

POLICY POSITION: Key Point Briefing

Race Law Reform

Priorities and Recommendations

- 1.1 We continue to call for action to deliver harmonised single equality legislation for Northern Ireland. In the absence of this, we consider that urgent changes are required to strengthen the race equality legislation in Northern Ireland.
- 1.2 Race equality legislation protects individuals in Northern Ireland from being subjected to unlawful discrimination because of their race. Our recommended changes are aimed at strengthening, simplifying and harmonising the race equality legislation.
- 1.3 There are numerous wider benefits of reforming the race law legislation, including to: address key racial inequalities in Northern Ireland; further the overarching aims and objectives of the Executive's Racial Equality Strategy 2015-2025; harmonise, simplify and clarify the race equality legislation; keep pace with international standards and best practice, taking account of lessons from other jurisdictions; and ensure race equality legislation is in line with the UK Government's international obligations.
- 1.4 In support of securing change, we would welcome any steps you could take to raise awareness of these recommendations and their supporting evidence base. We encourage you to engage with Ministers, wider elected representatives, or key government officials to call for the adoption of these proposals.

Priorities for Action

1.5 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

Recommendations

1.6 The Commission has made the following recommendations in relation to racial equality law:

Overarching

- Ensure equality law reform reflects best international standards, advances equality of opportunity, prevents discrimination, and clarifies the law
- Ensure race law reform is in compliance with Article 2 of the Windsor Framework

Forms of Discrimination

Harmonise and Expand the Scope of Racial Grounds

- Increase protection on grounds of colour and nationality
- Define 'racial grounds' non-exhaustively, and specifically include caste and descent

Definitions

- Define direct racial discrimination in terms of treatment occurring 'because of' racial grounds
- Remove the comparator requirement in the definition of victimisation and maintain scope of protections
- Widen the definition of 'racial harassment'

Public Functions

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

Combined Discrimination

- Introduce protections against combined discrimination

Protections in Employment and Analogous Situations

- Ensure greater protection for employees against third party racial harassment
- Increase protection for agency and contract workers
- Clarify protections against victimisation for office-holders
- Expand protection for law enforcement officers
- Ensure protection for Councillors against racial discrimination, harassment, and victimisation by local councils
- Enhance protection regarding providers of employment services
- Provide legal protection for volunteers

Protections in Schools and Training

- Increase protection against victimisation for pupils in schools
- Ensure greater protection in relation to admission to educational establishments
- Clarify protection in provision of education
- Extend protection from qualification bodies

Positive Action

- Expand the scope of positive action to better address disadvantage and disproportionately low participation, and meet differential needs
- Allow political parties to take positive action measures when selecting candidates

Influencing Others And Previous Relationships

- Introduce additional preventions against influencing others to discriminate
- Extend protection after relationships (members of clubs / associations) have come to an end

Exceptions

- Further limit exemptions to race equality law (public order, national security and public safety)
- Remove the immigration exception which permits discrimination on the grounds of ethnic or national origins in carrying out immigration functions
- Narrow the employment exception on foreign nationals in public service
- Clarify, and extend the persons covered by, proportionate and legitimate exceptions from occupational requirements
- Clarify law regarding competitive activities.

Enforcement and Remedies

Commission Powers

- Increase powers to issue Race Codes of Practice in a wider range of areas
- Strengthen formal investigation powers
- Ensure provisions in relation to the disclosure of information are appropriate and compliant with data protection
- Strengthen and harmonise the Commission's grant-making powers
- Maintain powers to undertake research and educational activities
- Maintain Commission powers to tackle discrimination
- Empower the Commission and other representative bodies to bring a claim on behalf of named individuals and in its own name

- Amend NI race equality law, as appropriate, aligned to EU Directive on standards for equality bodies, if introduced

Procedural and Remedies

- Simplify the enforcement mechanism for education complaints against schools
- Ensure time limits for assistance by Commission and bringing proceedings are fit for purpose
- Clarify rights of individuals to take cases relating to instructions to discriminate
- Ensure the appropriate parties can be held liable for unlawful acts
- Increase powers for tribunals
- Maintain the questionnaire procedure, and allow for tailoring of questions

Ethnic Equality Monitoring

- Ensure provision for effective ethnic equality monitoring to improve the delivery of public services

Please visit www.equalityni.org/RaceLawReform for further information. There you can download full, summary and key point briefing versions of our recommendations and supporting arguments, along with wider materials.



May 2023