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Our Ref:  
Your Ref:  
Date: 4 December 2015

Dear Stella

## **COMMITTEE MEETING 1 DECEMBER 2015 – RURAL NEEDS BILL**

Your letter of 2 December 2015 sought some additional clarification on matters arising out of the Committee's consideration of written and oral evidence on the Rural Needs Bill.

The Committee asked for clarification of the application of the Northern Ireland Act 1998 (s75) in relation to the nature of the section 75 duties; the public authorities to which those duties extend; and the means by which compliance with the duties is enforced. The Committee also asked for clarification regarding the role of the NI Audit Office in relation to the duties to be imposed on local government once the Bill is enacted.

### **Section 75**

Section 75 of the Northern Ireland Act (Annex A) requires a public authority, in undertaking its functions relating to Northern Ireland, to have due regard to the need to promote equality of opportunity between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation; between men and women generally; between persons with a disability and persons without; and between persons with dependents and persons without.

## Identification of Public Bodies

For the purposes of section 75, a public authority is:

- any department, corporation or body that is listed in Schedule 2 of the Parliamentary Commissioner Act 1967 and designated for the purposes of section 75 by order made by the Secretary of State;
- any body (other than the Equality Commission) that is listed in the Commissioner for Complaints (Northern Ireland) Order 1996 (Annex B);
- any department or other authority that is listed in Schedule 2 to the Ombudsman (Northern Ireland) Order 1996 (Annex C);
- the Northern Ireland Policing Board, the Chief Constable of the Police Service of Northern Ireland and the Police Ombudsman for Northern Ireland;
- the Director of Public Prosecutions for Northern Ireland;
- the Chief Inspector of Criminal Justice in Northern Ireland;
- the Northern Ireland Law Commission; and
- any other person designated for the purpose of section 75 by order made by the Secretary of State.

## Enforcement

Arrangements for the enforcement of the duties imposed by Section 75 are set out in Schedule 9 to the Northern Ireland Act (Annex D). Most public authorities are required to submit an equality scheme to the Equality Commission. An equality scheme, a statement of the authority's commitment to fulfilling its Section 75 statutory duties, and how it proposed to fulfill those duties, must outline the public authority's arrangements for:

- assessing its compliance with the Section 75 statutory duties;
- assessing and consulting on the likely impact of policies adopted or proposed to be adopted by the authority on the promotion of equality of opportunity;
- monitoring any adverse impact of policies adopted by the authority on the promotion of equality of opportunity;
- publishing the results of assessments of the likely impact of policies on the promotion of equality of opportunity ;
- training their staff; and
- ensuring and assessing public access to information and to services provided by the authority.

Complaints that a public authority has failed to comply with an equality scheme may be investigated by the Equality Commission. The Commission must send a report of such an investigation to the public authority concerned; the Secretary of State; and the person who made the complaint. The Equality Commission must also send a copy of the report to the Assembly. There is also provision in Schedule 9 for the Assembly to be notified of a public authority's failure to take action recommended within an investigation report, within a reasonable period of time.

## **Role of NIAO**

The statutory responsibilities and powers of the Local Government Auditor are set out in the Local Government (Northern Ireland) Order 2005. The scope of external audit in local government covers the audit of the financial statements of the audited body as well as its arrangements for securing economy, efficiency and effectiveness in its use of resources.<sup>1</sup>

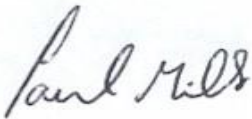
Officials have written to the NIAO specifically on the Rural Needs Bill to seek their views on the role, if any, of the NIAO in relation to the Rural Needs Bill. The Department will keep the Committee informed of any response.

## **Scope of the Rural Needs Bill**

A further issue raised at the Committee meeting on 1 December concerned the scope of the Bill, in particular, its application to devolved and reserved matters. The provisions of the Bill will apply only to devolved matters; they will not extend to reserved or excepted matters.

I should be grateful if you would bring this letter to the attention of the Committee

Yours sincerely



**Paul Mills**  
**Departmental Assembly Liaison Officer**

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<sup>1</sup> From [www.niauditoffice.gov.uk](http://www.niauditoffice.gov.uk) on 3 December 2015

## NORTHERN IRELAND ACT 1998<sup>2</sup>

### PART VII

#### HUMAN RIGHTS AND EQUAL OPPORTUNITIES

##### *Equality of opportunity*

75. Statutory duty on public authorities.

(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);

(cc) the Northern Ireland Policing Board, the Chief Constable of the Police Service of Northern Ireland and the Police Ombudsman for Northern Ireland;

(cd) the Director of Public Prosecutions for Northern Ireland;

(ce) the Chief Inspector of Criminal Justice in Northern Ireland;

(cf) the Northern Ireland Law Commission;

(d) any other person designated for the purposes of this section by order made by the Secretary of State.

