Employment Equality Law Update

Equality Commission FOR NORTHERN IRELAND

Labour Relations AGENCY

Keeping you up-to-date with developments in employment and equality law

Welcome to the Fifth edition of the joint Equality Commission and Labour Relations Agency Newsletter. In this edition we will cover some of the key issues that are likely to affect or be of interest to you, our readers, in relation to what is happening in the field of employment and equality law from a local Northern Ireland perspective.

We will examine how the recently enacted Work and Families Act (Northern Ireland) 2015 is likely to be implemented and how it will impact upon employers and employees. We will also look at the recent decision on how Holiday Pay should be calculated, before we move on to examine the implications of recent tribunal decisions.

We will discuss the likely content of the pending Employment Bill, which we know employers are following with great interest.

Finally, we will explore a new pilot initiative of the Commission's i.e. the Race Equality Academy which was developed in response to employer feedback, arising from our May 2014 Conference on migrant workers.

As always, we are very interested in the views of our readers and are inviting you to submit any questions relating to equality or employment law that you might have which you would like us to answer. We will then seek to publish the answers to these questions in the next Edition.

Finally, we are very interested to receive feedback on our newsletter and would welcome your comments, both positive and negative as these help us to refine the newsletter to better meet the needs of employers. Our contact details are on the back page of the Newsletter.

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The pace of employment law reform in Northern Ireland

Perhaps the best way to describe the pace of reform of employment law in Northern Ireland is to liken it to a screening of the ever popular television show "Strictly Come Dancing" in that there is an element of "quick, quick, slow" to coin the well worn dance related phrase.

In terms of the "quick, quick" the areas of reform relate to the recently enacted Work and Families Act (Northern Ireland) 2015 and some significant changes as a result of case law decisions. In terms of "the slow" the areas of reform relate to the core aspects of the pending Employment Bill which will be derived from the recent employment law review in Northern Ireland.

It is little wonder that even Human Resource practitioners and employment lawyers get lost in the whirlwind of reform with many people simply asking "What is around the corner so that I can deal with that first?" To this extent, and in keeping with the *"Strictly Come Dancing"* theme, let us look at *"the quick"* first.

> The proposals also allow for partners of either the mother or the primary adopter to become more involved with antenatal care or in the stages leading up to an adoption, where that is what both people want.

"The quick" – Work and Families Act (NI) 2015

It would appear that Northern Ireland will fall into line with the rest of the UK regarding the provisions of this recently passed Act which essentially make provision for Shared Parental Leave and the extension of the right to request flexible working to all employees. The Act received Royal Assent on 8 January 2015 and is expected to come into operation in early April. The key points are -

- Employed mothers will continue to be entitled to 52 weeks of Maternity Leave and 39 weeks of statutory maternity pay or maternity allowance.
- If they choose to do so, an eligible mother can end her maternity leave early and, with her partner or the child's father, opt for Shared Parental Leave instead of Maternity Leave. If they both meet the qualifying requirements, they will need to decide how they want to divide their Shared Parental Leave and Pay entitlement.
- Paid Paternity Leave of two weeks will continue to be available to fathers and a mother's or adopter's partner, however Additional Paternity Leave will be removed (Shared Parental Leave will replace it).

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- Adopters will have the same rights as other parents to Shared Parental leave and pay.

Shared Parental Leave will enable eligible mothers, fathers, partners and adopters to choose how to share time off work after their child is born or placed for adoption. This could mean that the mother or adopter shares some of the leave with her partner, perhaps returning to work for part of the time and then resuming leave at a later date.

It is designed to give parents more flexibility in how to share the care of their child in the first year following birth or adoption. Parents will be able to share a pot of leave, and can decide to be off work at the same time and/or take it in turns to have periods of leave to look after the child.

The Department for Employment and Learning, in the public consultation, stated that these proposed new arrangements are designed to provide working parents with greater flexibility in determining how best to share the statutory leave and pay entitlements associated with the birth or adoption of a child. The key purpose of this review is to create a system of shared parental leave that will enable mothers to retain a closer connection to the workplace and also allow partners to take a more active role in caring for and bonding with a new baby or adopted child during the crucial first year following birth or adoption. The proposals also allow for partners of either the mother or the primary adopter to become more involved with

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antenatal care or in the stages leading up to an adoption, where that is what both people want.

