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Comparative study of equality legislation in the United Kingdom and Ireland

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This paper considers divergences in equality legislation and protections across the jurisdictions of Northern Ireland, Great Britain and Ireland. It is intended to inform the Committee for the Executive Office's inquiry into equality gaps in legislation in Northern Ireland.

This information is provided to Members of the Legislative Assembly (MLAs) in support of their duties, and is not intended to address the specific circumstances of any particular individual. It should not be relied upon as professional legal advice, or as a substitute for it.

Introduction

The Committee for The Executive Office commissioned the Assembly's Research and Information Service (RaISe) to undertake a comparative study of equality legislation in the United Kingdom and Ireland. This research is intended to inform the Committee's inquiry on gaps in equality legislation in Northern Ireland (NI).

The aim of this paper is to highlight any differences in equality legislation across these jurisdictions, including recent developments and divergences in equality legislation since the UK left the European Union.

The Equality Commission was established under the Northern Ireland Act 1998 to oversee equality and anti-discrimination law in Northern Ireland, including laws providing protection against discrimination on the grounds of age, disability, race, religion and political opinion, sex and sexual orientation. It also oversees the statutory duties on public authorities to promote equality of opportunity and good relations under Section 75 of the Northern Ireland Act 1998.

The Equality Commission for Northern Ireland (ECNI) and the Northern Ireland Human Rights Commission (NIHRC) together make up the Dedicated Mechanism, which oversees the commitment given by the UK Government in Article 2 of the Windsor Framework. This responsibility sits alongside similar scrutiny functions they have in relation to other international conventions and agreements such as the United Nations Convention on the Rights of People with Disabilities.

The Committee of the Executive Office heard evidence from NIHRC and ECNI in their Dedicated Mechanism role at its meeting of 17th April 2024. The Equality Commission noted that Northern Ireland lags behind other jurisdictions in equality legislation in the United Kingdom and highlighted that, by way of example, there is no prohibition on discrimination in the provision of goods, facilities and services in NI on the basis of age, unlike in Great Britain and Ireland. Moreover, the Joint Committee of the NIHRC and Irish Human Rights and Equality Commission (IHREC) has stated that the Belfast (Good Friday)

Agreement requires an equivalent level of protection of human rights between Northern Ireland and Ireland.¹

There has been a move towards harmonising equality legislation in the other jurisdictions in the last twenty years. In Great Britain, this is provided for by the Equality Act 2010, in Ireland, the Equal Status Acts (2000 – 2018) and Employment Equality Acts (1998-2015), and in the European Union, the Equal Treatment Directive (also referred to as the Horizontal Directive) in April 2009. These Acts are considered in more detail in the sections which follow. This paper is therefore structured as follows:

- Equality legislation in Northern Ireland
- Overview of equality legislation in Great Britain
- Overview of equality legislation in Ireland
- Differences in equality legislation between Northern Ireland, Great Britain and Ireland
- Conclusions

1 Equality legislation in Northern Ireland

Equality legislation is a devolved matter in Northern Ireland. Individual areas of equality are provided for in separate pieces of legislation which have evolved since 1970. The main pieces of equality legislation in Northern Ireland are as follows:

- The Equal Pay Act Northern Ireland (1970) and Sex Discrimination Order (Northern Ireland) Order 1976²
- The Disability Discrimination Act 1995³

¹ Equality Commission for NI, Northern Ireland Human Rights Commission and Irish Human Rights and Equality Commission. [Policy Recommendations: European Union Developments in Equality and Human Rights: The Impact of Brexit on the Divergence of Rights and Best Practice on the Island of Ireland](#) (2023)

² [Equal Pay \(Northern Ireland\) Act 1970](#)

³ [Disability Discrimination Act 1995](#)

- The Race Relations (Northern Ireland) Order 1997⁴
- The Fair Employment and Treatment (Northern Ireland) Order⁵
- The Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003⁶
- The Employment Equality (Age) Regulations (Northern Ireland) 2006⁷

In Northern Ireland, Travellers are included in the Race Relations Order 1997 as a specific racial group.⁸

Separate equality legislation in Northern Ireland means that discrimination cases can only be taken for individual equality grounds which precludes the ability to take cases on intersectional or multiple discrimination grounds.⁹

1.1 Section 75

Section 75 of the Northern Ireland Act 1998 provides protections for a range of specified groups. When Section 75 was introduced in 1998, it was recognised both domestically and internationally as being leading edge in equality policy due its proactive and anticipatory approach to equality duties.¹⁰

Section 75 places a statutory obligation on public authorities in carrying out their various functions relating to Northern Ireland to have due regard to the need to promote equality of opportunity: ¹¹

- Between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation
- Between men and women generally

⁴ [Race Relations \(Northern Ireland Order\) 1997](#)

⁵ [Fair Employment and Treatment \(Northern Ireland\) Order 1998](#)

⁶ [Employment Equality \(Sexual Orientation\) Regulations \(Northern Ireland\) 2003](#)

⁷ [Employment Equality \(Age\) Regulations \(Northern Ireland\) 2006](#)

⁸ [Race Relations Order 1997](#)

⁹ Equality Commission for NI. [The need for a NI Single Equality Act: Equality Commission Policy Position Paper \(2022\)](#)

¹⁰ P Devine et al, [Equality and Devolution in the United Kingdom: A Story in Three Acts and a Sequel](#), *Social Policy and Society* (2022) 21:4, p.615

¹¹ [The Northern Ireland Act 1998, Section 75](#)

- Between persons with a disability and persons without
- Between persons with dependents and persons without

Public authorities are also required to have regard to the desirability of promoting good relations between persons of different religious belief, political opinion, and racial group.

1.2 Article 2 of the Windsor Framework

European Union (EU) non-discrimination law operates through a series of EU Council Directives that give varying levels of protection against direct and indirect discrimination and against harassment on the grounds of racial or ethnic origin, gender, religion or belief, disability, age or sexual orientation.¹² Prior to 31 December 2020, EU law had facilitated the alignment of many laws on rights and equality between Northern Ireland, Great Britain and Ireland. The ECNI and NIHRC have noted that after Brexit there is the potential for equality and human rights to diverge on the island of Ireland.¹³

Article 2 of the Windsor Framework (formerly the Ireland/Northern Ireland Protocol) reflects the UK Government's commitment to safeguarding equality and human rights protections in the Belfast (Good Friday) Agreement that are underpinned by the "supporting framework"¹⁴ of EU law. In Article 2 of the Windsor Framework, the UK Government has committed to ensuring that¹⁵

- Certain rights, safeguards and equality of opportunity protections, as set out in the chapter of the same name in the Belfast (Good Friday) Agreement, will not be diminished as a result of the UK leaving the EU
- Some equality laws in Northern Ireland keep pace with any future changes by the EU to certain EU anti-discrimination laws.