<sup>2</sup> Taken from [www.legislation.gov.uk](http://www.legislation.gov.uk) on 3 December 2015

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

(4A) The references in subsections (1) and (2) and Schedule 9 to the functions of the Director of Public Prosecutions for Northern Ireland do not include any of his functions relating to the prosecution of offences or any of the functions conferred on him by, or in relation to, Part 5 or 8 of the Proceeds of Crime Act 2002 (c. 29) (civil recovery of the proceeds etc. of unlawful conduct, civil recovery investigations and disclosure orders in relation to confiscation investigations).

(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.

## COMMISSIONER FOR COMPLAINTS (NORTHERN IRELAND) ORDER<sup>3</sup>

### SCHEDULE 2

#### BODIES SUBJECT TO INVESTIGATION

The Agri-food and Biosciences Institute

Appeal Officer for Community Interest Companies

The Arts Council of Northern Ireland

The Board of Trustees of the National Museums and Galleries of Northern Ireland

The Charity Commission for Northern Ireland

The Chief Inspector of Criminal Justice for Northern Ireland

The Commission for Victims and Survivors for Northern Ireland

The company for the time being designated under Article 5 of the Strategic Investment and Regeneration of Sites (Northern Ireland) Order 2003

The Council for Catholic Maintained Schools

A development corporation established under Part III of the Strategic Investment and Regeneration of Sites (Northern Ireland) Order 2003

A district council, a joint committee appointed by two or more district councils for a purpose in which they are jointly interested, and any committee or sub-committee of a district council or joint committee

A district policing partnership

An education and library board

Enterprise Ulster

The Equality Commission for Northern Ireland

The General Consumer Council for Northern Ireland

A harbour authority within the meaning of the Harbours Act (Northern Ireland) 1970

The Health and Safety Agency for Northern Ireland

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<sup>3</sup> Taken from [www.legislation.gov.uk](http://www.legislation.gov.uk) on 3 December 2015

The Health and Safety Executive for Northern Ireland

A health and social care trust

The Independent Financial Review Panel

An industrial training board

Invest Northern Ireland

The Labour Relations Agency

The Livestock and Meat Commission for Northern Ireland

The Local Government Staff Commission for Northern Ireland

The National Board for Nursing, Midwifery and Health Visiting for Northern Ireland

A new town commission established under the New Towns Acts (Northern Ireland) 1965 to 1968 and any committee or sub-committee thereof

The Northern Ireland Community Relations Council

The Northern Ireland Council for the Curriculum, Examinations and Assessment

The Northern Ireland Council for Postgraduate Medical and Dental Education

The Northern Ireland Fire and Rescue Service Board

The Northern Ireland Fishery Harbour Authority

The Northern Ireland Health and Personal Social Services Regulation and Improvement Authority

The Northern Ireland Housing Executive

The Northern Ireland Law Commission

The Northern Ireland Legal Services Commission

The Northern Ireland Library Authority

The Northern Ireland Local Government Officers' Superannuation Committee

The Northern Ireland Museums Council

The Northern Ireland Police Fund

The Northern Ireland Policing Board

The Northern Ireland Practice and Education Council for Nursing and Midwifery

If you have a hearing difficulty you can contact the Department via Text Relay. Dial 18002 + number



The Northern Ireland Social Care Council

The Northern Ireland Tourist Board

Office of the Certification Officer for Northern Ireland

The Office of the Commissioner for Children and Young People for Northern Ireland

The Office of the Commissioner for Older People for Northern Ireland

The Patient and Client Council

The Probation Board for Northern Ireland

The Regional Agency for Public Health and Social Well-being

The Regional Business Services Organisation

The Regional Health and Social Care Board

A registered housing association within the meaning of Article 3(2) of the Housing (Northern Ireland) Order 1992

Regulator of Community Interest Companies

The Royal Ulster Constabulary George Cross Foundation

The Rural Development Council for Northern Ireland

A special health and social care agency

The Sports Council for Northern Ireland

The Staff Commission for Education and Library Board

A sub-group established under section 21 of the Police (Northern Ireland) Act 2000

