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GENDER EQUALITY

This research paper has been prepared for the Committee of the Office of the First Minister and deputy First Minister to assist the Committee in scrutinising the Gender Equality Strategy. The paper outlines the main aims and objectives of the strategy. It also provides an explanation of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women, and other relevant European and international instruments.

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INTRODUCTION

- 1. This paper has been prepared for the Committee of the First Minister and deputy First Minister (OFMDFM) to assist in its scrutiny of the Gender Equality Strategy 2006–2016. The paper initially outlines gender equality in local, European and international contexts through the following:
 - Gender Equality Strategy 2006–2016
 - United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and other related instruments
 - European Commission Roadmap for equality between men and women
- 2. The paper highlights some concepts in relation to gender equality, namely equality of treatment versus equality of outcome, and positive outcomes. The context and vision of the Gender Equality Strategy are explained, as are the links between the strategy and international commitments. International commitments in relation to gender equality are framed by the UN CEDAW Convention and related documents, which are explained in detail. Of particular note is the Convention's reporting mechanism and the role of the CEDAW Committee, which heard reports from the UK in July 2008 and from Ireland in 2005. The paper also outlines other international instruments relevant to the Gender Equality Strategy, and provides a brief overview of European initiatives on promoting gender equality. The paper concludes with a range of issues that could be raised with the Department.
- 3. Addressing gender equality and tackling gender inequality have increased in prominence at local and European levels, as evidence by the publication of OFMDFM's Gender Equality Strategy and the European Commission's Roadmap for equality between men and women. Internationally, the focus has been shifted to concentrate on equality for women, through the United Nations Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), the Beijing Platform for Action and UN Security Council Resolution 1325 on the experience and role of women in conflict and post-conflict situations.

GENDER EQUALITY - THE LOCAL PERSPECTIVE

- 4. The Gender Equality Strategy was launched in December 2006 under direct rule by the then Secretary of State, Peter Hain. The aim of the strategy is to provide a framework for Government Departments and agencies and other statutory authorities to work within in order to enable them to fulfil the vision and to tackle gender inequalities and promote gender equality across governmental policy to the benefit of women and men.
- 5. Paragraph 1.15 of the strategy states that: 'The strategy is focussed on identifying and directing action to tackle gender inequalities and promote gender equality for women and girls and men and boys in Northern Ireland.' Some non-governmental bodies, particularly in the women's sector, would

¹ Office of the First Minister and Deputy First Minister (2006) Gender Equality Strategy – A strategic framework for action to promote gender equality for women and men 2006–2016, page 11, OFMDFM, Belfast.

argue that action is needed to tackle inequalities between the genders, to enable a level playing field, before promoting gender equality for both genders can be realised.

Gender Equality Strategy

Context of the gender equality strategy

6. The Gender Equality Strategy complements the section 75 statutory equality duty on public authorities; it also seeks to fulfil, in the Northern Ireland context, European and international obligations through relevant European Directives and the UN CEDAW Convention.

Consultation

- 7. Forty-nine responses were received on the consultation on the Gender Equality Strategy from a wide range of individuals and groups, including women's groups, men's groups, faith groups, education providers, and trades unions. A summary of responses² is available online via the Gender Equality Unit's homepage³, which are grouped thematically according to the main issues that were raised during the consultation process.
- 8. The main issues that were highlighted during the consultation process and published were: international commitments; key indicators; multiple identities; structural inequalities, positive actions; representation of women in public and political life; mainstreaming; transgender issues; gender budgeting and timescale.

Vision

9. At the core of the gender equality strategic policy framework is OFMDFM's vision for gender equality:

'A society in which men and women are equally respected and valued as individuals in all of our multiple identities, sharing equality of opportunity, rights and responsibilities in all aspects of our lives.'

