



NORTHERN IRELAND  
**Legal Services  
Commission**

**FUNDING CODE**

**DRAFT EQUALITY IMPACT ASSESSMENT**

**November 2006**

<b>1. Introduction .....</b>	<b>1</b>
<b>1.1 Formal Consultation .....</b>	<b>2</b>
<b>1.2 Methodology.....</b>	<b>3</b>
<b>1.3 Report Structure.....</b>	<b>4</b>
<b>2. Background and Policy Context .....</b>	<b>5</b>
<b>2.1 Mission and Aim.....</b>	<b>5</b>
<b>2.2 Current Delivery of Legal Aid in Northern Ireland.....</b>	<b>5</b>
<b>3. Definition of Policy Aims and Objectives .....</b>	<b>10</b>
<b>4. Pre – Consultation.....</b>	<b>12</b>
<b>5. Consideration of Available Data and Research.....</b>	<b>16</b>
<b>6. Assessment of Impacts .....</b>	<b>40</b>
<b>7. Further Promotion of Equality of Opportunity.....</b>	<b>45</b>
<b>8. Monitoring and Publication of the Results .....</b>	<b>48</b>
<b>9. Formal Consultation .....</b>	<b>50</b>
<b>10. Decision by the Commission and Publication of Results .</b>	<b>53</b>

## 1. Introduction

This document presents the findings of a draft Equality Impact Assessment (EQIA) on the development of a Funding Code for Civil Legal Services, which will replace the existing “merits test” for civil legal aid. The EQIA has been prepared within the framework of the Northern Ireland Legal Services Commission’s Draft Equality Scheme (available at [www.nilsc.org.uk](http://www.nilsc.org.uk)). This draft EQIA has been circulated along with the Funding Code consultation paper and should be considered in conjunction with this.

The purpose of the EQIA is to determine whether there is likely to be any differential impact arising from the policy between the following groups:

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

In the event that a differential impact is identified, the EQIA also assesses whether that impact is adverse and considers mitigating measures or alternative policies to better achieve the promotion of equality of opportunity.

This draft EQIA includes the following stages as required by the Equality Commission’s “*Practical Guidance on Equality Impact Assessment*”:

- definition of policy aims and objectives;
- consideration of available data and research;
- assessment of impacts including details of the outcome of the assessment highlighting if an adverse impact has been identified; and
- details of any consideration given to mitigate any adverse impact of the policy on the promotion of equality of opportunity or to

alternative policies which might better achieve the promotion of equality of opportunity.

## **1.1 Formal Consultation**

This document has been developed to provide a platform for consultation with interested parties in line with the requirements under Section 75 of the Northern Ireland Act.

The Northern Ireland Legal Services Commission (the Commission) is committed to meaningful consultation and would welcome the opportunity to facilitate participation in this process. Different formats of this document are available on request including summaries, Braille, audiocassette, minority languages, and electronic versions.

This consultation period will run until 16<sup>th</sup> February 2007. All consultation responses and enquiries should be directed to:

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8 Laganbank Road  
Belfast, BT1 3BN

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All views and comments will be considered. Responses addressing the following areas are particularly welcome.

- whether the list of groups and organisations to be consulted detailed at Annex One to this draft EQIA is comprehensive;
- whether there any additional data sources which should be used to inform this assessment (Section 5);
- whether or not consultees agree with the assessment of impact of the proposed policy on Section 75 groups (Section 6);
- views on the Commission's proposals for further promoting equality of opportunity ( Section 7);
- views on the Commission's proposals for future monitoring (section 8); and
- views on the Commission's proposals for publishing the results of the completed EQIA (Section 9).

These questions are repeated at the end of the relevant section for ease of reference.

## **1.2 Methodology**

The methodology for this stage of the EQIA included:

- Review of relevant baseline data, in particular NI Census Statistics 2001, (Northern Ireland Statistics and Research Agency):
- Review of baseline data on the number, type and cost of civil legal aid 2005-2006 and review of relevant background information including the Commission's Annual Reports, Policy Documents and relevant research;
- Consideration of the results of the Northern Ireland Legal Needs Survey managed and analysed on behalf of the Commission by Dr Tony Dignan, (Economic Research and Evaluation);
- Pre - consultation meetings with a range of stakeholders including legal professional bodies and voluntary and community sector organisations; and

- Consideration of relevant data, research and information from other sources including government, voluntary and community sector.

### **1.3 Report Structure**

The remainder of this document is set out as follows:

**Section 2** Background and Policy Context;

**Section 3** Definition of Policy Aims and Objectives;

**Section 4** Consideration of Available Data and Research;

**Section 5** Assessment of Impacts;

**Section 6** Pre – Consultation;

**Section 7** Further Promotion of Equality of Opportunity;

**Section 8** Monitoring and Publication of Results of Monitoring;

**Section 9** Formal Consultation; and

**Section 10** Decision by the Commission and Publication of Results.

## **2. Background and Policy Context**

This section seeks to briefly provide the context for this EQIA.

### **2.1 Mission and Aim**

The mission of the Commission is to promote fair and equal access to justice and to help promote social inclusion in the provision of publicly funded legal services in Northern Ireland.

The Commission aims to provide high quality, customer focused services that target those in greatest need and demonstrate value for money. Underpinning the mission and aim are a set of six core values. These are:

- fairness and equity;
- integrity and honesty;
- responsiveness to customer needs;
- quality;
- valuing and developing staff; and
- openness and accountability.

### **2.2 Current Delivery of Legal Aid in Northern Ireland**

Legal Aid in Northern Ireland is awarded for either civil or criminal proceedings. The Northern Ireland Court Service retains responsibility for the award of criminal legal aid. Applications for criminal legal aid are made to the court, which must be satisfied that it is in the interest of justice for the defendant to receive legal aid. In addition, the defendant must satisfy the means test if they are to be awarded legal aid for the preparation and conduct of their defence.

The Commission is responsible for the administration of civil legal aid within Northern Ireland. The main pieces of legislation governing the award of civil legal aid are:

- Legal Aid (General) Regulations (Northern Ireland) 1965;
- Legal Aid, Advice and Assistance (Northern Ireland) Order 1981; and
- Legal Advice and Assistance (Financial Conditions) Regulations (Northern Ireland) 1999.

The Commission is now working towards the implementation of the Access to Justice (Northern Ireland) Order 2003.

Under the current arrangements, there are three main types of civil legal aid. These are:

- **Legal Aid Advice and Assistance Scheme** - The Legal Advice and Assistance Scheme, also known as the “green form scheme” provides for a solicitor to give advice and assistance for general legal problems up to a prescribed financial limit.
- **Assistance by way of Representation** - Assistance by way of representation (ABWOR) provides for a solicitor to give advice and assistance for legal problems and to provide representation for most civil matters in Magistrates' Courts.
- **Civil Legal Aid** – the Commission is responsible for granting or refusing civil legal aid in individual cases. A civil aid certificate enables a solicitor to undertake all the work in a given case up to and including court proceedings.

In cases where the legally assisted person has been successful, wholly or in part in the proceedings, or obtained an out of court settlement with the benefit of legal aid, Statutory Charge may be applicable.

## **2.3 Reform Agenda**

In addition to assuming responsibility for the provision and improvement of legal aid services, the Commission is also charged with the reform of legal aid. The proposed reforms are set against the backdrop of emerging proposals for major changes in England, Wales and Scotland and will change significantly the way in which such services are delivered in Northern Ireland.

The reform of civil legal services aims to ensure the promotion of fair and equal access to justice in Northern Ireland. Historically, the system for award of civil legal aid services in Northern Ireland has not distinguished between different types of cases and consequently it has not been possible to target resources towards different types of proceedings or client groups. The Commission believes that effective targeting of resources towards priority groups, individuals and cases is essential in order to secure fair and equal access to justice.

