



European Commission against Racism and Intolerance (ECRI)

- fifth monitoring cycle -

Submission by

EQUALITY COMMISSION FOR NORTHERN IRELAND

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1 Executive Summary

1.1 The Equality Commission for Northern Ireland (the Commission) is an independent non-departmental public body established under the Northern Ireland Act 1998.

1.2 We welcome the opportunity to provide input to the fifth cycle monitoring report on the United Kingdom (UK). With respect to the specific focus of fifth cycle monitoring, the Committee may wish to consider recommending, via the UK State Party as appropriate:

- that the NI Executive advances robust and comprehensive **single equality legislation**, harmonising and simplifying protections and giving effect to the commitment in the St. Andrews Agreement in 2006 to ‘work rapidly’ towards the development of single equality legislation;
- through single equality legislation or otherwise, that the NI Executive gives effect to the published recommendations of the Equality Commission with regards to making urgent **improvements to race, fair employment and sexual orientation legislation** - to address key inconsistencies, and ensure individuals in Northern Ireland have at least the same levels of protection as people in other parts of the United Kingdom;
- that any **proposals for exceptions to equality law should be narrowly defined and objectively justifiable**, providing legal clarity and appropriate safeguards;
- that the NI Executive **produce equality strategies** which convey leadership and gives effect to Equality Commission’s published recommendations **for Race, Sexual Orientation and Transgender Equality**;
- that the NI Executive **develop a Refugee Integration Strategy and a Strategy for Travellers and Roma** which take account of the published recommendations of the Equality Commission; and these individual targeted strategies should nest within or be considered a sub-set of an overarching (mainstreaming) Racial Equality Strategy;
- with regards to hate crime, actions in Northern Ireland to address **under-reporting and support for victims**; reviewing the **legal framework for addressing racist violence**; improving the **accessibility of reporting** for those for whom English is an additional language; improving **minority representation in police and criminal justice** staff; and co-ordinating action to address **institutional racism**.

1.3 The Commission would be happy to further discuss any of the points raised in this response.

2 Input to ECRI fifth monitoring cycle

2.1 We welcome the opportunity to provide input to the fifth cycle monitoring report on the United Kingdom (UK). In our response we specifically focus on issues aligned to our remit which have been identified by ECRI¹ as common topics for fifth cycle reports: legislative issues, hate speech and violence, and integration policies.

3 Remit and Work of the Equality Commission

3.1 The Equality Commission for Northern Ireland (the Commission) is an independent non-departmental public body established under the Northern Ireland Act 1998.

3.2 The Commission works to²:

- give advice and support to individuals with potential complaints under the anti-discrimination legislation;
- give guidance to employers and service providers about their obligations under the law and good practice;
- encourage public authorities to promote equality of opportunity and address inequalities in fulfilling their equality and good relations duties;
- ensure that equality considerations are central to decision-making by focusing particular attention in a number of key public policy areas.

Enquiries for advice and assistance (race and sexual orientation)

3.3 Across the period 2012–15, the Commission received 1199 enquiries from the public (around 12% of total enquiries) for advice and assistance on the ground of race. Enquiries for advice and assistance on the ground of sexual orientation during the same period were 239 (around 2% of total enquiries).

3.4 The Commission supported 75 cases relating to racial discrimination (27.37% of total cases supported). Of these, 71.21% of cases related to discrimination in the provision of goods, facilities and services and 24.24% to discrimination in employment. The Commission supported 9 cases relating to discrimination on the ground of sexual orientation (3.28% of the total cases supported). Of these, 6 cases concerned

¹ ECRI (2014): [Information document on the fifth monitoring cycle of the European Commission on Racism and Intolerance](#)

² Annex 1 provides further information. Additional details at: <http://www.equalityni.org/HeaderLinks/About-Us>

discrimination in relation to the provision of goods, facilities and services and 3 concerned discrimination in employment³.

Resourcing

- 3.5 The Commission, in common with other public bodies, has had its budget reduced by 3% per annum each year over the last 4 years and by 4.4% this year. While the impact of this has been partly offset by measures such as co-locating a number of other public bodies in Equality House where the Commission is located, the reduction in budget has meant a reduction in staff numbers and financial resources generally. The Commission is still able to deliver against its statutory remit and annual business plan objectives, albeit at a lesser scale than in earlier years.

