



Office of the

**First Minister and
Deputy First Minister**

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Disability Discrimination Order in Council

Consultation Report

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Summary

The consultation on the Disability Discrimination Order in Council ran from 31 January 2005 to 25 April 2005 with an addendum to the consultation launched from 3 August 2005 to 14 September 2005. There were 28 responses to the initial consultation, with an additional 21 responses received to the addendum.

There have been a number of changes made to the Northern Ireland Order, not only as a result of these consultations, but from changes made to the Disability Discrimination Act 2005 during its passage through Parliament. The three main changes made to the draft Order as a result of the consultation process were:

1. Article 13 (Improvements to let dwelling houses) was amended to include section 16 of the DDA 2005.
2. Article 49A, as presented in the addendum consultation, was inserted into the draft Order.
3. Article 49B was modified slightly, as suggested by consultees, to enhance enforcement powers of the Equality Commission for Northern Ireland.

After the long period of consultations, both on the policy and drafting of the legislation, the final Draft Disability Discrimination Order in Council will soon be produced. Its final content has now been agreed by Lord Rooker, the Minister with responsibility for this area. The next step of the process will be the laying of the draft Order at Westminster in November 2005 which will mark the beginning of its passage through Parliament. It is hoped that the Order will be made at Privy Council in December 2005.

1 Introduction

1.1 Background

This consultation response report marks the conclusion of the consultation exercise on the Draft Disability Discrimination Order in Council. This new legislation will ensure that more people than ever before are protected by disability discrimination legislation.

We intend to bring more people with the progressive conditions of HIV, cancer and multiple sclerosis within the scope of the disability discrimination legislation. It will also change the law in relation to the rights of disabled people using transport services and in joining private clubs. Furthermore, it will extend the legislation to cover the exercise of functions of public bodies so that it would apply to most of their activities, not just those that consist of the provision of services. Other important measures will be the strengthening of existing rights in the areas of renting of premises and discriminatory job advertisements.

1.2. Purpose of the Consultation

The purpose of the consultation exercise was to outline in detail the wording and effect of the draft Order, its financial and equality implications, and to seek your views. We were eager to receive responses from as many people as possible and were grateful for the responses received on the draft Order. An accompanying questionnaire was provided for the initial consultation. Responses were received by post and e-mail.

2 The Consultation Exercise

2.1 Timescales for both consultation exercises

The public consultation was launched on 31 January 2005 with a closing date of 28 March 2005. This closing date was then extended until 25 April 2005 in light of issues raised by consultees in the course of the original consultation period. The addendum to the consultation was launched on 3 August 2005 until 16 September 2005.

2.2 Distribution of both consultation documents

Approximately 1000 information packs were issued for each of the consultations, to individuals and organisations including: people with disabilities, disability organisations, employers, service providers and public authorities.

2.3 Accessible formats of the consultation documents

The document was available in a variety of accessible formats including Braille, audio, CD-ROM, with OFMDFM also producing an easy read version. Copies of the consultation were available on request in Irish, Ulster Scots and Cantonese. The consultation pack was also available to download from the website of the Office of the First Minister and Deputy First Minister (OFMDFM) at <http://www.ofmdfmi.gov.uk/equality> and respondents could reply to the consultation electronically if preferred.

2.4 Response rates for both consultations

A total of 49 responses were received in total to the consultation process, with 28 on the first stage of the consultation and 21 on the addendum. A list of those who responded is at Annex A.

3 Consultation Meetings

An initial meeting was held with 50 representatives from disability lobby groups before the launch of the consultation in January 2005. This meeting provided an opportunity for OFMDFM to outline the content of the proposed Order, to discuss the length of the consultation period and the reasons for this, and to engage with key stakeholders on the best way to take the consultation forward.

It was strongly felt that direct consultation with people with a range of disabilities was the most appropriate way forward. Further meetings were held with Disability Action, MENCAP and RNID to organise meetings with people with disabilities.

A number of focus group style meetings were held, which allowed OFMDFM to explain the provisions of the Order and take on board concerns raised. Importantly, the meetings allowed OFMDFM to consult directly with people with a range of disabilities in an informal environment. The following organisations were consulted:

- Disability Action (Belfast, Londonderry and Organisational)
- MENCAP (Omagh)
- Local Government Staff Commission
- Promoting Social Inclusion Working Group on Disability
- All Party Working Group on Disability

4 Consideration of Responses

Before detailed consideration of the responses to the individual articles is presented it should be noted again that the aim of this consultation was to discuss and debate the wording of the Order. Due to the technical nature of the draft Order very few comments of this kind were received. Instead the focus of the comments received was on the understanding of the Order and requests for clarification of what specific articles would mean in practice.

