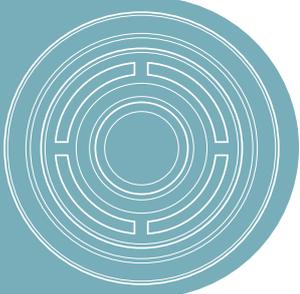


**EQUALITY AND DIVERSITY WITHIN  
THE CRIMINAL JUSTICE SYSTEM:  
AN INSPECTION OF THE  
IMPLEMENTATION OF SECTION 75 (1)  
OF THE NORTHERN IRELAND ACT 1998**

September 2018





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ACT 1998

Laid before the Northern Ireland Assembly under Section 49(2) of the Justice (Northern Ireland) Act 2002 (as amended by paragraph 7(2) of Schedule 13 to The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010) by the Department of Justice.

September 2018





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## List of abbreviations

- s.75** Section 75(1) of the Northern Ireland Act 1998
- CJI** Criminal Justice Inspection Northern Ireland
- CRN** Community Resolution Notice
- DoJ** Department of Justice
- E and D** Equality and Diversity
- EAP** Equality Action Plan
- ECNI** Equality Commission for Northern Ireland
- ETBB** Equal Treatment Benchbook
- FPN** Fixed Penalty Notice
- JJC** Woodlands Juvenile Justice Centre
- LGBT** Lesbian, Gay, Bi-sexual and Transgender
- NGO** Non-Governmental Organisations
- NICS** Northern Ireland Civil Service
- NICTS** Northern Ireland Courts and Tribunals Service
- NIPS** Northern Ireland Prison Service
- OPONI** Office of the Police Ombudsman for Northern Ireland
- PBNI** Probation Board for Northern Ireland
- PECCS** Prisoner Escort and Court Custody Service
- PfG** Programme for Government
- PPDG** Police Powers Delivery Group
- PPS** Public Prosecution Service for Northern Ireland
- PREPS** Progressive Regime and Earned Privileges Scheme (in NIPS)
- PRT** Prison Review Team
- PSNI** Police Service of Northern Ireland
- PTR** Part Time Reserve
- VES** Voluntary Exit Scheme
- YE** Youth Engagement
- YJA** Youth Justice Agency



# Chief Inspector's Foreword

Understanding and embracing difference has been a key challenge for both our society and the criminal justice system in Northern Ireland as it seeks to deliver an even-handed approach towards everyone. The criminal justice agencies are responding to the challenges of post-conflict, but it is still a divided society and the changing demographics of our communities are influenced by global economics and migration.

Section 75(1) (S.75) of the Northern Ireland Act 1998 set a number of statutory obligations for public authorities and the Equality Commission for Northern Ireland has dutifully managed performance through its annual reporting mechanisms. However, the broad nature of statutory compliance can often miss the nuances of operational service delivery and so the monitoring of activities and outcomes becomes more important for the criminal justice agencies.

The inspection acknowledges the progress that has been made by individual agencies and the ongoing commitment to improve organisational understanding of s.75 obligations including monitoring relevant equality activity and outcomes. However, there are significant gaps in actively monitoring the performance of the system and some outcomes need to be explained. I believe the Criminal Justice Board could play an important role in this respect by providing the leadership and strategic context within which equality and diversity work is delivered.

The report makes a small number of strategic recommendations designed to support the system-wide ownership of the issue and the sharing of knowledge and best practice to improve performance.

This inspection was conducted by Dr Roisin Devlin with the support from the wider Inspection Team.

My sincere thanks to all who supported their work.

**Brendan McGuigan CBE**  
**Chief Inspector of Criminal Justice**  
**in Northern Ireland**

September 2018

Criminal Justice Inspection  
Northern Ireland  
*a better justice system for all*





# Executive Summary

The Lammy Review observed that the justice system in England and Wales *'...is powerful and far-reaching. It makes millions of decisions each year that influence the fate of victims, suspects, defendants and offenders.'*<sup>1</sup> In Northern Ireland these decisions are fewer in number but they are no less powerful or far-reaching. Their legitimacy depends on trust, which is undermined if people, and the groups they identify with, have been treated inequitably. Section 75 (1) (s.75) of the Northern Ireland Act 1998 is therefore a core criminal justice tool. It is a mechanism for agencies to accommodate difference and afford particular groups an equal opportunity in their experience of criminal justice. Unlike anti-discrimination laws, it requires criminal justice to proactively assess and improve the impact of policies on the groups it identifies (as denoted by religion, political opinion, racial group, age, marital status, or sexual orientation, men and women, people with a disability and people without, and those with or without dependents).

This inspection examined the criminal justice system's implementation of s.75 (1) of the Northern Ireland Act 1998. The fieldwork was completed between March and December 2017. Among those agencies inspected, Inspectors found a tremendous amount of willingness to make s.75 work. There were

examples of crucial decision making points, notably within prison establishments, where the commitment to measure equality impacts was resolute. Nevertheless, important aspects of s.75 implementation were underdeveloped. For example, screening obligations were not always understood. Equality monitoring within most

<sup>1</sup> The Lammy Review: An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System, September 2017, p.4. Available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/643001/lammy-review-final-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/643001/lammy-review-final-report.pdf).

agencies contained gaps and an approach to measure different s.75 groups' treatment through the system was not apparent. Better detection of, and explanations for, difference was desired by agencies and stakeholders alike. The coherency of s.75 governance arrangements was critical to all of the issues identified and, in this respect, Inspectors' considered that the Criminal Justice Board should undertake a greater leadership role.

Activity in respect of equality scheme review and publication signalled agencies' commitment to s.75. There was potential to enhance business plans to better align with equality action plans and the draft Programme for Government (PfG) equality outcomes. Governance structures were coherent and led by senior management in over half of the agencies considered (the Office of the Police Ombudsman for Northern Ireland (OPONI), the Police Service of Northern Ireland (PSNI), the Probation Board for Northern Ireland (PBNI), the Public Prosecution Service for Northern Ireland (PPS)), but had become weakened in respect of the Northern Ireland Courts and Tribunals Service (NICTS), the Youth Justice Agency (YJA) and the Northern Ireland Prison Service (NIPS). These agencies did not have responsibility for the development of an agency specific equality scheme or action plan and, at the time of fieldwork, s.75 resource had been reduced. Within these agencies, communication between local services and central management required improvement. The Department of Justice (DoJ), which had overarching responsibility for the equality scheme in respect of each, needed to strengthen its links with these agencies too. This was recognised and opportunities to enhance s.75 governance were being actively pursued during Inspectors' fieldwork. There was no working cross system governance mechanism for s.75. This meant there was limited understanding about the through-system journey for different equality groups. Disparities at 'the end' of the system such as the over-representation of

Catholic children in custody highlighted this necessity.

A dedicated Equality Manager role enhanced the delivery of s.75. For some of the agencies inspected, this role no longer existed or had become vacant due to the 'Voluntary Exit Scheme (VES)'. For the DoJ, the NIPS and the YJA much welcomed s.75 appointments were made during the fieldwork but a sense of criminal justice equality work 'starting over' was reported. Re-establishment of the lapsed 'criminal justice equality network' presented potential for shared learning. In the context of reduced equality resource, tailored training, as well as stakeholder and service user engagement was also especially important. Examples of good practice, for example, NIPS establishments' Equality and Diversity meetings and the NICTS court user groups were found. There was an opportunity to harness issues raised through these forums through improved ties with s.75 governance. Action planning was likewise crucial, as it provided each agency a mechanism to define equality goals specific to its functions. The ability to reflect the NIPS, the NICTS, and the YJA equality activity within an overarching DoJ action plan was, however, limited. Inspectors considered that each should work toward, and be supported to develop, agency specific action plans that could better reflect their respective s.75 activity and priorities.

Equity monitoring of key functions was required to detect differences which may have required further examination in order to explain or address. Some agencies were leading in this regard. For example, and notwithstanding some areas for development, the NIPS establishments' monitoring of discretion was the most developed and routine. Equality monitoring information was as an integral part of the PBNI Equality Impact Screening reports. The OPONI was the only agency to publish a dedicated s.75 report



about those using its services. A 'data drive' was evident within the PSNI. Successes included s.75 recording in respect of Community Resolution Notices (CRNs) and Penalty Notices for Disorder (PNDs)\* but issues remained in publishing the results, which had not been possible at the time of fieldwork. There had also been efforts to examine the impact of stop and search activity in respect of children. However, for both children and members of the Travelling Community, Inspectors believed stop and search activity warranted further explanation. Workforce monitoring across all agencies examined had improved. Disparities were most marked in relation to Catholics in the NIPS and across the PSNI. Women were also underrepresented among PSNI Officers and NIPS custodial staff. This had been reported elsewhere and represented a continuing challenge.

'Screening' (assessing) policies for their potential impact on equality of opportunity was a crucial s.75 activity committed to within all equality schemes. A quality assured process that enabled corporate oversight as well as staff training was required. The PSNI 'corporate policy project' was an example of good practice from which others could learn. Screening had become problematic to at least some extent for the agencies under the DoJ's s.75 governance framework. This was most apparent in respect of the NIPS establishments where a view that policy was screened only by the DoJ was evident. Inspectors were informed that the equality impacts of policy implementation had been considered in practice. But there was no corporate process by which the NIPS or the DoJ could be assured that screening had been occurring. This was a matter of urgency, which was being addressed during Inspectors' fieldwork.

Measuring s.75 outcomes was a challenge. Some statistical information existed but it had not been collated within a criminal justice equality publication. Therefore, while different data was used to assess s.75 activity (for example, the PPS used the Northern Ireland Omnibus satisfaction surveys and its hate crime statistics, similarly the PSNI) there was no overall appraisal of equality performance. This was an important area for improvement. Stakeholders discerned important progress in agencies' openness, especially the PSNI, which many perceived had resulted at least in part from s.75. There were, many said, greater opportunities to input on policy and have their views taken on board. Although the Appropriate Adult Scheme and Hate Crime Advocacy Service were cited, most struggled to name concrete examples of outcomes attributable to s.75. This was similar for criminal justice staff. In respect of evaluating the impact of this important legislative measure, intuition rather than solid evidence often prevailed. It was Inspectors' view that setting measurable strategic s.75 objectives was an overdue criminal justice goal and, for this, greater leadership was required.

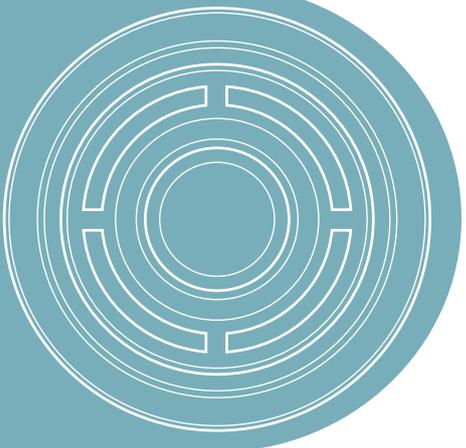
\* On 08 January 2021 this was amended to read 'PND' instead of the incorrectly referenced 'FPN'.



# Recommendations

## Strategic recommendations

- 1** The DoJ should strengthen its s.75 oversight and governance arrangements to ensure a regular reporting structure between it and the agencies within its equality scheme. It should request that, within three months of publishing this report, the NICTS, the NIPS and the YJA improve internal s.75 governance and develop agency specific equality action plans (paragraph 2.16).
- 2** Within six months of the publication of this report, each of the agencies inspected should review their s.75 monitoring arrangements in relation to relevant functions. Actions to address gaps in s.75 monitoring and explain disparities that have been identified via existing statistics should be included within an action plan (paragraph 3.49).
- 3** Within three months of this report being published, all agencies should have in place a corporate and quality assured process by which each can be satisfied that policy and other relevant decisions are being screened for impact on equality of opportunity (paragraph 3.61).
- 4** Within six months of the publication of this report, the Criminal Justice Board should develop, and lead on the monitoring of, strategic equality goals for criminal justice. Within this timeframe, it should also establish a 'Criminal Justice Equality Network' made up of the relevant agencies with a role that includes delivering the identified strategic goals (paragraph 4.18).



# Inspection Report



# Introduction

## The remit of this inspection

1.1 This report presents the findings of Criminal Justice Inspection Northern Ireland's (CJI's) inspection of the criminal justice system's approach to the implementation of section 75(1) of the Northern Ireland Act 1998. It is CJI's first full inspection of this subject since its previous report in 2009. As with the previous report, this inspection did not examine the 'good relations' duty contained within section 75(2) focusing instead on the public authority duty to promote equality of opportunity between different equality groups. S.75 (1) of the Northern Ireland Act 1998 forms an important part of the equality framework in Northern Ireland. In carrying out their functions criminal justice agencies must have due regard to the need to promote equality of opportunity between people belonging to the nine protected groups that s.75 (1) identifies, that is:

- 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 persons without; and
- between persons with dependants and persons without.

Unlike anti-discrimination laws, s.75 (1) is a positive duty requiring designated public authorities to proactively assess and improve how their policies and services impact on people's lives.

1.2 As a normative framework s.75 (1) relies heavily on regulated bodies support for the realisation of its equality goals and their cooperation to achieve them. This normative premise is as important now as it was in 1998. Research shows equality is important to people in Northern Ireland.<sup>2</sup> Public attitudes towards 'different' groups of people have improved. But those belonging to a racial group particularly members of the Travelling Community are most negatively viewed.<sup>3</sup>

2 Equality Commission for Northern Ireland (ECNI) (2018) Equality Matters: Equality Awareness Survey 2016. Belfast, ECNI, March 2018 at p.3, 68% of the 1,143 people surveyed said that equality issues were as important or more important in 2016 compared to the previous twelve months. Available at <http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/EqualityAwarenessSurvey-EqualityMatters.pdf>.

3 See ECNI (2018) A Question of Attitude: Equality Awareness Survey 2016, Belfast, ECNI, January 2018. See page 3: Survey respondents were asked how negative or positive they felt towards fifteen equality groups. The five most negatively viewed groups were all racial: Travellers (19% negative), Roma (18%), asylum seekers and refugees (15%), migrant workers (11%), minority ethnic groups (10%); and page 9 noting attitudes towards Travellers were not as negative as in previous surveys but they were still the group that attracted the most negative views across all areas surveyed. Available at <http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/EqualityAwarenessSurvey-Attitudes.pdf>.

The behaviour of public bodies is immensely important in supporting equality as a respected societal norm. The criminal justice system in particular makes many decisions that impact different s.75 groups who may be victims of crime or witnesses, or those in conflict with the law. Described as ‘powerful and far reaching’<sup>4</sup>, justice systems hold many important sites of opportunity to communicate that equality is championed.

- 1.3 This inspection takes as its starting point the legal framework that s. 75 (1) provides. Inspectors acknowledge there may exist differing views on the adequacy of this framework for the promotion of equality of opportunity in Northern Ireland. We do not make any comment in this respect, focusing instead on our role to inspect how the current arrangements are working. While appreciating the limitations of this approach, Inspectors were mindful of a view expressed during the inspection that despite some shortcomings s.75 (1) provides an important ‘cultural building block’, and an impetus to act for the benefit of the groups it identifies. In carrying out this inspection, Inspectors were also conscious that methods to advance and embed equality are developing. In finalising this report, the UN Committee on the Rights of Persons with Disabilities’ published its General Comment on Equality and Non-discrimination, which outlined an ‘inclusive equality’ model.<sup>5</sup> Inspectors viewed its four dimensions particularly relevant to criminal justice equality work, especially its inclusion of socio-economic disadvantage in the make-up of equality.
- 1.4 At the time of the inspection s.75 (1) had been in place for almost 20 years. The s.75 (1) documentation and monitoring information held by each of the criminal justice agencies formed a primary focus of CJI’s 2009 inspection. This inspection aimed to build on that approach by also examining how well s.75(1) had become embedded within each agency, what difference it had made to the delivery of criminal justice work and the capacity of agencies to measure this difference. Inspectors were also interested in a whole system approach. For example, where an individual agency was working to improve the experience of persons belonging to a s.75 group, what mechanisms existed to ensure other agencies identified actions appropriate to their relevant functions to achieve outcomes for this group across the system as a whole.
- 1.5 In feedback meetings with criminal justice agencies, the s.75 role of public bodies other than criminal justice was highlighted to Inspectors. Those experienced in justice services, particularly custody, expressed the view that many people had experienced economic, educational and health disadvantage long before their first contact with the criminal justice system. For this reason it was stated that work within criminal justice alone to improve the

4 The Lammy Review: An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System, September 2017, p. 4.

5 See General comment No. 6 (2018) on Equality and Non-Discrimination, UNCRPD CRPD/C/GC/6 26 April 2018 in relation to ‘inclusive equality’: ‘Inclusive equality is a new model of equality developed throughout the Convention. It embraces a substantive model of equality and extends and elaborates on the content of equality in: (a) a fair redistributive dimension to address socioeconomic disadvantages; (b) a recognition dimension to combat stigma, stereotyping, prejudice and violence and to recognize the dignity of human beings and their intersectionality; (c) a participative dimension to reaffirm the social nature of people as members of social groups and the full recognition of humanity through inclusion in society; and (d) an accommodating dimension to make space for difference as a matter of human dignity.’ Available at [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/6&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/6&Lang=en)

lives of s.75 groups would always be limited. CJI cannot inspect the s.75 work of public bodies outside of the criminal justice system. Nevertheless, Inspectors support the view that opportunities for embedding equality are enhanced exponentially when different spheres of influence work together.

- 1.6 The Lammy Review found that the justice system in England and Wales could 'do more to share responsibility beyond its own boundaries'.<sup>6</sup> An example of PSNI initiated work with health to respond better to a s.75 group was reported to Inspectors (see Chapter 3). We were also aware of the collaboration between health and justice to consider repurposing Woodlands Juvenile Justice Centre (the JJC) as part of a wider review of secure accommodation for children.<sup>7</sup> There will always be scope to develop co-operative working and to support those who pursue this. It calls for leadership and strategic commitment across all relevant sectors to work with justice so that disadvantages arising outside of its influence are systematically evidenced and addressed.

## Messages from current s.75 research

- 1.7 A number of contemporary reports relevant to the s.75 public sector equality duty were available to help inform the inspection. This included research commissioned by the Equality Commission for Northern Ireland (ECNI) on the use of equality screening, impact assessment<sup>8</sup> and equality action plans (EAPs).<sup>9</sup> In October 2017, the ECNI also published its review of public authority practices in fulfilling s.75 duties.<sup>10</sup> The importance of civil society engagement, leadership that prioritises equality work throughout the organisation, and the challenges of sustaining motivation when equality related resource had reduced were among the key themes from these reports. Although findings had been drawn from research across the public sector and informed at times by experiences beyond Northern Ireland, these themes were applicable to criminal justice and mirrored in the evidence gathered throughout the fieldwork for this inspection.

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6 The Lammy Review: An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System, September 2017, p. 70.

7 See, for example, the relevant 'policy intervention' within the DoJ Equality Action Plan 2017-2022 available at <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/doj-equality-plan.pdf>.

8 Policy Arc Ltd and Kramer Consultancy Services Ltd (2016) Section 75 Screening and Equality Impact Assessment: A Review of Recent Practice, For the Equality Commission for Northern Ireland. Belfast, ECNI, June 2016 available at [https://www.equalityni.org/ECNI/media/ECNI/Publications/Employers%20and%20Service%20Providers/Public%20Authorities/S75-EIA\\_ReviewofPractice-FullReport\(PolicyArcKremer\).pdf?ext=.pdf](https://www.equalityni.org/ECNI/media/ECNI/Publications/Employers%20and%20Service%20Providers/Public%20Authorities/S75-EIA_ReviewofPractice-FullReport(PolicyArcKremer).pdf?ext=.pdf); Conley, H (2016) A Review of Available Information on the Use of Impact Assessment in Public Policy Formulation and in Contributing to the Fulfilment of Statutory Duties, For the Equality Commission for Northern Ireland. Belfast, ECNI available at [https://www.equalityni.org/ECNI/media/ECNI/Publications/Employers%20and%20Service%20Providers/Public%20Authorities/ReviewofImpactAssessment\(ProfConley\).pdf?ext=.pdf](https://www.equalityni.org/ECNI/media/ECNI/Publications/Employers%20and%20Service%20Providers/Public%20Authorities/ReviewofImpactAssessment(ProfConley).pdf?ext=.pdf).

9 Conley, H. and Warren, S. (2017) A Review of Action Plans Developed by Public Authorities in Relation to Their Statutory Equality and Good Relations Duties, For the Equality Commission for Northern Ireland. Belfast, ECNI, March 2017 available at <https://www.equalityni.org/ECNI/media/ECNI/Publications/Employers%20and%20Service%20Providers/Public%20Authorities/ReviewofActionPlans-FullReportMar2017.pdf>.

