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**From** Gerry McWhinney  
**Date** 15 November 2004

**To** Single Equality Bill Team, OFMDFM

## **SINGLE EQUALITY BILL FOR NORTHERN IRELAND**

I apologise for overstepping the deadline for responses to the above consultation. I in prefacing the DARD input I think we all recognise that the proposals for a Single Equality Bill are complex and that no one individual in any Department would be qualified to fully answer the various questions posed in the consultation document. In light of this, the contribution below reflects general comments from colleagues across this Department who have looked at the draft from various perspectives.

### **Scope (Chapter 4)**

We agree that (apart from exceptional circumstances), the scope of protection afforded under the SEB should be the same for all designated categories in order to ensure that the fundamental principles of equality are in place and consistently applied. However, we hope that the proposed definitions for new grounds to extend cover to 'victims' 'other status' and 'past convictions' will be made more comprehensive than outlined in this consultation document to provide clarity for employers.

### **Definitions (Chapter 5)**

The current definitions of direct discrimination e.g. in relation to race, gender, religious belief etc. are fairly well understood in Northern Ireland although there are some complex differences in relation to the definition under disability legislation e.g. 'reasonable adjustment' and 'less favourable treatment'.

We agree with the suggestion that the existing definitions of harassment and victimisation should be adopted and extended for all of the proposed protected groups

Perhaps the accepted definition of direct discrimination could be adapted and applied across all groups, and the disability related responsibilities currently placed on employers should continue to remain in place.

### **Provision of goods, facilities and services (GFS) Chapter 7**

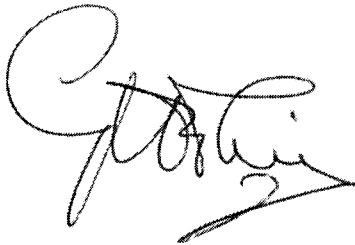
The discussion document refers to age being used as a determining criterion for access to GFS and legislation may be essential to challenge differences of treatment. If exceptions to the duty not to discriminate, on the grounds of age, are not permitted, our College of Agriculture, Food and Rural Enterprise (CAFRE) has indicated that the timing of introducing GFS protection could possibly cause them concern.

Within the area of provision of vocational training, financial support arrangements for students attending FE/HE courses at CAFRE follow guidelines under DEL's Education (Student Support) Regulations (NI) 2003. While this is not direct discrimination to access of GFS, it may be viewed as indirect discrimination. In the event of GFS protection for age being introduced in the SEB, without exception, we would wish to see implementation of that section of the Bill being deferred, to allow DARD and DEL sufficient time to make the necessary adjustment to our policy and procedures.

### **Addressing Under-Representation in Employment (Chapter 8)**

The proposals to address under-representation, workforce monitoring and affirmative actions are already ones that public sector employers are familiar with and can sign up to as part of Section 75 obligations. It would seem appropriate to standardise this approach in the development of the SEB.

I hope that the above comments add something to the debate on the SEB proposals. If you have any queries please feel free to contact me. In general DARD welcomes the proposals contained in the Bill as they aim to remove existing inconsistencies and consider where, and to what extent, existing law should be amended, harmonised or extended.

A handwritten signature in black ink, appearing to read 'GLT McWhinney', with a stylized flourish at the end.

**GLT McWhinney**  
**Director of Corporate Policy**