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Response to the Consultation Single Equality Bill for Northern Ireland

For the attention of:

Single Equality Bill Team,
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Respondee details:

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YOU OR YOUR ORGANISATION

The questions in this first section will help us to have a better understanding of who has responded to the consultation.

1. In what capacity are you responding?

On behalf of your organisation (*please go to Q.2*)

As an individual (*please go to Q.5*)

2. Is your organisation?

(*please tick the box that applies to your organisation*)

A college of further education

A company

A Government Department or Agency
(*please give full details in the box at the end of this section*)

- An organisation representing employers
- An organisation representing service providers
- A professional association
- A statutory body
- A trade union/staff association
- A university
- A voluntary organisation
- Other (*please give full details in the box at the end of this section*)

As a regional infrastructure body working across the voluntary & community sector the Volunteer Development Agency has consulted with some 100 organisations regarding the SEB and volunteering. The attached response also reflects the views of those organisations.

3. If you are replying on behalf of your organisation, how many people does your organisation employ?

- Between 1 and 10 employees
- Between 11 and 49 employees
- Between 50 and 249 employees
- 250 employees or more

4. Please indicate which sector best describes you?

- Advice and /or information services
- Charity/voluntary work
- Communications
- Construction and/or building design
- Distribution/Transport
- Education/ training
- Electricity, gas and water supply
- Financial and/or business services
- Health and social work
- Legal services
- Leisure - Cinemas, theatres, museums
- Leisure – hotels, restaurants, pubs
- Public administration
- Religious organisation
- Wholesale and retail trade
- Other (*please tick box and specify*)

5. Please indicate whether your prime interest is in respect of
(please tick all that apply)

- | | |
|--|-------------------------------------|
| All aspects of equality | <input checked="" type="checkbox"/> |
| Age | <input type="checkbox"/> |
| Disability | <input type="checkbox"/> |
| Gender | <input type="checkbox"/> |
| Gender Reassignment | <input type="checkbox"/> |
| Married Persons | <input type="checkbox"/> |
| Political Opinion | <input type="checkbox"/> |
| Racial Grounds | <input type="checkbox"/> |
| Religious Belief | <input type="checkbox"/> |
| Sexual Orientation | <input type="checkbox"/> |
| Other <i>(please specify in the box below)</i> | <input type="checkbox"/> |

The Volunteer Development Agency's response to the SEB consultation is primarily concerned with options associated with extending the scope of the legislation to include volunteers.

Response from the Volunteer Development Agency to the Consultation on A Single Equality Bill for Northern Ireland

Response to Question 4.5 (Scope) in Response Booklet

The proposal to create a Single Equality Bill (SEB) for Northern Ireland provides an opportunity to streamline and strengthen existing legislation. The current consultation document from the Office of the First Minister and Deputy First Minister outlines options on key issues that includes extending the scope of the legislation to cover volunteers.

The Volunteer Development Agency (the Agency) has consulted a range of some 100 volunteer involving organisations and volunteers (*see list at Annex 1*) regarding the options associated with extending the scope of the legislation to cover volunteers and the following points reflect the responses.

- The following definition of volunteering is accepted by organisations and volunteers as encompassing the breadth and diversity of the roles and activities undertaken by volunteers. It is the definition used within 'Building Real Partnership: the Compact Between Government and the Voluntary & Community Sector in Northern Ireland' (the Compact).

'Volunteering is the commitment of time and energy for the benefit of society and the community, the environment or individuals outside one's immediate family. It is undertaken freely and by choice without concern for financial gain'.

Volunteer activities under this definition include volunteers involved in providing health & social care through, for example, befriending schemes, volunteers involved in advice work and counselling services, volunteers in youth clubs and playgroups, volunteers in campaigning and advocacy roles, volunteers helping with environmental projects and on voluntary management committees, volunteers as school governors and those involved with their local community association, volunteers involved through faith based activities and in sport, volunteers running the local art/drama or local history society – the list is endless and the diversity of volunteer activity is its strength; volunteers make a tremendous contribution to building social capital. The recently published Report of the Task Force on Resourcing the Voluntary & Community Sector 'Investing Together' states that *'volunteering and active citizenship is fundamental to the work of the voluntary and community sector'* and refers to *'volunteering as the 'golden thread' that runs through so much of the work of the sector and must continue to be encouraged'*.

