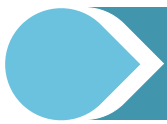


Promoting Equality, Good Relations and Human Rights in Health and Social Care

EQUALITY

GOOD RELATIONS

HUMAN RIGHTS



Promoting Equality, Good Relations and Human Rights

This document is available in alternative formats including:

Large font

MP4

Main minority ethnic languages

DAISY

Easy-read

Electronic version.

English: This document can be made available in minority ethnic languages, on request, to meet the needs of those not fluent in English.

Arabic: ءافي إلل ،بلطلا دن ع ةيقرعلا تايلقألا تاغلب ةقيثولا هذه ريفوت نكمي
ةيزيلجنإلا ةغلل نودي جي ال نيذلا صاخشألا تاجايتحاب.

Bulgarian: При поискване този документ може да бъде предоставен на езиците на етнически малцинства, за да отговори на нуждите на хората, които не владеят английски език.

Chinese (Mandarin): 该文件可应要求提供少数民族语言，以满足不谙英语的人之需求。

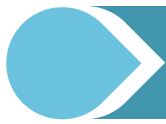
Chinese (Cantonese): 這行動計劃草案將會根據需求被翻譯成各種小數族裔語言去迎合那些英語不流利的人士的需要。

Irish: Is féidir an doiciméad seo a chur ar fáil i mionteangacha eitneacha, ar iarratas, chun riachtanais na ndaoine sin nach bhfuil líofa sa Bhéarla a shásamh.

Lithuanian: Šis veiksmų Planas pareikalavus gali būti pateiktas tautiniu mažumu kalbomis, kad atitiktų sklandžiai nemokančių anglų kalbos poreikius.

Polish: Aby wyjść naprzeciw potrzebom osób, które nie mówią biegle po angielsku, ten Plan Działania może być udostępniony w językach mniejszości etnicznych na życzenie.

Portuguese: O Plano de Ação está disponível, à pedido, em outras línguas, para atender às necessidades das pessoas que não são fluentes na língua Inglesa



Romanian: Acest document poate fi pus la dispoziție în limbi ale minorităților etnice, la cerere, pentru persoanele care nu vorbesc fluent limba engleză.

Slovak: Tento Akčný Plán môže byť na požiadanie dostupný v jazykoch národnostných menšín z dôvodu zabezpečenia potrieb tých, ktorí nie sú spôsobilí mu porozumieť v angličtine.

Tetum: Aksaun Planu ida né,se bele fo ou halo iha liafuan etnika minoria sira nian, nebe bele husu, para bele ajuda ba ema sira nebe la hatene koalia lian Inglés.

The above languages are the top most requested languages regionally, taken from HSC Interpreting Service Report for the period January to April 2019.

General Information

For further information or to obtain additional copies of this guide please contact your Equality Unit.

An important message from the Trust Chairs

Why you will find this guide useful

As a Board Member of a Health and Social Care (HSC) organisation you have an opportunity to make a significant difference to the health and wellbeing of the population your Trust serves.

Leadership and commitment provided at the highest levels in a HSC organisation are critical to the successful implementation and achievement of the intended outcomes of the statutory Section 75 duties.

The ECNI report 'Section 75 statutory Equality and Good Relations Duties: Acting on the evidence of public authority practices' June 2018, states;

“While recognising the circumstances of reduced resources, leadership continues to be imperative within public authorities to ensure the maintained focus on equality matters, as well as ensuring good governance and the mainstreaming of equality considerations throughout the business of the authority.”

The roles of Trust Boards and Executive Management Teams are essential in ensuring that a meaningful and effective approach to implementing the Section 75 duties is adopted across the organisation.

Important Note:

Ensure all Board Members are aware of their roles and responsibilities in relation to equality, good relations and human rights.

This Guide reiterates the moral, ethical and business case for equality, good relations and human rights and aims to assist your Trust to assess its approach.

Leaders should ensure that consideration of the Section 75 duties is integrated throughout all the Trust's functions which includes service provision, policy formulation, employment and procurement. In addition to ensuring that its legal requirements are met, this should complement its outcomes based accountability approach, assisting it to focus on improving the outcomes for its service users and employees.



Important Note:

Leaders, senior managers and decision-makers in the Trust will wish to ensure that their Section 75 practices demonstrate good governance, meaningful equality screening and equality impacts assessments, and inclusive communication and engagement.

Aims

This guide also aims to aid you in:

- Understanding the statutory Board responsibilities as they relate to matters of equality, good relations and human rights
- Considering your specific responsibilities
- Understanding your statutory obligations
- Recognising the link between equality, good relations and human rights and the core business of the Trust.

Important Note:

Section 75 does not prevent difficult decisions being taken, nor does it halt decisions which affect one equality group more than another. It enables evidence-based decision making in the knowledge of the likely impact on the 9 equality groups whether positive or negative whilst prompting for consideration of mitigation and alternative policy (as an integral part of the decision making and/or policy formulation process); it provides for transparency and accountability in line with the Trust's core value of 'openness and honesty'.

The full application of the Trust Equality Scheme commitments, including equality screening and, where necessary and appropriate, conducting full Equality Impact Assessments (EQIA) and consultation, enables the Trust to provide greater clarity and transparency in its decision making processes.

Important Note:

You must in law mainstream equality and diversity in all that you do via equality screening and where necessary and appropriate conduct a full Equality Impact Assessment - see definition of policy on page 4.

As a designated public authority the Trust must make decisions that are lawful, one element of which is through the effective and timely discharge of the Section 75 statutory equality and good relations duties.

Important Note:

An assessment of impacts must precede the decision and the information must be known to the decision makers – see page 21 Brown Principles.

Included in Appendix 1 is a checklist of action points to remind leaders, senior managers and decision makers of what is required to ensure the effective implementation of the Section 75 duties.

Important Note:

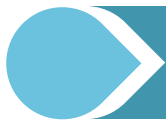
These duties are much more than a checklist of action points, they are statutory duties which must be complied with and, if used appropriately, can bring real and lasting benefits to people's lives.

Scope of the Section 75 duties

The Trust is committed to the discharge of its Section 75 obligations in all parts of our organisation including service delivery, employment and procurement.

Policy

In the context of Section 75, 'policy' is very broadly defined. It covers all the ways in which we carry out or propose to carry out our functions in relation to Northern Ireland. The term policy is used for any (proposed/amended/existing) strategy, policy initiative or practice, budget setting and/or decision, whether written or unwritten and irrespective of the label given to it, eg. 'draft', 'pilot', 'high level' or 'sectoral'.



