



EQUALITY COMMISSION FOR NORTHERN IRELAND

Investigation under Paragraph 11 of Schedule 9 of the Northern Ireland Act 1998

Department of Finance - in its preparation of the Budget for Northern Ireland 2019-20.

Investigation Report

September 2020

1 Summary and Introduction

- 1.1 The duties in Section 75 of the Northern Ireland Act 1998 require that a public authority has due regard to the need to promote equality of opportunity, and has regard to the desirability of promoting good relations, when it carries out its functions in Northern Ireland. The Department of Finance is a public authority for the purposes of the Section 75 duties.
- 1.2 The Equality Commission for Northern Ireland (Commission) conducted an investigation into whether the Department of Finance (Department) failed to comply with its approved Equality Scheme, relating to equality impact assessment and consultation, in preparation of the Budget for Northern Ireland 2019-20.
- 1.3 The investigation was undertaken in accordance with the Commission's powers, as set out in Paragraph 11 of Schedule 9 of the Northern Ireland Act 1998 (the Act).
- 1.4 The Commission identified potential issues in the way the Department had prepared the Budget for Northern Ireland for 2019-20 (Budget). These related to the Department's statutory duty to have due regard to the need to promote equality of opportunity when carrying out its functions, as required by Section 75 of the Northern Ireland Act 1998. Specifically, the Commission was concerned about how the Department had carried out the Budget preparations in compliance with its Equality Scheme commitments.
- 1.5 For the investigation, the Commission has considered documentary evidence on the matter, supplemented by an investigation meeting held with

Departmental representatives on 18 December 2019. The Commission has assessed this evidence against the commitments the Department has made in its equality scheme, and the Commission's advice and guidance¹.

1.6 The background, evidence, assessment, findings and recommendations are set out in the sections below.

1.7 Based on the evidence and assessment, the Commission finds that:

- the Department of Finance failed to comply with its approved Equality Scheme at paragraph 4.3., in relation to its commitment to use the tool of equality impact assessment in preparation of the Budget for Northern Ireland 2019-20.

While the process of preparing the budget on this occasion was not normal, the Secretary of State should have been presented with an equality assessment of the Department of Finance's spending plans in a format that complied with its Equality Scheme commitments, for the Secretary of State to have due regard, as required by the Section 75 duties.

- the Department of Finance failed to comply with its approved Equality Scheme at paragraph 3.1 in relation to its commitment to consult on equality impact assessments.

The Department presented what was called an Equality Impact Assessment of its spending plans for the Budget to the Secretary of State, but this did not conform to the Equality Impact Assessment process as committed to in its Equality Scheme as no consultation had occurred.

1.8 The Commission makes a number of recommendations for the Department in its preparations for the Northern Ireland Budget, which are set out in Section 7 below.

2 Background

2.1 The Department of Finance published the announcement of the Northern Ireland Budget 2019-20 on 28 February 2019. It published details of the budget by way of a document setting out tables for departmental allocations and subsequently published a Cumulative Impact Assessment entitled: "*NI Budget equality considerations*" on 28 March 2019. This was the second time this approach had been taken, in the context of no Executive being in place, with the annual budget being decided by the Secretary of State.

2.2 In April 2019, the Commission's Statutory Duty Investigations Committee (SDIC) noted that the publication of the finalised budget on 28 February 2019

was apparently the first information to be published; there was no public consultation on the budget proposals or anything associated with them.

- 2.3 In April 2019, the SDIC also noted that there was apparently no public consultation nor engagement on any equality assessment of the budget. The Department's web page and link was to the Cumulative Impact Assessment: "*NI Budget equality considerations*" as published on 28 March 2019.
- 2.4 A letter outlining the Commission's concerns about the Department's potential failures to comply with its approved Equality Scheme was sent to the Department on 27 June 2019. This letter included: "*The Commission considers that the Department of Finance fulfils a function that is relevant to its duties under Section 75... through its role to co-ordinate across Departments and prepare the Budget for Northern Ireland.*" The Department's response was received on 11 July 2019. The Commission considered that response.
- 2.5 The Department has an approved Equality Scheme; it was approved in 2011 by the Commission. The Equality Scheme sets out how the Department proposes to fulfil its statutory equality and good relations duties, as set out in Section 75. The scheme sets out commitments and arrangements that the Department should apply and implement in order to fulfil those duties.

