

Equality Commission

FOR NORTHERN IRELAND

**Equality Commission for Northern Ireland
response to the European Commission's
proposals on Binding standards for
Equality Bodies**

03 February 2023

1. Introduction

- 1.1 The Equality Commission for Northern Ireland (ECNI) is an independent public body established under the Northern Ireland Act 1998. Its powers and duties derive from a number of equality statutes providing protection against discrimination on the grounds of age, disability, race, religion and political opinion, sex and sexual orientation. Its remit also includes overseeing the statutory duties on public authorities on the promotion of equality of opportunity and good relations under Section 75 of the Northern Ireland Act 1998.
- 1.2 The EU (Withdrawal Agreement) Act 2020¹ empowers the Equality Commission, and the Northern Ireland Human Rights Commission (NIHRC), to monitor, advise, report on, promote, and enforce the implementation of Article 2(1) of the Ireland/Northern Ireland Protocol² ('the Protocol') to the UK-EU Withdrawal Agreement.
- 1.3 The ECNI welcomes and supports the European Commission's development of binding standards to strengthen equality bodies in Europe, by setting minimum standards on how they operate in all grounds of discrimination and areas covered by EU equality legislation. We note the importance of this development for equality in Europe.

2. Protocol Article 2

- 2.1 Following the UK's exit from the EU, the UK Government has committed under Article 2 of the Ireland/Northern Ireland Protocol ('the Protocol') to ensuring that certain equality and human rights in Northern Ireland will continue to be upheld after Brexit. Since 1 January 2021, the ECNI, together with the Northern Ireland Human Rights Commission (NIHRC), has been given additional powers and responsibilities, as the 'dedicated mechanism', to ensure that the UK Government's commitment under Article 2 of the Protocol is met.
- 2.2 Under Article 2(1) the UK Government has committed to ensuring there is no diminution of rights, safeguards and equality of opportunity protections and provisions as set out in the relevant part of the Belfast (Good Friday) Agreement. There is also a commitment to ensuring that some of Northern Ireland's equality laws will keep pace with any changes the EU may make to

¹ [European Union \(Withdrawal Agreement\) Act 2020](#)

² [Protocol on Ireland/Northern Ireland](#)

amend or replace the EU equality laws, set out in Annex 1 to the Protocol, including monitoring current and future CJEU case law.³⁴

2.3 In relation to the Annex 1 Directives the ECNI notes that:

- The proposal for a Council Directive on standards for equality bodies in the field of equal treatment between persons in matters of social security and in the access to and supply of goods and services seeks to delete Article 13 of Directive 2000/43/EC and Article 12 of Directive 2004/113/EC.
- The proposal for a Directive of the European Parliament and of the Council on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation seeks to delete Article 20 of Directive 2006/54/EC and Article 11 of Directive 2010/41/EU.
- The proposals extend the competence of equality bodies to the Employment Equality Directive and the Gender Equality Directive in the field of social security.

2.4 Whilst we are currently reviewing these proposals in detail, the ECNI's initial view is that the proposed Directives do amend provisions of a number of the Annex 1 equality directives and it is therefore important that Northern Ireland equality law is amended to keep pace with any changes to these equality directives, if the proposals are introduced.

3. Binding standards for equality bodies

3.1 The ECNI recognises that the development and adoption of EU legislation on binding standards for equality bodies would be a significant and important step to ensure that EU equality legislation is better applied, reducing opportunities for any divergence of rights across countries where such legislation applies, including Northern Ireland.

³ Ireland/Northern Ireland Protocol Annex 1 Directives: [Gender Goods and Services Directive \(Gender\)](#): Directive 2004/113/EC of 13 December 2004, [Recast Directive \(Gender\)](#): Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006, [Race Equality Directive \(Race\)](#): Directive 2000/43/EC of 29 June 2000, [Framework Directive \(religion and belief; age; sexual orientation; and disability\)](#): Directive 2000/78/EC of 27 November 2000, [Equal Treatment Directive: Self-employment \(Gender\)](#): Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010, [Equal Treatment Directive: Social security \(Gender\)](#): Directive 79/7/EEC of 19 December 1978.

⁴ In addition, UK courts when considering the interpretation of any of the equality directives listed in Annex 1, including the Race Directive, must do so in conformity with any relevant case law of the Court of Justice of the EU (CJEU). UK Government, [Explainer Document](#): UK Government commitment to “no diminution of rights, safeguards and equality of opportunity” in Northern Ireland, 7 August 2020

- 3.2 We welcome the ambitious nature of the proposals to strengthen equality bodies and that they will be legally binding, setting minimum standards for equality bodies in the following areas: mandate, independence, effectiveness (including resources and powers), accessibility and the national institutional framework for equality.
- 3.3 We further welcome that, importantly, the legislative proposals will help enable the better implementation and also enforcement of the EU's equal treatment legislation, helping to increase equality and eliminating discrimination.
- 3.4 If the changes proposed in the proposed Directive/s were introduced into Northern Ireland equality law, they would be important, and of great value, not only to the ECNI in carrying out its role and remit as the designated equality body for Northern Ireland in the areas covered by the relevant Protocol Annex 1 equality directives, but, in turn, also of value to individuals in Northern Ireland seeking redress against discrimination in areas covered by these Annex 1 equality directives.
- 3.5 The ECNI has previously welcomed the European Commission's initiative and responded to their calls for feedback and public consultation on the binding standards Roadmap⁵.
- 3.6 Aligned with our previous submissions the ECNI particularly welcomes the inclusion of:
- In relation to the **independence** of equality bodies, the legal requirement to be free from external influence, in particular as regards their legal structure, accountability, budget, staffing, and organisational matters.
 - The requirement for the allocation of **sufficient resources** to equality bodies in the areas of human, technical and financial resources to enable competences to be effectively conducted.
 - The inclusion of **enhanced powers** for equality bodies in discrimination cases, enabling them to investigate cases of discrimination, issue opinions or binding decisions (depending on the choice of Member States), and act in court in discrimination cases.
- 3.7 The ECNI has also been highlighting the importance of developing standards for equality bodies as an active member of Equinet and through its engagement with the European Commission and others since Equinet's Working Paper on Developing Standards for Equality Bodies in 2016.⁶ We support the Commission's proposals and call for their quick adoption and implementation.

⁵ ECNI, Equality Commission for Northern Ireland's response to the European Commission's public consultation on Binding standards for Equality Bodies, 16 March 2022

⁶ Equinet, [Developing Standards for Equality Bodies: An Equinet Working Paper](#), 4 November 2016

4. Conclusion

- 4.1 The ECNI recognises that the development and adoption of these binding standards for equality bodies will be a significant and important step to ensure that EU equality legislation is better applied, reducing opportunities for any divergence of rights across countries where such legislation applies, including Northern Ireland.
- 4.2 The ECNI also welcomes the European Commission's continued engagement and consultation with equality bodies and Equinet, alongside other stakeholders and NGOs with expertise on equality and non-discrimination.
- 4.3 We commend the European Commission on this development, and we look forward to our continued engagement with you.