

Partnership 2000
Working Group Report
on
Equality Proofing

Research commissioned by
the Department of Justice, Equality and Law Reform

January 2000

Siobhan Mullally and Olivia Smith
Law Faculty, NUI (Cork)

© Government of Ireland 2000

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN,
BAILE ÁTHA CLIATH 2,
nó tríd an bpost ó
FOILSEACHÁN RIALTAIS, AN RANNÓG POST-TRÁCHTA,
4-5 BÓTHAR FHEARCHAIR, BAILE ÁTHA CLIATH 2
(Teil: 01 6613111 – Fo-line 4040/4045; Fax: 01 4752760)
nó tríd aon díoltóir leabhar

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased directly from the
GOVERNMENT PUBLICATIONS SALES OFFICE
SUN ALLIANCE HOUSE, MOLESWORTH STREET, DUBLIN 2
or by mail order from
GOVERNMENT PUBLICATIONS, POSTAL TRADE SECTION,
4-5 HARCOURT ROAD, DUBLIN 2
(Tel: 01 6613111 – EXT 4040/4045; Fax: 01 4752760)
or any other bookseller

£5.00
C6.35

Acknowledgements from the authors of the research

The authors would like to thank all members of the Working Group for their comments and feedback throughout the course of this research. In addition, we would like to thank the following people and organisations for the information supplied and assistance given over the course of this research:

Kieran Rose, Gay and Lesbian Equality Network/Nexus Research; Ann Leahy, Age and Opportunity; Lorna Ryan, Pavee Point; Tom Murphy, NAPS Unit; John Fry, Faculty of Agriculture, UCD; Edward Godfrey, CCRU; Chrisptoher McCrudden, Lincoln College, Oxford; Disability Federation of Ireland; Irish Refugee Council; Irish Council of People with Disabilities; One Parent Exchange and Network (OPEN).

Membership of the Working Group

Ms Vera Kelly	- Chairperson
Ms Joan Carmichael	- ICTU
Ms Kathleen Connolly	- Department of Justice, Equality and Law Reform
Mr Niall Crowley	- Equality Authority
Mr Peter Flood / Ms Claire Jones	- IBEC
Ms Maria Hegarty	- Community and Voluntary Pillar
Mr Gerry Hickey	- Equality Authority
Ms Mary Kennedy	- NAPS Unit, Department of Social, Family and Community Affairs
Ms Helen Johnston	- Combat Poverty Agency
Ms Orla O'Connor	- National Women's Council of Ireland
Ms Siobhan O'Donoghue	- Community Workers Co-operative
Ms Fionnuala Ruane	- Macra Na Feirme

Table of Contents

Foreword	9
Executive Summary and Recommendations	11
Introduction	15
Chapter 1: Equality Proofing - Terms and Concepts	17
Chapter 2: Background	21
Chapter 3: Prioritising	29
Chapter 4: Guidelines for Equality Impact Assessment	35
Chapter 5: Consultation and Participation by Target Groups	41
Chapter 6: Equality Proofing - A Vision	43
Chapter 7: Equality Proofing - The Learning Phase	49
APPENDICES	
Appendix 1: Disability Proofing	55
Appendix 2: Traveller Proofing	56
Appendix 3: Gender Impact Assessment	57
Appendix 4: Poverty Proofing Guidelines	62
Appendix 5: The Statutory Equality Duty under the Northern Ireland Act, 1998 (S 7.5)	66
Select Bibliography	70

Foreword

Partnership 2000 contained the following commitment at paragraph 5.2 to equality proofing:

In the context of the NAPS, strengthening of administrative procedures for equality proofing , having regard to the recommendations of the NESF.

In order to assist with the implementation of this commitment the Department of Justice, Equality and Law Reform commissioned a research project entitled 'the Evaluation and Development of equality proofing in the context of the National Anti-Poverty Strategy' in November, 1998 . The tender was awarded to a research team based in University College Cork. It was decided to approach this task by focusing on gender proofing in the context of the Structural Funds as a separate research task and to examine wider issues of equality proofing in national policy as a second project. Accordingly the following terms of reference were agreed for the research team:

- (a) to make recommendations on a Gender Proofing Policy in the context of the European Structural Funds
- (b) to make recommendations on the nature of, and means of undertaking, a suitable equality proofing policy, specifically in the context of the National Anti-Poverty Strategy, and
- (c) to make recommendations on the feasibility of a wide ranging application of equality proofing.

The Department wishes to record its thanks to Siobhan Mullally and Olivia Smith for their research input to this report particularly in relation to the practical steps involved in carrying out equality proofing and for the international perspective.

The Department convened a Working Group including representatives of the Social Partners, the Department of Social, Community and Family Affairs, the Equality Authority and the Combat Poverty Agency to advise on the development of policy approaches for equality proofing. The Department wishes to thank the members of the Working Group for their valuable contribution to this report.

The report presents a vision of an integrated proofing process covering gender, poverty and equality. Implementation of this vision requires a focus on proofing in both public and private sectors. The Working Group is recommending a "learning phase" during the period 2000-2003 where experience on equality proofing covering the nine categories identified in equality legislation would be developed in a number of specific policy areas. The Working Group is also recommending the establishment of a learning mechanism to promote an awareness of equality proofing and to evaluate the lessons from the learning phase.

Executive Summary and Recommendations

The national agreement between Government and the Social Partners, Partnership 2000 provided for a commitment to strengthening administrative procedures for equality proofing in the context of the National Anti-Poverty Strategy. A working group including representatives of the social partners was set up by the Department of Justice, Equality and Law Reform in November, 1998, to examine how to proceed with the implementation of this commitment. Two research projects were commissioned, one relating to gender proofing in the context of the Structural Funds 2000 - 2006 and a second project on equality proofing.

The gender proofing report was finalised by the Working Group and presented to Partnership 2000 in July 1999. In relation to the second research project, the researchers were asked (a) to make full recommendations on the nature of, and means of undertaking, a suitable equality proofing policy, specifically in the context of NAPS; and (b) to make detailed recommendations on the feasibility of a wide ranging application of equality proofing given the limited resources of public enterprises generally, and a view as to whether a more narrowly focused equality proofing policy might prove a more effective use of resources.

This Report draws on the experiences of existing policy proofing processes, both within this jurisdiction and elsewhere. In particular, it draws on the poverty proofing guidelines developed within the context of the NAPS, the Gender Proofing guidelines developed within the context of the EU Structural Funds, the Policy Appraisal and Fair Treatment process (PAFT) in Northern Ireland and the statutory duty on public authorities in Northern Ireland to promote equality of opportunity. Mainstreaming strategies, developed within the European Union, the Council of Europe and the United Nations were also drawn upon, as were the emerging models for social impact assessment and human rights impact assessment (both within the UN and elsewhere). The recommendations of the NESF for the development of equality proofing procedures underpin the strategic framework outlined in this report.

Chapter 1 defines the terms, concepts and basic principles of an equality proofing process and sets out the reasons for and the benefits of an equality proofing process. The report focuses on equality proofing for the nine target groups covered in equality legislation: gender, family status, disability, age, race, marital status, sexual orientation, religion, and membership of Traveller Community.

Chapter 2 examines the background against which proposals for equality proofing have emerged in Ireland. It highlights the introduction of 1998 Employment Equality Act and the publication of the 1999 Equal Status Bill. It also examines the existing policy proofing procedures, the Guidelines for Poverty Proofing developed within the context of the National Anti-Poverty Strategy and the Guidelines for Gender Proofing developed within the context of the European Structural Funds. Strategies adopted to mainstream equality into law and policy making in the EU, the UN and Northern Ireland are also examined.

Chapter 3 argues for an effective screening mechanism as part of a strategic approach to equality proofing. A screening mechanism helps to improve the effectiveness of equality proofing by identifying policies which have a major impact on the relevant target groups.

Chapter 4 details the steps involved in carrying out an equality impact assessment. Key stages in this process are establishing the position before the introduction of a new policy, defining desired outcomes and the range of issues to be addressed within an equality impact assessment. The process also involves an assessment of the likely impact of proposals on the target groups,

an outline of alternative options and the steps necessary to ensure effective implementation of the proposal for the target groups. The Equality Impact Assessment also includes arrangements for monitoring and evaluation and provides for an Impact Assessment Statement which should be published.

Participation by the target groups in policy making is a crucial feature of any proofing process. The considerations arising in undertaking effective consultation are outlined in Chapter 5.

The Working Group articulated a vision of a single integrated equality proofing process in Chapter 6. To contribute towards the achievement of this vision the Working Group **recommends**:

I. An initial learning phase over the period 2000-2003 centered on the development of three distinct, though interrelated proofing strands of:

- Gender within the context of the Structural Funds and the National Development Plan 2000-2006;
- Poverty within the context of the National Anti-Poverty Strategy;
- Equality covering the nine target groups covered by the equality legislation.

II. That a Working Group convened by the Department of Justice, Equality and Law Reform and drawn from relevant Government Departments, the Equality Authority, the Combat Poverty Agency and the Four Pillars of Social Partnership be established to provide an ongoing focus on Equality Proofing Issues. The Working Group would have a mandate to:

- Monitor the progress made in implementing the Equality Proofing initiatives proposed at 1 above;
- Operate as a 'learning mechanism' to ensure that the experience gained in gender, poverty and equality proofing would be presented in a report.
- Outline steps which should be taken to progress from the 'learning phase' to a broader implementation of equality proofing;
- Advocate for an ongoing focus on equality proofing issues;
- Support this ongoing focus through the expertise and knowledge mobilised within the Working Group and through projects resourced by the Group;
- Promote awareness of equality proofing through seminars, workshops, conferences.

Learning Phase

The Working Group **recommends** implementation of the following equality proofing initiatives as part of the learning phase:

A) Pilot Projects in the following areas:

1. A specific programme / strand of the National Employment Action Plan to be agreed following discussions with the Department of Enterprise, Trade and Employment, FÁS and the Department of Education and Science.
2. A mainstream legislative proposal likely to have a significant impact on equality (to be determined).
3. County Development Plans.
4. A public / private partnership initiative.

Training should be provided for officials involved in the pilot projects as well as the resourcing of Social Partners to ensure their participation in the process.

B) Research into the question posed in the Poverty Proofing guidelines regarding Inequalities likely to lead to poverty:

A joint research project should be developed by the Equality Authority and the Combat Poverty Agency to assess, develop and support the application of the question in the Poverty Proofing Guidelines relating to inequalities likely to lead to poverty and to give clarity as to how best to apply this question. This work should make links with the review of the Poverty Proofing Guidelines.

C) Strategic Management Initiative:

The integration of equality proofing into in the following areas of the Strategic Management Initiative:

Human Resources:

- The initiative to combat gender inequality, particularly at senior levels within the civil service, should continue as a separate focus of human resources policy within the civil service.
- A comprehensive Equal Opportunities Policy should be developed covering all nine groups covered by the equality legislation. Provision should be made for a mechanism to oversee implementation of this policy.

Quality Customer Service Initiative:

- A commitment to the achievement of full and effective equality should underpin all elements of the Quality Customer Service Initiative. To give practical effect to this commitment, the Quality Customer Service Working Group should integrate equality objectives, targets and indicators into the design and implementation of:
 - monitoring and evaluation procedures;
 - bench marking mechanisms;
 - mechanisms to recognise improvement in quality service delivery; and
 - review of existing plans and preparation of new plans.

D) Data:

A range of measures are required to extend existing data collection systems, to develop new data collection methods and to identify available and relevant data sources. This report recommends the following:

- that strategies be developed to facilitate closer cooperation between the Central Statistics Office, the Equality Authority and the Department of Justice, Equality and Law Reform.
- that the existing system of data collection undertaken by service providers should also be expanded to include data on all groups covered in equality legislation, and
- that initiatives which have been taken in the Information Society Project should ensure that any work on data collection includes a focus on all groups covered in equality legislation.

E) North-South Cooperation:

It is recommended that the Department of Justice, Equality and Law Reform, and the Equality Authority develop strategies for the exchange of experience and joint ventures on a

North/South basis. In particular, it is recommended that strategies be developed to ensure close co-operation with the Equality Commission and the Public Sector Statutory Unit, Northern Ireland and that these initiatives are resourced under the North/South Chapter of the National Development Plan 2000 - 2006. The close North/South co-operation would continue beyond the learning phase proposed in this report.

F) Equality Reviews and Action Plans:

It is recommended that in carrying out Equality Reviews and Action Plans provided for in Section 69 of the Employment Equality Act, 1998, the Equality Authority take into account the equality proofing guidelines set out in this report. The ESF Evaluation Unit Report, on *"Equal Opportunities and the ESF"*, recommended that financial provision in the region of IR £200,000 per annum should be provided to stimulate private sector involvement in this process. In addition, at least one public sector body should submit its Equality Action Plan to the Equality Authority for assessment.

Introduction

Facing the challenges of the 21st century ... requires a new focus on equality which implies the adoption of a strategic approach for the full integration of women and of people with disabilities, Travellers and other groups experiencing discrimination. It includes the promotion of greater equality of access, participation and outcomes for all marginalised groups in our society."
Partnership 2000 for Inclusion Employment and Competitiveness

The national agreement, *Partnership 2000 for Inclusion Employment and Competitiveness* outlines a strategic framework to tackle inequality in Irish society. The framework set out in the Agreement includes proposals for:

- Legislative change;
- Administrative procedures for equality proofing; and
- Measures to monitor the implementation of the detailed reform programs set out by the Second Commission on the Status of Women (1993), the Task Force on the Traveller Community (1995) and the Commission on the Status of People with Disabilities (1996).

This Report is concerned primarily with the second dimension of this framework, the development of equality proofing procedures. The Agreement contained a commitment to strengthening administrative procedures for equality proofing specifically within the context of the National Anti-Poverty Strategy (NAPS) (commitment (5.2)):

"In the context of the NAPS, strengthening of administrative procedures for equality proofing, having regard to the recommendations of the NESF."

The equality proofing commitment was one of the key elements of the equality strategy set out in *Partnership 2000*. In its First Opinion on the development of the equality provisions of *Partnership 2000*, the NESF recommended that this commitment be acted on as a matter of priority.

Equality proofing involves the development of "an integrated and systematic approach to ensure that discriminated and marginalised groups are provided with the necessary means and resources to participate in society as equal citizens."¹ Within a mainstreaming approach the pursuit of equality is no longer to be seen as the exclusive concern of specialised equality bodies or initiatives. Equality objectives are to be integrated into all aspects of the policy process - planning, implementation, monitoring, evaluation and review.²

The terms of reference of this report specifically refer to equality proofing within the context of the NAPS in accordance with the commitment in *Partnership 2000*. Equality proofing issues overlap with poverty proofing issues at a number of levels. A number of equality principles underlie the poverty proofing process:

- Ensuring equal access and encouraging participation for all;

¹ NESF *Equality Proofing Issues* (Dublin: NESF, 1996) p.4

² See McCrudden C

- Guaranteeing the rights of named target groups especially through anti-discrimination measures;
- The reduction of inequalities and, in particular, addressing the gender dimension of poverty.