3 The Commission's belief that the Department may have failed to comply with its equality scheme

- 3.1 In October 2019 the Commission formed the belief that the Department of Finance may have failed to comply with its approved Equality Scheme, at paragraphs 3.1 and 4.3, in relation to its function to provide relevant equality information to support the decisions on the Budget 2019-20 and authorised an investigation.
- 3.2 The Commission notified the Department of the investigation on 31 October 2019, gathered the available evidence on the matter and arranged an investigation meeting with Departmental representatives, which was held on 18 December 2019.
- 3.3 The Equality Scheme paragraphs concerned say:

"3.1 We recognise the importance of consultation in all aspects of the implementation of the statutory equality duties. We will consult on our equality scheme, action plan, equality impact assessments and other matters relevant to the Section 75 statutory duties.

*4.3 We use the tools of **screening** and **equality impact assessment** to assess the likely impact of a policy on the promotion of equality of opportunity*

and good relations. In carrying out these assessments we will relate them to the intended outcomes of the policy in question and will also follow Equality Commission guidance...”²

3.4 Section 4 of this report, which presents the evidence, Section 5 for the assessment and Section 6 for the findings are set out in the following order:

- the Department’s functions and policies on this matter;
- the Commission’s belief that the Department may have failed to comply with paragraph 4.3 of its equality scheme; and
- the Commission’s belief that the Department may have failed to comply with paragraph 3.1 of its equality scheme.

3.5 The ordering is because the commitments on consultation in paragraph 3.1 relate, in this case, to the Department’s commitments to consult as an integral part of its equality impact assessment process (as committed to in paragraph 4.3).

4 Evidence

The Department’s function and policy

4.1 In the Department’s letter of 11 July 2019, the relevant function is described as follows: *“DOF supported the NIO policy decisions through the provision of relevant financial and equality information and we undertook that role”*.

4.2 At the investigation meeting, the Department representatives explained the Department’s structure and the role of different Divisions in relation to its functions to prepare and support preparation of the Budget.

4.3 The Department’s description is as follows: *“The Public Spending Directorate, which includes the Central Expenditure Division (CED), supports the Executive (Secretary of State for Budget 2019-20) in its decision making on the Budget through the provision of financial and equality information. The Public Spending Directorate and its functions are unique to the Department of Finance.*

The Finance and Corporate Services Division (FCSD) carries out the Finance and Accounting services for the Department of Finance. Similar Divisions exist within each Northern Ireland Civil Service (NICS) Department. FCSD is also responsible in the Department of Finance, through its Central Support Team, for the provision of equality advice across Departmental functional areas. Again, similar teams exist within each NICS department.”³

- 4.4 The Department's letter of 11 July 2019 and the evidence from the investigation meeting set out the Department's policy development process to present the Secretary of State with a draft Budget for decision making for 2019-20.
- 4.5 The Department's letter of 11 July 2019 also sets out that the development of the Budget was unusual, given the political context. It explains the normal circumstances of a draft budget being presented to the Executive. The letter goes on to explain: "*The political context in which Budget 2019-20 was developed was unusual, and as such the usual budget process could not be followed. Rather, the Secretary of State took the necessary and urgent decisions in a single stage budget process.*"
- 4.6 During the investigation meeting, the normal process of preparing an annual Budget was described as follows:
- The normal process, when a Minister and the Executive are in place, would be for the CED to gather data from departments, asking for information on current expenditure, reductions and additional funds, and ask for equality information at the same time. The focus was described as being on the numbers first and, as that becomes more refined, then the equality impacts would be assessed.
 - The timing for the normal process was also described, starting in June/July of any year. The Department would work with all the government departments on their data across the summer period, to have a draft budget presented to the Minister. It would then be presented to the Executive and consulted upon in September/October. The Department would undertake an analysis from the consultation and revise the Budget further. It would be presented for Executive approval and consideration by the Assembly during the December to February period.

