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Northern Irish employment law: overview

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This note provides an overview of the key areas of employment law in Northern Ireland and highlights some major differences between employment law in Northern Ireland and England and Wales.

Introduction

This note provides a general guide to the main differences between Northern Irish and English employment law.

Employment law is a devolved matter, with the Northern Ireland Assembly and Ministers responsible for its development. In Northern Ireland, employment law has four main sources: European law (for now), some UK legislation from the Westminster Parliament, legislation from the Northern Ireland Assembly and common law.

Until about fifteen years ago, most statutory employment rights and obligations were largely the same in Northern Ireland as in England and Wales. However, there is now substantial divergence and this is likely to increase, partly because of a wish to find local solutions and partly because changes to the employment laws in Great Britain are often not approved by ministers and then the Northern Ireland Assembly to become policy.

Responsibility for employment law in Northern Ireland is complicated. The Department for the Economy is responsible for unfair dismissal and labour relations matters. The Executive Office, formerly the Office of the First Minister and Deputy First Minister, has responsibility for equality issues, and equality proposals cannot be put forward without both Ministers agreeing (which often does not happen). Gender, ethnicity and disability Pay Gap reporting are the responsibility of The Department of Communities. Some aspects of tribunal procedure are the responsibility of the Department of Justice for Northern Ireland.

Most proposals for change need to go through the different political parties that make up the Northern Ireland Executive, (when up and running), then go to a consultation (usually involving an Equality Impact Assessment (EQIA) under section 75 of the Northern Ireland Act 1998) and then through the Assembly process, including review by the relevant committees. This is rarely a speedy process and, apart from purely technical changes, even if introduced, proposals will often come into effect significantly later than in Great Britain.

Many of the differences between British and Northern Irish law are a result of changes in Great Britain not having been enacted in Northern Ireland, so leaving it with the old position.

Areas where Northern Irish employment law is substantially different to that in Great Britain include:

- Fair Employment and Treatment (Northern Ireland) Order 1998 (Fair Employment Order): There is a wholly different and unique requirement on employers of more than 10 people in Northern Ireland to register with the Equality Commission for Northern Ireland (see Glossary), provide annual returns with information about the composition of the workforce, and carry out periodic reviews. (See Discrimination on grounds of religious belief or political opinion).
- The qualifying period of employment before an employee can bring a claim of unfair dismissal remains one year, it was not increased to two years when it changed in Great Britain.
- Statutory dismissal and disciplinary procedures remain in force under the Employment Rights (Northern Ireland) Order 1996 (see Statutory dispute resolution procedures).
- The statutory grievance procedures were replaced in 2011 with a Code of Practice issued by the Labour Relations Agency (LRA). This Code is not the same as the Acas Code of Practice on Disciplinary and Grievance Procedures (Acas Code), and is somewhat more complicated. For the full Code, see LRA: Code of Practice on disciplinary and grievance procedures.
- The Equality Act 2010 (EqA 2010) does not apply to Northern Ireland. The principal practical effect is that most statutory references remain to old

legislation, whether UK legislation such as the Disability Discrimination Act 1995 (as amended) or the Northern Ireland equivalent of old legislation such as the Sex Discrimination (Northern Ireland) Order 1976 or the Race Relations (Northern Ireland) Order 1997. This affects the drafting of documents.

- Section 75 of the Northern Ireland Act 1998 sets out equality duties on public authorities in Northern Ireland with detailed codes of guidance and a mechanism for complaint to the Equality Commission (see Equality duties of public authorities).

In the absence of the Equality Act 2010 and major changes, minor amendments are often made by way of statutory rules covering Northern Ireland only. Therefore, it is important to use an up-to-date version of any piece of legislation; for example, the Sex Discrimination (Northern Ireland) Order 1976, which has gone through substantial amendments since it was passed. The LRA website has a helpful section that sets out by year many (although not all) statutory rules relating to Northern Ireland employment law (for more information, see LRA: Employment Legislation).

Key differences between NI and other UK law

- The qualifying period for claiming unfair dismissal remains one year in Northern Ireland.
- The statutory disciplinary procedures provide for an automatically unfair dismissal if breached, and an uplift on awards of between 10% and 50%, covering almost all terminations including redundancy and expiry of fixed-term contracts.
- The maximum amount of a week's pay, and of a compensatory award is slightly higher than in Great Britain, which affects statutory redundancy pay calculations as well as tribunal awards. From 6 April 2019 the maximum amount of a week's pay is £547, and the maximum compensatory award is £86,614.
- There is no cap of one year's pay on compensation for unfair dismissal.
- The changes made to TUPE in 2014 in Great Britain do not apply in Northern Ireland.
- Where 100 or more redundancies are proposed, the minimum consultation period remains 90 days.
- The Work and Families Act (Northern Ireland) 2015 implements similar arrangements for shared parental leave and pay to those in Great Britain.
- The right to request flexible working remains covered by the statutory procedure and retains the eight reasons for refusing a request. Importantly the requirement remains to hold a meeting within 28 days, give reasons in writing within 14 days, then an appeal within 14 days. This contrasts with the three-month overall period in Great Britain. There is no provision for extension of time by agreement.
- The provisions relating to protected conversations and settlement agreements, and the Acas Code, have not been implemented in Northern Ireland, which retains the law on compromise agreements that previously applied in Great Britain.
- The Equality Act 2010 does not apply in Northern Ireland, which retains its existing legislation on discrimination and equal pay. This means that *London Borough of Lewisham v Malcolm [2008] UKHL 43* remains good law in Northern Ireland, and particular care needs to be taken in respect of disability tribunal claims. (See *Legal update, Disability-related discrimination: House of Lords overrule Clark v Novacold* for commentary on the *Malcolm* decision.)
- Northern Ireland has not introduced the amendment exempting Limited Term Contract workers (fixed term contracts) from inclusion in the threshold of 20 proposed redundancies which triggers the requirement for collective consultation. This means that the decision of the Supreme Court in *University College Union v University of Stirling [2015] UKSC 26* remains binding in Northern Ireland (see Legal update, Supreme Court decides claim relating to fixed-term contracts and collective consultation).
- There is no provision for employee-shareholder status, and it is possible that such an agreement made in Great Britain would not apply in Northern Ireland.
- The two-year backstop limit on holiday pay and other unlawful deduction claims introduced in Great Britain by the Deduction from Wages (Limitation) Regulations 2014 does not apply in Northern Ireland and will not be introduced. Unions and advisers are increasingly aware of this and there are

significant claims in the Tribunal system, with potential for re-calculation of, for example, holiday pay stretching back many years. In *Chief Constable of Northern Ireland v Agnew [2019] NICA 32*, the Northern Ireland Court of Appeal has delivered a judgment which upholds the earlier decision of the Vice President and doubts the conclusions reached by the EAT on holiday pay calculations in a number of respects (see Legal update, Series of holiday pay deductions not broken by three-month gap (Northern Ireland Court of Appeal)). Leave to appeal to the Supreme Court is being sought, as this has major implications for, particularly, the public sector, given that it could mean that holiday claims in Northern Ireland may date back to 1998.

