



Executive Office Committee – Call for views Fair Employment (School Teachers) Bill

March 2022

Introduction

1. How would you like your response to be published? (Please note: this question requires a response)

I would like my response to be published

2. Are you content that any of your suggestions which have been published to the Committee or the Assembly may inspire the text of an amendment?

Yes

3. What is your name? (Please note: this question requires a response)

Name (including family name):

Deborah Howe

4. What is your email address?

Email: dhowe@equalityni.org

5. Please indicate if you are providing a submission:

On behalf of an organisation or business

If on behalf of an organisation or business, please state its name:

Equality Commission for NI

And please tell us briefly how the organisation or business relates to the subject matter of the Bill:

The Equality Commission has a statutory responsibility to keep the exception under review.

Call for Evidence and Views

6. Do you think the exemption for school teachers should be removed from the 1998 Order?

Yes

Please expand on your answer:

The Commission's long-standing view is that the exception in the employment provisions of the Fair Employment and Treatment (NI) Order 1998 should be removed.

The Commission is of the view that all teachers should be able to enjoy the same legislative protection as other workers. All Teachers should be included in monitoring and review requirements, as are all other occupations.

7. The majority of religious instruction happens in primary schools. Do you think primary schoolteachers should still be exempt, but the exemption for post-primary schools be removed?

Yes

Please tell us why:

The Commission's longstanding view is that all teachers should be able to enjoy the same legislative protection as other workers. Our long-standing recommendation is that the exception should be removed.

In 2004 we recommended the removal of the exception at secondary level. We noted that if the Exception was to be 'retained in relation to recruitment of teachers in primary schools, this should be a staging post towards its eventual removal'.

In 2009, the Commission reaffirmed its view that all teachers should be able to enjoy the same legislative protection as other workers. At that time the Commission recommended "early consideration as to whether the exception should also be removed as regards primary level schools".

In 2004, the Commission also recommended that all teachers (primary and post-primary) should be included in monitoring and review requirements, as are all other occupations.

8. If the exemption were to be removed from either level, are there transitional or permanent arrangements you think should be put in place?

Yes

If so what would you suggest?

Staged or transitional arrangements could potentially, for example, allow for the anti-discrimination provisions to come into force, while allowing for a short lead time for the mechanisms and training for monitoring to be put into place. If there was a persuasive argument for phased removal, such arrangements could potentially be used to progress the removal of the exception at post-primary level, with primary schools to follow thereafter.

Any staged or transitional arrangements should however have clearly defined timelines /conditions for the completion each stage and set out the overall conditions / date for completion of overall implementation so as to ensure full implementation (however that is defined by the drafters) is achieved in practice.

9. Do you have any other suggestions in relation to this Bill?

Any Other suggestions in relation to this Bill?

The Commission would welcome consideration of the following points in relation to the Bill:

- The costs of implementation should be assessed and resourced. These may include costs associated with Fair Employment Monitoring requirements, and the provision of advice services, including via the Commission. In addition, there may be legal, Tribunal and conciliation costs associated with the exercise of the newly conferred anti-discrimination rights.
- It is possible that a particular impact of the removal of the Teachers Exception may be an increased scrutiny of recruitment criteria and/or an increased desire to rely on genuine occupational requirement exceptions.

Within integrated schools, where it is necessary to ensure a workforce which includes Protestants, Roman Catholics and those of other and no

religion, it is likely that the need for a staff member of a particular religion will meet the test of genuine occupational requirement. It is not clear if wider posts or sectors could reasonably benefit from such a GOR Exception.

Recruitment criteria should be proportionate, objectively justifiable and directly related to each specific post of employment – taking account of the genuinely essential and desirable attributes that the job-holder will need to effectively perform the duties of the post.

- Equality impacts of the Bill should be considered at the outset and impacts monitored and reviewed over time, with appropriate mitigations implemented.
- Data collection and monitoring of the use of genuine occupational requirements will be essential in gauging the impact of the removal of the exception. Provision should be included to enable a comprehensive review of impacts.