



RUNNYMEDE



## **NATIONAL ACTIVITY REPORT FOR THE UK ANTI-DISCRIMINATION AND DIVERSITY TRAINING**

**The Runnymede Trust**

**May 2008**



*The contents of this publication do not necessarily reflect the opinion or position of the European Commission, Directorate-General for Employment, Social Affairs and Equal Opportunities. Neither the European Commission nor any person acting on its behalf is responsible for the use which might be made of the information in this publication.*

This project and publication has been commissioned by the European Commission under the framework of the European Community Action Programme to combat discrimination (2001-2006). This programme was established to support the effective implementation of new EU anti-discrimination legislation. The six-year Programme targets all stakeholders who can help shape the development of appropriate and effective anti-discrimination legislation and policies, across the EU-25, EFTA and EU candidate countries.

The training manuals used in the anti-discrimination seminars and the diversity management seminar can be downloaded from the European Commission website:

[http://ec.europa.eu/employment\\_social/fundamental\\_rights/public/pubst\\_en.htm#train](http://ec.europa.eu/employment_social/fundamental_rights/public/pubst_en.htm#train)

The Anti-discrimination and Diversity training project was managed by Human European Consultancy ([humanconsultancy.com](http://humanconsultancy.com)) in consortium with the Migration Policy Group ([www.migpolgroup.com](http://www.migpolgroup.com)) and the International Society for Diversity Management – idm ([www.idm-diversity.org](http://www.idm-diversity.org)).

The national activities were carried out by The Runnymede Trust ([www.runnymedetrust.org](http://www.runnymedetrust.org))

## **I. Table of contents**

I.	Table of contents .....	3
II.	Introduction .....	4
III.	Anti-discrimination seminars .....	5
	a) National activities anti-discrimination seminars .....	5
	b) Mapping exercise: NGOs/Trade Unions working to combat discrimination .....	9
	c) National legislation in the field of anti-discrimination.....	21
	d) Funding opportunities in the field of anti-discrimination.....	33
IV.	Diversity Management seminar .....	37
	Annexes .....	38
	The role of trade unions combating discrimination.....	38

## **II. Introduction**

In the UK, two anti-discrimination seminars for NGOs and trade unions were held. The first took place in London on 21-22 November 2007 and the second in Glasgow, Scotland on 08-09 April 2008.

The London anti-discrimination seminar brought together 40 participants and the Glasgow seminar brought together 35 participants. For both seminars, there was a good representation of trade unions and NGOs, the latter representing a range of sectors, grounds and types of activities (see details below).

Despite huge efforts and the fact that we had secured an impressive partnership with the largest employer umbrella organisation (Confederation of British Industries) as well as a renowned law firm to host our diversity management seminar, we were unable to get sufficient registrations to organise this seminar and, after trying to postpone it once, we took a decision to cancel this seminar. Our reasons and assessment of this are explained below.

Overall we are extremely pleased with the results of the anti-discrimination seminars and feedback from participants has been generally very positive.

### **III. Anti-discrimination seminars**

#### **a) National activities anti-discrimination seminars**

##### **Design of the training**

The training manual was designed by our country expert, Sheila Rogers, and the UK partner organisation for this project (the Runnymede Trust) read through the various chapters. One of the challenges about the material was that the United-Kingdom effectively covers 4 countries (England, Northern Ireland, Scotland and Wales) which by and large have different anti-discrimination systems and sometimes legislation, thus making the production of the material more complicated than for another more homogenous country.

As Runnymede has good links both with the NGO sector (through its membership in networks such as the UK Race & Europe Network and the Equality & Diversity Forum) and the trade union sector (through partnership work in the past with large Trade Unions such as UNISON and TUC), it was able to publicise the trainings widely and reach out to many organisations locally to inform them of the seminars.

The international trainer who attended the first seminar was Lilla Farkas, who was very helpful to set the scene on the day, present the background to the project to seminar participants and supported the trainers in developing and delivering the training.

The trainers selected were

- Sally Brett (TUC) – with legal background and expertise on trade-unions
- Sarah Isal (Runnymede) – with expertise on race and religion and on the NGO sector
- Omar khan (Runnymede) – with expertise on race and religion
- Rosemarie McIlwhan (Independent) – with legal background and expertise on human rights and on all grounds of equality as well as special expertise on Scotland
- Sheila Rogers (Independent) – with expertise on all grounds and special expertise on Northern Ireland
- Elizabeth Sclater (Independent) – with expertise on all grounds, specifically on age as well as expertise on local government and equality.

##### **Preparation of the seminar**

###### *Train the trainers seminar (old member states and EFTA-EES)*

The train the trainer seminar for the UK & the Netherlands was held in London and was organised by the Runnymede Trust. The venue was centrally located and trainers felt that it was useful to clarify the background to the project, provided clear guidance on the content of the anti-discrimination seminars, and offered various tools and techniques to be used at those seminars. It allowed for trainers to spend two days together and familiarise themselves with each other. The international trainers were Lilla Farkas and Lukasz Bojarski.

###### *Announcement of the seminar*

Both seminars were announced several months in advance. The announcement was posted on the Runnymede Trust website and emails was widely circulated on numerous occasions through various networks and contact lists, including networks who have organisations representing all the equality strands, as members. We also partnered up with trade unions asking them to circulate the information to their representatives, thus attracting a good number of trade union members.

### *Attracting and selecting participants*

We wanted to attract participants that would reflect the diversity of all the equality strands as well as trade union representatives. In order to achieve this balance, the event was publicised through a variety of different networks. Prospective participants were asked to fill in an application form and return it to us by a deadline. From this information participants were selected based on their motivation to take part in the seminar. Most of the applicants' responses made them suitable to participate in the seminars and we are able to attract a variety of participants both regionally and in terms of the different equality strands and trade union representatives. We also targeted a number of specific organisations that we felt would benefit from and contribute to the training in a meaningful way and invited them to apply.

### *Logistical arrangements*

Although the training seminars were based on the situation of the UK as a whole, different regions can vary quite significantly, in their equality policy and legislation. Therefore it was very important to ensure that the seminars also reflected the regional realities as well as the broader national context. For this reason, the location of the two seminars was selected to ensure that regional diversity was achieved. The London seminar was held at the Amnesty International UK headquarters in central London. It attracted mainly participants from South England, Midlands and Wales. The Glasgow seminar was held at the Scottish Trade Unions Congress headquarters. This location was chosen to ensure that the participants and speakers from Scotland and Northern Ireland were able to attend and participate. Both locations were centrally located within the city and fairly easy for participants to access by public transport. In the case of the Glasgow seminar, it was particularly useful to have the training hosted by STUC, it made the logistical arrangements easier (especially as we had to organise the seminar from London) and also ensured good trade union representation.

### **Carrying out the seminars**

40 participants attended the London seminar, with 69% being from NGOs and 31% from Trade Unions. 35 participants came to the Glasgow event; 68% of the participants in the Glasgow seminar were from NGOs, and the remaining 32% from Trade Unions.

### *Process during the day – observations (on trainers, participants, content,)*

Although there were some differences in the timing and layout of the two days for each seminar, there roughly included the same activities. These included:

- An introductory session followed by an icebreaker exercise
- A presentation of the UK and recent policy developments
- A presentation and update on equality legislation and policy in the UK and Europe by two of our trainers.
- A group workshop including presentation on the key legal concepts, followed by small group work on several case studies of discrimination using the key concepts from the presentation.
- A presentation from a trade union representative on a good example of collaborative work between NGOs and Trade Unions.
- A group workshop on development of strategies for NGOs and trade unions focusing on how to build capacity, how to develop network partnerships, particularly across the equality strands and how to develop successful partnership strategies.
- In addition, the Glasgow seminar also included a presentation from the EHRC representative followed by questions and discussion.

There was generally good distribution of roles amongst the 6 trainers, with each of them playing a specific role – either as a facilitator, or as a chair, depending on the sessions. Each trainer was assigned tasks according to his/her expertise and skills.

The trainers worked very well together, in particular in the second training, where they were able to learn from the shortcomings of the first training (in terms of planning, order of day, timetable etc...)

It was difficult to fit such a demanding training in the budget and time allocated for its preparation. Getting 6 trainers together for the training days themselves was a challenge, let alone arranging to meet with them to prepare it in advance. This is compounded by the requirement to have regional balance and therefore made it more difficult for the trainer(s) from outside London to have the time and resources to travel down for preparatory meetings. This being said, it was felt that preparation for the training was adequate, as the trainers prepared the training content by email and met the day before for a whole afternoon of work. In addition, the second training preparation was made easier by the lessons learnt from the first.

### *Evaluation of the seminar*

Both the training seminars were overall very successful, both seminars were informative, relevant and useful for the participants.

The most positive feedback from the participants was the knowledge and support of the trainers. Many of the participants from both seminars made positive written comments about the trainers.

Participants particularly liked that they were able to network across the various equality strands. Participants of the London seminar commented that there was an over representation of race organisation and there was a need to increase participation from the other equality strands.

Participants also preferred working in smaller groups, they found this more stimulating and it give them an opportunity to be more interactive.

From the feedback received from the participants to this seminar, we were able to make these improvements in the Glasgow seminar. For example, In London, many of the participants said they would have liked some input from the EHRC, and for the Glasgow seminar were able to get a representative from the EHRC in Scotland to give a presentation. This was very well received from the participants with many of them commenting on how valuable this particular part of the seminar was for them.

Participants from both seminars suggested that it would have been valuable to have adequate follow-up for this training. Nonetheless, they felt that they would be able to use what they had learnt and share it with their colleagues. The training manual was also highly complimented as a useful resource by participants from both seminars.

### **Main lesson learned**

- The importance of having trainers with good balance in skills and expertise, as well as with good geographical balance (representing as many regions of the UK as possible)
- The quality of the seminar depended largely on the level of skills and potential of participants, and whether they felt confident enough to interact and network with their peers.
- The second training was better organised than the first one, as trainers had the opportunity to learn from the experience of the first training. For instance, the first seminar highlighted that the participants really wanted to know more about the newly set up Equality and Human Rights Commission (EHRC). Therefore, we spent more time on that topic in the second seminar and brought in relevant speakers. This was rated very highly by participants.
- Bringing Northern Irish, Scottish and English groups together to discuss those issues was seen as very positive both by trainers and participants alike. They felt that this provided a good opportunity for practice sharing and networking.
- In addition, the good distribution of skills of the 6 trainers was also an asset and allowed for good training provision.

- A two-day session can prove challenging for smaller NGOs who have few resources and for whom spending 2 days away from the office is problematic.

## **b) Mapping exercise: NGOs/Trade Unions working to combat discrimination**

### **I. Profile of NGOs/trade unions working to combat discrimination**

#### **1. What types of NGOs/trade unions working on anti-discrimination exist on the national level?**

The Trades Union Congress,<sup>1</sup> the national umbrella body for trade unions in Great Britain is committed to anti-discrimination and the promotion of equality and diversity. Individual trade unions (TUs) pursue equality and diversity policies and programmes to varying degrees but, generally, there is an understanding of the overall legislative framework for anti-discrimination and a public commitment to equality, diversity and human rights. There is a broad range of NGOs working on anti-discrimination at a national level – from generalist agencies with specialist workers (eg: Citizens' Advice) to those with a specific policy or research brief to networks such as the UK Race and Europe Network. Others have more of a grassroots or community development focus or seek to use and develop the law to progress equality and anti-discrimination. In Scotland and Wales the Equality Co-ordinating Group and the Welsh Equality Reference Group take a broad overview of equality and diversity. In Northern Ireland, the Equality Coalition exists primarily to maintain a watching brief on the NI equality legislation and its implementation in the public sector.

