



## **Response by the Equality Commission for Northern Ireland to the Consultation by the Department for Infrastructure on its Spending Plans for 2023-2024 Equality Impact Assessment**

### **Section 75 of the Northern Ireland Act**

The current challenges facing decision makers across the Northern Ireland public sector are recognised. In this context, when difficult decisions around reducing or cutting public services are being considered the need to comply with the Section 75 duties, while always important, is even more essential. Any decisions taken have the potential to have major adverse impacts on people in the Section 75 groups, to exacerbate existing inequalities and have long lasting impacts.

In complying with the Section 75 duties, the Department for Infrastructure (DfI) must do so by adhering to the arrangements contained in its equality scheme, considering potential differential impacts of each proposed policy (i.e. individual budgetary decision), as well as the potential cumulative differential impacts of a range of such decisions, between those groups of people who avail of those services and who share particular Section 75 characteristic, e.g. older people, people with disabilities, people with dependents. Such assessments should be informed by relevant data and information on which inequalities would be exacerbated, with due consideration being given to taking all possible steps to avoid or reduce any likely adverse impacts to protect people in our society most at risk of disadvantage within the Section 75 groups.

Effective Equality Impact Assessments (EQIAs) should therefore inform policy decisions. In this scenario, this should include consideration of the anticipated equality impacts of budget proposals, consideration of mitigation and/or alternative policies with the final Stage 7 EQIA report, detailing any policy changes to the proposed policy in light of consultation and evidence informing the EQIA.

## Comments on EQIA

While the EQIA follows the 7 recommended stages, it could be more thorough and robust. The information does not include the full range of policy proposals being considered or specific data and therefore the basis for assessments and consideration of relevant mitigations and/or alternative policies are not always clear. Commission advice (and wider consultation responses) should be considered as the Department progresses its decisions on its budget proposals and in the final EQIA stage 7 report.

While the **aim** of the EQIA is outlined in terms of overall budget allocation and funding gaps, some of the proposals/options are unclear (further information is set out below).

**Data** sources are referenced in the EQIA. However, the relevant data is not generally extracted from the data sources. In addition, the EQIA identifies that the Department has a lack of sufficient, robust Section 75 data and states that it seeks to gather further information on potential impacts through the consultation process. The Department should ensure that it takes the primary responsibility for gathering and analysing data as it is the Department's responsibility to do this as part of the preparation of the EQIA for consultation. The consultee role is to highlight information, whether qualitative or quantitative, and to add value to any data gathered by the Department.

The Commission welcomes the Department's current consultation on an updated audit of inequalities which includes an action measure to establish a methodology for the collection and collation of data across all business areas.

Due to the lack of specific relevant data, further clarity on the **assessments** of potential impacts is needed. The EQIA puts the onus on consultees to provide and interpret data and to determine equality impacts. It is for the public authority to evaluate the data it has relied on to determine potential equality impacts on people in the respective Section 75 groups of the proposed budget cuts.

Assessing the impacts of policies should include assessments of **each** policy proposal and the **cumulative** impacts of related policy proposals. For example, the EQIA references '*street lights switched off*' as an option for savings, yet there is no analysis of the potential equality impacts of this policy proposal in terms of the potential impacts for

women, younger or older people etc. In addition, some of the options are not specific e.g. the policy option relating to 'a reduction' in public transport provision and 'impacts' on water and wastewater services. As there is no clear explanation as to what the impacts on water services may mean in practice and no assessment of the potential impacts on Section 75 categories it is difficult for consultees to engage with this proposal. If the 'impacts' on water and wastewater services present potential health risks to the public, for example older people, disabled people or babies and young children who are more vulnerable to severe illness and disease then this should be set out in the EQIA.

While there is reference to Arms Length Bodies being required to make cuts and the Department working closely with them on service impacts, there is no indication of the extent of the cuts that are being considered. The potential impacts of the reduced capital budget should also be considered in the EQIA i.e. what schemes may be delayed and what impacts may these cuts have on the Section 75 categories.

Whilst we acknowledge that a separate EQIA on the concessionary fares scheme is being undertaken, if this is part of overall budget decisions then consideration should be given to the potential equality impacts at this strategic level. This would assist in considering any cumulative impacts.