¹² Equality Commission for NI, [Brexit](#) webpages

¹³ See footnote 1

¹⁴ [Preamble to Ireland/Northern Ireland Protocol](#). (2020)

¹⁵ Equality Commission for NI and NI Human Rights Commission. [Equality and Human Rights after Brexit: The UK Government's commitment under the Windsor Framework](#). (2021) p3

This means, for example, that the Northern Ireland Assembly and the Northern Ireland Executive cannot act in a way that would reduce certain equality and human rights in Northern Ireland, as a result of Brexit. In addition, if the EU updates those EU anti-discrimination laws set out in Annex 1 of the Windsor Framework, Northern Ireland equality laws must keep pace with those changes.¹⁶ This includes changes that result from EU Court of Justice (CJEU) case law.¹⁷ This is to ensure that certain Northern Ireland equality laws will not fall below minimum EU standards of protection in equality and anti-discrimination law.

1.3 Other developments in Northern Ireland

Improving equality was one of the foundations of the 'New Decade, New Approach' document which specifies that the Programme for Government should be underpinned by the following social inclusion strategies: anti-poverty; disability; gender equality and sexual orientation. The Department for Communities is leading on these social inclusion strategies, and has appointed expert advisory panels to help shape the strategies. The panels, which have now published their reports, have identified specific gaps in equality legislation, which may require further legislation if their recommendations are adopted. The development of the strategies has, however, been delayed due to the two-year suspension of Executive from February 2022 to February 2024.¹⁸ These expert panel reports are considered briefly below.

1.3.1 Anti-poverty strategy expert advisory panel report

The Panel recommended an Anti-Poverty Act which would make discrimination in the provision of goods and services on grounds of socio-economic status unlawful, and include a 'socio-economic duty' requiring public bodies to take account of socio-economic disadvantage when making strategic decisions.

¹⁶ See footnote 13

¹⁷ NI Human Rights Commission and Equality Commission for NI (2022) [Working Paper: The Scope of Article 2\(1\) of Ireland/Northern Ireland Protocol](#), p20-22.

¹⁸ Department for Communities, [Social Inclusion Strategies](#)

Within this Act, the expert panel recommends that age discrimination in the provision of good and services should also be made unlawful.¹⁹

1.3.2 Disability strategy expert advisory panel report

The Expert Panel argued that d/Deaf and disabled people are vulnerable to discrimination due to 'ineffective' and 'piecemeal' disability equality legislation in Northern Ireland. The report, which takes the UN Convention on the Rights of People with Disabilities (UNCPRD) as its starting point, highlighted the need for participation and leadership for d/Deaf and disabled people and for recognition of intersecting identities than spans the spectrum of disability. The Panel noted the gap in equality legislation between Northern Ireland and Great Britain with specific reference to indirect discrimination and suggested prioritising legislative change in line with the UNCPRD recommendations.²⁰

1.3.3 Gender equality strategy expert advisory report

The report highlighted that Northern Ireland lags behind other devolved administrations, Ireland and other OECD countries due to the lack of tools and processes for Gender Budgeting. The panel recommended strengthening the protection against sex discrimination and harassment in Northern Ireland at the very least to match existing rights which apply in Great Britain but ideally to bring it into line with international obligations of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and best practice elsewhere.²¹ It also notes the lack of mandatory gender pay gap reporting in Northern Ireland.

1.3.4 Sexual Orientation Strategy Expert Advisory Panel Report

The Sexual Orientation Expert Advisory Panel report contains a number of recommendations relating to legislation including: that gender recognition

¹⁹ Department for Communities, [Recommendations for an Anti-Poverty Strategy: Report of the Expert Advisory Panel](#), 2020

²⁰ Department for Communities, [Disability Strategy: Expert Panel Report and Recommendations](#), 2020

²¹ Department for Communities, [Gender Equality Strategy: Expert Panel Report and Recommendations](#), 2020

legislation is fit for purpose and recognises and is reflective of the diversity of genders in Northern Ireland; and that conversion therapy is prohibited. It also noted that the Equality Act 2010 enables individuals to bring cases of dual discrimination but in Northern Ireland cases can only be brought forward on individual protected characteristics.²²

In summary, the development of these strategies suggests a recognition of gaps in equality legislation across the Northern Ireland Executive. All the expert advisory panels also referred to international obligations outlined in the United Nations Conventions on human rights to which the UK government is a signatory as terms of reference for strengthening legislation.

2. Overview of equality legislation in Great Britain

As has been previously noted, the main equality legislation in Great Britain is the Equality Act 2010. The Act established the Commission for Equality and Human Rights and is considered in more detail below.

2.1 The Equality Act 2010

The Equality Act 2010 consolidated equality law into one Act in Great Britain. The Act was derived from both domestic UK law and European equality legislation. It brought together the following acts of domestic legislation: ²³

- The Equal Pay Act 1970
- The Sex Discrimination Act 1975
- The Race Relations Act 1976
- The Disability Discrimination Act 1995
- The Employment Equality Regulations (Religion or Belief) Regulations 2003
- The Employment Equality (Sexual Orientation) Regulations 2003

²² Department for Communities, [LGBTQI+ Strategy Expert Advisory Panel – Themes and Recommendations](#), 2020

²³ [Equality Act 2010 - Explanatory Memorandum](#)

- The Employment Equality (Age) Regulations 2006
- The Equality Act 2006, Part 2
- The Equality Act (Sexual Orientation) Regulations 2007

The Equality Act 2010 is reserved to Westminster and only applies to England, Wales and Scotland with some very limited applications to Northern Ireland.

The Act was intended to both harmonise discrimination law and to strengthen it.

The Equality Act 2010 strengthens the legislation in terms of intersecting protected characteristics. The protected characteristics are: ²⁴

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race²⁵
- Religion or belief
- Sex
- Sexual orientation

The Act makes it unlawful to discriminate or harass a person or victimise someone when providing services, goods or facilities. It covers both direct and indirect discrimination. Key provisions include mandatory pay gap reporting and the Public Sector Equality Duty.

2.1.1 The Public Sector Equality Duty (PSED)

The Equality Act 2010 places a requirement on public bodies to consider how they should advance the equality of opportunity between persons who share a relevant protected characteristic. This should be executed across policies,

²⁴ House of Commons Library (2022) [A Short Introduction to Equality Law](#)

²⁵ Romany Gypsies, Scottish Travellers and Irish Travellers have been declared by the courts to be protected as “races” under the Act. House of Commons Library (2019), [Gypsies and Travellers](#)

programmes and service delivery. It also allows an employer, service provider or other organisation to take positive action to minimise a disadvantage arising from a protected characteristic.

