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Our race law needs urgent attention, says Eileen Lavery of the Equality Commission

The Equality Commission has been increasingly concerned about shortcomings in Northern Ireland's race legislation. The Commission's Head of Legal, Policy and Research, Eileen Lavery, explains that the Commission has identified a number of areas where improvements can be made in its reports to Government.

It is a well known that discrimination and racist attacks persist in Northern Ireland, as they do elsewhere, and the Equality Commission has been robust in challenging them. Last year, our legal advice line took 390 calls involving complaints about racial discrimination, almost 13% of the total calls we received. Furthermore, the largest number of new legal cases the Commission supported last year (27% of the total) were about race discrimination. It is clearly important that, in society and within Government, there is a focus on practical steps that can help combat discrimination on grounds of race in our society.

It is one of the Equality Commission's duties to keep equality legislation under review and to work towards eliminating discrimination and we have, in the past year, set out our views on the important issue of race equality law. The Commission submitted a shadow report to the United Nations Committee on the Elimination of Racial Discrimination (CERD); and made a submission under the Council of Europe's Framework Convention for the Protection of National Minorities.

The United Nations Committee, in its recent Concluding Observations on the United Kingdom, expressed its concern at the absence of single equality legislation in Northern Ireland. The Equality Commission, in its shadow report under CERD, highlighted its concern that black and minority ethnic people in Northern Ireland have less protection against discrimination, harassment and victimisation in a range of areas than their counterparts in Great Britain.

The Commission stressed the need for urgent reform of race legislation in Northern Ireland to keep pace with developments introduced in Great Britain under the Equality Act 2010. This includes the harmonisation of the law so that all individuals have the same level of legal protection against disadvantage on grounds of colour and nationality as there is on grounds of race, ethnic origin and

national origin. The Equality Commission would strongly welcome similar harmonisation in Northern Ireland by the Executive at Stormont.

Improving information about minority ethnic people can also assist the drive for equality. The Commission has welcomed the recent publication by OFMdFM of its Guidance on Monitoring Racial Equality which is designed to assist public bodies improve service delivery and equality for minority ethnic and migrant populations living here. We have also urged that the monitoring information already gathered by employers under the Fair Employment monitoring regulations be extended to include information on nationality and ethnic origin.

Such a development would provide valuable planning data for Government strategies and would also help ensure the continuing usefulness of the community background monitoring regulations. Importantly, by helping employers identify which employees and applicants are migrant workers and new residents, it would enable a more accurate assessment to be made of fair participation in employment.

Other areas where the Equality Act 2010 has strengthened race equality legislation in Great Britain but not in Northern Ireland, include a greater discretion for employers, service providers and public authorities to take positive action in pursuit of race equality; stronger powers for employment tribunals allowing them to make recommendations which benefit the whole workforce; extended protection for local councillors against racial discrimination; and strengthened protection for black and minority ethnic pupils in schools from victimisation.

The Commission has welcomed the introduction this year of draft Agency Worker Regulations to give effect to European Union's Agency Worker Directive, which are due to come into effect in December 2011. The regulations will provide additional protection against discrimination to agency workers, many of whom are typically foreign or migrant workers.

However, the Court of Appeal decision earlier this year in the Northern Ireland case of *Bohill*, has highlighted the need for further protection for agency workers under the equality legislation.

Devolution means that Northern Ireland doesn't have to mirror exactly laws enacted for Great Britain, and sometimes that can have the advantage that law can be tailored to suit the particular context of Northern Ireland. Indeed, for many years, Northern Ireland had more extensive equality law in some respects than elsewhere in the United Kingdom with Fair Employment legislation, and the equality duties on public authorities under Section 75 of the Northern Ireland Act 1998 examples of this.

The current situation, however, where we are now lagging behind Great Britain in a number of areas of equality law, imposes a particular disadvantage; for

employees and people accessing services here, and for employers and service providers, both private and public, who trade and operate in both jurisdictions.

The Equality Commission is committed to ensuring that our equality legislation meets the needs of all people in Northern Ireland, is consistent and that it takes account of our changing society. We will be engaging with equality groups, political parties and people throughout our community to make this a reality.