On the basis of the data that is presented, the Department appears to have determined that its proposed options for living within the budget for 2023 - 2024 are likely to adversely impact on older people (potential reductions in public transport and community transport), young people (cuts to road safety), disabled people (public transport and community transport) and both men (road safety) and women (reductions in public transport and community transport). The Department has not determined the potential impacts of the budget proposals on the Section 75 categories of religious belief, political opinion, racial group, sexual orientation, dependents and marital status.

The consideration of **mitigation and/or alternative policies** is crucial in the context of budget reductions, including trying to mitigate any differential equality impacts through the redistribution of internal budgets. The Department has not presented any mitigations or consideration of alternative policies in the EQIA although it references '*responses received....will be used to consider further mitigation measures, to inform in-year budget reallocation processes .... and to redirect any*

*additional funding (or further reductions) that emerge over the course of the financial year' (section 8 consultation).*

The EQIA should set out the priorities for allocating any additional budget in terms of the inequalities it would mitigate. It is unclear from the EQIA whether the redistribution of internal budgets across functions has been considered, as a result of the equality impacts. Allocation of any in-year money, while welcome, is still likely to present very real difficulties for service users and the service providers in reinstating services, which may not be easily and readily re-instated e.g. community transport, shopmobility. It is not clear whether alternative policies have been considered.

**Consultation**, should, as noted above, clearly set out the policy proposals, include relevant and specific data, assess potential impacts and consider mitigations and/or alternative policies. The current consultation asks consultees for their views on budget cuts which would lessen the impacts on people in the Section 75 groups and asks for responses as soon as possible, preferably within 4 weeks. The onus is therefore on consultees, rather than Dfl, to identify and analyse the data sources and to evaluate the proposals that are contained in the EQIA. Given the limited consultation period, further consultation methods, as included in Dfl equality scheme, would facilitate more effective consultation with stakeholders.

In considering the data and consultation responses it is important that Dfl is **open minded** to change its policy proposals, given that some decisions appear to have been made prior to the EQIA being conducted and appropriate consideration being given to potential equality impacts. Equality scheme commitments include equality assessments (screening and EQIAs) being undertaken prior to policy decisions being taken.

The EQIA must set out the **monitoring arrangements** that will be put in place to monitor the actual impacts on the Section 75 groups of budget decisions. The Stage 7 EQIA report should include the arrangements that have been put in place for monitoring and publishing the actual impacts of the policy.

Going forward, whether further budget becomes available or not, Dfl are advised that the Section 75 duties are **continuing duties**, and the Department is required to equality assess any changes to circumstances. It is important that the Department demonstrates that it

has paid the **appropriate level of regard** to its promotion of equality and good relations in its budget decisions, as required by the duties.

It is also important that consideration is given to the potential **cumulative adverse impacts** of budget decisions across Government Departments, for example the cumulative impacts on disabled people, older and younger people of the full range of budgetary proposals.

Further Section 75 advice is appended.

### **Equality Impacts**

The Commission is concerned about the potential for funding decisions to negatively impact on equality of opportunity or to have differential negative impacts across the equality grounds. In making decisions about the allocation of funding, we draw your attention to the importance of ensuring progress to tackle long-standing inequalities and prevent the emergence or exacerbation of differential inequalities across the equality grounds. We draw out some key examples below, with further information available via the links provided or by contacting [publicpolicy@equalityni.org](mailto:publicpolicy@equalityni.org)

As highlighted within the EQIA, reductions in the budget to areas such as public transport, road maintenance, and community transport will likely have differential negative impacts on people living with a **disability** and **older people**. Reduction of funding of some services may also have differential impacts regarding **gender**, according to DfI's own analysis. We note that while some decisions have yet to be taken, and while some decisions are not within the power of the Permanent Secretary to take under the Northern Ireland Act 2022, community transport services (such as Rural 'Dial a Lift', Urban 'Disability Action Transport Service' and Shopmobility services) are not funded beyond 30 June 2023.

The Commission has consistently highlighted the importance of removing access barriers for people living with a disability, including barriers related to use of public transport<sup>1</sup> as well as advancing independent living, ensuring that people with disabilities can live independently, enjoy an adequate standard of living, and access social protection.

