

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.’¹

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.’²

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

¹ 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.

² Review of the Criminal Justice System in Northern Ireland, Report of the Criminal Justice System Review, 30 March 2000, p.36.

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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).³ 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 NI 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.

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.

³ 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').

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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 Tribunal Service (NICTS);
- the Northern Ireland Prison Service (NIPS);
- the Probation Board 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.