Paragraph 4.3

- 4.7 In the Department's letter of 11 July 2019, the Department explained that the indicative budget allocations were provided by the Northern Ireland Office (NIO) on 21 December 2018, including those for the Department itself (for the FSCD). The CED then "*commissioned information on the equality impacts of the potential departmental budget outcomes. DoF then collated this information in line with its duty to provide decision makers with a Cumulative Equality Impact Assessment in advance of decisions being made*".
- 4.8 The letter also appended documents titled "Equality Impact Assessment" (EQIA) for each of the government departments, including one for the Department. The letter says "*... the individual departmental Equality Impact Assessments...was provided by DOF to the NIO on [2]6 February 2019.*"

- 4.9 The letter also refers to work undertaken by the Department, after the decision on the Budget, to update the Cumulative Impact Assessment which was then published on 28 March 2019.
- 4.10 The Department's EQIA, as appended to the letter of 11 July 2019, presents information under the headings:
- Introduction
 - Key equality challenges
 - Impact – How the Budget will positively impact each of the S75 groups
 - Implications
 - Conclusion
- 4.11 The Department representatives from the FCSD were asked about the EQIA document, in the context of its variance from the equality scheme commitment to use the tools of screening and equality impact assessment, and follow Equality Commission guidance. The Department representatives stated their knowledge of the seven steps recommended by the Commission to make up an Equality Impact Assessment.
- 4.12 The Department representatives explained that the commissioning of the information on the equality impacts (as referred to in the Department's letter of 11 July 2019), was done via an email request to all the government departments from the CED. This request was issued by the Department on 21 January 2019. The email was accompanied by a one page attachment, with the title, "*Equality Impact Assessment*" and contained a number of headings, which were the same as those set out above in paragraph 4.11. The attachment will be referred to as a "template" in the following sections.
- 4.13 The wording for the covering email of 21 January 2019 was forwarded to the Commission following the investigation meeting. In it, the CED requests "*details of the potential equality impacts. Departments may wish to provide information based on the suggested outline attached*". The outline attached was the template. The email makes no reference to equality scheme arrangements, nor the statutory duties in Section 75, nor the terms used in paragraph 4.3 of its Equality Scheme.
- 4.14 At the investigation meeting the Department representatives made a number of points about the request by email of 21 January 2019 and the template:
- while the template had been issued with a title of "*Equality Impact Assessment for 2019-20 Budget Process*", it should not have been as that is not what it was;
 - the request was specifically related to the CED's task to compile a cumulative impact assessment, and this task was described as being

separate from the FCSD's implementing the Department's equality scheme commitments;

- the use of terms have varied over a number of years for collecting this information from other departments, terms such as high level impact assessment has been used by the Department. "Screening" is the equality scheme methodology also used, and it was noted that the questions asked in the screening form also ask about impacts;
- it was stressed at the investigation meeting by the Department representatives that the cover instructions for the template and the request made on 21 January 2019 said "*departments **may wish** [emphasis added] to provide information based on the suggested outline attached*";
- the CED had issued the template following a series of meetings and advice from the Equality Commission and had considered and broadly applied the recommended headings and approach for collecting and presenting cumulative equality information; and
- the Department referred to advice sought from the Commission during 2018 which had been applied to the template headings, as issued on 21 January 2019.

4.15 There was reference at the investigation meeting to the Department representatives' understanding that an Equality Impact Assessment was a thorough and systematic analysis, for which they knew they did not have sufficient data, also that what data they did have was at a high level. The stage in an Equality Impact Assessment where consultation occurs was also referred to.

4.16 The value of issuing a template was also described by the Department representatives in terms of allowing the CED to "*summarise data more quickly for decision makers*". It was noted at the investigation meeting that the timescale for requesting, collating, analysing and presenting equality information to the Secretary of State was very short. The time was between 21 January 2019 when Departments were asked for information on equality impact and 26 February 2019 when the information was passed to the NIO. The CED is responsible for compiling both the financial and equality information to be presented to inform decisions on the Budget.

