

Implementing the Public Sector Equality and Human Rights Duty



Coimisiún na hÉireann um Chearta
an Duine agus Comhionannas
Irish Human Rights and Equality Commission

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The Irish Human Rights and Equality Commission was established under statute on 1 November 2014 to protect and promote human rights and equality in Ireland, to promote a culture of respect for human rights, equality and intercultural understanding, to promote understanding and awareness of the importance of human rights and equality, and to work towards the elimination of human rights abuses and discrimination.

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Implementing the Public Sector Equality and Human Rights Duty

Section 42 of the Irish Human Rights
and Equality Commission Act 2014



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Introduction

The Public Sector Equality and Human Rights Duty ('the Duty') places a statutory obligation on public bodies to eliminate discrimination, promote equality of opportunity and protect the human rights of those to whom they provide services and staff when carrying out their daily work. It puts equality and human rights in the mainstream of how public bodies execute their functions. To that end, it has the potential to positively transform how public bodies engage with members of the public, and their own staff.

The Duty has been part of Irish law since 2014, and is set out in Section 42 of the Irish Human Rights and Equality Commission Act 2014. The Irish Human Rights and Equality Commission has a mandate to give guidance to, and encourage, public bodies in developing policies and good practice in relation to human rights and equality.

The Commission has developed this guidance document, *Implementing the Public Sector Equality and Human Rights Duty*, to provide public bodies with information on the Duty, and to suggest practical steps to implement it in their own organisations. It is structured in two parts: part one provides an overview of the Duty, and its context. Part two sets out the three steps that a public body must take to implement the Duty in line with its statutory obligation. These steps identify key actions that an organisation can undertake to assess, address and report on equality and human rights in the context of its purpose and functions.

The Duty is an ongoing obligation on public bodies, which must be incorporated as part of an organisation's overall strategic planning cycle. Public bodies are also asked to account for their actions to address the human rights and equality impact of their work as it relates to members of the public, people who use their services, and their staff, in their annual report.

Implementation of the Duty can assist an organisation to define, and give expression to, equality and human rights values related to its purpose, and to key public sector values. Explicit equality and human rights values, such as non-discrimination or dignity for service users, can motivate and guide public bodies to assess and address equality and human rights issues relevant to their functions.

While there are similarities in the approach that organisations can take to meet their statutory obligation, every organisation is different. Therefore, the steps set out in this guidance are presented in a way that allows for flexibility and adaptation to meet the needs of different public bodies across a wide variety of sectors.

The Commission's engagement with public bodies to date has highlighted the potential of the Duty to create positive energy and an appetite for change to enhance the delivery of public services and workplaces, with key benefits for people to whom they provide services, staff and organisations themselves.

The process for implementing the Duty set out in this guidance has been informed by work undertaken by the Commission as part of five pilot projects conducted in partnership with public bodies from diverse sectors. It is hoped that this guidance will provide an initial framework for public bodies to embark on implementing their statutory obligation in relation to equality and human rights. Further information on these projects and implementing the Duty can be found on the Commission's website, ihrec.ie.

The Public Sector Equality and Human Rights Duty



The Public Sector Equality and Human Rights Duty

Since 2014, the Public Sector Equality and Human Rights Duty is part of the legislative framework governing human rights and equality in Ireland. This section provides an overview of the legal basis of the Duty; the wider context of how equality and human rights are upheld in Irish law; and where the Duty complements existing policy in the civil and public service.

A Statutory Obligation

Section 42 of the Irish Human Rights and Equality Commission Act 2014 imposes a statutory obligation on public bodies in performing their functions to have regard to the need to:

- eliminate discrimination;
- promote equality of opportunity and treatment for staff and persons to whom it provides services; and
- protect the human rights of staff and services users.

This Public Sector Equality and Human Rights Duty places equality and human rights at the heart of how a public body fulfils its purpose and delivers on its strategic plan.

The 2014 Act requires a public body, having regard to its functions, purpose, size and resources available to it, to:

- 1. 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;
- 2. 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;
- 3. Report** - report on developments and achievements in its annual report.

The obligation to integrate the Duty in a public body's strategic plan and annual report means that assessing and addressing equality and human rights issues is an ongoing process that should be reviewed and developed in accordance with strategic planning cycles.

The role of the Commission: guidance and enforcement

The Irish Human Rights and Equality Commission can give guidance to and encourage public bodies in developing policies and good practice in relation to human rights and equality.

Where the Commission considers that there is evidence of a failure by a public body to perform its functions in line with the Public Sector Equality and Human Rights Duty it may invite a public body to carry out a review, or to prepare and implement an action plan related to the performance of its functions, or both. The focus of the review or action plan may be on equality of opportunity and human rights in general terms, or on a particular aspect of human rights or discrimination in the body, or both.

What is a public body?

The definition of a public body for the purposes of the Duty 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, in pursuance of powers conferred by or under another enactment
- a company where the majority of shares are held by or on behalf of a Government Minister

In addition, 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 Irish Human Rights and Equality Commission.



Section 42, Irish Human Rights and Equality Commission Act 2014

- (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.
- (2) For the purposes of giving effect to subsection (1), a public body shall, having regard to the functions and purpose of the body and to its size and the resources available to it—
 - (a) set out in a manner that is accessible to the public in its strategic plan (howsoever described) an assessment of the human rights and equality issues it believes to be relevant to the functions and purpose of the body and the policies, plans and actions in place or proposed to be put in place to address those issues, and
 - (b) report in a manner that is accessible to the public on developments and achievements in that regard in its annual report (howsoever described).
- (3) In assisting public bodies to perform their functions in a manner consistent with subsection (1), the Commission may give guidance to and encourage public bodies in developing policies of, and exercising, good practice and operational standards in relation to, human rights and equality.
- (4) Without prejudice to the generality of subsection (3), the Commission may— (a) issue guidelines, or (b) prepare codes of practice in accordance with section 31, in respect of the development by public bodies of performance measures, operational standards and written preventative strategies for the purpose of reducing discrimination and promoting human rights and equality in the public sector workplace and in the provision of services to the public.
- (5) Where the Commission considers that there is evidence of a failure by a public body to perform its functions in a manner consistent with subsection (1) and that it is appropriate in all the circumstances to do so, the Commission may invite the public body to— (a) carry out a review in relation to the performance by that body of its functions having regard to subsection (1), or (b) prepare and implement an action plan in relation to the performance by that body of its functions having regard to subsection (1), or both.
- (6) A review or an action plan under subsection (5) may relate to— (a) equality of opportunity or human rights generally, or (b) a particular aspect of human rights or discrimination, in the public body concerned.
- (7) The Commission may, and, if requested by the Minister, shall, review the operation of subsection (1).
- (8) For the purposes of assisting it in carrying out a review under subsection (7), the Commission shall consult such persons or bodies as it considers appropriate.
- (9) Where the Commission carries out a review under subsection (7) it— (a) may, or (b) where the Minister has requested the review, shall, make a report of the review to the Minister and any such report shall include such recommendations as the Commission thinks appropriate.
- (10) The Commission shall cause a copy of the report to be laid before each House of the Oireachtas.
- (11) Nothing in this section shall of itself operate to confer a cause of action on any person against a public body in respect of the performance by it of its functions under subsection (1).

