

Equality Commission

FOR NORTHERN IRELAND



Fair Employment Monitoring:
**Composition of Employment –
Trends over Time**

DECEMBER 2013

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SUMMARY

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Although the central purpose of employer monitoring information is to allow employers (through their Article 55 reviews) to determine whether members of each community are afforded fair participation in those individual employments, there is also interest in considering monitoring figures at the Northern Ireland level.

The Commission's annual 'Fair Employment Monitoring report' has for the last two decades aggregated monitoring information across all monitored employers in Northern Ireland, to produce composition figures (employees, applicants, appointees, promotees, leavers) at the Northern Ireland level and for key sectors.

To complement that work, this short report is two-fold:

- To collate and present a summary of the community composition (employment) figures at the Northern Ireland level over the last decade.
- To compare those figures to estimates of the community composition of available labour at the Northern Ireland level and consider any patterns or trends.

In summary, the report sets out the following high level patterns regarding the composition of employment (figures aggregated across all employers):

- In 2012, the Roman Catholic share¹ of the monitored workforce was [46.6%], up 0.3 pp from 2011, thus continuing the trend of gradual increase observed during the period 2001-2012.
- Women have increased their share of the monitored workforce almost year on year between 2001 (50.4%) and 2009 (52.7%). However, since 2009, the female share has remained unchanged at (52.7%).
- When figures for the community composition of all monitored employment are compared with estimates of available labour across Northern Ireland - we see that the composition of monitored employment now more closely mirrors the labour availability figures than was the case when fair employment monitoring was first introduced.

¹ Where a percentage for one community composition is quoted (e.g. Protestant), the corresponding percentage for the other community (e.g. Roman Catholic) can be calculated by subtracting the quoted percentage from 100.



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BACKGROUND

Fair Employment: Employer Monitoring and Review

The Fair Employment and Treatment (Northern Ireland) Order 1998 (hereafter 'FETO') requires registered and specified employers, amongst other duties, to:

- monitor the composition of their workforce and of those applying, appointed, leaving or being promoted;
- submit an annual monitoring return to the Commission (both Article 52); and
- review their workforce composition and employment practices at least once every three years, “for the purposes of determining whether members of each community² are enjoying... fair participation” and the “affirmative action (if any) which would be reasonable and appropriate”. (Article 55)

Every year, registered employers must collate and submit to the Commission a summary of their monitoring information by community background, sex, occupational grouping, and whether they were employed for more or less than 16 hours per week.

The Fair Employment Monitoring Report

Although the central purpose of employer monitoring information is to allow employers (through their Article 55 reviews) to determine whether members of each community are afforded fair participation in those individual employers, there is some interest in considering monitoring figures at the Northern Ireland level.

Although not required by statute, the Commission aggregates the annual monitoring returns submitted by employers to produce its Annual Summary of Fair Employment Monitoring Returns (hereafter the 'Monitoring Report').

The 'Monitoring Report' combines the returns from all employers to describe, *in aggregate*, the composition of those applying to, or employed within all monitored employment in Northern Ireland³.

By doing so, the Monitoring Report seeks to inform employers and interested parties about aggregate compositional patterns that, alongside other information on local labour availability, might suggest a dynamic or pattern that might better inform their own considerations of fair participation within their own or specific employment(s).

2 The 'Unified Guide to Promoting Equal Opportunities in Employment' summarises that: “The [employer] duties 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.”

3 The 23rd Annual Monitoring Report (2012) presents an aggregate summary of the 3,697 valid monitoring returns received by the Commission between 1 January and 31 December 2012. The latest, and recent reports, can be downloaded from www.equalityni.org/FETOMonreport

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TRENDS IN MONITORED EMPLOYMENT