In applying the poverty proofing guidelines, attention is to be paid to inequalities that may lead to poverty, viz age, gender, disability, membership of an ethnic minority (including membership of the Traveller community) or sexual orientation. The target groups of both equality proofing and poverty proofing overlap. Those groups identified by the NAPS as being either *in* persistent poverty or known to be at *risk* of poverty overlap with the groups covered by current equality legislation - for example, lone parents, members of the Traveller community, female headed households.

This overlap is addressed in the proposals set out in this report for the initial '*Learning Phase*' of equality proofing. A joint undertaking is proposed between the Combat Poverty Agency and the Equality Authority to assess, develop and support the application of the question in the Poverty Proofing Guidelines relating to inequalities likely to lead to poverty.

Equality proofing, as discussed in this Report, however, would necessarily extend beyond the scope of the NAPS. Equality proofing seeks to prevent inequality. The target groups and issues overlap with, but also differ from the target groups of the NAPS. Not all equality issues are subsumed by poverty issues, and *vice versa*. Many forms of inequality and social exclusion are not adequately addressed within a poverty framework and do not necessarily lead to poverty as such. This point was reiterated in a recent report on *Women and Poverty in Ireland*.³ As this Report points out, a situation where women do not experience much greater deprivation than men would still be entirely consistent with pervasive sex inequalities. Bringing out the reality of such inequalities requires, the Report concludes, "a framework that focuses on equity between men and women in the division of roles, responsibilities and power rather than on poverty *per se*."⁴

The equality proofing process, as discussed in this Report, therefore, addresses inequalities that would not necessarily fall within the scope of the NAPS. The report envisages equality proofing catering for a wider range of issues than covered under poverty proofing.

The publication of this Report coincides with a 'new phase in the battle against social exclusion.'⁵ The main NAPS targets, originally set out in 1997, have now been substantially achieved. New social inclusion targets have to be agreed. The introduction of effective equality proofing processes would significantly enhance the potential of these new situations.

³ Nolan B and Watson D *Women and Poverty in Ireland* (Dublin: Combat Poverty Agency, 1999)

⁴ *Ibid.* p.132

⁵ Speech given by Dermot Ahern T.D., Minister for Social Community and Family Affairs, at the launch of the first annual report on the progress of the NAPS, 1 June, 1999

Chapter 1 : Equality Proofing - Terms and Concepts

Equality Proofing

Equality proofing involves:⁶

“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.”

A process of equality proofing involves the integration of equality objectives into policy planning, implementation, evaluation and review. Equality proofing involves two distinct aspects:⁷

- The development of equality proofing mechanisms; and
- The development of equality agencies and institutions to implement an equality proofing process.

A variety of tools / mechanisms can be employed to implement equality proofing including:⁸

- legislative reform;
- constitutional reform;
- codes of practice;
- sanctions and enforcement procedures;
- equality audit and monitoring systems;
- affirmative action and quota systems; and
- policy proofing procedures.

This Report is concerned specifically with the development of policy proofing procedures, specifically equality proofing processes.

In its Report on *Equality Proofing Issues*, (1996) the NESF identified the following measures as being essential to the development of effective administrative procedures for equality proofing:⁹

- Identification of equality objectives and setting equality targets;
- Development of data gathering processes adequate for monitoring the achievement of these targets;
- Establishing the equality implications of any particular policy or practice prior to its implementation;
- Development and implementation of strategies to achieve equality targets;
- Creation of independent monitoring systems to analyse and review progress;
- Regular public reporting on progress.

⁶ Adapted from Council of Europe *Gender Mainstreaming: Conceptual framework, methodology and presentation of good practices*. (Strasbourg: Council of Europe, 1998) Final Report of Activities of the Group of Specialists on Mainstreaming (EG-S-MS (98)

⁷ See NESF (1996) p.24

⁸ See generally NESF (1996)

⁹ NESF (1996) p.28

To these we would add:

- Participation of affected target groups in policy design, implementation, evaluation and review.

The NESF recommendations underpin the proposals for equality proofing set out in this Report.

Policy Proofing

Policy proofing can be defined as a formal mechanism by which policies are assessed at design and review stage for their likely impact on a particular area of concern. It is essentially an impact assessment mechanism.

This Report is concerned with designing procedures for Equality Impact Assessment. It identifies the steps necessary to develop a procedural and structural framework within which policies can be 'proofed' for their impact on agreed equality objectives.

Equality Impact Assessment

An Equality Impact Assessment is an instrument for assessing the impact of policy on agreed equality objectives. It is an ex-ante evaluation, which means that the impact on agreed equality objectives is assessed before the final decision on a given policy is taken. The results of the Impact Assessment can then be used in the process of political decision-making. If necessary, policies can be changed. An Equality Impact Assessment is carried out as part of an equality-proofing process. It is a necessary but *not* a sufficient part of any such process.

Target Groups

For the purpose of this report the target groups to be covered by equality proofing procedures are the categories covered by the 1998 Employment Equality Act and the 1999 Equal Status Bill.

- gender;
- race;
- sexual orientation;
- age;
- marital status;
- family status;
- religion;
- disability;
- membership of the Traveller community.

Mainstreaming

Mainstreaming in the equality discussion and in the context of this report can be understood as:

¹⁰ adapted from European Commission, *Communication on Incorporating into equal opportunities for women and men into all Community activities and policies* COM (96) 67

“mobilising all policies (including legislation and service delivery), specifically for the purpose of achieving full and effective equality, by actively and openly taking into account, the impact of policies on disadvantaged groups.”

Objectives of Equality Proofing:

Equality proofing is a mechanism for promoting equality. It is not intended to operate as a checklist to avoid discrimination. Neither is it intended to eliminate or to ignore differences. It is about eliminating the disadvantages and discrimination that individuals and groups suffer on foot of their identity. It is about promoting full and effective equality and ensuring that groups experiencing inequality are provided with the necessary resources to participate in society as equal citizens.

The objectives of an equality proofing process can be summarised as follows:

- To promote full and effective equality;¹¹
- To eliminate the inequalities that lead to poverty and social exclusion
- To achieve a society that guarantees the inclusion of all groups and one that values rather than discriminates against differences.¹²

Full and effective equality may be understood as comprising the following elements.¹³

- **Equality of access** in terms of equal rights to participate in economic, social, political and cultural life.
- **Equality of participation:** - *De facto* equality depends not simply on having formal rights to participate but on having the ability and resources to exercise that right. Pursuing equality of participation requires measures to:
 - *Enable participation* - this means ensuring that the basic material, psychological, educational and other needs of the target groups are met so that they are in a position to participate on equal terms; and
 - *Encourage participation* – this involves proactive policies to promote greater understanding of a policy proposal and to encourage involvement. Relevant strategies include affirmative action measures, training, technical assistance and education.
- **Equality of outcome**, where overall equality is achieved between marginalised and non-marginalised groups in terms of access to and the distribution off economic, educational, cultural, political and other benefits.

Participation

A process of equality proofing requires a more participatory approach to policy making. Increasing the representation of groups experiencing inequality is, therefore, an essential element of the proofing process. The existing system of representative democracy has done little to address the exclusion of many segments of society from political participation.¹² In an attempt to remedy this failure, policy-proofing initiatives have developed more participatory planning structures, institutionalising a ‘dialogue’ between government and civil society.

¹¹ See *Framework Convention for the Protection of National Minorities*, adopted by the Committee of Ministers of the Council of Europe, on 10th November, 1994 (ratified by Ireland, 1999)

¹² See generally *Report of the Constitution Review Group* (Dublin: Government Stationery Office, 1996) pp.55-64

Participation of target groups in policy design and review is a crucial feature of any proofing process.

A central principle of equality proofing is that the particular needs and interests of target groups are taken into account in the policy-making process and in the ongoing evaluation and implementation of policy. This requires:

- (a) increasing the representation of groups experiencing inequality in decision-making structures; and
- (b) increasing the opportunities for consultative inputs at all stages of the policy process.

Guiding Principles for Consultation are set out in chapter 5 of this report.

Equality Proofing wider than the Civil and Public Service

The Working Group endorsed the conclusion by the NESF that “equality proofing arrangements and procedures similar to those proposed for Government Policies and Programmes, having regard to organisation size, should also be encouraged in the private as well as in the voluntary and community sectors”.

This view is further supported by recent developments in relation to the creation of Public Private Partnerships, where public projects are to be carried out with private sector involvement. The private sector is also becoming more involved in the delivery of public services. It is important therefore, that equality proofing extends to these activities.

Chapter 2 : Background

Mainstreaming Equality in Ireland

Equality proofing is best understood as part of a mainstreaming approach to equality issues. The idea of mainstreaming has gained considerable momentum in recent years, both in this jurisdiction and elsewhere. Underlying the move toward mainstreaming is an ambition to integrate the pursuit of equality objectives into all aspects of the policy process.

In its Report on Equality Proofing Issues, the NESF identified a number of steps, necessary to mainstream equality into all aspects of law and policy in Ireland. These were:¹³

- The introduction of Employment Equality and Equal Status Legislation;
- Review of the Constitution;
- The introduction of administrative procedures for equality proofing; and
- The establishment of equality proofing institutions and structures.

Steps have already been taken to begin this mainstreaming process.

Legislative and Institutional Reform: In 1998, the Employment Equality Act was signed into law. The Act came into effect in October 1999. It brought with it sweeping change, both in terms of the scope of equality standards and the infrastructure to be deployed in enforcing these standards. The Act covers a wide range of employment related areas, including access to employment, training, vocational training, work experience and advancement within employment. The prohibition of discrimination is extended, for the first time, beyond sex and marital status, to include within the prohibited grounds of discrimination: age, race, disability, sexual orientation, religion, membership of the Traveller Community and family status. Two new bodies are created by the Act - the Office of the Director of Equality Investigations, providing a forum of first redress for complainants of discrimination and the Equality Authority, replacing the Employment Equality Agency. The new Equality Authority has responsibility for all nine grounds of discrimination named in the 1998 Act. Its functions are to:

- work towards the elimination of discrimination in relation to employment;
- promote equality of opportunity in relation to matters to which this Act applies;
- provide information to the public on and to keep under review the working of this Act, the Maternity Protection Act, 1994 and the Adoptive Leave Act, 1995 and, whenever it thinks it necessary, to make proposals to the Minister for amending any of those Acts and;
- keep under review the working of the Pensions Act, 1990.

The Equality Authority is also charged with providing information to the public in relation to the Parental Leave Act, 1998.

New powers of enforcement are also created under the 1998 Employment Equality Act. In addition to powers of formal investigation, the Authority has power to carry out Equality Reviews and design Equality Action Plans for businesses under review. These extended powers will go some way towards tackling broader structural obstacles to equality within the

¹³ NESF (1996) *op cit.*

workplace. They may serve also to alleviate the burden on individual complainants under traditional enforcement mechanisms.

Steps are also being taken to extend the scope of equality protection beyond the sphere of employment. A revised Equal Status Bill was published on 19 April, 1999. If enacted into law, the Bill will extend equality protection to areas such as education and the provision of goods and services. The remit of the Equality Authority and the Office of the Director of Equality Investigations will also be extended.

Review of the Constitution: The process of Constitutional reform is and will continue to be a slower process. In 1995 a Review Group was established by the Government to review the 1937 Constitution, *Bunreacht na hÉireann*, and to make recommendations for reform. The Report of the Review Group was published in 1996. It included a number of recommendations relating to equality issues. It recommended, for example, that the reference in Article 41.2.2 to women's "duties in the home" be deleted and that a revised Article 41 be inserted into the Constitution, expressing the State's support in a gender neutral form for those involved in caring for others in the home. The Review Group also examined the existing constitutional equality guarantee, Article 40.1, and recommended that the equality guarantee should not be confined to citizens but should be extended to all individuals. It also recommended that a section be added to Article 40.1 in the following terms:

No person shall be unfairly discriminated against, directly or indirectly, on any ground such as sex, race, age, disability, sexual orientation, colour, language, culture, religion, political or other opinion, national, social or ethnic origin, membership of the travelling community, property, birth or other status.

As yet, these recommendations have not been implemented. The Report of the Review Group has created an important opportunity to reflect on the changes that have occurred in Irish society since the enactment of the 1937 Constitution, *Bunreacht na hÉireann*. Implementing the recommendations made would reflect these new realities and express a renewed commitment to equality in Irish society.

Policy Proofing:

Procedures have already been established within the policy process in relation to gender proofing and poverty proofing.

Gender Proofing

Since 1993, all Memoranda for Government are required to include an assessment of the impact on women of the proposed policy. The National Development Plan, 1994-1999 identified gender proofing as a 'socially desirable objective' and an important step towards achieving gender equality. The Plan made an important step in the direction of gender proofing by requiring that data be maintained relating to the participation by gender in relevant funds programmes and initiatives.

Difficulties have arisen in the gender proofing procedures introduced to date however. Little is known, for example about the "Impact on Women" statement attaching to Memoranda for Government. No guidelines have been issued for the Impact Assessment process. Consultation with affected groups is not a requirement. Information is not provided as to what data / consultative inputs are relied upon in the impact assessment process.

Similar difficulties have arisen within the context of the Structural Funds 1994-1999. Although reference was made to the need to maintain data relating to participation by gender, little emphasis was placed on assessing the impact of funded programs / projects on gender equality. The relevance of gender issues was not understood or appreciated within the context of wider

areas of public policy, such as transport, tourism, agricultural or energy policy. Gender factors were not taken into account in evaluations and mid-term reviews. As the NWCI points out:

This invisibility of gender in official assessments clearly demonstrates the virtual failing of objectives targeting equal opportunities between men and women, and the lack of awareness and inadequacy of tools by which outcomes of equal opportunities actions are measured.