#### **2. What ground (s) of discrimination, scope or sector are they concerned with (if they are concerned with a specific ground or a specific sector such as for example education)?**

Trade unions are beginning to adopt a more generic approach to equality and anti-discrimination with a focus extending to all of the equality grounds, although some, depending on the makeup of the membership, may continue to emphasise the rights of women, for example, or black and minority ethnic workers. In the NGO sector the trend has been to focus on a specific ground of equality. For example, the race equality council network across England, Scotland and Wales has a race brief; while charities such as Age Concern work on issues of concern to older people; others, like SCOPE or MIND promote the rights of disabled people. The NGO sector also includes childrens' advocacy organisations (Childrens' Rights Alliance); organisations working on sexual orientation (Stonewall) or transgender issues (Press for Change); women's issues (The Fawcett Society); and faith (Inter-faith Network) and belief (British Humanist Association). Increasingly, single issue NGOs are taking on board multiple identity issues and working with others across the equality strands.

#### **3. Is anti-discrimination their main area of work or only a small part of what they do? Do they work on anti-discrimination?**

Anti-discrimination work may be complemented by promotional and educational work. TUs are also concerned with the full range of issues that affect the employment rights and working lives of workers. Some NGOs focus only on anti-discrimination work, for example monitoring projects addressing racial harassment or the Law Centres Federation that uses the law to address discrimination. However, most would also see their roles as encompassing promotion and education. Others have a broader policy brief or lobbying role as well as anti-discrimination as an element of their remits. Some NGOs are now taking on board human rights issues alongside their anti-discrimination work (such as the Birmingham Race Action Partnership for example) while others have a remit that covers more than one equality ground, such as the needs of black and minority ethnic disabled people for example.

---

<sup>1</sup> In Northern Ireland the equivalent is the Northern Ireland Committee of the Irish Congress of Trades Unions.

**4. Are these NGOs/trade unions registered on the national level? Is it easy or problematic to register as an NGO/trade union?**

The TUC is the national umbrella organisation for trade unions in England, Scotland and Wales with individual TUs affiliated to it. NGOs may apply to become a registered charity or a company limited by guarantee and in both cases will be 'registered' on a national level in accordance with company and charity laws. Smaller NGOs may operate without any national registration status but, ultimately, most will seek to attain some type of charitable status. This process is administered by the Charity Commission in England and Wales<sup>2</sup> and can take up to 87 days for a decision to be made. Among the supporting documentation that is required is a governing document and a Declaration of Trustees.

**5. Generally how large are these NGOs/trade unions? (Please mention the size of membership for the main trade unions)**

Sixty-six unions are affiliated to the TUC and represent a total of nearly seven million workers. Some of the main affiliates include UNISON (1.3 million) covering local government, health, further and higher education etc; PCS representing circa 325,000 workers who deliver government services; AMICUS covering the main trades and industries with over 1 million members; Transport and General Workers union with approximately 800,000 members and USDAW which covers retail and distributive industries and has 340,000 members. NGOs vary in size from small organisations such as the Runnymede Trust, the Fawcett Society or Stonewall; to Citizens' Advice which has 500 bureaux across England and Wales each of them an independent charity; and the network of 140 independent Disability information and advice lines. The UK Race and Europe Network is an example of a network that exists to ensure that UK based NGOs working at local, regional and national levels are kept informed of the latest EU developments in race relations and anti-discrimination.

**6. Are they part of larger national networks? Or are they working on their own?**

TUs are affiliated to the TUC (in NI the NIC/ICTU) so are part of an extensive national network. Some NGOs are membership based while others are affiliates of a larger national body. Many NGOs are part of informal networks. Some have developed in response to a particular issue or initiative. An example of this in Great Britain is the Equality and Diversity Forum which was established to help influence the legislative framework and organisational development of the new Commission for Equality and Human Rights (CEHR). Other examples of nationally networked organisations include the Citizens Advice Bureaux, the Inter-faith Networks and the National Council for Voluntary Action.

**7. Are they mainly based in the Capital or spread out in the country?**

The TUC Headquarters is in London but TUC officers and offices are found in eight locations across Great Britain. Individual TUs may also have regional offices. NGOs that seek to influence national policy have a presence in London. Others with a more regional or community based brief are dotted around the country. In Northern Ireland most province-wide NGOs or trade unions are found in Belfast. Race Equality Councils (RECs), part of the British Federation of RECs, are located across Great Britain and focus on issues of concern in their particular region or community while there is a large number of affiliated Age Concern offices across all four countries and a similar picture in relation to Citizen Advice Bureaux. Scottish and Welsh NGOs and TUs aim to develop relationships with the Scottish Parliament and Welsh Assembly Government respectively. This situation is likely to pertain to Northern Ireland with devolution expected to be reintroduced in May 2007.

---

<sup>2</sup> Scottish Charity Regulator in Scotland and the Department of Social Development in NI

**8. Are NGOs/trade unions from the capital and the rest of the country doing the same type of work?**

Where regionally based TUs or NGOs will be concerned with issues relevant to their location and will seek to influence their local and regional environment in order to bring about change. National bodies focus their efforts more on the national policy agenda and political milieu in London. The development of regional assemblies in England has provided an opportunity for the development of networks and influence at a regional level. In Scotland and Wales devolved administrations now have responsibility for many key public policy issues that impact upon equality so greater attention is now paid by NGOs and TUs to developing relationships with the Scottish Executive and Parliament and the Welsh Assembly Government.

**9. What is the political or societal weight of these NGOs/trade unions on the national level? (Towards, the general public, the civil society, the companies/employers, the government)**

The influence of the TUC can be considerable – it can have the ear of government and influence legislation and policy for the benefit of workers. Unions can also have an impact through lobbying and campaigns - for example the TUC's work life balance campaign and the TGWU's campaign on behalf of agency workers as well as UNISON's National Disabled Members Committee. NGOs, too, can often persuade Government to take a particular policy approach or amend legislation and can mobilise public opinion in relation to issues around equality and human rights. Examples here might include campaigns to raise awareness of elder abuse or domestic violence.

**10. Are NGOs/trade unions working in the field cooperating together: (NGOs with other NGOs, trade unions with other trade unions and also NGOs together with trade unions)**

**a. For what purpose(s) (e.g. exchange of expertise, collaboration on case work or campaigns, organising events jointly)**

Unions work alongside NGOs on issues of mutual concern, including anti-discrimination and equality matters and may co-operate with employer organisations on particular initiatives – for example working with the statutory equality bodies to produce guidance for workers and others. NGOs and TUs regularly participate in partnerships and inter-agency initiatives to raise awareness around equality and diversity. There is a wide range of collaboration amongst NGOs, generally in relation to a specific campaign (setting up of the Commission on Equality and Human Rights for instance)

**b. Is there greater collaboration in relation to certain grounds of discrimination? If so, which?**

Sometimes TUs and NGOs collaborate on specific issues or grounds of discrimination. For example, to raise awareness around the rights of migrant workers or to address harassment in the workplace. Although there is a tradition of NGOs within each ground to work collaboratively on certain issues affecting their “community”, there has recently been more collaborative work amongst NGOs working together on specific issues where they might all be affected (for instance the potentially discriminatory impact of anti-social behaviour measures on disabled people and on black and minority ethnic communities).

**11. How are these NGOs funded?**

**a. Do they receive state funding?**

NGOs do not receive state funding as a matter of course. They are funded from a variety of sources including grants from local authorities or charitable trusts or, in the case of race equality councils, from the Commission for Racial Equality. Government does make funds available for which NGOs may apply - for example a 2005-2007 programme funded by the Department of Trade and Industry to support capacity building around the recent sexual orientation, religion and belief and age regulations.

**b. *What are the conditions in order to receive public funding?***

The conditions of funding can vary from funder to funder but, generally, will require the applicant to demonstrate how it will be able to deliver a programme of work and outcomes related to the funder's priorities; it may require the applicant to seek funding from additional sources; and to show that it has the capacity and competence to manage and deliver the project.

**c. *Do they also receive/apply for private funding?***

NGOs do apply for private funding, generally from charitable trusts such as the Joseph Rowntree Charitable Trust or Barrow Cadbury Trust. There are many charitable trusts with grant-making capacities that offer grants ranging from as low as £20,000 per year to well over one million pounds sterling. However, competition for these funds is extremely stiff.

**d. *Do private funders impose any restrictions or conditions?***

The conditions imposed by private funders varies but can include funding only projects that are not already supported by mainstream funding; work that has not already been tested; projects that benefit marginalised groups and involve those who will benefit and projects that influence social change. Other restrictions could relate to the geographic location of the project; or limits on projects that are related to business development.

**12. *How are these trade unions funded?***

**a. *Do they receive state funding? (Generally speaking do trade unions receive state funding?)***

TUs do not receive state funding. They are voluntary organisations entirely funded by membership subscription

**b. *Are they funded by a political party? If so, do they have to adhere and respect the party's line?***

TUs in Britain are not funded by any political party but there has been an historical relationship between the TU movement and the British Labour Party with the unions providing financial support to the Party.

**c. *Do they function only/also with their members' fees?***

TUs function by way of member fees

**d. *Are they able to receive private funding and/or participate in project funded by European/international institutions?***

TUs could apply for private funding for project work or joint funding with an NGO. They can also participate in projects funded by the European or international institutions.

**13. *Is the lack of funding a significant factor in the size of NGOs/trade unions or in restricting the scope or scale of their activities?***

The lack of funding is a significant factor and does impact negatively on NGOs' ability to deliver. Much time and effort is spent completing complex funding applications, taking time away from core activities. Further, because funding is often provided only on an annual basis it is difficult for NGOs to sustain programmes of work over longer periods, resulting in a lack of continuity and loss of staff and expertise. TUs' activities on equality and anti-discrimination are dependent upon the availability of resources and, clearly, the size of the TU membership base and other priority areas of work may impact on the extent to which work on equality and anti-discrimination is carried out.

**14. Do they work (or are in contact) with similar NGOs/trade unions in other countries?**

- a. Neighbouring countries?*
- b. Other new EU Member States?*
- c. Others?*

Many NGOs in the UK working on equality and diversity are linked to others across Europe, including in the accession states, through participation in initiatives such as TRANSPOSE or SOLID or membership or involvement with the European Network against Racism or the European Women's Lobby. Some, such as the UK Race and Europe Network, have a specific European brief. NGOs may also be engaged at Council of Europe or UN levels and UK NGOs have participated in a range of UN conferences including those on race and women.

The National Organisation of Disabled People's Movement represents the UK internationally. TUs in Britain are closely linked to the European Trade Union Congress and International Labour Organisation and representatives with an equality brief participate in initiatives at European and international levels.

**15. Do they work on the international level (campaigning, case work, other)**

Beyond the involvement with agencies outlined in question 14, international work might include campaigns around women and children's rights; trafficking; refugee integration and asylum policy. Both TUs and specialist NGOs have an interest in these areas and some, with particular expertise on human rights, are closely involved in UN reporting and treaty monitoring. An example is the collective effort by NGOs working on race equality who, in 2003, presented a shadow report to the Committee on the Elimination of Racial Discrimination (CERD) on racism in the UK.

**16. Can they work in English?**

N/A

**17. For countries where this is the case, where trade unions are linked to political parties, does the involvement or non-involvement of the political party has an impact on the trade union's ability to work on anti-discrimination?**

In the UK there is an historical link between the TU movement and the labour party and this leaves open the possibility that TU positions may be influenced or impacted upon by government views. Generally, however, in the area of equality and anti-discrimination, the TUs have adopted a robust approach to promoting change and best practice. They have supported government initiatives when these have progressed the cause of equality but have not shied away from critical comment where this has been appropriate. Some Members of Parliament are known for their advocacy and support for particular equality issues, such as mental health.

**18. Can specific regional branches of a trade union work on anti-discrimination even if headquarters does not?**

Regional TU representatives with an equality and anti-discrimination brief progress this work in a way appropriate to their region (or country in the case of Scotland, Wales or Northern Ireland) in order to progress the overall objectives of promoting equality and eliminating discrimination.

