



Response by the Equality Commission for Northern Ireland to the consultation by the Department of Health on its Budget 2023- 2024 Equality Impact Assessment

Section 75 of the Northern Ireland Act

The current challenges facing decision makers across the Northern Ireland public sector are recognised. In this context, when difficult choices around reducing or cutting public services are seen to be unavoidable, the need to comply with the Section 75 duties, while always important, is even more essential. In complying with the Section 75 duties, the Department of Health (DoH) must do so by adhering to the arrangements contained in its equality scheme, considering potential differential impacts of each proposed policy (i.e. individual budgetary decision), as well as the potential cumulative differential impacts of a range of such decisions, between those groups of people who avail of those services and who share particular Section 75 characteristic, e.g. young people, people with disabilities, people with dependents. Such assessments should be informed by relevant data and information on which inequalities would be exacerbated, with due consideration being given to taking all possible steps to avoid or reduce any likely adverse impacts to protect the most vulnerable in our society.

Effective Equality Impact Assessments (EQIAs) should therefore inform policy decisions. In this scenario, this should include consideration of the anticipated equality impacts of budget proposals, consideration of mitigation and/or alternative policies with the final Stage 7 EQIA report, detailing any policy changes to the proposed policy in light of consultation and evidence informing the EQIA.

Comments on EQIA

The EQIA sets out the measures **being implemented** following the announcement of the budget for 2023-2024. The avoidance of greater service impacts is the rationale provided for proceeding with the measures prior to consultation. It is important that the DoH is **open minded** to change its policy proposals, given that decisions have been

made prior to the EQIA being conducted and appropriate consideration being given to potential equality impacts. Equality scheme commitments include equality assessments (screening and EQIAs) being undertaken prior to policy decisions being taken when there is the potential for the equality assessment to **inform** decisions.

While data sources are referenced in the EQIA, the **relevant data is not extracted**. It is therefore unclear how the assessments of potential impacts have been determined, putting the onus on consultees to interpret data and determine equality impacts. It is for the public authority to set out its evaluation of the relevant data on which it has determined potential equality impacts on people in the respective Section 75 groups. The EQIA refers to 'available data'. If there are gaps in data identified by the Department, it should commit to making efforts to gather further data and evidence, quantitative and qualitative, on which to make assessments.

The EQIA sets out projected funding requirements, estimated funding gaps and various iterations of phased savings decisions and consideration of further savings depending on the potential context (table 3, table 4, para 7). While acknowledging the complexity and breadth of the services potentially impacted, the EQIA should include **assessments of the potential equality and good relations impacts of each policy proposal**, based on clear and specific data, along with any cumulative impacts. The EQIA includes a range of assessments of equality impacts where decisions have already been taken, e.g. a summary of low and medium impact savings is provided (Table 3). There is an assessment (page 23) that the saving decisions made to date, *'are not anticipated to have differential impacts on Section 75 groups'*; and then an assessment that there are differential impacts on Section 75 groups (page 21) with impacts identified on four of the Section 75 groups (pages 24 and 25). In summary, it is unclear what 'low and medium impacts' are in terms of the Section 75 groups; what data is relied on to reach assessments and whether the assessments relate solely to a small number of proposed policies/decisions. It is therefore unclear what the assessments of actual Section 75 impacts are from the EQIA.

In considering '*Measures not yet taken*' (para 7 & 8, page 13), i.e. whether further cuts will be required, the EQIA sets out the respective decision-making authorities of the Minister and of the Permanent Secretary. The EQIA states that, 'as things stand these decisions fall outside the framework and require Ministerial authority.' The EQIA goes on to state that, 'if there is a risk of overspend, and further consideration will need to be given as to whether the '*Measures not yet taken*' fall within the powers of the Permanent Secretary.' The Department is reminded that regardless of who the most appropriate decision-maker is, in relation to the budgetary decisions, it is nevertheless imperative that there is compliance with the Section 75 duties as set out in the Northern Ireland (Executive Formation) Act 2022 and the associated guidance.

In relation to the Department's consideration of opportunities to promote the two Section 75 duties, the EQIA (paragraph 5.2, page 29) refers to its ALBs undertaking equality assessments regarding their allocated budgets. While ALBs have Section 75 responsibilities regarding their spending decisions, it is for the Department to assess the equality impacts of its strategic decisions. This EQIA should include the Department's assessment of its strategic budget proposals/decisions that impact on its ALBs.

The Department has **not presented any mitigations or consideration of alternative policies** in the EQIA. It is unclear from the EQIA whether the redistribution of internal budgets across functions has been considered, as a result of the equality impacts identified. The Department should set out in the EQIA priorities for mitigation and consider alternative policies where it sees opportunities not to exacerbate existing key inequalities.

For example, the Commission has previously advised the Department that the Core Funding Scheme could be utilised and criteria included for funding to address particular key inequalities experienced by Section 75 groups in health. The Department has identified (page 25) of the EQIA that children and disabled people would be impacted by the removal of this funding however there is no consideration of alternative policies or mitigation.

In addition, the EQIA should set out its priorities for allocating any additional budget that may be received by the Department, in terms of the inequalities it would mitigate. Allocation of any in-year money, while welcome, is still likely to present very real difficulties for service users and the service providers in reinstating services, which may not be easily and readily re-instated.

