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cc Directors
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POLICY APPRAISAL AND FAIR TREATMENT

1. The purpose of this note is to request from each of you, as nominated PAFT representatives for your respective divisions, an input to the T&EA's contribution to DED's 1995 PAFT report which will be submitted to the Central Community Relations Unit, Stormont Castle.
2. The report will cover the calendar year 1995 and we are requested to outline the actions which the Agency has taken to implement PAFT. A copy of the PAFT guidelines and the Agency's 1994 submission are attached for ease of reference. The content of the DED report is expected to cover three main areas - implementation strategy, review of existing policies and new policies.
4. The divisions are expected to ensure that their contributions cover all policies and services which were reviewed or introduced in the calendar year 1995. (The Equality Unit will prepare the implementation strategy which involves the promulgation of PAFT, staff training and PAFT monitoring and will liaise with colleagues as appropriate.)
5. The contributions should include:
 - (a) a brief description of programme,
 - (b) the PAFT factors which were taken into account in the development phase to ensure equality of opportunity and fair treatment, such as monitoring procedures, research and considerations of accessibility,
 - (c) the PAFT implications ie. an assessment of the direct and indirect impact of the programme on the various PAFT groups, which are as follows;
people of different religious beliefs or political opinions,
people of different gender,
people of different ethnic group,
people with, or without, a disability,
married and unmarried people,
people with and without dependants,
people of different ages,
people of differing sexual orientation.

Please note that ethnicity covers the Chinese, Indian, Pakistani and Traveller communities.

- (d) Resulting changes to policy (impact on policy) ie. examples of action to address unacceptable under-representation in programmes. This action can range from the production of promotional materials to raise awareness of a particular programme, through targeting groups which are under-represented by the provision of additional premiums to introducing specific initiatives eg. Women into Trades project. In the case of no action, despite an adverse differential impact, the decision needs to be justified. (With some exceptions in law, any act or policy which is directly discriminatory on the grounds of religion, political opinion or gender, is not capable of being justified.)

I would be grateful for contributions by Thursday 30 November.

Thank you

Anne Moore

POLICY APPRAISAL AND FAIR TREATMENT

The Government is committed to securing equality of opportunity and equity of treatment for all people in Northern Ireland. This means not only eliminating unlawful discrimination or unjustifiable inequality but also actively promoting fair treatment.

The aim of the Policy Appraisal and Fair Treatment initiative (PAFT) is to ensure that, in practice, issues of equality and equity condition policy-making and action in all spheres and at all levels of Government activity, whether in regulatory and administrative functions or through the delivery of services to the public.

The attached Guidelines on Policy Appraisal and Fair Treatment were prepared by the Equality/Equity Branch of the Central Community Relations Unit. They mirror those applicable in Great Britain and replace Central Secretariat Circular No 1/90.

The Guidelines identify a number of areas where there is potential for discrimination or unequal treatment to occur and outline steps which those responsible for the development of policy and delivery of services should take to ensure that, in drawing up new policies or reviewing existing policies, they do not unfairly or unnecessarily discriminate against specified sections of the community.

Groups coming within the scope of the Guidelines include people of different gender, age, ethnic group, religious belief or political opinion; married and unmarried people; disabled and non-disabled people; people with or without dependants and people of differing sexual orientation.

The Guidelines apply to all Northern Ireland Government Departments, Next Step Agencies and the Northern Ireland Office. Departments should use all appropriate measures at their disposal to ensure that Non Departmental Public Bodies comply with PAFT. They should also use their best endeavours, consistent with legal and contractual obligations, to secure compliance with PAFT by those performing contracted out services on their behalf.

Copies of the Guidelines are being sent to various organisations which contributed to the earlier external consultation process. The bodies concerned included the Equal Opportunities Commission, the Fair Employment Commission, the Standing Advisory Commission on Human Rights, the Northern Ireland Committee of the Irish Congress of Trade Unions, Disability Action, the Northern Ireland Council for Voluntary Action and the Committee on the Administration of Justice. The Guidelines will also be made available to other interested parties on request.