## **II. Expertise of NGOs/trade unions working to combat discrimination**

### **19. What kind of work do they do?**

TUs are involved in campaigning, lobbying and education programmes. They also provide advice to members on discriminatory practices and may assist or represent members who are pursuing claims of unlawful discrimination. They may also become involved in legal interventions, such as judicial review, and participate in working groups and advisory panels for equality and anti-discrimination initiatives such as the establishment of the CEHR in Great Britain. The work of NGOs covers a broad spectrum and includes - advocacy on behalf of individuals; representation before tribunals; legal interventions; lobbying; education programmes; research; consultation and engagement with Government and others; partnership and cross-agency work, including at European level.

### **20. Do they take up complaints of discrimination?**

Some NGOs and TUs take up complaints of discrimination. NGOs, such as the Law Centre Federation, which has a network of nearly 60 law centres across England and Wales, is one of the main agencies doing discrimination casework. The Disability Rights Commission is currently supporting specialist advisors on disability in a number of law centres. Some race equality councils in England, Scotland and Wales have casework functions and human rights NGOs such as Liberty or Justice will become involved in key cases and interventions under the Human Rights Act. TUs can support or represent members in discrimination matters as part of independent investigations, grievances or before an employment tribunal. Assistance would only be refused if a member had fallen behind with their subscription or the case is considered to be without merit.

### **21. Do they focus on their own community?**

NGOs working in the anti-discrimination field will focus on the area or areas of discrimination in which they have expertise at national, regional or local level; for example, race, religion, sexual orientation, disability or age. The interest of others is on a particular community - for example, Irish, Somali, Travellers and Gypsies or Asian communities, the mentally ill or Black gay men for instance. TUs represent the interests of their members irrespective of the 'community' from which they come.

### **22. Do they work with victims directly?**

A TU can represent an individual member who has been the victim of discrimination. Some NGOs - for example, Race Equality Councils or Citizens' Advice - work with victims of harassment and discrimination, providing support, advice and occasionally representation or referral for legal assistance. The extent of these services, however, is dependent upon the resources and expertise available.

### **23. Within the company, can trade unions represent only their members or any worker?**

Within a company the TU represents or assists individual union members. However, the outcome of negotiations or educational or promotional programmes will apply for the benefit of all workers, whether members or not. For examples where there is an agreement to implement flexible working arrangements in the workplace or provide training on equality and diversity policies and procedures.

### **24. Do they do 'case work'?**

As noted above some TU representatives do take up cases on behalf of individual members and some NGOs have casework functions. Where neither can assist they will endeavour to make appropriate referrals for individuals - for example to a law centre, Specialist Support Unit of Citizens' Advice or equality body.

However, it is worth noting that resources to support casework and organisations, such as law centres, that deliver it, are diminishing and it is not clear how or to what extent individuals will be able to access remedies for unlawful discrimination in the future.

**25. Are they able to access state funding for casework?**

Funding for NGOs comes from a variety of sources and may include grants from local authorities or 'state' programmes such as the National Lottery. The Commission for Equality and Human Rights will be able to provide grants to NGOs but it is not yet clear to what extent, if at all, it will opt to do so. At present the CRE provides grant aid for some NGOs delivering casework services.

**26. Does this include legal representation?**

Legal aid is not available for employment tribunal cases therefore individual complainants must fund their own litigation or access help from a pro bono scheme or NGO that has a casework function. The latter may be funded by grants as set out in 25 above. The main pro bono services are the Free Representation Unit which provides representation by Bar students; however, this tends to be restricted to the London area.

The Solicitors' Pro Bono Group is seeking to set up clinics in local areas to provide advice although actual legal representation would only be available through an associated advice provider. The Legal Aid may be available for discrimination complaints before courts such as those on the provision of goods, facilities, services, housing and education or appeals or other interventions to higher courts. The existing Commission for Racial Equality, Disability Rights Commission and Equal Opportunities Commission in GB and Equality Commission in Northern Ireland can all provide legal representation for individual complaint. However, all four Commissions (and in all likelihood the new Commission for Equality and Human Rights) do so only on a 'strategic' basis meaning that case support is directly linked to the equality body's strategic priorities and test case strategy.

**27. Is it possible for NGOs/trade unions to engage on behalf or in support of victims of discrimination in judicial or administrative procedures?**

NGOs or TUs can represent individual victims before employment tribunals (in Northern Ireland there are industrial tribunals and the Fair Employment Tribunal) The extent to which this happens, however, depends on available expertise and funding within NGOs, generally low across the country, or the capacity of TUs to fund legal representation for members. For complaints of discrimination in the provision of goods, facilities and services applications are made to the County Court or to the Sheriff's Court in Scotland. Individuals can represent themselves in the courts or tribunals but would be at a considerable disadvantage in doing so as the respondent will usually be legally represented.

**28. Are NGOs/trade unions able to pursue class actions if the latter is allowed on the national level?**

Class actions are not permitted for discrimination complaints in the UK. However, 'interested parties' can intervene in some judicial proceedings which can lead to a determination that will have an impact more broadly than the individual litigant.

**29. Do they do other practical work? ( e.g. assistance to victims or potential victims, social assistance, etc)**

'Single issue' NGOs are increasingly taking steps to extend their reach to cover other grounds of discrimination and address multiple discrimination. Generalist advice providers, such as Advice UK or Citizens' Advice - have extensive networks of offices across the country and, together with other NGOs and TUs provide advice and guidance – paper-based and web based - across the range of equality grounds. Neither provide 'social assistance' as this is the responsibility of others but NGOs

and some TUs work in partnership with these organisations and offer referral services in order to try to provide a more 'joined up' service.

**30. Do they advocate changes in legislation and policies?**

Some NGOs and TUs advocate changes in legislation and policy particularly NGOs with policy, legal and research remits such as Runnymede Trust, Liberty, Stonewall, The National Organisation of Disabled People's Movement, British Humanist Association, Age Concern or the Fawcett Society. NGOs and TUs are regularly consulted on proposed changes to public policy, or new Government initiatives, thus providing an opportunity for engagement and influence. In GB and NI NGOs and TUs have commented on proposals for a single legislative framework for equality as well as the institutional arrangements to deliver this. They may become involved in proposals for legislative change in a range of areas such as asylum and immigration, employment law, counter-terrorism and anti-social behaviour orders. Many commented on the transposition of the Race and Framework Directives and maintain an interest in further developments in the law at EU level. They are also involved in international treaty monitoring or national UK reporting such as to the UN or Council of Europe.

**31. What are their relations with the central government?**

Some national NGOs have developed effective relationships at central Government level which ensures that they have the ear of some Government representatives. Specialist NGOs often make submissions to Government on equality and anti-discrimination matters such as the implementation of the sexual orientation, religion and belief and age regulations or approaches to health, education, criminal justice or asylum or immigration. They may be called upon to give evidence to Parliamentary Committees. Smaller NGOs or those with an interest in issues not high on the political agenda can struggle to have their voices heard or develop effective relationships at central government level.

**32. With regional governments or municipalities?**

Across the UK at regional level, NGOs and TUs participate in inter-agency and partnership for a with government and local authorities. NGOs and TUs work with the devolved administrations in Scotland and Wales and often find that the relationships they establish are more effective and allow for closer engagement on issues of mutual concern. In Northern Ireland it is expected that a devolved administration will be in place by May 2007 providing a similar opportunity for closer working relationships to be developed between local politicians and officials and NGOs and trades unions.

**33. For the trade unions, with the employers organisations?**

TUs and employers' organisations - such as the Confederation of British Industry, the Small Business Federation or the Institute of Directors - have very different and clearly defined perspectives and approaches which means that engagement is frequently around negotiation on terms and conditions in the workplace. TUs and employers do work together in fora such as advisory committees where they will seek to achieve consensus on the way forward on proposals for policy initiatives or legislative change. While they may agree on the principles behind the pursuit of equality and anti-discrimination initiatives there is often a difference of opinion on how and to what extent such measures should be implemented.

**34. Do they have relations with the specialised bodies/ombudsman?**

NGOs and TUs have varying degrees of engagement with the UK's four equality bodies. At present, this engagement is defined by the legislative remit of the bodies which in GB covers race, gender and disability, and in Northern Ireland extends to age, religion, belief, political opinion and sexual orientation.

This will change in October 2007 when the Commission for Equality and Human Rights opens for business with a remit across all equality strands and human rights.<sup>3</sup> The existing Commissions are doing some work on cross-strand or multiple identity issues (BME women, older disabled people etc) and, as a result, are beginning to engage with NGOs from outside of their 'traditional' areas of interest. Some of the commissions have set up advisory or consultative fora in which NGOs and unions participate; the CRE has a funding programme in England, Scotland and Wales to support community organisations to delivery race equality outcomes; and the Equality Coalition in Northern Ireland, the Equality and Diversity Forum in GB and the Welsh Equality Reference Group and the Equality Co-ordinating Group in Scotland all engage with the statutory commissions and provide a forum for input and discussion across all of the equality strands. NGOs are beginning to engage with the Children's Commissioners in the four countries and have an ongoing interest in the work of the Northern Ireland Human Rights Commission. Trade unions are represented on the Boards of the equality bodies and frequently work in partnership with them on equality and anti-discrimination initiatives such as the development of Codes of Practice.

### **35. What are the qualifications of the staff?**

Depending on the remit of an NGO staff may be legally trained, researchers, social scientists, policy specialists, communications experts or lobbyists. Other NGOs employ or use volunteers who act as community based advocates or grassroots activists. Many funders of NGOs are now seeking assurances that Board Members or Trustees have, together, the necessary knowledge and expertise in governance to enable them effectively to oversee the operation of their organisations. This is also the case for those with casework responsibilities. Some NGOs, which have the resources, provide their own training (Citizens' Advice Specialist Support Unit); others are supported by guidance and advice from umbrella groups such as the National Council for Voluntary Organisations

### **36. What training has the staff had in relation to anti-discrimination work?**

This will depend on the resources available to an NGO or TU or their ability to access training offered by others. Some larger NGOs have training departments or can fund external experts but the anti-discrimination element of their training programmes will vary from non-existent to more comprehensive depending on their work programme and strategic objectives. Other specialist NGOs provide regular updates on the law to staff or the opportunity for staff to update themselves through reading time or research. Information, advice and guidance is available from a variety of sources including the current equality bodies. The Disability Rights Commission operates a help line and web site while the Equal Opportunities Commission provides a web site for legal and other advisors. The recent sexual orientation, religion and belief and age capacity building programme, funded by the Department of Trade and Industry, sought to raise awareness and understanding of the law in the advice sector.

### **37. Are they trained in writing funding proposals and reporting?**

The level of training staff will have in relation to preparing funding proposals and reporting will depend on resources available to an NGO or TU, as noted in 36 above. Most smaller NGOs will not have access to or be able to provide this kind of training; in these cases, learning tends to take place 'on the job'. Some funders – local government, the lottery funders and larger charitable trusts, for example – offer basic face to face or telephone advice on preparing an application, but this provision is variable in quantity and quality.

---

<sup>3</sup> Except political opinion which does not apply in Great Britain

**38. How do they evaluate their “success” and the quality of their anti-discrimination work?**

NGOs seeking funding from external providers need to identify the objectives they are seeking to achieve and report on outputs and outcomes against these objectives. Larger or better funded NGOs have strategic plans and business objectives together with performance management frameworks to facilitate measurement and evaluation. Others seek additional funding (or may be required to do so by a funder) to cover the cost of independent evaluations of programme delivery. Quality is measured by some against standards that have been developed by bodies such as the Legal Services Commission which supports a quality mark for providers of legal advice services in England and Wales. Another project aims to develop National Occupational Standards for legal advice and support the development of individual competence across the advice section.

