

Equality Commission

FOR NORTHERN IRELAND

Response to draft Budget 2011-2015

February 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.

4. The Equality Commission welcomes the opportunity to respond to the Executive's draft Budget 2011-2015. However we are concerned about the application by Departments of the statutory equality duties which require them to pay due regard to the need to promote equality of opportunity and regard to the desirability of promoting good relations. The production of the draft Budget has not facilitated a comprehensive assessment of the equality impacts or the opportunities to better promote equality of opportunity. There is little detail to evidence efforts to meet the requirements of Section 75, whether in the draft Budget or the Departmental spending and savings plans, and the draft Strategic Equality Impact Assessment has been published separately.
5. It is clear that the Section 75 duties apply to the budget process. The allocation of public money to meet the needs of the community is a core task of government, but this will not, in itself, necessarily promote equality of opportunity and good relations. Nor will it automatically protect against the creation of new inequalities. The application of the Section 75 requirements should demonstrate consideration of the impact of the draft Budget as a whole on the Section 75 groups and mitigating actions.
6. This is no less the case when funds are restricted or diminished. The economic downturn has placed an even sharper focus on public spending. The Commission recognises that the Executive must make difficult decisions. But the Section 75 requirements are clear. Departments have responsibilities to fulfil the commitments set out in their equality schemes to show due regard to the need to promote equality of opportunity. This will require Departments to mainstream equality considerations throughout their business, including budgetary processes.
7. It is clear that, as we have consistently advised, the Section 75 requirements should assist policy development and decision making; equality assessment at the outset and at the time of each decision provides a framework for good,

evidence based decisions resulting in impact that can be measured.

8. The Commission's comments cover the draft Budget and the associated Draft Strategic Equality Impact Assessment (draft EQIA), which was published later, as well as linking to points in the Departments' spending and savings plans. There are firstly general comments on key themes, and then the consideration of specific points from the draft document.

General comments

9. The Commission's response to the draft Budget considers four areas:
 - application of the statutory duties;
 - coherence;
 - consolidation and continuation of previous priorities;
 - promotion of equality and good relations – illustrated by the Commission's identified key priority areas.

Application of the statutory duties

10. The Section 75 duties require Government Departments to have due regard to the need to promote equality of opportunity when carrying out their functions. These obligations cover all policy decisions including the Comprehensive Spending Review, and development of Budget, as well as the Programme for Government (PfG).
11. The Commission has stressed throughout this budget process, and in previous budgets, that Departments must meet the requirements of Section 75, as they are committed to in each Department's equality scheme. This includes commitments:
 - to screen new and proposed policies as part of their '*arrangements for assessing and consulting on the likely impact of policies...*'¹ and undertake an Equality Impact Assessment as appropriate;

¹ Schedule 9, paragraph 4 (2) (b) of the Northern Ireland Act 1998

- to ensure necessary resources, particularly in terms of time, are made available; and
 - to meet the requirement that the public authority shall *'take into account any such assessment and consultation'*² in its decision making.
12. Given the requirement from Schedule 9 that the public authority shall *'take into account any such assessment and consultation'*³ in its decision making, the Commission's advice has included the necessity of making the equality impact assessment (EQIA) available at the time of consultation on the draft Budget.
13. The Commission is concerned that the draft EQIA was not available at the time of publishing the draft Budget, its publication does not appear to have been announced and the consultation period has been very short.
14. The development of an EQIA, and its simultaneous publication with the draft Budget is necessary for meaningful consultation through informed public debate. In previous years three documents have been considered together, the Programme for Government, the Investment Strategy and the Budget. The information provided in the draft Budget links to both of these but does not present a coherent picture in the absence of the other two. Information on specific outcomes and impacts, with associated plans for delivery, on equality of opportunity and good relations are absent from these, making an overall assessment of the budget proposals difficult. Not providing all the information together or giving time for meaningful consultation represents a potential failure to embed equality in the Budget and its outworkings.
15. The Commission acknowledges the steps taken by the Department for Finance and Personnel (DFP) to ensure screening / EQIA and subsequent consultation. In June 2010, DFP published guidance for Departments on the Budget and on savings delivery plans. When the Commission met with the Permanent Secretary for DFP in October, it was understood that there would be an overarching EQIA made

² Schedule 9, paragraph 9 (2) of the Northern Ireland Act 1998,

³ Schedule 9, paragraph 9 (2) of the Northern Ireland Act 1998,

available for consultation during the consultation period of the draft Budget but that there may be a delay in its publication as it was dependent on the information from Departments' savings and spending plans.

