flac

promoting access to justice

A once-in-a-generation Opportunity for Equality

Submission to the Oireachtas Joint Committee on Children and Equality about the General Scheme of the Equality (Miscellaneous Provisions) Bill 2024

July 2025

This submission is endorsed and supported by:

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IRISH NETWORK AGAINST RACISM

Irish Council for Civil Liberties

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About FLAC

FLAC (Free Legal Advice Centres) is an independent legal, human rights and equality organisation, which works in a number of different ways to promote equal access to justice:

- FLAC provides early and preventive legal assistance through a Telephone Information & Referral Line and Free Legal Advice phone clinics.
- As an Independent Law Centre, FLAC takes on a number of cases in the public interest each year which may have an impact beyond the individual.
- It also operates a Roma Legal Clinic, a Traveller Legal Service and, until recently, a clinic for the LGBTQIA+ community.
- FLAC operates PILA which facilitates NGOs to obtain legal assistance from private lawyers via its *pro bono* referral scheme.
- FLAC makes policy recommendations in relation to areas of law that most impact on people living poverty and disadvantage, including equality and anti-discrimination law, social welfare law, credit and debt law, housing law, human rights law, and access to justice. This includes policy reports and submissions to national and international bodies, including Oireachtas Committees and human rights monitoring bodies.

FLAC & the Review of the Equality Acts

FLAC played a central role in the Review of the Equality Acts

- **FLAC has significant first-hand experience of the equality legislation.** As an independent law centre, we frequently provide representation in cases under the equality legislation before the Workplace Relations Commission (the 'WRC') and the courts. In 2024 alone, FLAC provided representation in relation to 102 complaints (or potential complaints) under the equality legislation. These cases involved alleged discrimination in employment and by shops, hotels, schools, healthcare providers, childcare providers and providers of public transport.[1] We acted in the first successful

[1] During 2024, FLAC's clients in discrimination cases received a total of €62,200 in financial compensation. The majority of cases concerned discrimination on the grounds of ethnicity and/or membership of the Traveller Community. FLAC also acted in a number of cases concerning disability discrimination, including cases about access to education. See: FLAC (2025), *Do Something About it! Annual Report 2024*, p.29.

cases on the housing assistance ground,[2] and the first ever successful case on behalf of a Roma woman concerning discrimination in a retail setting.[3]

- **Along with INAR (the Irish Network Against Racism), FLAC provided training to lay advocates to support people bringing claims under the grounds of race and membership of the Traveller community.**[4] There was significant demand for access to the training.
- **The reform of the equality legislation has been a priority for FLAC - from our casework we are acutely aware if its limitations and the difficulties in making a claim. FLAC campaigned successfully for a comprehensive Review of the Equality Acts.** Roderic O'Gorman TD, the then Minister for Equality, announced the Review when he delivered the closing address at FLAC's equality law seminar series in June 2021.[5]
- **FLAC was invited to become a member of the Irish Human Rights and Equality Commission's ('IHREC') Advisory Committee on the Future of Equality Legislation** (an expert group established to support IHREC's engagement with the Review). The report to arise from the work of that group adopted FLAC's detailed recommendations on access to justice for victims of discrimination.[6]
- **FLAC has assisted and facilitated civil society engagement with the Review**. A number of NGOs working with disadvantaged and vulnerable communities sought our assistance in making submissions to the Review in light of the complexity of the legislation and the importance of the issues under consideration to their communities. Having discussed their issues with the legislation, in November 2021, we published an accessible guide on making a submission to the Review.[7] In the same month,

[2] FLAC (2017), *'Model tenants' awarded substantial compensation for discrimination by landlord on housing assistance ground*.
[3] Christopher Bowes (2023), *First Irish judgment finding race discrimination against Roma in goods and services* (in Discrimination Law Association Briefings, Volume 79).
[4] FLAC, *The Equal Access Project*.
[5] June 2021, FLAC, in association with the Law School, Trinity College Dublin, held a series of seminars on the Equal Status Acts. At the four *Status Check: 20 Years of the Equal Status Acts* webinars (which were attended by over 300 individuals in total) leading academics, practitioners, policy-makers and activists reflected on the experience, impact and limitations of the legislation to date and explored the future of Ireland's equality framework. See: FLAC (2021), *Status Check: 20 Years of the Equal Status Acts*.
[6] IHREC (2023), *Submission on the Review of the Equality Acts*.
[7] FLAC (2021), *FLAC Guide: The Review of the Equality Acts, Making a Submission to the Review, & The Key Issues Under Review*.

FLAC and IHREC launched a joint project, *Equality Action*, to support and strengthen civil society engagement with the Review.[8]

- **The General Scheme which has resulted from the Review of the Equality Acts, reflects many of FLAC's recommendations**. FLAC made detailed submissions to the Review and we believe that that our recommendations provide a blueprint for a next generation equality framework which promotes full equality in practice and achieves transformative change.[9] We have submitted draft legislative amendments to the Department which would give effect to our recommendations.

[8] *Equality Action*'s launch event was attended by over 100 individuals and organisations. Over 80 representatives of civil society organisations attended the five *Equality Action* thematic roundtables on topics such as the introduction of a socio-economic status ground, key issues for people with disabilities, key issues for members of the Traveller Community, and combatting racism through the equality legislation.
[9] FLAC (2021), FLAC Submission to the Consultation on the Review of the Equality Acts.

Introduction

FLAC welcomes the opportunity to make a submission to the Oireachtas Joint Committee on Children and Equality about the General Scheme of the Equality (Miscellaneous Provisions) Bill 2024 (the 'General Scheme').

FLAC has long campaigned for improvements in the equality legislation. We regularly represent people who have experienced discrimination in cases before the WRC and the courts. We have significant first-hand experience of the legislation, the issues with it and its effectiveness, and how difficult it is for victims of discrimination to access justice.

We are proud of the role we have played in the Review of the Equality Acts over the past four years. In particular, we have sought to support groups and organisations who work with communities and individuals experiencing inequality and discrimination to engage with the review process and to have their voices heard over legislation that impacts on their daily lives.

The significance of the General Scheme cannot be overstated. While it requires improvement and expansion, it is one of the most ambitious pieces of equality legislation introduced in Ireland during the past two decades. During that time, reform of the equality and anti-discrimination legislation has generally come about in a piecemeal fashion or as a result of new requirements of EU law.

In recent years, we have seen a worrying rise in discrimination, prejudice and intolerance in this country. This requires a strong legislative response - including in the form of strengthened equality legislation, which gives effect to our Constitution's guarantee of equality before the law and which makes a real difference in people's lives. Equality legislation is the expression and repository of our shared values of respect and dignity, values that underpin our belief in human worth.

Some of the measures outlined in the General Scheme have the potential to breathe fresh life into the prohibition of discrimination and to encourage the development of a culture of compliance with equality law. If enacted, the Bill will have a very positive impact, especially Travellers and people with disabilities. We particularly welcome the provisions providing for:

- significantly increased compensation,
- moving the jurisdiction for claims against licensed premises from the District Court back to the WRC, and
- greater accessibility in the process for making a claim, including through extended time-limits.

FLAC's has provided the Joint Committee with a detailed submission about the General Scheme. It highlights how the measures included in the General Scheme could be improved and how the gaps in the General Scheme could be addressed. This includes the need to prohibit discrimination on the basis of grounds such as disadvantaged socio-economic status and gender identity. We also need to ensure that the State and public bodies are covered by the legislation and that key areas such as social welfare, social housing, healthcare, and the functions of the guards and the Irish Prison service come clearly within its scope. There are also several amendments that should be included in the Equality Bill which would improve access to justice for victims of discrimination and provide for the implementation of the new EU Equalities Bodies Directives. All of these matters have been considered in detail during the review of the equality legislation, and bodies such as FLAC and IHREC have provided detailed law reform proposals (including draft legislative amendments) to give effect to our recommendations for the Equality Bill.

The Joint Committee on Children and Equality plays a very important role in terms of anti-discrimination legislation and equality in Ireland more generally. We hope that the Joint Committee will champion the measures proposed in the General Scheme, the need for improvements in our equality legislation, and will engage with the Minister and her Department about the urgent need for reform in this area. The ambition we bring to this legislation is a measure of our concern for creating and progressing a caring, inclusive and flourishing society

FLAC would be happy to meet with any members of the Joint Committee to discuss our submission and to provide any additional information which would be of assistance to the Joint Committee as it considers this very important legislation.

Summary & Recommendations

Section 1 of this submission provides an overview of the equality legislation. It then discusses the various issues with Ireland's equality/anti-discrimination framework (and its effectiveness) which provide the policy rationale for urgently reforming and updating the law in this area. It highlights how the equality legislation is increasingly out-of-date, inaccessible and ineffective. Comprehensive reform is now needed if Ireland is to restore its place as a European leader in the area of equality law and respond effectively to the worrying rise in discrimination and intolerance in our society.

In light of how inaccessible and heavily amended the legislation is already (and the extent of the reforms proposed in the General Scheme), **the Joint Committee should engage with the Department for Equality about the possibility of the Equality Bill being developed into a piece of reforming and consolidating legislation which is drafted in an accessible way.**

Section 2 analyses each of the 19 heads contained in the General Scheme and highlights areas where the changes proposed could be improved or expanded:

Equal Pay & Pay Transparency (Heads 4 & 5)

- The Equality Bill should set out procedures for how the new rule prohibiting employers from requesting information from job applicants about their current or former rate of pay will be enforced.
- The Equality Bill should amend section 29 of the Employment Equality Acts to allow for 'hypothetical' comparators in equal pay claims (to make it easier for care workers and others in gender-segregated professions to make a claim).

Positive Action (Head 7)

- The Equality Bill should give effect to FLAC and IHREC's recommendation to replace the existing positive action provisions in the Equal Status Acts with "*a single overarching provision which permits specific group-based measures to ensure full equality in practice is achieved across all grounds of discrimination*."

Longer Time Limits for Employment Complaints (Heads 10 & 19)

- The Equality Bill should provide for a twelve-month time limit for maternity protection complaints (in line with the proposed change to time limit for complaints under the employment equality legislation). The time limits for complaints should run from the employee's date of knowledge of prohibited conduct or from the date that any internal grievance procedure in relation to the matter concludes.

Compensation in Employment Equality Cases (Head 11)

- The Equality Bill should remove compensation limits for complaints under the Employment Equality Acts. Failing that, the maximum level of compensation for claims by prospective employees who feel they have been discriminated against in the recruitment process and the minimum compensation ceiling for employees should be raised to €75,000 in line with the amendments proposed to the compensation limits under the Equal Status Acts.

Prohibition of Intersectional Discrimination (Head 13)

- The Equality Bill should adopt FLAC and IHREC's draft legislative amendments to prohibit intersectional discrimination in both the Equal Status Acts *and* Employment Equality Acts:

  "Sections 25(1A) of the Equal Status Act and 79 (1A) of the Employment Equality Act should be amended to provide for intersectional discrimination by removing reference to a decision being made on each claim, and including the clause 'or on a combination of the grounds' in subsection (a)."

