



**Northern Ireland Blood Transfusion Service
(NIBTS)**

**A report of Section 75 Equality
Consultation Exercise**

**Equality Scheme
Including Audit of Inequalities**

August 2011

If you have any comments on this report or require this document in an alternative format (such as large print, Braille, disk, Easy Read, audio file, audio cassette or in minority languages to meet the needs of those not fluent in English) please contact:

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Introduction

This is a report of the consultation exercise conducted in relation to our equality duties under Section 75 of the Northern Ireland Act 1998. From the outset we wish to acknowledge the time and effort taken by consultees to respond with both detailed written submissions and face to face meetings. We trust that we have reflected views and comments raised and that our responses provide you with the necessary detail to better understand how we have considered any issues raised.

Background

This consultation exercise has arisen in response to the new statutory guidance in relation to “Section 75 of the Northern Ireland Act 1998: A Guide for Public Authorities” (2010). Public authorities are now required by the Equality Commission for Northern Ireland to produce an equality scheme and associated action plan informed by an audit of inequalities.

Section 75 of the Northern Ireland Act (1998) requires public bodies to comply with two statutory duties. The first duty relates to “*the duty to promote equality of opportunity*” between nine equality categories including religious belief, political opinion, racial group, age, marital status, sexual orientation, gender, disability and dependants. The second duty relates to the “*desirability of promoting good relations*” for three categories, religious belief, political opinion and racial group.

Health and Social Care Organisations identified below* received the formal request to carry out the audit of inequalities on the 1st August 2010. This provided a three months preparatory time in advance of the formal request by the Equality Commission for Northern Ireland for the production of an Equality Scheme. This request was issued on 1st November 2010 with an expectation that after a formal consultation exercise organisations would be in a position to submit its Equality Scheme and the Action Plan resulting out of the Audit of Inequalities work to the Equality Commission Northern Ireland by 1st May 2011.

The purpose of this report is to provide details on the formal consultation exercise which was launched on 17th December 2010 until 18th March 2011.

Specifically it outlines:

- The organisations involved;
- Methods used;
- Level of response;
- Analysis of Equality Scheme and Audit of Inequalities comments received specifically to the Blood Transfusion Service including responses to these comments;
- Next steps; and,
- Conclusions.

Organisations involved in the consultation exercise

Table 1 highlights the organisations who took part in the consultation exercise. Coordination of the exercise was undertaken by the Equality Unit in the Business Services Organisation who are responsible for providing equality and human rights services to each of the organisations listed.

Table 1
Organisations involved in consultation

Blood Transfusion Service	www.nibts.org
Business Services Organisation	www.hscbusiness.hscni.net
Health and Social Care Board	www.hscboard.hscni.net
NI Guardian Ad Litem Agency	www.nigala.hscni.net
NI Practice and Education Council for Nursing and Midwifery	www.nipec.hscni.net
Northern Ireland Social Care Council	www.niscc.info
Patient and Client Council	www.patientclientcouncil.hscni.net
Public Health Agency	www.publichealth.hscni.net
Regulation and Quality Improvement Authority	www.rqia.org.uk

Methods used

As part of the pre engagement exercise the Business Services Organisation, on behalf of and inclusive of the other health and social care organisations listed, established an Advisory Group with a range of representatives from organisation representing those categories covered by Section 75 Equality Duties. This group was invaluable in helping to steer the work of the audit of inequalities.

The consultation exercise was formally announced on 17th December 2010 through a joint newspaper advertisement placed in the Belfast Telegraph.

An announcement of intention to consult was also communicated by email or by post to 349 Consultees on the organisations' Consultee List and placed on each organisation's website at the same time. This included an early indication that the organisations were also planning to undertake further direct engagement with individuals and groups during the consultation period. Staff within the respective organisations were also advised of the consultation exercise via newsletter bulletins.

A follow up press release on 14th January 2011 provided details on the dates and venues of four meetings scheduled for face to face engagement. The dates initially agreed are included in Table 2.

Table 2
Date and venues of meetings

Date	Venue
14 February 2011 at 11-1pm	NI Social Care Council, 7 th floor Millennium House, Great Victoria Street, Belfast BT2 7AQ
16 February 2011 at 2-4pm	Fire Station, 77 Loughall Road, Armagh
21 February 2011 at 11-1pm	Antrim Enterprise Agency, 58 Greystone Road, Antrim
23 February 2011 at 2-4pm	St Columb's Park, Limavady Road, Derry/Londonderry

These venues were chosen to ensure geographical coverage across Northern Ireland and the planning and organisational arrangements addressed the range of accessibility issues.

A review of the responses received for each location necessitated the cancellation of two of these sessions. The reduction in opportunity for engagement was however off set by the invitation by the Equality Coalition to organisations to participate in a cafe style event hosted at Unison on 9th March 2011. The organisations represented at this event included:

- Business Services Organisation
- Health and Social Care Board
- Northern Ireland Social Care Council
- Patient and Client Council
- Public Health Agency
- Regulation and Quality Improvement Authority.

This representation reflected advice received from the Equality Coalition about with whom consultees wished to engage.

Analysis of responses

In total 5 detailed written responses were received by Northern Ireland Blood Transfusion Service (NIBTS) to the joint consultation exercise. See Table 3.

Table 3
Consultees who provided responses

Name of Organisation	Name of consultee	Date Received
Written responses		
Unison		16th March 11
Equality Commission		16th March 11
NICEM (Northern Ireland Council For Ethnic Minorities)		18th March 11
CAJ (Commission for Administration of Justice)	Debbie Kohner	10th March 11
Older People's Advocate	Joan Harbison	18th February 11

The comments received from consultees by NIBTS in relation to its Equality Scheme are presented in Table 4. Comments in relation to the Audit of Inequalities and Action Plan are presented in Table 5. These comments have been examined in detail and are presented alongside responses to the issues raised.

Table 4 Comments to NIBTS and responses
Equality Scheme

Comment	Response
Consultee: Equality Commission	
<p>The Commission acknowledges and welcomes the fact that the approach taken by the Northern Ireland Blood Transfusion Service in producing a revised equality scheme is one which is broadly consistent with the Commission's model equality scheme.</p>	<p>comment is noted</p>
<p>The Commission welcomes the fact that the Northern Ireland Blood Transfusion Service carried out an audit of inequalities across its functions and used this baseline information to inform the development of their action plans.</p>	<p>comment is noted</p>
<p>The Commission will not consider the content of action plans or action measures as part of the approval process for equality schemes and therefore recommends that the Northern Ireland Blood Transfusion Service clarifies on their equality scheme, that the action plan, included in Appendix 6, will not form part of the approved equality scheme.</p>	<p>comment is noted</p>

<p>The Commission welcomes the fact that the Northern Ireland Blood Transfusion Service has developed its action plan in order to align it with corporate and business planning cycles and the fact that implementation of action measures has been incorporated into the business planning process</p>	<p>comment is noted</p>
<p>The Commission recommends that NIBTS cross references the arrangements for assessing compliance with the Section 75 duties outlined in other parts of the scheme as specified.</p>	<p>Scheme amended accordingly.</p>
<p>3.2.3 In order to ensure greater accessibility and improve consultations, the Commission considers that Northern Ireland Blood Transfusion Service should provide more detail on the medical criteria referred to in this section of the draft Equality Scheme. For example, this could signposted through a web link which would enable consultees to be fully aware of the detail of the medical eligibility criteria.</p>	<p>This detail has been added to the Scheme, paragraph 3.2.3.</p>
<p>Section 3.2.5 If consultation is to be effective and meaningful, external stakeholders need to have the capacity to effectively engage in the process. In practice, if a public authority identifies an external stakeholder critical to the process who does not have the ability to respond to consultation effectively, the public</p>	<p>Comment now added in Equality Scheme to read: To ensure effective consultation with consultees on Section 75 matters, we will develop a programme of awareness raising on the Section 75 statutory duties and the commitments in our equality scheme by undertaking the following:</p>

authority may, for example, provide awareness raising sessions for this group to develop their capacity to engage in the process and to respond to consultation in a meaningful way.

The Model Equality scheme is framed in such a way as to enable public authorities to decide if awareness raising with external stakeholders is required and what form this will take in order for it to be of benefit to the public authority concerned and also the group or groups identified.

The Commission recommends that the Northern Ireland Blood Transfusion Service elaborates further, if possible at this stage, on the additional steps it would implement to ensure effective consultation with consultees.

- We will include a comprehensive explanation of our statutory duties including commitments made in our Equality Scheme in the consultation documentation, or, where appropriate, alternative steps will be taken to raise such awareness, e.g. public consultation meetings.
- The BTS will produce an accessible document outlining the functions of the organisation and the commitments in our Equality Scheme.
- In addition we will approach consultees with a proposal for the establishment of an Advisory Group.
- If screening of a particular policy or decision identifies any external stakeholders who may not have the ability to respond to consultation effectively we will engage with the individual(s) in the first instance to find out how to best facilitate their input to the consultation, and where this is not effective or appropriate we will make contact with relevant Section 75 representative groups to find out how best

	we can encourage their input.
Paragraph, (7.2) refers to Appendix 4 as including the Northern Ireland Blood Transfusion Service's commitment to develop an action plan. The Commission would recommend that Appendix 4 also includes a measure 'to implement/deliver an action plan'.	comment is noted The action plan at Appendix 4 now includes an action point which reads: Implementation of Actions - Lead Responsibility Each SMT Member - Timetable: May 2011-March 2013
Consultee: Older People's Advocate	
equality scheme should be user-friendly especially in the use of language.	We will produce an accessible document (an easy to read and understand version) following scheme approval.
equality schemes need to identify internal vs. external actions	comment noted
Consultee: Unison	
Welcome that the BTS has followed to a large extent the Model Equality Scheme produced by the Equality Commission NI a number of key issues which we believe must be addressed	comment noted
the Scheme needs to clarify the precise relationship	comment noted

<p>between the S75 equality duty and the good relations duty</p>	<p>BTS follows the model scheme we will make the Commission aware of all comments received relating to the model scheme</p>
<p>The Scheme requires a section to outline the social, economic and health context within which BTS and wider health and social care system operates</p>	<p>We do not feel that the degree of change suggested is consistent with the model scheme proscribed by the Equality Commission. Pursuing such change would necessitate complex discussions with the Equality Commission and consequently delay BTS's ability to gain the necessary approval for its Scheme.</p>
<p>A particular issue that the BTS could engage with in this context is the equality implications of the ban on gay and bisexual men giving blood. If the ban on gay and bisexual men was lifted, it would increase the numbers of people who would be eligible to donate, without increasing the risk to employees of the Blood Transfusion Service, and increase the availability of blood supplies for those who need it.</p>	<p>The current lifetime deferral rule for men who have sex with men (MSM) is the subject of a review by the Advisory Committee on Safety of Blood, Tissues and Organs (SaBTO). It is expected that SaBTO will release their recommendation for any changes to the current rule in the summer 2011. NIBTS will implement any associated changes in keeping with SaBTO and JPAC recommendations. It is important to note that the current 'ban' on MSM donation is for reasons of blood safety (i.e. safety to the transfusion recipient) and not for reasons of NIBTS employees' safety.</p>
<p>Foreword suggest that a common definition of functions is used</p>	<p>comment noted BTS follows the model scheme we will make the Commission aware of all comments</p>

