



# **EQUALITY COMMISSION FOR NORTHERN IRELAND**

**Response to consultation:**

**The Executive Office: Strategic Framework to End  
Violence Against Women and Girls and  
Foundational Action Plan**

**October 2023**

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# 1 Introduction

- 1.1 The Equality Commission for Northern Ireland ('the Commission') welcomes the opportunity to respond to the Executive Office (TEO)'s consultation on a Strategic Framework to End Violence Against Women and Girls & Foundational Action Plan.
- 1.2 The Commission has particular duties under the sex equality legislation<sup>1</sup>, including to work to eliminate unlawful sex discrimination and harassment, to promote equality of opportunity between men and women, to keep the working of the legislation under review, as well as to make recommendations for change, where necessary. The Commission also has the duty to promote equality of opportunity for transgender people<sup>2</sup>.
- 1.3 Further information on our role and remit is outlined in Annex A.
- 1.4 In addition to this response, we recommend that you also consider the Commission's [Gender Equality Policy Priorities and Recommendations](#), and our responses to the Justice Committee's 2020 consultation on the [Domestic Abuse and Family Proceedings Bill](#); the 2022 [joint call for views on Domestic and Sexual Abuse Strategy and Equally Safe Strategy](#); and the Department of Justice and Department of Health's 2023 [consultation on the Domestic and Sexual Abuse Strategy](#).

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<sup>1</sup> Sex Discrimination (Northern Ireland) Order 1976 as amended, and the Equal Pay Act 1970 as amended.

<sup>2</sup> Namely under the Sex Discrimination (Northern Ireland) Order 1976 as amended, a duty to promote equality of opportunity for persons who intend to undergo, are undergoing or have undergone gender reassignment.

## 2 Overarching Summary

- 2.1 The Commission considers that there is a need for action to tackle the nature and specific impact of gender-based violence on women and men and due to a person's gender identity. This should include actions to tackle stereotypical attitudes and raise awareness of gender-based violence.
- 2.2 We note that the draft Strategic Framework for Ending Violence Against Women and Girls focuses on tackling the root causes of violence against women and girls (VAWG), and addressing 'the culture of damaging attitudes, beliefs, and behaviours that can lead to violence against women and girls'.
- 2.3 The Commission has consistently raised the need to tackle gender stereotypes and prejudicial attitudes<sup>3</sup>. This includes action in schools, to tackle gender-based bullying and embed equality in the curriculum.
- 2.4 It is important to note that the experience of a person facing multiple inequalities is different from those facing inequality on a single ground. Actions should be targeted appropriately to meet the specific needs and address barriers across the range of equality grounds.
- 2.5 We welcome that the draft Strategic Framework is accompanied by a Foundational Action Plan which outlines work for the remainder of 2023/24. However, further detail centred on SMART actions would assist in ensuring focus and delivery.
- 2.6 The Commission welcomes initiatives aimed at promoting inclusive workplaces, promoting good practice and improving the working lives of women. It is important that any such initiatives taken through the Framework are clear in how they relate to the statutory work of the Commission and that there is not duplication in the services provided.
- 2.7 We emphasise that effective data collection across the equality grounds may improve and strengthen service provision and support. Our general advice is that all key measures should not

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<sup>3</sup> ECNI (2016) [Gender Equality: Policy Priorities and Recommendations](#), paras 5.2-5.12.

only be tracked in aggregate, but also for the impact on individuals from each of the equality grounds.

- 2.8 The Commission notes the range of research papers that TEO has published in relation to this Strategy, both before and during the consultation period<sup>4</sup>. The Commission has consistently recommended<sup>5</sup> that public authorities collect detailed equality information / equality disaggregated data to inform public policy making and service delivery, so that equality considerations are at the heart of public policy making and are informed by the specific needs of those experiencing inequalities.
- 2.9 We recommend that the Strategic Framework places lived experience at the heart of delivery; and ensures the meaningful involvement of individuals and their representative organisations in the design, delivery and review of policies and programmes affecting them.
- 2.10 It is welcome that the Strategic Framework will link with other key areas of work, such as the Domestic and Sexual Abuse Strategy, the Gillen Review, and the Social Inclusion Strategies. Further detail as to how this will work in-practice would be welcome.
- 2.11 We understand that the proposed Domestic and Sexual Abuse Strategy, led by Department of Justice (DoJ) and Department of Health (DoH), will address domestic and sexual abuse, recognising the impact on a range of groups in society, including women and men. We have recommended<sup>6</sup> that gender-specific actions be taken, to benefit both men and women, noting that domestic violence is experienced by women and men in Northern Ireland, although women are disproportionately affected.
- 2.12 We understand that the Ending Violence Against Women and Girls Strategy will address wider issues of violence against women and girls, including root causes, but will not duplicate the work of the Domestic and Sexual Abuse Strategy. Clarity as

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<sup>4</sup> For instance, TEO/ NISRA (2023) [Ending Violence Against Women and Girls: Experiences and attitudes of adults in Northern Ireland in 2022](#); McAlister et al (2023) [Research Publication: 'It's Just What Happens' Girls and Young Women's Views and Experiences of Violence in Northern Ireland](#).

<sup>5</sup> ECNI (2020) [Briefing Note on need for Equality Data](#)

<sup>6</sup> ECNI (2023) [Response to consultation: The Departments for Justice and Health – Domestic and Sexual Abuse draft Strategy](#)

to how the Strategies will interact with each other and how specific actions will be taken forward would be helpful.

- 2.13 Both Strategies should consider the needs of different equality groups, and the particular barriers they may face, including the specific needs of those with multiple identities.
- 2.14 We note that the draft EQIA<sup>7</sup> states that the EVAWG Framework *‘should not be seen as precluding the need for the consideration in wider government of the need for further strategies dealing with violence and other aspects of gender identity, including men and those from the LGBTQIA+ communities’*.

### **Section 75 Advice**

- 2.15 The Equality Commission welcomes that the TEO has carried out an Equality Impact Assessment (EQIA) on the draft Strategic Framework to End Violence against Women and Girls, and that the EQIA structure follows the Commission’s recommended 7 step approach.
- 2.16 We also welcome that TEO is consulting on the EQIA alongside the overall policy consultation and its commitment to carrying out further equality screening / equality impact assessments of action plans associated with the Framework as they are brought forward, as required by the Executive Office’s approved Equality Scheme.

### **Summary of Section 75 Advice**

- 2.17 The Commission understands that TEO worked with the Strategic Investment Board (SIB) on the consultation version of the EQIA. Many aspects of the EQIA demonstrate a good understanding of the purpose of an EQIA i.e. to ‘inform decisions’ and many aspects follow the recommended approach<sup>8</sup> (but with other aspects requiring further development – see below in Section 5).

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<sup>7</sup> TEO (2023) [Draft EQIA: Draft Strategic Framework to End Violence Against Women and Girls and Draft Foundational Action Plan](#), p. 11.

<sup>8</sup> Recommended in the Equality Commission’s [Microsoft Word - PracticalGuidanceEQIA1204 .doc \(equalityni.org\)](#). The advice in this consultation response, is made without prejudice to any Section 75 complaints or investigations that may arise.

2.18 The Commission recommends that the good practice and any learning from undertaking this EQIA, is shared with staff across TEO functional areas, in order for continuous improvement in implementing the Section 75 statutory functions, across all TEO functions.

2.19 In summary, the EQIA:

- demonstrates a good understanding of the EQIA purpose and processes;
- follows Commission guidance regarding the steps of an EQIA;
- summaries of Section 75 data, utilising qualitative and quantitative data;
- appears to make coherent assessment of impacts and sets out a variety of proposed mitigations for both the framework and the action plan;
- appears to have had a significant level of pre-consultation, consultation and ongoing engagement with stakeholders, which is positive;
- notes the continuous nature of the Section 75 duties and that further equality assessments will be required, if budget impacts the planned work; and
- helpfully explains to consultees the information in each section.

2.20 The Commission recommends that in order to make the EQIA more meaningful and inform the policy decisions further, TEO should ensure:

- the EQIA refers consistently throughout, to the purpose of an EQIA i.e. not only being to identify 'adverse' impacts, but to seek out opportunities to promote equality of opportunity and good relations;
- that there is clarity on the each of the 'assessments of impacts';
- clarity with regard to the inequality any specific mitigation is aiming to address;
- the EQIA includes consideration of alternative policies, not only mitigation; and

- the EQIA includes Section 75 monitoring arrangements, ensuring the gaps in data identified by TEO are addressed.

2.21 Following consultation and TEO's further consideration of the data, equality impacts, mitigation and alternative policies to inform final decision-making, the final Stage 6 EQIA report should include all of the updated considerations. Further information on Stage 6 EQIA reports is outlined in Annex B.

2.22 We have provided further advice on the summary advice below in Section 5, under each of the EQIA stage 1-7 headings.

### ***Article 2 obligations and Impact of Brexit***

2.23 The Commission, together with the Northern Ireland Human Rights Commission (NIHRC), has been given additional powers and responsibilities to ensure that the UK Government's commitment under Article 2 of the Windsor Framework is met. This will ensure certain equality and human rights will continue to be upheld in Northern Ireland after Brexit. These commitments and their implications for the Executive Office in developing the EAWG Strategy is provided in further detail in Section 6.

2.24 In addition, our previous research<sup>9</sup> has highlighted the importance of considering the broader impacts of Brexit. We note that there is no reference in either the draft Strategy or draft action plan as to what consideration the Department has given to the impact of Brexit on women and girls subjected to violence, including domestic violence.

2.25 As set out below, our commissioned research report on the [Impact of Brexit on Minority Ethnic and Migrant People in Northern Ireland](#), has highlighted a number of issues and concerns related to the impact of Brexit on minority ethnic women here who have been subjected to domestic violence. In addition, as detailed below, we recommend that the Department gives consideration to ensuring, post Brexit, that procedures are put in place to ensure there is a systemic approach to produce disaggregated data on violence against women and girls which not only meets the specific needs of

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<sup>9</sup> Equality Commission for NI, [Impact of Brexit on minority ethnic and migrant people in Northern Ireland \(ECNI, 2023\)](#)



Northern Ireland but where possible is comparable with common international frameworks, including at EU level.

- 2.26 In considering this approach, we ask the Department to note the proposed EU measures aimed at improving data collection across Member States in this area.
- 2.27 We will also, in the near future, be publishing independent research on the impact of Brexit on women and girls in Northern Ireland, which includes a consideration of how Brexit has impacted on women and girls, including minority ethnic women, who experience violence, including domestic violence. We ask that the Department in the development and implementation of the proposed Strategy and action plan considers the findings of this research, once published, as well as addressing the Commission's recommendations arising out of that research, which the Commission will be publishing in due course.

