



Equality Commission

FOR NORTHERN IRELAND

Section 75 of the Northern Ireland Act 1998

A short guide to the public sector statutory duties to promote equality of opportunity and good relations

Background

In the Agreement reached between governments and political parties in Northern Ireland in 1998, the section dealing with Rights, Safeguards and Equality of Opportunity included a commitment to a statutory obligation on public authorities. This commitment was then implemented through Section 75 of the Northern Ireland Act 1998. It was also reflected in the Northern Ireland Executive's Programme for Government which set out the government's vision of Northern Ireland as a "peaceful, fair and inclusive community", requiring both the promotion of equality and working to improve community relations.

The Section 75 statutory duties

Under Section 75 of the Northern Ireland Act 1998, public authorities are required "to have due regard to the need to promote equality of opportunity between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation; between men and women generally; between persons with a disability and persons without; and between persons with dependants and persons without". These are commonly referred to as the nine equality categories.

Public authorities are also required "to have due regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group".

These statutory duties are designed to ensure that equality and good relations considerations are made central to public authorities' policy development. The duties have the potential to make a real difference to the lives of people in Northern Ireland since those affected by policy decisions must be consulted and their interests taken into account in decision making. This provides an opportunity for all sections of the community to participate in public policy making right from the start of the process.

Example: A health authority feels it would need to change the way it delivers a service to make it more cost effective. Before making the change, the authority must consider whether the proposed changes would have a particular impact on any of the nine equality categories and consult. This does not mean that the authority cannot make changes, but it does mean that any negative impacts have to be identified and possible mechanisms to mitigate them taken into account when making decisions. Consultation may lead to a different decision being made or efficiency savings being made in a different way.

Public authorities

Section 75 applies to all public authorities which are subject to the Section 75 statutory duties. These include government departments, Health Boards and Trusts, Education and Library Boards, further education colleges, universities, local councils, etc. Some bodies which have a UK-wide remit are subject to Section 75 in relation to their work which affects Northern Ireland. For a list of relevant public authorities, please see the Commission's website – www.equalityni.org.

Equality schemes

Each public authority is required to draw up an equality scheme which sets out how it proposes to fulfil the statutory duties over a five year period. This scheme must be submitted to the Equality Commission for approval. An equality scheme must set out how the public authority will identify where it impacts on equality of opportunity most significantly, how it will assess the equality impact of its policies, and its arrangements for consultation with those affected by the policies, amongst other things.

Equality impact assessment

If a public authority's assessment of the impact of a policy shows a possible "adverse impact" on individuals from any equality category, it must consider how this impact might be reduced, including changing to an alternative policy to better promote equality of opportunity. Consultation with those affected, or likely to be affected, is central to the effectiveness of the statutory duties. Authorities must consult on the impact of policy decisions and alternative policies as well as publish the outcomes of impact assessments.

Example: A public authority's assessment of an appointments and promotions policy identified different impacts, notably in relation to religion and gender. As a result a number of measures were considered and approved, including:

- widening external advertising so that more posts are open to external competition
- removal of various eligibility requirements and barriers
- changes to the size of selection panels
- reclassification of posts.

Example: A grant awarding body assessed access and communication arrangements across a range of business areas such as marketing, IT, grants and communications. An audit of publications identified inconsistencies, with only some publications produced in different formats. Measures to increase awareness of publications and different formats were identified, to be followed by the production of more publications in other formats. The assessment also highlighted issues regarding the body's strategic focus on geographic disadvantage and particular sector groups. In response, the organisation plans to communicate more explicitly with community and voluntary sector groups regarding the selection of priority areas and groups. It is also widening its use of plain English; removing the need for at least thirty anticipated attendees before planned information events go ahead; and is reviewing its budget allocation for accessibility within its communication and marketing plan.

Role of the Equality Commission

As well as advising on and approving equality schemes, the Equality Commission is responsible for monitoring and overseeing the effectiveness of Section 75. Each year, the Commission produces an overall progress report which summarises progress made by public authorities as reported in their annual reports to the Commission. An audit of progress on implementing the good relations duty under Section 75, covering the period 2000-2003, has also been published. These reports are published on our website – www.equalityni.org.

Complaints

The Equality Commission also has a role in relation to complaints. Generally, a person who wishes to complain that a public authority has not acted in compliance with its equality scheme must first raise the matter with the public authority. Each equality scheme sets out the authority's complaints procedure and contact point. If the person complaining is not satisfied with the response of the public authority, they may then complain to the Equality Commission. Complaints must be made to the Commission within 12 months of the issue arising. The Commission's procedure for dealing with Section 75 complaints is on our website.

The Commission can investigate complaints and issue a report. If a complaint is upheld, the Commission may recommend a course of action which the public authority must follow. If recommended action is not taken within a reasonable timescale, the Commission may refer the matter to the Secretary of State and the Secretary of State may give directions to the public authority.

For reports on complaints investigated by the Equality Commission, please see the Publications section on our website.

Further information and advice

The Commission has produced a range of guidance related to Section 75 for public authorities and others which is available on our website. The website also has information about the Commission's investigation powers and about how we deal with complaints. If you do not find the information you need on the website or in one of our publications, you can contact the Statutory Duty Team.

If you wish to make a complaint about a public body's failure to comply with its statutory duty obligations under Section 75, you should contact the Statutory Duty Investigation Team in our Strategic Enforcement Division.

Equality Commission for Northern Ireland

Equality House
7-9 Shaftesbury Square
BELFAST BT2 7DP

Tel: 028 90 500 600
Textphone: 028 90 500 589
Email: information@equalityni.org
Website: www.equalityni.org

February 2006