10 Equality Commission for Northern Ireland (2017) Section 75 Statutory Equality and Good Relations Duties: Acting on the Evidence of Public Authority Practices. Report for Consultation. Belfast, ECNI, October 2017, available at <https://www.equalityni.org/ECNI/media/ECNI/Publications/Employers%20and%20Service%20Providers/Public%20Authorities/S75ConsultationReport-ActingonEvidencePA-Full.pdf>.

- 1.8 Towards the end of the inspection fieldwork, Inspectors had the opportunity to attend a discussion seminar hosted by the Equality Coalition for Northern Ireland, an umbrella body of members from the equality sector. Findings from the Equality Coalition's study on the use of s.75 enforcement powers by the ECNI were considered. The study had been informed by members' concern about compliance with screening and impact assessment, which had become more pronounced in the context of public sector cuts. Recommendations to encourage enforcement action were made.<sup>11</sup> CJJ has no remit to inspect the s.75 enforcement framework or how it is used. But Inspectors read the research as a message from civil society organisations that in their experience responsive regulation had not always been working as it should. While fieldwork for the inspection had mostly concluded, the evidence gathered was considered with this, as well as Inspectors' other direct engagements with stakeholders in mind.

## Methodology for the inspection

- 1.9 Terms of reference for this inspection were published in March 2017 with the majority of the fieldwork completed between April and December 2017. Meetings took place with those involved in equality work within the Department of Justice (DoJ), the Northern Ireland Prison Service (NIPS) and each of its custodial establishments, the Youth Justice Agency (YJA), the Northern Ireland Courts and Tribunals Service (NICTS), the Probation Board for Northern Ireland (PBNI), the Public Prosecution Service (PPS), the Police Service for Northern Ireland (PSNI), and the Office of the Police Ombudsman for Northern Ireland (OPONI). The inspection was also informed by stakeholders who took the time to inform Inspectors about their experiences of interacting with s.75 in the context of criminal justice. This included attendance at an Equality Coalition meeting to invite the views of members present. During the scoping phase and at the end of the inspection fieldwork, Inspectors met with representatives of the ECNI with particular expertise on implementation of the s.75 framework. Inspectors were very grateful for all of the insights these meetings provided.
- 1.10 This report is structured around the three CJJ themes of strategy and governance, delivery and outcomes. While strategy and governance arrangements across each of the agencies was considered, examining the delivery and outcomes of all equality work across each aspect of the criminal justice system was not practicable. Some fieldwork was therefore directed towards agency functions where equality work was particularly relevant. For example, within the PSNI the use of 'stop and search' powers formed a focus of the fieldwork. Mechanisms to appraise equality issues for different groups of victims and court users were included among the discussions with the PPS and NICTS. And within the NIPS custodial estate, the work of each establishments' Equality and Diversity meetings were examined. Inspectors were aware that this focus did not in any way reflect the full range of equality matters pertinent to people's criminal justice experiences. Learning gained from this scrutiny was intended to inform recommendations that could improve the impact of criminal justice equality work more broadly. The information gathered during the inspection was examined through this lens.

11 Equal to the Task? Investigative Powers and Effective Enforcement of the 'Section 75' Equality Duty: An Equality Coalition Research Report, Belfast, Final Draft for discussion at seminar, Galway House (UNISON NI), York Street, Belfast on 12 December 2017.



# Strategy and governance

## The statutory framework

2.1 S.75 (1) of the Northern Ireland Act 1998 provides for the statutory 'equality duty' in Northern Ireland. As with all designated public authorities, those within the criminal justice system are required to have due regard to the need to promote equality of opportunity between the nine categories of person identified. The requirements of s.75 (1) are set out in Schedule 9 of the 1998 Act. Submission of an equality scheme to the ECNI for approval is a core statutory requirement. The scheme must show how s.75 will be fulfilled in relation to the authority's relevant functions and shall include arrangements for:<sup>12</sup>

- assessing its compliance with the duties under s.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);
- 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;
- monitoring any adverse impact of policies adopted by the authority on the promotion of equality of opportunity;
- publishing the results of such assessments as are mentioned in [above] and such monitoring as is mentioned [above];
- training staff; and
- ensuring, and assessing, public access to information and to services provided by the authority.

Schemes must be reviewed at least every five years and the outcome made available to the ECNI. A review may or may not result in changes to an existing scheme. The approved and published scheme is the core strategic document through which each public authority's s.75 commitments are reflected.

12 The Northern Ireland Act 1998, Schedule 9, para. 4(1) and (2) available at <https://www.legislation.gov.uk/ukpga/1998/47/contents>.

## Criminal justice equality schemes

- 2.2 The approved equality schemes for the criminal justice agencies examined as part of this inspection were accessible online. The PSNI, the PPS, the PBNI and the OPONI schemes had become due for a five year review at the end of March 2017. By the conclusion of fieldwork, the OPONI had published a new approved scheme. The other agencies' were at various stages of reviewing their schemes: the PPS had published a draft five year scheme for public consultation and the PBNI its five year review report (or 'audit of inequalities'). The PSNI undertook targeted consultation as a first stage in revising its scheme at the end of 2016 and was undertaking work throughout 2017 to advance this.<sup>13</sup> The PSNI review had taken longer than anticipated and was explained to Inspectors as a commitment to 'get it right' rather than any inactivity in respect of this s.75 duty. Indeed, although overdue for review this did not mean existing schemes had expired and each was taken to drive the agency's equality work until such time as a new or amended document would become approved. The DoJ scheme had been published in 2015 and in 2017 some cosmetic changes were made to reflect structural changes and an extension to the action plan for 2016-17. It encompassed agencies examined as part of this inspection, which were under its responsibility including the NICTS, the NIPS and the YJA.
- 2.3 Scheme accessibility and review activity can be one indicator of a public authority's engagement with its equality commitments. In this respect the criminal justice agencies examined as part of this inspection had been performing well. The DoJ's review before the five year mandatory period evidenced a proactive approach to its scheme and its applicability to the agencies that formed a part of this inspection. An established mechanism for agencies to share learning from reviews, which could be used to inform or align relevant aspects of respective schemes was not apparent to Inspectors. Given the closely related work of each agency and the intended impetus of s.75 to achieve a 'measurable positive impact' on people's lives,<sup>14</sup> Inspectors would be supportive of such a move (equality work across the criminal justice system is discussed further in Chapter 3).

## Content of schemes

- 2.4 With the exception of the PSNI, each agency followed the ECNI best practice model for an equality scheme<sup>15</sup> and the structure and detail was therefore similar. For instance, arrangements for assessing compliance with the scheme included an outline of management structures, commitments to developing an action plan and annual reporting to the ECNI; arrangements for consultation included references to early contact with stakeholders to establish best engagement methods; and arrangements for assessing, monitoring and publishing the impact

13 The PSNI revised Equality Scheme was published subsequent to the inspection fieldwork at the end of March 2018, although a copy in advance of publication was provided to Inspectors, available at <https://www.psnipolice.uk/globalassets/inside-the-psni/our-policies-and-procedures/equality-diversity--good-relations/section-75-equality-scheme-booklet/section-75-equality-scheme-booklet.pdf>.

14 See ECNI (2010) Section 75 of the Northern Ireland Act 1998: A Guide for Public Authorities. Belfast, ECNI, p. 9 available at <https://www.equalityni.org/ECNI/media/ECNI/Publications/Employers%20and%20Service%20Providers/S75GuideforPublicAuthoritiesApril2010.pdf>.

15 Equality Commission for Northern Ireland (2010) Model Equality Scheme, November 2010. Belfast, ECNI, available via link at [https://www.equalityni.org/Employers-Service-Providers/Public-Authorities/Section75/Section-75/Equality-Schemes-\(1\)](https://www.equalityni.org/Employers-Service-Providers/Public-Authorities/Section75/Section-75/Equality-Schemes-(1)).

of policies referred to the key equality tools of screening and impact assessment. The purpose of a scheme was generally regarded by stakeholders and agencies as a mechanism to achieve standardisation in the structures and methodologies to embed s.75. The 'pro forma' approach to schemes was therefore viewed as appropriate provided that priorities particular to each agency's functions could be reflected adequately within an action plan.

- 2.5 The PSNI's inclusion of its scheme within a strategy that also contained its Gender and Disability Action Plans departed from the ECNI model scheme. Acknowledging that the technical language used in standard schemes had not always been used, the Strategy made explicit the PSNI commitment to '*...mainstream equality, diversity and good relations across our business, throughout our functional areas and in the discharge of our powers and duties.*'<sup>16</sup> The typical scheme commitments about arrangements for assessing compliance, consultation, assessing, monitoring and publishing policies, staff training, scheme review and complaints were included. Detail beyond the standard format included the PSNI's commitment to frame its equality work within three strategic themes: identifying, addressing and reducing inequalities in service delivery and employment practice; evidencing equality and diversity across the PSNI; and improving prevention and detection of Hate Crime and crimes which act as a 'signal' to a community that they are at risk.
- 2.6 The format of the PSNI document was overall more engaging than the standard approach. However, it was suggested by a stakeholder participating in the inspection that the parts of the strategy forming the equality scheme could have been better delineated, these being the only parts which could be relied upon to pursue a formal 'schedule 9' complaint.<sup>17</sup> Inspectors would agree with an approach that differentiates the scheme from any other elements contained within a broader strategy document. Those leading the equality scheme review process within the PSNI indicated that this was being considered in developing its new document and for clarity, the revised publication would use the title 'equality scheme' rather than 'strategy'.

## Government and corporate strategies

- 2.7 The ECNI *Section 75 Guide for Public Authorities* recommends that corporate planning is aligned with s.75 plans. The draft Programme for Government Framework (draft PfG) provided a further mandate for justice agencies to achieve this. The draft PfG identified 'the major societal outcomes' to be realised by the Northern Ireland Executive, and the indicators its Departments would use to work towards this.<sup>18</sup> Various draft PfG outcomes had the potential to progress equality.

16 PSNI (2012) Equality, Diversity and Good Relations Strategy 2012 - 2017. Belfast, PSNI. Available at [https://www.psnipolice.uk/globalassets/inside-the-psni/our-policies-and-procedures/equality-diversity--good-relations/documents/equality\\_diversity\\_\\_good\\_relations\\_strategy.pdf](https://www.psnipolice.uk/globalassets/inside-the-psni/our-policies-and-procedures/equality-diversity--good-relations/documents/equality_diversity__good_relations_strategy.pdf).

17 Schedule 9 of the Northern Ireland Act 1998.

18 Programme for Government Framework – Working Draft (15 Jan 2018) available at [www.executiveoffice-ni.gov.uk/sites/default/files/publications/execoffice/pfg-framework-working%20draft.pdf](http://www.executiveoffice-ni.gov.uk/sites/default/files/publications/execoffice/pfg-framework-working%20draft.pdf). Subsequent to this in the absence of Ministers and an Executive, on 4 June 2018 the Head of the Northern Ireland Civil Service published an Outcome Delivery Plan for 2018-19 to ensure the operational business of government is discharged as effectively as possible. The delivery plan sets out the actions that Departments will take to give effect to the previous Executive's stated objective of Improving Wellbeing for All - by tackling disadvantage and driving economic growth. Please see <https://www.executiveoffice-ni.gov.uk/sites/default/files/publications/execoffice/outcomes-delivery-plan-2018-19.PDF> for further details.

There were two explicit equality outcomes: *'We have a more equal society' (Outcome 3): and 'We have a shared society that respects diversity' (Outcome 9), and one targeted at a particular s.75 group: 'We give our children and young people the best start in life.'* (Outcome 14). Progress on all of the draft PfG indicators for which the DoJ was responsible<sup>19</sup> was linked to achieving each equality outcome making it unique among departments in this respect.<sup>20</sup> It was therefore a reasonable expectation that criminal justice business would be planned with these draft PfG equality outcomes in mind.

- 2.8 The DoJ and criminal justice agency business plans required Ministerial approval and therefore remained unpublished for all 2017-18. In most instances an internally approved draft plan was available to Inspectors.<sup>21</sup> All draft plans considered, save for the NICTS draft plan, referenced the new draft PfG framework and aligned business to selected outcomes and indicators. Activities that could potentially advance equality were apparent, for instance, measures to enhance protection from domestic abuse, support for victims of human trafficking, and improved services for children in conflict with the law. But draft PfG equality outcomes were either not consistently identified or not referenced at all. It was therefore not apparent how planned business activity would help contribute towards achievement of the draft PfG equality goals nor was there any stated logic regarding how measures targeted at particular s.75 groups would promote this. The YJA's work included children and therefore a particular s.75 group ('age'). A drive towards consistency was therefore intended to benefit all. Nevertheless, explicit reference to the needs of particular groups of children related to gender or disability for example would have helped to further embed equality within its business planning.
- 2.9 Equality enhancing measures were also evident in many aspects of the 2016-17 Annual Policing Plan. This included measures from which different s.75 groups could potentially benefit: for example, increasing confidence in policing among young people in areas where surveys indicated this had been low, and improving under-representation in relation to gender and community background across all aspects of the PSNI. Measures targeted towards different s.75 groups were contained within a strategic goal to protect the most vulnerable specifically in relation to: mental ill health, hate crime, crimes against older people, sexual offences, domestic abuse, child sexual exploitation and children who go missing. As with the DoJ and other agency draft business plans, there was no explicit acknowledgement of the draft PfG equality goals and how planned activity would contribute to the realisation of these.
- 2.10 In future years there will be greater opportunity to use the draft PfG equality outcomes to influence corporate strategies and associated business plans. Inspectors would encourage this alongside detail on how planning has been influenced by the equality action plan (action plans are discussed in Chapter 3). In this way agencies' strategic and business plans can be

19 The DoJ is the 'senior responsible owner' for three PfG indicators: Indicator 1, reduce crime; Indicator 38, increase the effectiveness of the criminal justice system; Indicator 39, reduce reoffending.

20 See Draft PfG Framework – Chart of Outcomes, Indicators and Measures (undated); accessed 26 January 2018 via <https://www.northernireland.gov.uk/consultations/draft-programme-government-framework-2016-21-and-questionnaire>.

21 NIPS indicated that it did not have a draft business plan due to the absence of a Minister and had instead published 'Prisons 2020' as a discussion document with a view to informing its future Corporate Plan; Draft Plans were provided by the DOJ, NICTS, PPS, YJA and the PBNI.

informed by broader societal equality goals and those that are criminal justice specific with a view to ensuring each is appropriately aligned. Where an agency's work or a unit within focuses mainly on a particular s.75 group, for example children or women, the other relevant s.75 characteristics of that group should still inform corporate planning. Consistency of service is an important aim, which Inspectors considered could be advanced by recognition of service users' different needs and business planned to accommodate these.

## Governance arrangements

- 2.11 Political and organisational leadership had been highlighted as a key theme in advancing equality of opportunity.<sup>22</sup> At the time of the inspection political leadership was not apparent due to the absence of a Northern Ireland Executive. This created uncertainty in relation to budgets and resource, which impacted on all business planning including the equality work of the DoJ and its agencies. Within the foreword to the DoJ Equality Scheme the then Justice Minister David Ford MLA expressed a commitment to fulfil s.75 duties 'across all functions of the department...'. This had been reviewed subsequently and signed by the DoJ Permanent Secretary. Nevertheless, political uncertainty had potential to impact the organisational drive to embed s.75 commitments.
- 2.12 Agencies considered as part of this inspection were asked to outline a governance framework for equality and diversity. For most, (the PSNI, the PPS, the PBNI and the OPONI), a transparent reporting structure was identified. This comprised an equality and diversity group led by either a senior officer or the agency head. For example, progress on the PSNI scheme was reported directly to its 'Equality and Diversity Steering Group', which was chaired by the Chief Constable. Inspectors were informed that this demonstrated a high level of significance attached to s.75 it being one of only two governance groups chaired by the Chief Constable at the time of fieldwork. Externally progress on the PSNI scheme was overseen by the NI Policing Board's Resources Committee. There were however no political members for the period of the inspection. The PSNI continued to report on some aspects of its equality scheme to this Committee. A strategic equality and diversity group existed within the PPS and the PBNI, each was chaired by senior management and reported to the respective Management Board.
- 2.13 The coherence of leadership and governance structures was more vulnerable where responsibility for the equality scheme fell outside the agency. At the beginning of inspection fieldwork some agencies under the auspices of the DoJ reported uncertainty about how to influence development of the scheme and reporting structures relating to it. This was particularly apparent for those undertaking equality roles within NIPS establishments who reported few links between their work and the overarching DoJ s.75 action plan and scheme. This was problematic in two respects: it risked loss of knowledge at a strategic level about important equality work being undertaken locally; and it meant equality work was not being driven by the overarching equality plan.

22 Equality Commission for Northern Ireland (2017) Section 75 Statutory Equality and Good Relations Duties: Acting on the Evidence of Public Authority Practices. Report for Consultation. Belfast, ECNI.

- 2.14 Equality governance at NIPS Headquarters (HQ), which would have been the appropriate route to connect the DoJ with equality issues within the NIPS services, had also been weakened. This undoubtedly influenced the sense of detachment from the overarching equality framework for those working within NIPS establishments. Departure of NIPS equality staff under the Northern Ireland Civil Service (NICS) Voluntary Exit Scheme (VES) had contributed directly to this. While some limited links between NIPS HQ and its custodial establishments' Equality Coordinators had continued, information flow and governance links between NIPS HQ and its Prisoner Escorting and Court Custody Service (PECCS) in relation to s.75 was not apparent. Subsequent to Inspectors' fieldwork the NIPS reported that s.75 governance was being re-established and strengthened. Bi-annual equality meetings chaired by the Director of Prisons in NIPS HQ involving the custodial establishments' Equality and Diversity (E and D) Governors and Coordinators and the PECCS were planned to discuss common issues and share best practice. This was facilitated by the appointment of a dedicated E and D Coordinator at NIPS HQ to act as a liaison and point of contact (discussed further in the Chapter 3). Inspectors strongly support these reported developments and the importance of ensuring their establishment as a NIPS corporate norm.
- 2.15 For the YJA and the NICTS, which were the other agencies considered within the DoJ s.75 framework, s.75 governance had been problematic too. Although responsibility for equality was at a senior management level, the structure for reporting s.75 matters to senior forums was not as formalised as for the other criminal justice agencies. For both agencies, this had been likely influenced by the absence of a post holder dedicated to s.75 implementation, which had again resulted from the VES departures and restructuring. The NICTS and the YJA also did not have the benefit of designated Equality Coordinators, as was the case within the NIPS, for each of their relevant services. For example, unlike the NIPS, the YJA did not have an Equality Coordinator for its custodial or community services. It had, however, created a new post at Head Quarters which was intended to provide a lead on equality work within the YJA and in its links with the DoJ. The YJA reported that in the recent past equality governance links with the DoJ had been lost. One YJA interviewee reported a strong organisational commitment to embed equality, which was derived from its social work ethos and less so from s.75.
- 2.16 At the beginning of inspection fieldwork, those responsible for development and governance of the equality scheme and action planning within the DoJ had been newly appointed to the role. It was reported that the departure of staff particularly as a result of the VES had effected institutional memory in relation to s.75. However, engagement between the new post holders within the DoJ and each of the NIPS, the YJA and the NICTS was evident as the inspection progressed. Towards the end of the fieldwork each of the NIPS, NICTS and YJA reported stronger governance links with the DoJ. More regular reporting was noted as well as engagement with the department in its development of a new s.75 action plan. Although in the early stages of development, a governance renewal was apparent and Inspectors detected considerable enthusiasm for this to continue. In the context of reduced resource, it was Inspectors' view that those responsible for equality governance at the DoJ had been reflecting openly on how best to make it work. Inspectors were encouraged by this and would urge continued and dedicated resource for this momentum to continue.

## Strategic recommendation 1

**The DoJ should strengthen its s.75 oversight and governance arrangements to ensure a regular reporting structure between it and the agencies within its equality scheme. It should request that, within three months of publishing this report, the NICTS, the NIPS and the YJA improve internal s.75 governance and develop agency specific equality action plans.**

- 2.17 No-one that inspectors spoke to as part of the inspection was aware of a functioning whole system mechanism to direct criminal justice equality work. Progressing on some the system's important s.75 issues were outside the influence of any one agency alone. By way of examples, this included ensuring that victims of gendered crimes particularly rape and domestic abuse were provided an appropriately gendered response. 'Gender specific workable alternatives'<sup>23</sup> to custody were also especially pertinent. Although still small in number (62 in March 2018) the female prison population had increased overall since 2004.<sup>24</sup> Figures showing over a quarter of those sentenced to custody in March 2018 for six months or less suggested this may not be explained entirely by the seriousness of offending.<sup>25</sup> A DoJ strategic development group to establish a strategy for women offenders was welcome. But in Inspectors' view oversight from beyond the DoJ would be required to ensure wider cross system commitment.
- 2.18 Clarifying disparities apparent at the end of the system also required a cross system lens. For example, 'Foreign Nationals' were 8.67% (n=128) of the overall NIPS custodial population in March 2018 and almost one fifth of all those on remand. In Maghaberry over one tenth of the population was 'Foreign National'. A similar pattern had been evident at least since March 2013 when NIPS quarterly population statistics were first publicly available. There are no equivalent statistics for the wider Northern Ireland population. However, relevant data from the 2011 census signalled that this was likely to be an over representation.<sup>26</sup>

23 This need was highlighted over a decade ago in The Corston Report: A Report by Baroness Jean Corston of a Review of Women with particular Vulnerabilities in the Criminal Justice System, 2007. London: Home Office, p. 2. Available at <http://webarchive.nationalarchives.gov.uk/20130206102659/http://www.justice.gov.uk/publications/docs/corston-report-march-2007.pdf>.