One of the most significant developments is the establishment of the Funding Code. The Funding Code will identify priority areas for civil legal aid services and aims to ensure that resources are targeted towards those most in need. The draft Funding Code has been informed by research that has been undertaken by the Commission on Legal Need in Northern Ireland, which particularly focuses on the legal needs of different Section 75 groups within Northern Ireland. The Commission believes that this research is a valuable beginning in understanding the legal needs of different groups, but also recognises that more work remains to be completed.

The promotion of equality of opportunity is a key value underpinning the development of the Funding Code and for reforming civil legal services in Northern Ireland. The Commission wishes to ensure that the allocation of assistance for civil legal services in Northern Ireland is based on objective measure of legal need and will therefore target priority individuals and groups accordingly. This is a challenging and important task, which will allow greater flexibility in targeting civil legal aid services going forward.

## **2.4 Proposed Changes**

The proposed changes are detailed fully in the policy consultation document on the Funding Code Criteria. The proposed Funding Code is a detailed document and this EQIA should therefore be read in conjunction with the policy consultation document to fully understand the impact of the proposed changes.

### **2.4.1 Priority Areas**

The proposed changes include the development of high priority areas attracting more flexible rules for assistance, i.e. it will be easier to receive assistance for cases in these priority areas than for other case types. The proposed priority areas may include:

- Special Children’s Order Proceedings;
- Civil proceedings where the client is at real and immediate risk of loss of life or liberty;
- Help with social welfare issues that will enable people to avoid or climb out of social exclusion, including help with housing proceedings and advice relating to debt, employment rights, and entitlement to social security benefits;
- Domestic violence proceedings;
- Proceedings concerning the welfare of children (including proceedings under Part V or VI of the Children (NI) Order 1995 not included above, adoption proceedings and proceedings concerning residence); and
- Proceedings against public authorities alleging serious wrongdoing, abuse of position or power or significant breach of human rights.

An important feature of the proposed Funding Code is that it will operate within a controlled budget environment. Development of priorities is intended to ensure that resources are targeted to those most in need.

#### **2.4.2 Proposed Levels of Service**

There are seven proposed new levels of service under the Funding Code which will replace the Legal Aid Advice and Assistance Scheme, Assistance by Way of Representation and Civil Legal Aid outlined above. These proposed levels of service are:

- Legal Help;
- Legal Representation – Investigative Help or Full Representation;
- Help at Court;
- Help with Mediation;
- Family Mediation;
- General Family Help; and
- Other services authorised by specific order or directions from the Lord Chancellor including Statutory Exceptional Grants.

Under the General Funding Criteria, it is also proposed that legal representation may be refused if there are other persons or bodies that can be reasonably expected to bring or fund the case instead.

### **3. Definition of Policy Aims and Objectives**

The purpose of this section is to summarise the policy aims, objectives and purposes of the proposed Funding Code in line with the format detailed in the Equality Commission's guidance.

#### **3.1 Overall Aim**

The Funding Code aims to introduce new flexible funding criteria that will apply for different types of cases to ensure that public funds are spent more effectively, to target social need and promote social inclusion.

#### **3.2 Summary of Policy**

Full details on the proposed Funding Code are detailed in the policy consultation document which this draft EQIA accompanies. Table 3.1 overleaf provides a brief overview of the aims and objectives of the policy, in the format set out in the Equality Commission's "*Practical Guidance on Equality Impact Assessment*".

Table 3.1

**Summary of the Aims and Objectives of the Funding Code**

<p><b>What is the policy?</b>                  The policy is the development of the Northern Ireland Funding Code for Civil Legal Services in Northern Ireland which will replace the ‘merits test’ for civil legal aid that currently exists under the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981.</p>	
<p><b>What are the aims, objectives and purposes of the policy?</b>                  The Funding Code aims to ensure that public funds are spent more effectively to target social need and promote social inclusion and to introduce new flexible funding criteria that will apply for different types of case. The Funding Code will enable civil legal services to operate within a controlled budget and to ensure that limited available resources can be directed to cases where need is greatest. The Code will facilitate robust, consistent decision making against publicly available, transparent criteria</p> <p>The Code criteria will establish stringent and rigorous criteria so that stronger claims can be prioritised more effectively than under the current system and will set different funding criteria to be applied to different case-types and in some circumstances to different stages of a case. The Code will also set a range of new levels of help. It is proposed, for example, that there will be a separate level of assistance for the investigative stage of proceedings.</p>	<p><b>How do these outcomes meet or hinder other policies, values or objectives of the public authority or of Government?</b>                  These outcomes are consistent with the mission of the Commission to promote fair and equal access to justice in Northern Ireland and the aim of the Commission to promote high quality, customer focused services that target those in greatest need and demonstrate value for money.</p> <p>The Commission believes that these outcomes are also consistent with the promotion of equality of opportunity under Section 75 of the Northern Ireland Act 1998, targeting social need and the promotion of social inclusion. The policy is also consistent with the concept of “best value” as it aims to ensure that public funds are spent effectively and that consistent decisions are reached against transparent criteria.</p>
<p><b>Who implements the policy?</b>                  The policy is implemented by the Commission. In addition, there are a number of connected stakeholders, detailed below.</p>	<p><b>What factors/forces could contribute/ detract from the outcomes?</b>                  Any factor which prevents those in need from accessing civil legal aid, for example, failure to apply for or succeed in getting assistance.</p>
<p><b>What outcomes do we want to achieve with the policy? For whom?</b>                  The desired policy outcomes include promoting social inclusion through ensuring fair and equal access to justice. Social need will be targeted by ensuring that resources are directed towards those most in need. The policy will also result in clear, robust and transparent decision making.</p>	<p><b>Are there any associated policies?</b>                  It is intended that the Code will operate alongside other new measures designed to improve legal services, not only in targeting resources to those in most need, but also ensuring that civil legal services made available through the Commission’s funding represent value for money. These proposed new measures are being taken forward separately and include revised financial eligibility criteria, standard fees for the provision of publicly funded legal services and a registration scheme for legal professionals.</p>
<p><b>Who are the main stakeholders in relation to this policy?</b>                  The main stakeholders of the policy are the Northern Ireland public, in particular those eligible for civil legal assistance. These include socially and financially disadvantaged individuals and groups and those at risk of social and financial disadvantage. Other stakeholders include organisations providing advice and assistance (including umbrella organisations) in the voluntary and community sectors and the legal professions.</p>	<p><b>Are there any groups that might be expected to benefit from the intended outcomes but do not?</b>                  Analysis of available data on legal need suggests that there are not, but the Commission is also committed to monitoring the impact of the policy from the early stages of implementation.</p>

#### **4. Pre – Consultation**

A pre-consultation exercise was carried out with a number of organisations in August and September 2006 to inform this draft EQIA. This was in addition to a consultation on the Funding Code Exposure Document carried out by the Commission in April 2006.

The pre-consultation sought to identify sources of data which could inform the EQIA, assess views on the proposed priority areas and to discuss any areas of potential differential impact on Section 75 groups. The following organisations participated in the pre-consultation of this EQIA:

- Advice NI
- Children in Northern Ireland
- Children’s Law Centre
- Citizens Advice Bureau
- Disability Action
- Gingerbread
- Housing Rights Service
- Law Society
- MENCAP
- NICEM
- Northern Ireland Law Centre
- Parents Advice Centre
- Women’s Aid

The remainder of this section summarises the findings of the pre-consultation and highlights the issues raised.

## 4.1 Priority Areas

During the EQIA pre-consultation no-one disagreed with any of the proposed priority areas under the Funding Code. There was particular support for the inclusion of social welfare issues as a priority and the link between many Section 75 groups and social need was made repeatedly and welcomed.

In relation to the proposed priority areas, a number of points were made. These were:

- That proceedings concerning “*the rights and best interests of children*” should be a priority area in addition to proceedings concerning the welfare of children;
- Clarity as to whether cases “*where the client is at real and immediate risk of loss of life or liberty*” will include asylum and immigration cases was requested. It was also queried whether proceedings involving ASBOs would be included under this area; and
- It was suggested that in relation to “*proceedings against public authorities alleging serious wrong-doing, abuse of position or power or significant breach of human rights*” that the word significant should be removed and that it should only be required that a breach of human rights be demonstrated.