4.17 A number of other points were made at the investigation meeting about the process of requesting departmental information to compile a cumulative assessment of the equality impacts:

- the circumstances of the Budget preparations for 2019-20 were not normal, given the political environment. This had a particular impact on the ability

of the Department to undertake any early preparations or ask for information prior to the indicative budget allocations notified from the Northern Ireland Office (NIO) on 21 December 2018. On this occasion, the Department representatives described the timeframe as being driven by the NIO and the process being truncated, at the behest of the Secretary of State for Northern Ireland;

- the equality returns were requested from all departments by 30 January 2019 and the summary information was passed to the NIO on 26 February 2019. The final Budget for 2019-20 was agreed and published on 28 February 2019;
- given the timescales, the information provided in response to the request on 21 January 2019 was taken, as submitted, and compiled for the cumulative impact assessment.

- 4.18 The FCSD filled in the template and returned it to the CED as a document titled: “*Equality Impact Assessment for 2019-20 Budget Process – DoF – Departmental Input*”.
- 4.19 On 12 November 2019, the FCSD published a document: “*DoF Budget 2019-20 equality screening*”. It is a screening template, in accordance with the processes committed to in the Department’s equality scheme. The document is dated 1 April 2019.
- 4.20 There was no reference in the Department’s letter of 11 July 2019 to any screening templates completed by the Department as part of its policy development process and implementation of its equality scheme arrangements to the development of the Budget.
- 4.21 At the investigation meeting, the Department representatives were asked about the relationship between the screening document of 1 April 2019 and the EQIA provided to the CED, as referred to above. The FCSD completed both. In response, the Department representatives described the relationship between the two documents:
- the preparation of the screening template (its “*budget s.75 screening document*”) was carried out based on the indicative budget allocation of 21 December 2018;
 - the template, in response to the request from the CED was also completed by those in the FCSD, with some of the same information presented in both. But the screening document, as completed at that stage, was **not provided** to the CED and specifically was not provided in response to the request made on 21 January 2019;

- the equality information provided by the FCSD to the CED was described as an early version and indication of impacts, which were then set out in more detail in the screening template. The FCSD **did not** consider it provided the CED with an EQIA, albeit that was the title of the template, but an overview of the potential equality impacts;
- the screening template, on which the date 1 April 2019 is given, was updated, as a result of the Final Northern Ireland Budget, as published by the Secretary of State in February. In response to a question about changes to it as a result of the final budget allocation, the FCSD representatives confirmed that the equality assessment did not change significantly; the Department's final allocation was more favourable than the scenario planning and therefore the assessment was of no change to the likely equality impacts;
- the Department representatives acknowledged that the screening could have been published much sooner than November 2019.

4.22 When asked about the purpose, use and publication of the screening template, a number of points were made:

- the individual department EQIAs, as provided to the CED, were not published;
- business areas within the Department are expected to undertake screening exercises on their budget allocations.

4.23 There was no evidence presented of any other screening exercises undertaken for the Department's Directorates or business areas, apart from the screening template dated April 2019.

Paragraph 3.1

4.24 The evidence shows that there was no consultation on the Department's EQIA document, as submitted by the FCSD to the CED. There was no public consultation on any of the EQIAs submitted to the CED and forwarded to the Secretary of State on 26 February 2019.

4.25 There was no consultation on the Budget for 2019-20.

4.26 At the investigation meeting, and as outlined in the preceding paragraphs, the Department representatives made the following points in relation to their consultation commitments on this occasion:

- in a normal budget process, there is a clear stage where the Finance Minister and Executive would consider a draft budget and issue it for consultation, generally in September/October;

- the EQIA was, as referred to above, considered to be misnamed by the CED when it issued as a template;
 - the Budget, on this occasion, was not a process controlled by the Department, but rather by the NIO and Secretary of State;
 - the Department's functions are not generally outward facing or functions that are service delivery focussed. The proportionate approach in applying the tools committed to in the equality scheme was considered to be an equality assessment by way of completing a screening template.
- 4.27 The Department's screening document that was signed on 1 April 2019 within the FCSD, records the following screening decision: "*screened out – no EQIA necessary (no negative impacts)*".

