to inform screening exercises more widely; to improve access to data for staff, the Equality Unit has created a website section which collates relevant research reports identified.</p>
<p><b>Consultee: Northern Ireland Council for Ethnic Minorities (written submission)</b></p>	
<p>essential that the comprehensive collection of evidence is undertaken under the revised Schemes submitted by organisations, particularly for ethnic and religious minority communities.</p>	<p>The audit of existing information systems will examine gaps, produce baseline information and result in the development of actions to fill gaps. A regular review will also be incorporated.</p>
<p>The audit across the Health Trusts places heavy reliance in the audit of ethnic minority inequalities on NICE research.<sup>3</sup> Yet this research is not mentioned in the audit of the BSO-coordinated bodies. In both audits, we ask the question, ‘Where is the research commissioned by the health and social care sector?’</p> <p>There is nothing at all in the evidence base used in this</p>	<p>We appreciate the suggestion and will consider this research in the context of our organisation’s functions.</p> <p>The short timescales specified by the Equality Commission for the audit itself ruled out the option of undertaking new research.</p>

<sup>3</sup> At p 79, it is stated, “The majority of the issues below are also found in the NICE Report “Black and Minority Health and Wellbeing Development Project for North and West Belfast” September 2006.” There is also reliance on our research report, Robbie McVeigh and Chris McAfee, “Za Chlebem”: The Impact of the Economic Downturn on the Polish Community in Northern Ireland”, Belfast: NICE, 2009.

audit on religious minorities.	
the important issue of the <u>causes of the inequalities identified</u> appears to be absent from both the ECNI guidance and HSC audits; unsure how the organisations can set out actions, outputs and outcomes on the basis of an audit of inequalities without some identification and analysis of the causes of the inequalities.	
gap analysis should be included in the first year of the action plan of each organisation and efforts to collect quantitative and qualitative data on priority gaps should be included in the subsequent years of the action plan	see above
ECNI should produce a model audit of inequalities, on the basis of this initial exercise.	Comment noted
welcome the fact that the BSO-coordinated bodies have collaborated to identify inequalities.	Comment noted
It seems curious to us that the audit of inequalities is an appendix to the draft action plan. We expected the action plan to flow from the audit. We are also puzzled that, despite an extensive 'evidence base' in an appendix, it is essentially a literature review and there is no connection between the identified inequalities and the evidence base. We welcome the functional approach initially taken in the	<p>Comment noted</p> <p>The lay out of the action plan has been revised for ease of reference. The identified inequalities and opportunities for better promoting equality are summarised against each action point, alongside key items of the evidence base.</p>

<p>audit. But we are disappointed that the BSO-coordinated bodies have not followed the lead of the Health Trusts and identified separately inequalities in relation to each section 75 group.</p> <p>disappointed that action plans are not group-specific.</p>	<p>The presentation of the audit in Appendix 1 reflects the functional approach taken. Against these functions key inequalities are outlined and relevant Section 75 groups are referenced, to ensure as far as possible identification of all inequalities in all functions.</p> <p>The Agency notes the comment, and has clearly identified related section 75 groups in its action plan to improve ease of reading.</p> <p>Further concerns are noted.</p>
<p>The action plans should make it transparent how the prioritisation of actions has been conducted.</p>	<p>The criteria included the scale of need of particular Section 75 groups identified, the breadth and depth of negative impacts and the potential for achieving systematic change (through mainstreaming).</p>
<p>the action plans do not identify performance indicators, monitoring arrangements or areas of responsibility; they do not tell us when intended outcomes are to be achieved (not outcome-focused). Some 'intended outcomes' are not really outcomes. Some 'Issues to be Addressed' are not inequalities. eg. "Cancer Screening Programmes: Commissioning and quality assuring cancer screening programmes" is a function. What is the inequality?</p>	<p>Comment noted.</p> <p>With regards to cancer screening, the action plan specifies the Section 75 groups to be targeted in order to improve their uptake of screening.</p> <p>The action plan has been updated to ensure consistency in the presentation of the information.</p>
<p><b>Consultee: Mencap, Paschal McKeown (verbal comments)</b></p>	



<p>the particular nature of learning disabilities vis-à-vis other disabilities that might develop at a particular point of time in a person's life: people with a learning disability have lifelong needs linked to their disability</p>	<p>Comment noted</p>
<p>mental health needs of people with a learning disability are a particular concern</p>	<p>The PHA contributes to the joint commissioning with HSCB of services for people with a learning disability.</p>
<p>dental care – medication may have negative side-effects impacting on the dental health of individuals; people with a learning disability may have additional needs and this may make it difficult to brush teeth; dental services are usually held up as a good practice example to other health services and people with a learning disability often report a positive experience of going to the dentist yet there are less positive experiences of dental services beyond routine cases which typically involve extremely long waiting times, causing particular difficulties for people with a learning disability</p>	<p>The PHA promotes good oral health practice including brushing with fluoride toothpaste and the use of sugar-free medicines. One example is the 'Infant Feeding Guidelines' sponsored by the PHA which clearly outlines the need to reduce frequency of consumption of foods containing sugar and the avoidance of fizzy drinks which cause dental erosion. The Agency has been involved in the development of the Nutritional Guidelines for Looked After Children which will be launched later this year. These Guidelines include a section on promoting good oral health messages.</p>
<p>health promotion – some areas such as healthy exercise more difficult for people with a learning disability to engage in, barriers to be addressed include: need for extra support, transport to and from place where exercise takes place and at times carers can be protective and need to be persuaded that what's available for others will</p>	<p>The PHA has funded a range of work for people with physical, sensory and learning disabilities. Examples include:</p> <ul style="list-style-type: none"> <li>• Work with the Cedar Foundation, with a focus on building the family, providing opportunities for those</li> </ul>

<p>work.</p>	<p>with disabilities to lead an active life, and to provide parents with a support network.</p> <ul style="list-style-type: none"> <li>• Within the South Eastern locality, training for teachers in the delivery of physical activity lessons for pupils with physical, sensory and learning disabilities.</li> <li>• Within the Western locality, funding was provided to Foyle Disability Resource Centre Walking Groups Initiative to Introduce users, irrespective of type or level of disability, to walking as a healthy physical activity and develop each person's physical capacity in a controlled and measured environment.</li> <li>• Within the Northern locality, funding is being provided for staff and volunteer training for dance, walking and multi-skills, and to increase access and opportunities for clients in Base Centres to access a range of physical activities.</li> </ul>
<p>health promotion – uptake of targeted programmes (such as cookery programme) should be monitored. Positive involvement of Mencap and people with a learning disability in making the Cook it! programme accessible.</p>	<p>The Cook it! programme is being adapted for use with people with learning disabilities. Draft materials have been produced and are being piloted with a range of groups; evaluation is underway. The involvement of Mencap and individuals with learning disabilities in the development of the revised programme has been vital. It is anticipated that, following completion of the pilot, the</p>

	materials will be finalised in light of recommendations in the evaluation and made widely available across NI.
cancer screening services – pockets of good practice exist (such as health promotion by Action Cancer), need to be built on	The PHA organised a stakeholder workshop in November to discuss how the needs of people with a learning disability can best be met.
reproductive services – a key issue for people with a learning disability not least given recent cases of sterilisation attracting media attention	The PHA accepts that this is an important issue, and that the DHSSPS "Reference Guide to Consent for Examination, Treatment or Care" (March 2003) should be followed in such circumstances. The DHSSPS guide includes guidance for health and social care professionals on good practice in seeking consent from people with learning disabilities, and guidance as to when a referral should be made to the court for a ruling before a medical procedure or treatment is undertaken.
Mencap continues to offer training and advice to public bodies on matters relating to people with a learning disability. Training delivered and designed by people with a learning disability.	Comment noted
PHA should consider recent research being carried out by QUB on emotional health and well being of children and young people with a learning disability and research on healthy lifestyles and people with a learning disability.	The reference to new research welcome. This will be shared with relevant teams in the Agency.

<p>any anecdotal references to children with a learning disability being kept in hospital for shorter periods than other children in the context of recent swine flu cases should be properly looked into to ensure equality of access to health care.</p>	<p>PHA is not aware of any such anecdotal references but should we become aware of them would refer them to the appropriate body, which in the first instance would be the Trust concerned.</p>
<p><b>Consultee: Carers UK, John McCormick (verbal comments)</b></p>	
<p>how does the PHA consider and promote equality for carers in their work, bearing in mind that organisations should consider needs of carers in their caring role as well as their own personal needs?</p> <p>a lack of support for carers may create particular health needs (such as relating to mental health)</p>	<p>Tackling inequality and ensuring high quality care for all are fundamental to the work of the PHA. The PHA recognises that carers are particularly at risk of experiencing poor mental and physical health themselves. The main ways that the PHA tackles inequality and promotes the health and wellbeing of carers include implementation of the mental health promotion strategy and implementation the service frameworks. These play a key role in considering and addressing the needs of carers and other Section 75 groups.</p>
<p>the PHA should give particular consideration to making information accessible</p>	<p>The Agency participates actively in Health and Social Care-wide work to progress on the provision of information in accessible formats. The Agency's current practices include the development of leaflets in a range of minority languages and the dissemination of</p>

