



Sheila Mawhinney
Room 241, Parliament Buildings,
Ballymiscaw, Stormont,
Belfast, BT4 3XX

11 December 2012

Dear Sheila,

Re: Submissions to Ad Hoc Committee

Cara Friend has had sight of the submissions of the Equality Coalition and fully endorses them.

There are some issues of particular concern to the LGB sector which we would like to bring to the Committee's attention. We are therefore including submissions on these matters in this letter of endorsement.

1 Section 75

We endorse the submissions of the Equality Coalition on the failure of the DSD to abide by section 75 and also on its failure to comply with its equality scheme.

The DSD EQIAs on the Welfare Reform Bill fail to consider adverse impact on grounds of sexual orientation on the basis of 'lack of data'. It is clear from ECNI Guidance,¹ as quoted by the Coalition,²

¹ ECNI practical guidance on EQIAs 2005, at page 11.

² "It specifies the need to '[c]ollect and analyse existing quantitative data by relevant equality category as a minimum base from which to judge outcomes' and also '[u]se qualitative or evaluative research or information gathered by government and bodies such as voluntary, community and trade union organizations.'"

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that public bodies, in performing these statutory duties, should collect quantitative data, where possible but also collect qualitative data.

While Cara Friend supports any attempts to collect quantitative data, for example, on recipients on welfare benefits, it is virtually impossible to even invite LGB people in Northern Ireland to declare their sexual orientation as part of a monitoring process on welfare recipients. Indeed, we are not aware of the DWP collecting such monitoring data in Great Britain.

Therefore, the DSD's equality scheme requires the Department to collect qualitative data on the potential adverse impacts on LGB people of the provisions in the Welfare Reform Bill. It has been a fundamental principle of equality mainstreaming since the NI Act 1998 that there should be 'equality of the inequalities'. If a Government Department relies purely on quantitative data, let alone where meaningful data cannot be collected, it is failing to comply with its equality scheme and also is, as set out in the Coalition's analysis, breaching section 75.

Not only has the DSD so far failed to have its revised equality scheme approved by the ECNI; nor has it had its audit of inequalities and action plan approved. This ought to have been provided an opportunity to conduct a thorough audit of LGB issues in relation to welfare, housing and other matters within the remit of the Department. The LGB sector does not have the resources to respond to many draft audits of inequality. This was therefore also an opportunity to conduct a gap analysis of missing qualitative data and to prepare a programme to fill those gaps.

Further, the DSD is engaged with the OFMDFM on the preparation of a Sexual Orientation Strategy and Action Plan, anticipated to be

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published in draft form in the foreseeable future. What role has the DSD played in this exercise?

There is extensive engagement on the part of the LGB sector with public bodies within the remit of the Department, particularly the NIHE. The LGBT Advocate, located within the Rainbow Project, deals extensively with housing issues. The NIHE acknowledges in its 12th Report to the ECNI that “[w]e achieve this by ensuring equality considerations are incorporated in our policies from the outset. This approach is supplemented by developing policy statements on key equality areas in housing such as Good Relations and anti-sectarianism, Race Relations and Migrant Workers, Sexual Orientation, Children and Young People, and Disability.”³ The sector also participates in the NIHE Consultative Forum on Equality and has responded to the NIHE draft audit of inequalities and action plan.

It appears that no attempt has been made by the DSD to collect, let alone analyse, available qualitative data.

2 Some potential LGB issues on welfare reform

In this short submission, we can only highlight some potential issues for LGB welfare recipients and their families.

- Universal Credit payments: We welcome the ‘flexibility’ whereby UC payments can be split between partners in a couple. Lesbian mothers remaining in opposite-sex relationships would be significantly disadvantaged by a sole payment to one partner.
- Conditionality for lone parents: Already submissions by NIC-ICTU indicate that 96% of lone parents are women. There is

³ <http://www.nihe.gov.uk/news-latest-equality-progress-report-launched> (6 September 2012).
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anecdotal evidence to suggest that many lesbian parents are lone parents also. If the absence of adequate childcare facilities in NI and the absence of a childcare strategy, as compared to GB, lone lesbian parents will be placed at a significant disadvantage by the application of conditionality to lone parents with children over 5.

- **Housing:** We are concerned that single LGBs up to the age of 35 are expected to live in Multiple Occupation Housing. Already the provisions on MOH occupancy for single LGBs up to the age of 25 place significant pressure on young LGBs who have left home because of abusive family relationships and/or experiences in abusive communities. There is ample evidence of widespread homophobic harassment in housing and in communities more generally. Younger LGBs are expected to live in MOH, whether it exists or not, in situations where they may suffer further homophobic harassment or be forced back into abusive family relationships and/or abusive communities. Now it proposed to extend this provision to LGBs up to the age of 35.
- **PIPs entitlement:** Little attention is being paid to the development of PIPs. However there is evidence that people with mental disabilities and people with HIV are finding it more difficult to satisfy new criteria for receipt of PIPs. There is ample evidence of significant mental health issues amongst LGB people. There is therefore considerable concern that new criteria for receipt of PIPs and other disability-related benefits will place LGB welfare recipients at a significant disadvantage.
- **PIPs assessment:** We are very concerned at the contracting-out of these assessments. Assessments associated with disability involve issues of sensitivity and confidentiality. Such sensitivity and respect for privacy can (hopefully) be expected from NHS professionals. However, it is a source of great concern that issues of the sexual orientation of a

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person with disabilities may arise during these assessments and we have no guarantee that these issues will be appropriately treated by contracted-out assessors.

- Discrimination in administrative action: Although legislative action is not directly covered by equality statutes, administrative action is covered. For example, regulation 12 of the Equality Act (Sexual Orientation) Regulations (NI) 2006 prohibits discrimination in the course of carrying out of public functions, including in relation to any form of social security, healthcare and any other form of social protection. Such a duty remains with the Department/SSA and cannot be avoided by contracting-out. The contractor could also be liable for claims of indirect discrimination on grounds of sexual orientation and failure to make reasonable adjustments on grounds of disability.

In this short submission, we have raised issues surrounding potential breaches of section 75 and failures to comply with the Department's equality scheme. We have also attempted to highlight some LGB issues surrounding welfare reform which a well-informed Government Department should have attempted to identify in its EQIA and in complying with its equality scheme generally.

While endorsing the Coalition's submissions, we hope that the Committee will take these submissions into account also.

Yours sincerely,

Steve Williamson
Director

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