

EQUALITY COMMISSION FOR NORTHERN IRELAND

Final Report of Commission Investigation Under Paragraph 11 of
Schedule 9 of the Northern Ireland Act 1998 in;

DEPARTMENT OF SOCIAL DEVELOPMENT (DSD) (BY WAY OF
SINN FEIN)

Potential Failure To Comply With Approved Equality Scheme Subject To Investigation

Did DSD, in implementing the Area Based Regeneration Measure of the EU Peace II Programme (hereafter referred to as Measure 2.11) adopt a policy relating to population size that had not been screened, and thereby failed to comply with Paragraph 3.1 of its approved equality scheme, which requires DSD to screen all existing, new and proposed policies.

Background : The Allegations

In implementing Measure 2.11 and deciding upon neighbourhoods that would receive funding, DSD applied various criteria that are contained in the Measure 2.11. These criteria were equality proofed by way of an Equality Impact Assessment (EQIA) conducted by the Department of Finance & Personnel's European Division on European Structural Funds which was carried out in 2002.

Sinn Fein alleges that in implementing Measure 2.11, DSD not only applied the Peace II criteria which had been equality proofed, but also applied a further criterion (which amounted to a policy) which required neighbourhoods to consist of no less than 500 and no greater than 5000 persons, and that that criterion had not been equality proofed.

Sinn Fein further alleges that this criterion relating to population size was deliberately applied by DSD to divert funding away from Catholic areas and to ensure a more even distribution of funding vis-à-vis

Catholic and Protestant areas. The estimate of the worst 10% of urban wards based initially on the 1991 census return was around 70% Catholic and 30% Protestant.

Sinn Fein also alleges that, as a result of this alleged policy, the population of the areas actually selected to receive funding under Measure 2.11 was approximately 56% Catholic and 44% Protestant. Sinn Fein contends that these statistics support its view that, had the alleged policy been screened as required, this should have resulted in a full equality impact assessment.

The Selection Procedure

It is clear that that the issue of population size was a factor in DSD's identification of neighbourhoods. For example, the Minister's Executive paper which was submitted to OFMDFM to obtain Executive Committee endorsement discusses what it describes as "the potentially contentious and difficult" task of selecting neighbourhoods. It proceeds to set out a potential selection method involving public advertisement inviting neighbourhoods to bid for funding, which was not adopted because "it is unclear what organisations would bid on behalf of the neighbourhoods; and the community infrastructure required to put together a bid varies from neighbourhood to neighbourhood creating an unlevel (sic) playing field". It then proceeds to explain the methodology that was adopted, by which neighbourhoods were objectively identified against relevant criteria. This involved:-

1. "An initial shortlisting that geographically focuses on the Belfast Metropolitan area, the North-West Region and regional towns with populations greater than 5000.
2. Ensuring there is a geographic spread covering Belfast, the North-West Region and the regional towns.
3. Using the Noble Indices to guide resources by focussing on the most deprived wards.
4. Ensuring compliance with the new TSN objectives, equality considerations and the Department's Section 75 obligations.
5. For economies of scale focuses on neighbourhoods of no less than 500 people and for impact of funding no greater than 5000 people.

6. Checks to identify other initiatives in the target areas that may complement or compete with this initiative.
7. Identifying those neighbourhoods within areas of greatest deprivation that score most highly against criteria used in an assessment matrix taken from the programme complement”.

The issue of compliance with Section 75 obligations is elaborated on in the Minister’s paper as follows;

“... this Area Based Regeneration measure is part of the overall EU Peace II Programme, the objectives of which are to address the legacy of the conflict, and to take opportunities arising from Peace. By targeting disadvantage, including the social fallout from deprivation, my Department is attempting to meet the requirements of Section 75 of promoting good relations between persons of different religious belief, political opinion or racial group. Additionally, by focussing on neighbourhoods that are at the high end of the deprivation scale, by complying with new TSN objectives, and by utilising Peace II criteria, the natural outcome of the selection process is that community interface areas are mainly being targeted. When implementing this Measure, my Department’s programme of work will impact positively upon all categories of people listed within Section 75 who will have an equal chance of benefiting”.

In respect of the issue of “other initiatives” referred to by DSD at point 6 above, it should be noted that DSD have emphasised in correspondence with the Commission in the course of this investigation that;

“ the small Peace II neighbourhoods will now be subsumed into the larger Neighbourhood Renewal Areas announced by the Minister on 29th July (2004). These 32 Areas include all the deprived urban wards in N.Ireland falling into the worst 10% band”.

Consideration of the Allegations and the Selection Procedure

The Commission considers that the status of the population criterion is of crucial importance in terms of determining whether this amounted to a policy and therefore should have been screened;

- If this criterion was used to select neighbourhoods that should receive funding, and therefore was used to eliminate certain areas from further consideration for funding, it would constitute a policy which should have been screened.
- If on the other hand this criterion was used simply a means of constructing neighbourhoods from the larger Wards identified at Stage 1, and was not used as a means of eliminating any areas from further consideration for funding, it would not amount to a policy requiring screening.

The Commission considers that the evidence obtained in the course of this investigation to date suggests the latter. The neighbourhoods that received funding were identified by the application of the Peace II criteria. These criteria had been subject to an equality impact assessment.

In considering this matter it is noted that there were 3 stages to the selection process:

Stage 1;

DSD considered multiple deprivation across Northern Ireland at Ward level using the Noble Indices as a guide. In terms of a religious breakdown of the areas, correspondence from Des Browne, Minister DSD to G Adams M.P. of 9 June 2003 states; “our best estimate is that the worst 10% of urban wards is perceived to be around 70% Catholic / 30% Protestant”.

