

# Effectiveness of the Disability Duties

## Review Report

December 2009

Section 49 of the Disability  
Discrimination Act 1995 (as  
amended by Article 5 of the  
Disability Discrimination  
(Northern Ireland) Order 2006)

Equality Commission

FOR NORTHERN IRELAND



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# 1 Introduction

## 1.1. Overview

The purpose of this paper is to outline the key findings of the review of the effectiveness of the Disability Discrimination (NI) Order 2006 duties (“the disability duties”) on public authorities. It provides an evaluation of progress to date by public authorities and the Equality Commission for Northern Ireland (hereafter “the Commission”) in implementing the duties and sets out the Commission’s recommendations in response to the evaluation. This paper takes account of the Commission’s experience in implementing the disability duties and the findings set out in the ‘Evaluating the Effectiveness of the Disability Discrimination (NI) Order 2006 Duties’ report <sup>1</sup>, based on research contracted by the Equality Commission for Northern Ireland in March 2009.

**Chapter 1** introduces the disability duties within their historical and legislative context. **Chapter 2** provides an overview of the activities undertaken by the Commission in relation to the implementation of the disability duties from 2006-2009. **Chapter 3** outlines how the Commission’s review of the effectiveness of the disability duties was undertaken and **Chapter 4** outlines key findings from the review. Finally, **Chapter 5** provides recommendations for the Commission and public authorities in relation to the implementation of the disability duties.

## 1.2. Background to the disability duties

In Northern Ireland, disabled people account for 18% of all people living in private households in the population<sup>2</sup>. The Commission’s Statement on Key Inequalities<sup>3</sup>, indicates that disabled people in Northern Ireland continue to face a number of inequalities that lead to economic and social exclusion. Disabled people are less likely to have educational qualifications and be in employment than non-disabled people. Disabled people often face inequalities in accessing goods, facilities and services, such as transport, housing, education and training and are under-represented in many areas of public, political and civic life. Many of these inequalities could be influenced by attitudinal barriers as well as physical barriers. Disabled people may face negative attitudes and discriminatory behaviours that

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1 McIlWhan R, Rogers S and Bridge S (2009). Evaluating the Effectiveness of the Disability Discrimination (NI) Order 2006 Duties ECNI:Belfast.

2 NISRA (2007). The Prevalence of Disability and Activity Limitations amongst adults and children living in private households in Northern Ireland: First Report from the Northern Ireland Survey of people with Activity Limitations and Disability. NISRA: Belfast

3 ECNI (2007). Statement on Key Inequalities in Northern Ireland. ECNI: Belfast.

historically has had an adverse impact on disabled peoples right to fully participate in the economic, social and political life of contemporary society<sup>4</sup>.

### 1.3. Historical context of the duties

In 2006, the disability duties were introduced in Northern Ireland to ensure parity of treatment, in terms of legislative coverage, of disabled people in Great Britain and Northern Ireland. In Great Britain, the Disability Equality Duty (DED)<sup>5</sup> was introduced in 2005 under the Disability Discrimination Act 1995 (as amended by the Disability Discrimination Act 2005 and Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005). Many aspects of this general duty were already addressed in Section 75 of the Northern Ireland Act 1998<sup>6</sup>, except for the duty to promote positive attitudes towards disabled people and encourage the participation of disabled people in public life.

Consistent with the policy position adopted in the Commission's 2003 review<sup>7</sup> of the Disability Discrimination Act in Northern Ireland, the Commission was of the view that disabled people throughout the United Kingdom should have parity of treatment with regard to the introduction and implementation of this duty. The aspiration of the Commission was that it would be better to amend the statutory duties on public authorities outlined under Section 75 of the Northern Ireland Act 1998<sup>8</sup>, in order to avoid confusion amongst public authorities and simplify the overall process. However, the effectiveness review of Section 75 was due to be undertaken at that time, which would have resulted in a time lag of several years until implementation. Following discussion between the Commission and the Office of the First Minister and deputy First Minister (OFMdfM), OFMdfM decided to introduce the disability duties as part of a series of amendments made to the Disability Discrimination Act 1995 (DDA), under the Disability Discrimination (Northern Ireland) Order 2006.

According to the Commission's Guide<sup>9</sup>, the intent behind the introduction of the duties is that they should make a "substantial and tangible" difference to disabled people's lives. Promoting positive attitudes and participation in public life could

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4 OFMdfM (2009). Report of the Promoting Social Inclusion Working Group on Disability. OFMdfM:Belfast.

5 Disability Rights Commission (2005). Chapter 2: The General Duty. The Duty to Promote Disability Equality. Statutory Code of Practice. DRC: England and Wales.

6 Section 75 of the Northern Ireland Act. Schedule (1) and (2).

7 ECNI (2003). Enabled?: Recommendations for change to the Disability Discrimination Act in Northern Ireland. ECNI: Belfast.

8 ECNI (2005). Letter in Response to the Draft Disability Discrimination (Northern Ireland) Order (DDO) Consultation Addendum ("the Addendum")

9 ECNI (2007). A Guide for Public Authorities - Promoting positive attitudes towards disabled people and encouraging the participation of disabled people in public life. ECNI: Belfast.

help to address the negative attitudes and under-representation which could impact on the continuing inequalities and social exclusion faced by disabled people.

#### **1.4. The disability duties**

The “disability duties” on public authorities came into force on 1 January 2007 as part of a series of changes to the Disability Discrimination Act 1995 (as amended by Article 5 of the Disability Discrimination (NI) Order 2006),

Under Section 49 of the Disability Discrimination (NI) Order 2006, referred to as “the disability duties”, public authorities, when exercising their functions, must have due regard to the need:

- **to promote positive attitudes towards disabled people, and**
- **to encourage participation by disabled people in public life.**

The disability duties require public authorities to submit to the Equality Commission disability action plans showing how they propose to fulfil the disability duties in relation to their functions. These disability action plans must, as regards form and content, conform to the requirements of chapter 4 set out in the Commission Guide to the disability duties<sup>10</sup>. Public authorities are also required to produce annual progress reports and five yearly reviews of their disability action plans and submit these reports to the Equality Commission.

##### **1.4.1. Role of the Equality Commission**

The Equality Commission has a range of powers and duties in relation to the disability duties which are summarised below:

The Equality Commission has a duty to:-

- provide advice to public authorities and others including disabled people in connection with the disability duties
- keep under review the effectiveness of the disability duties
- to prepare and publish a report on the effectiveness of the duty by the 1 January 2010<sup>11</sup>.

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<sup>10</sup> Ibid

<sup>11</sup> Disability Discrimination Act 1995 - Section 49A (5) (as amended by Article 5 of the Disability Discrimination (Northern Ireland) Order 2006.