- 10. Several consultation responses highlighted the vision, with comments ranging from positive to negative. Some respondents were critical of the absence in the vision of a recognition that women are on an unequal footing. Other comments focused on the nature of the language used, citing it as vague and lacking meaning. While some respondents recognised that vision statements in such documents are, by necessity, general in nature, others felt that particular groups, such as older people and children, needed to be specifically mentioned.
- 11. The fact that the strategy is aimed at men and women was the subject of criticism from a range of organisations on the consultation exercise in the strategy. The rationale for this was that some groups felt that a strategy dealing with equality of men and women would not address historical and

³ http://www.ofmdfmni.gov.uk/index/equality/gender-equality.htm

² http://www.ofmdfmni.gov.uk/index/equality/gender-equality/gender-consultations.htm

structural inequalities that had affected women, such as gender imbalances in terms of equal pay, employment, education and health, for example.

Monitoring and review

12. The action plans are to be monitored annually, with the Gender Equality Unit undertaking a co-ordinating role across Government Departments, and taking responsibility for publishing annual progress reports (one each for women and men respectively) and the publication of revised action plans. It is also intended that the strategy will be subject to a mid-term review in 2011.

Action Plans

13. Central to the Gender Equality Strategy are the departmental action plans, which form the basis of the strategic policy framework to enable the strategy to work in practice. The action plans are to contain specific departmental objectives, outcomes and performance targets. In response to a question from Carmel Hanna MLA⁴ on specific measures to tackle gender equality, the response stated that departmental action plans were being analysed and would be brought before the Executive before summer recess, following consultation with the OFMDFM Committee. As the action plans may not be published until next year, an assessment of whether they meet the aims of the strategy and international obligations cannot be made.

EMERGING ISSUES

When is equality not equality?

14. In assessing gender equality issues, it is important that cognisance be paid to the difference between equality of opportunity and equality of outcome. Offering or ensuring that women and men have the same opportunities does not always guarantee that they will experience the same outcome. It has been recognised in the Gender Equality Strategy that:

'It is necessary to understand that because of the different social and economic experiences of men and women and the historical discrimination against women, treating men and women the same will not achieve different outcomes. Achieving gender equality for women will require positive action measures.'5

15. Essentially, the difference between ensuring equality of opportunity and equality of outcome means that, on occasion, some groups in society — in this instance, women — need to be treated differently in order to ensure equality in practice. Recognition that difference can be a hindrance to equality is commonplace in the area of disability equality, for example, where it has been asserted in law and practice that equal treatment cannot always guarantee substantive equality.⁶

⁵ OFMDFM (2006) Gender Equality Strategy – A strategic framework for action to promote gender equality for women and men 2006–2016, 1.4, page 8.

⁴ AQO 2857/08; Mrs Hanna asked the Department to detail specific measures to address gender inequality. The response is available online through the Assembly intranet: http://assist.assemblyni.gov.uk/questions/answers/08/AQO%202857-08.htm

⁶ One example of positive action on disability is the Equality Commission of Northern Ireland's recruitment policy, whereby the Commission, in recognising the barriers to employment faced

Positive action

- 16. The EU has focused on the role for positive action to play within statutory duties to promote equality that have been enacted across EU Member States. Such legislative measures a form of positive action, in that public authorities are required to assess policies and practices specifically in relation to various categories.
- 17. In this regard, section 75 of the Northern Ireland Act has been cited as the cornerstone of the positive duties model that has been adapted in GB. However, there are concerns that focus has centred too much on fulfilling the letter of the law (for example, in relation to preparing equality schemes) as opposed to the letter of the law (for example, whether equality schemes actually work towards achieving equality).

'Analysis by the British Audit Commission has also suggested that organisations become too focused on process rather than <u>outcome</u>; bureaucracies can view the publishing of the equality scheme as the completion of the legal requirement rather than the starting point for effecting real change in everyday practice.'⁷

18. The strategy also refers to other positive action measures that are available through the Sex Discrimination (Northern Ireland) Order 1976. The strategy states that positive action measures, in addition to gender mainstreaming will be used to implement the strategy and to tackle gender inequalities.

Multiple identities

19. The impact of multiple identities and how they affect individuals as regards equality was raised in several responses to the consultation on the strategy, and this issue is specifically raised in the vision statement to the Gender Equality Strategy and in the wider strategy. The issue of multiple identities, and their cumulative effects, has been cited at European and international levels.