- The *Employment (Northern Ireland) Act 2016* provides for early conciliation through the LRA prior to proceedings, allows for changes to Tribunal rules, introduces a public interest requirement for disclosures and for regulations governing zero hours contracts and gender pay gap and ethnicity and disability reporting. The following parts of the Act, relating to whistleblowing, came into force on 1 October 2017:
  - Sections 13 to 17; and
  - Section 27 and schedule 3 only in respect of repeals to the Employment Rights (Northern Ireland) Order 1996.
- Early Conciliation was introduced, together with the new Tribunal Rules, from 27 January 2020. Claimants need to be clear that they must now obtain the Early Conciliation Certificate, from the Labour Relations Agency. A certificate from ACAS will not count.

Legislation comprises:

- The Industrial Tribunals and Fair Employment Tribunal (Constitution and Rules of Procedure) Regulations (Northern Ireland) 2020.
- The Employment Act (Northern Ireland) 2016 (Commencement No. 3 Order (Northern Ireland) 2020.
- The Industrial Tribunals and Fair Employment Tribunal (Early Conciliation: Exemptions and Rules of Procedure) Regulations (Northern Ireland) 2020.
- The Industrial Tribunals (1996 Order) (Application of Conciliation Provisions) Order (Northern Ireland) 2020.
- The Transfer of Undertakings and Service Provision Change (Protection of Employment) (Amendment) Regulations (Northern Ireland) 2020.
- The Fair Employment Tribunal (Rules of Procedure) Regulations (Northern Ireland) 2005, as amended by the Fair Employment Tribunal (Rules of Procedure) (Amendment) Regulations (Northern Ireland) 2011 have been revoked with effect from 27 January 2020.
- The Industrial Tribunals (Constitution and Rules of Procedure) Regulations (Northern Ireland) 2005, as amended by the Industrial Tribunals (Constitution and Rules of Procedure) (Amendment) Regulations (Northern Ireland) 2011 have been revoked with effect from 27 January 2020.

- There is currently no requirement for Gender Pay Gap Reporting in NI.
- The Minister for the Economy has announced her intention that Parental Bereavement Leave and Pay should be introduced as soon as practicable. It is unclear whether, or when, recent GB measures, for example in relation to written statements at commencement for all workers, will be introduced in Northern Ireland.

Brexit

The UK left the EU, and ceased to be an EU member state, on 31 January 2020 (exit day).

Following the enactment on 23 January 2020 of the European Union (Withdrawal Agreement) Act 2020, and ratification by the UK and the EU of the withdrawal agreement, a post-Brexit transition period runs from exit day until 31 December 2020 (unless extended). For more information on the withdrawal agreement, see Practice note, Brexit: withdrawal agreement text.

During the transition period, the UK will be treated for most purposes as if it were still an EU member state, and most EU law (including as amended or supplemented) will continue to apply to the UK. For further information, see Practice note, UK law during the post-Brexit transition period: overview.

Therefore, Brexit is unlikely to lead to any change in EU-derived employment law in Northern Ireland during the transition period.

It is currently unclear what the position will be in Northern Ireland following the end of the transition period. This may depend on what arrangements (if any) can be agreed between the UK and the EU during the transition period. It appears that the result of Brexit may be further divergence from Great Britain. In particular, it appears that EU directives on discrimination and possibly working time and other employment-related issues may continue to apply in Northern Ireland, as may the decisions of the European Court of Justice. It seems clear that free movement of British and Irish nationals across the border should continue in line with arrangements pre-dating membership of the EU. However, at this stage it is only possible to monitor, rather than predict, developments.

Statutory dispute resolution procedures

The qualifying period required before an employee can bring a claim of unfair dismissal remains at one year in Northern Ireland, not two years as in Great Britain.

In Great Britain, the law relating to statutory dispute resolution procedures was repealed from 6 April 2009 and replaced with the Acas Code. However, in Northern Ireland, both the Employment (Northern Ireland) Order 2003 and the Employment (Northern Ireland) Order 2003 (Dispute Resolution) Regulations (Northern Ireland) 2004 remained in force at that time. The effect was to require the application of the minimum steps in relation to both disciplinary procedure and grievances. Without these steps, there was an automatically unfair dismissal or a claimant who had not raised a grievance could have any award reduced. In essence, the provisions mirrored those that were in force in England until 6 April 2009.

However, the Employment Act (Northern Ireland) 2011 came into force on 3 April 2011, which:

- Repeals the statutory grievance procedures and replaced them with the LRA's Code of Practice (see LRA: Code of Practice on disciplinary and grievance procedures).
- Removes the potential extension of time under the old procedures, meaning that unfair dismissal claims have a normal time limit of three months.
- Provides that if the employer or employee has not complied with the relevant Code of Practice or statutory dispute resolution procedure (as appropriate), then the tribunal may increase or decrease any award by between 10% up to 50% (rather than 25%, as in Great Britain).

For more information, see Legal update, Employment Act (Northern Ireland) 2011.

Effect of an appeal against dismissal

The House of Lords held that, where a dismissed employee appeals internally against their dismissal and is then reinstated, they are treated as having been suspended during the period between the dismissal and decision to reinstate them, a period for which they are entitled to back-pay (*Midlands Co-operative Society Ltd v Tipton [1986] ICR 192*). Unless there is a contractual provision to the contrary, the effect of a successful appeal will be to resurrect the original contract between employee and employer as if the dismissal never occurred; this has sometimes been referred to as a "vanishing dismissal" (see Practice note, Dismissals: the effect of internal appeals: Successful appeals: the vanishing dismissal).

In *McMaster v Antrim Borough Council [2010] NICA 45*, NICA held that a contract should be treated as reinstated where the employee has successfully appealed against their dismissal but the employer did not re-employ them. This case involved an unusual contractual right to appeal to a third party, but there is no reason why the same approach could not be applied to any contractual disciplinary procedure.

