

# **Policy Arc Limited and Kremer Consultancy Services Ltd**

## ***Section 75 Screening and Equality Impact Assessment: A Review of Recent Practice***

**For**

**The Equality Commission for Northern Ireland**



**Note:** The views expressed in this report are those of the authors and do not necessarily represent the views of the Commission

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## Executive summary

For over 15 years Section 75 of the Northern Ireland Act 1998 ('s75') has placed statutory equality duties on designated public authorities in Northern Ireland. In May 2013 the Northern Ireland Executive adopted a strategy entitled *Together: Building a United Community* ('TBUC') which proposed that an augmented good relations section should be developed for impact assessments that assesses the extent to which policies contribute to meeting the objectives of the strategy. As part of the consideration of these proposals, the Equality Commission for Northern Ireland ('the Commission') appointed consultants to carry out a review of recent practice by public authorities in Northern Ireland in the application of screening and equality impact assessment (EQIA) methodologies. The review had a particular focus on how screening/EQIA are used for policies relevant to the promotion of good relations.

The methodology for the review focused on two main activities: desk research and consultation with a wide sample of the 163 designated public authorities. The desk research involved the examination of 561 screening templates published by public authorities in 2014/15, together with consideration of 30 EQIAs conducted over a three-year period. This identified a number of significant issues for discussion with public authorities and highlighted wide disparities between authorities with regard to levels of activity. A draft consultation framework was then developed and discussed with Commission officers and a Reference Group involving a select group of officers drawn from designated public authorities. A consultation framework was then adopted consisting of:

- a series of questions and prompts for use in focus groups and face-to-face interviews;
- a corresponding series of questions for use with an Electronic Audience Response System (EARS) at the focus groups – this enabled a quantitative record of responses to the questions to be gathered to complement the qualitative data provided by the discussion; and
- a written questionnaire to provide an opportunity for all public authorities to submit comments.

The consultation was carried out over a five-week period from 1<sup>st</sup> February to 3<sup>rd</sup> March 2016. Five focus groups were selected to represent the following sectors:

- Northern Ireland Government Departments and Agencies;
- Local government;
- Health;
- Housing;
- Education.

The Further and Higher Education Colleges' Equality Forum also invited the researchers to attend their regular meeting on 3<sup>rd</sup> March; this session was accordingly added to the schedule of focus group discussions, although the EARS system was not available for this meeting. A total of 28 individuals contributed to the focus group discussions. Face-to-face interviews were carried out with 20 representatives from 13 designated public authorities and two brief telephone interviews were conducted with representatives of authorities who were unable to participate in the focus group sessions. 26 completed written questionnaires were received, including ten from authorities that had already participated

in the consultation in some other way. In total 57 designated public authorities engaged directly with the researchers, representing around a third of currently active organisations with designated responsibilities.

The findings of the desk research and the consultation are set out in detail in the accompanying Technical Report and have been used to develop a series of overarching themes for discussion together with examples of good practice brought to light during the course of the project.

The research has been highly revealing of the current state of s75 practice, including levels and type of activity by size and sector. However, participants appear to have had varied experience of the processes attaching to s75 and it is not always easy to discern strong and consistent trends across the data sets. Probably above all else, the review has thrown into stark relief dramatic differences in the level of engagement with s75 processes across the public sector and disparate interpretations of what s75 means for the day-to-day business of each organisation.

On the one hand, there is considerable evidence of good practice, underpinned by mechanisms and support systems which ensure that s75 considerations permeate policy development. On the other hand, there would appear to be examples of organisations characterised by less active engagement with both the principles and practice of s75, for example by applying screening but only in a perfunctory manner in the latter stages of policy development.

There is clearly a continuing motivation among many representatives to work with s75 processes in order to improve policies and to mainstream equality of opportunity and good relations and this commitment provides a sound foundation for the future. Equally, there are those who argued that their earlier enthusiasm had waned somewhat and it will be important to consider pragmatic ways to help these organisations move beyond an adopted minimalist approach to s75 compliance.

During the course of the review it became increasingly apparent that respondents had been involved with many examples of good practice, and it was decided that these should be included in the Discussion chapter, given they illustrate elements of robust systems of administration and scrutiny, to ensure screening is embedded in policy development and review. It is in the sharing of such examples that the Commission can provide additional guidance for public authorities in the short term. The findings emanating from this review are also likely to be incorporated within a more wide ranging, fundamental review of s75 by the Commission to be carried out in the near future and at a time when the full implications of the TBUC strategy on s75 implementation will be known. Recommendations arising from that fundamental review will hopefully draw on the good practice examples cited above, along with other findings that are revealing of current practice.

# 1. Introduction

## 1.1 Requirements on public authorities

For over 15 years Section 75 of the Northern Ireland Act 1998 ('the Act') has placed the following two statutory obligations on designated public authorities in Northern Ireland:

- (1) *A public authority shall in carrying out its functions relating to Northern Ireland have due regard to the need to promote equality of opportunity:*
- *between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;*
  - *between men and women generally;*
  - *between persons with a disability and persons without; and*
  - *between persons with dependants and persons without.*
- (2) *Without prejudice to its obligations under subsection (1), a public authority shall in carrying out its functions relating to Northern Ireland have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.'*

Schedule 9 of the Act states that designated public authorities shall have arrangements in their Equality Schemes for assessing and consulting on the likely impacts of policies on the promotion of equality of opportunity. In this regard, when advising public authorities on these duties the Equality Commission for Northern Ireland ('the Commission') has developed methodologies called 'screening' and 'equality impact assessment' (EQIA).

The Commission has recommended that these methods should also facilitate each public authority in fulfilling its duty to have regard to the desirability of promoting good relations.

## 1.2 Proposed changes to processes

In May 2013, the Northern Ireland Executive adopted a Strategy entitled *Together: Building a United Community* ('TBUC')<sup>1</sup> which proposed:

*'a major change in the way that good relations will be delivered across government'* (executive summary, page 3)

One of the Headline Actions in the Strategy is to:

*'Introduce an enhanced good relations section for Equality Impact Assessments for all policies across government'* (page 27)

This is further explained later in the document as a commitment to:

*'Develop an enhanced EQIA template to ensure that future policy and/or spending commitments are screened for alignment with this strategy;'* (page 29); and

*'Develop an augmented impact assessment that assesses the extent to which policies and other interventions contribute to meeting the objectives of this overarching strategy.'* (page 31).

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<sup>1</sup> <http://www.ofmdfmi.gov.uk/index/equality-and-strategy/good-relations/together-building-a-united-community.htm>



As part of these considerations, the Commission has appointed consultants to carry out a review of recent practice by public authorities in Northern Ireland in the application of screening and EQIA methodologies. The review will have a particular focus on how screening/EQIA are used for policies which are considered relevant to the desirability of promoting good relations.

### **1.3 Objectives of the review**

The objectives of the review have been defined as:

1. To review published information from public authorities to establish the scale of use and any trends in the way screening/EQIA have been used to inform consideration of the need to promote equality of opportunity and/or the desirability of promoting good relations.
2. To examine trends and issues further through interviews with an appropriate sample of public authorities. The focus for interviews will be their experiences of applying screening/EQIA to their policies, in order to fulfil the duties in carrying out their functions. There will be a specific focus on the public authority's experiences and practices of planning and delivering functions which are relevant to good relations.
3. To present any recommendations for future practice and guidance for public authorities, as well as any recommendations on the augmentation of the Screening/EQIA methodology as described in the Northern Ireland Executive's Strategy, *Together: Building a United Community* (TBUC).

## **2. Methodology**

### **2.1 Overall approach**

The methodology for the review focused on two main activities: desk research and consultation with designated public authorities. Each public authority was initially categorised by size and sector, and this categorisation was used primarily to identify those authorities to be invited to participate in face-to-face interviews and focus groups during the consultation phase, to ensure adequate and fair representation across the public sector.

The desk research initially involved examination of screening templates and EQIA reports published by public authorities over the period 1<sup>st</sup> April 2014 to 31<sup>st</sup> March 2015. At a later stage the research was expanded to include EQIA reports published between 1<sup>st</sup> April 2013 to 31<sup>st</sup> December 2015<sup>2</sup> in order to achieve a more representative sample. The purpose of the desk research was to identify:

- the overall level of activity in relation to screening and EQIAs by sector;
- profiles of those public authorities/sectors with the highest and lowest levels of activity including the size of the authority;
- the nature of policies and business in general that has been subjected to screening and EQIA (e.g. external/internal, programmes/pilot projects/procedures, strategies/detailed policies);

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<sup>2</sup> See Technical Report (Part 4) for full list of published EQIAs, 2013-15, as available on-line

- the use made of the Commission’s model screening template compared with other formats;
- the use made of the Commission’s practical guidance on EQIAs when carrying out EQIAs;
- an indication of the manner in which screening/EQIA reports address good relations issues.