### 3 Strategic Framework

#### ***Vision and introduction***

- 3.1 We note the proposed vision for a ‘changed society where women and girls are free from all forms of gender-based violence, abuse, and harm, including the attitudes, systems, and structural inequalities that cause them’.
- 3.2 In our response to the call for views on the Strategy<sup>10</sup>, we recommended that the vision, objectives and any proposals explicitly make commitments to tackle key inequalities, so as to mainstream equality and good relations. It would be welcome if the vision could reflect this recommendation.
- 3.3 We note the problem statement that ‘Societal culture and systemic attitudes and beliefs enable violence against women and girls’. The Commission has previously recommended<sup>11</sup> action to tackle stereotypical attitudes, including through education. We have also highlighted that gender stereotyping can have a particular impact on women and men with multiple identities<sup>12</sup>.
- 3.1 We have previously highlighted that policy responses to tackling gender-based violence should take account of the status of Northern Ireland as a post conflict society<sup>13 14</sup>.

#### ***Principles***

- 3.2 We note the eight guiding principles which are intended to form the basis for the outworking of the Strategic Framework.
- 3.3 We welcome an intersectional lens, and specific reference to identifying and dismantling inequalities and barriers. Women with multiple identities, such as disabled women, minority ethnic women, rural women, lesbian and bisexual women, as

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<sup>10</sup> ECNI (2022) [Response to Call for Views: The Departments for Justice and Health – Domestic and Sexual Abuse Strategy, The Executive Office – Equally Safe Strategy](#) p. 20.

<sup>11</sup> ECNI (2016) [Gender Equality: Policy Priorities and Recommendations](#), para 10.17

<sup>12</sup> ECNI (2016) [Gender Equality: Policy Priorities and Recommendations](#), para 5.7

<sup>13</sup> ECNI (2020) [Hate Crime in Northern Ireland Policy Recommendations and Supporting Rationales](#), para 3.3

<sup>14</sup> For example, ‘research shows that the conflict/post-conflict environment in Northern Ireland shapes domestic violence’ As cited in Doyle, J., and McWilliams, M. (2019) [Transforming responses to domestic violence in a politically contested environment: The case of Northern Ireland](#) , feminists@law, Vol 9, No 1.

well as lone parents and women living in disadvantaged communities, can face particular barriers.

- 3.4 In addition, whilst socio-economic disadvantage is not a separate ground under the equality legislation, the barriers experienced by women can be exacerbated by poverty and social deprivation. For example, women living in disadvantaged areas, as well as rural women, can experience marginalisation, poverty and exclusion<sup>15</sup>.
- 3.5 We welcome a focus on evidence and data. We recommend that all key measures are not only tracked in aggregate, but also for the impact on individuals from each of the equality grounds. Doing so will ensure that considerations of equality of opportunity or good relations form part of all measures, assisting in the identification of any inequalities therein. This approach should not be seen to preclude any additional standalone equality or diversity specific measures.
- 3.6 We have previously recommended that the Strategic Framework be informed by lived experience<sup>16</sup>, and therefore welcome that this will be a guiding principle. It is important that evidence of lived experience is provided from across the equality groups and to represent multiple identities. It is also important the needs of those providing input from across the equality groups are considered and any barriers addressed, for example, those with specific cultural or language requirements.
- 3.7 In our recent response to the consultation on the Domestic and Sexual Abuse Strategy<sup>17</sup>, the Commission highlighted some of the particular issues faced by different equality groups, including men and women, LGBT+ people, disabled people, those of different ages and people from minority ethnic communities. Although these points are particularly relevant to domestic and sexual abuse, TEO officials may benefit from also considering our response to that consultation.

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<sup>15</sup> Department for Social Development, Department of Agriculture and Rural Development (2012) [Joint Policy Statement, Programme for Regional Support for Women in Disadvantaged Rural Areas](#)

<sup>16</sup> ECNI (2022) [Response to call for views: The Departments for Justice and Health Domestic and Sexual Abuse Strategy and The Executive Office Equally Safe Strategy](#)

<sup>17</sup> ECNI (2023) [Response to consultation: The Departments for Justice and Health – Domestic and Sexual Abuse draft Strategy](#) pp. 8-14.

- 3.8 In particular, TEO may wish to note research<sup>18</sup> conducted on behalf of the Commission on the implementation of the UNCRPD in Northern Ireland which found that there does not appear to have been a specific focus on domestic violence against d/Deaf and disabled people in Northern Ireland. The report stated that generic programmes and policies which include d/Deaf and disabled people, but which are not designed with them explicitly in mind are unlikely to satisfy the UNCRPD Committee as being compliant with Article 16 (UNCRPD Freedom from exploitation, violence, and abuse).
- 3.9 We note that TEO has published information from the 2022 Northern Ireland Life and Times Survey, which found that a significantly greater proportion of respondents with disabilities experienced all types of violence compared to respondents without disabilities<sup>19</sup>.
- 3.10 The Survey<sup>20</sup> also found that younger respondents experienced more gender-based violence than their older counterparts, and that respondents with no religion and those with religion other than Catholic or Protestant, experienced more sexual violence, psychological violence, and online violence than those whose religion was Catholic or Protestant.

### ***Overview of the Strategic Framework***

- 3.11 We note the four themes of Prevention, Protection and Provision, the Justice System and Working Better Together, which seemingly align to the four pillars of the Istanbul Convention. The Commission had recommended that the UK Government ratify the Istanbul Convention<sup>21</sup>, prior to it doing so in 2022. It would be helpful for the Strategic Framework to explicitly outline how it links with the Istanbul Convention, to assist stakeholders in providing views on compliance with the Convention.
- 3.12 We also note the proposed aim of the Strategic Framework is 'to work together as partners across every sector of society to

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<sup>18</sup> Disability Action (2022) [Progress Towards the Implementation of the UNCRPD in Northern Ireland](#), commissioned by ECNI, p. 167.

<sup>19</sup> TEO/ NISRA (2023) [Ending Violence Against Women and Girls: Experiences and attitudes of adults in Northern Ireland in 2022](#), p.10.

<sup>20</sup> TEO/ NISRA (2023) [Ending Violence Against Women and Girls: Experiences and attitudes of adults in Northern Ireland in 2022](#), pp. 8-9.

<sup>21</sup> ECNI (2016) [Gender Equality: Policy Priorities and Recommendations](#), paras 10.8-10.10, 10.17.

prevent and eradicate all forms of violence against women and girls with a focus on root causes’.

3.13 In general, we welcome the guiding principle of a whole of society and whole of Government approach.

## ***Prevention***

### **Changed attitudes, behaviours and social norms**

3.14 We welcome the proposed outcome to change attitudes, behaviours and norms.

3.15 As above, the Commission has consistently highlighted the importance of tackling gender stereotypes. It is essential to challenge gender stereotypes and prejudicial attitudes from an early age, as gender-based stereotyping can begin in childhood and continue throughout life stages<sup>22</sup>. Prejudice can lead to harassment, aggression, and violence<sup>23</sup>.

3.16 To counter stereotypes and prejudicial attitudes, the Commission recommends<sup>24</sup> measures including:

- challenging stereotypes in relation to women’s and men’s gender roles at school, work and in the family, communities and wider society; through career advice, and choices, and by embedding equality in the curriculum through inclusion of comprehensive Relationship and Sexuality Education (RSE)<sup>25</sup>;
- tackling gender stereotypes in the media and social media, including advertising and marketing, for example the objectification and degradation of women, and the sexualisation of childhood; and stereotypical notions of masculinity which can have a negative impact on individuals and others;
- tackling the high levels of prejudicial attitudes towards trans people, and raising societal awareness and understanding of the barriers they experience.

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<sup>22</sup> NI Executive (2013) [Together: Building a United Community Strategy](#) which notes: “We recognise that the early years in a child’s life are the most formative and it is at this early stage that children can establish opinions, mindsets and attitudes that shape their behaviours for the rest of their lives”

<sup>23</sup> ECNI (2016) [Gender Equality Policy Priorities and Recommendations](#), para 5.5

<sup>24</sup> ECNI (2016) [Gender Equality Policy Priorities and Recommendations](#), paras 5.2 – 5.12

<sup>25</sup> ECNI (2020) [Hate Crime Policy Priorities and Recommendations](#), paras 3.52 – 5.53

- 3.17 In relation to the priority area that ‘Individual sectors promote positive attitudes and behaviours to prevent violence against women and girls at all ages’, it is important to ensure that organisations representing groups from across the equality categories are involved.
- 3.18 We note that, in relation to individual sectors promoting positive attitudes and behaviours, evaluation will be embedded in the design of programmes from the beginning, alongside information sharing with partners. As above, these evaluations should involve and consider the needs of different equality groups. Such an approach to evaluations and information sharing on effective interventions should be replicated across the outcomes for the lifetime of the Strategic Framework, as appropriate.

### Healthy, Respectful Relationships

- 3.19 The proposed focus areas under this outcome are primarily related to education. It is important actions taken under this outcome are linked with actions taken under outcome 1 to address harmful attitudes.
- 3.20 For instance, the Commission has recommended that measures to tackle bullying in schools should include challenging gender roles to further the broader societal aim of preventing gender-based violence<sup>26</sup>. It is essential to challenge gender stereotypes and prejudicial attitudes from an early age, as gender-based stereotyping can begin in childhood and continue throughout life stages.
- 3.21 The Commission has also highlighted the importance of ensuring that action is taken to further embed and promote equality, including gender equality, within the content and delivery of the curriculum, including in relation to RSE<sup>27</sup>.
- 3.22 We note ongoing developments<sup>28</sup> in relation to the RSE curriculum in post-primary schools, and encourage TEO to engage with other relevant bodies, such as the Department of

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<sup>26</sup> ECNI (2022) [Equality in Education: Policy Positions](#), paras 6.53-6.58.

<sup>27</sup> ECNI (2022) [Equality in Education: Policy Recommendations](#), paras .8.3-8.17

<sup>28</sup> See [Relationship and Sexuality Education \(RSE\) | Department of Education \(education-ni.gov.uk\)](#) (Accessed 26/09/23)

Education and CCEA, on furthering equality of opportunity through the curriculum.

### Women and girls are safe and feel safe everywhere

- 3.23 We note the ambition that organisations and institutions across government and society embed the prevention of violence against women and girls in all that they do so that women and girls are safe and feel safe everywhere.
- 3.24 A 2023 survey<sup>29</sup> undertaken on behalf of the Commission found that women who responded were less likely (66%) to say they felt safe in their local area after dark than male respondents (76%), although male respondents (90%) were slightly less likely to say they felt safe in their local area during the day than women (92%). Disabled respondents, LGBTQI+ respondents and widowed respondents were less likely to feel safe in their local area in the day and night, with older respondents feeling more unsafe at night, and those respondents who were not white British/ Irish less likely to report they felt safe during the day in their local area.
- 3.25 In addition, our commissioned research report on the Impact of Brexit on Minority Ethnic and Migrant People in Northern Ireland highlighted the experience of migrant women as a cohort disproportionately impacted by racism<sup>30</sup>.
- 3.26 We note that this outcome considers safety in work. Women frequently experience sex discrimination and harassment in the workplace, including discrimination due to pregnancy and maternity, and as regards unequal pay<sup>31</sup>. Some forms of harassment may be classed as sex discrimination<sup>32</sup>.
- 3.27 TEO will be aware that the Commission has particular duties under the sex equality legislation, including to work to eliminate unlawful sex discrimination and harassment, to promote equality of opportunity between men and women.