What are the key human rights and equality obligations on public bodies?

The Public Sector Equality and Human Rights Duty is a statutory provision, which requires public bodies to actively promote equality, protect human rights and eliminate discrimination in the performance of their functions.

Section 29 of the Irish Human Rights and Equality Act 2014 defines human rights, for the purposes of the Duty, as meaning those rights and freedoms of individuals which are protected by the Irish Constitution; by the European Convention on Human Rights Act 2003; and by provisions in other international treaties which have been given “the force of law” in Ireland.

Equality rights arise under the Constitution and international law, and many of the State’s equality and anti-discrimination protections are derived from EU law including the EU Charter on Fundamental Rights and the EU Equality Directives which underpin Ireland’s equality legislation.

The Constitution

The Irish Constitution sets out a number of fundamental rights in Articles 38-44, such as the right to a fair trial, the right to life, the right to equality before the law, the right to freedom of expression, assembly and association and the protection of the family. In addition, the Courts have interpreted the Constitution as including certain other human rights - referred to as unenumerated rights - which include the right to bodily integrity, the right to earn a livelihood and the right to privacy.

European Convention on Human Rights

The European Convention on Human Rights Act 2003 incorporates the provisions of the European Convention on Human Rights into domestic law, allowing them to be considered before the Irish Courts. The ECHR Act also requires that each organ of the State, such as Government Departments and Local Authorities, perform its functions in a manner compatible with the State’s obligations under the Convention.

Article 1 of the Convention concerns the ‘obligation to respect human rights’; this requires that all parties to the Convention make sure that everyone within their jurisdiction has the rights and freedoms contained in the Convention. The rights set out in the Convention include:

- The right to life;
- The prohibition of torture;
- The prohibition of slavery and forced labour;
- The right to liberty and security;
- The right to a fair trial;
- The right not to be punished without law;
- The right to private and family life;
- The right to freedom of thought, conscience and religion;

- The right to freedom of expression;
- The right to freedom of assembly and association;
- The right to marry;
- The right to an effective remedy before a national authority;
- The prohibition of discrimination when accessing the rights and freedoms set out in the Convention.

The rights set out in the Convention have been added to by protocols that protect additional rights, such as the right to private property, the right to education, freedom of movement and the right to free elections.

International Human Rights Treaties

Ireland has ratified a number of international human rights treaties or conventions. It is obliged under international law to ensure - through its laws and policies - that the rights set out in these treaties are respected in the State. UN treaty monitoring bodies periodically examine Ireland's progress in relation to these rights. The 'Concluding Observations' of these examinations identify specific human rights concerns where further action is required. Some treaties also allow individuals to bring complaints to the relevant Treaty body.

To have 'force of law' within the State - i.e. to be legally enforceable through the domestic courts - treaty rights must be incorporated through Acts of the Oireachtas, or in certain cases, amendments to the Constitution. For example, the Criminal Justice (United Nations Convention Against Torture) Act 2000 gives effect to certain provisions of the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Ireland has ratified the following 'core' UN human rights treaties:

- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- Convention on the Elimination of All Forms of Racial Discrimination (CERD)
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- Convention on the Rights of the Child (CRC)
- Convention on the Rights of Persons with Disabilities (CRPD)

The Charter of Fundamental Rights of the EU

The Charter of Fundamental Rights of the European Union contains 54 Articles on a range of civil, political and social rights and freedoms under six titles: Dignity, Freedoms, Equality, Solidarity, Citizens' Rights and Justice. For example, Title Three of the Charter Rights is on equality, and Articles 20-26 protect the following rights:

- equality before the law;
- non-discrimination;
- cultural, religious and linguistic diversity;
- equality between women and men;
- the rights of the child;
- the rights of the elderly;
- integration of persons with disabilities.

The Charter became legally binding on the EU with the entry into force of the Treaty of Lisbon in December 2009. The provisions of the Charter are addressed to the institutions of the EU, and are also addressed to the Member States when they are implementing EU law.

EU Equality Directives

The main EU equality Directives are:

- The [Recast Gender Equality Directive \(2006\)](#), which covers equal treatment of men and women in employment;
- The [Gender Goods and Services Equality Directive \(2004\)](#), which deals with equal treatment of men and women in the provision of goods, services and facilities;
- The [Racial Equality Directive \(2000\)](#), which outlaws discrimination on the basis of a person's racial or ethnic origin in the areas of employment, education, social security, health care and access to goods and services; and
- The [Employment Equality Directive \(2000\)](#), which prohibits discrimination in employment on the grounds of religious belief, age, disability and sexual orientation.

The wider EU equality framework includes a range of other directives such as the Maternity and Parental Leave Directive and the Pregnancy Directive.

Irish Equality Law

The EU Equality Directives are legislated for in Irish law primarily under the Employment Equality Acts 1998-2015 and Equal Status Acts 2000-2015.

The Employment Equality Acts 1998-2015 ('EEA'), prohibit discrimination harassment and sexual harassment in employment, including vocational training and work experience under a contract of employment. The nine protected grounds under the EEA are gender, civil status, family status, sexual orientation, disability, age, race, religion and membership of the Traveller community.

The *Equal Status Acts 2000-2015* ('ESA') prohibit discrimination, harassment, and sexual harassment in access to and use of goods and services, accommodation and education. The nine protected grounds under the ESA are also gender, civil status, family status, sexual orientation, disability, age, race, religion and membership of the Traveller community. However, the ESA also protect people in receipt of rent supplement, housing assistance payments or other social welfare payments against discrimination when they are accessing accommodation or related services and amenities.