24 At the time of unannounced inspections the female prison population at Ash House Hydebank Wood was 32 in 2004 and 57 in 2016 (see Report of an unannounced inspection of women in prison in Northern Ireland: Ash House Hydebank Wood Prison by HM Chief Inspector of Prisons and the Chief Inspector of Criminal Justice in Northern Ireland, 28-30 November 2004; Report of an unannounced inspection of Ash House Women's Prison Hydebank Wood by the Chief Inspector of Criminal Justice in Northern Ireland, HM Chief Inspector of Prisons, the Regulation and Quality Improvement Authority, and the Education and Training Inspectorate, 9-19 May 2016). Available at [www.cjini.org](http://www.cjini.org). See also the most recent NIPS quarterly prison population statistics showing 62 females in prison for March 2018 <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/Analysis-prison-population-01-january-17-to31-march-18.pdf>.

25 Of the 45 sentenced female prisoners in March 2018 twelve or 26.66% were for six months or less (See Analysis of the NIPS Prison Population from 01/01/2017 to 31/03/2018, <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/Analysis-prison-population-01-january-17-to31-march-18.pdf>).

26 The following are not indicators of 'foreign national' status, but provide an indication of ethnicity and identity in 2011: 3.42% of the population identified their National Identity to be other than British, Irish, Northern Irish, English, Scottish or Welsh during the NISRA 2011 Census; 4.5% indicated their country of birth as outside of the UK and Republic of Ireland; 1.72% reported ethnic identity other than 'White' or 'Irish Traveller'.

In discussions with Inspectors the proportion of people from a Catholic background in custody was also highlighted. This continued to be higher than in the general population.<sup>27</sup> It is possible that the specific gender and age demographic of people in prison could have helped explain the disproportion, but this type of analysis had not been undertaken. Religious imbalance had become particularly concerning in relation to children in custody. At least since 2015-16, when the percentage of Catholic children in the JJC passed 60%, this would have warranted further explanation.<sup>28</sup>

- 2.19 Recognising that custodial admissions were outside its control, the YJA reported to Inspectors that it had asked senior officials in the DoJ to consider if reasons for the increasing disparity in respect of Catholic children could be investigated. At the time of concluding the inspection, it was not clear if this would be taken forward. It was Inspector's view that the absence of a working cross-system governance mechanism was a significant impediment in the implementation of s.75. While each agency could identify issues arising for s.75 groups within it, there was no functioning system-wide governance framework and therefore limited potential for it to influence particular groups' experience of criminal justice overall. It was Inspectors' view that the Criminal Justice Board should provide a strategic lead for equality across criminal justice. This should include the identification of areas for 'through system' monitoring, such as some of those identified here, and the development of the Causeway IT system to enable this to occur (see also discussion in Chapter 3). In respect of monitoring, Inspectors would encourage the adoption of the principle 'explain or reform' as set out in the Lammy Review. A specific recommendation about cross-system governance is included at the end of the report.

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27 Statistics provided by the NIPS on 26 March 2018 showed Maghaberry Prison: 53.33% Catholic; 31.00% Protestant; 15.67% Other. Magilligan Prison 56.71% Catholic; 30.56% Protestant; 12.73% Other. Hydebank Wood Secure College 55.90% Catholic; 23.60% Protestant; 20.50% Other. Although dated and relating to the general population rather than the specific age range and largely male gender of the population in custody, the Northern Ireland Census 2011 shows 40.76% of residents stating religion as Catholic.

28 See Spain, A and McCaughey, J (2017) YJA Annual Workload Statistics 2016/17, YJA Statistical Bulletin 28/2017, 28th September 2017, and associated Excel table available at <https://www.justice-ni.gov.uk/publications/r-s-bulletin-282017-youth-justice-agency-annual-workload-statistics-201617>. This shows that the majority of movements from 2012/13 to 2016/17 within Woodlands JJC involved Catholic children increasing from 49% in 2012/13 to 76% in 2016/17. In 2015/16, 64% of children in custody were Catholic increasing to over two thirds (67%) in 2016/17.



# Delivery

- 3.1 This chapter focuses on the areas that emerged during fieldwork where Inspectors assessed greatest improvement was required: resourcing s.75 work, equality action planning, monitoring the impact of policies on people belonging to the s.75 groups, and the screening of policies to ascertain potential impact on the promotion of equality of opportunity. The latter two were most pressing. This is not to overlook the significance of the other methods to embed s.75. Inspectors viewed each of the s.75 tools to have been closely connected and interrelated; for example, comprehensive monitoring would have influenced better screening of relevant policies, assessments about training needs and accessibility, and each of these could have been enhanced through regular and more effective interactions with stakeholders.

## Harnessing s.75 resource

### *Equality Managers*

- 3.2 During the inspection interviewees expressed concerns about how best to make s.75 work in the context of reduced resource. For a number of criminal justice agencies, the Equality Manager/Officer role had been newly appointed during fieldwork. It had either been vacant or passed to an existing post holder with other roles as an interim measure following the NICS VES. Role continuity was apparent for the PBNI, the PPS and the OPONI only. For the YJA and the NICTS, a dedicated Equality Officer role no longer existed. Instead, this was carried out by a newly established equality lead within the DoJ. The Equality Manager role enhanced the potential for senior management to connect with the s.75 issues in the delivery of an agency's services; where the post remained unfilled these links were less apparent. As one interviewee noted, mainstreaming equality in criminal justice roles had become more pressing with the loss of Equality Managers. Yet there was a risk that mainstreaming s.75 would 'fall off the agenda' without the dedicated equality post.
- 3.3 Following its 'Audit of Inequalities', the PSNI had established its Equality Manager role on a permanent full time basis. The NIPS Equality Manager post had been vacant throughout the inspection fieldwork having been impacted by the VES. A post holder with pre-existing responsibilities had helped maintain links between NIPS HQ and the Equality Coordinators within custodial establishments. Those responsible for equality work within each of the NIPS establishments noted their appreciation for the work carried out by this post holder since VES. But they also reported a considerable reduction in their links to and support from the NIPS in

leading on s.75 work. The appointment of a NIPS Equality and Diversity (E and D) Coordinator towards the end of 2017 was particularly encouraging in this respect. Although too early to assess, Inspectors expected this to facilitate greater coherence in s.75 leadership, information flow and support from the NIPS to its establishments and the DoJ (and externally to the ECNI). Inspectors were informed that the new post holder had also been liaising with the NIPS Prisoner Escorting and Court Custody Service (PECCS) with a view to PECCS creating an E and D lead role similar to that which existed within custodial services. Inspectors would encourage this to ensure PECCS is also better reflected within the NIPS s.75 governance and delivery framework.

- 3.4 In so far as it related to the Equality Manager role, s.75 resource had reduced for criminal justice overall. A sense of 'considerable movement' within the system was reported. One Equality Manager perceived criminal justice equality work 'starting over' and some equality post holders were examining afresh how best to implement s.75 within their organisation. Support for the re-establishment of the 'Criminal Justice Equality Network' was expressed. This was the case where the agency no longer held or had newly appointed the Equality Manager role. It was also supported by those working in smaller organisations where the dedicated post holder was the agency's main or only equality resource.
- 3.5 In the past the 'Criminal Justice Equality Network' had been attended by agency's Equality Managers. It was described as a supportive forum in which people could share information, good practice, and invite speakers to raise awareness on emerging s.75 issues. Inspectors were informed that the DoJ facilitated one meeting to help reform the group in June 2017 but Inspectors had not been provided with any plans to indicate it would be re-established permanently. The inspection findings support the re-establishment of a 'Criminal Justice Equality Network,' which would benefit from inclusion within respective equality schemes. The network should facilitate shared learning including of good practice and, where beneficial, cooperation on the delivery of s.75 work. Inspectors considered that links to the Criminal Justice Board would also be important (a relevant recommendation is included at the end of this report).

### *Bespoke training*

- 3.6 Embedding s.75 in the context of reduced resource, especially where there was no longer a dedicated Equality Manager meant that the equality training needs of criminal justice agency staff required greater attention. Staff within the PBNI, the PPS, the NICTS, the OPONI, the YJA and PSNI Student Officers were required to undertake s.75 e-learning and, for certain posts, a 'Diversity Now' training seminar, which was delivered by the NICS Centre For Applied Learning. This provided basic knowledge of the equality framework applicable in the broad context of public service work. The ECNI guide stated that s.75 training should include: 'more focused training for staff in management roles, and other specialist staff, such as trainers, lawyers and staff involved in research and data collection, policy development, service design, conducting equality impact assessments, consultation, monitoring and evaluation.'<sup>29</sup> Inspectors were therefore interested to learn if bespoke training was targeted towards aspects of staff's functions that were especially relevant to s.75, and, for this purpose, if a s.75 training needs analysis was conducted.

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29 ECNI (2010) Section 75 of the Northern Ireland Act 1998: A Guide for Public Authorities. Belfast, ECNI.

- 3.7 The YJA and the NICTS reported that some of its training had been tailored to service users' emerging needs. This included Autism awareness training. Within smaller organisations like the PPS and the OPONI identifying bespoke training to enhance equality practice had been intuitive to an extent. Appraising needs had depended on and benefited from an apparent reciprocal relationship between staff and Equality Managers. In this respect, the PPS indicated that the delivery of Autism Awareness Training had resulted from a need identified by staff. The OPONI Learning and Development Officer was new to the role and was completing a learning needs analysis. This included consideration of emerging awareness raising requirements in respect of the s.75 groups. Mental health training had been a particular priority. This had been indicated through an analysis of OPONI internal statistics, which showed lower satisfaction levels for people with a disability. Although resources were not available to commission research to examine the reasons for this, staff highlighted mental-ill health as an emerging aspect of their work. This was an example of good practice in which staff knowledge was sought to tailor learning.
- 3.8 In a larger agency such as the NIPS or the PSNI a more formal appraisal of equality training needs was warranted. Inspectors were provided with an outline of the Equality Training Pack delivered by the Prison Service College to NIPS HQ and Prison Grade staff. Although it focused on legal and theoretical frameworks it also included scenario based exercises for participants. Interviewees in both the PSNI and the NIPS explained to Inspectors that the language of s.75 would be less likely to engage frontline staff than the application to their everyday work of its principles and values. The inclusion of scenario-based exercises was therefore particularly important.
- 3.9 Statistics provided by the NIPS showed that for the three years from 01 June 2014 to the 31 May 2017, 540 of its staff had received equality and diversity training. A total of 416 of these staff were from custodial establishments. It was Inspectors view that there was room for improvement in respect of this level of participation. The NIPS stated that approved training covering relevant aspects of equality and diversity related law and policy, which included s.75 had been delivered to all new staff on induction. It also said that refresher training had been available to existing staff in different formats including classroom based learning, e-learning and through personal information booklets. Areas for development included learning for NIPS Equality Coordinators who were responsible for s.75 work within each of the custodial establishments. At the time of fieldwork, not all had been provided with the benefit of bespoke equality training.
- 3.10 For the PSNI, the development and delivery of s.75 training was relevant at various levels including through its foundation training for Student Officers, service delivery and operational training, leadership training and for particular issues arising within Districts. The s.75 training needs of Student Officers at Foundation Level was perhaps easiest to appraise, as the lead Superintendent explained there was an awareness of the number of students entering and timescales for delivery. Foundation training had included equality related principles such as fairness, courtesy and respect, which were covered in the first week. The second week had covered police-decision making and the relevance of vulnerability and unconscious bias. Thereafter, it was explained that elements of equality had been integrated throughout the course and had been embedded within scenario training.

- 3.11 Bespoke training included the initial investigators' course, which had covered subjects related to equality such as human trafficking, hate crime, domestic violence, and Female Genital Mutilation. Plans to include diversity workshops within the emerging leadership programme were also reported. It was noted that Police District training had been developed in response to emerging local issues. For example, one District, which had recorded higher levels of burglary victimisation among older people had engaged with outside organisations to build its officers' knowledge in responding to older victims. In another District, officers had completed an awareness raising workshop with the local Traveller community. Inspectors would encourage the identification and delivery of bespoke training in this way. However, it was perhaps where corporate knowledge about PSNI s.75 training needs was susceptible to gaps. As one interviewee explained, it had been difficult to 'baseline' the range of equality related training provided because of the many layers of provision. Indeed, the PSNI Training College noted that it had yet to contribute to an overarching s.75 training plan. Capturing the full range of training that had already been tailored to address s.75 issues, as well as emerging equality training needs would have benefited from further development.
- 3.12 There were examples of good practice within the agencies inspected in the identification and commissioning of tailored s.75 training. Inspectors viewed this as an area for improvement in so far as agencies would benefit from an annual appraisal of bespoke equality training and awareness raising needs, and the completion of a s.75 training plan. Learning could be enhanced through the involvement of stakeholder groups in the delivery of awareness raising programmes. In this respect, Inspectors were mindful of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) recommendation to develop and implement in '*close collaboration with organisations of persons with disabilities [...] 'capacity-building programmes among the judiciary and law enforcement personnel, including judges, prosecutors, police officers and prison staff, about the rights of persons with disabilities.*'<sup>30</sup>

### Stakeholder participation

- 3.13 During fieldwork for the inspection, stakeholders provided important insights about how criminal justice work had impacted people belonging to the different s.75 groups. Among those Inspectors spoke to an extensive source of equality expertise was found. This was in respect of s.75 as a policy tool and on the nature of criminal justice experiences for different groups of service user. One agency representative highlighted to Inspectors his view of community and Non-Governmental Organisations (NGO) groups as important 'advice givers' in how to carry out its work. Various examples of engagement were provided to Inspectors from which there were opportunities for development and for shared learning.
- 3.14 The NICTS and a number of stakeholders highlighted 'court user groups' as an example of engagement work. A review of minutes for a number of the Magistrates, Crown and Youth Court groups showed consideration of matters relevant to s.75 even though the discussion

30 UN Committee on the Rights of Persons with Disabilities (2017) Concluding observations on the initial report of the United Kingdom of Great Britain and Northern Ireland, CRPD/C/GBR/CO/1, 3 October 2017, para. 33 (a) available at <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhspCUZhK1jU66fLQJyHlkqMIT3RDalIqzhH8tV Nxhro6S657eVNwuqlzu0xvsQUehREyEQD%2BldQaLP31QDpRcmG35KYFtgGyAN%2BaB7cyky7>.

had not been framed as such. Examples included access to a portable loop system, the availability of translators, and an action for court staff to liaise with the judiciary about the allocation of court rooms to accommodate people with a disability. Minutes showed evidence of stakeholders having participated and inputted, for example, an action proposed by one attendee to review how new access arrangements were working in practice was accepted.

- 3.15 There was room to enhance attendance, and the groups work was not at the time of fieldwork tied into a s.75 governance framework. Remedying this may have helped to escalate some longer standing s.75 issues, which the minutes suggested had been difficult to progress (for example, improvements in the availability of a loop system for those with hearing impairments). Notwithstanding these issues, Inspectors were encouraged by the groups' potential in enabling the NICTS to give due regard to equality of opportunity. Inspectors also heard about the Equal Treatment Benchbook (ETBB),<sup>31</sup> which contained guidance for judges to enhance communication in court for different groups of users. We were asked how this was being adopted in Northern Ireland.<sup>32</sup> Being guidance for the judiciary, the NICTS stated that it was not a matter for its governance. However, Inspectors viewed the 'court user groups' as an important opportunity in this respect. While respecting that the ETBB was outside the NICTS remit, Inspectors considered that the user groups represented a potential forum to facilitate dialogue and awareness raising about its use, which would contribute to learning about access to justice for the different s.75 groups of service user.
- 3.16 The NIPS custodial establishments each held monthly 'Equality and Diversity' meetings. These represented an opportunity to raise and pursue equality matters particular to each. For example, minutes showed various issues discussed and actioned including disability access to the 'Men's shed', availability of interpretation services for Foreign National prisoners, and measures to facilitate religious observance. In discussions with each establishment's 'Equality and Diversity' Coordinator the meetings were reported as a useful opportunity to pursue emerging s.75 issues and also develop equality related awareness raising events for both prisoners and staff. For instance, at one meeting attended by Inspectors plans were agreed to mark Older People's day. In another establishment, an awareness raising session between prisoners and a group representing refugee and asylum seekers had been facilitated. One establishment had a working 'E and D' action plan, which was considered at each meeting. This provided a useful mechanism to monitor progress and, in discussion with both staff and prisoner interviewees, it was felt that other establishments would have benefitted from this approach. The E and D Coordinator at Hydebank Wood reported that it was developing an improvement plan.

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31 See the most recent edition published in February 2018: Judicial College (2018) Equal Treatment Benchbook, available at <https://www.judiciary.gov.uk/wp-content/uploads/2018/02/equal-treatment-bench-book-february-v6-2018.pdf>. It notes that 'Treating people fairly requires awareness and understanding of their different circumstances, so that there can be effective communication, and so that steps can be taken, where appropriate, to redress any inequality arising from difference or disadvantage.' (p.3).

32 See also the submission by the NIHRC and the ECNI to the UN Committee on the Rights of Persons with Disabilities, which raised the issue of access to justice for people with disabilities. The submission highlights the 'Galo case' in which the NI Court of Appeal noted an Industrial Tribunal's failure to take account of the Equal Treatment Benchbook in respect of the appellant's needs (NIHRC and ECNI (2017) 'Disability Rights in Northern Ireland: Supplementary submission to inform the CRPD List of Issues on the UK', p.17; Galo v. Bombardier Aerospace UK [2016] NICA 25),

- 3.17 At the time of fieldwork both Magilligan and Maghaberry had a working 'Prisoner Representatives' group. Each met regularly with the establishment's E and D coordinator and attended each E and D meeting. Prisoner Representatives noted their appreciation for the support which had been provided by the E and D coordinators. Opportunities for representatives to gather other prisoners' views was challenging due to limited access to parts of the establishments. This was acknowledged and discussed at the meetings with opportunities to enhance engagements with other prisoners being pursued. For example, attendance at regular landing forums and prisoner forums, and pre-arranged times for representatives to visit other houses had been facilitated. It was noted that posters had been displayed in establishments to encourage people to join the Prisoner Forums and attend E and D meetings. Guidance for Prisoner Representatives was available. Representatives new to the role would have benefited from bespoke s.75 training. Inspector's heard that this would have enhanced their communications with other prisoners. One Governor talked of a 'two-way' process in which Prisoner Representatives could input into E and D forums only if the establishment provided support and equipped representatives with information about their role. Neither Hydebank Wood College nor Ash House women's prison had been able to maintain membership of its Representatives' group. Governors' reported that it had been challenging to recruit. While actively seeking to address this gap, they were pursuing other opportunities to gather students' and women's views including monthly meetings with people to invite views on equality issues.
- 3.18 One interviewee reported that the meetings 'do a fantastic job' to give reassurance to both senior management and prisoners, but reflected they had been reactive to a large extent. Increased resource for the Equality Coordinator was hoped to facilitate better planning and enhance potential for local s.75 issues to inform strategic outcomes set by the NIPS and the DoJ. Attendance was also an area for improvement. For example, despite being informed that health care was always invited, there was no attendance from health care at the meetings observed by Inspectors. Only one establishments' E and D meeting was routinely attended by a NGO stakeholder. Discussions would have benefitted from a permanent agenda item to consider issues for all s.75 groups, and communication of the meetings' work to prisoners was an area for development. Nonetheless, the establishments E and D meetings were an example of good practice through which service users and those involved in delivery regularly informed equality work. Inspectors would encourage opportunities to share learning and map s.75 issues across establishments. These types of issues included, for example, better monitoring of disability, developing engagement with members of the Travelling Community and Minority Ethnic Groups (for which Maghaberry had developed specific user forums)<sup>33</sup>, and qualitatively examining some areas of discretion (discussed more under 'monitoring').

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33 This was an example of good practice which was cited as a key action within the DOJ Equality Action Plan.

