



# **Shadow Report from the Equality Commission for Northern Ireland to the Advisory Committee for the Framework Convention for the Protection of National Minorities on the Fourth Monitoring Report of the United Kingdom.**

January 2016

## **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 submit input with regard to consideration by the Advisory Committee for the Framework Convention for the Protection of National Minorities (the Advisory Committee) of the 4th Monitoring Report of the United Kingdom (UK).
- 1.3 With respect to the specific focus of fourth cycle monitoring, and aligned to the Equality Commission's recommendations to the Northern Ireland (NI) Executive and key Departments, the Advisory Committee may wish to consider recommending (for action by the State Party and/or Northern Ireland Executive as appropriate):
  - 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 racial equality 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 UK;
  - amendment to fair employment legislation to remove the exception from protection relating to the recruitment of teachers in secondary schools (with early consideration as to whether the exception should also be removed with regards to primary

level schools); and to require employers in Northern Ireland to collect monitoring information as regards nationality and ethnic origin;

- the publication and implementation by the NI Executive of an action plan to accompany the Racial Equality Strategy for Northern Ireland which gives effect to the specific recommendations set out in the Equality Commission's published *Racial Equality - Policy Priorities and Recommendations* (as outlined below);
- targeted initiatives by the Department for Employment and Learning to maximise participation by minority ethnic groups in employment, volunteering and training; to ensure access to appropriate employment support (including childcare and English for Speakers of Other Languages [ESOL]); to tackle exploitation, and to address gaps in employment rights;
- extension by the Home Office of the remit of the Gangmasters (Licensing) Act 2004 to all sectors where migrant labour is prevalent;
- the establishment and leadership by Department of Social Development (DSD) of a multi-agency Taskforce on Traveller accommodation to direct and co-ordinate the various authorities/agencies involved in all aspects of the development and maintenance of sites; that the DSD take specific measures to address the housing needs of migrants; accessible information and training for relevant front-line staff on the entitlements of EU Migrants; and the NI Executive develop a co-ordinated strategic policy response to the needs of all asylum seekers and refugees;
- the co-ordination by the NI Executive and the Department for Health, Social Services and Public Safety (DHSSPS) of actions to monitor (including collection of relevant data) and address the key health inequalities amongst Minority Ethnic, Newcomer and Traveller populations, to ensure measurable improvements in health outcomes; that barriers to access are addressed and that relevant training is provided to service providers; targeted actions to address the needs of minority ethnic groups, including asylum seekers and refugees;

- a review by the UK Government of the asylum system to ensure smooth transition from one form of public support to another and that asylum seekers receive appropriate support from arrival until voluntary departure or compulsory removal;
- action by the NI Executive to ensure that welfare reform changes are compatible with EU and Human Rights law; action to address key barriers to accessing benefits so as to ensure appropriate support; clear guidance and support; and that the Office of the First Minister and the Deputy First Minister (OFMDFM) takes appropriate steps to ensure the long term sustainability of the Emergency fund for destitute migrants;
- action by the NI Executive to advance the development of a Refugee Integration Strategy and a Strategy for Travellers and Roma. These individual targeted strategies should nest within or be considered a sub-set of the overarching (mainstreaming) Racial Equality Strategy;
- action by the Department of Culture, Arts and Leisure to ensure that the provisions of the Irish Language Bill are consistent with those of the European Charter for Regional and Minority Languages;
- the implementation by the NI Executive and Departments of specific long-term measures to: eliminate racism and racial discrimination; to tackle prejudicial attitudes; and to promote values of acceptance and respect for difference;
- the prioritisation by NI Executive of reduction and elimination of racial violence through a range of actions including: addressing issues of under reporting; early intervention; improved operational response to hate crime and support for victims of racist hate crime;
- the use by the Department of Education of early intervention in education to combat negative attitudes, reduce racism and promote good relations;
- relevant action by the NI Executive to ensure appropriate media reporting in relation to ethnic minorities, immigrants and/or asylum seekers in Northern Ireland; and support integration and foster community cohesion – including through both the revised Racial Equality and United Community strategies;

- improvement by the criminal justice agencies of accessibility of reporting for victims and appropriate steps to increase ethnic minority representation among police and criminal justice staff;
- co-ordination by OFMDFM of departmental action aimed at identifying and addressing any institutional racism;
- action by the Department of Education to ensure the cultures and languages of learners are reflected in the curriculum; that barriers to participation and progression are identified and addressed; that targeted strategies and training are used to address key issues such as bullying; and that relevant data is collected, and evaluation of progress undertaken;
- action by the Department of Education to ensure that sharing in education involves meaningful and sustained contact between different equality groups and those of different social economic status, via a shared curriculum in shared classes;
- maximisation by the Department of Education of the potential for shared education to address education inequalities and advance cohesion, sharing and integration;
- action by the Department of Education to address wider issues in education in relation to: academic selection; the teachers' exception under the Fair Employment and Treatment Order; and greater collaboration in teacher training;
- action by the NI Executive and key departments to encourage members of minority ethnic groups, migrants, asylum seekers and refugees to take an active role in political and public life;
- action by the NI Executive and key departments to collect, monitor and evaluate 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 continuance by the Police Service of Northern Ireland (PSNI) of outreach measures to increase the number of applicants for student officer posts from the Catholic community and other under-represented groups, including ethnic minorities, so that the composition of the Service reflects the community it serves.

1.4 The Commission would be happy to discuss any of the points raised in this submission.

***Input re: Fourth monitoring report***

1.5 We welcome the opportunity to submit our input with regard to the Advisory Committee's consideration of the fourth monitoring report of the United Kingdom (UK).

1.6 In our response we specifically focus on recommendations aligned to our remit which have been identified by the Advisory Committee<sup>1</sup> as the key topics for consideration in the UK fourth monitoring report. For ease of reference, we begin each section by highlighting the specific Convention text to which our response relates.

1.7 The Equality Commission for Northern Ireland works to:

- 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<sup>2</sup>.

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<sup>1</sup> Advisory Committee on the Framework Convention on the Protection of National Minorities: *Third Opinion on the United Kingdom adopted on 20 June 2011*, ACFC/OP/111 (2011)006, (Strasbourg: Council of Europe). Available at:

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

<sup>2</sup> Annex A provides further information. Additional details at:

<http://www.equalityni.org/HeaderLinks/About-Us>

## 2 Article 3: National Minorities

1. *Every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights which are connected to that choice.*
2. *Persons belonging to national minorities may exercise the rights and enjoy the freedoms flowing from the principles enshrined in the present framework Convention individually as well as in community with others.*

### ***Respect for the right to free self-identification in Northern Ireland***

- 2.1 The Commission notes the recommendation in the Advisory Committee's Third Opinion on the United Kingdom that authorities should continue to review regularly the duty for employers to determine the community background of their employees in the context of workforce monitoring against its relevance to the objective of securing equality in the field of employment.
- 2.2 The Commission is also aware that in 2011 the Committee also indicated that the authorities should consider including persons belonging to minority ethnic communities in workforce monitoring, while fully respecting the right to free self-identification<sup>3</sup>. This recommendation had been suggested by the Commission in its previous shadow report<sup>4</sup>.
- 2.3 The Commission's 'Unified Guide to Promoting Equal Opportunities in Employment' notes that the employer duties under the Fair Employment and Treatment (NI) Order 1998:
  - "...are primarily concerned with promoting and securing equality of opportunity and fair participation in employment for members

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<sup>3</sup> Advisory Committee on the Framework Convention for the Protection of National Minorities: Third Opinion on the United Kingdom adopted on 30 June 2011, paragraph 45, pages 11-12, ACFC/OP/III(2011)006 (Council of Europe: Strasbourg 22 December 2011). Available at: [https://www.coe.int/t/dghl/monitoring/minorities/3\\_FCNMdocs/PDF\\_3rd\\_OP\\_UK\\_en.pdf](https://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_3rd_OP_UK_en.pdf).