	<p>information through a range of channels (including health professionals).</p> <p>The Agency will seek to further mainstream the consideration of alternative formats and appropriate dissemination channels by adding these to proformas or checklists for any publications it develops.</p>
access to services is a key concern in particular in rural areas	The creation of the PHA with a remit for the whole of Northern Ireland fosters greater consistency of health improvement work geographically.
access to respite care services is a key concern for carers	The Agency will share this comment with the HSC Board for consideration in its work.
employment – flexible working arrangements in the public sector are quite supportive to carers generally; for carers who are able to specify regular patterns this works well, other carers mainly needs a sympathetic ear and flexibility of line managers when they need to respond to acute caring needs of their dependants	The Agency will ensure that training and guidance for line managers raises awareness regarding specific needs of Section 75 groups including carers.
multiple identities – carers from black and minority ethnic backgrounds are even less likely to identify themselves as carers (due to cultural issues) and less aware of where to go for support; research has shown this is an even greater issue in NI than in GB	The PHA has recently established a regional, inter-sectoral Black and Minority Ethnic Health and Social Wellbeing Group. Membership includes representatives of health and social care organisations and the BME Community and Voluntary sector. The group's remit is

	<p>to raise awareness and promote co-ordinated and consistent action; building on and sharing information on good practice in addressing minority ethnic health and social wellbeing needs The Agency will ensure that the group's action plan, which will set direction and address a range of issues impacting on BME health &amp; social wellbeing, will include action to address the specific needs of carers from black and minority ethnic backgrounds.</p>
<p>multiple identities – older carers from lesbian, gay or bisexual backgrounds may have even fewer family ties and support; they are also more likely to have had negative experiences with the 'system' and thus be more reluctant to access support; next of kin issues are also important for them</p>	<p>The Public Health Agency is committed to addressing the health inequalities experienced by LGB&amp;T individuals. The action plan has been informed by the experiences of individuals from the LGB&amp;T community. It is currently being taken forward and includes key priority areas including an emphasis on young people and workplaces.</p>
<p>organisations across health and social care should work together to provide information to carers on who does what and where to go to for what service</p>	<p>Comment noted</p>
<p>it would be useful if PHA included costings for delivering on actions in their plans</p>	<p>The PHA has been developing a New Financial Planning and Monitoring System. Through the new system it will be possible to identify how much funding is being invested in programmes that are targeting particular groups such as Travellers and LGB&amp;T people.</p>

	It would be the intention to produce formal reports from the system that can be accessed, in appropriate formats, if requested.
<b>Consultee: Unison</b>	
ask the organisation to detail the specific consultations undertaken with s.75 groups (over and above the ad-hoc group convened by the BSO) to identify (1) the specific inequalities that those potentially affected groups felt were relevant to the Organisation's functions and (2) what actions those groups felt were necessary to better promote equality of opportunity.	The Equality Commission guidance on the Audit of inequalities does not include specific consultations to be undertaken with Section 75 groups. This reflects the three-month timescale specified by the Commission for the audit. Nevertheless, the contribution of members of the Equality Unit to the HSC-wide work summarised in the 'Emerging Themes' document involved direct engagement with the Rainbow Project, the Family Planning Association, the Women's Resource and Development Agency, and Carers NI; engagement related to wider health and social care issues.
Page 5, para 2 must be amended to accurately reflect the statutory relationship between the equality and good relations duties; NI Act 1998 states that public authorities must have 'have due regard' to the need to promote equality of opportunity and must have 'regard' to the need to promote good relations.	Comment noted
there is no clear description of how this process interacts	Progress on the delivery of actions is monitored and

with the corporate planning cycle – as stipulated by the Equality Commission	reported on quarterly as well as annually, as part of the Annual Review of Progress on Section 75 implementation to the Equality Commission.
no evidence of trade union involvement in the process	<p>The BSO Director of Human Resources, on behalf of its partner organisations, approached the four regional secretaries on several occasions to arrange a joint meeting dedicated to the audit, scheme and action plan.</p> <p>All trade unions received an invitation to attend one of four consultation events organised by the BSO and its partner organisations in different locations across Northern Ireland.</p> <p>All staff members, including local trade union representatives, were alerted to the consultation on the scheme, audit and action plan via the staff newsletter and invited to share their views.</p>
<p><b>Definition of Functions</b></p> <p>fails to give importance to ultimate outcomes, for example the reduction of health inequalities and the removal of underlying causes of poor health</p>	<p>The section entitled ‘About the Public Health Agency’ refers.</p> <p>The respective wording has now been brought across into the section on ‘Definition of Functions’.</p>
fails to use the necessary list of ‘functions’ in original Equality Commission Guidance, particularly with regard to procurement and employment	See amended text; these have now been included.



ask the Agency to clarify whether a representative from the Agency was there when BSO staff met with the ECNI in relation to the Audit process (p.19). The Agency is the duty bearer with regard to s.75 and the BSO should not act as its proxy in discussions such as these. We would ask the Agency to clarify the wording in its Service Level Agreement with the BSO, outlining how this relationship works in practice and whether any protocols were breached.

The Service Level Agreements define in detail the roles and responsibilities of client organisations in relation to each area of work which reflect their accountability for implementation of Section 75 duties.

In line with requirements under the legislation, each BSO client organisation has an identified equality officer; this individual acts as the main link with the BSO Equality Unit.

The purpose of the meeting with the Equality Commission was to discuss the proposed *common* approach proposed by the BSO, Agency and its partners; direct representation from the PHA and its partner organisations at the meeting was not considered an effective use of staff resources as the meeting did not discuss any matters *specific* to their functions

<p>There is no summary of the Audit before the text moves to the Action Plan; no cross-reference to the Audit findings at each item of the Action Plan to show why it is required</p> <p>the footnoted Audit is a literature review which does not detail findings; to establish the literature review/audit trail to each Action Plan would be a monumental task; in the absence of workshop links or summaries of qualitative evidence, related trails cannot be established</p>	<p>The Agency would like to clarify that Appendix 2 serves merely as a bibliography; in Appendix 1 the outcomes of the audit of inequalities are clearly listed against each division, thus summarising the outcome of each of the workshops.</p> <p>The format of the action plan has been updated to enable easier cross-referencing of identified inequalities and actions to address these.</p>
<p>Targets in the Action Plan are weak, unaccountable and not SMART (for example, the Action Plan commits to improving immunisation uptake 'as much as possible')</p>	<p>Targets have been updated as far as possible, taking on board the limitations posed by the data currently available.</p>

## Conclusion

This report reflects the consultation exercise undertaken to capture feedback on the content of the Public Health Agency's Equality Scheme and Audit of Inequalities. The detail of the submissions reflects the interest expressed by consultees in the area of equality. Senior Management Team and Board members have considered the submissions from each of the consultees and acknowledge the commitment of all those who responded.

Where it has been possible we have addressed comments within our Equality Scheme. In other instances we have taken the view that we do not feel that the degree of change suggested is consistent with the model scheme proscribed by the Equality Commission. Pursuing such change would necessitate complex discussions with the Equality Commission and consequently delay the Public Health Agency's ability to gain the necessary approval for its Scheme.

We feel that these suggestions can be more appropriately addressed by other methods. In our responses we have suggested a number of areas where the issue raised can be more done such as within training and guidance; in the provision of accessible information or more generally in the mainstreaming of the Section 75 agenda.

An implementation plan is being drawn up in relation to the Audit of Inequalities' Action Plan. Where relevant and feasible the comments provided by consultees have been incorporated. Regular reports on progress will be undertaken.

When further developed this implementation plan will also be placed on our website at: [www.publichealth.hscni.net](http://www.publichealth.hscni.net)

**Appendix 1**  
**Copy of original responses to consultation exercise**

**Response to Consultation**  
**Draft Equality Scheme**  
**Public Health Agency (PD/104/10)**  
**March 2011**

**Introduction**

The Equality Commission for Northern Ireland (“the Commission”) is an independent public body established under the Northern Ireland Act 1998. The Commission is responsible for implementing the legislation on fair employment, sex discrimination and equal pay, race relations, sexual orientation, disability and age.

The Commission’s remit also includes overseeing the statutory duties on public authorities to promote equality of opportunity and good relations under Section 75 of the Northern Ireland Act 1998 and the positive disability duties.

The Commission’s general duties include:

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

Section 75 of the Northern Ireland Act 1998 was intended to be transformative. Its aim was to change the practices of government and public authorities so that equality of opportunity and good relations are central to policy making, policy implementation and review and service delivery.

The Commission is fully committed to ensuring and monitoring the effective implementation of the Section 75 statutory duties. The decision to review and revise the Guide to the Statutory Duties (the Guide) is a reflection of this commitment and follows the conclusion of the Section 75 Effectiveness Review which the Commission undertook between 2006-2008, in order to assess the effectiveness of the legislation.

Following the Effectiveness Review recommendations, the Commission's aim was to create a more user friendly Guide, to make improvements in the area of screening of policies and to shift the focus within public authorities from concentrating primarily on the process of implementing Section 75, towards achieving outcomes within the Section 75 framework.

The Commission also produced a model equality scheme for use by public authorities. The purpose and intent of the model equality scheme is to set out best practice and it therefore includes both the legal requirements of Schedule 9 of the Northern Ireland Act 1998 and recommendations contained within the Commission's guide 'Section 75 of the Northern Ireland Act 1998 – A Guide for Public Authorities (April 2010)'.

The Commission welcomes the opportunity to comment on the Public Health Agency's (the Agency) draft equality scheme. The Commission's response to the Agency's equality scheme consultation is made with particular reference to the Model Equality Scheme.

### **General comments**

The Commission acknowledges and welcomes the fact that the approach taken by the Agency in producing a revised equality scheme is one which is broadly consistent with the Commission's model equality scheme.

The Commission is pleased to note that the Agency has undertaken an audit of inequalities to inform the development of its draft Section 75 Action Plan. We also note that the Agency is currently consulting on its draft Section 75 Action Plan and that the plan covers the period 2011- 2013.

