

Definitions, Technical Considerations and Wider Concepts in Fair Employment

This document sets out a range of definitions and methodological points which may assist the reader in interpreting the data presented in the Fair Employment Monitoring report.

1. Timeline: Changes to Monitoring Coverage over Time

The Fair Employment (Northern Ireland) Act 1989 (“The 1989 Act”) introduced compulsory workforce monitoring. The primary purpose was to assess the degree of fair participation within individual concerns, and thus to determine whether affirmative action measures might be necessary.

The exact scope and coverage of the monitoring provisions has however changed over time as follows:

- 1990:** Monitoring introduced, covering all specified public authorities and those private sector concerns with 26 or more employees. Only full-time employees are monitored. Public authorities and large private sector concerns (251+ employees) submit applicant and appointee data one year later (1991).
- 1992:** Monitoring extended to cover full-time employees in private sector concerns with 11-25 employees.
- 2001:** Monitoring extended to cover part-time employees, plus applicants and appointees in all registered private sector concerns. For the first time monitoring now includes promotees and leavers, but only in public bodies, and large private sector concerns (251+ employees).
- 2004:** SOC 2000 replaces SOC 90 for classifying jobs. Due to the nature of changes in the SOC coding framework, comparisons with historic SOC data are now problematic.
- 2013:** SOC 2010 replaces SOC 2000 for classifying jobs. Due to the nature of changes in the SOC coding framework, comparisons with historic SOC data are now problematic.
- Present:** The following are currently monitored by all registered concerns: all employees (full time and part time); applicants; appointees. Public Sector bodies and large (251+) private sector organisations must also monitor promotees and leavers.

As the categories covered by monitoring have changed over time, the scope of the annual Monitoring Report has also changed, as differing data sets became available.

2. Definitions and Technical Considerations Relevant to the Annual Summary of Monitoring Returns

The following may be of help in understanding the information presented in this report, and in the wider concepts associated with fair employment¹.

¹ The interested reader may wish to refer to the Commission’s website which includes links to the following publications:

The **Monitored Northern Ireland Workforce** refers to the aggregated returns from all *specified* public authorities, and *registered* private sector concerns. Figures quoted in this report relate specifically to the workforce composition of monitored (registered and specified) employments, and not to all employers / employees in Northern Ireland².

Specification of Public Authorities: All public sector employers identified in the Fair Employment (Specification of Public Authorities) Order (Northern Ireland), as amended, are deemed to be automatically registered with the Commission. Specified authorities are deemed to be registered on 1st January each year.

Registration: All private sector concerns with 11 or more employees are required to register with the Commission³. Private concerns are registered throughout the calendar year, on the 6th day of any given month, i.e. 6th January, 6th February, 6th December.

Applicants: refers to those individuals who have applied to fill vacancies for employment in any monitored concern in Northern Ireland. An individual is counted as an applicant *only once* by an employer in any given year, even if that individual has made more than one application for employment. Employees who apply internally for vacancies are not included.

Appointees: although all appointees are monitored, the annual monitoring return includes data only on those appointees still employed at the anniversary date of registration. In practice, this rule may result in an unspecified number of temporary appointments not being recorded, particularly in those employers or occupational grades prone to rapid turnover⁴.

Caution is required when making direct comparisons between the community composition of applicants and appointees data *as presented in the annual monitoring report*. Firstly, applicant and appointee information is presented for the monitoring year in question, not by recruitment competition. For example, an applicant may be counted in one monitoring year, but not be appointed until the following monitoring year and thus the data would be reported in two separate monitoring returns. Secondly, an applicant who was appointed on a temporary basis may be counted as an applicant for the purposes of monitoring, but may not appear as an appointee if their contract ends before the anniversary date of registration.

Equality Commission (2003). Fair Employment in Northern Ireland Code of Practice, as amended.
Equality Commission (2009). A Unified Guide to Promoting Equal Opportunities In Employment.
Fair Employment Commission (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.

² On the date of first registration / specification, an employer is only required to provide information on employees. Data on applicants, appointees, promotees and leavers (as appropriate) is not provided until the first anniversary. The monitoring database may contain a small number of registered private sector concerns which have temporarily fallen below the 11 employee threshold. Their status is reviewed on a regular basis.