As many of these explanations are available in the consultation pack, within the EQIA, RIA and explanatory memorandum OFMDFM felt that it would be of benefit to address the more general concerns of respondents in this report and reply individually to the more specific queries by letter.

OFMDFM would first like to address the two most popular concerns raised by respondents – that **further consultation on the regulations arising from the Order will be undertaken** and that **appropriate guidance, information, awareness raising and support will be available to employers, the general public and people with disabilities once the Order has been made.**

With regard to further consultation, OFMDFM is committed to fulfilling its obligations under section 75 of the Northern Ireland Act 1998 to involve all key stake holders, including people with disabilities, in an inclusive, meaningful consultation process before implementing any of the regulations arising from the Order.

We would also like consultees to note that responsibility for the issuing of guidance (in the form of Codes of Practice as well as promotional information), support, awareness raising and advice for employers lies with the Equality Commission for Northern Ireland. Contact details are available at Annex B.

4.1 Article Three: District councils

The provisions of this article were broadly welcomed, with respondents requiring clarification on:

- the definition of “official business” with regard to councillors and the practical application of this provision in terms of sitting on advisory boards and committees outside of normal council offices and duties; and
- the introduction of the exemption for ‘political’ appointments by the proposed subsection 15B(3).

A definition of ‘official business’ is given in the draft Order in Article three section 15A(2). In real terms this article places the council under an obligation to ensure that reasonable adjustments are in place for any councillor whilst they are carrying out the official business¹ of the council, no matter where that business is being carried out.

¹ Research paper 05/25 16 March 2005, House of Commons Library, ‘The Disability Discrimination Bill’

FOR EXAMPLE:

If a councillor with a hearing impairment is representing the council on an advisory committee it is expected that reasonable adjustments such as the availability of an induction loop will be taken into consideration in determining the location of meetings.

Section 15B(3), which deals with exemptions for political appointments, was inserted so that political influence on decisions regarding appointment of councillors to specific posts could be exercised. It is for an individual council to decide whom it wishes to appoint to internal or external political posts, i.e. to some degree represent it or exercise some of its authority. The sanction should be not judicial or quasi-judicial, but political. This is distinguishable from the other aspects of how a council treats its members in the carrying out of official business, which are not really political but service related, e.g. training, IT services, accommodation, travel, access to the chamber etc.

It should be reiterated that the fundamentally positive approach of this article is to bring councillors within the scope of the DDA and thereby afford them protection under the law.

4.2 Article Four: Discrimination by public authorities

The provisions of this article prompted much discussion with respondents seeking clarification on:

- the definition of a 'public function' and the difference between a service and a function
- assurance that cost of inclusion should not be the key issue

The broadest interpretation of 'public functions' to be found in the literature²³⁴⁵ states that all the activities of a public body are part of that body's 'function'. The difficulties associated with distinguishing between services and functions of public authorities are well documented. Supporting case law shows that many activities similar to service provisions already covered by the DDA Part II do not fall within the definition of a 'service' used in discrimination law.

The main difference between a service and a function is that services can be provided by any private person – but public authorities have responsibilities (functions) that could not be discharged by a private person. Areas that will be covered by this article in future include planning, police, granting licences,

² Disability Equality: Making it Happen, First Review of the Disability Discrimination Act 1995, Disability Rights Commission, April 2003.

³ Draft Disability Discrimination Bill, Volume 1: Report, Joint Committee on the Draft Disability Discrimination Bill, published 27 May 2004.

⁴ The Government's Response to the Report of the Joint Committee on the Draft Disability Discrimination Bill, Department for Work and Pensions, July 2004.

⁵ Consultation Document issued by Department for Work and Pensions, entitled 'Delivering Equality for disabled people'.

publication of reports and statutory plans, the probation service and the prison service.

The other main area of concern raised was that cost of inclusion should not be a key consideration with specific reference to section 21D4(C). We understand the position of respondents in their concerns about having this cost 'get out clause' but the purpose of the provision reflected by the previous examples, is to ensure that a fair balance is struck between the rights of disabled people and wider concerns.