The Equality Commission's enforcement duties include:-

- reporting those authorities who do not meet the legal requirements of the disability duties to the Northern Ireland Assembly<sup>12</sup>, including:
  - failure to submit a disability action plan to the Commission by 30 June 2007, or if later, within 6 months of the date of the establishment of the authority;
  - failure to submit a disability action plan (where this has been requested by the Commission, following designation) to the Commission within 6 months of the date of request;
  - failure to submit a revised plan to the Commission within 3 months of the date of the request by the Commission for a revised plan; or,
  - failure of a revised disability action plan to meet the requirements of the Commission's guide
- if a public authority does not meet the legal requirements of the disability duties their action may also be challenged in the High Court in the form of a judicial review by the Commission and others<sup>13</sup>.

The Equality Commission also has a range of powers<sup>14</sup> with respect to the disability duties. For example, it can:

- grant an exemption to a public authority from the duty to produce a disability action plan;
- prepare and issue guidelines to public authorities on how to fulfil their responsibilities in relation to the duties;
- request a public authority to revise its disability action plan and submit the revised plan to the Commission.

### **1.5. Legislative context of the disability duties**

The disability duties were introduced within the context of other anti-discrimination and equality legislation in Northern Ireland, most notably the Disability Discrimination Act (DDA) 1995 (as amended by the Disability Discrimination (NI) Order 2006) and Section 75 of the Northern Ireland Act 1998.

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12 Disability Discrimination Act 1995 - Section 49B (6) (as amended by Article 5 of the Disability Discrimination (Northern Ireland) Order 2006.

13 ECNI (2007). A Guide for Public Authorities - Promoting positive attitudes towards disabled people and encouraging the participation of disabled people in public life. ECNI: Belfast.

14 Ibid.

### **1.5.1. Relationship with the Disability Discrimination Act 1995**

The disability duties were introduced within the legislative framework of the Disability Discrimination (NI) Order 2006 as part of a series of changes made to the DDA. The purpose of the DDA is primarily concerned with measures to eliminate discrimination against disabled people<sup>15</sup> in the areas of employment and the provision of goods, facilities and services, education and transport. The disability duties are positive mainstreaming duties which focus on proactive implementation of a range of measures which change a public authority's way of working, in order to better promote positive attitudes towards disabled people and their participation in public life. While the DDA covers the public and private sectors, the disability duties apply to designated public authorities only.

The disability duties are complementary to the DDA in that they “encourage public authorities to look beyond what they are already required to do under the anti-discrimination provisions of the DDA 1995”<sup>16</sup>. For example, under the anti-discrimination provisions of the DDA, an employer is required to make a reasonable adjustment to assist a disabled person in the workplace and avoid intentional or unintentional discrimination. However, the disability duties require the public authority employer to be more proactive. For example, interviewing all disabled people who meet the essential requirements for an employment position is an example of good practice and a good example of a positive attitude measure under the disability duties as it goes beyond what is required under the DDA.

### **1.5.2. Relationship with Section 75**

Section 75 places a statutory duty on public authorities to have due regard to (take account of) the need to promote equality of opportunity on nine equality grounds, including disability, and to have regard to the need to promote good relations on three equality grounds (not including disability)<sup>17</sup>.

Similar to the duties outlined under Section 75, the disability duties are also positive mainstreaming duties on public authorities and have the same reporting requirements in the form of an annual report and five year review. However, there are a number of differences between the two duties.

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<sup>15</sup> The DDA does contain measures to encourage a proactive approach amongst employers, transport providers and service providers such as the anticipatory duty to make reasonable adjustments.

<sup>16</sup> ECNI (2007). A Guide for Public Authorities - Promoting positive attitudes towards disabled people and encouraging the participation of disabled people in public life. ECNI: Belfast.

<sup>17</sup> Section 75 of the Northern Ireland Act. Schedule (1) and (2).

In relation to the grounds of disability, Section 75 is a symmetrical duty; that is, in relation to the grounds of disability, for example, the duty applies as much to persons without a disability as persons with a disability. However, the disability duties are asymmetrical in nature in that they focus solely on disabled people.

Under Section 75, public authorities are required to produce an Equality Scheme whereas, under the disability duties, public authorities are required to produce a Disability Action Plan outlining how they will meet their duties. Equality schemes and Disability Action Plans must adhere to the form and content of Commission guidance; however, unlike equality schemes, disability action plans do not have to be approved by Commission.

Whilst the Disability Action Plan, by definition, must include actions, there is no requirement under Section 75 to produce an action plan. However, one of the recommendations arising out of the Section 75 review of effectiveness was that public authorities would develop action measures to implement their duties. The revised Section 75 guide will reflect this.

Unlike Equality Schemes, Disability Action Plans must contain action measures with associated performance indicators or targets and a timeline for implementation of action measures. Actions and performance indicators must be focused on producing 'outcomes', that is, tangible and real changes in relation to attitudes towards disabled people and their participation in public life. Unlike Section 75, however, consultation on the development and implementation of disability action plans is not a requirement although the Commission recommends it as good practice<sup>18</sup>.

Therefore, whilst the duties under Section 75 and the disability duties share some common features, they are legislatively two distinct duties with different sets of requirements. However, there are a number of areas where Section 75 and the disability duties are complementary and where similar approaches could be of value to both sets of duties; for example, action measures to meet the disability duties could build upon or be informed by prior commitments made under Section 75 and consultation is crucial for the development of both Disability Action Plans and Equality Schemes.

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18 Ibid

## 2 Implementation of the Disability Duties by the Equality Commission for Northern Ireland 2006-2009

### 2.1. Preparation and dissemination of the Guide

The Commission drafted guidance<sup>19</sup> on the disability duties, following a public consultation exercise with public authorities and disability sector during the period of September - December 2006 and the Guide was amended, published and launched in April 2007<sup>20</sup>. The Commission distributed printed copies to all public authorities and to a wide range of organisations within the disability sector. Electronic copies of the guide were made available on its website and Ezine magazine.

In 2007/2008, the Commission dedicated a small team of staff to overseeing the implementation of the duties. This team conducted a range of activities in relation to the disability duties including:-

### 2.2. Awareness raising and promotion

- **Seminars for Public Authorities**

The Commission hosted two seminars for public authorities to promote awareness of the disability duties and to provide general guidance on the development of the disability action plan. A further seminar was held in Derry/Londonderry hosted by Derry Healthy Cities (Derry City Council) to promote awareness of the disability duties with disabled people prior to the 30 June 2007, the initial submission date for disability action plans. Six sectoral seminars were also hosted specifically for public authorities.

- **Awareness raising events**

During 2007/2008, the Commission also undertook a wide range of speaking engagements (13) to raise awareness of the disability duties. Further, the Commission attended as an observer a series of consultation events organised by public authorities to engage with the disability sector in the development of their disability action plans, including consultation

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19 ECNI (2007). A Guide for Public Authorities - Promoting positive attitudes towards disabled people and encouraging the participation of disabled people in public life. ECNI: Belfast.