Steps have been taken to remedy these shortcomings in the new round of Structural Funds. The principle of mainstreaming equal opportunities between men and women has been incorporated into the regulations governing the Structural Funds 2000-2006. This principle has been carried through to the National Development Plan 2000-2006 which provides for the following:

- The identification of equal opportunities between men and women as an objective of the Regional and Employment and Human Resources Development chapters;
- The acknowledgement of the impact of equal opportunities between men and women in spending on infrastructure and productive investment;
- The provision of project gender impact assessment across the whole Plan - (Para 12.14)
- The intention that indicators will require sex differentiated outcomes 'where the nature of the assistance permits.' - Para 12.12
- The commitment to promote gender balance on Monitoring Committees- Para 12.8
- The commitment to represent the equal opportunities interest on all Monitoring Committees and the CSF to be drawn from a relevant Government Department or appropriate statutory body (Para 12.8).
- The establishment of an Equal Opportunities and Social Inclusion Co-ordinating Committee (Para 13.37)
- Childcare investment £250 million will help working parents, women in particular, to balance their work and family commitments.
- Positive action funding of £23.2 million to the Department of Justice, Equality and Law Reform to promote equality for women including retraining and up-skilling for women employees, promoting greater sharing of family responsibilities, support for career development and entrepreneurship amongst women and gender proofing of personnel policies.

The Plan also provides for the establishment of a technical assistance unit located in the Department of Justice, Equality and Law Reform to support the implementation of gender mainstreaming across the six Operational Programmes, i.e. the Economic and Social Infrastructure, Productive Sector, Employment and Human Resources Development, Regional and Peace Operational Programmes.

The Report "*Gender Proofing and the Structural Funds : Outline Guidelines*" has been forwarded to Departments for their views on the use of the Gender Impact Assessment model proposed in these Guidelines as a common model across the Structural Funds. The Department of Justice, Equality and Law Reform proposes to submit the Gender Impact Assessment model, or a revised form of it, to Government for approval.

Poverty Proofing

Poverty proofing procedures have also been developed within the context of the National Anti-Poverty Strategy. In 1998, a set of poverty proofing procedures was introduced. At present these procedures are to be applied:

- In the preparation of SMI Statements of Strategy and Annual Business Plans;
- In designing policies and preparing Memoranda to Government on significant policy proposals;
- In the preparation of the Estimates and Annual Budget proposals;
- In the preparation of the National Development Plan and other relevant EU Plans and Programmes; and
- In the preparation of legislation.

Guidelines have been drawn up, outlining the steps to be followed in 'proofing' policies for their impact on poverty. Preparations are being made for a review of the poverty proofing process.

Developments within the European Community

The EU experience of implementing mainstreaming is currently confined to the gender area. On 21 February 1996, at the instigation of the Group of Commissioners on Equal Opportunities, the European Commission issued a communication on incorporating equal opportunities for women and men into all Community policies and activities.¹⁴ This Communication set in progress a variety of measures designed to mainstream gender equality within the Community.¹⁵ According to the Communication, mainstreaming involves:

"Mobilising all general policies and measures specifically for the purpose of achieving equality by actively and openly taking into account at the planning stage their possible effects on the respective situations of men and women (the gender perspective)."

A number of steps have been taken to implement the mainstreaming strategy. According to Commissioner, Pádraig Flynn, mainstreaming has now been "firmly embedded" into the Commission services.¹⁶ Twenty-nine Commission services have appointed officials who hold specific responsibility for developing the process in their Directorate Generals (DGs). This group of 'Gender Mainstreaming Officials' is intended to serve as a forum for developing further instruments and methods to promote equality and to provide a support structure for the DG's in their internal mainstreaming efforts. A mainstreaming approach to gender equality was adopted in the current Fourth Action Programme on Equal Opportunities between Women and Men (1996-2000).

The Dutch Gender Impact Assessment mechanism (SMART) has been adopted as an analytical tool for assessing the relevance of gender, within the European Commission.¹⁷ SMART is a Simple Method to Assess the Relevance of policies to gender. It consists of two questions:

¹⁴ COM(96) 67

¹⁵ COM (96) 67.

¹⁶ Speech given by Commissioner Flynn to the Women's Committee, European Parliament, January 21, 1998

¹⁷ See: Council of Europe. *Gender Mainstreaming: Conceptual framework, methodology and presentation of good practices*. (Strasbourg: Council of Europe, 1998) Final Report of Activities of the Group of Specialists on Mainstreaming (EG-S-MS (98)

1. Is the policy proposal directed at one or more target groups? Will it affect the daily life of part(s) of the population?
2. Are there differences between women and men in the field of the policy proposal (with regard to rights, resources, positions, representation, values and norms related to gender)?

If the answer to either of these two questions is positive, gender is relevant to the issue in question and an assessment must be made of the potential gender impact of the policy proposal.

Steps are also being taken to mainstream gender equality issues into the Structural Funds. In 1996, the Council of Ministers (under the Irish Presidency) adopted a resolution on mainstreaming equal opportunities for men and women into the Structural Funds. The pursuit of gender equality is accepted, therefore, as a specific objective of the Funds. Gender equality and economic growth are central objectives of the policies and programmes to be supported by the Structural Funds 2000-2006. The Regulations governing the Structural Funds place a legal obligation on Member States to support equal opportunities between men and women. Member States are thus required to mainstream gender equality into policies and programmes receiving Structural Funds in the next round, 2000-2006.¹⁸

Articles 2 and 3 of the Treaty of Amsterdam formalise the Community commitment to gender mainstreaming, by establishing equality between men and women as a specific task of the Community as well as a horizontal objective affecting all Community tasks. The Treaty is significant, therefore, in providing a legal basis and incentive to further development of the gender mainstreaming policy.

The Treaty of Amsterdam extends the scope of equality protection beyond the sphere of gender equality. The new non-discrimination clause of the Amsterdam Treaty - Article 13 – allows the Council of Ministers to take appropriate action to “combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.”

The Commission’s *Action Plan Against Racism* (1998) makes a commitment to “actively develop[ing] a mainstreaming approach to combating racism and discrimination and promoting integration across all relevant sectors, in particular in the areas of employment, the European Structural Funds, education, training and youth programmes public procurement policy, research activities, external relations, information actions and cultural and sports initiatives”.¹⁹ This, for the first time, indicates a clear commitment on the part of the Community to support the struggle against racism and xenophobia.

Developments within the UN system

At the international level, a mainstreaming approach to gender equality is increasingly evident throughout the work of the United Nations system both at policy level and in operational activities. In the final document of the 1993 World Conference on Human Rights held in Vienna, States called on the United Nations to ensure that “the equal status of women and the human rights of women ... be integrated into the mainstream of United Nations system-wide activity” and “form an integral part of the United Nations human rights activities.” The 1995 Beijing Platform for Action calls on governments and other actors to “promote an active and visible policy of mainstreaming a gender perspective in all policies and programmes, so that

¹⁸ See generally, Mullally S *Gender Proofing in the Context of the Structural Funds: Outline Guidelines* (Dublin: Government Stationery Office, 1999)

¹⁹ European Commission, *An Action Plan Against Racism* COM (1998) 183

before decisions are taken, an analysis is made of the effect on women and men respectively.” Gender mainstreaming is understood as the process of assessing the implications for women and men of any planned public action, such as legislation, policies or programmes, in any area. In 1997, the Economic and Social Council of the UN, adopted a set of agreed conclusions on gender mainstreaming. These emphasise the importance of the responsibility and accountability of senior managers, the need to adopt mainstreaming policies as institutional directives, rather than discretionary guidelines, and the improvement of tools for gender mainstreaming, such as gender analysis, data desegregated by sex and gender-sensitive budgeting.²⁰

The UN has expressed an increasing interest in social and human rights impact assessment mechanisms. In 1997, the UN Committee on Economic, Social and Cultural Rights, commenting on the UK’s periodical report under the 1966 Covenant on Economic, Social and Cultural Rights, recommended that:²¹

“Consideration be given to the requirement that a Human Rights Assessment or Impact Statement be made an integral part of every proposed legislation or policy initiative on a basis analogous to Environmental Impact Assessments or Statements.”

Mainstreaming equality in Northern Ireland

The 1993 Northern Ireland Policy Appraisal and Fair Treatment Guidelines provided that all Government activity including administration and regulatory functions and delivery of service to the public would be subject to equality proofing. Implementation of the Guidelines depended on voluntary compliance by policy makers which resulted in the lack of uniform application.

In the Good Friday Agreement the British Government undertook to create a statutory obligation on public authorities in Northern Ireland to carry out all their functions with due regard to the need to promote equality of opportunity in relation to religion and political opinion; gender; race; disability; age; marital status; dependents; and sexual orientation. This statutory duty was legislated for in section 75 of the Northern Ireland Act, 1998. The Act requires public authorities to draw up equality schemes including arrangements for policy appraisal; for assessment of the impact of policy on relevant categories; for public access to information and services; and for monitoring and time-tabling.

The statutory duty will come into effect in January 2000. Draft Guidelines for the preparation of Equality Schemes have been prepared and a formal consultation process is now underway. All public authorities are required to have Equality Schemes in place by June 2000. The Equality Commission is required to keep under review the effectiveness of the section 75 duty, advise public authorities and others in connection with those duties and carry out the other functions as conferred on it by the provisions of Schedule 9 of the 1998 Northern Ireland Act. Complaints of non-compliance by a public authority with an approved equality scheme can be directed in writing to the Equality Commission by any person who claims to have been directly affected by the failure.²²

²⁰ Statement of the Division for the Advancement of Women, United Nations, presented at ‘Women at the Heart of the Process’, conference organised by the National Women’s Council of Ireland and the Making Women Seen and Heard project, Slieve Russell Hotel, Cavan, 28-29 April, 1999.

²¹ Committee on Economic, Social and Cultural Rights, Consideration of Reports Submitted by States Parties under Articles 16 and 17 of the Covenant, Concluding Observations, United Kingdom, E/C.12.1.Add.19, 4 December 1997, para 33.

²² Schedule 9 para. 10 (2)

The introduction and effective implementation of equality proofing procedures in this jurisdiction would demonstrate a comparable commitment to equality on the part of the Irish Government.

Human Rights Impact Assessment

Steps have also been taken towards mainstreaming human rights issues into the policy process in both the UK and Northern Ireland. Under the 1998 Human Rights Act, a Minister introducing a Bill into Parliament is required, either to make a statement of 'compatibility' - that in his or her view the proposed legislation is compatible with the European Convention on Human Rights - or alternatively, to state that he or she is unable to make such a statement. This requirement goes some way towards meeting the recommendation of the UN Committee on Economic Social and Cultural Rights that a "human rights impact assessment" statement should be attached to all legislative proposals. In its present form, however, s.19 leaves open the possibility that the assessment of compatibility will amount to little more than a 'proofing' exercise – an exercise that is designed to avoid litigation but does little to promote a human rights culture within the policy process. The establishment of a Parliamentary Human Rights Committee to review legislative proposals for compatibility with the Convention may serve to avoid the pitfalls of a 'proofing' approach.

Chapter 3 : Prioritising

One of the issues to be considered as part of the long term development of equality proofing is the use of screening. Most policy proofing procedures adopt a targeted and strategic approach to Impact Assessment, that is, they limit the types of actions / measures to be subjected to Impact Assessment. This is known as a 'screening process'. Its purpose is not to limit the potential of a proofing process, but rather, to ensure its effectiveness. Existing policy proofing procedures differ in the forms of screening adopted. However, almost all adopt some form of 'screening'.

A screening process has both advantages and disadvantages:

Advantages:

1. Without some form of screening, large numbers of actions would be assessed unnecessarily with the risk that actions having a significant adverse impact on equality would not be adequately considered. A screening process increases the likelihood that significant policies will be subject to a full impact assessment.
2. Proofing requirements are likely to be taken more seriously by policy-makers where they are targeted at specific policy areas.

Disadvantages

1. There is a danger that policies would be inappropriately 'screened out' of the proofing process.
2. A wide-ranging equality proofing process contributes to 'awareness-building' / consciousness-raising amongst policy-makers. Restricting the scope of equality proofing may unduly limit this potential.

Experience from existing policy proofing procedures:Q

Gender Proofing

Under existing gender proofing procedures, a broad-based approach is adopted. No guidance on screening is provided. Government Procedure Instructions require that all Memoranda for Government indicate the impact of proposals on women. However, policy proposals/ measures that do not take the form of Memoranda for Government are excluded from this process.

Poverty Proofing

A combination of two screening approaches is used in the existing Guidelines for Poverty Proofing:

1. A list of identified measures to be proofed is provided; and
2. an open test of "significance" is applied with regard to Memoranda for Government on policy proposals.

At present Poverty Proofing Guidelines are to be applied:

- in the preparation of SMI Statements of Strategy and Annual Business Plans;
- in designing policies and preparing Memoranda to Government on significant policy proposals;
- in the preparation of the Estimates and Annual Budget proposals;
- in the preparation of the National Development Plan and other relevant EU Plans and Programs;
- in the preparation of legislation.

The Combat Poverty Agency has recommended that the ‘significance’ test be kept under review and that consideration be given to the possibility of developing suitable criteria for determining ‘significance’.²³

SMART: The Dutch Gender Impact Assessment Mechanism

The Dutch Gender Impact Assessment mechanism has been adopted as an analytical tool for assessing the relevance of gender, within the European Commission.²⁴ SMART is a Simple Method to Assess the Relevance of policies To gender. It consists of two questions:

1. Is the policy proposal directed at one or more target groups? Will it affect the daily life of part(s) of the population?
2. Are there differences between women and men in the field of the policy proposal (with regard to rights, resources, positions, representation, values and norms related to gender)?

If the answer to either of these two questions is positive, gender is relevant to the issue in question and an assessment must be made of the potential gender impact of the policy proposal.

Policy Appraisal and Fair Treatment (PAFT)

The PAFT process applied in Northern Ireland from 1993 to “policy proposals, including legislation, other initiatives and strategic plans for the implementation of policy and the delivery of services.” The Guidelines did not provide for any screening or scoping mechanism. In practice, however, individual policy-makers ‘screened’ policies for their relevance to equality issues. Commentaries on the PAFT process suggest that this ‘screening’ process was highly arbitrary and subjective with the result that significant areas of policy were left unchecked.

1998 Northern Ireland Act: The Equality Duty

The statutory equality duty set out in the 1998 Northern Ireland Act does not explicitly make provision for a screening process. ‘Equality Schemes’ are required to include information on the arrangements made for impact assessment and consultation “on the likely impact of policies on the promotion of equality of opportunity.” This wording is somewhat unclear. However, in parliamentary debates during the passage of the Act, the UK Government clearly stated that impact assessments should relate to “the general run” of a public authority’s policies and should not be restricted only to policies aimed at promoting equality.

The possibility of “screening” is introduced, however, in the power granted to the Equality Commission to exempt certain public authorities from producing an Equality Scheme.²⁵ Concern was initially expressed at the apparently open-ended nature of this power. However, reports from the parliamentary debates indicate that the power is to be used only in limited circumstances:

“... For instance, when public authorities’ activities in Northern Ireland are minimal, and the effort involved in preparing the scheme involved, and having it validated by the Commission, would be disproportionate. In other circumstances, it might make sense to exempt a public authority. For instance, all subcommittees of district councils are defined as public authorities. Provided that their activities were fully covered by district council’s own equality

²³ Communication received by the authors from Helen Johnston, Combat Poverty Agency.