## **Specific Comments**

### **Foreword**

In general, the foreword follows the model equality scheme issued by the Commission to the first tranche of public authorities, requested to submit revised equality schemes. We note the intent of the Agency to demonstrate leadership at the highest level and high level commitment to the discharge of the Section 75 statutory duties through the commitments contained in the foreword. Therefore, the Commission would recommend that the foreword is appropriately signed by the Chair and Chief Executive.

### **Chapter 1 Introduction**

The Commission welcomes the inclusion of detailed information on the broad range of functions undertaken by the Agency. This ensures that people are fully aware and informed of the Agency's specific functions and it also enables people to ascertain if the Agency is promoting equality of opportunity and good relations in relation to its functional responsibilities. In addition to the detailed information already provided in the Introduction, the Commission would advise that the Agency may wish to include some further information on its employment functions.

### **Chapter 2 Our arrangements for assessing our compliance with the Section 75 duties**

The Commission would recommend that the Agency includes in the section on Responsibilities and Reporting (page 8) more details on its internal reporting arrangements and decision-making in respect of its effective implementation of the Section 75 statutory duties.

### **Chapter 3 Our arrangements for consulting**

Page 13, para 3.2.3, footnote 6, the Commission would recommend that this information is included in the body of the text. This would contribute to good practice and accessibility of information, particularly for disabled people who may have a learning disability or visual impairment.

Page 13 para 3.2.5, the Agency might wish to provide more

detailed information on the arrangements for or the development of awareness raising programmes for consultees in general, in addition to the arrangements given in this section of the draft equality scheme.

#### **Chapter 4 Our arrangements for assessing monitoring and publishing the impact of policies**

We note the Agency's arrangements for assessing, monitoring and publishing the impacts of policies and welcome the commitment to utilising the tools of screening and equality impact assessment for the assessment of policies.

We also note page 23, para 4.25 commitment within scheme to review the effectiveness of sending quarterly screening reports to consultees. The Commission would advise that if the Agency subsequently decides post review of effectiveness of this approach to alter its commitment in respect of screening reports, the Commission should be informed of any changes to scheme commitments.

#### **Chapter 5 Staff training**

The Commission welcomes the Agency's training commitments as detailed in its draft scheme.

#### **Chapter 6 Our arrangements for ensuring and assessing public access to information and services we provide**

The Commission notes the Agency's arrangements for public access to information and its services. The Commission would recommend that the Agency may wish to further outline at para 6.3 any other arrangements it has in place for the provision of information to children and young people and people with a learning disability.

Page 30, para 6.8, the Commission would advise that the Agency may wish to provide more specific detail in this paragraph on its timeline for monitoring.

#### **Chapter 7 Timetable for measures we propose in this equality**



## **scheme**

Overall, the timetable of measures in Appendix 4 reflects the measures contained within the equality scheme which the Agency will implement.

Paragraph 7.2 refers to Appendix 4 as including the Agency's commitment to develop an action plan. The Commission would recommend that Appendix 4 also includes a measure 'to implement/deliver an action plan'.

## **Chapter 8 Our complaints procedure**

The Commission notes the commitment of the Agency to resolving any complaints it receives in relation to compliance with its equality scheme.

## **Chapter 9 Publication of our equality scheme**

The Commission welcomes and notes that the Agency will produce its Equality Scheme in Easy read. We would recommend that the Agency provides further information in this section on its arrangements for communicating effectively to children, young people and people with disabilities.

## **Chapter 10 Review of our equality scheme**

The Commission welcomes the Agency's commitment to undertake a thorough review of its equality scheme within the statutory timeframe.

## **Appendices**

The Commission notes the content of the Appendices to the Agency's draft equality scheme.

## **Section 75 Action Plan**

The Commission notes that the Agency, following the undertaking of its Audit of Inequalities, has also published for consultation its Section 75 Action Plan which details the action measures the Agency will undertake to better promote equality of opportunity and good relations.

As you know, the Commission will not consider the content of action plans as part of the approval process for equality schemes. However, we welcome the Agency's demonstration of commitment to the implementation of its equality scheme and the discharge of its statutory obligations under Section 75 of the Northern Ireland Act 1998 as demonstrated by the development of its action plan.

The Commission would advise that the Agency should review and update its action plan over the life time of its equality scheme to ensure that the action plan remains effective and relevant to its functions and work. The Agency should inform the Commission of any changes or amendments to its action plan and should also consider including this information in its annual progress report to the Commission.

## **Conclusion**

The Commission welcomes the approach taken by the Agency, particularly with regard to use of the Commissions Model Equality Scheme and the new Guide to the Statutory Duties.

Overall, the Commission would like to thank the Agency for the opportunity to consider and respond to this consultation on its draft equality scheme.

This response is made without prejudice to any consideration or determination which the Commission might make in performance of its statutory function to investigate individual complaints under Schedule 9 of the 1998 Act or conduct any other investigation under that Schedule.

● Northern Ireland Council



**Response to the Business Services  
Organisation on its  
Draft Equality Scheme,  
Audit of Inequalities and  
Action Plan**

**March 2011**

## 1 Introduction

NICEM is an independent non-governmental organisation working to promote a society free from all forms of racism and discrimination, where differences are recognised, respected and valued, and where human rights are guaranteed. As an umbrella organisation<sup>4</sup> we represent the interests of black and minority ethnic<sup>5</sup> (BME) communities in Northern Ireland.

NICEM welcomes the opportunity to make a response to this important consultation. This is a response to the Business Services Organisation (BSO) in relation to the draft schemes, audits and action plans of all the health and social care bodies that it has been coordinating. We will make reference to the draft scheme, audit and action plan of the Public Health Authority (PHA) by way of example. This response is based on our response to the Belfast Trust and we make reference to that response also.

Section 75 of the Northern Ireland Act 1998 was, at that time, a genuinely unique experiment in mainstreaming equality across 9 grounds, including 'racial group'. In the Foreword of the draft Scheme of the Belfast Health and Social Care Trust, it is stated, "While public authorities had worked hard to get the process right and there had been a substantial cultural change and a change in how public policy was made, there was a tangible need for a "shift from process to outcome". These outcomes are the impact or benefits derived for the individual as a result of implementation of the duties."<sup>6</sup>

Before considering the implementation of section 75 in the health and social care sector in more detail, we wish to make the initial point that, from NICEM's perspective, **section 75 is largely targeted at promotion of equality of opportunity for individuals in vulnerable communities and groups in Northern Ireland, in our case, ethnic and religious minority**

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<sup>4</sup> Currently we have 29 affiliated BME groups as full members. This composition is representative of the majority of BME communities in Northern Ireland.

<sup>5</sup> In this document "Black and Minority Ethnic Communities" or "Minority Ethnic Groups" or "Ethnic Minority" has an inclusive meaning to unite all minority communities. It refers to settled ethnic minorities (including Travellers, Roma and Gypsy), settled religious minorities, migrants (EU and non-EU), asylum seekers and refugees and people of other immigration status.

<sup>6</sup> At p 7 of the draft Scheme.

**communities.** Screening and equality impact assessment (EQIA) exercises are directed at the identification of ‘adverse impact’ on these communities and groups. It is a mistake to individualise the collective nature of section 75 analysis. This individualisation also makes it easier to claim that particular policies have ‘universal impact’ on all individuals, in seeking to avoid identifying the particular adverse impact that some section 75 communities and groups suffer.

NICEM has concerns that the ‘due regard’ duty in section 75 has become a mechanical exercise and that public authorities generally produce ‘defensive’ screening exercises and self-justifying EQIAs. We are also concerned that key elements in original schemes, such as collection of quantitative and qualitative data, collaborative research across sectors and the effective monitoring of policies across all section 75 grounds, have been largely disregarded.

**In short, NICEM considers that the bureaucratic application of equality schemes by many public authorities has turned section 75 from an equality ‘mainstreaming’ duty into an equality ‘sidelining’ duty.**

NICEM considers that section 75 itself and Schedule 9 of the Act have many deficiencies. Nonetheless, the Effectiveness Review conducted by the Equality Commission (ECNI), the third edition of its Guide on Statutory Duties and the introduction of audits of inequality and action plans all provide a stimulus for the reinvigoration of the ‘mainstreaming’ duty in section 75.

NICEM expects the BSO, and the bodies it is coordinating, to submit mature equality schemes to the ECNI. They should build on the experience of operating under their original scheme and **reflect the particular functions of each body and the different challenges that each faces.** NICEM worked as part of the Equality Coalition to discuss with the ECNI its draft Model Scheme, to which we will refer below, and we consider this to have been a valuable exercise in setting down the minimum standards expected in an approved equality scheme.

NICEM also accepts that drafting an audit of inequalities and an action plan is ‘new territory’ for everyone involved in this process. Nevertheless, NICEM expects both audits and action plans to be ‘living documents’ within the work of the relevant bodies. We expect them to be regularly reviewed and made more

comprehensive and effective. **Most importantly, we consider that the development of audits and action plans are not some form of alternative to effective compliance with each equality scheme, but rather a means of helping the BSO-coordinated bodies adopt best practice in the proactive promotion of equality of opportunity in its work.**

In this sense, this revision of equality schemes and introduction of audits and action plans is an opportunity to learn from the mistakes and inadequacies of the past 10 years and to move forward, even at a time of scarce resources, into a period of genuine mainstreaming of equality.

## **2 The Process**

From NICEM's perspective there should be one Equality Scheme from the DHSSPS that applies across the Board, the Trusts and other health and social care bodies coordinated by the Business Services Organisation. In this way the sector will have more resources by working together and doing a better job on the audit of inequalities and monitoring data. The action plans at each level should reflect each body's unique functional areas.<sup>7</sup> Otherwise, as it appears clear now, action plans at each level will have different directions which are not consistent with each other.

