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SECRETARY OF STATE
FOR
NORTHERN IRELAND

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The Rt Hon Viscount Whitelaw PC CH MC
Lord President of the Council
Whitehall
LONDON
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10th September 1986

Dear Lord President,

EQUALITY OF OPPORTUNITY IN EMPLOYMENT IN NORTHERN IRELAND

ATTACHED

At its meeting on 29 July H Committee agreed that I should issue a Consultative paper containing proposals for strengthening the arrangements for preventing discrimination in employment in Northern Ireland; although it also covers discrimination on grounds of sex or disability, the Paper is strongly focussed on the religious dimension.

Despite the establishment of the Fair Employment Agency in 1976 religious discrimination in employment continues to be a grave problem with the Catholic unemployment rate double that of Protestants. There is continuing political concern both at home and abroad and a particular problem in the United States where a disinvestment campaign has been mounted in several State legislatures and through shareholders resolutions.

The proposals in the Consultative paper are the outcome of a process launched by Douglas Hurd in July 1985 and their early publication is eagerly awaited, not least by our political and industrial allies in the United States. At the same time I am conscious of the sensitivity of the Northern Ireland proposals in relation to discrimination on grounds of race and sex in Great Britain. We have taken care to frame the consultative document in such a way that it does not cause problems to colleagues in Great Britain; and

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officials in the appropriate Departments have been helpful to mine in achieving agreement on this. It is now clearly essential that we collectively present the Northern Ireland proposals as both appropriate to Northern Ireland circumstances and as consistent with our approach to the wider problem of discrimination on various grounds.

I attach a short note of key points for colleagues to deploy if questioned about the proposals and also a summary of the Consultative paper's conclusions.

I am copying this letter to the Prime Minister and all Ministers in charge of Departments.

Yours Sincerely

N. Stewart

(Private Secretary)

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(Approved by the Secretary of State and signed in his absence in Northern Ireland)

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EQUAL OPPORTUNITY IN EMPLOYMENT IN NORTHERN IRELANDThe Problem

- Religious discrimination unique to Northern Ireland within UK.
- Successive Parliaments legislated against such discrimination.
- Unfortunately Catholic unemployment rate still double that of Protestants.
- Arrangements to deal with discrimination on religious grounds must be set in the context of other forms of discrimination and the small size of Northern Ireland.

Government Principles

- Equality of opportunity in employment must be promoted on the basis of merit through sustained practice of good personnel procedures.
- "Quotas" in employment are not an acceptable basis for effective progress.

The Key Proposals

- The current Fair Employment Agency's Declaration of Principle and Intent, signed by employers, will be changed to a Declaration of Practice.
- As at present, Government bodies in Northern Ireland will only accept tenders for Government contracts from employers making the new Declaration of Practice.

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- Increased emphasis on monitoring by employers of employment practices; and more effective independent supervision that this is being done.
- Financial assistance to employers to improve their personnel procedures.
- Taking powers to withhold Government grants from companies which discriminate on grounds of religion.
- Placing a statutory duty on the public sector to practice equality of opportunity in employment through standards which will equate with those in the Declaration of Practice.

Points to Emphasise

- Government in Northern Ireland has operated "tender acceptance" requirement in relation to religion for many years (to be distinguished from "contract compliance").
- Quotas, reverse, benign or positive discrimination all transfer disadvantage from one community to another. What Government seeks is "employment equity".
- Government acting on broad front to lift burdens from industry but accepts the need for effective measures on a matter of central importance to society in Northern Ireland.
- Objective is to help employers achieve fair employment practices. Use of the sanction of grant denial would obviously be a last resort.

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The key proposals are aimed at bringing about better private and public sector practices through:

changing the current Declaration of Principle and Intent by employers to one of Practice, applying it (as at present) to religion only and accepting tenders for Government contracts only from those so certified;

increased emphasis on the effective monitoring of employment practices in the public and private sectors;

the provision of initial financial assistance to employers to improve their personnel procedures and to promote better practice;

taking powers to introduce the sanction of grant denial in the private sector in relation to religious discrimination;

placing a statutory duty on the public sector to practice equality of opportunity in employment on the basis of those procedures set out in the proposed Declaration of Practice.

Institutional Change

Alongside the key policy proposals, institutional changes are also proposed:

establishing a new Commission to deal with equality of opportunity in employment in both the public and private sectors;

incorporating in that Commission a separate Directorate (to exercise the educational, developmental and promotional role and the investigatory function) and a separate body of Commissioners (to exercise the quasi judicial role);

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including provision for appeal to a new Independent Appeal Tribunal (modelled on the Planning Appeals Commission and replacing the Fair Employment Appeals Board);

establishing a supportive advisory unit in Government to give guidance on equality of opportunity in employment.

Options

With the above proposals as a central core there are institutional and legislative options.

Institutional

- A single dimensional Fair Employment Commission to deal with religion in both the public and private sectors; or
- a multi-dimensional Equal Employment Opportunities Commission to deal with religion, sex and disability in both the public and private sectors.

Legislative

Apart from the legislation which would be necessary to set up either the Fair Employment Commission or the Equal Employment Opportunities Commission and the other key measures, the remaining legislative options are:

to retain the existing differential approach to religion, sex and disability. This would involve retaining both the disabled "quota" and disabled and sex specific training; and retaining access to industrial tribunals in the case of sex discrimination in employment; or

to move towards a single corpus of law for religion, sex and disability.

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