<p>throughout the Scheme - specifying that functions includes powers and duties, is of wide import and includes service provision, employment and procurement functions.</p>	<p>received relating to the model scheme</p>
<p>Foreword</p> <p>BTS should make it clear that the existence of the Action Plan does not detract from its statutory responsibility to ensure that all its functions and policies are scrutinised to determine where equality of opportunity can be promoted and inequality tackled.</p>	<p>comment noted BTS follows the model scheme we will make the Commission aware of all comments received relating to the model scheme</p>
<p>decision-makers should utilise all available qualitative and quantitative data, including the Audit of Inequalities, when applying s75 to BTS's functions and policies not contained within the Action Plan.</p>	<p>all data/information identified in the course of the audit is to inform screening exercises in the future</p>
<p>suggest that the Foreword states BTS's commitment to taking, all <i>necessary</i> steps to ensure that it complies with its statutory duty and the effective implementation of the Equality Scheme.</p>	<p>comment noted BTS follows the model scheme we will make the Commission aware of all comments received relating to the model scheme</p>
<p>Introduction</p> <p>wording in the Foreword to the draft Scheme commits BTS to providing "the necessary resources" to effectively</p>	<p>comment noted BTS follows the model scheme we will make the Commission aware of all comments</p>

implement the duty. However, the wording of para 1.3 waters down this commitment by stating a commitment to 'the necessary available resources' is required. This is a weak formulation of words and should be amended to that contained in the Foreword.	received relating to the model scheme
Chapter 2: Arrangements for Assessing Compliance include examples of <i>how</i> compliance will actually be assessed in practice.	These arrangements are articulated at paragraph 2.10
recommend to make clear in para 2.12 that the Audit is a living document and requires an ongoing and comprehensive 'analysis' of inequalities	comment noted BTS follows the model scheme we will make the Commission aware of all comments received relating to the model scheme
recommend re-wording para 2.16 to make it clear that monitoring can take place at an earlier stage than every 12 months if new data or information is received.	comment noted BTS follows the model scheme we will make the Commission aware of all comments received relating to the model scheme
welcome more information on the <i>specific discussions</i> BTS is entering into with users of the services and their representatives, in particular affected s.75 groups and service users in TSN areas	The core service-user forum for donors and the public centres on the BTS Communities Partnership (BTSCP) – which also plays a pivotal role in NIBTS's Personal and Public Involvement (PPI) responsibilities. BTSCP groups usually meet at least six times each year
Comments on Chapter 3 Consultation arrangements encourage BTS to follow the advice of (and resource)	We currently engage with representative groups on a range of issues and will continue to take advice in the

<p>groups with specialist knowledge in this domain, including about how, when, and who to approach; people with disabilities could be involved in developing the consultative methods to be used and involved in delivering that training.</p> <p>However, the primary responsibility must remain with BTS itself to do the necessary work, and to reach out beyond organised groups.</p> <p>some of the legacy health bodies have in the past undertaken an inclusive consultation process but approach needs to be revisited on a system-wide basis although the consultation list is comprehensive, organisation needs to ensure it is constantly reviewed</p>	<p>area of consultation and training. We have involved people with disabilities and other equalities categories in training and awareness activity and will continue to build on this good practice. We will continue to liaise with representative groups and individuals.</p> <p>Consultation mechanisms and consultation lists will be regularly reviewed to ensure that they are both effective and contemporary, and build on past good practice.</p>
<p>Para 3.1 should be amended to ensure that the Audit of Inequalities will be consulted upon in addition to the Scheme, action measures And Equality Impact Assessments.</p>	<p>The current draft Audit of Inequalities was consulted upon at the same time as the Equality Scheme but it is not BTS's intention to commit to annual formal consultation on the Audit of Inequalities and Action Plan</p>
<p>Scheme must set out a clear procedure to ensure that the consultees' views have been fully considered and either incorporated into the decision-making process or where not reasons are given for their exclusion</p>	<p>This is articulated in the Equality Scheme at 3.2.11 but for point of clarity we can advise that arrangements for dealing with consultation responses are:</p> <ul style="list-style-type: none"> Log of consultees responses Copies of original responses made available on organisations' website as part of the consultation report Consultation report will include issues and organisational response and made available on

	<p>organisations' website Final documents with amendments highlighted made available on organisations' website</p>
<p>essential that consultations on all matters involve all designated groups and individuals; therefore essential that any 'targeted approach to consultation' as specified in para 3.2.1 does not create a 'hierarchy' of consultation and excludes groups from inclusive participation.</p>	<p>Comment noted. This view will be articulated in screening and consultation training</p>
<p>Comments on Chapter 4: Arrangements for assessing, monitoring and publishing the impact of policies</p> <p>The Scheme to impart a sense of what the policies mean and how someone could identify if relevant In setting out its functions, duties and powers: the Scheme must be more explicit about who else is involved, particularly in the mixed economy of health care delivery including contractors and sub contractors Must set out clearly arrangements on how it will ensure that decisions or directives from others both 'upstream' and 'downstream' in the will be independently assessed to fully comply with its section 75 obligations;</p> <p>Must ensure that when functions overlap with another public body or agency there is clarity on the action</p>	<p>The scheme includes details on functions. Policy authors are advised of the importance of clarifying their policy area in jargon free language and of identifying all the key stakeholders in their initial discussion of their policy area. We do not feel that the degree of change suggested is consistent with the model scheme proscribed by the Equality Commission. Pursuing such change would necessitate complex discussions with the Equality Commission and consequently delay BTS's ability to gain the necessary approval for its Scheme. We feel that these suggestions can be more appropriately addressed by other methods for example BTS will explore the value of a document to articulate in easy to understand language the functions of BTS including its linkages with other health and social care organisations, other public bodies and other key</p>

<p>required by each to discharge their statutory obligations.</p>	<p>independent, community and voluntary providers. Responsibilities for screening both upstream and downstream are clearly articulated in screening training activity.</p>
<p>UNISON welcome a more explicit recognition by BTS that many practices are not the subject of written policy documents, but are nevertheless established policies. Consequently need indicate measures that will be put in place to reflect this more systematically for the purposes of screening and impact assessment.</p>	<p>BTS follows the model scheme, see para 4.1 . This is reinforced in screening training, template and guidance.</p>
<p>Procurement BTS must clearly acknowledge throughout its scheme that procurement is a function to which the equality duty applies. As a minimum standard for the full promotion of equality, it is also essential that BTS commits to implementing the 2008 joint '<i>Equality of Opportunity and Sustainable Development in Public Sector Procurement</i>' Guidance produced by the Equality Commission NI and the Northern Ireland Central Procurement Directorate</p>	<p>Comment noted Since 2009 services in relation to procurement have been purchased from the Business Services Organisation on a Service Level Agreement. All the issues raised in this response in respect of procurement and equality issues will be raised directly with the Business Services Organisation. We will engage with the BSO and other HSC organisations to explore further the roles and responsibilities of procuring organisations vis-à-vis the BSO Procurement and Logistics Service with regards to opportunities for further mainstreaming equality in procurement processes.</p>
<p>Employment</p>	<p>NIBTS takes seriously its responsibility with regard to</p>

<p>BTS must make a specific commitment in its Scheme to discharging the equality obligation in its function of employment.</p>	<p>equality of opportunity in employment. Policy development will continue to be in accordance with the Agency's statutory obligation as well as good practice in the area of employment.</p>
<p>Screening and Equality Impact Assessments the lack of equality expertise amongst senior decision-makers has often led to the screening out of policies which have had implications for equality of opportunity it is essential that the decision on whether an equality impact is minor, major or none is subject to objective criteria; a report on all screening recommendations should be issued for endorsement by the Senior Management Team with the full participation of the Organisation's Equality Unit at the earliest possible stage</p>	<p>BTS has made the commitment to ensure that all staff involved in screening have attended specialist training; staff will be supported on an ongoing basis in strengthening their skills in screening effectively, such as through support, advice, guidance and feedback we consider it essential that the ownership of screening decisions rests with policy decision makers in order to genuinely progress the mainstreaming of equality in BTS</p>
<p>BTS should commit to ensuring that affected groups are facilitated through whatever techniques are appropriate to participate in the screening process at the earliest possible stage,</p>	<p>this issue is addressed in guidance notes for staff on screening which have been developed alongside the new screening template</p>
<p>essential that BTS commits to informing consultees when screening forms are issued and posted on BTS's website</p>	<p>We will explore the feasibility of facilitating this request in the context of designing a process for implementation. The outcome will be shared with consultees.</p>
<p>essential that BTS makes it clear that financial</p>	<p>being bound by its legal obligations regarding financial</p>

<p>considerations will not be a basis for restricting or limiting the impact of equality assessment</p>	<p>accountability BTS will inevitably need to take resource implications into consideration in considering the impact of equality assessment with regards to mitigation or consideration of alternative policies and decisions</p>
<p>clarify the measures that it will undertake to ensure that practices that are not the subject of written policy documents but which are established policies of BTS are both screened and an impact assessments undertaken</p>	<p>screening of policies and decisions covers both documented and undocumented practices</p>
<p>Scheme should strongly acknowledge that, policies which may appear at first glance to be devoid of equal opportunities implications require a fresh look in order to determine whether there are in fact implications for equality of opportunity. The screening of new and proposed policies must also be subject to this criteria</p>	<p>comment noted BTS follows the model scheme we will make the Commission aware of all comments received relating to the model scheme</p>
<p>Staff Training Scheme make more explicit that training will not be dependent on grade, responsibilities or any training needs assessment that will in any way dilute their obligations under the Guidelines. The resources for this should be set out in the scheme.</p>	<p>comment noted BTS follows the model scheme we will make the Commission aware of all comments received relating to the model scheme</p>
<p>Access to Information and Services Must provide the <i>necessary resources</i> to ensure that both the information which is disseminated and, the services provided, are made accessible in a way which ensures</p>	<p>comment noted BTS follows the model scheme we will make the Commission aware of all comments received relating to the model scheme</p>

equality of opportunity.	
More imaginative methods of distribution would be welcome such as in public libraries, stalls set up in local shopping centres etc.	comment noted
Complaints Implementation of the Scheme should be constantly reviewed to ensure that S.75 groups are confident that they will get support and redress.	comment noted
Consultee: Committee on the Administration of Justice (written submission)	
encouraged to see organisations have used model scheme as basis, suggest a few additions	comment is welcome
screening – would be useful for consultees to be informed as soon as screening forms are posted on websites, concerned about timelag, especially for policies for which ‘no’ or ‘minor’ impact is found	We will explore the feasibility of facilitating this request in the context of designing a process for implementation. The outcome will be shared with consultees.
explain relationship between equality of opportunity duty and good relations duty	comment noted BTS follows the model scheme we will make the Commission aware of all comments received relating to the model scheme
add statement to address common misunderstanding that ‘universal application’ implies a neutral impact on	We share the Committee’s view of the importance of clarifying this matter.