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<sup>1</sup> For further details, see <https://www.equalityni.org/Disability>

Regarding older people, availability of affordable transport is key, particularly in rural areas, to accessing community care services, especially for older people without access to a car. This is relevant across all aspects of life, but particularly relevant regarding accessing essential services, such as healthcare services<sup>2</sup>.

Previous analysis and research conducted on the impact of budget cuts to transport have indicated differential negative impacts across equality grounds such as disability and age. The UNCRPD Inquiry (2016)<sup>3</sup> into the impacts of austerity on disabled people in the UK noted the impact of austerity on public transport services available for persons with disabilities' (para 79 (m), p14). The Disability Strategy Expert Advisory Panel (2020) highlighted that 'budget cuts to public services, including accessible and affordable community transport in urban and rural areas, undermine the priority that should be given to making independent living a reality for all d/Deaf and disabled people'<sup>4</sup>.

Independent research<sup>5</sup> carried out for the Commission (2022) on compliance with the UNCRPD in NI also reported that '*Research has indicated that d/Deaf and disabled people experience significant barriers in accessing transport with respect to both physical accessibility and availability of service*' (page 26) noting that budget cuts to public services including accessible and affordable community transport in urban and rural areas have undermined the ability of d/Deaf and disabled people from living independently (page 27). The report also found that '*Transportation was raised consistently as one of the major barriers limiting d/Deaf and disabled people's ability to live independently and be included in the community*' (page 102).

The Commission additionally notes DfI's public consultation on changes to the NI Concessionary Fares Scheme as well as proposed consultations on switching off streetlights. We encourage thorough and wide engagement with all stakeholders regarding these issues, including across equality grounds of disability, age, and gender.

To ensure a focus on advancing equality, it is essential that all key measures used by the Department are also tracked by equality ground, and that the required data is routinely and proactively collected to

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<sup>2</sup> For further details, see <https://www.equalityni.org/Age>

<sup>3</sup> CRPD (2016) [Inquiry concerning the United Kingdom of Great Britain and Northern Ireland carried out by the Committee under article 6 of the Optional Protocol to the Convention: Report of the Committee](#)

<sup>4</sup> See page 37. [Disability Strategy Expert Advisory Panel \(communities-ni.gov.uk\)](#)

<sup>5</sup> Toman et al (2022), [Progress Towards the Implementation of the UNCRPD in Northern Ireland](#)

facilitate this. Robust equality data is necessary to enable good evidence-based policy making. The Commission continues to recommend the collection and analysis of all key data sources by equality ground, so that equality considerations are at the heart of public policy decision making and service delivery and are informed by the specific needs of those experiencing inequalities.

There is also an ongoing need to ensure a focus on identifying and addressing any equalities, emerging or exacerbated, as a result of the COVID-19 pandemic or the policy responses to it.

## Appendix 1

Detailed Section 75 advice on this EQIA, aligned to each of the EQIA stages, is set out below - [What is an EQIA - Equality Commission NI](#)

### 1. Defining the aims of the policy

While the Department clearly outlines headline figures in relation to its overall budget allocation and identifies that £167m of savings are required, there is little detail on internal allocations. Some of the options are not very specific e.g. the options relating to 'a reduction' in public transport provision and 'impacts' on water and wastewater services. While there is reference to Arms Length Bodies being required to make cuts and the Department working closely with them on service impacts, there is no indication of the extent of the cuts that are being considered.

The EQIA is limited to the Resource budget for 23-24 with Dfl stating: *'As the capital budget will not likely lead to decisions to stop services, only delaying or pausing schemes for future years, an equality screening is not yet required.'* The screening assessment for the 'Dfl budget 2023-24 states that *'The Department identified forecasted 2023-24 capital requirements of £938.5m The Department's 2023-24 capital budget provided by the Secretary of State is £792.4m, which is £146m less than would have been required.'* The impact of this reduced capital budget should also be considered in the EQIA i.e. what schemes will be delayed, what impact is this likely to have on Section 75 categories and are there any measures which can be taken to mitigate adverse impacts or alternative policies considered.

