

Evaluating the Disability Discrimination (NI) Order 2006 Duties



Research Summary

December 2009

**Rosemarie McIlwhan,
Sheila Rogers and
Simon Bridge.**



www.equalityni.org/research



EXECUTIVE SUMMARY

The aim of this project was to evaluate the effectiveness of the disability duties as defined by Section 49A of the Disability Discrimination Act 1995. The project objectives were: to develop a framework for evaluation; to evaluate public authorities and the Commission against that framework; and to make recommendations for improving the implementation of the duties.

Methodology

The methodology included desktop research, stakeholder engagement and consideration of indicators in order to develop an evaluation framework. To evaluate the progress made by public authorities a proportionate random sample was undertaken. Public authority disability action plans and associated annual reports were examined against the framework. Progress of the Commission was evaluated through interviews with Commission staff and stakeholders, alongside a review of key files.

Evaluation

The analysis of public authorities indicated an overall limited implementation of the disability duties, possibly exacerbated by the relatively recent introduction of the duties. There were examples of positive efforts to implement the duties amongst some public authorities sampled. Disability action plans generally complied with the guidance template provided and were almost all available and accessible on the authority website. Notably, associated annual progress reports were not publicised. In terms of content, many of the actions were found to relate to compliance with Section 75 of the Disability Discrimination Act 1995, rather than the disability duties. Overall, there was limited evidence of action relating to promotion of positive attitudes towards disabled people. Similarly, there was limited evidence of actions to encourage participation of disabled people in public life. Even allowing for the short timescale considered in this research, further evidence of progress towards implementing the duties would have been expected even if outcomes were not yet apparent.

The analysis of the Equality Commission found that the Commission appears to have put substantive effort into the preparation for the introduction of the disability duties through drafting guidance and publicising the duties via briefings, meetings and events. Since implementation in January 2007, the Commission has undertaken activities to monitor implementation and has further activities planned in relation to ensuring ongoing compliance. Indeed, while there may be some

issues around stakeholder expectations of the duties and/or interaction with the Commission, the research found that level of satisfaction with the Commission's work was generally high. The guidance produced by the Commission was found to be clear and accessible, with a number of examples of how the duties can be implemented, and a template disability action plan.

Recommendations

Recommendations were noted for the Commission, public authorities, and Government with regards to improving the efficiency and effectiveness of the implementation of the duties, based on good practice and lessons learned through this project. Recommendations were also made for legislative change (where necessary) to more effectively and efficiently deliver the intended aims of the legislation.

Recommendations for public authorities touch on all aspects of the duties, as progress is required in all areas. Recommendations for the Commission are mainly about further improvements to its efforts. Recommendations for Government are aligned to facilitating improved implementation of the duties.

Evaluating the effectiveness of the implementation of the Disability Discrimination (Northern Ireland) Order 2006 Duties:

Research Summary Report

CONTENTS

Introduction and Methodology	1
Objective 1 - Evaluation Framework	4
Objective 2 - Evaluation Findings	7
Objective 3 - Recommendations	18



INTRODUCTION AND METHODOLOGY

Introduction

The Disability Discrimination (Northern Ireland) Order 2006 stems from Section 49 of the Disability Discrimination Act 1995 and imposes duties (the disability duties) on public authorities in Northern Ireland to:

- promote positive attitudes towards disabled people; and
- to encourage participation by disabled people in public life.

These duties sit within a framework of other equality legislation in Northern Ireland, notably Section 75 of the Northern Ireland Act and the Disability Discrimination Act 1995. Section 75 created a statutory duty on public authorities in Northern Ireland to have due regard to promote equality of opportunity across the nine protected grounds, including disability.

The Equality Commission for Northern Ireland (the Commission) has a duty to review the effectiveness of the disability duties and must do so by 1 January 2010. To help it to prepare for that, the Commission contracted this independent research project. The aim of the project was to evaluate the effectiveness of the disability duties as defined by Section 49A of the Disability Discrimination Act 1995. The project objectives were:

1. To develop a framework for evaluation and related indicators of impact, outcome, output and action/process, that will be relevant to this and any future evaluations of the duties.
2. To evaluate progress to date by the Equality Commission for Northern Ireland and by public authorities against that framework.
3. To make recommendations, based on the above evaluation, with regards to improving the implementation and impact of the duties and/or changes to the legislation which might further enhance its efficiency and effectiveness.