4 Equality Legislation

- 4.1 There are significant gaps between equality law in Great Britain (GB) and Northern Ireland (NI); gaps which have widened following the introduction of single equality legislation – the Equality Act 2010 - in Great Britain⁴. These differences mean that in a number of key areas, individuals in Northern Ireland have less protection against discrimination and harassment than people in other parts of the United Kingdom.

Need for Equality Law Reform

- 4.2 Unlike in GB, there remains a need for NI equality law to be harmonised and simplified so as to address significant inconsistencies and to ensure uniform protection against discrimination across all grounds, where appropriate. For example, unlike in GB, the race equality legislation in NI has not been harmonised to ensure that individuals have the same level of protection on grounds of colour and nationality as well as race, ethnic origin and nationality⁵.
- 4.3 The Commission continues to call for robust and comprehensive single equality legislation. However, despite a commitment by the UK Government in the St Andrews Agreement⁶ in 2006 to ‘work rapidly’ towards the development of single equality legislation, this has not been progressed by the Northern Ireland Executive.
- 4.4 In the absence of progress, in 2009 we submitted proposals for legislative reform to OFMDFM outlining a number of areas in Northern Ireland equality law which required urgent amendment; including the

³ Details of decisions and settlements are available at: <http://www.equalityni.org/cases>

⁴ See: [Equality Act 2010](#)

⁵ For further details see: [ECNI: Law reform \(web page\)](#)

⁶ See: [Agreement at St. Andrews](#)

harmonisation and strengthening of the race equality legislation⁷. In a number of areas, these repeated outstanding recommendations first made in 2000⁸.

4.5 The Commission has recommended⁹ that race equality legislation is strengthened to, inter alia:

- provide increased protection against discrimination and harassment on the grounds of colour and nationality;
- ensure broader protection against racial discrimination and harassment by public bodies when carrying out their public functions;
- give stronger protection against racial harassment, including greater protection for employees against racial harassment by customers or clients; or harassment because of a combination of equality grounds; for example, due to a combination of being both black and female;
- expand the scope of voluntary positive action; so as to enable employers and service providers to lawfully take a wider range of steps to promote racial equality.
- increase protection for certain categories of agency workers against racial discrimination and harassment;
- increase protection against victimisation;
- introduce new protection against multiple discrimination, so that individuals have protection if they experience discrimination or harassment because of a combination of equality grounds;
- expand the scope of voluntary positive action, so as to enable employers and service providers to lawfully take a wider range of steps to promote racial equality;
- strengthen tribunal powers to ensure effective remedies for individuals bringing race discrimination complaints.

4.6 We have also recommended that:

- fair employment legislation is strengthened to require registered employers in Northern Ireland to collect monitoring information as regards nationality and ethnic origin¹⁰.
- sexual orientation equality law is amended to give stronger protection against sexual orientation harassment, including sexual orientation harassment of employees by clients or customers¹¹.

⁷ For further information, please see: ECNI ([2009](#)) [Proposals for legislative reform February 2009](#).

⁸ Equality Commission for Northern Ireland (2000): *Recommendations for Changes to the Race Relations Order 1997*.

⁹ For further details see: [ECNI \(2014\) Strengthening protection against racial discrimination: Recommendations for law reform \(FULL REPORT\)](#)

¹⁰ For further information, please see: ECNI : ([2009](#)) [Proposals for legislative reform February 2009](#).

4.7 There are also gaps in protection under the sex equality legislation as regards transgender people. For example, unlike in Great Britain, in Northern Ireland there is no protection against sex discrimination by public bodies, when carrying out their public functions¹². This means that men and women, including transgender men and women, have no protection against sex discrimination or harassment in this area. The Commission is currently considering¹³ further gaps in protection under equality law for transgender people – including protection for Trans pupils in education in schools.

