

12 November 2004

From: Seamus Camplisson
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To: Ivan Millen
OFMDFM

CONSULTATION ON THE SINGLE EQUALITY BILL (SEB)

1. I am responding to the consultation on the SEB on behalf of DHSSPS.

Purpose and principles of the SEB

2. We welcome and support the purpose of the SEB, and the aim of helping people generally, and particularly employers and service providers, by providing a clear and concise body of anti-discrimination and equality law in one legal instrument.
3. We support the principles underpinning the SEB, including the principle of 'non-regression' from existing standards of protection. The principles are comprehensive and clearly described in the document.
4. We agree that the Bill should be subject to a regulatory impact assessment as well as equality and human rights impact assessments.

Grounds

5. We very much welcome the way in which the consultation document has engaged with the inherent complexities of this issue, and challenged some of the current simplistic thinking which may owe more to geometry than to real-life problems. We agree that the SEB should cover all of the nine Section 75 distinctions. We welcome the debate on extending protection to cover the grounds listed in pages 26 and 27, as this debate should bring to light the genuine difficulties regarding workable definitions and categories (e.g. for "socio-economic status" or "genetic disposition"), and also the rationale for opting for the policy route rather than legislative provisions, e.g. in relation to socio-economic inequalities.

Adoption law

6. The proposal to extend the grounds to include "marital or family status/dependants" including all cohabiting couples and all dependants would be in conflict with part of our current adoption law. Whilst it is possible that our future legislation will permit unmarried, co-habiting partners to adopt, individual Health and Social Services Trusts will still be making the decisions in these cases and it may be possible that they refuse

prospective adopters or foster carers on the basis that they do not consider their relationships to be suitably permanent or committed. Also, agencies are permitted at present to take applicants' dependants into consideration when determining whether a couple would be suitable as adoptive parents.

Relevance of past convictions to specific roles and jobs

7. The document also discusses discrimination on the grounds of past convictions. We acknowledge the importance of this issue in a post-conflict society, however care must be taken to ensure that, for example, agencies should be able to refuse to approve prospective adopters and foster carers if applicants have been convicted of specified offences.
8. The document also discusses whether it should be permissible to discriminate on the grounds of socio-economic status. At present inter-country adopters must be able to demonstrate that they will be able to provide for a child without having recourse to public funds.

Scope

Foster carers

9. The document explores terms to describe employment etc. and draws attention to the use of volunteers. This could affect foster carers as a volunteer category. Volunteers may need to be excluded from the definition, or specific exemptions may need to be made.

Vocational guidance and vocational training, including practical work experience

10. If foster care becomes more professionalised and has attendant training requirements, there may be read-across from SEB provisions regarding vocational training etc. to the criteria for selecting adoptive parents; care will need to be taken to ensure that adoption agencies will continue to be permitted to apply age-related selection criteria.

Goods, facilities and services (GFS)

11. We would favour the provision of examples of GFS supported by guidance and advice on whether to take a broad or narrow approach. The courts should be left to define the term as they see fit.
12. Section 75 of the Northern Ireland Act already requires public authorities, **in carrying out their functions**, to have due regard to the need to promote equality of opportunity. In the interests of consistency and harmonisation, it would therefore seem appropriate for GFS protection to be extended to new grounds including those already covered by s75 i.e. age and sexual orientation.

Confidentiality considerations

13. Finally, the area of confidentiality in relation to complaints procedures has specific difficulties in relation to those gay, lesbian and bisexual people who do not want their identity and sexual orientation to be revealed. Particular care needs to be taken so that the legislation does not deter gay, lesbian and bisexual people from bringing complaints.

Seamus Camplisson

cc DHSSPS Departmental Board
Directors
Mrs Conlon