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Diversity is having a seat at the table, inclusion is having a voice, and belonging is having that voice be heard.

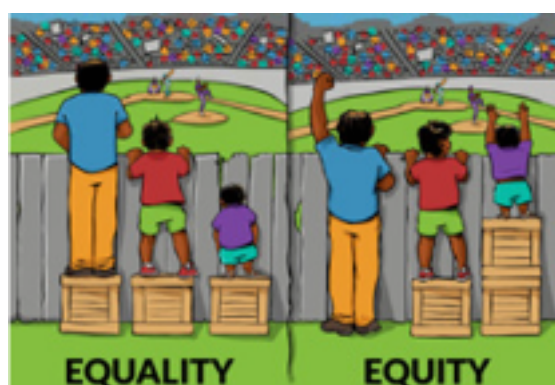
Introduction

Equality is at the heart of what we do in health and social care. Many of our core functions are intrinsically linked to addressing inequalities and to ensuring equity of access to health and social care for everyone.

Our Trust has a legal, moral and business duty to provide services in line with our regional values of working together, excellence, openness and honesty and compassion. (See Appendix 2).



This does not mean treating everyone the same as this does not necessarily mean that people are being treated fairly.

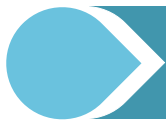


Is treating everyone the same always the right thing to do?

Rather it is about continually striving to improve services and employment practices, taking account of the diversity within our society, in order to pursue and achieve equality, good relations and human rights for all.

As an employer and a provider of an extensive range of integrated health and social care services the health and social care organisations are committed to embracing diversity, promoting equality of opportunity in an environment which is inclusive, welcoming and respectful.

This guide is produced for Board Members and its purpose is to highlight their statutory responsibilities to their service users, staff and the communities they serve, with regard to fairness, dignity and respect for human rights.



Promoting Equality, Good Relations and Human Rights

The guide is based on the premise that equality, good relations and human rights is every one's business and are not mere "add-ons" or extras. They are core to good governance, sound decision making and inclusive practice. Board Members are in a unique position to support, provide leadership and drive the equality, good relations and human rights agenda.

There are legal duties placed on all public authorities, and individuals who work within them, which uphold equality and fundamental human rights for all our service users/patients, visitors and staff. Board Members are uniquely placed to be guardians/champions of these rights.

Public authorities including Health and Social Care Trusts have a legal obligation to act in accordance with human rights.

All public servants must act in a way that is compatible with human rights. It is therefore essential they understand human rights and take them into account. This is the case whether delivering a service directly to the public or devising new policies or procedures. Understanding human rights can assist in making the right decisions and prevent potential court challenges for violations.

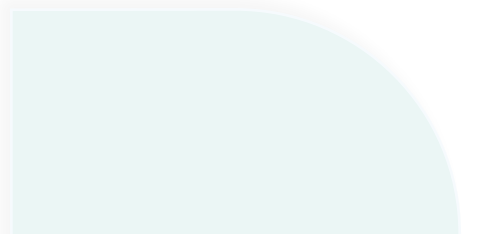
Section 6 of the Human Rights Act 1998 places a duty on public authorities not to act incompatibly with certain rights and freedoms drawn from the European Convention on Human Rights (ECHR).

Current legislation relevant to working within health and social care can be found in Appendix 3.