The findings of the desk research were used to develop a consultation framework, based around interviews with a representative sample of public authorities by means of semi-structured, face-to-face interviews and facilitated focus groups. Representatives of two authorities, who were unable to attend focus groups, were interviewed by telephone. All authorities were also given an opportunity to complete a written questionnaire based on similar themes and issues. The purpose of the consultation was:

- to determine whether the analysis of summary evidence collected during the desk research and involving a review of all designated public authorities was valid when subject to more in-depth interrogation;
- to collect further evidence of authorities’ experience of applying screening and EQIA processes
- to place a specific focus on authorities’ experiences of planning and delivering functions which are relevant to good relations;
- to try to identify why certain activities are undertaken in particular ways and why links between some activities are not always made (e.g. the link between assessment of negative impacts and presentation of mitigating actions).

## 2.2 Desk research

There are currently 163 designated public authorities.<sup>3</sup> (This list includes a small number of organisations exempt from producing an equality scheme and also those whose schemes have yet to be approved.)

Initially, baseline information was available in the form of an analysis of annual progress reports returned to the Commission relating to activities during 2014/15. 103 authorities returned annual reports; these included details as to how many screenings had been undertaken and how many EQIAs had been consulted on during the year in question. This analysis revealed authorities reported that they had carried out a total of 1098 screenings and 28 EQIA consultations during that time.

The Commission’s guidance on screening<sup>4</sup> recommends that public authorities should publish regular screening reports on all policies screened over a three month period, with links to the completed screening templates. The desk research examined the websites of all 163 authorities (including those that had not returned annual progress reports) and found that, while many had published quarterly screening reports and provided online access to screening templates, others had not. Specifically:

- 102 authorities provided no online access to relevant s75 screening data;

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<sup>3</sup> During the reference period for the initial desk research [April 2014 to March 2015] there were two additional but now no longer designated authorities – the Open Door Housing Association and the Rural Development Council; data from these organisations have not been included in the review.

<sup>4</sup> Section 75 of the Northern Ireland Act 1998: A Guide for Public Authorities, Equality Commission for Northern Ireland, April 2010, Annex 1

- 14 authorities provided online access to part of the information (e.g. screening decisions but no templates).

Further to this initial scoping exercise, 561 screening templates (as published by 41 authorities) were reviewed; this figure represents just over 50% of screenings declared by those authorities that returned annual progress reports. These screening templates provided a considerable amount of information which is summarised in chapter 3 of this report, and helped identify a wide range of issues for further consideration during the consultation phase. It is perhaps worthy of note that only a small minority (less than 5%) made reference to good relations considerations.

With respect to EQIAs, the desk research initially included identification of all EQIAs published on authorities' websites during 2014/15. Only five EQIA reports were available on-line and so the period under consideration was widened to include earlier and later EQIAs published between 1<sup>st</sup> April 2013 and 31st December 2015. A total of 30 EQIAs as published by 18 authorities were assessed.

Each public authority was categorised by size and sector (see Section 3.1.2 of this report for further details).

## 2.3 Consultation

The desk research identified a number of significant issues for discussion with public authorities during the consultation phase, and also highlighted wide disparities between authorities with regard to levels and nature of activity. The analysis by sector and size of authority helped to identify those who were invited to participate in face-to-face interviews and focus groups, taking into account previous levels of activity.

A draft consultation framework was developed for discussion with Commission officers and was then refined through engagement with a Reference Group involving a select group of staff drawn from designated public authorities, in particular, those that had demonstrated a significant level of engagement with s75 to date. The framework included a series of prompts to structure the face-to-face interviews and facilitated focus groups, which could also be used to populate a self-completion questionnaire.

The sample of consultees included sufficient representation from each type of public authority, by size and sector, to ensure that any conclusions could be confidently applied to the entire population of designated public authorities, albeit that the sample was weighted towards those characterised by at least some level of engagement.

In line with good practice, the prompts were designed not only to capture in a more in-depth manner views on the key issues as initially identified from the desk research but also to afford respondents an opportunity to highlight those concerns that are especially salient to themselves and their organisations. This extended to a consideration of gaps identified by the desk research, for example the dearth of reference to good relations concerns.

Two of the main traditional limitations of group discussions are:

- separating the individual view from the group view;
- capturing the views of those who may not give them openly in a group setting.

To overcome these limitations, the focus group discussions were augmented through the use of an Electronic Audience Response System (EARS). Each participant was given a credit

card sized hand held responding device that communicates with a radio based receiving device linked to a lap top. Multiple choice questions were presented on Power Point slides and participants were invited to give their views by using the number pad. The results were displayed via Power Point in chart form within two seconds of polling closing.

The consultation process focused on the hands-on experience of public authority staff – both specialist equality officers and other policy development officers – in applying screening and EQIA methodologies to policies during initial development or revision. The prompts sought to establish the main benefits of applying these procedures as well as any difficulties encountered during their application, including any structural and personal impediments and facilitators. The consultation also explored the timing of screening processes to identify occasions where screening had been applied in an iterative fashion during the development of a strategy/project.

Both in the development of the consultation materials and in the analysis of the findings, particular attention was paid to examples of process which have specifically addressed good relations issues.

### 3. Findings of desk research

#### 3.1 Screening

##### 3.1.1 Sample size

The desk research was intended to identify trends in practice, with the aim of enabling a focus on good relations concerns in the consultation stage, but in practice it was not feasible to consider these issues in isolation, in particular as research highlighted common concerns across both statutory duties and, more generally, large variations in levels of engagement and activity.

As indicated above, many designated authorities do not currently provide full online access to screening templates completed during 2014/15. Table 1 shows the level of information obtained through the desk research.

**Table 1: Sample size**

|   | Number     | %          |
|---|------------|------------|
| <b>Designated Authorities</b>   | <b>163</b> | <b>100</b> |
| Authorities that returned an annual progress report                               | 104        | 63.8       |
| Authorities that reported no screenings   | 31         | 19.0       |
| Authorities that reported screenings  | 73         | 44.8       |
| Authorities that provided online access to screening templates (in whole or part) | 42         | 25.8       |

##### 3.1.2 Level of activity by size and sector

The desk research recorded information on each public authority by size and sector. Size was determined by reference to the Commission's *Fair Employment Monitoring Report 25*

(2014)<sup>5</sup>, augmented by information from authorities' own publications (including Annual Reports) where required. Table 2 shows the number of authorities by size, the number of screenings declared in annual progress reports and the number of screening templates reviewed as part of the desk research.

**Table 2: Size of authorities**

| Size   | Definition              | Number of authorities | Screenings declared | Screenings reviewed |
|--------|-------------------------|-----------------------|---------------------|---------------------|
| Small  | 1-25 employees          | 50                    | 144                 | 14                  |
| Medium | 25-250 employees        | 51                    | 155                 | 78                  |
| Large  | More than 250 employees | 62                    | 799                 | 469                 |
|        | <b>TOTAL</b>            | <b>163</b>            | <b>1098</b>         | <b>561</b>          |

83.6% of all screening templates reviewed were derived from large organisations (>250 employees), and yet these represent only 38.7% of all designated public authorities. This imbalance is perhaps unsurprising given the dedicated resources available in larger bodies in comparison with smaller organisations. Small organisations (i.e. <26 employees) represent nearly a third of all designated bodies (30.7%) but yet only 14 templates were available for review on-line (2.5%).