Stronger Obligation to provide Reasonable Accommodation for People with Disabilities (Head 14)

- The Equality Bill should adopt FLAC and IHREC's proposals for reasonable accommodation provisions in both the Equal Status Acts and Employment Equality Acts which are compliant with the UN Convention on the Rights of Persons with Disabilities. These proposals place stronger, clearer positive obligations on private providers of goods and services (in addition to public bodies) and create an obligation for employers and service providers to consult employees and services users who require reasonable accommodations.

Longer Time Limit for Goods & Services Complaints and for meeting the 'Notification Requirement' (Head 16)

- The Equality Bill should amend section 21 of the Equality Status Acts to remove the mandatory nature of the notification procedure.

Repeal of Section 19 the Intoxicating Liquor Act (Head 18)

- IHREC should introduce a Code of Practice on equality and non-discrimination in access to goods and services including licenced premises.

Section 3 examines the gaps in the General Scheme. It highlights issues which were identified during the Review of the Equality Acts which are not dealt with in the General Scheme.

Expanding the Discriminatory Grounds

- The Equality Bill should prohibit discrimination on the basis of 'disadvantaged socio-economic status'. The Equality (Miscellaneous Provisions) Bill 2021 provides a "*workable, enforceable definition*" of "*socio-economic disadvantage*" which could be used in this new ground:

> *"'socio-economic disadvantage' means having disadvantaged social status or disadvantaged economic status, or both, that may be indicated by a person's inclusion, other than on a temporary basis, in a socially or geographically identifiable group that suffers from such disadvantage resulting from one or more of the following circumstances:*
>
> *(a) poverty,*
>
> *(b) source of income,*
>
> *(c) illiteracy,*
>
> *(d) level of education,*
>
> *(e) address, type of housing or homelessness,*
>
> *(f) employment status,*
>
> *(g) social or regional accent,*
>
> *or from any other similar circumstance;"*

- The Equality Bill should explicitly prohibit discrimination on the basis of gender identity, gender expression or sex characteristics. IHREC and FLAC have recommended that "…*the gender ground in the Equality Acts be amended to include explicit reference to, and define gender identity, gender expression, and sex characteristics. The ground should continue to be called the gender ground, to facilitate and ensure retention of protections under the case law of the current gender ground*."
- The Equality Bill should expand the existing 'family status' ground into a 'family/carer status' ground which is defined to include people who are the "*parent of a child, a foster parent, an adoptive parent, a person in loco parentis, or the carer of an adult who requires care or support on a continuing, regular or frequent basis*".

Bringing the State within the Prohibition of Discrimination

- The Equality Bill should provide for the repeal of section 14 of the Equal Status Acts (which provides an exemption for discriminatory laws and their effects), and for the definition of services in that legislation to be amended to explicitly include the general functions of public bodies.

Clearly Defining Indirect Discrimination

- The Equality Bill should clarify the burden of proof for indirect discrimination claims under the Equal Status Acts and Employment Equality Acts. In particular, it should clearly provide that statistical evidence is not required in all indirect discrimination cases.

Reducing the number of Exceptions & Exemptions

- The Equality Bill should narrow the exemption at section 9 of the Equal Status Acts for discriminating clubs by clarifying that the "*principal purpose*" referred to in the exemption refers to the activities of the club (and not the category of persons whose needs are being catered for) and by narrowing the definition of "needs" to refer to objective and identifiable needs of protected groups.
- The Equality Bill should delete the exemption which removes domestic workers from the definition of "employee" in section 2 of the Employment Equality Acts. If necessary, a new narrower exception, on the gender ground only, should be added which applies to personal and care services provided in people's homes.
- Section 34(6) of the Employment Equality Acts contains an exception to the equal pay provisions for "*age-related remuneration*" which explicitly states that the exception only applies for the three years after the legislation was commenced. It has now been expired for over twenty years and it should be deleted by the Equality Bill.
- Section 15(1) and (2) of the Equal Status Acts are unnecessary and should be deleted by the Equality Bill. They both relate to actions taken to prevent potential criminal, unlawful or disorderly conduct. Such actions would not constitute discrimination in the first place so there is no need for such exceptions.

Strengthening the Public Sector Duty

- The Equality Bill should clarify and strengthen the Public Sector Equality and Human Rights Duty by amending section 42 of the Irish Human Rights and Equality Commission Act 2014 to:
  - allow for the introduction of 'specific duties' on State Bodies and Government Departments, in addition to the existing general obligations,
  - grant IHREC stronger enforcement powers, including by amending section 42(5) of the 2014 Act to provide that IHREC may 'require' public bodies to undertake an equality and human rights review or action plan, and
  - ensure that failures to comply with the duty may, of themselves, give rise to a cause of action i.e. allowing individuals to make a claim where there has been a failure to comply with the duty.

Defining the Purpose of the Equality Legislation

- The Equality Bill should create a new section 1A in both the Equality Status Acts and Employment Equality Acts which defines the purpose and objectives of the legislation. These provisions should expressly state that the legislation implements Ireland's obligations under EU law and international human rights law, and that it is a legislative expression of the Equality Guarantee in Article 40.1 of Bunreacht na hÉireann. The new sections 1A should also state the nature of the conduct which is prohibited by the legislation and in what context the prohibition applies. The stated overarching aim of the equality legislation should be "*to eliminate discrimination and to ensure full equality in practice*".

Accessible Forms

- The Equality Bill should amend section 77 of the Employment Equality Acts and section 21 of the Equal Status Acts to mandate the introduction of an accessible form for the purpose of making complaints under the legislation (which is available online and in hard copy). Those provisions should also mandate the WRC to provide practical supports to people who wish to lodge a complaint. This could take the form of an 'assisted digital programme' to support people who are 'digitally excluded' or lack digital skills to engage with the complaints portal.
- The Equality Bill should amend section 21 of the Equal Status Acts and section 26 of the Employment Equality Acts to clarify the 'discovery' process relating to discrimination complaints i.e. the procedure through which a complainant may obtain information which is relevant to their complaint from the respondent. In particular, the legislation should mandate the introduction of accessible forms to be used for this purpose.

Urgent Complaints

- The Equality Bill should amend section 79 of the Employment Equality Acts and section 25 of the Equal Status Acts to create a process which allows certain complaints to be expedited and dealt with urgently.

Preliminary Hearings

- The Equality Bill should amend section 79 of the Employment Equality Acts and section 25 of the Equal Status Acts to allow the WRC to hold 'preliminary hearings' which decide legal issues before the complaint is heard in full.

Privacy & Anonymity

- The Equality Bill should amend section 79 of the Employment Equality Acts and section 25 of the Equal Status Acts to allow for applications for hearings to be conducted in private

and for decisions to be anonymised. These applications should be dealt with in advance of complaints being heard in full.

The Investigation Process

- The Equality Bill should amend section 79 of the Employment Equality Acts and section 25 of the Equal Status Acts to mandate the introduction of regulations requiring an accessible and 'inquisitorial' approach to investigating discrimination complaints so that the onus is on the adjudicator to investigate the alleged discrimination, rather than on the claimant having to set out all the law and evidence. There should be a clear legislative basis for WRC adjudicators to correct technical errors on complaint forms (including in relation to the name of the respondent) and to investigate matters which are not specifically outlined on the complaint form.

Interim Orders

- The Equality Bill should amend section 88 of the Employment Equality Acts and section 27 of the Equal Status Acts to allow WRC adjudicators to make 'interim' or 'interlocutory' orders i.e. injunctive-type orders which may be granted after a preliminary hearing but before a full/final hearing has taken place in order to deal with urgent issues.

Orders for a Specified Course of Action

- The Equality Bill should amend section 88 of the Employment Equality Acts and section 27 of the Equal Status Acts to clarify the scope of 'orders for a specified course of action' which adjudicators may make and, in particular, that they may impose obligations which go beyond the facts of a particular case for example to provide equality training to all employees.

Enforcement of WRC Decisions

- The Equality Bill should provide that enforcement proceedings relating to decisions in discrimination cases may be taken by the complainant themselves or by IHREC, the WRC or a trade union on their behalf.

Section 4 examines access to justice under the equality legislation. The very low levels of discrimination complaints which are taken in Ireland (despite rising levels of discrimination) indicate significant issues in the area of access to justice for victims of discrimination.

- The Joint Committee should engage with IHREC, the Legal Aid Board, the Citizens Information Board, and the Department of Justice in relation to access to justice for victims of discrimination.

The New EU Equality Bodies Directives

The transposition of the new Equality Bodies Directives should be urgently advanced via the current reform of the equality legislation. In order to give effect to the new Directives, the Equality Bill should:

- Amend the Workplace Relations Act 2015 to mandate the creation of a dedicated equality unity within the WRC with specialised staff. The unit should be responsible for the policies and procedures followed in the investigation of discrimination complaints and promoting access to justice for victims of discrimination. It should be empowered to work collaboratively with IHREC to raise awareness of equality rights and in providing legal information concerning equality rights, including the provision of information targeted at the groups and individuals that come within the ambit of the equality legislation. The name of the WRC should be changed to the Workplace Relations and Equality Tribunal.
- Amend section 12(1) of the Irish Human Rights and Equality Commission Act 2014 to create a new leadership role within IHREC which is focussed on equality: "*The Commission shall consist of not more than 15 and not less than 12 members, one of whom shall be the Chief Commissioner of the Commission, and another of whom shall be Deputy Chief Commissioner of the Commission with specific responsibility for the implementation of the Employment Equality Acts 1998 to 2015 and the of the Equal Status Acts 2000 to 2018*".
- Amend section 27 of the Irish Human Rights and Equality Commission Act 2014 to provide for the creation of an equality unity within IHREC: "(7) *The Commission shall establish and adequately resource a dedicated staff unit with responsibility for the implementation of the Employment Equality Acts 1998 to 2015 and the of the Equal Status Acts 2000 to 2018.*
- Amend section 25(2) of the Irish Human Rights and Equality Commission Act 2014 to require IHREC to address its equality mandate in its Strategy Statements: "*A strategy statement shall—(a) comprise— (i) the key objectives and related strategies, specifically detailing objectives and related strategies with regard to the implementation of the Employment Equality Acts 1998 to 2015 and the of the Equal Status Acts 2000 to 2018, including the use of resources of the Commission and within this specifying the use of resources on the implementation of the Employment Equality Acts 1998 to 2015 and the of the Equal Status Acts 2000 to 2018, and (ii) having had regard to subparagraph (i), the key priorities and objectives of the Chief Commissioner for his or her term of office and the Deputy Chief Commissioner with specific responsibility for the implementation of the*

Employment Equality Acts 1998 to 2015 and the of the Equal Status Acts 2000 to 2018 for his or her term of office, and…"

- Amend section 28(2) of the Irish Human Rights and Equality Commission Act 2014 to require IHREC to provide "*an account of its activities and any developments undertaken by the Commission in relation to the operation and implementation of the Employment Equality Acts 1998 to 2015 and the of the Equal Status Acts 2000 to 2018*" in its Annual Report.

IHREC should be provided with sufficient resources in relation to its functions to provide information to the public on the provisions of the equality legislation. Together with WRC, the Legal Aid Board and the Citizens Information Board, it should engage in targeted information and awareness campaigns about the provisions of the legislation directed at the individuals and groups who come within the discriminatory grounds.