Discrimination

Equality Act 2010

The EqA 2010 does not extend to Northern Ireland. This means that Northern Ireland legislation that mirrored provisions of Acts such as the Sex Discrimination Act 1975 or the Race Relations Act 1976 remains in force. The Disability Discrimination Act 1995, which was repealed for the rest of Great Britain, remains in force for Northern Ireland.

The general effect is that the harmonisation, with accompanying changes in definitions of discrimination, does not apply in Northern Ireland. Similarly, some of the new provisions (for example, some provisions relating to goods and services on age grounds, pay secrecy clauses and pre-employment health questionnaires) also do not apply.

When in a Tribunal it is important to use the relevant NI statutory definitions. For more information on the EqA 2010, see Practice note, Discrimination in employment: overview.

Grounds of discrimination

Employees, job applicants and former employees in Northern Ireland have statutory protection against discrimination on the following grounds:

- Religious belief or political opinion (which can include a philosophical belief).
- Race.
- Sex (including pregnancy, marital or civil partner status or gender reassignment).
- Sexual orientation.
- Disability.
- Age.

Discrimination on grounds of religious belief or political opinion

Many of the cases in this area relate to differences involving Roman Catholics and Protestants, or political issues including trade union activity. The 2012 case of *Lennon v The Department for Regional Development FET/75/11* found discrimination in respect of the selection by a Minister of the head of a public body on grounds of religion. The case of *Fleck and Mackell v Northern Ireland Public Service Alliance 43/15FET* provides useful guidance on political discrimination.

Fair Employment and Treatment (Northern Ireland) Order 1998

The Fair Employment Order provides protection against unlawful discrimination on the grounds of religious belief or political opinion, or lack thereof. While following a familiar format in terms of the other discrimination legislation, the Fair Employment Order also contains a much wider set of provisions in relation to monitoring the religious belief or political opinions of individuals.

The Northern Ireland Court of Appeal has confirmed that, for the purposes of the Fair Employment Order, "political opinion" is not confined to the local nationalist or unionist politics, but extends to cover wider political opinions, such as labour or conservative opinions (*McKay v Northern Ireland Public Service Alliance and another [1994] NI 103*).

Troubles-related convictions

In the case of *McConkey and another v The Simon Community [2009] UKHL 24*, the House of Lords confirmed that political opinion does not include an opinion that condones the use of violence for political ends connected with the affairs of Northern Ireland (*article 2(4), Fair Employment Order*). The employer in *McConkey* was therefore entitled to refuse employment to the two individuals who had previously been convicted of violent acts in connection with paramilitary activity, as they fell outside the scope of the protection against discrimination.

As part of the discussions following on from the Belfast Agreement, the issue of troubles-related convictions has been under consideration. A working group produced guidance on how employers should deal with applications from those with troubles-related convictions. However, a change in the law requires agreement between the First Minister and the Deputy First Minister and may require cross-community consent within the Assembly. To date, this consent has not been forthcoming, so the legal position as set out in article 2(4) and approved by the House of Lords and the government guidance are not aligned. This issue can involve victims of the troubles or their families and has the potential to create substantial public relations issues.

Some of the cases involving trade unionists suggest that treating someone less favourably on the grounds of a belief (or lack of belief) in, for example, privatisation of public services, can amount to a political opinion for the purposes of the Fair Employment Order. Tribunal claims in respect of union activities are often brought as claims of discrimination on grounds of political belief, because there is no cap on the compensation limit, and awards for injury to feelings can be made.

The most noteworthy provisions of the Fair Employment Order for employers are set out below.

Registration with the Equality Commission

Where an employer in Northern Ireland employs more than ten employees in any one week, it must apply to register with the Equality Commission (*Article 48, Fair Employment Order*). Failure to do so within a period of one month is a criminal offence, which is punishable by a fine.

Where there is a change of ownership in a business already registered with the Equality Commission, for the new owner to become an employer in relation to the business, it must register the change of ownership within one month of the change (*Article 49*).

Annual monitoring

Each year, employers with more than ten full-time employees must prepare and serve on the Equality Commission a "monitoring return" in a prescribed form (*Article 52, Fair Employment Order*). The form requires detailed information about composition of the workforce, according to sex and perceived religion. This information is required in relation to employees, job applicants, appointees and apprentices. Certain public authorities and employers with more than 250 employees are required to submit additional information in relation to employees who have been promoted and those who have left the employer. In practice, many employers with fewer than 250 employees are advised

to keep details of those who have been promoted or left as they may be relevant to the periodic review required by Article 55 (see below). The requirements as to who must be included in a monitoring return are different, and narrower, than are likely to be used for gender pay gap reporting.

It is a criminal offence to fail to file a return or file an inaccurate return. The Fair Employment Order contains detailed regulations in relation to monitoring and the Equality Commission will, on request, provide advice to employers in relation to monitoring.

Periodic reviews by employers every three years

A registered employer must review the composition of those employed in and ceasing to be employed in its workforce at least once every three years (an Article 55 Review). It must review its employment practices for the purpose of determining whether members of the Roman Catholic and Protestant community receive (and are likely to continue to receive) fair participation in employment in its business. The employer must also determine whether affirmative action would be reasonable and appropriate.

The Article 55 Review must be submitted to the Equality Commission, which may give advice or directions on how the review should be carried out. The Equality Commission has published report structures for the review with guidance on completing the form. The Equality Commission can query reviews, which can lead to further enquiries and, if necessary, sanctions against non-compliant employers. For the Article 55 Review report structures, see Equality Commission: Fair employment and treatment: Resources.

The Equality Commission can serve notices on an employer specifying the progress that it expects the employer to make in relation to fair participation and the time period it has to do so. The notices stop short of recommending positive discrimination but may allow affirmative action. The Equality Commission recommends that, because of the complicated legal and technical issues associated with affirmative action, this action should only be taken after consultation with it.

Employers in default

In certain circumstances, the Equality Commission may serve a notice stating that the employer or connected persons are no longer qualified because it is in default of provisions. The effect of a notice is that the employers or connected persons may not be awarded government or public sector contracts or grants. This creates real penalties for employers when the Equality Commission is considering policies and investigations. Default includes:

- Failure to register.
- Conviction of a number of offences under the Fair Employment Order.
- Failure to provide monitoring information.
- Failure to comply with an order of the Fair Employment Tribunal (see Fair Employment Tribunal and Industrial Tribunals).

Definition of employee

The definition of "employee" for the purposes of the Fair Employment Order has been interpreted more widely than might be expected in England and Wales. For example, the House of Lords and NICA have held that, with respect to a solicitor's firm where the only partner is a sole practitioner, the Fair Employment Order will apply to any tenders by that firm as the partner would be personally contracted to do the work (*Kelly and Loughran v Northern Ireland Housing Executive [1998] IRLR 593*). Further, the Fair Employment Tribunal has ruled that a limited company applying for a publicly advertised tender from a local authority for the renovation of school playing fields can benefit from the protection of the Fair Employment Order.

