

## **Response to the Department of the Environment's consultation on Local Government Reform: Policy Proposals**

**March 2011**

### **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, sex discrimination and equal pay, race relations, sexual orientation, disability and age. The Commission's remit also includes overseeing the statutory duties on public authorities to promote equality of opportunity and good relations under Section 75 of the Northern Ireland Act 1998 (Section 75) and the disability duties under the Disability Discrimination Act 1995.
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;
  - keeping the legislation under review;
  - promoting good relations between people of different religious belief and/or political opinion.
3. The Commission, along with the Northern Ireland Human Rights Commission, has been designated under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) as the independent mechanism tasked with

promoting, protecting and monitoring implementation of the UNCRPD in Northern Ireland.

## **Overview of response**

4. The Commission views the Review of Public Administration (RPA) as a generational opportunity to transform our society and we welcome the Minister's (Edwin Poots MLA) expression of that in his foreword to the consultation document. We commend the process of equality impact assessment undertaken on the early RPA proposals and the continued reference to this assessment when the Minister (Arlene Foster MLA) delivered her emerging findings report in 2007.<sup>1</sup>
5. The Equality Commission's Chief Commissioner, Bob Collins, said at the final RPA consultation conference<sup>2</sup>: 'the finest, most enlightened policy can turn to ashes if its spirit and purpose do not inform and influence its implementation. In the final analysis that may be the greatest challenge of this entire process'.
6. Maintaining the spirit and purpose of this ambitious project remains critical. Introducing new, inclusive governance arrangements, implementing a Code of Conduct which extends the principles of public life and establishing community planning arrangements which provide a sharpened focus for the delivery of public services are the final steps to successful completion. These elements should not be separated in their implementation but instead should provide the final synergy in the way councils work, what they do and their relationships with other agencies to ensure the provision of best quality public services.
7. The Commission welcomes the proposed introduction of a statutory Code of Conduct and notes the steps to be taken for

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<sup>1</sup>*Emerging Findings* report, October 2007

[http://www.doeni.gov.uk/index/local\\_government/review\\_of\\_local\\_government/emerging\\_findings\\_paper\\_for\\_executive\\_meeting\\_on\\_18\\_october\\_2007\\_-\\_final\\_version.pdf](http://www.doeni.gov.uk/index/local_government/review_of_local_government/emerging_findings_paper_for_executive_meeting_on_18_october_2007_-_final_version.pdf)

<sup>2</sup> Pathways to Participation and Access: Review of Public Administration Conference, Stormont Hotel, 6 September, 2005, unpublished speech

fair representation in councils. We welcome the proposals regarding the introduction of community planning, bringing a sharper focus to meeting the needs of communities, and the supporting power of well-being. The matter of relationships between central and local government have been a matter of concern for the Commission, in relation to meeting the statutory equality duties, and the Commission welcomes the proposed establishment of the Partnership Panel.

8. The Commission looks forward to further consultation on the elements within these policy proposals and to responding and advising in the context of the overall modernisation of local government. As part of our ongoing engagement with the Department's local government reform team, we also welcomed the opportunity to meet recently with the reform team to discuss a number of the key issues raised below.
9. Although the Department has raised a number of questions in its consultation document, the Commission has concentrated on those questions relevant to its own remit and experience. In responding to this consultation, the Commission has drawn on the *Principles for Equality of Opportunity and Good Relations in Local Government Reform*<sup>3</sup> ('the Principles Paper') published by the Commission in February 2008.
10. The Equality Commission's detailed responses to the specific questions raised by the Department are outlined below.

## **Comments on the consultation document**

### **Decision- Making Structures (Question 4)**

11. The Department has sought views on whether there should be a list of core issues specified, for which decisions must be taken by a full council, as opposed to being devolved to a council committee.

