

Mr Mayne

Mr Bell

Mr Cowling

Mr Gowdy

Mr Wolstencroft

Mr McConnell

Mr McCartney

Mr Dewberry

Mr Sheinwald

Miss McIver

GOVERNMENT POLICY

A copy of the Government Policy Statement on fair employment and MacBride Principles which has been approved by the Secretary of State is attached. This statement supercedes the document issued in February 1986.

P. Thompson

P THOMPSON
DED

Arches Centre

4 March 1987

cc Mr Wilson
Mr Nesbitt

FURTHER DEVELOPMENTS

As part of its ongoing commitment to achieving further progress in fair employment the British Government has recently conducted a comprehensive review of law and practice in Northern Ireland as a result of which a Consultative Paper on equality of opportunity in employment containing a number of major proposals for change, was published.

FAIR EMPLOYMENT IN NORTHERN IRELAND AND THE MACBRIDE PRINCIPLES

1. This note summarises British Government Policy on fair employment and its views on the MacBride Principles, which are being canvassed by certain groups in the United States, including the Irish National Caucus.

GOVERNMENT POLICY

2. The British Government is totally committed to the promotion of equality of opportunity in employment in Northern Ireland and has taken positive steps to give effect to this policy. The Northern Ireland Constitution Act 1973 outlaws discrimination on the ground of religious belief or political opinion in legislation and by public authorities. In 1976 Government introduced the Fair Employment (Northern Ireland) Act 1976 which outlaws such discrimination in employment. The guiding principles of the 1976 Act are equality of opportunity, no discrimination on religious or political grounds and recruitment solely on merit.
3. Enforcement of fair employment law is in the hands of a statutory body, the Fair Employment Agency for Northern Ireland, which is independent of Government. The Agency is under a duty to promote equality of opportunity in employment and to investigate individual complaints of discrimination. There is no cost to an individual complainant. It can also investigate employment practices generally. Agency rulings are legally enforceable. Funding for the Agency has been significantly increased in recent years.
4. In addition Government publishes a fair employment Guide to Manpower Policy and Practice which is targeted at employers and trade unions. A new version of the Guide will be published in 1987 and will include advice on monitoring and the essential elements of an equality of opportunity programme.

FURTHER DEVELOPMENTS

5. As part of its ongoing commitment to achieving further progress on fair employment the British Government has recently conducted a comprehensive review of law and practice in Northern Ireland as a result of which a Consultative Paper on equality of opportunity in employment, containing a number of major proposals for change, was published in

September 1986. The proposals in the Paper include tough economic sanctions against any possible default in the private sector; the imposition of a statutory duty on the public sector; more vigorous law enforcement through systematic monitoring of employment practices allied to the introduction of a Declaration of Fair Employment Practice and the provision of a more effective organisational framework. These proposals demonstrate beyond doubt the British Government's determination to achieve equality of opportunity in the workplace.

THE ANGLO-IRISH AGREEMENT

6. The Anglo-Irish Agreement provides for the Irish Government to put forward, in the Intergovernmental Conference, views on proposals for major legislation and on major policy issues where the interests of the minority community are significantly or especially affected. In particular they may also put forward views and proposals on the role and composition of the Fair Employment Agency. The Irish Government has welcomed the British Government's Consultative Paper on equality of opportunity and has forwarded preliminary views for consideration.

THE MACBRIDE PRINCIPLES

7. In view of the progress already made in the provision of fair employment in Northern Ireland, the existing legal requirements and Government's determination to secure further progress, the British Government considers the MacBride Principles to be unnecessary and their adoption undesirable.
8. The Government is concerned moreover that attempts to compel US companies to apply the MacBride Principles will damage the climate for badly needed investment and employment in Northern Ireland. The US companies in Northern Ireland already operate under the terms of the fair employment legislation and are subject to the oversight of the independent Fair Employment Agency. Attempts to force them to adopt principles which could potentially put them in conflict with this legislation, and to account to a variety of other bodies, will do little to encourage their continued investment in the Province. Nor will it persuade other companies of the value of putting new investment into Northern Ireland. These attempts therefore threaten the employment opportunities for Catholic and Protestant alike and it is important to note that what Northern Ireland needs is

more US investment rather than counter-productive efforts to impose unnecessary employment conditions.

9. The promoters of the MacBride Principles claim that they can be given effect within Northern Ireland fair employment laws. If so, they do not add to the protection already afforded under Northern Ireland law: they are not needed. Instead, employers in Northern Ireland who are anxious to provide equality of opportunity in employment should, and do, look to the Fair Employment Agency, which is the responsible statutory body, under the Fair Employment (Northern Ireland) Act 1976, for advice and guidance regarding what is, and is not, acceptable under the law. The reality is that the Fair Employment Agency has indicated that whilst a number of the Principles are consistent with Northern Ireland law, others (in particular Principles 7 and 8 and, depending on the manner of implementation, possibly Principle 1) are objectionable as requiring preferential and discriminatory treatment, and companies operating such principles would be held to be acting unlawfully.
10. In its Tenth Annual Report (page 18) the Agency further stated:-

"If employers generally are to adopt the type of equality of opportunity programmes which the Agency has been demanding, it is crucially important that there should be total clarity about where the dividing line is between permissible and impermissible recruitment activities. It is for this reason that the Agency believes that the MacBride Principles, currently much debated in the United States of America, are likely to have a detrimental effect because, in the view of the Agency, they at worst stray over the line, and at best cause confusion and doubt about where the line is".
11. Few of those who support the MacBride Principles appear to appreciate the damage they will cause to those whom they apparently wish to help. To threaten US companies operating in Northern Ireland with withdrawal of investment is of no assistance whatsoever. The best way to end inequality in employment in Northern Ireland is to increase the prospects of jobs by further encouraging investment and by supporting

existing efforts to achieve progress in Northern Ireland itself. As the leader of the Social Democratic and Labour Party (SDLP), the main Catholic party in Northern Ireland, Mr John Hume, MP, said at his Party's Annual Conference on 22 November 1986:-

"The task of ensuring fair employment in normal economic times is difficult enough but we should have no illusions about its difficulty in circumstances of continuing job losses and rising unemployment. That is why we are so strongly opposed to any effort to promote fair employment by promoting disinvestment. Disinvestment is an attack on jobs, it is a means of ensuring that jobs do not come; it considerably weakens the struggle for fair employment. Unemployment is no answer to discrimination. Rather do we call on all people of good will, particularly those abroad who wish to help, to use instead their considerable influence to encourage investment and job creation in areas of high unemployment. Job creation is vital to the struggle for fair employment and an essential part of that struggle, but it is one side of the equation. Ensuring fairness is the other".

12. Job creation and fairness in employment are central parts of British Government policy in Northern Ireland.