Harassment: use of flags and emblems

Employers need to adjust their harassment policies to take account of the particular concerns in Northern Ireland surrounding use of flags and emblems such as union jacks, tricolours, lilies and so on. Some football shirts are associated with different sides of the Northern Irish community and wearing a Rangers or Celtic shirt at work has been found to amount to harassment. In *Brennan v Short Brothers plc (unreported), 1995 (FET)*, the President of the Fair Employment Tribunal stated that:

> "if football shirts 'have a sectarian significance' they are not simply 'football shirts' regardless of the intention with which they are worn. It has to be emphasised as often as is necessary that anything which identifies community allegiance needs justification in the workplace".

The Equality Duty on public authorities under the Northern Ireland Act 1998

The Fair Employment (Specification of Public Authorities) (Amendment) Orders (Northern Ireland) 2012 and 2016 set out the current list of bodies that are public authorities for the purposes of the Order, on which additional requirements in respect of monitoring are placed.

Impact on recruitment processes

The Equality Commission has published various Codes of Practice including:

- Disability Code of Practice: Employment and Occupation.
- Code of Practice on Equal Pay.
- Fair Employment in Northern Ireland: Code of Practice.
- Code of Practice for the elimination of Racial Discrimination and the promotion of equality of opportunity in employment.
- Code of Practice: Removing Sex Bias from Recruitment and Selection.
- A Unified Guide to Promoting Equal Opportunities in Employment

For more information, see Equality Commission: Key Guidance.

These Codes of Practice do not have direct force of law, but the Fair Employment Tribunal and the Industrial Tribunals are required to take account of the codes when determining if discrimination has taken place. Therefore, employers must take account of the guidance in the codes when recruiting. They should consider:

- Advertising appropriately to ensure that there is a wide pool of possible applicants that reflect the diversity of the population.
- Gathering information on applicants' community background and gender, as a minimum. Monitoring forms should be returned separately or removed when the application is received and not be seen by anyone with responsibility for selection.
- Using standard application forms, rather than CVs, to aid compliance with good practice by ensuring that those selecting applicants do not have access to irrelevant information which could be used in a discriminatory way (such as school or age).
- The composition of the shortlisting and selection panel to ensure, so far as is practicable, a balance of gender and community background.
- Ensuring that essential and desirable criteria are not discriminatory, either directly or indirectly, and that these criteria are identified at the start of the process and applied throughout.

Failure to take the codes of practice into account can lead to a tribunal drawing inferences if there is a complaint of discrimination.

Race discrimination

The Race Relations (Northern Ireland) Order 1997 (RRNIO 1997) applies similar provisions to those that apply in England and Wales under the EqA 2010 (see Practice note, Race discrimination). In relation to Northern Ireland, there are some particular points to note:

- "Racial group" specifically includes the Irish Traveller community.
- In line with UK cases, it is possible to discriminate as between English, Irish, Scottish and Welsh persons. As a result, there can be interaction between alleged unlawful discrimination on grounds of both race and religious belief or political opinion; sometimes the same events can lead to separate claims under both headings. For example, some sections of the Northern Irish community may have a particular attitude to an English person formerly in the armed forces now working in Northern Ireland or, on the other hand, towards someone from the Republic of Ireland.
- There is some discussion as to whether simply being from Northern Ireland can constitute an appropriate grouping covered by the RRNIO 1997, and as a result claims are sometimes brought under the Fair Employment Order involving religion or politics as well. Some Employment Judges have dealt with this by giving consideration to discrimination on the grounds of not being from Northern Ireland, for instance, English or Scottish.
- The case law on whether employees in Northern Ireland can allege less favourable treatment in by comparison with similar employees in Great Britain is complex, and may change.

Sexual orientation

The Civil Partnership Act 2004 applies to Northern Ireland exactly as it does to the rest of the UK. Northern Ireland has similar provisions to the EqA 2010 in relation to discrimination on the grounds of sexual orientation and there are no material differences (see Practice note, Sexual orientation discrimination (EqA 2010)).

There was no provision in Northern Ireland for same-sex marriage, which indirectly led to a case brought under the goods and services provisions when Ashers Bakery refused to bake a cake with a slogan supporting gay marriage. The Northern Ireland Court of Appeal held that this was unlawful discrimination. However, in *Lee v Ashers Baking Co Ltd [2018] UKSC 49*, the Supreme Court overturned this decision, holding that a bakery and its Christian owners had not directly discriminated on the grounds of sexual orientation, religious belief or political opinion when they refused to provide a cake bearing the words "Support Gay Marriage" to a gay customer. The reason for the treatment was held to be the message on the cake, not the personal characteristics of the customer on anyone associated with him. This was not a case where the reason for the treatment was indissociable from sexual orientation; support for gay marriage is not a proxy for being gay. For further information, see Legal update, Refusal to

bake cake with slogan supporting gay marriage was not discrimination (Supreme Court).

Since 13 January 2020, same-sex marriage is legal in Northern Ireland, following the Northern Ireland (Executive Formation etc.) Act 2019, passed in Westminster, and subsequent Regulations.

The Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006 prohibit discrimination on grounds of sexual orientation in:

- The provision of goods and services.
- The management or disposal of premises.
- The provision of education and the performance of public functions.

(See Legal update, Sexual orientation discrimination in goods and services: Northern Ireland regulations published.) These regulations have been further amended (see Legal update, Equality Act (Sexual Orientation) (Amendment No.2) Regulations (Northern Ireland) 2007).

Disability discrimination

The Disability Discrimination Act 1995 continues to apply to Northern Ireland, unlike the rest of the UK where it was repealed and replaced with the EqA 2010 (see Equality Act 2010 and Practice note, Disability discrimination (pre-October 2010)). As noted above, the main effect is that the decision in *Malcolm* relating to comparators continues to apply. In addition, care is needed in framing Tribunal applications, issues, etc. in order to ensure the Northern Ireland definitions are applicable.

Sex discrimination

The provisions of the Sex Discrimination (Northern Ireland) Order 1976 (as amended) and those of the Equal Pay Act (Northern Ireland) 1970 are similar to the provisions applicable in England and Wales as contained in the EqA 2010 in relation to sex discrimination and equal pay (see Practice notes, Sex discrimination and Equal pay: overview).