Stage 2

DSD applied the core Peace II criteria, i.e.

- (i) Address the legacy of the conflict
- (ii) Take opportunities arising from peace

DSD states (Des Browne to G. Adams of 9-6-03) that immediately after it applied these criteria it decided that it would apply a population criterion to define neighbourhoods. However they state this was not a policy to exclude areas for funding, but was simply a definitional matter, a means “*to construct neighbourhoods of a workable size which were made up of adjacent communities*”.

At Stage 2, DSD identified what they describe as proposed neighbourhoods which derive from the Wards selected at Stage 1.

Stage 3;

DSD considered areas against the additional criteria contained in the Peace II measure, i.e.

- Disadvantaged areas experiencing high levels of **Violence**,
- Areas such as sectarian **Interfaces** where community conflict and dispute is high and community relations are correspondingly poor,
- **Disadvantaged** areas whose image and attractiveness as an investment location has been adversely affected by local violence or community tension.
- Areas suffering the effects of **Physical** dereliction (including damaged infrastructure) as a consequence of the conflict,
- Areas isolated by **Border** closures,
- Areas with high concentrations of **Displaced** persons in relation to the “Troubles”,
- Areas where social and economic **Development** has been inhibited by the conflict, illustrated by demographic and labour market patterns/structures and low levels of income, skills and qualifications, and consequently display high levels of multiple deprivation.

The application of these additional criteria resulted in the selection of 12 neighbourhoods to receive funding. These neighbourhoods span the Wards identified by use of the Noble Indices and do not correspond to the “proposed neighbourhoods” deriving from those Wards identified at Stage 2, but amalgamate adjacent areas from those neighbourhoods. DSD state that 8 of the neighbourhoods

selected are interface areas, and 4 are single identity neighbourhoods suffering in different ways from the legacy of the conflict, including a lack of investment.

It is clear from the evidence that the selection of areas to receive funding was made at this stage, that is at Stage 3, by the application of the additional Peace II Measure criteria.

The Commission notes that the issue of neighbourhood size was introduced at the second stage of the selection process. DSD have stated that *“these parameters were used as guidance when considering a suitable size for a neighbourhood, but they were not prescriptive”*. This was a matter that arose at the second stage of the selection process. At that stage (2) of the process DSD simply identified neighbourhoods that derived from the Wards that were identified at Stage 1 ranked from the Northern Ireland deprivation measure, (the Noble Indices). On that basis it does not appear that the population criterion was used to eliminate areas for potential funding.

The neighbourhoods that were selected to receive funding appear to have been decided by the third Stage of the process, on the basis of the application of the additional criteria contained in the Peace II measure relating to the following criteria;

- High levels of violence
- Sectarian interfaces
- Disadvantage
- Physical Dereliction
- Border Closures
- Displaced Persons
- Inhibited Social and Economic Development.

The policy governing these criteria was screened and equality proofed, by way of an Equality Impact Assessment (EQIA). This is further corroborated by the Minister’s Executive paper which was submitted to OFMDFM to obtain Executive Committee endorsement for the neighbourhoods selected. This indicates that neighbourhoods were identified from the areas of greatest deprivation that scored most highly against the criteria in the assessment matrix taken from

the programme complement. It further points out that by using the Peace II criteria, “the natural outcome of the selection process is that community interface areas are mainly being targeted”.

Conclusion

1. The Commission considers, on the basis of the evidence obtained in the course of this investigation, that the procedure used by DSD to define neighbourhoods was not a policy, and therefore did not require screening.
2. The Commission have noted the view of Sinn Fein that although the population of the worst 10% of urban wards identified by the Northern Ireland Multiple Deprivation Measure (NOBLE) was 70% Catholic and 30% Protestant the corresponding figures for the neighbourhoods that received Measure 2.11 funding was 56% Catholic and 44% Protestant. The Commission also have considered in detail the view of Sinn Fein that the application by DSD of a policy to exclude neighbourhoods with populations greater than 5000 diverted funding in favour of Protestant areas. In this regard Sinn Fein consider that DSD failed to comply with its approved equality scheme as it did not screen this policy as required by Paragraph 3.1 of that scheme.
3. The Commission considers on the basis of the evidence obtained in the course of its investigation, that the procedure to define neighbourhoods was not a policy but simply a definitional tool. No neighbourhoods were eliminated from further consideration for funding at Stage 2 of the process. Importantly the Commission considers it was the application of the criteria at Stage 3 of the process, that is those set out in the Peace II Measure, which identified neighbourhoods for funding. Indeed the Area Based Regeneration Measure of Peace II (Measure 2.11) was not intended to focus solely on those areas experiencing the greatest deprivation. The objectives of Peace II were defined in the criteria as covering violence, interfaces, disadvantage, physical dereliction, border closures, displaced persons and inhibited development. This is further supported by the fact that 8 of the neighbourhoods selected are interface areas and 4 are single identity neighbourhoods suffering in

different ways from the legacy of the conflict, including a lack of investment.

The Commission notes that, while the most deprived 10% of urban wards had a community composition of approximately 70% Catholic and 30% Protestant, the community composition of the areas selected for funding had a community composition of 56% Catholic and 44% Protestant. This is to be expected given the use of the criteria in Peace II especially the focus on sectarian interfaces.

The Commission also note that further EU funding was available through Peace II from a wide range of Measures and all were subject to widespread consultation. The Neighbourhood Renewal Areas (July 2004) include all urban wards as ranked most deprived by the multiple deprivation index.

The Commission therefore considers that, as the procedure used to define neighbourhoods was not a policy there was no requirement on DSD to screen this by way of Paragraph 3.1 of its approved equality scheme. Accordingly DSD has not failed to comply with its approved equality scheme.