However, the whole sector has to be fully involved in these processes. On this occasion, it is valuable that the health and social care sector is revising its schemes and producing audits and action plans along with the relevant Government Department. In 2000-01, the Government Departments came first and, in the view of many, produced minimalist schemes, which were approved by the ECNI, and set the scene for their respective sectors. Valuable work had obviously been done in the sector but there was still much to do. **It is important that the health and social care sector schemes, audits and action plans are seen as a template for other sectors.**

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<sup>7</sup> This was intended by the previous Government in Great Britain in relation to the public sector duties in the Equality Act 2010.

### **3 Draft Equality Schemes**

#### **3.1 Consistency with ECNI Model Scheme**

In NICEM's view, **there should a non-regression principle in relation to the consistency of draft equality schemes with the ECNI Model Scheme.** We would have preferred if the BSO-coordinated bodies had been required by the Commission to indicate any deviation from the minimum requirements of the Model Scheme with an explanation of the deviation. **We feel that public authorities should be required to explain deviations from the Model Scheme in the schemes which they submit to the Commission for approval and that the submitted schemes should be circulated to consultees so that they can comment upon the deviations and explanations.**

#### **3.2 Customised Equality Schemes**

Having made that point, **NICEM nevertheless believes that public authorities should make more efforts to customise their schemes to their own functions. In our view, the BSO-coordinated schemes are disappointing in that they repeat exactly the wording of the Model Scheme with minimal attempt to make the scheme a reflection of what the authority actually does.** We do not accept that, because the scheme is a 'legal document', it should merely reiterate the terms of the Model Scheme. No doubt, the Commission wishes to approve a scheme within which the obligations of the Trust are clearly set out, so that the Commission can, if necessary, conduct its investigations into alleged failures to comply with it. But this genuine concern is met by the 'non-regression' principle outlined above.

**In our view, the scheme should be both inward and outward looking.** It should be relevant to those who work for the public authority, so that they can see their role in mainstreaming equality in their organisation.

It should also explain fully to recipients of services, and the public more generally, what the authority actually does so that they can also see how the mainstreaming of equality is relevant to them.

**This need is particularly acute amongst the less well-known health and social care bodies coordinated by the BSO.** Most people have very little idea what they do. Yet there appears to be far more detail about their work in the draft audit (which will not be as publicly available as either the equality scheme or action plan). **This seems to be a missed opportunity to make each body's scheme a statement of what the body actually does.**

Given that most public authorities have been operating under their original schemes, it should be easy to include practical examples of how the authority has already complied with its original scheme, not just on screening and EQIAs but also on other commitments such as collection of evidence and monitoring of policies.

We are therefore disappointed that the BSO-coordinated bodies have not made efforts to customise their schemes. **More could be done to make the scheme relevant to both those who work for the BSO-coordinated bodies and the citizens who receive their services**, and those who work with it on consultative and other participative forums and respond to consultations.

One particular aspect of the draft Schemes that we find satisfactory is that the BSO coordinated bodies have set themselves specific deadlines when required to do so by the Model Scheme. For example, at §3.2.3 of the PHA draft Scheme, it is stated:-

“Information will be made available, on request, in alternative formats, in a timely manner, usually within 20 working days (unless third party timescales dictate otherwise ...). We will ensure that such consultees have equal time to respond.”

#### **4 Draft Audits of Inequality**

##### **4.1 Collection of data**

We welcome the draft audit of inequalities across the BSO-coordinated bodies. As stated above, we would have preferred an audit across the entire sector led by the DHSSPS. However it is apparent that the BSO-coordinated bodies have not been comprehensively collecting both quantitative and qualitative data over the past 10 years, as required by their original schemes. In our view, the initial responsibility for the comprehensive collection of evidence lies with the relevant Government Department but with the full involvement of other health and social care sector bodies.

**The duty to collect evidence also includes a commitment to conduct research where evidence does not exist.** We expected that there would be consortia of health and social care bodies commissioning research and liaising with the further and higher education sector and funders of research in order to conduct this research. This simply has not happened in the past 10 years.

Although we have worked with the ECNI on its Model Scheme, we are now belatedly concerned at the description given to the audit process. At §2.12 of the Model Scheme, replicated at §2.12 of the Scheme of BSO-coordinated bodies, it is stated:-



“The audit of inequalities will gather and analyse information across the Section 75 categories to identify the inequalities that exist for our service users and those affected by our policies.” Bluntly put, **the BSO-coordinated bodies gave commitments in their original schemes to collect quantitative and qualitative data and, like most other public authorities, it is only with the welcome introduction of audits of inequalities that they has begun to take this commitment seriously. It is therefore essential that the comprehensive collection of evidence is undertaken under the revised Schemes submitted by the BSO-coordinated bodies.**

This is particularly the case in relation to ethnic and religious minority communities. In our experience, each community has its own health and social care needs. The audit across the Health Trusts places heavy reliance in the audit of ethnic minority inequalities on NICEM research.<sup>8</sup> Yet this research is not mentioned in the audit of the BSO-coordinated bodies. In both audits, we ask the question, ‘Where is the research commissioned by the health and social care sector?’ This is even more apparent in relation to the needs of, and therefore the inequalities suffered by, religious minority communities.<sup>9</sup> There is nothing at all in the evidence base used in this audit on religious minorities.

#### **4.2 The audit process**

The ECNI defines the audit as a “systematic review and analysis of inequalities”. This ‘analysis’ essentially involves identifying what inequalities exist – the important issue of their causes appears to be absent from both the ECNI guidance and health and social care sector audits. We are unsure how the BSO-coordinated bodies can set out actions, outputs and outcomes on the basis of an audit of inequalities without some identification and analysis of the causes of the inequalities.

We welcome the fact that the BSO-coordinated bodies have collaborated to identify inequalities.

It seems curious to us that the audit of inequalities is an appendix

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<sup>8</sup> At p 79, it is stated, “The majority of the issues below are also found in the NICEM Report “Black and Minority Health and Wellbeing Development Project for North and West Belfast” September 2006.” There is also reliance on our research report, Robbie McVeigh and Chris McAfee, “‘Za Chlebem’: The Impact of the Economic Downturn on the Polish Community in Northern Ireland”, Belfast: NICEM, 2009.

<sup>9</sup> At pp 35-37 of the audit.

to the draft action plan. We expected the action plan to flow from the audit. We are also puzzled that, despite an extensive 'evidence base' in an appendix, it is essentially a literature review and there is no connection between the identified inequalities and the evidence base.

We welcome the functional approach initially taken in the audit. **But we are disappointed that the BSO-coordinated bodies have not followed the lead of the Health Trusts and identified separately inequalities in relation to each section 75 group.** Our concern with the Trusts is that they have not followed this approach through into their draft action plans but the BSO-coordinated bodies have not done this even in their audit. **Therefore, there is a need in the future for more comprehensive consultation on, and research into, the inequalities suffered by ethnic and religious minorities.** In particular, consultative forums should be a place where a more holistic appraisal of evidence collection can be discussed.

#### **4.3 Gap analysis**

What was missing in the draft audits, including that of the BSO-coordinated bodies, is **a gap analysis of evidence on the inequalities suffered by ethnic and religious minority communities** in Northern Ireland. **Equally important as 'what was out there' is 'what was not out there'.** Even in a period of reduced resources, we consider it essential that comprehensive research and consultation processes take place independently of particular screening and EQIA exercises.

We consider that the ECNI should produce a model audit of inequalities, on the basis of this initial exercise. In any event, we consider that **a gap analysis should be included in the first year of the action plan** of each BSO-coordinated body and that efforts to collect quantitative and qualitative data on priority gaps should be included in the subsequent years of the action plan.

We are concerned that there is no section in the audit on inequalities specifically on ethnic minority communities and that there is no reference to inequalities suffered by religious minority communities. **Obviously, many gaps remain. It is the responsibility of health and social care bodies to identify and fill those gaps.**

#### **4.3 Annual Review**

More generally, there should be a full review of the audit (and also

the action plan) after the first year. This should be included in the Trust's Annual Report to the ECNI.

## **5 Draft Action Plans**

### **5.1 Gap analysis in Draft Action Plan**

We wish to see the annual review of audits and action plans, together with the gap analysis and subsequent evidence collection, included in the action plan itself.

### **5.2 Actions not group-specific**

Since we are disappointed that there are no sections of the audit specific to each section 75 ground, we are equally disappointed that the action plans of the BSO-coordinated bodies are not group-specific. We have heard comments that 'this would make the action plan too long' but this is not sustainable. We also hear the phrase 'universal impact' being used to justify this lack of specificity in the action plans.

This justification causes us concern. The whole point of section 75 is to identify the particular adverse impact of the policies of the BSO-coordinated bodies on the communities and groups covered by section 75. **Claims of 'universal impact', without analysis of adverse impact, therefore negate the primary purpose of section 75.**

The purpose of the action plan is to show how the BSO-coordinated bodies will 'promote equality of opportunity' across the nine section 75 grounds. We accept that, in some parts of the public sector, it may be difficult to differentiate some actions in this fashion. But this is not the case in the health and social care sector. In any event, when the gap analysis is undertaken, and the subsequent work plan is put in place, this justification will become less unsustainable.