To aid analysis and interpretation, and to ensure that the final sample (for both the desk research and the consultation) included representation from across all sectors, each organisation was assigned to one of seven sectors as defined by the researchers. The designation of the seven sectors was as follows:

- 1 NI Government Departments and Agencies
- 2 Local government
- 3 Policing and justice
- 4 Housing
- 5 Health
- 6 Education
- 7 Other

**Table 3: Authorities by sector**

| Sector | Definition              | Number of authorities | Screenings declared | Screenings reviewed |
|--------|-------------------------|-----------------------|---------------------|---------------------|
| 1      | NI Departments/Agencies | 37                    | 403                 | 274                 |
| 2      | Local government        | 13                    | 39                  | 41                  |
| 3      | Policing and justice    | 25                    | 53                  | 45                  |
| 4      | Housing                 | 23                    | 85                  | 19                  |
| 5      | Health                  | 17                    | 297                 | 164                 |
| 6      | Education               | 15                    | 86                  | 7                   |
| 7      | Other                   | 33                    | 135                 | 11                  |
|        | <b>TOTAL</b>            | <b>163</b>            | <b>1098</b>         | <b>561</b>          |

<sup>5</sup> <http://www.equalityni.org/Delivering-Equality/Addressing-inequality/Employment/Monitoring-Report-25/Fair-Employment-Monitoring-Report-25.aspx?t=1>

It was apparent that the highest levels of activity were within Sector 1. Indeed, 48.8% of the screenings examined were undertaken by NI Government Departments (average of 7.4 per body), with the health sector also particularly active (i.e. 29.2% of reviewed screenings, average of 9.6 per body). In combination these two sectors accounted for 78.0% of all reviewed screening templates yet comprise only one third (54; 33.1%) of all designated authorities.

There was a relatively low level of activity within local government; however, according to participants, this could be partly explained by the fact that Local Government Reform took effect on 1<sup>st</sup> April 2014 and most of the new councils did not have equality schemes in place until later in the year. This circumstance was described as creating a hiatus in s75 activity, albeit that s75 duties were carried over from legacy councils. A local government focus group was arranged during the consultation period in order to obtain further information.

### 3.1.3 Type of policies

The Commission’s guidance on screening makes it clear that, in the context of s75, the term ‘policy’ is very broadly defined and can be used to denote any strategy, policy (proposed, amended or existing) or practice and/or decision, whether written or unwritten.

The screening templates available online were examined to determine what type of policy was the subject of the screening process and these were classified according to one of five types. The five types of policy were:

- overarching strategy or high level policy, such as a corporate plan, good relations strategy, restructuring, relocation or downsizing policies;
- single focus operational policy with an external focus, i.e. one with a direct impact on clients/customers, such as data recording procedures or new rules on service delivery;
- single focus operational policy with an internal focus, i.e. one which affects staff only, such as recruitment procedures and procurement processes;
- pilot scheme or programme, typically the implementation of a small part of a larger programme;
- business to business policy, for example, where a public authority makes a grant to a third party service deliverer.

Table 4 sets out the analysis by policy type.

**Table 4: Analysis by policy type**

| Type | Definition                               | Screenings reviewed |            |
|------|--|---------------------|------------|
|      |  | Number              | %          |
| 1    | Overarching strategy                     | 38                  | 6.8        |
| 2    | Single focus operational policy external | 290                 | 51.7       |
| 3    | Single focus operational policy internal | 184                 | 32.8       |
| 4    | Pilot scheme/programme                   | 1                   | 0.2        |
| 5    | Business to business policy              | 48                  | 8.5        |
|      | <b>TOTAL</b>                             | <b>561</b>          | <b>100</b> |

The majority of screening templates examined were related to external operational policies (51.7%), many of which were described as purely technical in nature with no perceived

impact on equality of opportunity or good relations. This was especially notable in the health sector.

### 3.1.4 Screening templates

The Commission’s guidance on screening includes a model screening template. The desk research included consideration of the type of screening template used by authorities, the overwhelming majority of which were found to be based on the model template (often together with additional considerations [e.g. disability, human rights]).

**Table 5: Screening templates**

| Type | Definition                       | Screenings reviewed |            |
|------|----------------------------------|---------------------|------------|
|      |                                  | Number              | %          |
| 1    | Commission’s model template      | 197                 | 35.1       |
| 2    | Variant of Commission’s template | 358                 | 63.8       |
| 3    | Short screening template         | 6                   | 1.1        |
|      | <b>TOTAL</b>                     | <b>561</b>          | <b>100</b> |

The majority of screening templates examined were variations on the Commission’s model template which included additional issues, such as potential impact on disability duties and human rights. Some authorities did not use the major/minor/none classification for likely impacts on equality of opportunity, preferring to use a simple Yes/No or a High/Medium/Low classification.

The health sector is piloting a two-part template which allows technical issues with no likely impacts to be screened using a much shorter template (two pages). Views on this approach were sought during the consultation phase.

### 3.1.5 Use of data/evidence

The Commission’s guidance recommends that public authorities should gather evidence to inform their screening and that the authority should ensure that any screening decision is informed by relevant data. The desk research included consideration of whether each screening template included data (or other type of evidence – for example, from consultation). It was not possible to make objective observations about the extent to which the data was relevant, but it was noted that data were not always used to help identify the likely impacts, or were not specific to the policy in question.

301 of the 561 screening templates examined (53.7%) included data or other evidence, although the quality of this information tended to vary considerably, from occasions where primary data had been gathered to more common examples of generally available statistics used to populate the template but with little relevance to the screening exercise per se.

### 3.1.6 Impacts on equality of opportunity/good relations

The Commission’s guidance makes it clear that the purpose of screening is to identify those policies that are likely to have an impact on equality of opportunity and/or good relations. The guidance indicates that through the screening process, a public authority can make an assessment of the likely impact, whether ‘minor’ or ‘major’, of the policy on equality of opportunity and/or good relations for the relevant categories.

The desk research included consideration of the conclusions set out in each template examined in terms of whether likely impacts had been identified, whether they were minor or major and whether they were positive or negative. Some authorities did not specifically

state whether the impacts were likely to be positive or negative but, in most cases, it was possible to identify this from the explanation given.

**Table 6: Impacts on equality of opportunity/good relations**

|   | <b>Number</b> | <b>%</b>    |
|---|---------------|-------------|
| Policies with likely positive impacts only  | 140           | 25.0        |
| Policies with likely negative impacts only  | 53            | 9.4         |
| Policies with both positive and negative impacts  | 10            | 1.8         |
| <b>TOTAL</b>  | <b>203</b>    | <b>36.2</b> |
| Policies with likely positive impacts for equality of opportunity only                    | 81            | 14.4        |
| Policies with likely positive impacts for good relations only                             | 26            | 4.6         |
| Policies with likely positive impacts for both equality of opportunity and good relations | 43            | 7.7         |
| <b>TOTAL</b>  | <b>150</b>    | <b>26.7</b> |
| Policies with likely negative impacts for equality of opportunity only                    | 49            | 8.7         |
| Policies with likely negative impacts for good relations only                             | 2             | 0.4         |
| Policies with likely negative impacts for both equality of opportunity and good relations | 12            | 2.1         |
| <b>TOTAL</b>  | <b>63</b>     | <b>11.2</b> |

*Base = 561*

Table 6 shows that in 203 cases (36.2%), authorities had identified either positive or negative likely impacts for either equality of opportunity or good relations or both, while the remainder did not identify any impact, either negative or positive. In 63 cases, the analysis identified likely negative impacts for one or more s75 categories; this represents 31.0% of the 203 cases, meaning that in nearly 69.0% of the cases only positive impacts were identified.

The Commission’s guidance indicates that, where the screening concludes that the likely impact is minor (negative), the authority may decide to consider measures to mitigate the impact. The desk research showed that mitigating measures were presented in 36 out of the 63 cases where negative impacts were identified (57.1%).

Considering the likely impact on good relations alone (i.e. where there were no likely impacts on equality of opportunity), there were 26 cases where authorities had identified positive impacts only and two cases where they had identified likely negative impacts only. This means that 28 cases out of 203 (13.8%) addressed good relations alone.

### **3.1.7 Opportunities to better promote equality of opportunity/good relations**

The Commission’s model screening template includes questions as to whether there are opportunities to better promote a) equality of opportunity and b) good relations. Table 7 sets out an analysis of the answers to these questions within the 561 screening templates examined.



**Table 7: Opportunities to better promote equality of opportunity/good relations**

|  | <b>Number</b> | <b>%</b>    |
|--|---------------|-------------|
| Screening templates which identified opportunities to better promote equality of opportunity only                    | 137           | 24.4        |
| Screening templates which identified opportunities to better promote good relations only                             | 16            | 2.9         |
| Screening templates which identified opportunities to better promote both equality of opportunity and good relations | 65            | 11.6        |
| <b>TOTAL</b>   | <b>218</b>    | <b>38.9</b> |

Base = 561

It is noteworthy that, in many cases, where a likely impact had been identified then an opportunity to better promote was also identified. However, there were 43 cases where no impacts were identified but opportunities to better promote were.

