

# **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 Fifth Monitoring Report of the United Kingdom.**

February 2022

## **1 Introduction**

- 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 5th Monitoring Report of the United Kingdom (UK).
- 1.3 This report provides an overview of the Commission's policy priorities and recommendations to advance racial equality in Northern Ireland as they relate to the relevant articles of the Framework Convention for the Protection of National Minorities.
- 1.4 In particular, we highlight the importance of law reform, tackling prejudicial attitudes and effective monitoring and evaluation, supported by robust data collection.

## 2. Executive Summary

- 2.1 With respect to the focus of fifth cycle monitoring, and aligned to the Equality Commission's recommendations, the Advisory Committee may wish to consider recommending for action by the State Party and/or Northern Ireland Executive, Departments and other key stakeholders as appropriate, including via the Racial Equality Strategy (RES) 2015-2025:

### **Law Reform**

- 2.2 Black & Minority Ethnic (BME) individuals in Northern Ireland currently have less protection against racial discrimination, harassment and victimisation, than people in other parts of the UK. **The Commission recommends** specific changes to give greater protections to BME individuals in Northern Ireland – including increased protection from racial harassment and victimisation; the removal of unjustified exceptions; along with enhanced scope for employers to take positive action and tribunal powers.

### **Tackling Prejudicial Attitudes and Racism**

- 2.3 Research has highlighted the persistence of negative attitudes towards BME groups and migrant workers; lack of participation in public life; and under-reporting of hate crime. **We recommend** actions to tackle prejudicial attitudes; to tackle racial violence and improve reporting; to promote values of acceptance and respect so as to improve good relations; and to increase representation in public life.

### **Education**

- 2.4 The Commission has long been concerned about bullying, non-attendance, drop-out rates and poor educational outcomes experienced by Irish Travellers. The Commission is also aware

that Newcomer, Roma or refugee learners can also encounter similar difficulties. **We recommend** that the cultures and language 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 progress key issues such as bullying; and that relevant data is collected, and evaluation of progress undertaken.

### **Employment**

- 2.5 In addition to harassment at work, research suggests that key issues include lack of recognition of culture; concentration in low grade, low paid employment; low expectations; recognition of qualifications, lack of English language skills, problems in accessing childcare, gaps in legal protection, exploitation and forced labour. **We recommend** ratification of the Migrant Workers Convention and the extension of the Gangmasters (Licensing) Act 2004; targeted initiatives to maximise participation in employment and training; to ensure access to appropriate employment support including childcare and ESOL<sup>1</sup>); to tackle exploitation, and to address gaps in employment rights.

### **Accommodation and Housing**

- 2.6 An undersupply of appropriate accommodation for Travellers, insecurity of tenure and overcrowding for migrants remain key issues. Issues for refugees also include a lack of time to find suitable alternative housing and difficulties in providing deposits or a suitable guarantor. **We recommend** an adequate programme of accommodation to meet the cultural needs of the Irish Traveller community; 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 a coordinated strategic policy response to the needs of all asylum seekers and refugees.

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<sup>1</sup> English for speakers of other languages.

## **Health**

- 2.7 Poor life expectancy and high levels of suicide persist for the Irish Traveller community. Maternal and infant mortality is also an issue for some BME groups. There are also concerns about poor health outcomes for the Roma community. **We recommend** co-ordinated actions to monitor (including collection of relevant data) and address the key health inequalities amongst BME, 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 BME groups, including asylum seekers and refugees.

## **Social Welfare**

- 2.8 Migrant Workers experience restrictions to benefits because of residence rules and may have more limited access to advice. Asylum Seekers and Refugees have similar issues with regards to accessing advice and support. **We recommend** that the Executive ensures action to remove key barriers to accessing benefits so as to ensure appropriate support; clear guidance and support; and that The Executive Office takes appropriate steps to ensure the long-term sustainability of the Emergency fund for destitute migrants.

## **Ethnic Monitoring**

- 2.9 Research has noted the current absence of robust, reliable statistical or administrative analysis and significant gaps in the knowledge base. The Commission **recommends** amendment to fair employment legislation to require employers in Northern Ireland to collect monitoring information as regards nationality and ethnic origin. **We also recommend** that public authorities ensure

effective monitoring systems are in place to ensure effective policy development and service delivery.

### **A Racial Equality Strategy**

2.10 We highlight the importance of the effective implementation of an outcome focused Racial Equality Strategy. The strategy should take account of relevant international obligations<sup>23</sup>; and ensure responsibilities for delivery and review.

## **3.0 Input re: Fifth monitoring report**

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

3.2 In our response we specifically focus on recommendations aligned to our remit which have been identified by the Advisory Committee<sup>4</sup> as the key topics for consideration in the UK fifth

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<sup>2</sup> In August 2016, the CERD Committee published its [Concluding Observations on the UK \(pdf\)](#). Several of its observations and recommendations specifically referenced Northern Ireland and echoed the concerns raised by the Commission as part of our engagement with the Committee. For example, the Committee:

- called on the Executive to adopt 'comprehensive' anti-discrimination legislation 'without further delay';
- raised concerns that data is not collected systematically in all fields 'most notably in Northern Ireland' and called on the Executive to publish disaggregated data on the enjoyment of rights by members of ethnic minorities and monitor the impact of its actions;
- called on the UK State Party to adopting a detailed action plan with concrete targets, monitoring mechanisms and sufficient resources;
- called on Government to take forward a range of actions to address issues of underreporting and tackle racist hate crime and racist hate speech;
- raised concerns that the situation of Gypsies, Travellers and Roma has 'not substantially improved' and called for Government to develop a comprehensive Strategy in consultation with these communities.

<sup>3</sup> See also: Advisory Committee on the Framework Convention on the Protection of National Minorities (2017): [Fourth Opinion on the United Kingdom adopted on the 25 May 2016](#); European Commission Against Racism and Intolerance (2016): [ECRI report on the United Kingdom \(fifth monitoring cycle\)](#)

<sup>4</sup> Advisory Committee on the Framework Convention on the Protection of National Minorities (2017): [Fourth Opinion on the United Kingdom adopted on the 25 May 2016](#), ACFC/OP/IV (2016)005 (Strasbourg: Council of Europe).

monitoring report. For ease of reference, we begin each section by highlighting the specific Convention text to which our response relates.

- 3.3 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>5</sup>
- 3.4 The Equality Commission is represented on The Executive Office's Racial Equality Sub-Group which is tasked, inter alia, with monitoring and reviewing progress on the implementation of the Racial Equality Strategy 2015-2025<sup>6</sup>.

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<sup>5</sup> Annex A provides further information. Additional details available [here](#)

<sup>6</sup> The Executive Office (2015): [Racial Equality Strategy 2015-2025](#), pages 51-54. The Terms of Reference for the Racial Equality Sub-Group are set out at Annex B below.

#### 4.0 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.***

- 4.1 The Commission noted the reference 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 of opportunity and fair employment in employment for members of the Catholic and Protestant communities.
- 4.2 Furthermore, the Committee reiterated 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>7</sup> This recommendation had been suggested by the Commission in its previous shadow report<sup>8</sup>.

- 4.3 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 of the Protestant community in Northern Ireland and members of the Roman Catholic community in Northern Ireland'*<sup>9</sup>.
- 4.4 As set out under the 1998 Order, "community" means the Protestant community or the Roman Catholic community in Northern Ireland.
- 4.5 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.
- 4.6 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>10</sup>

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<sup>7</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).

<sup>8</sup> Equality Commission for Northern Ireland (2017): [Shadow report to the Advisory Committee for the Framework Convention for the Protection of National Minorities on the Fourth Monitoring Report of the United Kingdom](#).

<sup>9</sup> Equality Commission for Northern Ireland (2009): [A Unified Guide to Promoting Equal Opportunities in Employment](#), para 6.2, page 17.

<sup>10</sup> [Fair Employment \(Monitoring\) Regulations \(Northern Ireland\) 1999](#)

- 4.7 The Commission’s most recent published summary of monitored workforce returns<sup>11</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 monitoring was first introduced in 1998.
- 4.8 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.
- 4.9 As noted below, the Commission has recommended changes to the fair employment legislation<sup>12</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.
- 4.10 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.
- 4.11 As part of the ‘Racial Equality Strategy for Northern Ireland 2015 - 2025’<sup>13</sup>, the Executive Office has identified, as a proposed action,

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<sup>11</sup> Equality Commission for Northern Ireland (2021): [Fair Employment Monitoring Report No. 30 - Annual summary of monitoring returns 2019](#)

<sup>12</sup> Equality Commission for Northern Ireland (2014): [Strengthening protection against racial discrimination - Recommendations for law reform](#), pages 57-63.

<sup>13</sup> The Executive Office (2015): [The Racial Equality Strategy 2015-2025](#), page 5.

a review of the Fair Employment legislation. However, to date, this action has not been progressed<sup>14</sup>.

4.12 Research by the Joseph Rowntree Foundation<sup>15</sup> has noted that ‘with the current absence of robust, reliable statistical or administrative analysis, significant gaps exist in the knowledge base’<sup>16</sup> on BME groups in Northern Ireland. The report also highlighted that ‘any impact on outcomes for people of ethnic minority backgrounds is unclear as data is required to demonstrate the policy effectiveness’<sup>17</sup>.

4.13 The Equality Commission also recommends the collection, monitoring and evaluation of appropriate ethnic equality monitoring data by public authorities to ensure effective policy/service delivery and to fulfil obligations arising from Section 75 of the Northern Ireland Act 1998<sup>18</sup>.

4.14 The Advisory Committee’s Fourth Report on the United Kingdom expressed concern that, unlike the rest of the UK, there is still no monitoring of ethnic data in Northern Ireland but welcomed the (then) Office of the First Minister and Deputy First Minister’s<sup>19</sup> acknowledgement that robust ethnic monitoring is needed and also welcomed their intention to examine how it should be introduced.

4.15 In line with the commitment in the Racial Equality Strategy to examine where ethnic monitoring should be introduced, The

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<sup>14</sup> NI Assembly Question [AQO 2673/17-22](#): To ask the First Minister and deputy First Minister what plans they have to review fair employment regulations in Northern Ireland (emphasis added) Answered 16/11/2021 - The Regulations, made by the Executive Office, under the Fair Employment and Treatment Order 1998, prescribe how fair employment monitoring is carried out. There are currently no plans to review these Regulations.

<sup>15</sup> Wallace, A., McAreavey, R. and Atkin, K. (2013): [Poverty and Ethnicity in Northern Ireland](#), York: Joseph Rowntree Foundation.

<sup>16</sup> Wallace et al (2013): Ibid, page 9.

<sup>17</sup> Wallace et al (2013): Ibid, page 22.

<sup>18</sup> Equality Commission for Northern Ireland (2014): [Racial Equality Policy Priorities and Recommendations](#), paragraph 10.3, pages 41-42.

<sup>19</sup> Now named The Executive Office.

Executive Office subsequently commissioned an independent report on this matter.

4.16 The Commission understands that the report (2021)<sup>20</sup>, the final version of which is not currently in the public domain, recommends, inter alia, that the Race Relations Order (Northern Ireland) 1997 is amended, by provisions analogous to those for the Public Sector Equality Duty (PSED) provided for by Sections 149<sup>21</sup> and 153<sup>22</sup> of the Equality Act 2010<sup>23</sup>, to impose a duty on all specified public authorities in Northern Ireland to collect equality data on the race ground and set equality objectives. The report, which is currently under consideration by Ministers, also recommends the creation of an online data hub as a central repository for racial equality data in Northern Ireland.

4.17 In January 2022 The Executive Office established a Cross Departmental Working Group to take forward work on developing ethnic monitoring across Government Departments<sup>24</sup>. Initially, the Group will give consideration to implementing public sector workforce monitoring, before considering arrangements for monitoring of public service provision<sup>25</sup>. The Group will also give consideration to the need for any legislative requirements. In

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<sup>20</sup> Russell, R. (2021): Ethnic Monitoring: The Way Forward.

<sup>21</sup> [Section 149 Equality Act 2010](#)

<sup>22</sup> [Section 153 Equality Act 2010](#)

<sup>23</sup> [Equality Act 2010](#)

<sup>24</sup> NI Assembly Question [AQW 25587/17-22](#): To ask the First Minister and deputy First Minister what plans they have to update equality legislation, such as the Fair Employment and Treatment Order 1998, to include nationality and ethnic origin.

Answered 23/11/2021 - In line with our commitments in the Racial Equality Strategy 2015-2025, the Department engaged Dr Russell to produce a report, *Ethnic Monitoring: The way forward*, which recommended the introduction of public sector workforce monitoring, similar to the Fair Employment and Treatment Order 1998 (FETO), but for data on ethnicity.