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<sup>3</sup> *Principles for Equality of Opportunity and Good Relations in Local Government Reform*, ECNI, February 2008, <http://www.equalityni.org/archive/pdf/ECoppgoodrelations.pdf>

12. The Equality Commission agrees that there should be a list of **core issues** in relation to which decisions must be taken by the full council. We note that the Department has provided some examples of these core issues such as striking the rate, borrowing, governance arrangements, the corporate plan, the community plan, etc.
13. Strong leadership is necessary within local authorities in order to ensure that the statutory equality duties are integrated into core business activities and put into effective and visible practice. The Equality Commission's revised Section 75 Guide, for example, makes it clear that 'leadership provided at the highest levels in a public authority, for example, Minister and Permanent Secretary or Chair and Chief Executive, is critical to the successful achievement of equality mainstreaming'<sup>4</sup>.
14. We consider that key equality documents such as a local council's **equality scheme** and **disability action plan**, which designated local councils are **required** under equality legislation to produce, should be considered by a full council. These key equality documents will influence strategic and business plans and other corporate documents.
15. We further recommend that other key **equality action plans/strategies**, which are recommended as good practice by the Equality Commission, such as a Section 75 action plan or a Good Relations Plan/Strategy, should also be considered by a full council.
16. In addition, the Commission recommends that full councils should consider Article 55 reviews under the Fair Employment and Treatment (NI) Order 1998 and annual monitoring returns.
17. The above mentioned equality documents cover a council's vision and aims for its proactive work in promoting equality of opportunity and good relations. The approval of these documents by the full council would give a clear indication of

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<sup>4</sup> *Section 75 of the Northern Ireland Act 1998, A Guide for Public Authorities*, ECNI, 2010  
<http://www.equalityni.org/archive/pdf/S75GuideforPublicAuthoritiesApril2010.pdf>

the council's ownership of, and commitment to, the measures and actions set out in its equality scheme, action plans, strategies, etc. They demonstrate publicly the council's commitment to promoting equality of opportunity and good relations, as well as showing leadership in this area at both a political and organisational level.

### **Sharing of power and responsibility** (*Questions 5-7*)

18. The Department is proposing that a number of methods are made available to councils for the allocation of key positions within the councils and for representative positions on external bodies. The methods proposed are the D'Hondt and Saint-Lague divisor systems, as well as the Single Transferable Voting system.
19. On the basis of the information presented in the consultation document and screening form, the Commission questions whether the Department has considered fully all the evidence in reaching its proposals and asks that these are considered further in light of the points below; particularly as there is no reference to information from the Commission's investigations being considered in bringing forward the proposals, despite ongoing meetings between the Department and Commission.<sup>5</sup>

#### *Compliance with S75 commitments*

20. The Department has sought views on whether a limited number of methods should be made available and whether the methods identified are appropriate.
21. In accordance with their duties under Section 75, it is important that local councils assess and consult on (in terms of screening and possibly equality impact assessing) methods which they propose to adopt in relation to the allocation of key positions both within the council and for representative positions on

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<sup>5</sup> See in particular, *Final report of the Equality Commission's investigation, Lisburn City Council*, October 2009 <http://www.equalityni.org/archive/word/Oct09Lisburncomplaint.doc> and *Final report of the Equality Commission's investigation, Lesley Cubitt and Limavady District Council*, October 2009, <http://www.equalityni.org/archive/word/Oct09Limavadycomplaint.doc>

external bodies as new policies when the councils are established.

22. If a council proposes to adopt a new method (or change the method which it currently uses) for the allocation of key positions, then these policy decisions should be assessed and consulted on in accordance with Section 75 commitments as set out in its equality scheme.
23. The Department will be aware that in October 2009, the Commission published its findings in relation to an investigation into Lisburn City Council as regards a potential failure to comply with its approved equality scheme. The investigation arose out of a policy adopted by the Council in 2008/09 to use the D'Hondt mechanism to determine its Council representatives on the joint Lisburn /Castlereagh temporary Transition Committee.
24. The Commission found that the Council had unilaterally and without consultation decided to forgo its previous informal policy of proportionality, arrived at through equality impact assessment, in favour of a policy to adopt a formal D'Hondt mechanism.<sup>6</sup> We recommended that the Council immediately re-constitute the membership of its representatives on the current Castlereagh/Lisburn Transition Committee, applying the policy that was adopted as a result of the equality impact assessment.