It was suggested by a number of consultees that cases taken by people in certain groups should automatically be priorities. Examples suggested included:

- people from ethnic minority communities and migrant workers;
- children and looked after children;
- people with disabilities;
- people with learning disabilities and parents with learning disabilities; and
- lone parents.

Many participants in the pre-consultation suggested additional areas of civil law they considered should be priorities. These included proceedings relating to:

- children’s special needs, particularly in relation to education;
- mental health proceedings;
- secure accommodation;
- employment;
- the rights and best interests of children;
- discrimination;
- benefits issues;
- divorce / separation proceedings;
- community care proceedings;
- tribunal and Social Security Commissioner appeals;
- immigration and asylum;
- judicial review; and
- access to children.

## **4.2 Controlled Budget**

Concern was expressed by a number of consultees about the impact of a controlled budget on all Section 75 groups. It was suggested that there was a danger that access to justice could be compromised by budgetary constraints as “*need would take second place to finance*”. In particular, clarity was requested around whether there would be a contingency fund to ensure that priority cases were not refused funding for budgetary reasons.

There were also concerns that a controlled budget would result in inconsistent decisions across the financial year and suggested that safeguards are required to avoid important cases “*falling through the net*”.

### **4.3 Role of Advice Organisations**

It was suggested that an enhanced and funded role for advice and voluntary sector organisations would be beneficial and could play an important role in ensuring access to justice, particularly in areas such as housing, debt, immigration and benefits. It should be noted that the Commission is currently considering proposals in this area.

Data from voluntary organisations show that success rates at tribunal are significantly higher for applicants with representation than those without such help. It was suggested that tribunal representation is an area where the voluntary and advice sector currently play a significant role and that this could be enhanced.

### **4.4 Independence and Scrutiny**

During the pre-consultation, a number of organisations suggested that the decision making process for assessing applications for civil legal services was necessarily subjective. It was therefore suggested that independent scrutiny and clear and consistent guidance is important to ensure that decisions are made as objectively as possible.

### **4.5 Accessibility**

Consultees suggested that funding for interpretation services should be made available for non - English language speakers, people with sensory disabilities and people with learning disabilities. It was suggested that it may be common practice for people to rely on children, friends or carers to provide interpretation and that this is not appropriate when confidential and sensitive information is being exchanged between solicitor and client.

It was also suggested that the impact of changes to civil legal aid should ensure that local access to professional legal advice should be considered.

## 5. Consideration of Available Data and Research

This section considers the available data and research available to assess the likely impact of the proposed Funding Code on Section 75 groups.

### 5.1 Key Information Sources

A range of data was collected for the purposes of the draft EQIA through desk research and key informant interviews. Table 5.1 below details the main sources used to inform this assessment. Further information on these sources is available from the Commission on request.

Table 5.1

#### Summary Review of Available Information Sources

Source	Data
NILSC	Data on Civil Legal Aid Bills Paid 2005-2006
NILSC	NI Legal Needs Survey (2006) designed, managed and analysed on behalf of the Commission by Dr Tony Dignan (Economic Research and Evaluation). The survey fieldwork was conducted by the Northern Ireland Statistics and Research Agency. Available from <a href="http://www.nilsc.org.uk">www.nilsc.org.uk</a>
NISRA	NI Census Data (2001)
Other Public and Voluntary Sector Organisations	Qualitative and quantitative data on likely impact of policy on Section 75 groups (referenced as appropriate)

## **5.2 Assessment of Data**

This section analyses the data from the sources detailed above to assess the likely impact of the proposed Funding Code on people from the nine categories. To ensure that this consultation document is accessible and user-friendly, data has been summarised, where appropriate. The Commission is happy to make available on request any of the data referenced in Section 5.2 above.

For ease of reference this section presents the relevant data in numbered sections as follows:

### 5.3 General Data

### 5.4 Data by Equality Grouping

#### 5.4.1 Religion

#### 5.4.2 Political Opinion

#### 5.4.3 Racial Group

#### 5.4.4 Age

#### 5.4.5 Marital Status

#### 5.4.6 Sexual Orientation

#### 5.4.7 Gender

#### 5.4.8 Dependants and those without dependants

#### 5.4.9 Disability

### 5.3 General Data

This section provides background information on the levels of legal aid awarded by type in 2005-2006. Further data relating to legal aid is available from the Commission on request.

Table 5.2 below presents data on Legal Aid and Assistance (LAA) bills paid in the financial year 2005-2006 by number and cost.

Table 5.2  
**LAA Bills Paid by Case Type 2005-2006<sup>1</sup>**

	No. Paid	Total (£)	Average (£)
Accident at Work	103	18,427	179
Adoption, Affiliation & Wardship	33	1,977	60
Applying to have Minors Damages released	22	1,336	61
Assault by MOD	3	249	83
Assault by police	30	3,564	119
Bails	63	3,842	61
Changing Name by Deed Poll	104	6,567	63
Child Support Agency	9	484	54
Children & Young Persons	1	28	28
Children's Order	1,110	84,272	76
Complaints against Police / Security Forces	292	18,453	63
Contract	308	20,105	65
Criminal Case Review Commission	2	1,994	997
Criminal Damage	60	4,817	80
Criminal Injury	962	117,862	123
Disputes with Neighbours	462	28,739	62
Divorce or Judicial Separation	106	6,923	65
Divorce/Ancillary Matters	879	54,160	62
Employment Matters	127	7,781	61
False Imprisonment by Security Forces	1	57	57
Family Matters	187	11,665	62

Source: NILSC

<sup>1</sup> Excludes bills under PACE, Criminal Charge and Criminal Matters

Table 5.2  
**LAA Bills Paid by Case Type 2005-2006 Contd.**

Family Matters	187	11,665	62
General Assault	86	6,951	81
Government Benefits	1,232	80,984	66
H.P. & Debt	657	41,067	63
Housing	610	37,969	62
Immigration	76	14,278	188
Industrial Disease	33	8,527	258
Injunction	224	13,981	62
Inquests	11	1,558	142
Judicial Review	65	5,030	77
Landlord/Tenant	209	13,840	66
Medical Negligence	123	15,622	127
Mental Health Review Tribunal	15	1,226	82
Miscellaneous	86	5,622	65
Negligence General	467	73,481	157
Non Molestation Order	318	19,460	61
Political Asylum	72	26,137	363
Prison Visits	683	70,519	103
Road Traffic	382	54,567	143
Separation/Maintenance/Custody	90	5,628	63
Small Claim Court Proceedings	47	2,897	62
Tribunals - Employment	16	1,989	124
Tribunals - SSA	176	25,325	144
Tripping	323	60,820	188
Wardship	2	129	64
Wills	279	17,400	62
<b>Total</b>	<b>11,146</b>	<b>998,308</b>	<b>90</b>

Source: NILSC

A total of 11,146 LAA bills were paid in 2005-2006 (excluding bills under Police Advice and Criminal Evidence Act 1984 (PACE), criminal charge and criminal matters) at a total cost of £998,308. Bills were incurred in respect of a range of different proceedings types. The highest single case type by number was in respect of government benefits (1,232 bills) which represented 11 per cent of the total number and 8 per cent of the total LAA cost. Children's Order proceedings were the second highest by number 1,110 bills, accounting for 8 per cent of the total LAA cost. Other proceedings among the top ten LAA bills paid by number were Divorce / Ancillary (879 bills), HP/ Debt (657 bills) and Housing (610 bills).

Table 5.3 below shows bills paid in the financial year 2005 - 2006 for Assistance by Way of Representation (ABWOR) by number and cost.