It was not possible to draw firm conclusions from the quantitative analysis but there would appear to be a degree of ambiguity in the interpretation of these questions by respondents. For example, scrutiny of trends identified across the screening templates during the desk research suggested that some authorities may have been using the question on likely impacts to address negative impacts only, while using the question on opportunities to address positive impacts. It also revealed that some authorities were mirroring the impact analysis in the opportunity analysis. In other words, if a likely positive impact had been identified then a positive opportunity to better promote was likewise automatically identified. Given these perceived trends, the interpretation of opportunities to better promote equality of opportunity and good relations was explored further during the consultation process.

### 3.2 EQIAs

As indicated above, although annual progress reports to the Commission indicated that 28 EQIAs had been consulted on in 2014/15, research on the websites of all designated public authorities identified only five as accessible on-line. This was too small a sample to yield reliable conclusions and further research was therefore undertaken to identify additional EQIAs published between 1<sup>st</sup> April 2013 and 31<sup>st</sup> December 2015.

A total of 30 EQIAs published by 16 authorities were assessed (see Technical Report, Part 4, for a list of these EQIAs), and the analysis is summarised below.

#### 3.2.1 Authorities by size

**Table 8: Analysis by size**

| <b>Size</b> | <b>Definition</b>       | <b>Number of authorities</b> | <b>Percentage</b> |
|-------------|-------------------------|------------------------------|-------------------|
| Small       | 1-25 employees          | 0                            | 0                 |
| Medium      | 25-250 employees        | 2                            | 12.5              |
| Large       | More than 250 employees | 14                           | 87.5              |
|             | <b>TOTAL</b>            | <b>16</b>                    | <b>100%</b>       |

### 3.2.2 Authorities by sector

**Table 9: Analysis by sector**

| Sector | Definition              | Number of authorities | Percentage  |
|--------|-------------------------|-----------------------|-------------|
| 1      | NI Departments/Agencies | 6                     | 37.5        |
| 2      | Local government        | 3                     | 18.8        |
| 3      | Policing and justice    | 2                     | 12.5        |
| 4      | Housing                 | 1                     | 6.2         |
| 5      | Health                  | 3                     | 18.8        |
| 6      | Education               | 1                     | 6.2         |
| 7      | Other                   | 0                     | 0           |
|        | <b>TOTAL</b>            | <b>16</b>             | <b>100%</b> |

### 3.2.3 Type of policies

**Table 10: Analysis by policy type**

| Type | Definition                               | Number of EQIAs | Percentage  |
|------|--|-----------------|-------------|
| 1    | Overarching strategy                     | 7               | 23.3        |
| 2    | Single focus operational policy external | 20              | 66.7        |
| 3    | Single focus operational policy internal | 3               | 10.0        |
| 4    | Pilot scheme/programme                   | 0               | 0           |
| 5    | Business to business policy              | 0               | 0           |
|      | <b>TOTAL</b>                             | <b>30</b>       | <b>100%</b> |

### 3.2.4 Use of the 7 Steps process

**Table 11: Analysis of process**

|                             | Number of EQIAs | Percentage  |
|-----------------------------|-----------------|-------------|
| Used 7 Steps process        | 29              | 96.7        |
| Did not use 7 Steps process | 1               | 3.3         |
| <b>TOTAL</b>                | <b>30</b>       | <b>100%</b> |

### 3.3.5 Good relations

**Table 12: Inclusion of GR elements**

|                         | Number of EQIAs | Percentage  |
|-------------------------|-----------------|-------------|
| Considered GR impacts   | 8               | 26.7        |
| GR impacts not relevant | 22              | 73.3        |
| <b>TOTAL</b>            | <b>30</b>       | <b>100%</b> |

### 3.2.6 Publication of reports

**Table 13: Publication of consultation and decision reports**

|                                   | Number of EQIAs | Percentage  |
|-----------------------------------|-----------------|-------------|
| Published consultation report     | 26              | 86.7        |
| Consultation report not available | 4               | 13.3        |
| <b>TOTAL</b>                      | <b>30</b>       | <b>100%</b> |
| Published decision report         | 16              | 53.3        |
| Decision report not available     | 14              | 46.7        |
| <b>TOTAL</b>                      | <b>30</b>       | <b>100%</b> |

### 3.2.7 Mitigating actions

**Table 14: Inclusion of mitigating actions**

|                                    | Number of EQIAs | Percentage  |
|------------------------------------|-----------------|-------------|
| Included mitigating actions        | 24              | 80.0        |
| Did not include mitigating actions | 6               | 20.0        |
| <b>TOTAL</b>                       | <b>30</b>       | <b>100%</b> |

The analysis of available EQIAs revealed that they tend to remain the preserve of larger organisations but spread across all sectors, with the exception of ‘other’ (which is also predominantly made up of smaller organisations). The majority of EQIAs have been on single issue, outward facing operational policies, and often related to highly contentious or politically sensitive decisions (e.g. flags, language, closures, budget cuts).

Examination of the EQIAs revealed that almost all had adhered to the Commission’s 7-step approach, and many of the assessments were extensive in scope. (By way of example, 36.7% exceeding 50 pages in length and only three were under 20 pages.)

On a less positive note, only 53.3% appeared to have published a final decision report further to the consultation report which was far more commonplace (86.7%), and only 26.7% considered good relations matters as an integral part of the EQIA.

More encouragingly, 80.0% had included a wide range of mitigating actions that were meaningful and likely to address adverse impacts. Many had listed a significant number of actions.

Overall the quality of the EQIAs was good, with a considerable amount of data having been brought to bear to inform latter stages of the process and especially the determination of adverse impacts. This use of data in a meaningful way to inform decision-making stands in contrast to the less focused examples that tended to characterise many of the data sections included in screening templates. More generally, few EQIAs were of a minimalist type and many revealed considerable effort had been exerted to ensure a thorough assessment.

## **4. Consultation framework**

### **4.1 Initial development of questions and prompts**

Nine themes were identified for consultation, based on the issues arising from the desk research, together with a series of draft prompts for the interviewers to use during focus groups and one-to-one interviews. These were then presented to a Reference Group, composed of officers from a range of public authorities, most of whom have considerable experience of s75 processes.

The Reference Group meeting was held at Equality House on 13<sup>th</sup> January 2016 and nine officers attended. The consultants provided a brief overview of the review project and tabled an extract from Together: Building a United Community (TBUC) relating to the augmentation of the good relations section of screening and EQIA processes. They then introduced the Group to the proposed themes for the consultation with public authorities and the prompts supporting each issue.

The comments made by the Reference Group are briefly summarised below.

#### **4.1.1 Carrying out screening and EQIAs**

The draft prompts related to the role of the equality officer in a public authority and how screening templates and EQIAs are approved. The Group suggested that it would be necessary to explore how the screening process is triggered within each authority and who has responsibility for signing it off at each stage. They pointed out that not all authorities have an equality officer and it would be necessary to have alternative prompts for those organisations. They felt that one of the key issues was the seniority of the equality officer and whether s/he has access to senior management on a routine basis. Several members of the group explained how screening is triggered in their own organisations – for example, a standard policy development form with screening form attached, a required paragraph on any report to the policy committee, a quarterly report to senior management. They suggested that the first question should be more basic and focus on process and who is responsible at each stage.

#### **4.1.2 Types of policy subject to screening**

The draft prompts related to how the likely impacts of high level policies are determined within public authorities. The Group felt strongly that there was an issue regarding the use of the word ‘policy’ which many officers did not interpret in the way it was defined in the Commission’s guidance. Several members of the Group said that they tended to use the word ‘decision’ instead and recommended that the term ‘policy’ should not be used in the questionnaire; it was also suggested that there is a broader issue about the accessibility of the terminology used in the screening template. The Group felt that the question should focus more on what types of issues/decisions are subjected to screening; if the authority being consulted has addressed high level policies, then some of the issues in the draft prompts could be raised.

#### **4.1.3 Purpose of screening**

The draft prompts related to how screening fits into the policy development process and the contribution it makes. The Group suggested that the question should be more basic and focus on what each consultee understood by the term ‘screening’ and what they thought it contributed.

On the whole the Group did not seem to think that this was a useful area for consultation and there was very little discussion.

#### **4.1.4 Use of data/evidence**

The draft prompts related to the collection of data/evidence and how it is used. The Group considered that simpler questions might be more productive, focussing on where data comes from and how it is presented. The group also suggested that the question should not refer to the screening template as such, but focus on the use of data about equality.

