



**Proposals to amend the Commission's advice to
public authorities on:
Timescales for consulting on matters relevant to the statutory
equality and good relations duties**

Consultation Report

4 July 2016

Contents

1. Summary of consultation process undertaken	3
2. Consultation findings	3
3. Analysis and Key Themes	4
4. Commission response and decision	5
Appendix 1 – Summary of consultation responses	6
Appendix 2 – Report of consultation event, 26 April 2016	13
Appendix 3 – Commission consultation document	15
Appendix 4 – Evidence provided by Consultees	27

1. Summary of consultation process undertaken

- 1.1. The Commission identified the need to consider its advice on the arrangements in an Equality Scheme for consultation. In January 2016 the Commission decided to consult on one option to amend one paragraph in the Commission's *Section 75 of the Northern Ireland Act – A Guide for Public Authorities (2010)*.
- 1.2. The option presented was an amendment to one of the nine consultation principles set out in the Guide (see Appendix 3); with the removal of the current reference to consultation periods lasting for a minimum of twelve weeks. The proposed amendment referred to adequate time being allowed for consultation to enable consideration and response.
- 1.3. The Commission consulted on this between 7 March and 9 May 2016, providing a written document and questionnaire for responses; an online survey for completion of the questions and meetings to discuss the proposals.

2. Consultation findings

- 2.1. The Commission received 18 written responses, using the online survey, the questionnaire template and other formats. The responses from 10 organisations, as members of the Equality Coalition, were received through a consultation meeting and are represented in the following table as a single summary (see Appendix 1).
- 2.2. Of the written responses, one represented 8 further health and social care organisations; and one team within an organisation responded in addition to the organisational response. Written responses were also received from two individuals.
- 2.3. In addition, organisations were represented at the Commission's consultation event held on Tuesday 26 April 2016, and themes from this discussion are included in the analysis (see Appendix 2).
- 2.4. The consultation exercise did not present a consensus for adopting the proposed amendment, and on balance more consultees were opposed to the change than in favour of it.

3. Analysis and key themes

Implementation of Equality Scheme commitments

- 3.1. A common theme raised was concern about the implementation of a number of Equality Scheme commitments linked to assessment and consultation.
- 3.2. Adherence by public authorities to a number of the principles set out in the Guide and a number of issues of concern on consultation practices in relation to fulfilling the statutory equality and good relations duties were raised. It was noted that other issues should also be looked at further, not just timescales. A query was raised on why consultation timescales had been prioritised for consideration alone.

Consultation practices in general and the balance between flexibility and effective engagement

- 3.3. The balance between ensuring appropriate, flexible practices in consultation, and the perceived adequacy in practice of whether stakeholders can effectively engage was a clear theme.
- 3.4. In the majority of responses, there were comments about how the proposed amendment would impact on wider consultation issues and practices. There was a widespread perception that Equality Scheme commitments and Commission guidance, while relating to the fulfilment of the statutory equality and good relations duties specifically, have an influence on consultation practice, or the encouragement of practice. The commitments in Equality Schemes are seen to apply in much wider circumstances than, for example, when public authorities are presenting an equality impact assessment for consultation.
- 3.5. A number of consultees were in favour of the proposals to remove the timescale, and also agreed with the proposed amended wording. Where comments were made, they reflected that the amendment would enable alignment with the Stormont House Agreement proposals, or it was considered to enable greater flexibility in consultation. In one case twelve weeks was considered to be too prescriptive.
- 3.6. Those who responded to the consultation exercise noted the variations in practice and identified concerns about poor practice in consultation exercises. This included practitioners in public authorities. There were a range of comments about the importance of and commitments to engagement and consultation –

whether to aid policy development, to ensure accountability, to help shape service delivery, for transparency, or underlining the importance of participation and involvement. Points about the importance of clarity and certainty in advice on consultation practice came through strongly as a theme.

- 3.7. Comments were made that it is not the timescale of consultation which is key, but the quality of the exercise. However, the point was made in several responses that, while there remain concerns that wider practice is not as it could be, the removal of a timescale in the Commission's advice could undermine good practice and implicitly condone a minimalist approach.

