

## Construction Employers Federation

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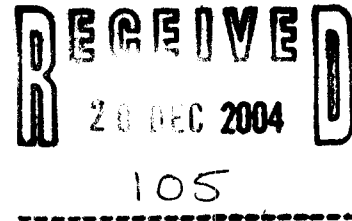
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Our Ref *cef\eg\gen\singleequalitybill.co.uk*

14 December 2004

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



Dear Sirs

### A SINGLE EQUALITY BILL FOR NORTHERN IRELAND

The Construction Employers Federation (CEF) is a Trade Association and Employers' Organisation representing some 500 member construction companies in Northern Ireland. We welcome this opportunity to respond to Single Equality Bill for Northern Ireland discussion paper.

The CEF supports the objective of the Bill to harmonise existing legislation and update existing equality legislation to take account of future changes in the law. The CEF very much welcomes any changes that will simplify anti-discrimination and equality law in Northern Ireland.

Whilst the CEF supports the basic purpose and principles of an SEB, extreme care must be taken that it does not introduce excessive unnecessary regulation on employers and other stakeholders.

The CEF supports the theme of harmonisation in the SEB. The SEB will certainly provide an opportunity for making equality legislation more consistent. Such clarity will make it considerably easier on employers to comply with the legislation.

The SEB, however, should not be used as a method of including new equality grounds and a more general extension of regulation which is not required to be implemented. There is currently already significant regulatory burden on employers. This will significantly increase in the near future with new legislation regarding age discrimination and Information and Consultation requirements.

The CEF believes the current grounds to be included in the SEB are fair and reasonable. We do not accept therefore there is a case for incorporating any new grounds into the SEB. Doing so would add substantially to the demands on employers, increasing the

regulatory burden, and would lead to greater complexity in this area. The principles behind the SEB to harmonise and clarify existing legislation should be adhered to as closely as possible. New grounds, particularly at this time, would simply lead to greater confusion for employers.

The CEF believes that there should not be any extension of protection to goods, facilities and services on age and sexual orientation. It is essential that employers are given the opportunity to adjust to the new age and sexual orientation regulations in employment before consideration is even given to extending them to other areas.

FETO is an inappropriate model for other equality legislation. The CEF strongly believes that the SEB should not be used to extend the FETO model of equality legislation to other grounds. We believe that the very onerous provisions of the FETO and their prescriptive nature cannot be justified in relation to other grounds.

The CEF accepts that in the Northern Ireland context the Fair Employment and Treatment Order's provisions were necessary to achieve its aims. They do not accept, however, that the same need exists to justify extending the FETO model to grounds such as race and gender. Any extension would create a substantial bureaucratic burden for employers. Employers in the construction sector over recent years have had a very significant increase in bureaucracy due to new legislation. Extending the FETO model to other grounds when no real case appears to have been made out for its need, would place significant burdens on employers, particularly small employers in the construction industry.

In view of the above, the CEF strongly recommends that the FETO powers remain applicable to existing grounds only and are not extended to any other area.

The CEF supports the need for clarity in certain definitions. The CEF supports the desire for uniform definitions of key terms where this is possible. The CEF, however, would accept the exception of the reasonable adjustment framework that is used in the current disability legislation which appears to be working well. The CEF believes that there is no need to abolish it and will support it in its current form.

Certainly, with the SEB it would be desirable to have a common template for core provisions that will apply across the board, but with obvious variations that will only apply to specific types of discrimination to deal with peculiar or particular circumstances. An SEB which provides for these different provisions is essential if employers are to support it.

The CEF supports the retention of genuine occupational requirement and genuine service requirement as exceptions within equality legislation. These exceptions are crucial to certain businesses. With the introduction of age as an equality ground due in 2006, this is certainly an area where a considerable number of exemptions will be required, for example, where health and safety could be an issue.

The CEF supports the discussion paper's proposal to develop ADR as an alternative option for parties in dispute. The CEF would strongly propose that these plans are taken forward. Any alternative dispute resolution, however, will only be workable if it provides solutions that reduce the time/cost problems that are associated with the current tribunal and court systems. Furthermore, the CEF does not believe that there is adequate

justification for the extension of FETO based investigative powers to other equality grounds. These powers were necessary in Northern Ireland to deal with the FETO problem. The same case, however, is not made out for the other grounds in equality legislation. The CEF would therefore urge that the OFMDFM resist any pressure to adopt these wider investigative powers to other areas of equality legislation.

The CEF would support the reform of the current tribunal system. We would support a single tribunal system dealing with employment issues rather than the current split between industrial tribunals and the fair employment tribunal. This would lead to greater clarification by bringing all equality cases under a single judicial and administrative system.

The CEF supports the introduction of a employment appeal tribunal as is the case in England and Wales. The current system whereby appeals from local industrial tribunal decisions go to the Court of Appeal are very costly for all concerned. Furthermore, there is no appeal available on findings of fact, as distinct from those of law in a tribunal case which is of considerable concern given the unlimited jurisdiction of tribunals in discrimination cases. The CEF agrees with the discussion paper that County Courts should retain responsibility for GFS complaints. Tribunals do not have expertise in handling complaints of this nature, and the tribunals will already be under considerable strain given new measures on age discrimination and information and consultation requirements that are due in the near future.

The CEF supports the new timetable for the implementation of the new SEB. The period, however, should be a minimum period rather than a maximum to allow for flexibility in changing circumstances. The timing of the enactment of the new legislation must take account of significant new employment measures that are being introduced over the next couple of years.

The success of any new legislation will very much depend on the education of employers. It is more likely to be supported if it is understood. The OFMDFM therefore has a duty to ensure that all employers are given clear information and guidance on any legislation well before the date of implementation.

Yours faithfully

A handwritten signature in cursive script that reads "Jane Anderson".

JANE ANDERSON  
Legal Advisor