It is considered that there are a number of implications associated with including volunteers in the Single Equality Bill legislation that have the potential to negatively impact on volunteering and create practical difficulties for volunteer involving organisations. Including changing the voluntary nature of the relationship, imposing greater bureaucracy and demands on volunteers and creating resource implications through the requirements of insurance and potential litigation.

- The Single Equality Bill is designed to cover employees, goods and services and facilities. There are questions about how volunteers fit into these categories. Volunteers are clearly **not** employees and to classify them as such has major implications. (See *Annex 2 for full briefing paper*) It ignores the motivations of volunteers and the unique relationship they have with the organisations and groups they are associated with. The research report 'Volunteering in Northern Ireland' (2001) indicates that the main reasons volunteers get involved in organisations are because they see a need in the community, they have a personal connection to the organisation or they have time to spare. Volunteers do not see themselves as employees and do not wish to be treated as such. **There is a clear consensus that it is of paramount importance to maintain the voluntary nature of the volunteer role and relationship. Including volunteers in the category and definition of employment is unacceptable.**
- It was regrettable that volunteers were included within the consultation under the inappropriate category of employment. However the Agency used the consultation to pose questions about the broader and more important issue as to whether volunteers (as per the definition already quoted) should be covered by anti-discrimination legislation. The volunteer management good practice guidance developed and disseminated by the Agency places a strong emphasis on equality of opportunity and equal treatment for all volunteers. Recent developments regarding organisational practice within our 'Investing in Volunteers' organisational standards and work to develop standards for recruiting and supporting volunteers from black & minority ethnic communities demonstrates an ongoing commitment to promoting equality of opportunity as an essential ingredient of good practice. The involvement of the volunteer bureaux network and other volunteer involving organisations in promoting and implementing good practice indicates a growing impetus to improve practice. **There is agreement that the protection of volunteers from discrimination is an important practice issue.**
- **It is considered that placing a mandatory and regulatory environment around volunteers and equality could lead to a number of negative outcomes including creating barriers to volunteer involvement. If volunteers are to be included in the Single Equality Bill legislation it is considered that this should be as a separate category and within an enabling rather than a regulatory framework.** The Single Equality Bill could mention volunteering – including a full definition, and refer to the fact that volunteers should be treated fairly and no volunteer should suffer from discrimination. There could be reference to models of good practice and the establishment of a voluntary code.

A system of arbitration for volunteers who feel they have been treated unfairly or discriminated against could be established. A pool of volunteers trained in mediation and good practice in volunteer management could be recruited to intervene on a volunteer's behalf and encourage good practice in organisations where they are found to be at fault. The main sanction that this system has would be a risk to the good reputation of a volunteer involving

organisation. This may prove a very effective sanction, as most organisations are charities relying on their reputation for donations, receipt of funding and recruitment of volunteers. This type of redress is favoured as a means of recognising the voluntary and good will nature of the volunteer relationship.

- It is strongly felt that the impact on volunteering needs to be more fully considered by policy makers and that further discussions and consultation should be held with volunteer involving organisations and volunteers. **The Agency and those we consulted feel strongly that with regard to including volunteers in the Single Equality Bill one of the key commitments laid down in the Compact should be more fully enacted. That is the Government commitment to assess proposed legislation, new policies and policy changes for their potential impact on the voluntary and community sector and on volunteering and to consider where possible the scope for mitigating any unintended negative impact.**

The Agency is clear that while we and the organisations and volunteers consulted support equality of opportunity as central to good volunteer management practice we have serious reservations about how this matter has been handled by those who drafted the Single Equality Bill consultation document. However we are still keen to engage in discussions as to how we might enhance the volunteer experience without limiting the volunteering ethos, range of opportunities or numbers of individuals involved.

