

## **The Equality Commission for Northern Ireland**

### **Response to Gender Matters: Towards a cross-departmental strategic framework to promote gender equality for women and men 2005 - 2015 February 2005**

#### **Executive Summary**

#### **Introduction**

1. The Equality Commission welcomes the opportunity to comment on Gender Matters. The Commission welcomes a cross government strategy to tackle gender inequalities. We feel that this is the ideal vehicle to demonstrate commitment to eliminating disadvantage and inequality. It also sets the framework for accountability and further action. Gender inequality is complex, diverse and often compounded by factors such as age, disability, religion, political opinion, sexual orientation and race.
2. A cross-departmental strategy is we believe a central component to tackling such structural inequality.

#### **Main Recommendations**

3. Our central recommendation is that positive action must be an essential component of the strategy alongside equality mainstreaming.
4. We are concerned that the present strategy will not fundamentally address gender inequality. We believe that the vision has not been set from a gendered analysis of inequality, including a necessary focus on the multiple disadvantage experienced by women. We are concerned that the concept of choice within the document is not qualified by the structural context of women's lives. We recommend that the developing strategy is simpler and less complex but crucially that it is backed up by a detailed action plan which follows through on international commitments to the Beijing Platform for Action and the

United Nations Convention on the Elimination of  
Discrimination Against Women (CEDAW).

## **The Equality Commission for Northern Ireland**

### **Response to Gender Matters: Towards a cross-departmental strategic framework to promote gender equality for women and men 2005 - 2015 February 2005**

#### **Introduction**

1. 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 and treatment, sex discrimination and equal pay, race relations, sexual orientation and disability. 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.
2. 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.

#### **Context**

3. The Commission welcomes a cross government strategy on gender inequality and therefore welcomes the publication of and consultation on Gender Matters. The Commission and its predecessor body, the Equal Opportunities Commission (NI), have long argued for government commitments to address gender inequalities. We feel that this is the ideal vehicle to demonstrate commitment and to provide the framework for accountability

and further action. Gender inequality is complex, diverse and often compounded by factors such as age, disability, religion, political opinion, sexual orientation and race. Therefore we welcome a cross departmental strategic framework to tackle gender inequalities.

4. It is essential that this strategy is explicit in terms of eliminating discrimination and expressly addresses the disadvantage faced by women throughout their lives. The strategy must define the concept of gender inequality, emphasise the distinct economic and social position of women and men and the ways in which their roles are socially constructed. The Commission recognises that the elimination of persistent gender inequalities needs long term vision and commitment from Government to ensure that women have the same opportunities as men to participate in and contribute to society and to reap its benefits equally.
5. The Commission has welcomed the opportunity to contribute to the development of this strategy. Throughout the development of the document we have continued to argue for an approach aimed at addressing the systematic disadvantage experienced in the main by women. An equality mainstreaming approach is important to address gender differences but in addition directed programmes will be required to address the fundamental inequality which is the experience of many women.

### *CEDAW & Beijing*

6. The Commission welcomes the intention to reflect the commitments under CEDAW and Beijing through the key action areas and that this Strategy will sit within and complement the existing legislative framework. However the Commission is convinced that to meet the commitments under CEDAW and Beijing resources, targets and timescales are central.
7. The United Kingdom has obligations under European Union, domestic and international legislation to promote equality for men and women and to ensure a gender perspective in all government policies and programmes. For example the Beijing Platform for Action identified twelve

critical areas for concern for priority action to achieve the advancement of and empowerment of women, which is consistent with and fully conforms to the purposes and principles of international norms. Signatory Governments were required by 1996 to have developed strategies or plans of action to remove all obstacles to equality for women and to ensure a gender perspective in all government policies and programmes. These should be comprehensive, have time bound targets and benchmarks for monitoring, and include proposals for allocating resources for implementation<sup>1</sup>. By adopting the Platform for Action the Government has agreed to a common development agenda, with gender equality and women's empowerment as underlying principles to redress inequalities between women and men.

8. It is important that this strategy meets fully the commitments as outlined in the Platform for Action.

## **General Comments**

### *Focus of the Strategy*

9. The Commission is concerned that the overall strategy lacks specific actions to tackle gender inequalities. It fails to provide an analysis of gender inequalities within existing social, and economic structures. We are disappointed that there are no departmental action plans included in this document. This is in contrast with the 'R World 2' document which does include a detailed action plan.
10. We are concerned that the key action areas at 2.4 do not sit with the strategic objectives of gender equality in economic, socio/cultural or civic life (chapter 6). Pensions for example a key action area is not represented in the strategic objectives. This is a policy area that has the potential to make a significant contribution to the elimination of gender inequality in economic life.
11. There is also no sense that the indicators presented in Annex 8 have been used to inform the strategy. We

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<sup>1</sup> Beijing Declaration and Platform for Action, para 297 UN, DAW, September 1995, New York

recommend that the indicators expressly inform the developing strategy.

