

**OFFICE FOR THE REGULATION OF
ELECTRICITY AND GAS
(OFREG)**

EQUALITY SCHEME

REPORT ON THE PHASE 2 SCREENING PROCESS

26 OCTOBER 2001

OFREG'S EQUALITY SCHEME

REPORT ON THE PHASE 2 SCREENING PROCESS

(FOLLOWING THE CONSULTATION PERIOD WHICH ENDED ON 5 OCTOBER 2001)

Introduction

1. Ofreg's Equality Scheme (the Scheme) was approved by the Equality Commission on 5 July 2001.
2. The Scheme included a description of the preliminary screening procedure (phase 1) applied to Ofreg's policies and explained that a further procedure (phase 2), involving consultation, would follow. The phase 2 consultation procedure would seek views on a range of questions including whether those consulted considered Ofreg's policies had a significant impact on equality of opportunity which would merit an Equality Impact Assessment(s).
3. The closing date for responses to the phase 2 consultation procedure was Friday 5 October. Views were sought from some 240 organisations or individuals representing or having an interest in the Statutory Groups. The consultation process included mail shots, press advertisements and a telephone ring around to encourage responses. Only 2 responses were received.
4. This document fulfills the undertaking in Ofreg's Equality Scheme to publish its conclusions, on completion of the phase 2 screening procedure, about which of its policies should be the subject of Equality Impact Assessment(s).

Purpose

- 5 The paragraphs which follow consider, in the light of the Equality Commissions Guide to the statutory duties and the responses to consultation, which of Ofreg's policies should be subject to Equality Impact Assessment(s).

Ofreg's Policies

- 6 Ofreg's policies are set out and explained in the Scheme in some detail. For ease of reference they can be summarised as follows:
 - promoting competition in the generation and supply of electricity
 - protecting the interests of electricity consumers with regard to price
 - protecting the interests of electricity consumers with regard to quality of service

- promoting the development and maintenance of an efficient, economic and co-ordinated gas industry in Northern Ireland and protecting the interests of gas consumers with regard to price and quality of service
- promoting energy efficiency and reducing harmful environmental emissions
- appointing a Chairman and members to the Northern Ireland Consumer Committee for Electricity.

- 7 Ofreg's purpose, as a non-Ministerial Government Department, is to support the Director General of Electricity Supply for Northern Ireland and the Director General of Gas for Northern Ireland in his regulation of the electricity and natural gas industries. The work of regulation includes the issue of licences to companies, eg to distribute and supply electricity and to convey and supply gas, and subsequently to monitor, review and where necessary modify the licences. Licence modifications are necessary, for example, to formalise the outcome of price control reviews.
- 8 Subsidiary to this primary duty the Director general has a further duty to protect customers with regard to the quality of service they receive and in doing this to take into account the needs of those who are disabled and of pensionable age. This is effected through licence conditions which require the companies to prepare Codes of Practice for these categories of customer, in consultation with consumer representatives, which the Director may then approve.
- 9 Ofreg has read the definition of 'policies' contained in the Equality Commission's Guide and notes that in other contexts the policies above are described as 'functions'. Responsibility for energy policy in Northern Ireland rests with the Assembly and with the Minister responsible for the Department of Enterprise, Trade and Investment.

The Screening Procedure

- 10 The first major requirement of the screening procedure is that all existing policies, whether or not equality of opportunity is central to that policy, must be reviewed. Ofreg has complied with that requirement.
- 11 For each Ofreg policy the following criteria, as contained in the Commission's Guide, were considered:
- is there any evidence of higher or lower participation or uptake by different groups ?
 - is there any evidence that different groups have different needs, experiences, issues and priorities in relation to the particular policy ?
 - is there an opportunity to better promote equality of opportunity or better community relations by altering the policy or working with others in government or the larger community ?
 - have consultations with relevant groups, organisations or individuals indicated

that particular policies create problems which are specific to them ?

The Commissions Guide indicates that should the answer to any of these questions be positive, consideration must be given to whether to subject the policy to the Equality Impact Procedure.