This report provides a summary of the research findings. Full details relating to the framework development can be found in the related report, entitled 'Evaluating the Effectiveness of the Disability Discrimination (NI) Order 2006 Duties: Research Report – Developing a Framework'. Similarly, full details of the research evaluation findings and recommendations are contained in the report entitled

'Evaluating the Effectiveness of the Disability Discrimination (NI) Order 2006 Duties: Research Report – Findings'

Methodology

The processes (methodology) used for this research were as follows:

Objective 1 – Developing the Framework

- a) Desk Research - Legislative Intent and Comparable Best Practice. Desk research was undertaken to identify the legislative intent in developing the duties in Northern Ireland and to see what might be learnt from disability duties and strategies in other jurisdictions. The desk research considered how other duties were implemented, monitored, evaluated and reviewed and sought evidence of the effectiveness of their implementation.
- b) Stakeholder Expectations and Understanding. A number of organisations and people with an interest in the disability duties were consulted for different parts of the research. These included disabled people, to whose lives the duties can make a substantial and tangible difference, and public authorities, at whom the duties are targeted. To ascertain the views of disabled people, questionnaires were sent to organisations representing, or associated with, people with disabilities. Some of the organisations were also interviewed and a focus group was held with disabled people. In addition, public authorities were contacted: firstly by the Commission to notify them of the research; secondly by the researchers if they were selected as a research subject; and thirdly as stakeholders if they had sought support from the Commission.
- c) Developing Indicators. To establish a set of indicators, definitions were first agreed for the terms such as output, outcome, results and impact, consistent with their use to date by the Commission and with HM Treasury's *The Green Book*. This recognised the need to distinguish the 'outputs' which a policy could deliver from the 'outcomes' which it is anticipated would then follow but which, being also subject to other influences, might not necessarily be within the control of an implementer of the policy. Outcomes were also sub-divided into shorter-term 'results' and longer-term 'impacts'. These terms were then used to describe the processes in the implementation of the disability duties, listing the actions required for each part of the process and the corresponding outputs and desired outcomes. Finally appropriate indicators were suggested for each of the outputs and outcomes listed.

- d) Evaluation Framework. The outputs from desk research findings, stakeholder feedback, and developing indicators were then used to develop a framework for evaluating the effectiveness of the disability duties. This included progress in relation to the core focus of the duties – improving attitudes towards disabled people and encouraging their participation in public life.

Objective 2 – Evaluating Progress to Date

To evaluate the progress made by public authorities a random sample of twenty-four authorities, proportionate to the size of the particular sector, was selected. Their disability action plans and annual reports for 2007-2008 were examined in order to assess their reported performance using the framework developed for Objective 1. Disability action plans for the public authorities sample were retrieved from their websites and, where this was not possible, the public authority was asked to provide a copy or, where this was also unsuccessful, the Commission was usually able to provide a copy. The public authority annual progress reports for 2007-2008 were all provided by the Commission.

To evaluate the Commission's progress, interviews were held with relevant Commission staff regarding the strategy and corresponding actions taken by the Commission to implement and support the duties. Further, key parts of the Commission's files were reviewed. In addition, to assess the progress made by the Commission in responding to requests for support, a sample of twenty-four public authorities which were recorded as having requested support were surveyed, using a telephone questionnaire, to obtain their view of the efficacy of the Commission's response.

Objective 3 - Making Recommendations

At each stage in the research recommendations were noted both for the Commission, the public authorities and Government with regards to improving the efficiency and effectiveness of the implementation of the duties, based on good practice and lessons learned through this project, and for legislative change (where necessary) more effectively and efficiently to deliver the intended aims of the legislation. The recommendations thus identified are presented at the end of the report.