D J WATKINS
Central Secretariat
22 December 1993

POLICY APPRAISAL AND FAIR TREATMENT

Introduction

1. The Government is committed to securing equality of opportunity and equity of treatment for all people in Northern Ireland. This means not only eliminating unlawful discrimination or unjustifiable inequality but also actively promoting fair treatment through Government policy-making and its implementation. Equality and equity are central issues which must condition and influence policy making in all spheres and at all levels of Government activity, whether in regulatory and administrative functions or through the delivery of services to the public.

2. This guidance (which replaces Cent Sec Circular No 1/90) aims to promote these principles in the relationships between Government Departments (including Agencies) and the public by identifying a number of areas where there is potential for discrimination or unequal treatment to occur. It describes steps which those responsible for policy and delivery of services should take to prevent this happening. Policy Appraisal and Fair Treatment (PAFT) is one of a range of initiatives aimed at reducing unfair social and economic differentials and seeking to ensure that all sections of the community enjoy equal opportunities and fair treatment. Current measures including legislation relevant to these objectives are listed at Annex 1.

3. Discriminatory action is that which results in different treatment of one group as opposed to another, either to its advantage or to its detriment; for example, between people of different genders or religions. The prevention of direct discrimination alone is not enough to promote

equality of opportunity and fair treatment. This requires a more positive approach to take whatever measures may be necessary in practice in order to identify and remove any unjustified factors which may result in unequal treatment.

4. PAFT is concerned with securing equality of opportunity and equity of treatment regardless of religious belief, political opinion, gender, marital status, having or not having a dependant, ethnicity, disability, age or sexual orientation. Some of these groups are afforded protection in law against discrimination and Departments should ensure that all staff are aware of legal obligations. However, PAFT is not confined to questions of legality but encompasses the wider issues of fairness.
5. The title of this approach has changed from "Equal Opportunity Proofing" to "Policy Appraisal and Fair Treatment" in order more fully to describe the purpose of the initiative. For example, "Equal Opportunities" was identified in many minds solely as a personnel issue related in NI principally to gender and religion and focused on the Government as employer. "Proofing" implied that something needed to be done as a check at the end of a process of preparing policy options rather than ensuring that fair treatment was taken into consideration right from the outset.
6. This guidance is designed to help Departments and Agencies to build in considerations of fair treatment from the outset, in their preparation of policy proposals, including legislation, other initiatives and strategic plans for the implementation of policy and the delivery of services. It also offers advice about policy appraisal, monitoring and training.

Objectives

7. With the overall aim of securing equality and equity the Government has set itself the following objectives:-
- to promote a positive and proactive approach to providing equality of opportunity and equity of treatment
 - to ensure that there is no unlawful discrimination or unjustifiable inequality in any aspect of public administration
 - to incorporate a fair treatment dimension into all policy making and consideration of new provision for services.
 - to take account of fair treatment aspects when reviewing existing policies and delivery of services
 - to monitor, as appropriate, the impact of Government policies.
8. Next Step Agencies must comply with PAFT. Departments should use all appropriate measures at their disposal to ensure that Non Departmental Public Bodies comply with PAFT. Departments should also use their best endeavours, consistent with legal and contractual obligations, to secure compliance with PAFT by those performing contracted out services on their behalf.
9. Complementing PAFT is the Targeting Social Need (TSN) initiative, one of the effects of which should be to reduce unfair social and economic differentials by targeting resources more effectively on those people and

areas in greatest need. PAFT does not supersede TSN. The scope of PAFT is wider than TSN in that it is not confined to socio-economic issues and takes account of the impact of Government's actions on a broader range of social groups.

Implementation

10. Alongside issues of economy, efficiency and effectiveness fair treatment aspects should be considered (a) for all new policy proposals and services, and (b) whenever existing policies and services are reviewed. Fair treatment must also be taken into account throughout the development or review of proposals, since it is important to identify in good time any aspect of policy or service delivery which may in practice affect some people less favourably than others, so that consideration can be given as to whether such treatment would be unlawful, unjustifiable or undesirable and, where appropriate, the viability of alternative approaches can be assessed.
11. There may be instances when a policy proposal or course of action which may have discriminatory effects can be justified; for example, unequal treatment may be justifiable where it constitutes lawful affirmative action to remedy the adverse effects of past discrimination.
12. Discrimination may occur directly or indirectly, intentionally or unintentionally. When assessing services and policies consideration should be given to any factors, criteria or requirements which might result in unintentional differential impact on any particular group. Where a potential for differential impact is perceived the proposed service or policy should be very

critically examined, both as to objectives and the means of implementation.