Proposal to ECRl

4.8 Aligned to the Equality Commission’s recommendations to the NI Executive and key departments, ECRl may wish to consider recommending:

- the advancement by the NI Executive of robust and comprehensive single equality legislation, harmonising and simplifying protections and giving effect to the commitment in the St Andrews Agreement in 2006 to ‘work rapidly’ towards the development of single equality legislation.
- through single equality legislation or otherwise, that the NI Executive give effect to the published recommendations of the Equality Commission with regards to making urgent improvements to race, fair employment and sexual orientation legislation: to address key inconsistencies; and ensure individuals in Northern Ireland have at least the same levels of protection as people in other parts of the United Kingdom.

Northern Ireland Freedom of Conscience Amendment Bill

4.9 In February 2015, the Commission made it clear that it did not support either of the proposed amendments to the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006 set out in a Private Member’s Consultation on a ‘Northern Ireland Freedom of Conscience Amendment Bill’.

4.10 Whilst we recognise that concerns have been raised by religious organisations and others that current law does not strike a fair balance between the rights to manifest faith and the right of customers to obtain goods without discrimination on the grounds of sexual orientation, the Commission considered that the approach suggested in the draft Bill did not strike a ‘fair balance’.

¹¹ Equality Commission for Northern Ireland (2013): [Promoting sexual orientation equality – priorities and recommendations](#).

¹² See ECNI (2009): [Proposals for legislative reform](#), pages 10&11

¹³ See [ECNI \(2015\) Gender Equality: Policy Priorities and Recommendations \(draft\)](#).

- 4.11 We considered that if introduced, the proposed amendments would significantly weaken protection for LGB (Lesbian, Gay, Bisexual) individuals, those who associate with them, and those perceived as LGB, against discrimination on the grounds of sexual orientation.
- 4.12 We noted that proposed exceptions were not consistent with the approach adopted under other areas of equality law in Northern Ireland; were not consistent with the approach adopted in equality law in other parts of the UK; and would result in LGB individuals in Northern Ireland having less protection against discrimination than in other parts of the UK¹⁴.
- 4.13 The consultation on the Private Member's Bill closed on Friday 27th February 2015. To date, the Commission is not aware of consultation responses having been summarised and published; nor indeed if any further action will be taken to advance the Bill.

Proposal to ECRI

- 4.14 Aligned to the Equality Commission's recommendations to the NI Executive and key departments, ECRI may wish to recommend:
- that any proposals for exceptions to equality law should be narrowly defined and objectively justifiable, providing legal clarity and appropriate safeguards.

5 Equality Strategies

- 5.1 The NI Executive has devolved responsibilities for equality issues in Northern Ireland. In addition to responsibility for equality laws, its Programme for Government 2012-15 included references to a Racial Equality Strategy and a Sexual Orientation Action Plan as 'building blocks' under Priority 2 'Creating Opportunities and Tackling Disadvantage and Improving Health and Wellbeing'¹⁵. The Executive's strategy, *Together - Building a United Community*¹⁶ also included a commitment to produce a sexual orientation strategy by the end of 2013, following a public consultation exercise.
- 5.2 Despite these commitments, to date no final race or sexual orientation strategies have been published. The Commission has made clear our view that action to advance both racial equality and sexual orientation

¹⁴ See: [ECNI \(2015\) Response to Private Member's Consultation on NI Freedom of Conscience Amendment Bill](#).

¹⁵ Northern Ireland Executive (2011): *Programme for Government 2011-15 Building a better future*. Available at: <http://www.northernireland.gov.uk/pfg>

¹⁶ Office of the First Minister and the Deputy First Minister (2013): *Together: Building a United Community*. Available at: <http://www.ofmdfmi.gov.uk/index/equality-and-strategy/good-relations/together-building-a-united-community.htm>

equality is vital. Such strategies provide a purposive approach to action and show political leadership.

