**Specific Obligations on Duty Bearers**

Good morning

I am delighted to be here with members of staff of the European Network of Equality Bodies. I work in the Equality Commission for Northern Ireland. It is one of the largest Equality Bodies in Europe and indeed is large in comparison with many Equality Bodies throughout the world. Our population in Northern Ireland is just 1.7 million persons. The population of our entire region is smaller than the population of quite a few European cities. We are a small region and we have a large Equality Body but our difference is not just one of size we also differ in terms of the equality responsibilities on employers.

This session is about specific obligations on duty bearers and in this regard, Northern Ireland is well ahead of the pack and what I want to do is to briefly outline to you the range of specific obligations which extend from those things that duty bearers must not do, for example, they **must not** discriminate to the other end of the scale of duties which require duty bearers to **actively practice equality**. I wish briefly to outline the advantages which have been harvested from the very specific and positive obligations on employers in Northern Ireland and elsewhere and to offer a number of practical examples of how National Equality Bodies have encouraged duty bearers, primarily employers, to pursue equality goals.

Firstly a few words about why we in Northern Ireland had an equality regime which requires employers to actively practice equality. It is well-known that in Northern Ireland, the relationship between the Roman Catholic and the Protestant community was fractured. In the late 1960s, this intensified and conflict by way of riots, shootings and bombs became commonplace. The UK government accepted that the complaints by the Catholic community of discrimination in jobs, housing and voting were in fact grounded. The UK government introduced the first Fair Employment Act in 1976 which made religious discrimination unlawful in employment. The Act was symmetrical, it protected Protestants and Roman Catholics and those of other religions from employment discrimination. It provided for a voluntary declaration, a commitment to employment equality by employers. The associated Equality Body (Fair Employment Agency) worked hard to encourage good equality practice and a number of findings of discrimination were made and these highlighted the ongoing existence of discriminatory practice. However, over a decade after the legislation was introduced, social science research and reports of investigations by the Agency established that the change in workplaces as a result of the Act was insufficient, with the Catholic community still underrepresented in many occupations and industries. In 1989 the UK government introduced a new Fair Employment law which required:

* All employers with 11+ employees to register with the new Fair Employment Commission (FEC)
* All registered employers to collect information on the religion of every staff member and annually to send this to the FEC
* Required all employers every three years to review the information they were collecting and to make an assessment as to whether or not there was fair participation, and where necessary -
* Required employers to take Affirmative Action to bring about fair participation. Such Affirmative Action included encouraging applications from the underrepresented group, publishing welcoming statements in the newspapers, working with community groups and schools etc.

These active duties have now been in place for more than 20 years and the religious composition of those in employment now reflects the breakdown of those available for work.

The duties have been maintained and they continue to ensure ongoing protection against religious discrimination and continue to dissuade employers from discriminatory behaviours and to stimulate a culture of compliance.

The Northern Ireland regime of specific obligations on duty bearers reflects in some ways the American system of the Office of Contract Compliance (OFCCP) and also drew on the Canadian system of Employment Equity. Our system was necessary because employment inequality was a key element of our conflict and employment equality an essential requirement of our peace settlement. However, throughout Europe there are many other specific obligations on duty bearers and many Equality Bodies assist duty bearers (employers and service providers) to meet equality goals.

**Public Sector Equality Duties**

One such obligation is the Public Sector Equality Duties in Great Britain. These equality duty applies to Public Authorities in respect of **all** of their duties and in carrying out all of their functions. These duties stimulate a change in culture. In a public authorities the duties apply to the employment function and for example in the prison service to functions such as the prison regime for prisoners on remand and sentenced prisoners. In an education authority the duties apply to the education function, including that for those with specific educational needs. In Great Britain the Public Authorities have on a number of occasions been challenged in the Courts about how they have complied with this very specific obligation and the Judiciary has made clear that it regards the duty as very significant and expects the Public Authorities to exercise the duty with rigour and an open mind.

Another example of a specific equality duty is the requirement on private companies in Austria with more than 150 employees, to each year compile data reports on the average salaries of male and female employees. These reports are disclosed within the company and also to the Works Council or, where a Works Council is not in place, by other means to the employees. Such reports raise questions about pay gaps and can be and, I understand, are used when an equal pay case is progressing.

In Sweden also, employers and specifically education providers are required to conduct pay surveys and to report on the results. I also understand that here in Croatia there is a duty on public bodies to report on pay profiles.

**Employment quotas/Reasonable Accommodation**

The use of employment quotas was previously common especially for persons with a disability but this specific duty has in a number of countries fallen out of use as it is often seen as “charitable” rather than an equality goal but is still in place in France (a 6% quota if the company is employing 20 or more ) and in Romania (a 4% quota or pay a fine).

A more commonly used specific obligation in respect of Disabled Persons is that relating to reasonable accommodation. Employers and service providers are expected to meet the actual needs of disabled people by altering their practices, providing their service in a different way and meeting the very specific needs of each disabled person.

**The New Generation of Equality Duties**

It is presently evident that in a number of European countries a new generation of equality legislation is beginning to emerge. The new legislation is less likely to be based on an individual enforcement model but rather a model which encourages a more proactive approach to identifying, eliminating and preventing discrimination. Such a focus has the potential to address structural and institutionalised discrimination. The major development in this new generation of legislation includes imposing positive duties on policy makers, employers and service providers to implement diversity policies and to develop equality plans. These positive duties have a valuable potential to bring about significant cultural change so that diversity and equality is advanced.

**Discuss Positive Equality Duties**

In the small discussion groups which follow, I encourage you to consider the particular advantages of specific and positive duties to advance equality and to discuss how these can contribute to a societal base which values and plans for an effective equality system.