Whilst the report concluded that the Race Relations Order rather than amendments to FETO should be the legislative vehicle for introducing this change, the Department has established a cross Departmental Working Group to take this forward as a priority, including consideration of any legislative requirements.

In parallel, an updated guide to Ethnic Monitoring has been drafted to support future work and we have completed a review of the Race Relations (NI) Order 1997. We plan to consult on proposals for a new bill early next year to maximise the protections offered to our minority ethnic population.

<sup>25</sup> The Cross Departmental Working Group is not considering ethnic equality monitoring in the private sector.

parallel, an updated guide to Ethnic Monitoring has been drafted to support future work<sup>26</sup>.

### **Proposal to the Committee**

- 4.18 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.
- 4.19 The Committee may also again wish to recommend, aligned to the Commission’s recommendation, the collection, monitoring and evaluation of appropriate ethnic equality monitoring data by public authorities to ensure effective policy/service delivery.

## **5 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**

- 5.1 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:

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<sup>26</sup> The Commission notes that, although [Guidance for monitoring racial equality](#) was first issued by the Office of the First Minister and the deputy First Minister in 2011, because compliance was on a voluntary basis, the Commission understands that only the Department of Health subsequently used the guidance. The Joseph Rowntree Foundation has commented that while a welcome first step in addressing the issue, JRF noted that ‘many would argue that this falls short of overcoming the lack of data, as there is no clear lead from the top in respect of implementation’. Source: Wallace, A., McAreavey, R. and Atkin, K. (2013): [Poverty and Ethnicity in Northern Ireland](#), York: Joseph Rowntree Foundation, page 22. Without disaggregated ethnic data the situation of disadvantaged ethnic minorities cannot be ascertained but only guesstimated.

- 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.
- 5.2 Public authorities must also have regard for the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.
- 5.3 Individuals in Northern Ireland currently have protection against unlawful racial discrimination under the Race Relations (NI) Order 1997<sup>27</sup>, as amended ('RRO 1997')<sup>28</sup>.
- 5.4 During the period 1 April 2018 – 31 March 2021, the Commission received 924 initial enquiries from the public for advice on the ground of race (around 8.95% of total enquiries). 62% of initial enquiries concerned employment issues whilst 28% concerned issues related to goods, facilities and services.

We received 183 applications for assistance from the Commission to bring legal proceedings on the ground of race (about 13.9% of total applications received), of which the Commission granted 41 (21.46% of total applications granted). 42.5% of applications granted concerned employment issues whilst 57.5% concerned issues related to goods, facilities and services.

- 5.5 There are significant gaps between racial equality law in Great Britain (GB) and Northern Ireland which have widened since the introduction of single equality legislation – the Equality Act 2010<sup>29</sup> – in GB. This means that individuals in Northern Ireland have less

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<sup>27</sup> [The Race Relations \(Northern Ireland\) Order 1997](#)

<sup>28</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.

<sup>29</sup> [Equality Act 2010](#), C15 (N.I.6)

protection against racial discrimination, harassment and victimisation than in other parts of the UK.

- 5.6 For example, as the Race Directive<sup>30</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>31</sup>, did not amend the provisions in the Race Relations (NI) Order 1997 as regards the grounds of colour and nationality.
- 5.7 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, national and ethnic origins, but not to colour and nationality.
- 5.8 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>32</sup>.
- 5.9 In its Fourth Opinion (2017) on the UK, the Advisory Committee recommended that ‘the Northern Ireland Assembly should adopt robust and comprehensive single equality legislation or otherwise strengthen racial equality in Northern Ireland, and harmonise protection across the UK<sup>33</sup>.
- 5.10 In 2018, the subsequent Council of Ministers’ Resolution<sup>34</sup> on the UK called on the State Party to:

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<sup>30</sup> [Council Directive 2000/43/EC of June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.](#)

<sup>31</sup> [The Race Relations Order \(Amendment\) Regulations \(Northern Ireland\) 2003](#)

<sup>32</sup> For further information see: [Increased protection for agency workers.](#)

<sup>33</sup> Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities: [Fourth Opinion on the United Kingdom](#), ACFC/OP/IV(2016)005, Adopted on 25 May 2016, paragraph 33, page 13.

<sup>34</sup> Committee of Ministers: [Resolution on the implementation of the Framework Convention for the Protection of National Minorities](#), CM/ResCMN(2018)1, Adopted on 7 February 2018.

*‘Adopt robust and comprehensive unified legislation on equality or otherwise strengthen racial equality in Northern Ireland, and harmonise protection across the UK; introduce definitions of “good relations” and “sectarianism” in Northern Ireland legislation in line with international standards relating to combating racism and promoting human rights in general’.*<sup>35</sup>

5.11 Since the last report by the Advisory Committee, The Racial Equality Unit of The Executive Office has undertaken a review of legislative protection against racial discrimination in Northern Ireland, taking into account legislative developments in Great Britain and the Republic of Ireland. The review process included engagement with the Equality Commission for Northern Ireland<sup>36</sup> and The Executive Office’s Racial Equality Sub-Group<sup>37</sup>.

5.12 The Commission understands that The Executive Office had intended to issue its proposals on reform of the racial equality legislation for public consultation in March 2022 but following the collapse of the Northern Ireland Executive, as a consequence of the resignation of the First Minister on 3 February<sup>38</sup>, cannot now secure the necessary Ministerial approval for the consultation to proceed.

5.13 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>39</sup>. The

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<sup>35</sup> Committee of Ministers: [Resolution on the implementation of the Framework Convention for the Protection of National Minorities](#), CM/ResCMN(2018)1, Adopted on 7 February 2018.

<sup>36</sup> The Commission’s priorities for reform of racial equality legislation in Northern Ireland are set out [here](#)

<sup>37</sup> The Racial Equality Sub-Group is comprised of independent racial equality stakeholders, including representatives of NGOs and independent public bodies such as the Equality Commission NI and the NI Human Rights Commission, which provides advice to The Executive Office on the implementation of the Racial Equality Strategy. The Sub-group commissioned [Professor Colm O’Cinneide](#), Professor of Human Rights Law at University College London to undertake an independent review of TEO proposals for legislative reform. Professor O’Cinneide’s review was largely supportive of the proposals put forward by the Equality Commission NI and has been submitted to TEO officials.

<sup>38</sup> BBC News (3 February 2022): [DUP: First Minister Paul Givan announces resignation](#)

<sup>39</sup> Equality Commission for Northern Ireland (2014): [Strengthening protection against racial discrimination](#) – recommendations for law reform (full report)

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>40</sup>.

5.14 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;
- 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.

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<sup>40</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

5.15 As noted above we also recommend changes to the fair employment legislation<sup>41</sup> aimed at improving workforce monitoring by registered employers<sup>42</sup> and have called for increased protection for certain categories of agency workers against racial discrimination and harassment<sup>43</sup>.

### **Proposal to the Committee**

5.16 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 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<sup>44</sup>;
- 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.

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

5.17 Currently, there is an exception under the Fair Employment and Treatment (NI) Order 1998 ("FETO")<sup>45</sup> which allows schools to lawfully discriminate on the grounds of religious belief, in the

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<sup>41</sup> Equality Commission for Northern Ireland (2014): [Strengthening protection against racial discrimination](#), pages 57-63.

<sup>42</sup> For further information see [here](#)

<sup>43</sup> Equality Commission for Northern Ireland (2014): [Strengthening protection against racial discrimination](#) pages 25-28.

<sup>44</sup> [Agreement at St Andrews](#), Annex B.

<sup>45</sup> [The Fair Employment and Treatment \(Northern Ireland\) Order 1998](#)

recruitment of teachers in schools. This exception applies both to the initial recruitment and to promotion<sup>46</sup>.

5.18 Following a review of this provision in 2003, 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>47</sup>. At that time, the Commission also set out its view that ‘the long-term objective should be to include teachers in the religious discrimination provisions’. In 2009, the Commission further recommended that early consideration be given to removing the Exception at primary level<sup>48</sup>.

5.19 The Fair Employment (School Teachers) Bill was introduced, as a Private Members Bill, to the Northern Ireland Assembly on 17 January 2022<sup>49</sup>.

5.20 In response to an Assembly Question to the First and Deputy First Minister for week ending 4 February 2022 regarding the exception, the following answer was provided:

*‘We are committed to taking forward a review of this provision. Our officials have had some preliminary engagement with the Department of Education, as any such review must be taken forward collaboratively with the education sector. That*

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<sup>46</sup> See: [Beatrice Debast and Caroline Flynn v. Dr Malcolmson, Laurelhill Community College and SEELB](#) NICA [2007] 56.

<sup>47</sup> Equality Commission for Northern Ireland (2003): [The Exception of Teachers From The Fair Employment and Treatment Order \(NI\) Order 1998](#)

<sup>48</sup> For further information, see: [Teachers exemption](#)

<sup>49</sup> See: <http://www.niassembly.gov.uk/assembly-business/legislation/2017-2022-mandate/non-executive-bill-proposals/fair-employment-school-teachers-bill/>

A copy of the Bill and Explanatory and Financial Memorandum (EFM) are available via:

[The Fair Employment \(School Teachers\) Bill - As Introduced](#);

[The Fair Employment \(School Teachers\) Bill - EFM - As Introduced](#)

*review, as it progresses, will include consideration of the removal of the exception.’<sup>50</sup>*

## **Proposal to the Committee**

5.21 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<sup>51</sup>.

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

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<sup>50</sup> [AQO 2982/17-22](#)

<sup>51</sup> If the Exception is removed:

- i. Like other employers, schools would no longer be able to lawfully discriminate on the grounds of religious belief or political opinion in the appointment of teachers in schools – either in initial recruitment or in promotion.
- ii. Like other employers with more than 10 employees, schools would be required, amongst other things, to:
  - monitor the community background of their teaching staff;
  - carry out Article 55 reviews of their teaching workforces, and of the employment policies and practices affecting teaching staff, and consider whether they are providing fair participation to members of the Protestant and Roman Catholic communities, in relation to the employment of teachers.
- iii. Existing provisions providing for genuine occupational requirements exceptions would apply to the employment of teachers.

[The primary purpose of an Article 55 Review is to enable employers to determine whether they are providing, or are likely to continue to provide, fair participation in employment to members of the Protestant and Roman Catholic communities. Such a review should be undertaken at least every three years;

In broad terms, protections would not apply in relation to any employment where the essential nature of the job requires it to be done by a person holding, or not holding, a particular religious belief or political opinion. The requirement must be a proportionate means of achieving a legitimate aim].

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

6.1 One of the draft outcomes for the Programme for Government under consideration by the Northern Ireland Executive is ‘We have an equal and inclusive society where everyone is valued and treated with respect’. Key priority areas to achieve this outcome are identified as:

- Inclusion and Tackling Disadvantage;
- Rights and Equality;
- Legacy;
- Tackling Sectarianism, Building Respect and Identity.

A number of equality related strategies are listed as potentially helping to deliver these priorities, including the Racial Equality Strategy, the Irish Language Strategy and the Ulster Scots Strategy.<sup>52</sup>

6.2 The Commission welcomed the publication of a new Racial Equality Strategy in December 2015.

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<sup>52</sup> The Executive Office (2021): [Programme for Government draft Outcomes Framework - consultation document](#), page 16-17.

- 6.3 However, we highlighted that the Strategy had no detailed narrative to demonstrate why it is needed; lacked strong high level commitment and included no discrete funding; and did not include an outcome focused action plan.
- 6.4 The Commission advised that to be effective, the Strategy needed to set out clear evidence of the social, political and economic inequalities faced by minority ethnic communities (including multiple identity issues); develop and communicate clear rationales in support of priority actions and ensure those actions are clearly defined, timetabled, allocated and resourced. It must also ensure appropriate high level commitment and oversight arrangements to ensure effective delivery and review.
- 6.5 The final published RES still lacked such evidence – Chapter 4, ‘Racism and racial inequalities: the evidence’ – was a total of three paragraphs long (half a page); neither was there a meaningful equality impact assessment accompanying the strategy.
- 6.6 Five years after the Strategy was launched, it can be seen that progress against the process-oriented actions outlined therein has been both slow and limited.
- 6.7 A Racial Equality Sub-Group has been established in 2016 to advise the Executive on racial equality policy and to monitor the implementation of the Strategy. Membership is drawn from BME community groups, NGOs offering services to BME communities, the Equality Commission for Northern Ireland and the Northern Ireland Human Rights Commission (see Annex B for Terms of Reference).
- 6.8 Racial Equality Champions have been appointed for all NI Assembly Departments<sup>53</sup>. Stakeholders consider that the work of

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<sup>53</sup> Champions range in rank from Deputy Principal to Deputy Permanent Secretary.

the Champions has been of variable value and often linked to the degree of personal commitment to change. A number of meetings have been held between the Departmental Racial Equality Champions and members of the RE Sub-Group to discuss potential actions. However, no definitive action plan to address racial inequalities has subsequently been agreed or placed in the public domain<sup>54</sup>.