Risks in the removal of a timescale from the Equality Scheme arrangements

- 3.8. The majority of consultees either commented on the risks of inconsistency with the removal of the timescale, or argued about the importance of a timescale to ensure consistency and clarity in approach. The timescales proposed were both 12 weeks and 8 weeks (as a minimum).
- 3.9. In the consultation event, a meeting with the Equality Coalition and in a number of written responses, comments were made about the proposed wording of adequate, relevant and proportionate in the Commission's proposed wording. The consensus was that such terms would need to be clearly defined. The emphasis in the comments is the need for clarity and the benefits of common standards that public authorities can use consistently.
- 3.10. Consultees also highlighted the risks of applying wording which could divert attention from the purpose of the consultation, to challenges in relation to the processes – e.g. what is adequate in the circumstances?

4. Commission response and decision

- 4.1. Following consideration of the comments received, the Commission decided not to amend its advice as set out in the consultation document. The Commission confirmed that the advice will remain as it is currently, as an interim measure, pending a planned review of the Section 75 duties scheduled by the Commission during the coming three years.

Appendix one

Summary of consultation responses¹

	Organisation/ individual	On behalf of	Q1 other Evidence?	Q2 – agree with proposal to remove timescale? ²	Q3 agree with proposed wording?	Q4 suggestions for alternative wording?	Q5 comments on practical implications?	Q6 any other comments?
1.	Anonymous		No	Yes	No	No		
2.	Anonymous – individual		No	No	No	need timeframe Yes, but not publicised well enough	No	Hope to be listened to.
3.	Belfast City Council		No	?		8 weeks timeframe proposal with detailed wording	Consistency needed	Reference to policy development processes and having plans
4.	Department of Justice		No	Yes				
5.	Disability Action		Yes – one example given	No				
6.	Equality Coalition	10 members at	Yes –	No				

¹ The information provided by consultees has been summarised for presentation in these tables; consultees have been notified of their organisation being identified in this report.

² Not all respondents answered the questions asked directly. For analysis of question 2, a response to this question has been assumed in all cases from the information given in the response, and the use of “?” indicates that there were a number of comments made which couldn’t be interpreted as a clear yes or no; the comments are reflected in the second table.

	Organisation/ individual	On behalf of	Q1 other Evidence?	Q2 – agree with proposal to remove timescale? ²	Q3 agree with proposed wording?	Q4 suggestions for alternative wording?	Q5 comments on practical implications?	Q6 any other comments?
		meeting (see also Disability Action)	general examples given					
7.	HSC Business Services Organisation	8 other health and social care bodies (see also PHA PPI Team)		No				
8.	Lisburn and Castlereagh Council		No	?	Subject to interpretati on		Query on how would work if alternate scheme arrangements adopted	Links to recent screening/ EQIA review?
9.	Livestock and Meat Commission		No	Yes	Yes	No	No	No
10.	Mid Ulster Council		No	Yes				Please consider all other matters on consultation in ECNI guidance
11.	NI Assembly		No	?	Definition of terms needed		Need to consider impact on screening/EQI	

	Organisation/ individual	On behalf of	Q1 other Evidence?	Q2 – agree with proposal to remove timescale? ²	Q3 agree with proposed wording?	Q4 suggestions for alternative wording?	Q5 comments on practical implications?	Q6 any other comments?
							A guidance as well	
12.	NICCY		No	No				
13.	Office of civil service commissioners		No	Yes	No objection	No	None	None
14.	OFCOM		No	Yes	Yes		No	No
15.	Probation Board for NI		No	No	Yes	No	No	Support for early engagement and use of social media
16.	Public Health Agency – PPI Team		S19 & 20 of the HSC Reform Act	No	NO	scope for interpretation	Risks of need for clarity and therefore JR	If adopted, too general
17.	South Eastern Health and Social Care Trust		S19 & 20 of the HSC Reform Act	No	no	ECNI to recommend set timescale – minimum 8 weeks		
18.	Western Health and Social Care Trust		S19 & 20 of the HSC Reform Act	no	no	Minimum 8 weeks		
19.				no	no	Minimum 8 weeks		

