

Revised Equality of Opportunity Guidance Note 9

NORTHERN IRELAND EU STRUCTURAL FUNDS

EQUALITY OF OPPORTUNITY: EU Programme and Legislative Responsibilities Incorporating Equality Guidance For Selection Panels and Applicants

1. Structural Funds and Equality

This guidance note outlines the legislative basis for Equality of Opportunity in the 2007-2013 Northern Ireland EU Structural Fund programmes, and identifies the requirements for programme management, project selection and equality monitoring.

2. Equality and Structural Funds in Northern Ireland – Legal Basis

Section 75 of the Northern Ireland Act 1998 requires that all public authorities shall, in carrying out its functions relating to Northern Ireland, have due regard to the need to promote equality of opportunity:

- between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- between men and women generally;
- between persons with a disability and persons without; and
- between persons with dependants and persons without.

Section 75 also requires public authorities to *“have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.”*

Section 75 of the Northern Ireland Act 1998 is reproduced in Appendix 1.

Balanced participation by men and women, and accessibility for disabled persons, are central requirements of the EU Structural Funds Regulations. In addition, Article 16 of General Regulation No 1083/2006 states that *“the Member States and the Commission shall take appropriate steps to prevent any discrimination based on sex, racial or ethnic origin, religion or belief, disability, age, or sexual orientation during*

the various stages of implementation of the Funds, and, in particular, in the access to them.”.

The programmes assisted under the Territorial Co-operation Objective – PEACE III and INTERREG IV, include, as part of their eligible area, the Border Counties of Ireland. In this part of the eligible area, the Republic of Ireland’s Equal Status Act (2000), as amended by the Equality Act (2004), applies. Under INTERREG IV, areas of Western Scotland are also included in the programme. In these areas the Scottish Executive’s Equality Strategy – Working Together for Equality, and the Race, Disability and Gender Duties, apply.

3. Managing Authority Responsibilities

Managing Authorities are responsible for ensuring that measure leaders / implementing bodies comply with all data collection relevant to their requirements.

4. Departmental Responsibilities

Northern Ireland Departments and Sponsored Bodies are responsible for ensuring that all of their expenditure complies fully with both the National and EU equality requirements.

5. Equality – a cross-cutting theme

All EU programmes operating in Northern Ireland must comply with both the Section 75 requirements and with the EU Regulatory requirements. All have a potential impact on equality of opportunity and every effort must be made, and assistance given when necessary to ensure (within the parameters of the programmes) that all sectors of the population participate fully.

In order to ensure that the principle of equality of opportunity is embedded within every aspect of programme implementation, equality is one of the cross-cutting themes which guide the delivery of the 2007-13 Structural Fund programmes. Equality of opportunity must be systematically considered in every aspect of programme delivery including project application and selection, project delivery, project monitoring and project evaluation and in relation to the programmes’ long-term impacts on the wider community.

Equality of participation in Programme Monitoring Committees, working groups and selection panels will be encouraged in accordance with the provision of the Structural Funds regulations. The balanced participation of men and women, and partnership with the local community, are central themes and requirements of the Structural Funds regulations. The active involvement of bodies representing the wider equality interests is crucial to ensuring that equality issues fully inform programme management.

Many projects within the European Programmes will include public procurement, either by the public body commissioning operations or by the project promoter. Central Procurement Directorate of DFP, jointly with the Equality Commission for Northern Ireland, has issued guidance '*Guidance on Equality of Opportunity and Sustainable Development in Public Sector Procurement*' in May 2008. Summary and full versions of this guidance may be found at www.cpdni.gov.uk or www.equalityni.org. Programme and project managers should ensure that they make use of this guidance to assist them in embedding equality of opportunity into procurement practice in relation to European Community funded operations.

6. What this means for selection panels

Implementing Bodies should draw selection panel members from a broad base, reflecting as far as is possible the Section 75 groupings and offering a range of expertise and experiences.

