

**Response to the Northern Ireland Executive's consultation on
the Building A Better Future - Draft Equality Impact
Assessment carried out at a Strategic Level**

Children's Law Centre

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Introduction

The Children's Law Centre is an independent charitable organisation established in September 1997 which works towards a society where all children can participate, are valued, have their rights respected and guaranteed without discrimination and every child can achieve their full potential.

We offer training and research on children's rights, we make submissions on law, policy and practice affecting children and young people and we run an advice/information/ representation service. We have a dedicated free phone advice line for children and young people and their parents called CHALKY and a youth advisory group called Youth@clc.

Our organisation is founded on the principles enshrined in The United Nations Convention on the Rights of the Child, in particular:

- Children shall not be discriminated against and shall have equal access to protection.
- All decisions taken which affect children's lives should be taken in the child's best interests.
- Children have the right to have their voices heard in all matters concerning them.

From its perspective as an organisation, which works with and on behalf of children, both directly and indirectly, the Children's Law Centre is grateful for the opportunity to make this submission to the Northern Ireland Executive and to offer assistance and comment on Building A Better Future - Draft Impact Assessment carried out at Strategic Level (Draft Budget EQIA).

Consultation

We very much welcome this EQIA consultation exercise being carried out to inform the delivery of the Budget for the present year and also the Budget allocations for the next financial year and we are grateful for the meeting which we attended in our role as a member of the Equality Commission with representatives from both OFMDFM and the Department of Finance and Personnel (DFP). In all of our submissions in previous years to consultation exercises carried out on the Budget we highlighted our major concerns which relate to the failure by the Government to comply with its section 75 of the Northern Ireland Act 1998 (section 75) obligations to carry out high level EQIA's on budget allocations. One of our main concerns with regard to the recent Budget consultation¹ was the failure to consistently apply section 75 considerations to budget allocation decisions. While we appreciate the challenge of the proper application of the section 75 statutory duty we believe that we must again stress that this duty does apply to the Budget and must be fully complied with in a way which ensures full compliance with section 75 of the Northern Ireland Act 1998 at a high strategic policy level. While some of the Departments did say that High Level Equality Impact Assessments were carried out or will be carried out in relation to their own Budget allocations and some made a commitment to carrying out Equality Impact Assessments on the programmes funded through the Budget allocations, **what was consistent in**

¹ Submissions deadline - 4th January 2008

the recent Budget consultation is the failure by Departments to make the information contained within any Impact Assessment which has taken place available for consultation.

It is extremely difficult, if not impossible, to make informed comment on the implications for equality of opportunity through budget allocations if information contained within Impact Assessments is not made available to consultees. We would welcome sight of the prerequisite information necessary to carry out a High Level Equality Impact Assessment, such as an analysis of how the Departments arrived at their priorities for budget allocations, the types of services which would have been funded under maximum Departmental bids for funding and the services which cannot be funded under the current funding proposals contained within the Draft Budget and the likely impact of this on equality of opportunity. Very clearly there is a need to strike a balance between the provision of too much information and not enough so as to facilitate an informed debate, however we believe that the Executive has not provided enough detailed information in this EQIA consultation as it is very difficult to comment on the potential impact of specific budget decisions. We recommend that much more detail be provided in future in any such consultations which take place to allow consultees to provide informed commentary.

The equality statutory duty imposed on Government by section 75 must underpin all levels of policy making to ensure that there is no adverse impact on any of the nine groups detailed in the legislation. EQIA of policy decisions is always a vital part of the policy making process, but never more important when the policy proposals relate to the allocation of public funding for service provision. To develop policies and consult on them without proper consideration of section 75 as has been the case with the Budget in previous years means that policy decisions have been taken without regard to the potential for adverse impact. The section 75 processes are methods of ensuring that equality considerations inform decision making. We believe that the letter and spirit of section 75 intends for equality concerns to be central to the policy decision-making process. This involves consideration of section 75 at the very beginning stages of the Draft Budget process. The Equality Commission's Guidance for Implementing Section 75 of the Northern Ireland Act 1998 states that,

"1.4 The new statutory duties make equality central to the whole range of public policy decision-making. This approach is often referred to as "mainstreaming". The Council of Europe has defined mainstreaming as:

"the (re)organisation, improvement, development and evaluation of policy processes, so that a[n] ... equality perspective is incorporated in all policies at all levels and at all stages, by the actors normally involved in policy-making".²

