

Race Law Reform: Priorities for Change



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Summary: Race law reform priorities

1. The Equality Commission welcomes the commitment to reform racial equality law in the Racial Equality Strategy 2015-2025.
2. The Commission has highlighted five priority areas for change to the race equality laws:
 - Harmonise and expand the scope of racial grounds
 - Increase protection for individuals against racial discrimination and harassment by public bodies when carrying out their public functions
 - Introduce protections against combined discrimination
 - Ensure greater protection for employees against third party racial harassment
 - Expand the scope of positive action
3. We would welcome any steps you could take to call for the adoption of these proposals, by engaging with elected representatives and officials.

Strengthened equality law

4. In the absence of progress on harmonised single equality legislation for Northern Ireland, we consider that urgent changes are required to strengthen the race equality legislation in Northern Ireland.
5. There are numerous wider benefits of reforming the race law legislation, including to:
 - Address key racial inequalities in Northern Ireland
 - Harmonise, simplify and clarify the race equality legislation
 - Keep pace with developments in Great Britain as a minimum
 - Further the overarching aims and objectives of the Executive's Racial Equality Strategy 2015-2025
 - Ensure race equality legislation is in line with the UK Government's international obligations

Wider recommendations

6. This short guide sets out our priorities for race law reform. Our wider set of recommendations and supporting rationale can be found at www.equalityni.org/RaceLawReform
7. Our recommendations relate to a wide range of areas covered by the race equality legislation and therefore strengthen the rights of individuals as employees, customers, pupils in schools, and as students in further and higher education.
8. Many of these recommendations are considered in Professor Brice Dickson's [Race Equality Law Reform: Strengthening Protection: Report to the Equality Commission for Northern Ireland](#).

Harmonise and expand the scope of racial grounds



Harmonise and expand the scope of racial grounds

9. Equality legislation should ensure there is harmonised protection across the full scope of racial grounds.

Increase protection on grounds of colour and nationality

10. We recommend increased protection from discrimination and harassment on the grounds of colour and nationality across the scope of the race equality legislation, including consideration of the removal or modification of exceptions that apply only on grounds of colour and/ or nationality, unless there are justifiable reasons for doing so, or statutory exception to protection.
11. Currently there is less protection against discrimination and harassment on the grounds of colour and nationality than on the other racial grounds protected under the legislation; namely race, ethnic or national origins.
12. This change will help to clarify, strengthen, harmonise and simplify the legislation.

Define 'racial grounds' non-exhaustively, and specifically include caste and descent

13. The definitions of 'race' and 'racial ground' should be expanded and be non-exhaustive.
14. This should be clear in statute and reflect best international practice, in accordance with human rights standards.

Increase protection for individuals against racial discrimination and harassment by public bodies when carrying out their public functions



Increase protection against racial discrimination and harassment by public bodies

15. We recommend that public bodies be prohibited from racial discrimination or harassment as regards all public functions, except in some narrowly defined limited areas where they can be objectively justified.
16. This prohibition should apply to all racial grounds. Currently protection only exists on the grounds of race, ethnic or national origins and not on the grounds of colour or nationality.
17. We are of the view that there is currently the potential for some public functions, such as certain policing and law enforcement functions, including search and arrest functions, to fall outside the existing scope of the racial equality legislation in Northern Ireland.
18. We consider that the extension of the race legislation to all public functions, unless specifically falling within an exception, will ensure clarity both for those with rights under the legislation and those public bodies with responsibilities under the law.

Introduce protections against combined discrimination



Combined discrimination

19. We recommend the introduction of protection against combined discrimination so that there is legal protection for individuals who experience direct or indirect discrimination, victimisation or harassment because of a combination of equality grounds, including racial grounds.
20. This change will remove unjustifiable legal barriers that individuals face when trying to prove discrimination on more than one equality ground.
21. Individuals experiencing such discrimination face a number of difficulties in seeking legal redress; this is primarily due to the fact that current legal processes solely focus on one prohibited factor at a time and are unable to adequately address in tandem discrimination complaints on more than one ground.
22. This change to the law, would, for example, allow an older Asian woman, who is not appointed to a job, to seek redress in circumstances where she believes that she has been subjected to discrimination due to a combination of her age and race. In these circumstances, she would be able to allege that a younger Asian woman or an older Asian man was/would have been appointed to the job.

Ensure greater protection for employees against third party racial harassment



Ensure greater protection for employees against third party racial harassment

23. We recommend that employers are liable if they fail to take reasonably practicable steps to prevent the racial harassment of an employee by a third party.
24. We recommend that employers are liable in circumstances that they ought to have been reasonably aware of the risk of third party harassment, as this should encourage employers to take steps to reduce harassment from the start of a person's employment. If this is not introduced, employers should be liable when their employee has been subjected to third party harassment on one previous occasion.
25. Employers should also be liable if, after such harassment has occurred, the employee is treated differently because they rejected or accepted the harassment.

To hear more about racial third-party harassment at work, listen to our podcast in which three healthcare workers discuss their experiences and how a change in the law could help – [Equality Legislation: Racial Harassment at work by third parties](#)

Expand the scope of positive action



Expand the scope of positive action

26. We recommend that the race equality legislation is amended to expand the scope of voluntary positive action that employers, service providers and public bodies can lawfully take in order to promote racial equality, and remove unnecessary barriers relating to collecting statistical information before taking such action.
27. Positive action should be permitted where an employer, service provider or public body reasonably thinks that a racial group suffer a related disadvantage, or have different needs, or have a disproportionately low rate of participation in an activity.
28. Any action should be a proportionate means of achieving the aim of enabling other persons who share the racial characteristic to minimise the disadvantage, meet their needs or participate in the activity.

Join us in calling for strengthened, simplified and harmonised racial equality legislation in Northern Ireland - engage with Ministers, wider elected representatives, or key government officials to call for the adoption of these proposals.

For further information on these priorities for reform, or our wider recommendations and supporting rationale, visit: www.equalityni.org/RaceLawReform