<sup>4</sup> [ECNI submission on Framework Convention for the Protection of National Minorities](#), June 2011

of the Protestant community in Northern Ireland and members of the Roman Catholic community in Northern Ireland.”<sup>5</sup>

- 2.4 As set out under the 1998 Order, “community” means the Protestant community or the Roman Catholic community in Northern Ireland.
- 2.5 In this specific context, the terms 'Protestant' and 'Roman Catholic' in fair employment monitoring are thus not used to convey religion, religious belief, or non-belief.
- 2.6 Specifically, the terms are used to convey the community to which an individual has stated that they belong, or which they might reasonably be *perceived* to belong, based on evidence of a connection with that community. The term 'non-determined' is used where a community background is neither stated nor can reasonably be determined. Further detail can be obtained from the Fair Employment (Monitoring) Regulations (Northern Ireland) 1999<sup>6</sup>.
- 2.7 The Commission’s most recent published summary of monitored workforce returns<sup>7</sup> shows that the composition of all monitored employments, when aggregated together, continues to more closely mirror estimates of the composition of all those available for work from the Roman Catholic and Protestant communities than when fair employment was first introduced twenty five years ago.
- 2.8 While noting the significant positive change over this period, the Commission considers that the original purpose of the legislation – promoting and securing equality of opportunity and fair participation in employment for members of the Protestant and Roman Catholic communities within Northern Ireland - still has value and relevance for Northern Ireland today<sup>8</sup>.

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<sup>5</sup> Equality Commission for Northern Ireland (2009): [Unified Guide to Promoting Equal Opportunities in Employment](#), para 6.2, page 17.

<sup>6</sup> Available at: <http://www.legislation.gov.uk/nisr/1999/148/contents/made>

<sup>7</sup> Equality Commission for Northern Ireland (2015): *Fair Employment Monitoring Report No.25, An Overview of High Level Trends and Aggregated Monitoring Returns 2014*. Available at: <http://www.equalityni.org/Delivering-Equality/Addressing-inequality/Employment/Monitoring-Report-25/Fair-Employment-Monitoring-Report-25.aspx?t=1>

<sup>8</sup> Ibid, page 4.

- 2.9 As noted below the Commission has recommended changes to the fair employment legislation<sup>9</sup> 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 also collect monitoring information as regards nationality and ethnic origin.
- 2.10 Whilst the primary reason for this change is to ensure the continuing usefulness of the fair employment Monitoring Regulations, the collection of this data will also help employers identify which employees and applicants are migrant workers, and enable a more accurate and meaningful assessment of fair participation in employment in their organisation<sup>10</sup>.

#### Proposal to the Committee

- 2.11 Aligned to the Equality Commission's recommendation to the NI Executive, the Committee may wish to again recommend, via the UK State Party, as appropriate, amendment to fair employment legislation to require employers in Northern Ireland to collect monitoring information as regards nationality and ethnic origin.

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<sup>9</sup> Equality Commission for Northern Ireland (2014): [Strengthening protection against racial discrimination - Recommendations for law reform](#).

<sup>10</sup> Ibid, paragraphs 35-37, pages 10-11.



### 3 **Article 4: Equality and equal protection before the law**

*1. The Parties undertake to guarantee to persons belonging to national minorities the right of equality before the law and of equal protection of the law. In this respect, any discrimination based on belonging to a national minority shall be prohibited*

#### ***Equality Legislation***

- 3.1 Section 75 of the Northern Ireland Act 1998 requires designated public authorities to have due regard for the need to promote equality of opportunity between:
- persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
  - men and women generally;
  - persons with a disability and persons without;
  - persons with dependants and persons without.
- 3.2 Public authorities must also have regard for the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.
- 3.3 Individuals in Northern Ireland currently have protection against unlawful racial discrimination under the Race Relations (NI) Order 1997, as amended ('RRO 1997')<sup>11</sup>.
- 3.4 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. We supported 75 cases representing 27.37% of total cases supported during this period (71.21% of cases related to discrimination in the provision of goods, facilities and services; 24.24% of cases concerned discrimination in employment).
- 3.5 However, there are significant gaps between racial equality law in Great Britain (GB) and Northern Ireland which have widened since

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<sup>11</sup> The Order outlaws discrimination on racial grounds. Racial grounds include colour, race, nationality or ethnic or national origins. The Irish Traveller community is specifically identified in the RRO 1997 as a racial group which is protected against unlawful racial discrimination.

the introduction of single equality legislation – the Equality Act 2010<sup>12</sup> – in GB. This means that individuals in Northern Ireland have less protection against racial discrimination, harassment and victimisation than in other parts of the UK.

- 3.6 For example, as the Race Directive<sup>13</sup> only applied to the grounds of racial, ethnic and national origin, the Regulations introduced in order to give effect to the Race Directive<sup>14</sup>, did not amend the provisions in the Race Relations (NI) Order 1997 as regards the grounds of colour and nationality.
- 3.7 The result is that there is a ‘two-tier’ level of protection with a new definition of indirect discrimination, new statutory definition of harassment and a reversed burden of proof applying only to race, colour and ethnic origins, but not to colour and nationality.
- 3.8 The Commission has also identified gaps in protection for certain categories of agency workers who fall outside the scope of the racial equality legislation<sup>15</sup>.

### ***Need for Equality Law Reform***

- 3.9 In 2011, in its *Third Opinion* (2011) on the UK, the Advisory Committee recommended that the State Party adopt ‘harmonised, comprehensive anti-discrimination legislation for Northern Ireland in order to put an end to the disparity in protection against discrimination that exists between Northern Ireland and Great-Britain’<sup>16</sup>. In 2012, the subsequent Council of Ministers’ *Resolution*<sup>17</sup> on the UK called on the State Party to ‘step up efforts to develop a single Equality Act in Northern Ireland’<sup>18</sup>. Despite the

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<sup>12</sup> [Equality Act 2010, C15 \(N.I.6\)](#)

<sup>13</sup> Race Directive, Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. Available at:

<sup>14</sup> The Race Relations Order (Amendment) Regulations (NI) 2003. Available at: <http://www.legislation.gov.uk/nisr/2003/341/contents/made>

<sup>15</sup> For further information see: [Increased protection for agency workers](#)

<sup>16</sup> Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities: [Third Opinion on the United Kingdom](#), ACFC/OP/III(2011)006, Adopted on 30 June 2011, paragraph 71.

<sup>17</sup> Committee of Ministers: [Resolution on the implementation of the Framework Convention for the Protection of National Minorities](#), CM/ResCMN(2012)22, Adopted on 12 December 2012.

<sup>18</sup> Committee of Ministers: [Resolution on the implementation of the Framework Convention for the Protection of National Minorities](#), CM/ResCMN(2012)22, Further Recommendations, Adopted on 12 December 2012.

Committee's long-standing concerns and a commitment in the St Andrews Agreement by the UK Government to 'work rapidly' towards the development of single equality legislation<sup>19</sup>, no progress has been made by the Executive in this regard.

3.10 The Commission continues to call for robust and comprehensive single equality legislation. In the absence of single equality legislation, the Commission has called for the urgent reform of the equality legislation and has set out detailed proposals<sup>20</sup>. The changes recommended by the Commission are aimed at strengthening, simplifying and harmonising the existing racial equality legislation, so that individuals in Northern Ireland have robust and effective protection against unlawful racial discrimination and harassment<sup>21</sup>.

3.11 The Commission **recommends** that racial 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;
- 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 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;

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<sup>19</sup> UK Government (2006): [Agreement at St Andrews](#), Annex B.

<sup>20</sup> Equality Commission for Northern Ireland (2014): [Strengthening protection against racial discrimination – recommendations for law reform \(full report\)](#)

<sup>21</sup> As regards certain areas of reform, we recommend that the Northern Ireland Executive introduce changes that go beyond the level of protection against racial discrimination currently set out in equality legislation in Great Britain.

- 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 racial discrimination complaints.