Table 5.3  
**ABWOR Bills Paid 2005-2006 by Case Type<sup>2</sup>**

<b>Category of Case</b>	<b>No. Paid</b>	<b>Total (£)</b>	<b>Average (£)</b>
Arrears of Maintenance	26	4,562	175
Article 2 of Child Support Appeal Jurisdiction	2	529	265
Article 28 Child Support Order	1	322	322
Attachment of Earnings Order	1	132	132
C & Y P - Non-attendance at school	4	1,312	328
Debt	Fee.	55	0
Mental Health Tribunal	62	12,188	197
Non Molestation Order	2960	1,462,355	494
Occupation Order	45	21,333	474
PACE case	25	8,718	349
Revival Summons	9	1,376	153
Revocation / Discharge of an Order	2	342	171
Separation & Maintenance	396	88,906	225
Variation and Discharge of Non Molestation Order	65	22,017	339
Variation and Discharge of Occupation Order	6	1,470	245
Variation of Maintenance	36	4,771	133
<b>Total</b>	<b>3640</b>	<b>1,630,389</b>	<b>448</b>

Source: NILSC

<sup>2</sup> Excludes proceedings under Section 8 of the Terrorism Act 2000

In 2005-2006 a total of 3,640 ABWOR bills were paid at a total cost of £1,630,389. Non - Molestation Order proceedings (including variation and discharge of Non-Molestation Order) accounted for 83 per cent of all ABWOR proceedings by number and 91 per cent by cost. Separation and maintenance bills accounted for a further 11 percent of bills paid by number and five per cent of the total ABWOR cost for the year.

Table 5.4 below presents data on the number and cost of Civil Legal Aid Bills paid for the financial year 2005-2006.

**Table 5.4**  
**Civil Legal Aid Bills Paid 2005-2006 by Case Type**

	<b>No. Paid</b>	<b>Amount (£)</b>	<b>Average (£)</b>
Adoption / Affiliation	185	1,239,216	6,698
Appeals	138	773,396	5,604
Assault / Battery / Trespass	67	166,292	2,482
ABWOR	1	914	914
Bail	466	99,190	213
Bankruptcy	7	7,566	1,081
Children's Order	929	6,778,544	7,297
Contract	8	23,206	2,901
Criminal Injury	188	139,974	745
Divorce / Nullity	1,313	4,107,344	3,128
Employers Liability	46	92,783	2,017
Immigration	67	54,155	808
Injunction	452	1,187,700	2,628
Judicial Reviews	168	969,851	5,773
Maintenance / Other Matrimonial	266	1,340,237	5,038
Negligence – General	185	470,668	2,544
Negligence – Medical	128	373,011	2,914
Negligence – Tripping	112	283,882	2,535
Others	294	966,921	3,289
Road Traffic Accidents	85	244,983	2,882
Wardship	21	85,466	4,070
<b>Total</b>	<b>5,126</b>	<b>19,405,298</b>	<b>3,786</b>

Source: NILSC

In 2005-2006, a total of 5,126 Civil Legal Aid bills were paid at a cost of £19,405,298, an average cost of £3,786 per bill.

Divorce / nullity cases represented the largest proceeding type by number (26 per cent of all proceedings and 21 per cent of the total cost). Children's Order proceedings accounted for a further 18 per cent of the total number and 35 per cent of the total cost for Civil Legal Aid in this year.

### **Summary of all Civil Legal Aid**

Overall in 2005-2006, a total of £22,033,995 was spent on 19,912 on LAA, ABWOR and Civil Legal Aid. The average cost per proceeding was £1,107.

### **5.4 Data by Equality Grouping**

This Section assesses data across the nine Section 75 groups.

It should be noted that this section draws heavily on the findings of the Northern Ireland Legal Needs Survey 2006 designed, managed and analysed by Tony Dignan, on behalf of the Commission. One of the aims of this research was to identify how the incidence of legal need varies among different segments of the population, with particular reference to the Section 75 groups.

The survey asked respondents whether or not they had experienced one or more of 19 problem types in the previous three years. The problem types were:

Consumer	Domestic violence
Employment	Children
Neighbours	Personal injury
Owned housing	Mental health
Rented accommodation	Clinical negligence
Money/debt	Social services
Welfare benefits	Immigration
Divorce	Treatment by police
Family	Homelessness
	Discrimination

The results of the Legal Needs Survey can be analysed by seven of the nine Section 75 groups. These are:

- people of different religion;
- people of different political opinion;
- people of different ages;
- people of different marital status;
- men and women;
- people with dependants and people without; and
- people with a disability and people without.

The full Legal Needs Survey Report and Statistical Annex can be found at <http://www.nilsc.org.uk> or obtained by contacting the Commission.

### **5.4.1 Religion**

According to the 2001 Northern Ireland Census, 44 per cent of the Northern Ireland population are from a Catholic community background and 53 per cent from a Protestant (and other Christian) Community Background. Less than 0.5 per cent of the population described their community background as “other” and three per cent as “none”.

The NI Legal Needs Survey found no significant difference between the proportion of Catholics (34 per cent of respondents) and Protestants (35 per cent of respondents) experiencing one or more legal problems in the previous three years. There were also no significant differences between these two groups in relation to the likelihood of experiencing different types of legal problems.

### **5.4.2 Political Opinion**

Sixty-three per cent of the Northern Ireland population voted in the 2005 General Election. Of these, 52 per cent voted for either the DUP or Ulster Unionist Party and 42 per cent for Sinn Fein or the SDLP. A further four per cent voted for the Alliance Party and the remaining two per cent for other parties.

Despite these figures, half of the participants in the Legal Needs Survey responded that they did not think of themselves as unionist or nationalist, suggesting an element of non-disclosure in this area.

Analysis of the responses that were received showed no significant differences in respect of the number or type of legal problems experienced by people of different political opinion over the last three years.

### 5.4.3 Racial Group

According to the 2001 Census, less than 1 per cent of the Northern Ireland population is from a black or minority ethnic community. Due to recent migration and undercounting, it is accepted that this may not be an accurate reflection of the Northern Ireland population. “*Changing Ireland*” a recent publication for National Consultative Committee on Racism and Interculturalism (NCCRI) and the Equality Commission suggests that there are around 45,000 people from minority ethnic communities now living in Northern Ireland, (around 2.5 per cent of the population).

Analysis of research and feedback from voluntary and community sector organisations suggests that people from minority ethnic communities may be particularly impacted by the following areas:

- asylum and immigration; Data from the Northern Ireland Law Centre shows that of 6,640 advice line queries in 2004-2005, 34 per cent related to immigration. During the same period, the Centre provided representation at 63 Immigration Adjudicator Appeals and 20 Immigration Appeals Tribunals; (source: NI Law Centre 2004-2005 Annual Report)
- civil proceedings arising from racist incidents. Police Service of Northern Ireland (PSNI) figures show that in 2002-2003 there were 226 recorded racist incidents in Northern Ireland, 453 in 2003-2004 and 813 in 2004-2005 illustrating significant increases in reported racist incidents;
- feedback from voluntary and community sector organisations suggests that social welfare issues including employment, debt, housing and benefit advice may particularly be an issue for people from minority ethnic communities, especially migrant workers; and
- it was noted through the pre-consultation that access to interpretation services are particularly important for people from minority ethnic communities, taking legally aided civil proceedings.

#### **5.4.4 Age**

On Census day 2001, 27 per cent of the Northern Ireland population was under the age of 18, 18 per cent aged over the age of 60 and 56 per cent aged between the ages of 18 and 60.

Table 5.5 overleaf illustrates how responses to the Legal Needs survey varied by age group.