Those in ethnic and religious minority communities, and those who represent them, wanted to pick up the action plan and see what it means to them. **This lack of transparency in relation to group-specific actions is not acceptable.** The audit has identified group-specific and cross-cutting inequalities in relation to ethnic minority communities and **the action plan must likewise identify group-specific actions, outputs and outcomes.**

### **5.3 Tracking inequalities into the action plan**

**This failure to have group-specific actions in the action plans of the BSO-coordinated bodies makes it difficult to track the**

**inequalities identified in the audit, including the group-specific inequalities, into the actions in the action plans. The decision-making process in identifying actions (and lack of actions) from the audit is opaque rather than transparent.**

There is therefore a danger of ‘soft options’ being chosen, including actions that are already occurring. The action plans should make it transparent how this prioritisation has been conducted.

#### **5.4 Diminishing level of specificity**

**We are also concerned at a ‘law of diminishing returns’ from audits into actions, outputs and outcomes.** In relation to actions proposed by public authorities, the ECNI specifies that they be outcome-focused and SMART.

In our view, the action plans of the BSO-coordinated bodies **do not identify performance indicators, monitoring arrangements or areas of responsibility.**

**They include a timetable for implementation of actions but do not tell us when intended outcomes are to be achieved (not outcome-focused).**

**Some ‘intended outcomes’ are not really outcomes.**

**Some ‘Issues to be Addressed’ are not inequalities**, e.g. in the PHA action plan, “Cancer Screening Programmes: Commissioning and quality assuring cancer screening programmes” is a function. What is the inequality?

## **6 Conclusion**

NICEM welcomes the introduction of audits of inequalities and action plans as part of the equality scheme revision process.

**However our first concern is to see the section 75 mainstreaming duty work much more effectively than it has over the past 10 years.** The primary purpose of the audit of inequalities, and subsequent gap analysis, is to satisfy the duty of the BSO-coordinated bodies under their schemes to collect evidence of inequalities for the purpose of effective screening and EQIA processes and to improve the monitoring of policies across the nine section 75 grounds.

Similarly the primary purpose of the action plans of the BSO-coordinated bodies is to show examples of actions, outputs and

outcomes which the BSO-coordinated bodies intend to achieve in the process of mainstreaming equality throughout its work and through the implementation of its equality scheme. The content of the action plan, even when reviewed and updated every year, is not a roadmap of all that the BSO-coordinated bodies seek to achieve through their screening and EQIA processes.

**In short, the valuable addition of audits of inequalities and action plans are not an alternative to the effective operation of the equality schemes of the BSO-coordinated bodies. Rather these audits and action plans allow the BSO-coordinated bodies, not merely to comply with their equality schemes, but also to adopt best practice in terms of tackling the inequalities which ethnic and religious minority communities face.**

We consider that the BSO-coordinated bodies have made a start in revising their equality schemes in line with the ECNI Model Scheme but have failed to customise their draft schemes according to the functions that they perform. We appreciate that the BSO-coordinated bodies have taken a functional approach to their audit of inequalities but consider the methodology to be flawed. Their action plans also have significant deficiencies.

**We have sought to show in this response that there are many lessons to be learnt from this consultation process and we hope that the Trust will take on board the constructive remarks that we have made.**

**For further information in relation to this submission, please contact:**

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**UNISON submission to  
Public Health Agency on its  
draft Equality Scheme,  
Audit of Inequalities and  
Action Plan**

March 2011

## 1.0 INTRODUCTION

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UNISON is the leading trade union in NI and the largest trade union in the UK with over 1.3 million members.

Our membership includes public service workers in health and social care, the education and higher education services; workers in local government and youth justice; workers in private sector service suppliers; and workers in the community and voluntary sectors.

84% of our membership in NI are women. Our membership also reflects all categories of groups designated under the Statutory Duty of Equality of Opportunity (s.75 of the NI Act 1998).

We are a Co-convenor, with the Committee on the Administration of Justice, of the Equality Coalition, an alliance of the affected groups specified in s.75.

The comments we make in respect of this draft Equality Scheme, Audit of Inequalities and Action Plan should be viewed in conjunction with input from other affected groups as a co-operative contribution.

UNISON stress our willingness to work co-operatively with the Agency to ensure sound processes for consultation and the participation of all affected individuals and groups in future decision-making.

## **2.0 DRAFT EQUALITY SCHEME**

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**We welcome that the Agency has followed to a large extent the Model Equality Scheme produced by the Equality Commission NI.**

**However, there are a number of key issues which we believe must be addressed to strengthen the Scheme and to ensure the Agency most effectively implements its S.75 obligations. We believe effective implementation will result in:**

- the mainstreaming of equality, placing it at the heart of the Agency's decision-making processes;
- the opening up of those decision-making processes to civil society and in particular to groups affected by s.75;
- better all round health and social care delivery; and
- an effective contribution to consensus building in a divided society.

### **2.1 The Scheme needs to clarify the precise relationship between the s.75 equality duty and the good relations duty**

To prevent misunderstanding, and ensure the most effective application of s.75 by Agency staff, the Scheme should clarify the precise relationship between the s.75 equality duty and the good relations duty.

The NI Act 1998 and subsequent Guidance from the Equality Commission for NI make it clear that equality duty is given stronger legal weight than the good relations duty as the former is seen as the



necessary underpinning for the latter. 2010 Equality Commission Guidance states that ‘good relations cannot be based on inequality’ and that ‘the term *due regard* was intended to be, and is, stronger than *regard*’.

The discharge of the good relations duty also ‘cannot be an alternative to or cannot set aside the equality of opportunity duty.’

Thus, for example, provisions to better promote equality of opportunity for Catholics and nationalists in some geographical areas and some public programmes, or Protestants and unionists in other domains, must reflect real objective need, rather than some search for an ‘equitable balance’. Community differentials caused by religious discrimination lie at the heart of much of the inequality in Northern Ireland and the S.75 duty actively seeks to address and reduce those differentials.

It is essential that the Agency clarifies this relationship to ensure that its responsibilities under each duty are clear and unambiguous.

## **2.2 The Scheme requires a section to outline the social, economic and health context within which the Agency operates**

We believe that the Scheme would benefit from an introductory section to outline the social, economic and health context within which the Agency operates and how it engages with crucial issues of inequality and discrimination. This is crucial in light of the specific role that the Agency plays in promoting better health outcomes and tackling health

inequalities.

It would be useful, for example, for the Scheme itself to engage with key issues such as:

- How do we address the *social, economic and cultural determinants of health* when planning, commissioning, providing and monitoring health and social care services?
- How can the health system work in a more *co-ordinated way* to address the causes of ill health related to areas such as poverty, deprivation and poor housing?
- How can we shift priorities and funding towards health *prevention and promotion* – addressing health inequalities as a core aspect of the change process.
- How do we build healthy living and working into *purchasing and commissioning* decisions?
- How do we ensure *equal access* to health and social care services?

UNISON would recommend that the Agency use the data and information available to it much more systematically to expose, analyse and then monitor inequalities.

It can be argued that that we don't need innovative and radical solutions to tackling health inequalities in NI. Understanding and implementing the recommendations from recent reports produced by Professor Sir

Michael Marmott<sup>10</sup> would be a good first step in tackling specific health inequalities faced by s.75 groups.

If the Public Health Agency, Health and Social Care Board and wider system were to take the conclusions, recommendations and good practice in these reports and then try with determination to make complementary changes in Northern Ireland – that should be enough to make real change for those who need it the most.

A comprehensive, joined-up approach across the system is essential. It isn't enough to have good plans in a couple of these areas, and ignore the rest. The couple of good plans, in isolation, will fail despite our good intentions and the hard work and commitment of everyone involved.

A starting point for the Agency would be to take each of the areas marked out by Marmot in his final review 'Fair Society, Healthy Lives' in February 2010, and look at options for implementation in NI. Examples of potential actions follow.

- Whilst Marmot didn't recommend alteration to ***free nutritional school meals*** arrangements that shouldn't stop the Agency lobbying for improved arrangements in NI.
- Marmot has done a great deal of work on ***health inequalities in the workplace***, linked to the Whitehall studies. Surely the public service,

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<sup>10</sup> See Marmott's World Health Organisation Commission report on the Social Determinants of Health and his 3 more recent reports on Health Inequalities in England concluding with the 2010 report 'Fair Society, Healthy Lives'

and the health service in particular, should be taking active measures to reduce this gradient?

- In his First Phase report, Marmot refers to ***unexpressed need in relation to health services*** – similar to the issue of unmet need and differential use of hospital services highlighted in a 2007 Royal Hospitals Trust report prepared by Former Director Evan Bates. A starting point to tackle this issue would be to review urgently the Regional Capitation Formula, which penalizes disadvantaged areas. There's also evidence of more out-of-date services outside Belfast, and reduced access to elective services. It needs more than just allocating the resource cake differently.
- Marmot highlights the need to measure what is going on in relation to various ***vulnerable groups***. Much, much more can be done in the health service at modest cost with raw data that is readily available.
- Marmot refers to the huge power of the ***health service (and public services) as major employers and procurers of goods and services***. The West Belfast and Greater Shankill Health Employment Partnership is a good example of what the health service could start to do to recruit and train low income groups into health services jobs and support regeneration of deprived areas.

There should be a commitment to a strong partnership approach to bringing added pressure to raise priority and attention to these issues across the health system.

## 2.3 Comments on the Foreword

UNISON welcomes the top level commitment given by the Chief Executive and Chairperson to the Agency's obligations under S.75. It must be made clear, however, that the Foreword and Appendices form integral parts of the Scheme.

Whilst we welcome the commitment of the Agency to fulfilling its S.75 duties across all its functions, these are defined differently in various parts of the Scheme. For clarity we would suggest that a common definition is used throughout the Scheme - specifying that functions includes powers and duties, is of wide import and includes service provision, employment and procurement functions.