³ The monitoring database may contain a small number of registered private concerns which have temporarily fallen below the 11 employee threshold. Their status is reviewed on a regular basis.

⁴ Between 1991 and 2001, all specified public authorities, and those private sector concerns with 251 or more employees, were required to include the community composition of applicants and appointees on their Monitoring Return. Since 2001, all registered private sector employers, irrespective of size, must now provide such information to the Commission.

This problem does not impact on triennial employer reviews, as employers are able to consider the raw data on a competition by competition basis

A Promotee⁵ is defined as person who fills the following four conditions:-

- (i) the employee has moved jobs within the concern; and
- (ii) in so doing, has filled a job which was restricted to persons already employed in the concern; and
- (iii) has remained in the job for not less than six months; and
- (iv) as a direct result of the move has received an increase in remuneration (excluding expenses).

A Leaver⁶ is classified as a former employee who ceased to be employed in the concern during the 12 month reference period.

Community Composition: The legislation specifies that “composition” refers to the numbers who are to be treated for the purposes of monitoring as belonging to each community. “*Community*” means the Protestant community, or the Roman Catholic community, in Northern Ireland.

Community Background: Protestant refers to those determined by monitoring methods as members of the Protestant community. Roman Catholic or ‘Catholic’ refers to those determined by monitoring methods as members of the Roman Catholic community. Individuals for whom it was not possible to determine a community background are described as ‘Non-determined’⁷.

Recording Workforce Community Background: On a monitoring return, employers are required to specify the composition of their workforce by community background, sex and occupational grouping, and whether they were employed for more or less than 16 hours per week.

Current legislation requires employers to determine the community background of their employees via the ‘**Direct Question**’. This requires the applicant or employee to state in writing whether they belong to the Protestant or Roman Catholic community or belong to neither.

⁵ Since 2001, all specified public authorities, and those private sector employers with 251 or more employees, have been required to include the composition of promotees on their Monitoring Return.

⁶ While all public sector leavers are monitored, only those leavers working in private sector concerns with 251 or more employees are monitored.

⁷ Since the introduction of statutory monitoring in 1990, the proportion of employees for whom it has not been possible to determine a community background has fluctuated year-on-year. However, overall the proportion of Non-determined employees has increased from (5.6%) in 1990 to (7.8%) in 2014. The Non-determined proportion is higher in some occupational groups, such as SOC2 ‘Professional Occupations’, and in some sectors, such as the Private Sector.

The **residuary method** is to be used when the Direct Question fails to provide a determination of community background. The residuary method is based on the fact that there are a number of pieces of information about an individual which, if known, can give a reasonable indication of community background.

Presenting Workforce Composition (Community Background) using square [] and round () brackets: In this report, percentages shown in square brackets [] are based on Protestants and Roman Catholics only, with the Non-Determined excluded. Where square brackets are used, and a percentage for one community is shown (e.g. Protestant), the corresponding percentage for the other community (e.g. Roman Catholic) can be calculated by subtracting the Protestant percentage from 100. Please note that [] percentages may not always sum to 100 due to rounding.

Standard Occupational Classification (SOC): The Standard Occupational Classification allow jobs to be classified and compared according to the kind of work performed (job), and the competent performance of the tasks and duties (skill).

During the period 1990 – 2003, the classification system in use by employers, and adopted in all previous Monitoring Reports up to and including 2003, was known as SOC90. In 2004, the Fair Employment (Monitoring) (Amendment) Regulations (Northern Ireland) 2002 changed the prescribed classification system to the updated SOC2000. Monitoring Reports from 2004 up to and including 2012 adopted SOC2000 classification. In 2013, the prescribed classification system was updated to SOC2010, Monitoring Reports from and including 2013 have adopted the SOC2010 classification system⁸.

The nine SOC2000 groups are:-

- SOC1 Managers, Directors and Senior Officials
- SOC2 Professional Occupations
- SOC3 Associate Professional and Technical Occupations
- SOC4 Administrative and Secretarial Occupations
- SOC5 Skilled Trades Occupations
- SOC6 Caring, Leisure and Other Service Occupations
- SOC7 Sales and Customer Service Occupations
- SOC8 Process, Plant and Machine Operatives
- SOC9 Elementary Occupations

Move of base year for trend comparisons from 1990 to 2001.