The Equality Act 2010 imposes a Public Sector Equality Duty (PSED) on public bodies across Great Britain which is similar to that imposed on Northern Irish public bodies by Section 75(1) of the Northern Ireland Act 1998. It states that: “a public authority must, in the exercise of its functions, have due regard to the need to:

- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act.
- b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.”

There are a few differences across Great Britain in the ways in which the PSED has been introduced. In Wales, for example, there is a socio-economic duty on public authorities to deliver better outcomes for those experiencing socio-economic disadvantage since 2021.²⁶ In Scotland, there has been similar legislation since 2018 but this Equality Act 2010 duty has not yet been enacted in England.

2.3 Amendments to the Equality Act 2010

There have been recent amendments to the Equality Act 2010 that have been transposed into domestic law from EU Directives by the Equality Act 2010 (Amendment) Regulations 2023. The purpose of these amendments is to reproduce in domestic law certain interpretive effects of retained EU law which, under the Retained EU Law (Revocation and Reform) Act 2023 (“the REUL Act”) ceased to apply to the UK statute book after the end of 2023.

²⁶ Welsh Government (2024) [Socio-economic duty: an overview](#)

The interpretative effects relate to the aspects of equality law presented in the box below.

- Direct discrimination related to pregnancy, maternity and breastfeeding
- Indirect discrimination where a person without a relevant protected characteristic suffers substantively the same disadvantage as those with that protected characteristic
- Direct discrimination in the context of access to employment and occupation as regards public statements outside a recruitment process
- The right to equal pay where employees' terms are attributable to a single source (Article 157 of the Treaty on the Functioning of the European Union¹)
- The definition of disability in relation to employment and occupation.

2.4 Potential future developments in the UK

In its election manifesto of 2024, the Labour Party committed to strengthen equality legislation by:²⁷

- Enacting the socio-economic duty in the Equality Act 2010
- Strengthening rights to equal pay
- Strengthening rights from maternity and menopause discrimination and from sexual harassment
- Introducing a Race Equality Act which will enshrine the full right to equal pay for Black, Asian and other ethnic minority people. The Act will also strengthen protections against dual discrimination

²⁷ Labour Party, [Labour's Manifesto: Break Down Barriers to Opportunities](#) 2024

- Delivering a ban on conversion practices and protecting the freedom for people to explore their sexual orientation and gender identity.
- Building on gender pay reporting and introduce disability and ethnicity pay gap reporting for large employers
- Supporting disabled people to work by improving employment support and access to reasonable adjustments

Some of these equality areas have been developed further in the King's Speech with an explicit commitment to introducing them in the lifetime of this parliament. The Draft Equality (Race and Disability Bill) commits to enshrining the full right to equal pay for ethnic minorities and disabled people into law. It also commits to introducing mandatory ethnicity and disability pay reporting for larger employers with over 250 employees.

There has also been a commitment to bringing forward a trans-inclusive ban on conversion practices. The Draft Conversion Practices Bill proposes to offer protection from conversion practices whilst maintaining support for those who are exploring their sexual orientation or gender identity.²⁸

²⁸ Prime Minister's Office (2024) [The King's Speech: background briefing notes](#)

3. Overview of equality legislation in Ireland

This section of the paper considers equality legislation in Ireland, largely through the provisions of the Equal Status Acts (2000-2018) and the Employment Equality Acts (1998-2015). Potential changes to equality legislation in Ireland following a recent review and public consultation are presented in Appendix 1.

3.1 The Equal Status Acts (2000-2018)

The Equal Status Acts 2000-2018, also referred to as “The Acts” prohibit discrimination in the provision of goods and services, accommodation and education. They cover the nine protected grounds of gender, marital status, family status, age, disability, sexual orientation, race, religion, and membership of the Traveller community. Travellers are a specific protected ground under The Equal Status Acts in Ireland unlike in Northern Ireland. In addition, the Acts allow positive action to promote equality for disadvantaged persons or to cater for the special needs of persons who have experienced discrimination.²⁹ The Acts prohibit:

- Discrimination in access to and use of goods and services
- Indirect discrimination in access to and use of goods and services
- Indirect discrimination by association, sexual harassment, harassment and victimisation
- Discrimination in the provision of accommodation services against people who are in receipt of rent supplement, housing assistance, or social welfare payments.

3.2 Employment Equality Acts (1998-2015)

Employers obligations in relation to equality and human rights in Ireland are set out in the Employment Equality Acts 1998-2015. These Acts prohibit

²⁹ Irish Human Rights and Equality Commission [The Equal Status Acts \(2000-2018\)](#)

discrimination in employment, including work experience and vocational training, under the nine protected grounds.³⁰ They aim to:

- Promote equality
- Prohibit discrimination across the nine grounds
- Prohibit sexual and other harassment
- Prohibit victimisation
- Make sure suitable facilities for people with disabilities are available in relation to access to employment, advancing in employment and taking part in training
- Allow positive action to ensure everyone gets full equality across the nine grounds.

The Acts apply to:

- Full-time, part-time and temporary employees
- Public and private sector employment
- Vocational training bodies
- Employment agencies
- Trade unions, professional and trade bodies.

A review of the Equal Status Acts (2000-2018) and Employment Equality Acts (1998-2015) has been ongoing since 2021.³¹ The responses to the public consultation which ran from July 2021 to December 2021 were published in 2023.³²

Many submissions to the consultation supported the introduction of socio-economic status as a protected ground. These submissions highlighted that access to full and equal participation in economic and social life stem from socio-economic disadvantage and result in discrimination as well as poor treatment and conditions. It was argued that the Equality Acts should be

³⁰ Irish Human Rights and Equality Commission [The Employment Equality Acts 1998 - 2015](#)

³¹ Government of Ireland [The Equality Acts Review: summary of the submissions received to the 2021 Public Consultation on the review of the Equality Acts](#) (2023)

³² Ibid

amended to prohibit discrimination on the basis of disadvantaged socio-economic status and noted this would align Ireland with the majority of European countries and a recommendation from the United Nations Committee on Economic, Social and Cultural Rights (UNCESCR).

The Equality (Miscellaneous Provisions) Bill 2021, which at the time of writing was at Second Stage, proposes as a workable, enforceable definition of this proposed new ground:

...‘socio-economic disadvantage’ means having disadvantaged social status or disadvantaged economic status, or both, that may be indicated by a person’s inclusion, other than on a temporary basis, in a socially or geographically identifiable. The disadvantage from which the individual suffers results from one or more of the following circumstances: (a) poverty, (b) source of income, (c) illiteracy, (d) level of education, (e) address, type of housing or homelessness, (f) employment status, (g) social or regional accent, or from any other similar circumstance.