*Default approach*

25. The Department has sought views on whether the D'Hondt system be specified as the **default** model, for use if the political parties on a district council fail to agree on the system to be adopted.
26. The Commission recognises that there are benefits in adopting a default approach in the absence of agreement by political parties on a district council as to the system to be adopted in relation to the allocation of key positions.

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<sup>6</sup> *Final report of the Equality Commission's investigation, Lisburn City Council, October 2009*  
<http://www.equalityni.org/archive/word/Oct09Lisburncomplaint.doc>

27. We are also aware that seats in the Assembly Executive and Chairs and Deputy Chairs of the Departmental Committees are allocated on the basis of the D'Hondt system.
  28. However, we note that the report *Checks, Balances and Safeguards*, on the Review of Administration in Northern Ireland, highlights that the D'Hondt method 'is only partially proportional and is fairer in larger constituencies, benefits larger parties and the smaller the number of positions to be filled the less fair it becomes.'<sup>7</sup>
  29. We recognise that the Department is proposing to introduce a number of safeguards in relation to the use of divisor methods. In particular, it is proposing that the agreed method will be applied to all positions of responsibility within a council over its full four year term. The Equality Commission supports this safeguard as it ensures the widest range of positions are allocated at one time, and should therefore be more inclusive in the distribution of positions.
  30. We note that the Department has screened its policy proposals for equality impact and has indicated that it 'is satisfied that the proposed legislation will not lead to discriminatory or negative differential impact on any of the Section 75 groups.'
  31. The Commission is of the view that further consideration and analysis of the equality implications of using the D'Hondt system as the default method is required by the Department, in order to ascertain the impact across all councils of this method of selection on political groups of different strengths.
- Consistency of approach*
32. The Department proposes to set out the precise method for applying each of the available systems in order to ensure consistency and accuracy of approach across councils.

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<sup>7</sup> *The Review of Public Administration in Northern Ireland, Checks, Balances and Safeguards*, Bronagh Hinds and John Loughlin, November 2005, page 17

33. The Commission supports this proposal. It is clear from the Section 75 investigation undertaken by the Commission into Limavady Borough Council, that there is a need for consistency and clarity amongst councils as to the precise method for applying such systems.<sup>8</sup>
34. The Department will be aware that in October 2009, the Commission published its findings in relation to this investigation of Limavady Borough Council, which concerned an alleged failure to assess and consult on (in terms of screening and possibly equality impact assessment) proposals to select its representatives on the temporary Transition Committee for the proposed Causeway District Council.
35. The Commission's investigation report concluded that 'as a result of this investigation, it would appear that the council has realised that the form of D'Hondt used by it differs from the method used at the Assembly, and that its method may be less equitable than the Assembly method when used to fill a small number of positions.' Having become aware of this issue as a result of the Commission's investigation, the Council decided to replace its version of the D'Hondt system with the Assembly version.

### **Code of Conduct** (*Questions 16-18*)

36. A Code of Conduct is vital in setting clear standards of behaviour for elected representatives. Councillors have a significant leadership role and should be champions of equality of opportunity and good relations in their work. The Equality Commission's final report on reviewing the effectiveness of Section 75 made it clear that the 'issue of leadership in driving compliance and ultimately in promoting equality of opportunity and good relations is particularly pertinent within local government and government departments.'<sup>9</sup>

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<sup>8</sup> *Final report of the Equality Commission's investigation, Lesley Cubitt and Limavady District Council*, October 2009,

<http://www.equalityni.org/archive/word/Oct09Limavadycomplaint.doc>

<sup>9</sup> *Section 75, Keeping it Effective: Final report*, ECNI, November 2008