It is clear from this that the intention of section 75 is to mainstream equality, making it central to policy decision making. In order for an equality perspective to be central to policy making it needs to be incorporated in all policies at all levels and stages. This would unequivocally involve incorporation of the principles of equality of opportunity from the beginning of this process and throughout the development and implementation of the for future impact assessment by Government of all high level strategic policy development. High Level Equality Impact Assessments which are being and have been carried out without consultation and any proposal to carry out a High Level Equality Impact Assessment of the Budget and Equality Impact

² Gender mainstreaming conceptual framework, methodology and presentation of good practices. Council of Europe, Strasbourg May 1998

Assessments on the programmes funded through the Budget allocation will be of limited value as the policy decisions outlined in the Budget will be taken prior to proper consideration of the impact on equality of opportunity. This has the impact of totally undermining the section 75 process as the findings of the EQIA can not contribute to the decision making process. If policy decisions are made and adverse impact is identified after decisions are made, the scope for mitigation and alternatives are nil as decisions have already been taken without regard to the equality obligation. If adverse impact is identified on members of any of the nine groups detailed in the legislation, Government has an obligation to seek other ways to achieve the policy aims which will have a lesser impact on equality of opportunity through alternatives to the policy or mitigation of the adverse impact on enjoyment of equality of opportunity. This vital part of the process can only be fulfilled when an Equality Impact Assessment is carried out on draft policies so that the findings of the Equality Impact Assessment can contribute to the final policy decisions.

Section 75 also demands that members of the nine groups detailed in the legislation are directly consulted on matters which affect their lives whether or not they have a personal interest. As children and young people under the age of 18 comprise over 25% of the population of Northern Ireland³ they are very obviously one of the groups which will be most impacted upon by the Budget and allocations made for children's services and also cuts to children's services. **We therefore would be grateful if you would provide us with details of how you have or intend to consult directly with children and young people as one of the groups likely to be impacted upon most by the Budget allocations.** Such consultation is essential not only in ensuring compliance with section 75, but also in ensuring the Government's compliance with Article 12 of the UNCRC, one of the principles of the UNCRC - Respect for the views of the Child. In examining the government's compliance with Article 12, the UNCRC Committee recommended that the government,

*"...take further steps to promote, facilitate and monitor systematic, meaningful and effective participation of all groups of children in society."*⁴

This is particularly important given the Government's five new key strategic interdependent priorities which dictate the levels of funding allocation and the priority of various policy areas. In addition, the Executive's decision to mainstream the Children and Young People's Funding Package and the allocation of this money to Departments as part of the overall Budget has had and will continue to have serious implications for children's service provision over the next two years of this comprehensive spending review period. Coupled with the extremely tight resource constraints on Departments and the requirement to make 3% efficiency savings over each year of the Budget we have serious concerns which appear to have been founded that these savings will be borne by the community and voluntary sectors. We again urge the Government to ensure that money for front line children's services is ringfenced within each Department's funding allocation solely for use for children and young people. We again urge the Government to consult directly with children, young people and their families and the children's sector on future proposals on how the mainstreamed funding package is to be allocated for use by Departments, i.e. ringfenced solely for use on children's services, and delivered for children and young people as a matter of urgency.

³ 25.57%

[http://www.nisra.gov.uk/statistics/financeandpersonnel/DMB/datavault/NI%20Home%20pop%20by%20sex%20and%20single%20year%20of%20age%20\(1961%20to%202004\).xls](http://www.nisra.gov.uk/statistics/financeandpersonnel/DMB/datavault/NI%20Home%20pop%20by%20sex%20and%20single%20year%20of%20age%20(1961%20to%202004).xls)

⁴ Para 30 CRC/C/15/Add.188

With respect to the consultation process to date we have some concerns about the nature and extent of consultation. We learned from meeting with representatives of OFMDFM and DFP that over 9,500 responses had been received to the initial consultation exercise on the Budget in January of this year. We also learned that despite 9,500 individuals and or organisations taking the time to engage in this process it was not felt that all of these should be informed about this consultation exercise. Clearly those who responded to the initial consultation exercise believe that the Budget is an area of interest for them and one in which they wished to engage. The fact that consultation documents were not sent to all of the respondents to the previous consultation is concerning and undermines the ability of people who wish to engage having the opportunity to participate in this process and to have the opportunity to influence decisions. This is of paramount importance given the large degree of impact decisions on budget allocations will have for everyone living in Northern Ireland. It is also of concern and apparently in conflict with the statement made in the consultation document which states that,

“Consultation is a key and important part of this process. The Executive is determined that the consultation on this draft assessment will effectively engage section 75 groups and offer everyone the opportunity to have their say and influence final decisions.”⁵

