

## ANNEX A

### ADDITIONAL MEASURES TO PROTECT HUMAN RIGHTS

Since 1969, key measures to protect human rights and to prevent discrimination in both the public and private sectors have included:

The Electoral Law Act (Northern Ireland) 1969 introduced universal adult suffrage for local council elections. The franchise had previously been limited to rate payers. The Local Government Act (Northern Ireland) 1972 established an independent Local Government Boundaries Commissioner to make recommendations on the boundaries of district electoral divisions and local government administrative areas and provided independent procedures for their review. The District Electoral Areas Commissioner (Northern Ireland) Order 1984 provided independent procedures for recommending the grouping of wards into electoral areas. The Electoral Law (Northern Ireland) Order 1972 created the independent post of Chief Electoral Officer with responsibility for the orderly conduct of all elections. This Order and subsequent legislation introduced proportional representation for local government elections and regional elections to the European Parliament. The Elected Authorities (Northern Ireland) Act 1989 extended the local authority franchise to bring it into line with that for Parliamentary elections.

The Parliamentary Commissioner Act (Northern Ireland) 1969 established the office of the Northern Ireland Parliamentary Commissioner for Administration with powers to investigate complaints of maladministration (including discrimination on the grounds of religious belief or political opinion) by Government departments. Unlike his Westminster counterpart, the Northern Ireland Parliamentary Commissioner was subsequently charged with responsibility to investigate complaints affecting personnel matters in the Northern Ireland Civil Service. Furthermore, in 1971 all contractors tendering for Government contracts were required to adhere to a contractual term not to practice religious discrimination in the performance of the contract. The Parliamentary Commissioner became responsible on an extra-statutory basis for overseeing the operation of the term. This arrangement was superseded by the Fair Employment Act.

The Commissioner for Complaints Act (Northern Ireland) 1969 established the Northern Ireland Commissioner for Complaints with powers to investigate grievance against local councils and public bodies. Where the Commissioner for Complaints found injustice in consequence of maladministration, including discrimination on the grounds of religious belief or political opinion, the Commissioner was empowered to certify the facts to the county court for the purposes of an action for damages by the complainant.

The Prevention of Incitement to Hatred Act (Northern Ireland) 1970 made it a criminal offence wilfully to stir up hatred against a section of the community including any section distinguished by race or religion. This legislation was subsequently consolidated into the Public Order (Northern Ireland) Order 1981. This was replaced by the Public Order (Northern Ireland) Order 1987 which *inter alia* repealed the Flags and Emblems (Display) Act (Northern Ireland) 1954 and amended the legislation to prohibit the use of words or behaviour, or display of any written material likely or intended to provoke hatred based on religious belief, colour, race or ethnic or national origin against any section of the public.

The Housing Executive Act (Northern Ireland) 1971 provided that all public authority house building and its allocation on the basis of an objective points system should become the responsibility of a central housing authority, the Northern Ireland Housing Executive. This measure was in part designed to meet allegations that some local authorities had discriminated in the location and allocation of housing.



The Prosecution of Offences (Northern Ireland) Order 1972 set up the office of an independent Director of Public Prosecutions in Northern Ireland. The Director is the sole prosecuting authority in Northern Ireland responsible for the consideration of facts relating to all indictable and certain other offenses with a view to initiating or continuing criminal proceedings. The Chief Constable is required to furnish the Director with facts and information relating to all alleged indictable offenses and any other alleged offenses as the Director may specify.

The Fair Employment (Northern Ireland) Act 1976 made direct discrimination on religious or political grounds unlawful in employment. A Fair Employment Agency was made responsible for receiving and investigating complaints of discrimination and for conducting investigations into the extent of equality of opportunity. A further initiative was brought into operation in 1982; tenders for Government contracts would not normally be accepted from firms unless they held an equal opportunity employment certificate issued under the 1976 Act. The Fair Employment (Northern Ireland) Act 1989 amended and extended the legislation and established a Fair Employment Tribunal and a Fair Employment Commission, replacing the Agency. It provided for compulsory registration of employers, monitoring by employers of their workforces and applicants for jobs, regular reviews by employers of their recruitment, training and promotion practices, taking into account a new Code of Practice and use of affirmative action including goals and timetables, as directed by the Commission, in the absence of fair participation. The Act provided that indirect discrimination should also be unlawful. The Act also provided for criminal penalties for failure to register, monitor and conduct reviews; criminal penalties and loss of grants and contracts in instances of bad practice; and compensation of up to £30,000 for individual victims of discrimination.

