

Equality Commission for Northern Ireland

Protecting and advancing Equality and Good Relations as the UK exits from the European Union.

Equality and good relations are priority issues which should be protected and advanced as the UK exits from the European Union. We recommend that government should:

Ensure the promotion of equality and good relations are priority issues in EU exit negotiations

Equality and good relations are central to ensuring a prosperous and thriving Northern Ireland. Equality of opportunity was a core issue in the Good Friday/Belfast Agreement and a focus of key outcomes of the draft Programme for Government 2016-2021. Government should maintain a focus on these and on the values of respect for equality and human rights and on the fundamental principles of non-discrimination and equality, key principles of EU law, in the exit negotiations and final agreement.

Ensure no regression from existing equality protections and mechanisms

EU law has resulted in changes that have strengthened equality legislation in Northern Ireland across a number of equality grounds. It is essential that government ensures there is no erosion of these and other equality rights and protections in Northern Ireland after the UK leaves the EU and that mechanisms to ensure effective application of equality laws are supported.

Adopt a best practice approach that includes implementing future relevant equality enhancing protections and best practice.

Government should commit to implement future equality enhancing protections and best practice coming from the EU and elsewhere, and to addressing the significant gaps in equality protection between Northern Ireland and Great Britain. It should seek to be a model of international best practice in standards of equality protections.

Ensure there is no negative impact on equality and good relations for those living in Northern Ireland

Government should ensure that the UK's exit from the EU does not negatively impact on race relations, that prejudicial attitudes and hate crime in NI are tackled effectively. It should also maintain policy initiatives and funding to support equality, good relations and the peace process, including through the work of the voluntary/community sector.

Ensure effective engagement with key stakeholders, including Section 75 groups

There should be effective engagement with key stakeholders, including Section 75 groups, on any EU exit proposals that have implications for equality and good relations in Northern Ireland.

For further information – see www.equalityni.org/EUExit

Equality Commission for Northern Ireland

Protecting and advancing Equality and Good Relations as the UK exits from the European Union.

March 2017

In the context of the negotiations about the UK's exit from the European Union, we recommend that government should:

1 Ensure the promotion of equality and good relations are priority issues in EU exit negotiations

- 1.1 Government should ensure that the promotion of equality of opportunity and good relations in Northern Ireland are treated as priority and core issues in the context of the UK's exit negotiations and final agreement with the EU.

Supporting Rationale

- 1.2 Equality and good relations are central to ensuring a prosperous and thriving Northern Ireland. The right to equality of opportunity, including in all social and economic activity, was a core issue in the Good Friday/Belfast Agreement. More recently, the need to achieve the societal outcomes of a “*more equal society*” and a “*shared society that respects diversity*” in Northern Ireland was proposed by the Executive in its draft 2016-21 Programme for Government¹.
- 1.3 It is important that the principles of non-discrimination and equality that are fundamental principles of EU law and its foundation on values that include respect for equality and human rights are maintained in any negotiations. These principles have underpinned the actions of the EU institutions, including as regards the development of EU laws, and helped in the creation of more equal societies across the EU, including in Northern Ireland.
- 1.4 The principles of non-discrimination and equality should underpin the negotiations and final agreement between the UK and the EU. In addition, such negotiations and agreement should be founded on values that include respect for equality and human rights, and should aim to maximise opportunities to promote equality of opportunity and good relations in Northern Ireland.
- 1.5 Further, any steps to maximise opportunities to promote equality of opportunity and good relations in the negotiations should be consistent with the proposed societal outcomes designed to create a

¹ See NI Executive's [consultation](#) on a draft Programme for Government (2016-2021).

“more equal society” and a *“shared society that respects diversity”* as set out in the draft 2016-2021 Programme for Government.

- 1.6 In taking forward the negotiations, the Commission recommends there should be a high level, visible commitment to addressing key inequalities and improving outcomes for Section 75 equality groups².

2 Ensure no regression from existing equality protections and mechanisms

- 2.1 Government should commit, including through the Programme for Government, to ensure that there is no regression from current levels of protection under equality law in Northern Ireland and no weakening of supporting equality mechanisms.

Supporting Rationale

- 2.2 Whilst much of Northern Ireland equality law has not been introduced as a direct result of EU law, EU law has resulted in some significant changes to Northern Ireland equality law. This includes requiring the introduction of new forms of protection against discrimination and the strengthening of existing equality legislation in Northern Ireland across a number of equality grounds.
- 2.3 For example, it has led to improved protection against discrimination for disabled people, Lesbian, Gay, Bisexual (LGB) people, transgendered people, women, younger and older people, as well as minority ethnic individuals in Northern Ireland.
- 2.4 Beyond equality law, EU law has also resulted in stronger employment rights in Northern Ireland that have particularly benefited certain Section 75 groups, for example, women. These include enhanced rights for pregnant workers, agency workers and part-time workers and in employment areas such as parental leave and working time. Further, EU law has also ensured that people from Northern Ireland who live in, or travel to, other parts of the EU can enjoy broadly the same levels of protection against discrimination in the areas covered by European equality law as they do in Northern Ireland.
- 2.5 It is essential that there is no erosion of the current levels of equality rights and protections in Northern Ireland after the UK leaves the EU. Other rights, for example, employment rights, that help promote equality of opportunity for Section 75 groups, including for people

² For further information on the Equality Commission’s recommendations on addressing key inequalities, including the priority issues and recommendations that it wishes to see progressed through the Executive’s Programme for Government (PfG) and Budget across a range of policy areas, see www.equalityni.org/pfg

from Northern Ireland working / living outside UK in EU Member States, should also not be diluted.