	Organisation	Points made on the proposals
1.	Anonymous	
2.	Anonymous – individual	<ul style="list-style-type: none"> • Recognising need for consistency and difficulties for managing without timescale
3.	Belfast City Council	<p>DRAFT response</p> <ul style="list-style-type: none"> • Council has consultation framework taking four issues identified in paper into account, working with current Equality Scheme commitment • Endorse “adequate” time • Length of consultation does not determine whether meaningful or appropriate • Significance of consultation itself as process of transparency and accountability • Need for timeline still for consistency and internal administrative/external purposes
4.	Department of Justice	<ul style="list-style-type: none"> • Comfortable with removal, noting no conflict with Stormont House Agreement proposals for maximum 8 weeks for policy consultation • Noting role of pre-consultation to help reduce timelines for formal consultation, and wording on remainder of paragraph – exceptional circumstances etc – can be accommodated in normal review processes
5.	Disability Action	<ul style="list-style-type: none"> • Proposal too open to selective interpretation and inconsistency • Concerns with current consultation practices, absence of monitoring data and emphasis on sector to push for proper engagement • Risks reducing involvement of individuals • Need for flexibility, but robust guidance with definitions • If other elements of mainstreaming in place etc, shorter timescales could work, but risks as not seeing this • Noting one part of wider principles, but seeing this as having potentially considerable impact. • Consultation principles and points given regarding people with disabilities
6.	Equality Coalition	<p>Key issues discussed included:</p> <ul style="list-style-type: none"> • There are other pressing issues on consultation and this not the priority • The practical difficulties now of accessing consultations which would be compounded with the removal of a deadline • The paucity of the evidence/data presented supporting the proposals and time required for research to enable response

	Organisation	Points made on the proposals
		<ul style="list-style-type: none"> • The risks of greater inconsistency of practice with the removal of a timescale, and the associated risk of displacement activity on what is adequate and proportionate rather than focus on the policy proposals/outcomes • The absence of data and monitoring information to inform proposals on equality matters, despite 15 years of the duties being in effect
7.	HSC Business Services Organisation	<ul style="list-style-type: none"> • Importance of participation • 12 weeks valued by organisation • Proposals don't provide clarity • Already give consideration, and flexibility already contained in guidance • A timescale is helpful • Appropriate and proportionate are subjective terms • Risks of opening up challenges which are unnecessary
8.	Lisburn and Castlereagh Council	<ul style="list-style-type: none"> • Welcome flexibility, but concern on different interpretation of adequate. Scope for different application, including ECNI, and so raises risks of complaints • Proposes 8 weeks until concerns on all matters discussed and standardized approach agreed. • Noting Supreme Court considers other points, not just timeline
9.	Livestock and Meat Commission	
10.	Mid Ulster Council	<ul style="list-style-type: none"> • Strongly welcome proposed amendment • Recognise importance of consultation, Council commitment to engagement and listed purposes/benefits • That consultation must be proportionate and targeted – more than box ticking • Welcome that this would result in ECNI advice being less prescriptive and unlock opportunities for more meaningful engagement • Would welcome further review of Commission guidance to give greater autonomy to public authorities in this
11.	NI Assembly	<ul style="list-style-type: none"> • It is the quality of the engagement not the timescale – 8 weeks can be appropriate • Need to define terms in proposal, particularly proportionate and adequate • Detailed suggestions to consider for clarification of terms such as “adequate” • Queries raised on the wording of the remainder of the paragraph presented in the Guide

	Organisation	Points made on the proposals
12.	NICCY	<ul style="list-style-type: none"> • Noting duties on State arising from UN Convention on the Rights of the Child – their needs to be considered, and opportunity to be heard • Experience that children and young people are not routinely engaged with • Principles still apply from ECNI guidance for consultation with children and young people • Child friendly versions tend to be produced late in a consultation period • Risks of undermining s75 obligations generally
13.	Office of civil service commissioners	<ul style="list-style-type: none"> • No objection to removal of timescale from wording • Revised advice should highlight the importance of reasonable measures to reach and include marginalized and other groups
14.	OFCOM	
15.	Probation Board for NI	<ul style="list-style-type: none"> • No, the Probation Board for Northern Ireland (PBNI) disagree with the proposal to remove a specific timescale and believe a new recommended consultation period of up to eight weeks should be introduced
16.	Public Health Agency – PPI Team	<ul style="list-style-type: none"> • Proposals will be open to varied interpretation • Benefits of support to officers of timescale, and consultees • Timescales have a bearing on what is required under duty to involve as set out in the Health and Social Care (Reform) Act (Northern Ireland) 2009, section 19 and 20 requirements • Experience suggests where timescales are in place, they are adhered to. To remove them risks devaluing the role of consultation, limiting opportunities for meaningful engagement • Proposed wording will indicate that ECNI is advocating for public bodies, enabling them to make unpopular decisions without any involvement/engagement • Consideration should be given to examples of what “adequate” means, with examples given
17.	South Eastern Health and Social Care Trust	<ul style="list-style-type: none"> • Recognition of context for review of guidance and logic of seeking to align advice • 12 weeks served useful purpose – ensuring comprehensive and extensive consultation – especially to reach out to more marginalised groups and individuals • Noting reduction from 12 weeks to maximum 8 is predicated on early and meaningful engagement – as also required by PPI Statutory Duties • Encourage ECNI to set a minimum timescale – recommended 8 weeks - rather than leaving proposed wording to subjective interpretation • Risk of practical issues in effective discharge of Section 75 and potential challenge in proposed