The second key aspect of the Work and Families Act (NI) is to broaden very significantly the existing right to request flexible working. Currently the right is available to a wide range of working parents and carers; however the Act extends the right to request flexible working to all employees who meet certain eligibility criteria (such as length of service with their employer) using the existing statutory request system that has been in place since 2002. It is expected that this part of the Act will become operational in April 2015.

The core rights contained in the Work and Families Act (NI) can be viewed in two ways, firstly as general concepts shared parental leave and the extension of the right to request flexible working are quite straightforward and secondly the devil will be in the detail regarding the procedural complexity of things such as making requests, curtailing leave and negotiating non-binding leave arrangements.

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The Department for Employment and Learning are hoping to have helpful guidance in place early in 2015 to assist employers and employees before the law comes into operation in April 2015.

"The quick" – recent case decision (How do you currently calculate holiday pay?)

On 04/11/2014 the Employment Appeal Tribunal (which has highly persuasive value on industrial tribunals in Northern Ireland) handed down its judgment regarding the case of Bear Scotland Ltd v Fulton (and other joined cases). Before this ruling, voluntary overtime was not typically included when calculating a worker's rate of holiday pay.

The judgment has clarified that:

- Workers should have voluntary and compulsory overtime taken into account when they are being paid annual leave.
- Anybody making a claim must have had an underpayment for holiday pay that has taken place within three months of lodging an employment tribunal claim.
- If a claim involves a series of underpayments, any claims for the earlier underpayments will fail if there has been a break of more than three months between such underpayments.

The judgment only applies to 4 weeks of a worker's annual leave - this is the basic amount of leave required under the EU Working Time Directive. It does not apply to the further 1.6 weeks of additional annual leave required under the UK Working Time Regulations, or to any further contractually enhanced annual leave allowances.

It is important for any employer or worker who believes they may in some way be affected by this judgment to keep in mind that the Employment Appeal Tribunal has given permission for this judgment to be appealed to the Court Of Appeal, which means that any final decision is likely to be some time away (at the time of writing, an appeal has not yet been lodged, but is expected to be).

In the meantime, employers, workers and trade unions are encouraged to discuss any concerns arising from this judgment with each other with a view to seeking agreement on any temporary measures or policy changes they feel may be necessary.

This case has been anticipated for some time and although the decision gives a degree of clarity about aspects of holiday pay calculation it does not give the definitive answer that either employers or employees would have hoped for.

The Labour Relations Agency will continue monitoring this situation and will update our readers as soon as we can.

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"The slow" – The Employment Law Review (NI) and the pending Employment Bill

It was only late in 2014 that we were beginning to get a better idea of what parts of the employment law review are actually going to stay the same, change or have question mark hanging over them.

The Employment Law Review in Northern Ireland came on the back of announcements made by the GB Business Secretary for the coalition government back in November 2011 which announced reforms in a wide variety of issues under the banner of employment law. There were so many headings for reform that it became difficult to keep track of all of them as there were separate consultations and calls for evidence on each of them.

But given that employment law is a matter devolved to the Northern Ireland Assembly it was not simply going to be a case of replicating what happens in GB rather of asking key stakeholders what the best approach for Northern Ireland was, for example, do nothing, mirror the reforms in GB, or tailor solutions to fit the needs of Northern Ireland.

Although nothing can be completely confirmed at this stage regarding the likely contents of the pending Employment Bill the table below may give us some idea –

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What is likely to stay the same?	What is likely to change?	What remains unknown?
• Unfair dismissal qualification period to remain at 1 year	• Early Conciliation (Mandatory routing through LRA)	• TUPE reforms (as per GB 2014?)
• Unfair dismissal Compensation limit – still based on statutory cap	• Collective redundancy consultation period and calculation (down to 45 days)	• Working Time (as per recent case decisions such as "Bear"?)
• The law on Compromise agreements (to stay as is)	• Public Interest Disclosure (whistle-blowing 4 reforms)	• Zero hours contracts (to address exclusively clauses only?)

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By 2016 Northern Ireland should have new legislation on early conciliation of disputes seemingly destined for industrial tribunal, new thresholds for collective redundancy consultation requirements and reforms to the Public Interest Disclosure (NI) Order 1999 (also known as the Whistle-blowing law).

At the time of writing there is still a degree of uncertainty about any future legislation on issues such as working time regulations whereupon the case law decisions make parts of the regulations seem defunct, for example, the automatic carry-over of 4 weeks paid holiday leave into a new holiday year for a worker who has been off on long term sick leave and did not exercise the right before the end of the previous holiday year.