Application forms should include a statement on Equality of Opportunity (Appendix 3 of this note), which applicants should commit to and sign. (Applicants in turn must demand an equal standard of behaviour from their sub-contractors for the project). Additionally, all application forms should require applicants to the programmes to show how their project addresses the cross-cutting themes, including equality of opportunity, and that they intend to monitor progress in respect of these themes throughout the lifetime of the project. The appraisal of applications not specifically orientated towards the improvement of equality of opportunity will include an assessment of their impact with regard to equality. Selection panel members should therefore be trained and have knowledge and understanding of Section 75.

Everyone involved in the assessment process has a duty to ensure that equality of opportunity and the other cross-cutting themes are fully addressed. In practice much of the responsibility for investigating applications is likely to be passed to members of a staff team. The members of this team will need to be well briefed on equality issues in order to be able to assess the strengths and weaknesses of applications in this respect.

Appendix 2 contains a list of points which staff may find helpful when assessing applications from an equality perspective. Appendix 2 may also be helpful to project applicants.

7. Equality Monitoring

In line with equality of opportunity as a cross-cutting theme of the programmes, and the statutory duty flowing from the requirements of Section 75 and Schedule 9 of the Northern Ireland Act 1998, the impact of the programmes in terms of equality of opportunity must be assessed. Section 75 monitoring data must be gathered and reported on to the Programme Monitoring Committees.

Where projects clearly have individual participants benefiting from the project (for example, training projects), participants, immediately upon joining a project, will be asked to voluntarily complete a short, anonymised Equality Monitoring questionnaire designed to reflect Equality Commission best practice. Freepost envelopes will be provided to encourage responses. The Freepost envelopes will be addressed to the Northern Ireland Statistics and Research Agency (NISRA), who will analyse the returns.

Distribution of questionnaires to project participants will be straightforward in the case of, for example, training projects or small business development projects. However, individual beneficiaries may be less clear for projects that aim to benefit a larger population on an ongoing basis. Infrastructure projects, for example, or the provision of community centres, will benefit large numbers of people who cannot be meaningfully surveyed. In such instances, the Managing Authorities, in conjunction with NISRA, will provide advice.

The questionnaire to be used for monitoring participant Section 75 data, and guidance for its completion, is included at Appendix 4.

The outcomes of activities funded under the programmes will be monitored by the Equality Working Group to assess the programmes' impacts on equality of opportunity and the Section 75 groups. The Annual Implementation Report, required by Article 67 of Regulation 1083/2006, will report formally on a programme's equality impacts in respect of the Section 75 groups. Programmes will also be subjected to formal evaluation of impacts in line with Article 48 of Regulation 1083/2006. Therefore for monitoring and reporting purposes it is important that the completion of questionnaires or equivalent returns are properly managed and controlled.

8. Equality Working Group

The Monitoring Committees for the Competitiveness and Employment Programmes and Cross Border Co-operation Programmes have established an Equality Working Group, with membership also drawn from the Cross-Border programmes and the NIRD for complementarity. to regularly review progress on equality issues and report on these to the Monitoring Committees. DFP European Division in its role as Member state, provides the secretariat to this working group. Terms of Reference are attached at Appendix 5

European Division

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APPENDIX 1

Northern Ireland Act 1998, Section 75

Statutory duty on public authorities.

75.

(1) A public authority shall in carrying out its functions relating to Northern Ireland have due regard to the need to promote equality of opportunity-

- (a) between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- (b) between men and women generally;
- (c) between persons with a disability and persons without; and
- (d) between persons with dependants and persons without.

(2) Without prejudice to its obligations under subsection (1), a public authority shall in carrying out its functions relating to Northern Ireland have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.

