

Equality Commission for Northern Ireland Response to EQIA

Department for Social Development Crumlin Road Gaol/Girdwood Barracks draft Masterplan January 2008

Introduction

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 the positive disability duties.

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.

The Commission welcomes the opportunity to comment on the Department for Social Developments’ equality impact assessment of the above policy.

In responding to EQIAs, the Commission is assessing the extent to which the Impact Assessment is carried out in a manner consistent with the Commission’s *Practical Guidance on Equality Impact Assessment*.

As well as this response, the Commission would also refer to previous advice provided on the EQIA in discussion and correspondence with the Department.

1.0 Consideration of available data and research

- 1.1 The Commission recognises the wide range of data and information sources the Department for Social Development has been able to draw on to inform the EQIA. These sources include, for example, data from the Northern Ireland Statistics and Research Agency, the Northern Ireland Housing Executive and the Police Service for Northern Ireland.
- 1.2 The Commission welcomes the steps taken to date by the Department to supplement quantitative data by gathering qualitative information. Page 14 of the Practical Guidance on Equality Impact Assessments states *'undoubtedly, until the quantitative sources of data ...are put into place, qualitative data collection techniques, possibly in tandem with special quantitative methods, will have to be used. It will be unacceptable for an EQIA to merely record that no data are available'*. However, it is important that any qualitative information the Department has gathered is clearly presented and analysed in the EQIA.
- 1.3 Paragraph 6.62 (page 43) refers to 'anecdotal evidence' in relation to the sexual orientation group. The source of the the 'anecdotal evidence' is not clear from the EQIA. The Commission would recommend that any data presented in the EQIA is fully referenced in order that consultees have the optimum information available with regard to the factors influencing the Departments policy decision.

2.0 Assessment of impacts, mitigating measures and alternative policies

- 2.1 The Department has assessed that for the redevelopment of Crumlin Road Gaol/Tourism aspect of the policy there will be no differential/adverse impacts on any of the Section 75 categories. Paragraph 6.8 (page 32) states that *'in overall terms the redevelopment of the site in itself provides an opportunity for the creation of employment...as the development of the site will take a number of years to roll out, the level of sustained construction activity will create the opportunity for a site based training facility'*. While the Commission welcomes the proposed creation of jobs and economic development in an area of proven social deprivation we would recommend that further detail be

provided in the EQIA on the types of jobs that could potentially be created for local people. This is of particular importance given the situation that arose in the development of the Belfast Gasworks site and as evidenced by the Social Development Committee minutes of the 15 November 2007. Anna Lo MLA, a member of the Social Development Committee, is on record as stating *'During the development of the Gasworks site, some communities from the Markets area and from Donegall Pass, in particular, were disappointed that they did not benefit much from the development'*¹. Community activists have also drawn attention to the lack of jobs for local people².

2.2 In light of the positive nature of the statutory duties and the need for public authorities to consider how better to promote equality of opportunity, clarification of the Department's commitment to the provision of the training facility would be welcome by the Commission.

2.3 The Commission would like to refer the Department to the advice contained in the Commissions Equality Codes of Practice and in particular the *'Good Practice Guide for Promoting Equality of Opportunity: Recruitment from those not in Employment'*. The Guide outlines the provisions for positive action within the anti-discrimination legislation. The Guide draws attention to permissible measures to enable unemployed people to gain employment (page 2):

'Particular steps are sometimes required to assist those not currently in employment back into the labour market, and the equality legislation permits this. Under fair employment and race relations legislation it is lawful for employers to give preference to people who have not been in employment for a defined period of time when applying to fill vacancies. Furthermore, disability legislation allows employers to treat applicants with a disability more favourably than those without a disability. Employers can, for example, ring fence certain jobs so that they are only open to disabled people, or

¹Committee for Social Development Official Report: Inquiry into Town Centre Regeneration 15 November 2007 http://www.niassembly.gov.uk/social/2007mandate/moe/071115_town.htm

² Participation and the Practice of Rights Project Residents Jury; regenerating Girdwood Barracks and Crumlin Road Gaol, A human rights Based Approach and Rights in Action: Changing Mental Health Services page 51.

they can offer placement opportunities to disabled people which may lead to permanent jobs’.

- 2.4 Paragraph 6.22 of the EQIA (page 34) states that *‘focus groups made the point that any apprenticeships created during the development of the site should be aimed at both men and women’* and paragraph 6.23 states *‘that training leading to employment should be a priority for disabled people’*. The Department has stated that these issues will be taken into account as site based training is progressed. The Commission would recommend that there should be an explicit commitment in the EQIA that any training provided will be open and promoted to all Section 75 groups and, if necessary, reasonable adjustments should be made for those with a disability.
- 2.5 At paragraphs 6.33 and 6.35 (page 35 of the EQIA) the Department has acknowledged the potential for differential impact if a new leisure centre were to be identified with one community. Paragraph 6.52 (page 41) which refers to housing states that *‘for the purposes of this impact assessment, the Department considers that any differential impacts identified and conclusions made in respect of Catholic and Protestant religious groups are similar to differential impacts identified for the main political groups i.e. Protestant/Unionist/Loyalist and Catholic/Nationalist/Republican’*. The Department should give further consideration as recommended in the ‘Practical Guidance on Equality Impact Assessment’ to whether the potential differential impact is adverse. Paragraph 3.7 (page 25) of the Practical Guidance states *‘the public authority must make a judgement as to whether there is a differential impact and then determine whether the impact is adverse based on a systematic appraisal of the accumulated information’*.
- 2.6 In previous correspondence with the Commission, the Department has drawn attention to an extract from the Commission’s ‘Statement on Key Inequalities in Northern Ireland’ which states that *‘segregation in housing and communities reduces choice, represents inefficient housing allocations and a waste of public resources as it reduces the resources available for affordable housing and, ultimately, it*