3.12 As noted above we also **recommend** changes to the fair employment legislation<sup>22</sup> aimed at improving workforce monitoring by registered employers<sup>23</sup> and have called for increased protection for certain categories of agency workers against racial discrimination and harassment<sup>24</sup>.

#### Proposal to the Committee

3.13 Aligned to the Equality Commission’s **recommendations** to the NI Executive and key Departments, the Committee may wish to consider recommending, for action by the UK State Party and/or NI Executive, as appropriate:

- the advancement by the NI Executive of robust and comprehensive single equality legislation, harmonising and simplifying protections and giving effect to the UK Government’s 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 racial equality and fair employment 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 UK.

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<sup>22</sup> The [Fair Employment and Treatment \(Northern Ireland\) Order 1998](#) legislation protects individuals from being subjected to unlawful discrimination because of their religious belief or political opinion.

<sup>23</sup> Equality Commission for Northern Ireland (2014): [Strengthening protection against racial discrimination – recommendations for law reform \(full report\)](#), Para 3.200 – 3.22

<sup>24</sup> For further information – see [Increased protection for agency workers](#)

## ***Removal of Teachers Exception Provision***

- 3.14 Currently, there is an exception under the Fair Employment and Treatment (NI) Order 1998 (“FETO”)<sup>25</sup> which allows schools to lawfully discriminate on the grounds of religious belief, in the recruitment of teachers in schools. This exception applies both to the initial recruitment and to promotion<sup>26</sup>.
- 3.15 Following a review of this provision in 2003<sup>27</sup>, the Commission **recommended** the removal of the exception in the employment provisions of the Fair Employment and Treatment Order 1998 as regards the recruitment of teachers in secondary schools, and early consideration as to whether the exception should also be removed as regards primary level schools<sup>28</sup>.

### Proposal to the Committee

- 3.16 Aligned to the Equality Commission’s **recommendations** to the NI Executive and key Departments, the Committee may wish to consider recommending, for action by the NI Executive:
- the removal of the teachers’ exemption under FETO 1998 at secondary level and early consideration given to the removal of the exception at all levels.

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<sup>25</sup> [Fair Employment and Treatment \(Northern Ireland\) Order 1998](#)

<sup>26</sup> See: *Beatrice Debast and Caroline Flynn v. Dr Malcolmson, Laurelhill Community College and SEELB*. Available at:

[http://www.equalityni.org/ECNI/media/ECNI/Cases%20and%20Settlements/2007/Flynn\\_and\\_Debast\\_v\\_Laurelhill\\_Community\\_College\\_and\\_SEELB.pdf](http://www.equalityni.org/ECNI/media/ECNI/Cases%20and%20Settlements/2007/Flynn_and_Debast_v_Laurelhill_Community_College_and_SEELB.pdf).

<sup>27</sup> Equality Commission for Northern Ireland (2003): [Investigation of the Teachers Exception under the Fair Employment and Treatment Order 1998](#)

<sup>28</sup> For further information, see: [Teachers exception](#)

## 4 Article 4: Measures to promote full and effective equality

2. The Parties undertake to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority. In this respect, they shall take due account of the specific conditions of the persons belonging to national minorities.

3. The measures adopted in accordance with paragraph 2 shall not be considered to be an act of discrimination.

### **Racial Equality Strategy**

- 4.1 The Northern Ireland Executive's Programme for Government 2012-15 included references to a Racial Equality Strategy as a 'building block' under Priority 2 'Creating Opportunities and Tackling Disadvantage and Improving Health and Wellbeing'<sup>29</sup>.
- 4.2 The previous Northern Ireland racial equality strategy expired in 2010<sup>30</sup>. The Commission has continued to make clear our view that action to advance racial equality is vital.
- 4.3 The Commission, therefore, welcomed the publication of a new strategy in December 2015. We note the acknowledgement therein of the positive contribution of minority ethnic people not just to economic life but also to political, social and cultural life and welcome commitments, such as the commitment to review the Race Relations (Northern Ireland) Order 1997 to ensure that it offers at least the same levels of protection as in Great Britain and the Republic of Ireland and to act on the outcome of the review with a view to the legislation being in place in the 2017-18 Assembly session.
- 4.4 However, the Commission also notes the lack of a comprehensive baseline assessment of the inequalities experienced by minority

<sup>29</sup> Northern Ireland Executive (2011): *Programme for Government 2011-15 Building a better future*. Available at: <http://www.northernireland.gov.uk/pfg>

<sup>30</sup> Office of the First Minister and the Deputy First Minister (2005): *A Racial Equality Strategy for Northern Ireland 2005 – 2010*. Available at: <http://www.ofmdfmi.gov.uk/racial-equality-strategy-2005-2010.pdf>.

ethnic communities and, currently, the absence of a detailed action plan which sets out goals for the Northern Ireland Executive and Government Departments for the short, medium and long term (although the strategy does include a summary of proposed actions).

#### Proposal to the Committee

- 4.5 Aligned to the Equality Commission's recommendations to the NI Executive and key Departments (as appropriate), the Advisory Committee may wish to consider recommending, for action by the UK State Party and/or NI Executive, as appropriate:
- the NI Executive publishes and implements an action plan to accompany the Racial Equality Strategy for Northern Ireland which gives effect to the specific recommendations set out in the Equality Commission's published *Racial Equality - Policy Priorities and Recommendations*<sup>31</sup>.

#### ***Priorities for Action***

- 4.6 In our 2014 publication 'priorities and recommendations'<sup>32</sup> for racial equality, and in our response to the OFMDFM consultation on the draft racial equality strategy, the Commission recommended, inter alia, that the Executive 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 welfare<sup>33</sup>. We set out key proposals, relative to the Committee's remit and specific interests, below<sup>34</sup>.

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<sup>31</sup> For further details see: Equality Commission for Northern Ireland (May 2014): [Racial Equality Policy Priorities and Recommendations](#) (Belfast: ECNI).

<sup>32</sup> See: Equality Commission for Northern Ireland (2014) '[Racial Equality Policy – Priorities and Recommendations](#)' (summary version).

<sup>33</sup> Further information available at: <http://www.equalityni.org/Delivering-Equality/Equality-Themes/Racial-equality.aspx>

<sup>34</sup> The Commission's recommendations with regards to social cohesion, prejudicial attitudes, racism and hate crime are set out later, under Article 6, and so are not repeated here.

## ***Employment***

- 4.7 Racial harassment in work remains an issue<sup>35 36</sup> while research also suggests that issues impacting on migrant workers include underemployment, recognition of overseas qualifications, lack of English language skills, problems in accessing childcare, and gaps in legal protection, racial harassment, severe exploitation and forced labour<sup>37</sup>.
- 4.8 For Irish Travellers, issues include a lack of recognition of Traveller culture; low expectations; and fear of losing benefits. The Commission is also concerned about the exclusion of asylum seekers from the labour market while awaiting a decision on their Refugee application<sup>38</sup>.

### Proposal to the Committee

- 4.9 Aligned to the Equality Commission's **recommendations** to the NI Executive and key Departments, the Advisory Committee may wish to consider recommending, for action by the UK State Party and/or NI Executive, as appropriate, that:
- the NI Executive advance initiatives aimed at maximising the participation and progression in volunteering and/or employment of minority ethnic groups, including refugees;
  - the NI Executive tackle the exploitation of migrant workers; reduce minority ethnic disadvantage in employment; raise awareness of the rights of migrant workers and maximise access to the labour market; consider the development of a strategy to address the use of forced labour and exploitation of migrant workers;
  - the UK Government extend the remit of the Gangmasters (Licensing) Act 2004 to all sectors where migrant labour is prevalent;

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<sup>35</sup> Northern Ireland Council for Ethnic Minorities (2012): *Bayanihan: the Filipino community in Northern Ireland.*, pages 22 & 23. Available at: <http://nicem.org.uk/e-library/bayanihan-filipino-community-northern-ireland>

<sup>36</sup> BBC (16 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>37</sup> Joseph Rowntree Foundation (2013): *Poverty and Ethnicity in Northern Ireland.* Available at: <http://www.jrf.org.uk/publications/poverty-ethnicity-northern-ireland>

<sup>38</sup> The majority of families researched for the report were waiting for four years on average for an outcome on their initial application for refugee status.



