



## **Written response to Committee for Finance and Personnel's inquiry into public procurement policy and practice in Northern Ireland**

**February 2009**

### **Introduction**

1. 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 and treatment, sex discrimination and equal pay, race relations, sexual orientation and disability. 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 (s 75).
2. 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.

### **Context**

- 3 The Commission welcomes the opportunity to respond to the Committee for Finance and Personnel's scrutiny of public procurement in Northern Ireland. Public procurement is an important key in delivering the Programme for Government and in particular we note the Committee's commitment to maximising the economic and social benefits for the community within the agreed principles of public procurement.

- 4 The Commission has long had an interest in and concern for public procurement. We contributed to the review of public procurement which reported in 2002 and established the twelve principles of public procurement in Northern Ireland. Subsequently we were members of the PPP/PFI working group and of the Advisory Council on Infrastructure Investment which followed it. In this context we prepared, with the Central Procurement Directorate, guidance on *Equality of Opportunity and Sustainable Development in Public Sector Procurement* (attached). The guidance was published in 2008 and the Commission is working on a continuous programme of promulgation.

## **General Comments**

- 5 We believe that the public procurement process is key to a healthy and equal society as it affords the openings to address equality of opportunity and good relations in the delivery of all our public services. Especially at a time of significant investment designed to create a prosperous shared and fair Northern Ireland proper practice of procurement has the potential for significant change in our society.
- 6 The Programme for Government and the associated Public Service Agreements (PSAs) set the bar for this, in the directly related economic goals, through the ambition for education, health and social care and housing provision and in those overarching plans such as PSA 7, to make people's lives better. In the context of procurement we believe that Government has the opportunity to promote Northern Ireland as an exemplar through delivering demonstrable best value for money.
- 7 This can be achieved through government departments and other public authorities fully implementing the requirements of s 75. In addressing the s 75 obligations throughout public procurement, public authorities have the means to use s 75 disciplines for more effective policy making. So the vision of s 75 may also be achieved through sound practice as government, which retains the responsibility for s 75, works in partnership with the private sector.
- 8 As mentioned above the Equality Commission and the Central Procurement Directorate have developed and published guidance, *Equality of Opportunity and Sustainable Development in Public*

*Sector Procurement.* This guidance shows how political will and top level commitment, with the expertise of people working in public services and demonstrating the principles on which our public procurement is based, come together in a practical approach. This shows s 75 disciplines to be facilitative in supporting early planning and focusing decision making at all stages in order to promote equality of opportunity in procurement. It also offers practice examples and shows how its lessons are applicable to all procurement.

### **Specific points**

- 9 The Commission notes the Committee's will to improve clarity around the procurement process and welcomes this focus. Public authorities and contractors alike have uncertainties about how to maximise the desired impact of projects. Greater clarity and knowledge and understanding will remove many of the concerns which cause caution beyond due care to develop on each side.
- 10 This clarity, we note, will extend to Government's position on social clauses. The Commission welcomes this and again would refer the Committee to the advice in the guidance which outlines how equality of opportunity and sustainable development can be considered at each stage and how important this consideration is at planning, specification and contract agreement and monitoring stages.
- 11 Greater comprehension of these issues can assist in seeking ways in which the capacity of small and medium enterprises and social economy enterprises to compete is enhanced. In this way their particular skills can be harnessed. This presents greater challenges at a time of economic recession but at such times the principles of equality for all are no less of vital importance to the health of our society.
- 12 Finally we note and share the Committee's concerns about undue delay in progressing contracts. Significant investment delivered well has the potential of transforming our society. We would urge government departments and other public authorities to use the mechanisms of s 75 in their commitment to develop Northern Ireland as a more equal place.

### **Process**

- 13 We understand that this written stage is part of a substantial review by the Committee which plans to hear extensive oral evidence. We would welcome the opportunity to expand the points in this note and engage with the Committee in respect of them at an oral hearing.
- 14 In addition, we will be pleased further to advise the Committee or and member of your staff on the issues in the paper.

**Equality Commission**  
**26 February 2009**