- 3.19 In 2015-16 the PSNI had developed a Community Engagement Tracker as a mechanism to account for its engagements with 'partners, community groups and stakeholders.' Districts and Headquarters had been required to use it as the main source of capturing this type of information. However, in interview with Inspectors it was explained that the Tracker had not worked having created a 'bureaucracy of accounting' rather than 'doing'. Since then a 'Policing with the Community' (PWC) Inspector had undertaken research across Districts to develop an engagement strategy, which was in draft at the time of Inspector's fieldwork. It aimed to embed engagement as 'everyone's responsibility' and included recommendations for Districts to appoint an Engagement Lead and develop a bespoke engagement plan. Inspectors would be supportive of this to enhance local ownership of engagements that are relevant to each area but would encourage broader strategic links including to the s.75 governance framework. It was reported that in the absence of the Community Engagement Tracker, 'District Electoral Logs' were being used by Officers to record and plan direct engagement. Although described as 'not ideal' it was felt workable in the context of reduced resource and while the PSNI draft Engagement Plan was being developed.
- 3.20 In focus groups across two policing Districts the importance of collaborative working was recognised. District leads (District Commander in one District; Chief Inspector and Superintendent in another) each noted an increased amount of work related to mental ill health and had been working with Health Trusts to help respond. An example of 'street triage' in which officers, the Northern Ireland Ambulance Service and Community Psychiatric Nurse team attended calls together was provided by one District. Two officers were also due to complete enhanced mental health training. The other District had developed a project with its local 'search and rescue' team to learn from a rise in the number of deaths by suicide and attempted incidents by young men. It had also worked with its local Concern Hub to refer people onward to other services.
- 3.21 An Engagement Chief Inspector had not been identified in one of the Districts visited by Inspectors but 'hard to reach' groups of young and older people had been prioritised using a social indicator index. The local Neighbourhood Policing Teams (NPTs) were required to formalise engagement plans for these groups. In the second District, the Chief Inspector for Engagement met with Inspectors and had developed a local engagement plan. Examples of the engagement work undertaken included meetings with local representatives, which were helping to inform community perceptions about police stop and search activity. Leadership in both Districts described the challenges of community engagement in the context of reduced resource. One District Commander noted that while community engagement was a routine part of NPT activity, it was not yet fully embedded among colleagues performing a Local Policing Team (LPT) role due to busy workloads. Projected loss of officers due to retirement in coming years was also highlighted as a potential negative impact on the continuity of Neighbourhood Teams. A desire to enhance cooperative working with the 'extended policing family' ('blue light' services and local community) was noted in this respect.

- 3.22 Constables' and Sergeants' assessment of their community engagement work was mixed. In one area it was reported that engagement work had at times been weighted toward paramilitary organisations. A hope for the outworkings of the Fresh Start Agreement to help with this was expressed. In this District, an on the ground survey with the community was suggested as a means for it to reassess its engagement. In the second District, considerable improvement in engagements with 'hard to reach' communities was reported. Neighbourhood Officers also described links with the local Travelling Community and Minority Ethnic Groups. Reflecting the District Commander's view, the LPT Officers reported little time to undertake engagement work. The LPT Officers stated that engagement tasks were assigned each day. However, few had found time to do this stating that at times a response call would be recorded against the task, but they were aware this did not equate to 'engagement'. Conscious of a drive for statistics it was reported that a lot of Officers' engagement did not come under any available 'tick box'. Interactions at District suggested considerable engagement being undertaken at this level, which Inspectors would expect to be enhanced and captured better on implementation of a PSNI Engagement Plan.<sup>34</sup> An improved link to the PSNI s.75 governance framework was required.
- 3.23 On the whole stakeholders reported greater openness in their interactions with criminal justice agencies. The NIPS 'E and D' meetings were noted to have had a 'knock-on' positive effect by one organisation. It had detected greater willingness by the NIPS to approach the voluntary sector for its equality expertise. Some reported instances where agency engagement had resulted in initiatives to improve services for protected groups. One group gave an example of the PPS consulting with its service users to inform amendments to letters and forms. The PSNI Youth Champions Forum was highlighted by a number of groups as a responsive forum to reflect children's issues.
- 3.24 Across the engagement groups referenced by stakeholders there was a sense that 'smaller' issues were progressed, for example, days of celebration to mark cultural events and translation of prison establishments' signage. 'Bigger' items it was felt remained on the agenda. Examples included stop and search activity among children, and the physical accessibility of both prisons and court environments. Evidence from meeting minutes provided support for this view. The intractability of some issues was impacted by a lack of resource. Nonetheless, if groups were better linked to a broader s.75 governance framework Inspectors would expect greater opportunities to progress these or highlight as strategic s.75 gaps. Engaging directly with affected groups was an area for development. For example, stakeholders reported it was rare for agencies to engage directly with children, although the PSNI had sought to develop this in relation to its learning about stop and search.

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34 In response to Factual Accuracy Check, the PSNI highlighted engagement by the Tactical Support Group (TSG) and Armed Response Unit (ARU) through Neighbourhood Policing teams with youth groups in harder to reach areas, which had been included in the relevant Engagement Plan. This was described as a means to demystify and reduce the lack of trust associated with them in public order scenarios because feedback from community representatives had been negative in the past. Operational Support Department, which is responsible for TSG/ARU had used social media to promote information about the TSG/dog section among young people.

- 3.25 Overall, considerable good practice in engaging with stakeholders on equality related matters existed. Inspectors considered that stakeholder, community and service user participation could be enhanced through recording and monitoring of engagement work. Equality issues and actions could be better captured if existing engagement forums adopted a permanent s.75 agenda item. Linking this to the agencies s.75 governance framework would also provide an opportunity to map equality issues and gaps, and identify longstanding matters which may require greater focus to address.

## Action Planning

- 3.26 Equality Action Plans (EAPs) were the primary document through which each agency described the delivery of its equality work. The EAP was not a statutory requirement but recommended by the ECNI to demonstrate how due regard was being paid to the s.75 duties.<sup>35</sup> Whereas the equality scheme was broadly standard across the criminal justice agencies considered, plans with measurable actions had the potential to make s.75 more meaningful to each agency's work. Inspectors therefore considered action plans to be a particularly important s.75 tool.
- 3.27 A recent review of action plans for the ECNI concluded that criminal justice was one of two public sectors in Northern Ireland best engaged with making plans available online.<sup>36</sup> This was also the case during the inspection with plans accessible via each agency's website either as an appendix to the equality scheme or as a separate document. During the inspection most had become due for renewal and/or were in the process of being reviewed. At the end of fieldwork all available plans except that published by the PSNI were current. It was explained that a backlog in approving documents for the PSNI website had caused delay in publication. Inspectors were provided with a copy of the current plan. Actions within EAPs were taken as one gauge of how much regard was being paid by the agencies to the different s.75 groups. In keeping with ECNI guidance on action measures, stakeholders wished to see action plans 'bring about positive outcomes' for the groups of people s.75 identified. Inspectors therefore also inspected EAPs for actions aligned with measurable indicators that were capable of demonstrating positive results.
- 3.28 The ECNI guide states that: *'Action measures/action plans to promote equality of opportunity and good relations should be informed by an analysis of the inequalities that exist for those Section 75 categories affected by the functions of the public authority.'*<sup>37</sup> Across the criminal justice action plans examined each s.75 group was explicitly identified in relation to at least one action. Where actions had been targeted toward benefiting specific groups 'political opinion', 'marital status' and 'dependents' tended to feature less. Some plans frequently stated 'all groups' when identifying the s.75 group intended to benefit from an action. This occurred for over two thirds of actions (nine out of 13) identified by the PPS (although the PPS plan included its 'rationale');

35 ECNI (2010) Section 75 of the Northern Ireland Act 1998: A Guide for Public Authorities, Belfast, ECNI, p. 13.

36 Health being the other identified sector (see Conley, H. and Warren, S. (2017) A Review of Action Plans Developed by Public Authorities in Relation to Their Statutory Equality and Good Relations Duties, For the Equality Commission for Northern Ireland. Belfast, ECNI, March 2017), available at <https://www.equalityni.org/ECNI/media/ECNI/Publications/Employers%20and%20Service%20Providers/Public%20Authorities/ReviewofActionPlans-FullReportMar2017.pdf>.

37 ECNI (2010) Section 75 of the Northern Ireland Act 1998: A Guide for Public Authorities, Belfast, ECNI, p.46.

and for just over half of policy actions (34 out of 67) within the DoJ plan.<sup>38</sup> Stating ‘all groups’ appeared appropriate provided the action was relevant to each, in which case the practice of naming the nine s.75 groups (as in the PSNI plan) was preferable. This suggested consideration had been given to each group and whether the named action would actually impact people within it. For example, the PSNI named all nine s.75 groups against its actions on achieving an ‘engaged workforce reflective of the society it serves...’ of which s.75 is to an extent a reflection. ‘All groups’ were named against some actions relating to domestic abuse initiatives within the DoJ plan. Given the gendered nature of domestic abuse, this would have benefitted from further explanation.

- 3.29 The PBNI plan was the only one to target action explicitly toward ‘multiple identity’ equality issues identifying the delivery of services to break the cycle of offending behaviour among young men (age and gender). Some stakeholders reported that multiple identity did not feature within agencies’ planning. This was most striking for children where actions tended to focus on impacting ‘age’. It was reported that other characteristics relevant in the context of criminal justice such as sexual orientation, disability and dependent status were not often highlighted for this group. Inspectors concluded that some actions appropriately targeted children as a homogenous group, for example, the PSNI measure relating to stop and search of young people. In other instances, the particular needs of children warranted further elaboration. Therefore, for example, actions within the DoJ action plan for which the YJA was responsible targeted ‘age’. Considering that children were the YJA’s main client group, accommodating the equality characteristics of this group could have been better developed within the action plan.
- 3.30 Some stakeholders reported that actions relating to Transgender were underdeveloped. These tended to be included with ‘LGBT’ without any real consideration for the issues relevant to Transgender. Inspectors also heard a concern that within criminal justice actions aimed at bringing about positive change for LGBT and race groups featured only in relation to hate crime. Action plans were mixed in this respect. The idea that race and sexual orientation featured exclusively in relation to hate crime was not borne out. However, save for the PSNI and PBNI actions relating to both groups and the DoJ actions relating to race, it was mostly the case. For example, the PSNI and the PBNI plans explicitly referenced race and sexual orientation against hate crime related actions and others, the OPONI did not feature race or sexual orientation explicitly, within the DoJ plan race featured against several policy activities, both race and sexual orientation were explicitly referenced in the PPS plan only against the action to publish ‘hate crime’ statistics. Functions capable of tackling hate crime were particularly relevant to these groups but other aspects of agencies’ work were especially relevant too. Actions relating to ‘all groups’ would have encompassed race and sexual orientation. Concerns about a limited hate crime focus demonstrated why naming each group and the benefits intended from an action was important.
- 3.31 Mostly Inspectors found that inequalities highlighted by criminal justice agency interviewees tended to feature within the agency’s Equality Action Plans. For example, PPS interviewees

38 There were also three actions with no category named and one ‘no impact identified’.

highlighted working with young people as an important focus area and improving the experience of young witnesses did form an action within its plan; the OPONI interviewees highlighted the mental health needs of service users and gendered issues in relation to its workforce, and its EAP actioned each. Gaps appeared to exist, however, in relation to the NICTS, the NIPS and the YJA. Equality issues raised by interviewees for each were not always visible in the overarching DoJ plan.

- 3.32 Pertinent s.75 matters raised with Inspectors in relation to the NICTS, for example that could have benefitted from inclusion within the Equality Action Plan included the accessibility of courts for those with a physical and learning disability, and for people with hearing or visual impairments. Inspectors viewed this especially important in light of the relevant UNCRPD recommendation to design and implement, in collaboration with organisations of people with disabilities, *... a decision-making regime with guidelines and appropriate resources, focusing on respecting the will and preferences of persons with disabilities, particularly persons with intellectual and/or psychosocial disabilities, in court proceedings.*<sup>39</sup>
- 3.33 For the YJA, s.75 related matters raised by interviewees included increased numbers of females in custody, the higher proportion of children from a Catholic background, and mental health service provision. Not all of these issues had been reflected within the plan. Inspectors also heard about a number of equality related initiatives undertaken by the YJA, which were not visible within the DoJ documentation. For example, the YJA reported that in order to accommodate the needs of victims and young people, particularly children with speech and language difficulties, it had adjusted the timeframe in which a Youth Conference meeting had to take place. Inspectors considered that the actions within the overarching EAP should have been capable of measuring this type of positive action. For the NIPS, actions plan measures were best developed in relation to issues for ethnic minority prisoners. Monitoring showing disparity in outcomes for Catholic prisoners and gathering better information on disability, particularly mental health disability, were among relevant NIPS issues that would have enhanced the plan. It was perhaps not practicable for a DoJ plan to encompass all relevant equality actions for all of its agencies, particularly where the agency provided operational functions especially relevant to s.75 such as custody accommodation (this is also discussed further below).
- 3.34 The ECNI guidance also recommended that action plans identify how proposed measures were intended to impact on equality of opportunity. Simply listing outputs was to be avoided and consideration given to what monitoring information would be required to determine achievement of anticipated outcomes. Within plans examined, actions tended to remain action rather than outcome based but many were linked to an intended outcome. As such, all action plans considered included outcomes to a certain extent. The PSNI, the PPS, the PBNI and the OPONI plans were most advanced in this respect. Across a number of sections within each plan a relation between the action measure and the outcome intended for one or more s.75 groups could be ascertained, for example:<sup>40</sup>

39 UN Committee on the Rights of Persons with Disabilities (2017) Concluding observations on the initial report of the United Kingdom of Great Britain and Northern Ireland, CRPD/C/GBR/CO/1, 3 October 2017, para. 33 (b).

40 This is a copy from the agency's equality action plan of an example outcome, measure, group and a performance indicator where one is listed; it does not replicate all headings included within the respective agencies' action plans.

## PPS EAP 2017 – 18 (extracts)

Outcome	Action Measure	Performance Indicator	s.75 Group Impacted Upon
Improved services, communication and support provided to victims and witnesses, across all s.75 groups in Northern Ireland.	Carry out needs assessments for all victims and witnesses and ensure that applications for special measures are made as required.	Percentage compliance as determined by internal monitoring.	All s.75 groups but in particular Age, Disability, Dependants.

## PSNI EAP 2017-2022 (extracts)

Outcome	Measure 2.1	Groups	Performance Indicators
PSNI is seen as an organisation that protects the most vulnerable reducing harm caused by crime and anti-social behaviour which contributes to a safer Northern Ireland by dealing effectively with Hate Crime and Crime which acts as a signal to minority communities that they are vulnerable.	<p>Improve the service to repeat victims and to vulnerable groups such as victims of Hate Crime, Crimes against Older people;</p> <p>To maintain a corporate prevention, detection and investigation strategy for Hate Crime and Signal Crime. Continuing to increase societal awareness of the exacerbated effects of Hate and Signal Crime.</p>	Disability, Race, Sexual Orientation;	<p>Increased satisfaction and confidence especially among underrepresented groups;</p> <p>Increased positive assessment of PSNI's performance particularly among marginalised and underrepresented groups;</p> <p>Increased Hate and Signal Crime reporting;</p> <p>Increased intelligence resulting in improved detection of Hate and Signal Crimes.</p>

PBNI EAP 2017-2020 (extracts)		
Equality Groups	Action	Outcome
To promote the Victim Information Scheme to vulnerable equality groups including Ethnic Minorities, Older people, Women, LGBT, Disabled and Faith Communities.	Business Plan objective 2017-18 Deliver an Awareness Campaign to increase the number of users registered with Victim Information Scheme.	To increase the number of victims from minority groups that use the Victim Information Scheme.

OPONI EAP 2017-18 (extracts)			
Inequality / Issue Identified	s.75 Category	Performance Indicator	Action Measure
Those with a disability were less likely to be satisfied with overall service they received than respondents who reported not having a disability.	Disability.	Decrease in the difference in the level of satisfaction rates between those service users with a disability and those without a disability.	Investigate possible reasons for the difference and take appropriate measures if possible.

- 3.35 Overall, a move towards identifying outcomes for equality of opportunity was apparent. However, indicators capable of evidencing the named outcome was an area for development. It was not always apparent that the indicator listed would measure if the outcome had been achieved. The PPS measure to publish annual hate crime statistics, and the PSNI indicator to proceed with the roll out of the Youth Volunteer Academy were examples of ‘outputs’. Each would have benefited from further development to demonstrate if it was capable of achieving the outcome named. Performance indicators were not included within the PBNI plan. In some instances there was only one likely indicator (as in the example above: an increase in the numbers of minority group victims using the Victim Information Scheme), but naming performance indicators helped demonstrate an agency’s capability to assess if the outcome had been achieved.
- 3.36 The greatest complexity was apparent in the DoJ action plan. As already discussed, the plan encompassed the Department as a policy making entity as well as its associated agencies each with specific operational functions. Two agencies, the NIPS and the YJA, had responsibility for the entire custodial estate. This was a function that warranted heightened s.75 scrutiny. Similar significance existed for the NICTS particularly in its role to facilitate court accessibility. During the fieldwork period the DoJ revised its equality action plan. The revision was welcome and resulted in a greater number of action measures for operational agencies especially in respect of the NIPS (it being the responsible owner for eight out of 27 key areas).

Inspectors viewed this as a positive development. The named policy interventions and measures had also been aligned with draft PfG outcomes. This had the potential to help with s.75 mainstreaming as the draft PfG was also being used to plan the Department's business.

- 3.37 Notwithstanding these improvements, however, there remained important gaps. For example, the NICTS was the 'responsible owner' in only three key areas, and the YJA in only two. Relying on draft PfG outcomes alone risked the outcomes having been set at too high a level and meaningful positive impacts on equality of opportunity could have been better identified. Therefore, for example, while a pilot of the substance misuse court was linked to the draft PfG measure of 'reducing reoffending' the intended equality impact was not made apparent. Some actions for the NIPS described outputs, for example, 'hold monthly Equality and Diversity meetings at each prison establishment ...', without identifying the inequality being addressed. The actions identified by DoJ were in all likelihood capable of advancing equality of opportunity for different s.75 groups. The DoJ had committed significant resource to develop a more robust equality action plan. Improvements were made but could have been enhanced further by the NIPS, the YJA, and the NICTS having an agency specific plan (see relevant strategic recommendation relating to DoJ s.75 governance).

## Monitoring

- 3.38 The recent ECNI review of the 'public sector equality duty' concluded that the data development drive intended as a result of implementing s.75 had not occurred.<sup>41</sup> Public authorities noted a number of reasons for this gap including the resource required for data collection having not been available.<sup>42</sup> This was apparent on speaking to criminal justice agencies where some noted a move toward more targeted and proportionate monitoring. For example, in the past the NICTS had undertaken 'customer exit surveys'. However, these had been based on a customer excellence model and had not been designed to capture issues particular to equality groups. The NICTS reported that it had adopted smaller scale targeted customer focus groups. Although these were not s.75 in focus it was anticipated these would help appraise equality issues. The PBNi stated that it had monitored s.75 information for all probationers and had used this to inform its screening impact reports; but due to a more limited resource it was conducting service user surveys with a sample of approximately 200 people instead. The OPONI remained the only agency out of those considered to routinely publish dedicated s. 75 information about its service users.<sup>43</sup>
- 3.39 The PPS had been undertaking victim needs assessments through the Victim and Witness Care Unit. This was primarily for it to accommodate individual needs, which in practice may have been related to a person's membership of a s.75 group. But the information was not gathered for broader s.75 monitoring purposes and could have been enhanced in this respect. It was noted that because PPS core business (prosecution decisions) was exempt from s.75,

41 Equality Commission for Northern Ireland (2017) Section 75 Statutory Equality and Good Relations Duties: Acting on the Evidence of Public Authority Practices. Report for Consultation. Belfast, ECNI.

42 As above.

43 OPONI: Equality Monitoring Report: Survey of Complainants to the Police Ombudsman for Northern Ireland 2016-17 available at <https://www.policeombudsman.org/PONI/files/d3/d3440904-97fc-4b65-8b27-381af90b0865.pdf>.

monitoring of prosecutorial and diversionary decisions had not been taking place. The PPS reported no objection in principle to this occurring provided that the function of s.75 monitoring and data analysis occurred independently of its everyday decision making role. Ideally this would mean another agency employee such as a NISRA statistician undertaking the equality monitoring role.