- the Department for Employment and Learning (DEL) develop long-term Traveller specific initiatives to improve employment opportunities for members of that community. Take specific actions to support the Roma community into employment;
- DEL ensure that Travellers, Roma and Asylum seekers are also involved in mainstream employment training provision including support in employment and training and ensure that employability strategies and mainstream services are accessible to such groups. Introduce measures to broaden the range of volunteering opportunities for asylum seekers;
- While the Commission welcomes DEL's recent decision to provide free English classes for all refugees<sup>39</sup>, we continue to recommend that DEL consider the merits of designating ESOL<sup>40</sup> as an 'Essential Skill' and addresses any barriers experienced by refugee women in accessing ESOL provision.

### ***Accommodation and Housing***

- 4.10 The Commission remains concerned<sup>41</sup> that there is an undersupply of accommodation and lack of basic amenities for Irish Travellers. Furthermore, no single department or agency has policy and operational responsibility for the development and delivery of accommodation, and as a result, there lacks a single driver capable of ensuring that all departments and agencies work together. Evidence has also shown that migrant workers experience overcrowded accommodation provision, insecurity of tenure and poor standards as well as incorrect decision-making by public authorities regarding entitlement to assistance<sup>29</sup>.
- 4.11 Roma experience overcrowding in housing<sup>42</sup>, whilst media have reported tensions with local communities<sup>43</sup>. Issues for refugees

<sup>39</sup> See <https://www.delni.gov.uk/news/farry-announces-free-english-classes-all-refugees>

<sup>40</sup> English for speakers of other languages.

<sup>41</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>

<sup>42</sup> Haydon, D (December 2015): *'Promoting and protecting the rights of Roma children and young people in Northern Ireland'* Children's Law Centre consultation with children and young people (Belfast: Children's Law Centre). Anecdotal evidence from those working closely with the Roma community suggests that over half live in accommodation with 10 or more people.

<sup>43</sup> BBC Northern Ireland News (22 June 2011): 'Overcrowded south Belfast homes cause tension'. Available at: <http://www.bbc.co.uk/news/uk-northern-ireland-13868816>

include a lack of time to find suitable alternative housing once granted refugee status and difficulties in providing deposits or a suitable guarantor with regard to housing in the private rented sector<sup>44</sup>.

#### Proposal to the Committee

4.12 Aligned to the Equality Commission's **recommendations** to the NI Executive and key departments, the Advisory Committee may wish to consider recommending, for action by the UK State Party and/or NI Executive, as appropriate, that:

- the Department of Social Development (DSD) establish and lead a multi-agency Taskforce on Traveller accommodation to direct and co-ordinate the various authorities/agencies involved in all aspects of the development and maintenance of sites<sup>45</sup>;
- the Executive and Departments introduce measures to address the housing needs of migrants and improve management conditions for the private rented sector; relevant front-line staff are trained on the entitlements of European Union (EU) migrants to housing benefit; and that information is available in an accessible format;
- 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>46</sup> as part of a broader integration strategy.

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See also: Clark, C. and Rice, G.: ‘Spaces of Hate, Places of Hope – The Romanian Roma in Belfast’, pages 167-190 in Stewart, M. (2012): *The Gypsy ‘Menace’ – Populism and the New Anti-Gypsy Politics* London: Hurst & Company). Available at:

[https://www.academia.edu/4326236/Spaces\\_of\\_Hate\\_Places\\_of\\_Hope\\_the\\_Romanian\\_Roma\\_in\\_Belfast](https://www.academia.edu/4326236/Spaces_of_Hate_Places_of_Hope_the_Romanian_Roma_in_Belfast)

<sup>44</sup> ECNI staff member conversation with NI Council for Refugees and Asylum Seekers of 4 February 2014.

<sup>45</sup> Equality Commission for Northern Ireland (2009): *Outlining minimum standards in Traveller accommodation*, page 12. Available at: <http://www.equalityni.org/Delivering-Equality/Addressing-inequality/Housingcommunities/Research-investigations>

<sup>46</sup> McVeigh, R. (2002): *Refugees and asylum seekers in Northern Ireland: A place of refuge?* (Belfast: Refugee Action Group). Available at: <http://www.mcrc-ni.org/PDFs/APOR.pdf>

## **Health**

- 4.13 The Commission remains concerned<sup>47</sup> about the low life expectancy and the high levels of suicide and infant mortality experienced by the Irish Traveller community<sup>48</sup>.
- 4.14 We are also aware that maternal and infant mortality is higher among minority ethnic groups and that there are difficulties for some groups in accessing primary and secondary health care<sup>49</sup>.
- 4.15 Research<sup>50</sup> into migrant health and wellbeing in Belfast suggested that key barriers included: lack of awareness; low levels of General Practitioner (GP) registration; fears about entitlements; frustration and stress in accessing healthcare; and negative attitudes.
- 4.16 The limited evidence that is available suggests that health outcomes are generally worse for Roma than for people from the majority population<sup>51</sup>.

### Proposal to the Committee

- 4.17 Aligned to the Equality Commission's **recommendations** to the NI Executive and key departments, the Advisory Committee may wish to consider recommending, for action by the UK State Party and/or NI Executive, as appropriate, that:

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<sup>47</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*, pages 24-25. Available at: [http://www.equalityni.org/ECNI/media/ECNI/Consultation%20Responses/2011/Shadow\\_Report-UN\\_Elimination\\_Racial\\_Discrimination-\(CERD\).pdf](http://www.equalityni.org/ECNI/media/ECNI/Consultation%20Responses/2011/Shadow_Report-UN_Elimination_Racial_Discrimination-(CERD).pdf).

<sup>48</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)

Equality Commission for Northern Ireland (2001): *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>49</sup> DHSSPS (2011): *Equality Action Plan for the Department of Health Social Services and Public Safety*. Wright, D. (undated): *Roma Health and Wellbeing in Northern Ireland*. Available at: <http://www.publichealth.hscni.net/sites/default/files/Denise%20Wright%20-%20Roma.pdf>

<sup>50</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>

<sup>51</sup> Wright, D. (undated): *Roma Health and Wellbeing in Northern Ireland*. Available at: <http://www.publichealth.hscni.net/sites/default/files/Denise%20Wright%20-%20Roma.pdf>

- the Executive and the Department for Health, Social Services and Public Safety (DHSSPS) co-ordinate actions to address the known health inequalities amongst minority ethnic, newcomer and Traveller populations, to ensure measurable improvements in health outcomes;
- DHSSPS ensures that migrants have access to primary and secondary healthcare based on clinical need;
- DHSSPS and Health and Social Care (HSC) Trusts provide information and services consistent with equality of access and that staff are trained in anti-racism and cultural awareness;
- That DHSSPS and HSC Trusts develop a system for monitoring health inequalities experienced by ethnic minorities, including the comprehensive data collection/review so that adverse impacts can be identified and addressed;
- DHSSPS, as part of an integration strategy, identifies and addresses the specific disadvantages faced by refugees in accessing appropriate services; ensures that the needs of asylum seekers and refugees are taken into account in the development and delivery of services<sup>52</sup>.

### **Social Welfare**

- 4.18 The Commission is aware that Migrant Workers experience restrictions to benefits because of residence rules and has limited access to advice in rural areas<sup>53</sup>.
- 4.19 Asylum Seekers and Refugees may experience low levels of asylum support, restricted access to benefits, delays in administration of benefits during transition to refugee status and thus are at risk of destitution<sup>54</sup>.

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<sup>52</sup> Equality Commission for Northern Ireland (2014): *Racial Equality Policy Priorities and Recommendations*, pages 32-33. Available at: <http://www.equalityni.org/Delivering-Equality/Equality-Themes/Racial-equality.aspx>

<sup>53</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-fromapril/7001721.article>

Aire Centre (2011): Note on infringement proceeding against the UK.