Legal Information & Awareness of Rights

- The Joint Committee should engage with the Minister for Justice in relation to the expansion of the remit of the Legal Aid Board to include an awareness-raising function and the provision of legal information concerning equality rights.
- The Joint Committee should engage with the Minister for Social Protection in relation to the expansion of the remit of the Citizens Information Board to include the provision of basic legal information (including information concerning equality rights) and advocacy for non-complex cases before the WRC.
- The Joint Committee should engage with the Minister for Equality and the WRC in relation to the expansion of the WRC's information remit to include information on equality rights and the discrimination complaint process.

Legal Advice, Advocacy & Representation

- The Joint Committee should engage with the Minister for Justice in relation to the expansion of the remit and resourcing of the Legal Aid Board to mandate the provision of legal advice and legal representation in the area of equality/anti-discrimination.

Dedicated Legal Services

- The Joint Committee should engage with the Minister for Justice in relation to the expansion of the functions of the Legal Aid Board to include supporting the development and delivery of targeted and specialised services for communities that come within the discriminatory grounds and in relation to the resourcing of such services.

Representative Actions

- The Equality Bill should amend the equality legislation to ensure that representative NGOs are given unambiguous legal standing in appropriate cases to initiate proceedings on behalf of those affected by discrimination.

Section 5 looks at the relationship between the equality legislation and Article 40.1 of the Constitution (the 'equality guarantee').

- The Joint Committee should engage with the Minister for Equality in relation to the need to amend Article 40.1 of the Constitution. It should call on her Department to examine the need for reform in this area in light of the findings to emerge from the review of the equality legislation.

1. Background: The Equality Legislation & the Urgent Need for Reform

This section provides an overview of the equality legislation. It then discusses the various issues with Ireland's equality/anti-discrimination framework (and its effectiveness) which provide the policy rationale for urgently reforming and updating the law in this area.

1.1. The Equality Legislation

Ireland's main pieces of equality/anti-discrimination legislation are the Equal Status Acts and the Employment Equality Acts. They are sometimes referred to collectively as 'the Equality Acts'. The equality legislation plays a hugely important role. It gives effect to European Union Equality Directives in Irish law.[10] It is also a legislative expression of our Constitution's guarantee of equality before the law and plays a role in ensuring Ireland's compliance with our international human rights obligations. On a practical level, the legislation provides people with protection against discrimination and seeks to ensure that people can access and participate in many aspects of Irish society as equals, irrespective of their status.

The Equal Status Acts and the Employment Equality Acts prohibit discrimination on specified discriminatory grounds, harassment, sexual harassment, victimisation and discriminatory advertising in employment and in the provision of goods and services, accommodation and education. 'Discrimination' is defined to include less favourable treatment on one of the discriminatory grounds. It is also defined to include indirect discrimination (i.e. discrimination in effect) and discrimination by association.

Both Acts cover the nine grounds of gender, marital status, family status, age, disability, sexual orientation, race, religion, and membership of the Traveller community. The Equal Status Acts were amended in 2016 to prohibit discrimination against people who are in receipt of certain

[10] The EU Equality Directives set minimum requirements for the national equality code. The impact of the directives is highly significant since all domestic law must be compatible with EU law. Directive 2000/43 (the Race Directive) implements the principle of equal treatment between persons irrespective of racial or ethnic origin. The Race Directive prohibits discrimination on the grounds of racial or ethnic origin in employment as well as in relation to social protection, including social security and healthcare, social advantages, education and access to and supply of goods and services which are available to the public, including housing. Directive 2000/78 (the Framework Directive) prohibits discrimination on the grounds of religion or belief, disability, age and sexual orientation in employment. Directive 2004/113 (the Gender Goods and Services Directive) prohibits discrimination based on gender in the "*access to and supply of goods and services*". Directive 2006/54 (the Recast Directive) prohibits gender discrimination in employment.
Also relevant to the promotion of equal treatment and opportunities between men and women in work are Directives 92/85 (the Pregnancy Directive), 2010/18 (the Parental Leave Directive), and 97/81 (the Part-time Work Directive).

housing assistance payments in the provision of accommodation services (the 'housing assistance' ground).[11]

Both Acts contain provisions which allow for positive action measures to promote equality or to cater for the special needs of persons. They also both contain provisions which require employers and service providers to provided reasonable accommodation for people with disabilities (but there are far lower standards in the Equal Status Acts).[12] The Employment Equality Acts also provide for equal pay for like work.

There are numerous 'exceptions' or 'exemptions' in both Acts which reduce the scope of the prohibition of discrimination. Some of these are general/blanket exemptions (in that they apply across all grounds), some apply only to a specific ground or a number of grounds, and some apply in certain areas/contexts.

Most discrimination complaints are heard by the WRC in the first instance. However, complaints on the gender ground may also be made to the Circuit Court (where a higher level of compensation may be awarded).[13] Applications in relation to discriminating clubs and complaints in relation to discrimination "*on or at the point of entry*" to a licenced premises must be made to the District Court.

In addition to the Equal Status Acts and the Employment Equality Acts, there are a number of other pieces of legislation which contain very important provisions concerning equality and non-discrimination, including:

- the Workplace Relations Act 2015 (which provides the legal basis for the operation of the Workplace Relations Commission, the tribunal that hears most discrimination complaints),
- the Intoxicating Liquor Act 2003 (section 19 of which gives the District Court jurisdiction to deal with certain discrimination cases against licenced premises), and
- the Irish Human Rights and Equality Commission Act 2014 (which provides for the Public Sector Equality and Human Rights Duty[14], as well as for the powers and

[11] Equality (Miscellaneous Provisions) Act 2015.

[12] The Equal Status Acts only require those selling goods or providing services to provide reasonable accommodation or special treatment or facilities where without these it would be impossible or unduly difficult for a person with disabilities to avail of the goods and services. There is no obligations to provide reasonable accommodation where it would cost more than a nominal cost.
The Employment Equality Acts place a much heavier onus on employers to provide reasonable accommodation to enable a person with a disability: to have access to employment; to participate or advance in employment, and; to undertake training. This is unless the accommodation would impose a disproportionate burden on the employer.

[13] This exception was specifically introduced in an attempt to ensure compliance with EU law.

[14] Section 42 of the Irish Human Rights and Equality Act 2014 provides for the Public Sector Equality and Human Rights Duty. Under this legal obligation, all public bodies in Ireland have responsibility to have regard to the need

functions of the Irish Human Rights and Equality Commission, Ireland's National Equality Body).

1.2. The Urgent Need for Comprehensive Reform

The introduction of the Employment Equality Act in 1998 and the Equal Status Act in 2000 placed Ireland at the forefront of Europe in terms of equality. At that point, the legislation significantly exceeded the minimum standards which arose under EU law.

Since that time, Ireland has transformed into a more inclusive and diverse society with important milestones for equality such as the referendums on marriage equality, children's rights and the repeal of the eighth amendment, State recognition of Traveller ethnicity, the enactment of the Gender Recognition Act 2015, and the ratification of the UN Convention on the Rights of Persons with Disabilities. However, our equality legislation has not kept pace with social change over the past quarter-century.

The Legislation is Out-of-Date, Ineffective & Inaccessible

Over time, significant issues with the effectiveness of the legislation have become increasingly evident. As is discussed in further detail in the subsequent sections of this submission:

- The extent to which State activity and the actions of public bodies (such as An Garda Síochána and the Irish Prison Service) come within the scope of the legislation is limited and unclear. Many key areas - such as social housing, healthcare, social welfare, and education – are not explicitly covered by the legislation or are exempted.
- The obligation to provide reasonable accommodation for people with disabilities under the Equal Status Acts is very limited and contrary to the United Nations Convention on the Rights of Persons with Disabilities.
- The grounds on which people experience discrimination in 2025, such as on the basis of socio-economic status, are not adequately covered by the legislation. Discrimination on two or more grounds where the discriminatory treatment is linked to the combination of grounds, rather than to each ground separately (referred to as 'intersectional discrimination') such as that experienced by Roma women is not included.
- There are significant limits on the extent to which the legislation may be used to combat structural and systemic forms of discrimination.
- The remedies available for breaches of equality law are not effective or proportionate and they do not act as a deterrent against discrimination.

to promote equality, prevent discrimination and protect the human rights of their employees, customers, service users and everyone affected by their policies and plans.

- The process for making a complaint is inaccessible and difficult with far too many procedural barriers.

The equality legislation is also complex, convoluted and completely inaccessible to the groups which it is supposed to protect. Even legal practitioners find the legislation difficult to navigate. In 2002, the Equality Authority described the legislation as "*awkward, opaque and inaccessible*."[15] This situation has since been exacerbated by two decades of *ad hoc* amendments. There are now several interlocking and complicated pieces of frequently amended equality legislation, which, at least in certain areas, must be interpreted in light of the EU Equality Directives and case law. The legislation is full of inconsistencies in how concepts are defined (with different definitions sometimes being included within single pieces of legislation).[16] The protections against discrimination and procedures for making complaints vary across different pieces of legislation and across different grounds. This has resulted in "*hierarches*" between the grounds of discrimination and how the law may be enforced.[17]

Absence of Comprehensive Law Reform over the Past Two Decades

The last major levelling-up of the equality legislation was in 2004 when the law was updated in light of a number of EU Equality Directives.[18] While some improvements have been made to the equality framework, such as the introduction of the Public Sector Equality and Human Rights Duty, the introduction of the housing assistance ground and the regulation of the use of non-disclosure agreements in relation to employment equality complaints[19], there have also been regressive developments such as the transfer of the jurisdiction of the Equality Tribunal (now the WRC) to the District Court for certain discrimination complaints against licensed premises.

There has been an increasing emphasis on equality policies, strategies and plans. While there is an important role for these documents, they cannot act as a substitute for substantive law reform. IHREC have highlighted that "*while the State publishes numerous strategies and*

[15] Equality Authority (2002), *Overview of the Employment Equality Act 1998 and the Equal Status Act 2000*.
[16] Key concepts within the legislation are subject to numerous differing definitions, in some cases even within a single piece of legislation, or are not defined at all. At present, the various types of prohibited conduct are scattered throughout the Acts rather than listed together in one section.
[17] Eilis Barry (2002), *Different Hierarches – Enforcing Equality Law* (in *Equality in Diversity: The New Equality Directives*, Irish Centre for European Law, Cathryn Costello & Eilis Barry eds.), p.412.
[18] Equality Act 2004.
[19] Section 5 of the Maternity Protection, Employment Equality and Preservation of Certain Records Act 2024. The need to regulate the use of 'NDAs' in this context was examined as part of the Review of the Equality Acts on foot of the introduction of a Private Member's Bill by Senator Lynn Ruane. See: Department of Children, Equality, Disability, Integration and Youth (2022), *The prevalence and use of Non-Disclosure Agreements (NDAs) in discrimination and sexual harassment disputes*.

action plans, they do not adequately improve rights protections for communities in practice..."[20] An independent evaluation commissioned by the Department of Equality in 2022 also identified significant issues in relation to the implementation of national equality strategies.[21]

Comprehensive legislative reform is now needed. This was acknowledged by then Minister for Equality, Roderic O'Gorman TD, in announcing the Review of the Equality Acts when he referred to the need to examine the Equality Acts "*as a whole*".[22] It is also evident from the submissions to the Review which identified myriad issues with the equality legislation.[23]

Failure to Achieve a Culture of Compliance

The equality legislation should provide an effective remedy to victims of discrimination and adequate redress/compensation for the effects of discrimination. It should also act as a deterrent against discrimination with the overarching aim of achieving a 'culture of compliance' with the law i.e. a society in which people's equality rights are respected and upheld in the first instance.[24] In the Irish context, we have yet to achieve either a culture of compliance with the equality legislation or the social change which should result from such a culture. The number of cases taken under the equality legislation are low, despite independent and official reports of very high levels of discrimination within Irish society. This suggests not only a lack of awareness of rights but also other significant issues such as the complexity of the legislation and the inaccessibility of the process for making a discrimination complaint.