LINKING THE LOCAL TO THE GLOBAL

20. The Gender Equality Strategy explicitly links the strategic policy framework and departmental action plans to CEDAW and the Beijing Platform for Action, explaining the role of the action plans and wider strategy:

'The strategy and supporting action plans bring together what government is doing in Northern Ireland to promote gender equality and enable government to demonstrate how it is meeting in Northern Ireland its international commitments under the Beijing Platform for Action and the United Nations Convention for the Elimination of All Forms of Discrimination Against Women.'8

by people with disabilities, has a recruitment policy that job applicants who have a disability and who meet selection criteria for posts within the Commission will receive an interview.

⁷ Professor Mark Bell (March 2007) 'Duties to promote equality: a new horizon for positive action?' in 'Putting Equality into Practice: What role for positive action?' published by the Office for Official Publications of the European Communities, Luxembourg, page 27, original emphasis.

⁸ OFMDFM (2006) Gender Equality Strategy – A strategic framework for action to promote gender equality for women and men 2006–2016, paragraph 1.14, page 11.

21. In the consultation exercise on the Gender Equality Strategy, several respondents highlighted the importance of linking priorities and actions in the strategy to these international instruments. However, some groups highlighted the need for the Gender Equality Strategy to address specific comments made by the CEDAW Committee in relation to Northern Ireland.

GENDER EQUALITY – THE INTERNATIONAL PERSPECTIVE

- 22. The United Nations (UN) has worked steadily to promote the human rights of women and girl children and to reduce inequalities between men and women. The UN declared 1975 as International Women's Year and, since then, the issue of gender equality has grown in prominence. Perhaps the most notable measure of success was the publication of the UN Convention on the Elimination of All Forms of Discrimination Against Women. This has been supplemented by additional publications such as the Nairobi Forward-Looking Strategies, the Beijing Declaration and Platform for Action, and UN Security Council Resolution 1325 on the rights of women in relation to peace-building and conflict.
- 23. The UN perspective on gender equality and the promotion of the human rights of women targets a wide range of areas, including education and employment, the public and political representation of women, and gender stereotyping. The focus is very much on the importance of women across the globe working with each other and with men towards the elimination of gender inequality.
- 24. The concept of gender mainstreaming has gained increasing importance, with the aim of ensuring 'the mainstreaming of gender perspectives in all spheres of society'; as has the importance of recognising the multiple identities of women, such as rural women⁹ or women with disabilities.
- 25. It is important to note that, in signing and ratifying an international instrument such as the CEDAW Convention, states undertake to fulfil the obligations within a Convention through their transposition into the state's national law. Hence, the provisions within a Convention must be enacted into national legislation.

Convention on the Elimination of All Forms of Discrimination Against Women

- 26. The UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was opened for signature on 18 December 1999. The CEDAW Convention entered into force on 3 September 1981, after the twentieth ratification.
- 27. Some 186 countries have signed and ratified CEDAW; the United States has signed but not ratified the Convention this is over 96% of all UN Member States. ¹⁰ The UK signed the Convention on 22 July 1981 and ratified it on 7

⁹ For example, the first International Day of Rural Women was celebrated in 15 October 2008.

¹⁰ States that are not signatories to the CEDAW Convention are: Iran; Nauru; Niue; Palau; Qatar; Somalia; Sudan; Tonga and the Vatican City.

April 1986. Ireland's accession to the Convention was on 23 December 1985. The United States has signed, but not ratified, CEDAW.

28. The Convention comprises 30 articles in total; 16 of which relate specifically to the human rights of women, with the remainder dealing with procedural and other related matters. The substantive rights-based articles are listed below. A full list appears in the annex at the end of the paper.

