



**Response to the Department of Culture, Arts and
Leisure on its
Draft Equality Scheme,
Audit of Inequalities and
Action Plan**

April 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 organisation¹ we represent the interests of black and minority ethnic² (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 nine grounds, including 'racial group' and 'religious belief'.

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 the promotion of equality of opportunity for those in vulnerable communities and groups in Northern Ireland, in our case, ethnic and religious minority communities.** Screening and 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

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

² 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.

suffer.

NICEM is also deeply concerned that both here, and in the Department's draft Cultural Awareness Strategy, the primary, if not sole, focus of attention is the two 'majority' communities. NICEM has already commented on the Cultural Awareness Strategy to the effect that it is in breach of the Race Relations Order, EU Directives and international human rights standards, including the Framework Convention on the Protection of National Minorities. We also note that neither screening documentation nor an equality impact assessment (EQIA) accompanied the Consultation Document.

We note that here again the audit of inequalities virtually ignores ethnic and religious minorities in Northern Ireland and perpetuates the myth that the Department's work is solely directed at the two majority communities. In our view, the draft audit of inequalities and draft action are fatally flawed and should be withdrawn and completely revised.

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 [the](#) 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 Department 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 Department 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 Department. We expect them to be regularly reviewed and made more comprehensive and effective. We consider that the development of audits and action plans are not some form of alternative to the effective compliance of the Department with its equality scheme, but rather a means of helping the Department adopt best practice in the proactive promotion of equality of opportunity in its work. **In this regard, we wish to see commitment on the part of senior officers in the Department that the requirements to integrate equality scheme**

timetables, and action plans, into the business and corporate planning of the Department are fully met.

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

In principle, NICEM approves of the Department producing its draft equality scheme as a template for the Arms Length Bodies (ALBs) within its remit. However, we are deeply dissatisfied with the sectoral draft audit of inequalities and trust that the ALBs will not feel inhibited from developing more comprehensive audits when requested to do so.

In our view, the health sector has done a much better job in preparing draft audit and action plans. It has engaged with stakeholders, come up with fairly detailed audits of inequality and have already been responsive to suggestions for improvements in both audits and action plans.

It seems to us that the Department is taking a very narrow and parochial view of its remit and objectives. As such it has not addressed the cultural, arts and leisure needs of ethnic and religious minorities in accordance with its original equality scheme and this is reflected in the totally inadequate manner in which it has conducted the audit process. What is particularly disappointing is that this, otherwise sensible, sector-wise approach has backfired badly and ALBs which might wish to take their responsibilities more seriously may feel inhibited from doing so.

3 Draft Equality Schemes

3.1 Consistency with ECNI Model Scheme

In NICEM's view, there should [be](#) a non-regression principle in relation to the consistency of draft equality schemes with the ECNI Model Scheme. We would have preferred if the Department 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 consultees so that they can comment upon the deviations and explanations.**

One particular aspect of the draft Scheme that we find unsatisfactory is that the Department fails to set itself specific deadlines when required to do so by the Model Scheme. We consider that public bodies should normally be able to respond to requests 21 working days after a request is made.

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 its role in mainstreaming equality in its 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 [the](#) collection of evidence and [the](#) monitoring of policies.

In our view, **more could be done to make the scheme relevant both to those who work for the Department and the citizens who receive its services**, and also those who work with them on consultative and other participative forums and respond to the Department's consultations.

3.3 Collection of data

We would like to have welcomed the draft audit of inequalities across the Department and the ALBs. However it is apparent that the Department have not been comprehensively collecting both quantitative and qualitative data over the past 10 years. In our view, its original scheme relied exclusively on the collection of quantitative data.

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§ 4.29 of the Department's draft revised scheme states:-

"The systems we have established to monitor the impact of policies and identify opportunities to better promote equality of opportunity and good relations are:

- The collection, collation and analysis of existing relevant quantitative and qualitative data across the equality categories on an ongoing basis
- An audit of existing information systems within one year of approval of this equality scheme, to identify the extent of current monitoring and consider action to address any gaps in order to have the necessary information on which to base decisions
- Undertaking or commissioning new data if necessary."

We do not see these commitments in the original scheme, despite the commitments being in both the first and second editions of the ECNI's 'Guide to Public Authorities'.

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 bodies in the sector, such as the ALBs. But except for one 'small-scale' survey in the Museums sector, the reliability of which is then questioned, there appears to have been no attempt by the Department or the ALBs to gain any impression of the impact of its policies on ethnic and religious minorities in NI.