The EQIA does not appear to include all policy options. While we acknowledge a separate EQIA on the concessionary fares scheme is being undertaken, if this is part of overall budget decisions then consideration should be given to potential equality impacts at this strategic level. This would assist with consideration of cumulative impacts.

### 2. Consideration of available data and research

Dfl lists a number of data 'sources' however, it does not extract or present sufficient, relevant data on each of the policy proposals. There are some references to data / research and key findings in the 'Assessment of Impacts' section, although this data is not

comprehensive and gaps in data are identified with a statement that further information on potential impacts will be gathered through the consultation process.

The Commission welcomes the Department's current consultation on an updated audit of inequalities and action plan (closing date 23<sup>rd</sup> June) which identifies data gaps and includes an action measure to establish a methodology for the collection and collation of data across all business areas. It is noted that the Department intends to establish a DfI Section 75 Equality forum with key representatives from Section 75 groups to improve engagement and ensure DfI becomes more informed of equality issues relevant to its functions.

To assist the Department to address data gaps and ensuring that it has gathered the data that it requires for assessing the equality and good relations impacts of new and revised policies, the following advice, based on DfI Section 75 equality scheme commitments, is provided:

1. It is the Department's responsibility to set out and analyse in its EQIA the relevant qualitative and quantitative data as part of the preparation for consultation. The consultee role is to highlight information, whether qualitative or quantitative, and to add value to any data gathered by the Department.
2. The Department should include in the monitoring section of the EQIA, how it will address the gaps in data. It should also ensure the Section 75 monitoring arrangements, for monitoring the actual impacts of this policy are put in place and outlined in the Stage 7 EQIA report.
3. The Department should ensure that individual policies and decisions are screened/EQIA and have robust Section 75 arrangements in place to monitor the actual impact of individual policies adopted, on Section 75 categories.
4. Post closure of the current consultation on DfI's audit of inequalities and action plan these should be updated in light of any data and evidence provided in consultation responses.

The final EQIA Stage 7 report should be updated to reflect any additional quantitative or qualitative data or evidence obtained through the consultation and the evidence gathered should be used to **inform** the policy proposals. As noted above, data gaps identified should be addressed in establishing Section 75 monitoring arrangements in Section 7 of the EQIA report.

### 3. Assessment of impacts

The EQIA states that the services it provides are generally universal in nature and are for the benefit of all citizens in NI and it is therefore '*difficult to assess the significant and adverse impact of potential service reductions for each Section 75 group.*' It also restates that there is insufficient data upon which to make an assessment.

Even where services are intended to benefit everyone not all Section 75 categories may benefit equally. This is why Section 75 monitoring is important as it can demonstrate where specific groups are not benefiting from services as anticipated and help to identify potential barriers, or specific needs of individual Section 75 categories.

The assessment of potential impacts is not clear to follow. On the basis of the data that is presented, the Department appears to have determined that its proposed options for living within the budget for 2023 - 2024 are likely to adversely impact on older people (potential reductions in public transport and community transport), young people (cuts to road safety), disabled people (public transport and community transport). and both men (road safety) and women (reductions in public transport and community transport).

The assessment of impacts seem to relate to some of the proposed options, focusing on the impacts of reductions in public / community transport and road safety. For example, consideration does not appear to have been given as to the potential impacts of reducing street lighting on Section 75 groups and how this is likely to adversely affect women's safety, and possibly some of the Section 75 categories who are more vulnerable to, crime, at risk of trips and falls etc. Nor is any consideration given to 'impacts' on water and wastewater services. As there is no clear explanation what this could mean in practice and no assessment of the likely impact on Section 75 categories it is difficult for consultees to engage with this proposal. If the 'impacts' on water and wastewater services present potential health risks to the public, for example older people, disabled people or babies and young children who are more vulnerable to severe illness and disease then this should be set out in the EQIA.

Likewise, information is not provided in relation to the impact of reductions to the concessionary fares scheme, with a reference (paragraph 8.4) in relation to the separate EQIA.

The Department has not determined the potential impacts of the budget proposals on the following Section 75 categories – religious belief, political opinion, racial group, sexual orientation, dependents and marital status. A determination of impact is required as per scheme commitment. The Department should make best efforts to gather qualitative information from relevant groups regarding what it considers the likely impacts of proposed decisions might be and set this out in the final EQIA report.

