



Section 75 Equality Impact Assessment Questionnaire regarding the Consultation on “Examining the use of expert witnesses in the Courts in Northern Ireland”.

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1.0 Introduction

1.1 The purpose of this document is to seek views from interested parties on the document, “Examining the use of Expert Witnesses in the Courts in Northern Ireland”, with regard to the equality of opportunity for all groups specified under Section 75 of the Northern Ireland Act 1998.

1.2 This document provides an overview of the purpose and content of the document.

1.3 The Department of Justice (the Department) is required to screen all policies to determine whether a full Equality Impact Assessment (EQIA) is required. In this case, the Department has concluded that while a full EQIA is not required, as part of the consultation exercise, it would welcome any information on the impact of the policy on any of the Section 75 equality groups.

1.4 The Department is consulting on the deployment and remuneration arrangements for those expert witnesses in the justice system in Northern Ireland who are funded from the legal aid budget. It is part of a wider legal aid reform programme and flows from a specific recommendation in the Access to Justice Review.

2.0 Background

- 2.1 The majority of cases that come before the courts in Northern Ireland require the parties involved to give evidence in support of their case. Sometimes it will be necessary for expert evidence to be provided on a particular subject in support of the arguments being made by the parties. For example, such evidence could be from an engineer giving evidence about defective equipment or a doctor explaining the extent of harm caused to a personal injury litigant.

- 2.2 There is no specific qualification for, or definition of, an expert witness. An expert witness can give evidence on the basis of his or her training, experience or knowledge of a certain subject. It is a matter for the court to determine whether a person should be allowed to give evidence as an expert. However, it is also the case that a litigant's legal representative is responsible for 'directing their own proofs'. That is, a legal representative in a case would normally be allowed to call whatever evidence supports his client's case best. In practice, this means that in some cases the evidence of two, or more, experts may be provided to the court and it will be a matter for the court to determine whose evidence is the most compelling. The judiciary has noted that the use of experts is increasing and that this not only makes cases more costly, but makes some of them unduly complex and time consuming.

- 2.3 In many instances, a party to a case involving an expert witness will be legally aided and the expert will be paid from

the legal aid fund. Legal aid enables citizens to assert their rights in the courts in Northern Ireland. The legal aid fund is maintained by the Department of Justice (“the Department”) and managed by the Northern Ireland Legal Services Commission (“the Commission”).

2.4 Presently, there is no framework of fees or standard rates for the remuneration of expert witnesses paid from the legal aid fund. Each case is treated on its merits and remuneration rates are negotiated and approved on a case by case basis.

2.5 The use of expert witnesses is an established practice within the courts in Northern Ireland. The Commission operates a system which permits a solicitor to engage an expert in circumstances where the solicitor is satisfied that expert evidence is necessary to support his client’s case and the cost of engaging the expert is below a certain threshold.

3.0 Overview of Consultation

3.1 The Department is seeking views on a number of areas in respect of the delivery of expert witness services including remuneration and the use of multiple experts in a particular case.

4.0 Equality Considerations

4.1 As a public authority under Section 75 of the Northern Ireland Act 1998, the Department is required to have due regard to the need to promote equality of opportunity:

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

4.2 In addition to this obligation public authorities are required to have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.

4.3 This legislation requires the Department to consider whether any policy has a differential impact upon the relevant groups, the nature and extent of that impact and whether such impact is justifiable.

4.4 The Department considers that no particular Section 75 groups are likely to be affected by this proposal.

5.0 Expert Witnesses

5.1 Data on expert witnesses on any Section 75 category are not available to the Department or any other organisations within the criminal justice system. This is because there are sensitivities around providing and holding personal characteristics such as religion, political opinion, sexual orientation etc. within the justice process. It is of paramount importance that there is no possibility of or even a suggestion that the outcome of a case before the courts would in any way be dependant on any section 75 category.

5.2 However, there is nothing to suggest that any Section 75 category is over represented in the number of experts, who would therefore be affected more by the proposal.

6.0 How to Respond

6.1 The Department welcomes any information you have that suggests that any Section 75 group may be affected disproportionately by this proposal. Your comments are welcome on the equality implications of the issues addressed in the consultation document, particularly with regard to the following questions.

- Is there any evidence of higher or lower participation or uptake by different groups in delivering expert witness services within any of the nine categories?
- Is there evidence or indication that different groups have different needs, experiences, issues and priorities?
- Is there an opportunity better to promote equality of opportunity or better relations by altering the policy or working with others in Government or the larger community?

6.2 When responding to this document, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of an organisation, please make it clear whom the organisation represents and, where appropriate, how the views of the members were assembled.

6.3 Please submit your response to this questionnaire by post, fax or email to:

Consultation Coordinator
Public Legal Services Division
Access to Justice Directorate
Department of Justice
Massey House
Stormont Estate
Belfast
BT4 3SX
Email: publiclegalservicesdivision@dojni.x.gsi.gov.uk
Tel: 028 9016 9516
Text phone: 028 9052 7668
Fax: 028 9041 2357

Closing date

6.4 Responses must be received by 16.00 on 20 February 2015.