	Organisation	Points made on the proposals
		<p>wording</p> <ul style="list-style-type: none"> • Experience shown for major decisions, with EQIA, 12 weeks or more is standard to facilitate meaningful involvement, with points on practicalities within this • Risks of proposals diluting impact of duties and undermine current good practice
18.	Western Health and Social Care Trust	<ul style="list-style-type: none"> • Recognition of context for review of guidance and logic of seeking to align advice • 12 weeks served useful purpose – ensuring comprehensive and extensive consultation – especially to reach out to more marginalised groups and individuals • Noting reduction from 12 weeks to maximum 8 is predicated on early and meaningful engagement – as also required by PPI Statutory Duties • Encourage ECNI to set a minimum timescale – recommended 8 weeks - rather than leaving proposed wording to subjective interpretation • Risk of practical issues in effective discharge of Section 75 and potential challenge in proposed wording. • Experience shown for major decisions, with EQIA, 12 weeks or more is standard to facilitate meaningful involvement, with points on practicalities within this. • Risks of proposals diluting impact of duties and undermine current good practice.
19.		<ul style="list-style-type: none"> • Noting much effort on the organisation to embed s75 duties into day to day function to ensure compliance. Other consultation duties also refer to 12 week timeframe • Reduction in timescale may militate against both statutory objectives, with increased risk of legal action • 12 weeks has become standard to facilitate meaningful involvement, with important topics covered with periods extending beyond this • Organisation strongly supports a set timescale for a minimum consultation period, and not leave the timescale open to subjective interpretation • The adoption of the proposals could risk diluting the impact of the duties and much current good practice • Strongly favour a timeframe of a minimum of 8 weeks to be included in Equality Schemes

Appendix two

Report of consultation event

Riddel Hall, Queen's University Belfast on Tuesday 26 April 2016

Participating organisations in this event included³:

1. Antrim & Newtownabbey District Council
2. Ards & North Down District Council
3. Armagh City and District Council
4. Belfast City Council
5. Children's Law Centre
6. Civil Service Commissioners for Northern Ireland
7. Department for Communities (Presenting In Session 1)
8. Department of Education
9. Department of Health, Social Services and Public Safety
10. Disability Action
11. Education Authority (Presenting In Session 1)
12. Helm Housing
13. Health and Social Care - Business Services Organisation
14. Lisburn & Castlereagh District Council
15. Mid & East Antrim District Council
16. NICVA (Presenting In Session 1)
17. Northern Ireland Ambulance Service
18. Northern Ireland Assembly
19. Probation Board for Northern Ireland
20. South Eastern Health & Social Care Trust
21. Western Health and Social Care Trust

The key issues arising from the discussions focussing on the Commission's consultation questions are as follows. They are not attributed to specific organisations, but do reflect points made which resonated with other attendees when raised, or were raised by more than one participant:

- The importance of early engagement with stakeholders was emphasised. A reduction from 12-8 weeks (max) would cause consultees some problems. For example, the disability sector needing to book sign language interpreters, which can sometimes take 4-6 weeks due to lack of availability. The issue of the time it takes to get documents into alternative formats , for example Braille, was also mentioned.
- The need to ensure that consultation is wider than umbrella organizations.
- It is the quality of the response rather than the time allowed for consultation that is key.
- It would be useful to look at the monitoring on the implementation of policies.

³ The organisations listed have been notified of their inclusion in this appendix.