### Unequal Relationships

12. We note the increased focus on the role of men in relation to this gender equality strategy. We acknowledge that men have a role to play in the achievement of gender equality. However an increase in and knowledge of how male identities and masculinity are produced in different situations such as education and health, does not in itself contribute to greater equality between women and men.
13. A properly constructed and simplified strategy in which a gendered analysis of key issues had taken place may well show differences between men and women. For example a key issue highlighted is work life balance and analysis may highlight the complexities of the labour market and disadvantages for both men and women. This could then be appropriately addressed by specific actions by government, employers and others. However the main disadvantaged is still experienced by women arising from the fact that women are the main carers of both children and elderly relatives.
14. Similarly for education, there is no sense that the education system has a role to play in socialising boys and girls to adopt behaviours and values based on gender equality. We have recommended that gender equality should be a core element in teacher training<sup>2</sup>. We are aware of the differences in attainment but it is also vital that strategies to address under-achievement in boys do not have a negative impact on girls. Differences in attainment by social class have been found to be more significant than gender differences.

### Choice

15. The Commission is concerned that the strategy, especially in paragraphs 1.6, 2.1 and 4.5, argues that the cause of much gender inequality is not in actual fact inequality or discrimination but the choices people make. It is

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<sup>2</sup> The Commission refers to two ECNI publications: Neil the Nurse – Betty the Builder and Equality Awareness in Teacher Education

suggested that women have genuine, unconstrained choices about how they wish to live their lives. In effect, this analysis suggests that women choose to work part-time, be poorly paid, have no access to training, live in poverty, have no value attached to their attributes and take on a large proportion of domestic and caring work for no pay or recognition. It is important that the strategy recognises that the lack of good quality accessible childcare, lack of family friendly employment opportunities, employment options, differential educational attainment and the gendered division of labour constrains the choices that women make. Some women will have substantially better chances than others of overcoming the constraints that may restrict their actions. The degree of flexibility that women need may be more to do with how they deal with the conflicting demands on their time rather than genuine choice. It is also important that the impact of these 'choices' is taken into account and the price that women pay for these 'choices' is alleviated through various policy avenues such as changes to the tax and benefit system.

16. It is also somewhat misleading in that the concept of reconciliation of work and family life is seen as a 'women's problem' which is reflected by female employment patterns; 37% of females work part-time compared to 8% of male employees.<sup>3</sup> Recent research on 'Men in Northern Ireland'<sup>4</sup> indicated that there is general support for men being more involved with their children, and that similar portions of men (54%) and women (70%) agreed that men ought to do a larger share of childcare than they do now. The Life and Times Survey also found that on average, men spent 5.92 hours per week doing housework, compared with 17.15 for women. The Commission stresses the need to put the concept of choice in the structural context in which 'choices' are made.

### Multiple Identities

17. The strategy does not cover issues of race, disability, political opinion, religious belief, sexual orientation and age. We are concerned that this will result in a strategy

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<sup>3</sup> NI Labour Force Survey Women in Northern Ireland, July 2004, DETI

<sup>4</sup> Paula Devine (2004), Men in Northern Ireland, Factsheets: A New Resource. Belfast: ARK

that evades the fact that gender intersects with other forms of discrimination and disadvantage. It is essential to acknowledge that some women may be disadvantaged further by race, age etc. It is important that multiple identities are fully recognised and do not become invisible by bureaucratic departmental demarcations. A gendered-based analysis respects and appreciates the diversity that stems from our multi identities.