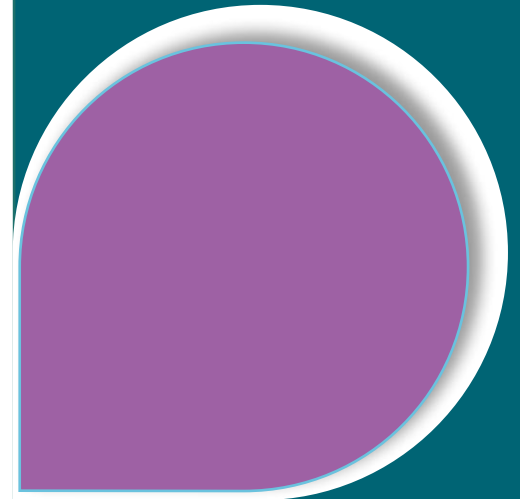
Jurisprudence



**Legislation extends to all functions undertaken by the Trust
employment, service delivery and procurement**

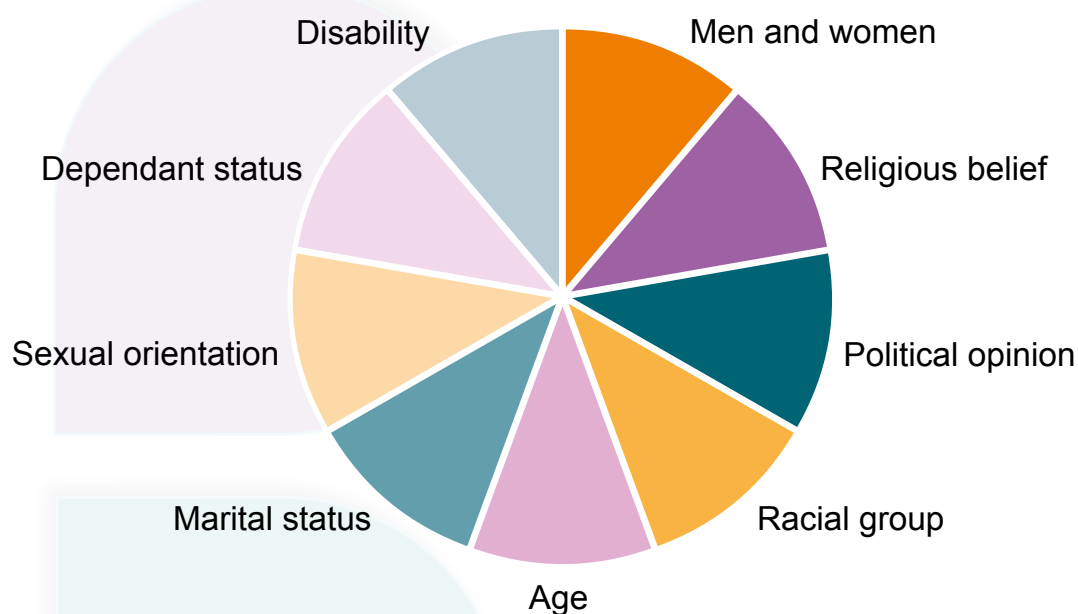


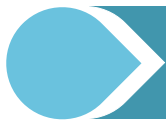
Summary of Key Messages



Summary of Key Messages

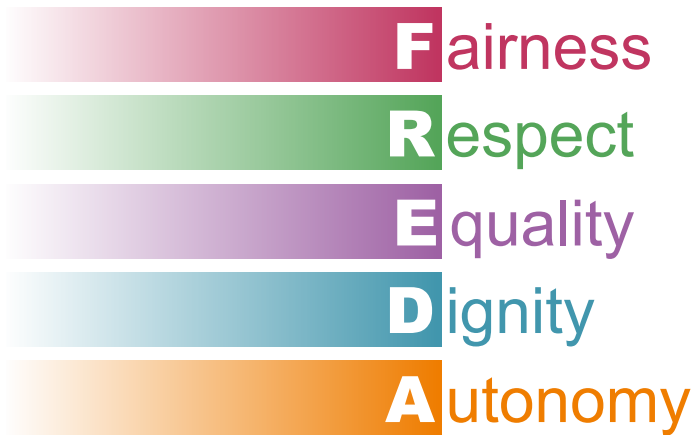
- Board Members may find it helpful to be aware of the Brown principles when planning the Trust compliance with Section 75 duties (as detailed in Accountabilities of Board Members section, page 19)
- Board Members should be fully aware of, and understand the implications of all of the commitments contained in their Equality Schemes and apply the arrangements positively and continuously
- Equality, good relations and human rights legislation places specific statutory duties on public bodies
- Equality, good relations and human rights is core business for the HSC organisation for which Board Members are accountable and which actively needs to be managed
- The Chair, Chief Executive, Board Directors and Non-Executive Directors all have responsibility for ensuring that the organisation is compliant with equality, good relations and human rights legislation and that it promotes good practice
- Section 75 of the Northern Ireland Act 1998 goes beyond anti discriminatory legislation and places a duty on public bodies to promote equality of opportunity across nine specific grounds. These grounds include, age, gender, marital status, sexual orientation, ethnicity, religion, political opinion, disability and dependants. In addition it covers the Good Relations Duty in the areas of religion, political opinion and race





Promoting Equality, Good Relations and Human Rights

- The Human Rights Act 1998 places a positive duty on public bodies to promote human rights and ensure that any actions or decisions taken are compatible with the European Convention on Human Rights, or relevant legislation post Brexit. This is the case in regard to service delivery, policy formulation, procurement or employment. Understanding human rights can help in making the right decisions
- We are therefore committed to providing HSC based on the human rights principles known as FRED A

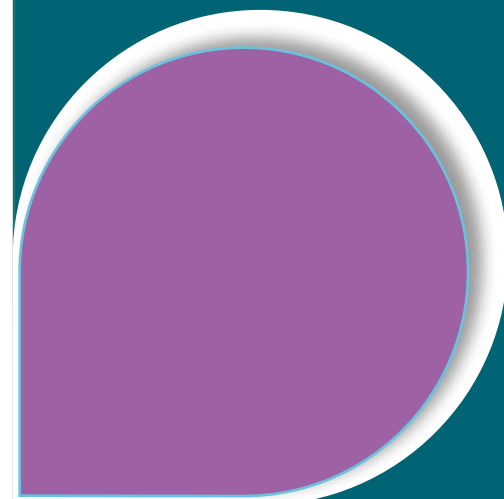


- The Disability Discrimination Act 1995 Sections 49A & 49B, places a duty to promote positive attitudes towards disabled people and encourage participation by disabled people in public life, which links with the Personal and Public Involvement (PPI) agenda
- Undertaking Equality Screening is the process of:
 - assessing proposals / policies for any adverse impacts relating to equality of opportunity, good relations and human rights
 - identifying mitigation / alternative policies where necessary and consulting with those likely to be affected
 - Even if there are no adverse impacts of a proposed policy, policymakers must in screening/ EQIA 'seek out' opportunities to try to promote equality of opportunity and good relations and to try to address inequalities that exist for the Section 75 groups
 - The equality screening or EQIA should be considered along with the policy proposals, so that decision makers take the assessments into consideration at the point of decision making ie. before a decision is taken

Promoting Equality, Good Relations and Human Rights

- Board Members should ensure they are satisfied with the quality and coherence of equality assessments (screening and/or EQIA) undertaken, ensuring that the assessments are not simply a 'tick-box' exercise
- If required, guidance can be provided by the Equality Unit to advise Board Members on the above requirements
- If, during the screening process, it is decided that a policy or decision does have significant or major issues relating to equality, it is then necessary to consider carrying out a more detailed EQIA exercise
- It is necessary to ensure that Governance frameworks established within the organisation incorporate equality, good relations and human rights issues.

How HSC Trusts can meet their statutory duties under Section 75 of the Northern Ireland Act 1998 and their Human Rights obligations



How HSC Trusts can meet their statutory Section 75 duties under the Northern Ireland Act 1998 and their Human Rights obligations

Given the very specific requirements of the Section 75 duties to assist better informed and more inclusive policy development and decision making processes on the level of progress, additional attention is given in this guide to the precise requirements of this legislation. This also aids Trusts to report annually to the Equality Commission for Northern Ireland (ECNI).

The key proposals of the “Review of Section 75 Guide to the Statutory Duty”, undertaken by ECNI, are summarised below to inform Board Members. The review also advises that the proposals all require necessary resources (in terms of people, time and money) to ensure that the statutory duties are complied with.

Mainstream

Development and approval of Equality Scheme

Since the introduction of Section 75 duties most public authorities in Northern Ireland have been required to produce an Equality Scheme.

The development of an Equality Scheme is required under Schedule 9 of the Northern Ireland Act 1998 and is intended to reflect ownership of the duties. It is important that the Equality Scheme demonstrates that change can be achieved and outlines a vision for the Trust, highlighting that equality, good relations, human rights and diversity are embedded in its culture.

Important Note:

The Equality Commission can only approve Equality Schemes that conform to the Section 75 of the NI Act 1998 - A Guide for Public Authorities refers.

Statutory duties can be met by ensuring that an approved and regularly reviewed Equality Scheme is in place and its requirements are understood by all officers with Section 75 responsibilities ie. senior managers, policy makers, those taking policy decisions and equality officers.

Important Note:

Strong Leadership is necessary within public authorities to ensure that the Section 75 statutory duties are integrated into the core business activities and put into effective and visible practice.

Consultation

The implementation of the statutory duties provides an important opportunity for all those affected to influence public policy decision making. It makes the process more transparent and accountable as people have the opportunity to make an input to the formulation of policies that impact on their interests.

