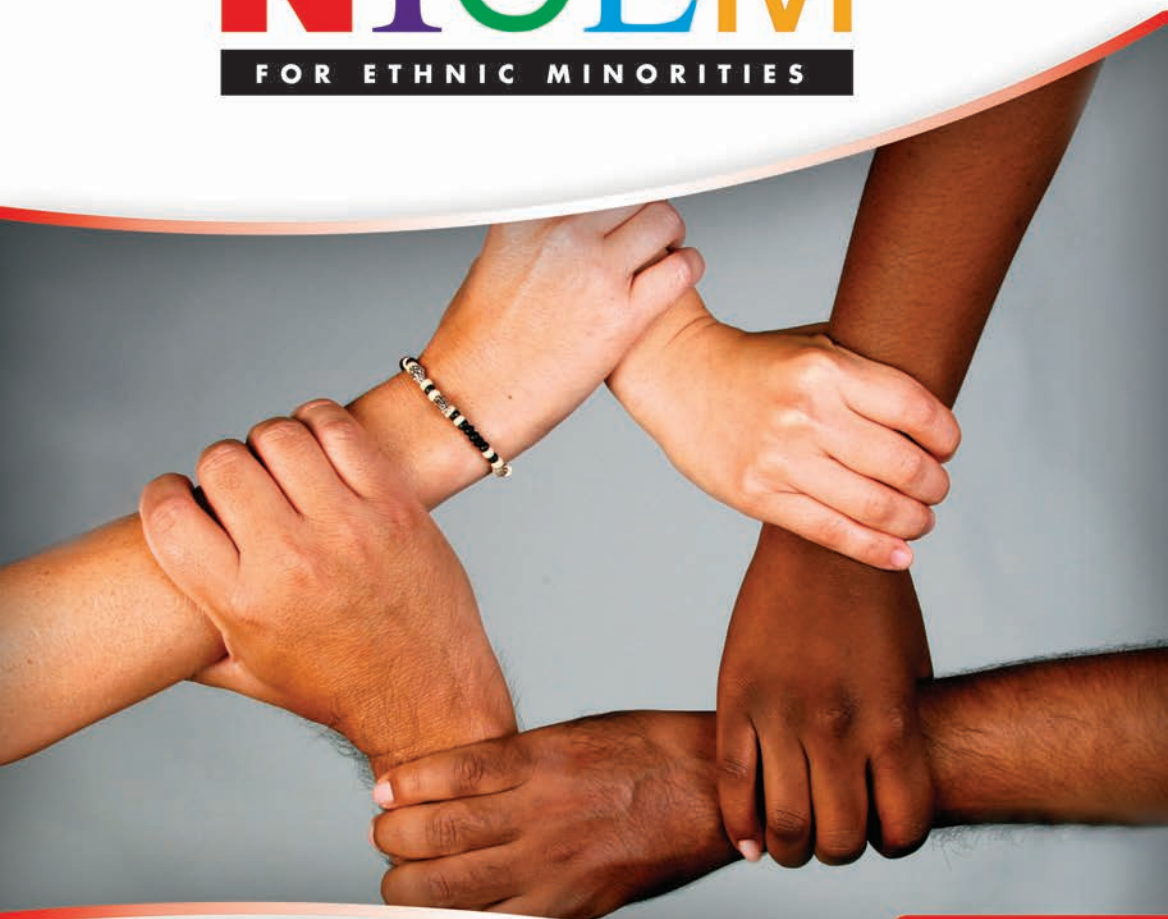


● Northern Ireland Council

# NICE M

FOR ETHNIC MINORITIES



HOW PUBLIC AUTHORITIES CAN  
WORK BETTER FOR EVERYONE IN

## Northern Ireland

Influencing public policy

Booklet  
Number

1

Human Rights and Equality  
Framework Booklet Series





# Introduction

This booklet is a practical tool for you to use when talking to public authorities about their work and about the duty they have to act fairly on behalf of everyone in Northern Ireland. This obligation is known as the equality duties or equality and good relations duties. You can find some basic information in the introductory leaflet to this series 'Building a Fairer Northern Ireland'.

The terms 'the equality duties' or sometimes the 'equality and good relations duties' are used throughout this booklet series. These are also often called 'the positive duty', or 'the section 75 duties' because the duties are stated in section 75 of the Northern Ireland Act 1998.

