

# Racial Equality Policy Priorities & Recommendations

May 2014





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# 1 Overview

- 1.1 The purpose of this paper is to inform policy development to advance racial equality in Northern Ireland by setting out the Commission's high level policy recommendations.
- 1.2 The Equality Commission welcomes the Northern Ireland Executive's commitment in the Programme for Government 2011-2015<sup>1</sup> to develop a revised Racial Equality Strategy and notes that the draft strategy is currently under development and should soon be published for consultation. We consider that the proposed strategy provides a key opportunity to advance racial equality.
- 1.3 We highlight the need to combat prejudicial attitudes and to develop robust and reliable statistical information to better target and monitor key policies and actions. There is also an urgent need for legislative reform to strengthen the rights of individuals in Northern Ireland against racial discrimination and harassment and ensure, at minimum, the law here keeps pace with legislative developments in Great Britain.
- 1.4 We recommend that the Executive, Departments and other key stakeholders take priority action in the following areas, including via the proposed Racial Equality Strategy (RES).
- Reform of the law, to address key shortfalls in legal protections
  - Tackling Prejudicial Attitudes, Racism and Hate Crime
  - Ensuring equality of opportunity in education, employment, accommodation, healthcare and access to social welfare
  - Ensuring effective monitoring and evaluation, supported by robust data collection
- 1.5 We also highlight the importance of taking account of multiple identities and the importance of the appropriate development and implementation of a revised Racial Equality Strategy. We

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<sup>1</sup> OFMDFM (2011): *Programme for Government 2011-2015*, pages 36-41. Available at: <http://www.northernireland.gov.uk/pfg-2011-2015-final-report.pdf>



therefore also set out some key recommendations to assist the effective design, delivery and review of the proposed strategy.

### ***The Commission's remit***

- 1.6** The Equality Commission has particular duties under the Race Relations (Northern Ireland) Order 1997, ('RRO 1997') as amended. It has a duty to work to eliminate unlawful racial discrimination and harassment, to promote equality of opportunity, to promote good relations between persons of different racial groups and to keep the working of the legislation under review.

The Commission is empowered under Schedule 9 of the Northern Ireland Act 1998 to, inter alia, offer advice to public authorities and others in connection with the duties imposed by Section 75 of the Act<sup>2</sup>. It is also empowered to authorise investigations into alleged failures by such authorities to comply with equality scheme commitments.

## **2 Law Reform**

- 2.1** Further to our duty under the race equality legislation to keep the legislation under review and to make recommendations for change where necessary, the Commission carried out a comprehensive review of the race equality legislation in 2000 and recommended a number of changes to the legislation.<sup>3</sup> A number of key recommendations highlighted in that review still remain outstanding.
- 2.2** We proactively engaged with OFMDFM in 2004 as regards the development of robust and comprehensive single equality legislation and in February 2009, we submitted '*Proposals on*

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<sup>2</sup> To have due regard to the need to promote equality of opportunity between people belonging to nine equality categories and to have regard to the desirability of promoting good relations between three equality categories (both duties include the category of people of different racial group).

<sup>3</sup> *Recommendations for Changes to the Race Relations (NI) Order 1997*, ECNI, 2000

*legislative reform* to Junior Ministers in OFMDFM outlining a number of areas in Northern Ireland equality law which required urgent amendment, including the harmonisation and strengthening of the race equality legislation.<sup>4</sup>

- 2.3** More recently both the Advisory Committee on the Framework Convention for the Protection of National Minorities<sup>5</sup> and the UN Committee on the Convention for the Elimination of all forms of Racial Discrimination (CERD)<sup>6</sup> has urged the NI Executive to take proactive steps to address legislative shortcomings within the race equality legislation.
- 2.4** The need for reform of the race equality legislation in Northern Ireland has also been reinforced by developments in Great Britain. In particular, the introduction of the Equality Act 2010 in October 2010, has addressed in Great Britain a number of recommendations raised by the Commission in relation to Northern Ireland, and has resulted in individuals in Northern Ireland having less protection against racial harassment and discrimination than people in other parts of the UK.
- 2.5** The Commission considers that there is a robust case for strengthening the rights of individuals in Northern Ireland against racial discrimination and harassment.
- 2.6** Our proposed changes will help address key racial inequalities in Northern Ireland. They will help tackle systemic and institutional racism, as well as new and emerging forms of racial discrimination. In addition, there is a need for comprehensive race equality legislation which acts as a catalyst for change, encourages good practice, raises standards and enables individuals to obtain redress when standards fall.

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<sup>4</sup> [http://www.equalityni.org/Delivering-Equality/Addressing-inequality/Law-reform/Related-work/Proposals-for-reform-of-the-race-law-\(1\)/The-context](http://www.equalityni.org/Delivering-Equality/Addressing-inequality/Law-reform/Related-work/Proposals-for-reform-of-the-race-law-(1)/The-context)

*Advisory Committee on the Framework Convention for the Protection of National Minorities (2011), Third Opinion on the UK, the Advisory Committee on the Framework Convention for the Protection of National Minorities. Available at*

[http://www.coe.int/t/dghl/monitoring/minorities/3\\_fcnmdocs/PDF\\_3rd\\_OP\\_UK\\_en.pdf](http://www.coe.int/t/dghl/monitoring/minorities/3_fcnmdocs/PDF_3rd_OP_UK_en.pdf)

<sup>6</sup> *UN Committee on CERD, Concluding Observations on UK, Sept 2011,*

<http://www2.ohchr.org/english/bodies/cerd/docs/CERD.C.GBR.CO.18-20.pdf>



- 2.7 The changes will also harmonise and simplify the race equality legislation making it easier for individuals in Northern Ireland to understand what their rights are and for employers, service providers and others to understand what their responsibilities are, under the race equality legislation.
- 2.8 In addition, they will help ensure that Northern Ireland race equality legislation keeps pace with legislative developments in Great Britain. There is also the opportunity for the Executive to go beyond the level of protection currently set out in the Equality Act 2010 in Great Britain.
- 2.9 Further, they will advance the overarching aims and objectives of the Executive's current Racial Equality Strategy which aims to eliminate racism, racial inequality and unlawful racial discrimination and promote equality of opportunity in all aspects of life.
- 2.10 Finally, the Commission is of the view that providing increased protection for individuals against racial discrimination is in line with the UK Government's international obligations relating to the promotion of human rights for racial minorities, including its obligations under CERD and the Framework Convention for the Protection of National Minorities.

### ***Recommendations***

- 2.11 Whilst it is clear that urgent changes are required to the race equality legislation, we consider that the most appropriate and comprehensive legislative vehicle for harmonising and strengthening protection against all grounds is through single equality legislation.
- 2.12 In our 2009 *Proposals for Legislative Reform*, the Commission made it clear that a priority area for reform of the race equality legislation was increased protection from discrimination and harassment on the grounds of colour and nationality across the scope of the race equality legislation. The Commission also recommended changes to the fair employment legislation aimed at improving workforce monitoring by employers. In particular, the Commission recommends that registered employers in Northern

Ireland are required, under the fair employment legislation, to collect monitoring information as regards nationality and ethnic origin.

**2.13** The Commission will soon publish updated detailed proposals for Race Law reform. In summary, the Commission recommends the race equality legislation is amended to:

- provide increased protection against discrimination and harassment on the grounds of **colour** and **nationality** across the scope of the race equality legislation;
- ensure increased protection against racial discrimination and harassment by public bodies<sup>7</sup>, such as the police or prison authorities, when **carrying out their public functions**;
- give stronger protection against **racial harassment** including racial harassment of employees by clients or customers;
- remove or modify certain **exceptions**, including those relating to immigration, and the employment of foreign nationals in the civil, diplomatic, armed or security and intelligence services and by certain public bodies;
- expand the scope of **positive action** which employers and service providers can lawfully take in order to promote racial equality;
- increase protection for **Councillors** and certain categories of **agency workers** against racial discrimination and harassment;
- increase protection under the race equality legislation for individuals against **victimisation**;
- introduce protection against **multiple discrimination**<sup>8</sup>;
- amend the enforcement mechanism for **education complaints**;
- improve the **powers of the Commission** to issue additional Codes of Practice under the race equality legislation; and to enforce effectively the race equality legislation;
- strengthen **tribunal powers** to ensure effective remedies for complainants bringing racial complaints.

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<sup>7</sup> Currently, protection against discrimination by public authorities when exercising public functions is limited to four areas; namely, social security, health care, social protection or social advantage.

<sup>8</sup> 'Multiple discrimination' occurs when a person is treated less favourably because of more than one equality ground. It can be experienced in several different ways. When the discrimination involves more than one equality ground and it is the unique combination of characteristics that results in discrimination, in such a way that they are completely inseparable, then this is known as intersectional multiple discrimination. The current discrimination law framework does not always provide a remedy for it.

## 3 Tackling Prejudicial Attitudes, Hate Crime and Institutional Racism

- 3.1** The Commission's most recent Equality Awareness Survey<sup>9</sup> found that negative attitudes have shown little change from 2008. Most negative attitudes were expressed towards Travellers: 35% of respondents would mind (a little or a lot) having a Traveller as a work colleague, 54% would mind having a Traveller as a neighbour and 55% would mind having a Traveller as an in-law<sup>10</sup>. Respondents also expressed negative views towards Eastern European Migrant Workers<sup>11</sup> and BME individuals<sup>12</sup> amongst others.
- 3.2** It is also the case that racist hate crime is the second most common form of hate crime in Northern Ireland. PSNI statistics show that the number of racist incidents rose by 54 (7.8 per cent) between 2011/12 and 2012/13. The number of racist crimes also increased, from 458 in 2011/12 to 470 in 2012/13 (2.6 per cent)<sup>13</sup>.
- 3.3** PSNI quarterly updates also show that there has been a sharp increase in the number of racist incidents and crimes in the last 12 months to December 2013 compared with the previous 12 months (racist incidents have increased by 200 from 730 to 930,

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<sup>9</sup> ECNI (2012): *Do you mean me? Equality Awareness Survey 2011*. Available at: <http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/DYMMequalityawarenesssurveyreport2012.pdf>

<sup>10</sup> ECNI (2012): *Ibid*, page 21.

<sup>11</sup> *Ibid*, page 21. More than one in four respondents said that they would mind (a little or a lot) having an Eastern European migrant worker as a work colleague or a neighbour whilst 36% of respondents would mind having a migrant worker as an in-law.

<sup>12</sup> *Ibid*, page 20 and 45. 13% of respondents expressed negative attitudes towards BME individuals. Those from a BME group were more likely to report unfair treatment in relation to educational opportunities (17%) when trying to buy/rent a house, business premises or land (35%), being harassed because they belonged to a particular group (35%) or not being able to express their culture (31%) than those who do not belong to a BME group (8%, 9%, 13% and 13% respectively).

<sup>13</sup> PSNI (2013) Trends in Hate Motivated Incidents and Crimes recorded by the Police in Northern Ireland from 2004/05 – 2012/13 page 10. Available at: [http://www.psni.police.uk/9B357866-8CBE-4AEB-A740-4A744E2223E2/FinalDownload/DownloadId-5B31A4449CC8F0A36CF27F126A6B6B53/9B357866-8CBE-4AEB-A740-4A744E2223E2/hate\\_motivated\\_incidents\\_and\\_crimes\\_in\\_northern\\_ireland\\_2004-05\\_to\\_2012-13.pdf](http://www.psni.police.uk/9B357866-8CBE-4AEB-A740-4A744E2223E2/FinalDownload/DownloadId-5B31A4449CC8F0A36CF27F126A6B6B53/9B357866-8CBE-4AEB-A740-4A744E2223E2/hate_motivated_incidents_and_crimes_in_northern_ireland_2004-05_to_2012-13.pdf)



and racist crimes have increased by 162 from 459 to 621)<sup>14</sup>. 'The trends in racist incidents and crimes for the last 12 months have largely mirrored those seen in the previous twelve months but at a higher level. These higher levels are particularly noticeable when comparing October 2013 (89 racist) crimes with October 2012 (32 racist crimes), although two thirds of this is concentrated within Belfast. The levels for November and December 2013 have returned to similar levels to the same months the previous year'<sup>15</sup>.

