Public Sector Equality and Human Rights Duty

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About the Commission

Ireland’s national human rights institution
Accredited ‘A’ status by the United Nations International Coordinating Committee

Ireland’s national equality body under EU directives

Commission of 15 human rights and equality experts, appointed by President Michael D. Higgins following an open competition – accounting directly to the Oireachtas

Derive statutory functions and legal powers from Irish Human Rights and Equality Commission Act 2014, commenced 1 November 2014

Independent from government institutionally and in practice
The Public Sector Equality and Human Rights Duty
What is the Public Sector Equality and Human Rights Duty?
Section 42 of the Irish Human Rights and Equality Commission Act 2014

Public bodies

42. (1) A public body shall, in the performance of its functions, have regard to the need to—

(a) eliminate discrimination,

(b) promote equality of opportunity and treatment of its staff and the persons to whom it provides services, and

(c) protect the human rights of its members, staff and the persons to whom it provides services.
Key Messages

• Legal obligation
• Composite Duty – Equality and Human Rights
• Across all functions of an organisation
• Applies to both staff and service users
• Proactive (positive) Duty
• Ongoing Duty – linked to strategic planning process
• Requires public bodies to systematically plan and address human rights and equality in everything it does
What do Public Bodies have to do?

In summary, Section 42(2) of the 2014 Act requires a public body:

To assess
Set out in its strategic plan an assessment of the human rights and equality issues it believes to be relevant to the functions and purpose of the body, in a manner that is accessible to the public.

To address
Set out in its strategic plan the policies, plans and actions in place or proposed to be put in place to address those issues, in a manner that is accessible to the public.

To report
Report on developments and achievements in relation to 1 and 2 above in its annual report, in a manner that is accessible to the public.
What is a Public Body under the IHREC Act 2014

The definition of a public body under Section 2 of the Irish Human Rights and Equality Commission Act 2014 is broad and includes:

- A Department of State
- A local authority
- The Health Service Executive
- A university or institute of technology
- An education and training board
- Any other person, body or organisation established under statute, or under any scheme administered by a Government Minister, excluding the Defence Forces
- A company wholly or partly financed by or on behalf of a Government Minister
- A company where the majority shares are held by or on behalf of a Government Minister
- Any other person, body, organisation or group financed wholly or partly out of moneys provided by the Oireachtas, may in the public interest be prescribed as a public body by the Minister for Justice and Equality, following consultation with the Commission.
The Commission’s role

• Section 42(3): May **give guidance** to public bodies in developing policies of, and exercising, good practice and operational standards in relation to, human rights and equality

• Section 42(4): May **issue guidelines** or **prepare codes of practice**

• Under section 42(5), the IHREC may, in certain circumstances, invite public bodies to:
  – carry out a **review** in relation to the performance by that body of its functions,
  – prepare and implement an **action plan** in relation to the performance by that body of its functions
  – such a review or action plan may be general or specific in focus.
Piloting a process

1. Leadership and implementation structure
2. Shared understanding of human rights and equality
3. Conduct an Assessment
4. Identify and implement actions
5. Monitor and report

Statement of Strategy
Action plan
Annual Report
Piloting a process

The Assessment

1. Develop shared understanding of human rights and equality values and functions
2. List Human Rights and Equality structures and initiatives
3. Identify issues and gaps
4. Prioritise issues based on evidence
5. Prioritise areas for action
Working in partnership

Pilot sites

Public bodies
- Monaghan County Council
- Cork City Council
- University College Cork
- The Probation Services

Aims:
- Trial a process to support implementation of the Duty in different types of public bodies
- Inform Commission guidance
- Develop case studies and exemplars of good practice

Rights holder perspective
- Community Action Network - “Applying a Public Sector Equality and Human Rights Duty approach to the human rights and equality issues identified by Service users of Opioid Treatment Services”
Pilot Projects

- Three workshops with each public body involved in pilot projects
- Each public body has set up a cross-section working group
- **First workshop:** organisational values and identifying what equality and human rights structures that organisations have in place already
- **Second workshop:** equality and human rights issues identified across four functional areas: employment, service delivery, policy making and budgets / procurement (may be consultation with staff / service users)
- **Final workshop:** translating issues into short term and long term actions and identifying implementation structure
Revenue Commissioners: An Example

- Public Sector Duty implementation explicitly endorsed by senior management (IHREC presented to SMT)

- Cross divisional working group set up to carry out assessment and develop action plan that was integrated into existing policies and structures

- Action Plan published in April 2018 on website. Actions include:
  - Equality and human rights training for all staff
  - Equality and human rights dimension to customer engagement

- Revenue will report on progress in next annual report
Identifying Equality and Human Rights Issues
Some examples …..