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There is also uncertainty over the extent to which zero hours contracts will be regulated by Northern Ireland specific legislation or whether it will only cover things such as banning exclusivity clauses - where an employer has someone on a zero hours contract with no guarantee of hours but restricts that individual via a clause in the contract to work solely for that employer.

Although the law on the Transfer of Undertakings – Protection of Employment (TUPE) has changed in GB since January 2014 there is still no indication that Northern Ireland will follow suit with the same reforms and this area of law, despite having gone out to consultation, has moved on little during 2014

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Discrimination – Some recent case law decisions

Recently, there have been some interesting case law decisions from the employment tribunals and we will discuss a few of these below. A couple of these feature poor employment practices and highlight the importance of following good practice of the kinds recommended by the Equality Commission.

1. Seldon –v- Clarkson Wright & Jakes (No.2)

ISSUES

(a) Compulsory retirement ages
(b) Justifying direct age discrimination

In the first and third editions of this newsletter, in 2011 and 2013 respectively, we included articles on the subject of compulsory retirement ages. The articles focused on the long-running saga of *Seldon –v- Clarkson Wright & Jakes*; a case concerning a solicitor who was forced to retire by the other partners in his law firm when he reached the age of 65 years.

Seldon is the leading case, having reached the UK Supreme Court, on the topic of justifying direct age discrimination. That court focused on the first important aspect of the justification defence; i.e. the need for an employer to have a *legitimate aim* before applying an age discriminatory policy or practice. The court noted that for this purpose an employer's aim will only be deemed to be legitimate if it corresponds to a *social policy* of the State.

The Supreme Court did not answer the second important aspect of the justification defence; i.e. whether the firm's legitimate aims in this particular case where *proportionate* (i.e. whether there was a fair balance between the firm's needs and the policy's discriminatory impact on Mr. Seldon). The case was remitted to an employment tribunal to consider that crucial question.

We can now report on the second act of this story; in a case that is known as *Seldon –v- Clarkson Wright & Jakes (No.2)*. It seems now to have reached a conclusion; with a finding that the firm's decision was proportionate and thus lawful.

The employment tribunal to which the case was remitted held that the firm's stated aims, for its policy of succession planning and of creating partnership opportunities in order to encourage younger associate solicitors to stay, justified setting a compulsory retirement age of 65 years. The tribunal noted:

".....An important factor for the ambitious associates is whether they have a realistic prospect of advancement to partnership and in doing so the associates will look to see when such opportunities will arise upon the retirement of the partner or partners in their department."

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But, the matter did not end there. Mr. Seldon lodged an unsuccessful appeal to the Employment Appeal Tribunal ("EAT"). His main argument was that the firm's aims would have been served just as well if it had applied a higher retirement age, such as 68 or 70 years. In his view that option was to be preferred because it was less age discriminatory. In this he was seeking to apply a well-known principle that a discriminatory policy will not be deemed to be *proportionate* if there are other available policies, which are less discriminatory, that will also achieve the employer's aims. It is a principle that is often cited in cases of indirect religious, sex and race discrimination where a justification defence is also available.

The EAT rejected the argument on this occasion because if it was held to be strictly and literally true in age discrimination cases then no "bright line" compulsory retirement age could ever be lawful as it would always be possible to argue that some later age would be less age discriminatory and should be chosen instead.

This decision does not mean that a compulsory retirement age set at 65 years by an employer will necessarily be justified and lawful in every case. Each situation will be fact specific and will depend on the particular circumstances and needs of each employer.

2. Uddin –v- Westex Carpets Limited

ISSUES

(a) failure to follow good practice in a recruitment and selection exercise
(b) failure to adopt an open and transparent selection process
(c) inferences of race discrimination drawn

Twenty-five years ago, the first of the statutory equality codes of practice, the *Fair Employment Code of Practice*, was published. During the 1990s it was followed by similar statutory codes of practice which focused on promoting equality of opportunity in employment on grounds of sex, race and disability respectively. Later, these codes of practice were supplemented by similar guides focusing on newer issues introduced by more recent equality laws, such as sexual orientation and age.