**III. Needs and problems of NGOs/trade unions working to combat discrimination**

**39. What is the main problem faced by NGOs/trade unions involved in anti-discrimination work?**

The main problem is the lack of funding and thus the lack of staff and expertise. Many NGOs are unable to access resources year on year and are forced to divert time and effort to fund raising on an annual basis. Other problems include the impact of geography - rurality and remoteness - which can effect an NGO's ability to provide a comprehensive service. For TUs there can be conflicting priorities across the range of employment rights reducing the time available for anti-discrimination work. For both NGOs and TUs the need for training, including refresher training, can present another barrier.

**40. Is the lack of staff/funding/expertise one of the main problems faced by NGOs/trade unions involved in anti-discrimination work?**

Yes, as outlined above the lack of staff, funding and expertise is a key issue, for NGOs in particular.

**41. Is the fact that staff lack necessary knowledge and/or skills one of the main problems faced by NGOs involved in anti-discrimination work?**

For some NGOs this is the case, particularly those that have a generalist advice brief which can include many issues other from anti-discrimination work, such as social security, housing and debt. For others, despite specialising in anti-discrimination work, staff time and effort can be diverted to trying to source funding leaving less time for regular skills and knowledge updating.

**42. What training is needed by the NGOs/trade unions in order to perform their work the way they would wish to?**

For both NGOs and TUs regular updates on changes in legislation and case law is required. For others there will be an ongoing need for comprehensive training programmes on the law, remedies and service delivery principles and mechanisms to ensure that staff and volunteers are competent to deliver a service. Single issue or generalist NGOs would welcome a broader perspective on equality - including all of the grounds and the inter-section between each. Both NGOs and TUs require human rights training.

**43. Is their staff sufficiently trained in relation to national anti-discrimination legislation?**

In some cases yes - those with a specific anti-discrimination or human rights brief, for example, or the larger TUs; in others No. The current equality commissions for gender, race and disability provide guidance via websites and in some cases on a one to one basis or through helplines. On other grounds guidance is patchy and so information on the new legislative provisions is needed.

'Single focus' NGOs, in particular, need the opportunity to learn about the statutory framework for all of the equality grounds. Some TUs would welcome the opportunity to discuss anti-discrimination cases with experts on an ad hoc but ongoing basis.

**44. Is their staff sufficiently trained in relation to European anti-discrimination legislation?**

Generally not although the recent emphasis on transposition of the racial equality and framework directives has raised the profile of each. Many NGOs and TUs would benefit from regular bulletins on European case law and practical guidance on concepts such as the burden of proof or indirect discrimination as well as on any new provisions that are planned. Others, who do not act in an advocacy role, would not need this level of detail.

**45. Is their staff trained in relation to advising government: formulating policy proposals? Legislative proposals?**

NGOs and TUs are becoming more engaged with government consultations on policy and legislative proposals and can provide government with feedback and comment. However, involvement is hampered by the huge volume of consultation documents that NGOs and trade unions are regularly asked to comment upon. Some NGOs and TUs have well honed lobbying and advisory functions with access to experts who can propose legislative changes and options for policy interventions. Opportunities to network with other NGOs across the range of equality issues would be welcomed.

**46. Do they need to do more to promote their anti-discrimination role?**

Generally, NGOs and TUs would welcome more resources to help them promote the work they do, nationally or regionally. This would certainly be the case with the 'newer' strands of sexual orientation, religion and belief and age, bearing in mind that greater awareness raising and promotion activity can generate a demand for services that some NGOs or TUs may find it difficult to meet.

**47. Do they need to “do more” with victims, clients or potential clients, members or potential members?**

Were resources and staff available, both NGOs and TUs could 'do more' to support victims and, through promotion and education programmes, raise awareness with potential clients and members. More work is needed on age discrimination- including for younger people and children - religion and belief and sexual orientation as well as the grounds of disability, race and gender.

**48. Do they need to “do more” with government – to increase their credibility and status?**

If Government engaged more with NGOs and TUs its views would be more likely to be informed by grassroots opinion, particularly at a regional level. NGOs in particular could be assisted in this through greater funding which would facilitate more effective engagement without taking away from core work. This would also help to ensure that the perspective of communities and TUs would be factored into the decision making process.

**49. For the trade unions, do they need to “do more” with the companies/employers organisations?**

Together TUs and employers can be a powerful influence on Government. However, on equality and anti-discrimination matters there may be different views on how best to pursue the 'business case' for equality and TUs and employers often find themselves on opposite sides of the argument around new initiatives such as paternity leave or flexible working. Some employers have taken more comprehensive steps to embrace the equality and human rights agendas and TUs should find these employers as more willing partners in taking this work forward.

**50. Would they need to “do more” with public opinion and awareness raising?**

NGOs and TUs could 'do more' to promote and educate their constituencies on equality, diversity and human rights. For both, however, this is contingent upon the availability of resources and expertise to support campaigns, education programmes and other initiatives.

**51. What would they need to develop?**

This could include education programmes at a grassroots level; materials and initiatives for younger people; the development of new community leadership; expertise in governance to enable greater participation; human rights training and education; consultation and engagement; volunteering; effective use of the media; and staff training.

## c) National legislation in the field of anti-discrimination

### 1. TRANSPOSITION IN THE UNITED KINGDOM<sup>4</sup>

The United Kingdom has a well developed, if somewhat complex, legislative framework for anti-discrimination measures.<sup>5</sup> These include the Race Relations Act 1976 (RRA), the Sex Discrimination Act, 1976, the Equal Pay Act 1970, as amended, the Disability Discrimination Act 1995 (DDA), new regulations on sexual orientation, age and religion and belief and similar provisions in Northern Ireland (NI) plus the Fair Employment and Treatment (NI) Order 1998 (FETO) which covers discrimination on grounds of religion or belief and political opinion in that jurisdiction only.

In addition, there are now statutory duties on public bodies requiring them to have due regard to the need to promote equality of opportunity and eliminate unlawful discrimination in the fields of disability and gender as well as race where there is a further duty to promote good relations. In Northern Ireland, Section 75 of the Northern Ireland Act 1998 imposes statutory duties on public authorities across nine grounds.<sup>6</sup> In both Northern Ireland and Great Britain (GB) moves are afoot to create a single piece of anti-discrimination legislation. A Green Paper on this is due to be published in GB in May; progress has also been made in Northern Ireland but the timing of future developments there is currently unclear.

Scotland and Wales have devolved administrations. The Government of Wales Act 1998 requires the National Assembly of Wales to conduct its business and functions with due regard to the principle of equality of opportunity for all while the Scotland Act 1998 defines equal opportunities and sets out additional grounds of language, social origin and other personal attributes including political opinion. The Greater London Authority is required to have 'due regard to the principle of equality of opportunity'.<sup>7</sup> The UK has also enacted the Human Rights Act 1998 which incorporates the provisions of the European Convention on Human Rights into domestic law.

There are four statutory equality bodies and one human rights body in the UK.<sup>8</sup> These are the Commission for Racial Equality (CRE), the Equal Opportunities Commission (EOC); the Disability Rights Commission (DRC); and, in NI, the Equality Commission for NI (ECNI) and the NI Human Rights Commission. In GB a new Commission for Equality and Human Rights (CEHR) will assume the functions of the CRE, DRC and EOC from October 2007; it will have additional responsibilities for equality in relation to age, sexual orientation and religion and belief as well as human rights in GB.

The UK transposed the two EU Directives by regulation rather than primary legislation. The Race Directive was transposed by the Race Relations Act 1976 (Amendment) Regulations 2003 and the Employment Directive via regulations under the European Communities Act 1972. This resulted in amendments or modifications to existing legislation supplemented by regulations to transpose the provisions on sexual orientation, age and religion and belief.<sup>9</sup> Transposition by regulation has resulted in a two tier system of legislative provision in some areas. Some apply to the provisions of the Directives while others continue to apply to grounds that are not included in the Directives.

An example of this is the GB RRA which defines 'racial grounds' as covering colour, race, nationality or ethnic or national origins (and membership of the Irish Traveller community in Northern Ireland), whereas the Race Directive only covers racial and ethnic origins.

---

<sup>4</sup> The United Kingdom is made up of England, Scotland, Wales and Northern Ireland; in a number of areas of anti-discrimination legislation separate legislation has been developed in Northern Ireland

<sup>5</sup> The UK does not have a written constitution.

<sup>6</sup> These are – religious belief, political opinion, race, gender, disability, age, sexual orientation, having/not having dependants and marital status

<sup>7</sup> Greater London Authority Act 1999

<sup>8</sup> A human rights commission is proposed for Scotland

<sup>9</sup> Employment Equality (Sexual Orientation) Regulations 2003; Employment Equality (Religion and Belief) Regulations 2003; Employment Equality (Age) Regulations 2006. the Equality Act 2006 includes a new definition of religion and belief to make it clear that this includes 'lack of religion' and 'lack of belief'

The main changes which the Directives have introduced include:

- Definition of indirect discrimination
- Shift in the burden of proof
- Genuine occupational requirements
- Direct discrimination in relation to disability

Because of the development of anti-discrimination measures over the years in the UK its legislation does, in some cases, go beyond the material scope required by the two Directives. Examples of this include:

- FETO covers the provision of goods, facilities and services and the disposal and management of premises as well as the ground of political belief
- Race legislation outlaws discrimination in carrying out the functions of public bodies
- Statutory duties on public authorities as discussed above
- Special Educational Needs and Disability Act prohibits discrimination in education in schools and further and higher education establishments
- Equality Act 2006 outlaws discrimination on the grounds of religion and belief in the provision of goods, facilities and services
- Sexual orientation regulations will (and already do in NI) cover discrimination in the provision of goods, facilities and services
- Employment Equality (Age) Regulations extend to adult learning including non-vocational related courses

There are a number of ways in which the transposition exercises appear to have fallen short of the Directives' provisions. These include:

- There is no over-riding equality principle or general prohibition on discrimination
- UK provisions apply only to 'employment' and not to 'occupation'
- Indirect discrimination does not apply to prospective actions
- There is no provision for class actions

Concern has also been expressed that remedies in UK law may not be sufficiently 'effective, proportionate and dissuasive' and the CRE has noted that it is not aware of any measures that national authorities have taken to give effect to the Race Directive requirements in relation to facilitating social dialogue.<sup>10</sup> However, this and other doubts that may persist about whether the 'intent' of the EU provisions are now reflected in domestic law will need to await interpretation by the European Court of Justice.

Public reaction to the transposition of the Directives was quite muted although there was some disquiet among employers that the new legislation (particularly on age) would impose additional burdens. This may be because of the tradition of anti-discrimination legislation in this country and a general acceptance of the concepts and principles behind it. Public and political debate may become more vocal once plans for the new legislative framework are published this year and it also becomes apparent what the implications of the recent Equalities Review have for the future direction of equality in Britain.<sup>11</sup>

Over the past 3 or 4 years discussion and debate around anti-discrimination and equality matters in Britain focused on the Government's plans to create a single equality and human rights body for GB, the Commission for Equality and Human Rights (CEHR).

---

<sup>10</sup> See the CRE's European and International Strategy at [www.cre.gov.uk](http://www.cre.gov.uk)

<sup>11</sup> The Equalities Review was an independent review looking at the underlying long-term causes of disadvantage. It is expected that its findings will influence any new legislative framework as well as the work of the new Commission for Equality and Human Rights. The final report was published early in 2007. See [www.theequalitiesreview.org.uk](http://www.theequalitiesreview.org.uk).

Concern was expressed in Parliament and elsewhere that this proposal would result in a loss of focus on those equality 'strands' that currently have institutional support, particularly race and disability, while the move to a single body was generally welcomed by those with an interest in gender, religion and belief, age and sexual orientation. While there was a high degree of support for the new institutional arrangement among politicians, debates in both the House of Commons and House of Lords highlighted the unease of those with an interest in racial equality that the CEHR would be unable to progress the race and good relations agendas because of its remit across six equality strands and human rights. In addition, concerns were raised at the plans to establish a CEHR before the introduction of single equality legislation.

