



**Response to the Belfast Health and Social Care Trust  
on its  
Draft Equality Scheme,  
Audit of Inequalities and  
Action Plan**

**March 2011**

## 1 Introduction

NICEM is an independent non-governmental organisation working to promote a society free from all forms of racism and discrimination, where differences are recognised, respected and valued, and where human rights are guaranteed. As an umbrella organisation<sup>1</sup> we represent the interests of black and minority ethnic<sup>2</sup> (BME) communities in Northern Ireland.

NICEM welcomes the opportunity to make a response to this important consultation. Section 75 of the Northern Ireland Act 1998 was, at that time, a genuinely unique experiment in mainstreaming equality across 9 grounds, including 'racial group'. Under 'Background', in the Foreword of the draft Scheme, it is stated, "While public authorities had worked hard to get the process right and there had been a substantial cultural change and a change in how public policy was made, there was a tangible need for a "shift from process to outcome". These outcomes are the impact or benefits derived for the individual as a result of implementation of the duties."<sup>3</sup>

Before considering the implementation of section 75 in more detail, we wish to make the initial point that, from NICEM's perspective, **section 75 is largely targeted at promotion of equality of opportunity for individuals in vulnerable communities and groups in Northern Ireland, in our case, ethnic and religious minority communities.** Screening and

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<sup>1</sup> Currently we have 29 affiliated BME groups as full members. This composition is representative of the majority of BME communities in Northern Ireland.

<sup>2</sup> In this document "Black and Minority Ethnic Communities" or "Minority Ethnic Groups" or "Ethnic Minority" has an inclusive meaning to unite all minority communities. It refers to settled ethnic minorities (including Travellers, Roma and Gypsy), settled religious minorities, migrants (EU and non-EU), asylum seekers and refugees and people of other immigration status.

<sup>3</sup> At p 7 of the draft Scheme.

equality impact assessment (EQIA) exercises are directed at the identification of 'adverse impact' on these communities and groups. It is a mistake to individualise the collective nature of section 75 analysis. This individualisation also makes it easier to claim that particular policies have 'universal impact' on all individuals, in seeking to avoid identifying the particular adverse impact that some section 75 communities and groups suffer.

NICEM has concerns that the 'due regard' duty in section 75 has become a mechanical exercise and that public authorities generally produce 'defensive' screening exercises and self-justifying EQIAs. We are also concerned that key elements in original schemes, such as collection of quantitative and qualitative data, collaborative research across sectors and the effective monitoring of policies across all section 75 grounds, have been largely disregarded.

**In short, NICEM considers that the bureaucratic application of equality schemes by many public authorities has turned section 75 from an equality 'mainstreaming' duty into an equality 'sidelining' duty.**

NICEM considers that section 75 itself and Schedule 9 of the Act have many deficiencies. Nonetheless, the Effectiveness Review conducted by the Equality Commission (ECNI), the third edition of its Guide on Statutory Duties and the introduction of audits of inequality and action plans all provide a stimulus for the reinvigoration of the 'mainstreaming' duty in section 75.

NICEM expects the Belfast Trust to submit a mature equality scheme to the

ECNI. It should build on the experience of 10 years of operating under its original scheme and reflect the particular functions of the Trust and challenges that it faces. NICEM worked as part of the Equality Coalition to discuss with the ECNI its draft Model Scheme, to which we will refer below, and we consider this to have been a valuable exercise in setting down the minimum standards expected in an approved equality scheme.

NICEM also accepts that drafting an audit of inequalities and an action plan is 'new territory' for everyone involved in this process. Nevertheless, NICEM expects both audits and action plans to be 'living documents' within the work of the Trust. We expect them to be regularly reviewed and made more comprehensive and effective. **Most importantly, we consider that the development of audits and action plans are not some form of alternative to the effective compliance of the Trust with its equality scheme, but rather a means of helping the Trust adopt best practice in the proactive promotion of equality of opportunity in its work.**

In this sense, this revision of equality schemes and introduction of audits and action plans is an opportunity to learn from the mistakes and inadequacies of the past 10 years and to move forward, even at a time of scarce resources, into a period of genuine mainstreaming of equality.