- The importance of looking at different consultation models, use of social media was mentioned although it was noted that fewer than 50% of those with a disability have internet access.
- There was recognition that some policies need to be implemented quickly and consultations may be less than 8 weeks in some circumstances.
- One organisation noted that they will continue to consult for 12 weeks until told otherwise; the consultation changes arising from the Stormont House Agreement were necessarily considered relevant for all public bodies.
- If the Equality Commission uses terms such as “adequate”, “relevant” and “proportionate” in its guidance/equality scheme advice, they should be defined, as they are too open to interpretation.
- There were concerns raised with consultation practices by some public authorities, but it was less likely to be those participating at this event but with others who aren’t there.
- Too much technical terminology used in consultations baffles potential stakeholders and discourages responses. Public authorities should use plain English/easy read models.
- Policies are fluid and should be revised/reviewed regularly.
- Mainstreaming means getting in at the first stage of policy development, hence importance of engagement.

At the event, there was also a session to hear about examples of effective engagement and consultation in relation to the statutory equality and good relations duties and for those groups covered by the Section 75 categories.

Presentations were given by:

1. The Education Authority
2. Department for Communities
3. Northern Ireland Council for Voluntary Action

Information from the event and copies of the presentations are available from the Commission’s website: www.equalityni.org

Appendix three

Commission consultation document



Public Consultation

**Proposals to amend the Commission's advice to public authorities
on:**

**Timescales for consulting on matters relevant to the statutory
equality and good relations duties**

Closing date for responses: 5pm Monday 9 May 2016

Published: 7 March 2016

Seeking your views

This document sets out the Commission's reasons and proposals for amending our advice to public authorities **on the timescales** for public consultations that are committed to in their Equality Schemes. The document is intended to inform stakeholders, enable views to be given on the proposals and gather additional data or evidence to inform the Commission's decision.

We are consulting until **Monday 9 May 2016** and would welcome your response by this date. Our aim, in setting this deadline, is to issue any updated advice to coincide with the implementation of relevant parts of the Stormont House Agreement, following the Assembly elections.

You can submit written comments on this form as a Word document, or online by completing the questions in our survey here:

<https://www.surveymonkey.co.uk/r/WTCZ85G>

Consultation event

We are also planning a consultation event, which will provide the opportunity to feed back in person on the questions raised in the consultation. In addition, we would like to use the opportunity to hear about examples of effective engagement and consultation in relation to the Section 75 duties and for those groups covered by the Section 75 categories.

This event will be held in Riddell Hall, Belfast, on the morning of:

Tuesday 26 April 2016, from 10.30am

[Please follow this link](#) to register your interest in attending this event.

To submit your response, or for further information

If you would like any further information, information in an alternative format, or to submit your response, please contact us, as follows:

Section 75 Consultation

Equality Commission for Northern Ireland

Equality House

Shaftsbury Square

Belfast

BT2 7DP

Email: section75@equalityni.org

Telephone: 028 9050 0600

Web: www.equalityni.org

1. Introduction

This document sets out the Commission's reasons and proposals for amending our advice to public authorities⁴ **on the timescales** for public consultations that are committed to in their Equality Schemes. The document is intended to inform stakeholders, enable views to be given on the proposals and gather additional data or evidence to inform the Commission's decisions.

2. Background

The Commission has a responsibility to advise public authorities on the duties in Section 75 of the Northern Ireland Act. One key element of this advice is to recommend what arrangements a public authority should have in its Equality Scheme, which shows how it proposes to fulfil the duties.

([Follow this link](#) to find out more about what Section 75 is or what the statutory equality and good relations duties are.)

A public authority's Equality Scheme must include arrangements for consulting on matters that are relevant to the duties, and for the purposes of assessing and consulting on the likely impact of policies.

([Follow this link](#) to find out more about what an Equality Scheme is.)

The Commission's advice should ensure that such consultation is meaningful and effective.

The Commission's current advice on consultation timescales

Our current advice is contained in our guidance: *Section 75 of the Northern Ireland Act 1998 – A Guide for Public Authorities (2010)*, which not only sets out what is required of public authorities, but also makes recommendations for the arrangements that public authorities can adopt to fulfil their statutory equality and good relations duties and for inclusion in their Equality Schemes.

⁴ This proposal affects the Commission's guidance: *Section 75 of the Northern Ireland Act 1998 – A Guide for Public Authorities, ECNI (2010)*, and the sections approved by the Secretary of State.

The Commission's advice on consultation is based on the following:

“Consultation enables an assessment to be made of the views of those who are affected by policy decisions or by the design of services. It can help authorities to become aware of issues and problems which policies may pose for various individuals or groups and which the authority might not otherwise discover. Consultation provides an important means of enabling those who may be adversely affected by public policy to participate in the process of policy making.”⁵

The current advice then sets out nine principles for consultation practice (see Appendix one).