20 Ibid

events organised by Department of Social Development, Department of Regional Development, Derry City Council, Belfast City Council as well as attending two public consultation events held jointly by the five Health Trusts. In addition, the Commission delivered internal staff training and awareness-raising sessions on the disability duties (June - December 2007).

### **2.3 Advice and support**

The Commission has carried out a range of proactive and reactive advice work with public authorities and other stakeholders. During 2007/2008, it responded to 382 advice contacts, held 38 advice meetings with public authorities and provided advice to organisations in two sectors (education and health) that had been restructured as a result of the Review of Public Administration.

### **2.4. Compliance and enforcement**

The Commission also produced a range of non-statutory and statutory guidance including templates relating to the form and content of disability action plans. Further work was undertaken to prepare an assessment framework to assess the legislative compatibility of disability action plans in relation to the statutory requirements set out in Chapter 4 of the Commission's Guide on the disability duties. All documentation in this regard was quality assured and consistent standards were applied to communications with all public authorities. A range of advice notes was also developed and prepared and distributed in response to requests by public authorities for assistance in the development of their disability action plans.

- **Submission of Disability Action Plans**

By 30 June 2007, the required submission date for receipt of disability action plans by the Equality Commission, 75% of public authorities had submitted their initial disability action plans. Following correspondence from the Commission, a further 15% of public authorities submitted their disability action plans by September 30, 2007.

- **Review of Disability Action Plans**

The Commission reviewed a sample of 35 disability action plans, selected strategically, from public authorities including Government departments. Feedback on plans was provided to individual organisations

A general feedback seminar on disability action plans was also hosted by the Commission to enhance government departments' knowledge and understanding of the disability duties.

A number of formal requests<sup>21</sup> for revisions were made by the Commission to public authorities whose plans did not conform to the 'form and content' required by the Commission's guidance.

- **Annual reporting template**

In addition, the Commission developed an annual progress reporting template to assist public authorities in the preparation of their annual progress reports, as part of their statutory obligation under the disability duties.

- **Northern Ireland Assembly Report**

The Commission prepared and drafted a Report for the Northern Ireland Assembly outlining those public authorities who failed to submit a Disability Action Plan by 30 June 2007 and a series of recommendations to the Assembly on the way forward. This work also required advice and support to UK wide public authorities in relation to their obligations under the disability duties as distinct from the production of Schemes which are a requirement of the general disability duty in Great Britain. The Report was laid before the Assembly in January 2009.

The Commission continues to oversee the implementation of the duties, through awareness-raising, the provision of advice and support and ensuring compliance with the duties in the manner outlined above.

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<sup>21</sup> as outlined in Disability Discrimination Act 1995 - Section 49B (4a) (as amended by Article 5 of the Disability Discrimination (Northern Ireland) Order 2006

### 3 Overview of the Review of the Effectiveness of the Disability Duties

#### 3.1. Context of the review

The current review of the effectiveness of the disability duties is based on the Commission's experiences in implementing the duties and independent research<sup>22</sup> contracted by the Commission to assist us in evaluating the effectiveness of the disability duties.

The Commission has a statutory duty to prepare and publish a report 3 years after the legislation was implemented, that is, by 1 January 2010<sup>23</sup>. Therefore, the review was carried out at an early stage of implementation for both the Commission and public authorities.

#### 3.2. Overview of the research

In order to assist the Commission to fulfil its statutory duty to prepare and publish a report on the effectiveness of the disability duties by 1 January 2010<sup>24</sup>, the Commission contracted research entitled "Evaluating the Effectiveness of the Disability Discrimination (NI) Order 2006 Duties<sup>25</sup>" in March 2009. The aim of the research was to evaluate the effectiveness of the disability duties, as defined by Section 49A of the Disability Discrimination Act 1995 (as amended by Article 5 of the Disability Discrimination (Northern Ireland) Order 2006).

The research addressed the following objectives:-

- **Objective 1:** The research **developed a framework** for evaluation and related indicators aligned to the scope and intent of the duties.
- **Objective 2:** The research **evaluated progress to date** by the Commission and public authorities against the above evaluation framework.
- **Objective 3:** The research report **made recommendations** for the Commission, public authorities and government, based on the above evaluation, with regards to improving the implementation and impact of the duties and/or changes to the legislation which might further enhance its efficiency and effectiveness.

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22 McIlWhan R, Rogers S and Bridge S (2009). Evaluating the Effectiveness of the Disability Discrimination (NI) Order 2006 Duties ECNI: Belfast.

23 Disability Discrimination Act 1995 - Section 49A (5) (as amended by Article 5 of the Disability Discrimination (Northern Ireland) Order 2006.

24 McIlWhan R, Rogers S and Bridge S (2009). Evaluating the Effectiveness of the Disability Discrimination (NI) Order 2006 Duties ECNI: Belfast.

25 Ibid.

### 3.3. Overview of research methodology

Public authorities were classified into sectors and a random sample of 25 public authorities was selected for evaluation<sup>26</sup>. Disability action plans and annual progress reports from 22<sup>27</sup> of these public authorities were analysed against the framework for evaluation to assess the effectiveness of the implementation of the duties by public authorities. Interviews with relevant Commission staff and an analysis of all Commission activities in relation to their powers and duties was undertaken, to evaluate the Commission's progress in implementing the duties. A sample of 24 public authorities who had been in contact with the Commission were interviewed to further evaluate the quality of advice given by the Commission.

The views of disabled stakeholders on the implementation and expected outcomes of the disability duties were established through three interviews with disability organisations and a focus group with disabled people.

### 3.4. Timing of the review

The timing of the review (after only 3 years) presented a number of limitations in terms of evaluating the impact of the duties on disabled people. Evidence of progress made by public authorities and the Commission, which are outlined in the research findings, were limited to Disability Action Plans and annual reports from 2007-2008, the first year of implementation of the duties. At this stage of implementation, evidence of outcomes for and impacts on disabled people would not be anticipated. Whilst the review did consider outcomes, the weight of the evaluation was focused on the processes put in place to produce outcomes for disabled people.

However, the timing of the review also represents an opportunity for public authorities and the Commission to reflect on progress made in implementing the disability duties and, where appropriate, to intervene to address any areas for improvement.

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<sup>26</sup> Sample of public authorities was proportionate to the size of the sector.

<sup>27</sup> Some of the sampled public authorities were excluded as they had an exemption from the requirement to produce a disability action plan or were covered by another public authority's plan or were a recently merged body under the Review of Public Administration. In evaluating the health sector it became apparent that the health trusts had similar action plans, therefore it was agreed with the project advisory group that only one would be sampled. Of the 22 remaining public authorities, one public authority had yet to submit a disability action plan and was therefore excluded from the analysis of disability action plans and annual progress reports resulting in an actual sample size of 21 public authorities.