**3.4** A report by NIHRC (2013)<sup>16</sup> found that 'underreporting of hate crimes by victims was commonplace'<sup>17</sup> and 'identified problems concerning telephone and online reporting facilities for victims with limited ability to speak English'. The report<sup>18</sup> also highlighted that 'the number of minority ethnic PSNI officers in 2013 did not meet the desired level of representation. This was highlighted as a cause for concern and may impact on the effective policing of racist hate crimes'.

**3.5** Research<sup>19</sup> also shows that hate crime legislation is used less often in Northern Ireland than in other parts of the UK. In Northern Ireland, despite the legislation<sup>20</sup> allowing for an enhanced sentence to be passed by a court where a crime is proven to have been motivated by hate, only 12 enhanced sentences, out of almost 14,000 complaints, have been passed under this legislation over the last five years.

**3.6** In February 2013, DOJ published a hate crime action plan which includes a range of priorities to tackle hate crime and address

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<sup>14</sup> PSNI (February 2014): Incidents and Crimes with a Hate Motivation Recorded by the Police in Northern Ireland: Quarterly Update to 31<sup>st</sup> December 2013.

[http://www.psni.police.uk/updates\\_domestic\\_and\\_hate\\_motivation\\_statistics\\_archive](http://www.psni.police.uk/updates_domestic_and_hate_motivation_statistics_archive)

<sup>15</sup> Ibid

<sup>16</sup> NIHRC (2013): *Racist Hate Crime – Human Rights and the Criminal Justice System*, page 61.

Available at: [http://fra.europa.eu/sites/default/files/frc-2013-g-sauberli-investigation\\_report\\_full\\_en.pdf](http://fra.europa.eu/sites/default/files/frc-2013-g-sauberli-investigation_report_full_en.pdf)

<sup>17</sup> Ibid, page 63

<sup>18</sup> NIHRC (2013): *Racist Hate Crime – Human Rights and the Criminal Justice System*, page 34.

Available at: [http://fra.europa.eu/sites/default/files/frc-2013-g-sauberli-investigation\\_report\\_full\\_en.pdf](http://fra.europa.eu/sites/default/files/frc-2013-g-sauberli-investigation_report_full_en.pdf)

<sup>19</sup> Jarman, N. (2012): *Criminal Justice Responses to Hate Crime in Northern Ireland*, (Belfast: Institute for Conflict Research). Available at: <http://www.conflictresearch.org.uk/9E73E24A-19AD-43D0-AF5C-861115B2F468/FinalDownload/DownloadId-B5E033D7613A69856FA55E7968F7CC01/9E73E24A-19AD-43D0-AF5C-861115B2F468/Resources/Documents/Report%201%20Complete%20Low%20Res.pdf>

<sup>20</sup> Provision is made within the Criminal Justice (No.2) (Northern Ireland) Order 2004 which allows for an enhanced sentence to be passed by a court where a crime is proven to have been motivated by hate based on race, religion, sexual orientation or disability.

underreporting including an independent reporting system for recording hate crime; a commitment to publish annual statistics to re-launch the Unite Against Hate campaign and a range of measures to address reoffending<sup>21</sup>.

- 3.7** With regards to participation in public life, a recent survey by NICEM<sup>22</sup> has also highlighted the lack of involvement in local government, specifically, of Black and Ethnic Minority women. Respondents reported that very few of the BME women surveyed voted and that only a small fraction of them were members of a political party; 90 % of respondents never considered standing for elections.
- 3.8** In November 2012 the Leveson report<sup>23</sup> into press standards found that 'when assessed as a whole, the evidence of discriminatory, sensational or unbalanced reporting in relation to ethnic minorities, immigrants and/or asylum seekers, is concerning'. Research (ASCONI 2012)<sup>24</sup> has also highlighted that stereotypical representations of Africans in charity campaigns, 'ostracises many new communities and reinforces the perception of them as on the periphery of society in Northern Ireland'<sup>25</sup>.
- 3.9** With regards to the issue of institutional racism, in 2002 the Commission published an expert paper into the implications of the Macpherson Report for institutions in Northern Ireland which highlighted that many had yet to look at racial equality in a serious fashion and even the S75 (1) duty<sup>26</sup> too often caused only a cursory examination of the issue<sup>27</sup>.

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<sup>21</sup> Department of Justice (2013): *Hate Crime action plan*. Available at:

<http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/community-safety-strategy-action-plan.htm>

<sup>22</sup> Collaboration NI (2013): 'A Black and Minority Ethnic Parliament come to Stormont in May 2014'.

Available at: <http://www.collaborationni.org/news/black-and-ethnic-minority-parliament-northern-ireland-comes-stormont-may-2014>

<sup>23</sup> Leveson (November 2012): *Criticism of the Culture, Practices and Ethics of the Press*, Chapter 6, para 8.51. Available at: [http://www.official-documents.gov.uk/document/hc1213/hc07/0780/0780\\_ii.pdf](http://www.official-documents.gov.uk/document/hc1213/hc07/0780/0780_ii.pdf)

<sup>24</sup> ASCONI (2012): African Images and their impact on public perception: Available at:

<http://www.acsoni.org/reports.php>

<sup>25</sup> Ibid, page 38

<sup>26</sup> The policy intent of Section 75 of the Northern Ireland Act is to achieve the mainstreaming of equality and good relations considerations in public policy making.

<sup>27</sup> McGill, P. and Oliver, Q. (2002): *A wake-up call on race: Implications of the MacPherson report for Institutional Racism in Northern Ireland*, page 2 (ECNI).



- 3.10 The Commission's (2006) good practice guide<sup>28</sup> on racial equality in the health sector highlighted that 'institutional racism can have a number of dimensions in health care, the most obvious being in terms of differential patient access and treatment. It can also be identified in employment policies, inadequate research, professional attitudes and health promotion<sup>29</sup>. A 2013 report from NICEM into racist violence and criminal justice in Northern Ireland<sup>30</sup> argued that, 'in Northern Ireland the key lessons of MacPherson are yet to be learned and the key reforms are yet to be implemented'<sup>31</sup>.

### **Recommendations**

- 3.11 The Commission recommends that the Executive and Departments implement specific long-term measures to: eliminate racism and racial discrimination; to tackle prejudicial attitudes and to promote values of acceptance and respect for difference, as part of the revised Racial Equality Strategy.
- 3.12 Learning from the previous Unite Against Hate campaign and from other countries, for example Australia, suggests that Government use '*complementary strategies and work at multiple levels<sup>32</sup> to prevent and support anti-racism in the long-term; focuses on changing behaviours as well as changing attitudes; adapts strategies to different settings and audiences; targets anti-racism initiatives towards priority areas (e.g. workplace, sport and the media) and builds on locally developed programs*'<sup>33</sup>. In particular, we emphasise the importance of using early intervention in education to combat negative attitudes, reduce racism and promote good relations.

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<sup>28</sup> ECNI (2006): *Racial Equality in Health and Social Care – a good practice*, page 30. Available at: <http://www.equalityni.org/ECNI/media/ECNI/Publications/Employers%20and%20Service%20Providers/RaceEqualityinhealthsocialcareGoodpracticeguide2002.pdf>

<sup>29</sup> ECNI (2006): Ibid.

<sup>30</sup> McVeigh, R. (2013): Race and the Criminal Justice System in Northern Ireland.

<sup>31</sup> Ibid, page 58

<sup>32</sup> Individual, community and societal levels

<sup>33</sup> Australian Human Rights Commission (2013): *Racism – it stops with me and the national anti-racism strategy one year on*, page 6 Available at: [http://www.humanrights.gov.au/sites/default/files/document/publication/WEB\\_RISWM\\_one\\_year\\_on\\_report%20final.pdf](http://www.humanrights.gov.au/sites/default/files/document/publication/WEB_RISWM_one_year_on_report%20final.pdf)



- 3.13** We recommend that the Executive prioritises the reduction and elimination of racial violence through a range of actions including; addressing issues of under reporting; reducing the risk of low level hate crime escalating through early intervention; improving the operational response to hate crime; providing support for victims of racist hate crime and publishing data which would allow for end-to-end tracking of hate crime cases.
- 3.14** We welcome the DOJ's commitment to examine the reasons for under-use of the Criminal Justice (No.2) (Northern Ireland) Order 2004, including, if necessary, a review of the framework of legislation for addressing racist violence in Northern Ireland. In addition, we recommend that the criminal justice agencies improve the accessibility of reporting for those victims who have English as an additional language and take appropriate steps to increase ethnic minority representation among police and criminal justice staff.
- 3.15** We recommend that the Executive takes appropriate action to support integration and foster community cohesion through both the revised RES and United Community strategies. We also recommend that the Executive undertakes a range of initiatives aimed at encouraging migrants, asylum seekers and refugees to take an active role in political and public life.
- 3.16** The Commission also recommends that the Executive considers the findings of the Leveson report with regards to '*discriminatory, sensational or unbalanced reporting in relation to ethnic minorities, immigrants and/or asylum seekers*'<sup>34</sup> and takes relevant action to ensure appropriate media reporting in Northern Ireland.
- 3.17** The Commission recommends that OFMDFM co-ordinates departmental action aimed at identifying and addressing institutional racism, including through the use of Section 75 processes<sup>35</sup>, as part of the revised Racial Equality Strategy. Such

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<sup>34</sup> Leveson (November 2012): *Criticism of the Culture, Practices and Ethics of the Press*, para 8.51. Available at: [http://www.official-documents.gov.uk/document/hc1213/hc07/0780/0780\\_ii.pdf](http://www.official-documents.gov.uk/document/hc1213/hc07/0780/0780_ii.pdf)

<sup>35</sup> Under Section 75, there is an onus on designated public authorities to put in place systems to collect relevant information across the relevant equality grounds and to make use of that information for assessing and monitoring the impact of their policies on the promotion of equality of opportunity.



action should include an evaluation of the extent to which institutional racism has been addressed since our 2002 report.

## 4 Education

- 4.1** In ‘Every Child an Equal Child’<sup>36</sup>, the Commission noted the high levels of poor literacy and low levels of educational attainment among the Irish Traveller community<sup>37</sup>. We continue to note longstanding and unparalleled educational disadvantage for Traveller children who in particular experience exceptionally poor educational outcomes, low levels of school attendance and racist bullying.
- 4.2** In November 2013, the Department launched the Traveller Child in Education Action Framework in response to the high level strategic recommendations made by the Traveller taskforce<sup>38</sup>. As recommended in the Action Framework, the Traveller Education Support Service (TESS) published its first annual delivery plan (2013/14) to address the operational recommendations from Taskforce report and build on the good practice developed both locally and in other jurisdictions<sup>39</sup>.
- 4.3** Newcomer children also face a number of barriers to educational achievement, including limited English language ability, lack of knowledge of the education system, racist bullying and social exclusion.
- 4.4** The Commission’s 2008 policy statement, *Every Child an Equal Child*<sup>40</sup>, highlighted serious shortcomings in relation to the

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<sup>36</sup> ECNI (2008): *Every Child an Equal Child. An Equality Commission Statement on Key Inequalities in Education and a Strategy for Intervention*. Available at <http://www.equalityni.org/Publications/Delivering-Equality/Key-inequalities-in-education-Every-child-an-equal?ID=1235>

<sup>37</sup> The vast majority of Travellers have no formal educational qualifications and 92% have no GCSE’s at all, compared with 4% of all Northern Ireland school leavers.