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>54</sup> Report of the Parliamentary Inquiry into asylum support for children and young people (January 2013).

4.20 An evaluation (2012) 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>55</sup>.

#### Proposal to the Committee

4.21 Aligned to the Equality Commission’s **recommendations** to the UK Government, NI Executive and key departments (as appropriate), the Advisory Committee may wish to consider recommending, for action by the UK State Party and/or NI Executive, as appropriate, that:

- the UK Government undertake a review of the asylum system to ensure smooth transition from one form of public support to another and that asylum seekers receive appropriate support from arrival until voluntary departure or compulsory removal;
- OFMDFM takes appropriate steps to ensure the long term sustainability of the Emergency Fund<sup>56</sup>;
- the Executive ensures that changes associated with Welfare Reform are compatible with European Union<sup>57</sup> and Human Rights law;
- the DSD and the Social Security Agency undertake an assessment of the barriers to accessing benefits faced by migrants, asylum seekers and refugees;
- the Executive and relevant Departments ensure that first tier generalist advice is available for those migrants impacted on by any changes to the welfare system;
- Departments develop clearer guidance and training for decision makers with regard to applications from persons from abroad.

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Available at:

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

<sup>55</sup> McKittrick, N. and McCann, J. (April 2012): *Evaluation of the OFMDFM Emergency Fund Pilot*, pages 15&16. Available at: <http://www.communityfoundationni.org/download/files/efundpilot2.pdf>

<sup>56</sup> McKittrick, N. and McCann, J. (April 2012): *Evaluation of the OFMDFM Emergency Fund Pilot*, pages 15&16. Available at: <http://www.communityfoundationni.org/download/files/efundpilot2.pdf>

<sup>57</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.

## ***Integration Strategies***

- 4.22 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.
- 4.23 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.
- 4.24 The Commission, therefore, welcomes the acknowledgement by OFMDFM in the published Racial Equality Strategy that there is a strong case for a Refugee Integration Strategy in Northern and that, accordingly, a draft strategy is being prepared for consultation<sup>58</sup>.
- 4.25 While the Commission welcomes OFMDFM's commitment to develop specific programmes of work to address the needs of particular needs of Travellers and Roma, it is disappointed that the Strategy does not include a commitment to develop a co-ordinating and overarching Traveller and Roma Strategy, especially given the high level of support for such a Strategy in the consultation responses<sup>59</sup> and the recommendation by the European Commission that member states should develop Roma integration strategies<sup>60</sup>.

### Proposal to the Committee

- 4.26 Aligned to the Equality Commission's **recommendations**, the Advisory Committee may wish to consider recommending to the UK State Party, that the NI Executive should, aligned to the Racial

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<sup>58</sup> Office of the First Minister and the Deputy First Minister (2015): *Racial Equality Strategy 2015 – 2025*, paragraph 6.19, page 31. Available at: <https://www.ofmdfmi.gov.uk/publications/racial-equality-strategy-2015-2025>

<sup>59</sup> 23.7% of written responses in addition to the 395 responses from the Traveller and Gypsy Network NI and Roma Community. Source: Office of the First Minister and the Deputy First Minister (2015): *Racial Equality Strategy 2015 – 2025 consultation analysis document*, pages 3 and 9. Available at: <https://www.ofmdfmi.gov.uk/publications/racial-equality-strategy-2015-2025>

<sup>60</sup> *An EU Framework for National Roma Integration Strategies*, COM(2011) 173 final, 5.4.2011. Available at: [http://ec.europa.eu/justice/discrimination/roma/eu-framework/index\\_en.htm](http://ec.europa.eu/justice/discrimination/roma/eu-framework/index_en.htm)

Equality Strategy for Northern Ireland, take action to advance key issues, including through an associated Refugee Integration Strategy<sup>61</sup> and a Strategy for Travellers and Roma<sup>6263</sup>.

## ***Asylum Seekers and Refugees***

4.27 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 education<sup>64</sup>.

4.28 Unlike Scotland<sup>65</sup> and Wales<sup>66</sup>, Northern Ireland does not have a separate national strategy on refugee integration<sup>67</sup>.

### Proposal to the Committee

4.29 Aligned to the Equality Commission's **recommendations** to the NI Executive and key Departments, the Advisory Committee may wish to consider recommending to the UK State Party, that the NI Executive should, including via the Racial Equality Strategy for Northern Ireland:

- undertake a range of initiatives aimed at encouraging migrants, asylum seekers and refugees to take an active role in political and public life<sup>68</sup>;
- identify and address the complex emotional, educational and social needs of asylum seeking and refugee children<sup>69</sup>;

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<sup>61</sup> Equality Commission for Northern Ireland (May 2014): [Racial Equality Policy Priorities and Recommendations](#). (6.13) (Belfast, ECNI).

<sup>62</sup> Equality Commission for Northern Ireland (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>

<sup>63</sup> These individual targeted strategies should nest within or be considered a sub-set of the overarching (mainstreaming) Racial Equality Strategy.

<sup>64</sup> Potter, M. (2014): [Asylum seekers and Refugees in Northern Ireland](#), (Northern Ireland Assembly Research Service), page 9 (Belfast: NIARC).

<sup>65</sup> Scottish Government (2013): [New Scots: Integrating Refugees in Scotland's Communities](#). Edinburgh

<sup>66</sup> Welsh Government (2008): [Refugee Inclusion Strategy](#) (Wales: Welsh Assembly Government).

<sup>67</sup> There is no national Integration Strategy in England. The last Integration Strategy, *Integration Matters*, was published in 2005.

<sup>68</sup> Equality Commission for Northern Ireland (May 2014): [Racial Equality Policy Priorities and Recommendations](#). (3.15) (Belfast, ECNI).

- increase access to employment and volunteering opportunities for refugees and ensure that employability strategies and mainstream services benefit and are accessible for, refugee users<sup>70</sup>;
- take account of the need to provide support and advice to asylum seekers who are either in emergency accommodation provided by NASS<sup>71</sup> support, are otherwise pursuing an application for NASS support, or have recently received a decision and need support to move on<sup>72</sup>;
- identify and address the specific disadvantages faced by refugees in obtaining and accessing appropriate services (including mental health services)<sup>73</sup>;
- assess the barriers faced by migrants (including asylum seekers and refugees) in accessing benefits including the accessibility of services<sup>74</sup>.

### ***Travellers and Roma***

4.30 As noted above, the range and depth of inequalities experienced by Travellers and Roma is such that the Commission has advocated that the NI Executive develops a focused integration strategy to eliminate these inequalities.

#### Proposal to the Committee

4.31 Aligned to the Equality Commission's **recommendations** to the Northern Ireland Executive and key Departments, the Advisory Committee may wish to consider recommending to the UK State Party, that the NI Executive should, including via the Racial Equality Strategy for Northern Ireland:

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<sup>69</sup> Equality Commission for Northern Ireland (May 2014): [Racial Equality Policy Priorities and Recommendations](#). (4.20) (Belfast, ECNI).

<sup>70</sup> Equality Commission for Northern Ireland (May 2014): [Racial Equality Policy Priorities and Recommendations](#). (5.21) (Belfast, ECNI).

<sup>71</sup> National Asylum Support Service.

<sup>72</sup> Equality Commission for Northern Ireland (May 2014): [Racial Equality Policy Priorities and Recommendations](#). (6.13) (Belfast, ECNI).

<sup>73</sup> Equality Commission for Northern Ireland (May 2014): [Racial Equality Policy Priorities and Recommendations](#). (7.8) (Belfast, ECNI).

<sup>74</sup> Equality Commission for Northern Ireland (May 2014): [Racial Equality Policy Priorities and Recommendations](#). (8.15) (Belfast, ECNI).