The average number of complaints received by the WRC each year (over the past nine years) is only 473 under the Equal Status Acts and 1,011 under the Employment Equality Acts.[25] There is a stark contrast between these figures and the recently published results of the

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[20] IHREC (2023), *Ireland and the Convention on the Elimination of All Forms of Discrimination against Women: Submission to the Committee on the Elimination of Discrimination against Women for the List of Issues Prior to Reporting on Ireland's 8th periodic cycle*, p.16.

[21] The evaluation, which was published in 2023, identified significant issues including the absence of "*monitoring information*" and "*indicators of progress*", and a lack of "*buy-in from government departments and state agencies assigned responsibility for implementing [equality strategy] actions*." See: The Centre for Effective Services for the Department of Children, Equality, Disability, Integration and Youth (2024), *Realising the promise of national equality policy: An evaluation of the processes of implementation of three national equality strategies*.

[22] FLAC (2021), *Status Check: 20 Years of the Equal Status Acts*.

[23] Department of Children, Equality, Disability, Integration and Youth (2023), *Summary of the submissions received to the 2021 Public Consultation on the Review of the Equality Acts*.

[24] The European Commission have emphasised that achieving "*real change requires a critical mass of cases*." See: European Commission Directorate General for Justice and Consumers (2015), *Know your rights: Protection from discrimination*, p.12.

In their guidelines for Equality Bodies, the European Commission against Racism and Intolerance emphasise the need to "*ensure a critical mass of casework on the different grounds covered*." See: European Commission against Racism and Intolerance (2017), *ECRI General Policy Recommendation No.2: Equality Bodies to Combat Racism and Intolerance at National Level*, p.21.

[25] Workplace Relations Commission, *Annual Reports*.

Central Statistics Office's Equality and Discrimination Survey 2024.[26] In 2024, 22% of adults in Ireland reported having experienced discrimination in the last two years. This represents an increase of four percentage points from their previous Equality and Discrimination Survey in 2019. The survey found that:

- "*The most common places to experience discrimination were in the workplace (7% of respondents), and retail and hospitality settings (both at 5%).*
- *At an overall level, the highest rates of discrimination were reported by people whose sexual orientation was gay/lesbian (59%) or bisexual (55%).*
- *Nearly half (46%) of people who identified as transgender/non-binary (their current gender does not correspond with the sex recorded at birth) had experienced discrimination of some form in the previous two years, double the prevalence amongst those who were cisgender (their current gender corresponds with sex recorded at birth) (23%).*
- *Half (49%) of people of a Black Irish/Black African/other Black background had experienced discrimination of some form in the previous two years, compared with just one in five (19%) people whose ethnicity was White Irish. Members of the Irish Traveller/Roma community also experienced high levels of discrimination (42%)."*

The people who experienced discrimination were surveyed about the steps they took in response. Only 3% reported having made an "*official complaint*" (such as a WRC complaint) and only 1% reported having taken "*legal action*". The survey indicates that there is very low awareness of equality rights. Almost three in ten respondents who experienced discrimination reported having "*no understanding*" of their rights and 54% said they only had "*a little understanding*".

Criticism by International Human Rights Bodies

While we were once an international leader, our equality legislation has, in recent years, been subject to strong criticism by a range of United Nations bodies which monitor Ireland's compliance with our obligations under international human rights law.

In 2015, the United Nations Committee on Economic, Social and Cultural Rights expressed concern that Ireland's equality laws "*do not provide a full range of grounds of discrimination prohibited by the Covenant.*"[27] In 2024, the Committee made a range of recommendations for enhancing the equality legislation in light of its ongoing concerns "*about the continued absence*

[26] Central Statistics Office (2025), *Equality and Discrimination 2024*.
[27] United Nations Committee on Economic, Social and Cultural Rights (July 2015), *Concluding observations on the third periodic report of Ireland*, p.4.

of comprehensive anti-discrimination legislation… [and] the prevalence of socioeconomic, racial and gender inequalities and social stigma and discrimination against disadvantaged and marginalized groups [in Ireland]." Its specific recommendations included enhancing the compensation available under the equality legislation and introducing a discriminatory ground related to socio-economic status.[28]

In 2017, the United Nations Committee on the Elimination of Discrimination against Women highlighted the need for Ireland to "*[i]ntroduce legislative provisions that underline the obligation of the State to pursue actively the achievement of substantive equality between women and men*" and to ensure that an "*effective remedy is available for discrimination that has a legislative basis*." [29]

In 2019, the United Nations Committee on the Elimination of Racial Discrimination noted a range of "*shortcomings in the Equal Status Acts 2000 to 2018 and the Employment Equality Acts 1998 to 2015*" including the lack of protection against multiple/intersectional discrimination and the fact that the Equal Status Acts "*may exclude the provision of services provided by public authorities such as the police, the prison service and the immigration service*".[30]

[28] The Committee recommended that Ireland: "*Adopt comprehensive anti-discrimination legislation that: (i) Includes explicit references to all prohibited grounds of discrimination, including socioeconomic status; (ii) Includes definitions of direct, indirect, intersectional and multiple discrimination; (iii) Establishes a prohibition against discrimination in both the public and the private spheres; (iv) Establishes effective judicial and administrative mechanisms against discrimination, including by introducing provisions on reparation in discrimination cases…*" See: United Nations Committee on Economic, Social and Cultural Rights (March 2024), *Concluding observations on the fourth periodic report of Ireland*, p.5.

[29] United Nations Committee on the Elimination of Discrimination against Women (2017*), Concluding observations on the combined sixth and seventh periodic reports of Ireland*, p.3.

[30] The Committee highlighted: "*(a) The absence of all prohibited grounds of racial discrimination in conformity with article 1 of the Convention; (b) The absence of explicit prohibition of multiple or intersectional discrimination; (c) The unclear definition of "services" in section 5 of the Equal Status Acts, which may exclude the provision of services provided by public authorities such as the police, the prison service and the immigration service; (d) Preclusion of complaints against legislative provisions in section 14 of the Equal Status Acts (arts. 1 and 2)."* See: United Nations Committee on the Elimination of Racial Discrimination (January 2020), *Concluding Observations on the combined fifth to ninth reports of Ireland*, pp.2-3.

2. Analysis of the General Scheme

This section provides an analysis of each of the 19 heads contained in the General Scheme and highlights areas where the changes proposed could be improved or expanded.

Overall, the General Scheme contains a number of very significant changes to Ireland's equality/anti-discrimination legislation. Some of the measures outlined in the General Scheme have the potential to breathe fresh life into the prohibition of discrimination and to encourage the development of a culture of compliance by service providers with equality law. If enacted, the Bill will have a very positive impact especially for Travellers and people with disabilities.

We particularly welcome the provisions providing for:

- significantly increased compensation,
- moving the jurisdiction for claims against licensed premises from the District Court back to the WRC, and
- a more accessible process for making a claim.

2.1. Equal Pay & Pay Transparency (Heads 4 & 5)

Heads 4 and 5 of the General scheme are designed to give effect to aspects of Article 5 of the EU Pay Transparency Directive in Irish law which:

- provides for pay transparency,
- prohibits employers from asking applicants about their pay history during their current or previous employment relationships, and
- requires employers to ensure that job vacancy notices and job titles are gender-neutral.

Positive Aspects

Head 4 proposes to amend section 10 of the Employment Equality Acts to prohibit job advertisements which "*[do] not include the remuneration rate or its range for the post concerned*".

Head 5 creates a new section 10A which prohibits employers from *"[requesting] from job applicants information about the applicant's current or former remuneration rates*".

How these Heads could be improved

Head 5 does not state how prospective employees will be able to make a complaint under the legislation if an employer requests information from them in relation to their current or former rate of pay, or how this provision will be enforced. This should be clarified.

Section 29 of the Employment Equality Acts creates an entitlement to equal pay. It is very difficult to successfully make an equal pay claim. Potential claimants find it hard to access the

information in order to satisfy the burden of proof. In addition, a potential claimant must identify another specific person doing like work for greater pay. The legislation does not allow a person making an equal pay claim to use a 'hypothetical comparator'. This is extremely difficult in many cases and impossible in some cases, especially where the workforce is highly gender segregated, including in the caring professions. The European Network of Legal Experts in Gender Equality and Non-Discrimination have found that allowing for hypothetical comparators "*opens up opportunities for easier enforcement [of equal pay law]*" and *"[opens] the door for victims of pay discrimination in highly sex-segregated labour markets*."[31]

Recommendations

The Equality Bill should set out procedures for how the new rule prohibiting employers from requesting information from job applicants about their current or former rate of pay will be enforced.

The Equality Bill should amend section 29 of the Employment Equality Acts to allow for 'hypothetical' comparators in equal pay claims (so as to make it easier for care workers and others in gender-segregated professions to make a claim).

2.2. Equality Rights for People on Work Experience (Head 6)

What the legislation says currently

The Employment Equality Acts prohibit discrimination in "*vocational training*". Section 12(2) of the Employment Equality Acts provides that:

> "*'vocational training' means any system of instruction which enables a person being instructed to acquire, maintain, bring up to date or perfect the knowledge or technical capacity required for the carrying on of an occupational activity and which may be considered as exclusively concerned with training for such*".

As a result, the Employment Equality Acts only applies to persons engaging in a course exclusively concerned with training for an occupational activity and would not apply to general work experience positions. People doing other courses are covered by the prohibition of discrimination under the Equal Status Acts. As a result, those people may be entitled to a lower level of redress in respect of any discrimination claim taken in respect of their vocational training. It is questionable whether the definition of "vocational training" in the Employment Equality Acts complies with the Framework Equality Directive.

[31] European Network of Legal Experts in Gender Equality and Non-Discrimination (2017), *The enforcement of the principle of equal pay for equal work or work of equal value*.

Positive Aspects: Head 6 would expand the protections against discrimination in the Employment Equality Act for people who are doing "*vocational training*" to include people who are doing "*practical work experience*." This is a positive change which will bring the legislation into compliance with EU law regarding vocational training.