**Table 5.5**  
**Incidence of Legal Problems by Age Group**

	<b>18-24</b>	<b>25-34</b>	<b>35-44</b>	<b>45-59</b>	<b>60+</b>	<b>All</b>
Problem Type	%	%	%	%	%	%
Consumer	13	19	19	15	6	14.0
Employment	9	10	8	5	1	6.0
Neighbours	8	11	9	7	5	7.6
Owned housing	1	3	3	2	1	2.1
Rented accommodation	5	4	2	1	1	2.3
Money/debt	5	8	7	5	1	5.0
Welfare benefits	4	5	5	3	2	3.5
Divorce	0	2	4	2	0	1.6
Family	1	4	2	2	0	1.6
Domestic violence	1	2	1	1	0	0.9
Children	1	1	4	3	0	1.9
Personal injury	6	4	6	6	3	4.8
Mental health	1	1	1	1	0	0.9
Clinical negligence	2	2	2	2	1	1.8
Social services	1	0	4	2	1	1.6
Immigration	1	1	0	0	0	0.3
Treatment by police	1	1	2	1	0	1.0
Homelessness	1	1	1	0	0	0.5
Discrimination	3	3	1	1	0	1.6
All with 1+ problems	39	45	45	36	18	35.5

*Source: NI Legal Needs Survey (2006)*

The survey findings reveal significant differences across age groups on the number and type of legal problems experienced. People aged between 25 and 44 experienced most problems with 45 per cent reporting at least one problem in the last three years. This compares with a figure of 39 per cent of those aged 18-24 and 36 per cent for those aged 45-59. Just 18 per cent of those over the age of 60 had experienced one or more legal problems in the last three years, the lowest proportion of any age group.

The types of problem that varied across age group include consumer, employment, neighbours, rented accommodation and money/debt.

The Legal Needs Survey provides information on the legal needs of adults over the age of 18. The remainder of this section considers the legal needs of children and young people.

Data from the Children's Law Centre shows that 8471 issues were raised between June 2000 and December 2005 across eight categories and 100 different sub-categories. Table 5.6 below presents the number and percent in each category.

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**Table 5.6**  
**CLC Issues Raised June 00 – Dec 06**

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<b>Category</b>	<b>Number</b>	<b>Percentage (%)</b>
Entering Care	46	1
In Care	167	2
Leaving Care	45	1
Education	1,838	22
Family Law	1,735	20
General	4,442	52
Human Rights	56	1
Juvenile Justice	142	2
Total	8,471	100

*Source: Children's Law Centre*

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Education and family law issues accounted for 42 per cent of the total and issues related to entering, leaving or being in care for a further 4 per cent. Within the “*general*” category, which account for 52 per cent of issues raised there are 26 sub-categories including mental health, child protection, information, employment and social services. 2,590 (58 per cent) of issues in the general category were information related.

#### **5.4.5 Marital Status**

Of the 1,402,449 people aged 16 and above living in Northern Ireland on Census Day, 39 per cent were single, 47 per cent married, four per cent separated, four per cent divorced and seven per cent widowed.

Table 5.7 overleaf presents the findings of the Legal Needs survey by marital status.

**Table 5.7**  
**Incidence of Legal Problems by Marital Status**

<b>Problem Type</b>	<b>Single</b>	<b>Married</b>	<b>Separated</b>	<b>Divorced</b>	<b>Widowed</b>	<b>All</b>
	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>
Consumer	13	16	15	17	4	14
Employment	9	5	6	5	1	6
Neighbours	11	7	5	8	5	7.6
Owned Housing	2	3	0	2	1	2.1
Rented Accommodation	5	1	4	4	1	2.3
Money / Debt	6	5	4	7	2	5.0
Welfare benefits	4	3	6	7	3	3.5
Divorce	0	0	14	23	0	1.6
Family	2	0	10	11	0	1.6
Domestic Violence	1	0	6	3	0	0.9
Children	1	2	5	6	0	1.9
Personal Injury	5	5	6	9	2	4.8
Mental Health	1	1	4	0	0	0.9
Clinical Negligence	2	2	2	3	1	1.8
Social Services	1	2	2	2	1	1.6
Immigration	0	0	0	0	0	0.3
Treatment by Police	2	1	1	4	0	1.0
Homelessness	1	0	2	0	0	0.5
Discrimination	3	1	3	4	1	1.6
All with 1+ problems	38	35	45	58	15	35.5

*Source: NI Legal Needs Survey (2006)*

Fifteen per cent of widowed people experienced one or more legal problems over the last three years compared with 35 per cent of married people, 38 per cent of single people, 45 per cent of separated people and 58 per cent of divorced people. Divorced and separated people experienced more divorce, family and domestic violence problems than people of other marital status. Single, divorced and separated people also experienced more problems associated with rented accommodation than married or widowed people.

#### **5.4.6 Sexual Orientation**

In 2001, the Northern Ireland Life and Times Survey included a question which asked respondents whether they were gay or lesbian, heterosexual, or bisexual. One per cent of people identified themselves as gay or lesbian; 95 per cent identified themselves as heterosexual or straight; and around 4 per cent refused to answer the question. Percentages did not differ significantly between male and female respondents. The Northern Ireland Census 2001 recorded 578 people (0.05 per cent of the population) over the age of 16 living in same sex couples.

A Disability Action report "*Who Lives in a Place Like This*" suggests that a more accurate reflection of the gay, lesbian and bisexual population could be gained by using the Kinsey statistic that 1 in 10 people are gay or lesbian and suggests that this figure has held true for other research. Applying this to Northern Ireland would suggest that in the region of 170,000 people in Northern Ireland are gay, lesbian or bisexual.

There is limited information available on how legal needs vary by sexual orientation. Research carried out for the Coalition on Sexual Orientation found that 82 per cent of survey respondents had experienced harassment and 55 per cent homophobic violence (*An Acceptable Prejudice: Homophobic Violence and Harassment in Northern Ireland*, Jarman and Tennant 2003). While criminal law has a primary role to play in this area, civil law remedies including Non - Molestation orders and general assault proceedings are also relevant.

#### **5.4.7 Gender**

According to the Northern Ireland Census, 51 per cent of the population is female and 49 per cent male.

The Legal Needs survey found that men reported a higher incidence of problems than women (37 per cent compared with 34 per cent) although this is not a statistically significant difference. There were no significant differences between men and women in respect of the types of problems experienced.

### **Lone Parents**

Gingerbread NI estimate that there are 92,000 lone parent families in Northern Ireland and that women are the head of household for around 87 per cent of these. The Legal Needs survey found that single people with children were significantly more likely than couples (with or without children) or single people without children to have experienced one or more legal problems in the last three years. Fifty nine per cent of single people with children experienced one or more legal problems compared with an average for all respondents of 35 per cent. Single people with children were more likely than couples or single person without children to have experienced problems in the following areas:

- neighbours;
- rented accommodation;
- money/debt;
- welfare benefits;
- divorce;
- family;
- domestic violence;
- children;
- clinical negligence;
- social services; and
- homelessness.

## **Domestic violence**

One per cent of both men and women responding to the Legal Needs survey reported experiencing a legal problem connected with domestic violence over the last three years. However, it is known that there are frequently issues with domestic violence being under reported. The 2001 British Crime Survey estimated that 26 per cent of women and 17 per cent of men had experienced domestic violence since the age of 16.

PSNI figures reveal that in 2005-2006 PSNI attended a total of 20,959 domestic incidents, a 10 per cent increase on the previous year. Crime statistics from PSNI show that there were 6 murders, 39 rapes, 15 attempted murders, 132 wounding and GBH and 6,051 common assaults with a domestic motivation.

The Northern Ireland Domestic Violence Helpline received 19,472 calls in 2004-2005. Less than one per cent of calls were from a male victim of domestic violence. Estimates from global research also suggest that between 88 and 92 per cent of victims of domestic violence are women.

### **5.4.8 Dependants**

Thirty six per cent of all households had dependant children (NI Census 2001). Table 5.8 overleaf, illustrates the findings of the Legal Needs Survey by whether or not respondents had dependent children.