Information sources:
• **Statement of Strategy**
• **National Action Plans** e.g.
  – National Strategy for Women and Girls 2017 - 2020
  – The Migrant Integration Strategy: A Blueprint for the Future
  – National Traveller and Roma Inclusion Strategy 2017 – 2021
• **IHREC reports to the UN Committees** e.g.
  – International Convention on Economic, Social and Cultural Rights (ICESCR)
  – Convention on the Elimination of Discrimination Against Women (CEDAW)
• **Concluding Observations from UN Committees**
Dept. Social Protection Statement of Strategy

Dept. not starting from zero in addressing human rights and equality

• Aim: reduction in consistent poverty rates and improvement in other social inclusion indicators
• Develop a new Integrated Framework for Social Inclusion, to tackle inequality and poverty
• Implementation of DSP commitments in the Comprehensive Employment Strategy for people with disabilities
• Implement Pathways to Work 5 Year Strategy, long term unemployed
• Implement Action Plan for Jobs (best way to reduce child poverty)
• Support increases in Disability Benefit and Allowance, Carer’s Benefit and Allowance, Blind Person’s Pension
• Review of Farm Assist Scheme, recognising challenges facing farmers on low incomes
• Review Fish Assist Scheme, fishermen in financial difficulties
• Commitment for information written in plain language, available in versions appropriate for people with disabilities, incorporate features to make website accessible
• Engagement with the public and service users
Tool for Change: Examples

Some commitments in Migrant Integration Strategy relating to PSD:

Service Delivery
- Information to migrants in language appropriate formats
- Clear information on how to make a complaint about racist behaviour by staff or another customer
- Initiatives to ensure that migrant needs in relation to skills acquisition and labour market activation are addressed
- Establishment of a working group to examine data gaps in relation to migrant needs and experience

Employment
- Ongoing intercultural awareness training for all front line staff
- Inclusion of a target of 1% for the employment of EEA migrants and people from minority ethnic communities in the civil service

Policy Making
- Correct and consistent application of the Habitual Residence Condition

Budgetary Decision Making / Procurement
Community Action Network Pilot

- Rights-holder led project
- CAN are a social justice NGO which have facilitated drugs service users to identify the human rights issues that affect them when accessing HSE drugs treatment services
- This pilot is a grassroots approach to implementing section 42, by encouraging rights-holders to present their issues to the relevant public bodies
- Rights holders of this project are called the Services Users Rights in Action Group (SURIAG)
- IHREC have worked with CAN to facilitate service-users to present their issues to the HSE, which assists the HSE in assessing its human rights issues under Section 42 assessment process
- Project steering group has held dialogue events, conducted service-user led research through interviews of service-users, compiled a report on the issues identified and met with department of health and HSE officials
- Project launched “Our Life, Our Voice, Our Say’ in April 2018
What positive difference would implementing the Duty make?

We asked people working in public services – this was their response

- Enhanced awareness of equality and human rights for staff and service users – developing a culture of respect and inclusion
- Organizational culture reflects equality and human rights and is embedded
- More inclusive and accessible services
- Increased training and capacity on human rights and equality
- Service delivery informed by engaging and listening to service users – increased trust and transparency
- Diversity of service users recognised and understood and their particular needs responded to
- Staff valued and supported, and diversity reflected in staff profile
- Evidence-based approach
IHREC Supports: Guidance and Advice

Booklet – over a thousand leaflets disseminated at events, meetings, conferences

Public Sector Duty Team regularly provide guidance and advice through answering phone, email queries, and through meetings with public bodies

Policy advice and Input: The team can input into strategies etc. from a HR/E perspective, e.g. input was sought by DPER for the new civil service HR strategy

New more detailed guidance developed – based on experience and learnings from Pilot Sites. Process based guidance.

Status of new guidance: reviewed externally, under internal review currently

Case Studies – under development based on pilots
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