## 4 Summary of Key Findings of the Review

The review outlined a number of key findings with regards to positive elements of implementation and areas for improvement for the Commission and public authorities. The key findings drew on the findings of the independent research, contracted by the Commission in March 2009, to evaluate the effectiveness of the disability duties and the Commission's experiences in implementing the duties (including analysis of disability action plans).

### 4.1. Response to the disability duties

The disability duties were announced in June 2006 to take effect on 1 January 2007 and the initial deadline for submission of plans was 30 June 2007. This gave the Commission a short timescale to prepare the Guide to the implementation of the duties (effectively six months) and for public authorities to subsequently respond to the guidance and prepare for the implementation of the duties. Despite the short timescale involved, many public authorities responded positively to the disability duties, through compliance with the deadline for submission of plans and proactive engagement with the Commission on the duties through events, meetings and advice calls.

### 4.2. Positive elements of implementation: Public Authorities

Drawing on the research and the Commission analysis of Disability Action Plans, the review identified a number of positive practices in work undertaken by public authorities to produce their Disability Action Plan and in actions measures identified to meet the disability duties. These included:-

- The appointment of Disability Champions<sup>28</sup>,
- The production and distribution of training packages on disability to other government departments, other public authorities and the community and voluntary sector, free of charge<sup>29</sup>
- The involvement of disabled staff in the production of a Disability Action Plan<sup>30</sup>,
- Actions to encourage others who seek a public authorities' funding to indicate how they would engage with disabled people<sup>31</sup>.

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28 Based on Commission analysis of Disability Action Plans and outlined in ECNI (2008) Presentation made to Government Departments / Local Government Staff Commission on the disability duties. ECNI: Belfast.

29 Ibid

30 Ibid

31 McIlWhan R, Rogers S and Bridge S (2009). Evaluating the Effectiveness of the Disability Discrimination (NI) Order 2006 Duties ECNI: Belfast.

- Provision of work placements for disabled people and recognition and reward of the contribution of disabled people on work placements<sup>32</sup>.
- Active outreach to disabled individuals through initiatives to encourage them to become involved in that public body<sup>33</sup>.
- Seeking the views of disabled staff and the general public through Staff Attitude and Public Surveys<sup>34</sup>.
- Consultation and seeking the views and opinions of disabled people and disabled groups. Of the 21 authorities assessed by the research, 8 provided explicit information on consultation exercises or events with disabled people. Two of these public authorities posted a consultation report on their website<sup>35</sup>.
- Partnership working on Disability Action Plans with other public authorities with similar functions<sup>36</sup>.
- Engaging with disabled people in general policy making and facilitating their access to decision making, thereby challenging the stereotype that disabled people should only be interested in a public authorities disability-related policies<sup>37</sup>.
- Quality of disability-related training verified independently by a disability organisation<sup>38</sup>

An example of a positive initiative designed to promote the participation of disabled people in public life is the “Disability Initiative” run by the local government sector.

In 2008 the Local Government Staff Commission for Northern Ireland, assisted by the Equality Commission for Northern Ireland, Local Councils and the Northern Ireland Local Government Association set up a project designed to increase the number of disabled people working in local councils and the proportion of disabled people getting involved in politics (standing for election or voting at the polls).

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32 Ibid

33 Based on Commission analysis of Disability Action Plans and outlined in ECNI (2008) Presentation made to Government Departments / Local Government Staff Commission on the disability duties. ECNI: Belfast.

34 Ibid

35 McIlWhan R, Rogers S and Bridge S (2009). Evaluating the Effectiveness of the Disability Discrimination (NI) Order 2006 Duties ECNI: Belfast.

36 for example, health trusts - see McIlWhan R, Rogers S and Bridge S (2009). Evaluating the Effectiveness of the Disability Discrimination (NI) Order 2006 Duties ECNI: Belfast.

37 McIlWhan R, Rogers S and Bridge S (2009). Evaluating the Effectiveness of the Disability Discrimination (NI) Order 2006 Duties ECNI: Belfast.

38 Ibid

The project resulted in Disability Champions being appointed in each council to encourage their council to work towards achieving the aims of the project. To achieve its aims, the organisers will plan a series of training and support events designed to provide local councils with the tools to promote the rights of disabled people in local councils.

#### 4.3. Positive elements of implementation: Equality Commission

Drawing on the independent research<sup>39</sup>, the review identified a number of positive elements of the Commission's implementation of the disability duties. These include the following aspects of implementation:-

- The Commission Guidance was considered to be fit for purpose. It was the view of the researchers that the accessibility and structure of the guidance, the jargon free language used and the provision of examples on how public authorities can implement the duties, suggest that the Guide is fit for the purpose of supporting public authorities to implement the duties.
- Commission support and advice was viewed positively by public authorities surveyed who had contacted the Commission for advice. Positive comments made included:

“We absolutely got what we were looking for”

“Incredibly helpful advice and guidance”

The overall average score given to the Commission by public authorities surveyed for helpfulness, effectiveness, accessibility, supportiveness and timeliness of the responses to enquiries was over 8 out of 10. 90% of the public authorities surveyed had had further contact with the Commission or indicated that they would not hesitate to contact them if the need arose.

- The Commission publications on the disability duties are accessible as is its website which meets industry standards on accessibility.
- The Commission has provided all its staff with training and briefing papers on the disability duties.

<sup>39</sup> McIlWhan R, Rogers S and Bridge S (2009). Evaluating the Effectiveness of the Disability Discrimination (NI) Order 2006 Duties ECNI: Belfast.

#### 4.4. Key issues: Areas for improvement

Drawing on the findings of the research and the Commission's experience of implementing the duties, the review identified a number of key areas for improvement. It should be noted that the timing of the review meant that public authorities and the Commission were evaluated at an early stage of implementation (see section 3.4) wherein public authorities were still establishing their understanding of and processes associated with the disability duties.

Issues were themed into three key areas of improvement: awareness and understanding of the duties; advice and support; and compliance and enforcement.

##### 4.4.1. Awareness and understanding

Drawing on the research and the Commission's experience of implementing the duties, the review identified a number of areas for improvement regarding awareness and understanding of the duties amongst public authorities and disabled stakeholders.

##### Public Authorities:

The review identified a number of areas for improvement amongst some public authorities regarding their understanding of the purpose or extent of the disability duties<sup>40</sup>

- **DDA and S75 compliance measures**

Compliance with the disability duties is independent of a public authority's compliance with other disability-related legislation such as the DDA and with Section 75. However, the review identified that many of the action measures outlined in disability actions plans do not go beyond existing compliance provisions of the DDA and S75.