Important Note:

Consultation by public authorities has to be meaningful and be conducted before a decision is made, while it is still possible to influence the outcome.

Consultation with those affected by public policy decisions is central to the effectiveness of the Section 75 duties. Equality Schemes spell out an authority's arrangements for consultation on the duties and on the likely impact of policies.



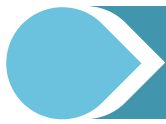
Impact on policy

It is a statutory duty for a Trust to screen policies and decisions and when appropriate carry out equality impact assessments before a policy is implemented or decided upon. Undertaking screening and impact assessment exercises can help check for human rights compliance. The aim of any consideration of human rights is to ensure that the resulting policy or legislation complies with human rights law and standards.

An integral part of the process is the need to consider if there is potential to:

- Promote equality of opportunity; and,
- Consider how to make the policy, service or strategy more responsive to the needs of any of the nine equality groups
- Promote good relations between persons of different religious belief, political opinion or race. While legislation extends specifically to these three discrete groups, in practice we seek to promote good relations between all nine categories.





If the Trust's assessment of the impact of a policy shows a possible "adverse impact" on any Section 75 group, it must consider how this impact might be reduced or mitigated, or how an alternative policy might lessen any adverse impact the policy may have. The public authority must also show that it has considered how any alternative policies might better achieve the promotion of good relations and equality of opportunity.

Important Note:

Please refer to Appendix 1, points 7, 8 & 9, for further detail on conducting Meaningful Equality Screening and Equality Impact Assessments. Underpinning all policy development are the legally binding obligations created by human rights law and standards.

Strategic Perspective on Inequalities

Audit of inequalities

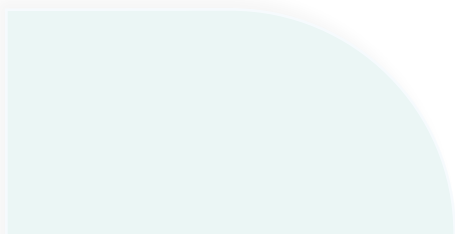
This audit requires an identification of inequalities, within functional areas. The work includes the development of an appropriate methodology, an audit tool and conducting the audit. It requires a commitment from relevant stakeholders and engagement, in the process, by staff within the organisation. The audit should be revised towards the end of the current Action Plan and align with the corporate planning cycle.

Action Plan to address inequalities

The objective of the Action Plan is to direct a sustained corporate commitment to addressing issues of inequality across the nine equality groups. These actions are linked to the core mainstream business of the organisation and promote a positive impact on Section 75 groups. The selection of priority areas has the potential to make a real difference to people's lives.

Important Note:

The S75 equality duty should not deter a public authority from taking action to address disadvantage among particular sections of society – indeed such action may be an appropriate response to addressing inequalities.



Accountabilities of Board Members



Accountabilities of Board Members

Good governance, financial management and the management of people are key functions of an HSC organisation. In meeting the health and social care needs and aspirations of the population we serve, it is important to see the key link between equality, good relations and human rights duties which permeate all functions of the organisation's core business. The Chair, Chief Executive, Directors and Non-Executive Directors are accountable for the overall performance of their organisation. Matters of equality, good relations and human rights are central to this accountability and central to the discharge of governance responsibilities.

Important Note:

Mainstreaming

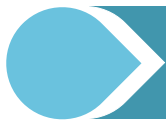
The Section 75 statutory duties make equality and good relations central to the whole range of public policy decision-making. This approach is often referred to as “mainstreaming”. The Council of Europe has defined mainstreaming as:

“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”.

The equality, good relations and human rights duties extend to all functions of the HSC organisation, including employment and services.

Important Note:

The Trust's duties also extend to third party providers including private, voluntary and independent sectors who provide a service on behalf of the HSC organisation. It includes, for example, dentists, pharmacists, optometrists, GPs and GP Practices, contractors, domiciliary care providers, private and voluntary nursing homes even though in their own right these providers may be excluded from the duties associated with Section 75 legislation.



In July 2018 the ECNI developed and published “Section 75 Demonstrating Effective Leadership” July 2018 which gives guidance to those in senior roles in public authorities. Responsibilities of key roles are summarised below:

All Board Members’ responsibilities

Equality, good relations and human rights are “everyone’s business”. This guidance assists all Board Members and Executive Team to support the effective implementation of their duties

Important Note:

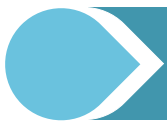
The law says that these duties are non-delegable.

The checklist of action points in Appendix 1 aims to remind leaders, senior managers and decision makers of what is required to ensure the effective implementation of the Section 75 duties

All Board Members have a key role to play in driving the equality, good relations and human rights agenda and in the showing of strong leadership both by words and by actions

Board Members may also find it helpful to be aware of the following principles, called the Brown principles, when planning their and the Trust’s compliance with the Section 75 duties:

1. A decision-maker must be aware that he/she is obliged to comply with the public sector duties
2. The duties must be fulfilled before and at the time that a particular decision is being considered, and not afterwards
3. The duties must be exercised in substance, with rigour and an open mind; and not as a “tick boxing” exercise
4. The duties are non-delegable; meaning that it is the actual decision-maker who must comply with the duties, and not some other person
5. The duties are continuing ones
6. It is good practice to keep adequate records that will show that the statutory goals have actually been considered and pondered and to promote transparency and discipline in the decision-making process.



Specific Responsibilities

The Chief Executive

The Chief Executive also holds the accountable officer status for actions and omissions relating to equality, good relations and human rights. This is a formal designation as required within Equality Schemes and cannot be delegated.

Specifically in relation to equality, good relations and human rights, the Chief Executive is responsible for:

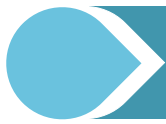
- Ensuring that the Trust puts in place an Equality Scheme and offers a commitment to ensuring that there is compliance in: leadership; resources; consultation; screening; EQIAs; monitoring; training; communication and complaints in order to support the duties
- Ensuring that sufficient resources are provided to support the Action Plans that underpin the Equality Scheme
- Ensuring that adequate equality, good relations and human rights training is delivered within the organisation
- Ensuring that the Trust is compliant with human rights legislation
- Ensuring compliance with the duties in respect of promoting positive attitudes and encouraging participation in public life as outlined in all sections of the Disability Discrimination Act 1995
- Ensuring that the organisation operates both within the law and also promotes best practice.

Directors

The mainstreaming of the Equality & Human Rights agenda requires that Directors ensure that the issues are addressed within the specific portfolio for which they are responsible and also to contribute to the corporate leadership required for this work.