- oversee the establishment 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>75</sup>;
- oversee the development Traveller specific, long-term initiatives to improve employment opportunities<sup>76</sup>;
- oversee the monitoring and evaluation of the Traveller Education Support Service (TESS) delivery plan and ensuring Traveller parents are closely involved in the development and implementation;
- oversee the co-ordination of actions to address the known health inequalities amongst minority ethnic, newcomer and Traveller population, ensuring that all policies result in measurable improvements in health outcomes for this group<sup>77</sup>;
- ensure that the barriers faced by Roma children in accessing education are addressed, including through the training and employment of culturally competent bi-lingual classroom assistants<sup>78</sup>;
- oversee the provision of assistance to support 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 employment<sup>79</sup>;
- ensure an assessment of the barriers faced by migrants (including Roma), in accessing benefits including the accessibility of services<sup>80</sup>.

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<sup>75</sup> Equality Commission for Northern Ireland (May 2014): [Racial Equality Policy Priorities and Recommendations](#). (6.10) (Belfast, ECNI).

<sup>76</sup> Equality Commission for Northern Ireland (May 2014): [Racial Equality Policy Priorities and Recommendations](#). (5.19) (Belfast, ECNI).

<sup>77</sup> Equality Commission for Northern Ireland (May 2014): [Racial Equality Policy Priorities and Recommendations](#). (7.14) (Belfast, ECNI).

<sup>78</sup> Equality Commission for Northern Ireland (May 2014): [Racial Equality Policy Priorities and Recommendations](#). (4.18) (Belfast, ECNI).

<sup>79</sup> Equality Commission for Northern Ireland (May 2014): [Racial Equality Policy Priorities and Recommendations](#). (5.20) (Belfast, ECNI).

<sup>80</sup> Equality Commission for Northern Ireland (May 2014): [Racial Equality Policy Priorities and Recommendations](#). (8.15) (Belfast, ECNI).

4.32 Further detail supporting all of the above **recommendations** can be found in: ECNI (2014) [‘Racial Equality Policy – Priorities and Recommendations’](#)

## 5 Article 5: Promotion of conditions necessary to maintain and develop culture

1. *The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.*
2. *Without prejudice to measures taken in pursuance of their general integration policy, the Parties shall refrain from policies or practices aimed at assimilation of persons belonging to National Minorities against their will and shall protect these persons from any action aimed at such assimilation.*

### ***Rights of Irish and Ulster Scots speakers***

- 5.1 The Commission's statutory duties and functions are not directly or primarily concerned with the promotion of languages and we do not have direct jurisdiction on language issues. On the relatively few occasions that language issues have been brought to our attention, it has come about because they were raised in the context of Section 75 of the Northern Ireland Act 1998 and/or the provisions of the anti-discrimination legislation, specifically the Race Relations (NI) Order 1997 and the Fair Employment and Treatment (NI) Order 1998.
- 5.2 The Commission does, however, recognise that minority language speakers are entitled to protection of their internationally recognised rights including under the FCNM and European Charter for Regional or Minority Languages (ECRM)<sup>81</sup>. The Commission also notes the commitments given in the St Andrews agreement to the development of Irish language legislation and the duty on the Executive to adopt strategies relating to the Irish language and Ulster Scots language<sup>82</sup>.

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<sup>81</sup> Equality Commission for Northern Ireland (2015): [Response to the consultation by the Department of Culture Arts and Leisure on Proposals for an Irish Language Bill](#), page 2, para 5.

<sup>82</sup> [Section 28D of the Northern Ireland Act 1998 \(as amended\)](#)

- 5.3 The Commission has placed on record our view that a specific language statute is an appropriate mechanism of protection for the Irish language<sup>83</sup> and have welcomed initiatives<sup>84</sup> taken to promote the Irish and Ulster Scots languages to as wide an audience as possible<sup>85</sup>.
- 5.4 In February 2015, the Department of Culture Arts and Leisure (DCAL) published a consultation<sup>86</sup> on Proposals for an Irish Language Bill. In its response to the consultation<sup>87</sup>, the Commission welcomed the Department's stated intent that the proposed legislation will 'seek to bring about clarity in relation in respect of the level of provisions and protections available'<sup>88</sup> and provide a 'useful opportunity to afford a more consistent approach' in the matter of Irish language policy<sup>89</sup>.
- 5.5 We also set out our view that any duty placed on public authorities should be seen 'within a context of promoting a culture of good relations and diversity within the provision of public services'<sup>90</sup> which is 'proportionate to the language needs of the situation, in a spirit of respect for the freedom of minority language speakers'<sup>91</sup>.
- 5.6 The Department has indicated that, after considering responses, a policy proposal will be put to the Executive for agreement<sup>92</sup>.

#### Proposal to the Committee

- 5.7 Aligned to the Equality Commission's **recommendations** to the Department of Culture, Arts and Leisure (DCAL), the Advisory

<sup>83</sup> Equality Commission for Northern Ireland (2007): [Response to DCAL Consultation on Proposed Irish Language Legislation](#).

<sup>84</sup> For example, the [Liofa Project](#) (Department of Culture, Arts and Leisure).

<sup>85</sup> Equality Commission for Northern Ireland (2007): [Response to DCAL Consultation on Proposed Irish Language Legislation](#), page 10, para 11.

<sup>86</sup> Department of Culture, Arts and Leisure (2015): [Proposals for an Irish Language Bill](#)

<sup>87</sup> Equality Commission for Northern Ireland (2015): [Response to the consultation by the Department of Culture Arts and Leisure on Proposals for an Irish Language Bill](#)

<sup>88</sup> Equality Commission for Northern Ireland (2007): [Response to DCAL Consultation on Proposed Irish Language Legislation](#), page 4, para 12.

<sup>89</sup> Equality Commission for Northern Ireland (2015): [Response to the consultation by the Department of Culture Arts and Leisure on Proposals for an Irish Language Bill](#), page 4, para 12.

<sup>90</sup> Equality Commission for Northern Ireland (2015): [Response to the consultation by the Department of Culture Arts and Leisure on Proposals for an Irish Language Bill](#), page 4, para 11.

<sup>91</sup> Equality Commission for Northern Ireland (2015): [Response to the consultation by the Department of Culture Arts and Leisure on Proposals for an Irish Language Bill](#), page 3, para 7.

<sup>92</sup> Northern Ireland Executive (October 2015): [DCAL briefing to the Committee for Culture, Arts and Leisure on the Irish Language Consultation](#)

Committee may wish to consider recommending, via the State Party, that:

- the Department of Culture, Arts and Leisure ensures 'that the provisions of the Irish Language Bill are consistent with those of the European Charter for Regional and Minority Languages'<sup>93</sup>.

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<sup>93</sup> Equality Commission for Northern Ireland (2015): [\*Response to the consultation by the Department of Culture Arts and Leisure on Proposals for an Irish Language Bill\*](#), page 4, para 12.

## 6 Article 6: Tolerance and intercultural dialogue

1. The Parties shall encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and co-operation among all the persons living on their territory, irrespective of those person's ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media.
2. The Parties undertake to take appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity.

### ***Prejudicial attitudes, hate crime and racism***

- 6.1 The Commission's most recent (2012) Equality Awareness Survey<sup>94</sup>, like previous surveys, found the persistence of some negative attitudes (for example, towards Travellers, Eastern European Migrant Workers and minority ethnic individuals amongst others).
- 6.2 We are also concerned about evidence of discriminatory, sensational and unbalanced media reporting at UK-wide level<sup>95</sup>.
- 6.3 The ethnic minority population in Northern Ireland has nearly doubled since 2001<sup>96</sup>, but remains relatively low compared to the rest of the UK<sup>97</sup>. Despite the low numbers, racist hate crime is the second most common form of hate crime in Northern Ireland<sup>98</sup>.

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<sup>94</sup> Equality Commission for Northern Ireland (2012): *Do you mean me? Equality Awareness Survey 2011*. Available at: <http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/DYMMequalityawarenesssurveyreport2012.pdf>

<sup>95</sup> Leveson (November 2012): *Criticism of the Culture, Practices and Ethics of the Press*, para 8.5.1. 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>96</sup> 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.