²⁴ See: Council of Europe. (1998) *op.cit*

²⁵ Schedule 9, para.2(1)

*schemes, an exemption could avoid each Sub-Committee having to draw up its own scheme.*²⁶

The new Northern Ireland Equality Commission is to issue guidelines for public authorities on the methodology of impact assessment. It is likely that those guidelines will include a screening / scoping stage. Reports published as part of the public consultation process argue in favour of a screening process.²⁷

Environmental Impact Assessment:

There are many definitions of “significance” in Environmental Impact Assessment: The European Commission has identified a significant effect as one which, alone or in combination with other effects, is of sufficient importance that it ought to be considered by the competent authority in deciding whether or not to grant development consent for the project, and under what conditions consent should be granted;²⁸ An alternative definition is that which defines a significant Environmental Impact Assessment issue as one which generates public concern.²⁹

The Guidelines produced by the Environmental Protection Agency (EPA) in Ireland outline a distinction between slight and significant impacts:

- *Slight Impact:* “An impact which cause changes in the character of the environment which are not significant or profound”;
- *Significant Impact:* “An impact which, by its magnitude, duration or intensity alters an important aspect of the environment”.

Experiences with Gender Proofing and Poverty Proofing in this jurisdiction suggest that a ‘screening’ mechanism is essential if the Impact Assessment process is to be effective and to be taken seriously by policy makers at all levels. A review of policy proofing Impact Assessment mechanisms in other jurisdictions leads to a similar conclusion. The Working Group concludes, therefore, that a targeted and strategic approach to Equality Impact Assessment is necessary. A ‘screening’ mechanism would be essential to the effectiveness of an equality proofing procedure.

Identifying Strategic Priorities for Impact Assessment

Two possible approaches could be adopted in identifying those policies to be subject to Impact Assessment:

Approach A

Restrict Equality Impact Assessment to a limited set of equality issues – for example, by considering only race, gender and disability issues; or

Approach B

Limit the types of laws and policies that are subject to equality proofing.

²⁶ House of Commons, Official Report, 18 November 1998, cols.1069 (Mr. Murphy)

²⁷ See, for example, Hutson N *PAFT In Northern Ireland - A Contribution to the Debate on Mainstreaming Equality* (SACHR, 1996) and McCrudden C *Mainstreaming Fairness in the Governance of Northern Ireland: A Proposal* (Belfast: Committee on the Administration of Justice, 1998)

²⁸ European Commission, DG Environment, Nuclear Safety and Civil Protection, *Environmental Impact Assessment: Guidance on Screening* (May 1996)

²⁹ Fry J. “Theoretical Dimension of Environmental Impact Assessment Operations” Unpublished Paper, copy on file with the authors.

Approach A was initially adopted in Northern Ireland in 1990. Guidance issued to civil servants advised that issues of direct and indirect discrimination arising from differences in religious affiliation, political opinion and gender should be considered as part of the policy making process. This advice generated extensive criticism from non-governmental and statutory bodies working in the field of equality. In 1991, the Guidelines were revised and extended to include issues of discrimination and unequal treatment arising between: ethnic groups; married and unmarried people; people with or without dependents; people of differing sexual orientation; people with or without a disability.

Adopting *Approach A* would have a number of disadvantages:

1. Limiting the range of groups / categories considered would be likely to create a divisiveness between equality groups. It may lead also to the creation of a 'hierarchy' of equality issues, privileging some types of equality over others. It would be politically difficult, given the expectations of Non Governmental Organisations and other bodies working in the equality field, to adopt *Approach A*.
2. Screening out particular groups might limit the effectiveness of Equality Impact Assessment. For example, it increases the likelihood that women would be treated as a homogenous group. An Impact Assessment that addressed only the gender ground, for example, may fail to address adverse impacts that might arise for women with disabilities;

Including all categories / groups within the Equality Impact Assessment process contributes to an awareness building / consciousness-raising approach. Policy-makers may not recognise or acknowledge that policies impact on distinct groups in different ways. Screening those groups out of the process would limit its transformative potential. (GLEN, the Gay and Lesbian Equality Network, for example, points out that many policy-makers are reluctant to acknowledge that policies may impact differently on individuals and groups of differing sexual orientation. If sexual orientation were excluded from the proofing process, an important consciousness-raising opportunity would be lost.)³⁰

On the other hand, difficulties may also arise with a broad-based approach- that is, an Equality Impact Assessment that addresses all nine groups covered by Equality legislation.

1. A broad-based approach would significantly increase administrative burdens on policy-makers, making it difficult to include a rigorous analysis of policy across all equality dimensions. Concentrating on one or two categories / groups, might be more effective, given limited resources.
2. A further difficulty with a broad-based approach relates to the availability of data. The amount and quality of statistical and other information available for different groups varies significantly. Limiting equality proofing to those groups where statistical information and data is readily available might enhance the effectiveness of the proofing process.
3. Conflicts in the allocation of resources are more likely to arise where all groups are included within the proofing process.

Despite these difficulties, it is clear that there is limited support for restricting equality proofing to particular categories, *Approach A*. The Working Group sees greater merit in the second option, *Approach B*. The scope of Equality Impact Assessment should be limited by restricting the types of laws and policies to be subject to Impact Assessment. Although difficulties may be encountered with regard to the availability of data for some groups, this should serve to highlight the need for enhanced data collection mechanisms. It should also be noted that

³⁰ Communication received by the authors from Kieran Rose, of GLEN/Nexus Research.

qualitative and quantitative data is often available in various forms from community groups working on equality issues.

Implementation of proposal B

In limiting the types of laws and policies that would be subject to equality proofing it is possible to identify three possible approaches to this form of screening:³¹

1. Lists of identified actions, and thresholds could be stipulated; or
2. A more open test of “significance” could be specified which would require interpretation and application on a case-by case basis; or
3. An open test could be specified with guidelines being made available from time to time in a code of practice.

It would appear that a combination of these approaches would be workable. In the long term the following areas lend themselves to equality proofing:

- in the preparation of SMI Statements of Strategy and Annual Business Plans;
- in designing policies and legislation that are likely to have a significant impact on the pursuit of equality for one or more of the target groups;
- in preparing Memoranda to Government on significant policy proposals;
- in the preparation of the Estimates and Annual Budget proposals;
- in the preparation of the National Development Plan and other relevant EU Plans and Programmes.

A number of basic principles should be adhered to in identifying the policies to be subject to an Equality Impact Assessment:

- The decision as to ‘significant impact’ should be made by a publicly accountable body / official;
- The reasons for making the decision should be made public and should be notified to the relevant bodies (such as the Equality Authority);
- The decision should be open to review; (by such as the Equality Authority)
- The aim of a strategic approach should be to ensure that those policies with significant impacts would be subject to a full and detailed impact assessment.

The question of extending the SMI approach to the wider public sector represents a vehicle for a broad based implementation of equality proofing. Regard would also have to be had to the inclusion of Public/Private Partnerships in the equality proofing process.

³¹ See: McCrudden C (1996) and McCrudden (1998) op.cit.

Chapter 4 : Guidelines for Equality Impact Assessment

The following section of the report sets out the steps to be followed in carrying out equality impact assessments. This material is provided as a guide and may have to be modified in the light of experience.³²

An Impact Assessment process involves the following stages:

1. Identifying strategic priorities for Impact Assessment - to ensure that those policies likely to have a significant impact on the pursuit of full and effective equality are assessed;
2. Description of current situation before the policy proposal;
3. Define Desired Outcomes;
4. Scoping: Deciding on the matters to be investigated in the Equality Impact Assessment, once a decision has been taken that an Impact Assessment is required;
5. Impact Assessment: to identify the likely impacts of policy on each of the nine target groups;
6. Developing Options: identifying alternatives to a policy and alternative methods of implementing a policy;
7. Implementation;
8. Monitoring and Evaluation
9. Making Recommendations and Reporting

Participation is essential at all stages of an Impact Assessment process. It is essential that consultation begins at an early stage. Prior to an Impact Assessment, the Equality Authority, other relevant statutory bodies and the Social Partners should be invited to make written submissions on the policy area being considered.

1. Identifying strategic priorities for impact assessment

The need for a strategic and targeted approach is discussed in Chapter.03. The purpose of this 'screening' stage, is not to unduly limit the potential of Equality Impact Assessments. It is to ensure that policies likely to have a significant impact on the pursuit equality would be subject to a full and detailed Impact Assessment. It is intended also to ensure that Guidelines for Impact Assessment are workable and capable of implementation by those ordinarily involved in the policy process.

To limit arbitrariness in determining whether the threshold of 'significance' has been met, a number of guidelines should be adhered to:

1. The criterion of significance should be interpreted in the light of agreed strategic priorities set out in the relevant organisation's Equality Action Plan. Equality Action Plans should include information on strategic priorities for Equality Impact Assessment. In this way it is hoped to avoid the dangers of a highly subjective approach to the 'significance' test and to ensure that the concerns of target groups are taken into account;
2. A significant impact can be defined as one that generates public concern. A presumption of public concern would operate where:

³² Adapted from a proposal prepared for the Standing Advisory Commission on Human Rights in Northern Ireland, Hutson N. (1996) *op.cit*

- (a) The policy impacts on or relates to a strategic priority area, as defined in the organisation's Equality Action Plan; or
 - (b) The Equality Authority and /or an interested group / individual submits a written request that a policy (including legislation) be subject to an Equality Impact Assessment, provided that such a request was not found to be vexatious or frivolous; or
 - (c) The policy proposal has a negative impact on the pursuit of equality objectives; or
 - (d) Concerns with regard to this policy area have been highlighted as a result of consultation.
3. Decisions as to "significant impact" should be made in an open and transparent manner. The reasons for the decision should be publicly available and notified to the Equality Authority as part of a regular reporting process.
4. A decision about 'significant impact' should be open to review within a reasonable time period on the basis that the policy generates public concern (as defined above).

2. Description of Current Situation Without the Policy Proposal

This should focus on the following issues, considered in regard to each of the target groups:

- Participation (in decision-making processes, and in activities proposed);
- Resources (distribution of resources, including time, money, space, access to education and training etc.);
- Norms and values (What norms and values are implicit within or promoted by the policy? Do different groups have distinct norms and values in relation to this policy area? Are these recognised in the policy proposal and accorded equal worth?) ;
- Rights (relating to direct and indirect discrimination, human rights, and access to justice.)

3. Define Desired Outcomes

Equality objectives and targets should be integrated into the overall objectives of the proposal. This is an essential part of equality proofing and one that does not involve extensive procedural work. This inclusion of equality objectives within policy gives a simple framework for addressing equality issues.

4. Scoping

The scoping process determines the range of issues to be addressed in Impact Assessment. Scoping is intended to ensure that a focused Impact Assessment is carried out. Good scoping is essential to the success of an Impact Assessment in that it:

- ensures that the key issues are not overlooked;
- ensures that the key issues are given appropriate treatment;
- focuses the information flow on what is important;
- removes emphasis from what is trivial.

Scoping is essential to take account of the different issues that would arise at different levels within the policy process. The process of carrying out an Equality Impact Assessment would necessarily vary, depending on whether the policy under scrutiny is a Departmental Statement of Strategy, a piece of legislation or an Annual Budget proposal. The process of scoping provides an opportunity to address the varying needs and requirements that would arise at different levels within the policy process.

5. Impact Assessment

The following questions should be addressed:

What data / information has been relied on in developing the policy proposal?

Have all relevant information sources been considered?

What additional information is required to ensure that all relevant perspectives are taken into consideration?

Is there a need to generate primary data?

Who has been consulted in designing the proposal?

What steps were taken to enable affected interest groups to participate in and contribute to the design of the proposal?

Is further consultation necessary?

If the policy proposal has a negative impact on the pursuit of equality, what options might be identified to mitigate against this negative impact? (This might include proposals to counteract adverse impacts which may be identified with regard to some of the target groups, for example.)

If the policy proposal has *no* impact on the pursuit of equality, what options might be identified to produce a positive impact?

Are there alternatives:

- (a) to the policy; and / or
- (b) for implementing the policy,

that would have a more positive impact on the pursuit of full and effective equality?

6. Developing Options:

In developing options consider:

How does each option further or limit the pursuit of full and effective equality?

How does each option further or challenge stereotypes?³³

What are the consequences for the groups concerned and for government of not adopting an option more favourable to the pursuit of full and effective equality?

Information on the alternatives considered, and the expected impact on equality of each option, should be included in any final recommendation to policy makers. Reasons should be given as to why these alternatives have not been accepted.³⁴

³³ See Guidelines Northern Ireland, Equality Commission, para. 7.24.2

³⁴ Ibid. para.7.28

7. Implementation:

In examining the proposals for implementation of the policy, consider:

What arrangements have been made to ensure:

- Target Groups have access to information, services, resources, decision-making structures, at national, regional and local levels?
- Consultation with target groups in planning, executing and monitoring the implementation of the proposal?
- Consultation with target groups at regional and local level?

Are separate implementation strategies necessary for the policy to be effective for the relevant group?

What measures are proposed to communicate information on the policy proposal to each of the nine target groups?

Are the communication channels appropriate to reach each of the nine target groups?

Will accessible communication formats be used – e.g. Braille, audiocassette, large print?

8. Monitoring and Evaluation:

What arrangements are proposed for ongoing monitoring and evaluation of equality impact?

What are the agreed indicators and targets? Do they incorporate equality objectives for each of the nine target groups?

Are there measures in place to review or change the policy if it is not delivering the equality objectives defined at the outset of the process?

9. Reporting

An Impact Assessment Statement should be prepared and should include the following information:³⁵

1. A statement of the purpose and rationale of the policy;
2. An outline of alternatives to the policy;
3. An outline of the method of implementation proposed;
4. An outline of alternative implementation proposals for the policy;
5. A list of possible impacts both direct and indirect resulting from items 1 through 4;
6. Quantification of such impacts as are technically possible or practically desirable based on such data sources as might reasonably be expected to be available;
7. A report on public consultation methods employed in the Impact Assessment and how the outcomes of the consultation process have been taken into account in the final recommendations;
8. A report on the data/ information relied on in carrying out the Impact Assessment;
9. A recommendation on the preferred policy option with a clear analysis of how the recommended option contributes to the pursuit of full and effective equality for groups covered by equality legislation;

³⁵ Hutson N. *op cit*.

10. A recommendation on the preferred method of implementation with a clear analysis of how the recommended option contributes to the pursuit of full and effective equality for groups covered by Equality legislation;
11. Identification of monitoring requirements necessary to determine impacts on equality objectives over the life of the policy and provision for remedial measures to be taken where necessary;
12. Provision for evaluation and review within a set time-period;
13. A non-technical summary;
14. Information on contact persons.

