

Equality Commission response to the proposed Delivery Plan for Programme for Government Indicator 42 (Average life satisfaction score of people with disabilities)

In January 2016, the Commission set out a number of priorities¹ for delivery via the work of government over the 2016-21 mandate to address the inequalities experienced by different equality groups.

In our July 2016² response to the Programme for Government Framework consultation, the Commission welcomed the targeted focus to advance equality of opportunity for disabled people and made a range of recommendations across the breadth of the PfG on addressing the inequalities experienced by people with disabilities.

The following considers the delivery plan content (version downloaded on 28 November 2016) against the key inequalities and policy priorities highlighted by the Commission in January 2016. We hope that this information, in tandem with our response³ to the consultation on the draft PfG, will be of assistance in the further development of the delivery plan.

1. We recommend that consideration is given to the appropriateness of a ‘Life Satisfaction’ Indicator (42) solely for those with disabilities

- a. We had queried in our response to the draft PfG Framework why it included a focus on the ‘life satisfaction’ of people with disabilities, but not other Section 75 categories, for example, LGB individuals or members of minority ethnic groups⁴.
- b. If a life satisfaction indicator is to be retained, we consider that it should be in the context of a high-level measure aligned to the overall ‘wellbeing’ focus of the PfG - with disaggregation across all Section 75 categories, and not solely in the specific context of advancing equality for those with disabilities
- c. We do not consider such a measure to be appropriate, if only to be applied to those with disabilities. In particular, it should not be considered as a substitute for a direct measure of whether all the indicators set out in the PfG are advancing equality of opportunity and good relations, nor if the Executive is delivering on all obligations for individuals of particular section 75 categories

2. We recommend a clear commitment in the PfG and the delivery plan to engage with and ensure delivery of international obligations. The Department should consider using the UNCRPD as a framework for delivery.

¹ ECNI (2016), Equality Priorities: [Programme for Government and Budget Recommendations](#)

² ECNI (2016): [Response to the Executive’s consultation on a draft Programme for Government Framework](#)

³ ECNI (2016): Response to the Executive’s consultation on a draft Programme for Government 2016-21

⁴ ECNI (2016) [PfG Framework - Full Response](#) para 5.41

- a. In our [January 2016 priorities](#) for the PfG and Budget, we recommended that the Department address key shortfalls in legislation and policy in Northern Ireland so as to ensure compliance with obligations in international human rights conventions, including the UNCRPD.
- b. The Commission notes that the delivery plan includes a range of proposed actions which, if implemented, have the potential to significantly advance Convention rights. The Commission welcomes the inclusion of a delivery plan within the Programme for Government which is specifically targeted at disabled people and their families and has the potential to reduce the inequalities experienced by his group. In particular, we welcome:
- engagement with the disability sector (including with disabled people) on development of the plan, through a Disability Forum;
 - continued commitment to co-design, co-delivery and co-implementation as part of the implementation phase;
 - identification of a broad range of cross-cutting actions, in particular those which align with the priorities identified through the Commission's broader work on disability⁵, proposals on reform of the disability legislation⁶ and PFG response⁷;
 - the explicit commitment to evaluate the ongoing activities as well as the plan as a whole and to consider a change of approach, if improvement does not materialise.
- c. However, the Commission is concerned that there is no specific reference to the UNCRPD or the relevant Concluding Observations of wider human rights Committees within the Delivery Plan. In particular, 2017 is expected to see the examination of the UK State Party by the CRPD Committee.
- d. Evidence from other human rights frameworks demonstrates that international human rights norms can be meaningfully advanced at domestic level and lead to more effective implementation of domestic law and policy⁸. In our view using the UNCRPD as a framework for the delivery plan provides a model of best practice based on human rights standards and can help Government in integrating its human rights obligations with its core strategic objectives.
- e. It also makes sense from a pragmatic perspective, as it will assist Government in future reporting to the UNCRPD Committee and in providing evidence to the Committee, during the upcoming examination of the UK State Party in 2017⁹.
- f. We also note that there is no reference in the Delivery Plan to the existing Disability Strategy being extended to March 2017¹⁰ or actions to ensure the