Amongst other things, these codes and guides advised employers *to adopt systematic and objective recruitment and promotion arrangements*. The common and key motifs of these arrangements are fairly simple to state; they are: (a) give advance consideration to what the needs of the job are; (b) set objectively justified selection criteria aimed at finding the best person for the job; (c) openly advertise the vacancies so that as many eligible candidates as possible are given an opportunity to apply; (d) fairly and consistently apply the procedures and

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the selection criteria; and finally, but crucially, (e) make reasonable adjustments, where necessary, to accommodate the needs of people who have disabilities.

The basic rules of good practice laid down in the first codes of practice remain in operation and for a long time they have wisely guided employers and continue to do so.

Strictly speaking, of course, these rules of good practice are not rules of law and a failure to follow them is not in itself unlawful. But, failures to follow them, especially where these are wholesale and deliberate can have adverse legal consequences for employers who have been accused of having discriminated against a job applicant or employee.

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Yet despite this guidance from the employment tribunals down the years, some employers still fail to heed the warnings. A very recent example of this comes from a race discrimination case from England, *Uddin –v Westex Carpets Limited*.

THE FACTS AND FINDINGS

The complainant, Mr. Uddin, a man of South Asian ethnicity, had worked for over 20 years as the night-shift manager in Westex Carpets Limited, a carpet manufacturer. When a more senior manager's post became vacant, following the previous holder's retirement, Mr. Uddin hoped to have an opportunity to apply for the job.

However, the vacancy was not advertised. Instead, another employee, a white man, was appointed without there appearing to have been any formal selection process. The person who made the decision was the managing director, Mr. Snee, who is another white man.

Mr. Snee claimed that he did carry out a selection exercise; albeit that he appears to have done this privately and without having invited any formal applications for the post and without carrying-out any interviews. He claimed that he looked for *"the best man for the job"* and had made his final choice *"for sound business reasons"*.

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The employment tribunal found that Mr. Snee had significantly failed to follow the good practice recommendations of the relevant code of practice. The tribunal noted that there was also no evidence that Mr. Snee had made any effort to check Mr. Uddin's skills and qualifications. It also noted that in a workforce which was 50% non-white, only one manager (Mr. Uddin) amongst a total of 22 managers was non-white. Taken together, this evidence allowed the tribunal to draw an inference of race discrimination which the employer was unable to refute.

One of Mr. Snee's lines of defence was that although he did not follow the relevant code of practice, he did, however, follow the firm's own equal opportunities policy. He claimed, rightly, that this policy did not state that all posts needed to be advertised. The employment tribunal was not impressed by this assertion, especially given the racial imbalance in the management grades in this particular workforce. Indeed, the tribunal also held that given that imbalance the failure to advertise the senior manager's vacancy here amounted to indirect race discrimination for it placed non-white persons at a substantial disadvantage compared to white persons and could not be justified.

Clearly, therefore, it is not sufficient for employers to have their own equal opportunities policies and for managers to follow them; although that is hugely important too. But, as a preliminary, the policies should reflect the contents of the equality codes of practice or other guidance issued by the Equality Commission. Our most recent and comprehensive good practice guide for employers, updating and consolidating the older codes of practice and guides, can now be found in our publication: *A Unified Guide to Promoting Equal Opportunities in Employment [2009]*, Chapter 10 of which deals with recruitment and selection procedures. We have also published a *Model Recruitment & Selection Policy* which employers may use to help them to draft their own policy. This and other model policies are also available to download from our website.

3. Ishaq –v- London Borough of Ealing

ISSUES

(a) racial harassment
(b) failure to provide effective equality training to staff
(c) hazards of online or computerised training modules
(d) failure to deal effectively with complaints from contract workers

The equality codes of practice and guides did not only make recommendations about recruitment and selection practices. They also have very significant things to say about

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what employers should do to ensure that their workplaces are safe and welcoming environments in which employees and managers treat each other with dignity and respect and avoid behaviour that amounts to harassment.

The essential message is that employers should promote *"good and harmonious working environments"*. The key motifs of this are: (a) set appropriate standards of behaviour (usually by way of sound written policies and procedures); (b) ensure that every worker knows what good behaviour is expected of him or her (usually by way of effective communications and training); (c) have managers who lead by good example; (d) deal seriously and properly with complaints and; (e) take disciplinary action against wrongdoers, where appropriate.