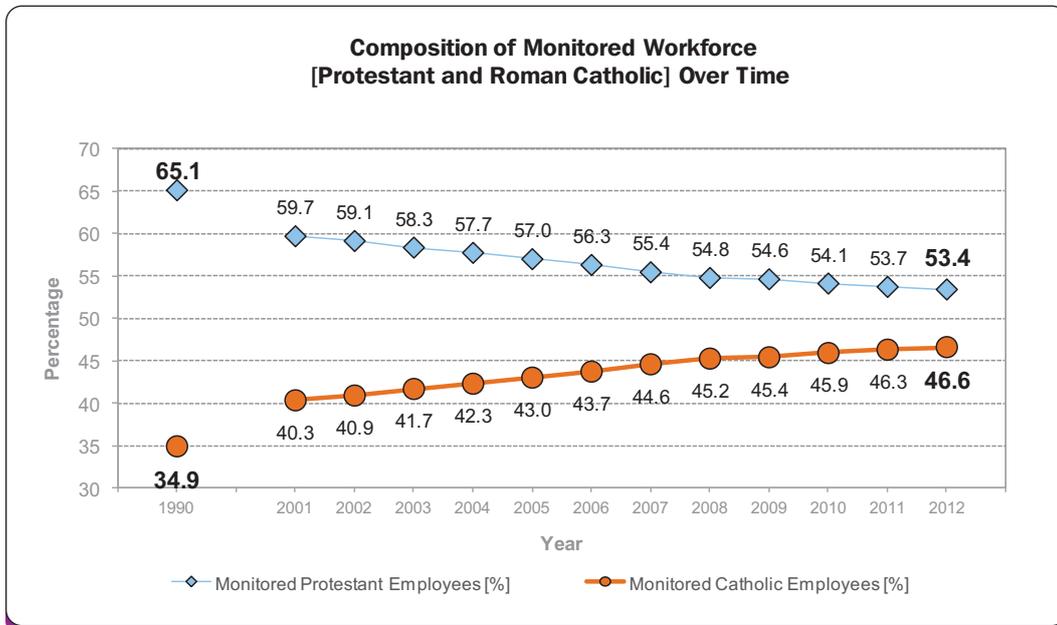
Composition of All Monitored Employment (aggregated to Northern Ireland Level)

A consideration of high level trends in aggregated fair employment data at the Northern Ireland level reveals that the overall composition of all monitored workforces, when aggregated together, continues to become more female and more Roman Catholic over time⁴ (though there are differences in sub-sectors⁵ and in specific employers).

- In 2012 women still accounted for more than half (52.7%) of all monitored employees in Northern Ireland, although their share has remained unchanged since 2009. The female share has increased almost every year from 50.4% in 2001 and 52.7% in 2009.
- A gradual upward trend (averaging around [0.5] percentage points per annum) in the Roman Catholic share of the monitored workforce, has been evident since 2001. This increase continued in 2012 (around [0.3pp]), following a slowing in 2009 (around [0.2pp]).

Figure 1 illustrates the community composition of the monitored workforce over time.

Figure 1: Composition of the monitored workforce over time (since 2001, with 1990 data for illustrative purposes)



4 For reasons of data comparability, data is presented from 2001 onwards due to major changes made at that time the scope and content of monitoring data

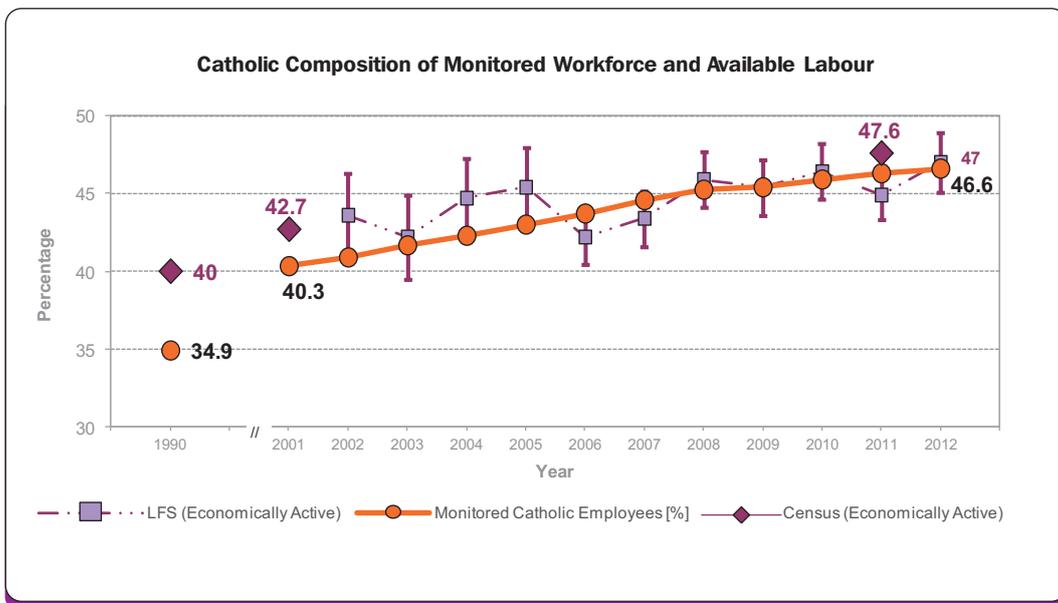
5 While this summary focuses on high level changes in employment composition over time, summary and full reports setting out a fuller range of findings (e.g. applicants, appointees, promotees, leavers) relating to specific years can be obtained by downloading the relevant monitoring report from www.equalityni.org/FETOMonreport

Comparison with Estimates of Available Labour

As noted at the outset, fair employment legislation requires employers to not only consider the composition of their workforces, but to determine whether members of each community are enjoying fair participation. While ‘fair participation’ is not defined in the legislation, in practice this involves a comparison between an employer’s workforce composition figures, and the community composition of those available for work.