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<sup>29</sup> ECNI (2023) [Public Opinion Survey of Equality in Northern Ireland](#), pp.49-50.

<sup>30</sup> ECNI (2023) [Impact of Brexit on Minority Ethnic and Migrant People in Northern Ireland](#), page 52.

<sup>31</sup> A 2016 investigation carried out by ECNI has highlighted experiences of unfair treatment of pregnant workers and mothers in the workplace. In particular, it found that a significant percentage (36%) of women participating in this investigation believed that they had been treated unfairly or disadvantaged at work as a result of their pregnancy or having taken maternity leave. See ECNI (2016) [Expecting Equality-Summary Report A Formal Investigation into the treatment of pregnancy workers and mothers in Northern Ireland workplaces](#)

<sup>32</sup> Article 6A [Sex Discrimination \(Northern Ireland\) Order 1976](#)

- 3.28 The Commission receives a substantial number of enquiries from individuals who believe they had been discriminated against on the grounds of their sex, including a significant proportion of cases relating to sexual harassment in the workplace. In 2022/23, 20.8% (596) of ECNI discrimination enquiries related to sex discrimination. 87.8% (498) of these enquiries related to employment, with 23.8% of these relating to harassment (118).
- 3.29 2020 research<sup>33</sup> undertaken by ECNI into employee experiences of welcoming and inclusive workplaces found that 21% of respondents had personally experienced unwanted behaviour in the previous 12 months, and 25% had witnessed unwanted behaviour towards others. 27% of respondents who had experienced unwanted behaviours had experienced them on the grounds of sex. Just over half of respondents who experienced any form of unwanted behaviour (52%) did not raise the issue at all, due to reasons such as management practice, fear of victimisation, and prejudice, stigma and bias.
- 3.30 We note that this outcome also includes actions in relation to online gender-based abuse. We consider that there is a clear need for greater action to tackle online hate speech and abuse experienced by a range of equality groups, including women and girls, in Northern Ireland.
- 3.31 When considering action to tackle online hate speech, it is important to recognise the distinct features of online abuse that make it different to offline abuse<sup>34</sup>. These distinct features include the public element of online hate speech, the potential for reputational damage and public humiliation, and the potentially permanent nature of hate speech, which can mean that online hate speech can remain even if a perpetrator is caught.
- 3.32 The Commission has previously highlighted that stereotypes and prejudice impact on participation in public life<sup>35</sup>, and has recommended<sup>36</sup> action by the Executive, Assembly and political parties, to proactively promote and support the participation of

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<sup>33</sup> ECNI (2020) [Welcoming and Inclusive Workplaces – Employee Experiences](#)

<sup>34</sup> ECNI (2020) [Response to consultation: Hate Crime Legislation in Northern Ireland, Independent Review](#), para 9.6.

<sup>35</sup> ECNI (2019) [Equality in Participation in Public Life: Full Report](#), paras 8.67-8.75.

<sup>36</sup> ECNI (2016) [Gender Equality: Policy Priorities and Recommendations](#), paras 9.1- 9.30



women in political life and to address the key barriers facing women in relation to entering into politics.

- 3.33 In relation to the related proposed action of establishing a cross-sectoral workplace forum (including Unions, the Labour Relations Agency (LRA), employer organisation's and other professional bodies) to develop workplace policy toolkits/guidance and to promote workplace training/best practice in professional standards on EVAWG, the Commission welcomes initiatives aimed at promoting inclusive workplaces, promoting good practice and improving the working lives of women.
- 3.34 Given the Equality Commission's statutory remit to work towards the elimination of unlawful discrimination and harassment we provide a range of advice and guidance to promote good workplace practices and to eliminate harassment. This advice includes the promotion of guidance 'Harassment and Bullying: Promoting an Inclusive workplace'<sup>37</sup>, developed in partnership with the LRA, given each organisation's respective remits.
- 3.35 The Commission also provides a range of template Model Policies and Procedures<sup>38</sup>, including a Harassment and Bullying Policy and Procedure, which employers adapt to their own context. The Model Harassment and Bullying Policy<sup>39</sup> (reviewed 2022) clearly defines sexual harassment and sets out the responsibilities of employers, managers and specifically the role of all employees in discouraging harassment and bullying. The Commission's advice, in regard to the workplace, is that everyone has a role in eliminating harassment and no one should be a 'bystander'. These template workplace policies are in the top 5% of downloads from the Equality Commission website.
- 3.36 The Commission also, in its confidential enquiry line, provides advice to individual employers in the area of harassment, a service which is complimented by an ongoing programme of harassment training for employers.

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<sup>37</sup> ECNI/ LRA (2022) [Harassment and Bullying at Work: Promoting an Inclusive Workplace](#)

<sup>38</sup> See [www.equalityni.org/Employers-Service-Providers/Model-Policies](http://www.equalityni.org/Employers-Service-Providers/Model-Policies)

<sup>39</sup> ECNI (2022) [Model Harassment and Bullying Policy](#)

3.37 Therefore, while welcoming initiatives to improve the workplace, it would be important to ensure that there is clarity with regard the role of any Forum, how it relates to the statutory work of the Commission and that there is not duplication in the services provided.

### ***Protection and Provision***

3.38 We note that the outcome under this theme relates to frontline services, protection, and provision for victims and survivors of violence against women and girls.

3.39 The Commission has recommended<sup>40</sup> effective resources and services for those who are subject to gender-based violence. Such resources and services should reflect the needs of those from across the equality grounds. Research conducted by the Commission<sup>41</sup> has found there is a lack of specialist services for d/Deaf and disabled people experiencing domestic violence and many services are inaccessible. For example, d/Deaf and disabled people who have communication challenges may experience barriers in accessing helpline support.

3.40 Our commissioned research report on the Impact of Brexit on Minority Ethnic and Migrant People in Northern Ireland highlighted the experiences of some migrant women including cases whereby all household documentation was in a male partner's name. This could be particularly problematic for women experiencing domestic abuse who may not have access to documents and therefore lack the ability to submit their own immigration applications<sup>42</sup>.

3.41 The Commission is also aware of concerns that migrant women subjected to domestic abuse are often unaware of their rights and may be vulnerable where they rely on partners to help them secure their legal immigration status.

3.42 In addition, in written evidence to the NIAC inquiry into the experiences of minority ethnic and migrant people in Northern Ireland, representatives from the advice sector noted a lack of in-depth specialist immigration advice services to assist

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<sup>40</sup> ECNI (2016) [Gender Equality: Policy Priorities and Recommendations](#), para 10.17.

<sup>41</sup> Disability Action (2022) [Progress Towards the Implementation of the UNCRPD in Northern Ireland](#), commissioned by ECNI, p. 32.

<sup>42</sup> ECNI (2023) [Impact of Brexit on Minority Ethnic and Migrant People in Northern Ireland](#), p.72.

migrants in Northern Ireland and called for additional resourcing for immigration advisors to be able to handle cases beyond those supported under the EU Settlement Scheme.<sup>43</sup> This included the need for support for immigration advice for victims of domestic abuse applying to the Domestic Violence Disclosure Scheme and victims of domestic violence applying through other avenues, as well as advice for EU nationals who are now subject to immigration control and Frontier Workers.

- 3.43 A report by Safe Lives<sup>44</sup> in Great Britain has indicated that those who identify as LGBT+ face additional barriers to accessing support that are unique to their sexual orientation and/or gender identity, and that evidence suggests that LGBT+ victims and survivors are not accessing services at the same rate as others in the population.
- 3.44 We note the references to gap analyses, including for those facing additional barriers, as well as capacity building for specialist services in relating to groups facing additional inequalities. The gap analyses should explicitly refer to the full range of equality grounds, as well as complex needs, as this may assist in identifying if any particular equality groups face a lack of service provision. As well as information on provision in relation to VAWG, this gap analysis may also result in data around provision for male victims of domestic and sexual abuse, which may assist the progression of the Domestic and Sexual Abuse Strategy and other work.
- 3.45 We are of the view that single equality law<sup>45</sup> in Northern Ireland would harmonise and simplify the protections available for everyone, both now and in the future. It is the most effective way to strengthen and maintain protections against discrimination, including against sex discrimination.
- 3.46 However, in the absence of single equality legislation, we highlighted<sup>46</sup> the urgent need to address significant gaps and weaknesses in the sex equality legislation, which provides protection against discrimination, including in relation to employment and service provision.

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43 Written evidence submitted by [Advice NI to NI Affairs Committee on 'Experience of Ethnic Minorities and Migrant people in Northern Ireland inquiry'](#) June 2021

44 Safe Lives (2018), [Free to be safe, LGBT+ people experiencing domestic abuse](#)

45 See [www.equalityni.org/SingleEqualityAct](http://www.equalityni.org/SingleEqualityAct)

46 ECNI (2016) [Gender Law Reform: Policy Priorities and Recommendations](#)

- 3.47 As a priority, discrimination by public bodies, such as the police or immigration services, or prison authorities, when exercising their public functions, or by private bodies acting on behalf of a public authority, should be prohibited. Unlike in Great Britain, the sex equality legislation in Northern Ireland does not prohibit discrimination by public authorities on the grounds of sex in the exercise of their public functions; this is a significant gap in protections in Northern Ireland.
- 3.48 We have also recommended reform to ensure greater protection for employees against harassment on grounds of sex by a third party such as a customer or client.
- 3.49 In relation to hate crimes, the Commission has recommended<sup>47</sup> the strengthening of hate crime legislation, through a statutory aggravation model, extended to include the protected ground of gender. We consider that extending the hate crime legislation to cover the additional ground of gender will assist in tackling gender-based violence experienced by women and men<sup>48</sup>.

### ***The Justice System***

- 3.50 We note that the role of the Strategic Framework under this outcome will mainly be to support existing initiatives in partnership with those leading other strategies, to avoid unnecessary duplication. We would understand that this includes the Domestic and Sexual Abuse Strategy, so providing clarity on where specific actions and responsibilities will lie, along with reporting mechanisms, would be helpful.
- 3.51 It is welcome that under this theme, there will be a focus on ‘identifying and tackling additional inequalities and barriers to support faced by some groups of women and girls’.
- 3.52 We note the intention that an early Task Group Sprint will focus on the barriers in accessing justice for those with no recourse to public funds. The Criminal Justice Inspectorate NI found in 2019 that those who are subject to immigration control can

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<sup>47</sup> See [www.equalityni.org/HateCrimePolicy](http://www.equalityni.org/HateCrimePolicy)

<sup>48</sup> ECNI (2020) [Hate Crime in Northern Ireland Policy Recommendations and Supporting Rationales: Full Report](#), paras 4.72-4.89

experience difficulties accessing public funds on leaving a relationship, and also face language barriers<sup>49</sup>.