equality groups, when it can of course exacerbate inequalities	This is addressed in the context of staff training. Also, we have recently developed a resource for our staff aimed at tackling common 'screening myths' which includes the one referred to by the Committee.
add statement on positive action	We share the Committee's view of the importance of clarifying this matter. This is addressed in the context of staff training.
Verbal comments	
Any deviations from the model Scheme need to be highlighted and explanations provided as to why.	any changes will be highlighted
broad policy statement provided by the Equality Commission perceived as appropriate; organisations need to use a common sense approach to reduce burden on consultees	Comment noted.
Consultee: Northern Ireland Council for Ethnic Minorities (written submission)	
disappointing in that Schemes repeat exactly the wording of the Model Scheme with minimal attempt to make the scheme a reflection of what the authority actually does so that groups can see relevance to them; particularly important for the less well-known health and social care bodies coordinated by the BSO	The need to follow the model scheme limits our scope for customising it. The main area of customisation foreseen by the Commission relates to the description of functions ('Who we are and what we do'). The status of the scheme poses further limitations as to specifying measures or arrangements that are of limited duration. Following approval, we will produce a summary version of the scheme that is easy to read and understand.

<p>there should be one Equality Scheme from the DHSSPS that applies across to all health and social care bodies</p>	<p>under Section 75 each public authority must develop their own scheme and action plan; each Chief Executive and Board is accountable for their own scheme and plan and thus must have ownership; given the diversity of functions across Health and Social Care organisations, we would argue that each audit must reflect the consideration of equality issues against the specific functions of the respective organisation; the diversity of audits therefore reflects the diversity of functions across organisations.</p>
<p>organisations should highlight deviations from Model Scheme with an explanation</p>	<p>any deviations will be highlighted</p>

Table 5 Comments to NIBTS and responses
Audit of Inequalities and Action Plan

Comment	Response
Consultee: Older People's Advocate	
Organisations should have picked 5 or 6 key areas that all could have worked on together. Format of action plans of the nine organisations should be uniform and consistent.	Comment noted. The ten HSC organisations will work together to identify those areas where joint action is feasible and meaningful.
Plans need to be explicit on how information is used and progress reviewed on a regular basis.	Our Audit and Action Plan will be reviewed on an annual basis.
<p>Include commitment to review evidence base and undertake research to fill gaps; evidence base to go beyond Northern Ireland.</p> <p>The audit should contain statistical evidence of main users and a profile of its staff, including breakdown of managerial roles / Board members particularly those S75 groups who might be under-represented</p>	The audit of existing information systems will examine gaps, produce baseline information and result in the development of actions to fill gaps. A regular review will also be incorporated.
<p>Employment</p> <p>Females are in the majority of those employed within the</p>	Comment noted.

<p>agencies and this has an impact on designing timeframes for training, childcare / caring needs and maternity provision.</p>	
<p>More action on employment needed particularly as staff are getting older.</p> <p>Need to also consider caring roles of staff, increasing in line with ageing population</p> <p>The audit should have recognised that increased longevity and retirement age affects women more so than men, women will be working longer and older section of workforce will become increasingly female.</p> <p>Older women face particular difficulties in: returning to work after childcare, not being able to carry on with a job requiring physical strength, retraining to be able to diversify and use their skills differently as they grow older, requirements for flexible working hours and part time working.</p> <p>Include actions to address particular training needs of older women.</p>	<p>The BTS has in place a number of work-life balance policies that recognise the needs of carers, for example, carers leave, flexible working arrangements, employment break policy, special leave policy, equality of opportunity policy. During review of each policy we will consider the needs of all section 75 groups including older people, those with dependents and women, in light of changing needs and those highlighted by the Older People's Advocate.</p> <p>Specific needs of staff continue to be addressed on an individual basis.</p> <p>Training needs are identified through the performance appraisal process.</p> <p>The BTS will participate in any regionally agreed equality audit of pay (through the Belfast HSC Trust) and human resources issues.</p>
<p>develop new ways of including under-represented S75 groups such as examining where positions are advertised, considering affirmative action, using different</p>	<p>The BTS (through the Belfast HSC Trust) uses widely-recognised media as sources of recruitment. Personnel specifications include equivalencies to qualifications in</p>

<p>criteria such as experience and skills rather than academic qualifications (people with a disability and older women in particular), introducing shadowing or mentoring schemes, ensuring layout of buildings is suitable and convenient for staff</p>	<p>the form of experience.</p> <p>The BTS has a policy in place that guarantees interviews for applicants with a disability.</p> <p>BTS will add an action to its Equality Action Plan to consider undertaking affirmative action for under-represented groups where possible.</p> <p>Consideration of proposals relating to recruitment may be limited in light of current recruitment restrictions and the impending removal of the default retirement age which is likely to result in a low staff turnover.</p>
<p>Joint training in respect of S75 groups should be ongoing and include engagement and delivery by S75 organisations; training should challenge ageist attitudes and include positive messages about older people.</p>	<p>Learning and development opportunities will continue to be offered in respect of Section 75 groups and with their input.</p>
<p>Engagement – need more evidence of actions to include engagement with service users.</p>	<p>The NIBTS communities’ partnership (BTSCP) continues to be the mainstay of our PPI endeavours. This forum is well-represented by several “older” people, who are very active members.</p>
<p>Board composition - Need to consider how Section 75 categories get opportunities to participate on Boards. consider offering mentoring opportunities to skill up</p>	<p>Comment noted.</p> <p>We recommend that these issues are raised with the Public Appointments Unit directly.</p>

<p>people for joining Boards</p> <p>consider making joint representation to Office for Public Appointments regarding (a) greater efforts to be undertaken to appoint diverse boards and (b) use of experience as equivalent to academic qualifications in appointment process to remove barriers for participation of people with a disability and older women in particular</p>	
<p>Communication – consideration should be given to the communication needs of older people, who may not have IT skills, or may have sensory impairments, learning disability or low literacy levels.</p>	<p>With regards to our staff we will conduct a survey of communication needs of all staff. NIBTS makes adjustments for known individuals who may not have IT skills, sensory impairments, learning disability or low literacy levels in regard to communication and training.</p> <p>THE NIBTS communities partnership (BTSCP) members are actively involved in revising materials relating to blood donation session e.g. Donor healthcheck Questionnaire. Materials are developed and updated with inputs from the forum. Currently work is being conducted on the revision to version 16- July 2011.</p>
<p>There needs to be more sharing of information and good practice across organisations.</p>	<p>This issue is being addressed through our joint equality fora with our partnership organisations.</p>

<p>Complaints - work with other HSC organisations to provide overview information on how to raise a complaint and who to raise it with. It will often be the family of an older person who raises a complaint rather than the individual.</p>	<p>We will work with other HSC organisations to promote accessible information on how to make a complaint and who to raise it with.</p>
<p>Consultee: Committee on the Administration of Justice (written submission)</p>	
<p>Section 75 continues to apply in addition to action plan</p>	<p>BTS shares CAJ's view that the mainstreaming duty under Section 75 requires us to give consideration to equality on an ongoing basis across all of our functions; we see screening as the key vehicle for doing so; this is also highlighted in training for staff.</p>
<p>data gaps identified in the audit should be addressed; newly emerging inequalities may not be captured in original audit</p>	<p>The audit of existing information systems will examine gaps, produce baseline information and result in the development of actions to fill gaps. A regular review will also be incorporated.</p>
<p>hope that audit will provide useful tool for policy-makers when applying Section 75 beyond action plans</p>	<p>data gathered will be used more widely to inform screening exercises more widely; to improve access to data for staff, the BSO Equality Unit has created a website section which collates relevant research reports identified; BTS staff have been notified of the availability of this resource via email .</p>
<p>Consultee: Northern Ireland Council for Ethnic Minorities (written submission)</p>	

<p>essential that the comprehensive collection of evidence is undertaken under the revised Schemes submitted by organisations, particularly for ethnic and religious minority communities.</p>	<p>The audit of existing information systems will examine gaps, produce baseline information and result in the development of actions to fill gaps. A regular review will also be incorporated.</p>
<p>The audit across the Health Trusts places heavy reliance in the audit of ethnic minority inequalities on NICEM research.¹ Yet this research is not mentioned in the audit of the BSO-coordinated bodies. In both audits, we ask the question, ‘Where is the research commissioned by the health and social care sector?’</p> <p>There is nothing at all in the evidence base used in this audit on religious minorities.</p>	<p>We acknowledge the value of research and will consider this research in the context of our organisation’s functions.</p> <p>The short timescales specified by the Equality Commission for the audit itself ruled out the option of undertaking new research.</p>
<p>the important issue of the <u>causes of the inequalities identified</u> appears to be absent from both the ECNI guidance and HSC audits; unsure how BTS 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.</p>	

¹ 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.