The approach taken in the draft Order mirrors the justification defences in the goods and services provisions as closely as possible, to ensure consistency throughout the DDA. Thus a public authority would only be able to justify less favourable treatment of a disabled person in terms of cost of adjustments when the condition that **'treating the disabled person equally favourably, would in the particular case involve extra costs and, having regard to resources, the extra costs in that particular case would be too great³**' is met.

FOR EXAMPLE:

An LEA offers grants of up to £200 to students to assist with further education costs. A disabled student explains that in order for them to access their preferred college of further education they must move home and request a grant of £22,000. Complying with this request would severely limit the resources the LEA would have available with which to assist other students. A refusal of this request is likely to be justified.

4.3 Article Five: Police

Responses commenting on this article were concerned with ensuring that individual police officers were still held accountable for their actions and that an appropriate level of compensation would be awarded from the Police Fund where a successful action was taken against the police.

This article is designed to clarify that the Chief Constable can be successfully claimed against in relation to discrimination by one of his officers in the provision of goods, facilities and services, and pay out on such claims. It does so by amending only sections 64A(3) and (4), i.e. the payment provisions.

It should be noted that these subsections do not only allow the Chief Constable to pay compensation awarded against him, but have other effects related to the cost of defending such claims, e.g. allowing him to settle claims, to pay compensation awarded against an officer, to pay the costs of an officer, etc. So the Order gives him powers in those areas as regards Part III.

The Order does not have any impact on disciplinary procedures or accountability of the PSNI and its officers. This area is outside of the legislative remit of OFMDFM. However, individual officers have a responsibility not to breach the provisions of the Disability Discrimination Order. Additionally, each officer is required to behave within the standards laid out by the PSNI Code of Ethics. This is a transparent, public document that outlines the standards of behaviour required of each officer. Officers deemed to have

fallen below the standards laid out in the code would face a misconduct hearing, and the panel has a number of sanctions available to it.

The levels of settlements for discrimination cases from the Police Fund are determined by the courts. As such, there are checks in place, set in legislation, governing the use of the Police fund, as well as defining appropriate levels of recompense. The PSNI's Legal and Finance Department regularly review financial liability for compensation claims and where necessary, adjustments are made to the compensation budget. Compensation payments are made on the advice of independent barristers, and are reviewed and monitored by the Policing Board.

4.4 Article Six: Application of sections 19 to 21 of the 1995 Act to transport vehicles

The main query raised in relation to this article was that clarification was required on how account will be taken of the views of people with disabilities in drafting the transport code of practice. The responsibility for all the codes of practice relating to the DDA, including past and present amendments, lies with the Equality Commission for Northern Ireland. Any queries on these codes should be addressed to the Commission – contact details are provided in Annex B. It should be noted however that normal practice in the drafting of codes of practice is to have a full and inclusive consultation with all interested parties and key stake holders before a final draft of a code is issued.

4.5 Article Seven to Nine: Rail Vehicle Accessibility

As expected, the transport provisions of the draft Order were widely commented on, with many consultees relating experiences of travel and concerns about the new provisions. In particular, the 24hr book ahead system was highlighted as an area for improvement, with the exemptions, further consultations and the rail vehicle accessible compliance end date also discussed in detail. The Department for Regional Development has responsibility for this part of the Order and has provided information on the areas highlighted:

24hr book ahead system

The reason for the 24hr booking system by NIR is to ensure that there is sufficient wheelchair spaces available for that particular journey and that staff are available to help with boarding etc.

The 24hr booking ahead system could possibly be removed particularly at main train stations, but without this system there is a danger that a wheelchair passenger could arrive at a station and find that they are unable to travel because existing wheelchair spaces are already filled.

The RVAR require regulated rail vehicles to have a specified number of wheelchair spaces. All trains in service will be required to have a specified number of wheelchair spaces. All trains must also be fully compliant with accessible specifications by 2020. This date is set in the Order as the 'end date' by which all rail vehicles must be fully accessible.

Exemptions

It is the intention here and in GB that exemptions will only be granted to heritage railways, other than under exceptional circumstance. Because of the nature of these vehicles it is considered inappropriate to install, for example, electric sliding doors.

Checking Mechanism for Exemptions

It was felt that checks for accessibility should be introduced when applying for a Vehicle Compliance Certificate – is this to happen? Yes. A checking mechanism for exemptions exists as all applications must be considered and consulted on. Regulated rail vehicles that come under the amended DDA will be required to have a rail vehicle compliance certificate in force for that vehicle. The Department will not issue such a certificate unless satisfied that the vehicle conforms.