<sup>38</sup> Department of Education (2012): *Traveller Child in Education Action Framework*. Available at: [http://www.deni.gov.uk/english\\_action\\_framework.pdf](http://www.deni.gov.uk/english_action_framework.pdf)

<sup>39</sup> *Ibid*, page 13

<sup>40</sup> ECNI (Nov 2008): *Every Child an Equal Child – Statement on Key Inequalities in Northern Ireland and a strategy for Intervention*. Available at:

provision of support for children who have English as an additional language, as well as with existing funding formulas<sup>41</sup>. In our 2011 CERD shadow report<sup>42</sup>, we highlighted the challenges in providing appropriate support for BME and newcomer children, especially those with gaps in their educational backgrounds.

- 4.5** Research (ECNI 2012)<sup>43</sup> has also shown that newcomer children tend not to mix with local children and can become dependent on teachers or peers from the same community for language support. Even where schools have implemented strategies to support newcomer pupils and their families through the extended schools provision, only a small number have reported increased participation.<sup>44</sup> Schools have also reported difficulties in assessing and tracking the progress of newcomer pupils with only a minority of schools using the Common European Framework of Reference (CEFR)<sup>45</sup>.
- 4.6** In 'Every Child an Equal Child'<sup>46</sup>, the Commission noted that children of new residents and migrant workers face difficulty accessing grammar schools<sup>47</sup>. While the reasons for the disparity are unclear, a range of factors which may be at play including the free exercise of parental choice, lack of knowledge of the

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<http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/Keyinequalitiesineducation2008.pdf>

<sup>41</sup> ECNI (2006): *Mainstreaming Equality of Opportunity for Travellers in Education: Towards a Strategy*, pages 13-14. Each full time pupil designated on the day of the school census as being of the Traveller community will generate an additional allocation for the school equivalent to the 0.5 of the basic Age Weighted Pupil Units (AWPU). This is problematic as Traveller children may not be in school on the day of the school census or may attend another school in the same year. As the money is not ring fenced, it may be appropriated for the general school budget. It is unclear whether the use of this extra funding is monitored and linked to tangible achievements for Travellers.

<sup>42</sup> ECNI (2011): *Shadow Report to the UN Committee on the Elimination of Racial Discrimination on the UK Government's 18<sup>th</sup> Periodic Report*, page 2. Available at: [http://www.equalityni.org/ECNI/media/ECNI/Consultation%20Responses/2011/Shadow\\_Report-UN\\_Elimination\\_Racial\\_Discrimination-\(CERD\).pdf?ext=.pdf](http://www.equalityni.org/ECNI/media/ECNI/Consultation%20Responses/2011/Shadow_Report-UN_Elimination_Racial_Discrimination-(CERD).pdf?ext=.pdf)

<sup>43</sup> The Equality Company (March 2012): *Inequalities in Education*, ECNI, page 53. Available at: <http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/InequalitiesinEducationfactsandtrends1998-2008.pdf>

<sup>44</sup> Ibid

<sup>45</sup> Education and Training Inspectorate (2009): *An Evaluation of the Provision to Support Newcomer Pupils in a range of primary and post-primary schools*, page 7. Available at: <http://www.eti.gov.uk/index/surveys-evaluations/surveys-evaluations-primary/surveys-evaluations-primary-2009/an-evaluation-of-the-provision-to-support-newcomer-pupils-in-a-range-of-primary-and-post-primary-schools.pdf>

<sup>46</sup> ECNI (Nov 2008): Op. Cit., page 19.

<sup>47</sup> Only 13.7% of newcomers attend a grammar school compared to 42.5% of non-newcomers.

educational system and how to apply to grammar schools and the use of tests to determine admission<sup>48</sup>.

- 4.7** While there has been little formal research on the experience of Roma pupils, anecdotal evidence suggests exceptionally high levels of educational disadvantage exacerbated by a low level of English language proficiency, social exclusion and poverty.
- 4.8** There are also complex challenges facing young refugees and asylum seekers in the education system. Refugee and asylum seeking children often have very limited English Language skills and may have experienced trauma and other serious stresses before coming to Northern Ireland. Accessing second level education can also be problematic for those aged almost or over 16. The National Children's Bureau has noted that *'for such young people it is very difficult to get a school place and sometimes virtually impossible unless the young person had 'high exam results from their country of origin' or 'exceptionally good spoken English'*<sup>49</sup>.
- 4.9** In relation to bullying, recent Department of Education research has highlighted that 14% of Year 6 and 7.6% of Year 9 pupils admitted being bullied *'with mean names or comments about my race or colour'*<sup>50</sup>. Research has also suggested that 'the response of schools to the issue of racist bullying appears to vary enormously... this was often characterised by not taking the issue seriously either minimising it or ignoring it altogether'<sup>51</sup> and that *'...in the majority of cases, schools tend to lack knowledge of how to effectively confront the issue and in some cases have difficulty acknowledging that a problem exists. In cases where action is taken, the measure is often unsatisfactory'*<sup>52</sup>.

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<sup>48</sup> NICEM (2011): Promoting Racial Equality in Northern Ireland's Post Primary Schools, page 15.

<sup>49</sup> National Children's Bureau (2010): *New to Northern Ireland – A study of the issues faced by migrant, asylum-seeking and refugee children in Northern Ireland*. Available at: [http://www.ncb.org.uk/media/886382/ntni\\_web\\_final.pdf](http://www.ncb.org.uk/media/886382/ntni_web_final.pdf)

<sup>50</sup> Department of Education (2011): *Nature and Extent of Pupil Bullying in Schools*. Available at: [http://www.deni.gov.uk/rb2\\_2011.pdf](http://www.deni.gov.uk/rb2_2011.pdf), page 11.

<sup>51</sup> Connolly P. and Keenan M. (2000): *Opportunities for All: Ethnic Minority People's Experience of Education, Training and Employment in Northern Ireland* (NISRA).

<sup>52</sup> NI Council for Ethnic Minorities (2011): *Promoting Racial Equality in Northern Ireland's post-primary schools*, page 29. Available at: [http://nicem.org.uk/uploads/publications/Education\\_report\\_-\\_Final\\_PDF.pdf](http://nicem.org.uk/uploads/publications/Education_report_-_Final_PDF.pdf)

- 4.10** In 2008 the Northern Ireland Anti-Bullying Forum (NIABF) evaluated the success of a pilot for recording incidents of bullying in schools in Northern Ireland. The report ‘confirmed that the effective use of data assists with improving anti-bullying policy and practice’ and the system was ‘proportionate in terms of management and operational demands on a school’<sup>53</sup>.
- 4.11** Research (Queens 2013)<sup>54</sup> has also noted the need ‘to look beyond achievement gaps in assessing minority ethnic children’s differential experiences in education, highlighting the potential of belongingness<sup>55</sup> as a concept for further study’<sup>56</sup>. The Queens University research<sup>57</sup> found that ethnic minority pupils experienced lower levels of belonging and higher levels of exclusion compared to their White, settled Northern Irish peers. The experiences of Irish Traveller children were the most negative. While educational aspirations were high among Chinese/Asian children, ‘less positive outcomes were found in relation to other outcomes like their self-worth, participation in clubs and their subjective health’<sup>58</sup>.

## **Recommendations**

- 4.12** The Equality Commission recommends that the Department of Education adopts a holistic approach to the development of education policy which includes measures aimed at promoting a sense of belonging. The Department should seek to ensure that ethnic minority children see their culture and language reflected in the classroom and school curriculum; disseminate best practice procedures around induction and admissions; and provide

<sup>53</sup> National Anti-Bullying Forum (2008): *Assessing the usefulness to schools of the SIMS Behaviour Management Module in recording bullying incidents electronically*, page 12.

<sup>54</sup> Biggart, A., O’Hare, L. and Connolly, P. (2013): *A need to belong?: The prevalence of experiences of belonging and exclusion in school among minority ethnic children living in the “White Hinterlands”* in *Irish Educational Studies*, 32, 2, pages 179-195.

<sup>55</sup> Goodenow, C., & Grady, K. E. (1993): ‘*The relationship of school belonging and friends’ values to academic motivation among urban adolescent students*’ in *Journal of Experimental Education*, 62(1), 60-71.

Goodenow and Grady’s definition of belong is well recognised by scholars and is defined as the extent to which students “feel personally accepted, respected, included and supported in the school environment”.

<sup>56</sup> Biggart, A., O’Hare, L. and Connolly, P. (2013): *A need to belong?: The prevalence of experiences of belonging and exclusion in school among minority ethnic children living in the “White Hinterlands”* in *Irish Educational Studies*, page 1.

<sup>57</sup> Biggart, A. et al O’Hare and Connolly (2013): Op. Cit.

<sup>58</sup> Ibid, page 17.



guidance on promoting the participation of newly-arrived children in the wider life of the school. The Commission recommends that the Action Framework and TESS delivery plan are subject to ongoing monitoring and evaluation with progress reported at the Traveller subgroup of the OFMDFM Racial Equality Panel and that Traveller children and parents are closely involved in the development and implementation, to ensure that tangible outcomes are delivered.

- 4.13** With regard to providing appropriate support for BME and newcomer children, we recommend that the Executive and DE work with the regional Inclusion and Diversity Service to understand and improve the experiences of and outcomes for newcomer (including Roma and asylum seeker) children and BME pupils including identifying and addressing any attainment differentials; assessing educational needs; reviewing the effectiveness of current English as an Additional Language (EAL) support; identifying appropriate strategies to support the teaching of newcomer pupils through the development of effective newcomer pupil programs and the provision of accessible information on the education system in Northern Ireland.
- 4.14** We also recommend that DE take steps to promote development of the first language competence of newcomer pupils<sup>59</sup> and assist schools in making effective use of dual language resources to help learners access the curriculum<sup>60</sup>.
- 4.15** Staff training is an important of the school's work to prevent and tackle bullying. The Commission recommends that the Department ensures that schools provide regularly updated in-service training to staff on the impact of racist bullying and on the strategies to tackle and prevent it and that training on prejudice-based bullying is incorporated within teacher training.

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<sup>59</sup> In developing its approach DE should seek to incorporate learning from projects such as the GCSE Family Language Project in England, which allows primary children whose first language is not English to study for a GCSE in their mother tongue, alongside a parent or other adult family member

<sup>60</sup> Her Majesty's Inspectorate of Education in Scotland (2009): *Count Us In: Meeting the needs of children and young people newly arrived in Scotland*. Available at: [http://www.educationscotland.gov.uk/Images/cuimnnus\\_tcm4-619478.pdf](http://www.educationscotland.gov.uk/Images/cuimnnus_tcm4-619478.pdf)



- 4.16** It is also recommended that schools develop practical strategies for communicating with parents in relation to bullying and that appropriate mechanisms are put in place to consider complaints from parents in relation to schools' handling of bullying incidents.
- 4.17** The Commission recommends that the Department considers placing a duty on schools to record disaggregated data on incidents of bullying in order to improve their understanding of, and responses to prejudiced-based bullying. Any duty placed on schools should include appropriate safeguards to encourage schools to be open about reporting incidents of bullying.
- 4.18** It is also recommended that DE take targeted action in line with Recommendation 3 of the CERD General Recommendation XVII on Discrimination Against Roma<sup>61</sup>, to address the barriers faced by Roma children in accessing education including the training and employment of culturally competent bi-lingual classroom assistants.
- 4.19** Measures to address the educational inequalities among Roma pupils should be developed as part of a wider Roma Integration Strategy in line with the EU framework for national Roma Integration Strategies<sup>62</sup> and Council Recommendation on effective Roma Integration measures in Member States<sup>63</sup>.
- 4.20** It is recommended that the Department identifies and addresses the complex emotional, educational and social needs of asylum seeking and refugee children.