In addition, the existence of this consultation exercise was brought to the attention of a member of staff with the Children’s Law Centre at a meeting of the Equality Coalition on 14th February 2008. We had not received the consultation documentation at this stage, despite the consultation document stating very clearly that the only public meeting to be held on the EQIA of the Budget in Belfast was taking place on 19th February 2008. We know from consultation with staff members from OFMDFM and DFP that the consultation seminars were not well attended and we believe that the failure to inform consultees about the seminars through not getting the documentation out in time is the reason for the poor attendance. While we recognise that administrative errors can occur, we also wish to emphasise the importance of ensuring that as many people as possible can have an input into decisions taken on the Budget and the allocations of public money. It is unacceptable to remove the opportunity for people to engage in this process as a result of administrative failings or production costs of materials. We hope that lessons are learned from this process to date and that such fundamental mistakes are not repeated in future.

We would be grateful if you would forward copies of your child accessible format of this document by return and if you would also respond with details of the system which you intend to use to analyse responses to this consultation process including the degree of weight which will be attributed to both individual and organisational responses. This is a vital element to drawing conclusions from responses and progressing with identified areas for immediate action. For this reason, we would appreciate information both on the system itself and on its operation for the purposes of analysis.

⁵ Para 2.14

General Comments

The main criticism which the Children's Law Centre has of the EQIA on the Budget is the aforementioned failure by the Executive to provide enough detail in the consultation document. It is very difficult to comment on the likely impacts of efficiency savings, budget allocations, mainstreamed funding packages and cuts to services when no statistics have been included in the consultation document. We are therefore not in a position to comment on the likely "overall impact" of the process outlined in the document. Due to the failure to provide an adequate amount of data, we believe that this consultation document makes no serious attempt to quantify whether, and by how much, the spending proposals and priorities will impact across the Section 75 groups. This is extremely problematic in that consideration of available data and research is a vital part of the EQIA process as it is from available data that conclusions on the likely impacts of decisions are made. This is also of concern in that we requested more detailed information in our response to the Budget consultation exercise which took place in January 2008. We note reference in the consultation document to,

*"...the proportion of funding allocated to the delivery of frontline services has increased... to ensure as far as possible that the allocation of resources resulted in positive impacts, all departmental spending proposals were subject to High Level Impact Assessments."*⁶

While we welcome the carrying out of High Level Impact Assessments as far as we are aware these have not been published or made available to the public. In the interests of the proper execution of this EQIA at a strategic level and also of transparency and openness these High Level Impact Assessments should have been made available to consultees. The failure to make these available significantly hinders our ability to make informed comment about the likely equality impacts of budget allocations. Again, we would welcome sight of the information necessary to carry out the High Level Equality Impact Assessments, such as an analysis of how the Departments arrived at their priorities for budget allocations, the types of services which would have been funded under maximum Departmental bids for funding and the services which cannot be funded under the current funding proposals contained within the Budget and the likely impact of this on equality of opportunity, as well as the Impact Assessments themselves.

It is clear from this year's Budget that there is no substantial increase in funding available for the work of Government⁷. We agree that the Budget and Draft Programme for Government are inextricably linked however, there remains very little information within the Budget EQIA as to how the commitments made with the Programme for Government 2008 – 2011 will be realised. Further information on the detail of budget allocations is vital, including information on the services which cannot be delivered as a result of the proposed Budget allocations in order to be in a position to comment on areas of potential for adverse impact. In relation to spending commitments within the Budget, we note that the level of spending in health, social care and education is to be maintained at approximately the same level as at present. While we appreciate that this level accounts for almost 70% of the overall budget there remains a need for increased investment in both health and education to enable all children to access appropriate and quality services without discrimination. Without an increased level of investment in both of these key

⁶ Para 6.6.18

⁷ 1.2% increase in real terms

services the problems with the current system of health and education provision for children and young people will remain and the inequalities which exist in educational attainment and health care as well as the gaps in provision will continue to be perpetuated unchecked, creating very obvious potential for adverse impact on vulnerable groups of children and young people.