Gender, ethnicity and disability pay gap reporting

The Employment Act (Northern Ireland) 2016 provides for Regulations to require employers to publish information on the gender pay gap, and also some information on employees in relevant bands relating to ethnicity and disability. It is expected the regulations will apply to those employing more than 250 staff, but the regulations could provide for a lower figure. The Act requires employers to publish an action plan where there is a gender pay gap aimed at eliminating those differences, and provide the reports to employees and unions. The Act also provides that failure to make a report, or an inaccurate report, is a criminal offence punishable by a fine not exceeding £5,000 for each employee. The draft Regulations are awaited, which should provide more clarity around the assessment of Ethnicity and Disability.

Age discrimination

The provisions of the Employment Equality (Age) Regulations (Northern Ireland) 2006 are similar to those contained in the EqA 2010 in relation to age discrimination (see Practice note, Age discrimination).

The Employment Equality (Repeal of Retirement Age Provisions) Regulations (Northern Ireland) 2011 removed the default retirement age so employers can no longer apply a default retirement age without justification. For information on how this works, see Practice note, Discrimination in employment: retirement.

The Employment Equality (Age) (Amendment) Regulations (Northern Ireland) 2019 (SI 2019/92) come into effect on 15 May 2019. These amend the 2006 Regulations to increase the maximum age at which an occupational pension scheme can reduce a member's pension from age 65 to the member's state pension age. This will enable pension schemes to continue to rely on the exception in the 2006 Regulations which enables schemes to reduce a member's benefits by an amount not exceeding the relevant state retirement pension rate with effect from the date the member reaches their state pension age without infringing their age-related equality obligations.

A consultation on introducing regulations on age discrimination in respect of goods, facilities and services, similar to those introduced in Great Britain in 2012 has been completed, and possible legislation is awaited.

Equality duties of public authorities

In carrying out their functions relating to Northern Ireland, public authorities must have due regard to the need to promote equality of opportunity and good relations between persons of different religious beliefs and political opinions, race, age, and between disabled and non-disabled persons and persons with dependants and persons without (section 75, *Northern Ireland Act 1998*).

It is unlawful for a public authority to discriminate on grounds of religious belief or political opinion (section 76). If such discrimination is carried out, courts may award damages or grant an injunction. This provision applies to a wide range of public authorities including

universities, schools, hospital trusts and other organisations that might otherwise be thought to be private sector bodies.

Public authorities must submit "equality schemes" to the Equality Commission showing how they propose to fulfil their duties imposed by section 75 (Schedule 9). Where a change in policy is proposed, there is a requirement to carry out an EQIA and publicly consult on this. The Equality Commission has produced detailed guidelines on the conduct of EQIAs. An aggrieved person can complain to the Equality Commission about failure to follow the appropriate procedures. The implications of the equality duties extend beyond public authorities, because these authorities increasingly seek to impose the obligations on private sector employers providing services to them whether through private finance initiative or public-private partnership projects, or in contracts for the provision of professional or other services. For the full guidelines, see Equality Commission: Practical Guidance on Equality Impact Assessment.

Compensation in discrimination claims

The Court of Appeal has held that employment tribunals in England and Wales must apply the 10% *Simmons v Castle* uplift to discrimination compensation for injury to feelings and psychiatric injury (see *Legal update, Simmons v Castle uplift applies to employment tribunal discrimination awards*) and in Great Britain the Presidents of Tribunals have issued new guidance. Strictly, neither the case nor the guidance applies directly to Northern Ireland, and there is no equivalent NI Guidance. It is likely that, as with guidance on pensions loss calculation, the British guidance will be influential, but not all employment judges consider it is always appropriate to apply British guidance.

Holidays

The Working Time Regulations (Northern Ireland) 2016 replace and consolidate the various amendments made to this area of law since 1998, including in respect of holidays There is no substantive difference between the regulations in Northern Ireland and Great Britain. Importantly, there is no equivalent of the Deduction from Wages (Limitation) Regulations 2014 so, provided they satisfy the technical requirements, claims can extend back until 1998.

The Working Time Regulations (Northern Ireland) 1998 (NI WTR 1998) provided workers within Northern Ireland with a statutory right to paid holidays. This is similar to the right in Great Britain (see Practice note, Holidays). The Working Time (Amendment) Regulations (Northern Ireland) 2007 increased the statutory entitlement from 4 weeks to 4.8 weeks from 1 October 2007 and to 5.6 weeks from 1 April 2009.

Entitlement to paid leave is not additional to bank holidays and public holidays. There are currently 11 bank and public or local holidays in Northern Ireland:

- New Year's day.
- St Patrick's day (17 March).
- Good Friday.
- Easter Monday.
- Early May bank holiday.
- Spring bank holiday.
- 12 and 13 July.
- August bank holiday.
- Christmas day.
- Boxing day.

Although described as bank or public holidays, there is no statutory entitlement to paid leave on these dates, and, within Northern Ireland, there is a range of practice depending partly on the industry sector and partly on geography. In some areas or industries, St Patrick's day is not treated as a paid holiday, but 13 July is treated as a paid holiday (in addition to 12 July).

Employers need to be clear about any contractual entitlement to bank and public holidays as a particular custom and practice may be implied in the absence of a written contract. Employers should also be aware of the risk of discrimination on grounds of religious belief or political opinion arising out of the holidays that are permitted or refused, including royal weddings.

The calculation of holiday pay was the subject of a decision by the Vice-President and a Tribunal in the case of *Agnew v The Chief Constable of the PSNI*, which did not follow the EAT in *Bear Scotland* in a number of respects, especially in relation to a three month gap. The decision was upheld by the Northern Ireland Court of Appeal in *Chief Constable of Northern Ireland v Agnew [2019] NICA 32* (see Legal update, Series of holiday pay deductions not broken by three-month gap (Northern Ireland Court of Appeal)). This case significantly increases the potential cost of historical holiday pay claims in Northern Ireland as it confirms that neither a three-month gap, nor a correct payment of holiday pay, will necessarily break a series of deductions. Subject to an appeal to the Supreme Court (permission for which is being sought), the result means that the employer may need to recalculate holiday pay potentially dating back to 1998.

Rest periods and rest breaks

The Working Time Regulations (Northern Ireland) 2016 allow workers all of the following:

- A rest period of 11 hours uninterrupted rest per day (*regulation 12(1)*).
- A rest period of 24 hours uninterrupted rest per week (or, at the employer's choice, 48 hours per fortnight) (*regulation 13(1)-(2)*).
- A rest break of at least 20 minutes when a day's working time is more than six hours (*regulation 14(1) and (3)*).