Directors are specifically required to:

- Be the accountable officer for specific activity in relation to the Equality Action Plan and Disability Action Plan associated with the Equality Scheme



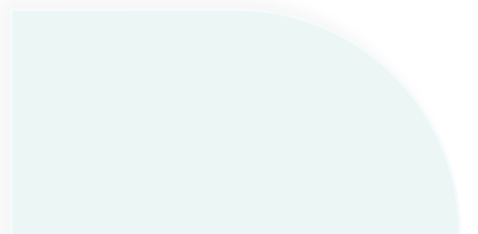
Promoting Equality, Good Relations and Human Rights

- Ensure that policies and decisions are adequately screened and where necessary that EQIAs are undertaken
- Ensure that the functions for which they are responsible are human rights compliant; and,
- Ensure that staff for whom they are accountable are appropriately trained in equality, good relations and human rights.

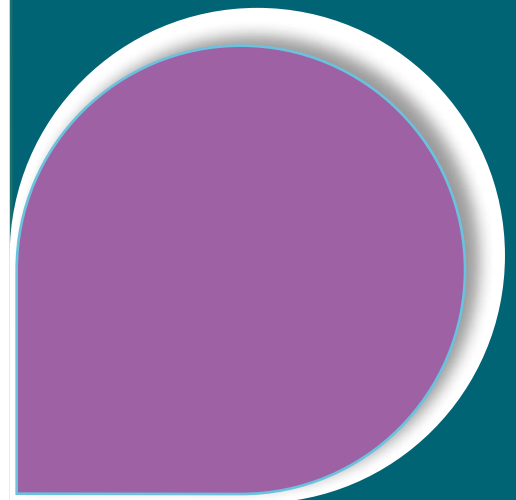
Non-Executive Directors

The Chair: carries a particular responsibility for ensuring that equality, good relations and human rights are reflected in all aspects of strategic planning, performance and governance including its own Board Meetings and other activities.

Non-Executive Directors: have the potential to act as champions of equality, good relations and human rights and as such can make a valuable contribution to the Equality, Good Relations and Human Rights agenda in ensuring that the organisation acts in the best interests of those it serves. Non Executives are in the advantageous position of being able to fulfil their Section 75 duties and responsibilities by freely scrutinising a broad range of issues and documents including; Annual Progress Reports, Disability Action Plans and Equality Action Based Plans.



Conclusion



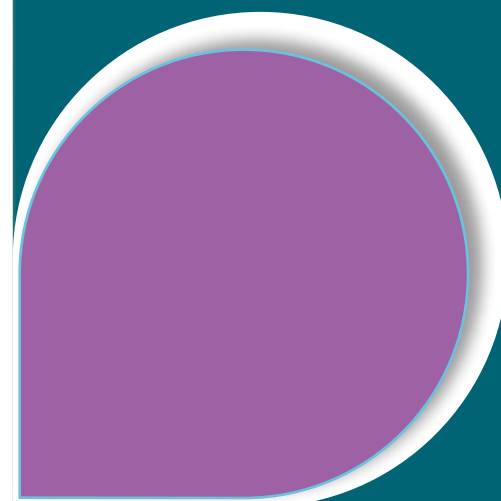
Conclusion

Board Members have a key role to play in driving the Equality, Good Relations and Human Rights legislation and in the showing of strong leadership both by words and actions. This responsibility cannot be delegated as determined in the Brown Principles.

Legislation continues to be updated and amended. Consequently the Equality Commission for Northern Ireland and the Northern Ireland Human Rights Commission, are increasingly becoming more vigilant regarding compliance by public bodies and may support cases brought by staff and service users through the courts when public authorities are found to be in breach.

As an HSC Trust, whose values and principles are also rooted in the values and principles of equality, good relations, human rights, inclusion and participation, it is likely that organisations will continue to look towards HSC organisations for evidence of best practice. Scrutiny of the progress made by the organisation and its Board Members will allow any short comings to be identified and addressed by accountable officers.

Appendix 1



Demonstrating Effective Leadership Checklist

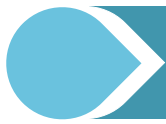
Below is a summary of the checklist. The full document if required can be accessed.

Good Governance by ensuring that:

1. An approved Equality Scheme is in place and its requirements are understood by all officers with Section 75 responsibilities ie. senior managers, policy makers, those taking policy decisions and equality officers.
2. Key responsibilities and resources for Section 75 are allocated.
3. The Section 75 duties are integrated into core business activities including business plans, staff objectives and risk registers.
4. Equality Scheme training commitments are implemented, including appropriate mandatory training eg. for policy makers who will be undertaking screening/EQIA.
5. Section 75 data/evidence is gathered and policies are developed based on this evidence. Post implementation, the Section 75 equality impacts of policies must also be monitored.
6. The implementation of the Section 75 commitments is reviewed regularly eg. review quarterly screening reports.

Meaningful Equality Assessments by ensuring that:

7. Screening and Equality Impact Assessments are undertaken for each policy, as defined in the Equality Scheme. If equality assessments are not provided, then decision makers should ask for them.
8. They are timely, of good quality, coherent, evidence based and proportionate. If appropriate, if equality information is not provided, then decision-makers should ask for it.
9. They have an appropriate focus on equality and good relations.

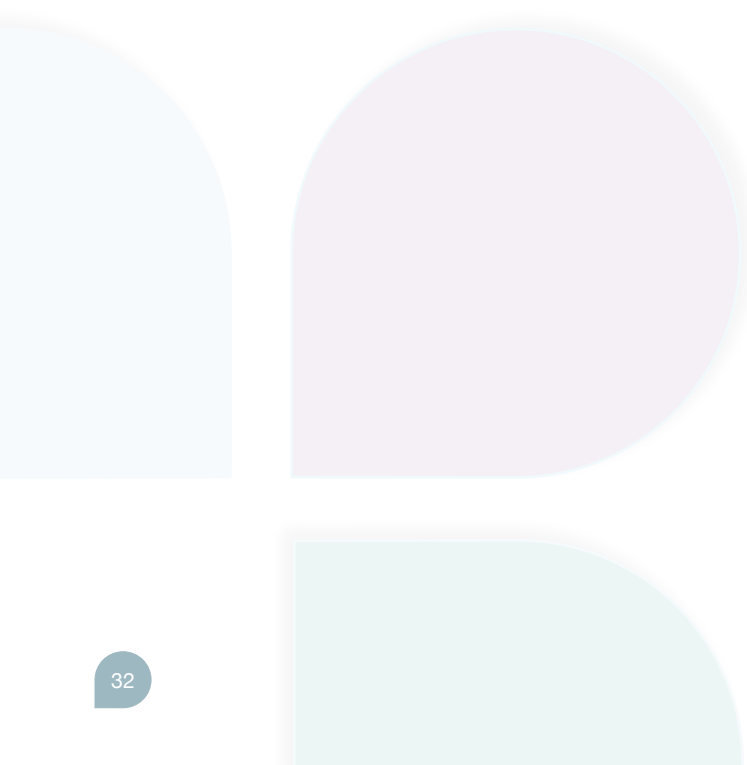


Communication and Engagement by ensuring that:

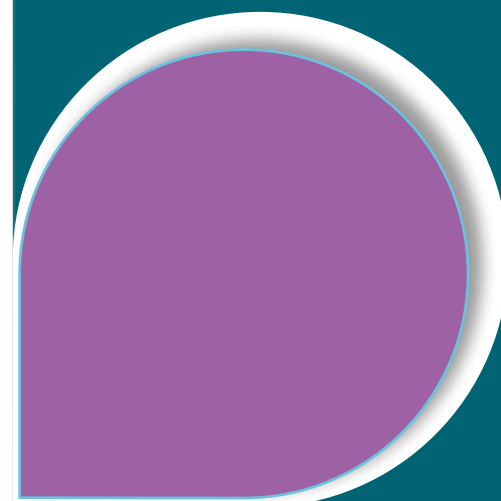
10. The importance of the Section 75 duties is regularly communicated, both internally and externally.
11. An effective internal challenge function to policymakers is in place, to engage all functions of the organisation, and leaders actively support the role of the 'equality function'.
12. The organisation works with other public authorities to implement the duties, eg. where they also have a role in developing or implementing a policy.
13. There is effective consultation with those affected by policies, as policies are being developed.
14. There is transparency of decision-making and equality considerations, evidenced by the timely recording and communication of equality assessments, demonstrating that the appropriate level of regard has been paid and Equality Scheme commitments complied with.

Actions to Address Persistent Inequalities by ensuring that:

15. A current Section 75 Action Plan is in place, based on a robust audit of inequalities.



Appendix 2



HSC Values and behaviours

What does this mean?



Working together

We work together for the best outcome for people we care for and support. We work across Health and Social Care and with other external organisations and agencies, recognising that leadership is the responsibility of all.

What does this look like in practice?

- I work with others and value everyone's contribution
- I treat people with respect and dignity
- I work as part of a team looking for opportunities to support and help people in both my own and other teams
- I actively engage people on issues that affect them
- I look for feedback and examples of good practice, aiming to improve where possible.



Excellence

We commit to being the best we can be in our work, aiming to improve and develop services to achieve positive changes. We deliver safe, high quality, compassionate care and support.

- I put the people I care for and support at the centre of all I do to make a difference
- I take responsibility for my decisions and actions
- I commit to best practice and sharing learning, while continually learning and developing
- I try to improve by asking 'could we do this better?'



Openness & Honesty

We are open and honest with each other and act with integrity and candour.

- I am open and honest in order to develop trusting relationships
- I ask someone to help when needed
- I speak up if I have concerns
- I challenge inappropriate or unacceptable behaviour and practice.

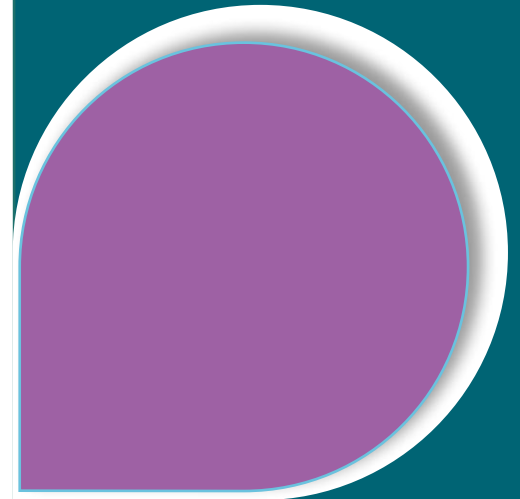


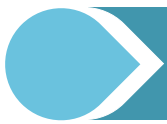
Compassion

We are sensitive, caring, respectful and understanding towards those we care for and support and our colleagues. We listen carefully to others to better understand and take action to help them and ourselves.

- I am sensitive to the different needs and feelings of others and treat people with kindness
- I learn from others by listening carefully to them
- I look after my own health and wellbeing so that I can care and support others.

Appendix 3





Equality legislation

Under the anti-discrimination laws, an employer is deemed to be responsible for any discriminatory actions that his employees may make in the course of carrying out their work.

The employer can avoid liability in these circumstances only if they can prove that they took reasonably practicable steps to prevent the act(s) of discrimination or harassment. This basically requires an employer to continually follow and apply the kinds of “good practice” guidelines that are set out in the equality Codes of Practice and in similar publications issued by the Equality Commission.

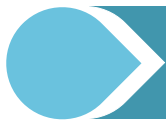
The anti-discrimination laws also provide that employees who act in unlawfully discriminatory ways may themselves be held personally liable for their actions.

Listed below is the “equality legislation” relevant to working within health and social care:

- The Northern Ireland Act 1998
- Equal Pay Act (NI) 1970
- Sex Discrimination (NI) Order 1976
- Race Relations (NI) Order 1997
- Fair Employment and Treatment (NI) Order 1998
- Employment Equality (Sexual Orientation) Regulations (NI) 2003
- Equality Act (Sexual Orientation) Regulations (NI) 2006
- Disability Discrimination Act 1995 (DDA 1995)
- Sections 49A & 49B, Disability Discrimination Act 1995
- Employment Equality (Age) Regulations (NI) 2006.

Other relevant legislation:

- Human Rights Act 1998
- Civil Partnership Act 2004.



Further information on the previous legislation can be found below.

The Northern Ireland Act 1998

Section 75 of the Northern Ireland Act 1998 places a duty on public authorities to have due regard to the need to promote equality of opportunity between:

- People of different religious beliefs (according to the 2011 NI Census there are 100 identifiable religious groups present in Northern Ireland)
- People of different political opinion
- People of different racial group (includes race, colour, nationality, ethnic or national origins)
- People of different ages (eg. young and old people, but not limited to that)
- People of different sexual orientation (gay, lesbian, bisexual, heterosexual)
- People of different marital status
- Men and women generally
- People with and without a disability and
- People with and without dependants.