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<sup>61</sup> Available at: <http://www1.umn.edu/humanrts/gencomm/genrexxvii.htm>

<sup>62</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, An EU Framework for National Roma Integration Strategies up to 2020, Brussels 5.4.2011, COM (2011) 173 final. Available at: [http://ec.europa.eu/justice/policies/discrimination/docs/com\\_2011\\_173\\_en.pdf](http://ec.europa.eu/justice/policies/discrimination/docs/com_2011_173_en.pdf)

<sup>63</sup> European Commission Proposal for a Council Recommendation on effective Roma integration measures in Member States, Brussels 26.06.13 COM(2013) 460 final. Available at: [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/lsa/139979.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/lsa/139979.pdf)

## 5 Employment

- 5.1 The Commission's formal investigation into the 'Role of the Recruitment Sector in the Employment of Migrant Workers'<sup>64</sup> in 2010 found evidence of exploitation of migrant workers in Northern Ireland and revealed that despite a considerable body of legislation governing the sector, not all recruitment agencies worked within its terms and barriers to equality of opportunity existed for those who used their services.
- 5.2 Research by Joseph Rowntree Foundation (2013)<sup>65</sup> highlights that 'people from minority ethnic groups are employed at all levels in the economy, but low grade, low paid employment appears commonplace, despite many having high qualifications and skills'<sup>66</sup>.
- 5.3 Research (NICEM 2012)<sup>67</sup> into the experiences of the Filipino community in Northern Ireland argued that 'immigration rules, particularly those governing the work permit/Tier 2 category are at the heart of many problems experienced by the Filipino community'<sup>68</sup>. For example, their report highlights that, while UKBA states that senior care workers must earn £7.80 per hr (£7.02 for new applicants) in order to remain in the UK, the average wage for these workers is £6.70. Workers who do not meet the required wage level face deportation.
- 5.4 In 2011, research by the Joseph Rowntree Foundation (JRF)<sup>69</sup> explored evidence of forced labour among new migrants to Northern Ireland in a range of employment sectors. The research

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<sup>64</sup> Equality Commission for Northern Ireland (2010): *Role of the Recruitment Sector in the Employment of Migrant Workers, A Formal Investigation*. Available at: <http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/migrantworkersreportSUMMARY.pdf>

<sup>65</sup> Joseph Rowntree Foundation (2013): *Poverty and Ethnicity in Northern Ireland*. Available at: <http://www.jrf.org.uk/publications/poverty-ethnicity-northern-ireland>

<sup>66</sup> Ibid.

<sup>67</sup> Northern Ireland Council for Ethnic Minorities (2012): *Bayanihan: the Filipino community in Northern Ireland*. Available at <http://nicem.org.uk/e-library/bayanihan-filipino-community-northern-ireland>

<sup>68</sup> As migrant workers from outside the EEA, the recruitment of Filipinos is facilitated by Tier 2 of the Points-Based system.

<sup>69</sup> Joseph Rowntree Foundation (2011): *Forced Labour in Northern Ireland, Summary Findings*, page 1. Available at: <http://www.jrf.org.uk/sites/files/jrf/forced-labour-Northern-Ireland-summary.pdf>

found severe exploitation and forced labour, including poor working conditions, low pay, restricted movements and verbal and physical abuse, experienced by migrants working in the fishing, mushroom and catering industries and among Filipino and Romanian Roma migrants. Exploitation was often associated with the vulnerability of the worker: a lack of English language skills, limited access to social networks, and a lack of local knowledge.

- 5.5** Commission statistics show that over the last five years, harassment at work in relation to racial harassment have represented 14% of total enquiries in relation to harassment at work<sup>70</sup>. Recent research on the Filipino community in Northern Ireland found that 42% of respondents stated that they had been racially harassed in the workplace. Interviewees also reported their perceptions of being treated less favourably in regard to breaks, the division of work, time off to attend doctors' appointments and annual leave<sup>71</sup>.
- 5.6** Some ethnic minority workers can also be subject to racist harassment from the general public. A recent Freedom of Information request by the BBC<sup>72</sup> highlighted that the number of racist verbal and physical attacks in the NHS has risen by 65% in the past five years<sup>73</sup>. Belfast Health and Social Care Trust had the third highest number of reported racial incidents in 2012/13 compared with the whole of the UK<sup>74</sup>.
- 5.7** Work published by the Commission in 2010<sup>75</sup> found that although there was little information available on the BME population in NI largely due to its small size, the economic downturn appeared to have had an impact on migrant workers in NI with reports of many being made redundant or dismissed, mainly due to being on

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<sup>70</sup> ECNI Application/Enquiry Records by Area (2009-2014)

<sup>71</sup> Northern Ireland Council for Ethnic Minorities (2012): *Bayanihan: the Filipino community in Northern Ireland*. Available at <http://nicem.org.uk/e-library/bayanihan-philipino-community-northern-ireland>

<sup>72</sup> BBC (16<sup>th</sup> December 2013): Sharp increase in racist attacks. Available at: [http://www.bbc.co.uk/news/health-25368332#story\\_continues\\_1](http://www.bbc.co.uk/news/health-25368332#story_continues_1)

<sup>73</sup> Some NHS Trusts have stated that the numbers may be partially explained by improved data reporting systems.

<sup>74</sup> BBC (16<sup>th</sup> December 2013): Sharp increase in racist attacks. Available at: [http://www.bbc.co.uk/news/health-25368332#story\\_continues\\_1](http://www.bbc.co.uk/news/health-25368332#story_continues_1)

<sup>75</sup> McQuaid, R., Hollywood, E., Canduela, J., (2010): *Employment Inequalities in an Economic Downturn*, Employment Research Institute, Edinburgh Napier University (Equality Commission for Northern Ireland).

casual or temporary contracts. Other work<sup>76</sup> has also found there is a substantial level of job insecurity for those workers who are still in employment with half of respondents stating they are afraid they will lose their jobs as a result of the economic downturn<sup>77</sup>.

- 5.8** The Commission has previously highlighted the widespread unemployment experienced by Irish Travellers. More recent research suggests that this problem persists, finding that 89% of Travellers in Northern Ireland were unemployed compared to 4% for the general population<sup>78</sup> and that the most common intended non-employment destination for Irish Travellers<sup>79</sup> leaving school was unemployment<sup>80</sup>.
- 5.9** Research also suggests that migrant workers may find it difficult to improve their position in the labour market due to the lack of recognition of overseas qualifications by employers<sup>81</sup> and that the critical issue for asylum seekers was exclusion from the labour market while awaiting a decision from the Home Office on their refugee application<sup>82</sup>.
- 5.10** A recent report by Barnardo's and NICEM<sup>83</sup> has highlighted that the ethnic minority community also experience a number of barriers in accessing childcare including a lack of affordable,

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<sup>76</sup> NICEM (2009): *Za Chlebem – The impact of the economic downturn on the Polish community in Northern Ireland*, page 52. Available at: <http://nicem.org.uk/e-library/za-chlebem-impact-economic-downturn-polish-community>

<sup>77</sup> Ibid.

<sup>78</sup> Kelleher, C. et al, (2010): *All Ireland Traveller Health Study*, University College Dublin (Department of Health and Children & DHSSPS), page 14. Available at: [http://www.dohc.ie/publications/aiths2010/ExecutiveSummary/AITHS2010\\_SUMMARY\\_LR\\_All.pdf?direct=1](http://www.dohc.ie/publications/aiths2010/ExecutiveSummary/AITHS2010_SUMMARY_LR_All.pdf?direct=1)

<sup>79</sup> 33% of Non-Travellers compared to 4% of Travellers

<sup>80</sup> Equality Commission for Northern Ireland (2012): *Inequalities in Education – Facts and Trends 1998-2008*, page 37 Available at: <http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/InequalitiesinEducationfactsandtrends1998-2008.pdf>

<sup>81</sup> Irwin J, Murphy N and McAreavey R (2014): *The economic and social mobility of minority ethnic communities in Northern Ireland* (Joseph Rowntree Foundation), page 14. Available at <http://www.jrf.org.uk/publications/mobility-of-ethnic-minority-communities-in-northern-ireland>

<sup>82</sup> McGovern, J., Meas, W. H. and Webb, M. A. (2011) *Supporting Refugee and Asylum Seeking Families Living in Northern Ireland*. Belfast: Barnardo's Northern Ireland

<sup>83</sup> Kernaghan, D. (March 2014): *Believe in Childcare? Believe in Children. An investigation into the Childcare Needs of Ethnic Minorities in Northern Ireland* (Belfast: NICEM and Barnardos). Available at: [http://www.barnardos.org.uk/9632\\_-\\_believe\\_in\\_childcare\\_.pdf](http://www.barnardos.org.uk/9632_-_believe_in_childcare_.pdf)

flexible childcare provision at local level to meet the needs of parents working atypical hours or zero-hours contracts.

- 5.11** The Law Centre<sup>84</sup> has highlighted the great number of benefits, including economic benefits, associated with asylum seekers and refugees being able to speak English. The Law Centre<sup>85</sup> also notes that, *'the key difference between Northern Ireland and GB is that ESOL is not designated as an Essential Skill in Northern Ireland. The practical effect of this is that colleges do not receive the necessary funding to offer free ESOL classes'*.
- 5.12** Research by the Institute of Conflict Research (2012) into the experience of individuals from the Horn of Africa (Djibouti, Eritrea, Ethiopia, Somalia and Sudan) living in Belfast 'found that 75% of those questioned described their levels of spoken English as either "poor", "very poor" or could not speak it at all. The figures for levels of written English were worse again. This issue permeated every aspect of life for the individuals concerned, particularly in relation to employment, and as a result economic independence<sup>86</sup>.
- 5.13** The Law Centre has also highlighted that women are more likely to find transport a barrier to attending ESOL classes 'e.g. more likely to be apprehensive about walking in the dark, less likely to ride a bike, etc. In addition, women are more likely to be restricted by childcare, may have lower aspirations and are less likely to understand the benefits of having English language skills'<sup>87</sup>.

## ***Recommendations***

- 5.14** We reiterate our previous call upon Government to ratify the United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of their Families<sup>88</sup>.
- 5.15** We recommend that the phenomena of exploitation and forced labour are considered by OFMDFM in the context of the revised

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<sup>84</sup> Law Centre (2011): Access to free accredited ESOL Classes for asylum seekers and refugees (Update) Available at: <http://www.lawcentreni.org/component/content/article/63-policy-briefings/806-access-to-free-accredited-esol-clases-for-asylum-seekers-and-refugees.html>

<sup>85</sup> Law Centre (2011): Ibid.

<sup>86</sup> Institute of Conflict Research (2012): *The Horn of Africa Community in Belfast - a needs assessment*, page 22. Available at: <http://www.hapani.org/reports>

<sup>87</sup> Law Centre (2013): *The DEL ESOL pilot: Comments from the Community and Voluntary Sector*

<sup>88</sup> Equality Commission for Northern Ireland (2011)

RES with a view to developing a strategy to address the problems experienced by migrants in relation to these issues.