- 3.40 Sentencing decisions were not s.75 disaggregated except in respect of gender and age. A data gap was also apparent in relation to Youth Engagement (YE) Clinics. Clinics represented an important decision point in the system and there appeared to be no single point of data collection and monitoring in relation to their decisions. S.75 data relating to, for example, numbers consenting to attend compared to those declining; those accepting a diversionary option and those declining, as well as children accepting legal advice compared to those proceeding without were not available. Inspectors were informed that each agency involved in YE had a responsibility to collect and report its own s.75 information. Stakeholders reported barriers in accessing this type of data. One group stated that it was required to make a Freedom of Information request to receive some limited information about the uptake of legal advice. The YJA did seek s.75 information for young people it worked with, that is, those referred from YE Clinics who had accepted a Diversionary Youth Conference or who agreed to be involved with YJA on a voluntary basis for help and support following acceptance of an Informed Warning or Restorative Caution. The YJA reported a planned publication of statistics in 2018 about the gender and age of those attending YE Clinics. This would be a welcome development. However, it would still leave a broader gap in publicly available information about other s.75 characteristics, as well as children declining to attend. A previous ambition for the Causeway IT system to link s.75 data gathered by the PSNI with other decision points in the system had not been realised. One YJA interviewee explained that it had not yet been able to receive information from, or upload to, the Causeway system.
- 3.41 Within the JJC it was reported that monthly monitoring reports are discussed at JJC Board Meetings to examine equality issues involving children who have been subject to physical restraint and Use of Force techniques, children who receive sanctions for behaviour, children subject to single separation and children involved in incidents of Self Harm. Children within the JJC were also screened by age, religion, gender, racial group and legal status at their point of committal for admission trends and analysis. Inspectors were not aware of a regular survey within the establishment or its community services to ascertain matters pertinent to equality and diversity, such as perceptions of respect and fairness disaggregated by s.75 groups. It was reported that victim satisfaction feedback had been sought, and during the feedback meeting about this inspection's findings, the YJA reported plans to undertake 'customer exit surveys'. Inspectors would welcome this and encourage inclusion of equality information. Inspectors would also support further consideration being given to the utility of monitoring key decisions in community services, for example, completion and breach rates, and service user experiences disaggregated by s.75 demographics.

- 3.42 Each of the NIPS establishments undertook monthly monitoring of areas of discretion to detect and account for differential outcomes. Areas examined included use of force, non-random drug tests, regime status, home leave applications, and adjudications. This had arisen from the Prison Review Team (PRT) recommendation 10: *'Equality and diversity reports should be presented in a form that signals clearly where there are differential outcomes in relation to religion, race or ethnicity. They should be routinely examined in equality committees and if necessary action taken. Ethnicity and disability should be better recorded and monitored.'*<sup>44</sup> The CJJ report to the PRT Oversight Group in May 2015 noted that issues regarding the recording of disability and the poorer outcomes for Catholic prisoners remained. Apart from these areas the main part of this PRT recommendation had been considered met.<sup>45</sup> Since then inspections of some NIPS establishments had noted further improvements in monitoring<sup>46</sup> and, for both the Ash House and Hydebank Wood Secure College most recent inspections outcomes were generally equitable.<sup>47</sup> However, important areas had remained underdeveloped, for example, in relation to the availability of longitudinal trends, the dissemination of data, and external scrutiny.
- 3.43 During this inspection, Inspectors found that data continued to be monitored on a monthly basis and examined at the establishments' E and D meeting. A drive to develop longer term trends was apparent at Hydebank Wood but not the other establishments and Inspectors would encourage this for all. Differences in outcomes for those from a Catholic background were still evident. The disparity was less apparent at Hydebank Wood Secure College and Ash House in relation to some areas of decision making. For example, an analysis of adjudication figures for students provided to Inspectors by Hydebank Wood showed significance in representation of Catholic students for only two months of 2017. This had been due to an under- rather than over-representation. However, disparity in relation to other areas was still apparent, particularly in relation to 'Basic' regime status (on the Progressive Regime and Earned Privileges Scheme (PREPS)). Outcomes for Catholic prisoners remained poorer for both Maghaberry and Magilligan prisons.<sup>48</sup>

44 Review of the Northern Ireland Prison Service: Conditions, Management and Oversight of all Prisons, Prison Review Team Final Report October 2011 available at <https://www.justice-ni.gov.uk/sites/default/files/publications/doj/owers-review-of-the-northern-ireland-prison-service.pdf>.

45 CJJ Report to the PRT Oversight Group May 2015, p.40.

46 See Report on an unannounced inspection of Maghaberry Prison by CJJ and HM Inspectorate of Prisons, the Regulation and Quality Improvement Authority and the Education and Training Inspectorate, 11-22 May 2015 - published November 2015; Report on an unannounced inspection of Ash House Women's Prison Hydebank Wood by CJJ and HM Inspectorate of Prisons, the Regulation and Quality Improvement Authority and the Education and Training Inspectorate, 9-19 May 2016, published October 2016; Report on an unannounced inspection of Hydebank Wood Secure College by CJJ and HM Inspectorate of Prisons, the Regulation and Quality Improvement Authority and the Education and Training Inspectorate, 9-19 May 2016 - published October 2016. Reports available at [www.cjini.org](http://www.cjini.org).

47 Report on an unannounced inspection of Ash House Women's Prison Hydebank Wood by CJJ and HM Inspectorate of Prisons, the Regulation and Quality Improvement Authority and the Education and Training Inspectorate, 9-19 May 2016, published October 2016; Report on an unannounced inspection of Hydebank Wood Secure College by CJJ and HM Inspectorate of Prisons, the Regulation and Quality Improvement Authority and the Education and Training Inspectorate, 9-19 May 2016 - published October 2016. Available [www.cjini.org](http://www.cjini.org).

48 See also the most recent inspection of Magilligan: Report on an unannounced inspection of Magilligan Prison by CJJ and HM Inspectorate of Prisons, the Regulation and Quality Improvement Authority and the Education and Training Inspectorate, 12-22 June 2017 - published 12 December 2017, Recommendation: 'The NIPS should engage independent external support to assist in identifying the underlying reasons for the disparities of outcomes for Catholic prisoners and their responses in our survey about respectful treatment by staff'. Available at [www.cjini.org](http://www.cjini.org).

- 3.44 At each establishment, monthly disparities prompted further analysis of individual decisions so that the Residential Governors and the lead Governor for E and D could be satisfied the reason for a decision had been made out, and that the outcome was reasonable and proportionate. This scrutiny coupled with dip sampling had not revealed instances of unjustified or disproportionate decision making by staff. It was Inspectors view that even where examinations established each individual decision was justified, a deeper analysis of why the disparity consistently occurred was still required. As already reported by CJI, the reasons are likely to be complex and influenced by various factors including subjective perceptions of the prison environment, wider authority and staff-prisoner interactions.
- 3.45 Inspectors were informed that initial work to validate statistics in preparation for further analysis had begun at Maghaberry. This was encouraging. Such a project would have benefitted from corporate commitment and resource so that the underlying reasons for disparities could be independently examined and learning extended across establishments. Inspectors would also encourage the NIPS to explore if this scrutiny should be applied to other categories of person too, as monitoring data and discussions recorded in minutes of E and D meetings showed disparities in outcomes was also apparent for members of the Travelling Community (for example, in relation to representation on the Basic regime), and younger prisoners.
- 3.46 Although identification of disability had improved, particularly in respect of Maghaberry where it had provided a survey enabling prisoners to self-disclose disability, better alignment of the NIPS and the HSC Trusts monitoring information was required. The E and D Coordinator explained that in the absence of self-disclosure, the NIPS still required confirmation from the Trust for it to record physical and mental health disability. Monitoring of disability had not developed to an extent that would enable this to be included within the monthly E and D statistics. This would be an important area for development as during the 2015 inspection of Maghaberry survey results for those prisoners who considered themselves to have a disability were significantly worse than the comparator in a number of areas (for example, feeling there was a member of staff they could turn to for help if they had a problem, and feeling unsafe).<sup>49</sup>
- 3.47 PSNI described a 'data development drive' which was in development and being led through its 'Police Powers Delivery Group (PPDG)' chaired by an Assistant Chief Constable (ACC). The group had been established to monitor anti-terrorism related powers but was expanded to include other areas of discretion. It was said to be in the 'early days' of development and at the time of fieldwork ,the group was not yet able to discern s.75 patterns across the PSNI areas of discretion. However, the intention was for s.75 monitoring to inform its work. Examples of work linked to it included the creation of s.75 monitoring forms for PNDs\* and CRNs. This was described as a 'success story' to an extent as a higher than expected return had been received. Frustration was, however, also reported because the PSNI IT system had not been capable of generating a report; as one interviewee explained, the data had been 'fed in but nothing was coming out'.

49 Report on an unannounced inspection of Maghaberry Prison by CJI and HM Inspectorate of Prisons, the Regulation and Quality Improvement Authority and the Education and Training Inspectorate, 11-22 May 2015 - published November 2015, Prisoner survey responses, key question responses (disability) Maghaberry (Mourne Complex) 2015.

\* On 08 January 2021 this was amended to read 'PND' instead of the incorrectly referenced 'FPN'.

- 3.48 Stop and search powers routinely recorded age, gender and ethnicity. It was reported that matching stop and search activity with outcomes in the form of arrests was not easily achieved. The PSNI relevant IT systems were being 'harmonised' to enable this to occur and was planned to be completed for the first part of 2018. However, it was also noted that outcomes should not be attributed to arrest only. In the absence of this particular outcome data, other ways to understand the impact of stop and search were being pursued. In this respect, stop and search monitoring was an example where use of alternative inquiry had been used with some success and also with room for improvement:

Case Study: Monitoring Stop and Search activity		
Particular Groups: a focus on Age, Religion and Racial Group		
Age	Religion	Travellers
<p>Concerns had raised about the proportion of young people subject to PSNI stop and search powers.<sup>50</sup> This had been on two levels: the rate of stop and search involving young people being higher than their representation in the overall Northern Ireland population; the outcomes (measured via the arrest rate) being low.</p> <p>Statistics for 2016-17 provided to Inspectors by the PSNI showed that the rate of stop and search of 15 to 17-year-olds pursuant to PACE was 16.30% of all such encounters; this was less than the 18.33% in 2015-16 but still just under four times the proportion of 15 to 17-year-olds in the population.<sup>51</sup> The proportion of 15 to 17-year-olds stopped and searched under Misuse of Drugs Act had reduced from 19.88% in 2014-15 to 12.25% in 2016-17, but is still almost three times the rate of 15 to 17-year-olds in population.</p> <p>Inspectors met with policy development who described a number of methods being adopted to better monitor stop and search generally. This included:</p> <ul style="list-style-type: none"> <li>adherence to the Home Office 'Best Use of Stop and Search' guide;</li> </ul>	<p>Religion/community background data is not recorded for each stop and search encounter. The PSNI piloted use of a postal questionnaire in one District area but the pilot resulted in nil returns. In focus groups officers explained the difficulties attached to asking s.75 information, a scenario which had the potential to turn a calm stop and search interaction into an adversarial encounter.</p> <p>While most officers understood the reasons for gathering s.75 information it was generally felt preferable for the PSNI to explore other monitoring methods, e.g. the postal or online survey.</p> <p>Those within policy development explained that the PSNI had engaged an Academic to explore possible options in light of the postal survey pilot having failed.</p> <p>Recognising the monitoring gaps and the continued potential for the stop and search conduct to influence community trust, one District Commander had adopted a different approach. This included proactive engagement with community groups; this was a source of feedback about how officer's conduct including via stop and search was being perceived.</p>	<p>Statistics for 2016-17 provided by the PSNI for all stop and search activity show that 2.34% of stop and searches related to members of the Travelling Community. The figures for the two previous years are similar: 2015-16 was 2.37% and 2014-15 was 2.25%.</p> <p>Although now dated, 2011 Northern Ireland Census data shows members of the Travelling Community represented 0.07 percent of the Northern Ireland resident population.</p> <p>This data would suggest that further exploration is warranted. As with children and young people, an examination of the different types of outcomes arising from this stop and search activity would also be beneficial.</p>

50 Campbell, C (2017) PSNI urged to reconsider use of stop and search on under-18s, The Detail, 29 March 2017 <http://www.thedetail.tv/articles/psni-urged-to-reconsider-use-of-stop-and-search-on-children>; Topping, J (2017) Police Stop and Search in Northern Ireland; Presentation at the ESRC Festival of Social Science, Black Box Belfast, 8 November 2017.

51 Statistics provided by PSNI disaggregating stop and search activity by power used and age; this showed that for 2015 to 2016 16.30% of PACE stop and search related to children aged 15 to 17 years of age; 15 to 17-year-olds represented 4.20% of the overall NI population in the 2011 NISRA Census data, see page 12, Table KS102NI at <https://www.nisra.gov.uk/sites/nisra.gov.uk/files/publications/2011-census-results-key-statistics-northern-ireland-report-11-december-2012.pdf>

## Case Study: Monitoring Stop and Search activity

### Particular Groups: a focus on Age, Religion and Racial Group

Age	Religion	Travellers
<ul style="list-style-type: none"> <li>better monitoring of officers' stop and search records by Sergeants to ensure that the grounds for each stop and search was made out;</li> <li>dip sampling by the Inspector in charge of policy development;</li> <li>revised training integrating procedural justice principles into stop and search sessions;</li> <li>development of the IT system so that it could generate 'end-to-end' data on outcomes of stop and search; and</li> <li>Officers' use of Body Worn Camera (BWC), which could record stop and search encounters.</li> </ul> <p>In relation to young people specifically, the PSNI lead Inspector on policy development for stop and search had engaged with a group of young people through a stakeholder organisation. The purpose was to ascertain views on stop and search encounters. This was reported to have been a helpful initiative by both the stakeholder organisation and the PSNI.</p> <p>At the time of fieldwork it was not apparent how this qualitative information would be used to inform stop and search practice in relation to children and young people, but Inspectors were informed this was under consideration.</p> <p>It was explained to Inspectors that the arrest rate is not the only outcome of a Stop and Search encounter; particularly in respect of young people, a lower arrest rate could indicate greater use of discretion. However, monitoring had not been developed to record these different outcomes.</p> <p>Inspectors observed Student Officer training at which a new section on 'children' had been introduced. This was an important inclusion. It represented a small part of a larger course, which meant there was not sufficient time within the session observed to cover the nuances of different types of interactions, for example, in relation to children with a learning disability or Autism. Inspectors concluded this was a notable development with room for improvement.</p> <p>In respect of stop and search practice with children and young people, Inspectors concluded this was an example of quantitative monitoring having revealed a disparity that required further inquiry to explain.</p>	<p>The District Commander also commissioned a 'procedural justice'<sup>52</sup> pilot study. This involved an academic assisting one group of 'Tactical Support Group' (TSG) officers to embed procedural justice within their stop and search practice and a control group, which would continue as normal. The premise was that if procedural justice permeated stop and search practice, the opportunity to build community confidence, including among those of different religions/ community backgrounds would be increased.</p> <p>As well as the pilot evaluation, which would include review of footage from BWC, feedback would be received via officers and through community engagement.</p> <p>At the time of fieldwork the pilot was at an early stage of development; but it was a positive example of a criminal justice agency exploring other monitoring options where efforts to monitor quantitatively had failed.</p>	<p>Inspectors were provided with information from one District in which the District Commander had proactively sought an internal report of disaggregated stop and search statistics for the area. This had examined stop and search activity in relation to different equality groups. As a result, areas for deeper examination were identified, which included stop and search activity in respect of members of the Travelling Community. Inspectors assessed that this was an example of good practice at a local level, which would benefit from a corporate approach.</p>

52 The basic premise of Procedural Justice Theory is that belief in the law's legitimacy is influenced by perceptions of procedural fairness; for example, if people rate police interactions and decision making processes as fair and respectful trust in the law is maintained, whereas perceptions of disrespect can undermine support for the law (For early work see Thibaut, J. and Walker, L. (1975) *Procedural Justice: A Psychological Analysis*. Hillsdale, NJ: Erlbaum; Tyler, T.R. (1990) *Why People Obey the Law*. New Haven and London: Yale University Press; see also Tyler, T.R. (2006) (2nd Ed) *Why People Obey the Law*. New Jersey: Princeton University Press, and, for example, Tyler, T.R. (Ed) (2007) *Legitimacy and Criminal Justice: An International Perspective*. New York: Russell Sage Foundation; Tankebe, J. and Liebling, A. (Eds) (2013) *Legitimacy and Criminal Justice: An International Exploration*. Oxford: Oxford University Press, which include perspectives from outside the United States of America).

### Cross-cutting themes of relevance to enhancing equality of opportunity

- Support: Police Officers across two Districts reported different levels of confidence in the support and documentation received to guide stop and search activity.
- Training: a routine method to appraise refresher stop and search training needs within Policing Districts would be beneficial.
- Governance: Senior Officers' involvement in, and awareness of governance processes applicable to s.75 issues in respect of stop and search activity differed across the Districts visited; one was linked into the PPDG and the Equality and Diversity Steering Group (EDSG); the other reported low awareness of each. This was an area for improvement.

3.49 On the whole, efforts to drive data development were apparent. However, important monitoring gaps existed. A single point of contact to drive monitoring across the criminal justice system was urgently required. Important points in the system were not being monitored for impacts across each of the s.75 groups including decision making related to Youth Engagement Clinics and court sentencing. Other functions were being monitored but with limited effect in terms of understanding outcomes, for example, in relation to PNDs\* and CRNs. In further areas, in-depth inquiry was required to explain apparent disparities or to address difficulties associated with undertaking quantitative monitoring. Understanding varied in relation to the role of qualitative monitoring. While some did report using qualitative data others appeared 'stuck' when quantitative monitoring had not been possible or failed to explain a disparity. Areas warranting further examination included stop and search activity in relation to young people and members of the Travelling Community. The NIPS custodial establishment outcome statistics for all relevant s.75 groups including in relation to Catholic prisoners continued to merit examination.

## Strategic recommendation 2

**Within six months of the publication of this report, each of the agencies inspected should review their s.75 monitoring arrangements in relation to relevant functions. Actions to address gaps in s.75 monitoring and explain disparities that have been identified via existing statistics should be included within an action plan.**

### S.75 Workforce data

3.50 CJI's 2009 s.75 report recommended that criminal justice agencies monitor staff across the nine s.75 categories. This had largely been achieved for the agencies considered for this inspection. Improvements were required in respect of some of the information available including for sexual orientation and dependents. Equality monitoring of the NIPS, the NICTS, the YJA and the PPS workforce was completed centrally by NICS HR.<sup>53</sup> S.75 information relating to workforce was provided to Inspectors for each of these organisations. For NIPS, data was requested in relation to 'Prison Grade' staff only. Information was gathered across the s.75 categories of person save for 'political opinion,' which was not requested bearing in mind ECNI Guidance

53 Data for NIPS was sourced from COMPASS as at 1 January 2017; for NICTS, PPS and YJA it was from HRConnect databases at 1 January 2017.

\* On 08 January 2021 this was amended to read 'PND' instead of the incorrectly referenced 'FPN'.

acknowledging sensitivities in gathering certain s.75 information.<sup>54</sup> Sexual Orientation and Dependents information was not held for the vast majority of staff and because of this information could not be provided. The lead within the Equality and Diversity Branch for NICS HR within the Department of Finance for Northern Ireland (DoF) reported that they were considering how best to address this gap. For the purposes of equality monitoring, the NICS is treated as being a single employer. Therefore, while NICS HR examines in detail the profile of every separate occupation across the NICS, it does not routinely examine the profile of individual departments, agencies, business areas. However, when providing data for this inspection, NICS HR offered the following observations (for full data see Appendix 3):

### *Gender*

- Compared to the whole of the Northern Ireland economically active population which is 52.3% female, males are under-represented in bodies all except for NIPS where females are greatly under-represented.

### *Community background*

- Compared to the whole of the Northern Ireland economically active population and excluding those whose community background is described as Not Determined, both communities are fairly represented in YJA, Protestants are under-represented in the PPS, while Catholics are under-represented in the NICTS and the NIPS.

### *Disability*

- The proportion of staff with a disability ranges from 1.1% in the NIPS to 6.4% in the NICTS. The level of disability in the Northern Ireland economically active population is 4.7%.

### *Ethnicity*

- In all bodies around 99% of staff are white.

### *Age*

- The NIPS has the greatest percentage of younger staff (i.e. below age 24) while the YJA and the NICTS don't have any staff in this age bracket. As with the rest of the NICS, all bodies have an older age profile compared to the Northern Ireland economically active population.