13. The provisions of Fair Employment and Sex Discrimination legislation relating to direct and indirect discrimination are summarised in Annex 2. Departments must of course assess their policies and actions in the light of existing law but, as explained in paragraph 4, a proper application of PAFT may require a broader approach; what may not constitute discrimination, direct or indirect, within the meaning of anti-discrimination legislation may nonetheless fail to meet the objectives of PAFT.

Appraisal Process

14. In each area where new policies or services are being considered, the preliminary appraisal should explore whether they may lead to different effects or impact on:-
- people of different religious beliefs or political opinions
 - men and women
 - married and unmarried people
 - people with or without dependants (including women who are pregnant or on maternity leave)
 - people of different ethnic groups
 - people with or without a disability

- people of different ages
- people of differing sexual orientation.

15. When existing policies or services are reviewed, this should include careful consideration of whether they give rise to direct or indirect discrimination or a differential impact which has not already been considered and justified. Whenever any of these possibilities arise, advice should be sought from Central Secretariat and the Departmental Solicitors Office. Annex 1 sets out details of the existing anti-discrimination and human rights measures in Northern Ireland, Annex 2 contains legislative definitions of types of discrimination and of justification and Annex 3 contains a checklist which might prove useful in translating these principles into action.
16. In relation to the areas outlined in para 14 above it should be determined whether the policy or service in question refers to one or more of the groups separately and whether it treats them less favourably than any other.
17. Again in relation to the groups outlined in para 14, departments should ask themselves whether any aspect of a policy proposal involves requirements or conditions which, however unintentionally, may be more difficult for members of a particular group to meet or which is expected to have a substantially less favourable impact on them.
18. Where a differential impact of any policy is identified, departments must consider its justification - is the policy necessary and its differential effect

proportionate to the objective which the policy is intended to achieve? Where appropriate, departments should consider taking affirmative action. Some affirmative action measures are governed by law, but all proposals in this area require careful consideration and legal advice should be sought before any action is undertaken.

19. When policy options and legislative proposals are put forward for consideration by Ministers, the submission should always confirm that the implications of PAFT have been taken into account; where a PAFT appraisal has been carried out the submission should set out any conclusions of the appraisal which indicate that adoption of any particular option would have an adverse differential effect between any of the groups mentioned in paragraph 14. Ultimately it is for Ministers to decide whether a course of action which may have a differential effect should nonetheless be adopted because of overriding considerations. Once again, in those circumstances, any relevant anti-discrimination law must be taken into account including the scope for lawful affirmative action. With some exceptions in law, any act or policy which is directly discriminatory on the grounds of religion, political opinion or gender, is not capable of being justified, regardless of how pressing those other considerations or of how well-intentioned the motive.

Monitoring

20. Departments are currently required by TSN to monitor, where practicable, the impact of their policies and programmes in terms of religion and, if appropriate, produce proposals for improvement. Work is underway to put in place the necessary information systems and

assessment mechanisms. When the development of new policies and services suggests that they could have a differential impact (para 14), or where the review of existing policy indicates a differential impact (para 15), and there is insufficient information to determine if it can be objectively justified, Departments should consult Central Secretariat who will advise on monitoring in the light of data availability and resource considerations. Monitoring frameworks may include timetables and targets against which progress can be measured.

21. Inevitably the introduction of monitoring will be progressive, and the level may vary from group to group as appropriate. Monitoring may in certain cases prove difficult. Some prioritisation will therefore have to apply, and this will take into account resource implications. Advice may be sought from Central Secretariat on problems of prioritisation.

