

RESPONSE TO OFMDFM CONSULTATION ON “A STRATEGY TO IMPROVE THE LIVES OF DISABLED PEOPLE 2012 – 2015”

SUMMARY of RECOMMENDATIONS

July 2012

This submission has been drafted jointly by the Equality Commission for Northern Ireland and the Northern Ireland Human Rights Commission in furtherance of their role as the “Independent Mechanism” in Northern Ireland to promote, protect and monitor the implementation of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).



Summary Response

1. The Equality Commission and the Northern Ireland Human Rights Commission are jointly designated as the “Independent Mechanism” in Northern Ireland to promote, protect and monitor the implementation the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).
2. This document sets out a summary of our recommendations in response to the OFMDFM consultation on a draft Disability Strategy for Northern Ireland. Our full response can be downloaded from our respective websites – www.equalityni.org or www.nihrc.org
3. We welcome the Northern Ireland Executive’s commitment to develop a Disability Strategy to challenge the wide range of barriers faced by people with disabilities in Northern Ireland and the recognition given to the UNCRPD as the framework under-pinning the Executive’s approach to addressing these.
4. However, we are concerned that the strategy does not appear to address the full range of obligations placed upon Government by the UNCRPD. The Independent Mechanism encourages Government to adopt a ‘human rights based’ approach which fully acknowledges that if something is necessary for a person to live in dignity, then it is a right that can be claimed. Persons with disabilities must be viewed as holders of rights rather than as objects of welfare.

Priorities for Intervention

5. In summary, with regards to the substantive focus on improving the lives of people with disabilities in Northern Ireland we would recommend that the strategy should additionally commit the Executive to:

- **reform disability equality legislation** to provide stronger protection for people with disabilities when accessing services, transport and the built environment, schools, rented accommodation and in employment¹ by:
 - simplifying and bringing consistency to the legislation;
 - improving protection against different types of discrimination, taking account of developments in case law;
 - updating the definition of disability to reflect the social model and removing the list of capacities;
 - providing protection for carers of people with disabilities and those perceived as being disabled.

- **deliver awareness raising initiatives** that reflect the diversity of disability issues and **maximise the participation of those with disabilities in society**, including:
 - promoting positive attitudes and awareness of rights;
 - challenging negative attitudes, stereotypes and prejudice;
 - maximising the participation of people with disabilities in society and in decision making.

- **further address the barriers experienced by people with disabilities trying to access justice** including:
 - specific consideration of the rights of persons with mental or intellectual impairments; alongside further detailed clarification on how the proposed reforms to mental capacity and health law will be taken into account within the Strategy;
 - reviewing and strengthening measures to reduce the level of hate crime;
 - ensuring the availability of appropriate protections for disabled victims and witnesses,

¹ Equality Commission for Northern Ireland (March 2012): *Strengthening Protection for Disabled People Proposals for Reform (Full Report)*, available at http://www.equalityni.org/archive/pdf/Strengthening_protection_for_disabled_people0312.pdf

- who because of their disability, experience difficulty in giving evidence;
- ensuring liaison between the Departments of Education and Justice so as to guarantee that the practices and procedures of SENDIST do not restrict access to justice for disabled children and young people.

 - **improve further the accessibility of public services, information, housing and transport²**, including:
 - ongoing investment and support for people with disabilities to live in affordable, accessible accommodation;
 - information to be produced in a more accessible manner, alongside the need for data to better reflect the lives and experiences of people with disabilities living in Northern Ireland;
 - ongoing focus and investment to deliver accessible transport strategy and to ensure regular disability equality and general awareness training for transport providers;
 - a strategic approach to addressing the requirements of people with speech, language and communication needs.

 - **Ensure effective delivery of independent living³ and Transitions to adulthood:**
 - implementation of key strategies including the Bamford Review of Mental Health and the Physical and Sensory Disability Strategy;
 - development and resourcing of coordinated, person-centric, transition services across Northern Ireland;

² Equality Commission for Northern Ireland (April 2012): *Response to the Department of Regional Development's Fourth Accessible Transport Strategy Draft Action Plan (ATS) 2012-2015*. Available at: <http://www.equalityni.org/archive/pdf/ATSFinalResponseApril2012.pdf>

³ Equality Commission for Northern Ireland (2011): *Commission Evidence to the Joint Committee on Human Rights – Inquiry into the implementation of the right of disabled people to independent living as guaranteed by Article 19, UN Convention on the Rights of Persons with Disabilities*. Available at: http://www.equalityni.org/archive/word/IMNI_Joint_Response_JCHR270411.doc

- appropriate provisions to promote and protect the human rights of residents in Nursing Homes, including guidance on the use of restraint;
 - account to be taken of the full range of circumstances of disabled people - including those with no or limited access to public funds and/or subject to immigration controls;
 - legislative reform to allow disability-related adjustments to the common parts of let residential premises.
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- **promote access to education and sustainable employment, particularly in the context of the economic downturn⁴**, including measures to ensure:
 - an approach to Special Educational Needs⁵ in line with the UNCRPD;
 - retention of people with disabilities already in employment and opportunities for people with complex disabilities to find employment;
 - people with disabilities do not incur unintended financial penalties in making the transition from unemployment / benefits to employment;
 - full consideration to Article 27 of the UNCRPD, including the requirement to promote opportunities for self-employment and entrepreneurship.
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- **support measures for carers and recognition of the role they play in contributing to the quality of life of people with disabilities**, including:
 - explicit consideration of the needs of the full range of carers, including the specific needs of young carers;
 - develop of strategic priorities which take into account measures already adopted to support

⁴ Equality Commission for Northern Ireland (2010): *Employment Inequalities in an Economic Downturn*. Available at:

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

⁵ Equality Commission for Northern Ireland (2012): *Response to Department of Education consultation on the Review of Special Educational Needs and Inclusion*.