<sup>97</sup> Office for National Statistics (2012): *Ethnicity and national identity in England and Wales* and Scottish Government (2013): *Summary Ethnic Group Demographics*.

<sup>98</sup> Police Service for Northern Ireland (6 August 2015): *Trends in Hate Motivated Incidents and Crimes recorded by the Police in Northern Ireland 2004/5 to 2014/15*, Table 1.2: [Number of hate crimes with a hate motivation 2004/05 – 2014/15](#).

- 6.4 Since 2004/05<sup>99</sup>, reported racist hate incidents have increased by 67%<sup>100</sup> and racist hate crimes by 45%<sup>101</sup>. Last year alone saw an increase in reported racist hate crime of a third<sup>102</sup>. Levels of faith/religion<sup>103</sup> motivated incidents and crimes recorded in 2014/15 are the highest seen since 2009/10<sup>104</sup>. In 2014/15, the outcome rate<sup>105</sup> for all crimes where there was a racist motivation was 13.4 percentage points lower than the outcome rate for all crimes recorded by the police<sup>106</sup>.
- 6.5 Research has also found that “underreporting of hate crimes by victims was commonplace” and that hate crime legislation is used less often in Northern Ireland than in other parts of the UK<sup>107</sup>.

### Proposal to the Committee

- 6.6 Aligned to the Equality Commission’s **recommendations** to the NI Executive and key Departments, the Advisory Committee may wish to consider recommending to the UK State Party, that the NI Executive and key departments should, including via the Racial Equality Strategy for Northern Ireland:
- 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;

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<sup>99</sup> 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](#).

<sup>100</sup> 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](#).

<sup>101</sup> 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](#).

<sup>102</sup> There were 691 racist hate crimes recorded in 2013/14 compared to 921 in 2014/15 - see Figure 1 at [PSNI Mar 2015](#).

<sup>103</sup> 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.

<sup>104</sup> Police Service for Northern Ireland (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](#)

<sup>105</sup> Section 2.4 of the [User Guide to Police Recorded Crime Statistics in Northern Ireland](#) describes in detail what outcomes are and the recording practice in relation to outcomes.

<sup>106</sup> Police Service for Northern Ireland (2015): [Trends in police recorded crime for Northern Ireland](#), page 8.

<sup>107</sup> Jarman, N. (2012): *Criminal Justice Responses to Hate Crime in Northern Ireland*, (Belfast: Institute for Conflict Research). Available at: <http://conflictresearch.org.uk/wp-content/uploads/NIACRO-Report-01-Complete-Low-Res.pdf>

- use early intervention in education to combat negative attitudes, reduce racism and promote good relations<sup>108</sup>;
- prioritise the reduction and elimination of racial violence through a range of actions including; addressing issues of under reporting; early intervention; improved operational response to hate crime and support for victims of racist hate crime;
- ensure that the criminal justice agencies improve the accessibility of reporting for victims and take appropriate steps to increase ethnic minority representation among police and criminal justice staff;
- takes appropriate action to support integration, foster community cohesion and promote participation in public life through both the revised RES and United Community strategies;
- 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 Ireland<sup>109</sup>;
- co-ordinates departmental action aimed at identifying and addressing any institutional racism<sup>110</sup>.

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<sup>108</sup> Equality Commission for Northern Ireland (2014): [Racial Equality Policy – Priorities and Recommendations](#) (Para 3.12) (Belfast: ECNI).

<sup>109</sup> Equality Commission for Northern Ireland (May 2014): [Racial Equality Policy Priorities and Recommendations](#) (3.16) (Belfast: ECNI).

<sup>110</sup> Equality Commission for Northern Ireland (May 2014): *Racial Equality Policy – Priorities and Recommendations*, pages 11-12. Available at: <http://www.equalityni.org/Delivering-Equality/Equality-Themes/Racial-equality.aspx>



## 7 Article 12: Education

1. The Parties shall, where appropriate, take measures in the fields of education and research to foster knowledge of the culture, history, language and religion of their national minorities and of the majority.
2. In this context the Parties shall inter alia provide adequate opportunities for teacher training and access to textbooks, and facilitate contacts among students and teachers of different communities.
3. The Parties undertake to promote equal opportunities for access to education at all levels for persons belonging to national minorities.

### **Education**

7.1 The Commission has long been concerned<sup>111 112</sup> about racist bullying, high rates of non-attendance at school, high drop-out rates and poor educational outcomes experienced by Irish Travellers. The Commission is also aware that Newcomer and Roma or refugee children can also lack English language skills; encounter difficulty accessing school or adapting to school regimes; have high levels of nonattendance and can have limited participation in the school community and experience racist bullying<sup>113</sup>.

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<sup>111</sup> Equality Commission for Northern Ireland (Nov 2008): *Every Child an Equal Child – Statement on Key Inequalities in Northern Ireland and a strategy for Intervention*. Available at: <http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/Keyinequalitiesineducation2008.pdf>

<sup>112</sup> Equality Commission for Northern Ireland (2011): *Shadow Report to the UN Committee on the Elimination of Racial Discrimination on the UK Government's 18th Periodic Report*, page 2. Available at: [http://www.equalityni.org/ECNI/media/ECNI/Consultation%20Responses/2011/Shadow\\_Report-UN\\_Elimination\\_Racial\\_Discrimination-\(CERD\).pdf](http://www.equalityni.org/ECNI/media/ECNI/Consultation%20Responses/2011/Shadow_Report-UN_Elimination_Racial_Discrimination-(CERD).pdf).

<sup>113</sup> The Equality Commission (March 2012): *Inequalities in Education Facts and Trends 1998-2008*. Available at:

<http://www.equalityni.org/Delivering-Equality/Addressing-inequality/Education/Research-investigations/Inequalities-in-Education-Facts-and-Trends>

Education and Training Inspectorate (2009): *An Evaluation of the Provision to Support Newcomer Pupils in a range of primary and post-primary schools*. Available at:

<http://www.etini.gov.uk/index/surveysevaluations/surveys-evaluations-primary/surveys-evaluations->

7.2 The Commission **recommends** that the Department of Education for Northern Ireland (DE) adopts a holistic approach to the development of education policy which includes measures aimed at promoting a sense of belonging<sup>114</sup>.

#### Proposal to the Committee

7.3 Aligned to the Equality Commission's **recommendations** to the NI Executive and key departments, the Advisory Committee may wish to consider recommending to the State Party, that the Department for Education (NI):

- takes action to ensure that minority ethnic children see their culture and language reflected in the classroom and school curriculum;
- identifies barriers and provide guidance on promoting the participation and progression of newly arrived, Roma, asylum / refugee or minority ethnic children in education – including assessing educational needs; reviewing the current English as an Additional Language (EAL) support; and identifying appropriate strategies to support the teaching of such pupils;
- takes action to ensure that the Traveller Child in Action Framework and Traveller Education Support Service (TESS) is progressed, monitored and evaluated;
- takes action to ensure that pre-service and in-service training is provided to school staff on strategies to tackle and prevent racist bullying; and that schools put in place appropriate mechanisms to consider complaints from parents in relation to schools' handling of bullying incidents;
- takes action to ensure that educational inequalities among pupils are taken forward as part of relevant strategies – for example a wider Roma integration strategy;

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[primary-2009/an-evaluation-of-the-provision-to-support-newcomer-pupils-in-a-range-of-primary-and-post-primary-schools.pdf](#)

Connolly, P. And Keenan, M. (2000): *Opportunities for All: Ethnic Minority People's Experience of Education, Training and Employment in Northern Ireland* (NI Statistics and Research Agency).

<sup>114</sup> Equality Commission for Northern Ireland (2014): *Racial Equality Policy - Priorities and Recommendations*, page 16. Available at: <http://www.equalityni.org/Delivering-Equality/Equality-Themes/Racial-equality.aspx>

- places a duty on schools to record disaggregated data on incidents of prejudice-based bullying<sup>115</sup>.