OBJECTIVE 1 – EVALUATION FRAMEWORK

The first objective was to develop a framework, including related indicators that would be relevant to this and any future evaluation undertaken “to keep under review the effectiveness of the duties”.

To assist with the development of an appropriate framework and indicators, the context and legislative intent of the duties and the relationship between the duties and Section 75 were considered and disability provisions in other jurisdictions were reviewed for possible examples. The issues involved in promoting positive attitudes and participation in public life were then considered, as these are the key aspects of the disability duties.

Additionally the researchers engaged with disabled stakeholders and non-governmental organisations to ascertain their ideas and views on the disability duties and on the public authority and Commission implementation of the duties.

The literature review indicated that, with the exception of the Great Britain Disability Discrimination Act provisions, there are no other provisions that are particularly comparable to the disability duties in Northern Ireland. Whilst the review of practice elsewhere helped to identify good practice in anti-discrimination, the only other jurisdiction which had comparable ‘positive duties’ is Great Britain, and it provided no examples of specific indicators to evaluate progress. This background research therefore contributed to further understanding of the context but could not be used directly in developing indicators for the framework.

The implications drawn from the other parts of the literature review included:

- a) There is a need for indicators that will cover the implementation of the disability duties, in particular measuring whether public authorities have complied with Commission guidance, what measures they have taken to promote positive attitudes and encourage their participation in public life; and to engage with disabled people.
- b) Indicators should be considered for “actions taken” to promote positive attitudes toward disabled people and encourage their participation in public life.
- c) There is a need for indicators of “positive culture change” such as, the proactive promotion of positive attitudes and participation.

- d) Examples of compliance and good practice in implementation of the disability duties exist and can be drawn upon when implementing or evaluating the duties.
- e) The indicators should cover (and thus provide evidence of) the “impact” of implementation as well as just the “actions” and they should also cover public authority “consultation” and “compliance” with Commission guidance and the legislation.

The conclusion from the desk research was that ideas for an appropriate framework and indicators were informed by, but could not be based directly on, good practice elsewhere. The development of indicators thus had to be done primarily from first principles and therefore, in order to develop a framework for evaluating the effectiveness of the disability duties, the key components of the implementation of the duties were first identified and defined. Then, based on what is stipulated in the duties, details could be laid out for what should be done for each part of the duties, and at each stage, and practical indicators suggested for these components.

The output from this was an evaluation framework which presents the relevant components of the duties for public authorities and the Commission as well as for the overall performance of the duties themselves and, for each of the identified components, presents what is expected in terms of:

- the “process” (and its component “actions”);
- the targeted “output” from the process and the output indicators;
- the desired “outcomes (results)” and indicators of them;
- the anticipated consequential “outcomes (impacts)” and indicators of them.

The framework summarises the processes evaluated as set out below.

Public Authorities

PA1 The creation of a Disability Action Plan.

PA2 The provision of training on disability equality legislation and disability awareness.

PA3 The provision of guidance by the public authority.

PA4 The promotion of positive attitudes towards disabled people.

PA5 Encouraging disabled people to participate in public life.

a Recruiting to public life positions.

b Participation in public life.

PA6 Encouraging others to promote the participation of disabled people in public life.

Equality Commission for Northern Ireland

EC1 The provision of statutory guidance on the duties

EC2 The provision of other (non statutory) information / support

EC3 Responding to requests for support

EC4 Following good practice and acting in keeping with the spirit of duties

EC5 Keeping legislation under review

EC6 Keeping implementation by public authorities under review

EC7 Compliance and enforcement

The Effectiveness of the Disability Duties

DD1 Effective implementation of the duties by public authorities.

DD2 Effective fulfilment of the duties by the Commission.

DD3 Legislators consider the Commission's papers and review the legislation.

OBJECTIVE 2 - EVALUATION FINDINGS

Under the legislation both public authorities and the Commission have specific duties that they must deliver. The evaluation framework developed for Objective 1 identifies the specific processes which are required by those duties and recommended in the Commission's guidance and, for each of those processes, lists the anticipated outputs and outcomes (results and impacts) and the means by which their achievement might be indicated. This evaluation framework was thus used to evaluate the progress made by the public authorities and the Commission.