## **2 The Process**

From NICEM's perspective there should be one Equality Scheme from the DHSSPS that applies across the Board, the Trusts and other health and social care bodies coordinated by the Business Services Organisation. In this way the sector will have more resources by working together and doing a better job on the audit of inequalities and monitoring data. The action

plans at each level should reflect each body's unique functional areas.<sup>4</sup> Otherwise, as it appears clear now, action plans at each level will have different directions which are not consistent with each other.

However, the whole sector has to be fully involved in these processes. On this occasion, it is valuable that the health and social care sector is revising its schemes and producing audits and action plans along with the relevant Government Department. In 2000-01, the Government Departments came first and, in the view of many, produced minimalist schemes, which were approved by the ECNI, and set the scene for their respective sectors.

Valuable work had obviously been done in the sector but there was still much to do. **It is important that the health and social care sector schemes, audits and action plans are seen as a template for other sectors.**

### **3 Draft Equality Schemes**

#### **3.1 Consistency with ECNI Model Scheme**

In NICEM's view, **there should a non-regression principle in relation to the consistency of draft equality schemes with the ECNI Model Scheme.** We would have preferred if the Trust had been required by the Commission to indicate any deviation from the minimum requirements of the Model Scheme with an explanation of the deviation. **We feel that public authorities should be required to explain deviations from the Model Scheme in the schemes which they submit to the Commission for approval and that the submitted schemes should be circulated to**

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<sup>4</sup> This was intended by the previous Government in Great Britain in relation to the public sector duties in the Equality Act 2010.

**consultees so that they can comment upon the deviations and explanations.**

### **3.2 Customised Equality Schemes**

Having made that point, **NICEM nevertheless believes that public authorities should make more efforts to customise their schemes to their own functions.** We have seen some schemes that repeat exactly the wording of the Model Scheme with minimal attempt to make the scheme a reflection of what the authority actually does. We do not accept that, because the scheme is a ‘legal document’, it should merely reiterate the terms of the Model Scheme. No doubt, the Commission wishes to approve a scheme within which the obligations of the Trust are clearly set out, so that the Commission can, if necessary, conduct its investigations into alleged failures to comply with it. But this genuine concern is met by the ‘non-regression’ principle outlined above.

**In our view, the scheme should be both inward and outward looking.** It should be relevant to those who work for the public authority, so that they can see their role in mainstreaming equality in their organisation.

It should also explain fully to recipients of services, and the public more generally, what the authority actually does so that they can also see how the mainstreaming of equality is relevant to them. Given that most public authorities have been operating under their original schemes, it should be easy to include practical examples of how the authority has already complied with its original scheme, not just on screening and EQIAs but also on other commitments such as collection of evidence and monitoring of policies.

We welcome the fact that the Belfast Trust has made considerable efforts to customise its scheme. However, **more could be done to make the scheme relevant to both those who work for the Trust and the citizens who receive its services**, and those who work with it on consultative and other participative forums and respond to the Trust's consultations.

One particular aspect of the draft Scheme that we find unsatisfactory is that the Trust fails to set itself specific deadlines when required to do so by the Model Scheme. For example, at §3.2.3 of the draft Scheme, it is stated:-

“Information will be made available, on request, in alternative formats, in a timely manner, usually within a timely fashion. We will ensure that such consultees have equal time to respond.”

Frankly, **this is meaningless** and threatens to jeopardise the good work which has gone into drafting the revised scheme. How is the Commission supposed to investigate compliance with such vague and non-committal ‘deadlines’? At least, other health and social bodies have inserted specific deadlines and the Trust should do the same.

## **4 Draft Audits of Inequality**

### **4.1 Collection of data**

We welcome the draft audit of inequalities across the Trusts and the Ambulance Service. As stated above, we would have preferred an audit across the entire sector led by the DHSSPS. However it is apparent that the Trusts have not been comprehensively collecting both quantitative and qualitative data over the past 10 years, as required by their original schemes. In our view, the initial responsibility for the comprehensive

collection of evidence lies with the relevant Government Department but with the full involvement of other health and social care sector bodies.