The ESA and EEA require employers and service providers to take reasonable accommodation steps for people with disabilities, and allow preferential treatment or the taking of positive measures which are, in good faith, intended to promote equality of opportunity for disadvantaged persons under the grounds or cater for the special needs of persons, or a category of persons who because of their circumstances, may require facilities, arrangements, services or assistance.

For a more detailed summary of the EEA and ESA, see **page 30**.

The Duty and existing public policy, strategies and procedures

The Duty is a statutory obligation which complements existing public policy, strategies and procedures, as they relate to progressing human rights and equality.

National policy commitments

The State has already committed to a progressing human rights and equality through a number of national plans and strategies. These include:

- The Migrant Integration Strategy: A Blueprint for the Future
- The National Disability Strategy Inclusion Strategy 2017-2021
- The National Strategy for Women and Girls 2017-2020
- The National Traveller and Roma Inclusion Strategy 2017-2021
- The National Action Plan for Social Inclusion 2018-2021
- The Quality Customer Services Initiative

Where the commitments contained in these plans and strategies fall to a public body or bodies, implementing the Duty can provide a coherent framework for progressing actions.

Existing procedures to assess impact of national policies

Implementing the Duty is clearly aligned with the Government commitment to developing the process of budget and policy proofing as a means of reducing poverty and strengthening economic and social rights, as set out in the *Programme for a Partnership Government 2016*. Arising from this commitment a process of equality budgeting is currently being developed.

In addition, it is consistent with frameworks such as Cabinet Procedures for Memoranda for Government, Regulatory Impact Assessment (RIA) and Social Impact Assessment (SIA). Cabinet procedures require that all Memorandums for Decision submitted to Government set out the impact of the proposal on groups such as women and men, people with disabilities and people at risk of poverty and social exclusion. RIAs inform Memoranda to Government about the likely effects of a proposed new regulation or regulatory change. SIAs consider the impact of public expenditure on recipient households focusing on schemes and spending programmes that have explicit socio-economic objectives.

Public sector reform

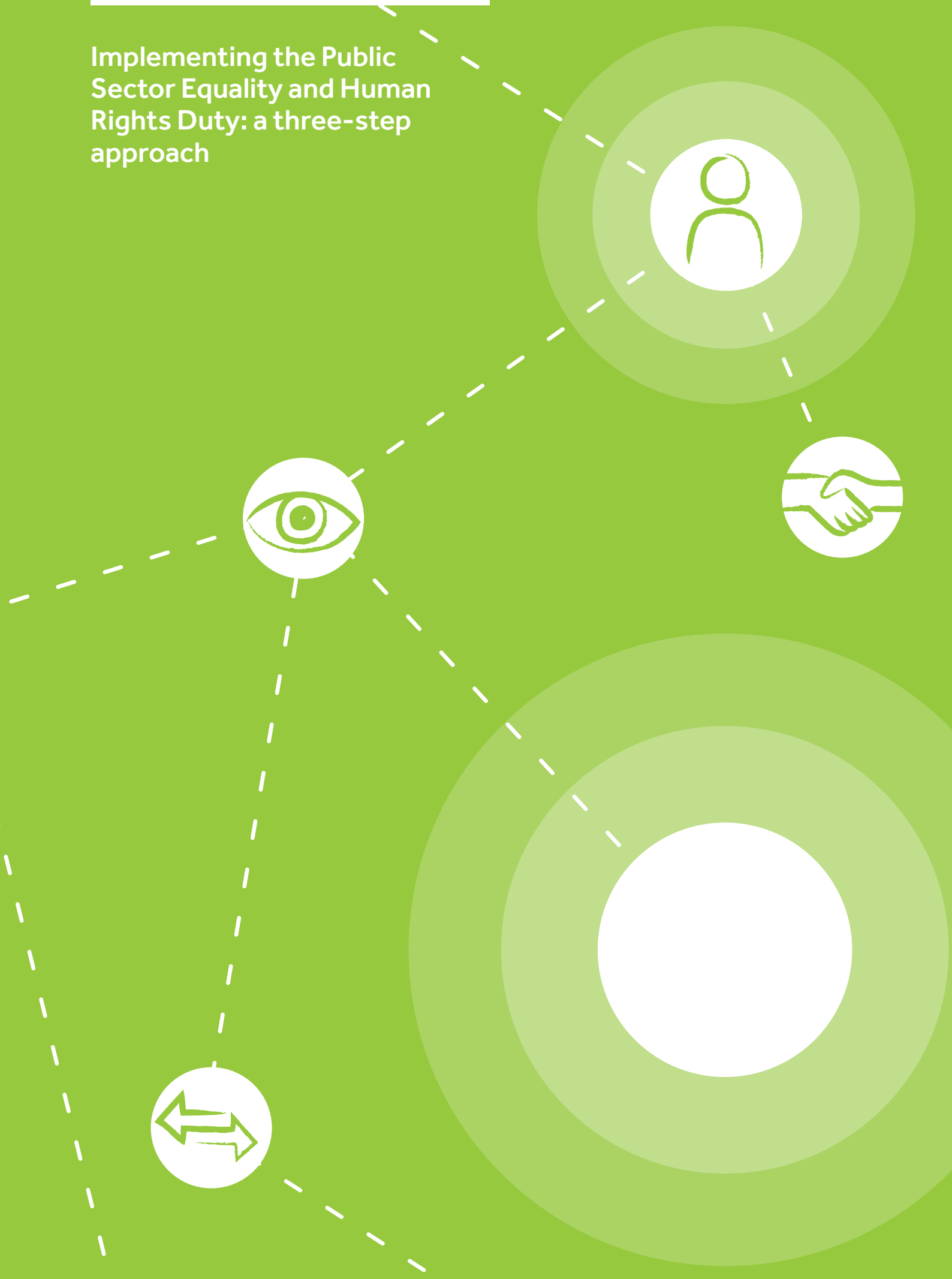
Implementing the Duty provides a useful framework to support public sector reform objectives. Public sector reform is built on three pillars set out in *Our Public Service 2020*: 'Delivering for Our Public', focusing on outcomes for the public; 'Innovating Our Future', promoting a culture of evaluation; and 'Developing Our People and Organisations', which includes actions that focus on employee engagement, public service culture and values, and equality, diversity and inclusion.