The legislation also requires the Commission to "keep under review the effectiveness of the duty imposed by [section 49A of the Disability Discrimination Act 1995]" and additionally to "prepare and publish a report on the effectiveness of the duty" by January 2010. Given that the duties were only introduced in 2007, and much of the progress was still only at the 'output' stage, the weight of this research was on process evaluation. Evidence of progress towards outcomes was, however, expected.

Public Authorities Evaluation

The evaluation framework summarises the processes that public authorities are required to undertake, under the following headings:

- PA1 The creation of a Disability Action Plan.
- PA2 The provision of training on disability equality legislation and disability awareness.
- PA3 The provision of guidance by the public authority.
- PA4 The promotion of positive attitudes towards disabled people.
- PA5 Encouraging disabled people to participate in public life.
 - a Recruiting to public life positions.
 - b Participation in public life.
- PA6 Encouraging others to promote the participation of disabled people in public life.

The evidence of progress made by public authorities sampled was limited to their Disability Action Plans and their annual reports for 2007-2008. As much of this

progress was still only at the 'output' stage the weight of the evaluation was on process and output indicators. The evaluation did consider outcome (result and impact) indicators, or progress towards the same, and, while evidence was not anticipated at this early stage of implementation of the duties, the research did expect to find processes in place to collect that evidence.

Conclusions about the Public Authorities

The majority of public authorities had followed the Commission guidance template to some extent. However, not all of the resulting actions could be said to be meaningful, for example none were outcome focused, some had no indicators, and over half had vague timescales. Further, many actions related to Section 75/Disability Discrimination Act 1995 compliance, rather than achieving the disability positive duties.

Other findings from the evaluation included:

- a) The Commission's guidance states that action plans and annual reports should be made available on the public authority's website. All but three public authorities sampled did have their action plan available on their website. However, none of the public authorities had their disability annual report on their website.
- b) Measurement of effectiveness of actions and quantification of outcomes are essential to ensuring the effectiveness of the duties. None of the action plans provided information in relation to monitoring the implementation of the duties, although two public authorities planned to develop this, and one public authority provided information on monitoring training.
- c) Half the public authorities surveyed made no reference to producing guidance or had no action measures on guidance and very little was said about the distribution, publicising and monitoring of the guidance that was produced.
- d) Additionally consultation is a key means by which to gather data to help develop action plans that will meet disabled people's needs. One quarter of public authorities had provided detailed information on consultation with disabled people; three quarters provided limited or no information.
- e) Very few public authorities reported on any action measures relating to promoting positive attitudes towards disabled people. The overall impression in this area is that some public authorities have identified some constructive actions but very few have been implemented or completed.

- f) A few public authorities made reference to promoting aspects of public life participation (working groups, forums, committees, and public appointments) that reflected the definition of public life provided in the Commission guidance. However, a majority of public authorities did not provide evidence of meeting any of the framework indicators relating to the recruitment of disabled people to public life positions.
- g) Very few public authorities had noted any actions relating to encouraging the participation of disabled people in public life beyond formal public appointments.
- h) Public authorities are required to promote positive attitudes towards disabled people amongst partner organisations. Over half of the public authorities provided no information relating to encouraging others to promote the participation of disabled people in public life.

On the whole the public authorities assessed provided little evidence of going beyond Disability Discrimination Act compliance to meet the disability duties. Even allowing for the short timescale considered in this research, further evidence of progress towards implementing the duties would have been expected even if outcomes were not yet apparent. In conclusion, the evaluation indicated that the process could, at best, be described as being at an early stage and, at worst, as indicating a low level of compliance.

Equality Commission Evaluation

The evaluation framework also covers the Commission work undertaken under the disability duties. As the body tasked with monitoring and enforcing the duties and all equality law relevant to Northern Ireland, it is essential that the Commission is seen to follow the same standards and good practice to which it is holding others.