Throughout these debates the Commission for Racial Equality, Disability Rights Commission, Equal Opportunities Commission and Equality Commission for Northern Ireland have continued their work to promote equality and eliminate unlawful discrimination. There has not been a similar level of institutional support for the 'newer' areas of sexual orientation, religion and belief and age and this situation will not be remedied until the CEHR is operational later this year. NGOs and trade unions have sought to provide advice and guidance on the new legislative provisions and some were supported in this by funding from the Women and Equality Unit of the Department of Trade and Industry<sup>12</sup> which provided grants to organisations across the country that were seeking to raise awareness of the new provisions and protections. It is fair to say, however, that more needs to be done to raise public awareness and support NGOs and trade unions in their efforts. In Northern Ireland there has been a single equality body since 1999 and public duties on all of the grounds. However, without a devolved administration the political debates have been limited. This should change with the expected reinstatement of a NI Assembly in May 2007.

While UK anti-discrimination law may be quite extensive it does not cover class or social status or, in GB, political opinion. Some have lobbied for protection to be extended to ex-offenders and the definition of 'disability' for the purposes of the Disability Discrimination Act continues to evolve. Children's rights will be picked up to some extent by the age regulations but, generally, will rely on human rights arguments. Increasingly, however, there is more of a focus on cross-strand or multiple identity approaches and the need for public policy to address problems of multiple discrimination.<sup>13</sup>

At international level Country reports, such as those prepared for the purposes of the International Convention on the Elimination of all forms of Racial Discrimination (CERD) or the International Convention on the Elimination of Discrimination against Women (CEDAW) attract little attention although media attention has been paid to past UN reports on children and the continuing existence of child poverty in Britain. The CRE has produced a European and International Strategy 2004 – 2006 and a Legal Strategy which indicated that it intended to produce an authoritative and independent shadow report to CERD in 2006.<sup>14</sup> This is similar to an earlier shadow report published by a consortium of NGOs in 2003 and presented to CERD alongside the UK government's report.<sup>15</sup>

---

<sup>12</sup> The Women and Equality Unit is now located in the Department for Communities and Local Government [www.womenandequalityunit.gov.uk](http://www.womenandequalityunit.gov.uk)

<sup>13</sup> See [www.theequalitiesreview.org.uk](http://www.theequalitiesreview.org.uk)

<sup>14</sup> See [www.cre.gov.uk](http://www.cre.gov.uk)

<sup>15</sup> Joint submission by NGOs to the UN Committee for the Elimination of all forms of Racial Discrimination (CERD) with regard to the UK Governments Sixteenth Periodic review. August 2003, available from <http://www.blink.org.uk/docs/cerd300603.pdf>

## **2. PROCEDURES – administrative and legal channels appropriate for challenging violations of anti-discrimination legislation**

### **2A(I) Employment and occupation related – all grounds**

Currently the CRE, DRC, EOC and ECNI may assist individual complainants and, in October 2007, all grounds in GB will be the responsibility of the Commission for Equality and Human Rights. Anti-discrimination complaints can be taken by an individual against either a public or private sector employer. Class actions are not permitted in the UK. Assistance from the Commissions can include advice and information as well as the provision of legal assistance and representation. In practice, however, the equality bodies assist only a small number of individuals, usually for strategic cases that will further their stated business objectives. Individual complainants are therefore forced to seek advice and guidance from NGOs, trade unions and other advice providers and can sometimes access legal help through pro bono arrangements or from law centres.

Legal remedies for unlawful discrimination in employment can include compensation for pecuniary loss and/or injury to feelings. There is no upper limit for compensation awards.<sup>16</sup> A tribunal or court may also make a recommendation that an employer take action to reduce the effect of discrimination. However, representations have been made to extend this to include the future conduct of a respondent; and to give a tribunal the power to recommend revisions or modifications to procedures or additional powers to order remedies that will correct a wrong.<sup>17</sup>

Judicial review can be used to challenge the discriminatory policies or practices of public bodies as can the Human Rights Act in relation to matters to which Article 14 of the ECHR applies. In race complaints a copy of a complaint to an industrial tribunal is sent to a conciliation officer who may endeavour to settle the matter without a tribunal hearing.

In the UK the Office of the Parliamentary Commissioner (Ombudsman)<sup>18</sup> can investigate unfair or improper actions or poor service by UK Government departments and their agencies, as well as the National Health Service in England. This does not include staffing issues or where there may be a more appropriate organisation to assist an individual. In the case of anti-discrimination matters individuals would probably be referred to the relevant statutory equality body or appropriate advice provider. Applications for help can only be made through a Member of Parliament.

An individual may seek to resolve a matter informally and without recourse to the tribunals. This will largely depend on the nature of the complaint and whether the victim feels able to address the matter in this way. Some NGOs and equality bodies may advise on how to approach an employer and often a trade union official will be available to help and advise. Under the Employment Act 2002 (Dispute Resolution) Regulations 2004 and in order to encourage the internal resolution of difficulties, if a matter cannot be resolved informally and a formal grievance is made then the employee must use the formal procedures before taking a complaint to an employment or industrial tribunal. A large number of individuals are assisted by the Advisory, Conciliation and Arbitration Service (ACAS) in Britain (Labour Relations Agency in NI), whose aim is to improve organisations and working lives through better employment relations.<sup>19</sup>

In the public sector the CRE, DRC, EOC and ECNI have responsibility for matters relating to compliance with the statutory duties. Fair employment legislation in Northern Ireland includes obligations on employers to take positive action and imposes sanctions for a failure to comply with positive obligations. Penalties can include disqualification from the award of public contracts.

---

<sup>16</sup> But see Employment Equality (Age) Regulations 2006 where compensation is limited when less than 6 months notice of retirement has been given.

<sup>17</sup> For example by the United Kingdom Race and Europe Network, July 2004

<sup>18</sup> In NI the Office for the Ombudsman for NI and in Scotland the Scottish Public Services Ombudsman

<sup>19</sup> In 2005/06 individual claims received were 5202 (sex); 2243(race); 3197 (disability). See [www.acas.org.uk](http://www.acas.org.uk)

In GB there are criminal offences of inciting racial hatred and inciting hatred or fear on grounds of race, religion, sexual orientation and disability in Northern Ireland.<sup>20</sup> In sentencing a court can consider as an aggravating factor a motivation that is based on race, religion or belief, sexual orientation or disability. In most cases prosecutions are initiated by the Crown Prosecution Service rather than an individual.

## **2A(2) Identify applicable situations**

Anti-discrimination provisions in employment cover the full extent of the employment relationship, including recruitment and selection procedures, promotion, dismissal, access to training, other discriminatory practices in the workplace, and harassment. Each piece of legislation does contain exceptions however, some of which are identified below:<sup>21</sup>

- *Sexual orientation*

Benefits for married couples; where sexual orientation is ‘a genuine and determining occupational requirement’; and in ‘employment for the purposes of an organised religion so as to comply with the doctrines of the religion or the avoid conflicting with the strongly held religious convictions of a significant number of the religion’s followers’.

- *Age*

Length of service benefits or if there is a genuine need for a person to have ‘a characteristic related to a certain age’; where discrimination on grounds of age is required by existing law; and in recruitment for those over the age of 65.

- *Race*

A ‘genuine and determining occupational requirement’ is now included in the Race Relations Act and Race Relations (NI) Order in order to comply with the Directive.

- *Religion and belief*

A ‘genuine and determining occupational requirement’ as well as where an employer has an ethos based on religion or belief and being of a particular religion or belief is a genuine occupational requirement. In Northern Ireland FETO contains an exception for employment as a clergyman or minister of a religious denomination as well as where the essential nature of the job requires it to be done by a person holding or not holding a particular religious belief or political opinion. Also in Northern Ireland discrimination on grounds of religious belief is permitted in the recruitment of teachers in schools.

- *Disability*

Small, private clubs, acts done under statutory authority or to safeguard national security; also charities conferring benefits on a ‘category of people determined by reference to any physical or mental capacity...’

Other aspects of workplace policies and practices may be unlawful if they fall foul of the legislative prohibition against indirect discrimination. This might include, for example, a requirement to work full time, rules on religious observances or dress codes.

---

<sup>20</sup> Also see Public Order Act 1986, Protection from Harassment Act 1997, Crime and Disorder Act 1998

<sup>21</sup> See relevant enabling legislation for complete provisions on exceptions

As noted above, the provisions of the Employment Act 2002 (Dispute Resolution) Regulations 2004 require an employee to use formal grievance procedures before taking a complaint to a tribunal.

### **2B(1) Non-employment or occupation related – race and ethnic origin**

An individual may seek advice and assistance from the CREGB or ECNI. In practice, however, neither of these Commissions has supported a large number of cases on goods, facilities and services, education or the disposal or management of premises. An exception to this was in the early days of the new CRENI when it decided to assist a large number of cases on access to goods, facilities and services by Irish Travellers in order to establish case law in this area. Individuals therefore have to seek assistance elsewhere, such as from a Citizen's Advice Bureau or Law Centre. Legal aid may be available.

A civil remedy is sought from the County Court in England, Wales and Northern Ireland and a Sheriff Court in Scotland. The proceedings are 'in like manner as any other claim in tort or (in Scotland) in reparation for breach of statutory duty' (S57RRA). Damages may be awarded and can include compensation for injury to feelings. Complaints of discrimination in education can only be made once the claimant has given notice of his or her claim to the Secretary of State.

As indicated above the Office of the Parliamentary Commissioner in GB or Ombudsman can only adjudicate on matters in relation to unfair or improper actions or poor service by Government Departments and their agencies.

An individual may prefer to seek an informal resolution of a matter or seek the advice or guidance of local mediation bodies. Representations may also be made to other intermediaries such as local authorities, health or education authorities or representatives of service providers but these do not have the force of law behind them and resolution will depend upon negotiation and persuasion.

The public duties set out in the RRA and Section 75 of the Northern Ireland Act also cover public bodies in their role as service providers meaning that they are required to have due regard to the need to eliminate discrimination and promote equality of opportunity. As with the employment duties the CREGB or ECNI have a role to play in relation to compliance. A Judicial Review can be sought of the policy or practice of a public authority under the anti-discrimination legislation.

### **2B(2) Applicable situations**

Domestic UK law covers discrimination in education, housing, social protection including social security and health care, access to premises, access to and the provision of goods, facilities and services provided to the public by either the public or private sectors. This is supplemented by the public duties on race, gender and disability as described above. It appears that UK domestic law covers social advantages as contemplated by the Directive. Case law will provide greater clarity on this as it develops.

The exceptions contained in the RRA and RR(NI) Order on goods, facilities and services relate to the provision of accommodation or the disposal of premises in which the individual lives or intends to continue to live or which are 'small premises'. (S22 RRA)

### **2C Avenues for an employment or non-employment complaint**

An individual may wish to pursue a complaint of discrimination for a number of reasons. For some it may be to obtain financial compensation, for example for loss of earnings, or for injury to feelings or both. For others, it will be to ensure that the alleged unlawful discrimination ends; hopefully, not just for the individual complainant but generally. For NGOs or trade unions a range of factors may be taken into account before a decision is made to assist with a complaint, beginning with whether or not the complaint is within the time limits specified in the legislation.

Once this has been determined those assisting a potential complainant may advise on approaches to informal resolution in order to avoid having to take the matter before a tribunal or court. This might include a referral to ACAS in employment matters.

The law is complex and not easy to use without expert legal advice. Proceedings before employment or industrial tribunals were intended to be less formal and less daunting for lay people but in practice an employer will inevitably be legally represented making the process even more difficult for an unaided individual. Pursuing a complaint can be difficult; from amassing the necessary information to giving evidence and being subjected to cross-examination. Most discrimination complaints taken to a tribunal in the UK are settled before a hearing, usually without any publicity or admission of liability on the part of the respondent.<sup>22</sup> Legal Aid in the UK is not available for tribunal cases so, if an equality body, pro bono service or trade union is unwilling or unable to provide representation and financial assistance then an individual will have to fund his or her own case and this can be very costly. Some NGOs or TUs may find it difficult to access sufficient information relating to the complaint without the threat of more formal action and this may be a motivating factor in pursuing the latter course. A pre-action questionnaire procedure can assist here and will be used as the mechanism for disclosure from the respondent before legal proceedings are instituted. Employers are advised to respond to such a questionnaire for a failure to do so can result in an adverse inference being drawn by a court of tribunal at any subsequent hearing.