16. The information presented to date does not conform to the Commission's advice in relation to an overall EQIA of the Budget. In the event, the draft EQIA was apparently published only on 24 January 2011 and without notification of its publication, with a short time for response. The information presented in the draft EQIA does not appear to relate directly to any Departmental plans. This means it is difficult to see how the draft EQIA allows for issues to be taken into account in final decisions.
17. The commitments to consultation are set out in each Department's equality scheme. The Commission has consistently advised Departments to ensure that their commitments to consultation are adhered to in policy development and planning across the Departments' activities including budgetary processes.

Coherence

18. The Executive's draft Budget will be delivered through the Departments. Departments are interdependent. This means the draft Budget and draft EQIA should be presented in a way that is transparent; facilitating an outside assessment of the equality and good relations impact and the interplay between measures in different Departments.
19. In the absence of the emerging draft Programme for Government and Investment Strategy as referenced at paragraph 1.2 in the document, there are significant gaps in the information that is currently available.
20. The draft EQIA, similarly, does not link to the information presented by Departments in their spending and savings plans and no cross referencing is provided to the issues set out.
21. Had the draft Programme for Government, draft Budget and the relevant equality assessments been published together, a

collective vision, shared action and synergy between policies and processes could have been achieved. The following are examples of what could have been addressed:

- the draft EQIA commits to training for young people; the DETI and DEL plans refer only to universal neutral impacts;
- the draft EQIA commits to addressing disabled peoples' accessibility and transport needs; the DRD's savings plan refers only to maintaining core services;
- the draft EQIA commits to support for childcare; the childcare strategy is not referred to in the OFMdfM plans;
- the draft EQIA references the Gender Equality Strategy; there is no reference to the mid-term review of the strategy and its action plans in the OFMdfM plans (and no cross Departmental commitment on addressing the gender pay gap or removing barriers to women in policy and decision making or public life);
- the Cohesion, Sharing and Integration strategy is referred as a mitigating measure in respect of the inequalities faced by people of different race; there is no response to the results of the consultation on CSI or indication as to how the views expressed will be incorporated.

22. The draft EQIA does record that marginalisation of and discrimination against the LGBT community will be addressed through updating the Departmental action plans for the budget period 2011-2015, which is specific and measurable, but does not appear to be something that is specifically relevant to the draft Budget and resource allocations.

23. In the drafting of the Budget, we expect and have advised that coherence is required through publication at the same time.

Consolidation and continuation of previous Programme for Government priorities

24. Publication of a draft PfG is essential in understanding how the draft Budget will deliver Government's priorities, as it sits alongside other actions that do not require a specific resource allocation at this level. In the absence of any information on the emerging draft PfG, it is impossible to comment fully on the draft Budget as other actions to deliver the overall PfG are

unknown. This means there are gaps in relation to the information presented and the ability to engage in an effective consultation is limited.

25. For example, the current PfG focuses on the Northern Ireland economy for future stability and growth. The Commission has a particular interest in employment inequalities:
 - The Commission’s research into the economic downturn illustrates the impact the recession has had to date, notably on young people and men during the time of the study, but also identifies potential future risks and impacts, specifically given the number of women employed in the public sector⁴.
 - The draft Budget does not recognise, apart from general contextual points in 2.2 and 2.6, that there is likely to be an impact on public sector employment of the Departments’ savings proposals. It is not an issue identified in section 3 although it should be, as staffing reductions are identified in Departmental plans, for example the DARD Corporate Services Savings Measure identifies a “reduction in central services staffing”, and a “NICS surplus pools list”.
 - There remain risks that the changes to the economy could compound inequalities such as the gender pay gap. This again needs to be considered in the overall context of the draft Budget, where previously there was a target in a Public Service Agreement. The OFMdfM Departmental delivery reports for the PfG record the gender pay gap target as met. The draft EQIA refers to the gender pay gap as an inequality and references the Gender Equality Strategy as a mitigating measure.
26. None of the information presented recognises the inequalities in the context of further job losses in the economy over the next budget period nor do they anticipate changes as a result in terms of mitigating measures. This must be addressed in the context of action from this consultation.
27. The Commission recommends that the Budget reflects the work undertaken and still to be done in respect of past

⁴ Employment Inequalities in an Economic Downturn, ECNI, September 2010

objectives, building on PfG priorities to date. The Commission is concerned that key inequalities can and should be addressed through actions associated to the draft Budget and PfG, and has recommended to Departments that they consider these key inequalities and therefore action measures as they are revising their equality schemes. There should be coherence between these matters.

