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To Whom It May Concern:

**DELIVERING THE BAMFORD VISION: THE RESPONSE OF THE NORTHERN
IRELAND EXECUTIVE TO THE BAMFORD REVIEW OF MENTAL HEALTH
AND LEARNING DISABILITY**

Please find attached CAJ's response to the above document.

Many thanks,

Tim Cunningham
Equality Project Worker

Response of the Committee on the Administration of Justice

To

DELIVERING THE BAMFORD VISION: THE RESPONSE OF THE NORTHERN IRELAND EXECUTIVE TO THE BAMFORD REVIEW OF MENTAL HEALTH AND LEARNING DISABILITY

General Comments

The Committee on the Administration of Justice, (CAJ), is a non-governmental organization established in 1981, which draws its membership from across the communities of Northern Ireland and beyond, and is concerned to ensure that the government meets its international obligations to protect and promote human rights in Northern Ireland. CAJ works across a broad range of civil, political, economic, social and cultural rights, and in 1998, we were honoured to be awarded the prestigious Human Rights Prize by the then 40 member states of the Council of Europe.

As an organization CAJ does not possess a great deal of internal expertise in the field of mental health and learning disability, and as such, our contact with the extensive work that took place in relation to the Bamford Review has been somewhat limited. CAJ did however welcome the establishment of the review initially, which we saw as a significant opportunity to enhance the life experiences of those people with mental health issues, or learning disabilities. We also have little doubt that the Review team and various working groups conducted an extensive programme of work throughout the Review and identified a fairly comprehensive range of measures necessary to remove the barriers faced by those persons experiencing mental illness or learning difficulties.

What is perhaps most disappointing about the current process however is the way in which so many organisations and individuals who had engaged seriously with the Review over the past number of years now feel let down with the way in which the Executive have responded to the proposals. Among the criticisms that CAJ is aware of for example is the fact that issues pertaining to learning disability have virtually fallen off the agenda in this process; in spite of the fact that this was supposed to be a central aspect of the original review.

Equally, criticisms has been levelled at the lack of identified funding to support the proposals as a whole, along with a failure to engage specifically with the needs of groups such as ethnic minorities, younger women, etc. The fact that so many key stakeholders have, rightly in our view, adopted such a critical position in relation to the Executive's position does not in our view auger well for the future of mental health and learning disability provision in Northern Ireland. Such failings present a major human rights and equality issue for those people who are among the most vulnerable in our society.

Equality Implications of Executive Response to Bamford

CAJ is of the view that one way in which many of the problems identified above could however be addressed is through the carrying out of an Equality Impact Assessment of the Executive's response. CAJ does not accept the reasoning of the screening exercise (contained in Appendix 3) which has concluded that no EQIA is necessary in this case.

We note that the document states that a full EQIA is not required for a number of reasons set out. CAJ disagrees with the reasoning in relation to all of these, and will deal with each one in turn.

Reason 1 "An overall aim of the Bamford Review and of the NI Executive policy as articulated in this document is to protect the rights of people with a mental health problem or a learning disability and to promote equality of opportunity for them."

That may well be the case, the point about an EQIA however is to determine whether there may be any unintended consequences for any of the Section 75 groups, such as people from an ethnic minority background for example, in relation to the proposals outlined. Equally, an EQIA can provide an outline of the extent to which need among people with a mental health problem or a learning disability is being met. Merely claiming that proposals will promote equality is an insufficient rationale for not conducting an EQIA, given that the EQIA should help to identify exactly for whom equality will be promoted, and by how much.

Reason 2 "The recommendations made by the Bamford Review were developed within a set of overarching human rights and equality guidelines drawn up by the Review's Human Rights and Equality Sub-Group".

This statement may very well be true. However it is worth noting that the Guidelines developed by the sub-group are distinct from the requirements of Section 75. Moreover, the sub-group made a series of recommendations, including that "services must comply with the equality obligations of Section 75 of

the Northern Ireland Act 1998 and take account of those who experience multiple disadvantage.” The most effective way in which this can be achieved is through the carrying out of an EQIA.

Reason 3 “The document is a broad statement of policy for services for all people with a mental health problem or a learning disability and as more detailed policies and strategies are developed in response to specific elements of the Bamford vision, the human rights and equality implications of these will be considered separately.”

This is perhaps the most problematic of all the reasons provided. Firstly, the Executive’s response runs to some 100 pages – quite a lengthy “broad statement”. Secondly, the purpose of an EQIA is to seek to provide an objective assessment of the impact of the overall strategy.

While individual programmes may be subject to an EQIA at delivery stage, it is important that there is an EQIA at a strategic level in order to ensure that the overall or aggregate impact of the proposals is identified. The EQIA should also be particularly useful in relation to identifying the impact of decisions regarding prioritisation of individual programmes, so that the strategy is brought forward in a coherent and systematic way.

Reason 4 “The human rights and equality implications of the proposed legislation, as described in Chapter 7, will be considered separately in keeping with the Human Rights Act 1998 and Section 75 of the Northern Ireland Act”.

Again, it may well be the case that the proposed legislation is subject to an EQIA and Human Rights Act assessment, however it is equally important that there is an overall assessment of the proposals, both legislative and policy, particularly from the point of view of any potential failures of the current system.

Conclusions

CAJ consistently seeks to emphasise that the purpose of an EQIA is not to engage in a procedural exercise for its own sake, but rather to make a meaningful assessment of the overall impact of a particular policy or strategy across the Section 75 groups. By so doing, potential gaps are identified and better policies/strategies are put in their place. An EQIA is in effect a tool for ensuring better decision-making.

Any failure to carry out an EQIA therefore is ultimately to the detriment of everyone including those seeking to take forward the proposals in the first place,

given that they have effectively denied themselves an opportunity to better inform their own work. Moreover, the fact that such a range of arguments are being deployed to avoid conducting an EQIA seriously questions the commitment of the Executive at a political level to addressing the needs of those people most affected by this issue.

Certainly, if the Executive is in any way serious about taking forward the Bamford vision, then there is no logic whatsoever to the refusal to conduct an EQIA at this stage. Moreover, given the clear potential equality implications of these proposals, and the fact that currently within Northern Ireland, persons experiencing mental illness or learning disabilities face serious inequalities across a range of public policy areas, including, but not exclusively, provision of health and social services, the decision that a full EQIA is not required at this stage, is in our view a wholly incorrect interpretation of the law.

It is equally clear in our view that there are serious questions as to whether persons experiencing mental illness or learning difficulties are facing potential violations of their basic human rights, such as respect for private and family life for example. In such a context, if the Executive is to ensure compliance with basic legal standards in relation to human rights and equality requirements, an EQIA and an audit of compliance with the provisions of the Human Rights Act are immediate starting points, and should inform any further actions.