**The duty to collect evidence also includes a commitment to conduct research where evidence does not exist.** We expected that there would be consortia of Health Trusts commissioning research and liaising with the further and higher education sector and funders of research in order to conduct this research. This simply has not happened in the past 10 years.

Although we have worked with the ECNI on its Model Scheme, we are now belatedly concerned at the description given to the audit process. At §2.12 of the Model Scheme, replicated at §2.11 of the Trust's Scheme, it is stated:-

“The audit of inequalities will gather and analyse information across the Section 75 categories to identify the inequalities that exist for our service users and those affected by our policies.”

Bluntly put, **the Trust gave a commitment in its original scheme to collect quantitative and qualitative data over the past 10 years and, like most other public authorities, it is only with the welcome introduction of audits of inequalities that it has begun to take this commitment seriously.**

**It is therefore essential that the comprehensive collection of evidence is undertaken under the Trust's revised scheme.**

This is particularly the case in relation to ethnic and religious minority communities. In our experience, each community has its own health and social care needs. We welcome the heavy reliance in the audit of ethnic

minority inequalities on NICEM research.<sup>5</sup> But where is the research commissioned by the health and social care sector? This is even more apparent in relation to the needs of, and therefore the inequalities suffered by, religious minority communities.<sup>6</sup> We accept that some of these inequalities are identified in the draft audit but none of the sources is NI-based.

## 4.2 The audit process

The ECNI defines the audit as a “systematic review and analysis of inequalities”. This ‘analysis’ essentially involves identifying what inequalities exist – the important issue of their causes appears to be absent from both the ECNI guidance and health and social care sector audits. We are unsure how the Trust can set out actions, outputs and outcomes on the basis of an audit of inequalities without some identification and analysis of the causes of the inequalities.

We welcome the fact that the five Trusts and the Ambulance Service have collaborated to identify inequalities at a regional (i.e., Northern Ireland) level and that they have then added inequalities that are specific to the local (i.e., Trust) area. **However, there is a need in the future for more comprehensive consultation on, and research into, the inequalities suffered by ethnic and religious minorities.** In particular, consultative

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<sup>5</sup> At p 79, it is stated, “The majority of the issues below are also found in the NICEM Report “Black and Minority Health and Wellbeing Development Project for North and West Belfast” September 2006.” There is also reliance on our research report, Robbie McVeigh and Chris McAfee, “‘Za Chlebem’: The Impact of the Economic Downturn on the Polish Community in Northern Ireland”, Belfast: NICEM, 2009.

<sup>6</sup> At pp 35-37 of the audit.

forums should be a place where a more holistic appraisal of evidence collection can be discussed.

### 4.3 Gap analysis

What was missing in the draft audits, including that of the Trusts, is **a gap analysis of evidence on the inequalities suffered by ethnic and religious minority communities** in Northern Ireland and the Belfast area. **Equally important as ‘what was out there’ is ‘what was not out there’.** Even in a period of reduced resources, we consider it essential that comprehensive research and consultation processes take place independently of particular screening and EQIA exercises.

We consider that the ECNI should produce a model audit of inequalities, on the basis of this initial exercise. In any event, we consider that **a gap analysis should be included in the first year of the Trust’s action plan** and that efforts to collect quantitative and qualitative data on priority gaps should be included in the subsequent years of the action plan.

We welcome the section of the audit on inequalities suffered by ethnic minority communities and the reference to some inequalities suffered by religious minority communities. **However we are concerned that many gaps remain. It is the responsibility of health and social care bodies to identify and fill those gaps.**

### 4.3 Annual Review

More generally, there should be a full review of the audit (and also the action plan) after the first year. This should be included in the Trust’s Annual Report to the ECNI.

## 5 Draft Action Plans

### 5.1 Gap analysis in Draft Action Plan

We wish to see the annual review of audits and action plans, together with the gap analysis and subsequent evidence collection, included in the action plan itself.

### 5.2 Actions not group-specific

While we welcome the sections of the audit specific to each section 75 ground, we are disappointed that the Trust's the action plan is not group-specific. We have heard comments that 'this would make the action plan too long' but this is not sustainable. We also hear the phrase 'universal impact' being used to justify this lack of specificity in the action plans.