- 3.53 The Commission has previously highlighted that victims of domestic and sexual violence, mainly minority ethnic women, can be left financially dependent on their abuser, whether partner, other family member, employer or trafficker. We have recommended improved access to social protection, including for the subjected to domestic violence with no recourse to public funds<sup>50</sup>.
- 3.54 In relation to the focus on data capture, we reiterate our general advice is that all key measures should not only be tracked in aggregate, but also for the impact on individuals from each of the equality grounds. Such data collection across the equality grounds will assist in identifying how interventions are assisting different groups.
- 3.55 We have previously highlighted that the PSNI does not publish data on the levels of domestic abuse incidents/crimes by disability, sexual orientation or gender identity, despite publishing equality-related statistics in relation to hate crime. The collection and publication of the levels of domestic violence experienced, for example, by disabled people in Northern Ireland, would assist in monitoring trends in disability domestic violence incidents and crimes.
- 3.56 Appropriate steps should be taken to ensure data sizes allow for robust analysis (e.g. aggregation over time if necessary) and that publication does not result in a breach of data confidentiality.
- 3.57 The particular needs of disabled people when accessing justice should be considered. The UNCRPD Committee (2017) called on the UK Government to: 'Establish measures to ensure equal access to justice and to safeguard persons with disabilities, particularly women, children, intersex people and elderly persons with disabilities from abuse, ill-treatment, sexual violence and/or exploitation'<sup>51</sup>.

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<sup>49</sup> Criminal Justice Inspectorate NI Report (2019), [Thematic Inspection of the handling of domestic violence and abuse cases by the Criminal Justice System in NI](#)

<sup>50</sup> ECNI (2016) [Gender Equality: Policy Priorities and Recommendations](#), paras 13.6-7, 13.11.

<sup>51</sup> UNCRPD Committee (2017), [Concluding Observations on the UK](#)

3.58 It also recommended measures to ‘Develop and implement capacity building programmes among the judiciary and law enforcement personnel, including judges, prosecutors, police officers and prison staff, about the rights of persons with disabilities’<sup>52</sup>.

### ***Working Better Together***

3.59 It is welcome that outcome 6 refers to ‘all of government and society working better together’, with reference to a whole system approach.

3.60 We recommend consideration is given to the inclusion of a specific reference to partnership working at local government level, including between local government and central government.

3.61 We welcome and recommend that the Framework is underpinned and driven by individual and collective leadership from the highest level. Leadership and commitment provided at the highest levels in a public authority, by the Minister and Permanent Secretary or the Chair and Chief Executive, are critical to the successful implementation and achievement of the intended outcomes of the equality duties. The Leadership of Management Boards and Senior Management Teams is also essential in ensuring a meaningful and effective approach to mainstreaming equality, across this Strategic Framework.

3.62 We welcome the particular focus on evidence based and data informed policy development. As above, the Commission has consistently recommended the collection of disaggregated data across the equality grounds.

3.63 It is also welcome that qualitative data through lived experience will be used. It is important that this reflects the experiences of those from across the equality grounds.

3.64 We note that Article 44 of the proposed EU Directive on combating violence against women and domestic violence includes measures on data collection and the development of a

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<sup>52</sup> UNCRPD Committee (2017), [Concluding Observations on the UK](#)

common methodology across Member States, including analysis and dissemination of results<sup>53</sup>.

- 3.65 The EU aims to address the lack of EU-wide evidence on the prevalence of violence against women and domestic violence via the collection of comparable EU-wide data highlighted in the proposed Directive<sup>54</sup>. This process has already begun with Eurostat coordinating an EU survey on gender-based violence against women and other forms of interpersonal violence with results expected in 2023<sup>55</sup>.
- 3.66 The proposed Directive highlights that “policies to tackle violence can only be formulated on the basis of comprehensive and comparable data”<sup>56</sup>. More generally, the loss of the ability, post Brexit, to benchmark and improve the benchmarking of the status of women in Northern Ireland against EU Member States, including Ireland, removes an important tool for understanding gender equality and developing policy in a comparative context.
- 3.67 The CEDAW Committee has recommended<sup>57</sup> the systematic collection and publication of disaggregated data in Northern Ireland, in particular with regard to intersectional discrimination, to identify areas where women lack substantive equality with men, to inform policy-making and assess the impact of measures taken.
- 3.68 We recommend that the Executive Office should adopt a systemic approach to produce disaggregated data on violence

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<sup>53</sup> Under Article 44, it is proposed that disaggregated data will be collected via a population-based survey on the number of victims of violence on a five yearly basis to establish prevalence and trends in all forms of violence covered by the Directive. It is also proposed that Member States will also provide administrative data on the annual number of victims, reported offences, prosecutions and convictions to the European Institute for Gender Equality (EIGE) on an annual basis. See Proposal for a [Directive of the European Parliament and of the Council on combating violence against women and domestic violence](#), p59

<sup>54</sup> Proposal for a [Directive of the European Parliament and of the Council on combating violence against women and domestic violence](#), p59 . There is currently no standardised and comparable data collection across the EU on acts of violence against women and domestic violence and no score is given to the EU in the domain of violence in the Gender Equality Index (GEI), due to a lack of comparable EU-wide data.

<sup>55</sup> See: [Gender-based violence: capturing accurate data - Products Eurostat News - Eurostat \(europa.eu\)](#)

<sup>56</sup> See: [Gender-based violence: capturing accurate data - Products Eurostat News - Eurostat \(europa.eu\)](#) p. 31

<sup>57</sup> United Nations Committee on the Elimination of All Forms of Discrimination Against Women (2019): [Concluding observations on the eighth periodic report of United Kingdom of Great Britain and Northern Ireland](#), paragraphs 25 - 26, p. 6

against women and girls, which not only meets the specific needs of Northern Ireland but, where possible, is comparable with common international frameworks, including at EU level.

- 3.69 We note the intention to mainstream prevention of violence against women and girls in public policy. To ensure that key strategic actions are planned, delivered, reported and reviewed as part of, and alongside, wider priorities, actions should be mainstreamed into the corporate and annual business plans of relevant Departments, and into higher level frameworks as appropriate, for example within the Programme for Government.
- 3.70 We note that consideration will be given to the potential of gender budgeting. The Commission has previously recommended that Government improve gender mainstreaming, including by using the tools of equality responsive budgeting<sup>58</sup>. We published an expert paper on Equality Responsive Budgeting<sup>59</sup>, by Dr Sheila Quinn, which may be helpful for TEO to consider.

### ***Approach to Delivery***

- 3.71 We welcome that TEO has recognised the importance of engagement for the lifetime of the programme. We recommend the meaningful involvement of individuals and their representative organisations in the design, delivery and review of policies and programmes affecting them.
- 3.72 It is welcome that, where appropriate, actions, indicators and measurements of progress will align with other Strategies, such as the Domestic and Sexual Abuse Strategy. As above, we understand that this Strategy and the Domestic and Sexual Abuse Strategy will have differing focuses and not duplicate work. It would be helpful for stakeholders to have clarity on how the implementation of the Strategies will interact, including where responsibility will lie for specific actions and measuring of progress.
- 3.73 We note that the monitoring framework is to be developed, based on at 'Outcome Based Accountability' approach. Without further details, it is difficult to comment on how effective the

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<sup>58</sup> ECNI (2019) [UNCEDAW: Shadow Report \(Examination of UK, 2019\)](#), para 2.1

<sup>59</sup> Quinn, S. (2013) [Equality Responsive Budgeting](#), ECNI.



specific implementation of this will be. It will be important to ensure that outcome measures and indicators include the full range of equality groups.

- 3.74 In general, the Commission recommends that all key measures should not only be tracked in aggregate but also for the impact on individuals from across the full range of equality grounds.
- 3.75 In relation to both ongoing monitoring and the mid-term review, the data used for headline measures should be broken down to consider which equality groups are benefitting less than others on those key measures. Actions can then be targeted to those particular groups and their related barriers and enablers. This will benefit not only the members of those equality groups, but also the relevant overall headline measures and the overall success of the Strategy itself.
- 3.76 In order to assess the equality impacts and monitor any adverse impacts of policies, public authorities need information to ensure that decisions and equality assessments are evidence based and appropriate.
- 3.77 In this context, we recommend that the Strategic Framework, and associated budget, includes provision to ensure the targeting, monitoring and reporting of actions, incorporating disaggregated equality data, to better advance equality of opportunity and address key inequalities.

## 4 Action Plan

- 4.1 We welcome that the draft Strategic Framework is accompanied by a Foundational Action Plan which outlines work for the remainder of 2023/24, and note that this has been developed as a foundation in a challenging budget situation. We note from the Strategic Framework that further action plans and a supporting monitoring framework will be developed. Many of the points we would make in relation to specific actions are already outlined above, and TEO should consider these when developing the Foundational and further action plans.
- 4.2 In general, we recommend that such plans are SMART, time-bound and resourced, to ensure effective, on-time and prioritised delivery.
- 4.3 It is not clear that the current Foundational Action Plan fulfils these criteria. For instance, it is unclear how many of the proposed actions will be measured e.g. seeking endorsement from political and civic leaders. Likewise, there is not a specific timeframe accompanying the Foundational Action Plan, and it is unclear when 'Year 1' starts and ends.
- 4.4 Further detail on many of the actions would be helpful as to how the various working groups will function. As above, in relation to the proposed cross-sectoral workplace forum it is important that to ensure that there is clarity with regard the role of any Forum, how it relates to the statutory work of the Commission and that there is not duplication in the services provided.
- 4.5 Such detail in the Foundational and future draft and final action plans will assist in ensuring SMART actions, gathering stakeholder input on these, and measuring progress.
- 4.6 We note that one of the actions is to 'Develop funding strategy for sustainable EVAWG work across departments and other sectors'. As above, in general, we recommend that action plans are resourced to ensure effective, on-time and prioritised delivery. It is likely that future action plans will depend on the outcome of the funding strategy.
- 4.7 For some actions, particularly in relation to the justice system, it is unclear how these will relate to the Domestic and Sexual

Abuse Strategy and other Strategies. As above, the Commission has recommended steps, including through the delivery of effective strategies, to tackle the nature and specific impact of gender-based violence on women and men.

## 5 Section 75 advice

### Steps 1 & 2: Policy Aims and Consideration of Available Data and Research

- 5.1 The EQIA usefully outlines relevant data and research relating to gender (at Step 1) and the other Section 75 groups (at Step 2), including qualitative data and evidence from its initial 'Call for Views' consultation.
- 5.2 The Commission welcomes the following commitment in the Framework: 'A key focus of the draft Strategic Framework and draft Foundational Action Plan will be to develop the necessary evidence base and strengthen data collection across all sectors and age cohorts of society including a requirement of disaggregated data within existing data collection methods.'
- 5.3 We welcome that TEO in the Strategic Framework commits to progressing work to better understand the violence against women and girls across all Section 75 grounds, with reference to multiple identities and intersections between the different equality grounds.
- 5.4 We also welcome TEO's commissioning of a number of questions on experience of violent acts and behaviours to be included in the 2022 Young Life & Times Survey, to help inform the development of the draft Strategic Framework.
- 5.5 We note that the EQIA highlights gaps in equality data, particularly with regard to multiple identities, and highlights the need for further research and actions to address these data and information gaps. Any gaps in data should be addressed in the Section 75 monitoring arrangements TEO establishes for Stage 7 of the EQIA, i.e. to monitor the actual impacts of the policy, when adopted. These arrangements for addressing gaps in data must be set out in the TEO Stage 6 EQIA report. Monitoring can consist of both quantitative and qualitative methods, as already utilised by TEO in the EQIA.
- 5.6 In sections 1&2 and throughout the document there is reference to the purpose of an EQIA being to assess 'adverse impacts', but also in parts reference to the EQIA seeking out opportunities to promote equality of opportunity and good relations. The Commission advises that the final EQIA should be amended to ensure that where there is reference to the

purpose of an EQIA being solely to determine ‘adverse impacts’, that the full purpose, as noted above and in other parts of the EQIA, is amended.