Prior to publication, Impact Assessment Statements should be submitted to the Equality Authority for a review as to their adequacy, objectivity, and completeness in terms of acceptable methodology and public consultation.

The Equality Authority could recommend additional measures / changes to be made. "Due regard" should be given to the recommendations of the Authority.

The Final Equality Impact Assessment statement should include information as to what changes were made to implement recommendations made by the Authority.

Once finalised, the availability of Impact Assessment statements should be advertised in local press and a non-technical summary provided. A reasonable time period needs to be allowed before final policy decisions are taken, to facilitate public participation and access to Impact Assessment documents.

Impact Assessment Statements should be made available in accessible formats, e.g. Braille, audiocassette, large print etc.

Chapter 5 : Consultation and Participation by Target Groups

Participation in policy design and review is a crucial feature of any proofing process. Unique and comprehensive information, often not available through traditional data sources, can be obtained by consulting with community groups. These groups will have access to relevant information at the international, national, provincial and local levels. Consultation and a participatory approach to policy design ensure that this data and information is mainstreamed into the policy process. Valuable time and resources can be saved if the concerns of affected interest groups are integrated into all stages of the policy process.

Participation comes through increasing the *representation* of target groups within the policy process as well as improving and increasing the *consultative inputs* at all stages of the process. In developing consultative mechanisms for equality proofing, consideration should be given to the findings of the White Paper, *Supporting Voluntary Activity*, due to be published in 2000.

The need for consultation with relevant non-governmental organisations, statutory bodies, and the Social Partners would arise at a number of stages in an Equality proofing process:

- In designing Equality Action Plans and involving equality objectives, targets and timescales;
- In identifying strategic priorities for Equality Impact Assessment;
- In monitoring and reviewing the implementation of Equality proofing procedures;

In setting up consultative mechanisms / processes, a number of points need to be considered:

1. Consultation must take place as part of a normal process of equality proofing, rather than taking place as a result of pressure applied from those subsequently consulted.
2. Consultations should begin with the appropriate individuals or groups as early as possible.
3. Time should be allowed for groups to consult amongst themselves as part of the process of forming a view.
4. Ensuring greater participation by target groups would require changes in existing mechanisms for consultation and decision-making. Greater consideration must be given to the measures required to *encourage* and to *enable* participation by target groups in all stages of planning, implementation, monitoring and evaluation.
5. Consideration should be given to the consultation method to be used. Options include face-to-face meetings, small-group meetings, discussion papers with the opportunity to comment in writing, questionnaires, or Internet discussions.
6. Consideration also needs to be given to the communication channels used in seeking consultative inputs and feedback: What communication channels would most effectively reach target groups?

7. Accessible means of communication should be used to ensure that all groups, particularly people with disabilities, are fully informed of all actions being taken. Accessible formats such as discs, large print, Braille, audiocassette should be used where necessary.

8. The needs of particular groups must also be taken into account in the organisation of meetings. Consideration would need to be given to the time of day, the appropriateness of the venue, in particular whether it can be accessed by those with disabilities, how the meeting is to be run, the use of appropriate language, whether a signer is necessary, and the provision of childcare.

9. The methods of consultation used should be appropriate to the stage of the proofing process at which they are employed.

10. The human and budgetary tools and resources, available within Social Partners organisations should be taken into account in seeking consultative inputs. Additional resources would be necessary to enable such bodies to participate fully and effectively in equality-proofing processes. Technical and financial assistance and additional human resources would be required to enable disadvantaged groups to participate effectively in the equality proofing process.

11. Considerations of confidentiality should inhibit consultation and participation to the minimum degree possible. Effective participation requires knowledge of all relevant information. Transparency and accountability are, therefore, essential at all stages of the policy process as provided for in the Freedom of Information Act, 1997.

Chapter 6 : Equality Proofing - A Vision

An Integrated Proofing Process

The Working Group articulated a vision involving a single proofing process incorporating the following elements:

- Gender and poverty proofing procedures as set out in the Cabinet Procedures Handbook;
- Poverty proofing guidelines as established within the context of the National Anti-Poverty Strategy;
- Gender proofing guidelines which are being developed within the context of the National Development Plan 2000-2006; and
- Equality proofing covering the wider equality agenda established by the Employment Equality Act, 1998 and the Equal Status Bill, 1999

This vision of an integrated proofing process is necessarily wider than the civil and public service. NESF recommend that equality proofing administrative procedures of appropriate complexity should be encouraged in the private, as well as in the voluntary and community sectors. (NESF 1986 para 4.5). It is also relevant that it is proposed to extend the poverty proofing guidelines beyond Government Departments and that joint Public/Private Partnerships are evolving. The Equality Authority, in carrying out Equality Reviews and designing action plans, will engage with both private and public sector organisations. The above vision if a single integrated proofing process includes the private, community and voluntary sectors.

Equality proofing is a key strategic component for eliminating inequalities. It builds on and enhances results from specific measures and a legal rights approach by seeking to integrate equality issues into the policy making process. Equality proofing relies on agreed indicators and statistical data to monitor progress in achieving defined equality objectives. Issues relating to equality of participation and equality of outcomes are addressed.

Equality proofing procedures are intended to create an 'early warning' system, to alert policy-makers to potential problems arising from the impact of particular laws or policy. Their aim is to replace the reactive approach to problems of inequality that has prevailed to date. They seek to identify the "hidden, unrecognised and unremarked ways in which systems and structures are biased ... and to redress the balance." Effective equality proofing can avoid the adoption of policies and programmes that mirror discriminatory practices within society or even exacerbate existing inequalities.

Equality proofing seeks also to develop more participatory policy-making processes. An important argument invoked in favour of equality proofing, therefore, is its potential to overcome the so-called democratic deficit of traditional forms of governance. The participation of affected groups is intended to lead to greater transparency and openness in the decision-making process. A process of equality proofing leads to greater accountability in the policy process, contributing to the overall objective of '*Delivering Better Government*'.

An integrated proofing process would have a number of advantages. It would:

- Minimise the administrative burden for those involved in the policy process;
- Acknowledge the overlapping factors that lead to poverty and inequality;
- Highlight the multiple disadvantages suffered when factors such as gender, race, or disability are combined.

- Guard against the tendency to treat disadvantaged groups as homogenous entities;
- Allow for a more coherent and integrated approach to capacity building within the policy process; and
- Maximise the resources available to the policy proofing process.

I. The Working Group **recommends** a learning phase be implemented during the period 2000-2003 to inform the vision of an integrated proofing process drawn from the experiences of three separate proofing strands of:

- Gender proofing in the context of the Structural Funds and the National Development Plan 2000-2006;
- Poverty proofing in the context of NAPS; and
- Equality proofing initiatives covering the nine target groups covered in equality legislation. (The proposed initiatives are set out in chapter 7).

II. The Working Group also **recommends** that an Equality Proofing Working Group convened by the Department of Justice, Equality and Law Reform and drawn from relevant Government Departments, the Equality Authority, Combat Poverty and the Four Pillars of Social Partnership be established to provide an ongoing focus on Equality Proofing Issues. The Working Group would have a mandate to:

- Monitor the progress made in implementing the equality proofing initiatives proposed at I above;
- Operate as a 'learning mechanism' to ensure that the experience gained in gender, poverty and equality proofing would be presented in a report;
- Outline steps which should be taken to progress from the 'learning phase' to a broader implementation of equality proofing;
- Advocate an ongoing focus on equality proofing issues;
- Support this ongoing focus through the expertise and knowledge mobilised within the Working Group and through projects resourced by the Group;
- Promote awareness of Equality proofing through seminars, workshops, conferences.

It is envisaged that the elements and approaches which form part of the learning phase will continue in the long term. The learning phase will provide useful experience in relation to following questions:

- The effectiveness of equality proofing as a strategy for addressing inequality for the target groups;
- The level of participation achieved by the target groups;
- The adequacy of existing data systems to support equality proofing;
- Resource implications for the administration and for groups required to input into the process;
- The need for positive actions for certain groups;
- The possible need for a statutory basis for equality proofing including constitutional and legal reform within a rights based approach;
- The scope for integrating equality proofing within the SMI process;
- The creation of workable procedures to support equality proofing;
- The level of participation achieved by the targets groups in the policy making process;
- The development of an integrated proofing system.

A Statutory Basis for Equality Proofing

The NESF has recommended that equality proofing be placed on a statutory basis. The move to a legislative framework for policy appraisal has now been completed in Northern Ireland. A trend towards legislative enforcement can be seen also in the area of environmental impact assessment.

Existing gender proofing and poverty proofing procedures operate on a non-statutory basis. The advantages in continuing this approach would seem to be:

- (a) the desirability of voluntary compliance;
- (b) greater flexibility and discretion in interpreting and implementing proofing guidelines;
- (c) the avoidance of judicial involvement.

In practice, these perceived advantages have not enhanced the effectiveness of policy proofing. Relying on a largely informal, discretionary system has led to inconsistencies in the implementation of proofing procedures and uncertainty as to its requirements. Unless public authorities are required to facilitate public participation, and to have regard to the outcomes of a consultative process, there is a danger that 'civil dialogue' forums become mere 'talking shops'.

A firm legal basis for equality proofing would ensure:

- certainty as to the requirements of a proofing process;
- consistency in the implementation of proofing procedures;
- the availability of review and enforcement mechanisms;
- a firm basis for public participation and consultation;
- a permanent and stable basis for proofing procedures;
- an open, transparent and accountable proofing process.

The learning phase will generate ideas on how best to proceed in this matter.

Constitutional and Legal Reform

Equality legislation provides a body of rights which have a central importance to equality proofing. The Employment Equality Act 1998 was brought into law on October the 18th, 1999. The Equal Status Bill is currently before the Dail. It is important that the operation of this legislation is kept under review to ensure its full potential contribution to equality proofing is realised.

The body of casework that is developed under legislation will provide a key input to any review. The Equality Authority is charged with keeping the operation of this legislation under review. In ensuring the contribution of the legislation to the long term integrated poverty and equality proofing envisaged by the group, it is important that the Equality Authority commits resources to this review function, engages with the social partners in carrying this out, and takes cognisance of the concerns that have been expressed about elements in the legislation.

Some concerns have been raised regarding the disability grounds of the Equality Legislation. The commitment in the recent review of the Programme for Government to a Disability Bill may provide an arena in which to pursue these issues.

Equality proofing would also be enhanced by its inclusion as a core norm within the constitutional legal order. In addition, consideration should also be given to amending the fundamental rights provisions to include a right to freedom from poverty and social exclusion.³⁶ ***Any amendment to the Constitution, to incorporate those rights protected by the European Convention on Human Rights and the UN Covenant on Civil and Political Rights (as proposed by the Constitution Review Group), should include also those rights protected by the UN Covenant on Economic, Social and Cultural Rights. The 1995 report by the Constitutional Review Group recommended a revised Article 41.2.2 supporting a gender neutral form of 'duties in the home' (see earlier reference to Constitutional Review Group).***

Equality proofing:

NESF recommended that equality should be identified as a Strategic Result Area within the Civil Service SMI. The learning phase will also generate ideas on how best to proceed in this matter. Implementation of this proposal would require Departments to incorporate equality objectives, targets and time-scales into Departmental Mission Statements, Statements of Objectives and Customer Service Action Plans. All Government Departments would be required to include Equality Action Plans in Annual Business Plans and Statements of Strategy with information on:

- Equality objectives, targets and time-scales covering each of the nine target groups;
- Strategies to be adopted in pursuit of equality;
- Strategic policy areas for Impact Assessment.

There is a need to provide for Equality Actions in the public Sector generally. During the learning phase at least one public sector body should submit its Equality Action Plan to the Equality Authority for assessment.

The Equality Action Plans produced by public bodies would specify arrangements for:

- Consulting with affected interests which may necessitate capacity building to encourage participation and use of equality proofing in the target groups concerned;
- Monitoring the impact of policies on agreed equality objectives;
- Reporting and publishing the results of any impact assessment;
- Training on equality proofing and impact assessment;
- Data gathering and analysis;
- Publication and dissemination of the Action Plan;
- Evaluating the Department's compliance with the Equality Proofing system;

In drafting the Equality Action Plan, Departments should consult with relevant statutory bodies and the Social Partners. Positive action would be required by Departments to ensure that this consultation takes place. The publication and dissemination of draft Equality Action Plans would facilitate public participation. Provision should be made for interested groups and individuals to submit comments on draft Plans. A reasonable period should be allowed for this process to take place. (Guiding Principles for Consultation are set out in Chapter 5).

The final Equality Action Plan should clearly state the outcomes of any consultative process and identify how and where those outcomes have been incorporated into the Plan.

In Northern Ireland the Equality Commission has responsibility for reviewing Equality Action Plans. Any equality proofing process must provide for a review mechanism which would have

³⁶See Lynch K and Connolly A 1995 "Equality before the law", submission to the Constitution Review Group, *Report of the Constitution Review Group* Government Stationery Office, Dublin. pp.586-591.

the power to request Departments to revise and resubmit the Plan if necessary. Departments should be required to have “due regard” to the recommendations made.

There is a need to provide for Equality Action Plans in the public sector generally. During the learning phase at least one public sector body should submit its Equality Action Plan to the Equality Authority for assessment.

North/South Co-operation

The learning phase proposes strategies for the exchange of experience and joint action on equality proofing on a North/South basis. It is **recommended** that the strategies developed to ensure close co-operation between the Department of Justice, Equality and Law Reform and the Equality Authority and the Public Sector Statutory Unit and the Equality Commission in Northern Ireland be maintained beyond the learning phase referred to in Chapter 7.

Resources

An effective system of equality proofing would require additional human and financial resources. The experiencing of gender and poverty proofing indicates the importance of the provision of adequate resources. Without adequate resources, equality proofing procedures are likely to become a mere ‘tick and dash’ paper exercise.

Additional human and financial resources would be required for:

1. Positive Action Measures;
2. Equality Impact Assessments;
3. Data:
 - To fund primary research;
 - To develop new methods of data collection - unique and comprehensive information, often not available through traditional data sources, can be obtained by consulting with non-governmental organizations and community groups;
 - To extend existing systems of data collection to include target groups not covered by existing collection systems.
4. Participation / Consultative Inputs: To enable and encourage participation by target groups in designing and reviewing Equality Action Plans, in carrying out Impact Assessments, and in reviewing the Equality proofing process.
5. Indicators / Targets: To develop relevant equality indicators and targets and to integrate these into monitoring and evaluation procedures.
6. Training: To develop training materials for equality proofing and to develop training courses for those involved in the policy process;
7. Monitoring and Evaluation: To develop effective, open and transparent monitoring and evaluation procedures;
8. Reporting: To develop an open, transparent and systematic process of reporting.