3. Rationale for proposals to change the Commission's advice

The Commission keeps its advice under review to ensure it remains current, and has identified the following which we want to take into account in relation to our advice (*links are to external sources*):

- changes to other consultation guidance, specifically the [Cabinet Office Consultation principles](#) which no longer set out timescales for consultation;
- the political agreement in the [Stormont House Agreement / A Fresh Start](#) to limit policy consultation exercises to eight weeks;
- the [Supreme Court's consideration](#) of what is required in a consultation and the Gunning/Sedley principles, specifically that adequate time must be given for consideration and response (see [full judgement](#));
- changes in communications and technologies enabling different types of engagement and consultation models;
- the [Effective Stakeholder Engagement Good Practice Guidelines](#) developed in 2014 for use by public authorities in Northern Ireland.

⁵ Section 75 of the Northern Ireland Act 1998 – A Guide for Public Authorities, ECNI (2010), page 37

The Commission has considered a number of options in response to these issues and is of the view that, subject to consultation, we should advise public authorities that they should determine consultation timescales which are appropriate and proportionate to the policy being developed or issue being considered.

This is in keeping with the established principles for what is required to have due regard/regard in order to fulfil the statutory equality and good relations duties. Consideration must be given to the need to promote equality of opportunity and the desirability of promoting good relations that is appropriate to the circumstances.

[\(please follow this link for our advice note providing further details\)](#)

In addition to the sources and changes listed above, we would welcome any evidence of, or data about, effective engagement and access to consultation exercises in relation to the nine categories⁶ and equality groups covered by Section 75.

We would also welcome any evidence of how the changes identified above, such as moves to digital technologies, have affected engagement and access to consultations for groups covered by the equality legislation.

Question 1: Do you have or know of other data/evidence on the accessibility of consultation exercises for equality categories and groups that the Commission should be aware of?

⁶ persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation; men and women generally; persons with a disability and persons without; and persons with dependants and persons without.

4. Proposed amendment to the Commission's advice

The current advice on timescales for consultation is contained in the following paragraph:

- *that adequate time be allowed for groups to consult amongst themselves as part of the process of forming a view. **We recommend that the consultation period lasts for a minimum of twelve weeks.** However, the Commission recognises that there may be exceptional circumstances when this timescale is not feasible, for example implementation of EU Directives or GB legislation, to meet Health and Safety requirements, urgent public health matters or to comply with Court judgements. In these circumstances a public authority can shorten timescales to 8 weeks or less, if required, before the policy is implemented, but can continue consultation thereafter and review the policy as part of its monitoring commitments;⁷*

We propose changing this paragraph as follows:

- ***that adequate time be allowed for consultation to enable consideration and response.** What will be adequate for fulfilling the duties will depend on the issue being consulted upon, how relevant it is to the duties and what will be proportionate in the circumstances.
However, the Commission recognises that there may be exceptional circumstances when the required timescales to implement a policy potentially conflict with the time that would be adequate for consultation. A public authority may consult after implementation of the policy, in order to ensure that any impacts identified prior to implementation of the policy are fully considered, and should review the policy as part of its monitoring commitments;*

⁷ Section 75 of the Northern Ireland Act 1998 – A Guide for Public Authorities, ECNI (2010), page 38

Question 2: Do you agree with the removal of a specific timeline from the advice?

Question 3: Do you agree with the proposed wording of sentence one in the proposal for amended advice, and the associated changes to the remainder of the paragraph?

Question 4: Do you have any other suggestions for alternatives to the wording?

5. Practical implications of the proposals

The Commission will consider the responses to this consultation exercise. From this we will decide upon any amendment to our advice and update the *Section 75 of the Northern Ireland Act 1998 - Guide for Public Authorities* accordingly.

Our advice to public authorities for their Equality Schemes also takes the form of a Model Equality Scheme, which public authorities can adopt and adapt for their own use. **Should an amendment be agreed to the guidance using the wording proposed in Section 4** above, the following amendment would be made to the Model Equality Scheme. We would recommend that Public Authorities consider and adopt the following in their Equality Scheme:

3.2.6 We will ensure an adequate time for consultation to enable consideration and response. We will determine on a case by case basis what is adequate for fulfilling the duties, based on how relevant to the duties the matter is and what will be proportionate in the circumstances.