18. The Commission therefore strongly recommends that the focus of the strategy covers black and ethnic minority women, including Traveller women, older women, lesbian and bi-sexual women and disabled women and also women of different religious beliefs and political opinions.
19. The Commission notes that the issue of women and conflict has not been addressed in this strategy. We are concerned as this one of the critical areas in the Platform for Action, is in line with commitments under the United Nations Security Council Resolution 1325 and an integral component of the good relations duty under section 75. It is vitally important this strategy take account of the legacy of sectarian conflict.
20. The Joint Equality and Human Rights Forum, which Commission is part of, undertook research to explore the reality of diversity in people's identities. The Commission's specific project looked at the situation and experiences for disabled women in Northern Ireland.<sup>5</sup> Taking one example, disabled women often lacked access to services such as cervical screening, as facilities were often inaccessible. It is important that other strategies and projects incorporate a gendered analysis to enable outcomes to be achieved.
21. It has also been our experience in the PSI<sup>6</sup> groups that a gendered analysis does not form part of the groups' discussion or thinking. For example the 33 recommendations from the PSI Group on Travellers make little reference to women and when they do so is in the context of motherhood (recommendation 1) and health

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<sup>5</sup>K Zappone eds, (2003) Re-thinking Identity: The Challenge of Diversity. Belfast: Joint Equality & Human Rights Forum.

<sup>6</sup> The Commission in its response to the Anti-Poverty Strategy in Oct 2004 made a series of recommendations on the workings of the PSI Groups.

(recommendation 12). It will be insufficient if these multiple disadvantages are not tackled through the strategy addressing gender inequalities.

### *Relationship with other strategies and initiatives*

22. The Gender Strategy details how this strategy fits with other Strategies and initiatives. For example, domestic violence for ethnic minorities will be dealt with, not under the Gender Strategy but will fall under the remit of the Race Equality Strategy. It is unlikely, that at a strategic level, domestic violence will feature as a priority for an over arching race strategy. It is clearly a gender based issue and therefore needs to be addressed in the action plan flowing from the Gender Strategy.
23. We are however concerned that, as the gendered nature of this issue has not been analysed by this group, the gendered nature of these matters will become invisible when they move to their respective arenas for policy development and action.
24. The strategy refers to girls and boys, yet there is no indication as to how this fits in with the emerging children's strategy. The strategy makes no reference to the UNCRC, which underpins the Children's Strategy. The Commission would appreciate further clarification on how the necessary policy development will be taken forwards.

### *Gender Mainstreaming as one tool*

25. It is important to recognise that the strategy of gender mainstreaming does not in any way preclude the need for specific targeted interventions to address women's disadvantage. The Commission is concerned that the focus of this strategy is on gender mainstreaming only with no apparent attempt to complement this with positive action measures to address the historic disadvantage faced by women.
26. Gender mainstreaming was established as a strategy for the promotion of gender equality in the Beijing Platform for Action from the Fourth United Nations World Conference

on Women in Beijing in 1995. Gender mainstreaming has been defined as;

*“the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels. It is a strategy for making women’s as well as men’s concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality.”<sup>7</sup>*

The Beijing Platform for Action calls for a dual strategy – gender mainstreaming complemented with actions to redress historic disadvantage faced by women.

27. The Commission notes that the strategy refers to the process of mainstreaming equality of opportunity for the nine equality categories under Section 75 of the Northern Ireland Act. A recent paper by McCrudden<sup>8</sup> (2004) suggests that it would be reasonable to expect to see outcomes change and inequality between the groups identified by Section 75 reduced over time. Practically therefore the focus needs to be on those groups in society who experience more inequality. He also states that section 75 should be seen as an attempt to give greater focus to the disadvantage position of women than had previously been the case. Furthermore section 75 requires public bodies to consider how each policy can be redesigned to promote gender equality and where necessary positive action measures will need to be adopted. The Commission considers the emphasis in the strategy on mainstreaming is to misinterpret section 75. Positive action measures are also essential (see below) as are other policy initiatives such as New TSN to address social exclusion. In fact the two should compliment each other and help to promote greater equality for men and women generally as both have a role to play in eliminating inequality.

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<sup>7</sup> General Assembly, United Nations ECOSOC (A/Res/52/100) Dec 1997

<sup>8</sup> 2004 McCrudden C, 2004, Mainstreaming Equality in Northern Ireland 1998 – 2004, in McLaughlin, E & Feris N, Section 75 Review, Belfast