5 Assessment

Function and policy

- 5.1 The Commission's advice and guidance anticipates that, in order to fulfil its statutory equality and good relations duties in Section 75 when it carries out its functions, a public authority will implement the arrangements and methods it has committed to in its equality scheme.
- 5.2 The Commission's "*Section 75 – A Guide for Public Authorities*" sets out what is required in an equality scheme and the arrangements recommended for public authorities to commit to in their equality schemes.
- 5.3 The Department has a function which is considered relevant for the purposes of the Section 75 duties, in providing equality information as well as finance information to those taking decisions on the Budget for Northern Ireland, and on this occasion the Budget 2019-20. This is undertaken by the CED in the Department.
- 5.4 The evidence in the Department's letter of 11 July 2019 states the function to be "*the provision of relevant finance and equality information*". The Department did not describe the function as one to provide relevant finance information and the associated equality assessment of that information, which is what is required and set out at paragraph 4.2 of the Department's equality scheme.
- 5.5 From the processes described in the investigation meeting the Department is considered to have a further function to prepare, assess and propose its own spending plans for its business areas, for inclusion in the draft Budget. This is understood to be a function undertaken by the FCSD on behalf of the

Department and all its business areas. This function is also considered relevant for the purposes of the Department's statutory equality and good relations duties in Section 75, and therefore within scope of the equality scheme and this investigation.

- 5.6 In accordance with the guidance set out at paragraph 5.2 above, the Commission considers that the Budget for Northern Ireland 2019-20 **is a policy** and within scope of the Department's equality scheme arrangements and commitments set out at paragraph 4.3 of the scheme.
- 5.7 The decision maker on the policy was, on this occasion, the Secretary of State. The Secretary of State was responsible for not only deciding upon the Budget, but also discharging the statutory duties in Section 75 in relation to the Department's functions, as well as for all the other government departments.
- 5.8 The circumstances for the Budget 2019-20 were not normal and the timing for preparing the Budget was not within the Department's control. However, the Department carried out its functions, both to provide information and to prepare its own spending plans for its business areas.

Paragraph 4.3

- 5.9 The Department's equality scheme follows the Commission's recommendations in setting out arrangements for "*assessing and consulting on the likely impact of policies adopted or proposed...*"⁴ and commits to the tools of screening and equality impact assessment at paragraph 4.3.
- 5.10 The evidence from the Department makes reference to "*its duty to provide decision makers with a Cumulative Equality Impact Assessment in advance of decisions being made*".⁵
- 5.11 The statutory provisions, the Department's equality scheme commitments and guidance relating to this are:
- paragraph 4.2 of the Department's equality scheme states: "*in making any decision with respect to a policy adopted or proposed to be adopted, we will take into account any assessment and consultation carried out in relation to the policy, as required by Schedule 9 9. (2) of the Northern Ireland Act 1998*";
 - guidance on principles⁶ arising from case law in Great Britain. They are taken into account by the courts there, when assessing a public authority's compliance with similar statutory equality duties. The relevant principle here is "*the duties must be fulfilled before and at the time that a particular decision is being considered, and not afterwards*".

- 5.12 The Commission has also issued specific guidance on Budgets and Section 75⁷. It sets out standards which are relevant to this investigation, particularly:
- the functions for budget setting are considered relevant for the purposes of the statutory duties in Section 75; and
 - the expectation that the equality scheme arrangements will be applied and implemented when a public authority is carrying out these functions.
- 5.13 The Commission's guidance on Budgets and Section 75 sets out a number of specific points that are particularly relevant for this investigation:
- *“Assessments should be **proportionate**. Public authorities should use the screening/EQIA methods to **tailor the scale of the assessment to the scale of the decision**. The assessment information must be **available to inform decisions**”*
 - *“there should be assessments of overall budget proposals at a strategic level. This should provide evidence of the **cumulative impacts**. ...it is important that this is presented alongside any draft budget consultations, to inform and enable consultees to fully contribute to the evidence that will be taken into account in decisions on the overall budget settlement.”*
- 5.14 At the investigation meeting, the Department representatives referred specifically to the advice from the Commission to the CED (see paragraph 4.14 above). The advice provided to the CED on those occasions also covered the following:
- the importance of applying the Section 75 framework, complying with equality scheme commitments and showing the appropriate level of regard;
 - potential approaches to secure more standardised equality assessment information from other departments, but which should be consistent with equality scheme arrangements and methods;
 - much in the equality assessments would relate to allocations for continuing functions and policies; therefore the equality implications of these should be known in order to prepare equality assessments for the draft Budget for 2019-20.
- 5.15 It is clear from the evidence that there were two distinct functions being carried out, both of which were being carried out by those with knowledge of the Department's equality scheme and its commitments.

