



**Response to the Department of the Environment 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 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 nine grounds, including ‘racial group’ and ‘religious belief’.

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’**

---

<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.

**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**

**We are deeply disappointed that the Department has chosen not to publish its draft audit. This failure, raised with the Department at a recent Consultative Forum, casts doubt on the value of the draft action plan and prevents public scrutiny of how the Department is mainstreaming equality of opportunity into its work.**

**Below, we recommend that public bodies should conduct a gap analysis of areas where they do not have evidence of possible inequalities suffered by section 75 groups. We have been informed that a gap analysis has been performed within the Department but that there is no intention to publish it. This is doubly disappointing as the Department may be applying good practice but is not prepared to be transparent about this, let alone setting an example for other Departments and assigned public bodies.**

## **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.**

We have seen the CAJ response to this consultation and **agree with their concerns about deviations from the Model Scheme** in the Department's draft scheme.

One particular aspect of the draft Scheme that we have found to be unsatisfactory in other draft schemes is that they fail to set specific deadlines when required to do so by the Model Scheme. We appreciate that the Department has set itself a deadline of 20 working days to respond to requests etc.

### **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 Department 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.

The Department’s draft scheme contains a couple of brief paragraphs about the Department’s work, which is varied and deserves greater description and explanation. 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 but the Department has chosen not to publish it. Therefore we

cannot tell if the Department has been comprehensively collecting both quantitative and qualitative data over the past 10 years.

§ 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;
- A regular review 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; and
- Undertaking or commissioning new data if necessary."

We welcome these commitments as it is not clear to us the Department has been undertaking these forms of data collection under its original scheme.

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 DOE assigned bodies in the sector.

**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 deeply disappointing that the Department has failed to publish its audit.

Section 75 itself, and the equality schemes which underpin it, are meant to be applied in a spirit of openness, transparency and public participation.

Little research has been conducted into the environmental needs of ethnic and religious minorities in NI, particularly in relation to inequalities suffered by religious minority communities. We would expect that each ethnic and religious minority community has specific, as well as common, needs. We do not know if the Department's audit adequately reflects these needs.

### **4.2 The audit process**

The ECNI defines the audit as a “systematic review and analysis of inequalities”. On the basis of the paragraphs in the Introduction to the draft Action Plan, we cannot say if this has taken place.

### **4.3 Gap analysis**

What was missing in most draft audits 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 Department is 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. We are again disappointed that the Department has indicated that it has conducted a gap analysis but is refusing to publish it. We are not sure why the Department has replaced ‘audit’, as in the Model Scheme in §4.29, with ‘regular review’ in §4.29 in the draft scheme. 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 plan itself.

### **5.2 Actions group-specific**

Despite the failure to publish the draft audit of inequalities, we welcome the fact that the Department’s draft action plan is 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. We feel that the Department has adopted the correct approach.

We also welcome the commitment, under ‘Policy Area – Planning’, to propose amendments to HS 3 in PPS 12 to deal with planning applications for serviced sites outside settlements and look forward to engaging with the Department on ‘appropriate policy provision for all housing tenures for Travellers Accommodation’.

We further welcome the commitment to monitor applications for Traveller accommodation. We consider this to be a welcome advance by the Department. However we would like to see proper monitoring arrangements, in relation to all ethnic and religious minority communities in NI, put in place before there is any devolution of planning to local authorities.

### **5.3 Tracking inequalities into the Draft Action Plans**

Although the draft action plan has some welcome aspects to it, we cannot track the inequalities in the audit into the action plan because you have not published the draft audit.

## 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 appreciate that the Department operates a Consultative Forum across the Department's remit. In our view, the 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 this 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 has produced a 'mixed scorecard' for the Department. The CAJ, in its response, has picked up some apparent regression from the standards of the Model Scheme and we feel that these should be fully explained to the ECNI**

when the scheme is submitted for approval (and copied to interested consultees).

We are concerned that a Government Department which ought to be practising 'best practice' in its own right, and setting an example to the assigned bodies in its sector, has decided to take an evasive attitude towards publication of its draft audit of inequalities. We call upon the Department to rectify this immediately.

We are also concerned that the Department appears to have conducted a gap analysis, which we are encouraging other public bodies to do, but again fails to publish it.

Finally, we feel that the draft action plan does pick up some important issues for ethnic, but not apparently religious, minorities in NI. We welcome a commitment to 'appropriate policy provision for all housing tenures for Travellers Accommodation' and look forward to participating in consultation on the proposed changes to planning policy.

For further information in relation to this submission, please contact:

Barry Fitzpatrick  
Deputy Director  
Northern Ireland Council for Ethnic Minorities (NICEM)  
Ascot House, 3/F  
24-31 Shaftesbury Square  
Belfast  
BT2 7DB  
Tel: +44 (0) 28 9023 8645  
Fax: +44 (0) 28 9031 9485  
Email: [barry@nicem.org.uk](mailto:barry@nicem.org.uk)