### Positive/Affirmative Action

28. The Commission is disappointed that government has not so far considered the full range of actions that are presently permitted within the legislation to address inequalities. We feel this is an ideal opportunity to use the full range of measures in the anti-discrimination legislation to address underlying and long term gender inequalities. Government leadership is critical to secure success. We believe that positive action initiatives as presently allowed under the Sex Discrimination Order are underutilized.
29. More generally, the Commission would wish to see a more innovative and creative approach towards positive action generally in this Strategy. The Commission does not consider positive action to be a narrow exception to the non-discrimination principle but rather a major vehicle for the promotion of equality of opportunity. Article 7.1 FEED provides that “[w]ith a view to ensuring full equality in practice, the principle of equal treatment shall not prevent any Member State from maintaining or adopting specific measures to prevent or compensate for disadvantages linked to any of the grounds referred to in Article 1”.<sup>9</sup> This formulation, already well tested in ECJ case law,<sup>10</sup> provides a significantly wider scope for positive action, albeit short of quotas, than is permitted at present in NI equality law. The Commission would wish to see a significantly expanded role for positive action in line with the permissive limits of the EU definition.
30. Employers (and service providers and others) are able to introduce, on a voluntary basis, positive measures to include previously disadvantaged groups in employment and the receipt of services without the danger of an indirect or a direct discrimination action being taken against them. Such measures would lead on from the implementation of equality plans and the outcome of Fair Employment and Treatment Order ‘Article 55’ reviews, as part of a process of culture change and the tackling of

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<sup>9</sup> Article 5 REOD is couched in similar terms.

<sup>10</sup> See, for example, Case C-450/93 *Kalanke v Bremen* [1995] ECR I-3051 and Case C-409/95 *Marschall v Land Nordrhein-Westfalen* [1997] ECR I-6363.

systemic discrimination. There may well be a role for the Commission in approving such schemes.

### Strengthening Legislation

31. The strategy needs to take into account strengthening existing legislation to provide adequate protection against discrimination in its various forms and should enhance the obligations to provide equality of opportunity for women and men. Therefore this strategy needs to commit the government to addressing the shortcomings in the current statutes.
32. Annex 4 of the Strategy outlines the Northern Ireland equality framework and points to the Sex Discrimination (NI) Order 1976 (as amended), the Equal Pay Act 1970 (as amended), the proposed Single Equality Act, the Northern Ireland Act 1998 and the proposed Bill of Rights for Northern Ireland. The Commission would recommend adding the Sex Discrimination (Election of Candidates) (NI) Order 2003 which supports the advancement of women in political life.
33. Women's and men's experience of inequality may also be due to the intersection of different identities, therefore other equality legislation such as the Disability Discrimination Act 1995, the Race Relations (NI) Order 1997, the Fair Employment and Treatment (NI) Order 1998, the Employment Equality (Sexual Orientation) Regulations (NI) 2003 would also need to be referenced.

### Equal Pay

34. On equal pay, the Commission retains its view that there are grave difficulties in the operation of the present legal framework. The Commission sees issues of unequal pay to be symptomatic of wider issues of systemic discrimination, in this case in payment systems. The Commission in its response to the Single Equality Act (SEA) has recommended pay audits across SEA grounds as part of the wider process of promoting equality of opportunity through a reformed FETO model.

### Other Positive Measures to Address Disadvantage

35. Alongside the specific provisions of the current anti-discrimination legislation on positive action, there are various other strategies to address disadvantage which should appear within this strategy.
36. There are currently major reviews of public administration and the civil service in place. Many of these reviews will be ongoing through the life of this strategy. This strategy therefore needs to be flexible enough to address changes in the economic and social environment to ensure that gender inequalities and disadvantage are addressed

### Procurement

37. The Public Procurement Policy which incorporates the principles of Section 75 also has very specific objectives to integrate social policies with procurement.
38. The policy agreed by the Northern Ireland Executive in 2002 provided for a pilot scheme which requires suppliers to submit a plan with their tender, indicating how they would utilise the unemployed in the contract. The Commission understands that an evaluation of this pilot scheme is planned and we therefore recommend that subject to a positive evaluation of the pilot scheme, similar proposals to integrate the objectives of the gender strategy within public procurement should be brought forward.

### Gender Equality Indicators

39. Breitenbach and Galligan's<sup>11</sup> work has been important in collating available research material, identifying gaps in information such as time use and proposing gender equality indicators. We would wish to see the proposals for gender indicators taken forward.
40. The Commission notes that the Gender Equality Indicators for Northern Ireland: A Discussion Document, has had a limited scope. It has looked at research data in relation to men and boys, women and girls, people of different

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<sup>11</sup> Breitenbach, E, Galligan, Y. 2004. Gender Equality Indicators for Northern Ireland: A Discussion Document, Belfast OFMDFM

marital/relationship status, and people with or without caring responsibilities. The document however recommends further work to address the relationship of gender with race, disability age, religion, sexual orientation and socio-economic status – issues that do not appear in the current strategy. Clearly it is essential that much more data is collected, that it is gender disaggregated and identifies the multiple disadvantage in relation to race, disability, age, religion, political opinion and sexual orientation.