3.51 Inspectors were informed that since NICS HR had become responsible for workforce monitoring, any remedial action required was no longer the responsibility of the individual justice agencies or the DoJ. It was instead a NICS corporate-wide responsibility. Inspectors were content with this arrangement provided that workable links existed between those responsible for the DoJ's s.75 governance and the NICS HR to ensure any actions could be identified and implemented. The DoJ reported that links to its equality governance framework existed through its 'Diversity Champion' who engaged at Departmental Board level with the NICS Diversity Champion's Network. The DoJ Equality Action Plan included measures to

54 ECNI (2007) Section 75 Monitoring Guidance for Use by Public Authorities, July 2017. Belfast, ECNI, at p. 12, available at <https://www.equalityni.org/ECNI/media/ECNI/Publications/Employers%20and%20Service%20Providers/S75MonitoringGuidance2007.pdf>.

encompass this requiring the Diversity Champion *'to promote awareness and represent the Department on the NICS Diversity Group' with actions to 'attend Departmental Diversity events' and 'support diversity initiatives'.*

- 3.52 Following the report by the PRT, the wider NICS Article 55 and Gender Review had included Prison Grade staff.<sup>55</sup> Its most recent report covering two years from January 2014 to December 2016 noted two major NIPS recruitment campaigns in the period of the review. The first in March 2015 for 'Prison Custody Officer' included 38.8% female applicants making up 61.1% of appointments; and 25.9% Catholic applicants making up 16.7% of appointments. The second for Custody Prison Officer and Night Custody Officer attracted 36.8% female applicants making up 27.4% of appointments; and 27% of Catholic applicants making up 26.7% of appointments. It was stated that further appointments in respect of each of these roles were made outside the review period.<sup>56</sup> Outreach initiatives including links with the Northern Ireland School and Colleges Association, visits to NIPS establishments from schools, and NIPS meetings with the Gaelic Athletic Association Head of Community, Strategy and Public Affairs to explore potential for partnership working to promote the NIPS as a career were noted. A commitment to the 'longer term aim' to achieve a NIPS workforce 'reflective of the wider community it serves' was reported.<sup>57</sup>
- 3.53 The PBNI also provided its workforce data to Inspectors. This recorded information across all nine s.75 categories (see Appendix 3). Compared to the Northern Ireland economically active population, females were over represented (73%). There was also a slight over representation of people from a Catholic Background (53%) and under representation of those identifying as Protestant (43%). Similar to the other criminal justice agencies, the overwhelming majority (98%) of staff ethnicity was recorded as 'white'. Workforce actions did feature within the PBNI Equality Action Plan. Motivating greater interest among males in probation work and seeking recruitment of female and minority ethnic community service supervisors were included as actions. The OPONI provided workforce data on gender and community background and indicated that its monitoring recorded broader s.75 data although not all nine categories.<sup>58</sup> It reported an under representation of females at senior grades (Grade 7) and males at lower grades (the EO grade). Actions were included within its EAP to address this, although it was noted that these would be limited by 'project budget constraints and recruitment freeze.'

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- 55 Northern Ireland Civil Service (2017) 2016 Workforce Review including: The Review of fair participation (as required by Article 55 of the Fair Employment and Treatment (NI) Order 1998) and the Review of Gender, Department of Finance, October 2017. The 'Article 55 Review' considers fair participation by Protestants and Catholics; the Gender Review considers employment of men and women. Data was taken from 1 April 2016 rather than 1 January 2-16 to allow NICS to examine impact of the NICS Voluntary Exit Scheme on the profile of the workforce. Available at <https://www.finance-ni.gov.uk/sites/default/files/publications/dfp/2016%20Article%2055%20%26%20Gender%20Reviews.pdf>.
- 56 Northern Ireland Civil Service (2017) 2016 Workforce Review including: The Review of fair participation (as required by Article 55 of the Fair Employment and Treatment (NI) Order 1998) and the Review of Gender, Department of Finance, October 2017, p.29.
- 57 Northern Ireland Civil Service (2017) 2016 Workforce Review including: The Review of fair participation (as required by Article 55 of the Fair Employment and Treatment (NI) Order 1998) and the Review of Gender, Department of Finance, October 2017, p.30.
- 58 OPONI workforce data provided to Inspectors from January 2018: Gender 43% male; 57% female; Community Background (discounting those from a non-determined background) 55.8% Protestant background and 44.2% Roman Catholic background. The OPONI HR monitoring form included: Gender, Community Background, Disability and Age.

- 3.54 PSNI workforce statistics provided to Inspectors on 12 March 2018 were reported for 'regular officers' 'part time reserve' (PTR) and police staff (see Appendix 3). Data was recorded across all nine s.75 categories. This showed an underrepresentation of Catholics at all categories (Regular Officer 31.66%; PTR 10.33%, Police staff 19.34%). Females were under represented among Regular Officers (29.08%) and the PTR (39.67%). Disability among Regular Officers and PTR was more in keeping with the Northern Ireland economically active workforce (at 5.36% and 4.33% respectively), and slightly higher among police staff (7.17%).
- 3.55 While the PSNI targets for recruitment between 2013 and 2014 in relation to female applicants and those aged between 18-24 years had been exceeded, the target for attracting Catholic applicants had not been met (31% applicants, 19% appointees). This had prompted it to commission research by Deloitte on barriers to recruitment for those from a Catholic background.<sup>59</sup> Notwithstanding that many of the challenges reached beyond the PSNI's influence, recommendations for it to consider were made. The PSNI was urged to develop an implementation plan with input from the NIPB. Recommendations for PSNI's consideration were related to enhancing internal communication, external communication and engagement, a review of the recruitment process including its timescales, and a focus on internal retention.
- 3.56 Across the criminal justice equality action plans considered, workforce actions were most advanced within the PSNI plan. It included measures to build organisational culture, encourage workforce representation, and an inclusive fair and welcoming workplace, to have a retention strategy focusing on underrepresented groups, to implement a wellbeing strategy, to explore opportunities to increase applicants from those with a disability, and to increase awareness, understanding and support in respect of LGBT matters. It also operated a number of staff associations including its Woman's Police Association (WPA), the PSNI Lesbian Gay Bi-Sexual and Transgender Network, and the Ethnic Minority Police Association. In interviews with the PSNI staff, it was reported that for these to work effectively senior buy-in was required and that the WPA 'fared best' in this respect. Budgets and resourcing Officers time to carry out activities for the Associations had been problematic. Inspectors heard that a previously dedicated equality budget no longer existed with monies having become part of central Human Resources. Inspectors would encourage attention to this, which would benefit from inclusion within the PSNI equality governance framework.

## Screening

- 3.57 Screening helps policy/decision makers assess the likely impacts of a policy on the different s.75 equality groups. The equality schemes considered as part of this inspection each committed to screening. ECNI guidance states that '[s]creening should be proportionate in enabling public authorities to assess the level of relevance that a proposed policy has... 'to the need to promote equality of opportunity. It should also facilitate 'consideration of any equality impacts, mitigating measures and/or opportunities to further promote equality of opportunity.'<sup>60</sup>

59 Deloitte (2016) Understanding Barriers affecting police officer recruitment, final report, December 2016, copy provided to Inspectors October 2017.

60 ECNI (2017) Effective Section 75 Equality Assessments: Screening and Equality Assessments, July 2017, Belfast: ECNI, p.2.

The ECNI has reported that across the public sector screening utility has been affected by data gaps.<sup>61</sup> During this inspection, stakeholders raised concerns that policies had been ‘screened out’ on the basis of very little or irrelevant data and, as a result, few Equality Impact Assessments (EQIAs) were completed.<sup>62</sup> These issues have also been reported elsewhere including within a recent draft report by the Equality Coalition.<sup>63</sup>

- 3.58 Based on a review of online information, the PBNI ‘Equality Impact Screening’ reports provided good practice examples whereby service user and workforce monitoring information gathered by the PBNI had been included.<sup>64</sup> Full EQIAs had been completed mostly by the PSNI and the DoJ and less so by other agencies considered for this inspection. A DoJ impact assessment in relation to its proposals for a domestic abuse offence and the PSNI EQIA on discretionary disposals recognised that data gaps rendered assessing equality impact difficult at the policy development stage. Each indicated that further assessment would be undertaken at the development and implementation process progressed. These were examples of good practice for other agencies to consider, as impact assessment should not stop at the policy initiation stage.<sup>65</sup> For example, a policy developed by NIPS HQ might need to be assessed locally for its impact.
- 3.59 An area examined by Inspectors, which had also been raised by stakeholders, was the process by which agencies decided what to screen and how oversight of this had been fulfilled. Smaller agencies such as the OPONI and the PPS reported the screening process to be instinctive. This tended to work for these agencies because those responsible for screening worked closely with policy leads and were linked in with the E and D senior governance group. NICTS interviewees referenced lessons learned following a successful judicial review challenge to its consultation process on the rationalisation of the courts estate. Lessons highlighted included the point at which screening and the EQIA had been carried out, and an apparent erroneous expectation that consultees would provide data to support their s.75 concerns. As a result the NICTS reported that it had disseminated learning and was more aware of the need to incorporate screening early within the project management process. However, it was uncertain where the lead for this would sit within its organisation having lost its dedicated Equality Manager post. The NICTS anticipated that if in the future screening or full impact assessment was required, the DoJ would provide support to help it through each stage of the process. Particularly in respect of enhancing screening skills, the NICTS interviewees believed a functioning criminal justice agency equality network would assist.

61 Equality Commission for Northern Ireland (2017) Section 75 Statutory Equality and Good Relations Duties: Acting on the Evidence of Public Authority Practices. Report for Consultation. Belfast, ECNI.

62 ECNI guidance states that ‘where screening would not be an adequate means of gathering the information that is needed to assess the relevant equality impacts or opportunities, the public authority should proceed to an EQIA’ (ECNI (2017) Effective Section 75 Equality Assessments: Screening and Equality Assessments, July 2017, Belfast: ECNI, p.3). EQIA is a more detailed means of assessing equality impacts.

63 Equality Coalition: Equal to the Task? Investigative powers and effective enforcement of the ‘Section 75’ equality duty: An Equality Coalition Research Report 2017: Final Draft for discussion at seminar on 12 December 2017.

64 See for example PBNI Equality Impact Screening 2016: Domestic Violence and Abuse Policy, available at <https://www.pbni.org.uk/wp-content/uploads/2015/02/Domestic-Violence-operational-Equality-Impact-Screening-Jan-2016-04.04.16.pdf>; PBNI Equality Impact Screening 2017: Dignity at Work Policy, available at <https://www.pbni.org.uk/wp-content/uploads/2015/02/Dignity-at-Work-Equality-Impact-Screening-2017-121017.pdf>.

65 In principle it is a welcome approach, in practice PSNI had been unable to monitor as s.75 reports relating to the data gathered for PNDs\* and CRNs could not be produced.

\* On 08 January 2021 this was amended to read ‘PND’ instead of the incorrectly referenced ‘FPN’.

- 3.60 The YJA reported that screening was carried out by it and gave an example of the implementation of recent budgetary cuts, but there was also a view that, for the most part, screening was to be undertaken the DoJ. Those within NIPS establishments informed Inspectors that screening responsibility rested solely with NIPS Headquarters and the DoJ. Inspectors concluded that while policy development might occur most often at this level, it was not possible to rule out policy formulation or service developments that should have been screened locally. One establishment provided local policies relating to vulnerable people in custody, Transgender people, and older and disabled people. Some equality related considerations were included, for example, within the policy relating to vulnerability. But Inspectors considered that each would have benefited from screening and further equality related guidance. One NIPS senior interviewee reported that the absence of a formal screening process did not mean the equality implications of applying a new policy or change had been overlooked in practice. However, it was accepted that a formal process to manage and govern screening across NIPS institutions and its PECCS service did not exist at the time of fieldwork. This required urgent attention and, at the end of Inspectors' fieldwork, both the DoJ and the NIPS informed Inspectors that action was being undertaken to address this gap. It was Inspectors view that remedial action should include revisiting any relevant policies developed in the absence of s.75 screening.
- 3.61 The PSNI referred to a 'corporate policy project', which incorporated a s.75 screening process. It was described as a robust process in so far as the policy owner was designated responsibility for completing all s.75 considerations. This also required 'sign off' at a senior level. Inspectors concluded that this corporate approach was necessary in an organisation of significant size or with several of its functions particularly applicable to s.75. The PSNI indicated that it would continue to quality assure the project including its s.75 requirements. Inspectors were mindful that the 'corporate policy project' applied to the PSNI review of existing policy and would encourage a similar corporate approach in relation to new policies or significant service developments. Notwithstanding this, Inspectors considered that the PSNI integration of screening requirements within a corporate policy project was an example of good practice with potential for shared learning. A corporate and quality assured screening process with senior oversight and training for staff would be beneficial for all agencies.

### Strategic recommendation 3

**Within three months of this report being published, all agencies should have in place a corporate and quality assured process by which each can be satisfied that policy and other relevant decisions are being screened for impact on equality of opportunity.**



# Outcomes

## Strategic outcomes

- 4.1 The evidence base to demonstrate strategic outcomes arising from criminal justice equality work was limited. This was not unexpected given that no overarching governance framework had existed to set strategic equality goals (see Chapter 2). In 2009 CJI recommended that the Criminal Justice Board produce an annual publication to include as much equality data as was available in relation to the criminal justice system as a whole. This had not occurred. Although relevant publicly available and internal data sources existed, these had not been compiled in an equality publication.
- 4.2 In England and Wales compendium publications existed on 'Race in the criminal justice system' and 'Women in the criminal justice system'.<sup>66</sup> Pursuant to Section 95 of the Criminal Justice Act 1991 these compiled statistics relating to various aspects of criminal justice including victimisation, police activity, offender characteristics, those under supervision and in custody, and practitioner data. These had been published with important caveats.<sup>67</sup> The compilation data could not be interpreted as bias or direct effects of belonging to a particular group. Causative links could also not be drawn nor had statistical controls been applied to account for any apparent differences in circumstances between genders or ethnic groups. This caution would also apply to a compilation of data relating to s.75 groups within criminal justice in Northern Ireland. But observations about difference could still be made, which may suggest areas warranting further examination.
- 4.3 Information that might helpfully be included within a compendium of available statistics relating to s.75 groups in the criminal justice system included:

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66 Women and the criminal justice system statistics 2015: A Ministry of Justice publication under Section 95 of the Criminal Justice Act 1991, published 24 November 2016, available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/572043/women-and-the-criminal-justice-system-statistics-2015.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/572043/women-and-the-criminal-justice-system-statistics-2015.pdf); Statistics on Race and the Criminal Justice System 2016: A Ministry of Justice publication under Section 95 of the Criminal Justice Act 1991, published 30 November 2017. Available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/669094/statistics\\_on\\_race\\_and\\_the\\_criminal\\_justice\\_system\\_2016\\_v2.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/669094/statistics_on_race_and_the_criminal_justice_system_2016_v2.pdf).

67 For example, Women and the criminal justice system statistics 2015: A Ministry of Justice publication under Section 95 of the Criminal Justice Act 1991, published 24 November 2016, p.10.

## Statistics relating to Hate Crime – Examples of relevant data from PSNI and PPS publications

- The increase in recording of disability hate crimes in 2009-10 (58 incidents; 40 crimes) and 2013-14 (107 incidents; 66 crimes), was beginning to fall again from a peak of 138 incidents in 2014-15;<sup>68</sup>
- lower levels of outcomes for racially motivated and homophobic crimes compared to all crimes were reported (this type of analysis was limited in respect of faith, disability and transphobic crimes due to small levels of recorded crimes for these crime types);
- a decrease in prosecutorial decisions for offences involving hate crime (514 in 2016-17 compared to 764 in 2015-16);<sup>69</sup>
- an improved conviction rate at Crown Court with 81.8% of defendants dealt with during 2016-17 for offence involving hate crime compared to 58.8% the previous year; and
- a lower conviction rate in the Magistrates and Youth Courts with 59.8% convicted in 2016-17 compared to 67.3% the previous year.

## Complaints to the OPONI – Examples of relevant data

- Males (66%) made nearly twice as many complaints as females (34%) in 2016/17;<sup>70</sup>
- Almost half of all complainants who returned an equality questionnaire were Protestant (49%), over two thirds were Catholic (38%), 12% reported being neither Protestant or Catholic;
- 96% of complainants were white. Those from a minority ethnic background mainly reported being Black African, Irish Traveller, or mixed ethnic group; and
- 35% self-reported having a disability; while 65% stated they had not.

## NIPS Prison Population statistics – Examples of relevant data

### Males

- The average daily Northern Ireland male prison population in 2016 was 1,428 representing a decrease from 1,763 in 2014;<sup>71</sup>
- Young males (aged 18 - 20 years) under sentence of immediate custody had decreased by almost half from 73 in 2014 to 38 in 2016;<sup>72</sup>

68 PSNI (2018) Trends in Hate Motivated Incidents and Crimes Recorded by the Police in Northern Ireland 2004/05 to 2016/17, Annual Bulletin published 12 January 2018, p.31. Available at <https://www.psni.police.uk/globalassets/inside-the-psni/our-statistics/hate-motivation-statistics/hate-motivated-incidents-and-crimes-in-northern-ireland-2004-05-to-2016-17.pdf>.

69 Public Prosecution Service for Northern Ireland: Statistical Bulletin: Cases Involving Hate Crime 2016/17 (1 April to 31 March 2017). Available at <https://www.ppsni.gov.uk/Branches/PPSNI/PPSNI/Files/Documents/Stats%20and%20Research/Statistical%20Bulletin%20on%20Cases%20Involving%20Hate%20Crime%202016-17.pdf>.

70 OPONI: Equality Monitoring Report: Survey of Complainants to the Police Ombudsman for Northern Ireland 2016 -17. This reported data across the nine s.75 groups and also employment status. Available at <https://policeombudsman.org/PONI/files/d3/d3440904-97fc-4b65-8b27-381af90b0865.pdf>.

71 Department of Justice Statistics and Research Bulletin (2017) The Northern Ireland Prison Population 2016 and 2016/17, Research and Statistical Bulletin 27/2017 at Table 1. Available at <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/northern-ireland-prison-population-2016-2016-17.pdf>.

72 As above, Table 2

- Of all males sentenced to immediate custody in 2016, almost one quarter (24.57%) had a total custody length of 12 months or less;<sup>73</sup>
- In 2016, under a quarter of adult males (aged 21 and over) sentenced to immediate custody had a total custody length of 12 months or less;<sup>74</sup> and
- For the same period over one half of young males (aged less than 21) sentenced to immediate custody had a total custody length of 12 months or less.<sup>75</sup>

### Females

- In 2016, the average female prison population was 54, a decrease from 67 in 2014;<sup>76</sup>
- In 2016, almost half of females sentenced to immediate custody had a total custody length of 12 months or less;<sup>77</sup> and
- From 2000 to 2004 the average daily female prison population was below 30 (21 in 2000). Since 2005 figures have reached above 30 (32 in 2005).<sup>78</sup>

### YJA custody statistics – Examples of relevant data

- The total number of individual young people in custody in 2016-17 decreased 15% from 163 to 139;<sup>79</sup>
- The proportion involved with custodial services that were 'Looked After children' (LAC) increased to 39% in 2016-17 from 29% in 2015-16. This in the context of a decrease in the total number of children in custody;<sup>80</sup>
- In 2016-17, children in the JJC were mostly male (89%);<sup>81</sup> and
- Over two thirds were Catholic (67%); a further 17% Protestant; 5% were other religions; 6% were none and the remainder unknown.<sup>82</sup>

- 4.4 Observations of this data suggests areas worth further scrutiny including the fall in reported disability hate crime. The increase in young people from care in custody and the high numbers of Catholic children detained reveal difference for these groups worthy of investigation. Each of these statistics are in context of an overall reduction in young people in the JJC. In addition, the overall increase in the female prison population coupled with the sizable proportion of those sentenced having a total custody length of 12 months or less is an area for examination. Similar inquiry may be worthwhile in relation to the higher rate of short custody length (12 months or less) observed in relation to young males in prison.

73 As above, Table 4 showing 258 out of 1,050 of the average daily male prison population under sentence of immediate custody had a custody length of 12 months or less.

74 As above, Table 3 showing 238 out of 1,012 of the average daily prison population of adult males under sentence of immediate custody with a total sentence length of 12 months or less.

75 As above, Table 3 showing 21 out of 38 of the average daily prison population of young males under sentence of immediate custody with a total sentence length of 12 months or less.

76 As above, Table 1.

77 As above at Table 4 showing that 16 out of 34 of the average daily female prisoner population under sentence of immediate custody had a custody length of 12 months or less.

78 Department of Justice Statistics and Research Bulletin (2010) The Northern Ireland Prison Population 2009, Research and Statistical Bulletin 2/2010 (revised 26/09/2014), at Table 2 (showing figures from 2000 – 2009).

79 Spain, A and McCaughey, J (2017) YJA Annual Workload Statistics 2016/17, YJA Statistical Bulletin 28/2017, Executive Summary.

80 As above.

81 As above, p.10

82 As above, p.10

- 4.5 Other data, such as question sets included by the PPS and the Northern Ireland Policing Board within the Northern Ireland Omnibus Survey and fear of crime data, had been developed to measure statistical significance between some s.75 groups. This provided a helpful starting point to develop a picture of criminal justice related equality related outcomes. For example:

### Omnibus survey results relating to public perceptions of policing – Examples of relevant findings<sup>83</sup>

- A statistically significant increase in respondents indicating police were doing a very good or fairly good job in their area (75% in April 2017 compared with 68% in April 2016); and
- a similar proportion of Protestant respondents (76%) and Catholic respondents (73%) reporting they thought the police were doing a very/fairly good job in their area with the latter a statistically significant increase on the April 2016 figure (64%).