NGOs and TUs have limited funds with which to support discrimination complaints and so may decide on priority areas for assistance, thus excluding those with complaints that do not meet their criteria. An NGO or TU may also wish to assess the likelihood that the case will be successful, either by way of a negotiated settlement or before a court or tribunal. Note that a successful case may also be one that, even though the individual complaint may fail, nevertheless clarifies the law in an area. These are the types of cases that the national equality bodies may be interested in pursuing.

## **2D Technical procedural requirements of each available remedy**

In employment discrimination matters the complaint must be lodged within three months of the Act complained of unless the parties are involved in an internal grievance in which case this will be extended to six months. In the case of complaints in relation to goods, facilities and services and education the action needs to be brought within six months.

While tribunals and courts have the power to extend the time limits, this is something that will only be done where it is considered just and equitable to do so.

The pre-hearing questionnaire procedure is a helpful way to identify the strengths and weaknesses of a potential complaint and does not commit the individual to filing a claim. There are time limits within which a questionnaire must be served on a Respondent employer. The rules of procedure before employment, industrial or Fair Employment Tribunals are relatively flexible, with complaints lodged using a standard form (ET1) and with the possibility of pre-hearing reviews which can be used, for example, to decide if a claim should not proceed. Documents to be submitted in support of a claim would normally include any received from the Respondent or relevant third parties. Following oral evidence from the claimant and any supporting witnesses, cross and re-examination formal closing submissions may be made. Proceedings in claims before the County and Sheriff Courts are somewhat more formal. A Claim form, including the particulars of the claim and a statement of value is sent to the court which then serves this on the Defendant. In the County Court in England and Wales there is a 'small claims track' which aims to be a more informal method of resolving disputes.

The CRE, DRC, EOC and ECNI have produced guidance to assist individuals to pursue a complaint of discrimination.

---

<sup>22</sup> See [www.employmenttribunals.gov.uk](http://www.employmenttribunals.gov.uk) Annual Reports for statistics of cases settled, withdrawn, successful or otherwise disposed

At present in GB advice on sexual orientation, religion and belief or age has to be sought from NGOs, trade unions and other advice providers. It is expected that the CEHR will offer on line guidance across all of the equality grounds and human rights from October 2007. ACAS and its Northern Ireland equivalent provide help and guidance to employees as does the Employment Tribunals Service.

### **Equality Bodies**

Race – Commission for Racial Equality- [www.cre.gov.uk](http://www.cre.gov.uk) ‘Your rights’;  
Gender – Equal Opportunities Commission – [www.eoc.org.uk](http://www.eoc.org.uk) ‘Know your rights’  
Disability – Disability Rights Commission [www.drc-gb.org](http://www.drc-gb.org) ‘Using your rights – step by step guide’  
All grounds in Northern Ireland [www.equalityni.org](http://www.equalityni.org) ‘Making a complaint’  
All grounds from October 2007 in GB –[www.cehr.org](http://www.cehr.org)

### **NGOs, Trade Unions and other Advisory Bodies**

Advisory, Conciliation and Arbitration Service – [www.acas.org.uk](http://www.acas.org.uk)  
Employment Tribunals – [www.employmenttribunals.org.uk](http://www.employmenttribunals.org.uk)  
Stonewall – [www.stonewall.org.uk](http://www.stonewall.org.uk)  
Citizens Advice Bureau – [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk);  
Advice UK – [www.advice.org.uk](http://www.advice.org.uk)  
Law Centres – [www.lawcentres.org.uk](http://www.lawcentres.org.uk)  
British Humanist Association – [www.humanism.org.uk](http://www.humanism.org.uk);  
National Secular Society – [www.secularism.org.uk](http://www.secularism.org.uk)  
Interfaith Network – [www.interfaith.org.uk](http://www.interfaith.org.uk)  
Children’s Rights Alliance England – [www.crae.org.uk](http://www.crae.org.uk)  
Children’s Commissioners – England [www.childrenscommissioner.org](http://www.childrenscommissioner.org); Wales [www.childcom.org.uk](http://www.childcom.org.uk);  
Scotland [www.sccyp.org.uk](http://www.sccyp.org.uk); Northern Ireland [www.niccy.org](http://www.niccy.org)  
Trade Unions Congress – [www.tuc./tuc/rights](http://www.tuc./tuc/rights)  
UNISON – [www.unison.org.uk](http://www.unison.org.uk)  
Northern Ireland Committee of the Irish Congress of Trade Unions – [www.ictuni.org](http://www.ictuni.org)  
Age Concern England – [www.ace.org.uk](http://www.ace.org.uk);  
Help the Aged – [www.helptheaged.org.uk](http://www.helptheaged.org.uk)

## **2E Existing support and obstacles at national level**

Legal aid is not available for employment tribunal cases but may be available for discrimination cases in the areas of goods, facilities and services, education and housing as these matters are heard in County Court in England, Wales and Northern Ireland and the Sheriff Court in Scotland. However, legal aid eligibility is means tested and may preclude many potential litigants from obtaining assistance. In all cases (employment as well as goods, facilities and services) legal aid may be available for appeals but, again, this is means tested. There is some pro bono assistance available in the UK but the provision is patchy and could not be said to constitute a significant element of legal assistance. Usually at employment tribunals each side pays their own costs; however, the Tribunal may order one side to pay the costs of the other if, for example, it considers that one side behaved in an unreasonable manner or that the complaint was so weak it should not have been brought.

There is a lengthy history of employment tribunal involvement with anti-discrimination cases in the case of race, gender and more recently disability in the UK. However this is not the case with religion and belief (except in NI), sexual orientation or age and it may be some time until a body of expertise is developed in these areas.

Many public and private organisations now understand their obligations in relation to access issues in order to comply with the provisions of the DDA.

However, provisions may not fully take account of the range of access needs of disabled people. Courts and tribunals will provide interpreting services by way of sign language and for those who are not proficient in English.

Race Equality Councils or similar NGOs may be funded by local authorities and/or the CRE to provide casework services. The Law Centre Federation also delivers casework and assistance may also be available through trade union representatives or legal advisors and a range of advice providers. The national equality bodies have a remit to provide advice and assistance, which can include representation in anti-discrimination cases. In practice, however, their assistance is limited to strategic cases. This is due to a lack of resources. The DRC has outsourced all of its advice and information functions and supports specialist advisers on disability matters in a number of law centres. The new CEHR will have a similar power to assist cases but it is not yet clear to what extent if any it will opt to do this beyond 'test' cases.

## **2F Referrals to the European Court of Justice**

Where there is a disputed issue of EU law and the judge is uncertain how to interpret a provision at EU law, a referral can be made by a national court to the European Court of Justice in Luxembourg under Article 234 of the Treaty.<sup>23</sup> The parties to the proceedings can ask the national judge to grant a request for such a referral, or the judge can decide to refer the case. Any court may make a referral, but only the national court of last instance is obliged to do so. This may be a highly effective procedure because

- requesting a referral can concentrate the mind of the presiding judge and ensure that s/he gives proper consideration to the complaint, especially to the fact that it raises issues of European rights
- national bodies, particularly public bodies, are impressed by its high profile and may take steps to avoid the exposure of discrimination at national level to pan-European scrutiny
- the European Court is the only body that can give a definitive interpretation of the terms used in the Directives

However, this is a specialised procedure and expert EU lawyers familiar with its use need to be retained. In addition, the national case is 'stayed' (put aside) until the ECJ has decided the issue, and this delay of sometimes two years can have serious consequences for the complainant.

## **2G Petitions to the European Parliament**

The Committee on Petitions of the European Parliament can receive petitions from Citizens of the Union who wish the Committee to investigate their complaint/s that their rights under European Union law are not being properly respected.

## **2H Alerting the European Commission to discriminatory administrative practices**

It is also possible to write directly to the Commission, which may often be a quicker process than that outlined above under 2G. This could be done with a view to encouraging the Commission to initiate infringement proceedings against the offending State. The Commission and the Parliament are bound by the EU Charter of Fundamental Rights' provision on the right to good administration (Article 41) (if adopted).

- every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions and bodies of the Union
- this right includes

---

<sup>23</sup> This has recently been done by a UK court in the case of the default retirement age contained in the Employment Equality (Age) Regulations

- the right of every person to be heard, before any individual measure which would affect him or her adversely is taken
  - the right of every person to have access to his or her file, while respecting the legitimate interest of confidentiality and of professional and business secrecy
  - the obligation to give reasons for its decisions
- every person has the right to have the Community make good any damage caused by its institutions or by its servants in the performance of their duties, in accordance with the general principles common to the laws of the Member States
  - every person may write to the institutions of the Union in one of the languages of the Treaties and must have an answer in the same language

## **2I Complaints to the European Court of Human Rights**

In addition, when all effective national legal remedies have been exhausted, a person may, if the case concerns issues covered by the European Convention on Human Rights, apply to the European Court of Human Rights in Strasbourg under Article 14 of the Convention provided another Article is also engaged. The UK has not signed the Additional Protocol 12 to the ECHR. Collective complaints can also be made under the Council of Europe's European Social Charter.

## **2J Other international remedies**

The UK has not made a declaration under Article 14 of ICERD, nor has it ratified the Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) which provides for the right of individual petition. The CRE has recommended to Government that such a declaration and ratification should occur.<sup>24</sup> In 2004 the Government agreed to conduct a two year pilot of individual petition under CEDAW by ratifying the optional protocol to that Convention.

NGOs/trade unions should ensure that they alert the Committees which examine the State's periodic reports under the ICCPR, CERD, CEDAW and the convention on the Rights of the Child to instances of discrimination.

## **2K Professionalism**

NGOs and TUs experienced in assisting with cases of discrimination are generally aware of the need for professionalism and efficient case management. Whether or not they adhere to any accepted standards for the delivery of services is not so clear. Certainly such standards exist and can be adapted to meet the needs of an individual NGO. Examples include the core standards developed by the CREGB for those seeking funding to provide race equality services; and the Quality Mark developed by Community Legal Services that is the standard that underpins CLS services.<sup>25</sup> Most NGOs and TUs in the UK make referrals in situations where they are unable to assist an individual; however, the lack of funding for many organisations – whether making or receiving the referral – can mean that there will be limits on the extent of the service they can provide.

## **3. Societal Issues**

There is considerable scope for conflict between the equality strands or protected groups; this has been recently demonstrated by opposition from some religious bodies and groups to the proposed extension of protection against discrimination on grounds of sexual orientation to the provision of goods, facilities and services. This was particularly the case in relation to same sex couples' eligibility to adopt children.

<sup>24</sup> [www.cre.gov.uk](http://www.cre.gov.uk) – European and international strategy

<sup>25</sup> See [www.legalservices.gov.uk](http://www.legalservices.gov.uk) and [www.cre.gov.uk](http://www.cre.gov.uk)

The potential for conflict also extends to issues of gender equality versus religious doctrines or views, as well as the position of women vis-à-vis certain cultural practices and philosophies such as arranged (forced) marriages.

Poverty is a reality of the lives of many in Britain despite considerable effort having been made to reduce deprivation. Vulnerable groups in UK society include Gypsies and Travellers, asylum seekers and refugees; the homeless; children and elderly people living in poverty; those in rural areas; and some ethnic groups such as the Bangladeshi community. Discrimination on racial grounds persists with racial harassment, stop and search practices by the police, deaths in custody, lower academic attainment for some; under representation in some higher educational facilities and over representation in the prison population examples of how this is reflected in British society. Lesbian, gay and bisexual people face harassment and homophobic bullying at work and in the community while transgender people have considerable difficulty in accessing appropriate and timely medical treatment as well as harassment and discrimination in the workplace. Older workers while increasingly being accepted still face discrimination in promotion, access to training and recruitment, as can younger people who may be perceived to have insufficient expertise or experience to do a job. Carers, older women and children often find their life chances and opportunities limited.