3.4 Equality recommendations from the Irish Human Rights Commission

The Irish Human Rights Commission recently published a report (July 2024) in relation to key policy areas for the new Government that have human rights and equality implications. The summary table below highlights how these recommendations relate to the Employment Equality Act (1998-2015) and some of the protected grounds enshrined in the Equal Status Acts (2000 – 2018).³³

Grounds	Recommendation
Disability	Disability rights should be prioritised through the full implementation of the UNCRPD and the ratification of the Optional Protocol to the UNCRPD. The IHREC recommends that full implementation of the CRPD

³³ Irish Human Rights and Equality Commission [Key equality and human rights recommendations for the next government](#) 2024

	<p>includes a commitment to review and amend legislative frameworks including Equality Acts. This legislation should safeguard individuals at risk and deprived of their liberty.</p> <p>The different rates of remuneration for disabled people should be removed from the Employment Equality Acts.</p>
Traveller community	A rights-based review of legislation with progress reform in areas of planning, evictions and trespassing.
Gender	<p>The gender ground in the Equality Acts should be amended to include gender identity, gender expression and sex characteristics.</p> <p>Healthcare for transgender children, young people and adults should be adequately resourced.</p>
Socio-economic status	Socio-economic status and criminal conviction should be added as new protected grounds in the Equality Acts.
Public equality duty	The definition of a public sector body should be extended to include bodies in the education sector that receive public sector funding for Section 2 of the Irish Human Rights and Equality Commission Act 2014. This would ensure that the Public Sector Duty is directly applicable to all schools and educational settings in Ireland.

4. Differences in equality legislation between Northern Ireland, Great Britain and Ireland

The Equality Commission in Northern Ireland has produced several briefings in relation to divergences in equality legislation between Northern Ireland and Great Britain. In a 2014 report which focused on gaps in equality law, it

highlighted key differences between equality law in Northern Ireland and Great Britain in relation to race, disability, positive action and private clubs.

The ECNI has stated that the enactment of the Equality Act 2010 in Great Britain has resulted in significant differences between Great Britain and Northern Ireland across all grounds of discrimination and across a wide range of areas (such as employment, housing, education, goods, facilities and services etc.).³⁴ It has also noted that there were already differences prior to the introduction of the Equality Act 2010 between Northern Ireland and the rest of the UK.

It has argued that Northern Ireland equality law has failed to keep pace with new and emerging forms of discrimination and in these areas, individuals have no or limited protection against discrimination. In addition, there are a number of what it describes as unjustifiable exceptions and barriers that limit the ability of individuals to access their rights.³⁵ The ECNI has stated that the gaps that have emerged between Great Britain and Northern Ireland:

“have the effect that vulnerable and marginalised individuals in Northern Ireland, who experience discrimination, have less protection against unlawful discrimination, harassment and victimisation across a number of equality grounds than their counterparts in GB”³⁶

The chief commissioner of the Equality Commission for Northern Ireland briefed the Oireachtas Joint Committee on the Implementation of the Good Friday Agreement in June 2023 about the impact of Brexit on equality and human rights in Northern Ireland.³⁷ She highlighted that Northern Ireland has fallen increasingly behind Ireland and other parts of the UK in terms of equality

³⁴ Equality Commission for Northern Ireland [Gaps in equality law between Great Britain and Northern Ireland](#) 2014

³⁵ Equality Commission for Northern Ireland [The need for a NI Single Equality Act: Equality Commission Policy Position Paper](#), (2022) p 4-5

³⁶ *ibid*

³⁷ Equality Commission for Northern Ireland, [Opening Statement to the Joint Committee on the Implementation of the Good Friday Agreement by the ECNI Chief Commissioner - Geraldine McGahey](#), June 2023

protections and that the exit of the UK from the European Union risks further divergence in equality protections between Northern Ireland and Ireland.

Key gaps in equality legislation between Northern Ireland, Great Britain and Ireland are considered in further detail below. These include:

- Single equality legislation
- Intersectional or combined discrimination
- Age discrimination
- Disability discrimination
- Equal pay provision
- Discrimination on racial grounds
- Third party harassment
- Positive action
- Protection against discrimination by private clubs
- Protection against discrimination by public bodies
- Divergence of rights after Brexit

4.1.2 Single Equality Legislation

Unlike Great Britain and Ireland, Northern Ireland does not have consolidated, harmonised equality legislation. Equality law was harmonised and consolidated in Ireland through the Employment Equality Acts and the Equal Status Acts. In Great Britain, the Equality Act 2010 addressed inconsistencies in the discrimination law framework to give uniform protection across all grounds, for example in race equality legislation, harmonised protection from discrimination, harassment and victimisation and addressed deficiencies in equality law. These deficiencies have not been addressed in Northern Ireland. Equality rights in Northern Ireland under the various pieces of equality legislation are less comprehensive and enforceable and more inconsistent and fragmented across a number of equality grounds.³⁸

³⁸ See footnote 35

The ECNI has recommended a single equality act for Northern Ireland that would build on the Equality 2010 Act and reflect international human rights standards and best practice in other jurisdictions.³⁹ According to the ECNI, a single equality act would help to address inconsistencies and complexities and would ensure uniform protection against discrimination across all equality duties.⁴⁰ It has stated that:

“Unlike in GB, there remains a need for NI equality law to be harmonised and simplified so as to address significant inconsistencies, unjustified anomalies and complexities and to ensure uniform protection against discrimination across all grounds, where appropriate. For example, unlike in NI, the race equality legislation in GB has been harmonised so that individuals have the same level of protection on grounds of colour and nationality as well as race, ethnic origin and national origin.”⁴¹

The ECNI has pointed to the benefits such harmonisation and simplification would provide to a range of users including: greater awareness and understanding of rights and protections for individuals; greater understanding and more effective implementation for employers and service providers, with associated time and cost savings; more efficient provision of advice and support services; and benefits for keeping the legislation under review.⁴²

The NIHRC has also highlighted the need “to simplify, strengthen, and harmonise equality legislation in NI within a Single Equality Act”, noting the relevance of Article 2 of the Windsor Framework in this context, and the lack of progress on this matter.⁴³

³⁹ *ibid*, p 7

⁴⁰ Equality Commission for Northern Ireland, [Response to OFMDFM Consultation Paper, “A Single Equality Bill for Northern Ireland](#), 2004

⁴¹ Equality Commission for Northern Ireland [Gaps in equality law between GB & NI](#) webpages

⁴² Equality Commission for Northern Ireland [The need for a NI Single Equality Act: Policy Position paper](#). (ECNI, 2022)

⁴³ Northern Ireland Human Rights Commission. [NIHRC response: Parallel Report to the FCNM Advisory Committee on the Fifth Monitoring Report of the United Kingdom](#). (NIHRC, 2022)

Despite early commitments to single equality legislation in Northern Ireland, for example, in the 2006 St Andrew's Agreement⁴⁴, there has been no progress to date in this regard. The most recent Assembly question on the Single Equality Bill was asked in 2020, with the following response:⁴⁵

“There has been no agreement on a single Equality Bill; however, a number of statutes have been enacted here over the last decades which provide protection against discrimination on the grounds of age, disability, race, religion and political opinion, sex and sexual orientation.”