The legal benefits of maintaining a good and harmonious working environment are threefold: (a) it will greatly reduce the risk that incidents of harassment will occur in the first place and, thus, reduce the risk of complaints, (b) if any incidents do unfortunately occur it will give the employer the opportunity to deal effectively with complaints and (c) if the victims bring complaints to an employment tribunal, it may provide the conscientious employer with a possible defence (i.e. the so-called *"reasonably practicable steps defence"*) that may help that employer to avoid legal liability.

Again, these are old rules of good practice and down the years the employment tribunals have regularly warned employers about the dangers of failing to follow them. Another very recent example of this comes from another race discrimination case from England, *Ishaq –v- London Borough of Ealing*.

THE FACTS AND FINDINGS

The complainant, Mr. Ishaq, is of Pakistani national origin. He is a contract worker, working for a firm that supplied him to Ealing Borough Council, to work as a parking enforcement officer. His supervisor was an officer of the Council, a white English man named Mr. Coultas-Pitman.

One day Mr. Ishaq and two other co-workers, who are also of South Asian ethnicity, were met by Mr. Coultas-Pitman. It was alleged that the latter addressed the three men with the words: *"You three Asian monkeys."* The three workers complained under the Council's internal complaints procedure but their allegation was rejected. The officer of the Council who investigated the complaint thought that the evidence was inconclusive and she recommended that no further action be taken. Mr. Ishaq was not satisfied with that outcome and he lodged a racial discrimination complaint in the employment tribunal.

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Although Mr. Coultas-Pitman denied that he uttered the word "Asian", he did eventually admit to calling the men *"three wise monkeys"*. But, his various statements during the history of the matter were not consistent throughout and the tribunal ultimately preferred the evidence of the three workers. Thus, the tribunal held that the incident did occur as Mr. Ishaq alleged. Consequently, it necessarily followed that the tribunal would make a finding that Mr. Ishaq had been subjected to an act of unlawful racial harassment.

The remaining legal question was whether the Council could persuade the tribunal that it had taken reasonably practicable steps to prevent the incident occurring in order to establish a legal defence. This was always going to be an uphill task for the Council given that Mr. Coultas-Pitman was a supervisor when the principles underlying the *"reasonably practicable steps defence"* normally include the expectation that managers and supervisors will lead by good example and will not themselves engage in harassing behaviour.

The Council based its argument on the fact that it had provided equality training to Mr. Coultas-Pitman. Apparently, this had been delivered to him in the form of an online computer module. Unfortunately for the Council, Mr. Coultas-Pitman informed the tribunal that he could not remember taking the course. He added: *"You complete* [such online training modules] *as quickly as possible and one just rolls into another."*

> **The essential message is that employers should promote good and harmonious working environments.**

The tribunal was not impressed. It found that there had been a *"woeful failure"* to provide Mr. Coultas-Pitman with effective training, especially in the context that Ealing Borough Council has a widely ethnic diverse workforce, including its contract workers. The tribunal thought that if Mr. Coultas-Pitman had received proper training he would have been aware of the racist nature of his comment. If a training module makes so little impression that its participants cannot even remember sitting through it and cannot distinguish it from others that they have taken, then, clearly it is not an effective method of communicating ideas about equality, diversity and good behaviour to workers.

The tribunal formally recommended that the Council should introduce a rolling programme of mandatory equality and diversity training for all of its staff, initially within 6 months of becoming an employee and updating with refresher sessions at least every 3 years. Training could be done in a traditional face-to-face way or by computer or online but it must include *"a system of verifying and demonstrating the individual's*

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conscientious participation". Finally, the tribunal added that managers should be prioritised for enrolment on the new training programme.

The tribunal was also unhappy about the internal complaints and investigatory procedures applied by the Council. Although the three complainants were eventually able to lodge an internal grievance, this had not been made easy for them. The Council's officers did not initially know how to handle the complaint, nor did they know which policy and procedure to apply. This was because the men were contract workers.

The tribunal stated that for an employer that uses many contract workers, *"it is profoundly unsatisfactory that there is no explicit procedural provision for potential complaints of discrimination made by individual contract workers against the [Council] and/or its employees."* The tribunal found that contract workers fell between internal staff grievance procedures and provisions under commercial contract between the Council and the commercial service provider (who employed the contract workers), leading to a hybrid process that contributed to the *"deeply flawed investigations and outcome"* of these particular complaints.

The tribunal further recommended that the Council develop *"an explicit written procedural mechanism for receiving, investigating and dealing with complaints of discrimination made by contract workers against members of the [Council's] staff and/or the organisation itself, including provision of an appeal."* It also recommended that the Council consider extending the commitments in its existing equal opportunities policies to its contract workers.