- 5.16** We recommend support for initiatives aimed at tackling the exploitation of migrant workers; reducing ethnic minority disadvantage in employment; raising awareness of the rights of migrant workers and maximizing migrant workers access to the labour market.
- 5.17** We have previously expressed concerns that agency workers (many of whom are migrant workers), may not be afforded the same levels of protection from discrimination as those directly employed by end-users (hirers) and recommend that the UK Government extend the remit of the Gangmasters (Licensing Act 2004) to all sectors where migrant labour is prevalent.
- 5.18** We also recommend that the Bright Starts Framework / NI Childcare strategy includes actions to address the specific needs of minority ethnic parents, as recommended by the Barnardo's / NICEM report<sup>89</sup>.
- 5.19** We again highlight the particular employment issues for Travellers and recommend the development by the Department for Employment and Learning, in collaboration with relevant training providers and NGOs, of Traveller specific, long-term initiatives to improve employment opportunities. It is also recommended that there is a greater focus on including Travellers in mainstream employment training provision including support in employment and training. Initiatives should incorporate learning from projects such as Belfast Health and Social Services Trust (BHSST) Traveller employment project, where two Travellers were employed as Traveller Health Liaison Workers.
- 5.20** We recommend that DEL take action to support the Roma community into employment by supporting self-employment; providing first work experience and vocational and on-the-job training and by providing access to lifelong learning and skills

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<sup>89</sup> Webb, M., Kernaghan, A.D., and Caffrey, M. (2014): *Believe in Childcare? The Childcare needs of ethnic minority communities in Northern Ireland, Policy and Practice briefing No 17*. (Belfast: Barnardo's/NICEM). Available at: [http://www.barnardos.org.uk/15920\\_pp\\_briefing\\_no17.pdf](http://www.barnardos.org.uk/15920_pp_briefing_no17.pdf)

development<sup>90</sup>, as part of a Roma Integration Strategy. It is also recommended that DEL identify ways for Roma to enter mainstream employment based on learning from successful international projects such as the Spanish Acceder project<sup>91</sup>.

- 5.21 As part of a broader integration strategy, the Commission recommends that the OFMDFM increases access to employment and volunteering opportunities for refugees and ensures that employability strategies and mainstream services benefit and are accessible for, refugee users. It is also recommended that the Department broaden the range of volunteering experiences for asylum seekers.
- 5.22 It is recommended that DEL gives consideration to how best to address the issues raised by the Law Centre in its input<sup>92</sup> to the DEL review of the ESOL pilot, including the merits of designating English as an 'Essential Skill'. Steps to improve ESOL provision should also address the particular barriers experienced by refugee women.

## 6 Accommodation and Housing

- 6.1 The Commission has long advocated the need for an adequate programme of accommodation to meet the needs of the Irish Traveller community and remains concerned by the *'severe undersupply of decent, culturally sensitive accommodation for Travellers, which provides meaningful choice for householders regarding their way of life'*<sup>93</sup>.

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<sup>90</sup> Council of the European Union Recommendation of 9 December 2013 on effective Roma Integration measures in Member States, para 1.4. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2013:378:0001:01:EN:HTML>

<sup>91</sup> <http://goodpracticeroma.ppa.coe.int/en/pdf/81>

<sup>92</sup> Law Centre (July 2013): *The DEL ESOL pilot: Comments from the voluntary and community sector*

<sup>93</sup> ECNI (2009): *Outlining minimum standards in Traveller accommodation*, page 9. Available at: <http://www.equalityni.org/Delivering-Equality/Addressing-inequality/Housing-communities/Research-investigations>



- 6.2** In 2009, the Commission launched research, *Outlining Minimum Standards in Traveller accommodation*<sup>94</sup>. The report found ‘an overwhelming view among officials and individuals working with Travellers that decisions at Council level regarding planning permission remained a key stumbling block to site development’<sup>95</sup>.
- 6.3** The report also found ‘a fragmented approach to the provision of accommodation for Travellers across a range of departments and agencies, which had strongly influenced the effectiveness of measures to meet housing need’<sup>96</sup>. In terms of addressing housing provision for the Traveller Community, it was reported that that ‘no single department or agency has policy and operational responsibility for the development and delivery of accommodation, and a result, there lacks a single driver capable of ensuring that all departments and agencies work together’<sup>97</sup>.
- 6.4** An Munia Tober and Craigavon Traveller Support Group have both highlighted that, over the last number of years, there has been little progress in the identification and development of sites for the Travelling Community, leading to a dramatic shift in the number of Travellers moving into ‘bricks and mortar’ housing. Living standards on the halting site in the Craigavon area also remain a concern.
- 6.5** In its Submission to the Commission for the Elimination of Racial Discrimination (CERD)<sup>98</sup> the Commission stated that ‘an undersupply of appropriate accommodation, the lack of basic amenities on emergency sites and the level of permanence of this provision is central to the high level of social exclusion and poverty that Travellers experience’<sup>99</sup>. In its response<sup>100</sup> to the draft

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<sup>95</sup> ECNI (2009): Ibid, page 10.

<sup>96</sup> ECNI (2009): Ibid, page 45.

<sup>97</sup> ECNI (2009): Ibid, pages 10, 11.

<sup>98</sup> ECNI (2011): *Shadow Report to the UN Committee on the Elimination of Racial Discrimination on the UK Government's 18<sup>th</sup> Periodic Report*. Available at:

[http://www.equalityni.org/ECNI/media/ECNI/Consultation%20Responses/2011/Shadow\\_Report-UN\\_Elimination\\_Racial\\_Discrimination-\(CERD\).pdf?ext=.pdf](http://www.equalityni.org/ECNI/media/ECNI/Consultation%20Responses/2011/Shadow_Report-UN_Elimination_Racial_Discrimination-(CERD).pdf?ext=.pdf)

<sup>99</sup> Ibid, page 17.

<sup>100</sup> ECNI (2012): Commission response to consultation on "Facing the Future: Housing Strategy for Northern Ireland". Available at:

<http://www.equalityni.org/ECNI/media/ECNI/Consultation%20Responses/2012/DSDHousingStrategyResponseFacingtheFuture2012.pdf?ext=.pdf>

Housing Strategy the Commission recommended that NIHE, or its successor body, must develop a culturally sensitive mechanism to assess Housing Stress in the Traveller Community.

- 6.6** The Commission's 'Statement on Key Inequalities in Northern Ireland'<sup>101</sup> highlighted that many members of the black and minority ethnic community, in particular migrant workers, were extremely vulnerable to exploitation and discrimination in housing. For some, in the private rented sector, this has resulted in overcrowding, insecurity of tenure and being forced to accept poor health and safety standards.
- 6.7** For many migrants access to safe and affordable housing can be restricted by immigration status. Non-EU/EEA nationals are not entitled to housing benefit. In its 2011 Submission to the Commission for the Elimination of Racial Discrimination (CERD)<sup>102</sup> the Commission highlighted that there are 'particular accommodation problems for migrant workers 'which can be further exacerbated by lack of access, where required, to state support'<sup>103</sup>.
- 6.8** There is evidence that the problems highlighted above persist. The Northern Ireland Council for Ethnic Minorities (NICEM) has highlighted that 'EEA migrants coming to Northern Ireland to seek a job, experience unnecessary administrative delays, often due to incorrect first instance decision making...despite the fact that they have explicit rights under EU law'<sup>104</sup>. Anecdotal evidence from those working closely with the Roma community have suggested that overcrowding remains an issue for the Roma community with over half living in accommodation with 10 or more people<sup>105</sup>.

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<sup>101</sup> ECNI (2007): Key inequalities in Northern Ireland. Available at: [http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/Keyinequalities\(F\)1107.pdf](http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/Keyinequalities(F)1107.pdf)

<sup>102</sup> ECNI (2011): *Shadow Report to the UN Committee on the Elimination of Racial Discrimination on the UK Government's 18<sup>th</sup> Periodic Report*. Available at: [http://www.equalityni.org/ECNI/media/ECNI/Consultation%20Responses/2011/Shadow\\_Report-UN\\_Elimination\\_Racial\\_Discrimination-\(CERD\).pdf?ext=.pdf](http://www.equalityni.org/ECNI/media/ECNI/Consultation%20Responses/2011/Shadow_Report-UN_Elimination_Racial_Discrimination-(CERD).pdf?ext=.pdf)

<sup>103</sup> ECNI (2007): *Ibid*, page 2.

<sup>104</sup> NICEM (2013): *Submission to DSD consultation on 'Facing the Future' Housing Strategy for Northern Ireland 2012-2017*.

<sup>105</sup> The same source has highlighted that if these figures are tallied with those who are working and deriving a small income, and acknowledging the absence of Housing Benefit entitlement for Roma families, it becomes clear that shared accommodation is driven by need rather than choice

- 6.9 There is very little published evidence on the housing needs of refugees. However, anecdotal evidence from those working with the refugee community in Belfast<sup>106</sup> asserts that asylum seekers who are granted refugee status have 28 days to leave their accommodation, giving them very little time to find suitable alternative housing. The ability of refugees to find housing in the private rented sector is often limited by difficulties in providing deposits or a suitable guarantor.

### **Recommendations**

- 6.10 We recommend that DSD establish and lead a multi-agency Taskforce on Traveller accommodation to direct work and formalise the relationship between the various authorities/agencies in the identification, acquisition and development of land and in the development and maintenance of sites<sup>107</sup>.
- 6.11 We recommend that Executive and Departments introduce measures to address the housing needs of migrants and improve management conditions for the private rented sector, particularly Houses of Multiple Occupancy (HMOs).
- 6.12 We also recommend that relevant front-line staff (including those from the NIHE, housing associations and advice centres) are trained on the entitlements of EU migrants to housing benefit; and that information is available in an accessible format.
- 6.13 It is recommended that OFMDFM takes the lead for 'coordinating the government's strategic policy response to the needs of all asylum seekers and refugees in Northern Ireland'<sup>108</sup> as part of a broader Refugee Integration Strategy. The Strategy should take account of the need to provide support and advice to asylum seekers who are either in emergency accommodation provided by NASS<sup>109</sup> support, are otherwise pursuing an application for NASS

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<sup>106</sup> Conversation with NICRAS of 4<sup>th</sup> February 2014

<sup>107</sup> ECNI (2009): *Outlining minimum standards in Traveller accommodation*, page 73. Available at: <http://www.equalityni.org/Delivering-Equality/Addressing-inequality/Housing-communities/Research-investigations>

<sup>108</sup> McVeigh, R. (2002) *Refugees and asylum seekers in Northern Ireland: A place of refuge*, page 27 (Belfast: Refugee Action Group). Available at: <http://www.mcrc-ni.org/PDFs/APOR.pdf>

<sup>109</sup> National Asylum Seeker Support Service.

support, are receiving NASS support, or have recently received a decision and need support to move on<sup>110</sup>.

## 7 Health

- 7.1 The Commission has published guidance on good practice, including ethnic monitoring in respect of racial equality in health and social care<sup>111</sup>. The Commission has raised concerns about the differential health status of Irish Travellers in its response to the consultation on the Final Report of the Promoting Social Inclusion Working Group on Travellers<sup>112</sup> and in its most recent submission to the UN Committee on the Elimination of all forms of Racial Discrimination (CERD)<sup>113</sup>.
- 7.2 The 2010 All Ireland Traveller Health Study<sup>114</sup> highlighted that:
- average life expectancy for Traveller men has decreased since 1987;
  - life expectancy of Traveller women is still 11.5 years lower than women in the general population;
  - suicide rates are almost seven times higher for Traveller men than in the general population;
  - mortality rates are considerably higher than the general population at all age ranges for both men and women;

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<sup>110</sup> Harvey, C and Ward, M. (2001): *No welcome here? Asylum Seekers and refugees in Ireland and Britain*, page 14 (Belfast: Democratic Dialogue)

<sup>111</sup> Equality Commission for Northern Ireland (2011): *Racial Equality in Health and Social Care – Good Practice Guide*; Equality Commission for Northern Ireland. Available at <http://www.dhsspsni.gov.uk/eq-raceeqhealth>

<sup>112</sup> Equality Commission for Northern Ireland (2011): *Response from the Equality Commission for Northern Ireland to the consultation on 'The Final Report of the Promoting Social Inclusion Working Group on Travellers*.