10 November 2004

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www.volunteering-ni.org

**Organisations involved in the
Volunteer Development Agency
Consultation on the proposed
Single Equality Bill**

ABAANA
Action Cancer
Age Concern NI
Alzheimers Society
Ards Citizens Advice Bureau
Armagh & Dungannon Volunteer Bureau
Ballymoney District Council
Ballymena & Larne Volunteer Bureau
Ballynaveigh Community Development Association
Barnardos
Belfast Central Mission
Belfast Islamic Centre
Benedy Community Association
Benefit Uptake Campaign & MAP
Boy's Brigade
Carafriend
Carers NI
Caring Canines
Causeway Volunteer Bureau
CEF
CIS
Chinese Welfare Association
Churches Voluntary Work Bureau
Colin Glen Trust
Cookstown & Magherafelt Volunteer Centre
Corpus Christi
COSO
Craigavon & Banbridge Volunteer Bureau
Disability Action
Down Volunteer Bureau
Dromboughil Community Association
East Belfast Mission
Emergency Medical Care
Extern
Fermanagh Volunteer Bureau
Finaghy Friendship Group
First Step Drop-In Centre
Foreglen Community Association
Foyle Women's Aid
Girl Guiding Ulster
Glenshane Care Association
Greater Shankill Alternatives
Greenpark Healthcare Trust
Hands That Talk
Homeplus
Homestart (Ards, Comber & Peninsula Area)
Homestart (Dungannon Town)
IVS NI
Limavady Community Development Initiative
Limavady Volunteer Bureau

Lifestart
Ligoneil Improvement Association
Limavady Borough Council
Limavady Volunteer Bureau
Loughside Volunteer Centre
Link Family & Community Centre
Magherafelt Disability Forum
Magherafelt District Council
Marie Curie
Markets Women's Group
Mencap
Meningitis Trust
Mid Skegoneil Community Group
Mid Ulster Women's Network
Morton Community Centre
Mothers Hope Crisis Centre
New Life Counselling
Newry & Mourne Volunteer Bureau
NI Cancer Fund for Children
NIACRO
NICEM
NICRAS
NICVA
NIMBA
North & West Belfast HSS Trust
North Down & Ards Volunteer Bureau
North Down & Ards Womens Aid
North Down Homestart
Oakleaf Rural Community Network
Omagh Volunteer Centre
Parents Advice Centre
Praxis
Queerspace
Roeguard Community Safety Project
Speechmatters
Stranmillis 50+ Group
Summer Madness
The Oak Partnership
Times of Refreshing Ministries
Tools for Solidarity
Ulster Community Hospitals Trust
Voluntary & Community Unit, DSD
Voluntary Arts Ireland
Voluntary Service Bureau
Welcome Trust
Willowfield Parish Community Association
Windsor Youth
Young Farmers Clubs (Magherafelt)
Youthnet
Youth Initiatives

Volunteering and the Proposed Single Equality Bill for Northern Ireland Briefing Paper August 2004

1. Introduction.

The proposal to create a Single Equality Bill for Northern Ireland provides an opportunity to streamline and strengthen existing legislation. The current consultation document from the Office of the First Minister and Deputy First Minister outlines options on key issues that includes extending the scope of the legislation to cover volunteers.

The volunteer management good practice guidance developed and disseminated by the Volunteer Development Agency places a strong emphasis on equality of opportunity and equal treatment for all volunteers. At first glance it may seem that including volunteers in the protection offered by the Single Equality Bill would be an ideal solution to promoting and safeguarding equality of opportunity for volunteers. However there are a number of implications associated with including volunteers in the legislation that have the potential to negatively impact on volunteering and create practical difficulties for volunteer involving organisations.

2. The Issues.

Previous discussions held during 2002/03 with volunteer involving organisations regarding the possible inclusion of volunteers in the proposed Single Equality Bill identified the following issues.

2.1 Definition of volunteering.

'the commitment of time and energy for the benefit of the community, environment or individuals outside ones immediate family. It is undertaken freely and by choice without concern for financial gain'.

The Single Equality Bill is designed to cover employees, goods and services and facilities. There are questions about how volunteers fit into these categories. Volunteers are clearly not employees and to classify them as such has major implications. It ignores the motivations of volunteers and the unique relationship they have with the organisations and groups they are associated with. The research report 'Volunteering in Northern Ireland' (2001) indicates that the main reasons volunteers get involved in organisations are because they see a need in the community, they have a personal connection to the organisation or they have time to spare. Volunteers do not see themselves as employees and do not wish to be treated as such.

A key issue is the alignment of the potential inclusion of volunteers within the activity listed as 'employment'. The consultation document indicates that if volunteers are to come within any discrimination law there are two possible approaches.

It could be left to the tribunals to decide if a voluntary worker is employed under a contract (even if there is no financial remuneration) or the SEB could define the concepts of employment more broadly such as:

'Employment under a contract of service or of apprenticeship or a contract or other agreement or arrangement to do any work, including voluntary work, where the work is predominantly performed in person'.

