

European Scrutiny Committee

House of Commons, London, SW1A 0AA

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From: Sir William Cash MP

26 May 2021

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Article 2(1) of the Northern Ireland Protocol: Upholding human rights and equality standards—new EU proposal to strengthen the application of the principle of equal pay

The European Scrutiny has considered a recent European Commission [proposal for a Directive](#)¹ which seeks to strengthen the application of the principle of equal pay for equal work or work of equal value as between women and men by introducing new pay transparency requirements for employers and more effective enforcement tools to help employees tackle pay discrimination at work. The Government has not deposited the proposed Directive for scrutiny so we do not have the benefit of an Explanatory Memorandum setting out the Government's position on the proposal.

The purpose of this letter is to understand the Government's position on the proposed Directive and its relevance to the implementation of Article 2(1) of the Protocol on Ireland/Northern Ireland ("the Protocol"), how the proposed Directive might affect rights and equality protections in Northern Ireland, and whether changes to Northern Ireland's domestic law may be necessary to keep pace with the proposed Directive if it becomes EU law. Our questions draw on information set out in the [Government's Explainer](#), *UK Government commitment to "no diminution of rights, safeguards and equality of opportunity in Northern Ireland: What does it mean and how will it be implemented?"*

We would welcome a response to the following questions by the end of June.

¹ Proposal for a Directive to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms; COM(21) 93.

1. The Government says in its Explainer (published by the Northern Ireland Office in August 2020) that it is “for information only” and that “further materials will be published in due course”. What is the status of the Explainer? Does it still accurately reflect the Government’s position on the scope of the Article 2(1) commitment? Has it been supplemented by more recent guidance?
2. Do you consider that the proposed Directive on pay transparency is (or may potentially be) covered by the Article 2(1) commitment? Would it (if adopted) constitute a substantive enhancement of EU equality laws? Would you expect to match all the rights protections contained in it, including on pay transparency, or only those which directly supplement the 2006 Gender Equality Directive (one of the six EU equality Directives listed in Annex 1 to the Protocol)?
3. Would you expect the EU to inform the UK in the Joint Consultative Working Group of proposed EU laws which may be relevant to the implementation of the UK’s Article 2(1) commitment? Has the EU indicated that the proposed Directive is “a planned Union act within the scope of [the] Protocol”? Has the Government asked the European Commission whether it considers that the proposed Directive is relevant to the rights protected by Article 2(1) of the Protocol?
4. What steps is the Government taking to monitor developments in EU equality laws which may be relevant to the Article 2(1) commitment and, to the extent that it can, influence their content? Which Government Department is responsible for ensuring that the commitment is implemented?
5. How is the Government working with the Northern Ireland Executive to ensure that the UK fulfils the Article 2(1) commitment?
6. What assessment has the Government made of the risk that protection against discrimination in Northern Ireland’s domestic laws would fall behind the minimum standards guaranteed by the EU’s equality laws if not amended to reflect the changes set out in the European Commission’s pay transparency proposal?
7. The UK has agreed to implement the Article 2(1) commitment “through dedicated mechanisms” which involve the Northern Ireland Equality Commission and Human Rights Commission. What weight will their advice on the measures that need to be taken to implement the commitment have in determining whether changes to Northern Ireland law are necessary?

8. Does the Government consider that rights and equality protections should be broadly the same in Northern Ireland and the rest of the UK or is this an area in which you can see a reason for divergence?

I am copying this letter to Simon Hoare MP and Steve Habberley, Chair and Clerk of the Northern Ireland Affairs Committee; Rt Hon Caroline Nokes MP and Sean Kinsey, the Chair and Clerk of the Women and Equalities Committee; Darren Jones MP and Rebecca Davies, the Chair and Clerk of the Business, Energy and Industrial Strategy Committee; Rt Hon Harriet Harman MP and Lucinda Maer, the Chair and Clerk of the Joint Committee on Human Rights; Lord Jay and Stuart Stoner, the Chair and Clerk of the House of Lords Sub-Committee on the Protocol on Ireland/Northern Ireland; Thomas Lough of your Department; and Les Saunders and Donald Harris in the Cabinet Office.

CHAIR