Ulster Sheltered Employment Limited

The Youth Council for Northern Ireland

If you have a hearing difficulty you can contact  
the Department via Text Relay. Dial 18002 + number





## OMBUDSMAN (NORTHERN IRELAND) ORDER 1996<sup>4</sup>

### SCHEDULE 2

#### DEPARTMENTS AND OTHER AUTHORITIES SUBJECT TO INVESTIGATION

An implementation body to which the North/South Co-operation (Implementation Bodies) (Northern Ireland) Order 1999 applies

Civil Service Commissioners for Northern Ireland

Department of Agriculture and Rural Development

Department of Culture, Arts and Leisure

Department of Education

Department of the Environment

Department of Enterprise, Trade and Investment

Department of Finance and Personnel

Department of Health, Social Services and Public Safety

Department of Higher and Further Education, Training and Employment

The Department of Justice

Department for Regional Development

Department for Social Development

The Northern Ireland Authority for Utility Regulation

Office of the First Minister and deputy First Minister

The reference to the Department of Culture, Arts and Leisure includes the Public Record Office.

The reference to the Department of Enterprise, Trade and Investment includes the Registry of Credit Unions.

The reference to the Department of Finance and Personnel includes the General Register Office, the Land Registry, the Registry of Deeds and the Commissioner of Valuation.

In relation to any function exercisable by a department or authority for the time being listed in this Schedule which was previously exercisable on behalf of the Crown by a department or authority not so listed, the reference to the department or authority so listed includes a reference to the other department or authority.

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<sup>4</sup> Taken from [www.legislation.gov.uk](http://www.legislation.gov.uk) on 3 December 2015

**NORTHERN IRELAND ACT 1998<sup>5</sup>****SCHEDULE 9****EQUALITY: ENFORCEMENT OF DUTIES***The Equality Commission*

1 The Equality Commission for Northern Ireland shall—

- (a) keep under review the effectiveness of the duties imposed by section 75;
- (b) offer advice to public authorities and others in connection with those duties; and
- (c) carry out the functions conferred on it by the following provisions of this Schedule.

*Equality schemes*

2(1) A public authority to which this sub-paragraph applies shall, before the end of the period of six months beginning with the commencement of this Schedule or, if later, the establishment of the authority, submit a scheme to the Commission.

(2) Sub-paragraph (1) applies to any public authority except one which is notified in writing by the Commission that that sub-paragraph does not apply to it.

3(1) where it thinks appropriate, the Commission may—

- (a) request a public authority to which paragraph 2(1) does not apply to make a scheme;
- (b) request any public authority to make a revised scheme.

(2) A public authority shall respond to a request under this paragraph by submitting a scheme to the Commission before the end of the period of six months beginning with the date of the request.

4(1) A scheme shall show how the public authority proposes to fulfil the duties imposed by section 75 in relation to the relevant functions.

(2) A scheme shall state, in particular, the authority's arrangements—

- (a) for assessing its compliance with the duties under section 75 and for consulting on matters to which a duty under that section is likely to be relevant (including details of the persons to be consulted);
- (b) for assessing and consulting on the likely impact of policies adopted or proposed to be adopted by the authority on the promotion of equality of opportunity;
- (c) for monitoring any adverse impact of policies adopted by the authority on the promotion of equality of opportunity;
- (d) for publishing the results of such assessments as are mentioned in paragraph (b) and such monitoring as is mentioned in paragraph (c);
- (e) for training staff;

<sup>5</sup> Taken from [www.legislation.gov.uk](http://www.legislation.gov.uk) on 3 December 2015

(f) for ensuring, and assessing, public access to information and to services provided by the authority.

(3) A scheme shall—

(a) conform to any guidelines as to form or content which are issued by the Commission with the approval of the Secretary of State;

(b) specify a timetable for measures proposed in the scheme; and

(c) include details of how it will be published.

(4) In this paragraph—

“equality of opportunity” means such equality of opportunity as is mentioned in section 75(1);

“the relevant functions” means the functions of the public authority or, in the case of a scheme submitted in response to a request which specifies particular functions of the public authority, those functions.

5 Before submitting a scheme a public authority shall consult, in accordance with any directions given by the Commission—

(A) representatives of persons likely to be affected by the scheme; and

(B) such other persons as may be specified in the directions.