Both the Equality Commission and the Labour Relations Agency provide a number of training courses on the various issues raised by this case, including *Introduction to Equality*, *Bullying & Harassment* and *Conducting Employment Investigations*. Further information about these and our other courses can be found on our websites. Contact details can be found on the back page of this newsletter.

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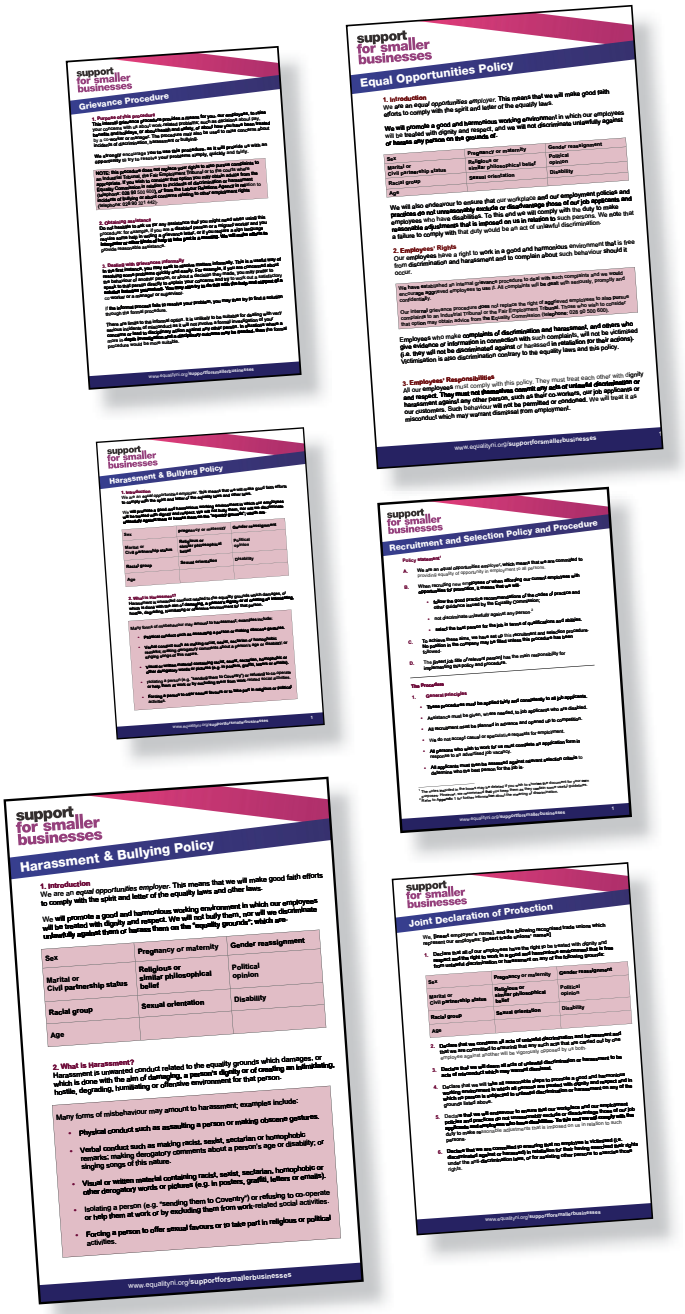
Support for Small and Medium Enterprises (SMEs)-Update

The Commission is in the process of developing template equality policies for SMEs, with 5 developed to date. These policies cover equal opportunities, recruitment and selection, harassment and bullying, grievance and a joint declaration of protection.

As part of our Employer Training Programme, the Commission will be running information sessions for SMEs at which we will provide advice to SMEs on how best to develop their own policies, using the Commission's templates. Our first session was held on 29 January 2015 and was highly regarded by the attendees. We intend to hold further sessions in the near future. The dates for these will be published in our future Employer Training programmes.



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Making Equality Work for Migrant Workers in Northern Ireland-Race Equality Academy

On 21st May 2014 the Equality Commission hosted a major conference for employers aimed at promoting equality for migrant workers in employment and service provision in Northern Ireland. The event was attended by 100 public and private sector employers who were given advice and information on their obligations towards migrant workers and the promotion of good practice in this area.