Scope of cover and exceptions

The above entitlements do not apply to:

- Workers in excluded sectors (*regulation 22*).
- Workers with unmeasured time, such as some autonomous decision-makers (*regulation 24*).
- "Special case" workers (*regulation 25*).

Further, the entitlements to daily and weekly rest do not apply:

- Where a shift worker cannot take that rest between the end of one shift and the start of the next (*regulation 26(1)(b)*).
- To workers who work split shifts, such as some cleaners (*regulation 26(c)*).

If special case or shift workers are not given the rest periods set out above, they must, wherever possible, be given an equivalent period of compensatory rest (*regulation 28*). Note that shift workers who lose rest when changing some shifts will usually receive additional rest on other shift changes that may satisfy their compensatory rest entitlement.

Collective agreements

If the workers do not fall into an exempt category, a collective or workforce agreement may be used to modify or exclude the rest entitlements, again, subject to the workers being given equivalent periods of compensatory rest wherever possible (*regulations 27*). Provided that this agreement is made in accordance with agreed procedures and is incorporated into the employment contracts of workers in the relevant grades (whether by express wording in the contract or by custom and practice), it will be binding on the workers whether or not they are members of the union.

Enforcement

Failure to allow workers to enjoy the specified rest breaks and periods, or to allow compensatory rest to be taken where the entitlements have been excluded or modified, may result in an award of compensation by an employment tribunal. Workers who are dismissed or suffer a detriment as a result of taking their entitlement to rest breaks may also complain to the tribunal.

Minimum wage, living wage and benefits

The rates for some benefits such as statutory maternity pay and statutory sick pay are reserved matters decided by Parliament in Westminster, so the rates are the same in Great Britain and Northern Ireland. The rate for the National Minimum Wage and National Living wage is set locally, currently at the same figures. This is not the case with maximum and minimum amounts that Tribunals can award and the calculation of the maximum for things such as redundancy. This means that the level of awards can differ.

Data protection

The retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (UK GDPR) and Data Protection Act 2018 apply to Northern Ireland and so the same considerations that apply in England and Wales also apply in Northern Ireland (see Practice note, UK GDPR and Data Protection Act 2018: employer obligations). The Information Commissioner has an office in Belfast, which can help with local queries. However, employers in Northern Ireland should be aware of the monitoring requirements for completing returns to the Equality Commission, as information contained in those returns will be regarded as special category data.

The UK GDPR in NI – differences in employment record retention periods

The UK GDPR principles require that personal data is kept for specified purposes. The data should be limited and kept for no longer than necessary for the purposes for which the data was processed. Determining the retention periods for employment related data is central to compliance with UK GDPR.

In due course we are likely to see a new Employment Practices Code issued by the ICO which will likely provide guidance about retention periods. However, when making decisions about retention periods it is important to have regard to some specific legislative requirements and guidance in Northern Ireland. There are a number of important areas where there are differences with the rest of the UK. These differences must be borne in mind when dealing with the UK GDPR and in particular when determining the legal basis for processing under Article 6.

There is a statutory obligation to monitor community background and gender in Northern Ireland. Thus, it is likely to fall within Article 6(1)(c) of UK GDPR (processing necessary for compliance with legal obligations). Where additional monitoring is carried out, for example disability and race, employers are likely to seek to rely on Article 6(1)(e) (processing necessary for the performance of a task carried out in the public interest) and/or, in the private sector, 6(1)(f) (processing necessary for the purposes of the legitimate interests of the data controller).

Equality monitoring is specifically addressed in Schedule 1 paragraph 8 of the Data Protection Act 2018 which specifies "substantial public interest conditions". These include a "specified category of personal data which is necessary for the purposes of identifying or keeping under review the existence or absence of equality of opportunity or treatment between groups of people specified in relation to that category with a view to enabling such equality to be promoted or maintained". The categories specified are contained within paragraph 8(2) of Schedule 1.

A number of specific monitoring issues and retention periods should be borne in mind for UK GDPR purposes.

Fair Employment and Treatment Order

As set out above, the Fair Employment and Treatment (Northern Ireland) Order 1998 (FETO) is unique to Northern Ireland. All employers who employ 11 or more full time employees (i.e. employees working 16 hours or more per week) must register with the Equality Commission. Specified public authorities must also register with the Equality Commission.

Registered concerns must monitor their workforce and submit an annual monitoring return to the Equality Commission covering employees, applicants, appointees and apprentices. Public authorities and those who employ more than 250 employees must also monitor promotes and leavers. The Equality Commission recommends that all employers should monitor promotes and leavers. Failure to submit a monitoring return is a criminal offence. Employers must keep a record of community background i.e. whether the person is from the Protestant Community or the Roman Catholic Community in Northern Ireland or neither.

Regulation 17 of the Fair Employment (Monitoring) Regulations (NI) 1999 requires an employer in a registered concern to retain the following:

- Written information obtained for making a determination and a record of the determination made by him in respect of any such person until the expiration of 3 years from the date on which the person to whom the information of determination relates ceases to be employed in the concern. Failure to comply is a criminal offence. This means the monitoring form completed by the individual must be retained as well as the determination made about the person. A similar 3-year period is required in relation to monitoring information about applicants and this is for a period of 3 years from the date of the application.

The Monitoring Regulations specify the monitoring questions that must be asked. If the person does not respond to the monitoring question they are recorded on the basis that their community cannot be determined. However, the employer may then apply the "residuary method" which enables the employer to use information it holds about the person to make a determination of community background. The information is specified in Regulations and includes surname; address; schools attended; sporting or other leisure preferences and clubs/societies. In order to utilise the residuary method many employers use application forms and/or CV information. Because this is the information which has been used to make a determination under the residuary method it must be retained for the 3-year periods specified above.

General Monitoring

The Equality Commission also recommends monitoring by age, disability, racial group, marital status, civil partnership status, sexual orientation, and those with dependants/caring responsibilities. Clearly this data is both personal data and special category data. Therefore, requests for monitoring information will require privacy notices which explain clearly how the data will be used, how long it will be retained and all the data subject's rights.

Gender Pay Gap Reporting

Section 19 of the Employment (Northern Ireland) Act 2016 introduces the principle of gender pay gap reporting but unlike GB it also covers reporting by ethnicity and disability. Furthermore, unlike Great Britain it also covers workers not just employees. It will be a criminal offence to fail to report or to report inaccurately, punishable by fines of up to £5,000 per employee. No regulations have been issued yet to bring the provisions into operation in Northern Ireland. It is unclear whether the number of employees/workers which will trigger a reporting obligation will be 250; there is some suggestion it may be a lower figure, which can be set out in the Regulations when they are published and passed. It is uncertain how the reporting obligations in relation to ethnicity and disability will be specified, but clearly it will be important to retain the information on which the reporting is based for a reasonable period, in case of prosecution. Privacy notices may need to be amended to deal with the new Regulations when issued.