Where, in exceptional circumstances, we must implement a policy without adequate time for consultation, as it is beyond our authority's control, we may consult after implementation of the policy, in order to ensure that any impacts of the policy are fully considered.

In the event that Public Authorities do **adopt any changes to their arrangements**, which are different from those contained in their current approved Equality Scheme, we will work with them to ensure continuity of the Schemes.

Question 5: Do you have any comments about the practical implications for the arrangements in a public authority's Equality Scheme?

Question 6: Do you have any other comments to make on the issues raised in this consultation?

Thank you for your consideration and response.

Appendix One

Section 75 of the Northern Ireland Act 1998 – A Guide for Public Authorities (2010), pages 38-39

Consultation principles

Consultation

Approaches to consultation will vary. However, the Commission recommends that an equality scheme includes the public authority's commitment to carrying out consultations in accordance with the following recommendations:

consultation with affected individuals and representative groups begin as early as possible;

- consideration be given as to whether face-to-face meetings, focus groups, written documents with the opportunity to comment in writing, questionnaires, information/notification by email with an opportunity to opt in/opt out of the consultation, internet discussions or telephone consultations are appropriate methods. This list is not exhaustive and public authorities may develop other additional methods of consultation more appropriate to key stakeholders and the matter being consulted upon;
- that public authorities engage with affected individuals and representative groups to identify how best to consult or engage with them and consider a more proactive and targeted approach to consultation with key stakeholders;
- that the accessibility of the language and the format of information be considered to ensure that there are no barriers to the consultation process, that information should be made available on request in accessible formats and that systems are in place in order that information can be made available in accessible formats in a timely fashion. In addition, we recommend that specific consideration is given to how best to communicate information to children and young people, people with learning disabilities and minority ethnic communities. Further guidance on how to consult with children and young people is included in the Commission's publication – 'Lets Talk Lets Listen'¹;

- that specific training be provided to ensure that those facilitating consultations have the necessary skills to communicate effectively with consultees;
- *that adequate time be allowed for groups to consult amongst themselves as part of the process of forming a view. **We recommend that the consultation period lasts for a minimum of twelve weeks.** However, the Commission recognises that there may be exceptional circumstances when this timescale is not feasible, for example implementation of EU Directives or GB legislation, to meet Health and Safety requirements, urgent public health matters or to comply with Court judgements. In these circumstances a public authority can shorten timescales to 8 weeks or less, if required, before the policy is implemented, but can continue consultation thereafter and review the policy as part of its monitoring commitments;*
- that appropriate measures are taken to ensure full participation in any meetings that are held. Affected individuals and representative groups may have different needs and customs and we recommend that public authorities consider the time of day, the appropriateness of the venue, in particular whether it can be accessed by those with disabilities, how the meeting is to be run, the use of appropriate language, whether a sign language interpreter is necessary, and the provision of childcare;
- that information is made available to ensure meaningful consultation, including detailed information on the policy proposal being consulted upon and any relevant quantitative and qualitative data;
- that feedback to consultees is provided in a timely manner and that a feedback report includes summary information on the policy consulted upon, a summary of consultees' comments and a summary of the public authority's consideration of and response to consultees.

Appendix Four

Evidence provided by Consultees⁸

1. *Sections 19 and 20, Health and Social Care (Reform) Act (Northern Ireland) 2009*. Statutory duties for public involvement and consultation.
2. *Effective Consultation Guide (2016)*, Equality Coalition
3. The human rights standards set out in international conventions or guidance on participation, such as:
Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies (2012), Office of the United Nations High Commissioner for Human Rights
4. *Article 12 of the UN Convention on the Rights of the Child* setting out the state party obligation to:
“... assure to the child who is capable for forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.”

Examples of good consultation practices were identified as follows in co-design and effective engagement:

5. Department for Employment and Learning’s consultation process for an employment strategy for people with disabilities.
6. Youth engagement programme development as funded by OFMDFM through Children In Northern Ireland and participation sessions.
7. Department of Health, Social Services and Public Safety’s process in 2001 to develop the *Investing for Health* strategy.
8. Not in Employment, Education or Training (NEET) Youth Forum, as established and arising from examples from New Zealand.

⁸ The information provided in this appendix reflects what has been provided by consultees; it has not been verified by the Commission