#### **4.1.5 Outcome of screening**

The draft prompts related to the determination of impacts and the different kinds of mitigating measures. The Group felt that this would be a difficult question for most consultees to answer; there was a tendency among officers to think that the screening process was an end in itself without further action. It was suggested that the questions should focus on finding out what people mean by mitigating actions and how confident they are in identifying them.

#### **4.1.6 Good relations**

The draft prompts related to whether and what type of impacts for good relations are identified through screening. The Group felt that this was a very difficult area and that consultees might be reluctant to address it. They suggested that it might be better to focus on what consultees understand by 'good relations' and whether screening helps people to understand.

#### **4.1.7 Opportunities to better promote equality of opportunity and good relations**

The draft prompts related to what is understood by 'opportunities to better promote' and what sort of actions are taken to maximise opportunities. There was very little discussion of this issue and the Group obviously found it to be a difficult area; there were no specific suggestions as to how the questions might be amended.

#### **4.1.8 EQIAs**

The draft prompts related to why so few EQIAs are now undertaken. The Group said that the extended screening template tends to make EQIAs unnecessary and suggested that very few consultees would have any experience of EQIAs. They suggested that those authorities that had carried out EQIAs might be asked about the timing of consultation but that, otherwise, this was unlikely to be a constructive theme for consultation.

#### **4.1.9 Moving forward**

The final draft question invited consultees to suggest what they would like to change about s75 processes and how they thought an augmented process, as envisaged in TBUC, might work in practice. Again, the Group thought that very few consultees would be able to answer the TBUC related question and suggested that a question about good relations should be included instead.

## **4.2 Revised questions and prompts**

The Reference Group participants were selected because of their familiarity with s75 processes but it was clear from the discussion that they might have some difficulty answering questions on certain topics, such as the purpose of screening, opportunities to

better promote, good relations, EQIAs and TBUC. Their suggestions tended towards advising a simpler approach to find out what happens in authorities and how the process works. They also pointed out a number of problems with respect to terminology and suggested that the questionnaire would need to provide examples.

As a result of the Reference Group discussion, the following principles were applied in developing revised questions and prompts:

- The questionnaire to ask more basic questions about what happens in an authority. In the focus groups and one-to-one interviews, the draft prompts as presented to the Reference Group as supplementary prompts to be used only if the consultants judge that the experience of those present is sufficient to allow for a detailed discussion.
- Prompts to avoid the use of specialised terminology and examples to be given, where possible.
- The number of themes to be minimised by integrating/amalgamating issues as appropriate.
- The prompts relating to EQIAs to be used only where consultees have experience of carrying out at least one EQIA. More information on EQIAs to be sought directly from those authorities who have recent experience of carrying them out, perhaps through telephone interviews.

A revised series of questions and prompts for use in focus groups and one-to-one interviews were then developed. To accommodate the constructive feedback from the Reference Group, the prompts and questions were revised and presented under the following six themes:

- 1. Carrying Out Screening**
- 2. Use of Data / Evidence when Screening**
- 3. Outcomes of Screening**
- 4. Good Relations**
- 5. EQIAs**
- 6. Moving Forwards**

The accompanying Technical Report includes copies of:

- the revised questions and prompts;
- the corresponding questions used with the Electronic Audience Response System (EARS) at the focus groups;
- the written questionnaire.

## **5. Consultation response analysis**

### **5.1 Participants**

The consultation process took place over a five week period from 1<sup>st</sup> February to 3<sup>rd</sup> March 2016 and a total of 57 designated public authorities participated in the consultation phase

of the research<sup>6</sup>. Initially, five focus groups were selected to represent the following sectors, with the final sector (Policing and Justice) represented by three face-to-face interviews.

- NI Government Departments and Agencies;
- Local government;
- Health;
- Housing;
- Education (including higher/further education colleges).

Following the group discussion, notes of the meeting were circulated among all participants to ensure that they represented a true and accurate record of the discussion. These notes were then agreed by each participant prior to being included in the analysis.

Further to scheduling these focus group discussions, the FE/HE Colleges’ Equality Forum invited the researchers to attend their regular meeting on 3<sup>rd</sup> March; this session was accordingly added to the schedule of focus group discussions<sup>7</sup>. Unfortunately, the research schedule did not allow time to triangulate the notes for this meeting, but participants were nevertheless content that they could be used.

A total of 28 individuals contributed to the six focus group discussions<sup>8</sup>.

Face-to-face interviews were also carried out with 20 representatives from 13 designated public authorities. Following the interview, notes were sent to the interviewee to ensure that the summary represented a true and accurate record of the discussion. These notes were then agreed by the interviewee prior to being included in the analysis.

Two telephone interviews were also conducted with representatives of authorities who were unable to participate in the focus group sessions.

26 completed questionnaires were returned but ten of these were from authorities that had already participated in the consultation in some other way.

In total, 57 designated public authorities (35.0%) engaged directly with the researchers during the consultation phase of the project. Responses by sector and size are summarised in Tables 15 and 16 below.

**Table 15: Responses by sector**

| Sector  | Number |
|---|--------|
| 1. Northern Ireland Government Departments & Agencies | 17     |
| 2. Local government                                   | 8      |
| 3. Policing and justice                               | 4      |
| 4. Housing  | 7      |
| 5. Health   | 7      |
| 6. Education  | 9      |
| 7. Other  | 5      |

<sup>6</sup> See Technical Report Part 3.1 for details of participating authorities.

<sup>7</sup> EARS was not available for this meeting.

<sup>8</sup> One person attended two focus groups.

**Table 16: Responses by size of organisation**

|        | Number |
|--------|--------|
| Large  | 36     |
| Medium | 15     |
| Small  | 6      |

The sample includes a significant level of representation from within each sector. In relation to size, the sample is skewed towards large and medium sized authorities. Given the dedicated resources that are available within larger organisations in comparison with smaller bodies, this profile is not unexpected and confirms findings from the desk research which had suggested lower levels of activity and engagement with s75 within smaller organisations.

## **5.2 Data structure**

As the prompts used for each strand of the consultation were broadly similar, it was possible to interpret the results for interviews, focus group discussions (including the EARS responses) and written responses in combination.

Initially it was agreed to structure each strand of the research around a common set of main and supplementary prompts on the understanding that not all participants may choose to respond to each prompt.

In reality, the focus group discussions and face-to-face interviews were able to follow this structure closely, aided by the fact that all prompts were shown to focus group participants via a Power Point presentation, and face-to-face interviewees were led through a hard copy of the prompts.

Not surprisingly, some prompts spontaneously generated more discussion than others, while a number often tended to do no more than reiterate points already made previously, and, in particular, this was true for a number of the supplementary prompts.

Nevertheless, it was possible to extract points raised and then structure the data analysis around responses to each prompt in turn, both main and supplementary, before using this subordinate data to go on to consider overarching or superordinate themes. It is these superordinate themes that form the basis of the discussion in Chapter 6.

Furthermore, at various times during the research, evidence of good practice emerged. These examples of good practice are also highlighted in Chapter 6.

To ensure complete transparency, detailed findings for the separate research strands can be found in the accompanying Technical Report, including an analysis of each prompt by data type, i.e. qualitative and quantitative.

## **5.3 Qualitative and quantitative data analysis**

In keeping with good practice, the qualitative data has been presented in the Technical Report by way of a discursive commentary highlighting significant issues that emerged around each of the prompts during the course of the interviews and focus group discussions.

The qualitative data analysis does not include reference to the number of responses but instead gives a more general indication of the strength of support for particular views across



the sample, together with counter opinion. The researchers would be confident that the sample interviewed was sufficient to provide representative coverage of each theme, with saturation of core themes evident during the latter stages of the research.

EARS allows for a quantitative analysis of responses to multiple choice closed questions based on the focus group interview prompts, and a summary of these findings is also shown in the Technical Report. Likewise, the analysis of responses to the written questionnaire is shown in the Technical Report, including an analysis by sector; however, given the assurance of anonymity, sectors with a sample of fewer than four have not been included.

#### **5.4 Sample characteristics**

While emerging superordinate themes relating to s75 screening and EQIAs will be considered in the next chapter, at this time it may be useful to reflect separately on methodological issues and including characteristics of the sample and their responses.

By way of example, it was often difficult to detect an emerging consensus within focus group discussions, with the face-to-face interviews also revealing a considerable range of experience of screening and EQIAs, and likewise attitudes towards s75. This variability was confirmed by the individual data from EARS, and also reflected in the desk research findings.