2.3. Positive Action in Recruitment for Employment (Head 7)

Positive action is "*a crucial element of the legislative framework, which should operate to safeguard measures that treat people differently in order to advance equality of opportunity*".[32] There is an issue with the current positive action measures in the Employment Equality Acts as they do not extend to potential employees (other than in relation to the gender ground).

Positive Aspects: Head 7 would expand the positive action provisions in the Employment Equality Acts to include positive action in favour of "*prospective employees*". This would enable recruitment initiatives targeted at groups such as Travellers, Roma and people with disabilities. It is a very positive proposal which addresses a significant gap in the existing legislation.

How Head 7 could be improved

The General Scheme does not deal with the issues with the positive action provisions in the Equal Status Acts. At present, its positive action provisions are weak and unclear. IHREC have highlighted that:

> *"A key issue with positive action in the [Equal Status Acts] is incoherence and lack of cohesion, with provisions scattered across the legislation, and different thresholds used throughout. Case law is sparse, and has added to the difficulties of interpreting the provisions."*[33]

Recommendation

The Equality Bill should give effect to FLAC and IHREC's recommendation to replace the existing positive action provisions in the Equal Status Acts with "*a single overarching provision which permits specific group-based measures to ensure full equality in practice is achieved across all grounds of discrimination*."[34]

[32] Judy Walsh (2019) *Primacy of National Law over EU Law? The Application of the Irish Equal Status Act*. European Equality Law Review (Issue 2, 2019) at p.44.
[33] IHREC (2023), *Submission on the Review of the Equality Acts*, p.76.
[34] Ibid at p.77.

2.4. Equal Pay for People with Disabilities (Head 8)

What the legislation says currently

Section 35 (1) of the Employment Equality Acts allows for people with disabilities to receive a lower level of pay in certain circumstances. The exception undermines the equal pay and reasonable accommodation provisions in the legislation, and it is not consistent with the UN Convention on the Rights of Persons with Disabilities.

Positive Aspects: Head 8 of The General Scheme proposes to remove the exception. This is very welcome.

2.5. Objective Justification for Job Requirements (Head 9)

What the legislation says currently

Section 36(4) of the Employment Equality Acts allows employers to require employees to have specified educational, technical or professional qualifications. At present, there is no obligation on employers to provide an objective justification for qualification requirements. As a result, this provision may permit indirect discrimination on a number of potential grounds.

Positive Aspects: Head 9 would address this issue by requiring employers to show that a job requirement is necessary, proportionate and objectively justified before they can rely on section 36(4). This proposal is very welcome.

2.6. Longer Time Limits for Employment Complaints (Heads 10 & 19)

What the legislation says currently

The Employment Equality Acts currently set a six-month time limit for making discrimination complaints. The time limit runs from the date of the most recent incident of discrimination. The current six-month time limit may present particular problems when an employee is pregnant, on maternity leave, or using internal dispute resolution procedures. FLAC and others have criticised the "*restrictive*" six-month time limits for making complaints under equality and employment legislation.[35]

The maternity protection legislation currently provides that the 'clock starts ticking' when the employer becomes aware that the employee is pregnant, has given birth or is breastfeeding. This has led to situations where the time for lodging a complaint has run out while the employee is still on maternity leave (and before a dispute has arisen). The WRC has

[35] FLAC (2021), *FLAC Submission to the Consultation on the Review of the Equality Acts*, p.94, Judy Walsh for the European network of legal experts in gender equality and non-discrimination (2023), *Country Report 2023: Non-discrimination – Ireland*, p.81 & IHREC (2023), *Submission on the Review of the Equality Acts*, p.28.

'disapplied' the existing time-limit in at least one case on the basis that it is not consistent with the EU Pregnancy Directive.[36]

Positive Aspects

- Head 10 of the General Scheme would extend the time limit for making a complaint under the Employment Equality Acts from six months to twelve months.
- Head 19 of the General Scheme provides that the six-month time limit for making a complaint under the Maternity Protection Acts only starts from the date when a "*dispute*" occurs under that legislation.

How these Heads could be improved

FLAC have highlighted that time limits which begin from the date of a dispute arising, or the date of discrimination, may leave employees with no choice but to initiate a complaint while a grievance procedure or internal procedure is still ongoing. This is of no benefit to either the employer or employee.[37] It may also cause the employee to miss the deadline for lodging a complaint. The Labour Court has decided that the time limit applies even where an employee is delayed in making their complaint because they are using an internal grievance procedure.[38]

We have also highlighted that people often bring linked complaints under both the maternity protection and employment equality legislation. As a result, the rules around the time limits should be the same for both sets of legislation.[39]

Recommendation

The Equality Bill should provide for a twelve-month time limit for maternity protection complaints (in line with the proposed change to the time limit for complaints under the employment equality legislation). The time limits for complaints should run from the date of knowledge of prohibited conduct *or* from the date that any internal grievance procedure in relation to the matter concludes.

2.7. Compensation in Employment Equality Cases (Head 11)

What the legislation says currently

The Employment Equality Acts provide for financial compensation in successful claims. The compensation limits are:

[36] *Hurley v Eazy Connections Ltd. t/a Complete Outsource Solutions* (ADJ-00033976).
[37] FLAC (2024), *Analysis & Recommendations concerning the General Scheme of the Maternity Protection (Amendment) and Miscellaneous Provisions Bill 2024*, p.4.
[38] *Pfizer Pharmaceuticals Ireland Ltd. v Whelan* (EDA1924) & *Beaumont Hospital v Kaunda* (EDA1930).
[39] FLAC (2024), *Analysis & Recommendations concerning the General Scheme of the Maternity Protection (Amendment) and Miscellaneous Provisions Bill 2024*, p.5.

- up to two years pay or up to €40,000, whichever is the greater, for the effects of discrimination or harassment/sexual harassment suffered, or
- up to €13,000 for someone who is not an employee of the respondent – such as someone who experiences discrimination when they are applying for a job.

Positive Aspects

Head 11 proposes two changes to the rules around compensation in employment equality complaints:

- It proposes to insert language requiring awards under the legislation to be "*effective, proportionate and dissuasive*". This is required by the EU law.[40]
- It proposes to clarify that individuals who have left their job are entitled to the same levels of compensation as people who are still employees.

How Head 11 could be improved

There are two significant issues with the compensation limits in the Employment Equality acts which are not addressed by the General Scheme:

- The compensation provisions link the maximum award to two years pay (or €40,000, whichever is the higher sum). Accordingly, higher paid individuals may receive higher awards. There is no clear rationale for this disparity. Some low paid employees may only be entitled to a maximum of €40,000 in compensation (which is the minimum ceiling for awards under the legislation).
- The maximum amount of compensation available to prospective employees (i.e. people who experience discrimination in recruitment processes) is only €13,000. This is very low compared with the awards available to employees.

The existence of compensation limits within the equality legislation raises questions of compliance with EU law.[41] The Equality Authority noted that it was their experience that "*some employers are aware that they can 'buy off' a discrimination claim involving access to employment for relatively small amounts of money.*"[42] More generally, the awards available for complaints under the Employment Equality Acts are low in comparison to those which the

[40] Damages for breaches of EU law must be effective, have deterrent effect and be adequate in relation to the damage sustained. See: Case 14/83 (*Von Colson and Kamann v Land Nordrhein- Westfalen* [1984] ECR 1891)

[41] IHREC has recommended that the ceiling on compensation under the equality legislation should be removed. It notes that "*similar limitations on compensation in other EU Member States have been found to be incompatible with EU law*". In *Marshall,* the CJEU found that it was contrary to the Gender Equal Treatment Directive for national provisions to lay down an upper limit on the amount of compensation recoverable by a victim of discrimination. See: IHREC (2017), *Submission to the United Nations Committee on the Elimination of Discrimination Against Women on Ireland's combined sixth and seventh periodic reports*.

[42] Equality Authority (2006), *Embedding Equality in Immigration Policy: Submission on the discussion document of the Department of Justice, Equality and Law Reform on the Immigration and Residence Bill 2006*, p.17.

WRC may award in other areas. For example, the Protected Disclosures Act 2014 allows for awards of compensation of up to five years pay.

Recommendation

The Equality Bill should remove compensation limits for complaints under the Employment Equality Acts. Failing that, the maximum level of compensation for claims by prospective employees who feel they have been discriminated against in the recruitment process and the minimum compensation ceiling for employees should be raised to €75,000 in line with the amendments proposed to the compensation limits under the Equal Status Acts.

2.8. Clearer Protection against Victimisation (Heads 12 & 15)

What the legislation says currently

Victimisation provisions are designed to provide protection to people who have made discrimination claims from retaliation from the respondent to their claim. It is very confusing that there are different provisions on victimisation in both Acts. At present, the Equal Status Acts define victimisation as a ground of discrimination. This is confusing, inconsistent with the employment equality legislation and creates a comparator requirement which has no basis in EU law.

Positive Aspects

Heads 12 and 15 clarify the victimisation provisions in the Equal Status Acts. The proposed changes in the General Scheme create a 'statutory tort' of victimisation. This addresses the current issues and achieves consistency within the employment equality legislation.

2.9. Prohibition of Intersectional Discrimination (Head 13)

The current position

FLAC often represents Roma and Traveller women who experience discrimination on the combined basis of their gender and ethnicity. There is no explicit protection against intersectional discrimination in either of the Acts.

Positive Aspects

Head 13 proposes to amend the Equal Status Acts to explicitly prohibit discrimination which occurs on multiple grounds or on the basis of a combination of grounds. This is most welcome.

What could be improved

However the General Scheme does not propose to prohibit multiple/intersectional discrimination in the Employment Equality Acts. This seems to be an oversight.

In addition, the wording used in the General Scheme is somewhat unusual and refers to "*discriminatory [practices]*". That phrase is not used anywhere else in the legislation and it is not defined. FLAC and IHREC have proposed simple alternative wording for prohibiting multiple/intersectional discrimination in both pieces of equality legislation:

> *"Sections 25(1A) of the Equal Status Act and 79 (1A) of the Employment Equality Act should be amended to provide for intersectional discrimination by removing reference to a decision being made on each claim, and including the clause 'or on a combination of the grounds' in subsection (a)."*[43]

Recommendation

The Equality Bill should adopt FLAC and IHREC's draft legislative amendments to prohibit intersectional discrimination in both the Employment Equality Acts and Equal Status Acts.

2.10. Stronger Obligation to provide Reasonable Accommodation for People with Disabilities (Head 14)

What the legislation says currently

At present, section 4 of the Equal Status Acts imposes a very minimal obligation on service providers, schools and other educational establishments, and providers of accommodation to provide reasonable accommodation for people with disabilities.[44] The obligation to provide reasonable accommodation is only imposed on those providing goods or services where, without the accommodation, it would be impossible or unduly difficult for a person with disabilities to avail of the goods and services. This minimal obligation is removed altogether if the provision of the accommodation would cost more than a nominal cost. These provisions are not consistent with the UN Convention on the Rights of Persons with Disabilities.

Positive Aspects

Head 14 proposes to amend the very weak reasonable accommodation provisions in the Equal Status Acts by placing far stronger obligations on public bodies.

How Head 14 could be improved

The General Scheme should go further by placing stronger, positive and clearer reasonable accommodation obligations on providers of goods and services beyond public bodies.