Promotion of equality of opportunity and good relations – illustrated by the Commission’s key priority areas

28. Persistent inequalities are outlined in the Commission’s *Statement of Key Inequalities*⁵ and further detailed in subsequent publications. If Departments do not seek to make decisions that deal with the barriers to equality, they could make decisions that exacerbate existing inequalities or even create new ones.
29. The draft Budget and Departmental spending and savings delivery plans should demonstrate each Department’s commitment to identifying and using the opportunities available through Section 75 to promote equality of opportunity.
30. The draft EQIA identifies a number of inequalities and mitigating measures to be undertaken. These are not reflected in the equality assessments described by individual Departments in their spending and savings plans.
31. For example:
 - Departments provide little evidence as to how they have considered equality in policy objectives – for example in the information presented by OFMdfM on capital spending plans;
 - little information is presented and few data sources referenced;
 - Departments have not shown how they have taken certain significant issues into consideration – for example, evidence of consideration of the impact of recruitment freeze on existing inequalities.

⁵ Statement on Key Inequalities in Northern Ireland, ECNI, October 2007

32. But of equal concern is that many of the Departmental proposals as set out in their savings and spending plans record either neutral impacts or no adverse impact. That raises questions about the adequacy of the information and its analysis.
33. The Commission has identified key elements which contribute to the consideration of equality in the budgetary process such as:
- consideration of the impact of each determining decision;
 - collection and development of data;
 - planning and work across Departments and agencies;
 - engagement with stakeholders;
 - establishing goals and monitoring and reviewing progress against them.
34. In addition, we developed indicative priority policy issues that should be considered through the budget process. The priority areas we have agreed, building on those developed for the 2007 comprehensive spending review⁶, are:
- educational attainment;
 - urban and rural regeneration;
 - the implementation of an effective childcare strategy;
 - promotion of the independence and well being of older people.
35. The Commission has set out in its statement on inequalities in education, Every Child an Equal Child⁷, the need for the removal of the barriers to young people reaching their full potential. The Department of Education's spending plan says achieving every learner's full potential is a key emphasis. The Department's draft Allocations and Savings Proposals at page 25 finds that the Department's budget proposals through preliminary high level screening are largely neutral in terms of equality impact, while it also offers mitigating measures in respect of certain disadvantaged groups. It is difficult to determine as a consultee whether the proposals set out will

⁶ Letter to DFP, 3 January 2008, and supporting documents

⁷ Every Child an Equal Child, ECNI, November 2008

have an impact on young people in relation to improving attainment levels, and also it is difficult to see how the allocations cumulatively contribute to the Department's priority of "Closing the Performance Gap..."⁸.

36. Urban and rural regeneration provides an opportunity to contribute to the transformation of society and is an opportunity to deliver the objectives of the Programme for Government in creating a peaceful, fair and prosperous society. This should be reflected in strategic priorities and opportunities such as OFMdfM's capital spending on legacy projects, should be reviewed to ensure equality and good relations have been taken into account.
37. An effective childcare strategy will support families and communities as well as having an impact on equality in employment. The planned childcare strategy will only be effective if it is cross departmental in development and delivery. The draft EQIA sets out the issues in respect of childcare but no Department takes account of this in spending or savings plans.
38. Promotion of independence and well-being is a whole life issue. The absence of coherence and read across in the budget documents limit both the effective response to the situation of older people now and the efforts to remove barriers to a safe, secure, independent future for others.
39. The Commission recommends that these issues are given further consideration in the final decision on resource allocations by the Executive.