In combination these results, from a review of the available publications of all designated bodies via the desk research to the more focused consultations with engaged public authorities would suggest that the day-to-day experience of s75 across the public sector in Northern Ireland is far from uniform. While there are a number of organisations that make a considerable investment in genuinely mainstreaming the work into their core business, there are many who see s75 work as more tangential. The latter would tend to be, but not exclusively, smaller organisations with more limited resources, and are generally characterised by a more minimalist approach to statutory compliance. For example, among those public authorities with on-line evidence of screening activity, the desk research revealed many examples where screening appeared to be little more than a box-ticking bureaucratic exercise completed prior to policy implementation, with little evidence of genuine engagement for fulfilment of the statutory duties.

It is noteworthy that while the focus group and interview sample was deliberately weighted towards those with greater experience of, and engagement with, s75, nevertheless even within this select sample it emerged that there was still considerable variability in response to prompts, vindicating the decision to use a range of data collection techniques both quantitative and qualitative.

This variability was sometimes revealed in a lack of consistency between the content of focus group discussions and subsequent EARS responses and written questionnaires. This inconsistency may reflect on the fact that the dominant voices during discussion tended to be those with more experience of s75 while those who were less certain were less confident to engage and instead adopted a listening mode.

Certainly, with hindsight the dynamic of many focus groups was characterised by significant influence from a relatively small number of experienced and engaged participants who had immediate responses to hand for most prompts while other group members often had to be encouraged to provide their contribution.

It was also clear that a number of participants had some degree of frustration with the mechanics if not the principles of s75, and used the opportunity of the focus group discussions and interviews to air these frustrations. This was most apparent in the early stages of discussion but could create a climate where, in turn, other concerns were triggered and the tone of the discussion could become increasingly negative. Despite the best efforts of the facilitator, this spiral could be difficult to break at times.

Despite this negative tone, it was still clear that the overwhelming majority of those who participated did have an underlying and strong commitment to the principles behind s75 and genuinely welcomed a chance to help make the processes of screening and EQIA more user friendly and fit for purpose. This is encouraging and offers an opportunity to use the findings from this review to work with expert practitioners in crafting s75 tools that both meet statutory duties and also are of practical efficacy.

## **6. Discussion**

### **6.1 Introduction**

The review has brought together a significant array of data concerned with the practical experience and delivery of s75 across designated public authorities in Northern Ireland. As the previous chapters demonstrate, this has involved both desk and primary research and has including the following:

- **Audit of on-line s75 activity by designated public authority;**
- **Analysis of all available on-line screening forms, 2014-15;**
- **Analysis of available on-line EQIAs, 2013 – present;**
- **Focus group interviews with public authority representatives (including EARS);**
- **Face-to-face interviews with public authority representatives;**
- **Written questionnaire for public authority representatives.**

The reliance on a range of data collection methods, both quantitative and qualitative, in combination has been highly revealing of the current state of s75 practice, including levels and type of activity by size and sector.

At the same time, such an array of information can be overwhelming, and in particular where strong and consistent trends across the data set are not always easy to discern, and where participants appear to have had such varied experiences of the processes attaching to s75. A perusal of previous chapters, and the data contained therein, will confirm the complexities of the emerging data.

To address this issue, Chapter 6 has endeavoured to distil the key or overarching themes from the various data sources, and to briefly summarise data in relation to each theme.

Probably above all else the review has thrown into stark relief dramatic differences in the level of engagement with s75 across the Northern Ireland public sector, and in turn disparate interpretations of what s75 means for the day-to-day business of each organisation.

On the one hand, undoubtedly there is considerable evidence of good practice, underpinned by mechanisms and support systems which ensure that s75 considerations permeate policy development from an early stage of formulation through to

implementation, monitoring and review. In these examples, screening and EQIAs are used routinely and systematically to ensure that fairness is afforded due regard as an integral part of policy development and implementation.

On the other hand, there would appear to be examples of organisations that have singularly failed to buy-in to both the principles and the practice of s75, either applying screening in a perfunctory manner in the latter stages of policy development or choosing not to engage with s75 processes routinely.

The latter organisations are predominantly, but not exclusively, smaller bodies that were described as operating in times of stringency. Those who commented on this matter in interviews and focus group discussions tended to suggest that the regulatory burden which fell on their dwindling resources was seen as unmanageable and disproportionate.

Focus group and interview participants indicated that, in the past, s75 activity was often coordinated on a sectoral basis with the sharing of good practice and the avoidance of duplication of effort; these arrangements were seen as welcome but are now less commonplace. More generally, it was argued that s75 activities were being carried out against a backdrop of reduced resources, with limited capacity to continue to sustain even current levels of activity. Many participants spoke highly of the support provided by Commission staff in helping meet ongoing s75 obligations, and also welcomed the perceived move towards a partnership approach to s75 characterised by pragmatism.

These issues aside, and looking forward positively, the review has highlighted a number of occasions where public authorities have succeeded in mainstreaming s75 activity despite both difficult economic circumstances and a degree of frustration with some existing procedures and arrangements.

There is clearly a motivation among many representatives to work with s75 processes in order to improve policies and mainstream equality of opportunity and good relations, and this commitment provides a sound foundation for the future. Equally, comments received during the consultation confirmed that there are those whose enthusiasm for delivering on s75 would appear to be less strong, and with this in mind it is important to consider pragmatic ways to help rekindle engagement across the gamut of public authorities.

The following overarching themes have emerged over the span of the research process, and together they capture the primary issues and concerns that the project has identified. Under each theme, a summary of the primary findings will be offered but alongside this summary will be presented examples of good practice that have been brought to light during the course of the project.

These examples are scattered across the sample, from organisations of various size and in different sectors, and have been anonymised in keeping with the spirit of the project. Taken together, they provide a catalogue of techniques that can be used to help mainstream s75 activities into the fabric of an organisation in an economic, efficient and effective manner.

## **6.2 Structures and systems for mainstreaming s75**

### **6.2.1 Summary of key findings**

Desk research revealed wide variations in engagement with s75 across all the designated public authorities in Northern Ireland, from organisations that regularly subjected all new

and revised policies to scrutiny via screening, to those that appeared to screen infrequently if at all.

Delving below the surface of these findings, the focus groups and interviews suggested that those organisations where screening appeared to be firmly embedded within policy development and review tended to be characterised, more than anything else, by robust systems of administration which ensured that all new business was subject to scrutiny.

In these examples, screening was automatically and routinely triggered at an early stage of policy development, was centrally logged and recorded on a policy register, and was then carried through to sign off by senior management before entering a regular monitoring and review cycle.

In all honesty there were very few bodies that had all elements of this system in place but many had evolved structures based on at least some of these principles, operating locally and in a particular context.

**Triggering** - An issue that was first apparent during the desk research and later confirmed during the consultation, related to how screening was triggered when a policy was suggested or reviewed. The research has revealed that in most bodies it would appear that this trigger mechanism was far from systematic or well co-ordinated.

For example, in some organisations, it would appear that s75 continued to be sustained by the energy and enthusiasm of one or a few individuals with designated responsibility, and who were tasked with keeping a weather eye out for upcoming issues.

While this personalised system may have some merit in small organisations where informal communication networks were strong, in larger bodies there was the risk that new business could easily go undetected. Equally, while some s75 staff had the support of colleagues and systems, too often this type of work appeared to rest on the personal enterprise of a s75 champion, and from an organisational development perspective this would appear to be more fragile. Indeed, a number of participants spontaneously mentioned how much time had been involved in developing relationships across the organisation, and how difficult the work was for new s75 staff without those contacts.

**Ownership** - A related concern voiced by some participants was that s75 could too easily come to be seen as exclusively owned by designated staff, and a dependency culture could be fostered as a consequence. Both focus group and interview participants indicated that 'buy in' from policy staff was most apparent where primary responsibility for screening rested with the policy owners themselves, but ably supported by those with s75 experience as and when appropriate.

It was maintained by many that the default position should be for policy owners to screen initially but secure in the knowledge that expert support was on hand as required, and especially for less experienced staff. Further, should the screening be less than adequate then the designated staff provided a quality control function, liaising or shuttling with policy staff until the screening template was deemed to be of an acceptable standard.

**Support** - A very small number of organisations represented at focus groups and interviews had trained and established networks of s75 coordinators. Where available, these individuals appeared to play a critical role in mainstreaming s75 work by first triggering the

need for screening, then being available to play a role in screening itself, before scrutinising screening decisions and liaising with other staff prior to sign-off.

In other organisations, there were, or had been, external sectoral networks. These were often described as a valuable resource, helping share knowledge and good practice, coordinating screening and EQIA activity, and often also performed a useful challenge function. Unfortunately, a number of these networks appeared to have become defunct, and this was seen as regrettable.