[43] IHREC (2023), Submission on the Review of the Equality Acts, pp.68-9.

[44] The weakness of the provisions stems from two Supreme Court decisions concerning draft pieces of equality legislation where the reasonable accommodation provisions were found to be unconstitutional. See: *Re Article 26 of the Constitution and the Employment Equality Bill 1996* [1997] 2 IR 321 & *Re Article 26 of the Constitution and the Equal Status Bill 1997* [1997] 2 IR 387.

Proposals to place stronger obligations on public bodies only "*are inadequate to bring reasonable accommodation into alignment with the UNCRPD*."[45] FLAC and IHREC have developed wording for reasonable accommodation provisions which would bring about full compliance with the UN Convention on the Rights of Persons with Disabilities:

> *"(1) In order to guarantee compliance with the principle of equal treatment and ensure equality of access, inclusion and participation in relation to disabled people, reasonable accommodation shall be provided.*
>
> *(2) For the purposes of this Act, discrimination includes a refusal or failure to provide reasonable accommodation to a person with a disability.*
>
> *(3) Reasonable accommodation means appropriate modifications and adjustments, where needed in a particular case to ensure effective non-discriminatory access to services, unless this would impose a disproportionate burden.*
>
> *(4) A service provider shall consult with the person concerned in determining the modifications and adjustments required.*
>
> *(5) In determining whether the provision of appropriate modifications and adjustments would impose a disproportionate burden, account shall be taken, in particular, of*
>
> *(i) the financial and other costs entailed,*
>
> *(ii) the scale and financial resources of the service provider,*
>
> *(iii) the possibility of obtaining public funding or other assistance, and*
>
> *(iv) any third party benefits*
>
> *(6) In the case of a 'public body' within the meaning of section 2(1) of the Irish Human Rights and Equality Commission Act 2014, the measures necessary to enable persons with disabilities to have effective non-discriminatory access to services shall be provided by anticipation, including through appropriate modifications or adjustments. Such measures should not impose a disproportionate burden."*[46]

IHREC have also made proposals to amend the reasonable accommodation provisions in the Employment Equality Acts in light of recent case law to emerge from the Supreme Court and the Court of Justice of the European Union.

[45] IHREC (2023), Submission on the Review of the Equality Acts, p.80.
[46] Ibid at pp.79-82.

"The Commission recommends that the definition of reasonable accommodation in the Employment Equality Act should be amended to establish a duty to consult the person affected when considering the provision of reasonable accommodation.

The Commission recommends that the definition of reasonable accommodation should specify that transfer to another role in an organisation is an appropriate measure if there are other vacant roles."[47]

Recommendation

The Equality Bill should adopt FLAC and IHREC's proposals for reasonable accommodation provisions in both the Equal Status Acts and Employment Equality Acts which are compliant with the UN Convention on the Rights of Persons with Disabilities. These proposals place stronger, clearer positive obligations on private providers of goods and services (in addition to public bodies) and create an obligation for employers and service providers to consult employees and services users who require reasonable accommodations.

2.11. Longer Time Limit for Goods & Services Complaints and for meeting the 'Notification Requirement' (Head 16)

What the legislation says currently

- There is a six-month time limit for complaints under the Equal Status Acts.
- Section 21(2) of that legislation imposes a 'notification' requirement which means that a complainant must directly inform the respondent of their intention to make a discrimination claim before they lodge their complaint with the WRC. This is a significant procedural barrier to bringing a claim under the Equal Status Acts. There is no equivalent provision in the employment equality legislation (or other employment legislation) and it makes exercising anti-discrimination rights too difficult. Research undertake by FLAC shows that (between 2015 and 2019) the number of complaints which were unsuccessful on the basis of a failure to comply with the notification requirement increased year on year. The notification requirement has no basis in the EU Equality Directives and, in the case of race and gender complaints, is likely to be contrary to the principle of equivalence and effectiveness and the right to an effective remedy under EU law.

[47] Ibid at pp.82-3.

Positive Aspects

- Head 16 will extend the time limit for making a complaint under the Equal Status Acts from six months to twelve months. This is a welcome extension of the current very tight time limit.
- Head 16 will also extend the time limit for notifying the respondent about the discrimination complaint. The current time limit for sending the written notification is two months and the scheme proposes to extend it to four months.

How Head 16 could be improved

While the proposed time limit is better, it should go further and make the notification requirement optional (rather than just extending the deadline).

Recommendation

The Equality Bill should amend section 21 of the Equality Status Acts to remove the mandatory nature of the notification procedure.

2.12. Much Greater Compensation for Goods & Services Complaints (Head 17)

What the legislation says currently

The current limit for financial compensation under the Equal Status Acts is €15,000.

Positive Aspects

Head 17 would increase the maximum amount of compensation the WRC may award for discrimination in access to goods, services, accommodation and education from €15,000 to €75,000. It also provides for the introduction of guidelines on the level of compensation which should be awarded in line with relevant EU law principles.

While EU law effectively requires that there should be no limit to the potential compensation in a discrimination claim, we believe that the figure of €75,000, if enacted, will be a real deterrent and a very effective remedy. The risk of greater penalties that this would create should encourage a greater culture of compliance with the equality legislation because providers of goods and services will take proactive steps to prevent discrimination from occurring in the first place to avoid paying larger compensation.

2.13. Repeal of Section 19 of the Intoxicating Liquor Act (Head 18)

What the legislation says currently

Up until 2003, all cases of discrimination in the provision of goods and services were heard and decided by the then Equality Tribunal. Since 2003, complaints about discrimination against licensed premised "*on or at the point of entry to a licenced premises*" have been dealt with by the District Court. This has created a huge barrier to justice, particularly for Travellers who face very high levels of discrimination in this context. Unlike the WRC in the District Court there is a risk of having to pay the other side's costs. It is also a more formal hearing.

The transfer of jurisdiction to the District Court resulted in a sharp decline in complaints against licenced premises. Statistical data gathered by IHREC also shows that "*a vast majority of the proceedings instituted in the District Court under the ILA 2003 were either struck out or withdrawn*" and "*an extremely small number of cases resulted in an Order for compensation."*

The extent of discrimination against Travellers by pubs, hotels and restaurants is such that it amounts to effective cultural segregation. FLAC's Traveller Legal Services regularly represents Traveller families who have been deprived of the opportunity to mark significant life events (including weddings, funerals and Communions) as a result of discrimination.[48]

Positive Aspects

The General Scheme proposes to restore the jurisdiction of the WRC to deal with all discrimination complaints against licenced premises. This would be a very welcome landmark change.[49]

A Code of Practice

Given the level and extent of discrimination claims in the area of the provision of good and services, it would be helpful if IHREC was to exercise one its powers and, after consultation with stakeholders, publish a Code of Practice which would provide guidance and assistance to service providers, licensed premises and customers.

Recommendation

IHREC should introduce a Code of Practice on equality and non-discrimination in access to goods and services including licenced premises.

[48] FLAC (2025), *Do Something About it! Annual Report 2024*, p.30.
[49] IHREC (2022), *Report of a review of section 19 of the Intoxicating Liquor Act 2005 carried out pursuant to section 30 of the Irish Human Rights and Equality Commission Act 2014*.

3. Addressing the Gaps in the General Scheme

This section examines a number of gaps in the General Scheme. It highlights issues which were identified during the Review of the Equality Acts which are not dealt with in the General Scheme.

Each of the issues outlined below have already been considered in detail during the Review process. Stakeholders have been afforded the opportunity to offer their views on these issues and to make recommendations for resolving them. In particular, IHREC's expert Advisory Committee on the Future of the Equality Legislation (of which FLAC was a member) have examined these issues and made detailed recommendations for law reform. As a result, it would be relatively straightforward to expand the Equality Bill to address the issues outlined below without delaying the urgently needed reforms which are already included in the General Scheme.

3.1. Expanding the Discriminatory Grounds

The Current Position

The equality legislation currently covers the nine grounds of gender, marital status, family status, age, disability, sexual orientation, race, religion, and membership of the Traveller community. There is also a 'housing assistance' ground which applies in the context of access to accommodation.

What is in the General Scheme

While the General Scheme proposes to explicitly prohibit multiple/intersectional discrimination under the Equal Status Acts, it does not propose to create any new 'discriminatory grounds' or to expand the scope of any of the existing grounds.

What should be added to the Equality Bill

The Review process identified a number of gaps within the existing grounds which should be addressed in the Equality Bill:

The Equality Bill should prohibit discrimination on the basis of 'disadvantaged socio-economic status'. At present, people who experience discrimination on the basis of their address, accent or source of income have no recourse under the equality legislation. People who are protected under the existing grounds often experience discrimination on the basis of their socio-economic background but they cannot challenge that form of discrimination or combined discrimination which includes a socio-economic dimension. FLAC's submission to the review of the equality legislation highlighted that the Equality (Miscellaneous

Provisions) Bill 2021[50] provides a "*workable, enforceable definition*"[51] of "*socio-economic disadvantage*" which could be used in this new ground:

> *"'socio-economic disadvantage' means having disadvantaged social status or disadvantaged economic status, or both, that may be indicated by a person's inclusion, other than on a temporary basis, in a socially or geographically identifiable group that suffers from such disadvantage resulting from one or more of the following circumstances:*
>
> *(a) poverty,*
>
> *(b) source of income,*
>
> *(c) illiteracy,*
>
> *(d) level of education,*
>
> *(e) address, type of housing or homelessness,*
>
> *(f) employment status,*
>
> *(g) social or regional accent,*
>
> *or from any other similar circumstance;".*

The Equality Bill should explicitly prohibit discrimination on the basis of gender identity, gender expression or sex characteristics. While the protection against discrimination has been interpreted to include trans people to a limited degree (on the basis of EU law), the legislation does not contain any explicit protection against discrimination on the basis of gender identity and gender expression. Similarly, the legislation does not explicitly cover the discrimination which intersex people may experience on the basis of their sex characteristics. IHREC's expert Advisory Committee on the equality legislation (of which FLAC was a member) have highlighted that:

> *"The failure to explicitly reference gender identity, gender expression, and sex characteristics in the Equality Acts creates uncertainty, which could be used to enable an exclusionary interpretation of rights arising on this basis, and does not sufficiently protect all people from discrimination.*
>
> *Inclusion of explicit reference to gender identity, gender expression, and sex characteristics would fill the current gaps in protection, and improve visibility of the protections in place for these groups."*[52]

[50] FLAC (2021), *Submission to the Consultation on the Review of the Equality Acts*, section 2.3.1.
[51] Houses of the Oireachtas (2021), *Equality (Miscellaneous Provisions) Bill 2021*.
[52] IHREC (2023), Submission on the Review of the Equality Acts, p.59.

IHREC therefore recommended that "*…the gender ground in the Equality Acts be amended to include explicit reference to, and define gender identity, gender expression, and sex characteristics. The ground should continue to be called the gender ground, to facilitate and ensure retention of protections under the case law of the current gender ground."*[53]

The Criminal Justice (Hate Offences) Act 2024 (which deals with hate crime) explicitly references gender identity, gender expression and sex characteristics in its "*protected characteristics*".[54]

The Equality Bill should expand the existing 'family status' ground into a 'family/carer status' ground which is defined to include people who are the "*parent of a child, a foster parent, an adoptive parent, a person in loco parentis, or the carer of an adult who requires care or support on a continuing, regular or frequent basis*".[55] The existing family status ground is limited to parents of minor children *"resident primary [carers]"* for people with disabilities. This ground does not reflect the extent and diversity of care arrangements within Irish society.