The review identified that whilst many of the actions cited by public authorities within Disability Action Plans are commendable and would contribute to meeting compliance requirements under the Section 75 or the Disability Discrimination Act (for example, improving access to buildings, employment measures), they do not directly contribute to promoting positive attitudes towards disabled people or encouraging the participation of disabled people in public life, and therefore do not meet the requirement of the disability duties<sup>41</sup>.

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40 Ibid

41 Ibid

- **Understanding of public life**

The review identified a misunderstanding amongst public authorities regarding the definition of public life with some public authorities defining public life positions as public appointments. Of the 21 public authorities sampled in the research<sup>42</sup>, 10 made no reference to or stated that they did not have responsibility for public appointments, whilst a further five public authorities were interpreting their public life responsibilities solely in relation to public appointments.

The Commission Guide makes clear that the definition of public life is wider than solely public appointments, and includes “government public appointments; the House of Lords; public bodies’ focus or working groups; community associations or fora; community police liaison committees; neighbourhood watch committees; citizens panels; Local strategic Partnerships; school Boards of Governors, school councils; youth councils; user groups for a service provided by a public authority”.<sup>43</sup> The Commission’s analysis of plans has also noted a predominant focus by public authorities’ on public appointments rather than a broader focus on participation at the local, national and regional level as outlined in the Guide.

- **Development of meaningful outcome-focused actions and performance indicators**

The review identified that there was an issue of awareness and/or understanding regarding the development of indicators amongst many public authorities. The Commission’s Guide states that measures in plans should “...keep in mind the impact that the measure will have on disabled people and the degree in which the measure will be effective. The focus should therefore be on outcome (in terms of the extent it will promote positive attitudes towards disabled people and encourage their participation in public life) rather than outputs<sup>44</sup>”.

However, many performance indicators for actions focused more on producing outputs rather than outcomes. Further, a lack of focus on outcomes means that many actions identified by public authorities are not as effective as they could be in meeting the duties. Only three of the 21

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42 Ibid

43 ECNI (2007). A Guide for Public Authorities - Promoting positive attitudes towards disabled people and encouraging the participation of disabled people in public life. ECNI: Belfast.

44 Ibid

public authorities sampled in the research<sup>45</sup> had produced outcome focused indicators with the majority of public authorities focusing on outputs only. For example, 15 public authorities produced output focused indicators for training - that is, that training had been completed. An outcome indicator in this instance would have been that attitudes towards disabled people had changed amongst staff or would be changed as a result of the training, as measured by, for example, a staff attitudes survey / focus group etc.

- **Consultation with disabled people**

The importance of consultation with disabled people for the development of Disability Action Plans does not seem to be fully appreciated by some public authorities.

Of the 21 public authorities assessed<sup>46</sup>, 8 provided evidence they had consulted or involved disabled people in the production of their Disability Action Plan. However, 13 public authorities provided little evidence of meaningful consultation in terms of the activities undertaken, by reporting in detail on these activities and the outcomes of these activities.

Whilst the content of the legislation does not indicate that consultation is required, the Commission recommends and encourages public authorities to consult fully. This is reflected in the Commission's Guide and in the advice given to public authorities. The lack of evidence on consultation and involvement is a concern as this is a key means by which to develop actions that will impact on disabled people and to ensure that actions are achieving their intended outcomes.

- **Monitoring of outcomes**

There was a lack of focus on monitoring and evaluation of disability action plans. None of the 21 public authorities assessed in the research<sup>47</sup> reported having systems in place to monitor and evaluate their disability action plan as a whole. Indeed, one public authority concluded that "our size militates against any formal measure<sup>48</sup>". This raises significant concerns as the need to establish monitoring mechanisms from the outset is essential for the measurement of the extent to which actions achieve outcomes for disabled people in relation to the duties.

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45 McIlWhan R, Rogers S and Bridge S (2009). Evaluating the Effectiveness of the Disability Discrimination (NI) Order 2006 Duties ECNI: Belfast.

46 Ibid

47 Ibid

48 Ibid

**Disabled stakeholders:**

The review identified a number of areas where there seemed to be areas for improvement regarding raising awareness and understanding of the duties amongst disabled stakeholders.

- **Awareness of the duties**

The research<sup>49</sup> identified an awareness of the duties and a good understanding of what they are meant to achieve amongst their focus group of disabled stakeholders. However, the focus group identified that, whilst there was an awareness of the duties amongst disability activists, there is limited awareness of the disability duties and the benefits of the duties amongst disabled people and the community and voluntary sector.

- **Expectations of disabled people and their representatives**

There was a low level of positive expectations of the duties amongst disabled stakeholders. The research identified a considerable degree of cynicism amongst focus group participants about whether the duties would achieve their purpose. Disabled stakeholders felt that whilst some of the main areas of attitudinal discrimination were in employment and the provision of goods, facilities and services by the private sector, public authorities could set a good example by implementing the duties in their work<sup>50</sup>.

**The Equality Commission for Northern Ireland:**

The review identified a number of areas of improvement for the Commission and public authorities with regard to awareness-raising and engagement with disabled people and their representatives:-

- **Engagement with disabled people and their representatives**

The research<sup>51</sup> identified a desire amongst disabled stakeholders for more proactive engagement and capacity building with the Commission and public authorities regarding the disability duties. There is also a role for public authorities in engaging and capacity building with disabled people and their representatives in relation to fulfilling the duties within the capacity of their role and functions.

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49 Ibid

50 Ibid

51 Ibid

#### 4.4.2. Advice and support

Drawing on the research and the Commission's experience of implementing the duties, the review identified a number of areas for improvement regarding the provision of advice and support by public authorities and the Commission

##### **Public Authorities:**

A number of areas for improvement were identified in regards to the advice and support given by public authorities to staff and office holders on the disability duties and also in relation to the dissemination of information to stakeholders.

- **Training**

The provision of training on disability equality legislation and disability awareness to all staff, office holders, volunteers and partners is a required action measure within disability action plans. The research identified that whilst many of the disability action plans assessed by the Commission or research contained training measures, there was variability in the amount of information given about the content of the training, to whom the training was delivered and whether the training was evaluated.

Whilst 17 of the 21 public authorities sampled in the research<sup>52</sup> had training measures in their action plans, only 6 public authorities provided information on the content of the training. Often training measures did not cover both disability equality legislation and disability awareness or were not provided to all staff, office holders, volunteers and partners as required by the Guide. Three public authorities with training measures in their Disability Action Plan reported in their annual progress report<sup>53</sup> that training was not achieved.

- **Provision of guidance**

Like training measures, the provision of guidance on disability equality legislation, disability awareness and the disability duties to staff, office holders and stakeholders is crucial to ensuring awareness of the disability duties, removing attitudinal barriers and promoting participation in public life.