The new CEHR may be faced with conflicting priorities when it considers what its objectives are to be and it will need to ensure that it engages with NGOs across the equality and human rights 'strands' in a sensitive manner. Greater partnership working amongst NGOs and between NGOs and the public and private sectors will help to ensure that issues of concern to all are discussed in an open and transparent way, thus helping to ensure that conflict can be minimised. Because of deep seated beliefs and traditional ways of working, some NGOs channel their efforts only for the benefit of one or another group to the exclusion of others. However, the trend in Britain is away from this approach toward diversity and 'cross strand working'. There has been a move to embrace the concept of diversity, acknowledging that organisations need to be aware of and sensitive to the needs of individuals as well as groups. Further the extension of legislative protection to the 'newer strands' of religion and belief, in Great Britain, sexual orientation and age have heightened awareness of the concept of 'multiple identity' and the intersection between the various 'strands'. On top of this, the UK (building upon the good relations duty contained in the RR(NI) Order and RRA 1976) has taken on board notions of community cohesion which is slowly extending beyond race and religion to encompass the notion that all people of any age, gender, sexual orientation and with or without a disability have a role to play in bringing communities together. As one commentator has noted 'People have multiple identities...increasingly, our recognition of disadvantage within society acknowledges a combination of causes.'<sup>26</sup>

## ACRONYMS

ACAS:	Advisory, Conciliation and Arbitration
CEDAW:	Convention on the Elimination of Discrimination against Women
CEHR:	Commission for Equality and Human Rights
CERD:	Convention on the Elimination of all forms of Racial Discrimination
CRE:	Commission for Racial Equality
DDA:	Disability Discrimination Act 1995
DRC:	Disability Rights Commission
ECHR	European Convention on Human Rights
ECJ:	European Court of Justice
ECNI:	Equality Commission for NI
EOC:	Equal Opportunities Commission
FETO:	Fair Employment and Treatment (NI) Order 1998
GB:	Great Britain

---

<sup>26</sup> Moon., Gay Multiple discrimination – How real are the problems? What are the solutions? In Discrimination Law Association Briefings, March 2007

ICCPR: International Covenant on Civil and Political Rights  
NI: Northern Ireland  
RRA: Race Relations Act 1976

#### **d) Funding opportunities in the field of anti-discrimination**

### **I. EU FUNDING AT THE EUROPEAN LEVEL FOR NGOs/TRADE UNIONS OPERATING AT THE EU LEVEL**

#### **1. EU funding for NGOs/Trade Unions operating at the EU level**

##### *a) European-level NGOs*

European-level NGOs are in a central position to influence and contribute to European employment, social and equal opportunity policies at different levels – both in its formulation and implementation – through the information and expertise supplied by their national members. This is vital in order to ensure that EU policies meet the actual needs of EU citizens, and that citizens are informed about them.

Between 2001 and 2006, the Community Action Programme to combat discrimination provided funding for a number of European umbrella NGO networks representing and defending the rights of people exposed to discrimination:

AGE (The European Older People's Platform); ILGA Europe (International Lesbian and Gay Association – Europe); ENAR (European Network Against Racism); and EDF (European Disability Forum) have been granted a total of 3 000 000 € per year towards their running costs up to the end of April 2007. A number of smaller organisations – the European Blind Union, The European Union of the Deaf, Inclusion Europe, Autisme-Europe – also received support under the Action Programme.

Until the end of 2006, the European Women's Lobby received running cost support through the Gender Equality Programme with an annual amount of around 800.000 €

A number of NGOs working to tackle social exclusion (European Anti-Poverty Network, European Federation of National Organisations Working with the Homeless, European Transregional Network for Social Inclusion, Eurochild, European Social Network, Caritas-Europe) received funding from the Community Programme to Combat Social Exclusion with a total of 3.600.000 € between 2005 and 2007.

For the new 2007-2013 programming period, the European Commission decided to create a new integrated programme known as **PROGRESS** (Programme for Employment and Social Solidarity). The programme was approved by the European Parliament and Council in November 2006: [http://ec.europa.eu/employment\\_social/progress/index\\_en.html](http://ec.europa.eu/employment_social/progress/index_en.html)

PROGRESS combines the four former Community Action Programmes, including that relating to non-discrimination: Section 4 of PROGRESS, entitled "Anti-discrimination and diversity", thus aims to support the effective implementation of the principle of non-discrimination and to promote its mainstreaming in all EU policies.

Calls for proposals and tenders under PROGRESS are published on the Calls for Tender/Calls for Proposals website of DG Employment, Social Affairs and Equal Opportunities on: [http://ec.europa.eu/employment\\_social/emplweb/tenders/index\\_en.cfm](http://ec.europa.eu/employment_social/emplweb/tenders/index_en.cfm)

A first PROGRESS call for the award of a financial contribution towards the operating costs in 2007 of European-level networks active in the field of combating discrimination, promoting gender equality and promoting the integration of disabled people in society was launched in November 2006. Grant agreements for the successful EU-level networks will run until December 2007.

## ***b) European Trade unions***

The European Trade Union Confederation (ETUC) represents workers across the industries at European level. Set up in 1973, the ETUC includes 81 national organisations from 36 European countries (among them all the EU countries) and 11 European industry federations, with some 60 million members.

The ETUC is one of the four main European social partner organisations. Numerous European social partners' projects are supported every year by the European Commission's social dialogue budget lines (04.03.03.01, 04.03.03.02 and 04.03.03.03). For more information:

[http://ec.europa.eu/employment\\_social/social\\_dialogue/grants\\_en.htm](http://ec.europa.eu/employment_social/social_dialogue/grants_en.htm)

## **2. EU funding for national NGOs/Trade Unions**

While the EU does not provide for core-funding of national NGOs or national trade unions under PROGRESS, organisations may be able to receive funding for projects through their participation in specific initiatives such as national awareness raising activities or trans-national projects. National organisations are therefore advised to regularly check the Calls for Tender/Calls for Proposals website of DG Employment, Social Affairs and Equal Opportunities and consult the guidelines published there to check whether projects from national NGOs/trade unions are eligible for funding:

[http://ec.europa.eu/employment\\_social/emplweb/tenders/index\\_en.cfm](http://ec.europa.eu/employment_social/emplweb/tenders/index_en.cfm)

The EU-level NGOs such as AGE, ILGA-Europe, EDF or ENAR are also a good source of information. It is therefore recommended to also check the information that is provided on their web page.

In addition to PROGRESS, the European Social Fund (ESF) can be a source of project financing for national organisations. The ESF will between 2007 and 2013 focus on four key areas for action, including reinforcing social inclusion by combating discrimination and facilitating access to the labour market for disadvantaged people. More information can be obtained from:

[http://ec.europa.eu/employment\\_social/esf2000/2007-2013\\_en.html](http://ec.europa.eu/employment_social/esf2000/2007-2013_en.html)

The European Commission does not directly fund ESF projects. Member States are responsible for identifying their priorities for funding and for selecting individual projects. For further information, you should contact the relevant national/regional authority whose contacts are available on:

[http://ec.europa.eu/employment\\_social/emplweb/esf/esf\\_matrix\\_en.cfm](http://ec.europa.eu/employment_social/emplweb/esf/esf_matrix_en.cfm)

## **II. FUNDING OPPORTUNITIES FOR NGOs/TRADE UNIONS WORKING ON ANTI-DISCRIMINATION AT NATIONAL LEVEL**

- 1. Does the European Commission delegation in your country provide for specific funding for NGOs/trade unions working on non-discrimination at national level? What form does that funding take? (project subsidy, provision of meeting room, etc) Is it easy to access such funding? What are the conditions to receive such funding?**

The European Commission delegation does not provide direct funding but there have been cases where it has supported the organisation of seminars through paying for the room hire.

- 2. Does the central government provide for specific funding for NGOs/trade unions working on anti-discrimination?**

Central government does provide funding to NGOs and trade unions but the funding tends to be short term and is dependent on the topics or priorities the government wishes to spend money on at a given time. There is no long-term strategy for funding emerging from central government and it is therefore impossible to assess the amount and extent of this funding to NGOs and trade unions, as it depends very much on the type of projects that are being implemented and whether they fit within the criteria of central government at the time.

A number of projects are funded in the UK under the EQUAL programme. It has set a number of priorities themes, some of which are relevant to anti-discrimination, including “combating racism and discrimination”, “promoting lifelong learning”, reducing gender gaps” and “helping asylum seekers to integrate”. The EQUAL programme is a European Social Fund community initiative, which is administered through the various Government Offices throughout England ([www.esf.gov.uk](http://www.esf.gov.uk)) In Northern Ireland the European Social Fund is administered by the Department for Employment and Learning ([www.delni.gov.uk](http://www.delni.gov.uk)).

In addition, 2007 is the European Year of Equal Opportunities for All. The Department for Communities and Local Government, who is acting as the National Implementing Body for the year, has indicated that there will be no grant funding available for NGOs and stakeholders to develop their own individual projects. Instead, it intends to use the European Year to raise awareness of the upcoming Commission on Equality and Human Rights and organise a series of regional seminars.

- 3. What form does this funding take? (core funding, project funding, facilities) Are such funding possibilities part of specific governmental programmes? (which ones and from which ministries?)**

It would be difficult to provide an exhaustive list of the funding possibilities made available by central government for the reasons outlined above. There are several ministries can you please list them that might fund certain projects linked to anti-discrimination work. These include:

- The Department for Communities and Local Government ([www.communities.gov.uk](http://www.communities.gov.uk))
- The Department for Trade and Industry ([www.dti.gov.uk](http://www.dti.gov.uk))
- The Department for Education and Skills ([www.dfes.gov.uk](http://www.dfes.gov.uk))
- The Home Office ([www.homeoffice.gov.uk](http://www.homeoffice.gov.uk))

It is worth mentioning the recent Sexual Orientation, Religion & Belief (SORB) funding from the Women and Equality Unit (Department of Communities and Local Government ) to provide additional support to strands that are not currently represented in any equality body, until the setting up of the Commission on Equality and Human Rights.

Another strand specific example is the Connecting Communities Plus Scheme, coming from the Department for Communities and Local Government and aimed at reducing race inequalities and tackling extremism” The grant funding is for organisations that are committed to delivering projects and services that promote race equality and foster strong community relations.

However, this funding is very much on an ad hoc, short term basis. This lack of clarity and lack of long-term overall strategy makes it all the more difficult for NGOs and trade unions to gain access to government funding.

**4. Is it easy to access such funding? What are the conditions?**

The conditions vary according to the criteria chosen by government. Generally, it is increasingly difficult to receive core funding. Instead, funding is provided on a project-by-project basis.

**5. In case of federal countries, are there funding possibilities at the federated level?**

N/A

**6. Are there other governmental funding possibilities at regional level? At municipality level?**

Funding regionally and locally on equality issues will generally come from local authorities, as well as from devolved governments such as the Welsh Assembly and the Scottish Executive. In Northern Ireland, the Office of the First Minister and Deputy First Minister (OFMDFM) provides funding to NGOs working on equality issues. This funding can apply to all grounds covered in Section 75 of the Northern Ireland Act 1998 (religious belief, political opinion, race, gender, disability, age, sexual orientation, having/not having dependants and marital status) For all grounds?

Similarly to question 3 and 4, although there is a range of funding available to NGOs and trade-unions to carry out anti-discrimination work, it does not seem to follow an overarching strategy and is more on an ad hoc basis. It will also tend to focus on a particular “topic”, which is seen as a priority at the time (a good example of this being the raft of funding provided in Northern English towns to tackle racism and promote “community cohesion” as a result of the disturbances in 2001) and thus tends to be dependent on short term priorities.