Recommended practice on equality retention periods

The Fair Employment Code of Practice and the Equality Commission's Unified Code recommend retaining shortlisting and interview records for at least twelve months. Many employers however retain their information for longer periods to comply with their review obligations under Article 55 of FETO. Under Article 55 each registered concern must at least every 3 years review the composition of its employees and leavers, together with its employment practices, for the purposes of determining whether members of each community are enjoying and are likely to continue enjoying, fair participation in employment. Therefore, many employers retain selection information to assess fair participation particularly if they are concerned about success rates. Under the GDPR this practice will need to be reviewed.

Safeguarding and vetting

The Safeguarding regime in Northern Ireland is quite different to that which applies in England and Wales. Records checks and appropriate disclosure of criminal records information is handled by Access NI while the Disclosure and Barring Service (DBS) maintains the barred lists, in contrast to England and Wales, where the DBS carries out both functions.

Privacy notices will have to explain how records information from Access NI will be used and stored. Access NI and the DBS have issued new guidance on checking ID for records checks and they are slightly different in content. The portable disclosure service that applies in England and Wales does not yet apply in Northern Ireland.

Criminal records information

Obtaining and retaining criminal records information is sensitive in Northern Ireland, not just for GDPR reasons but also due to the political issues which may arise. The Equality Commission in its publication Support for Businesses Recruitment and Selection Policy and Procedure provides guidance on seeking criminal record information on application forms.

It suggests text which is appropriate where an employer has discretion to employ individuals who have criminal records. However, the Commission stresses the need to change the text if the business is a regulated activity for the purposes of safeguarding.

Rehabilitation periods in Northern Ireland are considerably longer than those which apply in England and Wales. For example, in Northern Ireland, for a custodial sentence of between 6 and 30 months the rehabilitation period after which a conviction is considered spent is 10 years, whereas in England and Wales it is 4 years. A sentence of imprisonment of up to 6 months carries a rehabilitation period of 7 years in Northern Ireland, whereas in England and Wales it is 2 years.

The Rehabilitation of Offenders (Exceptions) (Amendment) (Order) (Northern Ireland) 2019 makes changes to the criminal record filtering scheme to allow filtering of more than one conviction.

It is important for employers to be aware of these and other differences when making commitments to remove any details of spent convictions from employment records.

Smoking

There is a total ban on smoking in all workplaces and enclosed public spaces, including bars and restaurants within Northern Ireland (under the Smoking (Northern Ireland) Order 2006). This contains provisions relating to smoke-free premises, no-smoking signs, offences relating to smoking and enforcement of penalties.

Civil procedure in Northern Ireland

Court and tribunal structure

Civil courts

The main civil courts in Northern Ireland are the High Court and the County Court. Appeals from the county court go to the High Court, and those from the High Court go to the Northern Ireland Court of Appeal (NICA). Appeals from NICA go to the Supreme Court or, where appropriate, by reference to the European Court of Justice.

Northern Ireland has not adopted the Civil Procedure Rules (CPR) used in England and Wales but instead essentially uses rules similar to those in Great Britain in existence before Lord Woolf's reforms in 1998 as updated in a piecemeal fashion.

Therefore, the High Court and NICA operate under the Rules of the Court of Judicature (Northern Ireland) and the County Court operates under the County Court Rules (Northern Ireland). The terminology (such as writs, appearances, subpoenas) will be familiar to legal practitioners in England and Wales who have experience of the rules applicable to the civil courts before the CPR. There are currently a number of reviews into things such as Court structures under way

A claim for breach of contract up to a value of £25,000 on termination of employment can be brought in either the Fair Employment Tribunal or an Industrial Tribunal.

Alternatively, if the value of the claim is £30,000 or less it can be brought in the County Court.

Local County Courts sit in a (decreasing) number of locations around Northern Ireland. There are advantages for both parties in the fixed costs scale as used in the County Court, but there may also be advantages or disadvantages in terms of the geographical location of the court in question. Some practitioners are bringing wages order and money claims in the small claims jurisdiction of the county court, on the basis that it is quicker and more economical than a tribunal claim.

Fair Employment Tribunal and Industrial Tribunals

For an overview of practice and procedure in the Fair Employment Tribunal and Industrial Tribunals, see Practice note, Northern Irish employment tribunals: practice and procedure. The Fair Employment Tribunal deals with claims of discrimination on grounds of religion or politics, and the Industrial Tribunal with other discrimination and employment claims. The only material difference is in the composition of the panel. There is no equivalent of The Employment Appeals Tribunal, so any appeal from a Tribunal is directly to the Northern Ireland Court of Appeal.

Codes of practice

Since Northern Ireland is a different jurisdiction with separate legislation, there are separate statutory codes of practice. These are produced by the Equality Commission (in relation to discrimination issues only) and by the LRA, the Northern Ireland equivalent of Acas. There are significant differences between the codes of practice in Northern Ireland and those in England, and claimants or employers in Northern Ireland should take care to rely on the Northern Irish codes of practice, which can be more detailed. In particular, the Codes relating to discrimination on grounds of religious belief and political opinion and in respect of harassment are significantly different in both format and content. The Labour Relations Agency Code of Practice on Disciplinary and Grievance Procedures is also significantly different.

Northern Irish tribunals do take into account the codes of practice and will expect to be referred to them where appropriate. The codes of practice are generally available on the websites of the Equality Commission and Labour Relations Agency (see Further information).

Business transfers

The Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) (TUPE) apply to Northern Ireland (see Legal update, TUPE 2006).

However the extension of the definition of a "relevant transfer" to include service provision changes under regulation 3(1)(b) of TUPE was implemented in Northern Ireland by a separate set of regulations, which also came into force on 6 April 2006 (see Legal update, TUPE 2006: Northern Ireland provisions). Under the Service Provision Change (Protection of Employment) Regulations (Northern Ireland) 2006, the definition of an organised grouping of employees for the purposes of service provision change is different to that for a straightforward transfer of an undertaking. The definition relating to service provision changes require there to be an organised grouping of employees situated in Northern Ireland, whereas the provisions relating to transfers of an undertaking are not confined geographically to Northern Ireland. For more information on these regulations, see Legal update, Regulations clarifying application of new TUPE Regulations in Northern Ireland take effect.