<http://www.equalityni.org/archive/pdf/EffectivenessReviewFinalRpt1108.pdf>

37. The Equality Commission welcomes the proposal to introduce a mandatory Code of Conduct for councillors with supporting mechanisms for investigation, adjudication and appeals.
38. In addition, the Commission welcomes the fact that the principles to be enshrined in the Code extend beyond the Nolan Principles to embrace the additional concepts of equality and good relations.
39. The Equality Commission, in its final report on reviewing the effectiveness of Section 75, recommended that the adherence to the principles of equality of opportunity and good relations are enshrined in Codes of Conduct.<sup>10</sup>
40. In addition, in its *Principles Paper*, the Commission recommended that equality of opportunity and good relations should be enshrined in a Code of Conduct for councillors in order that the obligations under Section 75 are reflected in how the council does its work.<sup>11</sup>
41. Finally, a report '*Embedding Good Relations in Local Government, Challenges and Opportunities*<sup>12</sup>', commissioned by the Equality Commission on behalf of the Good Relations Forum<sup>13</sup>, also recommended the development of enforceable and transparent Codes of Conduct.
42. This report stressed that 'there is a real requirement for leadership on the promotion of good relations at both political and organisational level' and noted, in particular, that 'good relations, by its very nature, should not just be modelled in legislation but should be reflected in the positive behaviour of politicians in relating to each other and in viewing the whole of the new council area and all its residents as their constituency.'

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<sup>10</sup> Section 75, *Keeping it Effective: final report*, ECNI, November 2008

<http://www.equalityni.org/archive/pdf/EffectivenessReviewFinalRpt1108.pdf>

<sup>11</sup> *Principles for Equality of Opportunity and Good Relations in Local Government Reform*, ECNI, February 2008 <http://www.equalityni.org/archive/pdf/ECoppgoodrelations.pdf>

<sup>12</sup> *Embedding Good Relations in Local Government, Challenges and Opportunities*, ECNI <http://www.equalityni.org/archive/word/GoodRelationsPaper0407.doc>

<sup>13</sup> The Forum is co-chaired by the Equality Commission and the Community Relations Council.

43. This leadership role applies not only at council or committee meetings but extends to the public lives of individual councillors. It is therefore desirable that the principles embodied in the Code of Conduct are reflected in every aspect of councillors' roles.
44. We understand that the Department intends to carry out a formal consultation on the revised Code of Conduct and the Commission will submit more detailed comments on the specific wording of the proposed principles relating to equality and good relations in the Code at that stage.
45. The Department is, however, aware that the Commission has responded to the Northern Ireland Assembly's consultation on the proposed amendments to the Code of Conduct for Assembly members.<sup>14</sup> The Commission has also provided evidence to the Committee on Standards and Privileges in relation to the Northern Ireland Assembly's consultation on its proposed Code of Conduct. The Commission in its response and evidence raised a number of concerns in relation to the proposed wording of the clauses relating to equality and good relations.<sup>15</sup>
46. If a mandatory Code of Conduct is introduced, the Commission recommends that the Department and local councils take effective steps to ensure that the existence of the Code is widely promoted and that the Code is accessible. It is important that the public are aware of their right to complain and that the Code is available in accessible formats. The Department should consider making the document available in a variety of languages.

### **Breaches of the Code (Questions 19-22)**

47. We note that the Department proposes that all complaints regarding alleged breaches of the Code would initially go to the

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<sup>14</sup> ECNI Response to NI Assembly's consultation on a Code of Conduct for Assembly Members, 2008.

<http://www.equalityni.org/archive/word/ResponsetotheNorthernIrelandAssembly.doc>

<sup>15</sup> Evidence submitted to Committee on Standards and Privileges, 4 June 2008.

Commissioner for Complaints for consideration. It is also proposed that the Commissioner for Complaints would investigate serious, complex or high profile cases and that the Commissioner would refer complaints relating to less serious breaches of the Code to the relevant council's Standards Committee for resolution.