<p>ECNI should produce a model audit of inequalities, on the basis of this initial exercise.</p>	
<p>gap analysis should be included in the first year of the action plan of each organisation and efforts to collect quantitative and qualitative data on priority gaps should be included in the subsequent years of the action plan.</p>	
<p>We welcome the fact that the BSO-coordinated bodies have collaborated to identify inequalities.</p>	<p>Comment noted.</p>
<p>It seems curious to us that the audit of inequalities is an appendix to the draft action plan. We expected the action plan to flow from the audit. We are also puzzled that, despite an extensive 'evidence base' in an appendix, it is essentially a literature review and there is no connection between the identified inequalities and the evidence base.</p>	<p>Comment noted.</p>
<p>We welcome the functional approach initially taken in the audit. But we are disappointed that the BSO-coordinated bodies have not followed the lead of the Health Trusts and identified separately inequalities in relation to each section 75 group.</p>	<p>It is important to note that the functions of many of the BSO co-ordinated organisations do not have a direct public impact, or provide a very specific service and therefore the audits needed to be wider than simply 'health inequalities'. This led to the joint approach to undertake a function based audit, to ensure as far as possible identification of all inequalities in all functions. BSO co-ordinated bodies note the comment, and will clearly identify related section 75 groups in action plans</p>
<p>We are equally disappointed that action plans are not group-specific.</p>	

	to improve ease of reading.
The action plans should make it transparent how the prioritisation of actions has been conducted.	We will include detail of the prioritisation criteria in our final Audit and Action Plan document/consultation report.
In our view, the action plans do not identify performance indicators, monitoring arrangements or areas of responsibility. They do not tell us when intended outcomes are to be achieved (not outcome-focused). Some 'intended outcomes' are not really outcomes. Some 'Issues to be Addressed' are not inequalities. What is the inequality?	<p>Intended Outcomes and Performance indicators are included in our Action Plan. As stated in Action Plan, responsibility for delivery lies with the respective Head of Department. Chapter 5 'Monitoring and review of Action Plan' sets out monitoring arrangements.</p> <p>Our Action Plan has been amended to clearly present the potential inequalities identified in the audit against each action listed.</p>
Consultee: Unison	
<p>Audit of Inequalities ask BTS to detail the <i>specific</i> consultations undertaken with s.75 groups (over and above the ad-hoc group convened by the BSO) to identify (1) the specific inequalities that <i>those potentially</i> affected groups felt were relevant to BTS functions and (2) what actions those groups felt were necessary to better promote equality of opportunity.</p>	<p>The Equality Commission guidance on the Audit of inequalities does not include specific consultations to be undertaken with Section 75 groups. This reflects the three-month timescale specified by the Commission for the audit.</p> <p>Nevertheless, the contribution of members of the Equality Unit to the HSC-wide work summarised in the 'Emerging Themes' document involved direct engagement with the Rainbow Project, the Family Planning Association, the Women's Resource and</p>

	Development Agency, and Carers NI; engagement related to wider health and social care issues.
<p>To be robust we believe that the Audit of Inequalities could have given a more comprehensive and fuller picture of the potential inequalities faced by each s.75 group across the BTS specific functions and policy areas as outlined in section 3.1.</p> <p>There is no cross-reference to the Audit findings at each item of the Action Plan to show why it is required as an equality measure. It is very difficult, therefore, for consultees to establish the audit trail to each Action Plan, particularly in the absence of workshop links or summaries of qualitative evidence.</p>	Our Action Plan has been amended to clearly present the potential inequalities identified in the audit against each action listed.
<p>Did the BTS gather data on the inequalities faced by each s.75 group across each functional area? was a gap analysis undertaken? did the BTS consider commissioning its own research to ensure that the Audit and Action Plan were as comprehensive as possible?</p>	<p>The workshop discussions included consideration of what data is available and what data could be collected to fill gaps.</p> <p>The short timescales specified by the Equality Commission for the audit itself ruled out the option of commissioning or undertaking new research.</p>
In the wider context we would request further information on whether the Audit of inequalities, and priorities identified, will inform the way in which the BTS' budget is	NIBTS will commit all necessary resources to fulfill our section 75 obligations

<p>allocated in the future.</p>	
<p>Action Plan</p> <p>We would ask the BTS to explain how Action 17 ‘Continue to comply with the Donor Selection Guidelines’ is an opportunity to promote equality of opportunity given the discrimination faced by gay and bisexual men as a result of the ban on gay and bisexual men giving blood. The equality impact of this ban is tacitly acknowledged by BTS in the Action Plan.</p> <p>A specific action to mitigate this discrimination would be for BTS to work with the Department in reviewing current policy in light of recent research and the experience of other countries such as New Zealand, Spain, Italy, Japan and Australia who have ended their lifetime exclusion.</p>	<p>The NIBTS recognises the barriers to accessing donor services by gay and bisexual men, which was highlighted in an Equality Impact Assessment on Access to Blood Donor Services in 2003. This inequality of access continues to be considered on an ongoing basis; the BTS will continue to regularly review relevant policies and will adopt any changes as per UK Guidelines.</p> <p>The current policy is under review by the Advisory Committee for Safety of Blood, Tissues and Organs (SaBTO). Any change to the policy by NIBTS will be in the light of SaBTO and DH recommendations</p>
<p>clarify whether the actions contained in the Action Plan are in fact ‘new’ actions identified as a direct result of the Audit of Inequalities</p>	<p>Some actions identified within the action plan are ‘new’ actions however some actions are on-going. These actions are equally substantive and important.</p>
<p>essential that the targets in the Action Plan are Specific, Measurable, Achievable, Realistic and Time-based. The Action Plan could be more specific in this regard, particularly in detailing expected outcomes for each s.75 group.</p>	<p>The action plan has been updated to ensure consistency in the presentation of the information.</p>

<p>there is no clear description of how this process interacts with the corporate planning cycle – as stipulated by the Equality Commission</p>	<p>Chapter 5 ‘Monitoring and review of the action plan’ refers to this.</p>
<p>little evidence of trade union involvement in the process</p>	<p>The BSO Director of Human Resources approached the four regional secretaries on several occasions to arrange a joint meeting dedicated to the audit, scheme and action plan.</p> <p>All trade unions received an invitation to attend one of four consultation events organised by the BSO and its partner organisations in different locations across Northern Ireland.</p> <p>All staff members, including local trade union representatives, were alerted to the consultation on the scheme, audit and action plan via the staff newsletter and invited to share their views.</p>

Conclusion

This report reflects the consultation exercise undertaken to capture feedback on the content of the NIBTS's Equality Scheme and Audit of Inequalities. The detail of the submissions reflects the interest expressed by consultees in the area of equality. Senior Management Team and Board members have considered the submissions from each of the consultees and acknowledge the commitment of all those who responded.

Where it has been possible we have addressed comments within our Equality Scheme. In other instances we have taken the view that we do not feel that the degree of change suggested is consistent with the model scheme proscribed by the Equality Commission. Pursuing such change would necessitate complex discussions with the Equality Commission and consequently delay NIBTS's ability to gain the necessary approval for its Scheme.

We feel that these suggestions can be more appropriately addressed by other methods. In our responses we have suggested a number of areas where the issue raised can be more done such as within training and guidance; in the provision of accessible information or more generally in the mainstreaming of the Section 75 agenda.

An implementation plan is being drawn up in relation to the Audit of Inequalities' Action Plan. Where relevant and feasible the comments provided by consultees have been incorporated. Regular reports on progress will be undertaken.

When further developed this implementation plan will also be placed on our website at: www.nibts.org

Appendix 1
Copy of original responses to consultation exercise

Equality Commission for Northern Ireland

Response to the Northern Ireland Blood Transfusion Service's Equality Scheme

March 2011

The Equality Commission for Northern Ireland (“the Commission”) is an independent public body established under the Northern Ireland Act 1998. The Commission is responsible for implementing the legislation on fair employment, sex discrimination and equal pay, race relations, sexual orientation, disability and age.

The Commission’s remit also includes overseeing the statutory duties on public authorities to promote equality of opportunity and good relations under Section 75 of the Northern Ireland Act 1998, and to promote positive attitudes towards disabled people, and encourage participation by disabled people in public life under the Disability Discrimination Act 1995.

The Commission’s general duties include:

- working towards the elimination of discrimination;
- promoting equality of opportunity and encouraging good practice;
- promoting positive / affirmative action;
- promoting good relations between people of different racial groups;
- overseeing the implementation and effectiveness of the statutory duty on relevant public authorities; and
- keeping the legislation under review.

Section 75 of the Northern Ireland Act 1998 was intended to be transformative. Its aim was to change the practices of government and public authorities so that equality of opportunity and good relations are central to policy making, policy implementation and review and service delivery.

The Commission is fully committed to ensuring and monitoring the effective implementation of the Section 75 statutory duties. The

decision to review and revise the Guide to the Statutory Duties² (the Guide) is a reflection of this commitment and follows the conclusion of the Section 75 Effectiveness Review³ which the Commission undertook between 2006-2008, in order to assess the effectiveness of the legislation.

Following the Effectiveness Review recommendations, the Commission's aim was to create a more user friendly Guide, to make improvements in the area of screening of policies and to shift the focus within public authorities from concentrating primarily on the process of implementing Section 75, towards achieving outcomes within the Section 75 framework.

The Commission also produced a model equality scheme for use by public authorities. The purpose and intent of the model equality scheme is to set out best practice and it therefore includes both the legal requirements of Schedule 9 of the Northern Ireland Act 1998 and recommendations contained within the Commission's guide 'Section 75 of the Northern Ireland Act 1998 – A Guide for Public Authorities (April 2010)'.

The Commission welcomes the opportunity to comment on the Northern Ireland Blood Transfusion Service's revised equality scheme. The Commission's response to the Northern Ireland Blood Transfusion Service's equality scheme consultation is made with particular reference to the Model Equality Scheme.

General comments

The Commission acknowledges and welcomes the fact that the approach taken by the Northern Ireland Blood Transfusion Service in producing a revised equality scheme is one which is broadly consistent with the Commission's model equality scheme.

The Commission is also pleased to note the fact that the Northern Ireland Blood Transfusion Service carried out an audit of inequalities to inform the development of its equality action plan.

However, in the interests of achieving best practice, there are a number of specific comments which the Commission would like to draw attention to, in our response to the Northern Ireland Blood

² Equality Commission for Northern Ireland (2004). Guide to the Statutory Duties

³ Equality Commission for Northern Ireland (November 2008). Keeping it Effective: Reviewing the Effectiveness of Section 75 of the Northern Ireland Act 1998 – Final Report.

Transfusion Service equality scheme, which are outlined below.

Specific Comments

Chapter 2

Action plan/action measures

One of the key recommendations from the 'Effectiveness Review' was to shift the focus within public authorities from concentrating primarily on the process of implementing Section 75, towards achieving outcomes within the Section 75 framework.

The Commission welcomes the fact that the Northern Ireland Blood Transfusion Service carried out an audit of inequalities across its functions and used this baseline information to inform the development of their action plans.

The Commission will not consider the content of action plans or action measures as part of the approval process for equality schemes and therefore recommends that the Northern Ireland Blood Transfusion Service clarifies on their equality scheme, that the action plan, included in Appendix 6, will not form part of the approved equality scheme.

The Commission also welcomes the fact that the Northern Ireland Blood Transfusion Service has developed its action plan in order to align it with corporate and business planning cycles and the fact that implementation of action measures has been incorporated into the business planning process.

Section 2.1

The Commission recommends that NISCC cross references the arrangements for assessing compliance with the Section 75 duties outlined in other parts of the scheme as specified.

Chapter 3

Section 3.2.3

Section 3.2.3 of the Model Equality Scheme provides guidance to public authorities on accessibility and format of every method of

consultation used in order to remove barriers to the consultation process. Specific consideration should be given as to how best to communicate with children and young people, people with disabilities (in particular people with learning disabilities) and minority ethnic communities and to take account of existing and developing good practice. The Northern Ireland Blood Transfusion Service acknowledges that its services are largely provided to all section 75 groups taking account of medical criteria. In order to ensure greater accessibility and improve consultations, the Commission considers that Northern Ireland Blood Transfusion Service should provide more detail on the medical criteria referred to in this section of the draft Equality Scheme. For example, this could signposted through a web link which would enable consultees to be fully aware of the detail of the medical eligibility criteria.

Section 3.2.5

How to ensure effective consultation with external stakeholders.