Irish Heritage Vehicles

All trains travelling into Northern Ireland will be required to be Rail Vehicle Accessibility Regulations (RVAR) compliant by the proposed ‘end-date’ of 2020, unless they meet with the EU-wide accessibility requirements, once they have been established. The only exceptions will be where an exemption has been granted by the Department as in the case of NI heritage operators.

Further Consultation

DRD in considering any exemption request will consult fully with interested parties. There will also be further public consultation on the RVAR and amending regulations before any new regulations

are made. The consultation period will be of 12 weeks duration in line with best practice recommendations. The Department for Transport in London will commence consultations on amending RVAR in the next year. There will not, however, be further consultation on the end dates for compliance of rail vehicles.

End Date for Rail Vehicle compliance

The end date for rail vehicle compliance has been set at 2020 instead of making it the same as the bus end date (2017). The date of 2017 for buses was set to take into account the likely lifespan of buses from the date the legislation was introduced. A similar date for trains would have been 2035. However the reduction to 2020 for the 'end-date' was regarded as a more than reasonable compromise. The life span of rail vehicles is much longer than that of buses.

Cross Border Travel

All trains travelling on the railway network in Northern Ireland will be required to be RVAR compliant by the end-date of 2020 unless they meet with the EU-wide accessibility requirements, once they have been established. The only exceptions will be where an Exemption has been granted by the Department.

Carriage of Guide and Assistance Dogs

The Private Hire Vehicles (Carriage of Guide dogs etc.) Act 2002 is a UK wide Act, however, it has not been commenced in Northern Ireland as yet and the power to do so lies with the Department for Transport (DfT) in GB. DfT introduced regulations for taxis (31/3/01) and private hire vehicles (PHV's) (31/3/04)

enabling relevant drivers to apply to their licensing authority for a specified exemption from the duty to carry assistance dogs on medical grounds only.

DOE replicated the regulations for taxis in Northern Ireland on 1 August 2001. However, before we could bring in similar regulations for PHV's in NI, the Joint Committee on Statutory Instruments Report of 18 March 2004 made some recommendations for improving the GB regulations with respect to the prescribed manner of displaying the exemption notice in both taxis and PHV's. DfT intend to launch a consultation on this issue and a few other minor issues in the near future. DOE intend to follow suit, to consult with a view to (a) improving the taxi regulations and (b) consult on medical exemptions for PHV's. The commencement order for the NI regulations will again be undertaken by DfT.

4.6 Article Ten: Discriminatory Advertisements

The purpose of this article is to plug a gap found in the DDA 1995 (Amendment) Regulations (NI) 2004. These amendments made it unlawful for a prospective employer to publish a job advertisement which discriminates against an applicant because of their disability. However, the amendment does not currently prohibit third parties (e.g. newspapers and magazines) from publishing a discriminatory advertisement. Article ten rectifies this by ensuring that third parties are held liable for any discriminatory job advertisements published by them.

4.7 Article Eleven: Group Insurance

This article was welcomed by all respondents, with no comments made.

4.8 Article Twelve: Private Clubs

There were three main areas where further clarification was sought with regard to private clubs:

- why the club was defined by membership numbers;
- how would clubs that were located on first or second floors of buildings (especially gyms) be covered by this article; and
- were political parties covered by this article.

In this article there are three parts to the definition of club (or an association – which is the term used in the Order), that the club must have a constitution, have a personal selection criteria and must have 25 members or more. For more detail see section 21F where ‘Association’ is loosely defined, helped by section 21J.

Clubs that are located in upstairs floors with no lift access are covered in section 21F of the Order; that it is unlawful to discriminate in the affording to a member of a benefit facility or service. The duty to make adjustments power is also taken by section 21H. This power will be used to make regulations in this area after the Order is made. A public consultation exercise will be carried out before these regulations come into operation.

In the specific case of a gym being located upstairs, gyms (or health clubs) are generally open to the public, and though club members pay a subscription and are provided with a membership card, undergoing a selection procedure for membership based on personal grounds is not a condition of using the club. This type of 'club' therefore is unlikely to fall within the definition of an 'association' or private club in the Order, and it is likely to be already covered by the DDA under the provision for service providers. Most gyms are actually businesses and the 'members' in fact customers. For further detail see definition of member at section 21J.