- 5.16 However, the purposes of the equality scheme processes and commitments were not described in the evidence in a way that corresponds to the statutory purpose, nor the Commission's guidance:
- the FCSD prepared a screening document in accordance with the commitments at Paragraph 4.3. But it did not forward any version of that screening document to the CED for presentation to the Secretary of State. It was not used as the Department's equality assessment of its spending plans;
 - the Department's letter of 11 July 2019 referred to its "duty" to provide decision makers with an equality assessment in advance of the decision, but referred specifically to a "*Cumulative Equality Impact Assessment*". This is not the same as the commitment made to use screening and equality impact assessment as set out in paragraph 4.3;
 - the request to all government departments for information for the Cumulative Impact Assessment did not make any reference to the statutory equality and good relations duties, nor refer to the equality scheme arrangements. It should be noted that all government departments have committed to the same arrangements, in terms of screening and Equality Impact Assessment, as recommended by the Commission;
 - the screening template prepared by the FCSD was not completed until April and the Cumulative Impact Assessment document was published on 28 March 2019. The reason given was that once the final budget allocations had been announced, there was a second exercise to request and update the equality impact information for both the screening template and the Cumulative Impact Assessment. All of these activities occurred after decisions had been taken and were irrelevant for the purposes of providing the decision maker with the appropriate equality assessments in order to discharge the Section 75 duties.
- 5.17 The Secretary of State was presented with financial information for the Budget and this would have included the financial information for the Department and its business areas. This "proposed policy" was, from the evidence, accompanied by a document titled "Equality Impact Assessment" for the Department. The Cumulative Impact Assessment is not relevant here as the information it contained was drawn entirely from the departmental information presented in the "Equality Impact Assessment".
- 5.18 What was presented to the Secretary of State, as decision maker, was not an EQIA as committed to in paragraph 4.3 of the Department's equality scheme, in either form or content.

5.19 In explaining their actions, the Department representatives said that there had been a misuse of terminology and that what had been presented as an Equality Impact Assessment was never intended to be one. There were other points made in the investigation meeting, particularly:

- the high level nature of the equality assessment at that stage, which was more appropriate to a screening exercise;
- the timescale within which the budget preparations had occurred, from the date of notification by the NIO;
- the scale of the task involved in terms of the preparation of the finance information as the priority, and then the equality information.

5.20 However, the Department had sought and received advice from the Commission on a number of occasions during the course of the 2018-2019 business year. In this advice, the importance of the Department's adherence to the equality scheme arrangements was stated.

Paragraph 3.1

5.21 The Commission's belief that the Department may have failed to comply with its commitments at paragraph 3.1 of its equality scheme relate specifically to the stage in an Equality Impact Assessment where the Department's assessment of the equality impacts of the policy concerned should be consulted upon.

5.22 Paragraph 4.3 of the Department's equality scheme contains the commitment, as set out above, to follow Commission guidance. The Commission's guidance on Equality Impact Assessment⁸ sets out the following stages for undertaking an EQIA:

- Defining the aims of the policy;
- Consideration of available data and research;
- Assessment of impacts;
- Consideration of: measures which might mitigate any adverse impact and alternative policies which might better achieve the promotion of equality of opportunity;
- Consultation;
- Decision by public authority and publication of the results of the EQIA;
- Monitoring for adverse impact in the future and publication of the results of such monitoring.

5.23 The process of developing the Budget for 2019-20 was not the normal process. There was no policy consultation exercise on the draft budget. The

process of preparing the Budget 2019-20 was clearly truncated. It was the second year in which this was the case.