Other specific points on the draft Budget

40. The document sets out the context for consultation in paragraphs 1.3 and then at 1.9 and 1.10. While it does stress the time needs to be compressed, it does not recognise the interlinking nature of the information from the Departments, which has been published subsequently and with further compressed consultation periods. We have stated above the importance of effective information for effective consultation,

⁸ Draft Budget 2011-15, page 34

and question whether it has been provided in these circumstances.

41. The document sets out a picture of the Northern Ireland economy, the current trends, and then the options and proposals from the Executive. It would have been helpful, given the stated intention that the budget is coherent with the Programme for Government, and the focus of the PfG is on a peaceful, fair and prosperous society, that the statistical overview reflected key equality issues. For instance, there is no consideration in the Labour Market section (page 10) of the groups most affected by the recession. The Commission has recently published a report on this⁹.
42. The Commission notes the inclusion of two Social Funds (page 27). They are referred to in the draft EQIA as “opportunities to address some of the inequalities referred to in this report” (page 4) but no detail is provided. The OFMdFM Draft Budget Spending Proposals document refers only to Equality and Good Relations very generally on pages 5 and 6 and says that no adverse impacts have been identified. There is no further information presented to help consider this. The Section 75 requirements do not limit assessments to the identification of adverse impact. These funds seem to present an opportunity to promote equality of opportunity and good relations, and therefore should be considered for further impact assessment to ensure that the range of options to promote equality of opportunity and good relations have been considered.

Chapter 5 and Draft Strategic Equality Impact Assessment

43. Chapter 5 sets out the action taken by the Executive in respect of the statutory equality duties. The Commission notes the emphasis in this chapter on the importance of Section 75 considerations both by the Departments on their proposals, and through the DFP role in relation to the overall draft Budget, with the commitment to produce the strategic level EQIA.

⁹ Employment Inequalities in an Economic Downturn, ECNI, September 2010

44. In relation to paragraph 5.2, the Commission has consistently emphasised the key role that the Department of Finance and Personnel plays in ensuring there is adequate assessment, information and consultation on the draft Budget as a whole to enable consideration of the equality issues, and therefore the Section 75 duties in this context, while acknowledging the role and requirements on the other Departments.
45. Paragraph 5.10 makes reference to an approach endorsed by the Equality Commission. The paragraph concerned was not discussed with us prior to publication and it is difficult to see, given subsequent events, how the draft EQIA will inform “the delivery of policies, programmes and capital projects at departmental level” as set out. We will continue to advise on the statutory equality duties in accordance with the legislative requirements and our supporting guidance.
46. The chapter continues with an explanation of processes undertaken by Departments. The Commission is concerned about the apparent use of High Level Impact Assessment interchangeably with screening. The commitments in the current Department equality schemes will be to screen policies, to identify those that are likely to have an impact on equality of opportunity, and subject them to EQIA as required.
47. The Commission is gathering information from Departments about their actions on the Section 75 requirements for consideration.
48. The Commission noted the publication of the draft Strategic Equality Impact Assessment on the Draft Budget 2011-2015 but is concerned that it was published so late in the process as noted above.
49. The very limited timescale for consultation has not been helped as there does not appear to have been a public announcement of its publication. The Commission has concerns on whether the process has allowed for effective engagement and feedback to inform decisions.
50. The draft EQIA is limited in scope, given the scope of the draft Budget proposals, the information gathered and the level of analysis. It does not present a comprehensive assessment

across the Section 75 categories and does not present an assessment of the cumulative impact of the draft Budget proposals for the Section 75 categories.

51. The delayed publication means that neither the assessment nor the associated mitigating measures brought forward have read across to the Departmental spending and savings plans.

Conclusion

52. Overall, the information presented does not allow a consultee to make an effective assessment of the draft Budget for equality implications, particularly in respect of the cumulative effect. In many cases, the information from Departments does not recognise that a proposal will have equality implications, the result being that it remains largely unknown what the consequences will be from the budget allocation for those who experience persistent inequalities.
53. The Commission notes the Executive's expressed commitment to equality and to taking that forward in the next steps. The Commission will raise the concerns identified in this response with officials across Departments in respect of meeting Section 75 requirements. It is essential that the equality and good relations considerations are effectively mainstreamed in the budget process through clear adherence to the Section 75 requirements.

Equality Commission
16 February 2011