The evaluation framework summarises the processes that the Commission is required to undertake under the following headings:

- EC1 The provision of statutory guidance on the duties
- EC2 The provision of other (non statutory) information / support
- EC3 Responding to requests for support
- EC4 Following good practice and acting in keeping with the spirit of duties

EC5 Keeping legislation under review

EC6 Keeping implementation by public authorities under review

EC7 Compliance and enforcement etc

The evaluation of the Commission was undertaken through interviews with key staff, through access to the files relating to the disability duties, and through a sample survey of public authorities.

Conclusions about the Equality Commission

The research found that the Commission appears to have put substantial effort into the preparation for the introduction of the disability duties through drafting the guidance and publicising the duties via briefings, meetings and events. It had consulted with a range of stakeholders and drawn on the GB disability equality duties guidance to develop the statutory guidance which it published and distributed printed copies to all public authorities as well as making it available on its website. The guidance was evaluated as being clear and accessible, with a number of examples of how the duties can be implemented, and included a template disability action plan.

Other findings from the evaluation included:

- a) The Commission responded to requests for speakers on the disability duties and also produced an annual reporting template to assist public authorities to meet their duty to report annually on progress regarding the duties. It also produced some useful non-statutory guidance on the duties in response to specific enquiries, though this could usefully be made more widely available.
- b) The Commission received and responded to contacts regarding the duties, and held advice and sectoral meetings. A survey of twenty four public authorities who had had specific ad hoc contact with the Commission about the disability duties found that those authorities were aware that the Commission offered guidance and support and were generally very pleased with the response they received to their particular queries or concerns. In many cases the members of Commission staff concerned were especially commended for their understanding, willingness and clarity and for going out of their way to be helpful.
- c) The Commission's publications on the disability duties are accessible, as is its website which meets industry standards on accessibility. It has provided

its entire staff with training and briefing papers on the disability duties.

- d) The Commission recorded and acknowledged receipt of disability action plans from all public authorities who provided them, and undertook a review of a strategic sample of 35 of these plans. It provided a report to the Northern Ireland Assembly identifying the public authorities who had failed to comply with the duty to submit a disability action plan.
- e) The Commission also received public authority disability annual reports but has not yet conducted a review of these due to strategic decisions regarding use of available resources.
- f) The lack of formal enforcement powers of the Commission, essentially only being able to “name and shame” public authorities in the report to the Assembly, has, in the researchers’ view, hampered the Commission’s ability to effect meaningful action where a public authority has not taken steps to comply with its duties.

The evaluation highlighted the short timescale in which the disability duties were implemented, but also the limited resources which the Commission had available to implement their duties. The Commission has begun preparations to meet its duty to keep the legislation under review. This research will contribute to the Commission’s report on the duties which is required to be published by January 2010.

Disability Duties Evaluation

Following its evaluations of the progress made by the public authorities and the Commission, the research report provides an overall analysis of the implementation of the effectiveness of the disability duties themselves. The evaluation framework distilled the processes of the disability duties under the following headings:

DD1 Effective implementation of the duties by public authorities.

DD2 Effective fulfilment of the duties by the Commission.

DD3 Legislators consider the Commission’s papers and review the legislation.

DD1 Effective implementation of the duties by public authorities.

The public authorities should comply with the duties as indicated by:

- a) The indicators highlighted in the public authority sections above.
- b) The disability action plans and annual reports published by the public authorities and lodged with the Commission.
- c) The number of public authorities deemed to be compliant by the Commission and by independent evaluation.

These indicators are now considered in turn.

a) The indicators highlighted in the evaluation of public authorities section above:

- To assess the effective implementation of the duties by public authorities the researchers used the indicators considered under the public authorities section.
- As highlighted in the sections above some public authorities appear to be trying to meet the duties, however many have yet to develop and implement effective, outcome focused, measurable actions. Others appear to be taking a perfunctory approach to compliance with the duties. There still appears to be a lack of understanding by some public authorities who believe, incorrectly, that their Section 75 exemption also applies to the disability duties. There also appears to be a lack of understanding as to the purpose or extent of the duties, with many public authorities citing actions which are Disability Discrimination Act or Section 75 compliance actions, rather than meeting the disability duties.
- The researchers did however note the willingness of all public authorities contacted, in the course of this research, to support this project and the consistently positive response about the need for the disability duties.

b) The disability action plans and annual reports published by the public authorities and lodged with the Commission.