Chapter 7: Equality Proofing - The Learning Phase

The Learning Phase:

The Working Group articulated a vision of a single integrated equality proofing process. To contribute towards achievement of this vision the Working Group **recommends**

I. An initial learning phase over the period 2000-2003 centered on the development of three distinct, though inter-related proofing strands of:

- Gender proofing within the context of the Structural Funds and the National Development Plan 2000-2006;
- Poverty within the context of the National Anti-Poverty Strategy; and
- Equality covering the nine target groups covered by the equality legislation. (Equality proofing initiatives are set out below).

II. That a Working Group convened by the Department of Justice, Equality and Law Reform and drawn from relevant Government Departments, the Equality Authority, the Combat Poverty Agency and the Four Pillars of Social Partnership be established to provide an ongoing focus on Equality Proofing Issues. The Working Group would have a mandate to:

- Monitor the progress made in implementing the equality proofing initiatives proposed at I above;
- Operate as a 'learning mechanism' to ensure that the experience gained in gender, poverty and equality proofing would be presented in a report;
- Outline steps which should be taken to progress from the 'learning phase' to a broader implementation of equality proofing;
- Advocate for an ongoing focus on equality proofing issues;
- Support this ongoing focus through the expertise and knowledge mobilised within the Working Group and through projects resourced by the Group;
- Promote awareness of equality proofing through seminars, workshops, conferences.

The equality proofing initiatives recommended by the Working Group are outlined below.

- A) Pilot Projects
- B) Research on inequalities leading to poverty
- C) The Civil Service - Strategic Management Initiative
- D) North/South Co-operation
- E) Data
- F) Equality Reviews and Action Plans

A) Pilot projects

The following pilot projects are recommended in order to develop experience of equality proofing in relation to the target groups covered by equality legislation

- (i) Selected measures of the National Employment Action Plan to be worked out in consultation with the Department of Enterprise, Trade and Employment, FÁS and the Department of Education and Science.

- (ii) A mainstream legislative proposal likely to have significant effect on some or all of the target groups. *(to be determined)*
- (iii) County Development Plans: To progress the implementation of equality proofing procedures at local and regional levels, it is recommended that County Development Plans be assessed for their impact on equality objectives. Impact Assessment should be carried out in consultation with the target groups.
- (iv) A public private partnership initiative

With regard to all of these pilot projects Equality Impact Assessments should be carried out in consultation with the Equality Authority and the Social Partners. Additional human and financial resources should be made available to enable and encourage an effective consultation process. It is noted that consultation is already an integral part of the development of the National Employment Action Plan. (Guidelines for Equality Impact Assessment are set out below, chapter 4.)

To ensure the success of the pilot projects training on the methodology and objectives of equality proofing should be provided to all key officials involved. Provision should be made for awareness building on equality issues, as well as intensive training on equality proofing for key officials. Priority should be given to training those likely to be involved in implementing equality proofing procedures.

In addition, it is recommended that training materials on equality proofing would be developed and be publicly available. Training materials should include information on:

- Objectives of equality proofing;
- Basic principles of equality proofing;
- Tools and mechanisms used for equality proofing;
- Data, statistics and resources available;

The design and implementation of training programmes should be undertaken in consultation with individuals and groups with relevant expertise and experience.

In addition to the steps outlined above, a range of flanking measures would be necessary to create the context within which effective equality proofing procedures could be designed, implemented, monitored and reviewed. In relation to the pilot projects, additional funding may be required by the Social Partners and organisations within the Community and Voluntary sector working in the field of equality. Funding would be required to generate data and information on target groups, and to enable groups to participate effectively in the equality proofing process.

B) Inequalities likely to lead to poverty

Poverty Proofing Guidelines already embrace some dimensions of the equality agenda. This is specifically achieved through the proofing question that requires an explanation of impact on inequalities likely to lead to poverty. The effective application of this focus within the Poverty Proofing Guidelines has much to offer the possible future development of a single integrated proofing system. However it is clear that this question is one of the more complex elements of the Poverty Proofing Guidelines and its effective application requires further attention and support.

A joint research project should be developed by the Combat Poverty Agency and the Equality Authority in support of this end. The output of this work could be both a report and a shorter document designed to support those responsible for applying this guideline. This work should enhance the application of the guideline and should contribute to the learning necessary for exploring the possible design of a single integrated proofing system.

The research project and report could usefully address the following areas:

- Set out the analysis and the case that underpins the need for a focus on inequalities leading to poverty.
- Assess the question in the Poverty Proofing Guideline on inequalities likely to lead poverty against this analysis and case.
- Explore the application of the question and the barriers to its effective application
- Explore and establish the characteristics of the different groups that need to be taken into account in the application of this question.
- Develop and report on a number of worked examples of the application of this question.
- Highlight any further work required to underpin the effective application of this question.

Given the seminal nature of this work it is important that it is carried out early in the learning phase set out. The research results would make links with the review of the poverty proofing guidelines

C) Integrating equality proofing into the policy process through the SMI

At present, equality issues are addressed within the Strategic Management Initiative of the Civil Service at a number of levels.

The achievement of an excellent service for the Government and for the public as customers and clients at all levels is an overall objective of the SMI. The SMI also set a framework for the adoption of a more pro-active approach to human resources and identified the achievement of gender equality as an area that required particular attention.

Within the Quality Customer Service Initiative, the Quality Customer Service Working Group is committed to ensuring that attention is given to the needs of specific groups of customers, including people with disabilities and minority ethnic groups. The “Principles of Quality Customer Service” published by the Department of the Taoiseach, direct Government Departments to:

“Respect the rights of minorities at all times in the delivery of services”.

The Guidelines for the drafting of Customer Action Plans, included the following recommendations:

“Segmentation of customers is necessary in order to focus on the different customer groups and their particular requirements” and

“The rights of Minority Groups should be addressed through the provision of appropriate training”.

Within the area of Human Resources, the SMI Human Resource Management Group has taken a number of steps to address equality, specifically gender equality issues, within the civil service. Research commissioned by the Group has shown that progress towards a gender

balance in grades above HEO level has been minimal over the past decade. Women continue to form only a small percentage of senior managers within the Civil Service. In July, 1999, the Government approved a package of measures to address this continuing inequality at senior levels. The strategy adopted includes:

- the development and adoption of a new Equality Policy, which will be drafted by a high-level management Equality Group;
- a programme of affirmative action in the areas of recruitment, placement/mobility, training and development, promotion, work and family responsibilities, language and sexual harassment, and policy delivery;
- the adoption of strategic objective setting at individual Department/Office level, including the setting of increasingly specific equality goals, to be achieved over a stated period of time;
- putting in place new Equality Structures, locally and centrally, to support implementation of the new policy;
- a communications strategy for implementation.

The Working Group recommends that the SMI initiative to combat gender inequalities, particularly at senior levels of the civil service, should continue. The results from this initiative should be reported to the learning mechanism proposed in this report.

In its First Opinion on the development of the Equality Provisions of *Partnership 2000*, the NESF recommended that equality should be an explicit principle underlying the SMI as a whole. It also recommended that administrative procedures for equality proofing should be promoted through the SMI.

The launching of a new phase in the SMI provides an opportunity to give effect to these recommendations and to further integrate equality proofing procedures into the public service. The following steps are recommended:

1. *Human Resources Management*: An equality policy should be developed covering all of the groups covered by current equality legislation.
2. *Quality Customer Service Initiative*: A commitment to the achievement of full and effective equality should underpin all elements of the Quality Customer Service Initiative. To give practical effect to this commitment, the Quality Customer Service Working Group should integrate equality objectives, targets and indicators into the design and implementation of:
 - monitoring and evaluation procedures;
 - bench marking mechanisms; and
 - mechanisms to recognise improvement in quality service delivery;
 - review of existing plans and preparation of new plans.

The SMI Quality Customer Service Working Group should work with the Equality Authority, other relevant statutory bodies and the Social Partners to this end and to realise the ambitions inherent in the Equal Status Bill in relation to customer service.

D) North - South Co-operation

Strategies for exchange of experience and joint action on a North/South basis would make a significant contribution to the learning required for the development of the vision outlined in this report. The Equality Authority in the Republic and the Equality Commission in Northern

Ireland have already engaged in contacts to develop such strategies. A programme of action should be developed out of these contacts. This programme should be resourced under the budget to support action under the chapter on co-operation within Northern Ireland in the National Development Plan.

E) Data

The cornerstone of an effective equality proofing process is an adequate database. The lack of desegregated data in many areas of economic and social policy has created difficulties in monitoring and evaluating equality strategies adopted to date.

In designing and implementing equality proofing procedures, the following issues need to be recognised:

- Dis-aggregated data may not be available for some of the target groups. It may be necessary, therefore, to seek information in the form of case experience, administrative data and pilot programmes;
- Unique and comprehensive information, often not available through traditional data sources, can be obtained by consulting with non-governmental organizations, community and voluntary groups. These groups often have access to information at the international, national, provincial and local levels. Community groups may be a vital source of information on sensitive issues such as sexual abuse, family violence, harassment or bullying, sexual and reproductive health.
- In the absence of dis-aggregated data, it would be necessary to engage in direct research to generate primary data;
- Additional data may be acquired by extending the scope of existing surveys, through additional analysis of existing data and/or awareness raising.

A co-ordinated strategy is required to promote the collection and dissemination of disaggregated data relating to each of the groups covered by equality legislation. A range of measures are required to extend existing data collection systems, to develop new data collection methods and to identify available and relevant data sources. These initiatives (identified below) would build on work currently being undertaken by the CSO to extend census data to a number of key equality areas. The aim of closer co-operation would be to co-ordinate new initiatives to:

- Improve the presentation and dissemination of desegregated statistics;
- Improve the measurement, concepts, definitions and classifications used in data collection;
- Extend data collection programmes to provide needed statistics where data gaps exist;
- To identify data gaps and to make recommendations on the measures required to fill those gaps.

In relation to data requirements and equality proofing the following steps are **recommended**:

- that strategies be developed to facilitate closer cooperation between the Central Statistics Office, the Equality Authority and the Department of Justice, Equality and Law Reform (modeled on the partnership developed in the UK between the Equal Opportunities Commission (UK) and the Office for National Statistics. Further links could also be developed with other institutions responsible for the collection and analysis of major data sets, e.g. ESRI, Educational Research Centre, Health Research Board, Health Promotion Centre (NUI Galway);

- that the existing system of data collection undertaken by service providers should also be expanded to include data on all groups covered in equality legislation; and
- that initiatives which have been taken in the Information Society Project should ensure that any work on data collection includes a focus on all groups covered in equality legislation.

In addition the following proposals should also be examined:

1. The extension of official statistics, such as the Census, Household Budget Survey, Quarterly National Household Survey, Living in Ireland Survey to include questions where appropriate relating to race, religion, disability, marital status, family status, membership of the Traveller community.
2. The production of a Handbook by the Equality Authority, listing the main sources of desegregated data in all areas of public policy. This should be updated on a regular basis
3. The development of a database identifying relevant data sources and partners in data gathering and analysis. This should include information on organisations working on equality issues, what those organisations are seeking to achieve and what they identify as being priorities for action. This should include information on such areas as population; households and families; education; training and qualifications; labour market; health; income and housing; law (including relevant EU and UN standards); crime and justice; the arts; transport and environment; time use; childcare; care of the elderly; wage/salary; leisure; power/ influence (including membership of Government, Dáil, Seanad, Judiciary, State Boards etc). This should be updated on a regular basis;
4. Data related to target groups should be compiled and made available in a single statistical product (publication, CD Rom etc) tailored to the users' needs and updated on a regular basis.

Research funding should be provided to statutory bodies and community groups to ensure that reports such as *Women in Poverty* and *Poverty, Lesbians and Gay Men; the Economic and Social Effects of Discrimination* are regularly updated.

F) Equality Reviews and Action Plans

To develop learning on the role of equality proofing procedures in the private sector, it is recommended that the Equality Authority would take the Equality proofing guidelines into account in carrying out Equality Reviews and in designing Action Plans, as provided for in section 69 of the 1998 Employment Equality Act. To effectively engage companies in this process ESF Evaluation Unit recommended financial provision in the region of IR£200,000 per annum should be provided to stimulate private sector involvement in this process.³⁷

There is a need to provide for Equality Action Plans in the public sector generally. During the learning phase at least one public sector body should submit its Equality Action Plan to the Equality Authority for assessment.

³⁷ *Equal Opportunities for Men and Women and the ESF Evaluation Report*, (Dublin: ESF Programme Evaluation Unit, October, 1999) p.228.

Appendix 1: Disability Proofing

Disability Proofing is a strategy which aims to make sure that disabled people and their needs are included from the start in the development of all structures, policies and practices. It is the basic tool of inclusion.

Excerpt from ADM “Achieving the Inclusion of People with Disabilities within Integrated Development” Resource Pack:

A first step towards proofing your organisation might involve the following Checklist

- Are the premises and services and the location of programmes easy to gain access to?
- Are facilities and equipment accessible to everyone?
- Are safety regulations in place that are accessible e.g flashing and bell alarm signals?
- Is there accessible parking available?
- Are policy documents, agreements, practices and procedures checked regularly to ensure that they do not in any way offend disabled people?
- Is information available in accessible formats e.g. Braille; audio-tape; e-mail; large print?
- Has information been disability proofed e.g inappropriate and offensive language replaced?
- Do interviews/meetings take place in a convenient and accessible location?
- Are support mechanisms put in place for meetings e.g. Personal Assistants?
- Is effective communication ensured e.g. through interpreters?

If you have answered negatively to more than two of the above then perhaps your organisation could draw up a policy statement which will identify:

- How you propose involving disabled people in the planning and delivery of your activity and services
- Who within your organisation will take responsibility for this statement?

Appendix 2: Traveller Proofing

Pavee Point, Dept. of Education and Science and FAS *Methodological Tools for a Traveller Focus Within Mainstreaming Education and Training: A Traveller Proofing Project* Pavee Point, Dublin

The INTEGRA initiative, in co-operation with Pavee Point, FÁS and the Department of Education and Science is an innovative project which seeks to pilot tools to be used as a part of a mainstreaming equality strategy. It is a systems development measure, targeted at existing education, training and work experience systems with a view to promoting social inclusion of Travellers. The aim of the project is to:

Develop and pilot methodological tools to provide an effective Traveller focus within mainstream training, education and work experience systems and thereby provide effective outcomes for Travellers using mainstream systems.

The project is in pilot phase in five geographical locations nationally, involving personnel from the education, training and work experience systems and from Traveller organisations.