In carrying out all their functions, public authorities must abide by these duties. They must also comply with anti-discrimination laws which ban poor treatment because of a person's race, ethnicity, gender, disability, sexual orientation, age, religion or belief or political opinion. These laws also apply to private bodies, such as employers, hotels and bars, shops etc. This booklet is only concerned with public authorities.

This booklet explains how you can help ensure that public policy is made fairly and works better for everyone in Northern Ireland by reflecting your needs, and those of your community. It is one of a series focusing on the "equality duties" as part of the NICEM Equality and Human Rights Framework series.



## What is a public authority?

Public authorities include government departments, local authorities, criminal justice and policing agencies, education and library boards (although not schools), registered housing associations, hospital trusts, universities and colleges and many others. As well as those that design and deliver services it includes those who inspect or set standards for others to follow, such as the Criminal Justice Inspectorate or the Electoral Commission. A full list of the authorities can be found on the website of the Equality Commission ([www.equalityni.org](http://www.equalityni.org)).

## Why public authorities?

'Public authorities' plan and carry out functions on behalf of the state. They have a huge impact on our lives, affecting our education, health and employment chances. They can affect whether we have somewhere to live, where jobs are created, and how crimes committed against us are effectively dealt with.

Public authorities are also bound by human rights standards in both international and national law and taking a 'human rights based approach' is an important part of acting fairly. A rights based approach incorporates: equality, participation (or consultation as it is termed in Northern Ireland), transparency (being open about decisions and actions), and accountability (being ready to be challenged and held to account). A rights based approach pays specific attention to the most vulnerable in society, prioritising actions that secure their rights, and where necessary supporting them to get involved. Many aspects of a rights based approach can be found in the equality and good relations duties.

## What are the equality and good relations duties and what do public authorities have to do to meet them?

### ► Taking action

Anti-discrimination laws have, for many years, given people protection when an individual or organisation treats them less favourably (discriminates against them) because of their colour, culture or ethnic origin when employing people or providing services to the public, in education, health and many other public and private services. This is an important protection but does not do anything about wider inequalities. It also does not prevent people being treated badly; instead, it provides a remedy afterwards that an individual must seek for themselves, sometimes with significant costs in terms of money, stress and time. The equality and good relations duties expect public authorities to think about equality before there is a problem, making better decisions and saving resources as a result. This leaflet explains the range of things they should be doing to achieve this.

### ► Equality and Good Relations

There are two duties: the first is to 'have due regard to the need to promote equality of opportunity'. This is the primary duty and it has been described as a 'constitutional duty', and became law as a result of the peace process.

The second - good relations - duty also flows from the peace process but the legal requirement placed on public authorities is not as strong. Officials must have "regard" to good relations, but "due regard" to equality.

However, when the law was introduced, it was made clear that the good relations duty could and should act to reinforce equality, and that there ought to be no conflict between these objectives. So they should be seen as supporting and reinforcing one another.



## What part of a public authority's job do the equality duties apply to?

All of it. The law says that public authorities must think very seriously about equality and also about good relations when 'carrying out their functions'. This phrase essentially covers everything they do: design or provide services, employ people, regulate others, enforce the law, buy services from others or approve budgets.

### ► But surely they already know how to do their job?

Public authorities have a wide variety of strategies, tools and methods for carrying out their functions. But if this work is done without consciously reflecting about equality, there is a real risk that these efforts will not have the desired impact for everyone, or at all.

For example: a plan to help more children pass their exams cannot be effective if it ignores the reasons for Traveller children doing badly at school. A redundancy policy of "last in, first out" may have the unintended consequence of discriminating against migrants.

Public authorities must build equality and good relations into everything they do. In this way, they will serve the public, in all its diversity, better. This means equality/good relations should feature in business plans and all other strategies, being clear and identifiable but not separated out, or an "after-thought". This is known as '**mainstreaming**'.

Public officials also have other methods for achieving equality in what they do. For example, the Northern Ireland Executive is planning to introduce a new Race Equality Strategy, which will contain important commitments by government departments that must be looked at alongside their other equality duties.