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52 Ibid

53 Ibid

The research identified a number of concerns regarding the provision of guidance by public authorities. Of the 21 public authorities assessed<sup>54</sup> only five made specific reference to the provision of guidance publications. The provision of guidance and the wide range of issues covered by these public authorities, including aspects of disability equality legislation and a number of disability awareness issues, were viewed positively. However, none of the public authorities assessed provided guidance specifically in relation to the disability duties and only one public authority provided information on how it would be distributed.

- **Dissemination of Disability Action Plans and annual progress reports**

The research identified that whilst Disability Action Plans were often available on the websites of public authorities, annual progress reports were often not readily available. Commission guidance states that a copy of the disability action plan and annual progress report should be made available on public authorities' websites and they should ensure their websites are accessible to disabled people. Whilst 18 of the 21 public authorities sampled in the research<sup>55</sup> had their disability action plan on the website, none of the public authorities had their annual progress report on their website as outlined in Commission guidance. Discussion with disabled people and their representatives highlighted a lack of accessible formats not just in relation to disability action plans, but more widely as this creates barriers to participation.

The legislation also states that a Disability Action Plan shall include details of how it will be published<sup>56</sup>. The research found little evidence of wide dissemination of plans, with 16 of the 21 public authorities sampled<sup>57</sup> making no reference to the dissemination of their disability action plan.

### **The Equality Commission for Northern Ireland:**

The review identified areas for improvement regarding the support and advice provided by the Commission to public authorities and disabled people and their representatives.

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54 Ibid

55 Ibid

56 Disability Discrimination Act 1995 - Section 49B (4c) (as amended by Article 5 of the Disability Discrimination (Northern Ireland) Order 2006).

57 McIlWhan R, Rogers S and Bridge S (2009). Evaluating the Effectiveness of the Disability Discrimination (NI) Order 2006 Duties ECNI: Belfast.

- **Provision of statutory and non-statutory guidance**

The research identified issues with the dissemination of Commission non-statutory guidance in the form of advice notes on the disability duties. These were initially produced for government departments following briefing sessions with them. Although these advice notes were distributed in response to multiple advice queries, where appropriate, it was intended that the advice notes could be more widely disseminated to all public authorities as self auditing tools on action plans. It was the view of the researchers<sup>58</sup> that wider dissemination of these advice notes would provide public authorities with further information on the disability duties. The research also established a need for the Commission to update its external communications on its website regarding the disability duties.

- **Provision of feedback on Disability Action Plans**

The Commission has no legislative requirement to approve plans, as it does with Equality Schemes under Section 75; however, there has been some criticism that widespread feedback had not been received by public authorities after the submission of disability action plans.

The research showed that, whilst some respondents to the survey of public authorities indicated that they had received “...helpful and timely responses to specific requests for advice and guidance..[from the Commission],...they would also have expected some feedback on the disability action plans which they subsequently submitted and were disappointed when none was forthcoming<sup>59</sup>”.

Whilst not a legislative requirement the provision of feedback on Disability Action Plans is important as a learning tool and as a means of further supporting public authorities to meet the duties.

- **Review of annual progress reports**

The Commission has received annual progress reports on the disability duties since 2008. The research undertaken as part of the evaluation of the effectiveness of the duties represented the first review conducted on a sample of these reports. Whilst there is no legislative requirement to review annual progress reports, this is a key means of monitoring the effectiveness of the legislation and should be considered by the Commission.

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58 Ibid

59 Ibid.

### 4.4.3. Compliance and enforcement

Drawing on the research and the Commission's experience of implementing the duties, the review identified a number of key areas of improvement in relation to compliance with and enforcement of the disability duties by public authorities and the Commission.

#### **Public Authorities:**

The review identified areas for improvement for public authorities in regards to the compliance with the disability duties.

- **Compliance with deadlines for the submission of plans**

The review established that 90% of public authorities had submitted a disability action plan to the Commission by the 30 September 2007<sup>60</sup>. By the date of the first report on compliance to the Northern Ireland Assembly, eight public authorities had still to submit a disability action plan. Whilst initial compliance with submission of plans was good, there are a number of outstanding issues regarding public authorities' compliance with the submission of new plans where old plans have expired or where exemptions are out-of-date.

As emphasised in the Commission's report to the Northern Ireland Assembly<sup>61</sup> compliance with the disability duties is a statutory obligation and, in an area as important as disability, merits serious attention by all public authorities.

- **Compliance with Commission guidance on the form and content of plans**

A number of key areas of improvement were identified by the research and by Commission analysis of disability action plans in relation to compliance with the Commission guidance on the form and content of plans.

Of the 35 plans assessed by the Commission, only 5 met the minimum requirements on form and content of plan as set in Chapter 4 of the Commission's Guide. Many disability action plans sampled in the research<sup>62</sup> broadly met the requirements regarding the form and content of

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60 Ibid

61 ECNI (2009). Equality Commission for Northern Ireland Report to the Assembly: Public Authorities who failed to comply with the Disability Discrimination Order 2006 requirement to produce and submit a 'Disability Action Plan' to the Commission, by the first required submission date of 30 June 2007. ECNI: Belfast. Date laid before the Northern Ireland Assembly: 13 January 2009.

62 McIlWhan R, Rogers S and Bridge S (2009). Evaluating the Effectiveness of the Disability Discrimination (NI) Order 2006 Duties ECNI: Belfast.

the introductory statement and many public authorities had used the Commission template for guidance. However, a number of areas of improvements were identified regarding action measures - the key elements of the plan.

Some constructive positive attitudes action measures were identified in relation to the provision of training; however, very few additional positive attitudes measures were identified by public authorities<sup>63</sup>. For example, only 4 of 21 public authorities identified actions to promote positive attitudes towards disabled people among staff, office holders, volunteers and partners and none of the 21 public authorities took actions to review internal and external communication policies, practices or procedures and only 6 of 21 public authorities took actions to recognise and value the contribution of disabled people in and outwith the organisation.

Whilst the majority of public authorities assessed had considered recruitment to public life positions, few commented on the process of participation in public life more generally. For example, only one of 21 public authorities sampled<sup>64</sup> identified removing specific barriers to participation. Very few public authorities created actions to encourage others to promote the participation of disabled people in public life, with 13 of 21 public authorities providing no actions at all and 5 reporting actions which were not relevant to encouraging others<sup>65</sup>.

The action plans assessed by the research and by the Commission indicated that the majority of public authorities focused on public appointments rather than wider public life positions.

Action measures were often associated with little evidence of meaningful, outcome-focused performance indicators and the information provided on timescales was often not sufficient to assess whether timescales were realistic or whether actions had been prioritised according to their impact on disabled people, as outlined in Commission guidance.

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63 Ibid

64 Ibid

65 Ibid

- **Implementation of action measures**

A key concern identified by the review was where public authorities had identified action measures and then failed to deliver on most or all of these. For example,<sup>66</sup> research assessment of annual progress reports indicated evidence of public authorities reporting progress on, for example, 3 or 4 out of 12 actions or reporting progress where little could objectively be said to exist.