Article 1: Elimination of discrimination

Article 2: Obligations and policy measures to eliminate discrimination

Article 3: Guarantee of basic human rights and fundamental freedoms

Article 4: Special measures to accelerate equality

Article 5: Sex role stereotyping and prejudice

Article 6: Exploitation of women through trafficking and prostitution

Article 7: Political and Public Life

Article 8: Women as international representatives

Article 9: Nationality

Article 10: Education

Article 11: Employment

Article 12: Women's health

Article 13: Economic and social benefits

Article 14: Rural women

Article 15: Equality before the law and civil matters

Article 16: Equality in marriage and family life

The Optional Protocol

- 29. The Optional Protocol to the CEDAW Convention¹² was ratified by the UK on 17 December 2004, and by Ireland on 7 September 2000. The protocol primarily relates to the procedures relating to communications, inquiries, investigations and decisions undertaken by the CEDAW Committee. Unlike the Convention itself, states parties cannot make any reservations to the content of the protocol.
- 30. Article 13 of the Option Protocol has particular significance for states parties, which: 'Establishes a requirement that states parties widely publicize the Convention and its Protocol and provide access to the views and recommendations of the Committee.'
- 31. The dissemination of the CEDAW Committee reports and decisions, in addition to publicising the provisions of the Convention, Optional Protocol, the Beijing Declaration and Platform for Action, are frequently highlighted as one area for further development in the responses and comments made by the CEDAW Committee in relation to states parties' country reports.

Reporting mechanism

32. Under Article 18 of the CEDAW Convention, states parties undertake to submit national reports on the progress made to give effect the articles in the Convention. Reports are submitted initially within one year after the

¹¹ Accession in this context means, in effect, where a state becomes party to, and ratifies, a Convention in which it has not been a negotiating party.

¹² The text of the Optional Protocol is available online via: http://www.un.org/womenwatch/daw/cedaw/protocol/text.htm

Convention has entered into force in the country concerned, and thereafter at least every four years, and whenever the Committee requests a report. In practice, however, countries can combine periodic reports into a single document.

- 33. Article 18 of the CEDAW Convention provides that country reports should aim to refer to: 'the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made...Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention'
- 34. In submitting a report, a state party will draw attention to legislation and policy initiatives that the Government has undertaken to further compliance with the provisions of the Convention. This is usually supplemented by Government representatives appearing before the CEDAW Committee; in addition to Government officials, delegations are usually headed at ministerial level. In addition to Government representations, non-governmental organisations and public bodies can also appear before the Committee. The CEDAW Committee considers the national report and publishes concluding comments and observations.
- 35. While the CEDAW Committee's responses perennially acknowledge the positive steps made by a government in relation to its national policies, the substance of the response will highlight particular areas of concern. Responses often specify particular areas to be covered in the subsequent report, and usually call on states to ensure that the Committee's response, and the provisions of CEDAW and the Optional Protocol, are widely publicised in the state.

UK Country Report, July 2008

- 36. The CEDAW Committee's concluding observations to the UK's report to the Committee highlighted a range of issues, including the form and content of the report and a lack of reference to issues highlighted by the Committee on the UK's previous report. On certain of the Committee's recommendations, the Committee took the unusual step of requesting the UK Government to respond within one year.
- 37. The Committee noted the proposed introduction of single equality legislation in GB through the Equality Bill, and in Northern Ireland, through the Single Equality Bill. The Committee also welcomed the introduction of the gender equality duty in GB through the Equality Act 2006 and noted 'with appreciation' the statutory equality duty contained in section 75 of the Northern Ireland Act 1998.
- 38. The Committee raised several issues of concern in relation to the UK as a whole, and also specifically in relation to Northern Ireland. Among the issues pertaining to Northern Ireland were: prison facilities for women; reproductive

¹³ For example, at its most recent appearance before the CEDAW Committee in July 2008, the UK delegation was led by the then deputy Minister for Women, Barbara Follett. When Ireland last appeared before the CEDAW Committee in 2005, the Irish Government's delegation was led by the then Minister for Justice, Equality and Law Reform, Michael McDowell TD.

rights; the role of women in conflict resolution and peace building; single equality legislation; and female representation in the judiciary.