Several international bodies, including, the UN ICESCR Committee, the UN CRPD Committee and the UN CEDAW Committee, have however recommended comprehensive reform of equality law in Northern Ireland.⁴⁶ In addition, the European Commission against Racism and Intolerance (ECRI) has recommended that the NI Executive “consolidate equality legislation into a single comprehensive equality act, taking inspiration from the Equality Act 2010, and taking account of the recommendations of the ECNI.”⁴⁷

The ECNI also highlights that a single equality act should be compliant with Article 2 obligations under the Windsor Framework, both in relation to ensuring that any potential act does not diminish rights provided for prior to Brexit and that NI equality law keeps pace with any amendments/replacements of EU law with respect to the EU equality directives in Annex 1 of the Windsor Framework and EU Court of Justice (CJEU) case law.⁴⁸ Both the ECNI and NIHRC⁴⁹ have

⁴⁴ [St Andrews Agreement](#), (2006) Annex B (Human Rights, Equality, Victims and Other Issues)

⁴⁵ AQW 264/17-22

⁴⁶ Northern Ireland Human Rights Commission. (2022) [Publication - NIHRC response: Parallel Report to the FCNM Advisory Committee on the Fifth Monitoring Report of the United Kingdom | Northern Ireland Human Rights Commission](#) (NIHRC, 2022)

⁴⁷ CRI(2016)38, [European Commission on Racial Intolerance Report on the UK](#) (Fifth Monitoring Cycle) (2016)

⁴⁸ Equality Commission for NI (2022). [The need for a NI Single Equality Act: Equality Commission Policy Position Paper](#)

⁴⁹ Equality Commission for NI and NI Human Rights Commission (2023), [Annual Report of the Equality Commission for Northern Ireland and the Northern Ireland Human Rights Commission on the Implementation of Article 2 of the Windsor Framework](#), 2022-2023

highlighted recent amendments to the Annex 1 Directives with which NI law must align, including the EU Directive on binding standards on equality bodies⁵⁰ and the EU pay transparency directive.⁵¹

Prior to Brexit, the Northern Ireland Assembly had been obliged to implement UK international and European Union obligations where they relate to transferred matters.⁵²

Whilst the Equality Commission does recognise that there have been amendments to individual pieces of equality law such as the race and sex legislation to give effect to the EU Directives, it argues that these amendments do not provide the benefits of a comprehensive single equality law.⁵³ Both the ECNI and NIHRC have recommended that the Northern Ireland Executive introduces a single equality act to ensure that Northern Ireland equality law is strengthened and that gaps are addressed as a matter of urgency.⁵⁴

4.1.3 Intersectional or combined discrimination

The ECNI has recommended the introduction of protection against combined discrimination so that there is legal protection for individuals who experience

⁵⁰ Directive (EU) 2024/1500 on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and amending Directives 2006/54/EC and 2010/41/EU and Council Directive (EU) 2024/1499 on standards for equality bodies in the field of equal treatment between persons irrespective of their racial or ethnic origin, equal treatment in matters of employment and occupation between persons irrespective of their religion or belief, disability, age or sexual orientation, equal treatment between women and men in matters of social security and in the access to and supply of goods and services, and amending Directives 2000/43/EC and 2004/113/EC

⁵¹ Directive (EU) 2023/970 to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms

⁵² RalSe, *Equality and Human Rights Legislation in Northern Ireland: A Review* (2011), p1

⁵³ Equality Commission for Northern Ireland, [The Need for a Single NI Equality Act](#), 2022, p3

⁵⁴ Equality Commission for Northern Ireland and Northern Ireland Human Rights Commission, [Annual Report of the Equality Commission for Northern Ireland and the Northern Ireland Human Rights Commission on the Implementation of Article 2 of the Windsor Framework](#), 2022-2023.

direct or indirect discrimination, victimisation or harassment because of a combination of equality grounds, including racial grounds.⁵⁵

In Great Britain, section 14 of the Equality Act 2010 has provisions for dual discrimination, however, these have not yet been enacted.⁵⁶ The ECNI has identified protection against combined discrimination as a priority issue and has noted that intersectional and multiple discrimination provisions have been highlighted as a key recommendation for the UK (including NI) and Ireland by international monitoring bodies such as the UN Committee on the Convention on the Elimination of All Forms of Racial Discrimination (CERD) and the Committee on the Convention on the Elimination of Discrimination Against Women (CEDAW).⁵⁷

The ECNI and NIHRC have highlighted that the EU pay transparency directive, amends and/or replaces provisions in the EU Gender Equality (Employment) Directive⁵⁸ listed in Annex 1 of the Windsor Framework, including amending the definition of discrimination to include intersectional discrimination. Therefore, Northern Irish equality law should align with these changes under the Windsor Framework. Implementation of these changes would assist in addressing gaps in equality law in relation to intersectional discrimination or combined discrimination.⁵⁹ Both Commissions have recommended that the Executive Office provides for intersectional multiple discrimination claims in Northern Ireland across all equality grounds, including providing for intersectionality within equality legislation as required.⁶⁰

⁵⁵ Equality Commission for NI [Consultation Response: The Executive Office: Consultation on the Review of the Race Relations \(NI\) Order 1997](#) (2023), p18, para 3.48

⁵⁶ Equality Commission for NI. [\(2022\) The need for a NI Single Equality Act: Policy Position paper](#). (ECNI, 2022), page 7.

⁵⁷ *ibid*

⁵⁸ Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast)

⁵⁹ Equality Commission for NI and NI Human Rights Commission (2024), [ECNI and NIHRC Briefing Paper: The EU Pay Transparency Directive: The UK Government's dynamic alignment obligations relating to Windsor Framework Article 2](#) (ECNI, NIHRC, 2024)

⁶⁰ Equality Commission for Northern Ireland and Northern Ireland Human Rights Commission, [Annual Report of the Equality Commission for Northern Ireland and the Northern Ireland Human Rights Commission on the Implementation of Article 2 of the Windsor Framework](#), 2022-2023.