The Agency should make it clear that the existence of the Action Plan does not detract from its statutory responsibility to ensure that all its functions and policies are scrutinised to determine where equality of opportunity can be promoted and inequality tackled.

It is essential, in this context, that decision-makers utilise *all* available qualitative and quantitative data, including the Audit of Inequalities, when applying s75 to Agency functions and policies not contained within the Action Plan.

We would also suggest that the Foreword states the Agency's commitment to taking *all necessary steps* to ensure that it complies with its statutory duty and the effective implementation of the Equality Scheme.

## **2.4 Comments on Chapter 1: Introduction**

The current wording in the Foreword to the draft Scheme commits the Agency to providing “the necessary resources” to effectively implement the duty. However, the wording of para 1.3 waters down this commitment by stating a commitment to ‘the necessary *available* resources’. This is a weak formulation of words and should be amended to the wording contained in the Foreword.

## **2.5 Comments on Chapter 2: Arrangements for Assessing Compliance**

For clarity it would be useful if the Equality Scheme includes examples of *how* compliance will actually be assessed in practice

Whilst recognising that the Equality Commission Guide uses the term ‘Audit of Inequalities’, this term is often quite limiting in scope. We would therefore recommend that in para 2.12 the Scheme make clear that the Audit is a living documents and requires an ongoing, full and comprehensive ‘analysis’ of inequalities.

We welcome the Agency’s commitment to monitor progress on delivery every 12 months (para 2.16) but would recommend a re-wording to

make it clear that monitoring can take place at an earlier stage if new data or information is received.

**Whilst the current structures for assessing compliance necessarily ensure senior representation, it is likely to point up existing imbalances in many of the categories designated under s.75. Consideration should be given to how these imbalances are redressed. We welcome more information on the *specific discussions* the Agency is entering into with users of the services and their representatives. In particular we wish to see specific steps taken to involve affected s.75 groups and service users in TSN areas.**

## **2.6 Comments on Chapter 3: Consultation arrangements**

We welcome the Agency's commitment to open, timely and inclusive consultation. Effective consultation leading to effective participation by affected groups lies at the heart of the statutory duty. It is an area in which the Agency has obligations to outreach, assist and resource the consultees.

We would encourage the Agency to follow the advice of (and resource) groups with specialist knowledge in this domain. For example such groups could assist in decisions about how, when, and who to approach. People with disabilities could be involved in developing the consultative methods to be used and involved in delivering that training. This kind of investment will ensure that affected people are able to fully participate in the decision making process and contribute to capacity building within

the constituency which, in and of itself, will address fundamental issues of inequality and exclusion. However, the primary responsibility must remain with the Agency itself to do the necessary work, and to reach out beyond organised groups.

We recognise that some of the legacy health bodies have in the past undertaken an inclusive consultation process but this whole approach needs to be revisited on a system-wide basis. Although the consultation list is comprehensive, we would hope the Agency would seek to ensure it is constantly reviewed to ensure full inclusion.

Para 3.1 should be amended to ensure that the Audit of Inequalities will be consulted upon in addition to the Scheme, action measures and Equality Impact Assessments.

**The Scheme must set out a clear procedure to ensure that the views of those consulted have been fully considered and incorporated into the decision-making process or that reasons why are produced where those views have not been included.**

We welcome the commitment of the Agency to ensure that those involved in facilitating such processes are given “*specific training*” and have “*necessary skills*” to enable meaningful participation.

The Agency should also provide the “*necessary resources*” to ensure that both the information which is disseminated and, the services provided, are made accessible in a way which ensures equality of opportunity.



It is essential that consultations on all matters including functions, duties and powers involve all designated groups and individuals. It is therefore essential that any ‘targeted approach to consultation’ as specified in para 3.2.1 does not create a “hierarchy” of consultation with certain groups becoming the ‘gatekeepers’ of the process thus excluding others from inclusive participation.

## **2.7 Comments on Chapter 4: Arrangements for assessing, monitoring and publishing the impact of policies**

### ***What is a policy?***

The Scheme needs to impart a real sense of what the policies mean and how someone could identify if a policy has a particular relevance to their interest group. In setting out its functions, duties and powers:

- the Agency must be more explicit about who else is involved, particularly in the mixed economy of health care delivery. Full details of the Agency’s contractors and sub contractors and the functions they perform should be set out in the scheme;
- the Agency must set out clearly arrangements on how it will ensure that decisions or directives from others both ‘upstream’ and ‘downstream’ in the decision-making process will be independently assessed by it to enable it to fully comply with its s.75 obligations;

- the Agency must state its specific responsibilities in relation to impact assessment to ensure that any overlapping with another public body or agency does not lead to confusion or lack of clarity on the action required by each body to discharge their statutory obligations.

The Agency is obliged under s.75 to promote equality of opportunity across the range of constituencies mentioned, regardless of where any particular policy originates. S.75 applies to all policies regardless of their origin and the Scheme must explicitly accept that all policies, once accepted and put into practice within the authority concerned, become its policies.

UNISON would also welcome a more explicit recognition by the Agency that many practices are not the subject of written policy documents, but are nevertheless established policies. As recognised in para 4.1, all written and unwritten policies are covered by s.75. The Scheme should indicate measures that will be put in place to reflect this more systematically for the purposes of screening and impact assessment.

*The Scheme provides insufficient detail on the Agency's procurement and employment functions. S.75 clearly places an obligation on the Agency in respect of all its functions, powers and duties. Employment, service provision and procurement are among the key areas on which we expect the Agency to fully implement statutory duty. Detailed comments on procurement and employment follow.*

### **Procurement**

The Agency must clearly acknowledge throughout its scheme that procurement is a function to which the equality duty applies. The following comments were produced by UNISON in 2000. A number of legacy health bodies agreed that these would be incorporated in future revised schemes. The Department also incorporated them into the implementation of its Scheme.

As a minimum standard for the full promotion of equality, it is also essential that Agency commit to implementing the 2008 joint '*Equality of Opportunity and Sustainable Development in Public Sector Procurement*' Guidance produced by the Equality Commission NI and the Northern Ireland Central Procurement Directorate

**The Agency should commit to a definition of procurement that embraces its responsibilities as:**

- a purchaser or provider of services under commissioning arrangements;

- a purchaser of goods, supplies and utilities; and
- a purchaser of services and works

In respect of its role as a purchaser or provider of specific commissioned services, it should acknowledge its responsibility to ensure that commissioning documents and reviews to which it is a party contain a proper process of equality assessment as defined in the legislation, and commit both the provider and purchaser to delivery and review of the service in light of the equality groups in the legislation.

In particular, the Scheme should commit to a specific and integral reporting framework by which the purchaser and provider can publicly account for the equality proofing and performance of commissioned services.

In respect of the procurement of goods/supplies/utilities, where such procurement is through purchasing consortia which are also subject to the equality duty, the Agency should commit to developing its partnership and influence with such bodies to ensure contracts in which it participates test at listing and award stage the competence and capability of suppliers (whether internal or external to Northern Ireland) in respect of the designated equality categories within the legislation.

It should also commit within its Scheme to participating with such bodies to specific initiatives to:

- brief existing suppliers of goods/services/initiatives as to the obligations and standards they need to develop;

- develop awareness amongst potential (and in particular local) suppliers of equality good practice to assist them in participating in contracting, particularly when such participation would promote equality in e.g. TSN areas.

Where the Agency contracts directly for goods/supplies/utilities it should state within the Scheme a defined materiality threshold over which the competence of suppliers in demonstrating their adherence and understanding of the specified equality groups is mainstreamed into the processes of advertisement, listing, award and contract review. It should also commit to promoting suppliers awareness and participation as described above.

In respect of the procurement of services and works, it should commit within the Scheme to the following:

- ensuring that any advisors/Consultants/Supervisors retained have an appropriate understanding of the legislation and the Scheme;
- reflecting the requirements of the legislation and Scheme in all contractual documentation;
- ensuring the testing of provider equality competencies is mainstreamed into advertisement, listing, award and monitoring processes;
- specifically testing employment policy, employment practice and provider track record against the designated equality groups, including consideration of adverse findings in the courts or at tribunals over statutory factors.

It should also commit within the scheme to the full implementation within its procurement activities of future legislation from the EU and UK governments (e.g. the expanded role for assessments in procurement of race factors in the draft EU Racism Directive).

### *Employment*

The Agency must make a specific commitment in its Scheme to discharging the equality obligation in its function of employment. This should inter alia include:

- a commitment to the systematic creation and review of employment policies covering all the designated equality groups;
- a clear commitment in the Scheme to equality of treatment between the different groups, and the avoidance of any hierarchy, including any distinction between statutory and non statutory discrimination;
- recognition within policies and the Scheme of the nature of multiple oppression and discrimination;
- a clear commitment to link a policy-driven employment framework to equality of pay and remuneration;
- a recognition that all training and development should reflect mainstreamed equality as per the Scheme, not just Scheme-specific training.
- a commitment to the visible integration of equality policy/practice and Health and Safety policy/practice given such strategic links as sexual harassment;

- a commitment that s.75 obligations will form part of the induction training of all Agency members and employees;
- integration where appropriate between the s.75 employment obligation and professional practice protocols involving employee obligations for fair treatment;
- **specific recruitment, grievance and disciplinary policies which reflect s.75 obligations;**
- specific training for all those charged with the operation of such policies;
- appropriate and confidential facilities which allow individuals or groups facing discrimination to raise their concerns;
- systematic audits of workforce composition and employment policy effectiveness;
- clear and explicit policy measures, remedies and sanctions for acts of discrimination and harassment in respect of all designated groups;
- a commitment to review and modernisation of policies in the light of positive legal developments that promote equality of opportunity;
- effective consultation with stakeholders (e.g. recognised trade unions) over the implementation and ongoing review of all s.75 employment obligations;
- a mainstreamed approach promoting equality within all bargaining structures;
- a commitment in any screening process to incorporate specific consideration of employment factors;

- acceptance that the employment function covers the definition of “worker” in the widest sense;
- commitment to measures to protect all employees from discriminatory violence or harassment from users of the its services.