The assessment of equality and human rights issues supports a public body to identify service delivery and workplace policies, procedures and practices that may need to be adapted in certain circumstances for people or groups of people who may be disadvantaged in society, or to cater for their particular needs. Implementing the Duty also assists an organisation to create a user-focused standard for organisational policies, procedures and practices across key functions of the organisation, and promotes the use of evaluation to assess outcomes for those users.

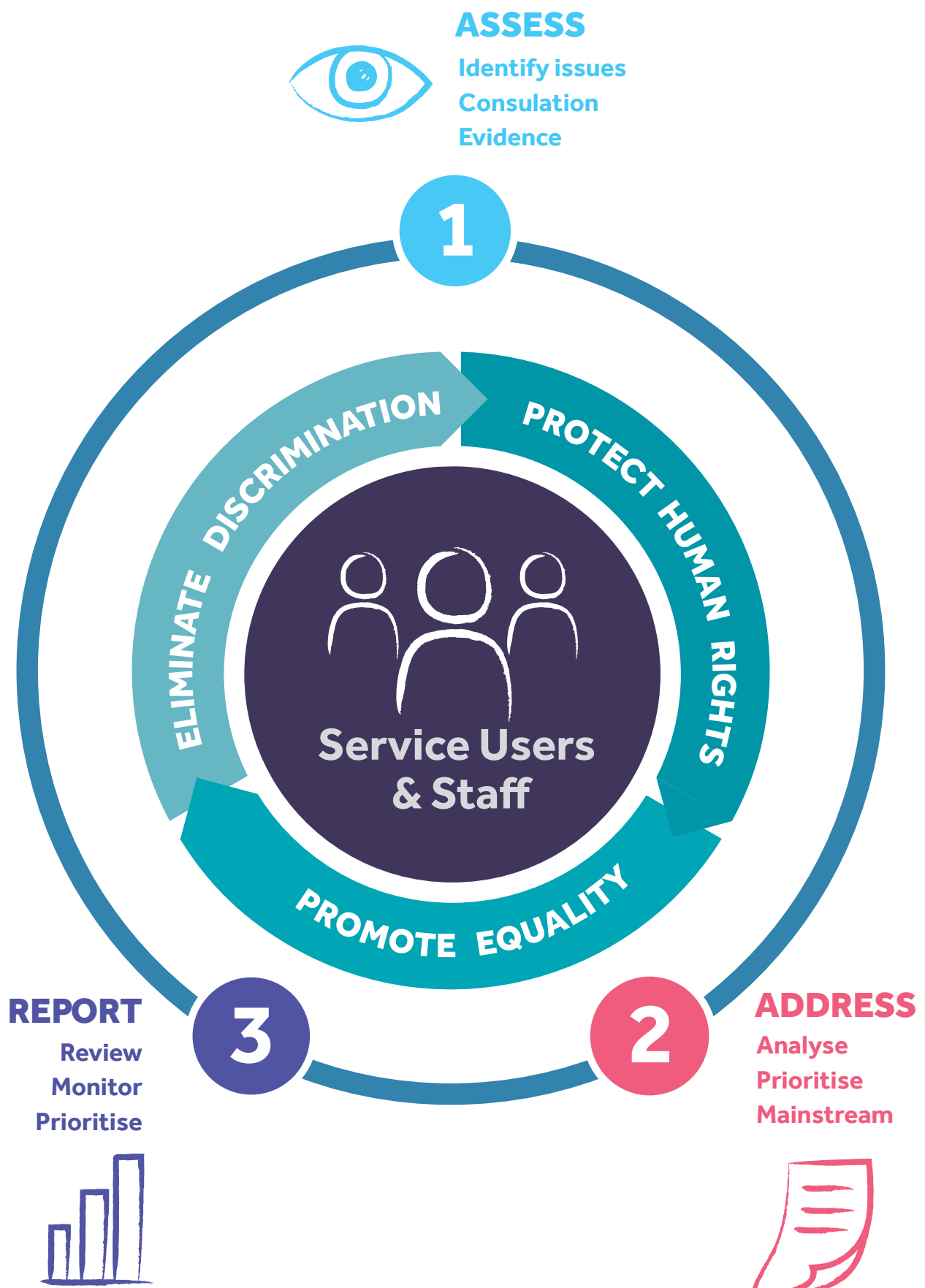


PART 2

Implementing the Public Sector Equality and Human Rights Duty: a three-step approach



Implementing the Public Sector Equality and Human Rights Duty: a three-step approach



STEP 1 ASSESS

Identify equality and human rights issues relevant to the purpose and functions of an organisation



Objective

The objective of Step 1 is to undertake an assessment to identify key equality and human rights issues for people to whom an organisation provides services and its staff.



Impact

Undertaking an evidence-based assessment of equality and human rights issues relevant to its purpose and functions assists an organisation to identify a basis from which to consider how to eliminate discrimination and protect human rights.

It also provides a basis from which to consider how to provide for equality of opportunity for diverse groups in the provision of services and in the workplace.

Drawing on the available evidence, including the knowledge and experience of the organisation's staff and people to whom it provides services, the assessment informs the strategic cycle of planning, implementation and evaluation.



Take Action

Stages for conducting a Human Rights and Equality Assessment

There are three stages to consider when undertaking the Human Rights and Equality Assessment. These are set out below. It involves identifying structures and initiatives in place to support human rights and equality. It also involves identifying issues and prioritising areas for action.