Race Equality

- 5.3 The previous Northern Ireland racial equality strategy expired in 2010¹⁷. Although OFMDFM consulted on a draft racial equality strategy in 2014¹⁸ the Executive has yet to publish a final strategy.
- 5.4 In 2014 the Commission published ‘priorities and recommendations’¹⁹ for race equality. In our response to the OFMDFM consultation on the draft racial equality strategy the Commission recommended, inter alia, that the Strategy should set out specific actions to tackle prejudicial attitudes, racism and hate crime; alongside ensuring equality of opportunity in education, employment, accommodation, healthcare and access to social welfare²⁰.
- 5.5 Of relevance to ECRI’s interests, and supplemental to the points made elsewhere in this document, we have recommended 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 difference²¹.
 - use early intervention in education to combat negative attitudes, reduce racism and promote good relations²².
 - consider the findings of the Leveson report with regards to ‘*discriminatory, sensational or unbalanced reporting in relation to ethnic minorities, immigrants and/or asylum seekers*’ and takes relevant action to ensure appropriate media reporting in Northern Ireland²³.
 - take appropriate action to support integration and foster community cohesion through both the revised Race Equality and United Community strategies²⁴.
 - ensure the collection, monitoring and evaluation of appropriate data to ensure effective policy and service development²⁵

¹⁷ OFMDFM (2005): *A Racial Equality Strategy for Northern Ireland 2005 – 2010*. Available at: <http://www.ofmdfmi.gov.uk/racial-equality-strategy-2005-2010.pdf>.

¹⁸ OFMDFM (2014): *A Sense of Belonging - Delivering Social Change through a Racial Equality Strategy for Northern Ireland 2014-2024*. Available at: <http://www.ofmdfmi.gov.uk/racial-equality-strategy>

¹⁹ See: ECNI (2014) ‘*Racial Equality Policy – Priorities and Recommendations*’ (summary version),

²⁰ Further information available at: <http://www.equalityni.org/Delivering-Equality/Equality-Themes/Racial-equality.aspx>

²¹ ECNI (May 2014): *Racial Equality Policy Priorities and Recommendations* (3.11)

²² ECNI (2014): *Racial Equality Policy – Priorities and recommendations* (Para 3.12) .

²³ ECNI (May 2014): *Racial Equality Policy Priorities and Recommendations* (3.16)

²⁴ ECNI (2014): *Racial Equality Policy – Priorities and recommendations* (Para 3.15) .

²⁵ ECNI (May 2014): *Racial Equality Policy Priorities and Recommendations* (10.3)

5.6 Further detail supporting these recommendations can be found in: ECNI (2014) '[Racial Equality Policy – Priorities and Recommendations](#)'

Proposal to ECRI

5.7 ECRI may wish to consider recommending:

- that the NI Executive produces a race equality strategy which conveys leadership and gives effect to the Equality Commission's published recommendations for Race Equality – including reform of the law; tackling prejudicial attitudes, racism and hate crime; taking action to support integration and foster community cohesion; and ensuring effective monitoring and evaluation.

Sexual Orientation and Transgender Equality

5.8 The Executive does not currently have a strategy to advance sexual orientation equality, despite the references and commitments noted above.

5.9 In 2013 the Commission published recommendations to advance sexual orientation equality²⁶. We also responded²⁷ to an OFMDFM pre-consultation exercise in early 2014 on "Development of a Sexual Orientation Strategy and Action Plan"²⁸ highlighting a range of issues, including prejudicial attitudes and behaviours (including hate crime); and harassment and homophobic bullying. We noted that there must be visible political, civic and community leadership in order to promote and sustain change²⁹.

5.10 The Commission has recommended that the NI Executive takes action, including via a Sexual Orientation strategy, to:

- tackle prejudicial attitudes and behaviour towards LGB and T individuals; specifically in relation to hate crime and violence; harassment both inside and outside the workplace and bullying in schools;
- promote positive attitudes towards LGB and T individuals; and
- raise awareness of the rights of LGB and T people; amongst individuals themselves; amongst those with responsibilities under

²⁶ Equality Commission for Northern Ireland (2013): *Promoting Sexual Orientation Equality – Policy and Recommendations*. Available at: <http://www.equalityni.org/Delivering-Equality/Equality-Themes/Sexual-orientation-equality>

²⁷ Equality Commission for Northern Ireland (2014): [Response to OFMDFM consultation questionnaire on the Sexual Orientation Strategy](#)

²⁸ See: [OFMDFM: Sexual Orientation \(web page\)](#)

²⁹ ECNI (2014): [Promoting Sexual Orientation – Priorities and Recommendations](#) (8.3)

the sexual orientation equality legislation; and increase awareness of LGB and T issues within key criminal justice agencies³⁰.