Training

22. Departments and Agencies should include elements on PAFT in Induction, Background and Management training, to emphasise the importance of this issue in all aspects of public sector management.
23. For those most closely involved in the formulation of policy and provision of services, Departments and Agencies should provide, on an ongoing basis and in collaboration, as necessary, with centralised training services and Central Secretariat, training in policy analysis, equality and equity issues, including assessing differential effects, discrimination law and basic demographic analysis.

Annual reports

24. Each year Departments and Agencies will be required to submit a report to Central Secretariat outlining the action taken in implementing PAFT. The form and content of these reports will be subject to further advice from Central Secretariat but as a minimum, reports should list all major services, both new and existing, for which a PAFT appraisal or review was conducted, give the outcome of the appraisal or review and detail any policy amendment. Departmental and Agency reports will form the basis of a report which Central Secretariat will prepare each year for the Secretary of State and Ministers.

2.2 Jobskills

(a) Description of programme

Jobskills, the new single integrated approach to the training of young people and unemployed adults, will be introduced throughout Northern Ireland on 3 April 1995. It replaces the Youth Training Programme, Job Training Programme and Skills Training Scheme and has been successfully piloted in Ballymena and Newry from 1992. Jobskills focuses on the attainment by trainees of NVQs at levels II and III in line with National Education and Training Targets (NETTs). The programme aims to raise the levels of competence and qualifications of unemployed adults and school leavers.

Special provision is made through Jobskills Access for adults requiring pre-vocational preparation and for less able young people leaving school. The latter may undertake training at NVQ Level I to address their special needs and will have the opportunity to progress to higher attainment levels. All prospective trainees will receive comprehensive and impartial pre-entry advice and guidance, and will receive a training credit indicating their chosen vocational area and the appropriate level of training.

Jobskills will be delivered through a network of training organisations which satisfy the Agency's prescribed quality standards and are contracted-out to deliver specific qualifications. Agency payments to training organisations will include an element of output related funding (ORF) - 30% of the funding will be withheld subject to the successful completion of the full NVQ by the trainee. Trainees will receive a weekly training allowance (in the case of 16 and 17 year olds) or a benefit-based training allowance plus £10 (in the case of 18 year olds and older). Lump sum bonuses up to £400 are payable to trainees for attainment of their full qualifications.

(b) PAFT factors taken into account

The responsible Division has sought to ensure that the new programme offers reasonable equality of opportunity and equality of treatment to all the PAFT groupings, but acknowledges that the targeting of the programme may lead to some difficulties for certain groups. In order to secure the widest possible equality and equity assessments,

- (i) all organisations contracted to deliver Jobskills must operate the Agency's prescribed Jobskills Quality Management System. Failure to reach or to maintain JQMs standards may result in the termination of the contract by the Agency. Equality of opportunity and fair treatment are an integral part of JQMs. All organisations must demonstrate their commitment to operating effective systems to provide equality of opportunity and fair treatment for all their clients, customers, trainees and staff in all their activities. Guidance is given within JQMs manual for an equal opportunities audit which is compulsory and will be vetted by the Agency's external verifiers and regional monitoring staff:and
- (ii) all training organisations will use the new Training and Information Management System (TIMS), which is capable of providing detailed management information. At present these reports, which record details of training and outcomes, also cover equal opportunities aspects - e.g., gender, religious background, marital status and disability, though it is the intention that this information will also be extended progressively to cover the other PAFT groupings. The Agency's headquarter system will have the capacity to pull together all of this monitoring information and interpret the data.
- (c) PAFT Implications

Given the limited information available on a number of the PAFT groupings - political opinion, ethnicity and sexual orientation - it has not been possible to carry out a thorough assessment of the impact on all groups, though a valid and rigorous assessment has been possible in relation to gender, religion and disability. An assessment has, however, been carried out for each and the results are as follows:

People of different religious beliefs or political opinions

Data is very limited in respect of political opinion, but it is the Agency's considered view that the programme is unlikely to lead to different effects or impacts on people of different political opinions. Clearly this is an area where more information is needed and must be captured. In terms of impact on Catholics and Protestants, however, the Agency is content that the new programme will not impact adversely on either group.