This justification causes us concern. The whole point of section 75 is to identify the particular adverse impact of the Trust's policies on the communities and groups covered by section 75. **Claims of 'universal impact', without analysis of adverse impact, therefore negate the primary purpose of section 75.**

The purpose of the action plan is to show how the Trust will 'promote equality of opportunity' across the nine section 75 grounds. We accept that, in some parts of the public sector, it may be difficult to differentiate some actions in this fashion. But this is not the case in the health and social care sector. In any event, when the gap analysis is undertaken, and the subsequent work plan is put in place, this justification will become less unsustainable.

Those in ethnic and religious minority communities, and those who represent them, wanted to pick up the action plan and see what it means to them. **This lack of transparency in relation to group-specific actions is not acceptable.** The audit has identified group-specific and cross-cutting inequalities in relation to ethnic minority communities and **the action plan must likewise identify group-specific actions, outputs and outcomes.**

### **5.3 Tracking inequalities into the action plan**

**This failure to have group-specific actions in the Trust's action plan makes it difficult to track the inequalities identified in the audit, including the group-specific inequalities, into the actions in the action plan. The decision-making process in identifying actions (and lack of actions) from the audit is opaque rather than transparent.**

There is therefore a danger of 'soft options' being chosen, including actions that are already occurring. The action plan should make it transparent how this prioritisation has been conducted.

### **5.4 Diminishing level of specificity**

**We are also concerned at a 'law of diminishing returns' from audits into actions, outputs and outcomes.** In relation to actions proposed by public authorities, ECNI specifies that they be outcome-focused and SMART.

Action plans are divided into three main areas: cross-cutting themes, service-related issues and employment-related issues. Five cross-cutting themes are identified:

- Access to Service, Communication and Information.

- Service Monitoring.
- Mainstreaming of Equality, Good Relations, Disability Duties and Human Rights Considerations into the Corporate Planning Cycle and Decision Making Processes.
- Participation and Inclusion.
- Procurement.

**Our first concern is that the action plan is not outcome focussed.** For example, some 'Key Inequalities' identified are more required changes than inequalities of outcome, for example, "Need for flexibility and sensitivity in the use of interpreter services".

**A second concern is that the desired outcomes are not specific,** for example, 'More awareness amongst staff of availability of interpreters and correct service to use" to be monitored using "Quarterly statistics regarding uptake of various interpreting services and complaints received". But what are the baselines against which improvement in uptake/complaints can be measured and to what extent does the Trust intend to improve it (e.g. from X% to Y% by 2012)?

**A third concern is that timescales relate to implementation, not achievement of outcomes** (e.g. Sign Language Service developed by December 2011 but when are the intended outcomes to be realised?).

## 6 Conclusion

NICEM welcomes the introduction of audits of inequalities and action plans as part of the equality scheme revision process. **However our first concern is to see the section 75 mainstreaming duty work much more effectively than it has over the past 10 years.** The primary purpose of the audit of inequalities, and subsequent gap analysis, is to satisfy the Trust's duty under its scheme to collect evidence of inequalities for the purpose of effective screening and EQIA processes and to improve the monitoring of policies across the nine section 75 grounds.

Similarly the primary purpose of the Trust's action plan is to show examples of actions, outputs and outcomes which the Trust intends to achieve in the process of mainstreaming equality throughout its work and through the implementation of its equality scheme. The content of the action plan, even when reviewed and updated every year, is not a roadmap of all that the Trust seeks to achieve through its screening and EQIA processes.

**In short, the valuable addition of audits of inequalities and action plans are not an alternative to the effective operation of the Trust's equality scheme. Rather these audits and action plans allow the Trust, not merely to comply with its equality scheme, but also to adopt best practice in terms of tackling the inequalities which ethnic and religious minority communities face.**

We consider that the Trust has made a good start in revising its equality scheme in line with the ECNI Model Scheme and has made significant efforts to customise its draft scheme according to the functions that it

performs. Similarly we appreciate that the Trusts have collaborated in preparing their audit of inequalities.

**We have sought to show in this response that there are many lessons to be learnt from this consultation process and we hope that the Trust will take on board the constructive remarks that we have made.**

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