If consultation is to be effective and meaningful, external stakeholders need to have the capacity to effectively engage in the process.

In practice, if a public authority identifies an external stakeholder critical to the process who does not have the ability to respond to consultation effectively, the public authority may, for example, provide awareness raising sessions for this group to develop their capacity to engage in the process and to respond to consultation in a meaningful way.

The Model Equality scheme is framed in such a way as to enable public authorities to decide if awareness raising with external stakeholders is required and what form this will take in order for it to be of benefit to the public authority concerned and also the group or groups identified.

The Commission recommends that the Northern Ireland Blood Transfusion Service elaborates further, if possible at this stage, on the additional steps it would implement to ensure effective consultation with consultees.

Chapter 7

Paragraph, (7.2) refers to Appendix 4 as including the Northern Ireland Blood Transfusion Service's commitment to develop an action plan. The Commission would recommend that Appendix 4 also includes a measure 'to implement/deliver an action plan'.

Conclusion

The Commission welcomes the approach taken by the Northern Ireland Blood Transfusion Service, particularly with regard to use of the Commissions Model Equality Scheme and the new Guide to the Statutory Duties. The Commission is particularly pleased that the Northern Ireland Blood Transfusion Service has undertaken an Audit of Inequalities and developed an Equality Action Plan to address these issues as well as the fact that the Equality Action Plan will be implemented in order to align with corporate and business planning cycles and incorporated into the business planning process.

The Commission recommends that the Northern Ireland Blood Transfusion Service considers our comments in relation to the inclusion of a forward in accordance with the structure set out in the Model Equality Scheme as well as the other issues identified in this response particularly in relation to monitoring more broadly.

If Northern Ireland Blood Transfusion Service have any queries in relation to the comments made in this consultation response, please contact:

Joe Lenaghan
email: jlenaghan@equalityni.org
direct line: 028 90 500 578

This response is made without prejudice to any consideration or determination which the Commission might make in performance of its statutory function to investigate individual complaints under Schedule 9 of the 1998 Act or conduct any other investigation under that Schedule.

I hope that you find our comments and suggestions helpful.

16 March 2011



**Response to the Business Services
Organisation 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 organisation⁴ we represent the interests of black and minority ethnic⁵ (BME) communities in Northern Ireland.

NICEM welcomes the opportunity to make a response to this important consultation. This is a response to the Business Services Organisation (BSO) in relation to the draft schemes, audits and action plans of all the health and social care bodies that it has been coordinating. We will make reference to the draft scheme, audit and action plan of the Public Health Authority (PHA) by way of example. This response is based on our response to the Belfast Trust and we make reference to that response also.

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'. In the Foreword of the draft Scheme of the Belfast Health and Social Care Trust, 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."⁶

Before considering the implementation of section 75 in the health and social care sector 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**

⁴ Currently we have 29 affiliated BME groups as full members. This composition is representative of the majority of BME communities in Northern Ireland.

⁵ 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.

⁶ At p 7 of the draft Scheme.

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 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 BSO, and the bodies it is coordinating, to submit mature equality schemes to the ECNI. They should build on the experience of operating under their original scheme and **reflect the particular functions of each body and the different challenges that each 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 relevant bodies. 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 effective compliance with each equality scheme, but rather a means of helping the BSO-coordinated bodies 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.⁷ 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.**

⁷ This was intended by the previous Government in Great Britain in relation to the public sector duties in the Equality Act 2010.

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 BSO-coordinated bodies 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.**

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.** In our view, the BSO-coordinated schemes are disappointing in that they 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.

This need is particularly acute amongst the less well-known health and social care bodies coordinated by the BSO. Most people have very little idea what they do. Yet there appears to be far more detail about their work in the draft audit (which will not be as publicly available as either the equality scheme or action plan). **This seems to be a missed opportunity to make each body's scheme a statement of what the body actually does.**

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 are therefore disappointed that the BSO-coordinated bodies have not made efforts to customise their schemes. **More could be done to make the scheme relevant to both those who work for the BSO-coordinated bodies and the citizens who receive their services**, and those who work with it on consultative and other participative forums and respond to consultations.

One particular aspect of the draft Schemes that we find satisfactory is that the BSO coordinated bodies have set themselves specific deadlines when required to do so by the Model Scheme. For example, at §3.2.3 of the PHA draft Scheme, it is stated:-

“Information will be made available, on request, in alternative formats, in a timely manner, usually within 20 working days (unless third party timescales dictate otherwise ...). We will ensure that such consultees have equal time to respond.”

4 Draft Audits of Inequality

4.1 Collection of data

We welcome the draft audit of inequalities across the BSO-coordinated bodies. As stated above, we would have preferred an audit across the entire sector led by the DHSSPS. However it is apparent that the BSO-coordinated bodies 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 and social care bodies 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 §2.12 of the Scheme of BSO-coordinated bodies, 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 BSO-coordinated bodies gave commitments in their original schemes to collect quantitative and qualitative data and, like most other public authorities, it is only with the welcome introduction of audits of inequalities that they has begun to take this commitment seriously. It is therefore essential that the comprehensive collection of evidence is undertaken under the revised Schemes submitted by the BSO-coordinated bodies.**

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. The audit across the Health Trusts places heavy reliance in the audit of ethnic minority inequalities on NICEM research.⁸ Yet this research is not mentioned in the audit of the BSO-coordinated bodies. In both audits, we ask the question, ‘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.⁹ There is nothing at all in the evidence base used in this audit on religious minorities.

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 BSO-coordinated bodies 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 BSO-coordinated bodies have collaborated to identify inequalities.

It seems curious to us that the audit of inequalities is an appendix

⁸ 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.

⁹ At pp 35-37 of the audit.

to the draft action plan. We expected the action plan to flow from the audit. We are also puzzled that, despite an extensive 'evidence base' in an appendix, it is essentially a literature review and there is no connection between the identified inequalities and the evidence base.

We welcome the functional approach initially taken in the audit. **But we are disappointed that the BSO-coordinated bodies have not followed the lead of the Health Trusts and identified separately inequalities in relation to each section 75 group.** Our concern with the Trusts is that they have not followed this approach through into their draft action plans but the BSO-coordinated bodies have not done this even in their audit. **Therefore, 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 BSO-coordinated bodies, is **a gap analysis of evidence on the inequalities suffered by ethnic and religious minority communities** in Northern Ireland. **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 action plan** of each BSO-coordinated body and that efforts to collect quantitative and qualitative data on priority gaps should be included in the subsequent years of the action plan.

We are concerned that there is no section in the audit on inequalities specifically on ethnic minority communities and that there is no reference to inequalities suffered by religious minority communities. **Obviously, 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

Since we are disappointed that there are no sections of the audit specific to each section 75 ground, we are equally disappointed that the action plans of the BSO-coordinated bodies are 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 policies of the BSO-coordinated bodies 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 BSO-coordinated bodies 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 action plans of the BSO-coordinated bodies 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.

There is therefore a danger of 'soft options' being chosen, including actions that are already occurring. The action plans 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, the ECNI specifies that they be outcome-focused and SMART.

In our view, the action plans of the BSO-coordinated bodies **do not identify performance indicators, monitoring arrangements or areas of responsibility.**

They include a timetable for implementation of actions but do not tell us when intended outcomes are to be achieved (not outcome-focused).

Some 'intended outcomes' are not really outcomes.

Some 'Issues to be Addressed' are not inequalities, e.g. in the PHA action plan, "Cancer Screening Programmes: Commissioning and quality assuring cancer screening programmes" is a function. What is the inequality?

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 duty of the BSO-coordinated bodies under their schemes 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 action plans of the BSO-coordinated bodies is to show examples of actions, outputs and

outcomes which the BSO-coordinated bodies intend 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 BSO-coordinated bodies seek to achieve through their 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 equality schemes of the BSO-coordinated bodies. Rather these audits and action plans allow the BSO-coordinated bodies, not merely to comply with their equality schemes, but also to adopt best practice in terms of tackling the inequalities which ethnic and religious minority communities face.

We consider that the BSO-coordinated bodies have made a start in revising their equality schemes in line with the ECNI Model Scheme but have failed to customise their draft schemes according to the functions that they perform. We appreciate that the BSO-coordinated bodies have taken a functional approach to their audit of inequalities but consider the methodology to be flawed. Their action plans also have significant deficiencies.

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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UNISON submission to
Blood Transfusion Service on its
draft Equality Scheme,
Audit of Inequalities and
Action Plan

March 2011

1.0 INTRODUCTION

UNISON is the leading trade union in NI and the largest trade union in the UK with over 1.3 million members.

Our membership includes public service workers in health and social care, the education and higher education services; workers in local government, youth justice; workers in private sector service suppliers; and workers in the community and voluntary sectors.

84% of our membership in NI are women. Our membership also reflects all groups designated under the Statutory Duty of Equality of Opportunity (s.75 of the NI Act 1998).

We are co-convenor, with the CAJ, of the Equality Coalition, an alliance of the affected groups specified in s.75.

The comments we make in respect of this draft Equality Scheme, Audit of Inequalities and Action Plan should be viewed in conjunction with input from other affected groups as a co-operative contribution.

UNISON stress our willingness to work co-operatively with the BTS to ensure sound processes for consultation and the participation of all affected individuals and groups in future decision-making.

2.0 DRAFT EQUALITY SCHEME

We welcome that the BTS has followed to a large extent the Model Equality Scheme produced by the Equality Commission NI.

However, there are a number of key issues which we believe must be addressed to strengthen the Scheme and to ensure the BTS most effectively implements its Section 75 obligations. We believe effective implementation will result in:

- the mainstreaming of equality, placing it at the heart of the BTS's decision-making processes;
- the opening up of those decision-making processes to civil society and in particular to the groups affected by s.75;
- better all round health and social care delivery; and
- an effective contribution to consensus building in a divided society.

2.1 The Scheme needs to clarify the precise relationship between the s.75 equality duty and the good relations duty

To prevent misunderstanding, and ensure the most effective application of s.75 by BTS staff, the Scheme should clarify the precise relationship between the s.75 equality duty and the good relations duty.

The NI Act 1998 and subsequent Guidance from the Equality Commission for NI make it clear that equality duty is given stronger legal weight than the good relations duty as the former is seen as the

necessary underpinning for the latter. 2010 Equality Commission Guidance states that 'good relations cannot be based on inequality' and that 'the term *due regard* was intended to be, and is, stronger than *regard*'. The discharge of the good relations duty also 'cannot be an alternative to or cannot set aside the equality of opportunity duty.'

Thus, for example, provisions to better promote equality of opportunity for Catholics and nationalists in some geographical areas and some public programmes, or Protestants and unionists in other domains, must reflect real objective need, rather than some search for an 'equitable balance'. Community differentials caused by religious discrimination lie at the heart of much of the inequality in Northern Ireland and the Section 75 duty actively seeks to address and reduce those differentials.