(3) In this section "public authority" means-

- (a) any department, corporation or body listed in Schedule 2 to the Parliamentary Commissioner Act 1967 (departments, corporations and bodies subject to investigation) and designated for the purposes of this section by order made by the Secretary of State;
- (b) any body (other than the Equality Commission) listed in Schedule 2 to the Commissioner for Complaints (Northern Ireland) Order 1996 (bodies subject to investigation);
- (c) any department or other authority listed in Schedule 2 to the Ombudsman (Northern Ireland) Order 1996 (departments and other authorities subject to investigation);
- (d) any other person designated for the purposes of this section by order made by the Secretary of State.

(4) Schedule 9 (which makes provision for the enforcement of the duties under this section) shall have effect.

(5) In this section-

"disability" has the same meaning as in the Disability Discrimination Act 1995; and

"racial group" has the same meaning as in the Race Relations (Northern Ireland) Order 1997.

EQUALITY GUIDE FOR SELECTION PANELS AND APPLICANTS

1. Equality of Opportunity is one of the three cross-cutting themes which guide the delivery of Northern Ireland's 2007-13 EU Structural Fund Programmes. Equality of opportunity must be considered as the Programmes are developed, implemented, monitored, evaluated or amended. This guide aims to give practical advice to project selection panels and project applicants by identifying some factors for consideration and examples of how applicants might demonstrate that they have addressed equality.

2. Ensuring Equality of Opportunity is a legal obligation. In accordance with Article 16 of the EU General Regulation 1083/2006 and Section 75 of the NI Act 1998, EU Programmes are required to have due regard to the need to promote equality of opportunity:

- between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- between men and women generally;
- between persons with a disability and persons without;
- between persons with dependants and persons without;

and without prejudice to the above, to have regard to the desirability of promoting good relations between persons of different religious beliefs, political opinion or racial group. Where inequalities are identified a project may seek to rectify these inequalities by targeting their project towards a particular area of inequality. In this case the project needs to demonstrate the existence of an inequality and how a project will address it.

3. When either making or considering a project application the overarching need is to demonstrate or be satisfied that the equality issues facing these groups have been and will be considered at all stages in the project. This consideration should cover the equality policies of the applicant/project and of how equality of opportunity is addressed in the project itself, e.g. the organisation may have an equality

statement which states that it treats all individuals equally but be running a project which specifically targets women/disabled, etc. the proposal needs to explain its policy to redress an imbalance.

| | Factors for Consideration By Selection Panel | Examples of How Applicants have Demonstrated |
|----|--|--|
| 1. | Applicant/project's equality policy/action plans Statement on Equality of Opportunity | <ul style="list-style-type: none"> • Clear links between how the group/project sets its strategic direction and equality considerations. • Commitment to proactively develop equality and build good relations both internally and externally. This should be relative to the size of the project. • Analysis of composition of staff and board. • Explanation of recruitment/training policy. • Evidence of compliance Disability Discrimination Order and that access issues are addressed, including for example physical access areas, flexible working arrangements. |
| 2. | Has the applicant made links with any target group/equality organisation? | <ul style="list-style-type: none"> • Engagement with representatives of target groups identified and described including how this has affected the aims and objectives of the project. |
| 3. | Is there a description or explanation of what the project will do to improve equality of opportunity? | <ul style="list-style-type: none"> • Demonstration of research carried out or data generated. • Engagement and consultation with groups to develop the project. • Description of any actions that the project proposes to overcome identified barriers. • Specific actions, to address identify inequalities (direct or indirect). |
| 4. | Is there an attempt to mainstream equality, (i.e. by fully integrating equality of opportunity across all aspects of the project)? | <ul style="list-style-type: none"> • Identification of key milestones in equality work. • Evidence that issues raised are subsequently tackled. • Costs of addressing equality issues identified and in budget (childcare costs, transport costs, translation costs). • Internal training/learning programme across and for the duration of the project. |
| 5. | Does the application contain monitoring and evaluation details or baseline data on which the project can build? | <ul style="list-style-type: none"> • Description of systems to capture, record and consider monitoring and evaluation data. • Description of processes for consultation. |