6.9 As noted above, although a review of the need for legislative reform has been undertaken by The Executive Office, proposals for reform of the legislation have yet to be issued for public consultation. A review of the Fair Employment legislation has not yet commenced.

6.10 The review of the Minority Ethnic Development Fund was completed in 2021. Officials from the Executive Office have stated that most of the report's recommendations have been accepted, including that the fund move to providing multi-annual grants<sup>55</sup>. However, it is not clear which recommendations have not been accepted nor has the review report been placed in the public domain.

6.11 With regard to the action outlined in the Strategy to 'work through the Northern Ireland Strategic Migration Partnership (NISMP) to reflect our regionally specific needs in the development and implementation of UK immigration policy', the involvement of

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The NICS Racial Equality Champions are required to:

- Communicate to all staff within their Departments the Racial Equality Strategy and the Departments commitment to it;
- Ensure that members of staff have an awareness and understanding of racial equality and issues arising for action in policy and operational areas;
- Cascade the strategy to non-departmental public bodies and other service providers;
- Share knowledge, expertise and good practice with others;
- Liaise with, inform and advise the Racial Equality Subgroup and the T:BUC Ministerial Panel on matters relating to racial equality in their Department as necessary.

<sup>54</sup> Nor were any of the proposed actions discussed by Departmental Champions during these meetings aimed at addressing shared aim no.1 of the RES 'To eliminate racial inequality' (see paragraph 6.5, page 29 of the [Strategy](#)).

<sup>55</sup> The Executive Office (20 December 2021): [Ministers launch new three-year Minority Ethnic Development Fund](#)

OFMDFM/TEO in the Northern Ireland Strategic Migration Partnership predates the Racial Equality Strategy and the establishment of Racial Equality Sub-Group and is not reported on in any detail during the meetings of the Sub-Group.

### **Proposal to the Committee**

6.12 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>56</sup>.

### **Priorities for Action**

6.13 In our 2014 publication 'priorities and recommendations'<sup>57</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>58</sup>. We set out key proposals, relative to the Committee's remit and specific interests, below<sup>59</sup>.

## **Employment**

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<sup>56</sup> For further details see: Equality Commission for Northern Ireland (May 2014): [Racial Equality Policy Priorities and Recommendations](#) (Belfast: ECNI).

<sup>57</sup> See: Equality Commission for Northern Ireland (2014): [Racial Equality Policy Priorities and Recommendations \(summary version\)](#).

<sup>58</sup> Further information available at: <https://www.equalityni.org/Race>

<sup>59</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.

- 6.14 Racial harassment in work remains an issue<sup>60 61</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<sup>62</sup>, severe exploitation and forced labour<sup>63</sup>.
- 6.15 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>64</sup>.
- 6.16 The Commission's (2018) statement of 'Key Inequalities in Employment'<sup>65</sup> found that Irish Travellers are less likely to be in employment<sup>66</sup> and more likely to be economically inactive<sup>67</sup> than other ethnic groups. Traveller women, in particular, are less likely to participate in employment and are more likely to be economically inactive than women from all other ethnic groups.
- 6.17 Low educational attainment, prejudice and discrimination in the labour market, a greater traditional emphasis on family and home,

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<sup>60</sup> Northern Ireland Council for Ethnic Minorities (2012): Bayanihan: the Filipino community in Northern Ireland, pages 22 & 23.

<sup>61</sup> BBC (16 December 2013): [Sharp increase in NHS racial attacks](#)  
Equality Commission (25 January 2022): [Make Equality A Priority - Extend The Racial Discrimination Laws](#)

<sup>62</sup> Irish News (28 February 2022): [Campaign urges public to speak out against race hate](#)

<sup>63</sup> Joseph Rowntree Foundation (2013): [Poverty and Ethnicity in Northern Ireland](#)

<sup>64</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.

<sup>65</sup> Equality Commission for Northern Ireland (2018): [Key Inequalities in Employment](#), paragraphs 7.13-7.34, pages 81-86.

<sup>66</sup> Equality Commission for Northern Ireland (2018): [Key Inequalities in Employment](#), page 82. The Commission's analysis of Census 2011 data revealed that 20.0% of Irish Travellers were employed compared to: 57.6% of White; 64.0% of Asian; 56.7% of Black; 54.4% of Mixed; and, 58.5% of Other ethnic groups.

<sup>67</sup> Equality Commission for Northern Ireland (2018): [Key Inequalities in Employment](#), page 82. The Commission's analysis of Census 2011 data revealed that 69.0% of Travellers were economically inactive compared to 33.9% of White; 27.8% of Asian; 26.3% of Black; 29.8% of Mixed; and, 28.3% of Other ethnic groups.

and cultural resistance to the use of formal childcare are all major barriers to the participation of Irish Travellers in employment.

- 6.18 Migrant workers face considerable barriers to sustaining employment and progressing in employment. Migrant workers, particularly those from Eastern European countries, are subject to industrial and occupational segregation, with migrant workers over-represented in low paid, low status jobs, and in low-paid industry sectors<sup>68</sup>.
- 6.19 Migrant workers are also vulnerable to exploitation, which can impact on their ability to sustain employment and progress in employment. Many migrant workers who are agency workers are confined to temporary and irregular work, including zero-hour contracts. Many face poorer terms and conditions than local workers and are vulnerable to poor employment practices. In addition, human trafficking is an issue in Northern Ireland, with evidence of practices that constitute forced labour of migrant workers<sup>69</sup>.
- 6.20 Migrant workers and refugees face multiple barriers to employment in Northern Ireland. Recognition of qualifications is an issue for migrant workers and refugees progressing in employment. In addition, inadequate language proficiency is a major barrier for migrant workers qualifying for and participating in employment, particularly where the standard of English proficiency for particular professions is set very high<sup>70</sup>.
- 6.21 Uncertainty among employers about an employee's 'right to work' may create perceived legislative barriers for foreign nationals

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<sup>68</sup> Equality Commission for Northern Ireland (2018): [Key Inequalities in Employment](#), paragraphs 7.35-7.49, pages 87-91.

<sup>69</sup> Equality Commission for Northern Ireland (2018): [Key Inequalities in Employment](#), paragraphs 7.63-7.73, pages 95-97.

<sup>70</sup> Equality Commission for Northern Ireland (2018): [Key Inequalities in Employment](#), paragraphs 7.50-7.62, pages 91-94.

accessing and sustaining employment in Northern Ireland. In addition, the long transition period between seeking and being granted asylum, represents a long time out of employment, which can deskill refugees. This can create a lack of confidence and may require them to retrain or gain new skills prior to seeking employment.

6.22 People from minority ethnic groups and migrant workers are subject to prejudice and discrimination both within and outside the workplace, with prejudicial attitudes expressed toward Irish Travellers, migrant workers and minority ethnic groups. Racial prejudice and discrimination can impact on the ability of minority ethnic groups and migrant workers to participate in employment, stay in employment and progress in employment. Racial prejudice has been identified in accessing employment and in experiences of racial harassment and intimidation in workplaces<sup>71</sup>.

6.23 The Commission notes that a number of NGOs and other sources have commented on the disproportionate economic impact of the Covid-19 pandemic on BME communities.

6.24 The Runnymede Trust<sup>72</sup> and the Institute of Fiscal Studies<sup>73</sup> have highlighted a range of labour market-related inequalities experienced by BME groups.

6.25 The Runnymede Trust has drawn attention to the McGregor-Smith Review<sup>74</sup>, which highlighted significant inequalities and disadvantage experienced by ethnic minority groups at every stage of their careers in the UK labour market. Furthermore, the Trust also points out that in 2015 one in eight of the working age population were people from

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<sup>71</sup> Equality Commission for Northern Ireland (2018): [Key Inequalities in Employment](#), paragraphs 7.74-7.94, pages 98-104.

<sup>72</sup> Runnymede Trust (26 March 2020): [Coronavirus will increase race inequalities](#)

<sup>73</sup> Institute for Fiscal Studies (1 May 2020): [Are some ethnic groups more vulnerable to COVID-19 than others?](#),

<sup>74</sup> McGregor-Smith, R. (2017): [Race in the workplace](#)

BME backgrounds, yet BME people made up only 10% of the workforce and held only 6% of top management positions.

- 6.26 The Trust also cites the Government's (2016) Race Disparity Audit<sup>75</sup> which showed that while employment rates have been improving overall, BME groups were, on average, twice as likely to be unemployed than their white British counterparts, and much more likely to be in low skilled and low paying occupations. Runnymede also cite a (2019) TUC report<sup>76</sup> which showed that black and ethnic minority groups were twice as likely to be in precarious employment, including zero hour contracts and agency contracts. Runnymede conclude that BME groups in Britain will be less likely to weather the economic fallout from the COVID-19 crisis.
- 6.27 The Institute of Fiscal Studies also highlights a number of factors as to why BAME groups are likely to be disproportionately and adversely economically impacted upon as result of the Covid-19 pandemic crisis including that many ethnic minorities are more economically vulnerable to the current crisis than are white ethnic groups whilst men from minority ethnic groups are more likely to be affected by the lockdown<sup>77</sup>.
- 6.28 There is also evidence of increasing levels of racism in the workplace following the Covid 19 outbreak. For example, the NASUWT teachers' union in Northern Ireland has stated that reports by its members of abuse, prejudice, xenophobia and racism in schools, including against teachers and pupils, have increased since the outbreak reached the UK<sup>78</sup>.

## **Proposal to the Committee**

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<sup>75</sup> Cabinet Office (2017): [The Race Disparity Audit](#)

<sup>76</sup> Trade Union Congress (2019): [BME Workers on zero-hours contracts](#)

<sup>77</sup> Platt, L. and Warwick, R. (1 May 2020): [Are some ethnic groups more vulnerable to COVID-19 than others?](#) , page 4 (Institute for Fiscal Studies).

<sup>78</sup> NASUWT – The Teachers Union Northern Ireland (3 March 2020): [Letter to Peter Weir, Education Minister](#)

6.29 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 Childcare strategy includes actions to address the specific needs of minority ethnic parents<sup>79</sup>;
- 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;
- the Department for Communities (DfC) 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;
- the Department for Communities (DfC) 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

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<sup>79</sup> See: Webb, M., Kernaghan, A.D., and Caffrey, M. (2014): [Believe in Childcare - the childcare needs of ethnic minority communities](#), (Belfast: Barnardos/NICEM).

mainstream services are accessible to such groups. Introduce measures to broaden the range of volunteering opportunities for asylum seekers;

- that the Department for Communities consider the merits of designating ESOL<sup>80</sup> as an ‘Essential Skill’ and addresses any barriers experienced by refugee women in accessing ESOL provision;
- that Government take steps to mitigate the disproportionate economic impact of Covid-19 on black and minority ethnic groups.

## **Accommodation and Housing**

### **Asylum Seekers and Refugees**

- 6.30 The Commission has noted that particular issues arise for individuals from minority ethnic groups (MEG) who are resident in Northern Ireland as refugees and asylum seekers, while those who have been unsuccessful in their asylum application have no right to any accommodation support, refugees do have entitlement.
- 6.31 On being recognised as refugees, individuals are required to vacate their Home Office provided accommodation and access other appropriate accommodation within 28 days (‘the transition period’). Organisations working closely with refugees, have advised that the 28-day period is very short for anyone to find accommodation. Those who wish to rent privately often have difficulties in finding a guarantor and having just recently been granted refugee status, have no savings to rely on. Furthermore, concerns have been raised about the suitability of provision.

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<sup>80</sup> English for speakers of other languages.

6.32 Horn of Africa People's Aid NI (HAPANI), a charity working with nationals of Somalia and Eritrea living in Northern Ireland, has raised concerns<sup>81</sup> that female refugees have to share with others who have drug and alcohol dependencies. HAPANI also note that those who have been unsuccessful in their asylum applications are deemed 'ineligible service users' and lose the right to such accommodation. Such individuals must depend on charity or friends, and cannot access government-funded schemes.

### **Proposal to the Committee**

6.33 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:

- provision of appropriate culturally sensitive accommodation for those groups eligible for services. For those currently ineligible, we **recommend** the provision of suitable emergency accommodation. We note the scheme being provided by Choice, Participation and the Practice of Rights and others<sup>82</sup>, which uses privately held housing stock and services from the other partners to provide accommodation and support services to destitute unsuccessful asylum seekers.