Although the focus of employer monitoring is on assessing fair participation in individual employments, a comparison of aggregate figures is also possible. Figure 2 below considers this by overlaying the Roman Catholic composition of the monitored workforce as a whole (as noted in the graph above) onto Census/Labour Force Survey (LFS) estimates of the Roman Catholic composition of the economically active (i.e. those in or actively seeking work).

Figure 2: Roman Catholic composition of the monitored workforce over time, compared to the estimated Roman Catholic composition of the Economically Active since 2001 (1990 data for illustrative purposes)



It is observable from the graph above that:

- Both Roman Catholic composition of monitored employment and the estimated Roman Catholic composition of those available for work has increased over time.
- In 1990/91, the gap between the Roman Catholic composition of those in monitored employment and those available for work was around 5 percentage points.
- By 2001, the gap had fallen to around 2½ percentage points.
- Since then, the Roman Catholic composition of the monitored workforce has approximated estimates of those available for work (when the sampling error⁶ of the labour force survey is taken into account).
- By 2011, the gap had fallen to around 1.3 percentage points.

In summary, the composition of all monitored employments, when aggregated together, now more closely mirrors estimates of the composition of all those available for work than when fair employment monitoring was first introduced.

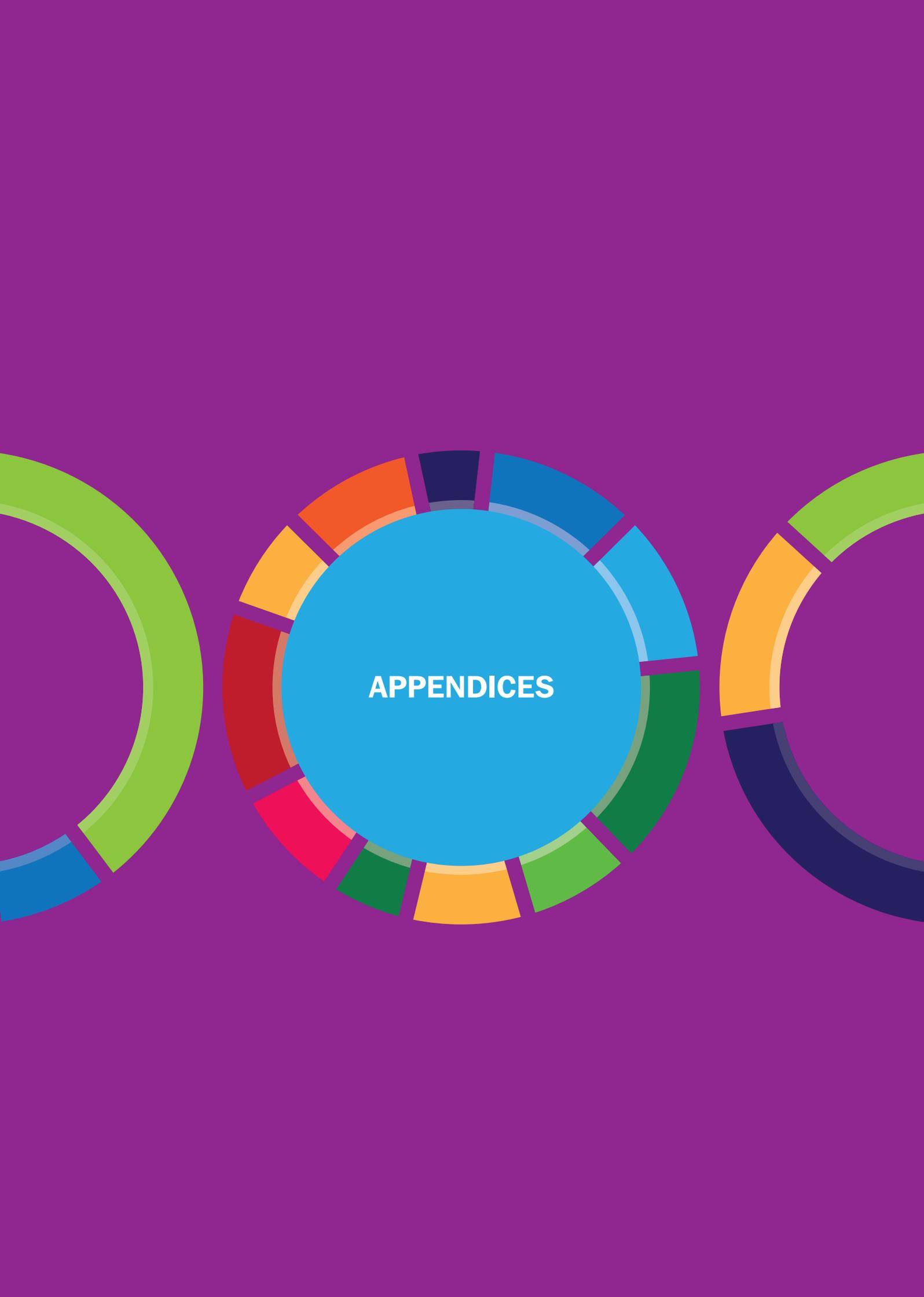
Fair Participation in Individual Employers