**Tracking** – Once a policy had been identified for s75 scrutiny or had been screened, a number of participants recognised that there was a danger that it could become ‘lost’ in the system. A small number of organisations had remedied this problem by establishing simple policy tracking systems that first identified the policy or policy area, assigned a designation before recording s75 and other activity over time, including the review and monitoring cycle. A policy cover sheet was attached to the living policy document or folder at an early stage of development and in turn each policy was logged in a central record.

**Scrutiny and endorsement** – The ongoing exchange between policy owners and s75 staff was routinely cited as a critical part of effective s75 delivery, and allowed for constructive scrutiny over time. Less frequent were those occasions where screening was regularly scrutinised by others, including external bodies. A small number did include all screening forms in frequent public consultation rounds, and there are examples from the local government sector of s75 consultation panels made up of those representing the nine s75 grounds and which meet at least twice yearly to scrutinise all screening forms (on average 20 per meeting).

**Sign off** - Focus group and interview participants indicated that mainstreaming of s75 procedures was enhanced where senior management demonstrated a positive commitment to the principles and practice of s75, and were shown to have an awareness of ongoing work, for example with a standing item on senior management team (SMT) or Board meetings that included sign-off of screening at the highest possible level. This commitment was not universal and appeared to depend on individuals rather than structures or the size or sector of the organisation.

### **6.2.2 Examples of good practice**

**Flow diagram** – A tailored flow diagram, based in part on the ECNI guidance, providing policy owners with a clear visual representation of what needed to be done at each stage of policy review, from initial identification to logging, screening (and EQIA), reporting and reviewing/monitoring.

**Responsibility** – Each new or revised policy is assigned to a named individual or policy owner with designated responsibility to ensure that each stage of the procedure is followed, up to and including sign-off and review.

**S75 coordinators** – A trained team of staff placed strategically across the organisation and in all functions or business areas to identify any new policy developments and associated requirements for screening, plus providing support to policy owners for screening and liaising with s75 staff.

**Policy cover sheet** – A record of the policy designation and activity attaching to the policy including screening/EQIA, decisions and the review cycle.

**Policy register** – A spreadsheet recording all existing, revised and new policies including chronological record of s75 activity and review cycle.

**Internal scrutiny** – The completed screening form is run past s75 staff to ensure quality control, and including experienced staff from outside that business area to offer a constructive challenge function.

**External scrutiny** – Training and managing a panel of s75 representatives to routinely scrutinise all screening templates decisions, and to work constructively with staff to ensure that due diligence is being followed.

**Sectoral network** – The establishment of a network involving s75 staff from related bodies, to provide support, feedback and to coordinate partnership sectoral activity in a cost effective manner.

**Sign off** – Screening templates signed off by the policy owner or lead, s75 staff and senior management, who receive a quarterly report on s75 activity as a standing agenda item on SMT meetings.

**Executive commitment** - Executive bodies (e.g. Board, Council) are made aware of s75 responsibilities through appropriate training and are given regular updates on s75 activity including significant decisions.

## **6.3 The screening process and template**

### **6.3.1 Summary of key findings**

The review of on-line screening forms through the desk research revealed a somewhat underwhelming picture of the quality of available screening documents and an overall dearth of mitigating actions (present in only 6.4% of screening templates). Indeed, 63.4% of screenings indicated no likely impacts and a further 24.8% identified potential positive impacts only.

For the majority, there was little evidence of genuine engagement but instead a ‘cut and paste’ or ‘box ticking’ approach had become commonplace, an approach that did little to inspire confidence that the policy had been genuinely scrutinised against the four screening questions.

The consultation phase of this project allowed further examination of not only the what and how of screening but also the why, in other words the perceived rationale or purpose behind screening. While the majority of focus group and interview respondents said the rigour and discipline associated with the screening process was useful and indeed welcomed and encouraged due diligence, to others this was countered by the excessive demands made by a process that was seen to be overly wordy, procedural and too demanding of available resources. In a more positive vein, participants did suggest a number of ways in which the current system could be improved to encourage future engagement.

**User friendliness** – The language attaching to s75 and including screening was described by many participants as esoteric and unfriendly, creating an aura that was off-putting and even frightening to those with little previous experience.

This was seen as unfortunate given that it was argued strongly that the principles behind s75 were straightforward and often no more than sound common sense. Linking s75 so

closely to a policy review process was also seen by some as constraining when it was felt it could usefully be applied across larger business areas more generally.

While the rigours of screening were acknowledged by many focus group and interview participants as a positive, it was argued that some policies (e.g. technical procedures, best practice guidance) had clearly no s75 issues attaching to them. A great many respondents felt that a 'trip out' or shortened version of the template for such policies would be welcomed, and indeed had already been introduced in pilot form in one sector.

***Capturing the past, present and future*** - There was widespread acknowledgment among focus group and interview participants that the revised version of the screening template marked an improvement and in particular had the potential to define a positive, formative role for screening at various stages of policy development. This represented a sea change in the way in which s75 was operationalised among many public authorities.

At the same time, the revised template itself was often described as falling short of this aspiration by failing to capture the dynamism of policy development. While policy development was described as an iterative process, screening was seen as a representation or snapshot of a single moment in time during that development, rather than a chronological record of how s75 considerations (including mitigating measures) may have been built into the policy from its initial formulation. Some felt that a new policy was best described as a living document, and suggested that the screening template should reflect this process more closely.

With this in mind, while focus group and interview respondents maintained that the four screening questions may help identify future opportunities for actions, participants went on to argue that the questions failed to help capture actions that may have already been put in place to promote equality of opportunity and good relations. In other words, the forward orientation of the questions did not accommodate, recognise or give due credit for any existing mitigating measures already introduced into the emerging policy.

What is more, it was actually maintained that a positive answer to the screening questions, 'Are there opportunities to better promote equality of opportunity / good relations' could be construed as an admission of guilt if actions had not already been taken!

It was also suggested that the template did not provide sufficient opportunity to reference the context within which the policy operated and thus the background against which changes or modifications had been made was not made clear, including constraints on action (e.g. political, financial, legal).

***Links*** - Those focus group and interview participants with experience of screening could often understand the synergy inherent in the screening process and how the various elements worked sequentially to help reach a decision on adverse impacts and in turn mitigating actions.

At the same time, it was maintained that those participants with less experience found themselves embroiled in the mechanics of a process that was somewhat alien to them, for example with no clear understanding of why or how to use data to determine adverse impacts and, in turn, how these could reflect in mitigating actions.

The links between each part of the screening template were often described as opaque, with officers failing to see how one section led sequentially to the next. A number

mentioned that they would welcome further guidance in the screening template to help steer policy officers through the process and identify linkages, and including examples of good practice.

**Defining policy** – A recurring theme in both the focus groups and interviews was the difficulties experienced in identifying what was a policy and in turn what should then proceed to screening. This was coupled with a feeling that, in the context of s75, the term was perhaps too broad in scope and could potentially include so much business and at so many levels that almost inevitably there had to be a degree of selectivity.

**High level business** – There was a general consensus that, in practice, s75 screening was most effective when being used to consider concrete policies, programmes etc. involving operational matters. However, when screening was applied to high level, aspirational strategies then the screening questions became less effective as a means of policy interrogation, and rarely were significant issues uncovered. Perhaps as a consequence, many also argued that such strategies were less likely to be routinely screened and yet underpinned so many other policy areas, and this was unfortunate.

### 6.3.2 Examples of good practice

**Defining policy** – Some organisations had adopted a flexible and proportionate approach to defining business that should proceed to screening. Where appropriate, large policy areas were screened under the guise of one screening template, while greater attention could also focus on single issues or decisions should this be appropriate.

**Two tier template** – One sector has recently piloted a two-tier screening template that allows policies with no s75 considerations (e.g. technical procedures) to be fast tracked through the process while others continue to be shown due regard.

**Policy review record** – A log attached to the policy documentation that records changes to the policy over time and including mitigations that may have been introduced (alternatively known as a Document Version Control System).

**Abbreviated template** – In the early stages of policy development, a shortened version of the screening template is referenced regularly by policy makers to keep s75 considerations in mind, until such time as the policy is well formulated when the full template is applied.

**Guidance & training** – Supplementary guidance notes attached to the screening template, sometimes including worked examples of common impacts and corresponding mitigating actions, supported by training for policy staff.