- 5.11 Further detail supporting these recommendations can be found in ECNI (2013) '[Promoting Sexual Orientation Equality – Policy and Recommendations](#)' and [ECNI \(2015\) Gender Equality: Policy Priorities and Recommendations \(draft\)](#).

Proposal to ECRI

- 5.12 In addition to the points made elsewhere in this document with reference to protections for LGB and T individuals, ECRI may wish to consider recommending action, aligned to the Equality Commission's recommendations to the NI Executive and key departments, to:
- produces strategies which convey leadership and give effect to the recommendations set out in the Equality Commission's published recommendations for sexual Orientation and Transgender equality – ensuring a particular focus on tackling prejudicial attitudes; promoting positive attitudes; and raising awareness of rights.

6 Integration Strategies

- 6.1 The Commission has recognised the need for focused initiatives targeted at Travellers, and Refugees and, more recently, Roma, given the multi-faceted, complex, intractable and persistent inequalities these groups experience. While there is some good work being taken at local level, in the absence of a Racial Equality Strategy or dedicated integration strategies, there is no government lead and therefore no strategic focus.
- 6.2 The 2014 consultation by OFMDFM on *A Sense of Belonging - Delivering Social Change through a Racial Equality Strategy for Northern Ireland 2014-2024*, sought views as to whether there is a need for a specific refugee integration strategy and whether there is a need for specific programmes of work to address particular challenges and vulnerabilities facing particular groups.
- 6.3 We recommended that the Executive develop a Refugee Integration Strategy³¹ and a Strategy for Travellers and Roma³². These individual targeted strategies should nest within or be considered a sub-set of the overarching (mainstreaming) Racial Equality Strategy.

³⁰ ECNI (2013): [Promoting sexual orientation equality](#) (Para 4.14),

³¹ ECNI (May 2014): [Racial Equality Policy Priorities and Recommendations](#). (6.13) (Belfast, ECNI)

³² ECNI (May 2014): *Response to the consultation by OFMDFM on 'A Sense of Belonging- Delivering Social Change through a Racial Equality Strategy for Northern Ireland 2014-2024'* (8.47) (Belfast, ECNI). Available at: <http://www.equalityni.org/Delivering-Equality/Equality-Themes/Racial-equality.aspx>

Asylum Seekers and Refugees

- 6.4 Immigration and asylum are reserved matters and are the responsibility of the UK Government's Home Office. While UK immigration policy is centrally controlled, Northern Ireland Departments have policy responsibilities relating to a range of areas of service provision such as health care, legal aid and education³³.
- 6.5 Unlike Scotland³⁴ and Wales³⁵, Northern Ireland does not have a separate national strategy on refugee integration³⁶.
- 6.6 The Commission has advocated that, as part of a Refugee Integration Strategy, the NI Executive should:
- undertake a range of initiatives aimed at encouraging migrants, asylum seekers and refugees to take an active role in political and public life³⁷;
 - identify and address the complex emotional, educational and social needs of asylum seeking and refugee children³⁸;
 - increase access to employment and volunteering opportunities for refugees and ensure that employability strategies and mainstream services benefit and are accessible for, refugee users³⁹;
 - take account of the need to provide support and advice to asylum seekers who are either in emergency accommodation provided by NASS⁴⁰ support, are otherwise pursuing an application for NASS support, or have recently received a decision and need support to move on⁴¹;
 - identify and address the specific disadvantages faced by refugees in obtaining and accessing appropriate services (including mental health services)⁴²;
 - assess the barriers faced by migrants (including asylum seekers and refugees) in accessing benefits including the accessibility of services⁴³.

³³ Potter, M (2014): [Asylum seekers and Refugees in Northern Ireland](#), (Northern Ireland Assembly Research Service), page 9 (Belfast: NIARC).