- 12 Ofreg has considered the preceding criteria in the context of The Director General's regulatory responsibilities and has concluded that its answers to the first and third criteria with regard to the policies outlined in para 6 above are negative. These negative answers remain unchanged from those given when Ofreg undertook it's Phase 1 procedure and are given added credence from the outcome of the recent consultation exercise. The consultation constituted strong evidence that the representatives of the Statutory Groups and others consulted do not see Ofreg's policies creating inequalities for the statutory groupings. As a result Ofreg has concluded additionally that a negative answer is the most appropriate response to the fourth criteria. A full description of the consultation process is provided in paras 17 to 23 below.
- 13 The rationale for the negative answers recorded in the preceding para commences with the legislative requirements underpinning the Director General's functions. Through the respective Orders these put in place systems of economic regulation for the privatised electricity and gas industries. When the economic regulation of companies through licence modifications results in gains or losses for customers, eg through the price of gas or electricity, the results are experienced by customers in each of the statutory groups and by all other customers. It can be argued that equality of opportunity is an intrinsic component of the regulatory function.
- 14 Equality of treatment, perversely, has the potential to result in standards of service which are inappropriate for those already at a disadvantage. For this reason the Gas and Electricity Orders stipulate that the Director General, in the performance his duty to protect customers with regard to quality of service, must take into account the interests of those who are disabled and of pensionable age.
- 15 The purpose of screening is 'to identify those policies which are likely to have a significant impact on equality of opportunity so that greatest resources can be devoted to these'. The utilities legislation has already identified groups likely to suffer significant differential impact from a regulatory process which seeks to protect the interests of all customers, and as a result targeted positive action to protect these has been ongoing for a number of years. There is no adverse impact on other customers and it would be unnecessary, for example, to introduce a customer care register or a large print electricity bill for the able-bodied.
- 16 Ofreg has concluded that, while a positive answer might be given to the second criteria in the screening procedure, the steps already being taken to fulfill the obligations in legislation with regard to the disabled and those of pensionable age significantly diminish any detrimental impact on those groups and as a result negate the need to subject its policies to the equality impact procedure. This conclusion is borne out by the result of the consultation process.

Consultation

- 17 Ofreg's 'Consultation to Assist Consideration of which Policies and Activities will be subject to Equality Impact Assessment', which commenced the phase 2 procedure, was published on 3 August 2001. Information about the Consultation paper was circulated to some 240 individuals and organisations and comment was requested by 5 October 2001. The paper was available on Ofreg's web-site and copies were obtainable on request in large print, Braille, Audio Cassette and a variety of relevant minority languages. A notice drawing attention to the consultation was placed in the 3 Belfast daily newspapers and the North West edition of the Belfast Telegraph.
- 18 To encourage responses a number of planned phone calls was made resulting in discussions with individuals in 14 organisations representing a range of the Statutory Groups. A number of others calls was made but for a variety of reasons appropriate staff were unavailable. Of those spoken to a number said they would respond in due course if appropriate, while others indicated that they would have difficulty responding because of work pressures including the numbers of consultation papers they were being asked to consider.
- 19 By 5 October only 2 responses had been received. None has been received since.
- 20 Disability Action's response drew attention to a number of important issues including Access to Information and Services. Under the heading 'Specific Commentary' Disability Awareness training for staff was recommended as was a widening of Ofreg's undertaking to make documentation available in a range of formats. Disability Action welcomed Ofreg's policy of 'Protecting the interests of electricity consumers with regard to price' because of the high proportion of people with disabilities on or below the poverty line.
- 21 Northern Ireland Electricity's response focussed on the company's opposition to the single issue of a two tier tariff aimed at discouraging 'the inefficient use of electricity while protecting the basic requirements of low income households'. The company argued that the proposal would not have the desired result nor be free from undesirable side effects since:
- electricity consumption in the typical domestic household is not price sensitive
 - there are customers in the fuel poor category whose levels of consumption would place them in the high band; and
 - complexity within the tariff structure mitigates against efficient consumption.
- 22 Ofreg had hoped that constructive comment from those representing the Statutory Groups and other interested parties would have informed the screening procedure and regards the outcome of the consultation process as disappointing. A certain amount of consultation weariness was evident from Ofreg's ring round but it must be assumed that had the policies outlined in the Consultation Paper, its summary document and newspaper insertions contained the potential to significantly impact on the equality of

opportunity of any of the Statutory groups then responses would have been forthcoming.

- 23 In the event the responses received each referred to the issue of fuel poverty. This is a topic of major importance, but it is one which spans all of the statutory groups and many others, and for which Ofreg has no direct responsibility. The outcome of the consultation process therefore reinforces Ofreg's view that its policies, which are inherently concerned with industry regulation, do not have a significant impact on equality of opportunity.

Conclusion

- 24 Ofreg has concluded that as an economic regulator its policies do not have a significant impact on equality of opportunity and should not be subjected to Equality Impact Assessment.
- 25 Ofreg remains committed to the undertakings in its Equality Scheme, for example, on staff training, its responsibilities under the Disability Discrimination Act, on access to information and consultation. An Equality Scheme Implementation plan has been prepared and will be the vehicle for progressing and monitoring these undertakings.
- 26 Ofreg has also undertaken in its Scheme to subject any new activities to a screening process and in addition will re-screen any of those policies already screened should fresh evidence emerge that their impact on equality of opportunity is likely to be significant.

26 October 2001