It is essential that the BTS clarifies this relationship to ensure that its responsibilities under each duty are clear and unambiguous.

2.2 The Scheme requires a section to outline the social, economic and health context within which the BTS operates

We believe that the Scheme would benefit from an introductory section to outline the social, economic and health context within which the BTS operates and how it engages with crucial issues of inequality and discrimination. This is crucial in light of the specific role that the BTS can play in promoting better health outcomes and tackling inequalities.

A particular issue that the BTS could engage with in this context is the

equality implications of the ban on gay and bisexual men giving blood.

UNISON recognises the vital need to maintain a safe and adequate blood supply. We support the efforts of the national blood services to encourage people to become donors and acknowledge that holding donor sessions in workplaces can help with this. We also believe that our members in the Blood Transfusion Service have a right to be protected from contracting any blood borne disease.

However, we are also aware that these sessions can be divisive and used as a form of harassment against gay men as men who have had sex with men are prohibited from being a blood donor regardless of HIV status. The current policy is based on outdated stereotypes and questionable interpretation of statistics. In 2009 the largest increase in HIV infection rates in the UK is among heterosexuals. However the national blood services continue to maintain a blanket ban on gay and bisexual men.

UNISON believes that all potential donors should be rigorously screened, and that the criteria for screening should be based on the objective discovery of high risk behaviours, regardless of sexual orientation. Gay and bisexual men who provide essential services as healthcare professionals are excluded from workplace blood drives. This not only has a negative impact on their self-esteem, it can inadvertently out them to their colleagues and fellow union members.

If the ban on gay and bisexual men was lifted, it would increase the numbers of people who would be eligible to donate, without increasing

the risk to employees of the Blood Transfusion Service, and increase the availability of blood supplies for those who need it.

More generally the Scheme could engage with key issues such as the potential role for the BTS and the wider system in helping to addressing the *social, economic and cultural determinants of health* when planning, commissioning, providing and monitoring health and social care services.

In addition, how can the BTS work with other HSC bodies in a more *co-ordinated way*:

- to tackle inequalities and address the causes of ill health related to areas such as poverty, deprivation and poor housing?
- to ensure priorities are shifted and funding redirected towards health *prevention and promotion* – addressing health inequalities as a core aspect of the change process?
- to build healthy living and working into *purchasing and commissioning* decisions?
- to ensure *equal access* to health and social care services?

UNISON would recommend that the BTS use the data and information available to it much more systematically to expose, analyse and then monitor inequalities.

There should be a commitment to a strong partnership approach to bringing added pressure to raise priority and attention to these issues across the health system.

2.3 Comments on the Foreword

UNISON welcomes the top level commitment given by the Chief Executive and Chairperson to the BTS's obligations under Section 75. It must be made clear, however, that the Foreword and Appendices form integral parts of the Scheme.

Whilst we welcome the commitment of the BTS to fulfilling its Section 75 duties across all its functions, these are defined differently in various parts of the Scheme. For clarity we would suggest that a common definition is used throughout the Scheme - specifying that functions includes powers and duties, is of wide import and includes service provision, employment and procurement functions.

The BTS should make it clear that the existence of the Action Plan does not detract from its statutory responsibility to ensure that all its functions and policies are scrutinised to determine where equality of opportunity can be promoted and inequality tackled.

It is essential, in this context, that decision-makers utilise **all** available qualitative and quantitative data, including the Audit of Inequalities, when applying s75 to BTS functions and policies not contained within the Action Plan.

We would also suggest that the Foreword states the BTS's commitment to taking, *all necessary steps* to ensure that it complies with its statutory

duty and the effective implementation of the Equality Scheme.

2.4 Comments on Chapter 1: Introduction

The current wording in the Foreword to the draft Scheme commits the BTS to providing “the necessary resources” to effectively implement the duty. However, the wording of para 1.3 waters down this commitment by stating a commitment to ‘the necessary *available* resources’ is required. This is a weak formulation of words and should be amended to that contained in the Foreword.

2.5 Comments on Chapter 2: Arrangements for Assessing Compliance

For clarity it would be useful if the Equality Scheme includes examples of *how* compliance will actually be assessed in practice.

Whilst recognising that the Equality Commission Guide uses the term ‘Audit of Inequalities’, this term is often quite limiting in scope. We would therefore recommend that in para 2.12 the Scheme make clear that the Audit is a living documents and requires an ongoing, full and comprehensive ‘analysis’ of inequalities.

We welcome the BTS’s commitment to monitor progress on delivery every 12 months (para 2.16) but would recommend a re-wording to make it clear that monitoring can take place at an earlier stage if new data or information is received.

Whilst the current structures for assessing compliance necessarily ensure senior representation, it is likely to point up existing imbalances in many of the categories designated under s.75. Consideration should be given to how these imbalances are redressed. We welcome more information on the *specific discussions* the BTS is entering into with users of the services and their representatives. In particular we wish to see specific steps taken to involve the affected s.75 groups and service users in TSN areas.

2.6 Comments on Chapter 3: Consultation arrangements

We welcome the BTS's commitment to open, timely and inclusive consultation. Effective consultation leading to effective participation by affected groups lies at the heart of the statutory duty. It is an area in which the BTS has obligations to outreach, assist and resource the consultees.

We would encourage the BTS to follow the advice of (and resource) groups with specialist knowledge in this domain. For example such groups could assist in decisions about how, when, and who to approach. People with disabilities could be involved in developing the consultative methods to be used and involved in delivering that training. This kind of investment will ensure that affected people are able to fully participate in the decision making process and contribute to capacity building within the constituency which, in and of itself, will address fundamental issues of inequality and exclusion. However, the primary responsibility must

remain with the BTS itself to do the necessary work, and to reach out beyond organised groups.

We recognise that some of the legacy health bodies have in the past undertaken an inclusive consultation process but this whole approach needs to be revisited on a system-wide basis. Although the consultation list is comprehensive, we would hope the BTS would seek to ensure it is constantly reviewed to ensure full inclusion.

Para 3.1 should be amended to ensure that the Audit of Inequalities will be consulted upon in addition to the Scheme, action measures And Equality Impact Assessments.

The Scheme must set out a clear procedure to ensure that the views of those consulted have been fully considered and incorporated into the decision-making process. Where those views have not been included the Scheme must set out a clear procedure for ensuring that consultees are given reasons for their exclusion.

We welcome the commitment of the BTS to ensure that those involved in facilitating such processes are given *'specific training'* and have *"necessary skills"* to enable meaningful participation.

The BTS should also provide the *'necessary resources'* to ensure that both the information which is disseminated and, the services provided, are made accessible in a way which ensures equality of opportunity.

It is essential that consultations on all matters including functions, duties and powers involve all designated groups and individuals. It is therefore essential that any ‘targeted approach to consultation’ as specified in para 3.2.1 does not create a ‘hierarchy’ of consultation with certain groups becoming the ‘gatekeepers’ of the process thus excluding others from inclusive participation.

2.7 Comments on Chapter 4: Arrangements for assessing, monitoring and publishing the impact of policies

What is a policy?

The Scheme needs to impart a real sense of what the policies mean and how someone could identify if a policy has a particular relevance to their interest group. In setting out its functions, duties and powers:

- the BTS must be more explicit about who else is involved, particularly in the mixed economy of health care delivery. Full details of the BTS’s contractors and sub contractors and the functions they perform should be set out in the scheme;
- the BTS must set out clearly arrangements on how it will ensure that decisions or directives from others both ‘upstream’ and ‘downstream’ in the decision-making process will be independently assessed by it to enable it to fully comply with its section 75 obligations;
- the BTS must state its specific responsibilities in relation to impact assessment to ensure that any overlapping with another public body or agency does not lead to confusion or lack of clarity on the

action required by each body to discharge their statutory obligations.

The BTS is obliged under s.75 to promote equality of opportunity across the range of constituencies mentioned, regardless of where any particular policy originates. S.75 applies to all policies regardless of their origin and the Scheme must explicitly accept that all policies, once accepted and put into practice within the authority concerned, become its policies.

UNISON would also welcome a more explicit recognition by the BTS that many practices are not the subject of written policy documents, but are nevertheless established policies. As recognised in para 4.1, all written and unwritten policies are covered by section 75. The draft Scheme should indicate measures that will be put in place to reflect this more systematically for the purposes of screening and impact assessment.

The Scheme provides insufficient detail on the BTS's procurement and employment functions. Section 75 clearly places an obligation on the BTS in respect of all its functions, powers and duties. Employment, service provision and procurement are among the key areas on which we expect the BTS to fully implement statutory duty. Detailed comments on procurement and employment follow.

Procurement

The BTS must clearly acknowledge throughout its scheme that procurement is a function to which the equality duty applies. The following comments were produced by UNISON in 2000. A number of legacy health bodies agreed that these would be incorporated in future revised schemes. The Department also incorporated them into the implementation of its Scheme.

As a minimum standard for the full promotion of equality, it is also essential that BTS commit to implementing the 2008 joint *'Equality of Opportunity and Sustainable Development in Public Sector Procurement'* Guidance produced by the Equality Commission NI and the Northern Ireland Central Procurement Directorate

The BTS should commit to a definition of procurement that embraces its responsibilities as:

- a purchaser or provider of services under commissioning arrangements;
- a purchaser of goods, supplies and utilities; and
- a purchaser of services and works

In respect of its role as a purchaser or provider of specific commissioned services, it should acknowledge its responsibility to ensure that commissioning documents and reviews to which it is a party contain a proper process of equality assessment as defined in the legislation, and commit both the provider and purchaser to delivery and review of the service in light of the equality groups in the legislation.

In particular, the Scheme should commit to a specific and integral reporting framework by which the purchaser and provider can publicly account for the equality proofing and performance of commissioned services.

In respect of the procurement of goods/supplies/utilities, where such procurement is through purchasing consortia which are also subject to the equality duty, the BTS should commit to developing its partnership and influence with such bodies to ensure contracts in which it participates test at listing and award stage the competence and capability of suppliers (whether internal or external to Northern Ireland) in respect of the designated equality categories within the legislation.

It should also commit within its Scheme to participating with such bodies to specific initiatives to:

- brief existing suppliers of goods/services/initiatives as to the obligations and standards they need to develop;
- develop awareness amongst potential (and in particular local) suppliers of equality good practice to assist them in participating in contracting, particularly when such participation would promote equality in e.g. TSN areas.

Where the BTS contracts directly for goods/supplies/utilities it should state within the Scheme a defined materiality threshold over which the competence of suppliers in demonstrating their adherence and understanding of the specified equality groups is mainstreamed into the processes of advertisement, listing, award and contract review. It should

also commit to promoting suppliers awareness and participation as described above.