The model being piloted involves three main phases and commences from a situation in which there is a dearth of official statistics:

1. Key stakeholders meet to design a data collection instrument which is capable of providing tracking data.
 - 1a. Collection of data over a specified time period. The data collection is continuous;
2. Key stakeholders meet to discuss collected data by reference to equality of access, equality of participation and equality of outcome. Specialist knowledge is required in order to interpret existing data on access and participation of Traveller women and Traveller men.

Proposals regarding measures which can be undertaken to promote Traveller access, participation and outcomes from mainstream education and training provision. (For instance, one proposal in relation to the Local Employment Service might be the provision of an outreach service to promote awareness).

3. Implement specified proposals, for specified time period and with anticipated targets.
4. Review of impact of proposals/measures implemented.

The model is focused particularly upon existing service provision. It seeks to mainstream equality in programme review, rather than in relation to policy (a process which would occur at national level). The process is a continuous one. In relation to this model being piloted, it is noted that, in the implementation phase of this initiative, revisions, refinements of the model are continuously taking place in light of issues arising. Flexibility and administrative workability are acknowledged as central principles.

Appendix 3: Gender Impact Assessment Guidelines for the National Development Plan

Introduction

The achievement of equal opportunities between women and men is a horizontal principle of the National Development Plan (paragraph 13.20). In support of this commitment the NDP provides for the following elements:

- The identification of equal opportunities between men and women as an objective of the Employment and Human Resources Development Operational Programme (paragraph 5.20) and also as a core element of the Social Inclusion Sub-Programme within the Regional Programmes (paragraphs 7.64 and 8.63 and 10.23);
- The acknowledgement of the impact of equal opportunities between women and men in spending on infrastructure and productive investment (paragraphs 4.124/5, 6.115);
- The requirement that the impact on gender equality be explicitly incorporated into the project selection procedures of all implementing bodies under the NDP (paragraph 12.14);
- The intention that indicators will require sex differentiated outcomes 'where the nature of the assistance permits' (paragraph 12.12);
- The establishment under the Department of Justice, Equality and Law Reform of a Monitoring Unit to monitor gender mainstreaming generally and to advise on the development of appropriate indicators in this regard (paragraph 13.37);
- The commitment to promote gender balance on all Monitoring Committees (paragraph 12.8);
- The commitment to include representation of the equal opportunities interest on all Monitoring Committees and the CSF, to be drawn from a relevant Government Department or appropriate statutory body (paragraph 12.8);
- It will be mandatory to include equal opportunities among the project selection criteria for all measures (paragraph 13.37);
- The establishment of an Equal Opportunities and Social Inclusion Co-ordinating Committee (paragraph 13.37).

The above commitments involve a focus on gender equality across the six Operational Programmes, i.e. the Economic and Social Infrastructure, Productive Sector, Employment and Human Resources Development, Regional and Peace Operational Programmes. This is part of *gender mainstreaming*. Gender mainstreaming is a comprehensive strategy to achieve equal opportunities between women and men. It is applied to reinforce the effect of existing equal opportunities policies, such as equality law and positive action measures. The mainstreaming approach involves

'not restricting efforts to promote equality to the implementation of specific measures to help women, but mobilising **all** general policies and measures

specifically for the purpose of achieving equality by actively and openly taking into account at the planning stage their possible effects on the respective situations of men and women' (COM (96)67).

Application of the Guidelines

The Gender Impact Assessment should be undertaken for all areas of expenditure under the NDP with the exception of environmental services (water, waste water and waste management), energy and coastal protection, as provided for in paragraph 4.124 of the Plan. The Plan further provides that investment in roads should be gender neutral. Expenditure on roads within the current funding allocation under the NDP is also excluded. However, any future proposals regarding the distribution of the financial allocation between roads and public transport should be subject to gender impact assessment, in recognition of the importance of public transport for women. The application of the Guidelines to the Productive Sector Operational Programme will be the subject of discussion between the Department of Enterprise, Trade and Employment and the Department of Justice, Equality and Law Reform.

The Guidelines will apply to the following stages:

(a) Operational Programmes

All Operational Programmes and Programming Complements should contain a brief description of the baseline position in relation to equal opportunities between women and men at sub-programme and measure level and, where appropriate, targets for the anticipated impact. The baseline description should be either quantitative or qualitative. A qualitative description will be sufficient where no quantitative gender disaggregated data currently exists. Where it would be potentially cost effective in improving the equal opportunities impact of measures under the Plan gender disaggregated data should be gathered. Those drafting Operational Programmes are asked to contact the Equal Opportunities Promotion and Monitoring Unit in the Department of Justice, Equality and Law Reform for information on the gender disaggregated data currently available. The Unit will act as a reference point for data sources. The Unit can also advise on the type of data which might be compiled in areas where it is currently deficient.

(b) Programming Complement

The Gender Impact Assessment Guidelines below outline the basic steps to be taken to carry out a Gender Impact Assessment at the Programming Complement stage. This form will allow assessment of the extent to which equal opportunities feature in projects, which will allow implementing bodies to incorporate equal opportunities into the project selection criteria for all measures, as required under paragraph 13.37 of the NDP.

(c) Project Selection

The National Development Plan provides that the inclusion of gender impact will be a mandatory criterion in project selection for all measures. At minimum, the following table should be completed for every project or scheme under each measure and inform the selection process for the measure.

Footnote: Consideration should be given to introducing weightings for equal opportunity impact for project selection in interventions where promoting a positive impact on the target groups is one of the primary economic and social objectives of the intervention.

Impact of expenditure activity on equal opportunities			
	Positive relative to existing situation	Negative relative to existing situation	Neutral relative to existing situation

Women			
Men			

(d) Monitoring

All Managing Authorities must provide for representation on their Monitoring Committees of the Department of Justice, Equality and Law Reform and the Equality Authority, to represent the interests of equal opportunity in strategic decision making.

A baseline for the female participation rate in monitoring committees should be established by reference to the composition of the nearest corresponding Monitoring Committee under the 1994-1999 round. Where female participation is less than their share of the general population, a target to improve this representation should be set. When requesting implementing bodies and other interests to nominate suitably qualified persons as members of Monitoring Committees, these bodies should be requested to have regard to this target in deciding their nominations.

(e) Evaluation

In accordance with paragraph 13.37 of the NDP, the terms of reference for all evaluations should include impact on equal opportunity as a criterion for evaluation. The emphasis given to gender equality will relate to the nature of the programme investment to be evaluated.

Supports for implementation of the guidelines

To aid Departments and implementing bodies in incorporating equal opportunities into the policy framework of the NDP, the Department of Justice, Equality and Law Reform is arranging for training for policy makers on gender mainstreaming, including practical examples and case studies. Training is considered the best way to provide guidance to policy makers due to the variety of different project areas involved. Training needs will also be revised and updated based on review of the completed gender impact assessment forms. In addition, lead Departments, implementing Departments, and delivery agencies will be invited to participate in an *ad hoc* working group in the implementation of the guidelines. The Equal Opportunities Promotion and Monitoring Unit in the Department will be available to provide expert advice to implementing Departments and delivery agencies on incorporating equal opportunities issues into the NDP policy framework. Dr Anne-Marie McGauran, Head of Unit is contactable at the following numbers:

Phone: (01) 6670 344, extn 2384

Fax: (01) 6670 366

Email: Anne_Marie_X._McGauran@justice.ie

The Unit will also be able to provide advice on other bodies which may usefully be consulted.

Gender Impact Assessment Forms to be completed at Programming Complement stage

Programming Complement _____

Measure/Project _____

Step One: Outline the current position of men and women in the area which this expenditure activity will address.

Who are the current beneficiaries of this area of expenditure activity? (Beneficiaries include users of the facility, or participants).....

.....How

many are women?..... How many are men?.....

What data source did you use to determine these figures?.....

.....

The Equal Opportunities Promotion and Monitoring Unit will assist on data sources.

Step Two: What factors lead to women and men being affected differentially in the area being addressed by this expenditure activity?

Identify the factors which lead to the differential impact on women and men.

a).....

.....

b).....

.....c).....

.....

.....

d).....

.....

Step Three : How can the factors which lead to women or men being affected differentially be addressed and changed?

How can the policy proposal/measure respond to the factors identified in Step 2 above?

- a).....
.....
- b).....
.....
- c).....
.....
- d).....
.....

Where considered appropriate, what actions do you propose in this regard?

- a).....
.....
- b).....
.....
- c).....
.....
- d).....
.....

Appendix 4: Poverty Proofing Guidelines

Guidelines for the Implementation of Poverty Proofing Procedures

1. Introduction

1.1 Following the Government decision of 23 July 1998, in line with a Partnership 2000 commitment to strengthening of administrative procedures for equality proofing in the context of the NAPS, it is now a requirement in the updated Cabinet Handbook, published in October 1998 (p.19), that memoranda for the Government involving significant policy proposals "indicate clearly the impact of the proposal on groups in poverty or at risk of falling into poverty in the case of significant policy proposals".

1.2 Although some Departments' remit may not seem to impact directly on poverty, and while some Departments are not involved in direct service delivery, it must be noted that this is an obligatory requirement. While the secondary effects of some proposals (particularly those which are not directly aimed at alleviating disadvantage) may not be immediately apparent, they may still have an impact on the poor, or may, inadvertently, lead to a risk of poverty for some people/groups.

1.3 The statement of impact on poverty should be based on a systematic analysis, using the Framework previously circulated and outlined again in section 4 below.

Appendix A contains worked examples of the poverty proofing process applied to sample policy proposals, as submitted by their respective lead Departments.

2. What is Poverty?

2.1 Poverty is defined in the National Anti-Poverty Strategy (adopted by Government in April 1997) as follows:

" People are living in poverty if their income and resources (material, cultural and social) are so inadequate as to preclude them from having a standard of living which is regarded as acceptable by Irish society generally. As a result of inadequate income and resources, people may be excluded and marginalised from participating in activities which are considered the norm for other people in society."

2.2 The NAPS overall target focuses on the 9-15% of Irish households that were determined, in the ESRI's 1994 Living in Ireland Survey, currently being updated to 1997, to be "consistently poor" (based on the 50% and 60% relative income lines combined with the presence of basic deprivation). The target is to reduce this proportion to less than 5-10% of households by 2007.

There are also subsidiary targets in relation to the five key themes identified in the NAPS: Educational Disadvantage, Unemployment, Income Adequacy, Disadvantaged Urban Areas, and Rural Poverty.

3. What is Poverty Proofing?

3.1 Poverty proofing is defined as follows:

" Poverty proofing is the process by which Government Departments, local authorities and State agencies assess policies and programmes at design and review stages in relation to the likely impact that they will have or have had on poverty and on inequalities which are likely to lead to poverty, with a view to poverty reduction."

3.2 The primary aim of the process is to identify the impact of the policy proposal on the poor so that this can be given proper consideration in designing the policy. It is not intended that Poverty Proofing would require that all policies be fundamentally transformed so that they are explicitly targeted at the disadvantaged. (Attention is drawn to the point made at 3.3 following.)

3.3 The potential effects of some policy proposals may be ambiguous in the sense that the policy may have a positive effect on some poverty risk groups and a negative (or no) effect on others. In such cases, all potential effects should be highlighted. One should consider the varying effects (if applicable) to each of the poverty risk groups as outlined below (4.4) and how any adverse effects on these groups might be counteracted. The possibility of particular groups being inadvertently excluded from the potential benefits of a proposal should also be noted.

4. Poverty Proofing Procedure

4.1 The procedure outlined below is as previously circulated in the document, *Policy Proofing in the Context of the National Anti-Poverty Strategy*.

4.2 Proofing What?

Poverty proofing should be undertaken in the following circumstances:

- in the preparation of SMI Statements of Strategy and Annual Business Plans;
- in designing policies and preparing Memoranda to Government on significant policy proposals;
- in the preparation of the Estimates and Annual Budget proposals - this will also include expenditure reviews and programme evaluations;
- in the preparation of the National Development Plan and other relevant EU Plans and Programmes;
- in the preparation of legislation.

4.3 Proofing How?

In the circumstances outlined above, Departments should individually address the following questions:

- What is the primary objective of this policy / programme / expenditure proposal?
- Does it . . .
 - i) help to prevent people falling into poverty?
 - ii) reduce the level (in terms of numbers and depth) of poverty?
 - iii) ameliorate the effects of poverty?

- iv) have no effect on poverty?
 - v) increase poverty?
 - vi) contribute to the achievement of the NAPS targets (including subsidiary targets under the five themes)?
 - vii) address inequalities which might lead to poverty? (See 4.5 below)
 - viii) as proposed, reach the target group(s)? (See 4.4 below)
- and what is the rationale and basis of the assessment (for example, administrative data sources/household survey data, Working Group or Task Force Reports etc.) behind each of these replies?
 - If the proposal has the effect of increasing the level of poverty, what options might be identified to ameliorate this effect? *[this could include proposals to counteract adverse effects which may be identified for certain sub-groups even where the impact on the overall population is positive - see 3.3 above.]*
 - If the proposal has no effect on the level of poverty, what options might be identified to produce a positive effect? *[Again this could address any potential for certain social categories to miss out on benefits generally available to the target group.]*

4.4 In answering these questions, *particular attention should be paid to those groups which have been identified as being either in persistent poverty or known to be at risk of poverty (in both rural and urban areas), viz.:*

- the unemployed, particularly the long-term unemployed;
- children, particularly those living in large families;
- single adult households and households headed by someone working in the home;
- lone parents;
- people with disabilities;
- older people, in particular households headed by a retired person;
- members of the Traveller community;
- the homeless;
- ethnic minorities.

[It should be noted that the extent and composition of these groups are likely to change over time and the focus of proofing would change accordingly over the lifetime of the NAPS.]

4.5 Particular attention should also be paid to *inequalities which may lead to poverty*. These could arise, for instance, in the context of age, gender, disability, belonging to an ethnic minority (including membership of the Traveller community) or sexual orientation.

5. Evaluation

5.1 Poverty Proofing is currently in place on a one-year pilot basis.

The effectiveness of the process will be reviewed at the end of the trial year (Summer/Autumn 1999). Officials in all Departments will be asked to respond to an evaluative process on their experience of the Poverty Proofing Procedure in order to inform that review.

6 Worked Examples

To aid with the implementation of the Framework, worked examples of the Poverty Proofing process as applied to several proposals are attached. These examples have been provided by relevant Departments and do not necessarily relate to actual policies which have been proofed.

The responses to each question have been annotated (by NAPS Unit based in the Department of Social, Community and Family Affairs) where it was considered appropriate and helpful to do so, in order to clarify the meaning of the question and also suggest some issues which may require consideration in the examination of policies in general (although not necessarily relevant to the particular examples shown).

