



Equality Commission

FOR NORTHERN IRELAND

**Equality Commission for Northern
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To whom it may concern

**RE: Department for Social Development - Discretionary Support
Policy Consultation Paper**

The Equality Commission for Northern Ireland (Commission) welcomes this opportunity to respond to the Discretionary Support Policy Framework which is being considered by the Department for social Development (Department) in response to the abolition of the Social Fund, which will come into effect upon enactment of the Welfare Reform Bill in April 2013.

The Discretionary Support Policy Framework proposed in the consultation paper sets out a range of alternatives to the existing Social Fund. The devolved administrations are now required to undertake responsibility for determining the new arrangements "to meet extreme or exceptional needs" through discretionary support to those individuals who traditionally applied to the Social Fund for financial assistance. Such individuals would include those on low incomes, in need of practical support and assistance from Government, those "facing the most extreme hardship as a result of the adjustment to the changes to social security regime".

The Commission welcomes that the Department's Discretionary Support Policy will take into account both the anti-poverty and welfare reform agendas. We broadly agree with the general emphasis of the Department's core policy objectives and overall purpose of the policy as

set out in the consultation paper. However, the Commission considers that the policy must address in detail a number of important issues:

- **Understanding the Differences between the Social Fund and the Discretionary Support Policy:** The consultation paper states the Discretionary Support Policy will not replicate the previous Social Fund model. However, it will reflect its strengths in terms of ensuring a speedy response to emergency or crisis situations, including its local accessibility, and its flexibility in meeting a wide variety of needs, including the use of independent review mechanisms. The Commission recommends that the Department be more explicit in regards to the differences between the existing Social Fund and the proposed Discretionary Support Policy. For example, in regards to eligibility criteria for claimants and potential impacts on those likely to be claimants. It must be done in such a way as to be clearly understood by potential claimants and all other interested parties with whom it is consulting when developing the associated scheme;
- It needs to develop clear criteria that are easily understood by potential claimants, such as the qualifying thresholds for entitlement under the Discretionary Support Policy. For example, what are the qualifying criteria for receiving direct financial rewards in the form of a loan, or for the provision of a non-repayable grant or other interventions? Will payments be made directly or through third parties?
- **Independent Review Mechanism:** Further detail is needed regarding the proposed new independent review mechanisms to be introduced as a result of the Discretionary Support Policy. We recommend that any new independent mechanism should include an appeals process for claimants who wish to challenge case decision regarding their applications for financial support and other measures;
- **Using Social Fund Data:** The Commission welcomes the proposal that baseline information from the operation of the Social Fund will be used for comparative purposes when measuring the type of assistance likely to be required by claimants who are the intended beneficiaries of new policy. The collection of data in terms of assessing the progress of the new policy must also consider the wider cuts to social security benefits and potential greater numbers of claimants who are likely to need assistance from the Discretionary Support Policy (Scheme);
- **Mitigation of the Impact of Welfare Reform:** The consultation paper draws attention to existing measures being undertaken by

the Government to mitigate against the potential adverse impact of welfare cuts, by highlighting the development of the Social Protection Fund. We would welcome additional information regarding the Social Protection Fund, and its relationship, if any, to the Discretionary Support Policy (Scheme);

- **Clarity in Definitions:** The general definitions set out in the consultation paper which broadly define who will be entitled to support from the new Discretionary Support framework are unclear. The terminology and concepts used in the consultation paper to describe the purpose of the policy such as "*to alleviate the most exceptional, extreme or crisis situations which present significant risks to health, safety and well-being of low income and vulnerable households*" do not make it sufficiently clear as to whom will be entitled to receive assistance from Government through its new Discretionary Support Policy (Scheme);
- Following on from the previous point, it is essential that any replacement of Social Fund sets out transparent criteria to determine the qualification threshold for government support under the new Discretionary Support Policy. In doing so, the Department should also define clearly the underlying intention it is proposing by the term "*discretionary support*";
- **Investment in the Discretionary Support Policy:** The Commission recommends that the minimum level of investment in the Discretionary Support Policy remains comparable to current levels associated with the existing Social Fund as it is applied to Northern Ireland, in recognition of the current high level of demand, and potential increase in demand, for this important provision. Indeed, the case for increased investment is strong, given as the consultation paper highlights the level of poverty and social isolation of many marginalised and excluded groups in the current economic climate are likely to need additional support from Government.

In the absence of detailed framework setting out clearly the Department's intentions regarding the new Discretionary Support Policy (Scheme) to replace the existing Social Fund, the Commission finds it is difficult to assess the overall outcome(s) of the proposals contained within the new policy.

As the Department is aware, 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 (Disability Convention) as the Independent Mechanism for Northern

Ireland tasked with promoting, protecting and monitoring implementation of the Convention in Northern Ireland. In that capacity, we remind the Department, that its obligations under Articles 19, the right of disabled people to live independently, and Article 28, the right of disabled people to an adequate standard of living and social protection, should inform and shape any alternative or comparative measures to the existing Social Fund.

Under the International covenant for Economic, Social and Cultural Rights (ICESCR), the United Nations Convention on the Rights of the Child (UNCRC) and the Disability Convention, the UK Government, including the Northern Ireland Executive, has an obligation to progressively realise, within the maximum available resources, economic, social and cultural rights. Therefore, in proposing replacement of the Social Fund it is vital that the operation of this new policy is not regressive, resulting in the lowering of protection / rights of disabled people, including children, women and those disabled people with a range of multiple identities.

It is also important in our view that the Department's guidance in relation to this new policy reiterates the principles and obligations enshrined in these and other international treaties where applicable to Section 75 groups, the Convention on the Elimination of Discrimination Against Women (CEDAW) and the International Convention on the Elimination of Racial Discrimination (CERD).

We look forward to consulting with the Department on detailed regulations setting out the particulars relating to the Discretionary Support Scheme which will be the subject of public consultation later this year.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Darren McKinstry', with a stylized flourish extending to the right.

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Annex 1

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, disability and age.
2. 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 to promote positive attitudes towards disabled people and encourage participation by disabled people in public life under the Disability Discrimination Act 1995.
3. 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.
4. The Commission, 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 UNCRPD in Northern Ireland.