### *Irish Travellers*

6.34 The Commission has observed that while some progress has been made, access to appropriate accommodation to meet the needs of Irish Travellers remains limited. remains concerned by the lack of progress in securing planning permission for sites in the areas identified as most in need in the NIHE Traveller Accommodation Needs Assessment<sup>83</sup>.

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<sup>81</sup> Email Correspondence (August 2015) from Horn of Africa People's Aid NI to ECNI.

<sup>82</sup>Housing for All, Community Foundation and East Belfast Mission.

<sup>83</sup> NIHE (2015): [Traveller Accommodation Needs Assessment 2014](#)

6.35 A 2018 report by the Northern Ireland Human Rights Commission (NIHRC)<sup>84</sup> found thirteen systematic concerns around Traveller accommodation including inadequacy of sites and racial discrimination and that there had been *‘an erosion of nomadic life through the policies and practices that have been developed and applied to Travellers and Travellers’ accommodation’*. Among other "systematic concerns" highlighted in the report was provision of Traveller-specific accommodation, resources for Traveller accommodation and a lack of emphasis on Travellers being involved in the decision-making process.

6.36 The Irish Traveller Accommodation Survey (2019) indicated that around 7-15%<sup>85</sup> of all Irish Traveller households still travel. It therefore remains important that the provision of accommodation is such that it continues to cater for those who wish to have a nomadic lifestyle. Indeed, as noted in Wallace, for some Irish Travellers, ‘bricks and mortar’ accommodation may be inappropriate where it does not accord with their nomadic lifestyle<sup>86</sup>.

### **Proposal to the Committee**

6.37 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:

- an adequate programme of accommodation is provided to meet the cultural needs of the Irish Traveller community.

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<sup>84</sup> Northern Ireland Human Rights Commission (March 2018): [Out of Sight, Out of Mind: Travellers Accommodation in Northern Ireland](#)

<sup>85</sup> Northern Ireland Housing Executive (2019): [Irish Traveller Accommodation Survey 2018-19](#), page 29. In 2014, 18% (n=69, N=384) of Traveller households travelled. In 2002 - 20% (n=62, N=316) and in 2008 - 29% (n=130, N=449) of respondents said that they travelled. See: NIHE Travellers Accommodation Needs Assessments (2002; 2008; 2015).

<sup>86</sup> Wallace, A. (2015): [Housing and Communities Inequalities in Northern Ireland](#)

### Migrants and minority ethnic groups

6.38 Research suggests there is potentially limited awareness of rights and/or limited accommodation choices available to migrants and minority ethnic groups. Furthermore, these groups may lack a wider network of family and friends with knowledge of the Northern Ireland housing market, which would enable them to make better informed choices. Our *Statement on Key Inequalities in Housing and Communities* noted that migrant workers were often at risk of being subject to ‘tied accommodation’ with poor conditions and overcrowding. Greater awareness of rights and the market could act to empower potential tenants to explore the full range of options open to them.

### **Health**

6.39 The Commission has raised concerns about the differential health status of Irish Travellers in its response to the consultation on the Final Report of the Promoting Social Inclusion Working Group on Travellers<sup>87</sup> and in its most recent submission to the UN Committee on the Elimination of all forms of Racial Discrimination (CERD)<sup>88</sup>.

6.40 The 2010 All Ireland Traveller Health Study<sup>89</sup> highlighted that:

- average life expectancy for Traveller men has decreased since 1987;
- life expectancy of Traveller women is still 11.5 years lower than women in the general population;
- suicide rates are almost seven times higher for Traveller men

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<sup>87</sup> 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>88</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](#); ECNI (2016): [Shadow Report to the UN Committee on the Elimination of All Forms of Racial Discrimination](#)

<sup>89</sup> Kelleher, C. et al, (2010): [All Ireland Traveller Health Study](#), University College Dublin (Department of Health and Children & DHSSPS).

than in the general population;

- mortality rates are considerably higher than the general population at all age ranges for both men and women;
- Traveller infants are 3.6 times more likely to die than their counterparts, a deterioration on comparable figures since 1987<sup>90</sup>.

6.41 The Department of Health and Social Services and Public Safety's S75 Action Plan (2011) has also highlighted that maternal and infant mortality are higher among BME groups. BME women are also more likely to access services late (e.g. antenatal appointments) and to have complications<sup>91</sup>.

6.42 The limited evidence that is available suggests that health outcomes are generally worse for Roma than for majority population. Factors that impact on their health status include poverty, low levels of education, poor housing and sanitary conditions, low levels of health screening and late presentation for medical assistance<sup>92</sup>.

6.43 Research<sup>93</sup> into migrant health and wellbeing in Belfast has identified a number of difficulties experienced by all migrant and BME groups when accessing any of the public services. While most difficulties centre on language barriers, there are a range of other issues, including:

- lack of awareness and lack of appropriate information of the services available;

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<sup>90</sup> Ibid, page 96.

<sup>91</sup> DHSSPS (2011): Equality Action Plan for the Department of Health Social Services and Public Safety.

<sup>92</sup> Wright, D. (undated): [Roma Health and Wellbeing in Northern Ireland](#)

<sup>93</sup> Belfast Health Development Unit (2010): [Barriers to Health - Migrant Health and Well-being in Belfast](#)

- low levels of registration with GPs amongst certain groups<sup>94</sup>;
- fears about entitlements to health care;
- lack of confidence, frustration and stress reported by the process of accessing the healthcare system, often a system different to their country of origin;
- failure to meet basic cultural needs e.g. dietary requirements and religious observance;
- institutional racism and the negative attitudes of some healthcare staff;
- immigration restrictions;<sup>95</sup>
- healthcare officials are also ‘restricted by or unsure of the level of responsibility in light of limited rights and entitlements’<sup>96</sup>.

6.44 The Refugee Action Group have stated their view that, across the UK, that the ‘vast majority of refused asylum seekers are destitute. They are homeless, have no income or no means of supporting themselves and would not have any money to pay fees to the NHS’<sup>97</sup>.

6.45 A2 nationals including Roma have been able to access free health care since 1st January 2014. However, anecdotal evidence from those working within the healthcare sector suggests that some A2, especially Roma, continue to experience difficulties in registering with a General Practitioner (GP).

6.46 Murphy and Vieten (2017) have revealed that ‘asylum seekers and refugees encounter unique barriers in accessing health services; these include but are not limited to challenges in cross-cultural

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<sup>94</sup> Particularly those with no permanent address, a requirement for registration in Northern Ireland.

<sup>95</sup> Belfast Health Development Unit (2010): Op. Cit., page 31.

<sup>96</sup> Wright, D. (undated): [Roma Health and Wellbeing in Northern Ireland](#)

<sup>97</sup> Refugee Action Group: [Asylum seekers should not be restricted access to Healthcare says Refugee Charity](#)

communications, cultural beliefs about health practices and limited cultural awareness on the part of the service providers (both administrators and front-line staff). The mental health and well-being of asylum seekers is of urgent concern<sup>98</sup>

6.47 The Northern Ireland Strategic Migration Partnership has highlighted a range of barriers to mental health services for asylum seekers and refugees<sup>99</sup> and made a number of recommendations to address these<sup>100</sup>.

6.48 There has been evidence that the COVID-19 pandemic has affected some sections of the population more than others, and there are concerns that minority ethnic groups are overrepresented in hospitalisations and deaths from the virus<sup>101</sup>.

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<sup>98</sup> Murphy, F. and Vieten, U.M. (2017): [Asylum Seekers and Refugees experiences of life in Northern Ireland](#), page 6.

<sup>99</sup> Northern Ireland Strategic Migration Partnership (2018): [Overview of NISMP Roundtable on mental health care needs of asylum seekers and refugees 1 June 2017](#)

<sup>100</sup> These included, inter alia, that:

- Asylum seekers who have been denied NASS or housing assistance are offered a referral to Health and Social Care for a care needs assessment;
- Department of Health should ensure that psychological therapies are accessible to asylum seekers and refugees through:
  - Providing targeted information on available mental health services and how to access them for asylum seeker and refugee communities;
  - Issuing guidance for health providers and mental health advocates on indicators of poor mental health among asylum seekers/refugees;
- Department of Health should establish models to facilitate triaging and support of asylum seekers and refugees with low levels of wellbeing and mental ill-health. A suggested model is:
  - Funding and expanding the remit of NINES or a mental health charity to support GPs in the diagnosis and referral process;
- Specialist services for Troubles related psychological trauma should be funded to expand these services to asylum seekers and refugees.

<sup>101</sup> Guardian (12 May 2020): [Equality watchdog urged to investigate Covid-19 impact on BAME people](#)

Institute for Fiscal Studies (1 May 2020): [Are some ethnic groups more vulnerable to COVID-19 than others?](#), page 3

Guardian (1 May 2020): [British BAME death rate 'more than twice that of whites'](#)

Office for National Statistics. [Coronavirus \(COVID-19\) related deaths by ethnic group, England and Wales: 2 March 2020 to 10 April 2020](#). Updated 7 May 2020

Sky News (30 April 2020): [Coronavirus - BAME health workers should be removed from danger says Royal College of Surgeons](#)

Guardian (22 April 2020): [Ethnic minorities dying of Covid-19 at higher rate, analysis shows](#)

Guardian (16 April): [Failure to publish data on BME deaths could put more lives at risk, MPs warn](#)

Guardian (16 April): [Inquiry launched into disproportionate impact of Coronavirus on BAME communities](#)

Butcher, B, & Massey, J. (BBC news 9 April 2020): [Are minorities being hit hardest by coronavirus](#)

Guardian (7 April 2020): [BAME groups hit harder by Covid-19 than white people, UK study suggests](#)

United Nations Working Group of Experts on People of African Descent (6 April 2020): [Racial equity and equality must guide state action on COVID-19 response, says UN experts](#)

6.49 However, in Northern Ireland the Department of Health and the Northern Ireland Statistics and Research Agency have disclosed that data on infection and mortality rates relating to Covid-19 among ethnic minorities is not held<sup>102</sup>.

### **Proposal to the Committee**

6.50 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 Executive and Department of Health co-ordinate actions to address the known health inequalities amongst BME, newcomer and Traveller population, ensuring that all policies result in measurable improvements in health outcomes for this group;

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Race Equality Foundation (2 April 2020): [What we know about Covid-19 and the risk factors relating to it](#)

NHS Confederation (April 2020): [The impact of COVID-19 on BME communities and health and care staff](#)

Runnymede Trust (26 March 2020): [Coronavirus will increase race inequalities](#)

<sup>102</sup> In correspondence with the Equality Commission, the Department of Health advised (16 May 2020) that "NISRA Vital Statistics Branch are currently looking at country of birth information recorded on death certificates. ONS has published differential death numbers based on linking Census and death registration information. Given that migration to Northern Ireland peaked more recently than 2011 when the last Census was taken, NISRA feel that country of birth from death registrations will be more meaningful in the Northern Ireland context. This work is currently at an early stage but we would hope to be able to make such stats available in the next 4-6 weeks'. Country of birth data will not, however, capture Covid 19 infection and mortality rates for members of minority ethnic groups who were born in Northern Ireland.

On 25 June 2020, NISRA (the Northern Ireland Statistics and Research Agency) advised the Commission that 'In terms of further plans to analyse deaths based on the death certificate, we are constrained by the variables collected at the point of death registration and there are no current plans to enhance the data collected which would likely require legislation. Place of birth (country) was also analysed in the new monthly bulletin, although this obviously does not equate with 'ethnicity'...the Administrative Data Research Centre in Northern Ireland, in which NISRA is a partner (ADR UK Initiative), is planning to work with a national consortium of BAME researchers and organisations to understand COVID-19's disproportionate impact on different ethnic groups. This work is in its infancy but is of a high priority. Although NISRA holds ethnicity details for the population as at 2011 in the Census record, given the elapsed time, the post-2011 immigration and the comparatively small numbers of COVID-19 deaths in Northern Ireland, the methodology used by ONS (imputing ethnicity from the last Census) will not work for us here. In short, we plan to address this gap'.

- that facilities and services for BME groups are underpinned by the AAAQ<sup>103</sup> human rights framework;
- that the Department of Health and Health & Social Care Trusts provide information and services in a way which is consistent with equality of access and that staff are trained in anti-racism and cultural awareness. It is also recommended that HSC Trusts work with BME, newcomer and Traveller populations to increase knowledge and confidence around access to services;
- the development of a system for monitoring health inequalities experienced by ethnic minorities, including the comprehensive collection and review of data also by S75 category so that any adverse impacts of access outcomes can be identified and addressed;
- as part of a Refugee Integration Strategy, that the Department of Health:
  - identifies and addresses the specific disadvantages faced by refugees in obtaining and accessing appropriate services (including mental health services);
  - ensures that the needs of asylum seekers and refugees are taken into account in the planning, commissioning and delivery of services; and
  - supports asylum seekers and refugees to understand their rights and entitlements to healthcare;
- that Government, including the devolved administration, take steps to mitigate the disproportionate impact of Covid-19 infection and mortality on minority ethnic groups;

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<sup>103</sup> AAAQ: Available, Accessible, Acceptable and of good Quality. Further information available [here](#)

- that data on Covid-19 infection rate and mortality rates are kept for equality categories, including persons of different racial group.