APPLICATION FORM – EQUALITY OF OPPORTUNITY STATEMENT

The applicant agrees to comply with all applicable fair employment, equality of treatment and anti-discrimination legislation and shall use his / her best endeavours to ensure that in all policies, practices and delivery of services he / she has due regard to the need to promote equality of treatment and opportunity between:

- (a) Persons of different religious beliefs or political opinions;
- (b) Men and women or married and unmarried persons;
- (c) Persons with and without dependants (including women who are pregnant or on maternity leave and men on paternity leave);
- (d) Persons of different racial groups (within the meaning of the Race Relations (Northern Ireland) Order 1997);
- (e) Persons with and without a disability (within the meaning of the Disability Discrimination Act 1995);
- (f) Persons of different ages; and
- (g) Persons of different sexual orientation.

SECTION 75 MONITORING

INSTRUCTIONS FOR COMPLETION OF SECTION 75 PARTICIPANT DATA QUESTIONNAIRE

- All operations part-financed by the Structural Funds must comply with the equality cross-cutting theme, and collection of monitoring data is a Condition of Grant.
- Implementing Bodies are required to distribute questionnaires and Freepost return envelopes to project promoters for completion by each individual participant. .
- Project promoters must ensure that the project application number (including zeros) is written on the top right corner of each questionnaire.
- The number of participants for each project must be recorded in the appropriate field of the Structural Funds database. This must be kept up to date as new participants join projects.
- Each individual project participant should immediately on joining a project be asked to voluntarily complete one questionnaire (this is sufficient even were they to remain with the same project for more than 1 year).
- Questionnaires are designed for completion anonymously and in confidence. Participants must be allowed and encouraged to complete them in private.
- If a participant should move from one project to another they should be given and asked to voluntarily complete a fresh questionnaire immediately on joining the new project.
- Each completed questionnaire should be returned in a Freepost envelope (these are addressed to NISRA).

- Supplies of questionnaires and Freepost envelopes will be provided by the Managing Authority.
- Any queries by project promoters about these arrangements should initially be directed to the relevant Implementing Body. The Managing Authority and / or NISRA will provide advice to Implementing Bodies, as required.

EQUALITY QUESTIONNAIRE

PROJECT NO:

This Equality Monitoring Form has been developed to assist [Managing Authority] in its compliance with Section 75 of the Northern Ireland Act (1998) [the Employment Equality Act (1998) and the Equal Status Act (2000) in Ireland]. The data collected by the form will be used to determine if [Programme] is giving due regard to equality and to allow decisions to be made about any actions which could improve equality of opportunity.

Completion of this form is on a voluntary basis. However, [Managing Authority] would encourage you to complete the form and forward it, in the freepost envelope provided, to the Northern Ireland Statistics and Research Agency (NISRA).

This information will be stored **confidentially** by NISRA and will be used for Equality Monitoring purposes **only**. This form will **not** be linked in any way to individual participant details.

1. AGE

What is your age, in years?

1 Years

2. GENDER

What is your sex?

- 1 Male
2 Female

3. MARITAL STATUS

(a) Are you ...? (Please tick one box)

- 1 Never married and never registered a same-sex civil partnership
2 Married
3 In a registered same-sex civil partnership
4 Separated, but still legally married
5 Separated, but still legally in a same-sex civil partnership
6 Divorced
7 Formerly in a same-sex civil partnership which is now legally dissolved
8 Widowed
9 Surviving partner from a same-sex civil partnership

Please answer the following ONLY if you ticked boxes 1, 4, 5, 6, 7, 8 or 9.

(b) Are you living with someone as a couple?

- 1 Yes
2 No

4. DISABILITY

Do you have any long-term illness, health problem or disability which limits your daily activities or the work you can do?

- 1 Yes
2 No

If yes: what is the nature of your circumstances?