In respect of the procurement of services and works, it should commit within the Scheme to the following:

- ensuring that any advisors/Consultants/Supervisors retained have an appropriate understanding of the legislation and the Scheme;
- reflecting the requirements of the legislation and Scheme in all contractual documentation;
- ensuring the testing of provider equality competencies is mainstreamed into advertisement, listing, award and monitoring processes;
- specifically testing employment policy, employment practice and provider track record against the designated equality groups, including consideration of adverse findings in the courts or at tribunals over statutory factors.

It should also commit within the scheme to the full implementation within its procurement activities of future legislation from the EU and UK governments (e.g. the expanded role for assessments in procurement of race factors in the draft EU Racism Directive).

Employment

The BTS must make a specific commitment in its Scheme to discharging the equality obligation in its function of employment. This should inter alia include:

- a commitment to the systematic creation and review of employment policies covering all the designated equality groups;
- a clear commitment in the Scheme to equality of treatment between the different groups, and the avoidance of any hierarchy, including any distinction between statutory and non statutory discrimination;
- recognition within policies and the Scheme of the nature of multiple oppression and discrimination;
- a clear commitment to link a policy-driven employment framework to equality of pay and remuneration;
- a recognition that all training and development should reflect mainstreamed equality as per the Scheme, not just Scheme-specific training.
- a commitment to the visible integration of equality policy/practice and Health and Safety policy/practice given such strategic links as sexual harassment;
- a commitment that section 75 obligations will form part of the induction training of all BTS members and employees;
- integration where appropriate between the section 75 employment obligation and professional practice protocols involving employee obligations for fair treatment;
- **specific recruitment, grievance and disciplinary policies which reflect section 75 obligations;**
- specific training for all those charged with the operation of such policies;
- appropriate and confidential facilities which allow individuals or groups facing discrimination to raise their concerns;

- systematic audits of workforce composition and employment policy effectiveness;
- clear and explicit policy measures, remedies and sanctions for acts of discrimination and harassment in respect of all designated groups;
- a commitment to review and modernisation of policies in the light of positive legal developments that promote equality of opportunity;
- effective consultation with stakeholders (e.g. recognised trade unions) over the implementation and ongoing review of all section 75 employment obligations;
- a mainstreamed approach promoting equality within all bargaining structures;
- a commitment in any screening process to incorporate specific consideration of employment factors;
- acceptance that the employment function covers the definition of “worker” in the widest sense;
- commitment to measures to protect all employees from discriminatory violence or harassment from users of the its services.

Screening and Equality Impact Assessments

We note that the lead role in screening will be taken by the policy decision maker. From experience, the lack of equality expertise amongst senior decision-makers has led to the screening out of policies which have had enormous implications for equality of opportunity.

It is essential that the decision on whether an equality impact is minor, major or none is subject to objective criteria and not on the whim of the lead decision-maker who may not have the necessary training on s.75 issues. There is a real danger that this will lead to an effective climate of no assessments being undertaken, particularly on what may be seen as onerous or contentious policies.

A report on all screening recommendations should be issued for endorsement by the Senior Management Team with the full participation of the Organisation's Equality Unit at the earliest possible stage.

The BTS should commit to ensuring that affected groups are facilitated to participate in the screening process at the earliest possible stage, through whatever techniques are appropriate, including where required, quantitative survey work, and qualitative discussions with groups, where information gaps need to be addressed.

To ensure that consultees are able to participate effectively in the screening process it is essential that the BTS commit to informing consultees when screening forms are issued and posted on the BTS website. Without such notification s.75 groups with expertise and data on particular issues will be excluded from influencing policy development – particularly the application of mitigation or alternative measures. This is particularly important on policies where 'no' or 'minor' impact is determined. Groups representing LGBT communities; political

opinion or dependents have expressed particular concerns in this regard since so little research has been done on the needs of their specific constituencies.

It is essential that the BTS make it clear that financial considerations will not be a basis for restricting or limiting the impact of equality assessment.

As stated previously all policies, written or unwritten, are covered by section 75. We would therefore ask the BTS to clarify the measures that it will undertake to ensure that practices that are not the subject of written policy documents but which are established policies of the BTS are both screened and an impact assessments undertaken.

The BTS has a responsibility to follow the Guidelines with respect to all policies regardless of the source of the policy – not just those in which equality of opportunity is 'central'. The BTS's Scheme would be advised to strongly acknowledge that, alongside the screening for policies which have equality of opportunity as a central focus, policies which may appear at first glance to be devoid of equal opportunities implications, and which have been immune from challenge or question in the past, require a fresh look in order to determine whether there are in fact implications for equality of opportunity. The screening of new and proposed policies must also be subject to this criteria.

To enable us to understand whether we will achieve measurable outcomes it is essential that specific data is available and baselines established on specific impacts to establish how the BTS has related to

the affected groups in the past and how it will relate in the future in the context of the Statutory duty.

There is clear scope for collaboration. Where a ‘lead responsibility’ is identified for a particular Equality Impact Assessment the scheme must identify the boundaries of each public authority’s responsibility for decision-making to ensure that responsibilities are not passed on or hived off.

2.8 Comments on Chapter 5: Staff Training

Please see our previous comments on the functions of the BTS with regard to *Employment* (para.2.7).

UNISON would urge the BTS to ensure that the Scheme make more explicit that training will not be dependent on grade, responsibilities or any training needs assessment that will in any way dilute their obligations under the Guidelines. The resources for this should be set out in the scheme.

As stated previously, the training should clarify the precise relationship between the equality duty and good relations duty and the implications of this for the functions of the BTS and policy development.

2.9 Comments on Chapter 6: Arrangements for ensuring and assessing public access to information and services we provide

The Scheme must ensure equality of access to information with regard to how and where the results of equality impact assessments and the monitoring of adverse impact will be published. There must not be a sliding scale of publication according to objectively *determined* interest on a particular issue.

The BTS must provide the *necessary resources* to ensure that both the information which is disseminated and, the services provided, are made accessible in a way which ensures equality of opportunity. More imaginative methods of distribution would be welcome such as in public libraries, stalls set up in local shopping centres etc.

2.10 Comments on Chapter 8: Complaints procedure

Implementation of the Scheme should be constantly reviewed to ensure that S.75 groups are confident that they will get support and redress.

3.0 AUDIT OF INEQUALITIES AND ACTION PLAN

UNISON has asked three three fundamental questions with regard to the BTS's Audit of Inequalities and Action Plan.

- 1. Is the Audit robust?**
- 2. Does the Audit clearly inform the Action Plan?**
- 3. Will the Action Plan be effective?**

If a document 'fails' on the first two questions, it is reasonable to assume it will fail on the third one.

The language in the document should be amended to accurately reflect the statutory relationship between the equality and good relations duties. As stated previously in this submission, the NI Act 1998 states that public authorities must have 'have *due* regard' to the need to promote equality of opportunity and must have 'regard' to the need to promote good relations.

This difference in language not only reflects the language of the Good Friday Agreement, but is intended to strengthen the requirement to promote equality of opportunity, giving it greater weight. This duty is not just a statutory duty; it is a *constitutional* duty.

We would ask BTS to detail the *specific* consultations undertaken with s.75 groups (over and above the ad-hoc group convened by the BSO) to identify (1) the specific inequalities that *those potentially* affected

groups felt were relevant to the Organisation's functions and (2) what actions those groups felt were necessary to better promote equality of opportunity.

3.1 Comments on the Audit of Inequalities

To be robust we believe that the Audit of Inequalities could have given a more comprehensive and fuller picture of the potential inequalities faced by *each* s.75 group across the BTS's specific functions and policy areas as outlined in section 3.1. This would have allowed consultees from specific s.75 groups to easily identify the inequalities potentially affecting them when the BTS carries out its range of functions.

There is no cross-reference to the Audit findings at each item of the Action Plan to show why it is required. It is very difficult, therefore, for consultees to establish the literature review/audit trail to each Action Plan, particularly in the absence of workshop links or summaries of qualitative evidence.

Tracking the evidence base into the Action Plans is essential. We are particularly aware that there are gaps in evidence around sexual orientation, dependents and political opinion and are reminding all public authorities of their responsibility to commission research where insufficient data exists.

In this context we would ask the BTS to clarify:

- (a) Did the BTS gather data on the potential inequalities faced by *each* s.75 group across each functional area;

- (b) was a gap analysis undertaken;
- (c) did the BTS consider commissioning its own research to ensure that the Audit and Action Plan were as comprehensive as possible.

Information is also required to determine how unmet need has been addressed in the past and how it will need to be addressed in the future in light of the BTS's statutory duty.

We would ask the BTS to recognise that the Audit itself has a clear use over and above the Action Plan and should be used to inform future screenings and EQIAs. It is an aid to the effective implementation of S.75, not a replacement for it.

In the wider context we would request further information on whether the Audit of inequalities, and priorities identified, will inform the way in which the BTS's budget is allocated in the future.

3.2 Comments on The Action Plan

We would ask the BTS to explain how Action 17 'Continue to comply with the Donor Selection Guidelines' is an opportunity to promote equality of opportunity given the discrimination faced by gay and bisexual men as a result of the ban on gay and bisexual men giving blood. The equality impact of this ban is tacitly acknowledged by BTS in the Action Plan.

A specific action to mitigate this discrimination would be for BTS to work with the Department in reviewing current policy in light of recent research and the experience of other countries such as New Zealand, Spain, Italy, Japan and Australia who have ended their lifetime exclusion.

We would ask the BTS to clarify whether the actions contained in the Action Plan are in fact 'new' actions identified as a direct result of the Audit of Inequalities.

It is essential that the targets in the Action Plan are Specific, Measurable, Achievable, Realistic and Time-based. The Action Plan could be more specific in this regard, particularly in detailing intended outcomes for each s.75 group.

There must be a full review of the Action Plan after one year. The Action Plan must be a living document to which specific actions will be added in the context of identified inequalities.

In general there is no clear description of how this process interacts with the corporate planning cycle – as stipulated by the Equality Commission.

There is also little evidence of trade union involvement in the process

3.3 Conclusion

The BTS Action Plan is compromised by failure of method due to the lack of clear linkage between the BTS's key functions, identified inequalities for each s.75 group and specific Actions to address these. There should

be clearer cross-referencing to the Audit findings at each item of the Action Plan to show why it is required. In effect there is no clear audit trail

We are concerned, therefore, that the documents produced 'fail' on the two key questions posed by UNISON as the start of this section.

Specifically:

1. The Audit is not sufficiently robust
2. The Audit does not clearly inform the Action Plan

This failure prejudices any judgement by us on whether the Action Plan will be effective in effectively promoting equality of opportunity for s.75 groups across the BTS's range of functions..