³⁴ Scottish Government (2013): [New Scots: Integrating Refugees in Scotland's Communities](#), Edinburgh

³⁵ Welsh Government (2008): [Refugee Inclusion Strategy](#) (Wales: Welsh Assembly Government).

³⁶ There has been no national Integration Strategy in England. The last Integration Strategy, *Integration Matters*, was published in 2005.

³⁷ ECNI (May 2014): [Racial Equality Policy Priorities and Recommendations](#). (3.15) (Belfast, ECNI)

³⁸ ECNI (May 2014): [Racial Equality Policy Priorities and Recommendations](#). (4.20) (Belfast, ECNI)

³⁹ ECNI (May 2014): [Racial Equality Policy Priorities and Recommendations](#). (5.21) (Belfast, ECNI)

⁴⁰ National Asylum Support Service

⁴¹ ECNI (May 2014): [Racial Equality Policy Priorities and Recommendations](#). (6.13) (Belfast, ECNI)

⁴² ECNI (May 2014): [Racial Equality Policy Priorities and Recommendations](#). (7.8) (Belfast, ECNI)

⁴³ ECNI (May 2014): [Racial Equality Policy Priorities and Recommendations](#). (8.15) (Belfast, ECNI)

Travellers and Roma and Travellers

6.7

The Commission has advocated that the NI Executive works to eliminate inequalities and promote the integration of Traveller and Roma communities by:

- establishing 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 sites⁴⁴.
- developing Traveller specific, long-term initiatives to improve employment opportunities⁴⁵
- monitoring and evaluating the Traveller Education Support Service (TESS) delivery plan and ensuring Traveller parents are closely involved in the development and implementation.
- co-ordinating 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 group⁴⁶.

- addressing the barriers faced by Roma children in accessing education including the training and employment of culturally competent bi-lingual classroom assistants⁴⁷.
- supporting the Roma community into employment by supporting self-employment; providing first work experience and vocational and on-the-job training, by providing access to lifelong learning and skills development and by identifying ways for Roma to enter mainstream employment⁴⁸.
- assessing the barriers faced by migrants (including Roma), in accessing benefits including the accessibility of services⁴⁹.

6.8

Further detail supporting these recommendations can be found in: ECNI (2014) [‘Racial Equality Policy – Priorities and Recommendations’](#)

Proposal to ECRI

6.9

Aligned to the Equality Commission’s recommendations to the NI Executive and key departments, ECRI may wish to consider recommending:

⁴⁴ ECNI (May 2014): [Racial Equality Policy Priorities and Recommendations](#). (6.10) (Belfast, ECNI)

⁴⁵ (May 2014): [Racial Equality Policy Priorities and Recommendations](#). (5.19) (Belfast, ECNI)

⁴⁶ ECNI (May 2014): [Racial Equality Policy Priorities and Recommendations](#). (7.14) (Belfast, ECNI)

⁴⁷ ECNI (May 2014): [Racial Equality Policy Priorities and Recommendations](#). (4.18) (Belfast, ECNI)

⁴⁸ ECNI (May 2014): [Racial Equality Policy Priorities and Recommendations](#). (5.20) (Belfast, ECNI)

⁴⁹ ECNI (May 2014): [Racial Equality Policy Priorities and Recommendations](#). (8.15) (Belfast, ECNI)

- that the Executive develop a Refugee Integration Strategy⁵⁰ and a Strategy for Travellers and Roma⁵¹ which take account of the published recommendations of the Equality Commission;
- that these individual targeted strategies should nest within or be considered a sub-set of an overarching (mainstreaming) Racial Equality Strategy.