A. What potential human rights and equality issues need to be addressed or considered?

When assessing the equality and human rights impacts of its functions, a public body should consider the following:

- What equality and human rights legislation is most relevant to the functions and purpose of your organisation? Bear in mind that the Public Sector Duty covers both staff and service users. It may be useful to consider this question across the business activities of your organisation, i.e.:
 - Organisational planning/Corporate services – responsibility for strategic planning, budget allocation, procurement, grant-funding etc.
 - Human resources – for example, this relates to recruitment, human resources policies and practices and staff awareness and capacity building.
 - Service provision – for example, this relates directly to delivery of a service or engagement with key stakeholders, members of the public or a specific group of people connected to the purpose of an organisation.
 - Research and policy function – Some organisations may have a specific research function. Depending on the nature of the organisation, policy may relate to policy-making or informing policy.
- How does your organisation measure its impact? Does it include measurement of impact on any of the groups protected by the Equality Acts? Does it include any measurement of socio-economic impact?¹
- What does your organisation know about its service users, with specific reference to the nine protected grounds covered by the Equality Acts? This can be informed by data collection, or consultation, or both.
- Does your organisation have a role in implementing national plans or strategies aimed at enhancing equality or human rights in Ireland? See Part 1 for a sample list of these strategies.
- Does your organisation have a role in policy areas identified by the United Nations in its concluding observations on how Ireland is performing under the international treaties it has signed up to?²

¹ While socio-economic status is not currently one of the nine protected grounds in the EEA, the Cabinet Handbook does require that all significant policy proposals include consideration of the likely effects on people at risk of poverty or social exclusion, and an indication of the actions necessary to counteract any negative impact.

² See the link to *UN Treaty Bodies Concluding Observations on Ireland* in the resource list at the end of this guidance document.



OTHER USEFUL SOURCES OF INFORMATION WHICH CAN INFORM AN EVIDENCE-BASED ASSESSMENT:

- Consultation with staff and/or service users: for more information on conducting a consultation, see **Step 3**.
- The Irish Human Rights and Equality Commission has a range of publications which document equality and human rights issues across a range of themes.
- Data from the Central Statistics Office provides useful information on the situation of different groups of people and in relation to specific geographical areas.
- The Economic and Social Research Institute (ESRI) produces a range of research and reports to inform policy-making in Ireland, many of which provide insight and analysis on issues related to equality and human rights.
- The Workplace Relations Commission publishes findings of cases taken under the Employment Equality Acts 1998-2015 and Equal Status Acts 2000-2015.
- Civil society organisations produce reports that provide important insights and analysis regarding the situation, identity and experiences of different groups in society.

In addition, issues identified through other internal sources may have a bearing on equality and human rights - for example, organisation evaluations, staff and customer surveys, a risk management register and complaints received, research and other commissioned reports, and from engagement in multi-agency initiatives such as the Local Economic and Community Plans.

Guiding the initial assessment

Initial consideration of issues may focus on the work of an organisation across all departments or teams. Alternatively, depending on the size and nature of an organisation, it may be useful to start by focusing on a theme related to a key area of work or a particular group of people. The learning can then be built on and applied to additional areas of work or groups of people.

The following considerations may help to ensure that equality and human rights remains central to the discussion:

- Keep the focus on people across the nine grounds included in equality legislation on the potential impact of those at risk of poverty or social exclusion.
- Remember that equality does not always mean treating everyone the same. Certain people or groups of people may be more at risk than others of experiencing discrimination or human rights violations. Ensuring equality of opportunity may mean catering for the specific needs of people or groups of people who experience disadvantages in society.
- Remember that human rights are basic standards that apply to everyone and include social, economic and cultural rights as well as civil and political rights.



ESTABLISHING A VALUES FRAMEWORK

Implementation of the Duty can assist an organisation to define and give expression to equality and human rights values related to its purpose and key public sector values. Explicit equality and human rights values can also provide a useful framework that an organisation can apply when establishing its priorities, budgetary decisions, organisational systems, how it carries out its work and engages with people availing of its services, allocation of staff roles and responsibilities and staff practices.

B. What structures and initiatives do you already have in place to support human rights and equality?

Public bodies already have structures (e.g. committees and staff roles) and initiatives (e.g. policies, national plans or strategies, activities and practices) in place which support them to protect human rights and promote equality for staff and people who use services. These may be specifically set up to address human rights and equality issues or may incorporate a focus on human rights and equality.

For example, many public bodies have an Equality and Diversity policy, a Dignity at Work policy, a Customer Service Charter and a complaints mechanism in place. Under the Disability Act 2005, public bodies are required to consider accessibility for people with disabilities. Public bodies are also required to appoint an Access Officer and some have appointed an Equality Officer.

A body may also have structure in place to facilitate its role in the implementation of a national plan or strategy aimed at enhancing human rights or equality.

Key questions to consider include:

- What specific structures (e.g. committees and staff roles) and initiatives (e.g. policies, plans, activities and practices) do you have in place already to address human rights and equality issues?
- What evidence do you have through these structures to indicate how your organisation is performing in relation to the elimination of discrimination, the promotion of equality and the protection of human rights?
- Are there other structures and initiatives in place which support human rights and equality?
- Does your organisation already have a set of agreed organisational values which guide its work and staff?

Identifying current structures and initiatives allows public bodies to recognise how they are already addressing human rights and equality issues, and bring all current efforts together under one human rights and equality framework. Meanwhile, assessing current activity against existing legislation, policies and structures allows an organisation to identify areas for priority action.

C. What human rights and equality issues need to be prioritised for action?

Once potential issues or gaps engaging human rights and equality have been identified there is a need to prioritise areas for action.

When scrutinising the issues or gaps identified it is important to consider:

- Why did you identify the issue or gap as engaging human rights and/or equality?
- How do you know it is an issue or gap?
- What sources of information did you draw on to identify the issue or gap?
- What areas would you prioritise to address?
- Do you require further information or scrutiny to ensure an evidence-based approach to prioritising issues?

Identifying clear sources of information to inform scrutiny of issues or gaps ensures an evidence-based approach to prioritising issues. An evidence-based approach can include information gathering and data analysis, consultation and screening. However, it is important to note that information gathering and data analysis, consultation and screening may also be identified as actions to address specific issues.

The Equality and Human Rights Public Sector Duty is an ongoing obligation, which must be continually engaged with and considered, including in the development of strategic plans. However, given the scope of functions a public body can have, it may be necessary to initially prioritise the functions which are *most* relevant to protecting human rights and promoting equality. In later and future assessments, further functions can be considered.

STEP 2 ADDRESS

Implement actions to address equality and human rights issues



Objective

The objective of Step 2 is to agree and undertake actions to address equality and human rights issues identified as part of the assessment.

It requires an organisation to prioritise actions to address the equality and human rights issues identified and to put in place organisational processes to strengthen their implementation of equality and human rights actions.