### Omnibus survey results relating to public perceptions of the PPS – Examples of relevant findings<sup>84</sup>

- A total of 71% of respondents were very or fairly confident that the PPS was effective at prosecuting people accused of committing crime, which was a rise from 65% in 2016;
- more women than men (72% compared to 70%) were very or fairly confident in this respect; and more Protestants than Catholics (75% versus 67%);
- there was an overall increase in confidence levels relating to the PPS's provision of a fair and impartial prosecution service, with 76% of respondents reporting they were confident or fairly confident compared to 71% in 2016; and
- men and women reported similar confidence levels in this respect (76% and 77% respectively); confidence levels were lower for Catholics (71%) than Protestants (81%).

### Statistics relating to the fear of crime – Examples of relevant findings<sup>85</sup>

- The NICS 2015-16 survey findings showed that women were more likely than their male counterparts to claim their quality of life was greatly (6% v 3% respectively) or moderately (26% v 20%) affected by their own 'fear of crime'; and
- respondents with a long standing illness or disability (8%), and in particular a limiting illness or disability (10%), were more likely than those with no illness or disability (3%) to state their lives are greatly affected by a 'fear of crime.'<sup>86</sup>

83 Public Perceptions of the Police, PCSPs and the Northern Ireland Policing Board: Report based on the Northern Ireland Policing Board Module of the April 2017 Omnibus Survey <https://www.nipolicingboard.org.uk/sites/nipb/files/media-files/omnibus-survey-april-2017.pdf>.

84 <https://www.ppsni.gov.uk/Branches/PPSNI/PPSNI/Files/Documents/Stats%20and%20Research/Perceptions%20of%20the%20PPS%20-%20Findings%20of%20the%20NI%20Omnibus%20Survey%20April%20-%20June%202017.pdf>.

85 <http://niopa.qub.ac.uk/bitstream/NIOPA/5023/1/Perceptions-of-Crime-Findings-from-the-2015-16-Northern-Ireland-Crime-Su.pdf>.

86 As above, p.17

- 4.6 These are only some examples of existing data. Various other data sources existed that could potentially be drawn upon, for example, the PSNI statistics relating to stop and search activity and the NIPS establishments' monitoring information, which in respect of s.75 focused data was probably more advanced than any other criminal justice agency. The DoJ also provided a 'digest of statistical web links'. This included a range of information beyond what has been included here from which further equality information could be compiled.<sup>87</sup> For instance, the 'experience of crime survey' examined data against 16 socio-demographic groups, six of which related to s.75 categories: religion; age; living arrangements (marital status); sex (gender); disability; household type (child dependents); and perceived nationality.<sup>88</sup>
- 4.7 Some available statistical information was included within agencies Equality Action Plans. As such, actions within the PPS and the PSNI equality action plans were measured by public confidence survey data and hate crime statistics. Notwithstanding this, the collation of criminal justice data to either observe difference or measure equality outcomes was underdeveloped. Inspectors would encourage such an exercise to establish a baseline of what is available and what is still required to map s.75 groups' experiences of criminal justice. It would also help identify existing data sets that would benefit from development either to include a broader range of s.75 groups or facilitate the measurement of outcomes. The annual survey of victims and witnesses experiences of the criminal justice system, for example, provided an important source of data across the system.<sup>89</sup> The inclusion of s.75 demographic information could enhance our understating of victims' and witnesses' experiences.

### Outcomes from the 'Annual Review of Progress'

- 4.8 The ECNI asks that Public Authorities conduct an annual review of progress on its scheme commitments and report findings to it. This facilitates public authorities to demonstrate how they have assessed compliance with s.75 duties.<sup>90</sup> Among other matters, the report should '*present the actions, outcomes, impacts, and achievements by an authority to progress its agenda...*' on s.75.<sup>91</sup> At the conclusion of fieldwork, the DoJ, the PPS, and the OPONI annual progress reports to the ECNI were published online. The PBNI had submitted its annual report to the ECNI and a copy was provided to Inspectors. The PSNI had not completed its annual report for 2016-17, but provided Inspectors with its 'five year review' of its 2012-17 Equality Scheme. Inspectors acknowledge that resource constraints had impacted on reporting, but timely publication of the annual review of progress is important as a primary purpose is to make progress apparent for stakeholders to consider.

87 <https://www.justice-ni.gov.uk/articles/digest-statistical-web-links>.

88 Campbell, P. and Cadogan, G. (2017) Experience of Crime: Findings from the 2015/16 Northern Ireland Crime Survey, Department of Justice Research and Statistical Bulletin 7/2017. Available at <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/experience-of-crime-findings-2015-16-ni-crime-survey-feb-17.pdf>.

89 See most recent survey in October 2017: Analytical Services Group Victim and Witness Experience of the Northern Ireland Criminal Justice System: 2008/09 - 2016/17, Research and Statistical Bulletin 31/2017 October 2017. Available at <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/nivaws-2016-17-bulletin.pdf>.

90 As required by the Northern Ireland Act 1998, Sch.9, para. 4(2)(a).

91 ECNI, (2015) A Short Guide to Public Authorities Annual Review of Progress on the Statutory Equality and Good Relations Duties: Guidance on completion of the Commission's template for reporting progress, February 2015, p.2. Available at [https://www.equalityni.org/ECNI/media/ECNI/Publications/Employers%20and%20Service%20Providers/Public%20Authorities/PubAuthStatDuties\\_AnnualProgressReview-Guidance\\_Feb2015.pdf](https://www.equalityni.org/ECNI/media/ECNI/Publications/Employers%20and%20Service%20Providers/Public%20Authorities/PubAuthStatDuties_AnnualProgressReview-Guidance_Feb2015.pdf).

- 4.9 Section I of the annual progress report requested information on s.75 activity as well as ‘the outcomes or improvements achieved.’ All reports considered tended towards the former with little concrete information about outcomes. The PBNI was an exception: it referenced its ‘Accepting Difference’ hate crime intervention the pilot of which had shown improvement in attitudes among participants. Others listed activities. For example, the DoJ annual report referred to initiatives capable of advancing equality for one or more s.75 groups including: the Modern Slavery and Human Trafficking Strategy; work to progress implementation of a Witness Charter; and translated leaflets and telephone interpreting for foreign national prisoners. There was room to develop responses within section 1 to include outcomes achieved or an acknowledgement that, in order to demonstrate intended outcomes, further monitoring was required.
- 4.10 Section 2, which asked for outcomes or impacts arising specifically from the organisation’s EAP, tended to include better outcome related information although at times activities were still listed (for example, the PPS referenced community engagement events and the publication of a Victim and Witness policy). The PBNI had presented ‘benefits achieved’ from the initiatives listed within Section 1. The OPONI noted outcomes expected from an activity (e.g. monitoring of workforce for certain grades within the organisation) or reported that continued monitoring to demonstrate an intended outcome was being undertaken (satisfaction levels particular to complainants with a disability and mental ill health). Evidencing impact was perhaps the most difficult aspect of progress reporting. An OPONI interviewee described proving outcomes as ‘tricky’. Its activity to enhance awareness with young people was described as valuable but demonstrating a direct link between this activity and the numbers complaints from this group was difficult. Inspectors recognised these challenges. However, it would have helped to explicitly acknowledge within the annual progress report areas where monitoring was ongoing or required further development to evidence the outcome named. In this respect, completion of an annual monitoring appraisal for inclusion within the annual progress report would assist.
- 4.11 The annual progress report also asked agencies to report changes as a result of the equality scheme. Answers to this question were a further way to gauge outcomes from s.75 activity. All save for the PPS and the PBNI reported change within the reporting year. The DoJ reported translation of Human Trafficking leaflets into 12 languages, improved dialogue with foreign national prisoners, and translation into 17 language of committal information booklets. The ‘Guarantee Interview Scheme’ for job applicants with a disability had been adopted within the OPONI’s Recruitment Policy and Procedure. The PSNI previous annual progress report referenced the dedicated Equality and Diversity page within its website. Although its current annual report was not available, information from PSNI’s five year review reported ‘key lessons’ including: the introduction of the Police Powers Development Group to provide an assurance function on the use of police powers; review and development of the E and D Steering Group; and the establishment of Equality Manager as a stand alone role. Inspectors were mindful that these reported changes did not capture the impact of all equality work but it provided some albeit limited evidence that s.75 had driven governance and service developments.

## Making a difference: Perceptions of outcomes from s.75 activity

- 4.12 Given that the evidence to demonstrate outcomes of criminal justice equality work required improvement, Inspectors considered interviewees views were provided on whether s.75 had made a difference. A number of stakeholders reported that it had. For some of those reporting positively, the greatest change in their view had been apparent in relation to the PSNI. One reported a sense that the police (service) was 'unrecognisable' and another that it had displayed the greatest 'cultural change'. Reasons for this varied, but included the participation of Police Officer's in Belfast's 2017 PRIDE event. This, it was reported, signalled support for the Lesbian, Gay, Bisexual and Transgender (LGBT) community in Northern Ireland. Examples of proactive engagement by the PSNI were highlighted by others. One stakeholder referred to an initiative by the PSNI to tailor its response to older victims of burglary. This has been driven by the stakeholder's research showing poorer outcome rates for older victims. PSNI engagement with another organisation to help address attrition levels in relation to sexual offences was also noted, as was initiatives to build confidence among the LGBT community, which had developed from research indicating a lack of trust.
- 4.13 The equality performance of the PPS and the NICTS was perceived by some to have been less visible and as a result a sense that 'people give the police a hard time' was reported by one stakeholder. Another indicated a view that there was room for improvement in the information provided to people by the PPS, for example, it was thought that letters could be better tailored to people's particular needs. However, some detected improvements in this respect and reported a greater sense of openness from the PPS in its consultation with stakeholders. Inspectors heard that s.75 may have influenced an improved response to people impacted by hate crime including better data recording and publication of outcomes by the PPS. Some provided concrete examples of changes, which in their view were influenced by s.75. This included the PSNI/Mindwise Appropriate Adult Scheme and funding for 'Hate Crime Advocates'. Not everyone was certain that s.75 was responsible for the changes they discerned, but felt it had a role to play in providing a 'cultural building block', 'causing people to think' and in prompting more 'open communication.'
- 4.14 Some stakeholders perceived that a limited impact had resulted from s.75. They had been unable to name specific criminal justice projects or initiatives that they believed had resulted from it. One stakeholder reported that when introduced s.75 made Northern Ireland an 'equality world leader' but had achieved little progress since then. In this respect, some perceived a 'Section 75 hierarchy' with religion 'at the top'. Those with a disability, members of the Travelling Community and multiple identity issues were identified as having received less attention. Notwithstanding these concerns, some believed flaws could be addressed through greater awareness raising about s.75 groups' experiences and needs, as well as bespoke training and co-design of policies. Engaging with people directly affected and not just groups representing them was also advocated. Much of these suggestion were also identified as areas for improvement in the delivery of s.75 as a result of Inspectors' findings (see previous chapter). Others reported that s.75 had been unable to attend to some of the system's longstanding disparities: as already discussed, this included the over representation of children from care both generally in criminal justice and in custody, and the higher numbers of children in criminal justice from a Catholic background.

- 4.15 When asked what difference s.75 had made to the groups they worked with agencies' responses were not dissimilar to stakeholders. Most cited greater openness and opportunities for engagement with stakeholders, which it was felt had likely been influenced by s.75. A NIPS establishment referred to its dedicated unit for older people, which had come about as a result of it being aware of the differing needs of this population; the PBNI cited its 'Accepting Differences' intervention with the pilot evaluation having shown an impact on people's attitudes and perceptions of difference; a PSNI interviewee referred to its hate crime initiatives describing a process whereby it had targeted funds to those organisations delivering services tailored to the needs of particular groups. Attendance at Belfast PRIDE and Mela festivals by both PBNI and the DoJ since 2014 was also highlighted and again while not necessarily resulting directly from s.75 was noted as a positive development. Other interviewees within the PSNI cited its commitment to data development, which had been driven at least in part by the requirements of s. 75 monitoring.
- 4.16 The PSNI Custody Reform Project was the most comprehensive example provided to Inspectors of s.75 being embedded and used to improve outcomes for particular groups:

### PSNI Custody Monitoring Project

#### The project:

The PSNI commenced a custody reform project following a review in 2014; this resulted in transfer of responsibility for custody to a central 'Service Improvement Department'. Better use of reduced resource was intended but also improved monitoring of who was in custody. S.75 monitoring was a core part of the reform. The project lead worked for two years on building a data base with s.75 markers. It permitted the PSNI to consider the characteristics of the custody population in Belfast compared to rural areas, the age groups, ethnic groupings, disability, dependents and marital status. If for example, monitoring showed a rise in detainees identifying as members of the Travelling Community, this would prompt further enquiry as to the reasons asking, for example, if this had been justified or if there was a potential adverse impact requiring positive measures to address it. Governance of custody suites was under review but retained links to central processes such as the PPDG. This facilitated s.75 monitoring to inform service-wide development.

#### Examples of particular groups impacted

Age	Gender	Disability
It was reported that some of those in custody had been at the lower end of the 'Minimum Age of Criminal Responsibility.' This had prompted engagement with the PSNI Youth Champions Forum to explore options to prevent this.	Employees were monitored for s.75 characteristics to facilitate proper representation of female officers; sanitary products were offered to female detainees proactively.	It was noted that quantitative monitoring data 'only got us so far'. A significant number of people had not been answering the question on disability. The project commissioned an in-depth qualitative study with the Public Health Agency focusing on suicidal ideation, addictions and mental health. This uncovered a much higher rate of disability particularly in relation to mental health and learning disability. It helped evidence what the Sergeants had been reporting and close the gap in quantitative monitoring.

#### Outcomes

<b>Training:</b> Refresher training and awareness sessions for staff were developed from the information gathered; for instance, ASSIST accreditation in relation to suicide intervention and prevention.	<b>Service development:</b> A co-located Appropriate Adult Scheme with Mindwise in Musgrave [Street] Police Station Belfast. This was reported to have resulted in improved contact time and access to wrap around services for young people.	Information accessibility: Ethnic monitoring information prompted redesigned 'notice of rights and entitlements' into different languages and double handed phones for live translation.
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#### Furthering outcomes: recognising gaps

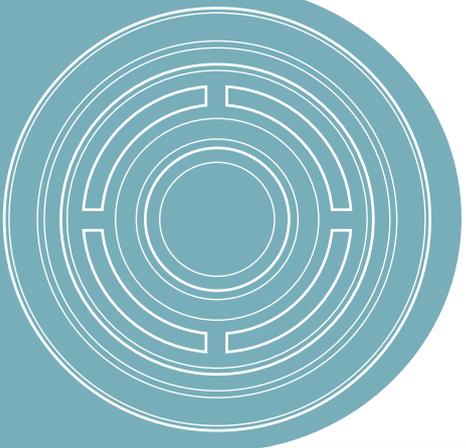
- It was recognised that gaps remained and 'lessons learned' sessions with Police Officers were being used to generate ideas.
- some were outside the sole control of the PSNI for example, improved accommodation options on release during 'out of hours'; suitable bail accommodation for children.
- for those with a disability improving cell design was being explored as an opportunity to look at how people were occupied and settled while in custody; and
- an embedded Mental Health Inspector and a nurse practitioner had been raised as ideas - these were described as things to work towards using the data as an evidence base.

- 4.17 The Custody Reform Project was an example of monitoring driving outcomes for s.75 groups. In contrast others described success in some aspects of their work, for example, the PSNI's engagement with young people regarding stop and search; and its gathering of s.75 monitoring information for discretionary disposals (PNDs\* and CRNs). But demonstrating improved outcomes for the s.75 groups as a result of this work had been more problematic.
- 4.18 Overwhelmingly agency interviewees that Inspectors spoke to viewed s.75 as an important equality tool; some reported that while equality was part of their work anyway, s.75 had kept 'it on the agenda'. This was not universally the case, and a few perceived s.75 as a 'tick box exercise' that added to rather than enhanced their duties. Others indicated that, although not the view of management, it might be difficult for operational staff to 'buy-in' where s.75 had not been made apparent to everyday work. In this respect, the identification and provision of bespoke training was key. On the whole Inspector's heard that s.75 had made a difference. But an approach to undertaking measures that had been linked intuitively to equality of opportunity prevailed. Evidencing clear and tangible links between s.75 work and the benefits for different groups remained an area for significant development. It was Inspector's view that the development of strategic equality goals for criminal justice would help to advance the measurement of s.75 outcomes. While respecting data protection requirements, publicly available criminal justice equality data was an area for improvement too. In this respect, Inspectors considered that an annual publication of key criminal justice equality data would assist.

## Strategic recommendation 4

**Within six months of the publication of this report, the Criminal Justice Board should develop, and lead on the monitoring of strategic equality goals for criminal justice. Within this timeframe, it should also establish a 'Criminal Justice Equality Network' made up of the relevant agencies with a role that includes delivering the identified strategic goals.**

\* On 08 January 2021 this was amended to read 'PND' instead of the incorrectly referenced 'FPN'.



# Appendices

# Appendix 1 Methodology

## Desktop research and development of Terms of Reference and question areas

Research literature and guidance documentation was reviewed in relation to the implementation of s.75 (1) by public authorities generally and, where it existed, in relation to criminal justice specifically. Relevant survey data, such as the Northern Ireland Omnibus reports, and the ECNI public authority guidance and related research was also considered.

## Document review

A review was undertaken of the relevant s.75 related documentation specific to each of the agencies forming part of the inspection. This included the agencies' equality schemes, the equality action plans and annual reports to the ECNI. Other documentation provided by agencies was also examined. This included internal monitoring data, minutes of meetings and research and audit reports. Inspectors acknowledge the work undertaken by a number of agencies to provide statistical information for the inspection. NICS HR in collaboration with NISRA also provided Inspectors with up to date data on the s.75 demographics of the PPS, the NICTS, the NIPS and the YJA workforce.

## Fieldwork

One-to-one and focus group interviews were completed with a range of personnel within the agencies inspected. Interviews were also conducted with a range of stakeholders from across the NGO and statutory sector. An invitation to participate in the inspection was published on the CJI website. Inspectors were particularly grateful for the assistance of the Northern Ireland Council for Voluntary Action (NICVA), which disseminated information about the inspection through its 'Department of Justice Departmental Monitoring Group', and the Equality Coalition, which invited Inspectors to one of its members' meetings. Those Inspectors interviewed included:

### Department of Justice

- Criminal Justice Policy and Legislation Division
- Corporate Engagement and Communications Division

### Northern Ireland Courts and Tribunals Service

- Operations Policy Branch

### Public Prosecution Service for Northern Ireland

- Equality Manager
- Assistant Director and Head of Policy
- Victim and Witness Care Unit



## Police Service of Northern Ireland

- Equality Manager
- PSNI Corporate Governance
- PSNI Human Resources Department
- Superintendent Police College Training
- Inspector lead on Stop and Search Policy
- Inspector lead on PSNI 'Corporate Policy Project'
- Chief Inspector lead on monitoring discretionary disposals (Legacy and Justice Department)
- Inspector lead on development of Engagement Strategy within PWC Branch
- PSNI Staff lead on PSNI Custody Reform Project
- Temporary Assistant Chief Constable lead on the Police Powers Development Group
- District Commander x 1
- Engagement Chief Inspector x 1
- Chief Inspectors in police districts x 3
- Superintendent in police districts x 1
- Local Policing Team and Neighbourhood Sergeants focus groups x 2
- Local Policing Team and Neighbourhood Constables focus groups x 2
- Observations of 'Stop and Search' foundation training (Terrorism Act and JSA) x 1
- Observation of PACE Stop and Search refresher training (foundation) x 1

## Northern Ireland Prison Service

- Equality and Diversity Coordinators/Managers x 3
- Prisoner representatives focus group x 2
- Governors with lead responsibility for Equality and Diversity x 4
- NIPS Headquarters staff with responsibility for Equality and Diversity x 2
- Equality Manager

## Office of the Police Ombudsman for Northern Ireland

- Equality Manager
- Head of Investigations
- Director of Information
- OPONI NISRA statistician
- Learning and Development Officer

## Probation Board Northern Ireland

- Equality Manager
- Assistant Director Prisons and Operational Lead on Hate Crime

## Youth Justice Agency

- Director of Custodial Services
- Director of Youth Justice Services
- Acting Director of Corporate Services
- Attendance at Directors' Meeting x 1
- YJA NISRA Statistician

## Stakeholders (participating in scoping and/or fieldwork)

- Age NI
- Bryson Intercultural
- Children's Law Centre
- Commissioner for Older People Northern Ireland
- Committee on the Administration of Justice
- Community Restorative Justice Ireland
- Disability Action
- Dr John Topping, Queen's University Belfast (QUB)
- Dr Michelle Butler, QUB
- ECNI
- Equality Coalition members' meeting x 1
- Extern
- Include Youth
- Institute for Conflict Research
- Leonard Cheshire
- Men's Action Network (MAN)
- Nexus
- Northern Ireland Alternatives
- Northern Ireland Policing Board
- Northern Ireland Policing Board Human Rights Advisor
- NIACRO
- Northern Ireland Human Rights Commission
- NSPCC (with consent to use notes from an interview completed for a concurrent CJI inspection)
- Quaker Service
- Rainbow Project
- Start 360
- VOYPIC
- Victim Support Northern Ireland
- Women's Aid Federation Northern Ireland



## Appendix 2 Terms of reference

### CJI Inspection

### Equality and Diversity Monitoring by the Criminal Justice System

#### Terms of Reference

##### Introduction

Criminal Justice Inspection proposes to undertake an inspection of equality and diversity monitoring by the criminal justice system in Northern Ireland. The inspection will focus primarily on the approach to Section 75 (1) of the Northern Ireland Act 1998. This requires designated public authorities to carry out all of their functions with due regard to the need to promote equality of opportunity:

- 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 persons without; and
- between persons with dependants and persons without.