## 6.4 Use of data

### 6.4.1 Summary of key findings

The desk research revealed that the majority of screening forms either included no data or general information (e.g. census figures, staff profile) that was often of little relevance to the policy in question. Hard evidence to show that focused data gathering was commonplace was less forthcoming.

While participants did acknowledge that data of various types was generally of significance when screening, the practical obstacles standing in the way of data collection were often cited, including lack of available resources. Once gathered, the same data sets were then often used repeatedly across a range of screening exercises.



Outside agencies including NISRA were regarded as a valuable resource, and on occasions a more formal relationship had been established, including secondments, but these tended to be arrangements in place only in larger authorities. This was unfortunate as these were also the organisations with internal statistical resources, while smaller bodies often struggled to find support.

Data was generally reported in screening templates either in summary form or as catalogues of data sources that had been referenced. A common concern raised was in relation to how the data was used to inform subsequent questions and decisions in the screening template. For example, the following question (on 'Needs, experiences and priorities') was either regarded as a repetition of the 'Available evidence' question, or was not clearly related.

Participants often reported that while quantitative information was seen as the first priority in terms of data gathering, very often in practice it was qualitative information relating to the first hand experiences of, for example, service users or staff that ended up as being the most insightful and valuable information brought to bear during screening. Indeed it was suggested that the numbers could act as a smokescreen behind which real inequities affecting minorities could be hidden, and it was the combination of both quantitative and qualitative techniques that provided the most robust data.

While many participants argued that data was always important in screening, a significant number also suggested that there were occasions where data was not relevant but rather a desk audit could be as revealing of potential adverse impacts, on the basis of the application of professional judgment. This was often true of projective policies.

#### **6.4.2 Examples of good practice**

**Internal data resource** – Over time, good working relationships had been established with bespoke statistical support personnel within the organisation who were familiar with s75 and who had reliable data sets that could be made available for screening. Sometimes these were made available for download from an in-house intranet system.

**External data resource** – Established relationships with external bodies that knew the types of data requests likely to be forthcoming, and with arrangements in place to ensure this information was quickly to hand.

**S75 representatives** – Informal contacts with various representative groups that were willing to offer advice and comment through the screening process

### **6.5 The role of EQIAs**

#### **6.5.1 Summary of key findings**

The desk research revealed that although the number of EQIAs being undertaken across public authorities over recent years was not large, the quality of these assessments was high, conforming closely to ECNI guidance and often leading to significant mitigations or the introduction of alternative policies. The structure and content of EQIA consultation reports would suggest a good understanding of the EQIA process, and without doubt the reviewed EQIAs often represented significant research enterprises taking up considerable resources and time.

It was noteworthy that when an EQIA had generated little interest at the stage of public consultation on occasion the authority had then failed to publish a final decision report.

From a pragmatic perspective this is perhaps understandable but it does open the organisation to potential challenge as the EQIA process has not been completed.

Almost universally, focus group and interview respondents saw the decline in the number of EQIAs not as a negative sign of disinterest but as a healthy and positive indication that screening was now being used to remedy issues at an earlier stage in policy development and refinement, and these mitigations inevitably led to a reduction in the number of policies progressing to EQIA. This was an inevitable and positive consequence of the changes introduced in the revised screening template and was universally welcomed.

Participants indicated that EQIAs were increasingly regarded as reserved business for significant and contentious decisions, and this was also seen as a positive development. It was argued that too often in the past EQIAs had been carried out indiscriminately and with no clear rationale or positive outcome.

It also became apparent during discussions that there was still some confusion regarding terminology, with some referring to screening as EQIAs or equality assessments, or variations on those themes. This may help explain some of the anomalies in the annual reporting of activity by public authorities.

### **6.5.2 Examples of good practice**

**Timing and s75 strategy** – A number of those bodies with experience of EQIAs had developed s75 strategies to build s75 into successive stages of policy development. Typically, these would reference occasions when screening should be carried out on emerging strands or policies associated with the strategy, and would also ensure that any EQIAs were carried out at the appropriate time, for example while options were still available and not when the strategy or policy was already set in stone.

**Engagement** – While the majority of EQIAs confined engagement to the public consultation phase of the EQIA, a smaller number recognised the benefits and importance of building more informal and less structured engagement with key stakeholders (including representative groups) into the earlier stages of the assessment, and including data gathering and analysis.

**Integration and coordination** – Organisations that routinely carried out public consultations over time had evolved cost efficient methods for integrating EQIAs into more general public consultation rounds, thereby avoiding duplication.

## **6.6 Good Relations and TBUC**

### **6.6.1 Summary of key findings**

The desk research revealed that the construct of good relations in general was often shown scant regard in published screening documents, with little evidence to suggest that many public authorities genuinely engaged with related issues, or considered them relevant.

The consultation suggested that a great many participants did not see good relations as having any bearing on large swathes of their work, and as a consequence appeared to discount the relevance of the good relations questions. More generally, good relations issues were regarded as more problematic to identify and resolve, with confusion initially as to what the term meant and beyond this how this domain operated apart from the promotion of equality of opportunity. A number mentioned that they felt the good relations

element skewed the screening process towards three of the nine grounds in particular, and this was regarded as disproportionate and unreasonable.

There was no appetite for expanding the screening template to include further good relations questions and in particular as the template was already seen as overly lengthy, but at the same time there was some discussion of legitimately including two further grounds (rurality and social deprivation). Indeed, a number of organisations had already included issues including disability and human rights within their adapted screening templates.

During discussions it became apparent that, in some sectors at least, there was a structural divide between the functional areas of equality and good relations, with little or no engagement between the two. S75 staff saw good relations as outside their domain and as a consequence often felt ill equipped to address these matters.

Equally, it was argued that good relations staff appeared to regard their primary focus as community development and engagement, and rarely made an input into s75 processes. This was unfortunate in many ways, not least because of the strong links and engagement with local communities that could have helped enrich s75 procedures.

Current political disputes over the interpretation of the role that good relations should play in s75, or indeed the role of the Commission, have not helped create a climate where these divisions are likely to be healed.

Finally, regarding TBUC, it was interesting and surprising to discover such a low level of awareness of the strategy, or even the acronym, among participants. Discussion of the relationship between TBUC and s75 tended to be somewhat stilted because of this lack of knowledge but among those who had some awareness, opportunities for integration were viewed as positive, and the potential of the existing screening and EQIA processes to address TBUC considerations was duly recognised, without the need to augment.

### **6.6.2 Examples of good practice**

***Integrated functions*** – A small number of organisations saw no distinction between the work on equality of opportunity and good relations but instead addressed both within the same functional area.

## **7. Concluding remarks**

The research has been valuable in examining general practices on screening/EQIA, recognising that the prompt to do so came from the proposals in TBUC. This research now clearly shows and has allowed reflection of the priorities that characterised the work of organisations, where good relations issues were often not regarded as central to s75 and indeed where the acronym 'TBUC' was unknown to the overwhelming majority of respondents.

The research has been revealing of wide variations in engagement across all designated public authorities, with the desk research scrutinising published material including screening forms and EQIAs while the consultation phase of the research allowed a more in-depth consideration of the perceptions and experiences of those who deliver s75.

With regard to the consultation responses, it is important to note that the research has endeavoured to report accurately on what the sample of respondents had to say without being able to verify the reliability, validity or accuracy of these comments and observations. Inevitably this may mean that there are inconsistencies between what the 'facts' may

indicate is the reality of s75 practice, and reported perceptions or constructions of that reality; these views and attitudes are significant nevertheless as they reveal individual perspectives on how s75 is experienced, appraised and in turn engaged with.

The individuals who kindly agreed to take part in the consultation phase of the review were selected on the basis of having had some level of engagement with s75, and hence it could be argued that the sample is skewed towards those with experience. Nevertheless, even within this sample it soon became apparent that there were wide variations in knowledge and understanding, and this allowed for an appreciation of those with limited engagement alongside individuals who would legitimately be regarded as expert.

Following from this point, it became apparent that respondents had been involved with many examples of good practice, and it was decided that these should be included in the Discussion chapter, given they illustrate elements of robust systems of administration and scrutiny, to ensure screening is embedded in policy development and review. It is in the sharing of such examples that the Commission can provide additional guidance for public authorities in the short term. The findings emanating from this review are also likely to be incorporated within a more wide ranging, fundamental review of s75 by the Commission to be carried out in the near future and at a time when the full implications of the TBUC strategy on s75 implementation will be known. Recommendations arising from that fundamental review will hopefully draw on the good practice examples cited above, along with other findings that are revealing of current practice.