The EQIA does **not include Section 75 monitoring arrangements**, as required by equality scheme commitments. The EQIA must set out the monitoring arrangements that will be put in place to monitor the actual impacts on the Section 75 groups of budget decisions. The Stage 7 EQIA report should include the arrangements that have been put in place for monitoring and publishing the actual impacts of the policy. Gaps in data should be addressed in the arrangements for Section 75 monitoring and be included in Section 7 of the EQIA report.

Going forward, whether further budget becomes available or not, the Department is reminded that the Section 75 duties are **continuing duties** and it is required to equality assess any changes to circumstances. It is important that the Department demonstrate that it has paid the appropriate level of regard to its promotion of equality and good relations in its budget decisions, as required by the duties.

It is also important that consideration is given to the potential **cumulative adverse impacts** of budget decisions across Government Departments, for example the cumulative impacts on disabled people, older and younger people.

Further Section 75 advice is available (phardy@equalityni.org).

Equality Impacts

The Commission is concerned about the potential for funding decisions to impact across the equality grounds.

In making decisions about the allocation of funding, we draw your attention to the importance of ensuring progress to tackle long-standing

inequalities and prevent the exacerbation of existing inequalities. We draw out some key examples below, with further information available via the links provided, or by contacting publicpolicy@equalityni.org

The Commission's **overarching recommendations** regarding health and social care are to identify and remove barriers to health and social care and wellbeing experienced by particular Section 75 equality groups, including older people; lesbian, gay, bisexual people; trans people; Irish Travellers and other minority ethnic communities; and people with disabilities. Furthermore, actions are required to ensure investment in health care to address the specific needs of equality groups, including the health care needs of people with disabilities and young people's mental health needs¹. There is a need to address gender health inequalities, impacting on both men and women, and the need to mitigate negative impacts of COVID-19 across the equality groups².

Actions for **older people** are required to ensure effective care in the community, addressing any issues with direct payments; homecare visits; and transport to community care services; raise awareness and uptake amongst older people of assistive technologies to access health, social care and well-being services; and ensure that older people of differing sexual orientations and transgender people have their domiciliary, residential or nursing care needs fully met³.

The EQIA sets out proposals for reductions in funding which are likely to have an adverse impact on the right to independent living for **older and disabled** people. These include reducing payments for support services provided by the Community and Voluntary Sector; a reduction in the amount of Community Aids and Adaptations to clients living in their own homes; a reduction in nursing and residential care placements; and restrictions of domiciliary care packages.

The proposals will further restrict the rights of disabled people, set out under UNCRPD Article 19 – Living independently and being included in the community⁴. This has additionally been highlighted as a key issue in the Disability Strategy Expert Advisory Panel Report⁵. Given proposed cuts by other Departments to funds supporting independent living (for example, the Supporting People Programme under DfC), there is a risk

¹ For further details, see: <https://www.equalityni.org/pfg>

² For further details, see: [ECNI Policy positions relating to poverty and socio-economic disadvantage](#)

³ For further details, see: <https://www.equalityni.org/Age>

⁴ For further details, see: [Article 19 Living Independently and Being Included in the Community](#)

⁵ For further details, see: [Disability Strategy Expert Advisory Panel Report & Recommendations 2020](#)

of accumulative and cross cutting detrimental impacts for older and disabled people.

Regarding **younger people**, our recommendations include actions to ensure that provisions for Child and Adolescent Mental Health Services (CAMHS) are adequate to meet the mental health needs of all children and young people; ensure that appropriate health care is in place to meet the needs of young trans people; and put in place effective processes to ensure the successful transition from youth to adult services.

Proposed funding cuts to groups across the community and voluntary sector risk negative impacts across equality groups. Without more specific information on the scale of cuts and which community and voluntary groups will be affected, it is difficult to substantively analyse their impact, however we would draw attention to the Commission's response to the draft Mental Health Strategy for Northern Ireland 2021-2031⁶. Within our response, we noted that Action 11 of the draft Strategy is to fully integrate the community and voluntary sector in mental health service delivery including the development of a protocol to make maximum use of the sector's expertise. We highlighted that without funding not only will the Department of Health's own services be reduced, but such cuts will put more pressure on voluntary, community and social enterprise organisations who deliver essential public services supported by the Department. Cuts through the core grant will likely have significant impacts across the equality groups, especially in areas of mental health which have experienced chronic historic under investment⁷.

In relation to **gender**, we additionally recommend provision of gender appropriate health and social care to address the particular needs of women and men, trans people, and those with multiple identities⁸. We additionally urge consideration of the economic impact of paid and unpaid care work and address the undervaluation of paid and unpaid care work, including the provision of adult care, which is carried out predominately by women⁹.

⁶ For further details, see: [ECNI Response to the consultation by the Department of Health on the draft Mental Health Strategy 2021-31](#)

⁷ 'Still Waiting' - A Rights Based Review of Mental Health Services and Support for Children and Young People in Northern Ireland - NICCY

⁸ For further details, see: <https://www.equalityni.org/GenderPolicy>

⁹ For further details, see: [ECNI Gender Policy Priorities](#)

The Commission has also made a number of key health policy recommendations in response to concerns arising from the COVID-19 pandemic, namely that health support or social care for disabled people is not adversely impacted by the crisis¹⁰.

It is also essential that all key measures of government are tracked by equality ground, and that the required data is routinely collected to facilitate this¹¹.

¹⁰ For further details, see: [ECNI Policy Positions relating to poverty and socio-economic disadvantage](#)

¹¹ For further details, see: <https://www.equalityni.org/EqualityData>