**Table 5.8**  
**Incidence of Legal Problems by Dependent Children**

Problem Type	Couples		Single Persons	
	With Children	Without Children	With Children	Without Children
Consumer	20	16	15	11
Employment	7	6	9	8
Neighbours	7	8	15	9
Owned Housing	3	2	2	2
Rented Accommodation	2	1	11	4
Money / Debt	7	6	9	5
Welfare benefits	4	3	7	3
Divorce	1	1	11	2
Family	1	0	11	2
Domestic Violence	0	1	8	1
Children	5	0	10	0
Personal Injury	5	5	6	6
Mental Health	0	1	2	2
Clinical Negligence	2	2	4	2
Social Services	2	2	4	1
Immigration	0	0	0	0
Treatment by Police	1	1	2	1
Homelessness	0	0	5	0
Discrimination	2	1	2	3
All with 1+ problems	43	36	59	37

*Source: NI Legal Needs Survey (2006)*

Fifty-nine per cent of single people with children have experienced one or more legal problems in the last three years compared with 37 per cent of single people without children. A smaller differential is evident in the comparison between couples with and without children, with 43 per cent of couples with children experiencing one or more legal problems compared with 36 per cent of couples without children.

Both couples and single people with children experienced more consumer and children related problems. Single people with children experienced a significantly higher incidence of legal problems than other groups in relation to neighbours, rented accommodation, money/debt, welfare benefits, divorce, family, domestic violence, children, social services and homelessness.

According to the Northern Ireland Census, 11 per cent of people provide unpaid care to someone because of long-term physical or mental health or disability, or problems related to old age. The findings of the Legal Needs Survey according to whether or not respondents have adult dependants are presented in Table 5.9 below.

**Table 5.9  
Incidence of Legal Problems among those with Disabled or Elderly Dependants**

Problem Type	Dependants	
	Without	With
Consumer	13	20
Employment	6	8
Neighbours	7	12
Owned Housing	2	4
Rented Accommodation	2	3
Money / Debt	5	7
Welfare benefits	3	6
Divorce	2	2
Family	1	3
Domestic Violence	1	2
Children	2	4
Personal Injury	4	8
Mental Health	1	1
Clinical Negligence	2	3
Social Services	1	7
Immigration	0	0
Treatment by Police	1	2
Homelessness	0	1
Discrimination	2	1
All with 1+ problems	34	46

*Source: NI Legal Needs Survey (2006)*

The Survey found that 46 per cent of those with dependants experienced one or more legal problems in the last three years compared with 34 per cent of those without. In particular, people with dependants were more likely to experience problems in the following areas: consumer, neighbours, welfare benefits, personal injury and social services.

### 5.4.9 Disability

According to the 2001 Census 20 per cent of the Northern Ireland population has a “*limiting long-term illness*”. The Legal Needs survey considered the legal problems experienced over the last three years by people with disabilities. Table 5.10 illustrates the findings.

**Table 5.10  
Incidence of Legal Problems Among People with Disabilities**

Problem Type	Working Age		Retirement Age		All
	With disability	Without disability	With disability	Without disability	
Consumer	18	16	8	6	14
Employment	9	7	1	1	6
Neighbours	13	8	6	4	7.6
Owned Housing	1	3	0	1	2.1
Rented Accommodation	6	2	1	1	2.3
Money / Debt	8	6	1	1	5.0
Welfare benefits	8	3	2	2	3.5
Divorce	3	2	0	0	1.6
Family	4	2	0	0	1.6
Domestic Violence	3	1	0	0	0.9
Children	4	2	0	0	1.9
Personal Injury	9	5	3	2	4.8
Mental Health	4	1	0	0	0.9
Clinical Negligence	5	2	1	1	1.8
Social Services	4	1	2	0	1.6
Immigration	0	0	0	0	0.3
Treatment by Police	3	1	0	0	1.0
Homelessness	2	0	0	0	0.5
Discrimination	6	1	1	0	1.6
All with 1+ problems	55	38	20	17	35.5

*Source: NI Legal Needs Survey (2006)*

The Survey found that people with a disability experience more problems than people without a disability. The difference is most marked for people of working age with a disability with 55 per cent of this group having experienced one or more problems in the previous three years compared with 38 per cent for people of the same age profile without a disability. The difference is not as significant for people of retirement age with 20 per cent of people with a disability experiencing one or more legal problems compared with 17 per cent for those without a disability.

People of working age with a disability are more likely to experience legal problems in the following areas:

- neighbours;
- rented accommodation;
- welfare benefits;
- personal injury;
- mental health;
- social services; and
- discrimination.

People of retirement age with a disability are slightly more likely to experience consumer, neighbours and social services problems than those of the same age without a disability.

The “*Unmet Need*” report published in 2004 by the Law Centre for Northern Ireland studied mental health legal advice and information services in Northern Ireland and considered the views of users, carers, members of the legal profession, medical professionals. The literature review conducted as part of this study found substantial evidence that people with mental health problems are discriminated against or excluded from the labour market. In addition, they face difficulties in terms of understanding rights and access to mental health services as well as child care, housing and debt problems.

Similar findings were revealed in the Bamford Review of Mental Health and Learning Disability (Northern Ireland). The Equal Lives Report (September 2005) reviewed policy and services for people with a learning disability in Northern Ireland and noted that *“people with a learning disability in Northern Ireland do not enjoy equality of opportunity and are often excluded from the opportunities that others enjoy.”*

Pre – consultation interviews with representatives of voluntary sector organisations supported these findings and suggested that key legal problems for people with mental health problems include:

- debt;
- welfare benefits;
- childcare and family;
- housing; and
- Health (including representation at Mental Health Review Tribunal).

### **5.10 Availability of Monitoring Information**

This Section considers the extent to which the EQIA has been informed by information for each equality group from a range of sources and assesses any gaps in data. Table 5.11 overleaf assesses the data which has been used to assess impact in respect of each equality grouping.

**Table 5.11**  
**Data Availability by Section 75 Group**

Category	Census	Legal Needs Survey	Other Data and Research	Qualitative Data and Pre-Consultation
Religion	✓	✓		✓
Political Opinion	✓	✓	✓	✓
Racial Group	✓		✓	✓
Age	✓	✓		✓
Marital Status	✓	✓	✓	✓
Sexual Orientation	✓		✓	
Gender	✓	✓	✓	✓
Dependants	✓	✓	✓	✓
Disability	✓	✓	✓	✓

The quality of data, information and research that has been available to inform this EQIA has been good in most areas. It is noted that the NI Legal Needs Survey findings could not be analysed by racial group or sexual orientation and that children and young people were not part of the survey sample. While attempts have been made to gather other quantitative and qualitative data to assess the impact on these groups, the Commission would particularly welcome consultation responses commenting on the impact of the proposed policy on gay, lesbian, bisexual, transgendered people, people from minority ethnic communities, children and young people and people experiencing homelessness.

**Consultation Question:** Are there any additional data sources which should be used to inform this assessment?

## **6. Assessment of Impacts**

This section details the Commission's assessment of the likely impact of the proposed Funding Code, based on analysis of the data and information sources detailed in Section 5 of this report.

The available data has been assessed to consider whether the policy may result in a differential and / or adverse impact on any of the Section 75 groups. Differential impact suggests that a group may be affected differently by the policy, while adverse impact is an indication that the effect is less favourable and potentially unlawful.

### **6.1 Religion**

The data suggests that legal needs do not differ significantly between Catholics and Protestants and there is therefore not likely to be a differential impact arising from the policy between these groups.

### **6.2 Political Opinion**

The data suggests that legal needs do not differ significantly between people of different political opinions. It is therefore anticipated that the proposed policy will not impact differentially between people of different political opinions.

### **6.3 Racial Group**

The data suggests that people from minority ethnic communities may be more likely than the rest of the population to experience social welfare, asylum / immigration and discrimination problems giving rise to legal needs in these areas. Social welfare issues are a proposed priority under the Funding Code which may give rise to a differential impact between people of different racial groups. However, the Commission is of the view that the findings of the Legal Need Survey demonstrate that any such differential impact is necessary for the promotion of equality of opportunity.

It is also recognised that people for whom English is not their first language would be adversely differentially impacted by a failure to make suitable interpretation services available for publicly funded legal services. We have detailed in Section 7 of this report our proposals for addressing this issue.