The final point raised was a query on whether political parties are included under this article. Under the definition of a club (see references above) political parties do fall under this definition, as long as the political party conforms to the definition of private club in the legislation, which states that there must be 25 members or more, a personal selection criteria and a constitution.

4.9 Article Thirteen: Discrimination in relation to letting of premises

A number of legal queries were raised on this article. Feedback was provided on an individual basis to these queries due to their technical nature.

4.10 Article Fourteen: Power to modify or end the small dwellings exemption

Clarification was sought on the coverage of this article. It should be noted that this article only applies to residential property, not commercial, and thus office accommodation is unlikely to be covered.

4.11 Article Fifteen: Generalisation of section 56 of the 1995 Act in relation to Part III claims

This article was generally welcomed by respondents with two areas highlighted for clarification, that of the standardisation of the questionnaires and the provision of the questionnaire in alternative formats.

The questionnaire procedure is similar to that in Part II (employment provisions) and to those already in operation in other areas of discrimination, namely sex, race, goods, facilities and services and employment claims.

The purpose of the questionnaire is to resolve disputes at an early stage and thus in the long term they have the potential to prevent cases going to tribunal. This will mean that the process should not be as labour intensive as it would be were a case to be prepared to go to tribunal. In the long term there should be a beneficial effect on resources, both in terms of labour and cost.

The provision of a questionnaire in alternative formats may be arranged but it should be remembered that it is not necessary to use the questionnaire when addressing a complaint. A discrimination complaint pack is available on request from ECNI (contact details at Annex B)

4.12 Article Sixteen: Meaning of “Disability”

As expected, most concerns raised regarding this article were to do with the inclusion of HIV, cancer and MS, (why only these three conditions) and requesting clarification on the removal of the term ‘clinically well recognised’ from the definition of mental impairment.

Proposed Article 16(3) extends the Act's definition of disability so as to include people with HIV infection, multiple sclerosis and cancer from the point of diagnosis. These are progressive conditions. The extension removes the need to show that these conditions have any effect on normal day-to-day activities.

The reason for extending the definition to HIV and cancer is that it is recognised that, while people may have these conditions without any adverse effects or any symptoms, they may nonetheless be subjected to discrimination. There are other progressive conditions, for example motor neurone disease or arthritis. However a person with one of these other conditions would almost certainly be covered by the definition of disability already, on the basis of adverse effect, or because the condition would not be diagnosed until after it has an effect.

Multiple sclerosis has been added because the Employment Appeals Tribunal found that it was not a progressive condition at all (in the case of *Mowat-Brown v University of Surrey* (EAT 10/12/2001)).

Therefore, these three conditions are differentiated from other progressive conditions by case law. There is therefore no unjustifiable differential treatment of people on the ground of the particular progressive condition that they have.

Paragraph 7(5) of Schedule 1 to the Order contains a power to deem a person to have a disability in prescribed circumstances. New paragraph 7(5A) is inserted into Schedule 1 to the Order by proposed Article 16(4), in order to make it clear that there are no implied limitations on that power. Should it prove necessary in the light of future evidence, this power will allow further progressive conditions to be covered more effectively, and it will provide flexibility in the event that case law emerges which shows that the definition is not working in the way intended.

As regards the removal of the term 'clinically well recognised' this was prompted by the Disability Rights Taskforce report 'From Exclusion to Inclusion'⁶ where the difficulties in having the term 'clinically well recognised' were explored. The policy desire behind the inclusion of this term in the DDA was to prevent abuse through people claiming non-existent or unproven conditions though the Taskforce received no evidence that removal of this term would bring into coverage any such conditions.

⁶ From Exclusion to Inclusion, Disability Rights Taskforce, December 1999

Further consideration of the removal of this term, including public consultation exercises in GB, were carried out to consider whether the benefits to those with serious mental conditions, where diagnosis was the subject of disagreement, warranted the risk of bringing into coverage potentially uncertain conditions.

The removal of the 'clinically well recognised term' requirement will still mean that people with mental illness, like those with other mental and physical impairments, will continue to need to demonstrate that their impairment has a substantial and long term adverse impact on their ability to carry out normal day-to-day activities.