<sup>113</sup> ECNI (2011): *Shadow Report to the UN Committee on the Elimination of Racial Discrimination on the UK Government's 18<sup>th</sup> Periodic Report*. Available at:

[http://www.equalityni.org/ECNI/media/ECNI/Consultation%20Responses/2011/Shadow\\_Report-UN\\_Elimination\\_Racial\\_Discrimination-\(CERD\).pdf?ext=.pdf](http://www.equalityni.org/ECNI/media/ECNI/Consultation%20Responses/2011/Shadow_Report-UN_Elimination_Racial_Discrimination-(CERD).pdf?ext=.pdf)

<sup>114</sup> Kelleher, C. et al, (2010): *All Ireland Traveller Health Study*, University College Dublin (Department of Health and Children & DHSSPS), Available at: [http://www.dohc.ie/publications/aiths2010/ExecutiveSummary/AITHS2010\\_SUMMARY\\_LR\\_All.pdf?direct=1](http://www.dohc.ie/publications/aiths2010/ExecutiveSummary/AITHS2010_SUMMARY_LR_All.pdf?direct=1)

- Traveller infants are 3.6 times more likely to die than their counterparts, a deterioration on comparable figures since 1987<sup>115</sup>.

- 7.3** The Department of Health and Social Services and Public Safety's S75 Action Plan has also highlighted that maternal and infant mortality are higher among BME groups. BME women are also more likely to access services late (e.g. ante-natal appointments) and to have complications<sup>116</sup>.
- 7.4** The limited evidence that is available suggests that health outcomes are generally worse for Roma than for majority population. Factors that impact on their health status include poverty, low levels of education, poor housing and sanitary conditions, low levels of health screening and late presentation for medical assistance<sup>117</sup>.
- 7.5** Our 2011 submission to CERD also highlighted difficulties for black and minority ethnic communities in obtaining access to healthcare provision. In particular the response noted a lack of legal clarity in relation to who is entitled to free health care in Northern Ireland and the need to improve access to healthcare provision for BME people. The submission also highlighted the need for training for Healthcare staff and recommended the development of single points of access to health and social care service provision to reduce bureaucracy<sup>118</sup>.
- 7.6** Research<sup>119</sup> into migrant health and wellbeing in Belfast identified a number of difficulties experienced by all migrant and BME groups when accessing any of the public services. While most difficulties centre on language barriers, there are a range of other issues, including:

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<sup>115</sup> Ibid, page 96.

<sup>116</sup> DHSSPS (2011): *Equality Action Plan for the Department of Health Social Services and Public Safety*.

<sup>117</sup> Wright (undated): *Roma Health and Wellbeing in Northern Ireland*. Available at:

<http://www.publichealth.hscni.net/sites/default/files/Denise%20Wright%20-%20Roma.pdf>

<sup>118</sup> . ECNI (2011): *Shadow Report to the UN Committee on the Elimination of Racial Discrimination on the UK Government's 18<sup>th</sup> Periodic Report*. Available at:

[http://www.equalityni.org/ECNI/media/ECNI/Consultation%20Responses/2011/Shadow\\_Report-UN\\_Elimination\\_Racial\\_Discrimination-\(CERD\).pdf?ext=.pdf](http://www.equalityni.org/ECNI/media/ECNI/Consultation%20Responses/2011/Shadow_Report-UN_Elimination_Racial_Discrimination-(CERD).pdf?ext=.pdf)

<sup>119</sup> Belfast Health Development Unit (2010): *Barriers to Health – Migrant Health and Well-being in Belfast*. Available at: <http://www.belfasttrust.hscni.net/pdf/Migrant-Health-Strategy.pdf>

- lack of awareness and lack of appropriate information of the services available;
- low levels of registration with GPs amongst certain groups<sup>120</sup>;
- fears about entitlements to health care;
- lack of confidence, frustration and stress reported by the process of accessing the healthcare system, often a system different to their country of origin;
- failure to meet basic cultural needs e.g. dietary requirements and religious observance;
- institutional racism and the negative attitudes of some healthcare staff;
- immigration restrictions;<sup>121</sup>
- healthcare officials are also 'restricted by or unsure of the level of responsibility in light of limited rights and entitlements'<sup>122</sup>.

**7.7** Everyone in Northern Ireland, whether ordinarily resident or a visitor, is entitled to some services free of charges e.g. Emergency, requiring immediate treatment at an Accident and Emergency Department<sup>123</sup>.

**7.8** However, in 2013, a Law Centre (NI) briefing<sup>124</sup> drew attention to the fact that access to primary healthcare in Northern Ireland is much more restricted than in Great Britain resulting in risks to patient health; difficulties for medical and social work staff and a threat to public health.

<sup>120</sup> Particularly those with no permanent address, a requirement for registration in Northern Ireland.

<sup>121</sup> Belfast Health Development Unit (2010): Op. Cit., page 31.

<sup>122</sup> Wright, D. (Undated): *Roma Health and Wellbeing issues in Northern Ireland*, Public Health Agency. Available at: <http://www.publichealth.hscni.net/sites/default/files/Denise%20Wright%20-%20Roma.pdf>

<sup>123</sup> Belfast Health Development Unit (2010): *Barriers to Health – Migrant Health and Well-being in Belfast*. Available at: <http://www.belfasttrust.hscni.net/pdf/Migrant-Health-Strategy.pdf>

The NHS is not a 'public fund' as defined by the 'recourse to public funds rules'. The Provision of Health Services to Persons not Ordinarily Resident Regulations (Northern Ireland) 2005 states that all people who are 'ordinarily resident' in Northern Ireland are entitled to free health services. The term 'ordinarily resident' is a common law concept interpreted by the House of Lords in 1982. DHSSPS guidance suggests that anyone coming to live here for less than six months is unlikely to be ordinarily resident. Those classed as ordinarily resident include migrants working in employment or self-employed, unless for less than six months, from the EEA countries, on any type of work permit or from one of the Accession countries' workers schemes. This includes family and dependents of migrant workers and those granted refugee status or in the process of applying i.e. asylum seekers; those refused refugee status but continuing to live in Northern Ireland because removal directions have not yet been set out by the Home Office

<sup>124</sup> Law Centre (NI) (2013): *Policy Briefing – Accessing healthcare for migrants in Northern Ireland: Problems and Solutions*, page 1. Available at: <http://www.lawcentreni.org/Publications/Policy-Briefings/Policy-Briefing-Migrants-and-health-care-Law-Centre-NI-2013.pdf>

- 7.9** In January last year, DHSSPS launched a consultation on proposed changes to the provision of healthcare for overseas visitors<sup>125</sup>. The consultation proposed that for the most part the current exemptions should be maintained but that some limited extensions would be introduced e.g. to permit access to primary care as well as secondary care.
- 7.10** On 4 December 2013, the Law Centre gave evidence to the Committee of Health, Social Services and Public Safety, alongside Red Cross and NICRAS, in relation to proposed legislation on access to free health care for Overseas Visitors<sup>126</sup>. While the group welcomed changes to the regulations, which would allow access to free healthcare to failed asylum seekers in certain circumstances, (e.g. if they are in receipt of Section 4 or Section 95<sup>127</sup> support), they also highlighted the benefits of giving all asylum seekers entitlement to free universal healthcare until they leave the jurisdiction, as is the case in both Scotland and Wales<sup>128</sup>.
- 7.11** Refugee Action Group have also stated their view that, across the UK, that the 'vast majority of refused asylum seekers are destitute. They are homeless, have no income or no means of supporting themselves and would not have any money to pay fees to the NHS'<sup>129</sup>.
- 7.12** A2 nationals including Roma have been able to access free health care since 1<sup>st</sup> January 2014. However, anecdotal evidence from those working within the healthcare sector suggests that some A2, especially Roma, continue to experience difficulties in registering with a GP.

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<sup>125</sup> DHSSPS (2013): *Consultation on the proposed consolidation and updating of the provision of health services to persons not ordinarily resident regulations (Northern Ireland) 2005, including amendments to specific provisions and extension to primary care services*. Available at: [http://www.dhsspsni.gov.uk/ordinarily\\_resident\\_consultation.pdf](http://www.dhsspsni.gov.uk/ordinarily_resident_consultation.pdf)

<sup>126</sup> BBC Democracy Live (3<sup>rd</sup> December 2013): *Call for universal healthcare for failed asylum seekers*. Available at: <http://www.bbc.co.uk/democracylive/northern-ireland-25223423>

<sup>127</sup> Under the Immigration and Asylum Act 1999.

<sup>128</sup> DHSSPS (2013): *Ibid.*

<sup>129</sup> Refugee Action Group: *Asylum seekers should not be restricted access to Healthcare says Refugee Charity* Available at: [http://www.refugeeaction.org.uk/about/media\\_centre/our\\_news/837\\_asylum\\_seekers\\_should\\_not\\_be\\_restricted\\_from\\_access\\_to\\_healthcare\\_says\\_refugee\\_charity](http://www.refugeeaction.org.uk/about/media_centre/our_news/837_asylum_seekers_should_not_be_restricted_from_access_to_healthcare_says_refugee_charity)



- 7.13** In relation to asylum seekers and refugees, research (2012)<sup>130</sup> on the experiences of the Horn of Africa community in Belfast found ‘striking’ evidence of the ‘impact of the experience of conflict, displacement and migration on mental health and low uptake of mental health services’<sup>131</sup>. The mental health organisation MIND, has also identified that the language barrier, cultural differences, a lack of clarity around health care entitlements and gaps in service provision, can exacerbate existing mental health conditions and can often lead to asylum seekers and refugees becoming further excluded and marginalised within society<sup>132</sup>.

### **Recommendations**

- 7.14** The Commission recommends that the Executive and DHSSPS co-ordinate actions to address the known health inequalities amongst BME, newcomer and Traveller population, ensuring that all policies result in measurable improvements in health outcomes for this group.
- 7.15** The Commission recommends that the DHSSPS gives consideration to the restrictions on failed asylum seekers in accessing primary and secondary care to ensure equality of access to primary and secondary healthcare based on clinical need. The Commission further recommends that facilities and services for BME groups are underpinned by the AAAQ<sup>133</sup> human rights framework.
- 7.16** We recommend that the DHSSPS and HSC Trusts, provide information and services in a way which is consistent with equality of access and that staff are trained in anti-racism and cultural awareness. It is also recommended that HSC Trusts work with BME, newcomer and Traveller populations to increase knowledge and confidence around access to services.

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<sup>130</sup> Institute of Conflict Research (2012): *The Horn of Africa Community in Belfast - a needs assessment*, page 22. Available at <http://www.conflictresearch.org.uk/Resources/Documents/HAPAN1april12.pdf>

<sup>131</sup> Ibid, page 22.

<sup>132</sup> MIND (2009): *A civilised society – Mental Health Provision for Refugees and Asylum Seekers in England and Wales*. Available at <http://www.mind.org.uk/media/273472/a-civilised-society.pdf>

<sup>133</sup> AAAQ: Available, Accessible, Acceptable, Appropriate and of good quality. For further information see <http://phrtoolkits.org/toolkits/medical-professionalism/the-human-rights-basis-for-professionalism-in-health-care/aaq-framework/>





- 7.17 We continue to emphasise the importance of the development of a system for monitoring health inequalities experienced by ethnic minorities, including the comprehensive collection and review of data also by S75 category so that any adverse impacts of access / outcomes can be identified and addressed.
- 7.18 As part of a Refugee Integration Strategy, it is also recommended that DHSSPS: identifies and addresses the specific disadvantages faced by refugees in obtaining and accessing appropriate services (including mental health services); ensures that the needs of asylum seekers and refugees taken into account in the planning, commissioning and delivery of services; and supports asylum seekers and refugees to understand their rights and entitlements to healthcare.