3.2. Bringing the State within the Prohibition of Discrimination

The Current Position

The extent to which State activity and the actions of public bodies (such as An Garda Síochána and the Irish Prison Service) come within the scope of the legislation is limited and unclear. Many key areas - such as social housing, healthcare, social welfare and education – are not explicitly covered by the legislation or they are exempted. This means that there are significant limitations on the extent to which the Equal Status Acts can promote socio-economic equality and combat socio-economic disadvantage and discrimination. This is a result of a number of issues with the legislation (none of which are addressed by the General Scheme):

- The definition of "*services*" in sections 2 and 5 of the Equal Status Acts does not explicitly extend to the performance of the general functions of public bodies, which are not regarded as constituting services within the meaning of the legislation. As a result, it is unclear to what extent the legislation applies to public authorities performing public functions which may not come within the definition of "*services*" but which may nonetheless have a great impact on lives. For example, areas like immigration, citizenship, taxation, policing and the prison service.

[53] IHREC (2023), Submission on the Review of the Equality Acts, p.61. An alternative view is provided by the Irish Council for Civil Liberties and Intersex Ireland. The two organisations support the creation of a separate ground of discrimination on the basis of 'sex characteristics', rather than the inclusion of sex characteristics under the 'gender' ground.
[54] Section 3 of the Criminal Justice (Hate Offences) Act 2024.
[55] IHREC (2023), *Submission on the Review of the Equality Acts*, p.63.

- Section 14(1)(a) of the Equal Status Acts excludes from challenge "*the taking of any action that is required by or under—(i) any enactment*". This exemption is very broad in scope and, in effect, covers any action that is brought about as a consequence of a provision in any legislation, including secondary legislation.[56] There is no way to challenge discriminatory legislation or its effects (for example, the criminal trespass legislation which disproportionately impacts Travellers).
- Section 14(1)(aa) of the Equal Status Acts contains another broad exemption, which provides that the legislation does not apply to certain actions by public authorities "*in relation to a non-national*".[57]

Recommendation

The Equality Bill should provide for the repeal of section 14 of the Equal Status Acts and for the definition of services in that legislation to be amended to explicitly include the general functions of public bodies.

3.3. Clearly Defining Indirect Discrimination

The Current Position

Indirect discrimination is prohibited by the equality legislation and should act as a crucial means to challenge systemic and structural forms of discrimination. The Equal Status Acts define indirect discrimination as circumstances "*where an apparently neutral provision would put a person… at a particular disadvantage compared with other persons, unless the provision is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary*."

However, the burden of proof for indirect discrimination claims under the Equal Status Acts is unclear as result of the Supreme Court decision in *Stokes v Christian Brothers High School*. That case related to a school-admission policy which was challenged on the basis that it constituted indirect discrimination against a prospective student who was a member of the Traveller community. The Supreme Court stated that, in order to prove a case of indirect discrimination, statistical analysis is required in order to establish that a person belonging to a

[56] A recent High Court judgment has adopted an even more expansive interpretation of this provision and implies that any policy or guidance adopted by a public body which is derived from a piece of legislation is exempted from challenge. See: *AB v Road Safety Authority* [2021] IEHC 217.

[57] This exemption appears to have been inserted "*to ensure that asylum and immigration applications, and the non-statutory direct provision system for international protection applicants, would not be open to challenge under the Equal Status Act*". See: David Fennelly and Clíodhna Murphy (2021), *Racial Discrimination and Nationality and Migration Exceptions: Reconciling CERD and the Race Equality Directive*, Netherlands Quarterly of Human Rights (1/21).

protected group is at a "*particular disadvantage*" compared with others. These requirements are inconsistent with EU law and create a huge barrier to proving indirect discrimination.

What should be added to the Equality Bill

The Equality Bill should clarify the burden of proof for indirect discrimination claims under the Equal Status Acts and Employment Equality Acts. In particular, it should clearly provide that statistical evidence is not required in all indirect discrimination cases.

3.4. Reducing the Number of Exceptions & Exemptions

The Current Position

The equality legislation is full of exceptions and exemptions which occur throughout both Acts. Only exceptions which are necessary and proportionate should remain in the legislation.

What is in the General Scheme

The General Scheme would remove or narrow some exceptions in the equality legislation, such as the exception around rates of pay for people with disabilities.

What should be added to the Equality Bill

There are other exceptions which should also be removed or amended by the Equality Bill:

- Section 8 of the Equal Status Acts contains specific provisions in relation to "*discriminating clubs*". However, these provisions are subject to an exemption in section 9 of the Acts for clubs with the "*principle purpose*" of catering to the "*needs*" of specific groups under the legislation. The exemption has been interpreted broadly. In *Equality Authority v Portmarnock Golf Club & Ors*[58], the Supreme Court ruled that a male-only golf club could avail of the exemption because its principle purpose was to cater for the "*needs*" of men who play golf.[59] This is likely to be inconsistent with EU law.[60] **The**

[58] [2009] IESC 73.

[59] The minority view expressed by Denham J was to the effect that, in order to come within the exemption, there should be a logical connection between the objects of the club and the category of person to whom membership is limited.

[60] The majority interpretation of the exemption set out in the *Portmarnock* judgment raises issues of compliance with the Gender Goods and Services Directive and the Race Directive. Article 4(5) of the Gender Goods and Services Directive provides for an exemption where the provision of goods and services to one gender is justified by a legitimate aim and the means of achieving that aim are appropriate and proportionate. Recital 16 lists examples including freedom of association such as by membership of single sex private clubs. In this regard, Portmarnock Golf Club permitted women to play golf at the club and so may not come within what was envisaged in Recital 16. The Race Directive does not make any reference to freedom of association or private clubs. Recital 17 allows for the maintenance or adoption of measures intended to prevent or compensate for disadvantage suffered by a group of persons of a particular racial or ethnic origin, and such measures may permit

Equality Bill should narrow the exemption in section 9 of the Equal Status Acts by clarifying that the "*principal purpose*" refers to the activities of the club (and not the category of persons whose needs are being catered for) and by narrowing the definition of "*needs*" to refer to objective and identifiable needs of protected groups.

- The definition of "*employee*" in section 2 of the Equal Status Acts contains an exemption as to who is considered an "*employee*". As a result, "*so far as regards access to employment*", the Acts do not apply to "*a person employed in another person's home for the provision of personal services for persons residing in that home where the services affect the private or family life of those persons*". The result is that domestic or childcare workers may not be fully protected against discrimination in the context of access to employment. **The Equality Bill should delete the exemption which removes domestic workers from the definition of "*employee*" in section 2 of the Employment Equality Acts. If necessary, a new narrower exception, on the gender ground only, should be added which applies to personal and care services provided in people's homes.**
- **Section 34(6) of the Employment Equality Acts contains an exception to the equal pay provisions for "age-related remuneration" which explicitly state that the exception only applies for the three years after the legislation was commenced. It has now been expired for over twenty years and it should be deleted by the Equality Bill.**
- **Section 15(1) and (2) of the Equal Status Acts are unnecessary and should be deleted by the Equality Bill. They both relate to actions taken to prevent potential criminal, unlawful or disorderly conduct. Such actions would not constitute discrimination in the first place so there is no need for such exceptions.**

3.5. Strengthening the Public Sector Duty

The Current Position

Section 42 of the Irish Human Rights and Equality Commission Act 2014 provides for the Public Sector Equality and Human Rights Duty. Under this legal obligation, all public bodies in Ireland have responsibility to have regard to the need to promote equality, prevent discrimination, and protect the human rights of their employees, customers, service users and everyone affected by their policies and plans.

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the establishment of organisations of persons of a particular racial or ethnic origin where their main object is the promotion of the special needs of those persons.

The Public Sector Equality and Human Rights Duty has now been in effect for a decade. However, there is limited evidence to date of the duty having delivered on its potential to create a shift in culture within public bodies and the delivery of public services. For many public bodies, the process of implementation and engagement with the Public Sector Equality and Human Rights Duty remains at the very early stages and the implications of the duty for the work of those bodies are largely unexplored. FLAC[61] and IHREC[62] made a number of specific recommendations for strengthening the duty in their submissions to the Review. However, there are no proposals to amend the duty in the General Scheme.

What should be added to the Equality Bill

The Equality Bill should clarify and strengthen the Public Sector Equality and Human Rights Duty by amending section 42 of the Irish Human Rights and Equality Commission Act 2014 to:

- **allow for the introduction of 'specific duties' on State Bodies and Government Departments, in addition to the existing general obligations,**
- **grant IHREC stronger enforcement powers, including by amending section 42(5) of the 2014 Act to provide that IHREC may 'require' public bodies to undertake an equality and human rights review or action plan, and**
- **ensure that failures to comply with the duty may, of themselves, give rise to a cause of action i.e. allowing individuals to make a claim where there has been a failure to complain with the duty.**

3.6. Defining the Purpose of the Equality Legislation

The Current Position

The equality legislation does not contain any 'purpose' or 'objects' provisions which define why the legislation exists and the approach which should be taken in interpreting and applying it. Such provisions have benefits for those who the legislation protects, those upon whom it places obligations and the decision-makers who must interpret the legislation. For example, the Assisted Decision-Making (Capacity) Act 2015 contains a set of "*guiding principles*" which should inform actions taken under than legislation.[63]

[61] FLAC (2021), *Submission to the Consultation on the Review of the Equality Acts*, section 9.
[62] IHREC (2023), *Submission on the Review of the Equality Acts*, p.71.
[63] Section 8 of the Assisted Decision-Making (Capacity) Act 2015.

What should be added to the Equality Bill

FLAC[64] and IHREC[65] have both called for the insertion of such provisions and have outlined the matters which they should address. By way of example, section 3 of the Australian State of Victoria's Equal Opportunity Act 2010 states:

> *"Objectives*
>
> *The objectives of this Act are—*
>
> *(a) to eliminate discrimination, sexual harassment and victimisation, to the greatest possible extent;*
>
> *(b) to further promote and protect the right to equality set out in the Charter of Human Rights and Responsibilities;*
>
> *(c) to encourage the identification and elimination of systemic causes of discrimination, sexual harassment and victimisation;*
>
> *(d) to promote and facilitate the progressive realisation of equality, as far as reasonably practicable, by recognising that—*
>
> *(i) discrimination can cause social and economic disadvantage and that access to opportunities is not equitably distributed throughout society;*
>
> *(ii) equal application of a rule to different groups can have unequal results or outcomes;*
>
> *(iii) the achievement of substantive equality may require the making of reasonable adjustments and reasonable accommodation and the taking of special measures;*
>
> *(e) to enable the Victorian Equal Opportunity and Human Rights Commission to encourage best practice and facilitate compliance with this Act by undertaking research, educative and enforcement functions;*
>
> *(f) to enable the Commissioner of the Victorian Equal Opportunity and Human Rights Commission to resolve disputes about discrimination, sexual harassment and victimisation in a timely and effective manner, and to also provide direct access to the Victorian Civil and Administrative Tribunal for resolution of such disputes."*

Recommendation

The Equality Bill should create a new section 1A in both the Equality Status Acts and Employment Equality Acts which defines the purpose and objectives of the legislation.