⁵ Including the Commission's response to the [Consultation response on the draft Disability Strategy](#) (2012); [IMNI's parallel report \(working paper\)](#) (2014); [UKIMs list of issues interim report](#) (2016); [Jurisdictional Parallel Report on Implementation in Northern Ireland](#) (2016)

⁶ ECNI (2014): [Strengthening Protections for disabled people – proposals for reform](#)

⁷ ECNI (2016): [Recommendations: Programme for Government \(PfG\) and Budget](#)

⁸ Flynn, E. (2014): [Summary of critical success factors in implementing national disability strategies](#)

⁹ Flynn, E. (2014): [Summary of critical success factors in implementing national disability strategies](#)

development of a new Strategy. The commitments included in the plan, although welcome, fall short of being comprehensive, and of comprising a disability strategy.

3. We recommend that awareness raising initiatives include actions to address negative attitudes towards people with mental ill-health. Disability hate crime should also be named and addressed in the plan.

- a. The Commission welcomes the commitment to develop public awareness raising initiatives designed to counter negative attitudes by society towards people with a disability in Northern Ireland, including tackling the significant attitudinal barriers to employment for people with disabilities.
- b. A survey of public attitudes in Northern Ireland conducted by the Equality Commission in 2011 found that in terms of the three types of disability considered, mental ill-health evoked the greatest number of negative responses, with 26% saying they would mind (a little or a lot) having a person with mental ill-health as a work colleague, while 24% and 37% respectively would mind having this person as a neighbour or as an in-law¹¹. We therefore recommend that awareness raising initiatives should include a focus on addressing negative attitudes towards people with mental ill-health and should be developed as part of a co-design process.
- c. While the Commission recognises the need to prioritise some commitments over others, we recommend that 'disability hate crime', (which has remained static over the last year)¹², is specifically named and addressed within the Delivery Plan.

4. We recommend that the Delivery Plan includes an unequivocal commitment to strengthen disability equality law

- a. Although the commitment to review the disability equality legislation is welcome we note the inclusion of the caveat 'if required' and that the commitment falls short of our proposals for reform, which go beyond simply mirroring current levels of protection in Great Britain.
- b. We recommend that the Executive gives an unequivocal commitment to reform the disability equality legislation, and suggest that this should be in line with the Commission's [detailed proposals](#) for legislative reform.

¹⁰ <https://www.communities-ni.gov.uk/articles/disability>

¹¹ Equality Commission for Northern Ireland (2011): *'Do You Mean Me? Discrimination, attitudes and experience in Northern Ireland'*, page ii. In the 2008 survey the findings were 17%, 16% and 25% respectively.

¹² PSNI (2016): *Incidents and crimes with a hate motivation recorded by the police in Northern Ireland, quarterly update up to 30th September 2016*, table 17.

c. In addition to these detailed proposals, the Commission has also published an [expert legal briefing](#) on the impact of the House of Lords decision in the Malcolm Case. The briefing concludes that the decision has had a significant negative effect on disabled people and disability law in Northern Ireland (NI).

5. We recommend a clearer stronger commitment on addressing the education inequalities experienced by disabled children/young people including disability-related bullying.

a. There is a commitment in the PfG to improve the educational attainment of young people with a disability but no specific actions setting out how this will be achieved; the targets to be met; or the timeframe for delivery (other than 'long-term'). For example, the Commission's draft [Statement on Key Inequalities in Education](#) found that Students with SEN, or students with a disability, have lower attainment levels than students without any SEN or disability; are less likely to go on to higher education; and are more likely to be bullied¹³.

b. We recommend that the Delivery Plan includes clearer, stronger commitment to addressing the education inequalities experienced by young people with disabilities, including disability-related bullying.

c. The Commission also recommends that children and young people are represented on the new Disability Forum, in line with Article 7 of the UNCRPD.