- 5.7 We welcome TEO’s commitment in the EQIA to promoting positive action. The Commission advised in our response to TEO’s Call for Views in early 2022, that under Section 75, treating everyone the same way is unlikely to achieve equality of opportunity for people who may have additional needs/experience inequalities, and that TEO should consider taking positive action, where appropriate. The Commission recommends that TEO should satisfy itself that all actions it plans to take, in regard to positive action, are within the parameters of the legislation and are lawful. The Commission can provide further advice on lawful positive action, in the context of the anti-discrimination legislation, if required.

### Step 3: Assessment of Impacts

- 5.8 TEO has assessed potential equality impacts in relation to each of the Section 75 categories. It has also considered multiple identity / intersectionality impacts, i.e. where there are one or more of the Section 75 grounds, and this has the effect of increasing the risk and vulnerability to violence.
- 5.9 The Commission advises that where TEO have assessed ‘positive impacts’ that they set out what the actual positive impacts are and whether they are positive impacts that address particular inequalities.
- 5.10 Some of the ‘assessments of impacts’ are clear, while others are somewhat vague as to the nature and extent of the impacts and whether the impact’s address identified inequalities. For example, the multiple identity/intersectionality section of ‘assessment of impacts’ is somewhat vague, potentially due to the gaps in data TEO has identified. These gaps in data should be addressed by TEO, by establishing appropriate Section 75 monitoring arrangements.
- 5.11 In its Stage 6 EQIA report, TEO should re-assess the potential equality and good relations impacts, considering additional data and information collected as part of the consultation.

#### Step 4: Consideration of mitigation measures / alternative policies

- 5.12 The Commission notes and welcomes that TEO has set out three overarching mitigations, followed by a series of mitigations in the EQIA relating to both the Framework itself and also the Foundational Action Plan, in Annex 1 of the EQIA. The proposed mitigations are set out in tabular format against the Framework outlined by theme, outcomes and mitigating actions relating to each Section 75 group.
- 5.13 Whilst TEO appears to have made good efforts to clearly identify mitigations to be made to the policy, it is unclear what inequalities the mitigations aim to address. It is also unclear from this section, whether alternative policies have been considered.
- 5.14 We recommend that this section is reviewed in light of any updated data and assessment of impacts identified during the consultation, to ensure clarity in terms of the 'inequality' which the mitigation is aiming to address.
- 5.15 In addition, there is a lot of repetition of the same mitigations in these sections. Reducing this would provide a clearer overview of the list of mitigations and the inequalities they aim to address.
- 5.16 We note TEO's commitments, included in the mitigations section:
- to carrying out further equality screening/EQIA on action plans arising from the Strategic Framework.
  - that existing data sources are reviewed and revised to help facilitate the implementation and monitoring of the Strategic Framework.
- 5.17 The Commission advises that although it is important that these actions are undertaken and are in the EQIA; these actions are not mitigations that address identified equality or good relations impacts - they are equality scheme commitments.
- 5.18 In addition, we recommend that there is greater clarity in terms of the good relations mitigations, as this is currently unclear from the text provided.

- 5.19 Overall in this section, the Commission recommends that TEO gives consideration to clarifying mitigations in terms of inequalities each one aims to address and to considering further mitigation and/or alternative policies when it is finalising its Stage 6 EQIA report.

### Step 5: Consultation

- 5.20 The Commission welcomes that TEO appears to have undertaken a significant level of pre-consultation, consultation and ongoing engagement with stakeholders.
- 5.21 The Commission notes that TEO carried out an initial consultation and Calls for Views on the policy in early 2022, and is consulting on the draft Strategic Framework and draft EQIA of the Framework for 13 weeks. In addition, we note that TEO has used a variety of consultation methods, including stakeholder engagement sessions, focus groups and online public consultation sessions, and that it has committed to making the consultation materials available in alternative formats and languages.
- 5.22 We note that the Commission has been quoted directly in the EQIA, in relation to its Section 75 and policy advice (Pages 7-8, and 15 of the EQIA), however we advise to assist clarity, that any paraphrasing of the Commission's advice (Page 11 of the EQIA) is removed in the final Stage 6 EQIA report.

### Step 6: Decision-making and Publication of Stage 6 report

- 5.23 A Stage 6 EQIA report is the 'Decision by Public Authority & Publication of Report on Results of Equality Impact Assessment'.
- 5.24 The legislation requires '...that in making any decision with respect to a policy adopted or proposed to be adopted by it, the public authority shall take into account any Equality Impact Assessment and consultation carried out in relation to the policy (Schedule 9 paragraph 9 (2)).'
- 5.25 Public authorities have a statutory duty to have 'due regard' to the need to promote equality of opportunity & 'regard' to the desirability to promote good relations. It is not sufficient merely to take equality into account; it must be accorded considerable

weight, i.e. the need to promote equality of opportunity must be given due regard or weight in accordance with Section 75.

- 5.26 This does not necessarily mean however that the equality duty overrides other clearly conflicting statutory duties. Instead, the public authority must act in a proportionate manner and accord weight to both administrative considerations and the statutory equality of opportunity and good relations duties. Such considerations must be reflected in decision-making on an EQIA.
- 5.27 It will be important, therefore, that TEO in its Stage 6 report sets out how it /decision makers have 'taken into account' the policy and EQIA consultation responses and updated EQIA information. TEO must be open minded to give consideration to further changes (consideration of further mitigation / alternative policies) to the Framework/action plans, raised during the consultation process. We have enclosed further information relating to the content of Stage 6 reports in Annex B of this response.
- 5.28 We note and welcome TEO's reference to the changing budget situation and that further assessments might be required, if budget affects the planned work on this strategy.

### Step 7: Section 75 Monitoring

- 5.29 The Commission notes TEO's commitment in the draft Strategic Framework EQIA to carrying out annual monitoring and publication of monitoring results. However, the references to monitoring are more general outcome-based monitoring arrangements.
- 5.30 This section of the EQIA should set out how TEO will monitor the actual impacts of the policy on the Section 75 groups. TEO are required, as per equality scheme commitments to monitor and publish the actual equality and good relations impacts of the policy on the Section 75 groups, when the policy is implemented. These Section 75 monitoring arrangements must be set out in the final EQIA stage 6 report.
- 5.31 For example, consider what changes to existing monitoring systems are needed and what new arrangements /research will be required. It may be that the outcome based monitoring arrangements will be disaggregated by Section 75 group,



however this section should be clear and specific on what the arrangements are.

- 5.32 TEO's Stage 6 EQIA report should outline systems, which will be put in place to monitor the actual impacts of the Strategic Framework/Action Plans on the Section 75 groups over a 1-2 year period. This information, as noted in the EQIA must also be published after a 2 year period. Therefore, TEO must further consider what Section 75 monitoring arrangements it will need to have in place to assess the actual impacts of the Strategic Framework on the Section 75 groups.
- 5.33 We also recommend that the explanatory text box at the beginning of this section should be amended as it is not about general monitoring arrangements, but about how TEO will monitor the actual impacts of the Framework and action plans on Section 75 groups, once the policy is implemented.

## 6 Windsor Framework Article 2 and draft impact assessment

- 6.1 Following the UK's exit from the EU, the UK Government has committed under Article 2 of the Ireland/Northern Ireland Protocol (now known as the Windsor Framework) to ensuring that certain equality and human rights in Northern Ireland will continue to be upheld after Brexit. Since 1 January 2021, the Commission, together with the NIHRC, has been given additional powers and responsibilities, as the 'dedicated mechanism', to ensure that the UK Government's commitment under Article 2 of the Windsor Framework is met<sup>60</sup>.
- 6.2 Under Windsor Framework Article 2 the UK Government has committed to ensuring there is no diminution of rights, safeguards and equality of opportunity as set out in the relevant part of the Belfast (Good Friday) Agreement. There is also a commitment to ensuring that some of Northern Ireland's equality laws will keep pace with any changes the EU may make to amend or replace the EU equality laws, set out in Annex 1 to the Windsor Framework<sup>61 62</sup>.
- 6.3 In addition, UK courts when considering the interpretation of any of the equality directives listed in Annex 1, must do so in conformity with any relevant case law of the Court of Justice of the EU (CJEU)<sup>63</sup>.

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<sup>60</sup> Schedule 3 of the [European Union \(Withdrawal Agreement\) Act 2020](#) amended the [Northern Ireland Act 1998](#) to confer these additional powers on the Commission – to monitor, advise, report on and enforce the UK's adherence to its commitment.

<sup>61</sup> Ireland/Northern Ireland Protocol Annex 1 Directives: Gender Goods and Services Directive (Gender) - [Directive 2004/113/EC of 13 December 2004](#); Recast Directive (Gender) - [Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006](#); Race Equality Directive (Race) - [Directive 2000/43/EC of 29 June 2000](#); Framework Directive (religion and belief; age; sexual orientation; and disability) - [Directive 2000/78/EC of 27 November 2000](#); Equal Treatment Directive: Self-employment (Gender) - [Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010](#); Equal Treatment Directive: Social Security (Gender) - [Directive 79/7/EEC of 19 December 1978](#).

<sup>62</sup> In addition, UK courts when considering the interpretation of any of the equality directives listed in Annex 1, including the Race Directive, must do so in conformity with any relevant case law of the Court of Justice of the EU (CJEU). [UK Government, Explainer Document: UK Government commitment to "no diminution of rights, safeguards and equality of opportunity"](#) in Northern Ireland, 7 August 2020

<sup>63</sup> The Northern Ireland Office has, in its 2020 Explainer Document, stated that when a UK Court is considering the interpretation of any of the directives listed in Annex 1, this will be done in conformity with any relevant case law of the CJEU

- 6.4 It should be noted that neither the Northern Ireland Assembly, nor the Northern Ireland Executive,<sup>64</sup> a Minister or NI Department<sup>65</sup> can act in a way that is incompatible with the UK Government's commitment with Article 2.
- 6.5 We recommend that the Northern Ireland Executive and Departments ensures that in taking forward future legislative development and reform pursuant to this strategic framework for ending violence against women and girls there is consideration of, and compliance with, Article 2 obligations. Any future draft legislation, arising from the Strategic Framework, should also make clear in its explanatory memorandum what consideration has been given to Article 2 considerations.