## 8 Social Welfare

- 8.1 In its Submission to the Committee on the Elimination of Racial Discrimination (CERD)<sup>134</sup> the Commission noted that aspects of immigration legislation deny many foreign nationals access to state housing support when they are not working. The Commission also noted that rules for eligibility to access social support mean that there is a lack of 'safety net' provisions for migrant workers, 'which has been exacerbated through the introduction of transitional procedures applying to citizens of EU states that joined the Union in 2005 and 2007'<sup>135</sup>.
- 8.2 The UK Government has also introduced a number of changes to the benefit system design to restrict access to welfare for EU migrants. Before January 2014, people from Europe could apply for out-of-work benefits as soon as they arrived. However, from 1 January 2014, all EU jobseekers have to wait for 3 months before

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<sup>134</sup> ECNI (2011): *Shadow Report to the UN Committee on the Elimination of Racial Discrimination on the UK Government's 18<sup>th</sup> Periodic Report*. Available at:

[http://www.equalityni.org/ECNI/media/ECNI/Consultation%20Responses/2011/Shadow\\_Report-UN\\_Elimination\\_Racial\\_Discrimination-\(CERD\).pdf?ext=.pdf](http://www.equalityni.org/ECNI/media/ECNI/Consultation%20Responses/2011/Shadow_Report-UN_Elimination_Racial_Discrimination-(CERD).pdf?ext=.pdf)

<sup>135</sup> Ibid, pages 22 & 23.

they can apply for out of work benefits<sup>136</sup>. In addition, from April 2014 new EU arrivals who are out of work, cannot receive housing benefit<sup>137</sup>.

- 8.3** The UK has a right-to-reside test which goes further than the EU habitual residence test. The UK restricts access to a number of social security benefits that would otherwise be available to those coming to the UK from another EU member state. 'Many economically inactive EEA nationals are refused benefits, even if they have worked in the UK in the past, because they lack a right to reside'<sup>138</sup>. The European Commission has stated that 'tests applied to check if claimants are eligible for benefits are unfair - and has referred Britain to the EU's Court of Justice over the matter'<sup>139</sup>.
- 8.4** An evaluation of the OFMDFM Emergency fund pilot highlighted that 'access to social security, housing, social services and other support is a maze' and 'the length of time waiting on support that people are entitled to or the length of time to reach a decision is a major concern'<sup>140</sup>.
- 8.5** Research has also highlighted that, while emergency funding provides important short term support for destitute asylum seekers, key policy changes are required to the asylum system, to improve the situation of this vulnerable group<sup>141</sup>. For example, asylum support is terminated once a final decision has been made on an asylum application as those who are granted leave to remain in the UK become eligible to work and can access mainstream welfare benefits. A recent cross-party working

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<sup>136</sup> Government UK (December 2013): *Accelerating Action to stop rogue benefit claimants*. Available at: <https://www.gov.uk/government/news/accelerating-action-to-stop-rogue-eu-benefit-claims>

<sup>137</sup> Inside Housing (January 2013): 'No housing benefit for unemployed EU migrants'. Available at: <http://www.insidehousing.co.uk/regulation/no-housing-benefit-for-unemployed-eu-migrants-from-april/7001721.article>

<sup>138</sup> Aire Centre (2011): *Note on infringement proceeding against the UK concerning the right-to-reside test*. Available at: [http://www.airecentre.org/data/files/Right\\_to\\_Reside\\_Infringement\\_Proceedings.pdf](http://www.airecentre.org/data/files/Right_to_Reside_Infringement_Proceedings.pdf)

<sup>139</sup> Sky News (30<sup>th</sup> May 2013): *EU to take UK to court over migrant benefits*. Available at: <http://news.sky.com/story/1097256/eu-to-take-uk-to-court-over-migrant-benefits>

<sup>140</sup> McKittrick, N and McCann, J. (2012): *Evaluation of the OFMDFM Emergency Fund Pilot August 2011 – March 2012*, page 4 Available at: <http://www.communityfoundationni.org/download/files/efundpilot2.pdf>

<sup>141</sup> British Red Cross (2013): *Not gone, but forgotten*. Available at: <http://www.redcross.org.uk/About-us/News/2010/June/~-/media/BritishRedCross/Documents/Archive/GeneralContent/N/Destitution%20report%20Not%20gone%20but%20forgotten.pdf>

group<sup>142</sup> found that, while the UKBA ends its support 28 days after a final decision has been made on an asylum application, it often takes much longer to receive standard benefits (as much as six months for child benefit). As a result, adults who had been seeking asylum were often most at risk three months after being allowed to stay<sup>143</sup>.

- 8.6** In addition, the cross-party inquiry found widespread examples of families on levels of support far below mainstream benefits. ‘Some children become destitute when families gain refugee status and move from Home Office support to mainstream support. Other children are born into destitution because their parents are cut off from asylum support but are unable to leave the UK.<sup>144</sup> Other periods of destitution are caused by administrative gaps and delays, which cause some families to go without income or a place to stay for weeks and months’.<sup>145</sup>
- 8.7** Anecdotal evidence<sup>146</sup> has also highlighted that ‘there are ongoing issues with inconsistent decision-making with regard to persons from abroad’ and that significant delays in processing benefits often leave migrants in debt or at risk of homelessness.
- 8.8** The Commission has also made a number of significant policy interventions concerning Welfare Reform (including responses to the Welfare Reform Bill EQIA<sup>147</sup>; and associated policy consultations) drawing attention, inter alia, to the absence of data on people of different racial group and the importance of public authorities ensuring the effective application of their Section 75 duties.
- 8.9** Ongoing scrutiny of the Welfare Reform Bill has suggested some areas for further consideration with regards to their compatibility with anti-discrimination law. The Commission will give further

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<sup>142</sup> *Report of the Parliamentary Inquiry into asylum support for children and young people* (January 2013). Available at:

[http://www.childrenssociety.org.uk/sites/default/files/tcs/asylum\\_support\\_inquiry\\_report\\_final.pdf](http://www.childrenssociety.org.uk/sites/default/files/tcs/asylum_support_inquiry_report_final.pdf)

<sup>143</sup> Ibid, page 15.

<sup>144</sup> Ibid, page 15.

<sup>145</sup> Ibid, page 2.

<sup>146</sup> *Belong* (2013): *Response to Commission's Racial Equality Policy Paper – Draft Priorities and Recommendations*.

<sup>147</sup> ECNI (December 2011): *Response to the DSD consultation on the Welfare Reform Bill 2011 and EQIA*. Available at:

<http://www.equalityni.org/archive/pdf/ECNIRresponseDSDWelfareReformBillEQIA141211.pdf>



consideration to these issues and engage with DSD as appropriate. Areas of particular concern include:

- All-work requirement - DSD has proposed that EU workers or jobseekers will always be placed in the 'all work related requirements'<sup>148</sup> group<sup>149</sup>. The Law Centre (NI) has put on record its view 'that treating EU migrant workers differently from indigenous local workers when it comes to looking for work is clearly discriminatory'<sup>150</sup>.
- New residence test for personal independence payments - DWP has indicated that a new residence test will be introduced for Personal Independence Payments (PIP) requiring individuals to have been resident in the UK for two of the past three years. The use of a right to reside test has been held to be in breach of EU law<sup>151</sup>.

**8.10** Anecdotal evidence from those working closely with migrant communities in rural areas has also highlighted that the intention to introduce an online benefit application system poses particular problems for those whose first language is not English. There are also additional barriers for those living in rural areas where access to the internet may not be available and where applicants do not have easy access to a benefit office for advice.

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<sup>148</sup> Except in prescribed circumstances a person in this group must always be subject to the requirements to search for work and be available for work. The relevant clauses on conditionality in the Welfare Reform Bill as introduced to the Northern Ireland Assembly are clauses 15-25. Available at: <http://www.niassembly.gov.uk/Documents/Legislation/Bills/Executive%20Bills/session-2012-2013/niabill13-11-15.pdf>

<sup>149</sup> Provided for in Schedule 1, paragraph 7 of the Welfare Reform Bill. Available at: <http://www.niassembly.gov.uk/Documents/Legislation/Bills/Executive%20Bills/session-2012-2013/niabill13-11-15.pdf>

<sup>150</sup> Hansard (23<sup>rd</sup> October 2012): *Law Centre Submission to the Committee for Social Development on the Welfare Reform Bill*. Available at: <http://www.niassembly.gov.uk/Assembly-Business/Official-Report/Committee-Minutes-of-Evidence/Session-2012-2013/October-2012/Welfare-Reform-Bill-Law-Centre-NI-Briefing/> For example, 'a Polish woman who has just given birth will be expected to look for work 35 hours a week when she is barely out of hospital. If, on the other hand, her next-door neighbour is in exactly the same circumstances and happens to be Irish or British, they will not be treated in the same way'.

<sup>151</sup> In September 2011, the European Commission announced that it had sent a 'reasoned opinion' to the UK in accordance with Article 258 on the Treaty on the Functioning of the European Union. The reasoned opinion deals with the UK's alleged breach of the EU law arising out of the application of the right to reside test to Pension Credit and some other State Benefits.

## ***Recommendations***

- 8.11** The Commission recommends that the UK government undertake a review of the asylum system to ensure any problems are addressed during transition from one form of public support to another and ensures that asylum seekers receive appropriate support from arrival until voluntary departure or compulsory removal from the UK.
- 8.12** The Commission welcomes OFMDFM's commitment to put the OFMDFM Emergency fund on a more secure footing through greater, long-term funding, as recommended by the pilot's evaluation and the Commission's draft policy priorities paper.
- 8.13** It is recommended that OFMDFM takes appropriate steps to ensure the sustainability of the fund in the longer term, by addressing those challenges highlighted by the pilot evaluation such as the need for increase administrative support and the lack of service provision in some regions<sup>152</sup>.
- 8.14** The Commission recommends that the Assembly ensures that changes associated with Welfare Reform, including those highlighted above, are compatible<sup>153</sup> with EU law and the Human Right Rights Act 1998.
- 8.15** It is recommended that there is an assessment of the barriers faced by migrants (including Roma), asylum seekers and refugees in accessing benefits including the accessibility of services.
- 8.16** The Commission also recommends that the Executive and relevant Departments ensure that first tier generalist advice, including access to the services of an interpreter, is available for those migrants impacted on by the changes to the welfare system and that the application process is accessible, particularly to those who live in rural areas. It is also recommended that Departments develop clearer guidance training for decision makers with regard to applications for persons from

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<sup>152</sup> McKittrick, N. and McCann, J (April 2012): Op. Cit., pages 15&16. Available at: <http://www.communityfoundationni.org/download/files/efundpilot2.pdf>

<sup>153</sup> The principle of non-discrimination is enshrined in Article 45 of the Treaty on the Functioning of the European Union. In addition, article 3(e), (f) and (h) of the Race Equality Directive 2000/43 lays down a framework for combating discrimination on the grounds of racial or ethnic origin in relation to social security.

## 9 Multiple Identities<sup>154</sup>

- 9.1 The Commission's 2007 'Statement on Key Inequalities'<sup>155</sup> noted that 'the experience of a person facing multiple inequalities is different from those facing inequality on a single ground'<sup>156</sup>. The European Union Agency for Fundamental Rights have also suggested that certain people are seen as particularly vulnerable to unequal treatment, because they share a combination of characteristics that may trigger discrimination<sup>157</sup>.
- 9.2 A recent EU report found that people belonging to ethnic minorities are almost five times more likely to experience multiple discrimination than members of the majority population<sup>158</sup>.
- 9.3 Recent GB research<sup>159</sup> concerning the experiences of black and minority ethnic gay people has highlighted that 'people working across public services make a general assumption that all black and ethnic minority gay people are heterosexual' and many public service workers never consider the issue of multiple identities. At worst this means that a significant number of people cannot properly access the services which they are entitled to. The research found that 'in practice, some parents are uncomfortable going in to school, some patients are reluctant to visit their GP or

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<sup>154</sup> People have multiple identities and can belong to more than one equality strand. These 'strands' include disability, sexual orientation, age, gender, race, religion and belief. People can experience particular forms of discrimination and disadvantage as a result of the 'inter-sectionality' of these identities.