6. We recommend further commitments to protect the most vulnerable from the adverse impact of welfare reform, including extending or putting in place mitigating measures in advance of the expiry of the current time-limited programme.

a. We welcome actions in relation to social protection, including that people with disabilities continue to benefit from the DFC improving benefit take up campaign and commitment to review the eligibility criteria of the fuel poverty scheme.

b. However, we are concerned that the welfare reform mitigation measures are of a temporary nature ranging from one year (e.g. mitigation for those who lose out as a result of the transfer from DLA to PIP) to four year (e.g. spare room subsidy/bedroom tax)¹⁴. In particular, we note the concerns raised by a recent UN Inquiry¹⁵ which highlighted the disproportionate and adverse impact of welfare reforms on disabled people¹⁶.

¹³ ECNI (2015): draft [Statement on Key Inequalities in Education](#), page 22.

¹⁴ See [UN Inquiry into the Rights of Disabled People in the UK](#) and [Letter from UKIM to DWP Minister Penny Mordaunt dated 1st December 2016](#)

¹⁵ [UN Inquiry into the Rights of Disabled People in the UK](#)

¹⁶ [UN Inquiry into the Rights of Disabled People in the UK](#)

- c. There is also insufficient information within the delivery plan to enable a judgement to be made as to the extent to which the proposed holistic social inclusion wraparound service will meet any needs created as a result of the expiry of welfare reform mitigation measures. We recommend that the Executive extend or put in place longer term measures to protect the most vulnerable from the adverse impact of welfare reform.

7. We recommend the inclusion of health and independent living as priority themes as well as actions to improve accessibility to assistive technology.

- a. While the Commission welcomes the identification of the priorities areas for action set out at point 2.3 of the delivery plan, we recommend that in addition to 'independent living', 'health' is also included as a priority theme¹⁷.
- b. It is also not clear the extent to which persons with disabilities who would hitherto have been able to access the Independent Living Fund are able to access self-directed support and direct payments. Furthermore, there is no commitment to improve accessibility to assistive technology¹⁸. We recommend that these gaps in the plan are addressed.

We recommend that there is a clearer, stronger commitment to ensure that people with disabilities have access to a safe, secure home and enjoy the right to independent living, including for people with disabilities and older people

- a. The appropriateness of action to 'increase the provision of accessible homes' is dependent on the scale of the work/the quality of the provision offered. The commitment to 'review' housing and respite options for adults with complex disabilities rather will itself not result in any measurable improvement in outcomes in the short term. The Commission therefore recommends clearer, stronger, commitments to ensure that people with disabilities have access to a safe, secure home and enjoys the right to independent living.

8. We recommend that the Executive develops further commitments to remove the barriers to work for people with disabilities and to support disabled people to access and remain in the workplace, including through appropriate, affordable, accessible childcare.

- a. We welcome the commitment to work with other Departments and their associated bodies to promote and implement social clauses in services contracts

¹⁷ Independent Mechanism for Northern Ireland (2012): *Response to the OFMDFM Disability Strategy*. Available at: <http://www.equalityni.org/Delivering-Equality/Consultancy-responses/Consultation-Response-Files/2012/UNCRPD-IMNI-response-to-OFMDFM-disability-strategy>

¹⁸ Byrne, B., Harper, C., Irvine, R.S., Russell, H., Fitzpatrick, B. (2014): *Shortfalls in public policy and programme delivery in Northern Ireland*, Queens University on behalf of the Equality Commission

led by the government, maximising opportunities for people with disabilities to secure paid employment.