Acknowledging that there is a broader legislative landscape relating to equality in Northern Ireland, Section 75(1) was intended to be 'transformative' providing a normative framework for the promotion of equality in Northern Ireland. Derived from the Belfast Agreement, Section 75 aims 'to encourage public authorities to address inequalities and demonstrate measurable positive impact on the lives of people experiencing inequalities.'<sup>92</sup>

##### Context

Discretion can be exercised at various points in the criminal justice process and it is here, arguably, that the risk of inequality is greatest. Equality monitoring is therefore particularly important so that any possible disparities in treatment can be identified and further assessments completed to understand more about what is happening.

The Section 75 requirement to have due regard to the need to promote equality of opportunity is also applicable to the criminal justice system's employment functions. The importance of equity monitoring the criminal justice workforce was highlighted by the Criminal Justice Review. Its report noted that, among other matters, securing a 'reflective' workforce should help increase public confidence and '...provide a useful indicator of whether all sections of the community are sufficiently confident in the system to work in it.'<sup>93</sup>

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92 Section 75 of the Northern Ireland Act 1998: A Guide for Public Authorities, An outline guide, Equality Commission for Northern Ireland, Belfast, February 2012, p.3.

93 Review of the Criminal Justice System in Northern Ireland, Report of the Criminal Justice System Review, 30 March 2000, p.36.

In its 2009 examination of the impact of Section 75 on the criminal justice system, CJI found some examples of good equality work in policy development and workforce monitoring. But there was a lack of robust equality data within individual agencies and especially across the criminal justice system as a whole. This meant it was difficult to demonstrate the impact of Section 75 on the criminal justice agencies and how people engaging with them had been treated.

Subsequent CJI inspections relating, for example, to prisons and youth diversion suggests some improvements in equality data collection within the system. However, monitoring of this data to identify any disparities in treatment, and the potential underlying reasons continued to be an area for development.

CJI is mindful of the budgetary pressures facing the criminal justice system and the potential for this to impact on equality work, and on workforce composition and skills (through the 'Voluntary Exit Scheme' for example).<sup>94</sup> We therefore consider it timely to revisit this important area.

## Aims

To identify good practice and any gaps in the criminal justice system and its agencies approach to embedding Section 75 (1) of the Northern Ireland Act 1998 by:

- examining the criminal justice system's governance arrangements applicable to Section 75 (1);
- examining the criminal justice system's compliance with Section 75 (1) duties;
- examining the impact of Section 75(1) equality work focusing in particular on (i) the criminal justice system experiences of people using the system and (ii) workforce diversity (this will include consideration of whether adequate mechanisms within the criminal justice system to routinely measure this); and
- other matters of significance as they arise during the inspection will also be considered.

## Methodology

The inspection will also be based on the CJI Inspection Framework, as outlined below, for each inspection that it conducts. The three main elements of the inspection framework are:

- strategy and governance;
- delivery; and
- outcomes.

CJI constants throughout each inspection are equality and fairness, together with standards and best practice.

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94 The 'Stormont House Agreement' of December 2014 provided funding for a NI Civil Service wide Voluntary Exit Scheme (VES). The PSNI also secured VES funding (see HMIC, PEEL: Police efficiency, An inspection of the PSNI 1-5 February 2016, August 2016, p.28, PSNI secured '... £20m over 2 years to fund up to 400 staff leaving the service, in four tranches, to enable greater efficiency in the support to frontline policing').



The inspection will be conducted by the following means:

### *Research and review*

Desk based review of relevant research and literature related to the promotion of equality of opportunity within the criminal justice context and impacts on those experiencing the system and on workforce diversity. Following sharing of the terms of reference with relevant agencies Inspectors will request from them, data specific to the inspection topic in order to inform the direction of the fieldwork.

### *Fieldwork with stakeholders*

Stakeholder groups will be consulted as part of the fieldwork for this inspection. Interviews will be conducted to give an insight into stakeholders' experiences of equality monitoring by the criminal justice agencies, understandings of the impact of equality monitoring, and the extent to which this has resulted in positive outcomes or adjustments for people using the system.

### *Fieldwork with agencies*

Inspectors will carry out a series of engagements with statutory agencies across the criminal justice system designed to meet the inspection aims. This will include, but is not limited to:

- the Police Service of Northern Ireland (PSNI);
- the Public Prosecution Service Northern Ireland (PPS);
- the Youth Justice Agency (YJA);
- the Northern Ireland Courts and Tribunals Service (NICTS);
- the Northern Ireland Prison Service (NIPS);
- the Probation Board for Northern Ireland (PBNI); and
- the Office of the Police Ombudsman for Northern Ireland (OPONI).

Fieldwork with agencies will include documentary analysis (e.g. Equality Schemes, Equality Screening documentation, Equality Impact Assessments), and interviews with senior management and operational staff.

When examining the impact of equality monitoring (within the CJI framework of 'outcomes'), a 'case study' is anticipated in which one or more services or initiatives are considered for their impact on each of:

- how people within one or more of the nine categories listed within Section 75(1) are treated; and
- workforce diversity.

## Feedback and writing

Following completion of the fieldwork and analysis of data, a draft report will be shared with the relevant stakeholders for factual accuracy check. The Chief Inspector of Criminal Justice will invite relevant stakeholders to complete an action plan to address any recommendations arising. This may be published as part of the final report.

The final report will be shared, under embargo, in advance of the publication date with the inspected agencies.

## *Inspection publication and closure*

The final report is scheduled to be completed by September 2017. The broad outline of publication delivery will be as follows:

- report sent to Minister for permission to publish;
- when permission received report finalised for publication;
- press release prepared and shared with agency;
- publication date agreed and report issued; and
- wider communication identified and communication plan completed.

## Appendix 3 Section 75 Workforce data

### Northern Ireland Prison Service Prison Grade staff - January 2017

Gender		
	Frequency	Percent
Male	880	71.5%
Female	350	28.5%
<b>Total</b>	<b>1230</b>	<b>100.0%</b>

Community Background		
	Frequency	Percent
Protestant	957	77.8%
Catholic	166	13.5%
Not Determined	107	8.7%
<b>Total</b>	<b>1230</b>	<b>100.0%</b>

Marital Status		
	Frequency	Percent
Single	365	29.7%
Married	551	44.8%
Separated	27	2.2%
Divorced	51	4.1%
Civil Partnership	9	0.7%
Widowed	*	#
Unknown	#	#
Missing	125	10.2%
<b>Total</b>	<b>1230</b>	<b>100.0%</b>

Ethnic Origin		
	Frequency	Percent
White	1226-1229	99.7%-99.9%
Other	1-4	0.1%-0.3%
<b>Total</b>	<b>1230</b>	<b>100.0%</b>

Disabled		
	Frequency	Percent
No	1217	98.9%
Yes	13	1.1%
<b>Total</b>	<b>1230</b>	<b>100.0%</b>

Age Group		
	Frequency	Percent
16-24	34	2.8%
25-34	281	22.8%
35-49	521	42.4%
50-59	339	27.6%
60+	55	4.5%
<b>Total</b>	<b>1230</b>	<b>100.0%</b>

Sexual Orientation		
No information available		

Dependents		
No information available		

Notes:

- Data sourced from COMPASS database at the 1 January 2017.
- Does not include staff who are on career break or secondment to other organisation.
- Includes permanent and temporary staff.
- Suppression is applied to prevent identification of individual staff. The threshold for suppression of sensitive data is a headcount of less than five. In the Marital Status table these are denoted by '\*'. Additional cells are suppressed where remaining cells might enable calculation of the suppressed data. These are denoted by '#'. In the Ethnic Origin table cells are suppressed by providing a range of values.
- In some tables categories have been combined due to small numbers.
- Source NISRA HRCS.



## Northern Ireland Courts and Tribunals Service – January 2017

Gender		
	Frequency	Percent
Male	207	30.3%
Female	476	69.7%
<b>Total</b>	<b>683</b>	<b>100.0%</b>

Community Background		
	Frequency	Percent
Protestant	375	54.9%
Catholic	268	39.2%
Not Determined	40	5.9%
<b>Total</b>	<b>683</b>	<b>100.0%</b>

Marital Status		
	Frequency	Percent
Single	214	31.3%
Married	389	57.0%
Separated	16	2.3%
Divorced	25	3.7%
Civil Partnership	*	#
Widowed	9	1.3%
Unknown	*	#
Missing	#	#
<b>Total</b>	<b>683</b>	<b>100.0%</b>

Ethnic Origin		
	Frequency	Percent
White	676	99.0%
Other	*	#
Missing	#	#
<b>Total</b>	<b>683</b>	<b>100.0%</b>

## Disabled

	Frequency	Percent
No	639	93.6%
Yes	44	6.4%
<b>Total</b>	<b>683</b>	<b>100.0%</b>

## Age Group

	Frequency	Percent
25-34	128	18.7%
35-49	347	50.8%
50-59	192	28.1%
60+	16	2.3%
<b>Total</b>	<b>683</b>	<b>100.0%</b>

## Sexual Orientation

Information not provided as missing for 84.9% of staff

## Dependents

Information not provided as missing for 70.6% of staff

### Notes:

- Data sourced from HRConnect databases at the 1 January 2017
- Does not include staff who are on career break or secondment to other organisation.
- Includes permanent and temporary staff.
- Suppression is applied to prevent identification of individual staff. The threshold for suppression of sensitive data is a headcount of less than five. These are denoted by '\*'. Additional cells are suppressed where remaining cells might enable calculation of the suppressed data. These are denoted by '#'.
- In some tables categories have been combined due to small numbers.
- Source NISRA HRCS.



## Youth Justice Agency – January 2017

Gender		
	Frequency	Percent
Male	85	37.8%
Female	140	62.2%
<b>Total</b>	<b>225</b>	<b>100.0%</b>

Community Background		
	Frequency	Percent
Protestant	111	49.3%
Catholic	97	43.1%
Not Determined	17	7.6%
<b>Total</b>	<b>225</b>	<b>100.0%</b>

Marital Status		
	Frequency	Percent
Single	47	20.9%
Married	79	35.1%
Separated	*	#
Divorced	5	2.2%
Civil Partnership	*	#
Widowed	*	#
Missing	89	39.6%
<b>Total</b>	<b>225</b>	<b>100.0%</b>

Ethnic Origin		
	Frequency	Percent
White	221 - 224	98.2% - 99.6%
Other	1-4	0.4% - 1.8%
<b>Total</b>	<b>225</b>	<b>100.0%</b>

## Disabled

	Frequency	Percent
No	218	96.9%
Yes	7	3.1%
<b>Total</b>	<b>225</b>	<b>100.0%</b>

## Age Group

	Frequency	Percent
25-34	15	6.7%
35-49	125	55.6%
50-59	72	32.0%
60+	13	5.8%
<b>Total</b>	<b>225</b>	<b>100.0%</b>

## Sexual Orientation

Information not provided as missing for 89.8% of staff

## Dependents

Information not provided as missing for 82.7% of staff.

### Notes:

- Data sourced from HRConnect databases at the 1 January 2017
- Does not include staff who are on career break or secondment to other organisation.
- Includes permanent and temporary staff.
- Suppression is applied to prevent identification of individual staff. The threshold for suppression of sensitive data is a headcount of less than five. These are denoted by '\*'. Additional cells are suppressed where remaining cells might enable calculation of the suppressed data. These are denoted by '#'. In the Ethnic Origin table cells are suppressed by providing a range of values.
- In some tables categories have been combined due to small numbers.
- Source NISRA HRCS.



## Public Prosecution Service for Northern Ireland - January 2017

Gender		
	Frequency	Percent
Male	159	33.1%
Female	321	66.9%
<b>Total</b>	<b>480</b>	<b>100.0%</b>

Community Background		
	Frequency	Percent
Protestant	202	42.1%
Catholic	264	55.0%
Not Determined	14	2.9%
<b>Total</b>	<b>480</b>	<b>100.0%</b>

Marital Status		
	Frequency	Percent
Single	148	30.8%
Married	272	56.7%
Separated	11	2.3%
Divorced	14	2.9%
Widowed	*	#
Unknown	*	#
Missing	30	6.3%
<b>Total</b>	<b>480</b>	<b>100.0%</b>

Ethnic Origin		
	Frequency	Percent
White	477	99.4%
Other	*	#
Missing	#	#
<b>Total</b>	<b>480</b>	<b>100.0%</b>

## Disabled

	Frequency	Percent
No	467	97.3%
Yes	13	2.7%
<b>Total</b>	<b>480</b>	<b>100.0%</b>

## Age Group

	Frequency	Percent
16-24	*	#
25-34	107	22.3%
35-49	268	55.8%
50-59	85	17.7%
60+	#	#
<b>Total</b>	<b>480</b>	<b>100.0%</b>

## Sexual Orientation

Information not provided as missing for 94.4% of staff

## Dependents

Information not provided as missing for 94.0% of staff

### Notes:

- Data sourced from HRConnect databases at the 1 January 2017
- Does not include staff who are on career break or secondment to other organisation.
- Includes permanent and temporary staff.
- Suppression is applied to prevent identification of individual staff. The threshold for suppression of sensitive data is a headcount of less than five. These are denoted by '\*'. Additional cells are suppressed where remaining cells might enable calculation of the suppressed data. These are denoted by '#'.
- In some tables categories have been combined due to small numbers.
- Source NISRA HRCS.



## Probation Board for Northern Ireland data extracted March 2018

### Community Background

Non determined	Protestant	Catholic	Blank
<b>14</b>	<b>156</b>	<b>194</b>	<b>0</b>
<b>4%</b>	<b>43%</b>	<b>53%</b>	<b>0%</b>

### Gender

Male	Female	Total
<b>97</b>	<b>268</b>	<b>365</b>
<b>27%</b>	<b>73%</b>	<b>100%</b>

### Marital Status

Single	Married	Widowed/ SP	Separated	Divorced	Cohabit	Not Disclosed	Civil P'ship	Blank
<b>99</b>	<b>195</b>	<b>*</b>	<b>8</b>	<b>17</b>	<b>32</b>	<b>*</b>	<b>*</b>	<b>*</b>
<b>27%</b>	<b>54%</b>	<b>#</b>	<b>2%</b>	<b>5%</b>	<b>9%</b>	<b>#</b>	<b>#</b>	<b>#</b>

### Ethnic Origin

White	Mixed Race	Not Disclosed	Blank
<b>356</b>	<b>*</b>	<b>*</b>	<b>*</b>
<b>98%</b>	<b>#</b>	<b>#</b>	<b>#</b>

### Sexual Orientation

Hetrosexual	Bi-sexual	Lesbian/Gay	Not disclosed	Blank
<b>303</b>	<b>*</b>	<b>*</b>	<b>#</b>	<b>47</b>
<b>83%</b>	<b>#</b>	<b>#</b>	<b>#</b>	<b>13%</b>

### Political Opinion

Unionist	Nationalist	Other	None	Prefer not to say	Blank
<b>15</b>	<b>11</b>	<b>*</b>	<b>55</b>	<b>#</b>	<b>273</b>
<b>4%</b>	<b>3%</b>	<b>#</b>	<b>15%</b>	<b>#</b>	<b>75%</b>

## Date of Birth

18-35	36-45	46-55	56+
<b>63</b>	<b>97</b>	<b>121</b>	<b>84</b>
<b>17%</b>	<b>27%</b>	<b>33%</b>	<b>23%</b>

## Disabled

	Yes	No
	<b>9</b>	<b>356</b>
	<b>2%</b>	<b>98%</b>

Physical Disability	*
Learning Disability	*
Sensory Impairment	*
Mental Health	*
Long-term Illness	*
Other	*

## Family Status

A child	Person with a disability	Elderly Person	Not disclosed	Blank
<b>159</b>	*	#	<b>26</b>	<b>169</b>
<b>44%</b>	#	#	<b>7%</b>	<b>46%</b>

- '\*' denotes suppression of data; suppression has been applied to prevent identification of individual staff; suppression has been applied where there is a headcount of less than five; additional cells are suppressed where remaining cells might enable calculation of the suppressed data. These are denoted by '#'.
- In some tables categories have been combined due to small numbers.
- Original data supplied by PBNI.



## Police Service of Northern Ireland workforce data supplied March 2018

### Community Background

	Protestant		Catholic		Undetermined		Total
	No.	%	No.	%	No.	%	
Regular Officers	4509	67.00	2131	31.66	90	1.34	6730
PTR	#	#	#	#	*	#	300
Police Staff	1866	78.27	461	19.34	57	2.39	2384

### Political Opinion

	Unionist		Nationalist		Other		None		Prefer not to say		Blank		Total
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	
Regular Officers	1159	17.22	277	4.12	277	4.12	2833	42.10	1088	16.17	1096	16.29	6730
PTR	83	27.67	*	#	#	#	63	21.00	44	14.67	100	33.33	300
Police Staff	578	24.24	52	2.18	135	5.66	864	36.24	471	19.76	284	11.91	2384

### Ethnic Group

	White		Ethnic Minority		Blank		Total
	No.	%	No.	%	No.	%	
Regular Officers	6636	98.60	33	0.49	61	0.91	6730
PTR	281	93.67	0	0.00	19	6.33	300
Police Staff	2294	86.22	15	0.63	75	3.15	2384

### Age

	18-25		26-35		36-45		46-55		56+		Total
	No.	%	No.	%	No.	%	No.	%	No.	%	
Regular Officers	229	3.40	1728	25.68	2490	37.00	2161	32.11	122	1.81	6730
PTR	#	#	*	#	#	#	#	#	#	#	300
Police Staff	60	2.52	300	12.58	600	25.17	928	38.93	496	20.81	2384

## Marital Status

	Single		Marr/CivP/ Co-Hab		Sep/Div/ DCivP		Widowed		W/held/ Blank		Total
	No.	%	No.	%	No.	%	No.	%	No.	%	
Regular Officers	1746	25.94	4370	64.93	594	8.83	#	#	*	#	6730
PTR	38	12.67	217	72.33	#	#	*	#	0	0.00	300
Police Staff	532	22.32	1582	66.36	240	10.07	25	1.05	5	0.21	2384

## Gender

	Male		Female		Total
	No.	%	No.	%	
Regular Officers	4773	70.92	1957	29.08	6730
PTR	181	60.33	119	39.67	300
Police Staff	989	41.48	1395	58.52	2384

## Disability

	Yes		No		Blank		Total
	No.	%	No.	%	No.	%	
Regular Officers	361	5.36	5580	82.91	789	11.72	6730
PTR	13	4.33	200	66.67	87	29.00	300
Police Staff	171	7.17	2155	90.39	58	2.43	2384

## Dependents

	Yes		No		Blank		Total
	No.	%	No.	%	No.	%	
Regular Officers	3388	50.34	2328	34.59	1014	15.07	6730
PTR	126	42.00	74	24.67	100	33.33	300
Police Staff	1174	49.24	988	41.44	222	9.31	2384



## Sexual Orientation

	Heterosexual		Gay/Lesbian		Bi-Sexual		Prefer Not to Say		Blank		Total
	No.	%	No.	%	No.	%	No.	%	No.	%	
Regular Officers	5221	77.58	103	1.53	23	0.34	381	5.66	1002	14.89	6730
PTR	194	64.67	*	#	0	0.00	#	#	93	31.00	300
Police Staff	1955	82.01	22	0.92	5	0.21	129	5.41	273	11.45	2384

- '\*' denotes suppression of data; suppression has been applied to prevent identification of individual staff; suppression has been applied where there is a headcount of less than five; additional cells are suppressed where remaining cells might enable calculation of the suppressed data. These are denoted by '#'.
- Original data supplied by PSNI.





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Block 1, Knockview Buildings  
Belfast BT4 3SJ  
[www.cjini.org](http://www.cjini.org)