### ***Screening and Equality Impact Assessments***

We note that the lead role in screening will be taken by the policy decision maker. From experience, the lack of equality expertise amongst senior decision-makers has led to the screening out of policies which have had enormous implications for equality of opportunity.

It is essential that the decision on whether an equality impact is minor, major or none is subject to objective criteria and not on the whim of the lead decision-maker who may not have the necessary training on S.75 issues. There is a real danger that this will lead to an effective climate of no assessments being undertaken, particularly on what may be seen as onerous or contentious policies.

A report on all screening recommendations should be issued for endorsement by the Senior Management Team with the full participation of the organisation’s Equality Unit at the earliest possible stage.

The Agency should commit to ensuring that affected groups are facilitated to participate in the screening process at the earliest possible



stage, through whatever techniques are appropriate, including where required, quantitative survey work, and qualitative discussions with groups, where information gaps need to be addressed.

To ensure that consultees are able to participate effectively in the screening process it is essential that the Agency commit to informing consultees when screening forms are issued and posted on the Agency website. Without such notification s.75 groups with expertise and data on particular issues will be excluded from influencing policy development – particularly the application of mitigation or alternative measures. This is particularly important on policies where ‘no’ or ‘minor’ impact is determined. Groups representing LGBT communities; political opinion or dependents have expressed particular concerns in this regard since so little research has been done on the needs of their specific constituencies.

It is essential that the Agency make it clear that financial considerations will not be a basis for restricting or limiting the impact of equality assessment.

As stated previously all policies, written or unwritten, are covered by s.75. We would therefore ask the Agency to clarify the measures that it will undertake to ensure that practices that are not the subject of written policy documents but which are established policies of the Agency are both screened and an impact assessments undertaken.

The Agency has a responsibility to follow the Guidelines with respect to all policies regardless of the source of the policy – not just those in which equality of opportunity is 'central'. The Agency's Scheme would be advised to strongly acknowledge that, alongside the screening for policies which have equality of opportunity as a central focus, policies which may appear at first glance to be devoid of equal opportunities implications, and which have been immune from challenge or question in the past, require a fresh look in order to determine whether there are in fact implications for equality of opportunity. The screening of new and proposed policies must also be subject to this criteria.

To enable us to understand whether we will achieve measurable outcomes it is essential that specific data is available and baselines established on specific impacts to establish how the Agency has related to the affected groups in the past and how it will relate in the future in the context of the Statutory duty.

**There is clear scope for collaboration. Where a 'lead responsibility' is identified for a particular Equality Impact Assessment the scheme must identify the boundaries of each public authority's responsibility for decision-making to ensure that responsibilities are not passed on or hived off.**

## **2.8 Comments on Chapter 5: Staff Training**

We would refer the Agency to our previous comments (para. 2.7) on the application of s.75 to its employment functions.

UNISON would urge the Agency to ensure that the Scheme make more explicit that training will not be dependent on grade, responsibilities or any training needs assessment that will in any way dilute their obligations under the Guidelines. The resources for this should be set out in the scheme.

As stated previously, the training should also clarify the precise relationship between the equality of opportunity duty and the good relations duty, as well as the implications of this for the functions of the Agency and policy development.

## **2.9 Comments on Chapter 6: Arrangements for ensuring and assessing public access to information and services we provide**

The Scheme must ensure equality of access to information with regard to how and where the results of equality impact assessments and the monitoring of adverse impact will be published. There must not be a sliding scale of publication according to objectively determined interest on a particular issue.

The Agency must provide the '*necessary resources*' to ensure that both the information which is disseminated and, the services provided, are made accessible in a way which ensures equality of opportunity. More imaginative methods of distribution would be welcome such as in public libraries, stalls set up in local shopping centres etc.

## **2.10 Comments on Chapter 8: Complaints procedure**

Implementation of the Scheme should be constantly reviewed to ensure that S.75 groups are confident that they will get support and redress.

### 3.0 AUDIT OF INEQUALITIES AND ACTION PLAN

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UNISON has asked three fundamental questions with regard to the Agency's Audit of Inequalities and Action Plan

- 1. Is the Audit robust?**
- 2. Does the Audit clearly inform the Action Plan?**
- 3. Will the Action Plan be effective?**

If a document 'fails' on the first two questions, it is reasonable to assume it will fail on the third one.

We would ask PHA to detail the *specific* consultations undertaken with s.75 groups (over and above the ad-hoc group convened by the BSO) to identify (1) the specific inequalities that *those potentially* affected groups felt were relevant to the Organisation's functions and (2) what actions those groups felt were necessary to better promote equality of opportunity.

#### 3.1 Comments on Background: Page 5

Page 5, para 2 must be amended to accurately reflect the statutory relationship between the equality and good relations duties. As stated previously in this submission, the NI Act 1998 states that public authorities must have 'have *due* regard' to the need to promote equality of opportunity and must have 'regard' to the need to promote

good relations.

This difference in language not only reflects the language of the Good Friday Agreement, but is intended to strengthen the requirement to promote equality of opportunity, giving it greater weight. This duty is not just a statutory duty; it is a *constitutional* duty.

### **3.2 Comments on How we undertook the Audit of Inequalities: Page 9-10**

There is no clear description of how this process interacts with the corporate planning cycle – as stipulated by the Equality Commission.

There is no evidence of trade union involvement in the process

The ‘what we do’ section fails to give importance to ultimate outcomes, for example the reduction of health inequalities and the removal of underlying causes of poor health.

The document fails to use the necessary list of ‘functions’ in original Equality Commission Guidance, particularly with regard to procurement and employment. So the major use of commissioning as a function by the Agency fails to address its functional implications not just for health outcomes, but also for procurement and employment issues (see para. 2.7 of this submission).

We would ask the Agency to clarify whether a representative from the

Agency was there when BSO staff met with the ECNI in relation to the Audit process (p.19). The Agency is the duty bearer with regard to s.75 and the BSO should not act as its proxy in discussions such as these. We would ask the Agency to clarify the wording in its Service Level Agreement with the BSO, outlining how this relationship works in practice and whether any protocols were breached.

There is no summary of the Audit before the text moves to the Action Plan or cross-reference to the Audit findings at each item of the Action Plan to show why it is required. In effect there is no audit trail.

Tracking the evidence base into the Action Plans is essential. We are particularly aware that there are gaps in evidence around sexual orientation, dependents and political opinion and are reminding all public authorities of their responsibility to commission research where insufficient data exists.

On closer inspection, the footnoted Audit is a literature review which does not detail findings. So it would be a monumental task to establish the literature review/audit trail to each Action Plan. In the absence of workshop links or summaries of qualitative evidence, related trails cannot be established.

Targets in the Action Plan are weak, unaccountable and not SMART. For example, the Action Plan commits to improving immunisation uptake 'as much as possible' (one of many such phrases).

### 3.3 Conclusion

The Agency's Action Plan is compromised by failure of method due to the lack of clear linkage between identified inequalities for each s.75 group and specific actions to address these.

There would appear to be no cross-reference to the Audit findings at each item of the Action Plan to show why it is required. In effect there is no audit trail.

We are concerned, therefore, that the documents produced 'fails' on the two key questions posed by UNISON as the start of this section.

Specifically:

1. The Audit is not sufficiently robust
2. The Audit does not clearly inform the Action Plan

This failure prejudices any judgement by us on whether the Action Plan will be effective.



**For further information contact:**

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## **Committee on the Administration of Justice**

### **Submission to the Business Services Organisation's Consultation on the draft Equality Schemes for:**

- **Blood Transfusion Service;**
- **Business Services Organisation;**
- **Health and Social Care Board;**
- **NI Guardian Ad Litem Agency;**
- **NI Practice and Education Council for Nursing and Midwifery;**
- **Northern Ireland Social Care Council;**
- **Patient and Client Council;**
- **Public Health Agency and Regulation; and**
- **Quality Improvement Authority**

### **Committee on the Administration of Justice March 2011**

The Committee on the Administration of Justice ('CAJ') is an independent human rights organisation with cross community membership in Northern Ireland and beyond. It was established in 1981 and lobbies and campaigns on a broad range of human rights issues. CAJ seeks to secure the highest standards in the administration of justice in Northern Ireland by ensuring that the government complies with its obligations in international human rights law. CAJ is co-convenor of the Equality Coalition. We welcome the opportunity to comment on Business Services Organisation's ('BSO') consultation on its draft equality schemes.

We recognise that each health and social care body represented by BSO for equality matters ('Represented HSC Body'<sup>11</sup>) has very different functions, and would benefit from individual and separate consideration. However, we have limited this submission to general points affecting all of the Represented HSC Bodies' draft equality schemes. As a result, this submission also applies to the draft equality schemes under consultation for the Blood Transfusion Service, Health and Social Care Board, NI Guardian Ad Litem Agency, NI Practice and Education Council for Nursing and Midwifery, Northern Ireland Social Care Council, Patient and Client Council, Public Health Agency and Regulation and Quality Improvement Authority. In particular, any reference to the BSO equality scheme applies also to each of the Represented HSC Bodies'

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<sup>11</sup> Including Blood Transfusion Service, Health and Social Care Board, NI Guardian Ad Litem Agency, NI Practice and Education Council for Nursing and Midwifery, Northern Ireland Social Care Council, Patient and Client Council, Public Health Agency and Regulation and Quality Improvement Authority.

equality schemes.