Ireland Country Report, July 2005

- 39. Among the positive aspects relating to CEDAW convention principles, the Committee noted the increasing visibility of women in decision-making forums in Ireland. In addition to the current and former Presidents of Ireland, the Committee noted the participation of women in the Government and Supreme Court of Ireland.
- 40. Among the recommendations made by the CEDAW Committee in relation to Ireland were: a suggestion to replace male-orientated language in the Irish Constitution with more gender-sensitive language; reproductive rights; persistence of gender stereotypes in Irish society; violence against women; and the representation of women in political and public life.

Beijing Declaration and Platform for Action

- 41. These two documents were the product of the United Nations fourth world conference on women. The Beijing Declaration acknowledged the strides that had been made in relation to the attainment of equality for women, but equally recognised that 'progress has been unequal, inequalities between women and men have persisted and major obstacles remain. The Declaration reaffirmed the commitment of Governments to ensure the full implementation of the human rights of women and girl children. The Declaration was also forward-looking, in that it articulated the determination of Governments to progress equality in several particular areas.
- 42. The Platform for Action comprises a mission statement and global framework. It also includes strategic objectives and actions and critical areas of concern. These are:
 - (1) The persistent and increasing burden of poverty on women;
 - (2) Inequalities and inadequacies in and unequal access to education and training;
 - (3) Inequalities and inadequacies in and unequal access to health care and related services;
 - (4) Violence against women;
 - (5) The effects of armed or other kinds of conflict on women, including those living under foreign occupation:
 - (6) Inequality in economic structures and policies, in all forms of productive activities and in access to resources;
 - (7) Inequality between men and women in the sharing of power and decision-making at all levels;
 - (8) Insufficient mechanisms at all levels to promote the advancement of women:
 - (9) Lack of respect for and inadequate promotion and protection of the human rights of women;
 - (10) Stereotyping of women and inequality in women's access to communications systems, especially in the media;
 - (11) Gender inequalities in the management of natural resources and in safeguarding the environment;

(12) Persistent discrimination against and violation of the rights of the girl child.

UN Security Council Resolution 1325

- 43. The adoption by the UN Security Council of Resolution 1325¹⁴ on 31 October 2000 has been viewed as a landmark for women's rights, in that it encourages the recognition of the particular experience of women in conflict situations and recognition of the role of women in conflict resolution and peace-building initiatives.
- 44. The CEDAW Committee has called for the full implementation of Resolution 1325 in Northern Ireland, and several responses to the consultation on OFMDFM's gender equality strategy highlighted the importance of Resolution 1325 to the role of women in Northern Ireland in relation to post-conflict initiatives. While the strategy itself recognises the relevance of Resolution 1325 to peace-building in Northern Ireland, some consultation responses queried whether it would form a substantive part of the gender equality strategy.

GENDER EQUALITY - THE EUROPEAN PERSPECTIVE

45. Several EU Directives aim to tackle gender inequalities. European Council Directive 2006/54/EC¹⁵ deals with equal opportunities and equal treatment of men and women. The Directive combines the principles of seven EU Directives on equality between men and women and equal treatment. There are other salient Directives that have a gender impact, such as the Framework Employment Equality (FEED) Directive¹⁶, and the EU Directive on equal treatment between men and women in access to and supply of goods and services¹⁷.

EU Roadmap

- 46. The European Commission has produced the EU Roadmap for equality between women and men 2006-2010, which highlights key areas for action and identifies key action points in order to promote gender equality. The Roadmap 'represents the Commission's commitment to driving the gender equality agenda forward, reinforcing partnership with member States and other actors¹⁸ Six priority areas for action have been outlined:
 - (1) Achieving equal economic independence for women and men:
 - (2) Enhancing reconciliation of work, private and family life;
 - (3) Promoting equal participation of men and women in decision-making;
 - (4) Eradicating gender-based violence and trafficking;
 - (5) Eliminating gender stereotypes in society; and
 - (6) Promoting gender equality outside the EU.