5 Impact assessment exercises

There were a number of general queries on the EQIA and RIA received. The areas covered include:

- availability of accurate statistics on degrees of defined disability in the NI population, if not are there plans to carry out research on this area?
- additional costs, both in terms of labour and resources, of implementing the legislation; and
- insertion of more specific information on the response to the Single Equality Bill consultation and a progress report on the Bill which would provide an important marker for the future of equality legislation

The statistics used in our EQIA and RIA were gathered from a number of sources, though the majority were from the Labour Force Survey which is a UK-wide survey carried out quarterly and contains three definitions of disability – DDA disabled, work limited and both DDA disabled and work limited combined as a category. We also used some census figures in the report.

At present OFMDFM have commissioned a survey focused completely on disability; health care, education, transport, and various other areas. The definition of disability to be used in this survey is the international classification of function, disability and health (ICF), which is used extensively in Europe. This survey has been designed by the working groups on 'Promoting Social

Inclusion' and has included extensive consultation with people with disabilities. Results should be available in spring of 2006.

The cost associated with implementation of the Disability Discrimination Order was detailed in the consultation pack, which is still available online at

<http://www.ofmdfni.gov.uk/index/equality/disability/proposal-for-a-draft-disability-order.htm>

Information on the Single Equality Bill's consultation is also available online at

<http://www.ofmdfni.gov.uk/index/equality/single-equality-bill.htm>

6 Consultation Addendum

Twenty one responses were received on the content of the consultation addendum (Seventeen from Public authorities and six from the disability lobby). Of these, fifteen responses broadly agreed with the draft proposal, five had no strong opinions either way and only one disagreed with the proposal in its entirety.

Nearly half of the respondents raised concerns about the additional resource/financial burden that the new duty may bring about. Less than a third of respondents raised concerns about how the proposed disability action plan was to be implemented.

Three of the respondents, including the Equality Commission, did express a strong preference for the inclusion of other elements of section 49A of the DDA 2005:

‘(b) the need to eliminate harassment of disabled persons that is related to their disabilities;

(d) the need to take steps to take account of disabled persons’ disabilities, even where that involves treating disabled persons more favourably than other persons;’

For reasons detailed in the addendum consultation document OFMDFM continue to hold the view that the most appropriate vehicle for securing similar rights for disabled people in Northern Ireland is by way of draft Article 49A and that those remaining elements of section 49A of the DDA 2005 not enacted here

(including b & d), are similar in effect to section 75(1) and therefore do not require replication in Northern Ireland.

7 Changes made to the Draft Order

In keeping with the ministerial commitment to ensure that people with disabilities in Northern Ireland have the same enforceable rights as their counterparts in GB we have considered all amendments to the GB Bill for inclusion in the NI Order.

All minor and inconsequential amendments, many simply of a grammatical or typological nature, made to the GB Bill have been taken onboard by OFMDFM and replicated in the draft Order. In addition, there were three major areas where OFMDFM felt that the draft Order could be improved upon:

7.1 Amendments to Article 13 (Improvements to let dwelling houses)

Major amendments have been made to Article thirteen of the draft Order. As drafted this article included new duties of reasonable adjustment in relation to let premises. While the new duties do not extend to requiring a landlord to alter physical features of premises, if a lease contains a term absolutely forbidding the making of improvements and that term makes it impossible or unreasonably difficult for a disabled person to enjoy the premises, then he or she should seek a reasonable adjustment of the terms of the letting under new sections 24A to 24E of draft Article thirteen.

However, in light of consultation responses and the amendment of the Disability Discrimination Bill to include section 16, we have now

decided to make a small adjustment to this policy: if a lease contains a term allowing improvements with the landlord's consent and that consent is unreasonably withheld, then it shall be deemed to have been given. The new provision applies to residential premises only and gives the Equality Commission some connected powers (in line with the Disability Rights Commission). This provision has equivalent effect to section 16 of the DDA 2005.

7.2 Insertion of Section 49A as drafted in the consultation addendum

During parliamentary passage of the GB Bill a number of changes were made to Clause three – which dealt with new duties to be imposed on public authorities. Equivalent provision was not included in the draft NI Order prior to consultation as it was felt at the time that section 75 on the NI Act 1998 sufficiently covered the policy desire of this clause.

However, the subsequent changes to the GB Bill during its readings in the House of Commons and House of Lords changed the meaning of this clause quite substantially and thus OFMDFM took action to ensure the draft Order will provide the same rights to people with disabilities in NI as those in GB. The results of this consultation are discussed in Chapter six herein.