48. In general, the Equality Commission supports the consideration of complaints of breaches of the Code by an external, independent investigator with the power to enforce effective, proportionate and dissuasive sanctions.
49. The Commission anticipates that difficulties are likely to arise in relation to establishing what complaints should be regarded as 'serious, complex or high profile cases'. It may, for example, not be apparent until after an investigation has been commenced that a breach is serious or complex. In addition, a less serious breach of the Code may become 'high profile' after it has been referred by the Commissioner to a council for local resolution. It may also be difficult to assess what constitutes a 'high profile' case.
50. The Commission therefore agrees with the Department's proposal that **all** written complaints concerning alleged breaches of the Code should be sent in the first instance to the Commissioner for Complaints to determine how they should be investigated.
51. There is no indication in the consultation document that a council will have the power to refer a complaint back to the Commissioner for consideration in circumstances where the complaint subsequently turns out to be serious, complex or high profile.
52. We note that complaints in relation to breaches of the Assembly Code of Conduct are made to the Assembly Commissioner of Standards. Under the admissibility criteria, if the Commissioner considers the complaint admissible, but **trivial** or **vexatious** or related to a complaint that has been substantially considered on

a previous occasion, he may advise that no further action should be taken and report this to the Committee.

53. The Assembly Commissioner of Standards is not confined to complaints which are considered to serious, complex or high profile cases. The Commission is concerned that there appears to be a higher hurdle which complainants must satisfy before their complaint is considered by the Commissioner for Complaints in relation to a breach of the Code of Conduct for councillors, in comparison to a breach of the Code of Conduct for Assembly Members.
54. Finally, in general, we support the proposal that sanctions should be available to standards committees and the Commissioner for Complaints where breaches of the Code have occurred. Sanctions must be effective, proportionate and dissuasive. We note that the Department proposes to set out the sanctions available in legislation.
55. As the sanctions available to the Commissioner and standards committees have not been set out at this stage, it is not clear whether the range of sanctions available to both will be same. It is also, therefore, not clear whether a standards committee will have power to impose sanctions which are effective, proportionate and dissuasive or whether it is proposed that the Commissioner will have the power to impose a wider range of sanctions than a standards committee.

#### *Developments in England*

56. We note that the consultation document indicates that the administrations in England, Wales and Scotland have each developed and introduced ethical standards frameworks for local government to encourage appropriate levels of conduct and to build public confidence. The Department indicates that the frameworks include mandatory Codes of Conduct for elected representatives of local authorities, with associated processes for investigating and adjudicating on alleged breaches of the codes.

57. We are aware that in England, under the Localism Bill, currently progressing through Parliament, the UK Government is proposing to abolish the Standards Board regime, consisting of a centrally prescribed model Code of Conduct, standards committees with the power to suspend a local authority member and regulated by the Standards Board for England. They have indicated that this framework is inconsistent with the principles of localism and there is a concern that the regime is a vehicle for vexatious or politically motivated complaints.
58. The Commission seeks clarification from the Department whether their proposals have taken account of developments in England and whether changes are required to its proposals in light of these developments.

#### *Training for Councillors*

59. We note that the Department has indicated that it will be the responsibility of councillors to make sure that they are familiar with the provisions in the Code and that they comply with those provisions. We are disappointed that there are no specific proposals in relation to the training of councillors on equality and good relations.
60. As made clear in the Commission's final report on the Section 75 Effectiveness Review<sup>16</sup>, the Commission recommends, in order to ensure visible commitment to the principle of good relations by leaders across local government, training on equality and good relations is placed on a mandatory footing for all elected representatives.
61. The review report has made it clear that measures taken by local councils are fundamental to the success of the promotion of good relations, and that leadership by councillors is a critical factor in the success of good relations. It noted that 'participants in the public engagement sessions argued strongly that while council staff are generally committed to equality of

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<sup>16</sup> Section 75, *Keeping it Effective Final Report*, November 2008, ECNI, recommendation page 65 <http://www.equalityni.org/archive/pdf/EffectivenessReviewFinalRpt1108.pdf>

opportunity and good relations, their actions can be undermined by elected representatives taking decisions regarding particular policy that impact on good relations.’