This indicates that public authorities may not be setting realistic or achievable action measures or targets or may not be effectively mainstreaming the duties into their work or are not investing sufficient resources or high level commitment into the delivery of action measures. This view is evidenced by the comments of disabled participants in the research who emphasised the need for public authorities to focus on a small number of outcome-focused achievable targets in their disability action plans. The research emphasised a need for public authorities to strike a balance between the number of actions set, a focus on outcomes, the setting of realistic targets and the resources they have to deliver.

### **The Equality Commission for Northern Ireland:**

The review identified a number of key areas of improvement in relation to monitoring compliance by public authorities and enforcement of the disability duties by the Commission.

- **Compliance: Enforcement of submission of plans**

The Commission submitted a report to the Northern Ireland Assembly in January 2009 regarding those public authorities who have not complied with the legislation regarding the submission of disability action plans<sup>67</sup>. Further strategic compliance work is required<sup>68</sup> in relation to outstanding issues regarding public authority's compliance with the submission of new plans where old plans have expired, UK-based public authorities who have submitted GB Disability Equality Schemes instead of Disability Action Plans or where exemptions are out-of-date.

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66 Ibid

67 ECNI (2009). Equality Commission for Northern Ireland Report to the Assembly: Public Authorities who failed to comply with the Disability Discrimination Order 2006 requirement to produce and submit a 'Disability Action Plan' to the Commission, by the first required submission date of 30 June 2007. ECNI: Belfast. Date laid before the Northern Ireland Assembly: 13 January 2009.

68 McIlWhan R, Rogers S and Bridge S (2009). Evaluating the Effectiveness of the Disability Discrimination (NI) Order 2006 Duties ECNI: Belfast.

- **Compliance: form and content of plans**

In the period under review, the Commission undertook a strategic review of the form and content of disability actions plans and began a programme of work relating to those who did not meet the form and content of Chapter 4 of its Guide, including the issue of formal letters. The Commission reviewed 35 disability action plans for form and content in the period under evaluation. Of those plans, 5 were considered to meet the minimum requirements of the guidance and 3 government departments were issued with formal revision letters. The research<sup>69</sup> concluded that the review of Disability Action Plans and annual progress reports is a key element of assessing compliance with the form and content of the Commission's Guide and monitoring the implementation of the duties.

- **Enforcement: Legislative powers**

The review identified a number of issues regarding the Commission's legislative powers and the use of those powers. The Commission has limited formal powers of enforcement regarding the disability duties - reporting non-compliance to the Northern Ireland Assembly and Judicial Review. It is the view of the researchers that the lack of formal enforcement powers, essentially only being able to name and shame public authorities in the report to the Assembly has impacted on the ability to "effect meaningful action where a public authority has not taken steps to comply with its duties<sup>70</sup>". The research concluded that public authorities should address the disability duties "with similar gravitas to other laws, proportionate to the size and remit of the public authority".

The research<sup>71</sup> concluded that, whilst the Commission has limited enforcement powers it should be more robust in using the powers it does have. This was evidenced by the view of disabled stakeholders in the research who emphasised that the Commission needs to be more robust in promoting its recommendations and actions in relation to the disability duties and needs to utilise the compliance and enforcement powers it has more effectively.

- **Compliance and enforcement: Integration with Section 75**

The research<sup>72</sup> identified that the legislative separation of the disability

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69 Ibid

70 Ibid

71 Ibid

72 Ibid

duties from Section 75 and/or the DDA has created confusion amongst public authorities and bureaucracy for them and for the Commission.

The review acknowledged that steps have been taken by the Commission towards aligning Section 75 with the disability duties; for example, by aligning the annual reporting template and timescale for reporting on the disability duties with Section 75. However, in the view of the researchers<sup>73</sup>, the disability duties would have been more coherent if they had been introduced as part of the Section 75 duties.

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73 Ibid

## 5 Recommendations

### 5.1. Context of recommendations

The review set out recommendations which will form the basis of the Commission's response to the review of the effectiveness of the disability duties and are aligned to the key themes arising from the findings of the evaluation. The recommendations are based on the findings and recommendations of the independent research and the Commission's experience of implementing the disability duties. Whilst the timing of the review presented a number of limitations in regards to the evaluation of the effectiveness of the duties (see section 3.4), it also presents an opportunity to address recommendations for improvement at an early stage of implementation which will impact on the future effectiveness of the legislation.

### 5.2. Awareness raising and promotion

#### Recommendations for Commission:

- **Recommendation 1:**  
The Commission should consult on and widely disseminate this effectiveness review and undertake a launch to raise awareness of the disability duties and the issues identified in the review with public authorities, disabled people and their representatives.
- **Recommendation 2:**  
The Commission should undertake awareness-raising with disabled people and their representatives on the disability duties and will encourage public authorities to build capacity with disabled people as part of their commitment to the disability duties.
- **Recommendation 3:**  
The Commission should undertake a training and/or awareness raising program for public authorities on the disability duties. This will address the issues of understanding and awareness raised by the review.

#### Recommendations for Public Authorities:

- **Recommendation 4:**  
Public authorities are recommended to consult with disabled people and their representatives in relation to their disability action plans. Public authorities should ensure that they seek the views of disabled people

rather than focusing solely on representative organisations and should seek to engage with disabled people not only on disability issues but also on wider policy issues that affect the general population.

- **Recommendation 5:**  
Public authorities should ensure that Disability Action Plans and annual progress reports are publicly available, including easily accessible on their website, as stated in the Guidance and that these documents and the website are fully accessible to disabled people. Public authorities should ensure that they widely disseminate and publicise their disability action plans.

### 5.3. Advice and support

#### Recommendations for Commission:

- **Recommendation 6:**  
The Commission should review plans and proactively engage with public authorities in a strategic manner, to provide timely and effective feedback on disability action plans. Those public authorities whose functions are likely to have the greatest impact in relation to the implementation of the duties will be prioritised.
- **Recommendation 7:**  
The Commission should review and more widely disseminate its advice notes, on specific areas of the duties, to public authorities and other stakeholders to further support them in implementing the disability duties.
- **Recommendation 8:**  
The Commission should review annual progress reports, as and when appropriate, in relation to its strategic and prioritised focus.
- **Recommendation 9:**  
The Commission should maintain its advice and support role to public authorities and the disability sector.
- **Recommendation 10:**  
Where possible, the Commission should seek to provide greater coherence between the protocols and advice-giving functions of the disability duties and that established for Section 75 and the anti-discrimination aspects of the DDA 1995. This will be undertaken to achieve clarity and consistency of advice-giving to public authorities in relation to the two positive duties.