**7. Are there any private funding possibilities? (private foundations, private companies, headquarters of trade unions, etc.) What are they? Is it easy to access these sources of funding?**

Private funding is available, generally from charitable trusts such as the Joseph Rowntree Charitable Trust or Barrow Cadbury Trust. There are many charitable trusts with grant-making capacities that offer grants ranging from as low as £20,000 per year to well over one million pounds sterling. However, competition for these funds is extremely stiff. The conditions imposed by private funders varies but can include funding only projects that are not already supported by mainstream funding; work that has not already been tested; projects that benefit marginalised groups and involve those who will benefit and projects that influence social change. Other restrictions could relate to the geographic location of the project; or limits on projects that are related to business development.

**8. Are there any other source of funding?**

Most funding comes either from government funds, or from charitable trusts and in some cases from private companies. There is a possibility for the Commission for Equality and Human Rights to provide funding to NGOs in future, however, the scope and extent to which this will happen remains to be seen. The Big Lottery Fund is a body responsible for giving out half the money for good causes raised by the National Lottery. It is a potential source of funding for NGOs, including those working on equality issues.

#### **IV. Diversity Management seminar**

##### **Design of the training**

We appointed Sheila Rogers to be the Diversity Management Trainer for this seminar. Sheila has tremendous experience in the field of diversity in the corporate as well as the public sectors.

##### **Preparation of the DM seminar**

Sheila attended the training seminar in Koln where she met with Hans Jablonski who was assigned to be the international trainer supporting Sheila for the London training.

Fairly early on, we had started contacting various potential partners for the organisations and hosting of the diversity management seminar. We partnered up with CBI, the largest federation of private sector companies in the England and Wales, who offered to co-brand the event and use their networks to disseminate the information. We also partnered up with Eversheds, a law firm, to host the seminar. It was decided that the seminar would target in priority small and medium sized enterprises (SMEs) as it was felt that they were the companies who need the most advice on diversity in a national context, in particular on procurement and diversity in preparation for the 2012 Olympics in London.

Finally, an additional consultant in diversity management, who had worked with Runnymede in the past had offered to support the preparation and advertising of the seminar and agreed to facilitate the seminar alongside Hans and Sheila on the day, for free.

The announcement of the seminar went out to an extremely broad range of organisations through various networks. These included, the CBI, Eversheds, Runnymede's contacts, as well as the Federation of Small Businesses, the London First website (of the London Development Agency, in charge of business development in London), and any other means we could find that were appropriate.

Unfortunately, on our first attempt, we only managed to attract a few participants, many of which were actually not the client base we would have hoped. Rather than mainstream SMEs, these tended to be businesses that were already quite aware and familiar with diversity (ethnic minority businesses for example).

We therefore took a decision to postpone the seminar and give ourselves more time to advertise for it. Unfortunately, that was not met with success and again, very few organisations registered.

For that reason, we decided to cancel the seminar, as it seemed impossible to hold it, with such few participants.

##### **Main lessons learned**

Reflecting on the reasons for not managing to attract participants, we have come to the conclusion that it is partly due to the following:

- a very saturated market for diversity trainings in London and the UK more broadly that makes it hard to attract companies
- the fact that this was to be a day-long session, which according to our CBI colleagues might be off-putting for companies, especially SMEs who have limited time. They had suggested we might wish to consider organising a lunch-time briefing - something to bear in mind perhaps for future projects?

## Annexes

### The role of trade unions combating discrimination

#### Intended learning outcome:

- For the participants to have explored the roles trade unions can and should play in combating discrimination.

#### **1. What is a trade union?**

A trade union is an organised association of workers, whose aims are to protect, and further workers' rights and interests and represent them at a variety of levels (workplace, sector, national). Originally, unions organised workers along the lines of specific 'trades' and professions (such as hairdressers, teachers, construction workers) but increasingly common are unions with a wider remit (like: workers in commercial services or 'the public sector'). Trade unions can be organised at company level (which is quite common in several countries) or by sector (education, transport, etc.). Unions can also be organised as federations and can also be part of European or international networks.

In several countries, trade unions may have historical links with certain political groupings, ideologies or denominations (socialist, communist, liberal, Christian), and a few have close links with a political party.

However, a common and essential feature to all trade unions is that they are democratic and independent organisations. Democratic because they are membership based and representative organisations, in which every member has a vote and is part of the decision-making process. Independent, because they have to be independent from employers and public authorities to be able to play their role of representatives of workers properly, in which negotiations and compromises but also conflicts (such as strikes) are part of the game.

Trade unions are normally funded by members' subscriptions.

#### **2. What is the role of a trade union in combating discrimination?**

When considering what role trade unions can have in combating discrimination, they should take full advantage of the special roles that have been given to them under Articles 7 and 11 of Council Directive 2000/43/EC, and Articles 9 and 13 of Council Directive 2000/78/EC.

Trade unions are clearly important to the development of peaceful, democratic, well-managed, healthy and prosperous workplaces that engage with and promote equal opportunities, and through the workplace also contribute to these same goals in society at large.

Trade unions as instruments of social dialogue can combat discrimination in the following ways:

- Negotiating with employers to ensure that discrimination in the workplace is eliminated and that equal opportunities are promoted.
- Providing a means for expressing and addressing the needs of workers who are discriminated against in the workplace.
- Supporting victims of discrimination in securing a settlement with the employer (alternative dispute resolution).
- Supporting victims of discrimination in their search for access to justice.
- Promoting equality and diversity in the workplace and in the sector.
- Establishing mechanisms to influence decision-making by employers and Government.

- Mainstreaming non-discrimination and equal treatment in policies and practices.
- Challenging employers, organisations and authorities to combat discrimination.
- Monitoring, documenting and denouncing discrimination.
- Ensuring that equality is prominent on the political agenda and encouraging campaigns and action to eliminate discrimination and promote equality.

A trade union can

- Work in partnership with other trade unions to achieve shared aims.
- Work in partnership with NGOs in order to achieve shared aims.
- Cooperate with national equality bodies, for example in building up networks of equality representatives, or in organising training and expertise for workers' representatives.
- Empower groups to engage in campaigns, to be self-advocates and to assert and enforce their rights.
- Work, where appropriate, in partnership with Governments/employers to achieve common aims and objectives.
- Challenge, where appropriate, Governments/employers when they are promoting policies which are contrary to the trade union's objectives.
- Where appropriate deliver services to members efficiently and effectively where those services promote equal opportunities within the framework of Government policies and adopt and promote strategies of Trade unions and strategies negotiated between Trade unions and Government.
- Where appropriate deliver services to members efficiently and effectively where those services promote equal opportunities outside the framework of Government policies and adopt and promote trade unions' objectives and, strategies even if those are contrary to Government policies.
- Ensure the co-ordination of its own services and to engage Government/employers in discussions on the co-ordination of services between the Government and trade unions, where those services relate to equal opportunities.
- Provide properly professionally researched advice to Governments/employers on issues of concern.
- Advocate and campaign for change as a response to need.
- Guide and contribute significantly to legislative and policy making processes, by providing properly researched advice and briefings to politicians in Government and to employers and other persons of influence.
- Be vigilant "watchdogs" - pointing out where Governments/employers are actively discriminating, or failing in their obligations to combat discrimination or where they need to improve their performance, and enforcing the operation of the checks and balances that characterise democratic society. In this role trade unions must target Government and the business community by advocacy, lobbying and negotiating functions when required.
- Challenge, by appropriately selected mechanisms, acts, omissions, administrative practices or policies which are contrary to the trade unions' and the workers' objectives.
- Keep track of and ensure that advantage is taken of all new developments in combating discrimination, e.g. new legislation (national, EU and international), new policies (national, EU and international), new sources of funding, and landmark judicial decisions (at both national, EU and international level).
- Be open, transparent and accountable to members and to the public.
- Increase the strength of trade unions' participation in social dialogue by forming networks and coalitions, and promoting original initiatives and solutions. This can help to reduce prejudice within society, thus promoting equality.
- Work openly and in a spirit of collaboration with other trade unions and NGOs operating in related fields and prevent conflicts and disputes occurring between trade unions or NGOs.

- Put pressure on a state to ratify international instruments which allow for the international spotlight to be shone on Government practices relating to equal opportunities.
- Supply national and international bodies with essential and reliable information on which they can draw when examining a country's record on discrimination.

In summary, the role of trade unions should be to check, monitor and challenge the actions of employers and Governments and other organisations, in order to combat discrimination and to assist workers and groups of workers in asserting their rights.

### **3. What activities can a trade union do to combat discrimination?**

The following is a suggested list of activities and services that a trade union can carry out or provide in order to help combat discrimination on all grounds:

- Negotiating.
- Awareness-raising.
- Monitoring/Influencing the development of policy & law.
- Providing support to individual victims of discrimination, and to individuals as part of a collective complaint.
- Litigation.
- Alternative Dispute Resolution including mediation.
- Campaigning and organising.
- Advocating changes in practice (as distinct from policy or law).
  - Promoting the establishment of focal groups around a specific ground of discrimination (disability, race-ethnicity, etc.) to offer workers a place where they can share common experiences and discuss which policies to develop in their workplace and their union, and how to join forces to put their interests on the general trade union agenda
  - Adapt their recruitment campaigns to an increasingly diverse workforce, and making the diversity of the trade union movement more visible in internal and external publicity
  - Promote female members and members from a minority background in positions of decision-making and leadership.

### **4. What does a trade union need to fulfil its role?**

- Human Resources.
- Skills.
- Knowledge.
- Expertise.
- Openness.
- Transparency.
- Accountability to their members.
- Non discriminatory attitudes within its own organisation.
- Appropriate national legislation in place regarding its establishment and functioning.
- Funding. Although clearly the core functions and activities must be funded independently by members' contributions, many unions make use of project subsidies by governments and private funds for specific aims. Especially in the area of non-discrimination, a variety of possibilities for funding are available.

**5. Why are trade unions better placed than other organisations to work towards combating discrimination in the employment field?**

- Because trade unions are active in the workplace, they are often best placed to detect patterns of discrimination at work, and to take action to combat disadvantage.
- Trade unions can represent workers collectively, for instance in works councils and collective bargaining, which can often be the most effective way of achieving change and eliminating discrimination in the workplace.
- Trade unions play a crucial role in engaging with workers and employers at the local, regional, national and international level.

**6. What are the obstacles for trade unions and how might these be overcome?**

- Lack of standing in order to participate in relevant political debates. Trade unions will need to be sure that they brief an individual or organisation that does have standing.
- Lack of standing in order to bring complaints, either individually or collectively. Trade unions can support and assist those who do have standing, or seek to reform the rules.
- Perception of affiliation to Government or a political party or other group so undermining their reputation as impartial advocates of equality issues. A trade union needs to ensure to act in a way that does not conflict with members' fundamental rights to equality, and ensure that any connections with political parties or other organisations or causes do not conflict with members' rights.
- Passivity from some of their members/employees or even their leadership regarding action to be taken against discrimination.
- Conflicts between the interests of the majority of members, and the rights of minority members.
- Own prejudices.
- Lack of effective 'partnership' between Government/employers and trade unions. Lack of effective cooperation with NGOs.
- Lack of membership among the discriminated groups of workers, and therefore a lack of interest among the members and the leadership to deal with these issues. This may be a vicious circle, as clearly a trade union that does not show an interest in representing the interests of for instance women or migrant workers will not easily convince those workers that they should join a union.
- Inability to reach some parts of the workforce or senior management due to ineffective structures, poor organisation, externally imposed priorities, or cultural or language barriers. Trade unions should ensure that *their own organisations* have a diverse workforce with personnel who have received equal opportunities training and who are aware, of relevant social and political history, including the history of exclusion and discrimination of certain groups within the community and, where relevant, a range of language skills.