## **Social Welfare**

6.51 An evaluation 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>104</sup>.

6.52 Research has also highlighted that, while emergency funding provides important short term support for destitute asylum seekers, key policy changes are required to the asylum system, to improve the situation of this vulnerable group<sup>105</sup>. For example, asylum support is terminated once a final decision has been made on an asylum application as those who are granted leave to remain in the UK become eligible to work and can access mainstream welfare benefits. A cross-party working group<sup>106</sup> found that, while the UKBA ends its support 28 days after a final decision has been made on an asylum application, it often takes much longer to receive standard benefits (as much as six months for child benefit). As a result, adults who had been seeking asylum were often most at risk three months after being allowed to stay<sup>107</sup>.

6.53 In addition, the cross-party inquiry found widespread examples of families on levels of support far below mainstream benefits. Some children become destitute when families gain refugee

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<sup>104</sup> McKittrick, N and McCann, J. (2012): [Evaluation of the OFMDFM Emergency Fund Pilot August 29011-March 2012](#), page 4.

<sup>105</sup> British Red Cross (2013): [Not gone, but forgotten - the urgent need for a more humane asylum system](#)

<sup>106</sup> Report of the Parliamentary Inquiry into asylum support for children and young people (January 2013).

<sup>107</sup> Ibid, page 15.

status and move from Home Office support to mainstream support. Other children are born into destitution because their parents are cut off from asylum support but are unable to leave the UK.<sup>108</sup> Other periods of destitution are caused by administrative gaps and delays, which cause some families to go without income or a place to stay for weeks and months'.<sup>109</sup>

6.54 Anecdotal evidence<sup>110</sup> has also highlighted that 'there are ongoing issues with inconsistent decision-making with regard to persons from abroad' and that significant delays in processing benefits often leave migrants in debt or at risk of homelessness.

6.55 The Commission has also made a number of significant policy interventions concerning Welfare Reform (including responses to the Welfare Reform Bill EQIA<sup>111</sup>; and associated policy consultations) drawing attention, inter alia, to the absence of data on people of different racial group and the importance of public authorities ensuring the effective application of their Section 75 duties.

### **Proposal to the Committee**

6.56 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 UK government undertake a review of the asylum system to ensure any problems are addressed during transition from one form of public support to another and ensures that asylum

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<sup>108</sup> Ibid, page 15.

<sup>109</sup> Ibid, page 2.

<sup>110</sup> Belong (2013): Response to Commission's Racial Equality Policy Paper – Draft Priorities and Recommendations.

<sup>111</sup> ECNI (December 2011): [Response to the DSD consultation on the Welfare Reform Bill 2011 and EQIA](#).

seekers receive appropriate support from arrival until voluntary departure or compulsory removal from the UK;

- that The Executive Office take appropriate steps to ensure the sustainability of the Emergency Fund in the longer term, by addressing those challenges highlighted by the pilot evaluation such as the need for increased administrative support and the lack of service provision in some regions;
- that The Executive Office and the Department for Communities (DfC) undertake an assessment of the barriers faced by migrants (including Roma), asylum seekers and refugees in accessing benefits including the accessibility of services;
- that the Executive and relevant Departments ensure that first tier generalist advice, including access to the services of an interpreter, is available for those migrants impacted on by the changes to the welfare system and that the application process is accessible, particularly to those who live in rural areas;
- that Departments develop clearer guidance training for decision makers with regard to applications to services and benefits for refugees and asylum seekers.

### **Integration Strategies**

6.56 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.

6.57 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.

6.58 The published Racial Equality Strategy stated that there was a strong case for a Refugee Integration Strategy in Northern<sup>112</sup>. The Commission welcomed the publication in November 2021 a draft strategy for consultation (see below for further details).

6.59 The Commission also welcomed the then OFMDFM's commitment to develop specific programmes of work to address the needs of particular needs of Travellers and Roma and was pleased to see the establishment by The Executive Office in April 2021 of a Travellers Thematic Group, as part of the Racial Equality Strategy. The Thematic Group's role is to advise the cross-departmental Strategic Planning Group, a high level group of officials from government departments, on actions to improve the situation of Travellers in Northern Ireland<sup>113</sup>.

6.60 However, The Executive Office has yet to establish a Thematic Group to consider and address the needs of Roma.

## **Proposal to the Committee**

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<sup>112</sup> Office of the First Minister and the Deputy First Minister (2015): [Racial Equality Strategy 2015-2025](#), paragraph 6.19, page 31.

<sup>113</sup> The Terms of Reference for the Travellers Thematic Group include that it will:

- Provide a clear conduit between government and Travellers;
- Ensure Travellers are appropriately and meaningfully consulted and involved;
- Agree key areas of work and develop actions with targets, review, monitoring and reporting in collaboration with The Strategic Planning Group on Travellers and Roma;
- Engage with The Strategic Planning Group on Travellers and Roma, Ministers and relevant departmental staff including policymakers and strategic developers to ensure racial equality for Travellers is embedded in planning, delivery and outcome;
- Support the development, review and monitoring of appropriate strategies, policies and action plans that address Traveller inequalities;
- Make recommendations, based on evidence for policy change and development;
- Monitor progress on the implementation of the Racial Equality Strategy in relation to Travellers and report back to the Ministerial Panel;
- To analyse data and information gained from monitoring, impact assessments and general consultation activity to inform priorities and future practice;
- Recommend the commissioning of research, reports, actions and events to deliver the Ministers objectives and priorities for addressing racial inequality.

6.61 Aligned to the Equality Commission’s recommendations, the Advisory Committee may wish to consider recommending that the NI Executive should, aligned to the Racial Equality Strategy for Northern Ireland, establish a Roma Thematic Group which will advise the Strategic Planning Group on actions to improve the situation of Roma in Northern Ireland.

### **Asylum Seekers and Refugees**

6.63 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>114</sup> .

6.64 Unlike Scotland<sup>115</sup> and Wales<sup>116</sup>, Northern Ireland does not have a separate national strategy on refugee integration.

6.65 A draft Refugee Integration Strategy was issued by the TEO for public consultation in November 2021<sup>117</sup>. The draft strategy is a high-level framework and, therefore, to be effective, needs to be populated with specific time-bound actions with lead responsibility attributed to particular Departments.

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<sup>114</sup> Potter, M. (2014): [Refugees and Asylum Seekers in Northern Ireland](#), (Northern Ireland Assembly Research Service), page 9 (Belfast: NIARC).

<sup>115</sup> Scottish Government (2013): [New Scots: Integrating Refugees in Scotland's Communities](#), Edinburgh.

<sup>116</sup> Welsh Government (2008): Refugee Inclusion Strategy (Wales: Welsh Assembly Government).

<sup>117</sup> The Executive Office (2021): [Draft Refugee Integration Strategy 2022-2027](#);

See also: <https://www.executiveoffice-ni.gov.uk/articles/racial-equality#toc-0>  
The Equality Commission’s response to the consultation is available [here](#).

6.66 The Commission recommends that the actions should be outcome focused with links to specific Northern Ireland-oriented indicators based on the Home Office Indicators of Integration.<sup>118</sup>

### **Proposal to the Committee**

6.67 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 Refugee Integration 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>119</sup>;
- identify and address the complex emotional, educational and social needs of asylum seeking and refugee children<sup>120</sup>;
- 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>121</sup>;
- take account of the need to provide support and advice to asylum seekers who are either in emergency accommodation provided by NASS<sup>122</sup> support, are otherwise pursuing an application for NASS support, or have recently received a decision and need support to move on<sup>123</sup>;

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<sup>118</sup> Home Office (2019): [Indicators of Integration 2019, Third Edition](#)

<sup>119</sup> Equality Commission for Northern Ireland (May 2014): [Racial Equality Policy Priorities and Recommendations](#), paragraph 3.15, page 12.

<sup>120</sup> Equality Commission for Northern Ireland (May 2014): [Racial Equality Policy Priorities and Recommendations](#), paragraph 4.20, page 18.

<sup>121</sup> Equality Commission for Northern Ireland (May 2014): [Racial Equality Policy Priorities and Recommendations](#), paragraph 5.21, page 24.

<sup>122</sup> National Asylum Support Service.

<sup>123</sup> Equality Commission for Northern Ireland (May 2014): [Racial Equality Policy Priorities and Recommendations](#), paragraph 6.13, page 27.

- identify and address the specific disadvantages faced by refugees in obtaining and accessing appropriate services (including mental health services)<sup>124</sup>;
- assess the barriers faced by migrants (including asylum seekers and refugees) in accessing benefits including the accessibility of services<sup>125</sup>.

6.68 Further detail supporting all of the above recommendations can be found in: ECNI (2014): ‘Racial Equality Policy – Priorities and Recommendations’<sup>126</sup> and ECNI (2022): Response to the consultation by The Executive Office on the draft Refugee Integration Strategy for Northern Ireland 2022-2027<sup>127</sup>.

## **7 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.

<sup>124</sup> Equality Commission for Northern Ireland (May 2014): [Racial Equality Policy Priorities and Recommendations](#), paragraph 7.8, page 30.

<sup>125</sup> Equality Commission for Northern Ireland (May 2014): [Racial Equality Policy Priorities and Recommendations](#), paragraph 8.15, page 37.

<sup>126</sup> Equality Commission for Northern Ireland (May 2014): [Racial Equality Policy Priorities and Recommendations](#)

<sup>127</sup> Equality Commission for Northern Ireland (2022): [Response to the consultation by The Executive Office on the draft Refugee Integration Strategy for Northern Ireland 2022-2027](#)

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

- 7.1 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.
- 7.2 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). 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>128</sup>.
- 7.3 The Commission has placed on record our view that a specific language statute is an appropriate mechanism of protection for the Irish language<sup>129</sup> and have welcomed initiatives<sup>130</sup> taken to promote the Irish and Ulster Scots languages to as wide an audience as possible<sup>131</sup>.
- 7.4 The Equality Commission 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

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<sup>128</sup> Equality Commission for Northern Ireland (2015): [Response to the consultation by the Department for Culture, Arts and Leisure on Proposals for an Irish Language Bill](#), paragraph 5, page 2.

<sup>129</sup> Equality Commission for Northern Ireland (2007): Response to DCAL Consultation on Proposed Irish Language Legislation.

<sup>130</sup> For example, the Liofa Project (Department of Culture, Arts and Leisure)

<sup>131</sup> Equality Commission for Northern Ireland (2007): Response to DCAL Consultation on Proposed Irish Language Legislation, page 10, para 11

provision of public services'<sup>132</sup> which is 'proportionate to the language needs of the situation, in a spirit of respect for the freedom of minority language speakers'<sup>133</sup>

- 7.5 In February 2015, the Department of Culture Arts and Leisure (DCAL) published a consultation<sup>134</sup> on Proposals for an Irish Language Bill. In its response to the consultation<sup>135</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' and provide a 'useful opportunity to afford a more consistent approach' in the matter of Irish language policy<sup>136</sup>.
- 7.6 The *New Decade, New Approach* document, published by the governments of the UK and Ireland on 9 January 2020 contained a wide range of measures. This included provisions in relation to rights, language and culture<sup>137</sup>.
- 7.7 Specifically, the agreement commits the First Minister and deputy First Minister, supported by the Junior Ministers to sponsor and oversee a new framework both to recognise and to celebrate Northern Ireland's diversity of identities and culture and to accommodate cultural differences.

The framework is to comprise a number of strands, including:

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<sup>132</sup> Equality Commission for Northern Ireland (2015): [Response to the consultation by the Department for Culture, Arts and Leisure on Proposals for an Irish Language Bill](#), paragraph 11, page 4.

<sup>133</sup> Equality Commission for Northern Ireland (2015): [Response to the consultation by the Department for Culture, Arts and Leisure on Proposals for an Irish Language Bill](#), paragraph 7, page 3.

<sup>134</sup> Department of Culture, Arts and Leisure (2015): [Response to the consultation by the Department for Culture, Arts and Leisure on Proposals for an Irish Language Bill](#)

<sup>135</sup> Equality Commission for Northern Ireland (2015): [Response to the consultation by the Department for Culture, Arts and Leisure on Proposals for an Irish Language Bill](#)

<sup>136</sup> Equality Commission for Northern Ireland (2015): [Response to the consultation by the Department for Culture, Arts and Leisure on Proposals for an Irish Language Bill](#), paragraph 12, page 4.