## **Responses to Questions and Specific Comment**

### **Question 1 Timeframe**

41. The Commission is content with the 10 year time frame with a mid term review.

### **Question 2 Aspects of Identity**

42. The Commission as already stated considers that a gendered-based analysis of multiple discrimination would explore why some women and men with all their multiple identities continue to experience disadvantage. Therefore awareness raising and research will not be sufficient to address this issue.
43. The Commission accepts that aspects of people's identity can result in disadvantage. Sex, race, religious belief, political opinion or disability can interact to produce experiences based on these characteristics; for example discrimination on the basis of sexual orientation may be experienced differently by gay men and lesbians as a result of stereotypical assumptions on sexuality and relationships. At other times, any one of these characteristics may intersect with other grounds such as family status, whether we have dependents or are carers which may further deepen the disadvantage experienced.

### **Question 3 Key Action Areas**

44. Yes

#### **Question 4 Specific Issues**

45. The Commission considers that employment, equal pay, pensions, education and representation in public life and decision making are issues that we would like to see early action on as we believe they have the potential to make a significant impact on gender inequalities. We would welcome further information on how reserved matters will be taken forwards within the context of this strategy. The Commission is more than willingly to assist OFMDFM in progressing these issues.

#### **Question 5 Information on transgendered people**

46. The Commission is unable to provide further information on transgendered people.

#### **Question 6 -13 Format of Strategy**

47. A more simplified and coherent strategy would be more beneficial. For example the strategy is presented as;
- a Vision
  - Principles
  - Strategic Areas of Intervention
  - Strategic Goal
  - Strategic Objectives
  - Pillars of Action
48. Alongside this is a Gender Action Plan, gender mainstreaming, gender indicators, Wider Equality Action Plan and gender budgeting. The reader is left with a series of intentions, plans etc but without any effective measures of ensuring that gender equality will be achieved.
49. The Commission has had previous discussions with the Gender Equality Unit of OFMDFM and have suggested a simpler vision:

## *A Gender Equality vision for Northern Ireland is of a Society*

- *in which men and women are respected and valued as individuals, regardless of our gender*
- *where we can enjoy and share equality of opportunity, rights and responsibilities in all aspects of our lives*

### Principles

50. The Commission is unclear as to the meaning and appropriateness of the principles as outlined in chapter 4. The underlying assumption is that principles should direct how you intend to work, therefore principles such as adopting a positive and proactive approach, avoiding the influence of stereotypes and promoting a partnership approach are sufficient. The Commission believes that this becomes unclear when issues of where you live or multiple identities are included in this section.
51. The Commission welcomes the three main areas of strategic intervention, but would have preferred that 'inequalities of respect and recognition' was a strategic area in its own right. We recognise the difficulties of developing public policy in this arena, but believe that this strategy could be used as a starting point for making progress in this area.

### Gender Budgeting

52. The Commission welcomes the chapter on gender budgeting. We see this as an important delivery mechanism for the strategy and a key way to ensure appropriate policy development and delivery and effective impact assessments. We hope that the commitment in this chapter, specifically paragraph 8.8 is followed through by measurable actions.

### **Question 14 Gender Action Plan**

53. The Commission welcomes the development of a gender action plan and its availability on the Gender Equality Unit Website.

## **Question 15 & 16 Gender Equality Indicators**

54. See points 40 and 41 above

## **Question 17 Wider Equality Action Plan**

55. The Commission would welcome further discussion and consultation on the wider equality action plan.

## **Question 18, 19, 20 & 21 Consultation and working together**

## **Question 22, 23, 24 EQIA & Screening**

56. In relation to questions 18 through to 24, the Statutory Duty Team will forward their response to these separately.

## **Conclusion**

57. The Equality Commission welcomes the approach of Gender Matters as we believe that this could be the ideal vehicle to demonstrate commitment in terms of international, European and domestic obligations. This could also provide the framework of accountability and further detailed departmental action in terms of gender inequalities, whilst maintaining the overall vision.

58. Our central recommendation is that positive action must be an essential component of the strategy alongside equality mainstreaming.

59. We are concerned that the present strategy will not fundamentally address gender inequality. We believe that the vision has not been set from a gendered analysis of inequality, including a necessary focus on the multiple disadvantage experienced by women. We are concerned that the concept of choice within the document is not qualified by the structural context of women's lives. We recommend that the developing strategy is simpler and less complex but crucially it is backed up by a detailed action plan which follows through on international commitments to the Beijing Platform for Action and the

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**Equality Commission**  
**February 2005**