

Law Reform: The Need for Single Equality Legislation



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Contents

	Page
Summary: Single Equality Law.....	1
Overview/Background.....	2
Benefits of Reform.....	4
Strengthen equality protections through single equality legislation.....	5
Reflect international human rights standards and best practice.....	6
Ensure provisions build on equality law in Great Britain ...	7
Comply with Protocol Article 2 obligations, and strengthen equality rights post Brexit.....	8
Conclusion.....	10

Summary:

Single Equality Law

1. We recommend the adoption of a single equality act for Northern Ireland.
2. Single equality legislation should reflect international human rights standards and best practice, and build on equality law in GB. Any legislation should also consider and comply with the Protocol on Ireland/Northern Ireland (the Protocol) Article 2 commitment and keep pace with all future EU equality laws that enhance protections.
3. The Equality Commission for Northern Ireland (the Commission) urges decision-makers to prioritise the development of single equality legislation to ensure protection against discrimination and to promote equality of opportunity and good relations.
4. We recommend action is taken to:
 - Strengthen equality protections through single equality legislation.
 - Reflect international human rights standards and best practice.
 - Ensure provisions build on equality law in Great Britain.

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

Overview

5. Single equality legislation is the most effective means of strengthening and maintaining protections against discrimination in Northern Ireland.
6. It is fundamentally unfair that different equality groups have different protections without justifiable reason. Such differing protections contribute to a 'hierarchy of rights'.

Background

7. The 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 legislation, the disability legislation, the sex discrimination legislation, and for the introduction of age discrimination legislation relating to the provision of goods, facilities and services. We consider that these, and wider changes, would be given best effect by a single equality law.

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 areas.
9. In Northern Ireland there have been amendments over time to individual pieces of equality law, for example to the race and sex discrimination legislation, to give effect to EU Directives. However, any such changes have not delivered comprehensive single equality law.



Benefits of Reform

10. Single equality law in Northern Ireland would harmonise and simplify the protections available for everyone in society, both now and in the future.
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.

Strengthen equality protections through single equality legislation

12. 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.
13. Equality law should be harmonised upwards, so as to strengthen equality rights and protections.



Reflect international human rights standards and best practice

14. 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.
15. Best international practice should lead development of equality law in Northern Ireland, rather than simply copying the Equality Act 2010 or legislation from any other jurisdiction.



Ensure provisions build on equality law in Great Britain

16. There are significant gaps between equality law in GB and Northern Ireland, which have been widened by the passing of the Equality Act 2010.
17. 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.
18. As a minimum, such shortfalls should be addressed via a single equality law for Northern Ireland.
19. 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

20. 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.

21. 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.

22. 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.
23. 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.

For more information on our work on protecting rights after Brexit, see www.equalityni.org/Brexit

Conclusion

24. 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 equality law 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.
25. 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.
26. This document and wider information on single equality legislation can be found at www.equalityni.org/SingleEqualityAct