<sup>137</sup> [New Decade, New Approach](#), paras 25 – 27; Annex E, paragraphs 5.1 – 5.25.

- An Office of Identity and Cultural Expression<sup>138</sup> to promote cultural pluralism and respect for diversity, build social cohesion and reconciliation and to celebrate and support all aspects of Northern Ireland's rich cultural and linguistic heritage;
- Legislation to create a Commissioner to recognise, support, protect and enhance the development of the Irish language in Northern Ireland and to provide official recognition of the status of the Irish Language in Northern Ireland;
- Legislation to create a further such Commissioner to enhance and develop the language, arts and literature associated with the Ulster Scots / Ulster British tradition and to provide official recognition of the status of the Ulster Scots language in Northern Ireland. The legislation will also place a legal duty on the Department of Education to encourage and facilitate the use of Ulster Scots in the education system<sup>139</sup>.

7.8 Draft legislation to give effect to these commitments was published at the same time as *New Decade, New Approach*, in the form of bills prepared by the Office of Legislative Counsel (OLC) at the request of the UK Government, to reflect the discussions up to that date<sup>140</sup>.

7.9 The legislation will introduce a new statutory duty on public authorities, to have due regard to principles relating to identity and cultural expression, and the need to encourage and promote reconciliation. It also sets out a role for the Office of Identity and Cultural Expression in relation to this new duty and a range of other functions.

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<sup>138</sup> The Equality Commission has raised some queries and concerns with the Executive Office about the potential for confusion between the new duty set out in the draft legislation and existing public duties and about its potential overlap with the role and remit of the Equality Commission (letter from the Chief Commissioner ECNI to the First Minister and deputy First Minister 3 April 2020).

<sup>139</sup> [New Decade, New Approach](#)

<sup>140</sup> BBC News (17 June 2021): [NDNA: What the deal means for NI language and culture](#)

- 7.10 The three bills will be enacted as amendments to the Northern Ireland Act 1998. The timetable for introduction of the legislation to the Assembly was originally scheduled for early April 2020.
- 7.11 In August 2021 the Minister for Communities announced the establishment of Expert Advisory Panels that will bring together a wide range of academic and community experience to provide recommendations about what should go into each strategy. Two further ‘co-design’ groups will support, advise and work alongside the Department in developing and producing each of the strategies, and wider consultation will also take place towards ensuring that the strategies meet community need<sup>141</sup>.
- 7.12 In June 2021, the then First Minister and leader of the largest party in the Executive, the Democratic Unionist Party, stated that while he intended to support the introduction of Irish language legislation, this would not necessarily be before the next assembly election<sup>142</sup>.
- 7.13 The second largest party in the Executive, Sinn Féin, then reiterated its view that Irish language legislation to be passed before the election and called upon the UK government to legislate for this at Westminster<sup>143</sup>.
- 7.14 The Secretary of State for Northern Ireland subsequently indicated that he may legislate for Irish language at Westminster if the Executive fails to act, although he did not set a timeline for that to happen<sup>144</sup>. The two parties continue to appear not to have reached agreement over the language legislation<sup>145</sup>.

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<sup>141</sup> See: <https://www.communities-ni.gov.uk/articles/irish-language-strategy-and-ulster-scots-language-heritage-and-culture-strategy>; BBC News (24 September 2021): [Irish language and Ulster Scots strategies 'complex and sensitive'](#)

<sup>142</sup> BBC News (14 June 2021): [Edwin Poots will not guarantee Irish language law this term](#)

<sup>143</sup> BBC News (15 June 2021): [Sinn Féin 'will not back new first minister without Irish law'](#)

<sup>144</sup> BBC News (17 June 2021): [Irish language talks back on at Stormont](#); BBC News (26 October 2021): [UK government 'must deliver on Irish language pledge'](#)

<sup>145</sup> BBC News (9 February 2022): [Irish and Ulster Scots: DUP and Sinn Féin row delays legislation](#)

## **Proposal to the Committee**

7.15 Aligned to the Equality Commission’s recommendations to the the Advisory Committee may wish to consider recommending, via the State Party, that:

- the Department of Communities ensures ‘that the provisions of the Irish Language Bill are consistent with those of the European Charter for Regional and Minority Languages’<sup>146</sup>.

## **8 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’ 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**

8.1 The Equality Commission’s most recent Equality Awareness Survey (2018)<sup>147</sup> found that all five of the most negatively viewed groups were racial groups: Irish Travellers, Roma, asylum seekers and refugees, migrant workers and minority ethnic groups.

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<sup>146</sup> Equality Commission for Northern Ireland (2015): [Response to the consultation by the Department for Culture, Arts and Leisure on Proposals for an Irish Language Bill](#), page 4, para 12. 30

<sup>147</sup> Equality Commission for Northern Ireland (2018): [A Question of Attitude](#); See also: <https://www.equalityni.org/Delivering-Equality/Equality-Awareness-Survey.aspx?t=1>

<b>Group</b>	<b>Negative</b>	<b>Neither +/-</b>	<b>Positive</b>
<b>Traveller</b>	19%	15%	66%
<b>Roma</b>	18%	15%	68%
<b>Asylum seekers &amp; refugees</b>	15%	15%	71%
<b>Migrant workers</b>	11%	12%	77%
<b>Minority ethnic groups</b>	10%	14%	77%

8.2 Travellers, Roma, migrant workers and minority ethnic groups were also the equality groups with the highest proportions of respondents who 'would mind' them as a work colleague, a neighbour or as an in-law.

Proportion of people who 'would mind' having people from these groups as:

<b>Group</b>	<b>Work colleague</b>	<b>Neighbour</b>	<b>In-law</b>
<b>Traveller</b>	25%	33%	33%
<b>Roma</b>	23%	27%	29%
<b>Migrant workers</b>	16%	19%	20%
<b>Minority ethnic</b>	16%	18%	20%

8.3 Overall, attitudes to Travellers were not as negative as in previous surveys, but they were still the equality group that attracted the most negative attitudes across all areas that we surveyed:

**In general, how positive or negative do you feel towards Travellers?**

<b>Year</b>	<b>Negative %</b>	<b>Neither -/+ %</b>	<b>Positive %</b>
<b>2008</b>	28%	26%	46%
<b>2011</b>	30%	30%	40%
<b>2016</b>	19%	15%	66%

## Would you personally mind a Traveller as a work colleague/a neighbour/an in-law?

Group	2005	2008	2011	2016
Work colleague	24%	38%	35%	25%
Neighbour	41%	51%	54%	33%
Close relative	38%	51%	55%	33%

- 8.4 More people responded with negative attitudes to Travellers in all three social distance scenarios than to any other group. The closer the relationship, proportionally more people minded. One quarter would mind working alongside a Traveller, and a third would mind a Traveller as a neighbour or a relative by marriage.
- 8.5 The Executive Office’s Northern Ireland Racial Equality Indicators Report: 2014 – 2019 reported that, at 2019, the proportion of respondents reporting they were prejudiced against people from minority ethnic communities had increased significantly since the baseline and 2018 (2014: 24%; 2018: 20%; 2019: 29%)<sup>148</sup>.
- 8.6 The Leveson report (2012) into press standards found that ‘when assessed as a whole, the evidence of discriminatory, sensational or unbalanced reporting in relation to ethnic minorities, immigrants and/or asylum seekers, is concerning’<sup>149</sup>. Research (ASCONI 2012) has also highlighted that stereotypical representations of Africans in charity campaigns, ‘ostracises many new communities and reinforces the perception of them as on the periphery of society in Northern Ireland’<sup>150</sup>. The Commission remains concerned about evidence of discriminatory, sensational and unbalanced media reporting at UK-wide level.

<sup>148</sup> See: [Northern Ireland Racial Equality Indicators Report: 2014-2019](#)

<sup>149</sup> Leveson (November 2012): [Criticism of the Culture, Practices and Ethics of the Press](#), para 8.51, page 673.

<sup>150</sup> Afro-Caribbean Support Organisation NI (2012): [African images and their impact on public perception](#)

- 8.7 The Independent Review of hate crime legislation in Northern Ireland (2020), undertaken by Justice Marrinan for the Department of Justice, notes that there is approximately a 1 in 31 chance of being the victim of a reported racial hate incident compared to an approximately 1 in 1777 chance of being a victim of a reported sectarian hate incident<sup>151</sup>.
- 8.8 The most recent PSNI statistics for hate motivated incidents and crimes (for the period October 2020 to September 2021) show 1231 racial incidents (up 353 from the previous year) and 864 crimes (up 276 from the previous year).
- 8.9 Racist hate crime has been the most numerous type of reported hate crime in the last year (previously sectarian hate crime was the most numerous) whilst the number of reported racial hate incidents has exceeded that of any other types for the last two years.
- 8.10 In the Equality Commission's response<sup>152</sup> to the recent Hate Crime Review<sup>153</sup> by the Department of Justice, we **recommended** the adoption of a statutory aggravation model similar to that adopted in hate crime legislation in Great Britain together with the introduction of sentencing guidelines for hate crimes in Northern Ireland.
- 8.11 We have also recommended additional policy and legislative action to improve the effectiveness of the hate crime legislation:
- **Guidance and Training:** We recommend the production of guidance and training for criminal justice agencies, including the Police Service of Northern Ireland, Public Prosecution Service and judiciary;

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<sup>151</sup> [Hate Crime Legislation in Northern Ireland - Independent Review](#) (2020), paragraph 38, pages 6-7.

<sup>152</sup> Equality Commission for Northern Ireland (2020): [Response to Hate Crime Legislation in Northern Ireland, Independent Review](#)

<sup>153</sup> Justice Marrinan (2020): [Hate Crime Legislation in Northern Ireland, Independent Review](#) (Department of Justice); Department of Justice (2021): [Review of hate crime legislation in Northern Ireland - Departmental response](#)

- **Holistic approach:** We recommend the adoption of a holistic approach to tackling hate crime;
- **Outcome rates:** We recommend action to improve outcome rates for hate crime;
- **Increasing Hate crime:** We recommend that measures are in place to tackle any increase in hate crime due, for example, to Brexit and the Covid 19 pandemic;
  - **Prejudicial attitudes:** We recommend the implementation of measures to eliminate discrimination, hate crime and tackle prejudicial attitudes and negative stereotypes against equality groups;
  - **Equality Law:** We recommend measures to strengthen equality law, including against harassment and multiple discrimination;
  - **Sharing in Education:** We recommend a move to a system of education which routinely teaches all pupils together via a shared curriculum in shared classes, in support of better advancing a shared society;
  - **Bullying:** We recommend action to address bullying in schools including on prejudice-based grounds, including through the curriculum in an age appropriate way, and via leadership and commitment from Principals and Boards of Governors;
  - **Shared and safe housing:** We recommend actions designed to incentivise and advance safe, shared housing and communities based on equality, dignity and respect;

- **Harassment when accessing health services:** We recommend that measures are taken to ensure that women, including women with multiple identities, are able to access all health services, including sexual and reproductive health services, free from discrimination or harassment. Measures should be compliant with human rights legislation;
- **Equality/Good relations Strategies:** We recommend prompt implementation of equality and good relations strategies, to include actions to address prejudicial attitudes, stereotypes and hate crime<sup>154</sup>.

### **Racial profiling**

8.12 The Equality Commission, in partnership with the NI Human Rights Commission (NIHRC), pursuant to section 78A(1) and 79B(1) of the Northern Ireland Act 1998, monitors the implementation of Article 2(1) of the Protocol on Ireland/Northern Ireland ('the Protocol') in the EU Withdrawal Agreement.

8.13 The Equality Commission is concerned about the UK Government's proposals to introduce an Electronic Travel Authorisation (ETA) for entry to the United Kingdom, under proposed provisions within the Nationality and Borders Bill which is currently progressing through the House of Lords. This includes concerns relating to conformity with the Government's obligations under Article 2 of the Ireland/Northern Ireland Protocol<sup>155</sup>.

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<sup>154</sup> Equality Commission for Northern Ireland (April 2020): [Response to consultation: Hate Crime Legislation in Northern Ireland - Independent Review](#), paragraph 1.2, page 1 and paragraph 1.3, pages 4-5.

<sup>155</sup> Protocol Article 2(1) states: "The United Kingdom shall ensure that no diminution of rights, safeguards or equality of opportunity, as set out in that part of the 1998 Agreement entitled Rights, Safeguards and Equality of Opportunity results from its withdrawal from the Union, including in the area of protection against discrimination, as enshrined in the provisions of Union law listed in Annex 1 to this Protocol, and shall implement this paragraph through dedicated mechanisms."