Issues can arise where there are transfers between Northern Ireland and the Republic of Ireland. Where an undertaking to be transferred is situated in the Republic of Ireland but the transferor is situated in Northern Ireland, TUPE probably does not apply (although the law in the Republic of Ireland that implements the Acquired Rights Directive 2001/23/EC will apply). Conversely, if a transfer takes place in Northern Ireland but the transferor is situated in the Republic of Ireland, TUPE will apply.

In Great Britain, several significant changes to TUPE took effect as of 31 January 2014 (see Practice note, TUPE: 2014 changes). However, the amending legislation, the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014, does not and is not proposed to apply to Northern Ireland.

Two-tier workforce

In England and Wales the previous treasury guidance on a two-tier workforce in the public or local government sector was replaced in 2011. The status of the guidance in Northern Ireland is somewhat ambiguous, but at least some public providers continue to insist on provisions related to this. In addition, the draft Local Government Best Value (Exclusion of Non-commercial Considerations) Order (Northern Ireland) 2011 and associated guidance would appear to incorporate guidance on the avoidance of a two-tier workforce (see Northern Ireland Department of the Environment: Local Government Best Value (Exclusion of Non-commercial Considerations) Order (Northern Ireland) 2011 and Associated Guidance: Consultation Document).

Time off for training

The Employment Act (Northern Ireland) 2011 contains a section on the right to request time off for study or training (*section 15*), mirroring that in Great Britain. The Act came into force on 3 April 2011, however section 15 did not and there is no planned commencement date.

Agency workers

The Agency Workers Regulations (Northern Ireland) 2011 came into force on 5 December 2011. The regulations implement the Temporary Agency Workers Directive (2008/104/EC) in Northern Ireland, providing certain rights for temporary agency workers including in relation to basic working and employment conditions. DELNI has issued useful guidance on the regulations (see DELNI: Employment Agencies).

Similar regulations in Great Britain (the Agency Workers Regulations 2010 (SI 2010/93)) took effect on 1 October 2011 (see Practice note, The Agency Workers Regulations 2010).

It is currently unclear whether, and if so when, changes to the Agency Workers Regulations 2010 in Great Britain (for example, removing the Swedish derogation) may apply in Northern Ireland.

Employee representation and trade unions

Trade unions have long been at the forefront of anti-sectarian, anti-harassment and cross-community movements; however, in some industries and locations there is a perception among some people about unions, which can be coloured by political issues. Historically, in some workplaces there was effectively segregation between those unions whose members tended to be Protestants, and whose members tended to be Roman Catholics.

The Central Arbitration Committee does not have jurisdiction in Northern Ireland. The Industrial Court in Northern Ireland adjudicates on applications relating to statutory union recognition for collective bargaining purposes. In addition, it can determine disputes between trade unions and employers over disclosure of information for collective bargaining purposes and in dealing with complaints relating to the establishment or operation of European works councils. For details of the procedures of the Industrial Court and guidance on statutory recognition, see Industrial Court: What is the Industrial Court.

Strike action and trade disputes

The provisions relating to strike action are mostly contained in the Trade Union and Labour Relations (Northern Ireland) Order 1995. They are very similar to those in force in Great Britain prior to the Trade Union Act 2016, which does not apply to Northern Ireland. This means that the threshold remains a simple majority of those voting and industrial action must commence within four weeks of the outcome of the ballot.

Glossary

Department for Employment and Learning in Northern Ireland (DELNI): responsible for higher education and for employment law other than equality issues until May 2016. Employment functions transferred to the Department for the Economy on 8 May 2016.

Department for Communities: Responsible for the regulations governing gender pay gap reporting

Department for the Economy: Responsible for employment law (but not equality law).

Department of Justice for Northern Ireland: responsible for the courts and the Industrial Tribunal and Fair Employment Tribunal system.

The Executive Office (TEO): This was formerly the Office of the First and Deputy First Minister and is responsible for most areas of discrimination law.

The Equality Commission for Northern Ireland: this was established in 1999 following the Belfast Agreement. It is an amalgamation of the former Equal Opportunities Commission for Northern Ireland, Fair Employment Commission for Northern Ireland, Race Relations Commission for Northern Ireland and the Disability Group. Since it was established, it has acquired responsibility for discrimination on grounds of sexual orientation, and is responsible for discrimination in respect of age. The Equality Commission is responsible for overseeing compliance with the provisions of the Northern Ireland Act 1998 relating to equality issues that require public authorities to implement equality screening of policies and use of Equality Impact Assessments (EQIAs). The Commission has an obligation to provide general advice to employers and advice on support to claimants where appropriate. (See Equality Commission for Northern Ireland.)

Equality Impact Assessments (EQIAs): introduced under Schedule 9 to the Northern Ireland Act 1998. Public authorities are required to screen proposals for changes to their policies

to see whether or not a full EQIA is required, and carry out consultation and impact assessments where appropriate in accordance with guidelines laid down by the Equality Commission.

Fair Employment Tribunal: deals with claims alleging discrimination on grounds of religious belief or political opinion. Where there is an overlap with an Industrial Tribunal, the Fair Employment Tribunal can deal with most issues that can be dealt with by an Industrial Tribunal.

Industrial Court: primarily deals with union recognition disputes, and provision of information to trade unions by employers.

Industrial Tribunals: deal with statutory claims relating to employment law or discrimination, except in respect of discrimination on grounds of religious belief and political opinion.

Labour Relations Agency (LRA): a close equivalent to Acas in England. It provides advice and useful guidance notes, and conciliation services as laid down in the rules of the Fair Employment Tribunal and Industrial Tribunals and issues codes of practice.

Northern Ireland Court of Appeal (NICA): appeals from the Fair Employment Tribunal or Industrial Tribunal go direct to NICA.

The Office of the First Minister and Deputy First Minister: this was, until May 2016 responsible for some equality issues in Northern Ireland. It was effectively renamed The Executive Office (see above). Proposals require agreement between the two Ministers, and there appear to be political difficulties in putting forwarding proposals for amendments to legislation, such as an Equality Act.

Further information

More information can be found at:

- Department for Employment and Learning in Northern Ireland (content is still on this site, but being migrated to the Department for the Economy).
- Department of Justice for Northern Ireland.
- Equality Commission: Publications List.
- Industrial Court.
- Industrial Tribunals and the Fair Employment Tribunal (Northern Ireland).
- Information Commissioner's Office: Northern Ireland office.
- Labour Relations Agency - the website includes a useful table on key differences in the law in Northern Ireland and Great Britain.
- The Executive Office, formerly the Office of the First Minister and Deputy First Minister.