## Knowing what is needed

If public authorities are to think about equality before they make decisions, it helps to know what are the most significant inequalities in their area of work. The gathering of such information is known as an “audit of inequalities,” and involves collecting evidence, and, if necessary, commissioning new research. Once the main inequalities have been identified, public authorities should then develop action plans to show what they plan to do as a result. An audit of inequalities and action plan is recommended as an important way of meeting the equality duties.

### Equality duties in action

#### **LOCAL ACTION:**

A community organisation has produced a research report that shows exploitation of migrant workers is a serious issue.

#### **LINKING TO INTERNATIONAL STANDARDS:**

At the same time, the United Nations committee monitoring race discrimination (an international human rights body) has recommended that the government take action to address such exploitation.

#### **IMPACT ON LOCAL GOVERNANCE:**

Relevant public authorities use this evidence in their audits of inequalities and draw on it to develop specific actions for their action plans.



## The specific requirements

To help public authorities meet these overarching duties, the law sets out certain things that all public authorities must do in order to help them do what they do better. These legal requirements also help you to understand what to expect an authority to do and when - thus making it easier to talk to them about acting fairly or complaining when you think that they have not.

It is important however to remember (and remind public authorities) that processes are only as good as the results they achieve.

## Planning for equality

Public authorities must produce a plan for implementing the equality duties. This is known as an '**Equality Scheme**'. The Scheme must include certain things and be approved by the Equality Commission. The Commission has the power to require a public authority to re-write a scheme if it is not good enough and has produced a model Equality Scheme which is available on the Commission website. Most schemes look a lot like the Commission's model.

You can use a public authority's Equality Scheme (which should be available on their website) to ask questions about what the authority has done, why and how. If the Scheme commits to things that have not been done, you may want to challenge this.

The Scheme can also be a basis for positive discussions. Often authorities will know they need to do something differently, but not know how. You can use knowledge of the Scheme to tell them how they can do things better for you, your family and your community.

# Equality duties in action

## **ISSUE:**

Some new people in your community ask you for help in getting information on how local rubbish collections work because they have been getting some abuse from neighbours when they put their rubbish out for collection. They have only recently moved into the area, do not read much English, and are having some difficulties in finding out what they should be doing.

## **WHAT TO DO:**

You use the commitment made in the local authority's Equality Scheme to ensure access to information (with special reference to the needs of those for whom English is not their first language), to talk to the recycling officer about the problem. You find out that there have been complaints that some people have not been putting their recycling and rubbish bins out on the right day, but that the staff did not know why people were not following the instructions that had been sent out to all local residents.

## **IMPACT OF ACTION:**

The local authority produces leaflets that use mostly images and can be understood by everyone and disseminates them throughout the community. As a result, after a little while, the bins are put out on time, saving money for the local authority and reducing tensions within the local community.



## What does the law say that an Equality Scheme must contain and how can I use this?

### ► **Commitment to equality and good relations**

The head of each public authority must sign a commitment to implement the equality duties, and to ensure there are enough resources (in terms of time, people and money) to properly implement the duties.

This is an important commitment on the part of the leadership that can be directly used to challenge a public authority that acts in an extreme or clearly unacceptable manner.

### ► **Equality in everything they do**

The Scheme must be clear on who is responsible for doing what and make sure it is done. Many of the commitments are quite technical, such as having lines of accountability, but they are still important in making sure the duties are implemented.

So this section will, for example, include specific targets in business plans and making sure staff know what they need to do and that promoting equality is part of their job. The Scheme should include an action plan that tells you what will be done, when, by whom, and how they are going to report on progress.

### ► **Training**

The public authority should also set out how it will train its staff. Training should range from basic awareness raising, to more detailed training for specialists.

For example, a hospital receptionist may need specific training on working with an interpreter; police may need dedicated training on effectively investigating a racist incident; a manager may need training on tackling racist bullying in the work place.



## ► Consultation

Consultation – or enabling people to get actively involved - is central to the equality duties and the public authority must explain how it will make sure this happens.

The Scheme should say how and where consultation documents will be published; how the authorities will reach out to those most likely to be affected with more targeted consultation activities such as meetings or focus groups; how long they will give people to respond; and how they will feed back afterwards to all those who participated.

As well as consulting on the content of the Scheme (which only changes every five years) public authorities need to say how they will consult on “matters to which the duties are likely to be relevant”. This commitment would cover action plans.

