

CAJ's Submission no. S434

CAJ's submission to the 11 new District Councils in relation to draft Equality Schemes

August 2014

New Equality Schemes: EQIAs and the role of ‘good relations’

The Committee on the Administration of Justice (‘CAJ’) is an independent human rights organisation with cross community membership in Northern Ireland and beyond. CAJ co-convenes (with UNISON) the Equality Coalition, a network of NGOs from across the nine equality categories within section 75 of the Northern Ireland Act 1998, and has taken a keen interest in the implications of local government reform on the section 75 equality duties.

To this end CAJ is particularly interested in the Equality Schemes the new councils will have to adopt, following the reorganisation of local government and establishment of 11 new councils currently in shadow form. In 2013, coinciding with the launch of the *Together: Building a United Community Strategy*, CAJ launched research, ‘[Unequal Relations](#)’ which examined the impact of public authorities including ‘good relations’ considerations in Equality Impact Assessments (EQIAs). Recently for Community Relations Week we issued two briefing papers the [first](#) outlining the background to ‘good relations’ considerations in EQIAs, and the [second](#) specifically examining the implications of the Equality Commission’s Raymond McCreesh Park investigation report.

Further to learning from the research CAJ would like to make two recommendations for inclusion in your statutory Equality Scheme, both relating to the above matter of how the ‘good relations’ duties are reflected in the Equality Scheme.

1: Define ‘good relations’ in the Equality Scheme (taking definition from s149(5) Equality Act 2010)

Although the legislation only provides that many of the key elements of an Equality Scheme relate to the s75(1) ‘equality of opportunity’ limb of the duty only some elements also apply to the s75(2) ‘good relations’ duty. This includes the Equality Scheme showing how the public authority proposes to fulfil the duties in general¹.

The CAJ research and other commentary have drawn attention to a lack of legal certainty and scope for vague and subjective implementation of the good relations duty given the absence of a clear definition of the concept. Considerable concern has also been highlighted about misuse of ‘good relations’ to thwart equality initiatives in this context. From 2007 the Equality Commission has recommended public authorities adopt a definition, and has not been proscriptive about what that should be.²

¹ Schedule 9, of the Northern Ireland Act 1998, paragraph 4(1).

² Promoting Good Relations, Guide for Public Authorities 2007, paragraph 3.26.

CAJ advocates that the Council includes in its Equality Scheme a definition of ‘good relations’ adapted from that already provided for in law in Great Britain³ and consistent with the formulation of section 75(2), namely that:

‘*good relations*’ means, in particular, having regard to the desirability of a) tackling prejudice and b) promoting understanding

We feel this definition would not only help prevent misinterpretation of the duty but would also assist in supporting a framework for existing Council good relations work. In being ‘in particular’ (i.e. not exclusively but primarily) about tackling prejudice and promoting understanding provides a focus for combating sectarianism and other forms of racism (tackling prejudice) as well as a framework for work on reconciliation and dialogue (promoting understanding). Should ‘good relations’ be clearly defined as above we would also suggest consideration of going beyond s75(2) in relation to the categories it covers and also including matters such as a commitment to tackling homophobia as general element of the Equality Scheme.

2: Separate ‘good relations’ from EQIAs and screening (consistent with the existing legislation)

It is important to note that neither the Belfast/Good Friday Agreement nor the legislation envisage or require ‘good relations’ considerations being part of equality impact assessments. Duties under schedule 9 to assess the impact of policies, monitor ‘adverse impacts’, consider mitigating measures against adverse impacts or alternative policies, apply to the s75(1) equality of opportunity limb of the duty only.⁴

Although the Equality Commission since 2007, and in its current model scheme, suggests public authorities could also include good relations questions in screening and equality impact assessment methodology in a similar manner as equality considerations, our research has found that this approach has been fraught with difficulties. This is not least as applying defined equality concepts such as ‘adverse impact’ to a more subjective concept of ‘good relations’ has had perverse outcomes. We have identified instances whereby measures actually taken to further rights and equality have been classified as ‘adverse impacts’ on good relations grounds, due to objections to them. The situation has also led, in practice, to a blurring of the primacy the equality duty is to take over good relations considerations.

We would therefore recommend that the current good relations impact questions are removed and hence decoupled from screening and equality impact assessment exercises.

³ s149(5) Equality Act 2010

⁴ These requirements being restricted to the equality of opportunity limb of the duty only are also set out on pages 32-34 of the Equality Commission’s current (2010) guide to public authorities on the Section 75 duties

We would recommend that any consideration of good relations in the context of policy appraisal is limited to, following an EQIA, provision to explore whether there is an opportunity for complimentary 'good relations' measures to tackle prejudice and promote understanding. This, being limited to questions of screening and EQIAs, would not impact on the broader 'good relations' work of a Council, but would address the issues which have arisen in relation to impact assessment.

In addition to the above matters on 'good relations' CAJ would also recommend that the new equality schemes also contain commitments to: publish Council screening templates online and take reasonable steps to inform consultees of same; and that audits of inequalities will be consulted on and also published.

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