<http://www.equalityni.org/archive/pdf/ECNISENAdditionalViewsOnReviewProposals060712.pdf>

carers in GB and elsewhere e.g. training for GPs; respite care; health checks etc.

- **develop a new strategic priority in relation to Health & Social Care**, to:
 - ensure that such a priority fully reflects the ‘social model’;
 - ensure that people with disabilities who require acute and specialist services enjoy the rights set out in the UNCRPD;
 - ensure that the DHSSPS outline proposal option to use disability benefits to further subsidise future care provision does not limit the degree of choice and control people with disabilities have to manage their care and support requirements;
 - ensure that the regulatory and policy framework on access to publicly funded medical care complies with the UNCRPD - including for those with no or limited access to public funds and/or subject to immigration controls.

- **develop mitigating measures to any adverse impacts of welfare reform** to ensure that people with disabilities are able to live independently and have an adequate standard of living and social protection. For example:
 - address concerns regarding the higher qualification criteria for the Disability Living Allowance (DLA) equivalent Personal Independence Payment (PIP)⁶;
 - ensure that the experiences faced by people with disabilities through the implementation of the ATOS assessment scheme for ESA and DLA (and the subsequent very high percentage of successful appeals for those refused DLA) is not replicated for the implementation of PIP;
 - address annual shortfalls in meeting assessed needs for social housing for disabled people;

⁶ Equality Commission for Northern Ireland (2011): *Commission response to DSD consultation on Personal Independence Payment*. Available at: http://www.equalityni.org/archive/word/ECNIResponse_DSDPIPAssessmentThresholds_v0kFinal_020512.docx

- take account of the full range of circumstances of disabled people - including those with no or limited access to public funds and/or subject to immigration control.

Delivering an Effective Strategy

6. With regards to the design and delivery of the strategy itself, we recommend that the Executive:

- **revises both the ‘vision’ and ‘purpose’ of the Strategy to reflect more clearly the intent to fulfil the Executive’s obligations under UNCRPD.**
- ensures that the strategy sets out **how the Executive intends to contribute to the delivery of the full range of obligations placed on the State under the UNCRPD**, with any prioritisation of key strategic priorities on the basis of identifying those that will have the greatest positive impact on people with disabilities including those identified by people with disabilities as necessary for the implementation of the UNCRPD;
- **secures the pro-active, effective participation of people with disabilities**, including disabled children and young people, in the implementation of the Strategy and Action Plan, and in other Government Policies;
- **explicitly allocates appropriate resources** to deliver the strategy;
- **develops an action plan and monitoring framework**, including targets that are specific, measurable, achievable, realistic and time-bound, so as to deliver **significant positive impacts** for people with disabilities;
- **collect sufficient data relating specifically to disability in Northern Ireland** and publish it in an appropriately disaggregated and accessible format to ensure the effective design and monitoring of the strategy;
- **identifies explicit governance and delivery mechanisms**, including explicit **responsibility** for leading on the delivery of the specific elements of the strategy and structures to co-ordinate actions by

Departments with a role in promoting and protecting the rights of people with disabilities and hold them accountable for progress against strategic targets;

- revises a number of the Strategic Priorities that are currently worded in a way that is too general and/or aspirational, so that there is a **clearer focus and identification of specific and meaningful linked actions**;
- ensures that the strategy **addresses issues of multiple identity** and associated disadvantages and needs;
- **sets out a review process in order to evaluate the extent to which the objectives of the Disability Strategy have been met** by the end of the proposed timeframe and consider the need for a further action plan to meet any objectives not realised.

Annex 1:

The Equality Commission and the Northern Ireland Human Rights Commission are jointly designated as the “Independent Mechanism” in Northern Ireland to promote, protect and monitor the implementation the United Nation Convention on the Rights of Persons with Disabilities (UNCPRD).

The Equality Commission for Northern Ireland – Remit

The Equality Commission for Northern Ireland is an independent public body established under the Northern Ireland Act 1998. We are responsible for implementing the legislation on fair employment, sex discrimination and equal pay, race relations, sexual orientation, disability and age.

The Equality 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 people with disabilities and encourage participation by disabled people in public life under the Disability Discrimination Act 1995.

In addition to its role as Independent Mechanism under the UNCPRD, the Equality 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.

The Northern Ireland Human Rights Commission – Remit

The Northern Ireland Human Rights Commission. is the national human rights institution for Northern Ireland working with other NHRIs all over the world through the international network of the United Nations to protect the most vulnerable and marginalised and ensure the promotion of the human rights of all people in Northern Ireland.

It is the role of the NIHRC to promote awareness of the importance of human rights in Northern Ireland, to review existing law and practice and to advise the government on what steps need to be taken to fully protect human rights in Northern Ireland.

In carrying out this work the NIHRC bases all of its work on international human rights standards, including those of the United Nations (UN) and the Council of Europe, that have been accepted by the United Kingdom. The Commission, in line with the UN 'Paris Principles' guidance of 1993, has 'A' status recognition at the UN as a national human rights institution with access to the Human Rights Council.

The NIHRC is an independent public body established by the Northern Ireland Act 1998. Its powers and duties are derived from sections 69 and 70 of the Northern Ireland Act 1998 and sections 14-16 of the Justice and Security (Northern Ireland) Act 2007.