- The timely publication of disability action plans and annual reports and

submission to the Commission is a key indicator of compliance with the duties; therefore the researchers looked for evidence of this.

- The Commission Annual Report 2007-8 states:

“The deadline for the production by all designated public authorities of Disability Action Plans was early in the current year. It was gratifying that the great majority of authorities submitted their Plans to the Commission by the appointed date but a considerable source of disappointment that a not insignificant number did not do so.”

- The Commission annual report 2007-8 further states that *“By the year end, 178 (92%) of plans had been submitted.”*

This statement raises a concern that 8% of public authorities who were due to have submitted by a disability action plan by 31 June 2007, had still not done so by 31 December 2007, six months after the due date.

- It should be noted that some public authorities which were in the process of being restructured were given a submission date of 31 December 2007 to allow them time to submit their plans. The Commission’s records show that 100% of these plans were submitted on time.

c) The number of public authorities deemed to be compliant by the Commission and by independent evaluation.

- The number of public authorities deemed to be compliant by the Commission or by independent evaluation is also a key indicator of whether public authorities are effectively implementing the duties; therefore the researchers sought evidence of this.
- Due to the lack of consolidated information in the Commission’s files it was unclear how many public authorities had been deemed to be compliant by the Commission. However discussion with Commission staff highlighted that they had sent formal revision letters to three government departments and were intending to send further letters to other public authorities.

DD2 Effective fulfilment of the duties by the Commission.

The Commission should fulfil its duties effectively as indicated by:

- a) All the indicators highlighted in the Commission evaluation section above.
- b) Independent evaluation.

These indicators are now considered in turn.

a) All the indicators highlighted in the Commission section above

- As highlighted above the Commission appears to have made substantial efforts to support the introduction and implementation of the disability duties. Contact with public authority stakeholders identified very positive opinions about how the Commission had provided such support.
- The Commission also undertook a strategic review of the disability action plans received and began a programme of work relating to those that were deemed to not be compliant, including the issue of formal letters and the statutory report to the Northern Ireland Assembly. The Commission has not undertaken a review of the annual reports submitted which is a key element of keeping compliance under review. It has however indicated its intentions to take forward this work in the future and has also begun the process of its statutory effectiveness review of the duties.

b) Independent evaluation

- Independent evaluation, such as this one, can also contribute to the assessment of whether the Commission is effectively fulfilling its duties.
- The survey reported above of those public authorities who had specifically asked the Commission for guidance indicated, that in that respect, their view of the Commission appears to be largely positive. The view among disabled stakeholders and non-government organisations appears to be less positive and more cynical. There may be issues here regarding expectations of the Commission and the disability duties, as well as with regard to the effectiveness of communication regarding the focus of the duties and the work of the Commission in this regard.

- The researchers would highlight that the Commission's perceived lack of enforcement action and powers appears to have led to public authorities not taking the Commission or the duties as seriously as they might. The researchers formed this view based on the number of public authorities who appear to have produced disability action plans and annual reports which comply with the letter but not the spirit of the disability duties, and also on the cursory reporting in the annual reports. This was summed up for the researchers by one public authority's comment on their disability action plan that "*our size militates against any formal measures*". If a public authority said this in relation to finance or health and safety it would be unthinkable, yet this public authority believed that this was acceptable conduct in relation to the disability duties. The law in relation to the disability duties should be addressed with similar gravitas to other laws, proportionate to the size and remit of the public authority.
- In the view of the researchers, whilst the Commission does need further enforcement powers, beyond just highlighting non-compliance of public authorities in its report to the Assembly or instigating judicial review, it should first exercise fully the powers it does have, including reviewing disability annual reports received and following these up as appropriate. The Commission should also consider how it will keep public authority compliance under review. This could include: using a sampling approach, based on its knowledge of different sectors; a rolling programme of assessment; and hotspots identified via complaints to the Commission. Even from the relatively small sample considered in relation to this report the researchers have found recurring issues across a number of public authorities which further action by the public authorities supported by the Commission could address.