Volunteer work where there is a contract or signed agreement would fall under such an employment definition and those volunteers would be eligible to bring a discrimination claim. The document refers to volunteers who would be excluded such as 'the casual volunteer in the church or Women's Institute context'.

The option to include volunteers in the legislation appears to be associated with the signing of an agreement and thus the law would not cover what is referred to as 'the casual volunteer'. It is unclear from the document what wording might constitute an agreement, but clearly the suggestion is that some volunteers may be covered by the legislation while others will not.

Current policies and procedures for managing volunteers recognise the voluntary nature of the relationship and are not in any way bound by a legal framework. To do so would blur the lines between the volunteer/employee status and organisations may find themselves entering into a situation where they have established contracts of employment with their volunteers thus completely changing the nature of the relationship.

To define volunteers as employees undermines all of the work that has been done to enable people receiving benefits and those seeking asylum to volunteer. Effort has gone in to ensuring that the relevant Government Departments accept that people receiving Job Seekers Allowance or Incapacity Benefit should be able to volunteer without it adversely impacting on their claim to benefits, as it is not the same as paid work. The same can be said for people seeking asylum who are not allowed to work but can volunteer.

It is important to note that the consultation document also includes the option that the Single Equality Bill should exclude volunteers from the definition.

2.2 Procedure and Practice.

Volunteer involving organisations are diverse and at various stages of development. Some are highly structured with paid staff as well as volunteers, while others are loosely structured groups of volunteers. If volunteers are included in the Single Equality Bill under 'employment, self-employment and occupation' then all volunteer involving organisations/groups will be legally bound to conform to the same policies and practice in order to stay on the right side of the law. While this may be possible for larger more structured organisations it may be impossible for smaller groups.

A further concern if volunteers are to be included in the SEB is the issue of insurance. The Voluntary and Community Sector is currently experiencing extreme difficulties regarding insurance. Premiums are at all time high with many organisations struggling to meet the steep rise in the cost of insurance (e.g. in one case the Agency is aware of

premiums that rose by 103% in 12 months). Volunteers have been particularly adversely affected with many companies refusing to insure volunteers and the work of volunteers.

If volunteers are included in the Single Equality Bill volunteer involving organisations will need to insure themselves against the new risks this may involve. In the current climate this is a real practical concern and may lead to fewer opportunities for volunteer involvement.

2.3 Recruitment of Volunteers

In light of the statutory responsibilities placed on employers by equality legislation there are concerns about the capacity of volunteer involving organisations to effectively implement any such new requirements with regard to volunteers. The added bureaucracy will impact on the recruitment of volunteers and may deter individuals from giving time.

3. Ensuring Equality in Volunteering.

The Volunteer Development Agency is keen to capitalise on the current focus on equality and volunteering in order to promote and develop best practice in equality of opportunity for volunteers.

While we have major concerns about the potential alignment of volunteering within the employment category there are a number of alternatives that could be considered. They are:

- The Single Equality Bill could mention volunteering – including a full definition, and refer to the fact that volunteers should also be treated fairly and no volunteer should suffer from discrimination. It should be made clear that volunteers are being mentioned in the legislation as a category unique from employees, facilities or goods and services.
- The Equality Commission in partnership with the Volunteer Development Agency could draw up voluntary Codes of Practice on equality in volunteering. The legislation could refer to the Codes of Practice as the recommended model of good practice.
- A system of arbitration for volunteers who feel they have been treated unfairly or discriminated against could be established. A pool of volunteers trained in mediation and good practice in volunteer management could be recruited to intervene on a volunteer's behalf and encourage good practice in organisations where they are found to be at fault. The main sanction that this system has will be a risk to the good reputation of a volunteer involving organisation. This may prove a very effective sanction, as most organisations are charities relying on their reputation for donations, receipt of funding and recruitment of volunteers.

4. Next steps.

The Agency in partnership with the Volunteer Bureau network will be engaging in full consultation on this issue. Please pass on this briefing to other interested parties and encourage all volunteer involving organisations to make their views heard.

The consultation closes on 12 November 2004.

A copy of the discussion paper on options for a Single Equality Bill can be obtained from:

Single Equality Bill Team
Office of the First Minister and Deputy First Minister
Room E3.18, Freepost NAT 17679, Belfast BT4 3BR
www.ofmdfmni.gov.uk/equality

You can also request a copy by telephone (028 9052 2526) or by email at equality.bill@ofmdfmni.gov.uk

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