4.1.4 Age discrimination

Age discrimination legislation was extended in Great Britain to prohibit age discrimination when accessing goods, facilities and services or private clubs and in the exercise of public functions. In addition, in Ireland the Equal Status Acts covers discrimination on the grounds of age, in the provision of goods, facilities and services, education and housing while the Employment Equality Acts covers discrimination on the grounds of age, in employment and vocational training. The Employment Equality (Age) Regulations (Northern Ireland) provide for the prohibition of discrimination against people due to their age in respect of employment and occupation, further and higher education and vocational training⁶¹ but do not extend to goods, facilities and services, unlike Great Britain and Ireland.

In 2015, draft proposals on age discrimination in good, facilities and services were consulted on⁶² and prior to the suspension of the NI Executive and Assembly, officials were considering next steps.⁶³ In 2023, the UN Committee on the Rights of the Child (UN CRC) recommended that the UK Government and NI Executive take legislative measures to ensure children below 18 years of age are protected against age discrimination.⁶⁴ There is also a long-standing proposed EU Directive⁶⁵ that would prohibit discrimination on the grounds of age, among other grounds, in the provision of goods, facilities and services across the EU. Both the ECNI and NIHRC have recommended that the Northern Ireland Executive and the Executive Office introduces age discrimination legislation in the provision of goods, facilities and services to

⁶¹ [The Employment Equality \(Age\) Regulations \(NI\) 2006](#)

⁶² Office of the First Minister and deputy First Minister [Proposals to Extend Age Discrimination Legislation \(Age Goods, Facilities and Services\) Consultation Document](#) (2015)

⁶³ [AQW 28071/17-22](#)

⁶⁴ CRC/C/GBR/CO/6-7, [UN CRC Committee Concluding Observations on the Sixth and Seventh Periodic Report of the UK of Great Britain and NI](#), 2 June 2023, at para 46(d)

⁶⁵ COM/2008/0426 final: [Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation](#)

address gaps in protections between Northern Ireland and Great Britain and to avoid greater divergence of rights on the island of Ireland.⁶⁶

4.1.4 Disability discrimination

As previously noted, disability legislation was strengthened and streamlined in Great Britain by the Equality Act 2010. In particular, the 2010 Act addressed the impact of the House of Lords' decision in June 2008 in the *Malcolm* case⁶⁷, which significantly restricted the ability of disabled people to claim disability-related discrimination under the DDA 1995. This has not been addressed in Northern Ireland and has resulted in people with disabilities here being unable to pursue elements of their case involving disability-related discrimination.⁶⁸ The ECNI has previously recommended that disability-related discrimination be replaced by indirect discrimination and discrimination arising from disability to remove the need for a disabled person to compare his or treatment to someone else.⁶⁹ Recent research⁷⁰ has noted EU Court of Justice (CJEU) developments in relation to disability including in relation to this definition of disability discrimination and the use of comparators, with which Northern Ireland equality law must align under the Windsor Framework. The Equality Act 2010 also:

- Amended the definition of disability to make it easier for disabled people to fall within the definition of disability, including removing the list of capacities which was in Schedule 1 to the DDA. This means that the definition is narrower in Northern Ireland than in Great Britain
- Increased protection for disabled people against harassment when accessing goods and services

⁶⁶ Judgment of 27 January 2021 in Case C-16/19, Szpital Kliniczny im. dra J. Babińskiego Samodzielny Publiczny Zakład Opieki Zdrowotnej w Krakowie, [EU:C:2021:64](#)

⁶⁷ *Mayor and Burgesses of the London Borough of Lewisham v Malcolm* [2008] UKHL 43

⁶⁸ Equality Commission for NI (2012) [Strengthening Protection for Disabled People Proposals for Reform - Full report](#) (ECNI, 2012), p7.

⁶⁹ Equality Commission for NI and NI Human Rights Commission (2023), [Annual Report of the Equality Commission for Northern Ireland and the Northern Ireland Human Rights Commission on the Implementation of Article 2 of the Windsor Framework](#), 2022-2023

⁷⁰ Craig S, Deb A, Frantziou E, Horne A, Murray C, Rice C and Rooney J (2022). [European Union Developments in Equality and Human Rights: The Impact of Brexit on the Divergence of Rights and Best Practice on the Island of Ireland](#) (ECNI, NIHRC, IHREC 2022)

- Provided express protection for carers, friends or family who are subject to direct discrimination or harassment due to their association with a disabled person or for individuals because they are wrongly perceived to be disabled
- Prohibited questions by employers related to disability prior to making a job offer except in specified circumstances
- Placed a new duty on schools to make reasonable adjustments to auxiliary aids and services for disabled pupils

In addition, the ECNI has called for amendments to make it easier for people with disabilities to obtain reasonable adjustments, including the removal of justifications. These legislative changes were implemented in Great Britain under the Equality Act 2010.⁷¹ The ECNI has noted that these issues have not yet been addressed under equality law in Northern Ireland and have had the effect of severely restricting the access of people with disabilities to justice.⁷²

4.1.5 Equal pay provision

The equal pay legislation was strengthened in Great Britain by the Equal Status Act 2010 to prohibit employers from preventing or restricting their employees from having discussions in order to establish if pay differences exist that are related on an equality ground such as gender. These changes have not yet been implemented in equality law in Northern Ireland.

In Great Britain, under the Equality Act (2010), there have been gender pay gap reporting requirements for larger private, public and voluntary sector organisations since 2017.⁷³ Similarly, the Gender Pay Gap Information Act 2021 introduced gender pay gap reporting requirements in Ireland. Section 19 of the Employment Act (NI) 2016 would have implemented pay gap reporting requirements in NI but this has not yet been enacted, resulting in Northern

⁷¹ Equality Commission for Northern Ireland (2012) [Strengthening Protection for Disabled People: Proposals for Reform](#) (ECNI 2012), p18-19

⁷² *ibid*, p7.

⁷³ [The Equality Act 2010 \(Gender Pay Gap Information\) Regulations 2017](#) (SI 2017/172)

Ireland falling behind both Great Britain and Ireland with respect to pay transparency.