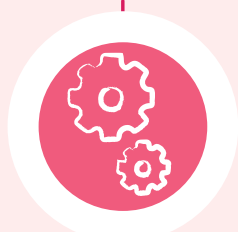


Impact

The purpose of addressing the human rights and equality impact of an organisation's functions is to prevent discrimination; to promote equality of opportunity and treatment of its staff and service users; and to protect the human rights of its staff and service users.

Addressing these issues also assists an organisation to improve outcomes for staff by contributing positively to staff morale and satisfaction. Addressing equality and human rights issues can also inform the design and delivery of services, and improve the accessibility and accountability of these services.

Finally, addressing equality and human rights issues can help drive cultural change within an organisation and assists in defining organisational priorities, procedures and practice.



Take Action

Agree priority actions to address equality and human rights issues identified

Once equality and human rights issues have been identified there is a need to consider and prioritise actions required to address them. It is important that agreed actions are included in an organisation's strategic plan and annual work programme. It may be necessary to allocate a budget and to clearly identify staff roles and areas of responsibility across specific departments or teams in relation to these actions.

When prioritising actions it is important to recognise that an assessment of equality and human rights issues is part of a strategic planning process that will be revisited and developed in this context. Therefore, some actions may relate to a specific strategic planning cycle and others may be implemented on a more incremental basis.

It is useful to identify a mix of both short term and more long term actions. It is likely that some new actions will have emerged during the assessment process. Other actions may build on existing policies, plans and good practice in place. Actions may focus on putting in place new ways of working to ensure that an equality and human rights lens is built in to organisational policies and practices on an ongoing basis. They may also include activities which continue to build awareness and staff capacity in relation to equality and human rights or include activities to further examine an issue.

When agreeing actions it is important to include relevant existing commitments that an organisation may have to address, such as the issues identified in other plans or strategies, and/or actions arising from the concluding observations of UN treaty bodies.

Determine the most appropriate implementation structure to drive the Duty

Implementation of the Duty needs to be coordinated and embedded across planning processes within an organisation. This requires senior management leadership as well as engagement of staff with knowledge and expertise across different organisational functions, roles and levels within the organisation.

An organisation may already have structures and examples of good practice in place that can be drawn on to implement the Duty. Possible approaches include incorporating responsibility for the Duty into existing cross-organisational structures such as the senior management team, forums involving heads of departments, or structures responsible for areas such as business planning or risk management. Alternatively it may involve building on the work of an existing committee, such as an equality committee or diversity committee. In larger organisations it may be useful to consider establishing a specific unit to support implementation.

Consider staff capacity

Developing staff capacity in relation to equality and human rights can assist an organisation to prevent and respond to issues for both people to whom an organisation provides services and its staff. As well as creating general awareness across the organisation about the obligations imposed on public bodies by the Duty, specific training in relation to the Duty may be necessary for:

- front-line staff who interact with service users;
- staff with responsibility for coordinating or driving implementation of the Duty;
- staff who may be assigned responsibility for the collection and interpretation of data as it relates to equality and human rights.

Integrate the Duty in strategic planning cycle

Section 42(2)(a) of the IHREC Act 2014 requires an organisation to 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 and the policies, plans and actions in place or proposed to be put in place to address those issues”.

In order to be able to meet this requirement, it is recommended that organisations integrate their assessment of their ongoing obligations under the Duty and any implementation planning arising from that assessment, into their strategic planning process.

Given the ongoing requirement in the 2014 Act to report on “developments and achievements” in realising the Public Sector Equality and Human Rights Duty, it is advisable to build in a review mechanism to assess progress against the organisation’s stated actions.

If a public body engages in a consultation exercise with external stakeholders and/or staff as part of the strategic planning process, this is also an opportunity to consult specifically in relation to that body’s obligations under the Duty. This can inform part of the evidence base in conducting an initial assessment. For more information on consultation in relation to the Duty, see **Step 3**.

Engage with inter-agency approaches and inform policy development

The assessment may identify equality and human rights issues for people to whom an organisation provides services and its staff, which cannot be directly addressed by an organisation in the context of its purpose and mandate. However, an organisation may have an opportunity to raise these issues and support them to be addressed in an inter-agency context. There may also be opportunities to raise these issues at policy level with a view to informing national policy and development of legislation. An inclusive and evidence-based approach to addressing issues strengthens opportunities to assist an organisation to do this effectively.

STEP 3 REPORT

Report on developments and achievements arising from implementation of the Duty in a manner that is accessible to the public



Objective

The objective of Step 3 is to review and communicate progress in relation to addressing equality and human rights issues relevant to the purpose and function of an organisation.



Impact

Reporting on developments and achievements in an accessible manner clearly highlights the benefits that implementing the Duty has for policy beneficiaries, people to whom an organisation provides services and its staff. It also contributes to a positive organisational reputation in the public domain, with key stakeholders, with people to whom it provides services and with its staff. In addition, it assists an organisation to report on the delivery of its strategic plan and to inform future strategic plans.



Take Action

Review and monitor

Collection of data, clearly defined targets, indicators and responsibilities, where appropriate, will ensure effective monitoring and reporting on human rights and equality. Achievements and steps taken as part of your human rights and equality action plans will be included in annual reports, therefore it is important that an organisation has built tools for monitoring outcomes into its implementation of priority actions. For example, an organisation may include human rights and equality indicators in its monitoring of employment and service provision.

When reviewing and monitoring progress in relation to equality and human rights, an organisation may reflect on what issues have been identified and how they have been addressed across key areas related to organisational planning; employment; service provision; research policy; and procurement and grant-making functions.

It is useful to focus on outcomes, taking into account the impact of actions for different groups of people to whom an organisations provides services

and among its staff. Outcomes may include addressing barriers to accessing the services of the organisation and participating in the workplace. Outcomes may also relate to how people are treated, improvements in service delivery and positive experiences of the workplace that recognise and accommodate diversity and cater for particular needs. In circumstances where issues have yet to be addressed it may require an organisation to indicate plans in place to do so and expected outcomes.

Reviewing and monitoring progress in relation to equality and human rights assists an organisation to demonstrate how it applies its equality and human rights values in a meaningful way in its day-to-day work. It also assists an organisation to demonstrate how it has delivered on its strategic plan and allows an organisation to build on its success, to identify gaps and to inform the focus of future strategic plans.

Sources of information to inform a review of actions may include surveys of staff and/or service users; quantitative analysis of complaints or other feedback mechanisms; or quantitative analysis of service users across the nine grounds covered by the Equal Status Act.