DD3 Legislators consider the Commission's reports and review the legislation.

Legislators should consider the Commission's reports and review the legislation and duties and update them to reflect the changing needs of disabled people and the changing context of society.

This, the evaluation framework suggests, would be indicated by revisions to the legislation and guidance:

- That the legislators consider the Commission's papers is important to effective review of the legislation, ensuring that any such review is based on knowledge of the implementation and operation of the duties. The researchers were looking for evidence that the Assembly had considered the papers presented by the Commission.
- As noted above the Commission presented its report on non-compliance to the Assembly in January 2009. The minutes of the Assembly proceedings on 13 January 2009 note the receipt of this report. The following committees also noted correspondence from OFMDFM regarding the report:

Committee for Regional Development (24 February 2009)

Committee for Education (25 February 2009)

Committee for the Environment (26 February 2009)

Committee for Health, Social Services and Public Safety (26 February 2009)

Committee for Social Development (5 March 2009)

Committee for Culture, the Arts and Leisure (12 March 2009)

- However, only the Committee for Culture, the Arts and Leisure did anything other than note the report. That committee noted the report but also noted that "*the Committee agreed to write to the Minister to seek his comments on this issue*".

- The Commission has yet to make recommendations regarding the updating of the legislation therefore the researchers were unable to comment on this indicator. However, when the Commission presents its review of the duties to the Assembly in 2010 such an assessment could be considered, along with an assessment of how the Commission is responded to by legislators with regard to the disability duties.

Conclusions about the Effective Implementation of the Duties

As indicated at the beginning of this section, because the duties were only introduced in 2007 and the evidence of progress made by public authorities was limited to their disability action plans and their annual reports for 2007-2008, this research was primarily focused on process evaluation. In addition to the earlier points made regarding public authority and Commission evaluation, it has become apparent to the researchers that the introduction of the disability duties separately from the other statutory equality duties contained in Section 75 has caused confusion amongst public authorities and unnecessary bureaucracy for public authorities and the Commission alike. It would appear that this has separated out disability equality from other equality groups, largely to the detriment of actions to promote disability equality.

OBJECTIVE 3 - RECOMMENDATIONS

The third objective of this research is to provide recommendations to the Commission in relation to the disability duties. The research has also noted recommendations for public authorities regarding their implementation of the duties. This is important because, while the Commission is tasked with promoting, supporting and enforcing the implementation of the duties, it is the public authorities which must implement them. The research also noted recommendations for government as it is a key partner in ensuring the success of the duties.

At each stage in the research recommendations were noted both for the Commission and for public authorities and government with regards to improving the efficiency and effectiveness of the implementation of the duties, based on good practice and lessons learned through this project, and for legislative change (where necessary) to more effectively and efficiently deliver the intended aims of the legislation. The researchers tried to take a proportionate approach to the recommendations, recognising the limitations which the Commission, government and public authorities face in terms of resources, as well as the practicalities of implementing the duties across their organisations and maintaining a focus on their vision and mission. While many of the recommendations relate to outputs, they are made with the intention of supporting the Commission, government and public authorities to achieve their respective outcomes and this should be borne in mind when considering them.

The following is a summary of the recommendations for public authorities, the Commission and Government.

Recommendations for the Public Authorities

Because of the evaluation finding, indicated above, that the implementation of the disability duties by public authorities could, at best, be described as being at an early stage and, at worst, as indicating a low level of compliance, the recommendations touch on all aspects of the duties as progress is required in all areas. They include, for instance, recommendations in the following areas:

- a) Public authorities should ensure that there is clear communication with stakeholders about disability policies and that they publicise their disability obligations, action plans and annual reports sufficiently and in an appropriate and accessible manner to all stakeholders, including in particular, but not limited to, disabled people.