7 Prejudicial Attitudes and Hate Crime

- 7.1 The Commission's 2011 Equality Awareness Survey⁵² found that in Northern Ireland 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-law⁵³). Respondents also expressed negative views towards Eastern European Migrant Workers⁵⁴ and BME individuals⁵⁵ amongst others.
- 7.2 The ethnic minority population in Northern Ireland has nearly doubled since 2001⁵⁶, but remains relatively low compared to the rest of the UK⁵⁷. Despite the low numbers, racist hate crime is the second most common form of hate crime in Northern Ireland⁵⁸.
- 7.3 Since 2004/05⁵⁹, racist hate incidents have increased by 67%⁶⁰ and racist hate crimes by 45%⁶¹. Last year alone saw an increase in racist

⁵⁰ ECNI (May 2014): [Racial Equality Policy Priorities and Recommendations](#). (6.13) (Belfast, ECNI)

⁵¹ ECNI (May 2014): *Response to the consultation by OFMDFM on 'A Sense of Belonging- Delivering Social Change through a Racial Equality Strategy for Northern Ireland 2014-2024'* (8.47) (Belfast, ECNI). Available at: <http://www.equalityni.org/Delivering-Equality/Equality-Themes/Racial-equality.aspx>

⁵² ECNI (2012): *Do you mean me? Equality Awareness Survey 2011*. Available at: <http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/DYMMequalityawarenesssurveyreport2012.pdf>

⁵³ ECNI (2012): *Ibid*, page 21.

⁵⁴ *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.

⁵⁵ *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).

⁵⁶ 1.8 per cent (32,000) of the usually resident population of Northern Ireland belonged to minority ethnic groups in 2011, more than double the proportion in 2001.

⁵⁷ ONS (2012): [Ethnicity and national identity in England and Wales](#) and Scottish Government (2013): [Summary Ethnic Group Demographics](#).

⁵⁸ Table 1.2: [Number of hate crimes with a hate motivation 2004/05 – 2014/15](#).

⁵⁹ Levels declined between 2009/10 and 2011/12 before increasing in each of the last three years - see Figure at [PSNI \(May 2015\): Incidents and Crimes with a Hate Motivation Recorded by the Police in Northern Ireland: Quarterly Update to 31 March 2015](#).

⁶⁰ From 813 to 1356 - see Figure 1 at [PSNI \(May 2015\): Incidents and Crimes with a Hate Motivation Recorded by the Police in Northern Ireland: Quarterly Update to 31 March 2015](#).

⁶¹ From 634 in 2004/05 to 921 in 2014/15 - see Figure 1 at [PSNI \(May 2015\): Incidents and Crimes with a Hate Motivation Recorded by the Police in Northern Ireland: Quarterly Update to 31 March 2015](#).

hate crime of a third⁶². Levels of faith/religion⁶³ motivated incidents and crimes recorded in 2014/15 are the highest seen since 2009/10⁶⁴.

- 7.4 Homophobic motivated incidents have generally increased year on year since 2004/05. The number of incidents in 2014/15 (334 incidents) is the highest recorded since the data series began in 2004/05⁶⁵. Similarly, homophobic motivated crimes reached their highest level in 2014/15 (209 crimes). There were 21 incidents with a transphobic motivation recorded in 2014/15, two lower than the level recorded in 2013/14⁶⁶, although there has been a lot of fluctuation in the levels recorded since the data series began in 2006/07.
- 7.5 A report by NIHRC (2013)⁶⁷ found that ‘underreporting of hate crimes by victims was commonplace’⁶⁸ and ‘identified problems concerning telephone and online reporting facilities for victims with limited ability to speak English’. The report⁶⁹ also highlighted that ‘the number of minority ethnic PSNI officers in 2013 did not meet the desired level of representation’.
- 7.6 Research⁷⁰ also shows that hate crime legislation is used less often in Northern Ireland than in other parts of the UK. In Northern Ireland. Further, Despite the Criminal Justice (No.2) (Northern Ireland) Order 2004⁷¹ 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.
- 7.7 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

⁶² There were 691 racist hate crimes recorded in 2013/14 compared to 921 in 2014/15 - see Figure 1 at [PSNI Mar 2015](#).

⁶³ In Northern Ireland sectarian hate crime is recorded separately from hate crime on the basis of faith/religion. Faith/religion based hate crime would include Christians, Muslims, Hindus, Sikhs and different sects within a religion. It also includes people who hold no religious belief at all.