TAKING AN EVIDENCE-BASED APPROACH: COLLECTING DATA

Collection of data, clearly defined targets, indicators and responsibilities, where appropriate, can ensure effective monitoring and reporting on human rights and equality.

When collecting further information to determine how human rights or equality relates to a function or area it is important to clarify:

- Why the information is required;
- That the information is relevant and will be used;
- Whether the information is already available from other sources, for example internally or through external sources such as national data;
- How easy or difficult it will be to compile the information;
- That sensitive and personal data remains confidential and anonymous;
- That the collection of data is GDPR-compliant.

Potential internal sources of information and data:

- Feedback from service-user/customer surveys;
- Feedback from employee surveys;
- Annual Reports;
- Internal data in relation to the composition of service-users, employees and those affected by the functions across the nine equality grounds;
- Issues emerging through complaints made by service-users or employees;
- Quantitative and qualitative analysis of internal and external complaints;
- Issues emerging in the context of industrial relations or litigation taken against the body.

Communicate progress in an accessible manner

An organisation is required to report on developments and achievements in a manner that is accessible to the public. This includes setting out in its strategic plan why specific issues need to be addressed and reporting in its annual report how issues have been addressed, or plan to be addressed, and outcomes as a result. It may also be useful for organisation to consider targeted approaches to communicating progress on issues, taking into account the need to reach a diverse audience.



TAKING AN EVIDENCE-BASED APPROACH: CONSULTATION

Consultation and engagement are important throughout the process of assessing, addressing and reporting on the public sector duty. Consultation with staff and service users assists in developing an evidence-based human rights and equality assessment; it can also inform how an organisation could most effectively address its priority actions; and it can form part of the ongoing monitoring of progress against those priority actions.

Why consult and engage?

- To ensure that assumptions are not made about the level of impact in terms of equality and human rights;
- To ensure that the experiences of diverse groups are recognised;
- To determine why certain groups are accessing a service and why others are not;
- To gather information where data is not available;
- To hear the views of staff across the organisation and access relevant information;
- To find solutions to issues identified by learning directly from those impacted by a policy or practice (staff or people availing of services).

Who to consult and engage with?

- Service-users;
- Staff;
- People with experience of discrimination and human rights abuses and their representative organisations.

How to consult and engage?

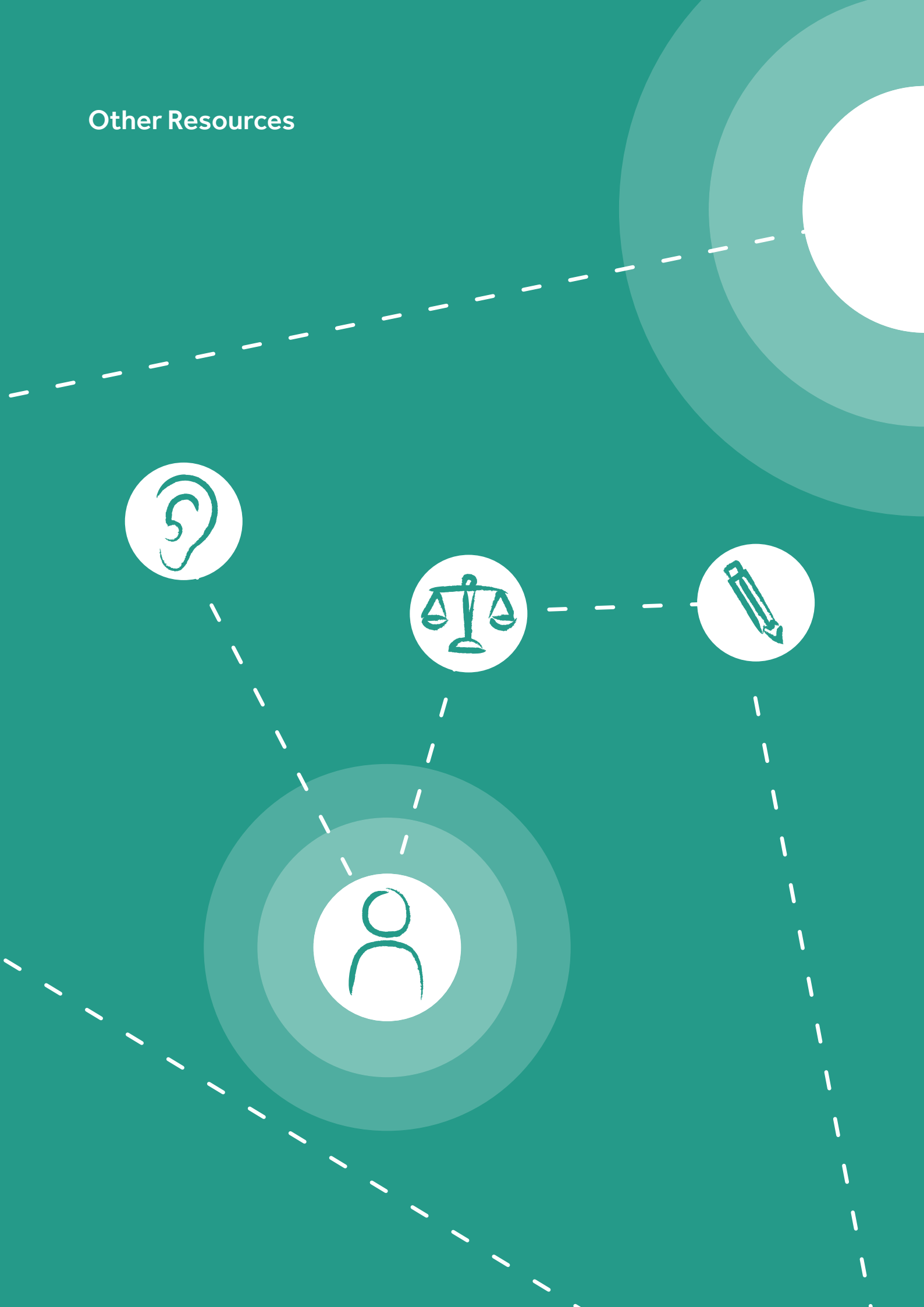
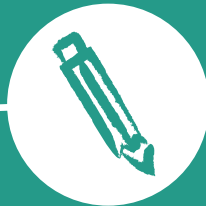
It is important to recognise that different categories of stakeholders may have different needs or ability to engage in communication. This has implications for the planning and design of consultation processes.