The duty to collect evidence ought to include a commitment to conduct research where evidence does not exist. We expected that

there would be consortia of the Department and the ALBs commissioning research on the cultural, arts and leisure needs of ethnic and religious minorities in NI and liaison 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.

We are concerned at the description given to the audit process in the Model Scheme. At §2.12 of the Model Scheme, replicated at §2.12 of the South Eastern 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."

In our view, **the Department's original scheme ought to have contained a commitment to collect quantitative and qualitative data over the past 10 years. It is only with the welcome introduction of audits of inequalities that other public bodies have begun to take this commitment seriously.** But this draft audit shows that the Department is still unwilling to do so.

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

4 Draft Audits of Inequality

4.1 The evidence base for the Draft Audit

As stated above, we have concerns that the Department has not been building up its own evidence bases in order to conduct a comprehensive audit of existing quantitative and qualitative evidence. We find it extraordinary that the Department's audit excludes 'racial group' from the section 75 categories under consideration.

Little research has been conducted into the cultural, arts and leisure needs of ethnic and religious minorities in NI. We would expect that each community has specific, as well as common, needs. This audit of inequalities virtually ignores ethnic minority communities and totally ignores religious minority communities.

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Even where qualitative evidence of under-usage of museums by ethnic minority communities is identified, it apparently has to be 'verified' by quantitative data.

It also ignores any consultation responses that the sector has received. For example, NICEM responded to a Libraries NI consultation on closure of libraries in the Greater Belfast area, indicating that more work needed to be done on the specific needs of migrant communities.

4.2 The audit process

The ECNI defines the audit as a "systematic review and analysis of inequalities". On the basis of this draft audit, **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 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 Department, is a **gap analysis of evidence on the inequalities suffered by ethnic and religious minority communities** in Northern Ireland and the areas for which the ALBs are responsible. 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 Department's action plans and that efforts to collect quantitative and qualitative data on priority gaps should be included in the subsequent years of the action plans.**

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 Department's Annual Reports 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 plans themselves.

5.2 Actions not group-specific

We are disappointed that the Department's draft action plan is not group-specific. The purpose of the action plans is to show how the Department will 'promote equality of opportunity' across the nine section 75 grounds. Those in ethnic and religious minority communities, and those who represent them, wanted to pick up the action plans and see what they mean to them. **This lack of transparency in relation to group-specific actions is not acceptable.** In particular, a group-specific approach would show that the Department has no plans to promote equality of opportunity for ethnic and religious minorities in NI.

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5.3 Tracking inequalities into the Draft Action Plans

We have said in other consultation responses, 'This failure to have group-specific actions in the [public body'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 plans. The decision-making process in identifying actions (and lack of actions) from the audit is opaque rather than transparent.'

However, the Department's approach is transparent. It does not recognise any inequalities suffered by ethnic and religious minorities.

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6 Conclusion

6.1 Equality outcomes through the effective operation of equality schemes

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 Department'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 Department's action plan is to show examples of actions, outputs and outcomes which the Department 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 Department seeks to achieve through its screening and EQIA processes and must complement, rather than displace, the timetable appended to the Department's equality scheme.

In short, the valuable addition of audits of inequalities and action plans is not an alternative to the effective operation of the Department's equality scheme. Rather these audits and action plans allow the Department, 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.

6.2 Corporate and business planning

We accept that this call by the ECNI for revised schemes may well have occurred in the middle of business and corporate planning cycles. However we do wish to see the rapid integration of scheme timetables and action plans into these planning processes.

6.3 Consultative Forum

We would like to make one constructive suggestion on the overview of the effectiveness of the operation of schemes, audits and action plans. **In our view, there is a need for some form of Consultative Forum** across the culture, arts and leisure sector.

Such a Forum should be an annual opportunity to step away from day-to-day consultations on screening and EQIAs. **The focus should be on a holistic overview of the operation of the Department's scheme**, including the 'underpinning' duties, such as collection of evidence, training of staff and monitoring of policies. **This Forum could also consider the Department's gap analysis and actions directed at filling those gaps.**

We suggest that the overview Forum meeting should take place when the Department has its Annual Report to the ECNI in a late draft form, as the details to be considered at the Forum meeting should all be included in that draft.

6.4 Closing remarks

In conclusion, we consider that this exercise is yet more evidence of the complete failure of the Department to satisfy its responsibilities to ethnic and religious minorities in NI. We urge the Department to

conduct an urgent review of the fundamental basis of its approach towards minority communities and good relations. Far from mainstreaming equality of opportunity for ethnic and religious minorities in NI, the Department has totally sidelined them. Only when a fundamental reappraisal of the Department's approach occurs, can it begin to satisfy its section 75 obligations.

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