6(1) On receipt of a scheme the Commission shall—

(a) approve it; or

(b) refer it to the Secretary of State.

(2) Where the Commission refers a scheme to the Secretary of State under sub-paragraph (1)(b), it shall notify the Assembly in writing that it has done so and send the Assembly a copy of the scheme.

7(1) Where a scheme is referred to the Secretary of State he shall—

(a) approve it;

(b) request the public authority to make a revised scheme; or

(c) make a scheme for the public authority.

(2) A request under sub-paragraph (1)(b) shall be treated in the same way as a request under paragraph 3(1)(b).

(3) Where the Secretary of State—

(a) requests a revised scheme under sub-paragraph (1)(b); or

(b) makes a scheme under sub-paragraph (1)(c),

he shall notify the Assembly in writing that he has done so and, in a case falling within paragraph (b), send the Assembly a copy of the scheme.

8(1) If a public authority wishes to revise a scheme it may submit a revised scheme to the Commission.

(2) A revised scheme shall be treated as if it were submitted in response to a request under paragraph 3(1)(b).

(3) A public authority shall, before the end of the period of five years beginning with the submission of its current scheme, or the latest review of that scheme under this subparagraph, whichever is the later, review that scheme and inform the Commission of the outcome of the review.

#### *Duties arising out of equality schemes*

9(1) In publishing the results of such an assessment as is mentioned in paragraph 4(2)(b), a public authority shall state the aims of the policy to which the assessment relates and give details of any consideration given by the authority to—

(a) measures which might mitigate any adverse impact of that policy on the promotion of equality of opportunity; and

(b) alternative policies which might better achieve the promotion of equality of opportunity.

(2) 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 such assessment and consultation as is mentioned in paragraph 4(2)(b) carried out in relation to the policy.

(3) In this paragraph “equality of opportunity” has the same meaning as in paragraph 4.

#### *Complaints*

10(1) If the Commission receives a complaint made in accordance with this paragraph of failure by a public authority to comply with a scheme approved or made under paragraph 6 or 7, it shall—

(a) investigate the complaint; or

(b) give the complainant reasons for not investigating.

(2) A complaint must be made in writing by a person who claims to have been directly affected by the failure.

(3) A complaint must be sent to the Commission during the period of 12 months starting with the day on which the complainant first knew of the matters alleged.

(4) Before making a complaint the complainant must—

(a) bring the complaint to the notice of the public authority; and

(b) give the public authority a reasonable opportunity to respond.

#### *Investigations*

11(1) This paragraph applies to

(a) investigations required by paragraph 10; and

(b) any other investigation carried out by the Commission where it believes that a public authority may have failed to comply with a scheme approved or made under paragraph 6 or 7.

(2) The Commission shall send a report of the investigation to—

(a) the public authority concerned;

(b) the Secretary of State; and

(c) the complainant (if any).

(3) If a report recommends action by the public authority concerned and the Commission considers that the action is not taken within a reasonable time—

(a) the Commission may refer the matter to the Secretary of State; and

(b) the Secretary of State may give directions to the public authority in respect of any matter referred to him.

(4) Where the Commission—

(a) sends a report to the Secretary of State under sub-paragraph (2)(b); or

(b) refers a matter to the Secretary of State under sub-paragraph (3)(a),

it shall notify the Assembly in writing that it has done so and, in a case falling within paragraph (a), send the Assembly a copy of the report.

(5) Where the Secretary of State gives directions to a public authority under sub-paragraph (3)(b), he shall notify the Assembly in writing that he has done so.

#### *Government departments*

12(1) Paragraphs 6, 7 and 11(2)(b) and (3) do not apply to a government department which is such a public authority as is mentioned in section 75(3)(a).

(2) On receipt of a scheme submitted by such a government department under paragraph 2 or 3 the Commission shall—

(a) approve it; or

(b) request the department to make a revised scheme.

(3) A request under sub-paragraph (2)(b) shall be treated in the same way as a request under paragraph 3(1)(b).

(4) Where a request is made under sub-paragraph (2)(b), the government department shall, if it does not submit a revised scheme to the Commission before the end of the period of six months beginning with the date of the request, send to the Commission a written statement of the reasons for not doing so.

(5) The Commission may lay before Parliament and the Assembly a report of any investigation such as is mentioned in paragraph 11(1) relating to a government department such as is mentioned in sub-paragraph (1).