

Single Equality Bill Team
Office of the First Minister and Deputy First Minister
Room E3.18
FREEPOST NAT 17679
BELFAST
BT4 3BR

44
RECEIVED
15 NOV 2004

9 November 2004

Dear Madam / Sir

Single Equality Bill for Northern Ireland Consultation

Please find below some comments from a consortium of HPSS Agencies and Special Bodies, involving:

NI Blood Transfusion Service
Central Services Agency
Health Promotion Agency for NI
Mental Health Commission for NI
NI Regional Medical Physics Agency
NI Guardian Ad Litem Agency
NI Medical and Dental Training Agency
NI Practice and Education Council for Nursing and Midwifery
NI Social Care Council

General Comments

The purpose of providing 'a clear and accessible framework of anti-discrimination law and equality for Northern Ireland' is laudable and deserves support.

Grounds

It is accepted that the current compulsory grounds protected under existing anti-discrimination legislation and those due to be implemented under the EU Employment Framework are extensive. It is questionable whether extending the Grounds covered by legislation to include those detailed on pp.26-27 of the consultation document would be of benefit. The notion, for instance, of extending these grounds to cover situations such as Genetic Predisposition would be challenging and be perhaps unworkable in practice.



The issue of extending provisions on equal pay to cover other compulsory grounds, given the relative success of such a move in the Republic of Ireland, should be given careful consideration. Such reflection might however focus on the particular nature of discrimination in Northern Ireland in the past and the specific issue of religion.

Discrimination

Given the overall philosophy of the proposed legislation there should be standardised definitions of both direct and indirect discrimination.

Although extending the reasonable adjustment principle inherent in the DDA to other forms of discrimination may be practically unworkable, the Equality Commission's suggestion the issue of age needs to be covered by this might be a suitable area for consideration. Given the concerns over labour force shortages, the focus on age in relation to reasonable adjustments might be appropriate.

Exceptions

It is accepted that identifying exceptions is a necessary outcome for seeking to address situations of under-representation. Listing the exceptions in legislation gives a clear and unambiguous position. One suggested alternative of removing the listing of exceptions by relying solely on the genuine occupational requirement option, which would effectively involve adjudicating on exceptions on a case-by-case basis, would introduce uncertainty. Retaining the listing of exceptions should remain with an aspiration towards a narrower list.

Goods, Facilities and Services (GFS)

Deciding on a definition for GFS is an important element on the consultation on the Single Equality Bill with far reaching consequences. All of the three options listed: (1) no definition but courts left to define the term as they think fit, (2) giving a comprehensive definition, (3) no definition, but giving guidance on the approach to take with examples, have their pitfalls. It does however seem that option (3) which gives guidance on the general scope of the definition and gives examples may be the most realistic and proportional in the circumstances.

Addressing Under-representation in Employment

Clearly Section 75 has a major role in promoting equality of opportunity that could address issues of under-representation in employment. The Bill could complement this legislation by identifying areas for protection (e.g. redundancy practices). Practical effect to these measures could then be expressed through codes of practice or subordinate legislation.

Equality Commission: Functions and Powers

In principle, the harmonisation of the Equality Commission's powers, as far as practicable, should be supported.

Tribunals and Courts

Given the supporting arguments around pooling of expertise and efficiency in handling claims it is clear that a single employment tribunal to deal with all employment-related disputes would be a positive recommendation.

Yours sincerely



Anne Basten

Agencies Equality and Research Coordinator