In April 2023, the European Council adopted the EU Pay Transparency Directive which aims to strengthen pay transparency and eliminate gender-based pay discrimination. The ECNI and NIHRC consider that this directive amends and/or replaces provisions of the EU Gender Equality (Employment) Directive and therefore Northern Ireland equality law must keep pace with these changes under the Windsor Framework. Both Commissions have highlighted that implementing this Directive in NI law would lead to greater accountability and transparency by certain public, private and voluntary sector employers on gender pay and enhanced enforcement measures to improve access to justice in relation to discrimination on the grounds of equal pay.⁷⁴

4.1.6 Discrimination on racial grounds

In Northern Ireland, individuals have less protection against discrimination and harassment on the grounds of colour and nationality than on the other racial grounds protected under the legislation: namely race, ethnic or national origins.⁷⁵ The ECNI has highlighted that this has resulted in, for example, it being more difficult for people to access justice where individuals have been subjected to harassment, indirect discrimination (including systemic or institutional racism), discrimination by public bodies or discrimination as a public office holder on the grounds of their colour or nationality. In addition, exceptions that do not apply for race, ethnic or national origins apply for discrimination based on colour and nationality.⁷⁶

In Great Britain, the Equality Act 2010 harmonised the definition of discrimination and harassment to address these gaps, while equality legislation

⁷⁴ Equality Commission for NI and NI Human Rights Commission (2023), [Annual Report of the Equality Commission for Northern Ireland and the Northern Ireland Human Rights Commission on the Implementation of Article 2 of the Windsor Framework](#), 2022-2023

⁷⁵ Equality Commission for NI (2022), [Race Law Reform Policy Position - Priorities and recommendations](#) (ECNI, 2022), p10

⁷⁶ *ibid*, p11

in Ireland also defines the ‘ground of race’ as ‘race, colour, nationality or ethnic or national origins’.⁷⁷ Northern Ireland has therefore fallen behind both Great Britain and Ireland in relation to protection against discrimination and harassment on the grounds of racial equality.

Moreover, the Equality Act 2010 provides greater protection against direct discrimination, victimisation and harassment on racial grounds than in Northern Ireland.⁷⁸ It should be noted that the definition of harassment in Northern Ireland equality law does not meet the requirements of the EU Race Equality Directive,⁷⁹ which is still relevant in Northern Ireland under Article 2 of the Windsor Framework

4.1.7 Third party harassment

In Northern Ireland there is limited protection for employees against third party harassment by customers/clients and no liability for employers if they fail to take reasonable steps to protect their employees from such harassment. However, equality legislation in Ireland⁸⁰ imposes liability on employers for failing to take reasonable steps to prevent harassment of their employees by third parties. In Great Britain, the UK Government repealed this provision of the Equality Act 2010 – a decision which has prompted concern from the UN Committee on CERD.⁸¹

4.1.8 Positive action

Positive action measures were extended and harmonised in Great Britain to allow employers and service providers to adopt a wider range of measures to alleviate disadvantage experiences by under-represented groups across all equality grounds. These changes have not yet been implemented in equality

⁷⁷ *ibid*, p11

⁷⁸ *ibid*, p18

⁷⁹ See Article 3 of Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin

⁸⁰ Section 14A of the Employment Equality Act, 1998.

⁸¹ See footnote 76, p32

law in Northern Ireland. The ECNI has recommended that the scope of positive action is expanded to better address disadvantage and disproportionately low participation and meet differential needs.⁸²

4.1.9 Protection against discrimination by private clubs

Protection against discrimination by private clubs in Great Britain was extended to cover additional equality grounds including age, gender, religion or belief, pregnancy and maternity and gender reassignment. The Equality Act 2010 provides for the prohibition of discrimination across the protected characteristics in relation to members, associates and guests. These changes have not yet been implemented in equality law in Northern Ireland. The Sex Discrimination (NI) Order 1976, as amended, does not prohibit sex discrimination by private clubs or associations.

4.1.10 Protection against discrimination by public bodies

In Northern Ireland, the level of protection against discrimination by public authorities when they are performing public functions varies across the protected grounds. For example, there is no protection against age and sex discrimination, some protection against racial and sexual orientation discrimination, and stronger protection against disability discrimination or discrimination on the grounds of religious belief and political opinion.⁸³ In Great Britain, the Equality Act 2010 harmonised protection against discrimination, harassment and victimisation by public bodies across all equality grounds.⁸⁴

4.1.11 Divergence of rights after Brexit

Article 2 of the Windsor Framework requires that equality law keeps pace with any EU changes to the EU equality directives in Annex 1 of the Windsor Framework. However, the ECNI and NIHRC have highlighted that there is the potential for divergence for equality and rights on the island of Ireland in relation

⁸²See footnote 76, p46

⁸³ Equality Commission for NI (2022). [The need for a NI Single Equality Act: Equality Commission Policy Position Paper](#), p4

⁸⁴ *ibid* p10

to those EU laws, introduced after the UK exited the EU, which do not fall within Annex 1 equality directives. Research published by the ECNI, NIHRC and IHREC has found that there are already areas of EU law which could potentially result in divergence of rights on the island of Ireland, including for example, the EU Work-life Balance Directive,⁸⁵ the European Accessibility Act⁸⁶ and the EU Directive on Gender Balance on Boards.⁸⁷

The research suggested that, in order to limit divergence and reflect the concept of equivalence under the Belfast (Good Friday) Agreement, new EU directives, could, on a case-by-case basis, be considered for addition to the list of equality directives within Annex 1, as provided for under the Windsor Framework.⁸⁸ The ECNI and NIHRC have also recommended that the NI Executive considers voluntarily aligning with EU developments where this strengthens equality rights post Brexit and to support North-South equivalence of rights.⁸⁹

The table below summarises the gaps in equality legislation which have been identified in this paper.

Ground or gap	Position in Northern Ireland	Position in Great Britain	Position in Ireland
Single equality legislation	No consolidated, harmonised, single equality legislation	Consolidated, harmonised, single equality legislation in Equality Act 2010	Consolidated, harmonised legislation across equality grounds in Equal Status Acts (200-2018) and

⁸⁵ Directive 2019/1158/EU ‘Directive of the European Parliament and Council on work-life balance for parents and carers’, 20 June 2019.

⁸⁶ Directive 2019/882/EU, ‘Directive of the European Parliament and Council on the accessibility requirements for products and services’, 17 April 2019.