The HSC organisation must consider the need to promote equality of opportunity between people in the above nine categories when making decisions and when developing or reviewing policies. Each organisation's Equality Scheme sets out the procedural arrangements which the organisation must follow when doing this. This includes arrangements for screening policies and, where appropriate, conducting equality impact assessments and consultations.

Another aspect of the Section 75 duty requires the organisations to have regard to the desirability of promoting good relations between people of different religious beliefs, political opinions or racial groups. Again, this will be done by following the arrangements outlined in each organisation's Equality Scheme.

It is important that Board Members give a clear message that they value diversity and respect individual difference to make sure that the working environment is fair and inclusive.



Equal Pay Act (NI) 1970

The purpose of this law is to promote the principle that men and women should receive equal pay for equal work. The Act aims to achieve its objective by incorporating an equality clause into all contracts of employment.

This equality clause guarantees both sexes the same money for doing the same or broadly similar work, or work rated as equivalent by a job

evaluation study or if the job has equivalent demands in terms of skill, knowledge, decision-making and environmental demands. Such a clause operates unless an employer can prove that pay variation between the sexes is reasonable and genuinely due to a material difference between their case.

The effect of this is to give each employee a contractual right to receive equal pay with any employee of the opposite sex with whom they are doing equal work. The equality clause is not only concerned with salaries and wages, but also with all other contractual terms and conditions of employment.

Sex Discrimination (NI) Order 1976

This law bans discrimination against men and women on the grounds of sex in all those other areas of the employment relationship that are not covered by the Equal Pay Act (NI); eg. it bans discrimination and harassment in relation to the recruitment of new staff, opportunities for career development for current employees, termination of employment and in how employees behave towards one and other.

The Sex Discrimination (NI) Order 1976 makes it unlawful to discriminate against:

- An individual on the grounds of sex in relation to employment, vocational training and related matters, education, the provision of goods, facilities and services and the disposal and management of premises
- An individual on the ground that they are married or in a civil partnership in relation to employment and vocational training; and a woman on the grounds that she is pregnant or that she intends to take, is taking or has taken statutory maternity leave
- An individual on the grounds that they intend to undergo, are undergoing or have undergone gender reassignment, in relation to employment and



vocational training, the provision of goods, facilities and services and the disposal and management of premises.

Race Relations (NI) Order 1997

The Race Relations (NI) Order 1997 outlaws discrimination and harassment on racial grounds. The Order makes racial discrimination unlawful in the following areas:

- Employment
- Goods, facilities and services
- Education
- Housing and accommodation and
- Management and disposal of premises.

The Order defines racial grounds as the grounds of colour, race, nationality, or ethnic or national origins but makes no express reference to language. The Irish Traveller community is specifically identified in the Order as a racial group.

The need to communicate in languages, other than English, is often implicit rather than explicit, however language is often associated with the racial grounds of ethnic or national origins and nationality. Nevertheless failing to provide interpreting facilities, without lawful justification, in relation to employment or service provision, when it is known that there is a language barrier, could be construed as unlawful racial discrimination.

Fair Employment and Treatment (NI) Order 1998

This law bans discrimination and harassment by employers and service providers on the grounds of religious belief or political opinion. This includes a person's supposed religious belief or political opinion and the absence of any, or any particular, religious belief or political opinion.

The Order defines three types of unlawful discrimination:

- Direct discrimination is where a person on grounds of religious belief or political opinion is treated less favourably than others are treated, or would be treated in the same or similar circumstances

- Indirect discrimination may occur where a provision, criterion or practice, although applied equally to all, would put persons of a particular religion or belief at a particular disadvantage compared with other persons, unless that provision, criterion or practice, is objectively justified by a legitimate aim
- Victimisation means treating someone less favourably than others because they have, for example, complained of alleged discrimination or have assisted someone else to do so.

Employment Equality (Sexual Orientation) Regulations (NI) 2003

This law bans discrimination and harassment in employment on grounds of sexual orientation.

Sexual orientation means a sexual orientation towards people of the same sex, or people of the opposite sex, or people of the same or the opposite sex. Thus, it refers to the sexual orientations that are commonly known as gay, lesbian, bisexual and straight.

It is unlawful for employers and others to discriminate on grounds of sexual orientation, or perceived sexual orientation, in the areas of:

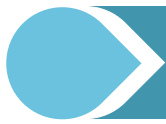
- Employment
- Vocational training, including further and higher education.

These Regulations apply only to employment and training and do not extend to goods, facilities and services.

NB: Refer to the Equality Act (Sexual Orientation) Regulations (NI) 2006 below for reference to goods, facilities and services.

Equality Act (Sexual Orientation) Regulations (NI) 2006

Under these Regulations it is unlawful to discriminate on grounds of sexual orientation in the provision of goods, facilities or services and the disposal or management of premises. The legislation applies to all those who provide goods, facilities or services, whether these are paid for or not. It also applies to bodies in charge of education establishments, public authorities, and



associations and private members clubs with more than 25 members. Discriminatory advertisements are also covered by the Regulations.

Disability Discrimination Act 1995 (DDA 1995)

The main purpose of this law is to ban discrimination and harassment in employment and in service provision against disabled people.

It is most notable for imposing a special duty on employers and service providers to make reasonable adjustments for disabled people in certain circumstances. The purpose of this duty is to remove or reduce physical, procedural and attitudinal barriers that prevent disabled people from enjoying the same equality of opportunity that non-disabled people enjoy.

The Act aims to end the discrimination which many people face and gives rights in the areas of:

- Access to goods, facilities and services
- Buying or renting land or property
- Employment.

The Act states that we must not:

- Refuse to provide a service to a disabled person
- Offer a disabled person a lower standard of service
- Offer a disabled person less favourable terms; and we must
- Make reasonable adjustments so that disabled people can use our services.

Where a disabled person finds it impossible or unreasonably difficult to use a service then the HSC organisation must make reasonable adjustments by changing its policy, providing a reasonable alternative method or providing an auxiliary aid or service.

Disabled people are active members of society. It is important that all staff use language that communicates a positive image of disability.

Regardless of our work position or location, the way we communicate will influence how we, and the HSC organisation, are viewed.

Sections 49A & 49B, Disability Discrimination Act 1995

These are separate duties imposed on public authorities, including Health and Social Care Trusts by the Disability Discrimination Act 1995. The main duty obliges the Trusts, when carrying out their functions, to have due regard to the need to:

- Promote positive attitudes towards disabled people and
- Encourage participation by disabled people in public life*.

The duties are similar to the Section 75 duty in that they require the Trust to consider the need to promote such positive attitudes and to encourage such participation when making decisions and when developing or reviewing policies.