8.14 The Commission has received specific concerns from equality and human rights stakeholders about the potential impact of the ETA requirement on certain people, particularly those living in border communities. We has asked the Government to set out its assessment of the conformity of the provisions in the Bill relating to the proposed introduction of an ETA with its commitment under Article 2(1) of the Protocol, and to date, are awaiting that assessment<sup>156</sup>. Concerns have been raised with the Commission that the enforcement of the ETA could result in an increase of racial profiling and racial discrimination, and we share these concerns. The Commission has previously supported a claim of racial discrimination against the Home Office, which concerned racial profiling by UK immigration officers<sup>157</sup>. This resulted in the settlement of the claim of alleged racial discrimination against a black British woman, arising from the actions of an immigration officer at Belfast City Airport.

8.15 Concerns relating to the potential for increased racial profiling have also been raised with the Commission by equality and human rights stakeholders in Northern Ireland in relation to new Common Travel Area (CTA guidance) issued by the Home Office in October 2021<sup>158</sup>. We **recommend** that the Home Office ensures that the implementation of the revised guidance on the CTA will not lead to an increase in instances of racial profiling of black and ethnic minority people and migrant people, in the context of cross border travel.

## Proposal to the Committee

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<sup>156</sup> The Equality Commission, together with the NI Human Rights Commission, has made a number of recommendations on ETAs in its submission to the House of Lords on the Bill, in keeping with their respective remits. See, for example: [NIHRC and ECNI, 'Joint NIHRC/ECNI briefing paper on the modern slavery and human trafficking and electronic travel authorisation provisions in the Nationality and Borders Bill', \(NIHRC and ECNI, 2022\)](#)

<sup>157</sup> Equality Commission for Northern Ireland (20 July 2016): [Race case supported by Commission settled with Home Office](#)

<sup>158</sup> UK Home Office (11 October 2021): [Common Travel Area Guidance](#).

8.16 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;
- use early intervention in education to combat negative attitudes, reduce racism and promote good relations<sup>159</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

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<sup>159</sup> Equality Commission for Northern Ireland (2014): [Racial Equality Policy Priorities and Recommendations](#), paragraph 3.12, page 11.

takes relevant action to ensure appropriate media reporting in Northern Ireland<sup>160</sup>;

- co-ordinates departmental action aimed at identifying and addressing any institutional racism<sup>161</sup>;
- adopt additional policy and legislative action as recommended by the Commission to improve the effectiveness of the hate crime legislation.

8.17 Furthermore, we recommend that the Home Office ensures that the implementation of the revised guidance on the Common Travel Area will not lead to an increase in instances of racial profiling of black and ethnic minority people and migrant people, in the context of cross border travel.

## 9 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.

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<sup>160</sup> Equality Commission for Northern Ireland: [Racial Equality Policy Priorities and Recommendations, paragraph 3.16](#), page 12 (Belfast: ECNI).

<sup>161</sup> Equality Commission for Northern Ireland (May 2014): [Racial Equality Policy Priorities and Recommendations](#), pages 11-12.

- 9.1 Minority ethnic students suffer racist bullying in school. Bullying can hinder academic success<sup>162</sup>. Minority ethnic students have reported being bullied - such as, mean names or comments about their race or colour<sup>163 164</sup>. Research by the NI Council for Ethnic Minorities (2011)<sup>165</sup> suggested that a barrier to addressing bullying in schools is that schools tend to lack knowledge of how to effectively confront the issue of racist bullying and may in some cases have difficulty acknowledging that a problem exists.
- 9.2 The Commission welcomes the recent signing of the Commencement Order in relation to the Addressing Bullying in Schools Act, which will take effect from 1 September 2021<sup>166</sup>. The Act provides a common definition of bullying; establishes a new duty for schools to record all incidents of bullying, their motivation and their outcome; and requires the school Boards of Governors collectively to take responsibility for the development, implementation, monitoring and periodic review of the school's anti-bullying policies and procedures.
- 9.3 It is reported that Irish Traveller children encountered the most negative experiences of education<sup>167</sup>. In 'Every Child an Equal Child'<sup>168</sup>, the Commission noted the high levels of poor literacy and low levels of educational attainment among the Irish Traveller community<sup>169</sup>. We continue to note longstanding and unparalleled

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<sup>162</sup> RSM McClure Watters (2011): [The Nature and Extent of School Bullying in Schools in the North of Ireland](#)

<sup>163</sup> [Young Life and Times Survey NI](#) (2014) - Two fifths of 16 year olds had witnessed racist bullying in school, with one in ten experiencing racist bullying themselves. Of those from ethnic minorities, two-thirds aged 16 years stated that they had been victims of racist bullying, with seven out of ten having witnessed racist bullying.

<sup>164</sup> NCB, NI and ARK YLT (2010): [Attitudes to Difference: Young people's attitudes to, and experiences of contact with people from different minority ethnic and migrant communities in Northern Ireland](#), page 55, Table 16.

<sup>165</sup> NI Council for Ethnic Minorities (2011): Promoting racial equality in NI post primary schools.

<sup>166</sup> Department of Education (14 April 2021): [Schools to implement Addressing Bullying in Schools Act](#)

<sup>167</sup> Biggart, A. et al. (2013): [A need to belong? The prevalence of experiences of belonging and exclusion in school among minority ethnic children living in the 'White hinterlands'](#).

<sup>168</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](#), page 19.

<sup>169</sup> The vast majority of Travellers have no formal educational qualifications and 92% have no GCSE's at all, compared with 4% of all Northern Ireland school leavers.

educational disadvantage for Traveller children who in particular experience exceptionally poor educational outcomes, low levels of school attendance and racist bullying.

- 9.4 Over the 2007/08-2014/15 period, anywhere between a half to over eight in ten Irish Traveller children left school with no GCSEs. This is in stark contrast to the proportions of all school leavers with no GCSEs, which has reduced from 3.5 percent in 2007/08 to 0.5 percent in 2014/15<sup>170</sup>.
- 9.5 Newcomer children also face a number of barriers to educational achievement, including limited English language ability, lack of knowledge of the education system, racist bullying and social exclusion.
- 9.6 The Commission's 2008 policy statement, *Every Child an Equal Child*<sup>171</sup>, highlighted serious shortcomings in relation to the provision of support for children who have English as an additional language, as well as with existing funding formulas<sup>172</sup>. In our 2011 CERD shadow report<sup>173</sup>, we highlighted the challenges in providing appropriate support for BME and newcomer children, especially those with gaps in their educational backgrounds.

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<sup>170</sup> The Equality Commission for Northern Ireland (2017): [Statement of Key Inequalities in Education](#), paragraph 5.2, pages 14-15.

<sup>171</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](#)

<sup>172</sup> Equality Commission for Northern Ireland (2006): [Mainstreaming Equality of Opportunity for Travellers in Education: Towards a Strategy](#), pages 13-14. Each full time pupil designated on the day of the school census as being of the Traveller community will generate an additional allocation for the school equivalent to the 0.5 of the basic Age Weighted Pupil Units (AWPU). This is problematic as Traveller children may not be in school on the day of the school census or may attend another school in the same year. As the money is not ring fenced, it may be appropriated for the general school budget. It is unclear whether the use of this extra funding is monitored and linked to tangible achievements for Travellers.

<sup>173</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](#)

- 9.7 In 'Every Child an Equal Child'<sup>174</sup>, the Commission noted that children of new residents and migrant workers face difficulty accessing grammar schools<sup>175</sup>. While the reasons for the disparity are unclear, a range of factors which may be at play including the free exercise of parental choice, lack of knowledge of the educational system and how to apply to grammar schools and the use of tests to determine admission<sup>176</sup>.
- 9.8 While there has been little formal research on the experience of Roma pupils, anecdotal evidence suggests exceptionally high levels of educational disadvantage exacerbated by a low level of English language proficiency, social exclusion and poverty.
- 9.9 There are also complex challenges facing young refugees and asylum seekers in the education system. Refugee and asylum seeking children often have very limited English Language skills and may have experienced trauma and other serious stresses before coming to Northern Ireland. Accessing second level education can also be problematic for those aged almost or over 16<sup>177</sup>.
- 9.10 Research (2013)<sup>178</sup> has also noted the need 'to look beyond achievement gaps in assessing minority ethnic children's differential experiences in education, highlighting the potential of

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<sup>174</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](#), paragraph 3.27 page 19.

<sup>175</sup> Only 13.7% of newcomers attend a grammar school compared to 42.5% of non-newcomers.

<sup>176</sup> NI Council for Ethnic Minorities (2011): Promoting Racial Equality in Northern Ireland's Post Primary Schools, page 15.

<sup>177</sup> National Children's Bureau (2010): [New to Northern Ireland - A study of issues faced by migrant, asylum-seeking and refugee children in Northern Ireland](#). The Bureau has noted that 'for such young people it is very difficult to get a school place and sometimes virtually impossible unless the young person had 'high exam results from their country of origin' or 'exceptionally good spoken English'.

<sup>178</sup> Biggart, A. et al. (2013): [A need to belong? The prevalence of experiences of belonging and exclusion in school among minority ethnic children living in the 'White hinterlands', Queens University Belfast](#), pages 179-195.

belongingness<sup>179</sup> as a concept for further study<sup>180</sup>. The research<sup>181</sup> found that ethnic minority pupils experienced lower levels of belonging and higher levels of exclusion compared to their White, settled Northern Irish peers. The experiences of Irish Traveller children were the most negative. While educational aspirations were high among Chinese/Asian children, 'less positive outcomes were found in relation to other outcomes like their self-worth, participation in clubs and their subjective health'<sup>182</sup>.

### **Proposal to the Committee**

9.11 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 (DE) (NI):

- adopts a holistic approach to the development of education policy which includes measures aimed at promoting a sense of belonging. The Department should seek to ensure that ethnic minority children see their culture and language reflected in the classroom and school curriculum; disseminate best practice procedures around induction and admissions; and provide guidance on promoting the participation of newly-arrived children in the wider life of the school;
- that provision for Traveller children is subject to ongoing monitoring and evaluation with progress reported at the recently established (as part of the Racial Equality Strategy)

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<sup>179</sup> Goodenow, C., & Grady, K. E. (1993): 'The relationship of school belonging and friends' values to academic motivation among urban adolescent students' in *Journal of Experimental Education*, 62(1), 60-71. Goodenow and Grady's definition of belong is well recognised by scholars and is defined as the extent to which students "feel personally accepted, respected, included and supported in the school environment".

<sup>180</sup> Biggart, A. et al. (2013): [A need to belong? The prevalence of experiences of belonging and exclusion in school among minority ethnic children living in the 'White hinterlands'](#), [Queens University Belfast](#), page 1.

<sup>181</sup> Ibid.

<sup>182</sup> Ibid, page 17.

TEO Traveller Thematic Group and that Traveller children and parents are closely involved in the development and implementation, to ensure that tangible outcomes are delivered;

- that the Executive and DE work with the regional Inclusion and Diversity Service to understand and improve the experiences of and outcomes for newcomer (including Roma and asylum seeker) children and BME pupils including identifying and addressing any attainment differentials; assessing educational needs; reviewing the effectiveness of current English as an Additional Language (EAL) support; identifying appropriate strategies to support the teaching of newcomer pupils through the development of effective newcomer pupil programs and the provision of accessible information on the education system in Northern Ireland;
- that DE take steps to promote development of the first language competence of newcomer pupils<sup>183</sup> and assist schools in making effective use of dual language resources to help learners access the curriculum<sup>184</sup>;
- that the Department ensures that schools provide regularly updated in- service training to staff on the impact of racist bullying and on the strategies to tackle and prevent it and that training on prejudice- based bullying is incorporated within teacher training;
- that schools develop practical strategies for communicating with parents in relation to bullying and that appropriate

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<sup>183</sup> In developing its approach the Department of Education should seek to incorporate learning from projects such as the GCSE Family Language Project in England, which allows primary children whose first language is not English to study for a GCSE in their mother tongue, alongside a parent or other adult family member.

<sup>184</sup> Her Majesty's Inspectorate of Education in Scotland (2009): [Count Us In: Meeting the needs of children and young people newly arrived in Scotland](#)

mechanisms are put in place to consider complaints from parents in relation to schools' handling of bullying incidents;

- that DE take targeted action in line with Recommendation 3 of the UN Committee on the Elimination of All Forms of Racial Discrimination's General Recommendation XVII on Discrimination Against Roma<sup>185</sup>, to address the barriers faced by Roma children in accessing education including the training and employment of culturally competent bi-lingual classroom assistants;
- The Commission also **recommends** measures to address the educational inequalities among Roma pupils be developed as part of a wider Roma Integration Strategy.