An analysis, along the lines of what is included hereafter, should be conducted prior to finalising any Memorandum to Government. The Memorandum itself should then contain 3-4 sentences summarising key results of analysis (e.g. increases/decreases in poverty overall; what (if any) effects are likely for specific groups?

Appendix 5: The Statutory Equality Duty under the Northern Ireland Act, 1998 (S.75)

Introduction

The culmination of the consultation process surrounding the reform of the PAFT guidelines and the implementation of the equality elements of the Good Friday Agreement resulted in the new statutory based approach to mainstreaming equality as set out in the Northern Ireland Act 1998.

Section 75 of the Northern Ireland Act 1998 stipulates that each “public authority”³⁸ is required in carrying out its functions relating to Northern Ireland, to have “due regard” to the need to promote equality of opportunity between certain different individuals and groups.

The relevant categories between which equality of opportunity is to be promoted are:

- between persons of different religious belief, political opinion, racial group, age, marital status, or sexual orientation.
- between men and women generally;
- between persons with a disability and without; and
- between persons with dependants and persons without.

In addition, without prejudice to the obligations set out in section 75(1), public authorities are also to have “regard”, in the carrying out of its functions to the desirability of promoting “good community relations” between persons of different religious belief, political opinion or racial groups.

Public Bodies

The statutory duty to promote equality of applies to public authorities as defined in section 75(3). Four categories of public bodies are set out. The first is the category of department, corporation or body listed in Schedule 2 to the Parliamentary Commissioner Act 1967 and designated for the purposes of this section by order made by the Secretary of State; these are mostly United Kingdom-wide public bodies. The second is the category of department or other authority listed in Schedule 2 to the Commissioner for Complaints (Northern Ireland) Order 1996. The third is the category of department or other authority listed in Schedule 2 to the Ombudsman (Northern Ireland) Order 1996. The final category is any other person designated for the purpose by order made by the Secretary of State.

The effect of these provisions is to include under the equality duty a considerably broader range of public bodies than had hitherto been the case under PAFT: local authorities, for example, and non-departmental public bodies are now expressly covered. The Act also extends to UK-wide public bodies with functions in Northern Ireland.

Enforcement of the Equality Duty

Schedule 9 of the Northern Ireland Act 1998 makes provision for the enforcement of the duties under section 75. Generally, the Equality Commission is required to keep under review of the effectiveness of the section 75 duty, advise public authorities and others in connection with

³⁸ Public authority is defined in 75 (3) and discussed *infra*.

those duties and carry out the other functions as conferred on it by the provisions of Schedule 9.

Equality Schemes

To this end, all public authorities are required before the end of a period of six months from the commencement of Schedule 9 to submit an “equality scheme” to the new statutory Equality Commission.

An equality scheme shall detail how the public authority designs to fulfill its duties under section 75 in relation to the “relevant functions”, and specify a timetable for measures proposed in the scheme. An equality scheme is required to conform to any guidelines as issued by the Equality Commission and also to include details of the arrangements for its publication. Draft Guidelines for the preparation of Equality Schemes have been prepared by the Northern Ireland Equality Commission .

Without being exhaustive, the Schedule sets out the procedural requirements with which an equality scheme must comply and specifies the following:

A scheme shall state, in particular, the authority’s arrangements -

- for assessing its compliance with the duties under section 75 and for consulting on matters to which a duty under that section is likely to be relevant (including details of the persons to be consulted);
- for assessing and consulting on the likely impact of policies adopted or proposed to be adopted by the authority on the promotion of equality of opportunity;
- for monitoring any adverse impact of policies adopted by the authority on the promotion of equality of opportunity;
- for publishing the results of such assessments and such monitoring;
- for training staff;
- for ensuring, and assessing, public access to information and to services provided by the authority.

Consultation

Before submitting a scheme to the Equality Commission, a public authority shall consult, in accordance with any directions given by the Commission, with representatives of persons likely to be affected by the scheme,³⁹ and with such other persons as may be specified in the directions.⁴⁰

The Guidelines produced by the Equality Commission reiterate the importance of external consultation in the preparation of the equality scheme. They point out that the purpose of such consultation is to enable "those particularly affected to indicate in the course of consultations whether they consider that the public body has neglected to include policy areas which should be considered".⁴¹

Impact Assessment

³⁹ Schedule 9, para. 5(a)

⁴⁰ Schedule 9, para. 5(b)

⁴¹ Para. 5.22 Draft Guidelines (1999)

Under schedule 9 a public authority is required to include in its Equality Scheme arrangements it has made for assessing the impact of policies it has adopted or that it proposes to adopt; for monitoring any adverse impact of policies; and for publishing the results of such assessments. In publishing the results, the public authority must state the aims of the policy in question and must give details of any consideration given to measures to mitigate any negative impact or to alternative policies which might better achieve the promotion of equality of opportunity. The British Government has made it clear that it believes that impact assessments should relate to the general run of a public authority's policies and not merely to policies aimed at promoting equality of opportunity.

Approval of Scheme

Once an equality scheme is sent to the Equality Commission for approval, the Commission can, first, approve it or refer it to the Secretary of State for Northern Ireland.⁴² On receipt of a scheme by the Secretary of State, he or she may approve the scheme; may request the public authority to make a revised scheme; or may make a scheme for the public authority.

Complaints and Investigations

Complaints of non-compliance by a public authority with an approved equality scheme can be directed in writing to the Equality Commission by any person who claims to have been directly affected by the failure.⁴³ Before proceeding to the Commission however, the complainant must bring the complaint to the notice of the public authority and give the public authority a reasonable opportunity to respond.⁴⁴ A complaint must also be sent to the Commission during the period of 12 months starting with the day on which the complainant first knew of the matters alleged.⁴⁵

On receipt of a complaint the Equality Commission shall either investigate the complaint or give the complainant reasons for not investigating. Additionally, the Equality Commission has the power to investigate at its own behest compliance by a public authority with an equality scheme "where it believes that a public authority may have failed to comply with a scheme ..."⁴⁶

A report on the investigation of the complaint shall be sent to the Secretary of State, the public authority concerned and the complainant (if any).⁴⁷ If remedial action is recommended on foot of the report and the Commission considers that this action is not taken within a reasonable time, the Commission may refer the matter to the Secretary of State. In this situation the Secretary of State may give directions to the public authority in respect of any matter referred to

⁴² The procedure following submission of a scheme to the Equality Commission differs according to the type of public body involved for a distinction is made in the legislation between Northern Ireland public bodies and United Kingdom public bodies. The description above traces the procedure in the case of Northern Ireland bodies

⁴³ Schedule 9 para. 10 (2)

⁴⁴ Schedule 9 para. 10(4)

⁴⁵ Schedule 9 para. 10(3)

⁴⁶ Schedule 9 para. 11(1)(b)

⁴⁷ Schedule 9 para. 11(2)

him or her and shall notify in writing the Assembly of the report as received from the Commission and the directions given to the public authority.⁴⁸

Conclusion

The section 75 provisions of the Northern Ireland Act have the potential to make a significant contribution to the achievement of equality in Northern Ireland. However realisation of this potential will depend on the provisions being implemented in a full and effective way. This will require a positive approach from public authorities and also the active assistance of public authorities by the Equality Commission. The Commission, which began to operate on 1 October 1999, has already begun this process through the drawing up of Draft Guidelines on the preparation of Equality Schemes.

⁴⁸ Schedule 9 para. 11 (3)-(5)

Bibliography

ADM Ltd. 1998. *A Compilation of Case Studies on Themes and Issues within the Local Development Programme Insights no.3 Traveller Inclusion*, ADM Ltd., Dublin.

———. 1996. *Towards Gender Equality in Integrated Local Development*, ADM Ltd., Dublin.

———. 1997. *Area Development Management Strategic Plan 1997-1999*, ADM Ltd., Dublin.

Barrow C.J. 1997. *Environmental and Social Impact Assessment An Introduction*. London: Arnold Publishing .

Beveridge, F., S. Nott, and K. Stephen. 1998. *Predicting the Impact of Policy Gender Auditing as a Means of Assessing the Probable Impact of Policy Initiatives on Women Country Report: United Kingdom*, Feminist Legal Research Unit, Liverpool.

Central Community Relations Unit. 1995. *Policy Appraisal and Fair Treatment Annual Report 1994*, CCRU, Belfast.

———. 1996. *Policy Appraisal and Fair Treatment Annual Report 1995*, CCRU, Belfast.

Central Secretariat. 1993. *Policy Appraisal and Fair Treatment Guidelines*.

Commission on the Family. 1998. *Strengthening Families for Life Final Report to the Minister for Social, Commuity and Family Affairs*, Government Stationery Office, Dublin.

Commission on the Status of People with Disabilities. 1996. *A Strategy for Equality Report of the Commission on the Status of People with Disabilities*, Government Stationery Office, Dublin.

Constitution Review Group. 1996. *Report of the Constitution Review Group*, Government Stationery Office, Dublin.

Delivering Better Government Strategic Management Initiative Second Report to Government of the Co-Ordinating Group of Secretaries, (1996) Government Stationery Office, Dublin.

Department of Justice, Equalty and Law Reform. 1998. *Strategy Statement 1998-2000 Community, Security and Equality*, Dublin.

Department of Social Welfare. 1997. *Supporting Voluntary Activity A Green Paper on the Community and Voluntary Sector and its Relationship with the State*, Government Stationery Office, Dublin.

Donnelly M, Mullally S and Smith O 1999 *Predicting the Impact of Policy: Gender Auditing – Ireland, A Country Report*, FLRU, Faculty of Law, Liverpool, UK

Donnelly M, Mullally S and Smith O 2000 “Making Women Count in Ireland” in Beveridge F, Nott S, Stephens K (eds.) *Making Women Count* Ashgate, London *forthcoming*

European Anti-Poverty Network. 1998. *Poverty in Europe: The figures for the Member States of the European Union*, EAPN, Brussels.

European Commission Directorate-General Environment, Nuclear Safety and Civil Protection. 1996. *Environmental Impact Assessment Guidance on Screening*.

European Commission Directorate General Environment, Nuclear Safety and Civil Protection. 1996. *General Evaluation of the Performance of the EIA Process*, Volume 1.

European Commission Directorate-General Environment, Nuclear Safety and Civil Protection. 1996. *Guidance on Screening*.

Farrell, F. 1996. Communities of Interest: The Challenge to Area Based Responses. *Partnership in Action: The Role of Community Development and Partnership in Ireland*. Galway: Community Workers Cooperative.

FÁS. 1998. *Women In Focus*, FÁS, Dublin.

Federal Provincial / Territorial Ministers Responsible for the Status of Women. 1997. *Economic Gender Equality Indicators*, Status of Women Canada, Canada.

Fry J. (NUI, Dublin) 1998. “Theoretical Dimension of Environmental Impact Assessment Operations” (*Unpublished Paper*, copy on file with the authors)

Gay HIV Strategies, Nexus Research, and Waterford Area Partnership. 1999. *Local Development Lesbians and Gay Men: The Report of a Strategy Development and Capacity Building Project with the Waterford Gay and Lesbian Community*, Waterford Area Partnership.

GLEN, and Nexus Research. 1995. *Poverty, Lesbians and Gay Men, The Economic and Social Effects of Discrimination*.

Harvey, B. 1998. *Working for Change: A Guide to Influencing Policy in Ireland*, Combat Poverty Agency, Dublin.

The Higher Education Authority. 1997. *Reports, Accounts 1992&1993 & Student Statistics 1992/93& 1993/94*, The Higher Education Authority, Dublin.

Ireland. 1997. *National Anti-Poverty Strategy Sharing In Progress*, Government Stationery Office, Dublin.

Irish Congress of Trade Unions. 1987. *Lesbian and Gay Rights in the Workplace: Guidelines for Negotiators*.

Lynch K and Connolly A 1995 "Equality before the law", submission to the Constitution Review Group, *Report of the Constitution Review Group* Government Stationery Office, Dublin. pp.586-591

McCrudden, C. 1996. *Mainstreaming Fairness? A Discussion Paper on Policy Appraisal and Fair Treatment*, CAJ, Belfast

_____. 1998. *Benchmarks for Change Mainstreaming Fairness in the Governance of Northern Ireland*, Committee on the Administration of Justice, Belfast.

_____. 1999. Mainstreaming Equality in the Governance of Northern Ireland. *Fordham International Law Journal* 22.

Melkas, T. 1999. *The Gender Barometer 1998 Equality Between Men and Women in Finland*, Statistics Finland, Finland.

Ministry of Women's Affairs, New Zealand. 1997. "The Full Picture: Guidelines for Gender Analysis." Web page. Available at <http://www.mwa.govt.nz/fullpicture/whtga.html>.

Murphy T and Twomey P 1998 *Ireland's Evolving Constitution 1937-1997* Hart Publishing, Oxford

National Committee for the European Year Against Racism *Developing an Anti-Racist Dimension to Government Department Customer Action Plans* (Dublin: Department of Justice, Equality and Law Reform, 1997)

_____. 1997 *Framework Programme for the European Year Against Racism*, 1997 Department of Justice Equality and Law Reform, Dublin.

_____. 1997 *Towards an Anti-Racism Dimension to Government Department Customer Action Plans* Department of Justice Equality and Law Reform, Dublin.

_____. 1997 *Equality Proofing and Racism: Proofing Government Policy Provision and Procedures Against Racism*, Dublin

National Economic and Social Forum. 1996. *Equality Proofing Issues*, Government Stationery Office, Dublin.

National Economic Social Forum. 1997. *Partnership 2000: Development of the Equality Provisions*, Government Stationery Office, Dublin.

Rees, Teresa. 1998. *Mainstreaming Equality in the European Union*. London: Routledge.

Rose, K. 1998. Policy Universes: Gay and Lesbian Issues and Local Development. *Local Development in Ireland - Policy Implications for the Future* .Galway: Community Workers Cooperative.

Ryan L. 1998. *Equality Proofing Administrative Procedures A Review of Existing Approaches in Selected EU Member States*, Pavee Point, Dublin.

Second Commission on the Status of Women. 1993. *Report to Government*, Government Stationery Office, Dublin.

Status of Women Canada. 1996. *Gender Bases Analysis: A Guide for Policy Making*, Status of Women, Canada.

Training and Employment Agency. 1994. *Equality of Opportunity Monitoring Results*, Training and Employment Agency, Belfast.

United Kingdom. 1998. *Partnership for Equality White Paper*, Stationery Office, London.

Whitney, J. B. R., and V. W. McLaren. 1985. A Framework for the Assessment of EIA Methodologies. *Environmental Monograph* 5.

Worldbank *Gender Net: Sharing Knowledge and Experience on Ways to Achieve Gender Equality* at <http://www.worldbank.org/gender>