Men and women

The overall programme is open to men and women and, therefore, should not directly lead to significantly different effects or impacts on either group. It is recognised, however, that the benefit-plus and full-time elements of the adult component of the programme may indirectly impact negatively on women who, as evidence shows, are less likely to be claiming benefit in their own right or be in a position to attend full-time training due to domestic responsibilities. The programme rationale of raising the levels of competence and qualifications of unemployed adults and school leavers, means targeting school leavers and the registered unemployed, particularly those long-term unemployed on high benefits. It is envisaged, however, that those not targeted by the programme, particularly women, will look to more flexible programmes such as ACE.

Married and unmarried people

The programme is open to married and unmarried people and, therefore, should not directly lead to different effects or impacts on these groups. However, as above, benefit and full-time elements may indirectly impact on married women, and hence inhibit their participation and outcomes.

People with, and without, dependants

The programme is open to people with or without dependants, though those who have to care for dependants may be less able to meet the 30 hours per week minimum attendance requirement. Financial assistance towards childcare is targeted to the most needy group, namely single parents. Married people with dependant children may, therefore, be indirectly affected in terms of access etc.

People of different ethnic groups

Data is very limited, but the overall assessment is that the programme should not lead to different effects or impacts on people of different ethnic groups. Clearly this is an area where more information is required.

People with, or without, a disability

It is the view of the Agency that the programme has gone some way to address the problem of under-representation of the disabled in the existing JTP and YTP schemes by positively discriminating in favour of disabled trainees as follows:-

- (i) Young people - the training period supported for young disabled trainees may be extended from two to three years on the recommendation of the special needs careers officers. Training organisation funding will be at the enhanced access training rate of £70 per week compared to the maximum of £40 payable in the mainstream programme. Output related funding and the trainee bonus may be paid for less than the full NVQ achievement.
- (ii) Adults - adults with disabilities may also be awarded extended training periods of up to 12 months in the mainstream programme and 12 weeks in access training. Periods in the access programme will be paid to the training organisation at the enhanced rate of £60 per week. Grants may be awarded to training organisations for the purchase of special equipment and adaptations to premises.

People of different ages

Jobskills discriminates against older applicants because it prioritises entry on the basis of age, with diminishing priority as age increases. However, it is Government policy to guarantee entry to those under 18 years of age and EC assistance gives priority to those aged under 25. Jobskills has accordingly been developed to reflect these priorities. In the context of the full gamut of provision for the unemployed it could be argued that programmes such as ACE etc. provide a counterbalance, by targeting the 25+ age group.

People of different sexual orientation

There is no evidence to suggest that the programme should lead to different effects or impacts on people of different sexual orientation. This is an area, however, where information is virtually non-existent and extremely difficult to obtain. The Agency will need to consider carefully how it should approach this very sensitive area.

(d) Resulting changes to policy

Having considered the various assessments, vis a vis impacts on groups, the Agency is, on balance, reasonably content that Jobskills provides equality of opportunity and fair treatment. The Agency does, however, recognise that the stated objectives of the programme may impact negatively on older people and women, particularly those married with dependants. Against this the Agency is of the opinion that Jobskills cannot be assessed in isolation of all the other programmes which are aimed at the unemployed. Taken together equality of opportunity and fair treatment should be delivered across the continuum of programmes.

2.3 Adult Guidance Initiative

(a) Description of programme

A key objective of Jobskills is to provide high quality objective pre-entry advice and guidance to all prospective entrants. Guidance to young people will be delivered by the Agency's career officers. Potential adult entrants will be supported by a network of 28 adult guidance centres, contracted to deliver adult guidance to pre-determined quality standards. All adults, committed to enhancing their skills through Jobskills, can access a guidance voucher at one of the Agency's 33 offices. They are then entitled to spend their guidance voucher at any one of the adult guidance centres.

(b) PAFT factors taken into account

In developing the adult pre-entry guidance element of Jobskills, consideration was given to the potential differential impact of the policy on the various groupings. Access was a factor which merited special attention. The contracting process required bidding organisations to assess the potential client market and develop appropriate outreach arrangements.