- b. The Commission notes that disability specialist transition support is often provided through the European Social Fund and that long-term, mainstream match funding has not been secured. While we welcome the commitment within the delivery plan to implement the Disability Employment Strategy, it is unclear if the funding implications of Brexit have been considered.
- c. The Commission also welcomes the commitment to work with colleagues in Education and Universal Credit regarding childcare and the implementation of the Childcare Strategy in order to provide better access to childcare for parents of children with disabilities and children of parents who have disabilities. However, the Commission is concerned that there is a lack of specific actions to deliver a comprehensive strategy.

9. We recommend further commitments to address the lack of data disaggregation on disability

- a. We note the commitment in the introduction of the PfG to addressing key inequalities, particularly those experienced by the Section 75 equality groups, and to track progress for these groups in relevant PfG population indicators or associated performance indicators. However, we note that this commitment is conditional based on "*wherever the data permits*".
- b. While welcome the commitment to develop a more suitable, robust and statistically valid measurement tool to measure quality of life, we also have continuing concerns over the limited nature of the indicator 'average life score of people with disabilities' including that it does not take account of children with disabilities.
- c. We consider that an appropriate high level indicator should be underpinned by indicators which illustrate the extent to which key UNCRPD articles are achieved. Article 31 of the UNCRPD requires State Parties to collect information about people with disabilities, with the active involvement of people with disabilities, so they can better understand the barriers they face.
- d. We recommend the Department:
 - collect data on the prevalence of disability disaggregated by gender;
 - collect disaggregated data to measure the impact of all the proposed actions associated with indicator 42;
 - collect data disaggregated by respect to the impact of welfare reform and of measures to mitigate associated adverse impacts;
 - put in place a measurement tool to capture the extent to which the rights set out in the UNCRPD articles are realised.

10. We recommend that a costed plan should be developed with funding linked to outcomes and timelines for the completion of goals.

- a. The Commission is concerned that the Delivery Plan is described as a ‘broad commitment to improvement’, with the pace of delivery ‘determined by the resource available’.
- b. While we recognize the constraints and difficulties presented by the continuing context of austerity, equality of opportunity and good relations must be central to all public policy development and implementation, no less so at a time of increased competition for public spending¹⁹. The needs of people who experience inequality are no less pressing, and often are exacerbated, in difficult times.
- c. As set out in the Christie Commission report on the future delivery of public services in Scotland, if we are to have effective and sustainable public services capable of meeting the challenges ahead, we must prioritise expenditure on public services which prevent negative outcomes from arising.
- d. In addition, failure to cost implementation strategies has been identified as a major barrier to success in a number of jurisdictions²⁰. Best practice dictates that Government should develop a funding programme to accompany any implementation plans, with funding linked to outcomes and timelines for completion of goals²¹. Some commitments need to be in place before other goals can be achieved – and these should be prioritised from a funding perspective.
- e. We welcome the commitment to promote the participation of people with disabilities in public life in furtherance of the disability duties on public bodies. However, we are concerned there is a long lead-in time for the action to increase the number of disabled people in public appointments (which will not *begin* until 2019-20) and no firm targets set. We consider that a revised delivery plan should, for all planned actions, include a clear planned delivery date and associated budget.

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¹⁹ True equality is not delivered by treating everyone exactly the same but by treating all fairly. Decision makers who have to work with greatly reduced budgets have tough choices to make and people are sure to be disadvantaged as a result. It is even more important, in that context, that all possible steps are taken to protect the most vulnerable in our society and to ensure that the impact on them is a key consideration where cuts in services are being considered’. ECNI (2015) [Section 75 and Budgets: a short guide](#)

²⁰ For example, in the 2008 implementation review of New Zealand’s Disability Strategy, the lack of a national implementation plan and linked funding was identified as a serious barrier in making the strategy effective in the lives of people with disabilities. See Litmus, *New Zealand Disability Strategy Implementation Review 2001-2007* (Wellington: Commissioned by the Office for Disability Issues, 2008), p. 4.

²¹ Flynn, E. (2014): [Summary of critical success factors in implementing national disability strategies](#)