- 2.6 Equality bodies play a key role in ensuring the effective application of equality law, including through their work to promote equality of opportunity and to challenge discrimination. It is essential that government supports the range of mechanisms in place to ensure equality in Northern Ireland, including ensuring adequate and sustained support for the effective implementation of the Commission's powers and duties.

3 Adopt a best practice approach that includes implementing future relevant equality enhancing protections and best practice.

- 3.1 Government should commit to the implementation in Northern Ireland of key future equality enhancing protections and best practice emanating from the EU and elsewhere; to addressing the significant gaps in equality protection that currently exist between Northern Ireland and Great Britain; and to ensuring that further gaps in protections do not develop.

Supporting Rationale

- 3.2 Government should commit to adopt a best practice approach so as ensure that people in Northern Ireland have effective and robust protections under equality law after the UK exits the EU.
- 3.3 EU law has benefited a number of equality groups in Northern Ireland as it has led progressively to the strengthening of protection against discrimination and harassment in Northern Ireland, as well as in Great Britain and in other EU Member States.
- 3.4 Further, a body of case law from the Court of Justice of the EU (CJEU), including cases from Northern Ireland³, has helped to promote greater equality across the EU, including in Northern Ireland.
- 3.5 The UK Government and the NI Executive have in some areas already gone beyond the required minimum standards of EU law and proactively enhanced and strengthened domestic equality rights and protections - in circumstances where this was not required under EU law. While recognising this, the Commission reiterates its recommendation that Northern Ireland equality law must be

³ NI cases include cases such as *Johnston v RUC* and *Gillespie & Others v NI HSSB & Others* Case C-342/93 [1996].

strengthened, to address the significant gaps in equality protection that currently exist between Northern Ireland and Great Britain.⁴

- 3.6 Further, following the UK's exit from the EU, government must ensure that *further* gaps in equality protections do not develop. For example, there is the potential that there could be further policy and legislative divergence within different parts of the UK in the area of equality law, as the UK will no longer be required to implement the minimum requirements of EU law, including EU equality directives.
- 3.7 We recommend the government takes action to ensure compliance with its obligations under international human rights mechanisms, including the UN Convention on the Rights of People with Disabilities (UNCPRD). This should include addressing identified shortfalls at the earliest opportunity, and giving effect to relevant 'concluding observations'.
- 3.8 Whilst the UK Government, depending on the final agreement, may not be *required* to implement *future* EU equality protections into UK law that come into force after the UK has left the EU, we recommend that government commits to adopting a best practice approach. This should include a commitment to the implementation in Northern Ireland of key future equality enhancing protections and best practice emanating from the EU and elsewhere. This includes future protections advocated by the EU or others aimed at strengthening rights for equality groups.
- 3.9 There are, for example, a number of proposed EU laws relevant to equality which have the potential to enhance protection against discrimination and strengthen rights for equality groups. These include the draft EU Horizontal Directive⁵, the European Accessibility Act⁶, and the draft EU Directive on improving the gender balance of non-executive members of companies^{7 8}.
- 3.10 We recommend that the government seeks to lead the way and be a model of international best practice in standards of equality

⁴ See ECNI (2014) [Gaps in equality law between GB & NI](#).

⁵ This draft Directive, for example, will, if implemented in its current form, result in additional protection against discrimination and harassment outside the workplace on a range of equality grounds-in particular, age, religion and belief, disability, and sexual orientation.

⁶ The European Accessibility Act, which will, if implemented in its current form, sets common accessibility requirements for certain key products and services that will help people with disabilities at EU level to participate fully in society. In December 2015, the European Commission commenced a consultation on the [European Accessibility Act](#).

⁷ For example, under current proposals the implementation of the Horizontal Directive will result in the strengthening of Northern Ireland equality law on the grounds of age, religion and belief, disability, and sexual orientation outside the workplace.

⁸ This draft Directive is aimed at redressing the gender balance among non-executive directors of companies listed on stock exchanges. 14.11.2012 COM (2012) 614 FINAL

protections. This should include a proactive approach to ensuring that people in Northern Ireland are able to enjoy the same or higher levels of protection under equality law as people in the EU.