5. DEPENDANTS

Do you have personal responsibility for the care of ...? (Tick each box that applies to your circumstances)

- 1 A child (or children)
2 A person with a disability
3 A dependent elderly person
4 A dependent not included above (Please specify _____)
5 No dependants

6. RACIAL GROUP

(a) To which of these ethnic groups do you consider you belong?
(Please select the option that is most appropriate to you)

- 1 White
2 Chinese

- 3 Irish Traveller
- 4 Indian
- 5 Pakistani
- 6 Bangladeshi
- 7 Black Caribbean
- 8 Black African
- 9 Black Other
- 10 Mixed ethnic group (please specify) _____
- 11 Any other ethnic group (please specify) _____

(b) What is your country of birth?

- 1 Northern Ireland
- 2 England
- 3 Wales
- 4 Scotland
- 5 Republic of Ireland
- 6 Elsewhere (please write in the present name of the
Country) _____

7. RELIGIOUS BELIEF

(a) Regardless of whether we practice religion, most of us are seen as either Catholic or Protestant. We are therefore asking you to indicate your community background by ticking the appropriate box below.

- 1 I am a member of the Protestant community
- 2 I am a member of the Catholic community
- 3 I am a member of neither the Protestant nor the Catholic community

[DN Competitiveness and Employment and Peace III only]

(b) What religion, religious denomination or body do you belong to?

- 1 Catholic
- 2 Presbyterian Church in Ireland
- 3 Church of Ireland
- 4 Methodist
- 5 Other Christian (please specify) _____
- 6 Other (please specify) _____
- 7 None

[DN INTERREG IV only]

(b) What religion, religious denomination or body do you belong to?

- 1 Catholic
- 2 Presbyterian/ Church of Scotland
- 3 Church of Ireland
- 4 Methodist
- 5 Other Christian (please specify) _____
- 6 Other (please specify) _____
- 7 None

8. SEXUAL ORIENTATION

Which of these options best describes how you think of yourself:

- 1 Heterosexual / straight
- 2 Gay / lesbian
- 3 Bisexual
- 4 Other

[DN INTERREG IV only]

9. REGION

In which region do you live?

- 1 Northern Ireland
- 2 Border Region of Ireland
- 3 Western Scotland

STRUCTURAL FUNDS 2007-2013

EQUALITY WORKING GROUP

Terms of Reference

INTRODUCTION

The Equality Working Group was envisaged by the Northern Ireland Competitiveness and Employment Programmes for 2007-2013 as a method for taking forward the cross cutting theme of equality and good relations (ERDF Programme paras 2.51 to 2.56 and 4.16 and ESF Programmes 4.51 to 4.56 refers). The membership of the Working Group is drawn from the membership of the Competitiveness and Employment Monitoring Committee.

Gender equality and equality of opportunity is a cross-cutting theme for all four Northern Ireland Structural Funds Programmes for 2007- 2013. To avoid duplication and ensure a consistent approach across the programmes, the PEACE III and Interreg IV Monitoring Committees have also nominated members to this Working Group.

In accordance with Article 16 of the EU General Regulation 1083/2006 and Section 75 of the Northern Ireland Act 1998, the Programmes are required to have due regard to the need to promote non-discrimination¹ and equality of opportunity²:

- between persons of different religions or beliefs, political opinion, racial or ethnic origins, age, marital status or sexual orientation;
- between men and women generally;
- between persons with a disability and person without;
- between persons with dependants and persons without; and

¹ Article 16 only.

² Both Article 16 and Section 75 of the Northern Ireland Act 1998.

without prejudice to the above, to have regard to the desirability of promoting good relations between persons of different religious beliefs, political opinion or racial group.

Roles and Responsibilities.