KEY PRINCIPLES OF CONSULTATION INCLUDE:

- a. Participation - an inclusive approach which encourages a diversity of voices, as appropriate;
- b. Targeted and appropriate consultation methods which take into account how to reach and engage different audiences;
- c. Transparent, open and accountable approach which can indicate how the consultation has informed the issue, taking into account resources available, effectiveness, coherence and mandate of the public body, as appropriate
- d. Clear, concise communication providing clear guidelines outlining the objectives and timeline of the consultation;
- e. Accessibility including a commitment to providing information about, and advertising, the consultation in a way that takes into account the needs of people with disabilities, literacy issues and English as a second language;
- f. Reasonable accommodation and positive action measures including a commitment to:
 - ensuring that people with disabilities can notify the public body of particular supports required to participate in the consultation;
 - responding to requests for reasonable accommodation for people with disabilities, as appropriate;
 - identifying the need for targeted approaches to support participation of disadvantaged groups or to cater for the needs of specific categories of people within the consultation process.

Other Resources



Other Resources

There are a number of key resources which will assist a public body to meet its obligations under the Public Sector and Human Rights Equality Duty. A selection of those resources is included here.

The Public Sector Equality and Human Rights Duty: the practical experience of public bodies

The Irish Human Rights and Equality Commission has undertaken five pilot projects on the process of implementing the Duty with public bodies across different sectors: two government agencies, two local authorities and a higher education institution. These are documented as video case studies and are available on the IHREC website, together with information for public bodies on the Duty.

www.ihrec.ie/our-work/public-sector-duty

Further reading and information on human rights and equality

Your Employment Rights Explained: Guide to the Employment Equality Act

www.ihrec.ie/download/pdf/ihrec_employment_equality_rights_explained.pdf

Your Equal Status Rights Explained: Guide to Equal Status Act

www.ihrec.ie/app/uploads/download/pdf/ihrec_equal_status_rights_explained.pdf

Human Rights Explained: Guide to Human Rights Law

www.ihrec.ie/download/pdf/ihrec_human_rights_explained.pdf

UN Treaty Bodies' Concluding Observations on Ireland

A repository of concluding observations by UN treaty monitoring bodies can be found at the following link:

UN Treaty Bodies' Concluding Observations on Ireland

tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=En&CountryID=83

Consultation Guidelines

Consultation Principles and Guidelines, Department of Public Expenditure and Reform

www.per.gov.ie/en/consultation-guidelines/

Ask Me: Guidelines for Effective Consultation with People with Disabilities,
National Disability Authority

<http://nda.ie/Policy-and-research/Research/Research-Publications/-Ask-Me-Guidelines-for-Effective-Consultation-with-People-with-Disabilities.html>

Equality and Human Rights Values-based Frameworks

A framework of equality and human rights values: Autonomy, Democracy, Dignity, Inclusion, Social Justice. This was developed by the Equality and Rights Alliance to underpin equality and human rights in the context of the Public Sector Equality and Human Rights Duty in Ireland.

www.eracampaign.org/uploads/A%20New%20Public%20Sector%20Duty%20March%202015-1.pdf

The PANEL framework of principles: Participation, Accountability, Non-discrimination and Equality, Empowerment, and Legality. This approach was developed by the Scottish Human Rights Commission to underpin the implementation of a human rights-based approach as part of its equality and human rights impact assessment resource.

www.scottishhumanrights.com/media/1409/shrc_hrba_leaflet.pdf

The FREDA framework of values: Fairness, Respect, Equality, Dignity and Autonomy: This approach was developed in the UK health sector to support the NHS to use a human rights-based approach to improve service design and delivery.

webarchive.nationalarchives.gov.uk/20130124044024/http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_088972.pdf

The Employment Equality Acts 1998-2015 and the Equal Status Acts 2000-2015: a summary of provisions

Domestic equality legislation refers primarily to the Employment Equality Acts 1998-2015 and Equal Status Acts 2000 – 2015.

The *Employment Equality Acts 1998-2015* ('EEA'), prohibit discrimination harassment and sexual harassment in employment, including vocational training and work experience.

- The nine protected grounds under the EEA are gender, civil status, family status, sexual orientation, disability, age, race, religion and membership of the Traveller community.
- Under the EEA an employer is obliged to take appropriate measures to enable a person who has a disability: to have access to employment; to participate or advance in employment; or to undertake training unless the measures would impose a disproportionate burden on the employer. Appropriate measures are effective and practical measures to adapt the employer's place of business including: the adaptation of premises and equipment; patterns of working time; distribution of tasks; or the provision of training or integration resources.
- Under the EEA employers can take positive action with a view to ensuring full equality in practice between employees on all of the nine protected grounds.
- The EEA provide for equal pay for like work in respect of all of the grounds. Like work is defined as work that is the same, similar or work of equal value.
- The EEA prohibit any form of advertising which indicates an intention to discriminate or might be reasonably understood to indicate such an intention.

The *Equal Status Acts 2000-2015* ('ESA'), prohibit discrimination, harassment, and sexual harassment in access to and use of goods and services, accommodation and education.

- The nine protected grounds under the ESA are gender, civil status, family status, sexual orientation, disability, age, race, religion and membership of the Traveller community.
- The ESA also protect people in receipt of rent supplement, housing assistance payments or other social welfare payments against discrimination when they are accessing accommodation or related services and amenities.
- People cannot discriminate when they are providing goods and services to the public (or a section of the public) whether these are free or where the goods and services are sold, hired or rented or exchanged.
- The ESA require reasonable accommodation of people with disabilities. 'Reasonable accommodation' means providing special treatment or facilities to make sure that people with a disability can avail of goods and services , so long as these do not have more than a nominal cost. What amounts to nominal cost will depend on the circumstances such as the size and resources of the body involved.
- The ESA allow preferential treatment or the taking of positive measures which are bona fide intended to: promote equality of opportunity for disadvantaged persons under the grounds; cater for the special needs of persons, or a category of persons who because of their circumstances, may require facilities, arrangements, services or assistance.
- It is illegal under the ESA to publish or display an advertisement that indicates that certain people or groups would be treated less favourably.



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