

## Department of Justice: Review of Civil Legal Aid – Call for Evidence

- 1.1 The Equality Commission for Northern Ireland ('the Commission') is an independent public body established under the Northern Ireland Act 1998<sup>1</sup>.
- 1.2 The Commission welcomes the opportunity to input into the Call for Evidence on the Review of Civil Legal Aid. We understand that this Call for Evidence is high-level to assist with prioritisation, and will be followed by further consultations where appropriate. It is therefore difficult to provide detailed views at this stage.
- 1.3 In general, we recommend that public policy and service provision should meet the specific needs of Northern Ireland, reflect international human rights standards and take account of international human rights standards and best practice, including any lessons from Great Britain, Ireland or wider relevant jurisdictions. Provision should consider the needs of specific equality groups, including any relevant barriers and enablers.
- 1.4 There is a need for full and routine stakeholder involvement and co-design. Government and Public Authorities must fully and routinely involve key stakeholders from across the equality grounds in the design, delivery and review of law and public policy and service delivery, so as to benefit from their expertise and experience.
- 1.5 The Commission's services include giving advice and support to individuals with potential complaints under the anti-discrimination legislation. In a limited number of cases, we can provide legal advice and assistance<sup>2</sup>.
- 1.6 We note the potential to *explore the benefits and risks of expanding the scope of civil legal services* to include representation in, for example, SENDIST, Employment and Industrial Tribunals Cases.

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<sup>1</sup> For further information, see [www.equalityni.org/AboutUs](http://www.equalityni.org/AboutUs)

<sup>2</sup> ECNI (2022) [Policy for the Provision of Legal Advice and Assistance to Individuals](#)

- 1.7 Such an expansion may be of particular relevance to those equality groups most likely to rely on the anti-discrimination legislation in these courts. The needs of particular equality groups should be considered, including those with multiple identities.
- 1.8 During 2022-23, the Commission provided advice in relation to 2 650 enquiries, of which:
- 52% were about disability discrimination, including SENDO;
  - 21.6% were about sex discrimination;
  - 7.8% were about religious/political discrimination;
  - 10.1% were about racial discrimination;
  - 6.8% were about age discrimination; and
  - 1.5% were about sexual orientation discrimination.
- 1.9 The percentage breakdown of enquiries, relative to each other, has remained consistent over the past five years. Disability remains the largest ground of enquiry by quite some margin.
- 1.10 Employment remains the single largest area of enquiry, with 68% of enquiries relating to this field. This is followed by Goods, Facilities and Services enquiries, which made up 21% of enquiries and then education at less than 6%.
- 1.11 Several of the proposals relate to access to legal aid, including financial eligibility, contributions, repayment and waivers. Whilst socio-economic disadvantage is not a specified ground under the equality legislation in Northern Ireland, the barriers and inequalities experienced by equality groups can be exacerbated by poverty and social exclusion.
- 1.12 The Commission continues to proactively highlight the link between poverty and social exclusion, and the inequalities faced by individuals protected under the equality legislation across a number of areas of public policy.
- 1.13 We note the draft reform opportunity to *‘Establish an effective mechanism for gathering and analysing section 75 data on legal aid provision and access to justice needs’*.

- 1.15 We have long identified the need for robust equality data in Northern Ireland, both to enable good evidence-based policy making and to ensure effective compliance with the equality and good relations duties established by the Northern Ireland Act 1998.
- 1.16 The Commission has consistently recommended that public authorities collect detailed equality information / equality disaggregated data to inform public policy making and service delivery, so that equality considerations are at the heart of public policy making and are informed by the specific needs of those experiencing inequalities. We have also highlighted both the lack of equality data generally, and the lack of data disaggregated by equality ground, that is available to policymakers in Northern Ireland.
- 1.17 For further information on our recommendations regarding Equality Data, please see: [www.equalityni.org/EqualityData](http://www.equalityni.org/EqualityData)

### Section 75

- 1.18 Public Authorities in carrying out their functions relating to Northern Ireland are required by Section 75 statutory duties to have due regard to the need to promote equality of opportunity between the nine equality categories and have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.
- 1.19 It is important the Department uses the assessment of policies for impact on equality of opportunity, including screening and equality impact assessments, as part of their development process, rather than as an afterthought when the policy has been established. By enabling people likely to be affected by policies to participate directly in the development of policies and check for inequalities through appropriate consultation, the extent of impact can be more effectively assessed.
- 1.20 The Commission remains available to discuss any specific equality issues identified.