When engaging with public authorities, you can ask them to consult you in different ways. See, for example, a set of consultation principles, which NICEM has encouraged public authorities to adopt (included in booklet number 5 of this series).

# Equality duties in action

## **ISSUE:**

The Northern Ireland Prison Service launched a consultation on the introduction of a scheme to allow for the early removal of Foreign National Prisoners. It was decided to shorten the consultation period from twelve weeks to six weeks because a similar scheme existed in other parts of the UK. One official justified the shortened consultation period to a consultee as a time saving measure. The policy was the responsibility of the Department of Justice, whose Equality Scheme stated that consultation would be for twelve weeks, except for in exceptional circumstances.

## **ACTION:**

NICEM complained to the Department, stating that they did not feel that the shortened period was sufficiently justified.

## **IMPACT:**

The Department agreed and the consultation was re-issued for another six weeks, allowing the full twelve weeks and including an invitation to meet with consultees. The Department also committed to reviewing its internal procedures regarding consultation and this will hopefully ensure any future shortened consultations are fully justified.

## Understanding the effect of decisions & making this public

Public authorities are required to understand what effect their decisions will have on equality and also to consider good relations. Decisions might include planning a new service, reviewing an old one, setting a standard for others to follow, or deciding who to employ and where. Seeking to understand in advance the impact of such decisions on equality and good relations allows officials to improve or change policies to positive effect.

For example, a Muslim woman's needs when accessing healthcare could be met in part by ensuring that she sees a female doctor.

To understand if a policy is likely to need changes, public authorities need to set out in the Equality Scheme how they will 'screen' policies. This involves using evidence to understand what effect the policy has and what opportunities to improve equality and good relations may arise from it. If a public authority finds that there is a minor impact that is easily acted on it can do so straight away.

### Equality duties in action

**ISSUE:** A hospital knows from patient feedback that it isn't providing halal or kosher meals for patients.

**IMPACT OF ACTION:** When renewing the contract with the company that provides meals it requires them to make sure that it meets all dietary requirements, including those required by religious belief.

For policies where there is a major impact and more detailed analysis is needed to know what the effect is in practice, and what needs to be done, the Equality Scheme must set out how the public bodies will undertake what is called an 'equality impact assessment'. This process is explained in more detail in booklet 2 in this series.



## Making sure the public can access information and services

The Scheme will say how the public authority intends to ensure that people from minority ethnic communities can access information, especially how staff will communicate with people whose first language is not English. The authorities must also include in their Scheme a commitment to ensuring equal access to services and that there will be no discrimination.

These commitments can be relied upon and cited if you have evidence of difficulties in accessing services and you are seeking change.

## Knowing if it works: Monitoring

As well as committing the public authority to ensure that there is access to information and services, the Equality Scheme will include a commitment to assess how far this access is actually working in practice.

The Equality Scheme will also set out how the public authority will monitor the impacts of policies. They therefore need to collect data on who is (and is not) accessing their services, who they employ and at what grades and the impact of functions, such as policing and housing evictions.

The public authority should be looking for things like unusually large (or small) numbers of people from particular ethnic groups reporting problems or facing enforcement action; checking that everyone (regardless of race) is satisfied with the service; and checking that appropriate services are being provided in terms of language or cultural needs, or the effects of past discrimination.



## What to do if the public authority fails to do what it says it will: complaints

The Equality Scheme will set out how a public authority handles complaints, and how to use their complaints mechanism.

Before using this route it is best to try and talk to the public authority directly, as sometimes a solution can be found quite easily without having to use the formal complaint processes. But it is useful to know that such processes are there when needed. For more information see booklet 3 of this pack.



## The equality duties in practice: specific public authority functions

### ► Leadership

Leadership is central to making equality happen and NICEM's principles for public authorities emphasise this starting point. For some public authorities setting standards or showing leadership is a part of their purpose.

For example, a local authority has elected Councillors whose job it is to represent the people in their area. Other public authorities have management boards whose job it is to oversee the work of the authority and to make strategic decisions, while some set standards for others to follow.

### Equality duties in action

**ISSUE:** A Councillor in a local council is invited by a local group to speak at the launch of research into the needs and experiences of ethnic minority communities in her area.