#### **6.4 People of Different Ages**

Specific problem types that varied across age group include consumer, employment, neighbours, rented accommodation and money/debt. It is likely therefore that there may be a differential impact on people of different ages although this is in line with the Commission's desire to promote social inclusion by addressing legal need as demonstrated through the findings of the Legal Need Survey.

#### **6.5 People of Different Marital Status**

The data suggests that divorced and separated people experience more divorce, family and domestic violence problems. Single, divorced and separated people also experienced more problems associated with rented accommodation than married or widowed people. Domestic violence proceedings, Special Children's Order proceedings and proceedings concerning the welfare of children are proposed priorities under the Funding Code. Given that more divorced and separated people experience such problems, it is anticipated that more people from these groups will benefit from these priorities. In our assessment this necessary differential to promote equality of opportunity and access to justice and does not constitute an adverse impact on people of other marital status.

## **6.6 People of Different Sexual Orientation**

While the data suggests that gay, lesbian and bisexual people may have greater needs in respect of discrimination than others, there is insufficient evidence to fully assess how legal need varies by sexual orientation. While the Commission believes that the focus on social welfare issues will ensure that funds are targeted at those individuals and groups in greatest need, consultation responses addressing the likely impact of the policy on this group are particularly welcome.

## **6.7 Men and Women**

The legal needs survey data shows no significant differential between the type and number of legal problems experienced by men and women.

Data relating to domestic violence shows that more women than men are affected which is likely to result in more women being funded for proceedings than men. The Commission believes that given the seriousness of domestic violence issues and its impact that this is an appropriate and necessary priority to promote equality of opportunity and does not constitute an adverse impact.

The Legal Needs survey data shows that lone parents (of whom approximately 87 per cent are women) experienced significantly more problems than other groups in the majority of areas including: rented accommodation, money/debt, welfare benefits, divorce and family, domestic violence, children, clinical negligence, social services and homelessness. The Commission believes that including “*help with social welfare issues...*” domestic violence proceedings, Special Children’s Order proceedings and proceedings concerning social welfare as proposed priorities, will have a positive differential impact on this group and that this is a necessary and intentional impact of the policy.

## **6.8 People with Dependants**

The data show that both couples and single people with children experienced more consumer and children related problems than their counterparts without children.

Single people with children have a significantly higher incidence of legal problems in the following areas than all other groups: neighbours, rented accommodation, money/debt, welfare benefits, divorce, family, domestic violence, children, clinical negligence, social services and homelessness.

People with care responsibilities for someone with a disability or an older person experience more consumer, neighbours, welfare benefits, personal injury and social services problems.

The proposed priorities, in particular “*help with social welfare issues....*”, domestic violence proceedings, Special Children’s Order proceedings and proceedings concerning the welfare of children are likely to impact more on people with dependants than people without. The Commission believes that this is a necessary impact to promote equality of opportunity for people with dependants and does not constitute an adverse impact on people without dependants.

## **6.9 Persons with a Disability**

People with a disability may be more likely to experience legal problems in relation to neighbours, rented accommodation, welfare benefits, personal injury, consumer, social services, and discrimination. In addition, people with mental health disabilities may have particular needs in relation to representation at Mental Health Review Tribunals. The higher incidence of legal need among people with disabilities suggest that proportionately more people with disabilities will receive funding through the Funding Code. In the Commission’s view this is entirely consistent with the aims of the policy to promote fair and equal access to justice, promote equality of opportunity and to target resources towards those most in need. It is not considered therefore that this impact constitutes an adverse impact on people without disabilities.

It is also recognised that people with sensory or learning disabilities could be adversely differentially impacted by a failure to make suitable interpretation services available for publicly funded legal services. We have detailed in Section 7 of this report our proposals for addressing this issue.

### **6.10 Impact of Controlled Budget on Equality Groups**

In addition to the analysis above, it is recognised that the effect and operation of a controlled budget has the potential to impact differentially on Section 75 groups as it will become a necessary consideration in deciding whether or not to provide civil legal aid. The Commission is committed to monitoring this area to ensure that the policy achieves its aim of ensuring fair and equal access to justice and have detailed in Section 7 below steps to ensure that no adverse impacts have arisen as a result of the proposed controls on civil legal services.

Consultation Question: Do you agree with the Commission's assessment of impact of the proposed policy on Section 75 groups?

## **7. Further Promotion of Equality of Opportunity**

This section details consideration of measures by the Commission to further promote equality of opportunity in respect of the proposed Funding Code.

### **7.1 Summary of Impacts**

On the basis of the analysis contained within section 6, the Commission is aware that there may be positive differential impacts arising from the implementation of the policy on the following groups of people:

- people from minority ethnic communities;
- people of different ages (impacts vary according to problem type);
- divorced, separated and single people;
- lone parents (likely to be predominantly women);
- people experiencing domestic violence (likely to be predominantly women);
- people with dependant children;
- people with disabled or older dependants; and
- disabled people.

The Commission is confident that the data and research analysed for this draft EQIA demonstrates that such differential impacts are based on need and are therefore necessary to promote equality of opportunity for these groups and to secure fair and equal access to justice. It is not therefore likely that an adverse impact will arise on any of the Section 75 groups from the implementation of the proposed Funding Code.

The Commission also accepts that, as this assessment is being carried out on a proposed policy, it is important to monitor and assess the actual impact of the policy after implementation to ensure that no unintended differential impacts arise between different Section 75 groups.

This section therefore details arrangements that the Commission has put or will be putting in place to ensure that it effectively meets the requirements to promote equality of opportunity under Section 75 of the Northern Ireland Act 1998.

## **7.2 Controlled Budget and Exceptional Cases**

The Commission is committed to ensuring fair and equal access to justice and is developing a sophisticated forecasting system to ensure that budgetary allocation is in line with anticipated need. The Funding Code priorities and criteria will assist the Commission in operating within a controlled budget.

Furthermore, Article 12(8) (b) of the Access to Justice (Northern Ireland) Order 2003 empowers the Lord Chancellor to authorise funding in individual cases. This statutory exceptional grant power mirrors the power currently available in England and Wales and is required to ensure compliance with Articles 2 and 6 of the European Convention on Human Rights. The Legal Aid (Northern Ireland) Order 2005 (“the 2005 Order”) allows the Lord Chancellor to grant legal aid to exceptional cases in Northern Ireland which in normal circumstances would not attract funding by virtue of the statutory scope of legal aid, and / or the inflexible powers available to grant legal aid under the 1981 order.

## **7.3 Monitoring**

The Commission recognises the importance of monitoring in ensuring that the Funding Code effectively promotes Equality of Opportunity, Proposals for monitoring the impact of the proposed Funding Code are detailed in Section 8 below. The Commission is also committed to carrying out a review of the impact of the Funding Code on Section 75 groups two years after implementation.

To ensure that the assessment process is transparent and consistent, clear guidance and appropriate and robust review processes will be developed. Any applications which are not funded will also have the right to appeal the decision to the Appeals Panel.

## **7.4 Interpretation Services**

It is recognised that interpretation services may be necessary to ensure access to justice, in particular for people from minority ethnic communities and those with sensory or learning disabilities. Provision does exist for interpretation services to be legally aided. The Commission currently assesses cases requiring such services on a case by case basis.

## **7.5 Other Equality Groups Specific Issues**

The Legal Needs Survey research referred to in this EQIA, represents a significant development in the legal aid research base. However, the Commission recognises that the survey research did not allow for appropriate analysis for particular groups. For example, sample size limitations with respect to minority ethnic communities. The Commission is committed to further research into legal need amongst specific population groups in order to further develop and refine policy. In particular research targeted at the following groups will be a priority:

- minority ethnic communities;
- sexual orientation;
- homeless; and
- children and young people.

Consultation Question: What are your views on the Commission's proposals for further promoting equality of opportunity?