The Sex Discrimination (Northern Ireland) Order 1976 made it unlawful to discriminate on grounds of sex in employment or in the provision of goods, facilities and services. The Equal Opportunities Commission set up under the Order keeps under review the operation of the legislation and the Equal Pay Act (Northern Ireland) 1970. The Commission can investigate unlawful discriminatory practices and issue "non-discrimination notices", enforceable if necessary in the courts, by way of injunction or order. The Sex Discrimination (Northern Ireland) Order 1988 extended the 1976 Order to cover equal retirement conditions and various other provisions.

The Homosexual Offences (Northern Ireland) Order 1982 provides that homosexual acts in private between consenting males over 21 years of age should not be an offence. The Order brought the law in Northern Ireland into line with that already in force in Great Britain.

The Police Act (Northern Ireland) 1970 set up a Police Authority as an independent body to maintain an adequate and efficient police force. One of the Authority's responsibilities under the Act is to keep itself informed as to the manner in which complaints against members of the force are dealt with by the Chief Constable. The Police (Northern Ireland) Order 1977 provided for the establishment of a Police Complaints Board for Northern Ireland. The Board was replaced under the Police (Northern Ireland) Order 1987 by the Independent Commission for Police Complaints (ICPC). The ICPC receives copies of all complaints and, subject to any adjudication by the Director of Public Prosecutions, the relevant investigation reports. The ICPC is charged with ensuring that the investigation of complaints is carried out in a thorough and impartial manner and is required to supervise the investigation of all complaints involving death or serious injury and can supervise the investigation of any other complaints.

The Police and Criminal Evidence (NI) Order 1989 reformed the law relating to the investigation and detection of crime and revised the law on evidence. The new powers introduced were accompanied by a range of safeguards to ensure that they were used fairly and responsibly. Codes of Practice issued



under the Order provide detailed rules and guidance to the police on the exercise of their powers. In the law and order field, the emergency measures which are currently necessary take account of human rights and are subject to regular parliamentary scrutiny. They represent a carefully structured balance between the need to provide the security forces with the legal resources to counter terrorism effectively, and the necessity to protect civil liberties and safeguard fundamental human rights. Detention powers introduced in 1972 have been allowed to lapse and many other refinements have been made following regular independent reviews of the legislation, the last of which has only recently been completed by Lord Colville. The Government recently published a Guide to the Emergency Powers, which explains the main emergency powers and sets out the procedures governing the treatment and questioning of terrorist suspects in police custody. Those claiming ill-treatment by the police or Army are free to seek damages in the courts; in those cases where such allegations have proved true, compensation has been paid. The security forces enjoy no immunity from prosecution.

There have also been developments in the field of community relations in Northern Ireland. In 1987 a Central Community Relations Unit was set up within Government to advise the Secretary of State on all aspects of the relationship between the two sides of the Northern Ireland community and to ensure that at the centre of the decision-making process crucial community relations issues in their widest sense are given the fullest possible consideration. In 1990 an independent Northern Ireland Community Relations Council was established to provide support facilities and recognition for local organisations which are concerned with the development of community relations, awareness of cultural diversity and conflict resolution. There is also under review a system of equal opportunity proofing of Government policy-making and legislation. Under the system, policy and legislation proposals are considered by the NIO and NI Government Departments to establish whether they may discriminate on the grounds of religious belief or gender and provide equality of opportunity.

The Targeting Social Need initiative, which has been adopted as a third public expenditure priority alongside "law and order" and "strengthening the economy" has the objective of tackling areas of social and economic difference by targeting policies and programmes more sharply at those in greatest need. The essential foundation of this initiative is for all Government departments to monitor more closely the impact of their policies and programmes on the two main sections of the community and to bring forward proposals for further action to reduce differences. The Making Belfast Work and Londonderry initiatives, together with the rural development programme are examples of the TSN philosophy at work.

The Northern Ireland (Emergency Provisions) Act 1991 introduced a number of new safeguards on the exercise of emergency powers, such as a record-keeping requirement on police and Army search powers. The Act also provides that the police and armed forces may only stop and question any person for a reasonable length of time to establish their identity and movements. The Government are considering the appointment of an Independent Commissioner to monitor procedures at terrorist holding centres, and to publish a Code of Practice on the treatment of terrorist suspects in police custody. Consultation on the contents of the Codes has begun with interested bodies, including the Standing Advisory Commission on Human Rights. The Government also propose to establish a new Office of Independent Assessor of Armed Forces Complaints Procedures in Northern Ireland. The role of the Assessor will be to keep under continuous review the system of complaints against members of the armed forces which fall short of allegations of criminal actions.