For reasons detailed in the addendum consultation document OFMDFM continue to hold the view that the most appropriate vehicle for securing similar rights for disabled people in Northern Ireland is by way of draft Article 49A and that those remaining

elements of section 49A of the DDA 2005 not enacted here (including b & d), are similar in effect to section 75(1) and therefore do not require replication in Northern Ireland. We have thus replicated this provision in the draft Order as detailed in the addendum consultation document with one change as discussed below.

7.3 Change to drafting of Section 49B(6)(d)

As a result of a recommendation from one of our consultees we have changed the wording of this section from

‘(d) submits to the Commission under paragraph (3)(a) or (b) a revised plan which in the opinion of the Commission fails to comply with subsection (4),

the Commission **may** lay before the Assembly a report of that failure containing such comments and other material as appear to the Commission to be appropriate to bring to the attention of the Assembly.’

to

‘(d) submits to the Commission under paragraph (3)(a) or (b) a revised plan which in the opinion of the Commission fails to comply with subsection (4),

the Commission **shall** lay before the Assembly a report of that failure containing such comments and other material as appear to the Commission to be appropriate to bring to the attention of the Assembly.’

Annex A – List of Respondents

- (2) Antrim Borough Council
- (1) + (2) Ards Borough Council
- (2) Coleraine Borough Council
- (2) Craigavon and Banbridge Community Health and Social Services
- (1) Craigavon Borough Council
- (2) CSC for NI
- (1) DARD Equality and Rural Proofing Branch
- (1) Diabetes UK
- (1) + (2) Disability Action
- (1) Disability Action - Report on consultation meetings
- (1) + (2) Down Lisburn Trust
- (2) EFDNI
- (2) EHSSB
- (1) + (2) Equality Commission for Northern Ireland
- (1) Employer Forum on Disability,
- (2) Homefirst
- (1) + (2) Housing Executive
- (1) Housing Rights Service
- (1) Lobbying, Activism & Research Group, c/o Willowbank Community Resource Centre,
- (1) + (2) MENCAP
- (2) National Heritage Memorial Fund
- (1) NIC-ICTU Disability Committee
- (1) NICVA
- (2) NIPEC
- (2) Northern Health and Social Services Board
- (1) + (2) Northern Ireland Commission for Children and Young People
- (1) Northern Ireland Human Rights Commission
- (2) Northern Ireland Ombudsman's Office
- (2) North West Institute of Further and Higher Education
- (2) Omnibus Partnership
- (1) Omagh District Council
- (1) RNID
- (1) Royal College of Speech and Language Therapists
- (1) Save the Children
- (1) Senior Citizens Consortium, Sperrin Lakeland
- (1) Social Democratic Labour Party
- (1) South & East Belfast Health & Social Services Trust
- (2) Southern Health and Social Services Board
- (1) The General Synod of the Church of Ireland
- (1) Transport Advisory Committee
- (1) Woman's Support Network
- (1) Youthnet

(Number denotes which consultation response referred to)

Annex B – List of relevant contact details

- Regional Transport Services Strategy

This strategy sets out proposals, and invites comment on specific issues, for the development of a comprehensive regional management framework for the provision of transport services, which will meet the needs of non-emergency health service patients and social services clients. **Closing date for comment was 6 June 2005**

Queries on this consultation can be sent by letter or e-mail to:

Gary McClurg
Public Safety Directorate
Annexe 4
Castle Buildings
Belfast, BT4 3SF
Tel: 028 9052 8240
E-mail: publicsafetyunit@dhsspsni.gov.uk

This document can be accessed at:

<http://www.dhsspsni.gov.uk/econsultation/transport/transport.asp>

- The Electoral Commission

For information on accessible voting and polling stations please contact:

The Electoral Commission
Seatem House
28-32 Alfred Street
Belfast
BT2 8EN
Tel: 028 9089 4020
Fax: 028 9089 4026
Email infonorthernireland@electoralcommission.org.uk
<http://www.electoralcommission.org.uk/your-area/team.cfm>

- The Equality Commission for Northern Ireland

Equality House
7 - 9 Shaftesbury Square
Belfast
BT2 7DP

Telephone : 028 90 500600
Fax : 028 90 248687
Textphone : 028 90 500589
Email : information@equalityni.org

- Disability Rights Commission

To view document on making a claim using the questionnaire procedure (relates to Article 15) see

http://www.drc-gb.org/uploaded_files/documents/2008_328_EMP3_word.doc