



EQUALITY COMMISSION FOR NORTHERN IRELAND

The need for a NI Single Equality Act

Summary Policy Position Paper

October 2022

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1. Overview

- 1.1 We consider that single equality legislation is the most effective means of strengthening and maintaining protections against discrimination in Northern Ireland. Such legislation would also improve consistency, understanding and efficiency - saving time and costs for individuals from all equality groups, as well as employers, service providers, advisory services, and those interacting with equality legislation more generally.
- 1.2 It is fundamentally unfair that different equality groups have different protections without justifiable reason. Such differing protections contribute to a 'hierarchy of rights'.
- 1.3 We call on decision-makers to take steps to legislate for a single equality act in Northern Ireland.
- 1.4 We would welcome the support of stakeholders to achieve better equality protections in Northern Ireland by engaging with colleagues, officials, and elected representatives to raise awareness of our recommendations and advocate for change.

Background

- 1.5 The Equality Commission has consistently called for reform of equality legislation in Northern Ireland. Pursuant to our duty under equality legislation to keep this legislation under review, we have made a number of recommendations over time for improvement to equality law. These include, for example, recommendations for change to the race equality legislation¹, the disability legislation², the sex discrimination legislation³, and for the introduction of age discrimination legislation relating to the provision of goods,

¹ ECNI (2022) [Race Law Reform: Priorities and Recommendations](#)

² ECNI (2012) [Strengthening Protection for Disabled People: Proposals for Reform](#)

³ ECNI (2016) [Gender Law Reform: Summary Report: Policy Priorities and Recommendations](#)

facilities and services⁴. We consider that these, and wider changes, would be given best effect by a single equality law.

- 1.6 The OFMDFM (now TEO) issued a consultation on a Single Equality Bill for Northern Ireland in 2004, to which the Commission responded in detail⁵. However, this did not progress further, and no Bill was brought forward.
- 1.7 The 2006 St Andrew's Agreement made it clear that the Government accepted the need for a Single Equality Bill and committed to working "*rapidly to make the necessary preparations so that legislation can be taken forward by an incoming Executive at an early date*"⁶. Despite that commitment, there has been no further progress in relation to a Single Equality Bill by the Executive.
- 1.8 The adoption of a single equality law approach in Great Britain (GB) - the introduction of the Equality Act 2010 in October 2010 - has further exacerbated and highlighted the significant gaps and shortfalls that exist in Northern Ireland. These differences affect all grounds of discrimination, across a wide range of areas⁷.
- 1.9 In Northern Ireland, there have been amendments over time to individual pieces of equality law, for example to the race⁸ and sex discrimination legislation⁹ to give effect to EU Directives. However, any such changes have not delivered comprehensive single equality law.

⁴ECNI (2012) [Strengthening Protection for all Ages: Ending Age Discrimination in the Provision of Goods and Services: Proposals for Reform](#)

⁵ ECNI (2004) [Response to OFMDFM Consultation Paper: 'A Single Equality Bill For Northern Ireland](#).

⁶ [St Andrews Agreement](#), (2006) Annex B (Human Rights, Equality, Victims and Other Issues)

⁷ For example, there is no protection under the sex equality legislation in Northern Ireland against discrimination by public bodies when exercising their public functions. This gap in protection was rectified in Great Britain prior to the Equality Act 2010.

⁸ [Race Relations Order \(Amendment\) Regulations \(Northern Ireland\) 2003](#).

⁹ [The Sex Discrimination Order 1976 \(Amendment\) Regulations \(Northern Ireland\) 2016](#)

Benefits of Reform

- 1.10 Single equality law in Northern Ireland would harmonise and simplify the protections available for everyone in society, both now and in the future.
- 1.11 This would provide a number of benefits to a range of users. For example:
- individuals could more readily understand rights and protections if these were more consistent across the various protected aspects of their identity;
 - employers and service providers could more easily understand and more effectively implement more harmonised obligations and responsibilities, with associated time and cost savings;
 - those providing advice or support services would also benefit from the efficiencies of a simplified and harmonised set of protections in a single equality law;
 - those tasked with keeping the legislation under review or updating the legislative framework would also benefit from the efficiencies of simplified and harmonised legislation.

2 Recommendations

Strengthen equality protections through single equality legislation

- 2.1 Equality law in Northern Ireland should be harmonised, simplified and updated so as to address significant inconsistencies and complexities and to ensure uniform protection against discrimination across the full range of equality grounds.
- 2.2 Equality law should be harmonised upwards, so as to strengthen equality rights and protections.

Reflect international human rights standards and best practice

- 2.3 When considering what should be included in a single equality law for Northern Ireland, decision-makers should seek to align with international human rights standards and best practice in other jurisdictions.

Ensure provisions build on equality law in Great Britain

- 2.4 There are significant gaps between equality law in GB and Northern Ireland, which have been widened by the passing of the Equality Act 2010.
- 2.5 These differences mean that in a number of key areas, individuals in Northern Ireland have less protection against discrimination and harassment than people in other parts of the United Kingdom.
- 2.6 As a minimum, such shortfalls should be addressed via a single equality law for Northern Ireland.
- 2.7 The development of single equality law in Northern Ireland should consider improvements delivered by the 2010 Equality Act in Great Britain, taking account also of lessons over the past decade

of its implementation. Proposals for Northern Ireland should not be limited by GB provisions but rather should reflect our own circumstances, taking account of international best practice and lessons from other jurisdictions.

Comply with Protocol Article 2 obligations, and strengthen equality rights post Brexit

- 2.8 In line with the ‘keeping pace’ obligations under Protocol Article 2, the Northern Ireland Executive, Assembly and relevant departments should ensure that Northern Ireland’s equality legislation keeps pace with any changes to the Protocol Annex 1 Equality Directives, including relevant CJEU case law, which enhance protections. We recommend that any such changes be reflected in a single equality law.
- 2.9 The UK Government, the Northern Ireland Executive, Assembly and relevant departments should ensure North-South equivalence of rights, by ensuring that Northern Ireland’s equality legislation keeps pace with changes to equality law, arising as a result of EU laws introduced on or after 1 January 2021, that enhance protections. This should include rights introduced as a result of EU laws even where they do not amend or replace the Protocol Annex 1 Directives. Any such changes should be reflected in a single equality law.
- 2.10 In the development of a single equality law for NI, the Northern Ireland Executive, Assembly and relevant departments should ensure there is early consideration of, and compliance with, Protocol Article 2. Protocol Article 2 should also be considered and complied with throughout the implementation of single equality legislation and the development of regulations and guidance.
- 2.11 The Northern Ireland Executive, Assembly and relevant departments should set out, in detail, what consideration has been given to compliance with Protocol Article 2 in any development of a single equality law. Further, the Explanatory Memoranda on a single equality law should make clear what consideration has been given to ensuring conformity with Article 2.

3 Conclusion

- 3.1 The Equality Commission recommends the adoption of single equality legislation for Northern Ireland. This legislation should reflect international human rights standards and best practice, and build on protections in GB. Any legislation should also consider and comply with the Protocol Article 2 commitment and keep pace with all future EU equality laws that enhance protections.
- 3.2 We call on decision-makers to take prompt action to legislate for a single equality law which delivers harmonised and enhanced protections in Northern Ireland. Such legislation will also improve consistency, understanding and efficiency - saving time and costs for individuals, employers, service providers, advisory services, and those interacting with equality legislation more generally.
- 3.3 This document and wider information on single equality legislation can be found via www.equalityni.org/SingleEqualityAct