⁸⁷ Directive (EU) 2022/2381 of the European Parliament and of the Council on improving the gender balance among directors of listed companies and related measures, 23 November 2022

⁸⁸ See footnote 70, p110

⁸⁹ Equality Commission for NI and NI Human Rights Commission (2023), [Annual Report of the Equality Commission for Northern Ireland and the Northern Ireland Human Rights Commission on the Implementation of Article 2 of the Windsor Framework](#), 2022-2023

			Equal Employment Acts (2000-2018)
Intersectional discrimination	No provision	Section 14 of the Equality Act 2010 – not enacted	EU Pay Transparency Directive amends definition of discrimination to include intersectional discrimination
Age	There is currently no prohibition on discrimination in the provision of goods, facilities and services in NI on the basis of age	Age discrimination legislation was extended to prohibit unjustifiable age discrimination against adults when accessing goods, facilities and services, or private clubs, and in the exercise of public functions	Equal Status Acts prohibits discrimination against adults on grounds of age in the disposal of goods and provision of services
Disability	DDA 1995: Issues with bringing disability-related discrimination cases due to requirement for comparator	The Equality Act 2010 makes provisions for indirect discrimination and discrimination arising from disability removing	CJEU case law clarifies the definition of disability in the EU Employment Equality (Framework) Directive, removing

	<p>Definition of disability narrower than GB</p> <p>Narrower protection against harassment than GB</p> <p>Health questionnaires by employers not prohibited</p> <p>No duty on schools re: auxiliary aids and services</p>	<p>the need for a comparator</p> <p>Definition of disability removes the list of capacities</p> <p>Increased protection against harassment</p> <p>Health questionnaires by employers prohibited</p> <p>Duty on schools re reasonable adjustments to auxiliary aids and services</p> <p>Gaps in terms of accessibility e.g. public transport</p>	<p>the need for a comparator.</p> <p>Ireland obliged to implement the European Accessibility Act.</p> <p>Irish Sign Language Act 2017 gives users the right to use ISL as their native language with access to interpreters when using public services</p>
Gender reassignment	<p>Discrimination on grounds of gender identity protected under Sex Discrimination (NI) Order 1976</p> <p>To achieve gender recognition - must be over 18, have a diagnosis of gender dysphoria and prove</p>	<p>Discrimination on grounds of gender reassignment protected under Equal Status Act 2010</p> <p>To achieve gender recognition - must be over 18, have a diagnosis of gender dysphoria and prove</p>	<p>Gender Recognition Act 2015 – preferred gender legally recognised by the state</p>

	they have lived full-time in their acquired gender for at least two years under Gender Recognition Act 2004	they have lived full-time in their acquired gender for at least two years under Gender Recognition Act 2004	
Sex	<p>Section 19 of Employment Equality Act (2016) not enacted</p> <p>No Gender Pay Gap Reporting legislation</p> <p>Sex equality legislation in Northern Ireland does not prohibit discrimination by public authorities on grounds of sex in the exercise of their public functions</p> <p>No protection against sex discrimination by private clubs</p>	<p>Equality Act 2010 (Gender Pay Gap Information) Regulations 2017</p> <p>Section 149 of the Equality Act 2010 prohibits discrimination by public authorities on the grounds of sex in Great Britain, as part of the public sector equality duty</p> <p>Protection against discrimination by private clubs in Equality Act 2010 covers range of equality grounds</p>	Gender Pay Gap Information Act 2021 implementing EU Gender Pay Directive

Race	<p>Less protection against discrimination and harassment on grounds of colour and nationality in Race Relations Order 1997</p> <p>Less protection against direct discrimination, victimisation and harassment on grounds of race.</p>	Equality Act 2010 provides harmonised protection on grounds of race, colour, nationality, ethnic or national origins	Equality Employment Act and Equal Status Acts provides harmonised protection on grounds of race, colour, nationality, ethnic or national origins
Third party harassment	Limited protection against third party harassment as no employer liability	Employer liability in third party harassment repealed in Equality Act 2010	Section 14 of Employment Equality Act imposes employer liability re: third party harassment
Positive action	Narrower scope for positive action than GB	Equality Act 2010 expanded scope of positive action to alleviate disadvantage	
Public functions	No harmonised protection across equality grounds and no protection	Equality Act 2010 harmonised protection against discrimination, harassment and	

	against age and sex discrimination	victimisation across equality grounds	
Socio-economic status	Not protected	Not protected - socio-economic duty in Section 1 of the Equality Act 2010 enacted in Wales but not in England	Not protected – proposed for legislative reform

6. Conclusions

The Northern Ireland Act 1998 paved the way for progressive equality legislation under the internationally binding Good Friday Agreement with its proactive and anticipatory obligations. The 1998 Agreement also set out a range of equality and human rights commitments applicable to Ireland that would ensure an equivalence of rights across the island of Ireland.

The Equality Act 2010 was introduced in Great Britain with application to England, Scotland and Wales with the aim of harmonising and consolidating individual pieces of legislation.

While there has been consideration given to single equality legislation in Northern Ireland, it has not yet been implemented here. The introduction of the Equality Act 2010 therefore marked divergences in equality legislation between Northern Ireland and the rest of the United Kingdom. In Ireland, equality legislation is provided for under the Equal Status Acts (2000 – 2018) and the Employment Equality Act (1998 – 2015).

Concerns have been raised by the Dedicated Mechanism at the Committee of The Executive Office on 17th April 2024 that Northern Ireland has been lagging behind the United Kingdom and Ireland in terms of equality legislation. In Northern Ireland, there is no consolidated, harmonised, equality legislation such as there is in Great Britain and Ireland, which has been an issue of concern raised by a number of international human rights committees including CERD, ICESCR and CEDAW.

In addition, there are gaps in the Northern Ireland equality legislation, compared to Great Britain and Ireland, in the protection against discrimination on the grounds of age in goods, facilities and services; disability discrimination protections and racial equality protections. There are also gaps in equal pay provisions in Northern Ireland with both Great Britain and Ireland introducing pay transparency provisions. However, Northern Ireland, must keep pace with changes to EU provisions on equal pay under the Windsor Framework, including the introduction of the EU Gender Pay Transparency Directive.

Both the evaluation of the consultation on the Equal Status Acts in Ireland and the recent IHREC report on equality made a recommendation to include socio-economic status as a protected ground. The enactment of socio-economic status in the Equality Act 2010 was a commitment under the Labour Party manifesto. The expert advisory panel on the proposed Anti-Poverty Strategy for Northern Ireland also recommended an Anti-Poverty Act which would make discrimination in the provision of goods and services on grounds of socio-economic status unlawful, and include a 'socio-economic duty' requiring public bodies to take account of socio-economic disadvantage when making strategic decisions.

Travellers in Ireland have a specific protected ground but this falls under the Race Relations Order (1997) in Northern Ireland. Similarly, in Great Britain Romany Gypsies, Scottish Travellers and Irish Travellers have been declared by the courts to be protected as "races" under the Equality Act 2010. A review of the Race Relations was subject to consultation in 2023 and it may be worth considering Travellers as a separate protected characteristic in the context of that review.

There are therefore a number of gaps between equality legislation in Northern Ireland and Great Britain and Ireland which the Committee may wish to consider as part of its inquiry – as well as the potential for further divergences if Article 2 of the Windsor Framework is not observed in full.