¹⁴ Available online: http://www.peacewomen.org/un/sc/res1325.pdf

http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:204:0023:0036:EN:PDF

http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0078:EN:HTML

http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0113:EN:HTML

¹⁸ European Commission (2006) Communication from the Commission to the Council, A roadmap for equality between men and women, page 2, European Commission, Brussels. The roadmap is available online via http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52006DC0092:EN:NOT

EU Institute for Gender Equality

47. The commitment of the EU to tackling gender equality is evidenced through the establishment of the European Institute for Gender Equality. Established in 20 December 2006, the institute has been operational since last year and is based in Vilnius in Lithuania. The institute aims to promote gender equality through the mainstreaming of all Community and, by extension, national policies. The budget for the five-year period between 2007 and 2013 is €52-5 million. However, there have been problems in appointing a director to the institute, which has resulted in delays in the institute beginning its substantive work.

ISSUES FOR EXPLORATION WITH THE DEPARTMENT

Gender Equality Strategy

- What is the progress to date on departmental gender equality action plans?
- What links has OFMDFM created with other Departments in progressing the gender equality strategy?¹⁹
- How will structural and historical inequalities in areas such as health, education and employment be addressed in the strategy?
- How does the strategy tackle the dichotomy of achieving gender equality in relation to addressing gender imbalance?
- How are the multiple identities of men and women being addressed within the strategy?
- Can the Department outline any outreach work with bodies in the wider public sector and in the voluntary and community sector?

International obligations

The CEDAW Committee highlighted the importance of raising awareness of the CEDAW Convention and its Optional Protocol, and the Beijing Platform for Action.

 Can the Department outline its activities in disseminating information on these international instruments to either individual women or groups of women?

In her closing comments to the CEDAW Committee in July this year, the then deputy Minister for Women, Barbara Follett outlined to the Committee the regular meetings of gender directors of England, Scotland, Wales and Northern Ireland.

• Can the Department brief the Committee on the nature and content of these meetings? Are there any issues that are particularly relevant to the devolved regions of the UK?

Other International Issues

- Has the Department met with any of the non-governmental organisations who made representations to the CEDAW Committee in July?²⁰
- Has the Department any specific plans to address the issues raised in UN Security Resolution 1325?²¹

¹⁹ In the consultation exercise on the Gender Equality Strategy, the Department of Education was the only Northern Ireland Civil Service Department to submit a response.

²⁰ These were: Committee on the Administration of Justice; Equality Commission for Northern Ireland; Family Planning Association in Northern Ireland; Lesbian Line; Northern Ireland Council for Ethnic Minorities; Northern Ireland Human Rights Commission; Northern Ireland Women's European Platform.

²¹ Some voluntary groups have asserted that UN Security Resolution 1325 has been addressed on a UK level and by national bodies such as the Foreign and Commonwealth Office, Department for International Development and the Ministry of Defence, rather than on a Northern Ireland-specific level, particularly as regards the role of women in post-conflict situations, conflict resolution and peace building.

ANNEX: THE CEDAW CONVENTION ARTICLES

- Article 1: Elimination of discrimination
- Article 2: Obligations and policy measures to eliminate discrimination
- Article 3: Guarantee of basic human rights and fundamental freedoms
- Article 4: Special measures to accelerate equality
- Article 5: Sex role stereotyping and prejudice
- Article 6: Exploitation of women through trafficking and prostitution
- Article 7: Political and Public Life
- Article 8: Women as international representatives
- Article 9: Nationality
- Article 10: Education
- Article 11: Employment
- Article 12: Women's health
- Article 13: Economic and social benefits
- Article 14: Rural women
- Article 15: Equality before the law and civil matters
- Article 16: Equality in marriage and family life
- Article 17: Committee on the Elimination of Discrimination Against Women
- Article 18: National reports on legislative, judicial, administrative or other measures
- Article 19: Rules of procedure for the CEDAW Committee
- Article 20: CEDAW Committee meetings
- Article 21: CEDAW Committee reports
- Article 22: Role of specialised agencies
- Article 23: Effect on other treaties
- Article 24: Commitment of States Parties
- Article 25: Signature and ratification
- Article 26: Requests for revision
- Article 27: Entry into force
- Article 28: Reservations
- Article 29: Arbitration arrangements for disputes between two states parties
- Article 30: Languages of the Convention