One of the concerns which we highlighted in our response to the Draft Budget consultation relates to one of the fundamental assumptions on which the budget allocations have been made. This is the belief that by strengthening the economy there will be a trickle down effect whereby all members of society will benefit. We agree that there is merit in the top priority area for Government within the Budget being to develop a dynamic innovative economy which would provide a firm foundation upon which to improve the everyday lives of the citizens of Northern Ireland. However, we do not believe that a strong economy will of itself necessarily improve the lives of everyone living in Northern Ireland. The EQIA document states that,

“It is assumed that the implementation of the Executive’s economic priority has the potential to impact on a number of Section 75 groups where there is a greater risk of unemployment or economic activity. However, there is no evidence to suggest the priority will have a significant negative impact on any groups. Rather it is anticipated that growing a dynamic, innovative economy alongside a commitment to ensure that everyone has the opportunity to contribute to and benefit from increased prosperity, has the potential to deliver real benefits for all and make a significant contribution to the promotion of good relations.”⁸

It cannot be assumed that a stronger economy will benefit all of the people living in Northern Ireland, particularly given the high levels of economic inactivity and high and increasing levels of poverty in Northern Ireland of some of our most socially excluded members of society. There is a need to make a very clear link between overall prosperity and targeted social policy initiatives to ensure that all of the population in Northern Ireland benefit from the proposed economic growth and increased prosperity and to ensure that those who are socially excluded and marginalised at present benefit from any improvement in Northern Ireland’s economy and are not further polarised with the gap increasing between the rich and the poor. If this were to be the case, we would be in firm disagreement with the Executive’s assertion that there would be no negative impact on those marginalised, socially excluded members of society, particularly in areas of high levels of socio-economic deprivation. There is very obvious potential for adverse impact if the economy is strengthened with the result that the most vulnerable sections of the community fail to reap any rewards as a result. There is the potential in such an instance to further exacerbate the gap between those most in need and those benefiting from an increased emphasis on building the economy.

We expressed our very serious concerns over the level of proposed efficiency savings which have to be made at a rate of 3% per year over the three year period of the Budget in the initial consultation and we wish to reiterate our concerns in this submission also. The staggering figure of £790 million will have to be raised through efficiency savings by Departments, with worryingly two thirds of these savings having to be made by education and health, the two Department’s with the greatest responsibility for children and young peoples services. In addition, the Draft Budget gives no indication of how the efficiency targets have been arrived at and why the level of 3% has been chosen for all Departments. This is even more concerning

⁸ Para 6.1.6

when one considers the Government's intention not to consult on their efficiency delivery plans, in breach of section 75, which will be central to how these efficiencies are delivered. Also, there is no analysis in relation to equality of opportunity of the likely impact that the imposition of these efficiency savings will have on members of the nine groups under section 75 of the Northern Ireland Act 1998. We indicated in our initial response in January 2008 that we had concerns around these efficiency savings being borne by the voluntary and community sectors and these concerns appear to have been well founded, particularly given anecdotal evidence regarding a number of job losses suffered recently by both the voluntary and community sectors. We are very concerned about this as there will obviously be potential for adverse impact on children and young people if vital children's services are withdrawn in an attempt by Government Departments to meet their efficiency targets. A full examination of the impact on children accessing services where these services are under threat should be completed to identify further grounds for adverse impact, such as gender, disability, race, religion, whether they have dependents and sexual orientation. Where this adverse impact is identified this must be addressed through mitigation and alternatives. We firmly recommend that a vital aspect of the Performance and Efficiency Delivery Unit's work must be to develop, in consultation with stakeholders, statutory regulations and guidance for departments defining precisely what efficiencies are, how they are to be delivered and how they are to be re-directed to frontline services. The regulations and guidance should include protective factors that will ensure department's public service delivery partners in the voluntary and community sectors are not adversely affected by resource releasing efficiency savings which have in the past been experienced as cuts to the voluntary and community sector.

With regard to the freeze on domestic rates, it is clear that some households will indeed be better off.⁹ As the people who will benefit from this proposal are those who own their own homes it is unlikely that children living in very poor households will benefit from this at all. When one considers this in conjunction with the Government's proposals to cap the level of household rates, it is clear that those who will disproportionately benefit are those who are most well off in society. Given our concerns in relation to the efficiency saving targets and the likely impact these will have on public service provision, in particular with regard to services which are Government funded and delivered by the voluntary and community sectors, it is difficult to imagine how workless households who live in poverty and rely heavily on public services will benefit from the Budget proposals. For these reasons, there are clearly grounds for arguing that the Budget proposals will adversely impact on those in most need, who rely heavily on public services, and are therefore most susceptible to any proposed cuts arising from "efficiency savings" which may translate into cuts in services. There is clearly a pressing need for the Government to seek and implement alternatives and mitigating measures to alleviate this potential disadvantage.