62. The report *Embedding Good Relations in Local Government, Challenges and Opportunities*<sup>17</sup>, commissioned by the Equality Commission on behalf of the Good Relations Forum, also recommended training for all councillors and staff in good relations as an overarching theme of their capacity building training for a new structure.
63. Councils, through a range of functions, have a key role to play in promoting equality of opportunity and good relations; for example, through the development of good relations strategies or programmes, through dealing with issues relating to flags and emblems and expressions of identity in public spaces. In addition, under the Planning Bill, it is proposed that councils will have responsibility for the majority of key planning functions. Councils will therefore have an opportunity to promote equality of opportunity and good relations at all levels of the planning system and its delivery of services across Northern Ireland.
64. The Commission is of the view that the Department and councils should take proactive steps in furtherance of their statutory duties, to encourage councillors to both understand and comply with the provisions of the Code.
65. Such training will raise awareness of councillors’ responsibilities under the equality legislation, including duties under Section 75 in relation to promotion of equality of opportunity and good relations.
66. It will help promote the high standards of behaviour, attitudes and values expected of councillors and help ensure that Councillors comply with the proposed principles relating to equality, good relations, respect and good working relationships in the Code of Conduct.

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<sup>17</sup> *Embedding Good Relations in Local Government, Challenges and Opportunities*, ECNI <http://www.equalityni.org/archive/word/GoodRelationsPaper0407.doc>

67. The need for training is heightened by the current requirement on councils to develop, implement and monitor revised Section 75 equality schemes.

### **Performance Indicators and standards** (*Question 31*)

68. We note that the Department is proposing that it should be able to specify performance indicators for the delivery of council functions. The Department is also proposing that a requirement be placed on councils to produce a corporate plan, and that they would be required to publish performance indicators in this plan. Finally the Department is proposing that it should be able to specify the elements that must be included in a corporate plan and to issue guidance on the form and content of plans.
69. The Equality Commission recommends that the Department, in its guidance, **encourages** councils to include measures relating to equality and good relations in their corporate plans.
70. Local councils will already have objectives and performance indicators relating to equality and good relations in a range of action plans/strategies; for example, disability action plans and good relations plans or strategies.
71. The Commission's revised S75 Guide recommends that public authorities develop action measures to address key inequalities. We also advise that there should be coherence between the Section 75 requirements and business planning cycles. The Department should consider this approach. In addition, the Equality Commission's model Section 75 scheme contains a commitment that the public authority will ensure that objectives and targets relating to the statutory duties will be integrated into its strategic and operational business plans. Many existing schemes of public authorities contain a similar commitment<sup>18</sup>.

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<sup>18</sup> The Commission recognises that this good practice approach has already been adopted by some councils. For example, in the Equality Commission's report on public authorities' five year reviews of equality schemes, it was noted that Belfast City Council was an example of a public

72. The Commission, with the Central Procurement Directorate, has published guidance<sup>19</sup> which includes consideration of the relationship between performance indicators and equality benefits. We are aware that the Department intends to consult on the draft Local Government (Exclusion of Non-commercial Considerations) (NI) Order 2011 and associated guidance and we will provide further advice through the consultation process for that measure.

### **Community Planning** (*Questions 36-39*)

73. Within the framework of Section 75, community planning offers a structure for working across and between agencies that supports equality of opportunity and good relations becoming integral to the core business of all public service providers. It has the potential to provide a sharper focus for the delivery of public services and develop appropriate responses for communities and communities of interest.
74. Using the means set out in equality schemes for equality assessment, identified inequalities can be dealt with and difficult decisions taken in order to provide best response to the complex issues involved in eradicating multiple and persistent inequalities in a particular location covered by a community planning arrangement.
75. The Commission supports the proposal that councils should lead and facilitate community planning and that a requirement should be placed on them to do so.

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authority which had shown top level commitment and had made significant progress in implementing the equality duties. It highlighted the Council had, in particular, focused on the business case for equality of opportunity and good relations and mainstreamed equality objectives into corporate and business planning. *Keeping it Effective: Report on Public Authority Five Year Reviews of Equality Schemes*, ECNI, August 2007  
<http://www.equalityni.org/archive/word/ReportonPublicAuthority5YearReviewsofEqualitySchemesFV.doc>

<sup>19</sup> *Equality of Opportunity and Sustainable Development in Public Sector Procurement*, ECNI, CPD, 2008  
<http://www.equalityni.org/archive/pdf/ECNIPublicSector0508.pdf>

76. We also support the recommendation that councils consult and cooperate with all bodies responsible for providing public services in the district and would be expected to engage with the community and other bodies and individuals in planning the provision of public services.
77. In addition, it is vital that councils effectively engage with groups covered by the Section 75 duties in order to ensure better decision making by councils as regards policy and service development and in the setting of priorities for action.