*adds to polarisation between communities*³. The Commission would like to reiterate previous advice provided to the Department on this issue in relation to the relationship between the equality duty and the good relations duty. The Guide to the Statutory Duties Paragraph 2.15 (page 19) states 'In the Parliamentary debates on the Northern Ireland Bill, the then Secretary of State Dr Marjorie Mowlam said: *'[W]e regard equality of opportunity and good relations as complementary. There should be no conflict between the two objectives. Good relations cannot be based on inequality between different religions or ethnic groups. Social cohesion requires equality to be reinforced by good community relations. I repeat that we see no conflict between these two objectives'* (Commission emphasis), House of Commons, Official Report, 27 July 1998 col. 109.

- 2.7 Furthermore, paragraph 2.17 (page 18) of the Guide states that *'to the extent that public authorities perceive, in particular circumstances, a tension between the two duties, the primary duty of a public authority is its equality duty. The good relations duty cannot be invoked to justify a failure or refusal to comply with the equality duty'*.
- 2.8 Given the high level of poverty and deprivation in the area as evidenced by the statistics in Section 4, and in consideration of the duty to promote equality of opportunity in a positive way, it is important that there is an appropriate balance of private housing, social housing and other options such as co-ownership. There is a need for the Department to ensure that sufficient affordable and accessible housing is provided to significantly reduce the housing list and housing stress in the area. The Commission's 'Statement on Key Inequalities in Northern Ireland' (page 21) emphasizes that *'Action is required to reduce the inequalities caused as a result of a dramatic recent increase in homelessness, a rising number of households on the waiting list and in housing stress and a lack of affordable housing... Public policymakers must recognise the impact of housing on equality, to identify where we must reduce exclusion, increase meaningful housing choice and focus our energies on achieving positive change'*. The Statement also recommends (pages 22-23) that

³ Equality Commission for Northern Ireland: Statement on Key Inequalities in Northern Ireland, page 22 (October 2007)

'adopting the lifetime home standard, alongside wheelchair standard housing, across the public and private sector would increase choice and provide access to improved quality of life'.

- 2.9 Paragraph 6.91 (page 47) states that *'The Department considers that there is the potential of an adverse impact by the proposed Arc Road to persons of different religious belief and political opinion'*. However, Chapter 7 of the EQIA is entitled *'Consideration of mitigating measures/alternative policies'*. Paragraph 7.14 states that *'in order to achieve the objective of developing the site as shared space, the following measures may need to be considered'*. The Commission considers that there should be a more explicit commitment in the EQIA to mitigating measures in line with the requirement set out in the Guide to the Statutory Duties (page 29 of the Practical Guidance): *'The consideration of mitigating measures and alternative policies is at the heart of the EQIA process....Ways of delivering policy aims which have a less adverse effect on the relevant equality category, or which better promote equality of opportunity for the relevant equality category, must in particular be considered'*.

3.0 Formal consultation on the likely impact of proposed policies

- 3.1 The Commission wishes to emphasise the requirement of the section 75 legislation (Schedule 9, paragraph 9.2), that in making any decision with respect to a policy adopted or proposed to be adopted by it, a public authority shall take into account any equality impact assessment and consultation carried out in relation to the policy. The Commission would advise the Department of the importance of engaging with the points raised by consultees during the consultation process.

4.0 Relevance of other statutory duty guidance

- 4.1 The Commission notes the statement at Paragraph 10.3 that the *'Department has regard for and will continue to have regard for the Guidance set out in Equality of Opportunity and Sustainable Development in Public Sector Procurement'*. The Commission would like further information on what particular steps the Department will take to implement this

Guidance during the development of the Crumlin Road Gaol/Girdwood Barracks Project.

5.0 Other Comments

5.1 It is clear from the consideration of the range of provisions envisaged with the development of leisure, education, housing and employment that there is a need for joined up working between the responsible public authorities and other actors including local community groups. The Commission would recommend that further detail be provided in the EQIA on the structures that are going to be put in place to facilitate the partnership working between the relevant bodies, the key principles that would be used to inform the partnership approach and which sectors would be involved.

6.0 Conclusion

6.1 The Commission would recommend that further detail be provided on the monitoring arrangements that the Department will be putting in place to monitor the equality impacts of the policy. The results of the ongoing monitoring must be reviewed on an annual basis. The Department for Social Development is required to publish the results of this monitoring (Schedule 9 paragraph 4 (2) (b)). The results of the monitoring must be included in the Department for Social Development annual review of progress to the Equality Commission.

6.2 It is essential that monitoring is carried out in a systematic manner and that the results are widely and openly published (see 1.6 of the Commission's Monitoring Guidance). If the monitoring and evaluation show that the policy results in greater adverse impact than predicted, or if opportunities arise which would allow for greater equality of opportunity to be promoted, the Department for Social Development must ensure that the policy is revised.

6.3 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 or conduct any other investigation under that Schedule.