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Submission from Commission for Administration for Justice

Submission to the Business Services Organisation's Consultation on the draft Equality Schemes for:

- **Blood Transfusion Service;**
- **Business Services Organisation;**
- **Health and Social Care Board;**
- **NI Guardian Ad Litem Agency;**
- **NI Practice and Education Council for Nursing and Midwifery;**
- **Northern Ireland Social Care Council;**
- **Patient and Client Council;**
- **Public Health Agency and Regulation; and**
- **Quality Improvement Authority**

Committee on the Administration of Justice **March 2011**

The Committee on the Administration of Justice ('CAJ') is an independent human rights organisation with cross community membership in Northern Ireland and beyond. It was established in 1981 and lobbies and campaigns on a broad range of human rights issues. CAJ seeks to secure the highest standards in the administration of justice in Northern Ireland by ensuring that the government complies with its obligations in international human rights law. CAJ is co-convenor of the Equality Coalition. We welcome the opportunity to comment on Business Services Organisation's ('BSO') consultation on its draft equality schemes.

We recognise that each health and social care body represented by BSO for equality matters ('Represented HSC Body'¹⁰) has very different functions, and would benefit from individual and separate consideration. However, we have limited this submission to general points affecting all of the Represented HSC Bodies' draft equality schemes. As a result, this submission also applies to the draft equality schemes under consultation for the Blood Transfusion Service, Health and Social Care Board, NI Guardian Ad Litem Agency, NI Practice and Education Council for Nursing and Midwifery, Northern Ireland Social Care

¹⁰ Including Blood Transfusion Service, Health and Social Care Board, NI Guardian Ad Litem Agency, NI Practice and Education Council for Nursing and Midwifery, Northern Ireland Social Care Council, Patient and Client Council, Public Health Agency and Regulation and Quality Improvement Authority.

Council, Patient and Client Council, Public Health Agency and Regulation and Quality Improvement Authority. In particular, any reference to the BSO equality scheme applies also to each of the Represented HSC Bodies' equality schemes.

CAJ acknowledges BSO's efforts in producing the nine draft equality schemes for the Represented HSC Bodies in good time to allow for Equality Commission ('ECNI') approval before the 1 May 2011 deadline. We were also encouraged to see that BSO has used the ECNI model scheme as a basis. In this brief submission, we would like to suggest a few additions, which would strengthen the BSO equality schemes, and also query one deviation from the ECNI model scheme.

First, it would be helpful for consultees to be informed when screening forms are posted on the BSO website¹¹. We are concerned that, as screening reports are sent to consultees on a quarterly basis (para 4.25), it is possible that civil society may not be aware of a specific policy's screening for a period of three months. By this time, the policy may be implemented or further developed, so that alternative measures would be more difficult to apply. It would therefore be important for civil society to be informed sooner of policies for which 'no' or 'minor' impact was found, but for which they may have specialist knowledge of otherwise unforeseen equality impacts.

We appreciate that BSO will make the screening forms available on its website and on request (para 4.13). However, given that there are over 200 designated public authorities in Northern Ireland, it is impossible to review each of those websites daily, or even weekly, to check if screening forms have been posted. We would therefore recommend that BSO include a statement, at para 4.13, that consultees will be informed of screening forms when they are completed or posted on its website.

Secondly, CAJ recommends that BSO include statements in its equality scheme to explain the operation s75 Northern Ireland Act 1998 ('s75'), which is often misunderstood. In particular, the BSO equality scheme does not explain the relationship between the equality duty (s75(1)) and the good relations duty (s75(2)). The ECNI Guide for Public Authorities¹² ('the ECNI Guide') clearly states that 'good relations cannot be based on inequality' and confirms that 'the term due regard was intended to be, and is, stronger than regard'.¹³ It also clarifies that 'the discharge of the good relations duty cannot

¹¹ Or the relevant Represented HSC Body's website.

¹² Section 75 of the Northern Ireland Act 1998: A Guide for Public Authorities, ECNI, April 2010, found at

<http://www.equalityni.org/archive/pdf/S75GuideforPublicAuthoritiesApril2010.pdf>.

¹³ Ibid at page 26.

be an alternative to or cannot set aside the equality of opportunity duty.¹⁴

As the BSO equality scheme will be used as a point of reference for its staff's application of s75 and any training provided, it is crucial that the equality scheme itself contains clear statements on the relationship and difference between the two s75 duties. Similarly, the ECNI Guide provides useful statements on positive action and multiple identities. We believe that the inclusion of these statements, or similar, would help staff to understand s75. For example, it is a common misunderstanding that 'universal application' implies a neutral impact on equality groups, when it can, of course, exacerbate inequalities.

The useful passages in the ECNI Guide are as follows: 'The promotion of equality of opportunity entails more than the elimination of discrimination. It requires proactive measures to be taken to facilitate the promotion of equality of opportunity between the categories identified in Section 75 (1). The equality duty should not deter a public authority from taking action to address disadvantage among particular sections of society – indeed such action may be an appropriate response to addressing inequalities. There is no conflict between the Section 75 statutory duties and other affirmative action measures or positive action measures which a public authority may undertake under anti-discrimination laws.'¹⁵

Finally, we would like to remind BSO that, in addition to the s75 action-based plan, s75 continues to apply to all BSO policies in relation to all nine equality groups. Although we recognise the positive impacts that the action-based plan could have on addressing inequalities, we are also aware that it could have a limiting influence on the operation of s75 outside the specific priorities identified within it. Also, newly emerging inequalities may not be captured in the original audit of inequalities. We therefore hope that any data gaps identified in the audit of inequalities will be addressed, and that the audit will provide a useful tool for policy-makers when applying s75 beyond the scope of the action-based plan.

In regard to gaps in data, we note that BSO has made a small amendment to the ECNI model scheme. At para 4.29 of the equality scheme, BSO has limited to 'where appropriate' the commitment to audit existing information systems and take action to address any gaps in data. We are concerned that this could be used to avoid addressing gaps in data, which is fundamentally

¹⁴ Ibid, at page 27.

¹⁵ Ibid, at page 25. At the same page, the ECNI Guide also states: 'Individuals do not neatly fit into one Section 75 category or another, individuals will invariably be members of a number of Section 75 categories. Thus Section 75 enables multiple identity issues to be considered as well as issues regarding particular categories of people.'

important to assessing equality impacts.

Following a discussion with a BSO representative at an Equality Coalition event on 9 March 2011, we understand the language 'where appropriate' is intended to limit action to equality related data. Therefore, we would suggest that the qualification is made more explicit, such as 'in relation to equality groups'. We believe that this would enhance the BSO equality scheme and so make the operation of s75 more effective.

If you would like any further information, please do not hesitate to contact CAJ at the details listed below.

Response to the Audit and Draft Equality Schemes

From Older Person's Advocate

To:

HSC Organisation

Blood Transfusion Service

Business Services Organisation

Health and Social Care Board

NI Guardian Ad Litem Agency

NI Practice and Education Council for Nursing and Midwifery

Northern Ireland Social Care Council

Patient and Client Council

Public Health Agency

Regulation and Quality Improvement Authority

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1. Background

As the Advocate for Older People I would like to thank you for the opportunity to respond to the audit and draft equality schemes.

The resources available to make substantive responses are very limited in such a small office so it will be a generic response across all the agencies involved in the consultation. I am aware we have also attended a consultation workshop during the consultation period in which the views of the Advocate were also stressed.

2. Audit of Inequalities

The evidence provided by the agencies in identifying inequalities affecting older people, and in particular older women, seems to be sparse. I know that for older people research and statistics are not sourced centrally but you can be assured there is a vast amount of information which highlights some of the inequalities faced by older people regarding services and processes.

In Appendix A I have listed a number of reports (not exhaustive) which you might find useful.

3. Draft Equality Schemes

As previously discussed to assess each of the equality schemes individually would require a substantial amount of work so below I have responded with generic issues for you to consider in your equality scheme.

a) Consultation

It is important that all the Agencies find a way to consult meaningfully and directly with users.

b) Equality Scheme Structure

- The equality scheme should be user-friendly especially in the use of language

- Agencies need to identify in the equality schemes what actions are directed at enhancing equality within the organisation and what actions provide equality of opportunity for the user
- One Agency has identified the need to review its Audit on a regular basis which is welcomed and we would suggest that other Agencies make the same commitment
- The audit should contain statistical evidence of main users and a profile of its staff, including breakdown of managerial roles / Board members particularly those S75 groups who might be under-represented:
 - Gender
 - Age
 - Disability
 - Minority groups

b) Staffing

- It is important to develop new ways of including S75 groups who are not already represented in the staffing complement of any agency. This could include:
 - examining where positions are advertised
 - considering affirmative action
 - using different criteria such as experience and skills rather than academic qualifications
 - introducing shadowing or mentoring (especially on Boards) schemes
 - ensuring the layout of building is suitable and convenient not just for users but for staff

A breakdown of staff complement by different groups will enable an agency to

develop actions which will meet the needs of S75 groups. For example females are in the majority of those employed within the agencies and this has an impact on:

- designing timeframes for training
- childcare / caring needs
- maternity provision

In relation to women the Agencies need to recognise they will be longer in the workforce by an additional 5 years from 2012 and consideration needs to be given to key areas which will impact on this group such as:

- not being able to carry on with a job which requires considerable physical strength
- retraining to be able to diversify and use their skills differently as they grow older
- providing flexible working hours and part time working
- returning to full time work once children have grown up

b) Communication

When communicating with older people there is a need to recognise the diversity of need within the group including:

- those who may not have had formal education and may have difficulty with the written word
- those who have no IT skills or IT equipment
- those who may have difficulty in accessing communications due to sensory impairment or learning disability.
- those within nursing home settings

- those who live in isolation and who may have little access to modern technology especially in rural areas

It would be useful if there could be a joined up approach by the Agencies in their schemes so that the links and interfaces between the work of the different organisations is clearly apparent.

It is important that a commitment be given to ensure that any complaints whether internally from staff or externally from service users and carers are dealt with empathetically, transparently and quickly.

c) Training

- Staff awareness training in respect of the needs of different S75 groups should be ongoing and include engagement with and delivery by organisations with the relevant knowledge and expertise. Such training must be specific and meaningful and part of an ongoing dedicated training programme.
- Consideration should be given to the needs of older people who may wish to return to work either through unemployment/redundancy or after children have left home or because of increasing financial pressures on personal budgets.

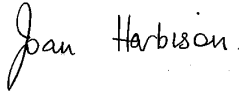
d) Boards of HSC Bodies

- There is a need to ensure that Boards reflect as far as possible the width of the S75 groups and where groups are unrepresented special efforts are made to ensure their inclusion in policy making and in determining the implementation of delivery mechanisms.
- The opportunity for Boards to introduce shadowing or mentoring programmes to support and encourage under-represented S75 groups to participate in public bodies should be considered.
- Boards should be encouraged to set criteria not just based on academic qualifications for election to the Board or recruiting staff. This may require the Board writing to the appropriate Department

encouraging a change to the criteria to attract those S75 groups who are not represented in the Board member or staff.

e) Budgeting

Agencies should consider striking age/gender specific budgets to ensure those who are the most likely groups to use services are allocated appropriate resources.



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