⁶⁴ PSNI (May 2015): Incidents and Crimes with a Hate Motivation Recorded by the Police in Northern Ireland: Quarterly Update to 31 March 2015 - see Figure 9 at [PSNI Mar 2015](#)

⁶⁵ see Figure 5 at [PSNI Mar 2015](#)

⁶⁶ - see Figure 22 at [PSNI \(May 2015\): Incidents and Crimes with a Hate Motivation Recorded by the Police in Northern Ireland: Quarterly Update to 31 March 2015](#).

⁶⁷ 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

⁶⁸ Ibid, page 63

⁶⁹ 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

⁷⁰ 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%2001%20Complete%20Low%20Res.pdf>

⁷¹ The Order 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.

highlighted that many had yet to look at racial equality in a serious fashion and even the Section 75 (1) duty⁷² too often caused only a cursory examination of the issue⁷³. A 2013 report from NICEM into racist violence and criminal justice in Northern Ireland⁷⁴ argued that, *‘in Northern Ireland the key lessons of MacPherson are yet to be learned and the key reforms are yet to be implemented’*⁷⁵.

7.8 The Commission has recommended that:

- the criminal justice agencies address issues of under reporting; reduce the risk of low level hate crime escalating through early intervention; improve the operational response to hate crime; provide support for victims of racist hate crime and publish data which would allow for end-to-end tracking of hate crime cases⁷⁶.
- the Department of Justice examines the reasons for under-use of the provisions in the 2004 order which allow for enhanced sentencing; and review of the framework of legislation for addressing racist violence in Northern Ireland⁷⁷.
- 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 staff⁷⁸.
- OFMDFM co-ordinates departmental action aimed at identifying and addressing any instances of institutional racism, including through the use of Section 75 processes, as part of the revised Racial Equality Strategy⁷⁹.

Proposal to ECRI

7.9 Aligned to the Equality Commission’s recommendations to the NI Executive and key departments, ECRI may wish to consider recommending:

- actions to give effect to the published recommendations of the Equality Commission with regards to under-reporting and support for victims; reviewing the legal framework for addressing racist violence; improving the accessibility of reporting for those for whom

1.1 ⁷² 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 / service delivery.

⁷³ 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).

⁷⁴ McVeigh, R. (2013): *Race and the Criminal Justice System in Northern Ireland*.

⁷⁵ Ibid, page 58

⁷⁶ ECNI (2014): [Racial Equality Policy – Priorities and recommendations](#) (3.14) .

⁷⁷ ECNI (2014): [Racial Equality Policy – Priorities and recommendations](#) (3.14) .

⁷⁸ ECNI (2014): [Racial Equality Policy – Priorities and recommendations](#) (3.14) .

⁷⁹ ECNI (2014): [Racial Equality Policy – Priorities and recommendations](#) (3.17) .

English is an additional language; improving minority representation in police and criminal justice staff; and co-ordinating action to address any instances of institutional racism.

8 Further Information

- 8.1 We have sought to include a range of references and pointers to further information sources should the Commission require further detail or rationale for our recommendations. We would be happy to further discuss any of the points raised in this submission.

**Equality Commission for Northern Ireland
November 2015**

Annex A: Equality Commission's role and responsibilities

The Equality Commission for Northern Ireland ('the Commission') is an independent public body established under the Northern Ireland Act 1998. The Commission is responsible for implementing the legislation on fair employment and treatment, sex discrimination and equal pay, race relations, sexual orientation, disability and age.

The Commission's remit also includes overseeing the statutory duties on public authorities to promote equality of opportunity and good relations under Section 75 of the Northern Ireland Act 1998 (Section 75) and to promote positive attitudes towards disabled people and encourage participation by disabled people in public life under the Disability Discrimination Act 1995.

The Commission's general duties include:

- working towards the elimination of discrimination;
- promoting equality of opportunity and encouraging good practice;
- promoting positive / affirmative action
- promoting good relations between people of different racial groups;
- overseeing the implementation and effectiveness of the statutory duty on relevant public authorities;
- keeping the legislation under review;

The Equality Commission, together with the Northern Ireland Human Rights Commission, has been designated under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) as the independent mechanism tasked with promoting, protecting and monitoring implementation of UNCRPD in Northern Ireland.