While the closing of the gap between the aggregated figures is encouraging, the limitations of this comparison of aggregated data must also be recognised. Although the above figures note positive trends in the *aggregate composition* of all workforces, this form of analysis cannot consider the *prevalence of fair participation* in individual employers, nor can it directly consider the *prevalence of discrimination*⁷, or any related changes over time.

As noted at the outset, the legislation requires that employers themselves are required to consider the prevalence or otherwise of fair participation in their workforces. The Commission works with employers to ensure that they are aware of, and comply with, their responsibilities under the legislation and to this end provides a range of guidance and support to employers.

6 Census Data is provided for 1991, 2001 and 2011. For 2001 onwards the Labour Force Survey is used to provide an estimate of the Roman Catholic composition of the economically active. This is an estimate as the LFS is a sample survey and when a sample is used to predict the characteristics of a population, the result is an estimate, not a precise quantity. We can thus be 95% certain that the true population value lies within an approx. +/- 2% 'confidence interval' around the estimate. These 'confidence intervals' are shown by the vertical error bars on the graph.

7 Claims of unlawful discrimination are decided by the Fair Employment Tribunal, but not all incidences of discrimination will proceed as far as tribunal.



APPENDICES

Overview of Fair Employment Legislation

The Fair Employment and Treatment (Northern Ireland) Order 1998⁸ (hereafter ‘the Order’, or ‘FETO’), as amended, makes it unlawful to discriminate on the grounds of religious belief and/or political opinion in the fields of employment, the provision of goods, facilities and services, the sale or management of land or property and further and higher education.

In addition to providing protection from discrimination, the legislation seeks to promote ‘**equality of opportunity**’⁹ (for those in, or seeking to be in employment or any occupation) and provides for ‘**affirmative action**’ to secure ‘**fair participation**’ in employment for members of the Protestant or Roman Catholic communities.

Employer Duties to Monitor and Review

Part VII of the Order sets out the ‘Duties of Employers in Respect of Their Workforces’. Of particular relevance is that the Order requires registered and specified employers, amongst other duties¹⁰, to:

- monitor the composition of their workforce and of those applying, appointed, leaving or being promoted (**Article 52**)¹¹;
- submit an annual monitoring return to the Commission (**Article 52**);
- review their workforce composition and employment practices at least once every three years, “for the purposes of determining whether members of each community are enjoying... fair participation”¹² in their employment (**Article 55**);
- determine, as part of the triennial review, the “affirmative action (if any) which would be reasonable and appropriate” (**Article 55**).

8 The legislation, including the full range of duties, can be accessed online at: <http://www.legislation.gov.uk/nisi/1998/3162/contents/made>

