

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

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

## **Summary Report**

**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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## 1. Introduction

For over 15 years, Section 75 of the Northern Ireland Act 1998 ('s75') has placed two statutory duties on designated public authorities in Northern Ireland, to promote equality of opportunity and good relations. 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 objectives of the research were:

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

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 prompts and questions were 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**

### **3. Findings of desk research**

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. In practice it soon became apparent that 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.

#### **3.1 Screening**

**Levels of activity** – The researchers examined the websites of all 163 designated authorities and identified 561 screening templates published by 42 public authorities in 2014/15. 83.6% of all screening templates reviewed were derived from large organisations (>250 employees), while these represented 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%) yet only 14 templates were available for review on-line (2.5%).

In terms of sector, it was apparent that the highest levels of activity were within NI Government Departments and Agencies. Indeed, 48.8% of the screenings examined were undertaken by this sector (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.

The majority of screening templates that were examined related to external operational policies (51.7%), many of which were described as purely technical in nature with no perceived impact on either equality of opportunity or good relations. This was especially notable in the health sector.

It is perhaps worthy of note that only a small minority of the screening templates examined (less than 5%) made reference to good relations considerations.

**Screening templates** – The majority of screening templates examined were variations on the Commission's model template which also 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.

**Use of data/evidence** – 301 of the 561 screening templates examined (53.7%) included data or other evidence. However, 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*.

**Impact on equality of opportunity/good relations** – 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. 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.

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.

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%).

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.

### **3.2 EQIAs**

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

The analysis of available EQIAs revealed that the majority 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). Only eight of the 30 (26.7%) considered good relations matters as an integral part of the EQIA.

24 of the 30 (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 response analysis**

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

However, 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, and suggests 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.

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.

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.

Irrespective of 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.

#### **5. Discussion**

The review brought together a significant array of data concerned with the practical experience and delivery of s75 across designated public authorities in Northern Ireland. 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. To address

this issue, the researchers have endeavoured to distil the key or overarching themes from the various data sources, and to briefly summarise data in relation to each theme.

## 5.1 Structures and systems for mainstreaming s75

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. The key elements of such systems appeared to include:

**Triggering** – how screening is triggered when a policy is developed or reviewed;

**Ownership** – who is responsible for screening and what support is available to them;

**Support** – from both internal and external networks;

**Tracking** – for example, using a policy cover sheet and 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;

**Sign off** – focus group and interview participants indicated that mainstreaming of s75 procedures was enhanced where senior management demonstrated a positive commitment.

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. Examples of good practice are set out in section 6 below.

## 5.2 The screening process and template

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.

### **5.3 Use of data**

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. 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.

### **5.4 The role of EQIAs**

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.

### **5.5 Good Relations and TBUC**

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.

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. However, 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. Examples of good practice

Examples of good practice identified during the research included:

**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.

**S75 coordinators** – A trained team of staff placed strategically across the organisation to identify any new policy developments 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.

**Defining policy** – Where appropriate, large policy areas are 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.

**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 have reliable data sets that could be made available for screening.

**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

**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.

**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.

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

**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. 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 that 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.