### ***Windsor Framework Article 2 Impact Assessment***

- 6.6 We welcome the Executive Office taking the lead in producing a draft Windsor Framework Article 2(1) Impact Assessment relating to the draft Strategic Framework. This is a helpful step in embedding Article 2 consideration into the development of key Departmental strategies and will help increase both transparency and accountability in terms of compliance with Article 2. More generally it helps to raise awareness of the Article 2 obligation. We consider it helpful to have a detailed consideration of Article 2 embedded, not just in the development of strategies, but also in development of draft legislation.
- 6.7 We have set out our initial views below on the draft Article 2 Impact Assessment. We welcome further engagement with the Executive Office on this to assist them with developing and refining their assessment further. We may provide further views over time, particularly in light of any future judicial decisions in this area.
- 6.8 The Commission and the NIHRC have published a joint working paper<sup>66</sup> which sets their initial assessment of the scope of Windsor Framework Article 2, which we hope will provide additional guidance on how the non-diminution and 'keeping

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64 Section 6 (2)(ca) of Northern Ireland Act 1998 as amended by Schedule 3 to the European Union (Withdrawal Agreement) Act 2020

65 Section 24 (1) (aa), Northern Ireland Act 1998

66 Equality Commission for NI and NI Human Rights Commission, [Working Paper: The Scope of Article 2\(1\) of the Ireland/Northern Ireland Protocol](#) (ECNI and NIHRC, 2022)

pace' commitment is applied and interpreted and what rights, safeguards and equality of opportunity protections fall within its scope.

### Test for Establishing a Breach of Article 2

- 6.9 We note that the draft Impact Assessment refers to the test for a breach of Article 2 (at page 2) set out by the High Court in its decision in *SPUC Pro-Life Limited's Application for Judicial Review*.
- 6.10 We recommend that the Impact Assessment refers to the test for establishing a breach of Article 2 set out in subsequent Court of Appeal decision in that case<sup>67</sup>. We would also welcome the inclusion of a reference to the test set out by the Commission and the NIHRC in their joint working paper on the scope of Article 2<sup>68</sup> which broadly aligns with the Court of Appeal decision. The test set out in Court of Appeal decision is as follows:
- i. A right (or equality of opportunity protection) included in the relevant part of the Belfast/Good Friday 1998 Agreement is engaged.
  - ii. That right was given effect (in whole or in part) in Northern Ireland, on or before 31 December 2020.
  - iii. That Northern Ireland law was underpinned by EU law.
  - iv. That underpinning has been removed, in whole or in part, following withdrawal from the EU.
  - v. This has resulted in a diminution in enjoyment of this right; and
  - vi. This diminution would not have occurred had the UK remained in the EU.
- 6.11 Further, currently the questions raised in the draft Impact Assessment relating to each Belfast (Good Friday) Agreement right do not correspond exactly with the test above. We recommend that these questions are amended to more closely

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<sup>67</sup> *SPUC Pro - Life Limited Application for Judicial Review* [2023] NICA 35

<sup>68</sup> Equality Commission for NI and NI Human Rights Commission, [Working Paper: The Scope of Article 2\(1\) of the Ireland/Northern Ireland Protocol](#) (ECNI-NIHRC, 2022), para 6.18, page 32

align with test above and set out in our joint working paper on the scope of Article 2. This is particularly important if it is intended by the Executive Office to use this template in the context of considering whether draft Departmental legislation is in compliance with Article 2.

- 6.12 We also recommend that the Impact Assessment draws attention to Appendix 1 of the Commission/NIHRC working paper on the scope of Article 2 which sets out the EU law which the Commissions have identified to date as falling within the scope of Article 2.<sup>69</sup>
- 6.13 In particular, we consider that the Windsor Framework Annex 1 EU Gender Equality Directives are of relevance to the draft Strategy and action plan because they contain provisions on sexual harassment, including in the workplace. In addition, we have identified other relevant EU laws which support victims, including the Victims Directive, EU Trafficking Directive and the EU Child Sexual Exploitation Directive.
- 6.14 The Commission, along with NIHRC, consider that these directives fall within the scope of Article 2. For example, we consider that the rights of victims of trafficking fall within the relevant chapter of the Belfast (Good Friday) Agreement for the following reasons: These are sub-categories of victims, and victims' rights are recognised in the relevant chapter of the Belfast (Good Friday) Agreement; the EU Trafficking Directive also underpins the European Convention on Human Rights (ECHR) rights, including Article 4<sup>70</sup>; and this Directive also falls within the equality of opportunity commitments<sup>71</sup> in the relevant chapter of the Belfast (Good Friday) Agreement. We have highlighted the relevance of these directives below.
- 6.15 Linked to the point above in relation to the relevance of ECHR rights, there is a commitment in the relevant chapter of the Belfast (Good Friday) Agreement to protect the "civil rights and religious liberties of everyone in the community". Our view is that this general commitment encompasses the full range of rights set out in the ECHR, to the extent that they are

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69 Equality Commission for NI and NI Human Rights Commission, [Working Paper: The Scope of Article 2\(1\) of the Ireland/Northern Ireland Protocol](#) (ECNI-NIHRC, 2022)

70 Article 4, [European Convention on Human Rights](#).

71 Agreement reached in the multi-party negotiations, pages 19-20.

underpinned by EU law in force on or before the end of the Brexit transition period.

- 6.16 We note that there is no reference to this commitment to protect the civil rights in the Impact Assessment, nor a reference that consideration should be given to this commitment.
- 6.17 There is also no reference to the fact that the list of specific rights ‘affirmed in particular’ in that Chapter is a non-exhaustive list. We therefore recommend that a reference is made to these points in the Impact Assessment.

### Annex 1 Directives

- 6.18 The Strategic Framework commits to preventing and tackling all forms of sexual harassment including inside and outside of the workplace and on online.
- 6.19 The Gender Equality Directives<sup>72</sup> in Annex 1 of the Windsor Framework are relevant to addressing sexual harassment<sup>73</sup> and fall within the scope of Article 2 Windsor Framework. Therefore, it is important that the Executive Office ensures that any legislative developments aimed at tackling sexual harassment under this strategy do not lead to a diminution of rights under the Gender Equality Directives.
- 6.20 In addition, as highlighted earlier, the Gender Equality Directives, as Annex 1 Directives, fall within the ‘keeping pace’ commitment in the Windsor Framework. Therefore, any changes by the EU which amend or replace the relevant provisions in the gender equality directives, so as to enhance protections, will have implications for gender equality rights in NI. It is important that any legislative developments in NI arising

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72 Gender Directives relevant to sexual harassment are [Council Directive 2004/113/EC](#) of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services.; [Directive 2006/54/EC of the European Parliament and of the Council](#) of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast); [Directive 2010/41/EU of the European Parliament and of the Council](#) of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity.

73 For example, the Equal Treatment Directive makes provisions for the prohibition of sexual harassment in Goods and Services (Article 4(3)), the Recast Directive makes provisions for the prohibition of sexual harassment in the workplace (Article 26) while the Self-Employment Directive makes provision for the prohibition of sexual harassment in relation to the establishment, equipment or extension of a business or the launching or extension of any other form of self-employed activity( Article 4(2)).

from this Strategy are in compliance with Article 2 (1) including the keeping pace obligations relating to the EU Gender Equality Directives.

- 6.21 We welcome that there is a reference in the template to the keeping pace duty in relation to Annex 1 Directives. However, we recommend the inclusion in the Impact Assessment of a reference to the need for the draft strategy to monitor proposed EU law developments that may amend or replace the Annex 1 Directives that are relevant to the Strategy, and relevant CJEU case law post the end of the Brexit transition period that relates to Annex 1 Directives.
- 6.22 This aligns with our recommendation that the Executive Office monitors any proposed changes by the EU to the six Annex 1 equality directives, including the Gender Directives and any relevant case law of the CJEU.

### EU Victims Directive

- 6.23 The EU Victims Directive<sup>74</sup> underpins “the rights of victims to remember as well as to contribute to a changed society” and “the right to equal opportunity in all social and economic activity, regardless of class, creed, disability, gender or ethnicity” in the rights, safeguards and equality of opportunity section of the Belfast (Good Friday) Agreement, thus engaging Article 2. The Northern Ireland Office, in its 2020 Explainer Document<sup>75</sup> makes it clear that the Victims’ Directive falls within the scope of the Protocol/Windsor Framework Article 2 non-diminution principle.
- 6.24 We therefore recommend that the Executive Office considers in its Impact Assessment and ensures that any legislative developments progressed under this strategy do not reduce the rights of victims under the Victims Directive in a manner that is contrary to the UK Government commitment under Article 2.

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74 [Directive 2012/29/EU of the European Parliament and of the Council](#) of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA. The Victims’ Directive establishes minimum standards and obligations on the rights, support and protection of victims of crime. The Directive establishes a legal standard for victim services, and obligations include the provision of specialist services and support for victims of domestic abuse and other forms of violence against women.

75 [UK Government, Explainer Document: UK Government commitment to “no diminution of rights, safeguards and equality of opportunity” in Northern Ireland](#), 7 August 2020

- 6.25 We note that the Executive Office has stated in its draft Impact Assessment<sup>76</sup> that “the Belfast Agreement would appear to limit the scope of this right to victims of violence related to the troubles and this is the interpretation taken at this time”.
- 6.26 The Commission would like to emphasise the continued relevance of the EU Victims’ Directive in relation to the development of the strategic framework, particularly in relation to Outcome 4: ‘Quality frontline services, protection, and provision for victims and survivors of violence against women and girls’ and Outcome 5: ‘A justice system which has the confidence of victims, survivors and the public in its ability to address violence against women and girls’.

### EU Trafficking Directive

- 6.27 The EU Trafficking Directive sets out a number of provisions aimed at criminalisation of trafficking offences,<sup>77</sup> non-prosecution and non-application of penalties to victims,<sup>78</sup> investigation and prosecution of offences<sup>79</sup> and supporting victims, including child victims of trafficking<sup>80</sup>.
- 6.28 The Commission would like to highlight the relevance of the EU Trafficking Directive in relation to the development of the strategic framework, particularly in relation to Outcome 4: ‘Quality frontline services, protection, and provision for victims and survivors of violence against women and girls’ and Outcome 5: ‘A justice system which has the confidence of victims, survivors and the public in its ability to address violence against women and girls’.
- 6.29 We therefore recommend that the Executive Office considers in its Impact Assessment and ensures that any legislative developments progressed under this strategy do not reduce the rights of victims under the EU Trafficking Directive in a manner

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76 The Executive Office, [Draft Article 2\(1\) Windsor Framework Impact Assessment for the Draft Strategic Framework to End Violence Against Women and Girls](#) (TEO, 2023)

77 Articles 2-7, [Directive 2011/36/EU](#), ‘Council Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims’, 5 April 2011

78 [Directive 2011/36/EU](#), ‘Council Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims’, 5 April 2011, Article 8.

79 [Directive 2011/36/EU](#), ‘Council Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims’, 5 April 2011, Articles 9-10.

80 [Directive 2011/36/EU](#), ‘Council Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims’, 5 April 2011, Articles 11-17.



that is contrary to the UK Government commitment under Article 2.

### Child Sexual Exploitation Directive

- 6.30 The Strategic Framework commits to ‘working strategically and collaboratively across government and society with those who are dealing with other parts of the problem of violence in our society – such as [...] child sexual exploitation’<sup>81</sup>. EU obligations underpinning the rights of child victims under Windsor Framework Article 2 include the Directive on combatting sexual abuse and sexual exploitation of children.<sup>82</sup>
- 6.31 We recommend that the Executive Office considers in its Impact Assessment and ensures that any legislative developments aimed at tackling child sexual exploitation progressed under this strategy do not lead to a diminution of rights under the EU Child Sexual Exploitation directive.