- 5.24 The Department's equality scheme arrangements for consultation are part of processes committed to that enable the Department to fulfil its duties in Section 75, when it carries out its functions.
- 5.25 The Department should present and consult on any Equality Impact Assessment of a draft budget. The Commission's advice for a normal budget development process is that the Department consults on the equality assessment of the draft Budget alongside consulting on the draft Budget itself.
- 5.26 On this occasion there was no consultation on the budget during its preparation.
- 5.27 While the Department used the title of "Equality Impact Assessment" for the equality information it forwarded to the CED, in its evidence, the Department is clear that it was neither intended to be an Equality Impact Assessment, as understood from its equality scheme arrangements, nor was it completed as such by the FCSD.
- 5.28 However, none of the equality assessment information prepared by either the FCSD or the CED was made publically available before the budget was set and announced on 28 February 2019. The screening template was only made available in November 2019 and the "NI Budget Equality Considerations" was published on 28 March 2019.

6 Findings

- 6.1 Based on the evidence and assessment set out in the preceding sections, the Commission finds that the Department of Finance failed to comply with its approved Equality Scheme at paragraph 4.3., in relation to its commitment to use the tool of equality impact assessment in preparation of the Budget for Northern Ireland 2019-20.
- 6.2 While the process of preparing the budget on this occasion was not normal, the Secretary of State should have been presented with an equality assessment of the Department of Finance's spending plans in a format that complied with its Equality Scheme commitments, for the Secretary of State to have due regard, as required by the Section 75 duties.
- 6.3 The Department of Finance failed to comply with its approved Equality Scheme at paragraph 3.1 in relation to its commitment to consult on equality impact assessments.
- 6.4 The Department presented what was called an Equality Impact Assessment of its spending plans for the Budget to the Secretary of State, but this did not conform to the Equality Impact Assessment process as committed to in its Equality Scheme as no consultation had occurred.

7 Recommendations

- 7.1 On the understanding of the unique role for the Central Expenditure Division (CED) "*to support the Executive (Secretary of State for Budget 2019-20) in its decision making on the Budget through the provision of financial and equality information*", that the Finance and Corporate Services Division (FCSD) undertakes relevant equality assessments within its functions, and the Central Support Team advises on equality across the Department; the Commission recommends to the Department, in its preparations for the Northern Ireland Budget, that:
 - the CED adopts a revised functional description (see above) which aligns to the commitment at paragraph 4.2 of the Department's equality scheme, ie that it provides finance information and ***the associated equality assessment of that information***;
 - the CED ensures this function and **its purpose** is clear and understood by all those in the Department with responsibilities for preparing/planning and implementing budget allocations and applying equality scheme commitments;
 - the CED sets out clear instructions or requests to all government departments that refer to the equality scheme commitments of screening

and EQIA and that the purpose of these processes is to enable the relevant decision makers to carry out the statutory duties in Section 75;

- the FCSD continues to prepare Departmental equality assessments (screening and potentially EQIA) at the earliest opportunity in the process, such as for the “indicative budget allocations”, in accordance with the equality scheme commitments at paragraph 4.3, and ensures that it is this assessment which is **presented alongside the draft Budget if/when it is consulted upon**;
- the FCSD updates this assessment, as appropriate, following any consultation and **ensures this assessment is presented to the decision maker**. The FCSD, through the advice from the Central Support Team, should ensure a common understanding throughout the Department of the purpose of and commitments made in the Equality Scheme relating to the equality assessments, i.e. the assessment is provided to the decision maker⁹;
- the FCSD, as well as any other Division or Directorate in the Department, publishes the assessments of the potential equality impacts of its proposed policies, whether as screening templates or EQIAs, as the version that has been presented to the decision maker.

7.2 The Department should report to the Commission on the implementation of the recommendations within six months of the date of issue of the Investigation Report.

Endnotes

¹ *Section 75 – a guide for public authorities*, ECNI (2010)

² Department of Finance approved Equality Scheme, pages 12 and 16

³ Letter from Department of 16 July 2020

⁴ Schedule 9, paragraph 4(2)(b)

⁵ Letter from Department of 11 July 2019

⁶ *Section 75, Northern Ireland Act 1998 and Section 49A, Disability Discrimination Act 1995 – A short guide*, ECNI, 2015, page3 – the principles are commonly known as the Brown principles, from a case of that name.

⁷ *Budgets and Section 75: a short guide*, ECNI, 2015

⁸ *Practical Guide on Equality Impact Assessment*, ECNI, 2005

⁹ See paragraph 5.11