## **Sharing in Education**<sup>116</sup>

- 7.4 In Northern Ireland, the education system is largely divided along religious lines<sup>117</sup>, in that most children attend predominantly Protestant schools or Catholic schools and by ability in that an informal selection system operates at age 11 to decide which children attend grammar schools. Since the Committee's last report, the Department of Education has advanced a policy of shared education in Northern Ireland, aimed at meeting the 'needs of and providing for the education together of learners from all Section 75 categories<sup>118</sup> and socio-economic status'<sup>119</sup>.
- 7.5 In 2014, following a public consultation<sup>120</sup>, the Department of Education (Northern Ireland) developed a shared education policy<sup>121</sup> and bill<sup>122</sup>. The Bill provides a statutory definition of Shared Education and confers a power on the Department and its relevant arms-length bodies to encourage and facilitate sharing between those of different religious belief and those experiencing socio-economic deprivation and those who are not<sup>123</sup>.
- 7.6 The Commission recognises that 'sharing in education has the potential to improve educational access and attainment for pupils from a diverse range of backgrounds/abilities and has an important role to play in advancing cohesion, sharing and

<sup>115</sup> Equality Commission for Northern Ireland (May 2014): *Racial Equality Policy – Priorities and Recommendations*, pages 16-18. Available at: <http://www.equalityni.org/Delivering-Equality/Equality-Themes/Racial-equality.aspx>

<sup>116</sup> The Commission does not advocate a particular model of educational provision but supports 'sharing in education' which may include either 'integrated' or 'shared education'.

<sup>117</sup> Burns, S., Leitch, R. and Hughes, J. (2015) *Education Inequalities in Northern Ireland*, para 5, page 340.

<sup>118</sup> [S 75 of the Northern Ireland Act 1998](#), c47

<sup>119</sup> Department of Education: [What is Shared Education?](#) [accessed 10<sup>th</sup> November 2015]

<sup>120</sup> DENI (2015): [Consultation Document – Sharing Works: A Policy for Shared Education](#)

<sup>121</sup> Department of Education (Northern Ireland) (2015): [Sharing Works: A Policy for Shared Education](#)

<sup>122</sup> See: [Shared Education Bill](#)

<sup>123</sup> Section 1(2) of the Bill defines shared education as the education together of: (a) those of different religious belief, including reasonable numbers of both Protestant and Roman Catholic children or young persons; and (b) those who are experiencing socio-economic deprivation and those who are not, which is secured by the working together and co-operation of two or more relevant providers.

integration<sup>124</sup>. In addition to our response the specific provisions set out in Department's public consultation on shared education<sup>125</sup>, we **recommend**<sup>126</sup>:

- a move to a system of education which routinely teaches pupils together via a shared curriculum in shared classes, which is central to the education system as a whole and impacts meaningfully and substantively on every learner;
- a duty (as opposed to a power) on the Department of Education (NI) to encourage and facilitate sharing centred on community background while incentivizing sharing across all equality grounds and different socio-economic status;
- actions to address wider issues in education including concerns in relation to academic selection and assessment of the equality impact of differential patterns of enrolment; removal of the teacher's exception under FETO at secondary level; and greater sharing and collaboration in teacher training;
- actions to incentivize cross-sectoral/ability sharing based on learning from integrated and shared projects and through engagement with pupils, parents, education providers and wider stakeholders.

### Proposal to the Committee

7.7 Aligned to the Equality Commission's recommendations to the Department of Education (NI), the Advisory Committee may wish to consider recommending to the UK State Party that:

- the Department of Education (NI) ensures that sharing in education involves meaningful and sustained contact between different equality groups and those of different social economic status, via a shared curriculum in shared classes;
- the Department maximises the potential for shared education to address education inequalities and advance cohesion, sharing and integration;

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<sup>124</sup> Equality Commission (2015): [Key point briefing](#), (Belfast ECNI).

<sup>125</sup> Equality Commission (2015): [Response to the Department of Education Consultation on a Shared Education Draft Policy and Legislation Consultation](#), (Belfast ECNI).

<sup>126</sup> Equality Commission (2015): [Key point briefing](#), (Belfast ECNI).

- the Department addresses wider issues in education in relation to: academic selection; the teachers' exception under FETO; and greater collaboration in teacher training.

## 8 Article 15: Conditions necessary for participation in social and economic life

1. *The Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.*

### ***Effective participation in public affairs***

8.1 The Commission notes that 2% of applications for public appointments came from minority ethnic communities during 2013-14. However only 1% of appointments (1 male and 1 female) comprised members of ethnic minority communities during this period<sup>127</sup>.

8.2 The Commission is also aware that there is a lack of data with respect to a range of other positions in public life including, inter alia, elected representatives and School Boards of Governors.

### Proposal to the Committee

8.3 Aligned to the Equality Commission's **recommendations** to the Northern Ireland (NI) Executive and key Departments, the Advisory Committee may wish to consider recommending to the State Party, that the NI Executive and key departments, including via the Racial Equality Strategy for Northern Ireland:

- undertake a range of initiatives aimed at encouraging members of minority ethnic groups, migrants, asylum seekers and refugees to take an active role in political and public life<sup>128</sup>;
- collect, monitor and evaluate appropriate data to ensure effective policy/service development and delivery and to fulfil obligations arising from Section 75 of the Northern Ireland Act 1998<sup>129</sup>.

8.4 Fair participation in the Police Service for Northern Ireland

<sup>127</sup> Office of the First Minister and the Deputy First Minister (2014): *Public Bodies and Public Appointments*, Table 8B, page 24. Available at: <https://www.ofmdfmi.gov.uk/publications/public-bodies-and-public-appointments-annual-report-201314>

<sup>128</sup> Equality Commission for Northern Ireland (May 2014): *Racial Equality Policy Priorities and Recommendations*. (paragraph 3.15) (Belfast, ECNI).

<sup>129</sup> Ibid, paragraphs 10.3 – 10.4, pages 41-42.

8.5 Further to the Advisory Committee's previous interest in this matter<sup>130</sup>, the Commission continues to consider that the Police Service for Northern Ireland (PSNI) should represent the community it serves and has noted that data relating to the most recent recruitment competition (2015) showed a lower success rate and higher dropout rate for Catholic applicants at each stage of the recruitment process<sup>131</sup>.

#### Proposal to the Committee

8.6 Aligned to the Equality Commission's **recommendations** to the PSNI, the Advisory Committee may wish to consider recommending to the State Party that:

- the PSNI take continuing outreach measures to increase the number of applicants for student officer posts from the Catholic community and other under-represented groups, including ethnic minorities, so that the composition of the Service reflects the community it serves.

## **9 Conclusion**

9.1 The Equality Commission for Northern Ireland **recommends** that the NI 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.

9.2 The Commission also highlights the importance of taking account of multiple identities and the importance of the appropriate

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<sup>130</sup> Advisory Committee on the Framework Convention on the Protection of National Minorities: *Third Opinion on the United Kingdom adopted on 20 June 2011*, paragraph 197, pages 37-38, ACFC/OP/III (2011)006, (Strasbourg: Council of Europe). 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>131</sup> See also report by Chief Constable PSNI to Northern Ireland Policing Board, 3 September 2015. Available at: [http://www.psni.police.uk/chief\\_constable\\_s\\_report\\_northern\\_ireland\\_policing\\_board\\_meeting](http://www.psni.police.uk/chief_constable_s_report_northern_ireland_policing_board_meeting)

development and implementation of a SMART<sup>132</sup> action plan to accompany the Racial Equality Strategy.

- 9.3 Further information on the Equality Commission's work and recommendation's is available on the Commission website at: <http://www.equalityni.org/Delivering-Equality/Equality-Themes/Racial-equality.aspx>

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<sup>132</sup> Specific, Measurable, Attainable Realistic and Timebound.



## **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, racial 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.