### Embedding Article 2

- 6.32 We continue to recommend the development and roll out of training and guidance by Northern Ireland and UK Government officials on Windsor Framework Article 2, including reference to Article 2 on any final template of the Impact Assessment so as to embed Article 2 consideration in policies and processes.

### ***EU proposals on combatting violence against women and girls***

- 6.33 In developing and implementing its Strategy, we recommend that the Executive Office takes into consideration EU developments on combatting violence against women and domestic violence, alongside wider human rights international standards and best practice.
- 6.34 In March 2022, the European Commission adopted a proposal for a directive on combatting violence against women and

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81 The Executive Office, ‘[Ending Violence Against Women and Girls’ Strategic Framework](#), (TEO, 2023), page11.

82 [Directive 2011/93/EU](#), ‘Parliament and Council Directive on Combating the Sexual Abuse and Sexual Exploitation of Children and Child Pornography’, 13 December 2011. This EU Directive recognises that the best interest of the child is a primary consideration for child victims, in line with the EU Charter of Fundamental Rights and UN CRC. It also recognises the need for enhanced protections for victims, including, in recognition of the harm caused by these offences, that assistance should be provided for as long as necessary for the child’s physical and psychological recovery, including into adulthood.

domestic violence.<sup>83</sup> and in June 2023 the European Council agreed its general approach on a proposed directive. The proposal aims to ensure a minimum level of protection across the EU against such violence, regardless of whether it takes place online or offline.<sup>84</sup> The proposed Directive includes provisions aimed at supporting victims of sexual harassment in the workplace.

- 6.35 In May 2022, the ECNI responded to the consultation, welcoming and supporting the European Commission's commitment to effectively combat violence against women and domestic violence throughout the EU.<sup>85</sup>
- 6.36 The ECNI's response noted that some of the associated directives outlined in the proposal, continue to have relevance for NI, as they fall within the scope of the non-diminution commitment under Article 2, including the EU Victims' Directive<sup>86</sup> and the EU Trafficking Directive<sup>87</sup>, as well as the keeping pace commitment which includes the EU gender directives.
- 6.37 We therefore recommend that the Executive Office takes into consideration those provisions of the proposed Directive that reflect international best practice and will strengthen protection for women who are victims of violence.
- 6.38 We also recommend that the Executive Office takes into consideration any good practice on addressing violence against women and girls arising from key international strategies, including the EU Gender Equality Strategy<sup>88</sup>, the EU Strategy

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83 In June 2023 the European Council agreed its general approach the proposed directive: '[Violence against women and domestic violence: Council agrees position on draft EU law](#)'. (European Council, 2023)

84 European Commission, [Proposal for a Directive on combating violence against women and domestic violence](#) (European Commission, 2022)

85 Equality Commission for NI, [Response to consultation: European Commission – Combatting Violence Against Women and Domestic Violence Directive](#) (ECNI, May 2022)

86 [Directive 2012/29/EU](#), 'Directive of the European Parliament and of the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime', 25 October 2012.

87 [Directive 2011/36/EU](#) 'Council Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims', 5 April 2011.

88 European Commission, [Gender Equality Strategy 2020-2025](#). (European Commission 2020)

on Combatting Trafficking in Human Beings<sup>89</sup> and the EU strategy on a more effective fight against child sexual abuse.<sup>90</sup>

6.39 For example, the EU Strategy explicitly advocates 'educating boys and girls from an early age about gender equality as well as relationships'<sup>91</sup>. Further, given the sometimes toxic impact of online influencers on perceptions of the role of men and boys, the EU Gender Equality Strategy specifically outlines that 'violence prevention focusing on men, boys and masculinities will be of central importance'.<sup>92</sup> Both of these are relevant to Outcome 2 of the Strategic Framework and TEO will want to consider any lessons that can be learned from such work.

6.40 Moreover, the EU Strategy on Combatting Trafficking in Human Beings contains a chapter on 'Protecting, supporting and empowering the victims, especially women and children', which is of relevance to Outcome 5 of the Strategic Framework.

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89 European Commission, [EU Strategy on Combatting Trafficking in Human Beings](#). (European Commission, 2021)

90 European Commission, [EU strategy for the more effective fight against child sexual abuse](#). (European Commission, 2020),

91 European Commission, [Gender Equality Strategy 2020-2025](#), page 4. (European Commission, 2020)

92 European Commission, [Gender Equality Strategy 2020-2025](#), page 4. (European Commission, 2020)

## **7 Conclusion**

- 7.1 The Ending Violence Against Women and Girls Strategy has the potential to advance equality of opportunity. The Commission has previously recommended steps, including through the delivery of effective strategies, to tackle the nature and specific impact of gender-based violence on women and men and due to a person's gender identity. This strategy has the potential to contribute that that goal.
- 7.2 We have set out a range of policy recommendations in relation to the draft Strategic Framework and Foundational Action Plan. In particular, we have recommended that the intersectional needs of equality groups be considered and that equality groups are enabled to inform the design, delivery and monitoring of Strategies that affect them; that gender stereotypes are tackled across the life-course; that disaggregated equality data is collected to inform decision-making; and that clarity be provided as to how this strategic framework will interact with other Strategies.
- 7.3 We have also raised a number of issues for consideration by the Departments in relation to the EQIA and Windsor Framework Article 2 Assessment.
- 7.4 We trust that the proposals and recommendations set out in this response are of assistance. If further discussion would be useful, please do not hesitate to contact us.

**ECNI**  
**3 October 2023**

## **8 Annex A: Role and remit of the Equality Commission NI**

- 8.1 The Equality Commission for Northern Ireland (“the Commission”) is an independent public body established under the Northern Ireland Act 1998.
- 8.2 Our powers and duties derive from a number of statutes enacted over the last decades. These provide protection against discrimination in employment and in the provision of goods, facilities and services on grounds of disability, race, religion and political opinion, sex and sexual orientation. On the grounds of age, protection against discrimination is available only in respect of employment.
- 8.3 We also have responsibilities arising from the Northern Ireland Act 1998 and Disability Discrimination Act 1995 in respect of the statutory equality and good relations duties which apply to public authorities - the s75 duties and the disability duties.
- 8.4 The Commission, with the Northern Ireland Human Rights Commission (NIHRC), has been designated under the United Nations Convention on the Rights of Disabled Persons (UNCRPD) as the independent mechanism tasked with promoting, protecting and monitoring implementation of UNCRPD in Northern Ireland.
- 8.5 The European Union (Withdrawal Agreement) Act 2020 gave new duties and powers to the Commission, and to the NIHRC, effective from 1 January 2021. These enable the Commission to monitor, advise and report on, and enforce the UK Government’s adherence to its commitment set out in Article 2 (1) of the Windsor Framework. This commitment is to ensure that no diminution of rights, safeguards or equality of opportunity, as set out in that part of the 1998 Agreement entitled Rights, Safeguards and Equality of Opportunity results from the UK’s withdrawal from the Union, including in the area of protection against discrimination.
- 8.6 In general terms, our statutory remit provides that we are to:
- promote equality of opportunity and affirmative action
  - work towards the elimination of unlawful discrimination and harassment

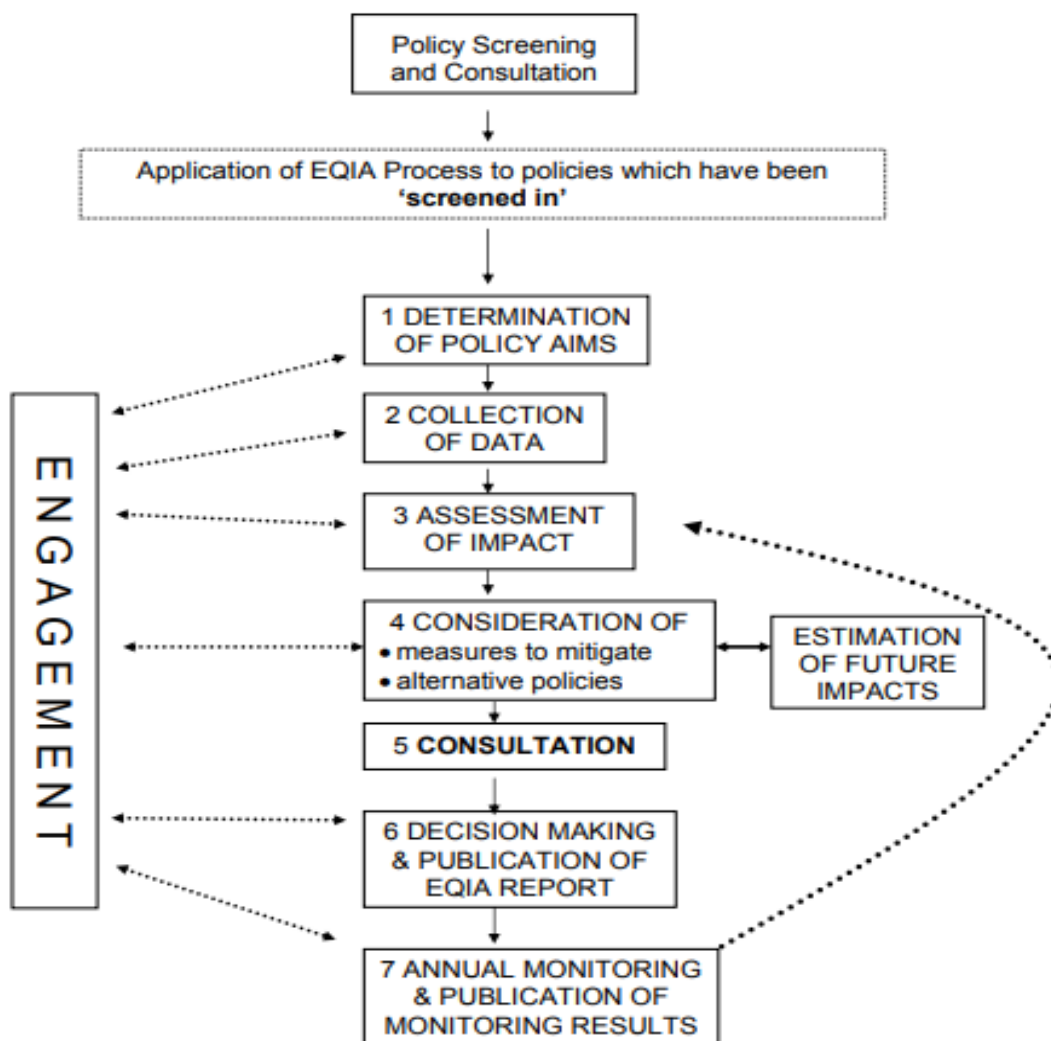
- keep relevant legislation under review
- promote good relations between persons of different racial groups and good disability practice
- oversee the effectiveness of statutory equality duties on public authorities.