**ACTION:** Afterwards she raises the issues in the Council chamber and gets agreement to establish a working group to identify actions to implement the recommendations in the research. She invites the group that did the research to talk to the working group and to set up workshops with local ethnic minority people to develop an action plan.

**IMPACT:** Six months later she proposes an action plan to the Council which adopts it.



## ► Policy making

You will see the term 'policy' used a lot with reference to the equality duties. This is because the law uses this term. The term 'policy' is understood very broadly, and it includes formal policies, like a complaints policy or a rehousing policy, or it can be a practice such as how a local council approaches organisations who might want to do good relations projects. Policies do not always have to be written down, and include things that are 'just the way we have always done them'.



### Equality duties in action

**ISSUE:** A government department is given responsibility for distributing new funding for Northern Ireland wide community groups. So as to ensure fairness, it develops a written policy on how it will distribute the money.

**ACTION:** It does an equality impact assessment, talking to a wide range of different community groups, including those representing ethnic minority communities, and using the evidence they provide. The analysis concludes that some Northern Ireland wide groups can access funding from elsewhere, while others cannot. The assessment also finds that some groups, including many ethnic minority communities, have members spread out across the whole of Northern Ireland and therefore find it difficult to qualify for local funding.

**IMPACT:** As a result, the government department decides to target funding at those who have most difficulty accessing funds locally, and to specifically include resources for travel and communication to facilitate networking across Northern Ireland.

## ► Providing Services

It is in providing services where most problems (or successes) become apparent as this is where policy is tested in practice. It is also where attitudes and behaviour can have the most impact. It is important to remember that sometimes problems created by service delivery are not the fault of the service provider – they can arise because of the policy that has to be applied. This does not, however, mean that the service provider can simply let the problem continue: if they are to comply with their equality duties they will need to try and find solutions themselves as well as ensuring that those responsible for the policy are aware of the evidence of problems on the ground.

### Equality duties in action

#### **ISSUE:**

The Department of Education changed the funding formula for providing English as an additional language (EAL) in schools. NICEM received evidence from schools and parents that this change meant that some schools had serious difficulties in continuing to provide this support. Children's education was being badly affected.

#### **IMPACT OF COLLABORATIVE ACTION:**

The obvious solution was to change the policy but the department was not prepared to do this: the Education and Library Boards, who had to comply with their own Equality Schemes, had to find another solution. Several worked with schools to pool resources to enable EAL provision to be made, helping to meet their duties even when implementing a problematic policy.

## ► Employment

The duties talk about 'policies', so we tend to think mainly about how they affect services. But 'policies' refer to everything a public authority does. Considering that the public sector is a significant employer in Northern Ireland, a lack of equality in their employment policies and practices can have a significant impact.

### Equality duties in action

#### **ISSUE:**

A government department does a survey of its staff and finds that it employs less than 1% ethnic minority staff, a high proportion of whom report problems with racial harassment.

#### **ACTION:**

The department introduces more robust training for managers and runs compulsory anti-racism training.

#### **IMPACT:**

As a result BME staff report higher job satisfaction levels and a greater willingness to recommend the department as an employer. Monitoring subsequently shows more BME staff applying for jobs with the department.



## ► Procurement

Procurement is when a public authority enters into a contract with another organisation to carry out works or to provide goods or services. This could be for the supply of stationery used in an office, but could also involve major parts of the main functions of a public authority such as the building and managing of a hospital or a school or providing home care services.

Public authorities remain responsible for meeting their duties even when they hire someone else to do the work for them. This makes it very important that the authorities think about their equality duties when designing the service, thus ensuring that their contractual arrangements enable them to meet those duties.



### Equality duties in action

#### **ISSUE:**

A hospital brings in an external contractor to provide meals to patients.

#### **IMPACT OF ACTION:**

The hospital states in the advertisement and the contract specification that the provider must show that it can provide meals that are appropriate for people of different religions and cultures, (including kosher and halal food). The hospital also builds in mechanisms to monitor and review subsequently that this commitment on the part of the contractor is happening in practice.



To find out more about any of the information contained in this leaflet  
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## NOTICE

This booklet is intended to explain how the law works in practice. It is not however a legal document and many of the terms have been simplified for easier understanding.