



Northern Ireland Council for Voluntary Action

Response to SIB'S Screening of Policies

15 March 2006

Equal 220

Strategic Investment Board – Screening of Policies

1. Introduction

The Northern Ireland Council for Voluntary Action (NICVA) welcomes the opportunity to respond to SIB's Screening of Policies. Our comments are informed by NICVA's role as the representative body for the voluntary and community sector and by a vision of society where all citizens are treated fairly, where sectarianism and discrimination are not tolerated and where respect for human rights and equality is regarded as the norm. We welcome the details provided in the screening document which list SIB policies, how SIB intends to carry out screening, how it will determine the programme of equality impact assessments and the consultation process.

2. Policies

2.1 NICVA notes that section two lists the SIB's policies including strategic planning, identification of PPP projects, guidance on the Standardisation of PFI Contracts as well as internal policies. Section three details the screening process including the collection of data and research to enable SIB to answer the four questions derived from ECNI guidance about the impact of policies on the Section 75 groups. Section four states that the board will produce a draft programme of EQIAs on the basis of the prioritisation process that is recommended by ECNI and in light of consultees' views. Section four sets out SIB's arrangements for consultation and we welcome the commitment to direct contact with representative groups and individuals in the Section 75 categories. We also welcome the commitment to feedback and further consultation.

2.2 NICVA has several concerns about the identification of policies. The document provides little idea about the extent of SIB's work. We welcome the outline of 42 internal policies, some of which are progressive, but we question the brief listing of only seven external policies. SIB's equality scheme commits it to preparing 'a report listing all current policies and those policies which are currently being developed with sufficient detail to allow consultees to identify whether each policy has a particular relevance to them. The report will also include SIB's views on how the policies might affect people in the nine categories listed in Section 75, details of the criteria to be used to screen the policies and those to be used to prioritise equality impact assessments.' The scheme goes on to give assurances about Supported Projects which is the policy framework for PPP, which was subject to an earlier EQIA when it was called Working Together in Financing our Future. The EQIA generated concerns that the equality duties would not be fully complied with under PPP arrangements and led to an agreement that PPP projects would be screened at an early stage to identify the need for an EQIA over and above that undertaken at the policy and programme level. The scheme points out that the screening process is the responsibility of the contracting public authority but in the case of Supported Projects, 'SIB will ensure that proper attention is paid to the need to keep the screening process under review as the project progresses. SIB will liaise closely with the Equality Commission to ensure that the equality implications of PPP projects are identified and that the relevant learning points are carried forward from one project to another.'

- 2.3 Unfortunately this screening document provides none of the above detail – under Supported Projects it states baldly that this policy was established to identify PPP projects which will be supported by SIB through the implementation phase. The criteria for support are listed but there is no attempt to explain what the policy means, what projects have been supported and the learning from the earlier EQIA and from the projects. We appreciate the imperative to be concise but we would argue the need for more detail about the policies and for information about the anticipated/actual impact of the policies on the nine categories, as agreed in the equality scheme.
- 2.4 From the website we can see that SIB was established as a limited company rather than a government agency to enable it to work on projects and support cross-cutting work. The extent of SIB’s involvement in health, education, transport and water infrastructure reform is clear from the website, with billions of pounds earmarked for new hospitals, schools, sewerage and water infrastructure, roads and public transport. Yet none of this detail is provided in the screening document. SIB’s role in helping to lever in private finance and delivery is illustrated by its 300 plus page publication ‘Standardisation of Pfi Contracts in Northern Ireland’, which states at paragraph 15.7.5 that a pfi project must be regarded as a policy for the purposes of the legislation (Northern Ireland Act, section 75 and schedule 9). After elaboration of the requirements of the legislation, the document states at 15.7.12 that the EU Public Procurement Directives allow the award of Pfi contracts on the basis of lowest price or most economically advantageous tender, and that it is ‘quite conceivable that there could be a conflict between Northern Ireland equality legislation and EU public procurement law re use of social issues during evaluation of bids.’ The document suggests that it is essential to seek legal advice.
- 2.5 Notwithstanding SIB’s caveat that it is not responsible for final decisions, NICVA would argue that its advisory role is very powerful and that its procurement advice could undermine the importance of Section 75 in the eyes of public authorities. Section 75 is a statutory obligation, which goes beyond anti-discrimination legislation in order to promote equality of opportunity. We would also suggest that the business case for section 75 could be articulated more clearly – for example, that promoting equality of opportunity from the earliest stage of policymaking and programme design alerts public authorities to potential problems in advance and contributes to better decisions. According to ECNI’s Guide to the Statutory Duties, February 2005, Section 75 ‘requires that these decisions are better informed by techniques of systematic policy appraisal and impact assessment. This enables policymakers to make decisions on the basis of fuller information about the effects of their decisions and ensure better targeting of policies and programmes. Unless public authorities find out about the impact of policies on different groups, they cannot be sure whether their policies are having an adverse effect, even if unintentional.’
- 2.6 Furthermore SIB’s advice about the potential conflict between EU procurement law and S75 duties is not in keeping with the reassurances in the equality scheme: ‘SIB will ensure that proper attention is paid to the need to keep the screening process under review as the project progresses. SIB will liaise closely

with the Equality Commission to ensure that the equality implications of PPP projects are identified and that the relevant learning points are carried forward from one project to another.’

3. Screening

- 3.1 We are also concerned that the screening document gives the impression that data collection and research have only just begun - ‘over the next few months SIB will collect data and undertake research to enable the following (screening) questions to be answered in respect of each policy’. According to SIB’s equality scheme, stage one consultation was to be completed by February and stage two by May 2006. NICVA would question how it envisages meeting the scheme’s commitment to provide SIB’s views on how the policies might affect people in the nine categories (in the screening report) without any data collection. We acknowledge the importance of consultation at this stage but information from representative groups should complement and not replace the authority’s own responsibility for data collection, monitoring and assessment.
- 3.2 In ECNI’s advice to public authorities about the five-year review of schemes and in the terms of reference for its own effectiveness review, emphasis has been put on the importance of targets and outcomes. In future annual reports to ECNI public authorities will be asked to report more on actual outcomes for the equality groups, but this will be difficult for many because they have not methodically collected baseline information to track progress against targets. Therefore we would suggest that SIB has a good opportunity to initiate benchmarking so that it can measure progress and provide some sense of outcomes for vulnerable groups who feel that the equality duties have become a bureaucratic process with no sense of urgency about making changes to people’s lives.

4. Conclusion

The board acknowledges that one of the reasons for setting up as a company was to enable it to initiate cross-cutting work. This screening document may not be the appropriate vehicle for the following point, but NICVA would still like to emphasise the importance of a future vision for Northern Ireland, which would enable SIB to consider aims, targets and outcomes. At present ISNI looks like a collection of actions by individual departments. The investment strategy for the education sector is a case in point - new build controlled, maintained and voluntary schools are going ahead at a time of closures, cutbacks and job losses and with no regard to the policy imperative of A Shared Future.

We hope these comments are useful and look forward to the feedback on this consultation.