## 9 Annex B: Stage 6 EQIA Reports<sup>93</sup>

9.1 The following sets out Commission advice on Stage 6 EQIA Reports.

Stage 6 of an EQIA is the penultimate stage - see Flowchart below.

**Appendix 3 EQIA Process Flow Chart**



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<sup>93</sup> [Microsoft Word - PracticalGuidanceEQIA1204 .doc \(equalityni.org\)](#)

## **Part 1: What is a Stage 6 EQIA report?**

Stage 6 EQIA report is the '**Decision by Public Authority & Publication of Report on Results of Equality Impact Assessment**'

The **legislation requires:**

'... that in making any decision with respect to a policy adopted or proposed to be adopted by it, the public authority shall take into account any Equality Impact Assessment and consultation carried out in relation to the policy (Schedule 9 paragraph 9 (2)).'

### **Weight given to EQIA during final decision-making**

Public authorities have a statutory duty to have '*due regard*' to the need to promote equality of opportunity & '*regard*' to the desirability to promote good relations.

It is not sufficient merely to take equality into account; it must be accorded considerable weight. That is, the need to promote equality of opportunity must be given due regard or weight in accordance with Section 75.

However, this does not necessarily mean that the equality duty overrides other clearly conflicting statutory duties. Instead, the public authority must act in a proportionate manner and accord weight to both administrative considerations and the statutory equality of opportunity and good relations duties.

Such considerations must be reflected in decision-making on an EQIA.

An equality scheme **commitment to this is included within equality schemes:**

- Model scheme - (see Section 3 paragraph 6) – so must be done.

## **Part 2: What should a Stage 6 EQIA report cover and how should it be published?**

It is **not possible to be prescriptive** in terms of giving guidance on the reporting of EQIA results. Public authorities must publish the results of the initial steps of an EQIA, consultation and decision-making. This should be done in a systematic and consistent manner, at the same time acknowledging that each EQIA will be unique. The format of the published report is likely to vary depending on the nature of the policy under assessment.

Each public authority must publish a report on the results of the EQIA in a **readily accessible form**, paying particular attention to special needs of particular groups within each equality category. This is probably best achieved by presenting a report which includes the elements of data collection, assessment of impacts, consideration of mitigating measures and alternative policies, consultation responses, decision-making and future monitoring plans.



It is likely that a report will have been made publicly available during formal consultation. It is important that the **consultation EQIA is updated** to:

- give reasons for either rejecting or accepting the results of the consultations and
- decision-making

**Timescales:** The EQIA Guide states: ‘... this is communicated to consultees in a timely manner. Public authorities should consider the **two month** consultation period as a timescale for publishing a report on EQIA results **following decision making**.

Most **equality schemes commit to:**

*‘EQIA reports are published once the impact assessment has been completed.*

*These reports include:*

- *A statement of the aim of the policy assessed*
- *Information and data collected*
- *Details of the assessment of impact(s)*
- *Consideration given to measures which might mitigate any adverse impact*
- *Consideration given to alternative policies which might better achieve the promotion of equality of opportunity*
- *Consultation responses*
- *The decision taken*
- *Future monitoring plans’.*

### **Publishing :**

The legislation (Schedule 9 paragraph 9) requires public authorities to publish a report on the results of Equality Impact Assessments. The equality scheme must detail both how and where the report on EQIA results will be published. It is therefore essential that this commitment is fully adhered to.

Most equality schemes state:

***‘How we publish the information - All information we publish is accessible and can be made available in alternative formats on request. Please see 6.3 below.***

***Where we publish the information - The results of our assessments (screening reports and completed templates, the results of equality impact assessments) are available on our website.’***

**\*\* see your equality scheme for other publishing arrangements\*\***

## **Part 3: Stage 6 EQIA report – Recommended structure**

### **1. Executive summary**

The report should begin with an Executive Summary of the results of the EQIA, in particular focusing on any decisions which have been reached and intended outcomes for affected groups.

### **2. A statement of the **aim of the policy** assessed**

The report should contain a Background description of the policy aim, the context within which the policy operates, the scope of the policy and past policy development.

Action: Amend this section of the consultation report based on consideration of the advice from Commission and other consultees.

### **3. Information and data collected**

The first section, Data Collection and Consultation, should outline how data were collected for the EQIA, and will also include reference to consultees along with any other procedures which have been used to draw together pertinent information. Sufficient detail should be provided so that the research procedures could be replicated and the validity of the data confirmed. It should be made clear to all those providing information in relation to an EQIA how that information will be made available subsequently. For example, sensitive monitoring information, focus group interviews and individual interviews may be anonymous, but responses to consultation with representatives will be attributable. More generally, in published reports public authorities should be wary of the possibility of allowing individuals to be identified where inappropriate.

Action: Review and revise this section of the consultation report based on the advice from Commission and other consultees ie some EQIAs only set out the title of data referred to and should set out the Data used.

### **4. Details of the **assessment of impact(s)****

Action: Amend this section of the consultation report based on the advice from Commission and other consultees.

### **5. Consideration given to measures which might **mitigate** any adverse impact**

Clear evidence of the consideration of mitigation of impacts must be apparent, and details of mitigation and plans for its implementation must be included in the final recommendations presented during decision making.

What mitigation/‘changes’ have been considered or made to proposed policy that either address adverse impact or ‘seek out’ opportunities to promote equality of opportunity and good relations.

Action: Amend this section of the consultation report based on the advice from Commission and other consultees

6. Consideration given to **alternative policies** which might better achieve the promotion of equality of opportunity  
Alternative policies must be set out and considered in the EQIA report.  
Justifications must be given if these alternatives for example and have not been accepted

On occasions, the EQIA process may lead a public authority to conclude that the existing policy is appropriate and no opportunities exist to better promote equality of opportunity. However, this conclusion is in itself a decision on the policy and must be made by the public authority, with top level involvement, and arrangements for future monitoring planned and agreed.

Action: Consider and identify potential alternative policies and amend and update the consultation version of the EQIA. The onus is on the public authority to do this; not for consultees to come up with alternatives.

7. Consultation responses

**Action:** Set out the consultation responses and what consideration has been given to further data provided and suggestions for alternative policies/mitigations. The aim of the EQIA is to not only address adverse impacts but also seek out opportunities to promote equality of opportunity and GR

8. *The decision(s) taken*

The decision-making process represents the natural endpoint of the 'Consideration of Measures' and 'Consultation'.

At this point:

- all available information should be combined
- in a decision or decisions on an existing or proposed policy or policies,
- together with the rationale for that decision.
- Decision-making documentation must show how the impact of alternative policies and mitigation, and that the implications for other policies associated with the EQIA were considered.

Those involved in decision-making should have the necessary authority to ensure that any decisions that are made will be implemented. They should have received **awareness raising about Section 75 and have undergone training on the EQIA process** in particular.

A highly structured approach to decision-making may not be possible, given the types of data, both quantitative and qualitative, which will be drawn upon. Nevertheless it is vital that public authorities are able to **record the decision-making process** in case a challenge is made, such as a complaint, and the decision needs to be justified. In addition, public authorities covered by Freedom of Information legislation will be affected by requirements aimed at increasing transparency and promoting the giving of reasons for decision-making.

For example, **relative weights** could be attached to the various data according to their perceived significance, and some description offered as to how these weightings are reflected in the decision-making process, bearing in mind the overall weight which must be accorded to the equality duty as outlined above.

Examples: Decision-Making Taking Account of EQIA Findings

**Promoting Mental Health and Teenage Pregnancy and Parenthood Strategies:** decision taken to account for the needs of particularly vulnerable people (e.g. young males in relation to suicide) in the further development of strategies and action plans.

**Cardiac Surgery and Cardiology Joint Action Plan:** decision taken to amend recommendations on teaching resuscitation skills in alternative settings. The EQIA concluded that teaching in schools and the workplace disadvantaged a number of groups who were either underrepresented or not present within either of these environments.

**Domestic Cleaning:** Armagh and Dungannon Health and Social Services Trust decided to return domestic cleaning services in-house. The EQIA identified clear equality gains to patients at weekends, and benefits for a mainly female, rural-based workforce with dependants.

**Youth Service:** Education and Library Boards decided to pilot outreach projects (with representative groups such as Mencap, Phab, young Travellers, Deaf Youth Association, rural groups) to identify barriers and encourage participation by 19 to 25 year olds, ethnic minorities, LGBT people, people with disabilities and young carers.

**Recruitment and Selection:** Education and Library Boards reduced the number of posts advertised through internal trawl procedures and removed certain eligibility requirements to address barriers to meet the needs of people with disabilities, older people, people with disabilities and ethnic minorities (including Irish Travellers) using information and communication technology.

**Electronic Libraries:** it was decided to introduce positive measures to mitigate adverse impact, including training of library staff to meet the support needs of older people, people with disabilities, and ethnic minorities (including Irish Travellers). The provision of adaptive technology was also agreed to meet the needs of these people using information and communication technology.

On occasions, it may not be possible to satisfy competing demands from various groups, or to ensure that there is no differential impact. However, it is important to ensure that any **decisions which are reached can be justified and are reasonable**.

The EQIA process may lead a public authority to conclude that the **existing policy is appropriate** and no opportunities exist to better promote equality of opportunity. However, this conclusion is in itself a decision on the policy and must be made with top-level involvement, and arrangements for future monitoring planned and agreed.

The following questions may help guide **those managing the decision-making process**:

- Who will play a role in the decision-making process?
- What authority do the decision-makers hold in the public authority?
- What information will inform the decision-making process?
- What weights will be assigned to various pieces of information? How will these weights be determined?
- How is the decision-making process to be structured?
- Will the process involve face-to-face meetings? How many?
- How will the decision-making process be recorded?
- Have all EQIA processes and procedures been adhered to?

The following questions may help **guide those involved in decision-making**.

If a decision is made to introduce or reject measures to mitigate adverse impact or alternative policies then each of the following questions should be considered:

- Have all options been explored?
- How does each option further or hinder equality of opportunity?
- How does each option reinforce or challenge stereotypes which constitute or influence equality of opportunity?
- What are the consequences for the group concerned and for the public authority of not adopting an option more favourable to equality of opportunity?
- How will the relevant representative groups be advised of the new or changed policy or service?
- What are the costs of implementing each option? Will the costs and benefits to the relevant group of implementing the option outweigh the costs to the public authority or other groups?
- Does the public authority have international obligations which would be breached by, or could be furthered by, each of the options? E.g. UNCRPD

The decision-making section should also set out **Key Findings**, which should highlight results that have emerged and should ensure that due consideration is afforded to all nine equality categories. It would be useful to present summary statistics in tables.

The decision-making section should also set out **Conclusions**, should draw conclusions from the results in terms of the policy impact and will outline the decision-making process concerning policy review. This section should state the decisions made by the authority on the basis of the EQIA, for example by way of an action plan with associated timescales.

*Action:* Ensure that the decision-makers have all this EQIA report information as caselaw indicates that they should have all this equality impact information before making decisions.

## 9. Future monitoring plans

*Action:* This section should outline systems, which will be put in place to monitor the Spending Plans actual impacts on the Section 75 groups over a 1-2 year period. What Section 75 monitoring arrangements do we need to put in place to know what the actual impacts of the spending plans are?