*Improving engagement*

78. Engagement is essential in order to ascertain whether particular groups covered by Section 75 have particular needs or whether there are opportunities to better promote equality and good relations. Engagement with groups covered by Section 75 will also assist councils in designing initiatives to meet the needs of the groups and overcome barriers. Effective engagement also enables the participation of individuals, such as disabled people, in public life and decision making.
79. If councils are expected to engage with the community and other bodies and individuals in planning the provision of public services, then there should be clear performance indicators for the delivery of those functions. They also remain required to meet the requirements of the statutory equality duties.

*Coherence of planning, plans and strategies*

80. The Commission is cognisant of the proposals contained within the Planning Bill which provides for the transfer of many planning functions to councils, where locally elected politicians will make the majority of planning decisions and shape planning policy for their council area.
81. In addition, in accordance with the RPA decisions, it is proposed that the new councils will become responsible for drawing up their own local development plans. It is important that local development plans and community plans are closely linked in order to achieve a coherent approach to identifying

and addressing social need, social inclusion and equality of opportunity.

82. It is also important that there is a synergy between community plans and equality action plans/strategies which have been developed by both councils and other public authorities who are involved in community planning partnerships.
83. The Commission supports the proposals that government departments and statutory bodies be required to participate and support community planning. In addition, we agree that the Department should issue guidance to support community planning and in relation to the format and content of a council's community plan. We will respond to the Department's consultation on this guidance once issued.
84. Community planning offers a frame of reference for working across and between agencies which supports equality of opportunity and good relations becoming integral to the core business of all public service providers. Using the means set out in equality schemes for equality assessment, identified inequalities can be dealt with and difficult decisions taken in order to provide best response to the complex issues involved in eradicating the multiple and persistent inequalities which we face.
85. As made clear in the Commission's guide *Promoting Good Relations, a Guide for Public Authorities*<sup>20</sup>, the Equality Commission strongly recommends effective partnership working between public authorities and with the community and voluntary sector, the private sector and any other stakeholders.
86. The Commission has made it clear in its Good Relations Guide the importance of partnership working, collaboration and effective engagement. The Guide states that 'partnerships with the voluntary and community sectors, which already make a

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<sup>20</sup> *Promoting Good Relations: A Guide for Public Authorities*, ECNI, Oct 2007  
<http://www.equalityni.org/archive/pdf/PromoteGdRel.pdf>

substantial contribution to the achievement of better relations between communities, are particularly important.’

87. It has also emphasised the need for capacity building by public authorities within in the community and voluntary sector. In particular, it states that ‘drawing on its experience from overseeing the implementation of Section 75, the Equality Commission recognises the important of ensuring that the capacity of the voluntary and community sectors to delivery community development a working partnership with the public sector is maintained and reinforced.’
88. Further clarity is needed in terms of how councils will be required to take forward the community planning processes and mechanisms. We understand that any proposals will be further consulted on and anticipate these will take on board our points above. The Commission will provide further comments when the Department provides detail of the model under consideration.

#### **Power of Well-being (Question 40)**

89. The report *Embedding Good Relations in Local Government*<sup>21</sup> highlighted that the power of well-being potentially allows local councils to intervene to fill gaps in information and practice, and create innovate opportunities regarding good relations. It stressed that it was important that it was used imaginatively, creatively and with good relations as a specific objective and desired outcome. The Commission agrees that a power of well-being should be introduced for councils and underpinned by guidance issued by the Department.
90. The new powers of well-being and community planning proposed should be used to maximise opportunities for

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<sup>21</sup> *Embedding Good Relations in Local Government, Challenges and Opportunities*, Good Relations Associates, commissioned by the ECNI on behalf of the Good Relations Forum, April 2007

<http://www.equalityni.org/archive/word/GoodRelationsPaper0407.doc>

embedding equality and good relations into local services and governance arrangements.