The procedural arrangements that the Trust will follow when complying with the duty are set out in its Disability Action Plan, a document that is similar to a Section 75 Equality Scheme.

Employment Equality (Age) Regulations (NI) 2006

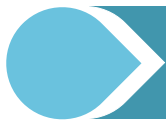
These Regulations came into effect in October 2006 and ban age discrimination in terms of recruitment, promotion and training as well as harassment on grounds of age whether young or old. These regulations do not apply to the provision of goods, facilities and services.

Other Relevant Legislation

Human Rights Act 1998

The Human Rights Act 1998, which came into force in full on 2 October 2000, is a key part of the Government's programme to modernise the constitution. It incorporates into domestic law the European Convention on Human Rights (ECHR) to which the UK has been committed since 1951. Convention principles were therefore already reflected in Government's legislation and policies and have been informing best practice in health and social care.

The Act does not confer any new rights. Incorporation of the ECHR into domestic law enables people in the UK to enforce their existing Convention Rights and freedoms in UK courts. As a result they will avoid the cost and



delay of taking a case to the European Court in Strasbourg. It is still open to people to petition the Court in Strasbourg once they have exhausted their domestic remedies. Public authorities should always consider carefully the implications of Convention Rights in all that they do, and ensure that they can justify any interference with Convention Rights which their work gives rise to.

While the law creates a duty to respect, protect and fulfil human rights it does not mean all human rights must be guaranteed at all times. Most rights can be limited under certain circumstances. Such interferences with rights must be justifiable and meet the legal criteria applied to each type of right.

We have to consider the impact our actions may have on human rights. We will need to be careful about the balance we are striking and consider how we can cause the minimum harm to rights.

The Act is designed to promote the values of tolerance, respect for diversity and broadmindedness. HSC staff needs to develop a sense of human rights and make sure these values are central to their working lives.

THE PANEL PRINCIPLES

The United Nations has developed a set of principles which can be used as a model of good practice for incorporating human rights. These are known as the PANEL principles:

Adopting Human Rights Based Approach

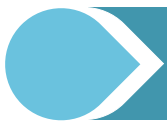
A human rights based approach is the explicit use of human rights values and standards in policy, planning and delivery.

Participation of rights holders

Involving the affected service users in the policy development process from the earliest possible stage.

Accountability of duty bearers

Identifying which services users are the key rights holders for the purpose of this policy and outlining the responsibilities of all the stakeholders that carry obligations in relations to their human rights.



Non-discrimination to ensure equal enjoyment of rights

Examining how the rights of different groups are affected by the policy and ensuring that positive action is taken if necessary to address inequality.

Empowerment of rights holders

Ensuring that the involvement of stakeholders in the policy development process is designed to engage vulnerable and marginalised groups and empower them as rights-holders.

Legality of rights through human rights framework

Underpinning all policy development in the legally binding obligations created by human rights law and standards. Using screening and impact assessment tools to check for legal compliance.

International

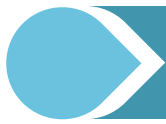
In addition to domestic and regional law protecting human rights the UK government has also accepted duties under a number of international human rights treaties. When a State ratifies a treaty it indicates its consent to be legally bound by all of the obligations contained therein. States voluntarily enter into these international agreements with the approval of the national parliament. The UK has ratified seven core UN human rights treaties

Civil Partnership Act 2004

This Act creates a new legal relationship of “Civil Partnership”, which two people of the same-sex can form by signing a registration document. It also provides same-sex couples, who form a civil partnership, with parity of treatment in a wide range of legal matters with those opposite-sex couples who enter into a civil marriage.

The Rural Needs Act (Northern Ireland) 2016

The Rural Needs Act was introduced to ensure the consideration of the needs of people in rural areas becomes more firmly embedded within public authorities.



The Act seeks to help deliver fairer and more equitable treatment of people in rural areas and contribute to delivering better outcomes for people in rural areas and help make rural communities more sustainable.

It also seeks to increase transparency by requiring public authorities to compile and publish information on how they comply with the due regard duty when carrying out certain activities and for this information to be published in an annual report.

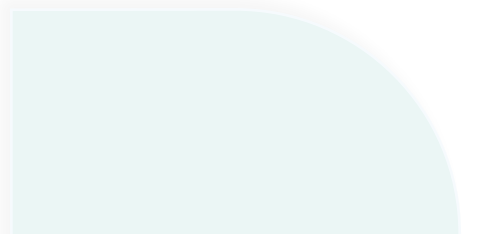
The Rural Needs Act establishes a duty on Public Authorities to have “due regard to rural needs” when:

- “Developing, adopting, implementing or revising policies, strategies, and plans” and
- “Designing and delivering public services”.

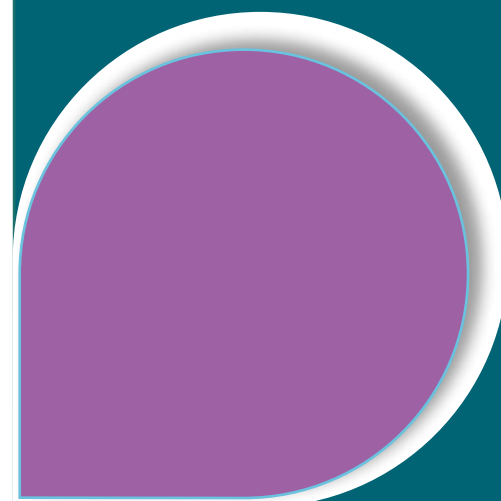
The Act came into effect for government departments and councils from June 2017 and other public authorities, including Trusts, from June 2018.

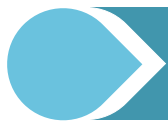
Trust Responsibilities include:

- To have due regard to rural needs in the development of all policy and public service delivery decisions
- To monitor this activity and report on this on an annual basis by:
 - submission of a report to DAERA, and
 - in their own organisation’s Annual Reports
- To carry out these duties in line with any guidance or advice set out by DAERA.



Appendix 4





Relevant documents

Equality Scheme

Equality Action Plan 2018 – 2023

Disability Action Plan 2018- 2023

Annual Progress Report

ECNI Demonstrating Effective Leadership Checklist

Section 75 Guidance

Human Rights flowchart

The Rural Needs Act (Northern Ireland) 2016

Involving You - PPI Strategy Policy Statement

General Data Protection Regulation (GDPR) 2016

Report on the Review of the Implementation of the Rural Needs Act (NI)
2016, January 2020