We are very supportive of the Government's commitment to work towards the elimination of severe child poverty by 2012 and to work towards the elimination of poverty in Northern Ireland by 2020, including lifting 67,000 children out of poverty by 2010. What remains unclear is how this target is going to be achieved. There has been no further information provided in the EQIA of the Budget in relation to the anti-poverty and social inclusion implications of the proposed changes within the Budget, nor is there an anti-poverty budget allocation within the Budget. We are aware that OFMDFM has £30.5 million this year for equality, human rights and community

⁹ 22nd January 2008 – Peter Robinson MLA stated that as a result of the rates freeze the average household will be £1,000 better off.

relations but this will not fund an anti-poverty strategy. Without significant resource allocations in the Budget to meet these targets we are challenged as to where the money will come from to fund an Anti-Poverty Strategy when one is adopted by Government. We believe that in order to meet the child poverty targets in Budget the Government needs to adopt and build on the *“Lifetime Opportunities”* Strategy and adequate resources need to be made available to meaningfully tackle child poverty within the Budget immediately. Failure to do so will result in adverse impact being endured by the huge numbers of children living in poverty in Northern Ireland.

Given the lack of information provided by Government to date which relates to the provisions which have been made for the mainstreaming, protection and further development of projects and initiatives established via the Executive Programme Children’s Fund, Children and Young People’s Priority Funding Package and the Supporting Families Package, we have some major concerns about the potential for adverse impact on children and young people. There is an obligation on Government to ensure that the ten year Children and Young People’s Strategy is adequately funded and we would advocate that the Ministerial Sub-Committee impact assess all of the final budget decisions in terms of ensuring their maximum contribution to the achievement of the Children and Young People’s Strategy outcomes and compliance with the principles and provisions of the UNCRC. The Ministerial Sub-Committee must ensure that resources have been allocated to the “maximum extent of available resources”, so that where monies for children and young people’s services have come into the NI central block these are ring-fenced and go directly to these services.

We have been encouraged to note in recent months the Executive’s stated commitment, in response to Assembly questions and in public statements to the implementation of the 10 Year Strategy for Children and Young People. The Budget process provides the Executive with the opportunity to explicitly demonstrate, through the commitment of adequate resources to actions central to the implementation of the Children’s Strategy in full.

In relation to health, while the Budget acknowledges the much higher incidences of mental ill-health in Northern Ireland, there are very few other references to mental health within the Budget, other than a target of resettling 5% of mental health long stay patients, with a 10% reduction in admissions to mental health hospitals.¹⁰ Given that mental health provision is the Department of Health, Social Services and Public Safety’s top priority we would have expected to see a greater emphasis on mental health within the Government’s commitments in the Draft Budget, particularly with regard to child and adolescent mental health services (CAMHS). More than 20% of young people in Northern Ireland are suffering, *“significant mental health problems”* by their 18th birthday¹¹. Under 18’s represent over 25% of the population in NI. Less than 5% of the current mental health budget is spent on CAMHS.¹² Children continue to be placed in adult psychiatric wards and in some cases adult prisons as a result of a lack of age appropriate facilities¹³. There are currently no forensic beds in Northern Ireland for the treatment of complex cases which has a serious impact on a child’s right to family life when they have to be treated in England or Wales due to lack of appropriate facilities here. In attempting to identify potential for adverse impact, we believe that there are serious issues with regard to the equal opportunity to enjoy an excellent standard of healthcare. As there is such a high incidence of mental ill health

¹⁰ Page 84

¹¹ *“Health of the Public in Northern Ireland”* Chief Medical Officer, 1999

¹² *“Children’s Rights in Northern Ireland”* Northern Ireland Commissioner for Children and Young People, 2004

¹³ *“The Hurt Inside: The Imprisonment of Women and Girls in Northern Ireland”* NICHR, 2004

amongst children and young people, in the interests of the promotion of equality of opportunity among members of the nine section 75 groups we wish to see the underfunding of this, “Cinderella service” immediately addressed.

Conclusion

The Children’s Law Centre is grateful to have the opportunity to comment on the Northern Ireland Executive’s consultation on Building A Better Future - Draft Impact Assessment carried out at Strategic Level. We hope that our comments have been constructive and useful and are more than happy to have a further meeting with staff from OFMDFM and/or DFP to discuss anything raised in this response. We wish to be kept informed of progress in the development of the EQIA of the Budget and look forward to the issues raised in this response being addressed, taken forward by the Government and hearing from OFMDFM and/or DFP in the near future. **We look forward to receiving the information requested in this response.**