

## Race Equality Law Reform: Strengthening legal protection (Key Point Briefing)

August 2014

Black and Minority Ethnic (BME) individuals in Northern Ireland have **less protection** against racial discrimination, harassment and victimisation than people in other parts of the UK. Many of the changes we advocate have already been implemented in other parts of the UK.

Law reform has also been recommended by **international human rights monitoring bodies**. For example, both the *Advisory Committee on the Framework Convention for the Protection of National Minorities*<sup>1</sup> and the *UN Committee on the Convention for the Elimination of all forms of Racial Discrimination (CERD)*<sup>2</sup> have urged the NI Executive to address legislative shortcomings within the race equality legislation, supplementing the Commission's consistent calls<sup>3 4</sup> for the Race equality legislation to be harmonised and strengthened.

### Our recommendations

We recommend action is taken to address legislative gaps in the **race equality legislation**, including via the proposed Racial Equality Strategy 2014-2024 (RES). We also recommend that the **fair employment legislation** is strengthened in order to improve workforce monitoring on racial grounds. In summary<sup>5</sup>, we **recommend the race equality legislation is amended to:**

- provide increased protection against discrimination and harassment on the grounds of **colour** and **nationality**. We are clear that this is a **priority area** for reform<sup>6</sup>.
- ensure broader protection against racial discrimination and harassment by **public bodies when carrying out their public functions**;
- give stronger protection against **racial harassment**, including greater protection for employees against racial harassment by customers or clients;

<sup>1</sup> See *Third Opinion on the United Kingdom* of the Advisory Committee on the Framework Convention for the Protection of National Minorities, June 2011.

<sup>2</sup> UN Committee on CERD, *Concluding Observations on UK*, Sept 2011

<sup>3</sup> Equality Commission (2000): *Recommendations for Changes to the Race Relations (NI) Order 1997*.

<sup>4</sup> Equality Commission for Northern Ireland (2009): *Proposals for legislative reform* (Belfast: ECNI)

<sup>5</sup> Further details of the Commission's proposals for race law reform are available at:

[http://www.equalityni.org/Delivering-Equality/Addressing-inequality/Law-reform/Related-work/Proposals-for-reform-of-the-race-law-\(1\)/executive-summary](http://www.equalityni.org/Delivering-Equality/Addressing-inequality/Law-reform/Related-work/Proposals-for-reform-of-the-race-law-(1)/executive-summary)

<sup>6</sup> *ECNI Proposals for Legislative Reform*, 2009

- increase protection for certain categories of **agency workers** against racial discrimination and harassment;
- introduce new protection for **Councillors** against racial discrimination and harassment by local councils;
- increase protection against **victimisation**;
- introduce new protection against **multiple discrimination**, so that individuals have protection if they experience discrimination or harassment because of a combination of equality grounds;
- expand the scope of voluntary **positive action**, so as to enable employers and service providers to lawfully take a wider range of steps to promote racial equality;
- remove or modify certain **exceptions**, including those relating to immigration and the employment of foreign nationals in the civil service;
- increase the **powers of the Equality Commission** to issue additional Race Codes of Practice and to effectively carry out formal investigations;
- strengthen **tribunal powers** to ensure effective remedies for individuals bringing race discrimination complaints; and
- harmonise and simplify the **enforcement mechanism for education complaints**.

We have also **recommended**, as a priority area for reform<sup>7</sup>, that the **fair employment legislation** is strengthened so as **require** registered employers in Northern Ireland to collect **monitoring information** as regards **nationality** and **ethnic origin**, in addition to monitoring the community background and sex of their employees and job applicants<sup>8</sup>.

## **Wider benefits of reform**

We consider that the recommended changes will help **address key racial inequalities** in Northern Ireland by **strengthening** the legislation; for example, by providing greater protection for individuals against racial discrimination and harassment who currently have no or limited protection under the race equality law; as well as ensuring the removal of unjustifiable exceptions which limit the scope of the race equality legislation.

Further, we consider that our recommended changes will help to **harmonise, simplify, and clarify** the race equality legislation; thereby making it easier for individuals to understand their rights and for employers, service providers and others to comply with their responsibilities.

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<sup>7</sup> [ECNI Proposals for Legislative Reform](#), 2009

<sup>8</sup> The primary reason for this change is to ensure the continuing usefulness of the fair employment Monitoring Regulations, and in particular, to enable employers to make a more accurate and meaningful assessment of fair participation in employment in their organisation.