

Consultation on the Fair Employment (School Teachers) Bill
7 March 2022

Introduction

1. The NASUWT is the largest teachers' union in Northern Ireland.
2. The Union believes that teachers should have the same employment rights as other workers in Northern Ireland and fully support this legislation to revoke Article 71 (exception in relation to school teachers) of the Fair Employment and Treatment (Northern Ireland) Order 1998.

Background

3. Since religious discrimination was outlawed in 1976, teachers have been denied legislative protection, along with the clergy and those employed in private households.
4. Prior to 1976 discrimination was endemic across Northern Ireland and bespoke legislation was required to specifically outlaw religious discrimination. It is the considered view of the NASUWT that current recruitment practices in Northern Ireland schools are more reflective of the 1960s than the present day.
5. The NASUWT is aware and respectful of considerations around faith-based education but in the experience of the union most of the discrimination which teachers are subject to is based on perceived community background rather than personal religious belief.
6. The exception was introduced when the main fault line within society was between Catholic and Protestant. Since 1976 Northern Ireland has become much more diverse and teachers from outside the two traditional

communities are likely to be at a greater disadvantage as they can be lawfully discriminated against by every school.

Current Employment Practices in Schools

7. Currently employers of teachers do not have any obligation to monitor the community composition of persons applying for jobs, persons appointed to jobs and persons promoted to jobs. More seriously teachers are not able to bring complaints of religious discrimination relating to their recruitment.
8. The NASUWT has seen clear examples where religious discrimination was the most likely reason that a teacher was not successful in a job interview. However, the union cannot take these cases to the Fair Employment Tribunal.
9. The different employing authorities in Northern Ireland maintain that they do not make use of the teacher exception. However, when two teachers did take a case in 2006 in relation to a promotion at work the employing authority contended that article 71 of the Fair Employment and Treatment (Northern Ireland) Order 1998, provided that applicants for teaching posts were not entitled to the protection of the legislation. This was accepted by the tribunal and upheld by the court of appeal.
10. It is now common practice among some schools not to advertise permanent positions. Rather the school employs the teacher from the Northern Ireland Substitute Teacher Register (NISTR) on a temporary basis. After four year the teacher asserts their right to permanency under the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2002. It is the view of the union that this practice would be hard to justify if Article 71 was removed.
11. The NASUWT submits that nepotism and discrimination is widespread throughout education and that the teacher exception to the Order has ensured that these practices have never come to the attention of the tribunal as they did in the past for other employers.

Summary

12. The NASUWT support the Fair Employment (School Teachers) Bill. The union has debated this issue at both our Northern Ireland and National Conferences and has formally adopted the position that Article 71 should

be removed from the Fair Employment and Treatment (Northern Ireland) Order 1998.

13. Last year the NASUWT proposed a motion supporting the removal of Article 71 to the Biennial Delegate Conference of the Irish Congress of Trade Unions. Delegates recognised that teachers are workers who deserve the same level of protection as other workers and unanimously supported the resolution.
14. The Northern Ireland Assembly should move to strike this unjust text from the Fair Employment and Treatment (Northern Ireland) Order 1998.

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