## Recommendations for Public Authorities:

- **Recommendation 11:**  
Public authorities should ensure that training provision for staff and office holders addresses both disability equality legislation (including training on the disability duties) as well as disability awareness. Public authorities may also wish to consider disabled people as potential providers of training provision particularly in relation to language and disability etiquette; this measure would be reflective of both the disability duties.
- **Recommendation 12**  
Public authorities should ensure they comply with the requirement to issue guidance documentation on disability equality legislation (including the disability duties) and disability awareness to staff and office holders.

## 5.4. Compliance and enforcement

### Recommendations for Commission:

- **Recommendation 13:**  
The Commission should review Disability Action Plans on a strategic basis and assess these for compliance in the areas outlined in the legislation, including:
  1. the submission dates of Disability Action Plans<sup>74</sup>; and,
  2. the form and content of Disability Action Plans<sup>75</sup> as set out in Chapter four of the Commission's Guide<sup>76</sup>.
- **Recommendation 14:**  
The Commission should request revisions to plans that do not in its assessment meet the form and content of plans as set out in chapter 4 of the Commission's Guide. Where revised plans still fail to be submitted or do not meet the requirements above, the Commission will move to use its enforcement powers to report these public authorities to the Northern Ireland Assembly as covered by the legislation<sup>77</sup>.

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74 Disability Discrimination Act 1995 - Section 49B (6a) (as amended by Article 5 of the Disability Discrimination (Northern Ireland) Order 2006)

75 Disability Discrimination Act 1995 - Section 49A (4) (as amended by Article 5 of the Disability Discrimination (Northern Ireland) Order 2006).

76 ECNI (2007). A Guide for Public Authorities - Promoting positive attitudes towards disabled people and encouraging the participation of disabled people in public life. ECNI: Belfast.

77 Disability Discrimination Act 1995 - Section 49B (6) (as amended by Article 5 of the Disability Discrimination (Northern Ireland) Order 2006)

## Recommendations for Public Authorities:

- **Recommendation 15:**  
Public authorities should ensure that their disability action plans are submitted on time, when previous plans cease to exist, to ensure they are in compliance with the legislation.
- **Recommendation 16:**  
Public authorities should ensure that they develop plans that meet the form and content of the Commission's statutory guidance on the disability duties when developing their Disability Action Plan to ensure they are in compliance with the legislation. They should take account of the different statutory and non-statutory recommendations and good practice examples. In particular, public authorities should develop realistic and achievable outcome-focused action measures and performance indicators which are mainstreamed into the work of the organisation.
- **Recommendation 17:**  
Public authorities should provide visible leadership at the highest level in relation to the disability duties. It is recommended that public authorities;
  - set a clear commitment in principle and in practice, to the allocation of resources to their disability action plans;
  - ensure ownership of specific actions within their plan is allocated to an appropriate senior level of responsibility; and resources are allocated where it is not possible to mainstream the duties.
  - ensure the implementation of their disability action plan is reviewed on an ongoing basis at the highest level within the decision-making structure.
- **Recommendation 18:**  
Public authorities should review and create opportunities to promote the participation of disabled people in public life which go beyond existing mechanisms such as public appointments or other pre-existing decision-making structures, at all levels including national, regional and local.
- **Recommendation 19:**  
Public authorities are recommended to monitor and evaluate their disability action plans given that monitoring is crucial to the evaluation of outcomes and actions within plans.

## Recommendations for Government

- **Recommendation 20:**  
The Commission should work with the Office of the First Minister and deputy First Minister and Northern Ireland Assembly to maximise the effectiveness of its enforcement powers relating to the reporting of public authorities who fail to meet the requirements of the disability duties either in terms of form and content or meeting submission deadlines.
- **Recommendation 21:**  
The Commission should seek to achieve change in relation to more effective coherence between Section 75 and the disability duties legislation and make its enforcement powers more robust through the process of legislative review.

### 5.5. Conclusions

This review of the effectiveness of the disability duties has outlined a number of findings and recommendations on the implementation of the disability duties by public authorities and the Commission, aligned to the themes of awareness-raising and promotion, advice and support and compliance and enforcement.

#### 5.5.1. Awareness raising and promotion

The review indicated that there are issues in regards to the implementation of the duties by public authorities, including the use of the guidance, consultation, the setting of action measures and performance indicators, the coherence with other legislative duties and the monitoring of outcomes.

A programme of ongoing awareness raising and promotion by the Commission regarding the implementation of the disability duties could address many of these issues and increase compliance through the provision of knowledge and good practice to public authorities. A programme of awareness-raising should also impact on public authority's engagement with and commitment to the duties.

Findings of the review indicated limited awareness of and engagement with the disability duties amongst disabled people. Awareness raising and promotion of the disability duties amongst disabled people by the Commission is crucial for the effective implementation of the duties and the achievement of outcomes. Actions resulting in the engagement of disabled people would assist in creating positive expectations of the duty and enable disabled people to more effectively utilise the duties to effect change in society.

### **5.5.2. Advice and support**

Whilst the majority of public authorities complied with submission deadlines for Disability Action Plans, many plans did not comply with the form and content of Chapter four of the Guidance. Actions that will encourage public authorities to address the statutory requirements and non-statutory recommendations of the Commission's Guide and to implement actions within their plans will assist in the effective implementation of the disability duties.

There is no legislative requirement for the Commission to approve Disability Action Plans or review annual progress reports. However, feedback on disability action plans and annual progress reports is crucial for the effective implementation of the duties, through the provision of learning and greater understanding, and for the monitoring of outcomes. Actions that will enable the Commission to effectively engage with and feedback to public authorities on their action plans and progress reports will not only influence the implementation of the duties but will build effective relationships with public authorities.

In addition, whilst the findings of the research indicated that the Commission's statutory Guidance on the duties was fit-for-purpose, public authorities would benefit from further written advice notes on non-statutory advice and the development of up-dates using communications systems (e.g. website; Ezine).

### **5.5.3. Compliance and enforcement**

Findings and recommendations from the review have indicated a need for the Commission to follow up on compliance issues and utilise its powers more effectively. Actions, such as the strategic review of disability action plans, the tracking of compliance and the tracking of outcomes from the laying of reports to Assembly could ensure greater compliance by public authorities with the legislation.

A lack of coherence between the disability duties and other positive statutory duties such as Section 75 was identified in the findings. It is the Commission's view that integration between the work of the disability duties and Section 75 team, as recommended by the review, would result in greater coherence in advice giving. Actions such as integration of disability duties and Section 75 processes and advice giving will enable the Commission to move towards greater integration of work on the disability duties and Section 75.

#### **5.5.4. Next steps**

The Commission will seek the views of stakeholders including public authorities, the community and voluntary sector, disabled people and their representatives, in relation to the recommendations of the review. This will be used to form the basis of the Commission's strategic response to the review of the effectiveness of the disability duties.



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Equality Commission

FOR NORTHERN IRELAND