There is also no consideration of impact on multiple identities e.g., disabled women or women with dependents, younger men etc.

#### 4. **Consideration of mitigating measures or alternative policies**

The Department has not presented any proposals for mitigations or outlined any consideration of alternative policies in its EQIA, except for non-specific mitigation (noted elsewhere in the EQIA), should finance become available in year.

Identifying mitigations is a key step in the EQIA process and is an equality scheme requirement. Potential mitigations and/or alternative policies such as the redistribution of internal budgets should be considered.

The EQIA states that consideration ‘...will (underline our emphasis) *be given to how any adverse impacts on S75 groups can be reduced*’. It is the Departments’ responsibility to set out and propose, their consideration of relevant mitigations and alternative policies, as part of the preparation of the EQIA for consultation. The EQIA also states, ‘*Promotion of equality of opportunity and the protection of services to **vulnerable** groups will be a key consideration in the Department’s final Budget decisions.*’ It is unclear from this what specific inequalities the Department intends to prioritise.

As the EQIA does not present priority inequalities and aligned mitigations/alternative policies to address these inequalities, this places the onus on consultees. The consultee role is to comment on what the Department proposes and add any other suggestions regarding mitigation and alternative policies, which could add value to the Department’s considerations.

Stage 7 EQIA report should include the Department's consideration of mitigations and alternative policies.

## 5. Consultation

We note that consultation on the EQIA is for 4 weeks prior to decisions being taken with the consultation continuing for the full 12 weeks and any views received after the initial 4 week period being used to consider further mitigations.

These consultation timelines are shorter than those set out in Dfl's equality scheme, and the Department should record its rationale for deviation from scheme commitments. Where the 'exceptional circumstances' provisions of an equality scheme are relied upon, public authorities should be able to stand over these decisions.

We note that while no easy read or alternative formats of the EQIA appear to be currently available, paragraph 1.8 of the EQIA provides contact details for requesting alternative formats. Equality schemes state that there should be 'equal time to respond' for people who are using any alternative formats that are provided subsequent to the initial consultation release.

The consultation webpage advises that people can respond online, by email or in writing. There is no indication of any face-to-face consultation, public meetings etc. Given the short time scales for consultees to respond prior to decisions being taken, an opportunity to meet directly with Department officials to discuss the budget proposals and their implications, and to ask questions and seek clarifications may have made it easier for stakeholders to engage in the consultation process.

## 6. Decision and publication of EQIA results

The final EQIA, at Stage 7 includes evidence of the Department's full consideration of relevant qualitative and quantitative data, assessment of impacts and priorities, consideration of mitigating measures/ alternative policies, and how these have **informed** decision making, providing a rationale where alternatives/mitigations have not been adopted.

We note the statement that '*...some of the decisions to be taken will require an EQIA....*' (page 25). While it is useful at a strategic level to

identify programmes that are likely to require an EQIA, the DfI equality scheme commits to assessing the equality impacts of policies (screening and/or EQIA) at both strategic and implementation stages.

It appears that the potential equality impacts of some policy proposals, listed for future EQIA, e.g 'Concessionary Fares Scheme' have not been considered as part of this EQIA, in terms of their potential equality impacts. This should also be considered as part of the Stage 7 EQIA report.

## 7. Monitoring for adverse impact

The Department has not included how it proposes to monitor the impact of budget decisions on Section 75 groups. Rather, it commits to taking account of '*adverse impacts...identified through **this assessment process***' to inform 2023-2024 budget allocations and using its findings to inform further mitigations, revised budget allocations and in-year bids. These are the **anticipated** impacts, which the Department is required to take account of to inform its final decisions, rather than Section 75 monitoring of the adopted policy.

The monitoring commitments in the Department's equality scheme require it to put in place Section 75 monitoring arrangements to identify the **actual** impacts of its budget decisions on Section 75 categories once a decision has been made to adopt a specific policy direction and implement it and to publish this data 2 years after adopting the policy. The final EQIA report should clearly outline what specific systems and mechanisms the Department will put in place to do this.