- b) Public authorities should provide visible leadership in relation to the disability duties.
- c) Public authorities should commit the appropriate resources to ensure the effective implementation of their disability duties.
- d) Public authorities should use the statutory guidance when developing their disability action plans and ensure that their plans cover everything required and recommended by it including meaningful and achievable actions, grounded in evidence about what is happening in their area, to achieve *outcomes* as well as *outputs*. Their plans should also include performance indicators and monitoring mechanisms so that their annual reports can provide evidence that they are effectively implementing the duties.
- e) As required by the Commission guide, public authorities should ensure that their disability action plans and disability annual reports are publicly available and easily found.
- f) Public authorities should provide specific guidance on the disability duties to all staff, volunteers and office holders.
- g) Public authorities should seek to engage with disabled people and should review the opportunities available for disabled people to participate in public life to ensure that all opportunities are available and accessible to disabled people. They should take steps to encourage disabled people's participation in all levels of public life and should lead by example in promoting the participation of disabled people in public life.
- h) Public authorities should consider how to reach disabled people individually and should demonstrate their commitment to achieving the duties through more extensive and deeper consultation or involvement, including with individual disabled people as well as with disability groups or other representative groups.

Recommendations for the Equality Commission for Northern Ireland

As reported above the research found that the Commission appeared to have put substantial effort into the preparation for the introduction of the disability duties and produced clear and accessible guidance. The recommendations made in the report are therefore mainly about further improvements to that effort:

- a) The Commission's disability duties team should build regular communication with public authorities into their work programme. The Commission should also consider how to ensure that public authorities create, implement and report on meaningful actions and outcomes rather than only completing the templates provided.
- b) When reviewing progress the Commission should to ensure that what is reported in the annual reports is consistent with the original disability action plans. The Commission should also consider a sampling approach to assessing compliance with the disability duties and should use its powers more robustly to ensure disability action plans meet the form and content required.
- c) The Commission should continue to support public authorities in monitoring the actions and outcomes of their disability action plans, and should hold to account those who fail to do so. The Commission should consider making all of its disability duties guidance publicly available and might wish to provide further guidance or good practice examples in relation to meaningful performance indicators; consulting (including children) and the use of consultation evidence in developing disability action plans. It should also ensure that its communications in relation to the disability duties are kept up to date.
- d) The Commission should undertake further awareness raising work with the public and with community and voluntary sector groups and should consider how it might be possible to reach disabled people individually as well as through disability and other representative groups.
- e) The Commission should ensure that the resources, particularly staffing, of the disability duty team are proportionate to its remit.

Recommendations for Government

Recommendations for government action were made in the following areas:

- a) Government should provide guidance for the public authorities on how disabled people should be represented in official communications, based on recognition of the 'social model' of disability, and should provide guidance on how to engage with disabled people effectively.
- b) Government should ensure that the resources allocated to the

Commission, particularly in relation to the disability duties, are proportionate to the remit with which it is tasked.

- c) Government should review the powers available to the Commission in relation to the disability duties, with a view to strengthening these to include similar powers to those contained in Section 75 of the Northern Ireland Act 1998.
- d) Following the receipt of the statutory report to the Northern Ireland Assembly regarding compliance with the disability duties, Government should take action to ensure that non-compliant public authorities quickly move to compliance.
- e) Where there is a statutory requirement to evaluate the implementation of a law the Government should ensure that the date of the review allows sufficient time for implementation and evaluation of that law.
- f) Government should consider whether or how the disability duties could be further integrated with the duties under Section 75. This could include considering the revision of the legislation.

For further information, please contact us at:

Equality Commission for Northern Ireland
Equality House
7-9 Shaftesbury Square
Belfast
BT2 7DP

Telephone: 028 90 500 600

Textphone: 028 90 500 589

Fax: 028 90 315 993

Email: research@equalityni.org

Website: www.equalityni.org/research

Visit www.equalityni.org/research to download copies of this research summary and the full research report (framework development and evaluation findings).

December 2009

Equality Commission

FOR NORTHERN IRELAND