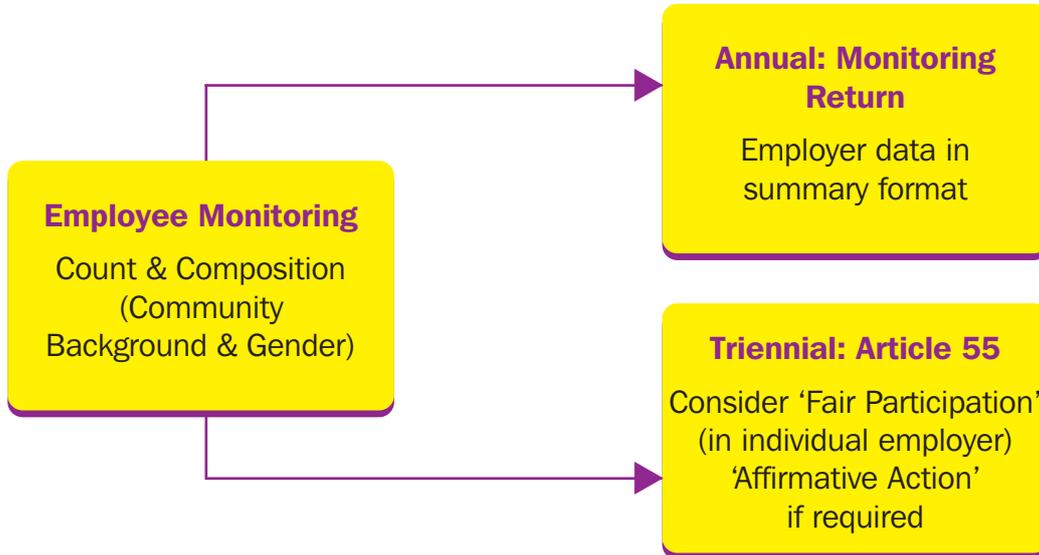
9 The legislation sets out that any reference to the promotion of equality of opportunity includes a reference to the promotion of affirmative action and vice versa.

10 Further details regarding the range of Fair Employment provisions and duties are available via the Commissions website, which also includes links to the following publications: Equality Commission (2009) - A Unified Guide To Promoting Equal Opportunities In Employment; Department for Economic Development (1989) - Fair Employment in Northern Ireland Code of Practice; Equality Commission for Northern Ireland (1989) - A Step by Step Guide to Monitoring: Monitoring your workforce and applicants in line with Fair Employment regulations; Fair Employment (Monitoring) Regulations (Northern Ireland) 1999, as amended.

11 The following are not monitored under the fair employment regulations: those working in private concerns with 10 or less employees; school teachers; the self-employed; the non-employed; and those on government training schemes. Monitoring thus covers approximately 64-67% of those in employment.

12 While ‘fair participation’ is not defined in the legislation, it is important to note that in broad terms fair participation is NOT about equalising the numbers of Protestants and Roman Catholics in any given employment, but rather it is about seeking to ensure that the community composition (the proportion of Protestants and/or Roman Catholics) in any given employment is broadly in line with what might reasonably be expected based on available labour supply. The process of considering fair participation is thus more than simply calculating the community composition of employees at a workplace.

Figure 3: Employer Monitoring, Annual Returns and Triennial Reviews



The ‘Unified Guide to Promoting Equal Opportunities in Employment’ (hereafter the “Unified Guide”) notes that:

“The [employer] duties 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.”

The Fair Employment Code of Practice (hereafter the “Code”) sets out the role of monitoring, within a wider context of considering equality of opportunity and fair participation, as follows:

“Monitoring – the provision and analysis of information on community background – is not merely a statistical exercise, nor is it an end in itself. It is the beginning of a process, the starting point for further action. It means establishing the community background of your existing workforce (that is, how many belong to the Protestant community and how many belong to the Roman Catholic community)...”

This recognition of annual monitoring as an input to the triennial assessment of ‘fair participation’ is an important point to acknowledge, as public debates often focus solely on the annual monitoring figures (the relative community compositions of employment), rather than considering the extent to which such compositions actually represent ‘fair participation’ in individual employments.

Commission Duties

The Equality Commission's principal duties under FETO require it to work for the elimination of unlawful discrimination; to promote equality of opportunity and affirmative action; and to keep under review the operation of the equality and anti-discrimination legislation.

Part II of the Fair Employment and Treatment (NI) Order 1998 sets out the 'Functions of the Equality Commission'. These functions are detailed in various Articles of the Order.

- **Article 7** of the Order sets out the general duty of the Commission to *promote equality of opportunity and affirmative action* in Northern Ireland, to work for the *elimination of discrimination* and to keep under review the working of this Order.
- **Article 8** sets out a range of *Educational and advisory functions* to assist the Commission in discharging its duty.
- **Article 9** requires the Commission to maintain a *code of practice* while **Article 10** of Order sets out the duty of the Commission to *identify patterns and trends of employment* in Northern Ireland and of occupations for the purposes of considering whether they reveal the existence or absence of equality of opportunity; and assisting the Commission in forming an opinion about the manner in which equality of opportunity can best be achieved; or where such equality is absent the reasons for its absence.
- **Article 11** of the Order enables the Commission to conduct *investigations* for the purposes of assisting it in considering what, if any action for promoting equality of opportunity ought to be taken by the investigated employer, or other covered organisation/ person. The Commission has associated powers following an investigation to enter into undertakings.

Equality Commission

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