91. If, however, councils create new structures or make policy decisions in pursuance of the power of well-being, then the equality implications of these decisions must be considered in line with obligations in Section 75 equality schemes.

### **Partnership Panel** (*Questions 41-42*)

92. The Commission looks forward to further consultation on the role and remit of the partnership panel. In general, we support structures which facilitate more effective relationships between central and local government. We note that the proposed panel is advisory in nature and not intended to hamper the discretion of the Department or of local government.
93. One of the key areas of concern is the relationship between the policy of central government on the one hand and the operational and implementation role of local government on the other. The relationship between policy and operation needs to be fully integrated to ensure effective decision-making in the delivery of frontline services – thus providing continuity between the two levels.

### **Other Issues**

94. *Encouraging representation of under-represented groups*  
Although not raised in the consultation document, the Commission recommends that both the **Department** and **councils**, consider what steps they can take to promote the participation of under-represented groups as elected representatives in line with their duties as designated public authorities, as regards the promotion of opportunity under Section 75.
95. It is important that councils monitor the allocation of key positions both within the council and its representative positions on external bodies across the groups covered by Section 75 in

order to ascertain whether steps are needed to promote equality of opportunity for under-represented groups.

96. The Department will also be aware that both it and councils, as designated public authorities, have a duty under the Disability Discrimination Act 1995 to have due regard to the need to promote the participation of disabled people in public life. Public life positions include positions held by elected representatives.
97. Steps by councils to encourage participation can include working with councillors to encourage political parties to take measures that will encourage disabled people to stand for election as councillors for the political party in question.
98. In addition, we support the recommendation in the report on *Checks, balances and safeguards* that 'opportunities and measures should be created by government and political parties to address under-representation of women and other interests in elected office in councils.'<sup>22</sup>
99. In light of the under-representation of groups covered by Section 75 in local councils, in particular amongst women, disabled people and ethnic minorities, we recommend that further steps are taken by the Department to encourage local councils to adopt good practice in terms of promoting the participation of under-represented groups in local democracy.
100. We recognise the proactive partnership work already being progressed in this area in relation to gender equality; in particular, the *Women in Local Councils Initiative*, run in partnership with the Equality Commission, aimed at addressing the under-representation of women at senior officer levels in councils and as elected representatives. This initiative has been developed and implemented by a range of partner bodies, including the Local Government Staff Commission (LGSC), the

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<sup>22</sup> *The Review of Public Administration in Northern Ireland, Checks, Balances and Safeguards*, Bronagh Hinds and John Loughlin, November 2005

Northern Ireland Local Government Association and the National Association of Councillors.

*Abolition of the Local Government Staff Commission*

101. Although not referred to in the consultation document, we note that the Minister has indicated at a recent conference organised by the Northern Ireland Local Government Association, the proposed closure of the LGSC.<sup>23</sup>
102. It is important that any decision on the future of the LGSC is taken after a full appraisal of its role and remit and is considered in terms of how best to meet the current and future needs of councils. Particular consideration should be given to the impact of the proposed additional requirements to be placed on, and functions to be carried out by, councils as part of the Department's reform proposals; as well as the impact of the creation of new councils and the abolition of existing councils, subject to the Executive's decisions.
103. The LGSC has played a role in ensuring that councils' employment policies meet the requirements of the equality legislation and it is not clear how this role will be carried forward in the event of the closure of the LGSC.
104. As mentioned above, the Commission has worked in partnership with the LGSC on a range of equality initiatives, including the *Women in Local Councils* initiative, and is of the view that the work of the LGSC has played a valuable role in encouraging councils proactively to embed equality and good relations into their employment practices.

**8 March 2011**

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<sup>23</sup> Report of NILGA conference on 10/11 February 2011  
[http://www.nilga.org/news\\_detail.asp?id=391&pid=1&area=2](http://www.nilga.org/news_detail.asp?id=391&pid=1&area=2)