The Working Group will support the Monitoring Committees in the implementation of the gender equality and equality opportunities cross-cutting theme by making recommendations to and giving advice on equality of opportunity issues. The working group will primarily be responsible for looking at the theme at a strategic level across the programmes and will:

- Review and provide recommendations for implementation by the Managing Authorities on the equality guidance note provided to Managing Authorities;
- Review and, if appropriate, rewrite the Equality Guide for applicants, selection panels and implementing bodies;
- Access wider equality issues, including mainstreaming equality and issues relating to the policy of Lifetime Opportunities³ and provide advice and guidance to Monitoring Committees;
- To be mindful of relevant equality legislation in all regions represented in the programmes, and report to the monitoring committees on equality outcomes having due regard to the need to promote equality of opportunity across all nine categories as required by Section 75 of the Northern Ireland Act 1998;
- In addition, monitor and report on the representative character of monitoring committees and working groups and the application of the

³ Subject to Ministerial / Executive approval.

equality principles across the entire process and programmes;

- Commission cross-programme research and evaluations as appropriate;
- Provide verbal and written reports twice a year at Monitoring Committees;
- Encourage and facilitate networking arrangements both on a north/south and east/west basis involving the management and use of structural funds; and
- Liaise and share good practice through the offices of the EC.

Where the issues and policies being considered by the Working Group impact on specific Structural Funds Programmes for Northern Ireland, the working group may also consider sub-groups by programme that could undertake separate pieces of work. While these may be programme-specific the information would be disseminated to the main working group and all programmes. Initially a sub-group may be established to consider the need for a full EQIA of the Competitiveness Programme and to commission, if necessary.

MEMBERSHIP

The membership of the group will be drawn from the three main Monitoring Committees i.e. Competitiveness and Employment, Peace III and Interreg IV and the community representing urban, rural and the private sector. The final make-up of the Working Group should, as far as possible, reflect a gender balance taking cognisance of Human Rights and Equality legislation.

There may be occasions when the subject matter under discussion could benefit from input from other specialist representatives. When such occasions arise the Working Group may agree additional representation.

The Working Group will meet as often as necessary and not less than twice each calendar year, provided a quorum is present. A quorum is defined as 7 members of the Working Group, of whom 2 are also members of a Monitoring Committee. The Working Group meetings should be chaired by a member of the group who is also a member or deputy member of one of the three Monitoring Committees. In the absence of the appointed chairperson or vice-chair, those present shall elect a temporary chairperson.

WORKING ARRANGEMENTS

The working arrangements for the Working Group are:-

- Secretariat duties will be performed by the Department of Finance & Personnel, European Division;
- Informed by the wishes of the Working Group the Secretariat will draw up agendas for meetings and the Chairperson will authorise them. The agenda and supporting documentation will normally be issued 15 days in advance of the meeting. Members can request the inclusion of agenda items by writing to the Secretariat for onward transmission to the Chairperson. This should normally be done at least 10 working days ahead of the scheduled meeting;
- AOB can be tabled at the discretion of the Chair;
- Draft minutes and summary action points of each meeting will be produced and sent to members and relevant advisors within 10 working days of each meeting;
- The Working Group will meet at least twice per calendar year and as often as necessary. It will also conduct its business in a transparent manner. Minutes will be placed on the Managing Authorities' websites;

- In order to facilitate members and with members agreement meetings should take places at various locations through out NI;
- The Working Group can form sub-committees to take forward particular issues;
- The Working Group will report formally to the Competitiveness and Employment Monitoring Committee twice per calendar year, and shall provide ongoing reports as required. It may also report to the Peace III and Interreg IV Monitoring Committees as appropriate and with the agreement of the Monitoring Committee or Managing Authority of those programmes.
- The Working Group will agree a work programme, including a budget and submit it to the Competitiveness and Employment Monitoring Committee for approval. Work to be undertaken specific to the Peace III and Interreg IV Programmes and associated costs will also require the agreement of their respective Monitoring Committees; and
- The Terms of Reference for the Working Group, and any subsequent amendments, will be approved by the Programme Monitoring Committees.