<sup>155</sup> ECNI (2007): *Key inequalities in Northern Ireland*. Available at: <http://www.equalityni.org/Publications/Delivering-Equality/Statement-on-key-inequalities-in-N-Ireland?ID=1236>

<sup>156</sup> Ibid, page 19.

<sup>157</sup> FRA – European Union Agency for Fundamental Rights (2013): *Inequalities and multiple discrimination in access to and quality of healthcare*, page 85. Available at: [http://fra.europa.eu/sites/default/files/inequalities-discrimination-healthcare\\_en.pdf](http://fra.europa.eu/sites/default/files/inequalities-discrimination-healthcare_en.pdf)

<sup>158</sup> European Union (2010): European Union Minorities and Discrimination Survey. Available at: [http://fra.europa.eu/sites/default/files/fra\\_uploads/1454-EU\\_MIDIS\\_DiF5-multiple-discrimination\\_EN.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/1454-EU_MIDIS_DiF5-multiple-discrimination_EN.pdf)  
Twice as many ethnic minority/immigrant women compared with ethnic minority/immigrant men indicated that they experienced discrimination on the basis of gender.

<sup>159</sup> Runnymede Trust (Aug 2012): *One Minority at a time: Being black and gay*. Available at: <http://www.runnymedetrust.org/uploads/publications/pdfs/OneMinorityAtATime-2012.pdf>

health clinic and some residents are not confident turning to the police<sup>160</sup>.

- 9.4 Locally, research<sup>161</sup> has revealed that migrant women who are not working, or whose husbands are not working, may be in a vulnerable position. Depending on their immigration status they may be unable to access public services or assistance. BME women are the group most likely to be victims of human trafficking.
- 9.5 In June 2013, a report<sup>162</sup> by the Anti-Trafficking Monitoring Group highlighted that, 'significant concerns remain'<sup>163</sup> in relation to the Northern Ireland's approach to the prosecution of trafficking offences<sup>164</sup>. The Commission is aware that the Department of Justice is currently consulting<sup>165</sup> on further proposals designed to strengthen the response to human trafficking and slavery in Northern Ireland, and notes the indication from the Justice Minister that *'the proposals take account of previous legislation, the Modern Slavery Bill published in England and Wales, and Lord Morrow's Bill'*<sup>166</sup>.
- 9.6 Research (2013)<sup>167</sup> has shown that BME women in Northern Ireland experiencing domestic violence face particular barriers

<sup>160</sup> Ibid, page 3.

<sup>161</sup> Hinds, B. (2010): *The Northern Ireland economy: Women on the Edge – A comprehensive analysis of the impacts of the financial crisis*. (Women's Resource and Development Agency). Available at: <http://www.wrda.net/Documents/The%20NI%20Economy%20-%20Women%20on%20the%20Edge%20Exec%20Summary.pdf>

<sup>162</sup> Anti-Trafficking Monitoring Group (June 2013): *In the Dock: Examining the UK's Criminal Justice Response to Trafficking*, page 120. Available at: [http://www.antislavery.org/includes/documents/cm\\_docs/2013/i/in\\_the\\_dock\\_final.pdf](http://www.antislavery.org/includes/documents/cm_docs/2013/i/in_the_dock_final.pdf)

<sup>163</sup> The report raised concerns in relation to a number of issues including "the effectiveness of the National Referral Mechanism (NRM); identification and investigation of trafficking cases and the quality of information provided to victims in the varied processes and effective remedies for forced labour victims.

<sup>164</sup> Anti-Trafficking Monitoring Group (June 2013): *In the Dock: Examining the UK's Criminal Justice Response to Trafficking*, page 120. Available at [http://www.antislavery.org/includes/documents/cm\\_docs/2013/i/in\\_the\\_dock\\_final.pdf](http://www.antislavery.org/includes/documents/cm_docs/2013/i/in_the_dock_final.pdf)

<sup>165</sup> Consultation due to close on 15<sup>th</sup> April 2014

<sup>166</sup> See: <http://www.northernireland.gov.uk/index/media-centre/news-departments/news-doj/news-doj-230114-ford-meets-with.htm>

The Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill is a Private Member's Bill and was introduced to the Assembly by Lord Morrow on 24 June 2013. The Bill is currently at Committee Stage. Lord Morrow and the Justice Minister (David Ford) wrote to the Justice Committee setting out the areas on which they have reached agreement in relation to the Bill.

<sup>167</sup> NICEM (2013): *The Protection and Rights of Black and Minority Ethnic Women Experiencing Domestic Violence in Northern Ireland*. Available at <http://www.nicem.org.uk/userFiles/File/CEDAW%20reports/PRBMEWEDVNI.pdf>

which prevent them from seeking help. 'Structural issues regarding immigration and access to public funds serve to reinforce BME women's economic dependency on their partner, thereby reducing the women's potential leave'<sup>168</sup>. This financial dependence is sometimes compounded by a lack of awareness of services, language difficulties and a perceived 'lack of effective communication and co-ordination between different statutory bodies'<sup>169</sup>. In addition BME women experience particular forms of violence, such as forced marriage, female genital mutilation and crimes in the name of honour<sup>170</sup>.

- 9.7 Research (2012)<sup>171</sup> has also highlighted that women from the Horn of Africa living in Belfast have specific healthcare needs. 'This was particularly evident in relation to health requirements and the need for culturally sensitive services (such as female interpreters in doctors' surgeries and female health visitors). Similarly, the issue of child care was also subject to cultural sensitivities and language barriers, which many women felt were impeding their ability to seek employment'<sup>172</sup>.

## **Recommendations**

- 9.8 The Commission recommends that particular attention should be paid to multiple identity issues within the delivery of public services and the proposed racial equality strategy; that equality and diversity training by public authorities should incorporate training on multiple identity issues; and that the delivery of public services and associated information provision should targeted at multiple

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<sup>168</sup> Ibid, page 10

<sup>169</sup> Ibid, page 16.

<sup>170</sup> McWilliams, M. and Yarnel, P. (2012): *The Protection and Rights of Black and Minority Ethnic Women Experiencing Domestic Violence in Northern Ireland* (Belfast: NICEM). Available at:

<http://www.hscbusiness.hscni.net/pdf/PRBMEWEDVNI.pdf>

Coy, M., Kelly, L. and Foord, J. (2007): *Map of Gaps: The Postcode Lottery of Violence Against Women Support Services* (End Violence Against Women and Equality and Human Rights Commission).

Available at: [http://www.equalityhumanrights.com/uploaded\\_files/research/map\\_of\\_gaps1.pdf](http://www.equalityhumanrights.com/uploaded_files/research/map_of_gaps1.pdf)

See also: Home Office and Southall Black Sisters (2012): *Three Steps To Escaping Violence Against Women and Girls*. Available at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/97924/english-3-steps.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/97924/english-3-steps.pdf)

<sup>171</sup> Institute of Conflict Research (2012): *The Horn of Africa Community in Belfast - a needs assessment*, page 24 . Available at <http://www.hapani.org/reports>

<sup>172</sup> Ibid, page 9





identity individuals<sup>173</sup> e.g. BME women, BME people with disabilities.

## 10 Ethnic Monitoring

**10.1** Recent research by the Joseph Rowntree Foundation<sup>174</sup> has noted that ‘with the current absence of robust, reliable statistical or administrative analysis, significant gaps exist in the knowledge base<sup>175</sup> on BME groups in Northern Ireland. The report also highlighted that ‘any impact on outcomes for people of ethnic minority backgrounds is unclear as data is required to demonstrate the policy effectiveness<sup>176</sup>’.

**10.2** While publication in 2011 of an ethnic monitoring guide by OFMDFM (as part of the implementation of the racial equality strategy) has been a welcome first step in addressing the issue, JRF noted that ‘many would argue that this falls short of overcoming the lack of data, as there is no clear lead from the top in respect of implementation<sup>177</sup>’. Without disaggregated ethnic data the situation of disadvantaged ethnic minorities cannot be ascertained but only guesstimated.

### ***Recommendations***

**10.3** The Commission recommends the collection, monitoring and evaluation of appropriate data to ensure effective policy / service development and delivery and to fulfil obligations arising from Section 75 of the Northern Ireland Act 1998. The Commission recommends that the Executive and Department’s ensure appropriate monitoring and evaluation are in place for the

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<sup>173</sup> For example, in 2012, DHSSPS began a pre-consultation on a new strategy to tackle domestic and sexual violence. The Commission recommends that the revised strategy to tackle domestic and sexual violence addresses, as a theme, the specific forms of violence experienced by ethnic minority women.

<sup>174</sup> Joseph Rowntree Foundation (2013): *Poverty and Ethnicity in Northern Ireland*. Available at: <http://www.jrf.org.uk/sites/files/jrf/poverty-ethnicity-northern-ireland-full.pdf>

<sup>175</sup> Joseph Rowntree Foundation (2013): *Ibid*, page 9.

<sup>176</sup> Joseph Rowntree Foundation (2013): *Ibid*, page 22.

<sup>177</sup> *Ibid*, page 22.



proposed Racial Equality Strategy and across all relevant policy areas, including those outlined in this document.

- 10.4 We further recommend that the Executive should adopt a systemic approach to produce disaggregated data which is comparable at EU level.

## 11 Development and Delivery of Racial Equality Strategy

- 11.1 The Commission welcomes the Executive's indication that it intends to develop within the current Programme for Government, a revised Racial Equality Strategy and Action Plan to address the wide range of barriers faced by BME people in Northern Ireland.
- 11.2 We recommend that the revised Racial Equality Strategy takes full account of the principles and obligations outlined in the UN Convention for the Elimination of all forms of Racial Discrimination and other relevant international standards, including the Durban Declaration and Programme of Action and the EU Racial Equality Directive. In developing the Strategy, it is also recommended that OFMDFM has regard to the CERD reports of Concluding Observations on the UK.
- 11.3 In addition, the Commission notes the obligation on public authorities to comply with the commitments in their now second generation Equality Schemes based on the revised guidance associated with Section 75 of the Northern Ireland Act 1998<sup>178</sup> – specifically to develop targeted action plans – so as to deliver outcomes relevant to the requirements of Section 75, the Race Relations Order and CERD.

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<sup>178</sup> ECNI (2010): *Section 75 of the Northern Ireland Act 1998 – A revised Guide for public authorities*. Available at: <http://www.equalityni.org/archive/pdf/S75GuideforPublicAuthoritiesApril2010.pdf>



- 11.4 In developing actions to promote racial equality, public authorities should ensure that staff receive initial and in-service anti-racism, cultural diversity training and ensure that information and services are accessible and culturally appropriate.
- 11.5 We urge the Executive to allocate targeted resources and to consider the potential of equality budgeting processes in assisting Government to ensure that equality and good relations aspects are appropriately resourced to deliver targeted and relevant outcomes.
- 11.6 We stress the importance of the Executive ensuring that previous strategies (such as the Race Equality Strategy 2005 - 2010) are evaluated and refreshed in a timely manner.
- 11.7 We recommend that, in developing a new Racial Equality Strategy, clear measurable priority areas should be determined by where the greatest inequality exists and/or the greatest impact can be made. Priority areas should take account of the relevant evidence base and informed by the views of key stakeholders, including BME individuals and representative organisations.
- 11.8 We recommend that OFMDFM takes the lead in co-ordinating the collection of disaggregated data to monitor equality and social inclusion and the effectiveness of corrective actions under the proposed new Racial Equality Strategy.



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