A number of employers expressed an interest in developing good practice in their organisations when employing and providing services to migrant workers. As a result the Commission has developed a 'Pilot Race Equality Academy' to assist them in doing this. This involves the Commission working with a small number of employers, approximately 10, and assisting them to develop a race equality plan following a programme of intensive training and support.

Dr Michael Wardlow, Chief Commissioner, ECNI; junior Minister Ms Jennifer McCann MLA; Dr Ruth McAreavey, Queen's University Belfast, Ms Jenny Irwin, RSM McClure Watters Consulting Ltd; junior Minister Mr. Jonathan Bell MLA all of whom attended the Commission's Conference on 21st May 2014.

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Two initial Academy training sessions were held on 12th November and 26th November 2014. The first session focused on:

- An overview of positive action provisions in relation to the employment of migrant workers.
- Consideration of the provision of goods, facilities and services for migrants – what the law requires.
- A summary of relevant and current case law.

The second session focused on:

- The development of a practical and flexible framework to assess employers' current policies in relation to race and migrant workers.
- Using equality indicators to identify policy gaps in employers' current policies.
- The development of an action plan to address these issues.

This Initiative is currently being evaluated however, we are currently in the process of developing a Disability Equality Academy and would be pleased to hear from employers who might be interested in participating in such an initiative. For further information please contact Una Wilson of the Advisory Services Team on 02890 500600 or at uwilson@equalityni.org.

Untapped potential: Unlocking the ethnic minority contribution to the NI economy.

At the Conference Dr Ruth McAreavey of Queen's University launched a recent report conducted with the Joseph Rowentree Foundation entitled Untapped Potential: Unlocking the ethnic minority contribution to the NI Economy. Ruth explains:

'Following a period of unprecedented inward migration, our **recent research** conducted on behalf of the Joseph Rowntree Foundation examines economic and social mobility among ethnic minority groups in Northern Ireland. The study finds that Northern Ireland's economy is wasting the potential of some of its most skilled and motivated workers. It shows that routes out of poverty are primarily based on participation and progression within the labour market. Involvement in the labour market is experienced differently for different individuals: the 2011 Census reveals large differences for various ethnic minority groups. Recent arrivals from Eastern Europe have high levels of economic activity and labour market participation, but this is mostly in lower paying sectors of employment. The worst outcomes relating to economic activity, labour market participation, education and health were among the Irish Traveller community. Indian and Filipino communities were mostly represented in higher paying professional sectors.

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The study used interviews and focus groups to talk to migrant employees and to organisations with considerable numbers of minority ethnic employees. Positive and negative experiences of the labour market were reported, with both formal and informal processes playing an important role. For instance some employers had developed a 'buddy' scheme to help new arrivals settle into their job and into Northern Ireland more widely. Other companies held jobs open on a long-term basis following periods of serious illness.

However, poor practice also existed with indications of differential, often unfair, treatment for migrant workers. Also, focus groups highlighted a perception that 'ethnic markers' such as skin colour or clothing played a significant role in restricting access to the labour market. This was further hampered by migrants' unfamiliarity with formal recruitment practices and a lack of networks. Both employers and employees stressed the importance of English language skills in supporting promotion and progression within the labour market.

The research discovered a lack of data on the extent to which available government support is used by, or successfully delivering outcomes for, individuals from ethnic minority backgrounds. It recommends that the Northern Ireland Executive shows leadership by demanding that employers treat people fairly and reviewing its own services to make sure that people from all ethnic groups are getting the support they need to improve their circumstances.'

The research was conducted by Jenny Irwin, RSM McClure Watters and Dr. Ruth McAreavey, Queen's University Belfast for the Joseph Rowntree Foundation. The data was collected during March to July 2013.'

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Training and Information

One way that the Commission and Agency seek to keep employers and service providers updated on developments in the areas of employment and equality law is through the provision of training and information sessions. In some areas such as bullying and harassment or recruitment and selection the training is provided jointly by both organisations.

The Agency provides e*ssential employment related information sessions which last one hour and cover a range of themes including;* Zero Hours Contracts, Employment Law – NI and GB, the differences, Alcohol and Drugs Misuse at Work, Variation of a Contract and Whistle-Blowing. You can book a place at any of these sessions online at: http://www.lra.org.uk/index/workshops_and_seminars/briefings.htm

Details of the Commission's current Employer Training Programme can be found on our website at: www.equalityni.org/employers/employer training programme

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