4 Ensure there is no negative impact on equality and good relations for those living in Northern Ireland

4.1 Government should ensure that the exit from the EU does not negatively impact on race relations, and on initiatives that support equality, good relations and the peace process.

Supporting Rationale

4.2 We consider that there is a need to effectively tackle prejudicial attitudes and hate crime in NI, including on the grounds of race, which may arise as a direct result of the negotiations or in the aftermath of any agreement. This includes tackling prejudicial attitudes and hate crime towards EU workers, wider migrant workers or asylum seekers, and their families. It also includes highlighting and valuing the important contribution that migrant workers and workers from across the EU make to the NI economy, across all sectors, as well as to wider society.

4.3 Government should also consider and fully mitigate any potential negative impact on work to promote equality and good relations. This should address the potential impact of the loss of EU funding on programmes aimed at supporting peace and reconciliation, equality and good relations and social inclusion, including the impact on the voluntary and community sector. It should also include a consideration of the likely impact on the institutions, guarantees and provisions of the Good Friday / Belfast Agreement.

4.4 Maintaining policy initiatives and funding to support equality and good relations is essential. Policy initiatives taken forward by the European institutions have helped to promote equality of opportunity and social inclusion in Northern Ireland, as well as in other parts of the UK and across Member States. For example, the European Commission's work to progress gender equality across Member States through its *EU Strategy for equality between women and men 2010-2015*⁹.

4.5 Significantly, Northern Ireland has benefited from extensive funding from the EU aimed at promoting equality and good relations. For example, it has received funding through the PEACE programme aimed at supporting peace and reconciliation and promoting

⁹ [Strategy for equality between women and men 2010-2015](#) European Commission.

economic and social progress in Northern Ireland and the Border Region of Ireland.

- 4.6 EU funding through the *Rights, Equality and Citizenship Programme 2014-2020* has also helped to promote equality in NI¹⁰. Other EU funded initiatives have also helped to promote gender equality in NI; including under the EU's PEACE III Programme that funded cross-border projects that aim to encourage and support women's participation in peace building¹¹. Northern Ireland has received funding through the INTERREG VA programme and has also benefited from other EU programmes designed to promote job opportunities, particularly for unemployed people, and upgrade skills levels¹².
- 4.7 EU funding has enabled the community and voluntary sector in Northern Ireland to play an important role in addressing social and economic deprivation, training and employment, social enterprise, health and well-being, 'peace building' and building cross-community and cross-border relationships¹³. This has included work carried out by voluntary and community sector representatives in the area of gender equality and racial equality. The voluntary and community sector has also contributed to EU policy development which has, in turn, impacted at a NI level.
- 4.8 Supporting the role of the voluntary and community sector in its work to promote equality and good relations and peace building will better enable the sector to assist government in the effective delivery of Programme for Government outcomes, including any population outcomes relating to a "*more equal society*" and/or a "*shared society that respects diversity*".

5 Ensure effective engagement with key stakeholders, including Section 75 groups

- 5.1 There should be effective engagement with key stakeholders, including Section 75 groups, on any EU exit proposals that have implications for equality and good relations in Northern Ireland.

¹⁰ [EU Rights, Equality and Citizenship programme 2014-2020](#)

¹¹ See, for example, TWN cross border, cross-community project - [The Extending Positive Relations Project](#).

¹² For example, the NI European Social Fund (ESF) Programme 2014-2020 has helped to combat poverty and enhance social inclusion by reducing economic inactivity and increasing the skills base of those currently in work and future potential participants in the workforce (including supporting people with disabilities).

¹³ The annual income of the Northern Ireland community and voluntary sector is reported to be around £741.9 million, of which approximately £70.1 million is estimated to derive from various EU funding programmes. See *Lords Select Committee (EU Committee)* [9th report- EU Referendum and EU Reform](#), 30 March 2016.

Supporting Rationale

- 5.2 Government should ensure effective engagement with stakeholders both during the process of the UK exiting the EU and after the UK exits the EU.
- 5.3 Effective engagement with key stakeholders, including Section 75 groups, on the implications for equality and good relations in Northern Ireland of the UK exiting the EU will assist government in reaching an informed evidence based position that takes account of the views of stakeholders.
- 5.4 Public bodies, including government departments, when developing implementing or changing policies will also need to ensure that they comply with the equality and good relations duties under Section 75 of the Northern Ireland Act 1998.

6 Summary of Key Recommendations

- 6.1 Equality and Good Relations are priority issues which must be protected and advanced as the UK exits from the European Union.
- 6.2 We recommend that government should:
- ensure the promotion of equality and good relations are priority issues in EU exit negotiations;
 - ensure no regression from existing equality protections and mechanisms;
 - adopt a best practice approach that includes implementing future relevant equality enhancing protections and best practice;
 - ensure there is no negative impact on equality and good relations for those living in Northern Ireland;
 - ensure effective engagement with key stakeholders, including Section 75 groups.

For further information: www.equalityni.org/EUExit