CAJ acknowledges BSO's efforts in producing the nine draft equality schemes for the Represented HSC Bodies in good time to allow for Equality Commission ('ECNI') approval before the 1 May 2011 deadline. We were also encouraged to see that BSO has used the ECNI model scheme as a basis. In this brief submission, we would like to suggest a few additions, which would strengthen the BSO equality schemes, and also query one deviation from the ECNI model scheme.

First, it would be helpful for consultees to be informed when screening forms are posted on the BSO website<sup>12</sup>. We are concerned that, as screening reports are sent to consultees on a quarterly basis (para 4.25), it is possible that civil society may not be aware of a specific policy's screening for a period of three months. By this time, the policy may be implemented or further developed, so that alternative measures would be more difficult to apply. It would therefore be important for civil society to be informed sooner of policies for which 'no' or 'minor' impact was found, but for which they may have specialist knowledge of otherwise unforeseen equality impacts.

We appreciate that BSO will make the screening forms available on its website and on request (para 4.13). However, given that there are over 200 designated public authorities in Northern Ireland, it is impossible to review each of those websites daily, or even weekly, to check if screening forms have been posted. We would therefore recommend that BSO include a statement, at para 4.13, that consultees will be informed of screening forms when they are completed or posted on its website.

Secondly, CAJ recommends that BSO include statements in its equality scheme to explain the operation of s75 Northern Ireland Act 1998 ('s75'), which is often misunderstood. In particular, the BSO equality scheme does not explain the relationship between the equality duty (s75(1)) and the good relations duty (s75(2)). The ECNI Guide for Public Authorities<sup>13</sup> ('the ECNI Guide') clearly states that 'good relations cannot be based on inequality' and confirms that 'the term due regard was intended to be, and is, stronger than regard'.<sup>14</sup> It also clarifies that 'the discharge of the good relations duty cannot be an alternative to or cannot set aside the equality of opportunity duty'.<sup>15</sup>

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<sup>12</sup> Or the relevant Represented HSC Body's website.

<sup>13</sup> Section 75 of the Northern Ireland Act 1998: A Guide for Public Authorities, ECNI, April 2010, found at <http://www.equalityni.org/archive/pdf/S75GuideforPublicAuthoritiesApril2010.pdf>.

<sup>14</sup> Ibid at page 26.

<sup>15</sup> Ibid, at page 27.

As the BSO equality scheme will be used as a point of reference for its staff's application of s75 and any training provided, it is crucial that the equality scheme itself contains clear statements on the relationship and difference between the two s75 duties. Similarly, the ECNI Guide provides useful statements on positive action and multiple identities. We believe that the inclusion of these statements, or similar, would help staff to understand s75. For example, it is a common misunderstanding that 'universal application' implies a neutral impact on equality groups, when it can, of course, exacerbate inequalities.

The useful passages in the ECNI Guide are as follows: 'The promotion of equality of opportunity entails more than the elimination of discrimination. It requires proactive measures to be taken to facilitate the promotion of equality of opportunity between the categories identified in Section 75 (1). The equality duty should not deter a public authority from taking action to address disadvantage among particular sections of society – indeed such action may be an appropriate response to addressing inequalities. There is no conflict between the Section 75 statutory duties and other affirmative action measures or positive action measures which a public authority may undertake under anti-discrimination laws.'<sup>16</sup>

Finally, we would like to remind BSO that, in addition to the s75 action-based plan, s75 continues to apply to all BSO policies in relation to all nine equality groups. Although we recognise the positive impacts that the action-based plan could have on addressing inequalities, we are also aware that it could have a limiting influence on the operation of s75 outside the specific priorities identified within it. Also, newly emerging inequalities may not be captured in the original audit of inequalities. We therefore hope that any data gaps identified in the audit of inequalities will be addressed, and that the audit will provide a useful tool for policy-makers when applying s75 beyond the scope of the action-based plan.

In regard to gaps in data, we note that BSO has made a small amendment to the ECNI model scheme. At para 4.29 of the equality scheme, BSO has limited to 'where appropriate' the commitment to audit existing information systems and take action to address any gaps in data. We are concerned that this could be used to avoid addressing gaps in data, which is fundamentally important to assessing equality impacts.

Following a discussion with a BSO representative at an Equality Coalition

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<sup>16</sup> Ibid, at page 25. At the same page, the ECNI Guide also states: '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.'

event on 9 March 2011, we understand the language 'where appropriate' is intended to limit action to equality related data. Therefore, we would suggest that the qualification is made more explicit, such as 'in relation to equality groups'. We believe that this would enhance the BSO equality scheme and so make the operation of s75 more effective.

If you would like any further information, please do not hesitate to contact CAJ at the details listed below.

## **Response to the Audit and Draft Equality Schemes**

### **From Older Person's Advocate**

To:

#### **HSC Organisation**

Blood Transfusion Service

Business Services Organisation

Health and Social Care Board

NI Guardian Ad Litem Agency

NI Practice and Education Council for Nursing and Midwifery

Northern Ireland Social Care Council

Patient and Client Council

Public Health Agency

Regulation and Quality Improvement Authority

***Dame Joan Harbison 1st Floor Millennium House 17-25 Great Victoria  
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• *Phone: (028) 9031 6383 • Email: [info@olderpeoplesadvocateni.org](mailto:info@olderpeoplesadvocateni.org)*

## 1. Background

As the Advocate for Older People I would like to thank you for the opportunity to respond to the audit and draft equality schemes.

The resources available to make substantive responses are very limited in such a small office so it will be a generic response across all the agencies involved in the consultation. I am aware we have also attended a consultation workshop during the consultation period in which the views of the Advocate were also stressed.

## 2. Audit of Inequalities

The evidence provided by the agencies in identifying inequalities affecting older people, and in particular older women, seems to be sparse. I know that for older people research and statistics are not sourced centrally but you can be assured there is a vast amount of information which highlights some of the inequalities faced by older people regarding services and processes.

In Appendix A I have listed a number of reports (not exhaustive) which you might find useful.

## 3. Draft Equality Schemes

As previously discussed to assess each of the equality schemes individually would require a substantial amount of work so below I have responded with generic issues for you to consider in your equality scheme.

### a) Consultation

It is important that all the Agencies find a way to consult meaningfully and directly with users.

### b) Equality Scheme Structure

- The equality scheme should be user-friendly especially in the use of language

- Agencies need to identify in the equality schemes what actions are directed at enhancing equality within the organisation and what actions provide equality of opportunity for the user
- One Agency has identified the need to review its Audit on a regular basis which is welcomed and we would suggest that other Agencies make the same commitment
- The audit should contain statistical evidence of main users and a profile of its staff, including breakdown of managerial roles / Board members particularly those S75 groups who might be under-represented:
  - Gender
  - Age
  - Disability
  - Minority groups

#### b) Staffing

- It is important to develop new ways of including S75 groups who are not already represented in the staffing complement of any agency. This could include:
  - examining where positions are advertised
  - considering affirmative action
  - using different criteria such as experience and skills rather than academic qualifications
  - introducing shadowing or mentoring (especially on Boards) schemes
  - ensuring the layout of building is suitable and convenient not just for users but for staff

A breakdown of staff complement by different groups will enable an agency to

develop actions which will meet the needs of S75 groups. For example females are in the majority of those employed within the agencies and this has an impact on:

- designing timeframes for training
- childcare / caring needs
- maternity provision

In relation to women the Agencies need to recognise they will be longer in the workforce by an additional 5 years from 2012 and consideration needs to be given to key areas which will impact on this group such as:

- not being able to carry on with a job which requires considerable physical strength
- retraining to be able to diversify and use their skills differently as they grow older
- providing flexible working hours and part time working
- returning to full time work once children have grown up

#### b) Communication

When communicating with older people there is a need to recognise the diversity of need within the group including:

- those who may not have had formal education and may have difficulty with the written word
- those who have no IT skills or IT equipment
- those who may have difficulty in accessing communications due to sensory impairment or learning disability.
- those within nursing home settings



- those who live in isolation and who may have little access to modern technology especially in rural areas

It would be useful if there could be a joined up approach by the Agencies in their schemes so that the links and interfaces between the work of the different organisations is clearly apparent.

It is important that a commitment be given to ensure that any complaints whether internally from staff or externally from service users and carers are dealt with empathetically, transparently and quickly.

#### c) Training

- Staff awareness training in respect of the needs of different S75 groups should be ongoing and include engagement with and delivery by organisations with the relevant knowledge and expertise. Such training must be specific and meaningful and part of an ongoing dedicated training programme.
- Consideration should be given to the needs of older people who may wish to return to work either through unemployment/redundancy or after children have left home or because of increasing financial pressures on personal budgets.

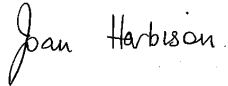
#### d) Boards of HSC Bodies

- There is a need to ensure that Boards reflect as far as possible the width of the S75 groups and where groups are unrepresented special efforts are made to ensure their inclusion in policy making and in determining the implementation of delivery mechanisms.
- The opportunity for Boards to introduce shadowing or mentoring programmes to support and encourage under-represented S75 groups to participate in public bodies should be considered.
- Boards should be encouraged to set criteria not just based on academic qualifications for election to the Board or recruiting staff. This may require the Board writing to the appropriate Department

encouraging a change to the criteria to attract those S75 groups who are not represented in the Board member or staff.

e) Budgeting

Agencies should consider striking age/gender specific budgets to ensure those who are the most likely groups to use services are allocated appropriate resources.



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