### **Sharing in Education**<sup>186</sup>

9.12 In Northern Ireland, the education system is largely divided along religious lines<sup>187</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. The Department of Education continues to fund and embed its Shared Education policy, aimed at meeting the 'needs of and providing for the education together of learners from all Section 75 categories<sup>188</sup> and socio-economic status'<sup>189</sup>. It is supported by the Shared Education Act (NI) 2016, which 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

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<sup>185</sup> UN Committee on the Elimination of All Forms of Racial Discrimination (2003): [General Recommendation XXVII Discrimination against Roma](#)

<sup>186</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>187</sup> Burns, S., Leitch, R. and Hughes, J. (2015): [Education Inequalities in Northern Ireland](#), para 5, page 340

<sup>188</sup> [Section 75 of the Northern Ireland Act 1998](#), c47

<sup>189</sup> Department of Education: What is Shared Education?

different religious belief and those experiencing socio-economic deprivation and those who are not<sup>190</sup>.

9.13 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 integration’<sup>191</sup>. In addition to our response the specific provisions set out in Department’s public consultation on shared education<sup>192</sup>, we recommend<sup>193</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.

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<sup>190</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

<sup>191</sup> Equality Commission for Northern Ireland (2015): [Shared Education - Key Point Briefing](#) (

<sup>192</sup> Equality Commission for Northern Ireland (2015): [Response to the Department of Education Consultation on a Shared Education Draft Policy and Legislation](#).

<sup>193</sup> Equality Commission for Northern Ireland (2015): [Shared Education - Key Point Briefing](#).

## **Proposal to the Committee**

9.14 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 sharing in education to address education inequalities and advance cohesion, sharing and integration;
- the Department addresses wider issues in education in relation to: academic selection; the teachers' exception under FETO; and greater collaboration in teacher training.

## **10 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**

10.1 The Commission notes that 4% of applications for public appointments came from minority ethnic communities 2018-19. However only five or fewer appointments in 2018/19 were individuals from a minority ethnic group (the precise figure and percentage cannot be released due to disclosure control)<sup>194</sup>.

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<sup>194</sup> The Executive Office (2022): [Public Appointments - Annual Report 2018-19](#) Public Bodies and Public Appointments, paragraph 1.4, page 12 and paragraph 2.4, page 16.

10.2 Research undertaken on behalf of the Commission<sup>195</sup> found that available data was limited to Government Public Appointments, Access to Voting System and the Judiciary<sup>196</sup>. An examination of the data shows that Minority Ethnic groups experience persistent key inequalities in terms of their underrepresentation in participation in public life within:

- Government Public Appointment positions (Applicants and Appointments);
- Judicial Office positions across the eight groupings;
- Lay Magistrate positions;
- Judicial Office Court positions (Applicants);
- Judicial Office Tribunal (Legal) Applicants;
- Recommendations for Judicial Appointments;
- Recommendations for Renewal of Judicial Appointments.

10.3 The Commission has noted that there are no elected representatives from ethnic minority backgrounds in Northern Ireland<sup>197</sup>. Currently, there is no political presence in terms of ethnic minorities within the Northern Ireland Assembly. However,

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<sup>195</sup> Banks, G., Hamilton, E. and Rooney, F. (2015): [Inequalities in Participation in Public Life in Northern Ireland](#) (Ipsos MORI for the Equality Commission for Northern Ireland).

<sup>196</sup> The researched revealed (page 184) an absence of data available with respect to:

- Local Strategic Partnerships
- Citizens Panels
- Public Bodies focus and or working groups
- School Councils
- Youth Councils
- User groups for a service provided by a Public Authority
- Members of Political Fora
- Litigants – Access to Law and Courts
- Jurors
- Recruitment and Selection Panels
- Members of a voluntary group and
- Community Police Liaison Committees
- Neighbourhood Watch Committees
- Community Associations or fora
- School Boards of Governors
- Elected representatives

<sup>197</sup> Although [Councillor Lillian Seeno-Barr](#) (Social, Democratic and Labour Party) has been co-opted to Derry City Council.

previously (2007-2016,) [one MLA](#) (Anna Lo, Alliance party) was elected to the Northern Ireland Assembly<sup>198</sup>.

10.4 The Commission calls on government and political parties to take prompt steps to further promote and support the participation in political life of women, and those from minority ethnic groups, by actively tackling the barriers they may face. We also recommend actions to develop and broaden candidate pools<sup>199</sup>.

10.5 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**

10.6 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>200</sup>, by actively tackling the barriers they may face including actions to develop and broaden candidate pools<sup>201</sup>;

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<sup>198</sup> Banks, G., Hamilton, E. and Rooney, F. (2015): [Inequalities in public life in Northern Ireland](#) (Ipsos Mori for the Equality Commission for Northern Ireland); See also: <https://www.equalityni.org/Delivering-Equality/Addressing-inequality/Participation-in-public-life/Research-investigations>

<sup>199</sup> Equality Commission for Northern Ireland (2019): [Equality in Participation in Public Life - Priorities for Action](#), paragraph 29, page 17.

<sup>200</sup> Equality Commission for Northern Ireland (May 2014): [Racial Equality Policy Priorities and Recommendations](#), paragraph 3.15, page 12.

<sup>201</sup> Equality Commission for Northern Ireland (2019): [Equality in Participation in Public Life - Priorities for Action](#), paragraph 29, page 17.

- 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>202</sup>.

### **Fair participation in the Police Service for Northern Ireland**

10.7 Further to the Advisory Committee's previous interest in this matter<sup>203</sup>, the Commission continues to consider that the Police Service for Northern Ireland (PSNI) should represent the community it serves and that the outcomes for all equality groups **continue to be** closely monitored in each recruitment exercise for student officers to ensure that its affirmative action measures are tailored accordingly.

### **Proposal to the Committee**

10.8 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<sup>204</sup>, so that the composition of the Service reflects the community it serves.

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<sup>202</sup> Equality Commission for Northern Ireland (May 2014): [Racial Equality Policy Priorities and Recommendations](#), paragraphs 10.3 – 10.4, pages 41-42.

<sup>203</sup> Advisory Committee on the Framework Convention on the Protection of National Minorities: [Fourth Opinion on the United Kingdom](#), ACFC/OP/IV(2016)005, Adopted on 25 May 2016, paragraph 132, page 42.

<sup>204</sup> The number of ethnic minority officers in the PSNI is currently below 1% [see: BBC News (2 November 2021): [Catholic recruitment an issue as PSNI turns 20](#)]; See also Northern Ireland Affairs Committee (15 September 2021): [Oral evidence: The experience of minority ethnic and migrant people in Northern Ireland, HC 159, Evidence from the Black Police Officers Association](#)

## 11 Conclusion

11.1 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.

11.2 The Commission also highlights the importance of taking account of multiple identities and the importance of the appropriate development and implementation of a SMART<sup>205</sup> action plan to accompany the Racial Equality Strategy.

11.3 Further information on the Equality Commission's work and recommendation's is available on the Commission website at: [www.equalityni.org](http://www.equalityni.org)

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<sup>205</sup> Specific, Measurable, Attainable, Relevant and Time-bound.

## **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 (UNCRC) as the independent mechanism tasked with promoting, protecting and monitoring implementation of UNCRC in Northern Ireland.

## **Annex B: Terms of Reference for The Executive Office Racial Equality Sub-Group**

1.0 These terms of reference are intended to be a living document. They have been agreed by TEO Ministers. They will be kept under review by the Subgroup which can propose amendments at any time.

### **Remit**

2.0 The Racial Equality Subgroup has been established to be the voice of minority ethnic people and migrants at the heart of government here and to support and drive forward work on racial equality and good race relations.

2.1 The Subgroup will advise on, review and agree work programmes proposed by Departments and other stakeholders. The Subgroup will:

2.1.1 Promote the aims of the current Racial Equality Strategy and advise on and contribute to the development and implementation of future Executive racial equality and good relations policy and any corresponding implementation plans;

- 2.1.2 Monitor and review progress on the implementation of the Race Equality Strategy and report to the *Together: Building a United Community* Ministerial Panel and monitor the progress of departmental Champions in contributing to implementation of the Racial Equality Strategy;
- 2.1.3 Provides a channel of communication between minority ethnic communities and those who have a responsibility for racial equality and good race relations within government;
- 2.1.4 Provide an arena for exchange of information, identification of best practice and lessons learned, suggesting possible areas where more research is needed;
- 2.1.5 Consider the impact of local and international dynamics on majority and minority communities in Northern Ireland; and
- 2.1.6 Keep the effectiveness of current services provision to minority ethnic people under review and make recommendations (to Ministers and officials) for further policy and strategy as appropriate where this is supported by evidence.
- 2.2 The Subgroup's work programme will reflect its overall objectives and aims as outlined in the remit above.
- 2.3 The Subgroup will contribute, as appropriate, to the development and implementation of the *Together: Building a United Community* and other Executive and departmental strategies including the development of implementation mechanisms.
- 2.4 In fulfilling these terms of reference the Subgroup will take account of relevant legislation and the wider policy environment locally and internationally.

- 2.5 Departmental representatives will be invited to meetings of the Subgroup – to give evidence and updates- as appropriate depending on the agenda.
- 2.6 The Subgroup’s focus will be primarily – but not exclusively - action **by Government** to implement the Strategy.

### **Membership**

- 3.0 The Subgroup should include representatives from the minority ethnic sector and those who work in these sectors, the Northern Ireland Human Rights Commission (NIHRC), the Equality Commission for Northern Ireland, and members will be appointed by TEO.
- 3.1 Representatives from the minority ethnic sector will be chosen with a view to ensuring representation of the larger ethnic groups as per the 2011 census and other groups which may be considered particularly vulnerable (for example, asylum seekers and refugees). It will be open to the Subgroup to co-opt members where they feel that a point of view is “missing” or could usefully contribute. Membership will also seek to take account of multiple identity issues; diversity of experience between the representative roles is critical. Representatives will be drawn from a range of experts reflective of a range of minority ethnic, racial and minority faith groups.
- 3.2 Members of the Subgroup will be required to consult more widely with the minority ethnic sector and to feed back Subgroup proceedings to the sector.

- 3.3 The Equality Commission will be included, in view of its particular expertise on these matters. The Human Rights Commission will be represented on the Subgroup in its advisory capacity on measures which ought to be taken to protect human rights.
- 3.4 The Subgroup will review its membership annually.

### **Thematic groups**

- 4.0 Thematic groups can be established by the Subgroup if required. These groups will need to stay flexible and responsive and act in response to need.
- 4.1 These thematic groups may comprise representatives from Departments, statutory and voluntary/community organisations and others as agreed by the Subgroup.
- 4.2 Thematic groups may be chaired by individuals from outside the Subgroup if appropriate and agreed.
- 4.3 Thematic groups will report the outcomes of their meetings on a regular basis. The Subgroup will continue to review the work of the thematic groups and ensure that they are fit for purpose.
- 4.4 The Immigration Subgroup, which has been chaired by the Law Centre and has operated under the remit of the Racial Equality Forum, will continue to operate as a thematic group of the Racial Equality Subgroup – the Thematic Group on Immigration.
- 4.5 As soon as practicable the Racial Equality Subgroup will set up a thematic group on Roma, Gypsies and Travellers.

### **Frequency of meetings**

- 5.0 The Subgroup will generally meet three times a year (but can meet more or less often depending on need).

### **Support/secretariat**

- 6.0 TEO officials will support the chair in ensuring that the Subgroup fulfils its terms of reference. It will provide the secretariat to the Subgroup.
- 6.1 The Director of Urban Villages, Racial Equality and Interface Issues and the Head of the Racial Equality Unit will ordinarily be present at meetings of the Subgroup.
- 6.2 When recommending the creation of a thematic group, the Subgroup will also make a recommendation as to which organisation or individual would be most appropriate to chair and support the particular thematic group.
- 6.3 Papers for Subgroup meetings should be circulated at least a week before meetings to allow minority ethnic representatives to consult others within the minority ethnic sector.

### **Review**

- 7.0 The Subgroup's operation and role will be reviewed on an annual basis to ensure it remains fit for purpose. An assessment will be made of the need to continue operation of the Subgroup. The Subgroup will, of course, be expected to have input into this review process.

### **Chair**

- 8.0 The Subgroup will choose a chair each year.

### **Meetings with Ministers**

- 9.0 The Chair of the Subgroup will sit on the Ministerial Panel, although representatives of the Subgroup will have regular dealings with all Executive members in making proposals to implement the strategy and to share issues of concern.

9.1 Ministers may attend or chair meetings of the Subgroup.