With the inclusion of part-time employees in 2001, and private sector applicants and appointees from smaller concerns, it became possible to analyse a more comprehensive range of employees, applicants and appointees. The default year for all longer term

⁸ The move to SOC2010 has had a marked impact upon interpretations of the occupational structure of employment in Northern Ireland. Compared to the earlier SOC2000, the changes to the nine major groups make direct comparisons between 2013 and the period 2003 - 2012 problematic. Additionally, given the earlier changes from SOC90 to SOC2000, the changes to the nine major groups are of such magnitude it is problematic to make comparisons between 2014 and 2010 with 1991-2003.

comparisons has thus been moved from 1990 to 2001. Historical data remains available via the previously published reports.

Factors associated with the Review of Public Administration (RPA) resulted in 2008 being an atypical year for monitoring. In brief, 12 newly-established public authorities, including five health trusts and six regional colleges, were specified by the Commission on 1st January 2008.

For first monitoring returns, employers are not required to submit data on applicants, appointees, promotees and leavers. As the health trusts and regional colleges account for a considerable proportion of monitored applicants and appointees, this resulted in a sharp drop in the reported number of applicants etc for 2008. In 2009, the 12 new authorities commenced their submission of applicant and appointee data. This has resulted in a substantial increase in the recorded count for applicants, appointees, promotees and leavers for 2009.

3. Wider Concepts in Fair Employment

The Fair Employment Code of Practice (2003), as amended, makes a number of observations regarding wider concepts:

Fair Participation: While fair participation is mentioned but not defined in the legislation, the Code notes:

“The determination of what is fair depends on the circumstances of each particular case i.e. each specific employment situation.”

“It does not mean that every job, occupation or position in every undertaking throughout Northern Ireland must reflect the proportionate distribution of Protestants and Roman Catholics in the province.”

“It is not possible to prescribe a rigid and predetermined level of participation which should be achieved generally by all employers. Obviously what is fair will depend very much on the circumstances of each particular and individual case. What is required is that you afford opportunities to both communities and, where a community is under-represented, you take affirmative action steps to remedy that under-representation. Accordingly you must ask yourself whether, in the light of all the factors known to you – and including advice from the [Equality] Commission – the composition of the workforce and of your recent recruits as revealed by monitoring is broadly in line with what might reasonably be expected.”

“The ideal is to identify any job category within a workforce for which there are fewer applicants or workers of a particular community background than might reasonably be expected given the relative numbers with the necessary qualifications, experience, etc. in the catchment area. Every job category does not have to reflect the overall proportion of both communities in Northern Ireland.”

With regards to **Catchment Area**: the Code notes:

“This refers to the area from within which an employer would normally expect to recruit for the particular job in question and the proportionate distribution of both communities in that area. Its determination calls for the exercise of informed judgement by the employer and consultation with the Commission.”

“Informed judgement must be exercised in deciding on the relevant catchment area for jobs and on the proportionate religious distribution which might reasonably be expected in both an existing workforce and job applicants. Much depends on the nature of the job in question. Some relevant factors in deciding on the catchment area are:

- the qualifications, skills and expertise necessary for the job in question;
- the wages on offer;
- the hours of work involved;
- travelling methods, arrangements, distances and times;
- valid knowledge based on your own expertise and personal experience.”

Affirmative Action: “This is a mechanism for change. The term refers to action designed to secure fair participation in employment by members of the Protestant or the Roman Catholic community by means including the adoption of practices encouraging such participation, and the modification or abandonment of practices that have or may have the effect of restricting or discouraging such participation.”

Chill Factor: “This term describes a problem of attitude towards, and environment within, the workplace. Members of a particular community can feel discouraged or prevented from applying for jobs in any company or undertaking perceived as being traditionally associated with the other community. The company or undertaking can feel it pointless to desist from customary and casual recruitment practices geared to a particular community on the assumption that efforts to attract the other community would be wasted. To break the circle it is necessary to change perception and habitual practice in both the community and the company or undertaking.”

Under-Representation: “The term is used in the context of affirmative action. It reflects the fact that a particular community, whether Protestant or Roman Catholic, is not enjoying fair participation in employment. In these circumstances the community concerned can be described as “under-represented.”