## **8. Monitoring and Publication of the Results**

This section details the proposed arrangements for monitoring of adverse impact in respect of the Funding Code in future and for publishing the results of such monitoring.

### **8.1 Monitoring Arrangements**

The Commission is committed to establishing a robust system to monitor the impact of the Funding Code to determine its effect on the relevant equality categories. It is recognised that monitoring needs to be conducted in a sensitive and confidential manner which inspires confidence and is kept separately from decision making processes on whether or not legal assistance is granted.

It is also recognised that applicants may be concerned about providing monitoring information, particularly in relation to categories such as political opinion and sexual orientation. The Commission is committed to implementing a system which takes account of these issues and ensures that good quality data is available to assess the ongoing and future impact of this policy.

A review will be carried out of the data gathered in respect of the Funding Code after a two year period and if the monitoring shows that the Funding Code has resulted in adverse impact or if opportunities arise which would allow for greater equality of opportunity to be promoted, the Commission will ensure that the policy is revised to achieve better outcomes.

### **8.2 Publication of Results of Monitoring**

The results of equality monitoring will be published annually after implementation of the Funding Code through the Commission's Annual Report which will be available in hard copy, alternative formats and from the Commission's website at [www.nilsc.org.uk](http://www.nilsc.org.uk). Details of monitoring will also be included in the Commission's annual report on progress to the Equality Commission.

Consultation Question: What are your views on the Commission's proposals for future monitoring?

## **9. Formal Consultation**

This section details the Commission's arrangements for formal consultation on this draft EQIA.

### **9.1 Consultation Arrangements**

This document has been developed to provide a platform for consultation with interested parties in line with the requirements under Section 75 of the Northern Ireland Act. This section details the Commission's proposals for consultation on this draft EQIA

A list of those groups and organisations the Commission is inviting to participate in the consultation on this draft EQIA is included at Annex One. An advert will also be placed in the Belfast Telegraph inviting individuals and organisations to participate in the consultation. This document will also be available from The Commission's website at [www.nilsc.org.uk](http://www.nilsc.org.uk).

The Commission is committed to meaningful consultation and would welcome the opportunity to facilitate participation in this process. Different formats of this document are available on request including summaries, Braille, audiocassette, minority languages, and electronic versions.

In addition to inviting responses to the written consultation, the Commission plans also to hold interviews and/or focus groups with interested individuals to provide an additional platform for consultation. We would be delighted to hear from you should you be interested in taking part in an interview/ or focus group to discuss this consultation.

In drafting this document, the Commission has been conscious of the need to ensure that appropriate qualitative and quantitative information is provided to consultees to ensure consultation is meaningful and informed. However, we are also aware of the need to ensure that information is relevant and the consultation paper is concise and focused and have attempted to balance these competing requirements. Should any further information or data be required, the

Commission will be happy to make this available to consultees on request.

## **9.2 Consultation Responses and Timescale**

This consultation period will run in tandem with the policy consultation on the Funding Code proposals until Friday 16<sup>th</sup> February 2007. All consultation responses and enquiries should be directed to:

Secretary to the Commission  
Northern Ireland Legal Services Commission  
2<sup>nd</sup> Floor, Waterfront Plaza  
8 Laganbank Road  
Belfast, BT1 3BN

Email: [accesstojustice@nilsc.org.uk](mailto:accesstojustice@nilsc.org.uk)  
Telephone: 028 9024 6441  
Fax: 028 9040 8990

While all views and comments will be considered, the Commission particularly would welcome feedback on the following areas:

- whether the list of those to be consulted detailed at Annex One comprehensive;
- whether there any additional data sources which should be used to inform this assessment (Section 5);
- whether or not consultees agree with the assessment of impact of the proposed policy on Section 75 groups (Section 6);
- views on the Commission's proposals for further promoting equality of opportunity ( Section 7);

- views on the Commission's proposals for future monitoring (section 8); and
- views on the Commission's proposals for publishing the results of the completed EQIA (Section 9).

### **9.3 Consultation Feedback**

The Commission is grateful for the participation of individuals / organisations in this consultation and appreciates the time and energy that goes into responding. The Commission recognises that consultation is a two way process and that feedback on how views expressed during the consultation are used and affect the policy is an important element of the process.

The final EQIA will contain a summary of consultation responses received and a response to each by the Commission. Should you not wish your consultation response to be published or wish it to be published anonymously, please note this on your response.

Once the EQIA is finalised, the Commission will write to all those who participated in the Consultation and those detailed at Annex One to advise of the EQIA's publication on the Commission website and to offer a copy of the final EQIA in a format of their choice.

Consultation Question: what are your views on the Commission's proposals for publishing the results of the completed EQIA?

## **10. Decision by the Commission and Publication of Results**

This section details the Commission's process for making decisions on the draft Funding Code proposals and for publicising the results of the EQIA.

### **10.1 Considering the Results of the EQIA**

In making decisions in respect of the Funding Code proposed to be adopted and implemented, the Commission will take into account the findings of this EQIA, the policy consultation and the consultation carried out in June 2006 on the exposure document in accordance with Schedule 9 paragraph 9 (2).

Where potential adverse impacts are found to exist, consideration will be given to mitigation of such impacts and details of mitigation will be included in the final recommendations presented during decision making. In the event that such alternatives are not accepted full reasons and justification will be given.

### **10.2 Publication of Results of EQIA**

The Commission will make available publicly the outcome of this equality impact assessment and of any monitoring of adverse impact of policies on the promotion of equality of opportunity. This material will be accessible on The Commission's website at [www.nilsc.gov.uk](http://www.nilsc.gov.uk). It will also be available in printed and summary form, Braille, PDF, audio cassette and minority languages on request from the Commission.

Advice NI	Dept of Employment and Learning	General Consumer Council for N.I.
Age Concern N.I.		
Alexander Forbes	Dept of Enterprise, Trade and Investment	General Council of the Bar of Northern Ireland
Alliance Party		
Assoc of Chief Officers of Voluntary Organisations	Dept of Environment	Help The Aged (NI)
Association of Personal Injury Lawyers	Dept of Finance and Personnel	Housing Rights Service
British Deaf Association	Dept of Public Prosecutions	Human Rights Commission
Prof Richard Moorhead	Dept of Social Development	Institute of Directors
CBI (N.I.)	DHSS	Law Centre
Children's Law Centre	Directorate of Legal Services	Law Society NI
Children's Order Advisory Cttee	Disability Action	Mr Colin Stutt
Citizens Advice Bureau	DoE Licensing	Mr John Peysner
Compensation Agency	DSD (VCU)	Lord Chancellor's Department
Council of HM CC Judges in NI	East Bridge Community Development Agency	Marsh Insurance
Democratic Unionist Party	Economic Research Institute of N.I.	MENCAP
Dept for Regional Development	Employers Forum on Disability	N.I. Anti Poverty Network
Dept of Culture, Arts and Leisure	Equality Forum N.I.	N.I. Association for Mental Health
Dept of Education	Family Planning Association N.I.	N.I. Civil Service
	Forum of Insurance Lawyers	N.I. Council for Ethnic Minorities
		N.I. Gay Rights Association
		N.I. Interfaith Forum

National Union of Students (NUS/USI)	Sense N.I.
NI Court Service	Sinn Fein
NI Resident Magistrates Association	Social Democratic and Labour Party
NICCY	Solicitor Associations
NICVA	Staff Commission for Education and Library Boards
NIGALA	
NIPSA	The Judge
Northern Ireland Office	The Rainbow Project
NSPCC	Ulster Community and Hospitals Trust
OFMDFM	Ulster Farmers Union
Orchardville Society	Ulster Unionist Party
Parents Advice Centre	Victim Support N.I.
Probation Board N.I.	Women's Aid Federation N.I.
Progressive Unionist Party	Women's Resource & Development Agency
PSNI	
RELATE	Workers Party
Royal National Institute for Deaf People (N.I.)	
Royal National Institute for the Blind (N.I.)	
Save The Children	