[64] FLAC (2021), *Submission to the Consultation on the Review of the Equality Acts*, section 1.4.5.
[65] IHREC (2023), *Submission on the Review of the Equality Acts*, p.20.

These provisions should expressly state that the legislation implements Ireland's obligations under EU law and international human rights law, and that it is a legislative expression of the Equality Guarantee in Article 40.1 of Bunreacht na hÉireann. The new sections 1A should also state the nature of the conduct which is prohibited by the legislation and in what context the prohibition applies. The stated overarching aim of the equality legislation should be "*to eliminate discrimination and to ensure full equality in practice*".

3.7. Improving the Discrimination Complaint Process

A key concern of FLAC throughout the Review process has been the need to ensure access to justice for victims of discrimination. We have developed law reform recommendations which would make the discrimination complaint process more effective and accessible, and which would remove existing barriers to justice. Our recommendations were adopted by IHREC in their second submission to the Review[66] and FLAC have provided the Department of Equality with our draft legislative amendments.

The General Scheme already reflects a number of our recommendations in this area, including in relation to time limits, compensation levels and restoring the jurisdiction of the WRC for complaints relating to discrimination "*on or at the point of entry*" to licenced premises. In addition to the existing positive changes outlined in the General Scheme, there are a number of other practical improvements which should be included in the Equality Bill.

Accessible Forms

The Current Position

The WRC recently introduced an online complaints portal for employment and discrimination cases. There is a separate portal for complaints under the Equal Status Acts. This is a welcome change from the previous inaccessible PDF form which was mainly geared towards employment complaints but, confusingly, had to be used for equal status cases also.

Section 21(2)(b) of the Equal Status Acts provides that a complainant may (when they are notifying the respondent of their intention to make a complaint) "*question the respondent in writing so as to obtain material information and the respondent may, if the respondent so wishes, reply to any such questions*".[67] Section 76(1) of the Employment Equality Acts provides that the Minister "*may by regulations prescribe forms*" through which a complainant

[66] IHREC (2023), *Submission on the Review of the Equality Acts*.

[67] Under section 26 of the Equal Status Acts, the WRC may draw inferences from a respondent's failure to respond to a notification or questions under section 21(2).

(or potential complainant) may question a respondent and obtain material information and through which a respondent may reply.[68]

What needs to change

There are still accessibility concerns about the online portal and the lack of a hard copy complaint form. The online-only nature of the complaint form could give rise to exclusion of older people, people with disabilities, people who do not have internet access and people, people facing a language barrier or people with literacy issues. There should also be a requirement for the forms used to question and seek information from a respondent/employer to be accessible.

Recommendations

The Equality Bill should amend section 77 of the Employment Equality Acts and section 21 of the Equal Status Acts to mandate the introduction of an accessible form for the purpose of making complaints under the legislation (which is available online and in hard copy). Those provisions should also mandate the WRC to provide practical supports to people who wish to lodge a complaint. This could take the form of an 'assisted digital programme' to support people who are 'digitally excluded' or lack digital skills to engage with the complaints portal.

The Equality Bill should amend section 21 of the Equal Status Acts and section 26 of the Employment Equality Acts to clarify the 'discovery' process relating to discrimination complaints i.e. the procedure through which a complainant may obtain information which is relevant to their complaint from the respondent. In particular, the legislation should mandate the introduction of accessible forms to be used for this purpose.

<u>Urgent Complaints</u>

The Current Position: At present, there is no clear system for prioritising urgent complaints.

What Needs to Change: Allowing expedited hearings would be very helpful, for example in housing assistance cases (where a tenant may be paying full rent because their landlord will not accept the Housing Assistance Payment) or in cases concerning access to schools.

[68] These forms are prescribed by the Employment Equality Act 1998 (Section 76 - Right To Information) Regulations 1999 (S.I. No. 321 of 1999).

Recommendation

The Equality Bill should amend section 79 of the Employment Equality Acts and section 25 of the Equal Status Acts to create a process which allows certain complaints to be expedited and dealt with urgently.

Preliminary Hearings

The Current Position: At present, one 'full' hearing is usually held in respect of discrimination complaints where all evidence and legal arguments are dealt with. There is no process in place which would allow the hold 'preliminary hearings' which could deal with legal issues (such as an application for anonymity) in advance of the full hearing.

What Needs to Change: Allowing for preliminary hearings could reduce delays and improve efficiency (because, in some cases, a full hearing may not be necessary after a preliminary issue has been dealt with).

Recommendation

The Equality Bill should amend section 79 of the Employment Equality Acts and section 25 of the Equal Status Acts to allow the WRC to hold 'preliminary hearings' which decide legal issues before the complaint is heard in full.

Privacy & Anonymity

The Current Position: Since the *Zalewski*[69] decision and the subsequent introduction of the Workplace Relations (Miscellaneous Provisions) Act 2021 complaints are held in public unless "*special circumstances*" require privacy or anonymity. However, there is no specific procedure for complainants to inform the WRC about the existence of such special circumstances.

What Needs to Change: The present position means that complainants may have no guarantee that their complaint will be held in private until the day of the hearing or that the decision will be anonymised. This may act as a disincentive to pursuing the complaint.

[69] *Zalewski v Adjudication Officer and Ors* [2021] IESC 24. In that case, the Supreme Court held that the exercise of powers by WRC Adjudication Officers, while permissible under Article 37 of the Constitution (as a quasi-judicial tribunal with "*limited*" functions), also constitutes the administration of justice under Article 34. Notably, O'Donnell J (at para. 138 of his judgment) held that: "*The standard of justice administered under Article 37 cannot be lower or less demanding than the justice administered in courts under Article 34*". While the judgment does not preclude the adoption of informal procedures by the WRC, it notes (at para. 139) that: "…*if the policy of informality and the rejection of expensive and potentially cumbersome legal procedures becomes a rejection of the law and those features of procedure necessary for a fair determination, then there is an unavoidable, and fatal, clash*."

Recommendation

The Equality Bill should amend section 79 of the Employment Equality Acts and section 25 of the Equal Status Acts to allow for applications for hearings to be conducted in private for and for decisions to be anonymised. These applications should be dealt with in advance of complaints being heard in full.

The Investigation Process

The Current Position

Section 79 of the Employment Equality Acts and section 25 of the Equal Status Acts provide for the "*investigation*" of complaints by the Director of the WRC. Section 79(4) of the Employment Equality Acts and section 25(3) of the Equal Status Acts both provide that (after consulting IHREC and the Director of the WRC), the Minister may introduce regulations specifying:

> *"(a) procedures to be followed by the Director of the Workplace Relations Commission in carrying out investigations (or any description of investigation) under this section, and*
>
> *(b) time limits applicable to such investigations, including procedures for extending those limits in certain circumstances"*

No regulations have been introduced under these provisions and the procedures adopted by the WRC for the "investigation" of equality cases are largely prescribed by the Workplace Relations Act 2015 and WRC guidance notes.

Under sections 33 to 37 of the Equal Status Acts, WRC Adjudicators enjoy significant powers to assist them in carrying out investigations. These include the power to enter premises, obtain information, and the ability to seek court orders directing that persons cooperate with investigations. Similar powers are provided for under section 94 to 97 of the Employment Equality Acts.

Equality Officers and Adjudicators have, on occasion, adopted a flexible approach to some technical aspects of pursuing a complaint. In several cases the adjudicator has allowed for the amendment of the name of the respondent where the complainant had made a technical error in this regard when lodging the complaint. In those situations, the tribunal was satisfied that despite technical errors the correct respondent had been put on notice of the complaint.[70] The

[70] See, for example: *Frances Comerford v Trailfinders Ireland Limited*, DEC-S2011-013.

tribunal has frequently allowed claims to proceed where the precise ground or type of discrimination was not specified by the complainant in making their complaint.[71]

What needs to change

Despite the fact that the legislation allows adjudicators to investigate complaints themselves, the WRC generally adopts a very formal approach to hearing complaints where the burden is placed on the complainant to present evidence and to make complex legal arguments.

Recommendation

The Equality Bill should amend section 79 of the Employment Equality Acts and section 25 of the Equal Status Acts to mandate the introduction of regulations requiring an accessible and 'inquisitorial' approach to investigating discrimination complaints so that the onus is on the adjudicator to investigate the alleged discrimination, rather than on the claimant having to set out all the law and evidence. There should be a clear legislative basis for WRC adjudicators to correct technical errors on complaint forms (including in relation to the name of the respondent) and to investigate matters which are not specifically outlined on the complaint form.

Interim Orders

The Current Position: The WRC has no powers to make 'interim' or 'interlocutory' orders i.e. injunctive-type orders which may be granted after a preliminary hearing but before a full/final hearing has taken place.

What Needs to Change: Interim orders may be particularly helpful in cases where there is a risk of ongoing harassment discrimination, or discriminatory dismissal. In some cases, compensation may not be an effective remedy. For example, in a case about the admission of a child to a school, compensation alone will not suffice as a remedy, but it may be too late to order the admission of the child to the school after the case is heard and decided. Such a remedy would also be of particular importance, for example, to prevent evictions which are taking place due to rent arrears which have arisen from a landlord refusing to sign the complainant's Housing Assistance Payment forms, or to prevent the dismissal of

[71] For example, an Equality Officer investigated an allegation of victimisation in *A Post-Leaving Certificate Student v An Educational Institution* [DEC-S2009-043] even though the issue was not specifically raised in the complaint form. The equality officer considered that the respondent had adequate notice of the allegation through subsequent correspondence, was afforded the opportunity to make oral submissions on the matter and to make further written submissions following the hearing.
In *County Louth VEC v The Equality Tribunal* [2009] IEHC 370, McGovern J found that the tribunal was entitled to hear matters that went beyond those set out in the complaint form provided that the general nature of the complaint remained the same and the respondent was afforded a reasonable opportunity to deal with the matters raised in compliance with the principles of natural and constitutional justice.

an employee who is being discriminated against.[72] Other tribunals, such as the Residential Tenancies Board, are empowered to make orders for interim relief.[73]

Recommendation

The Equality Bill should amend section 88 of the Employment Equality Acts and section 27 of the Equal Status Acts to allow WRC adjudicators to make 'interim' or 'interlocutory' orders i.e. injunctive-type orders which may be granted after a preliminary hearing but before a full/final hearing has taken place in order to deal with urgent issues.

Orders for a Specified Course of Action

The Current Position: An order directing that someone takes a 'specified course of action' is a remedy under both pieces of equality legislation. These orders may be particularly effective as they can be tailored to the particular circumstances of the case and may "*have significant effects beyond the immediate case*".[74] These orders have the potential to have a transformative effect and to prevent potential future acts of discrimination by requiring measures such as equality training or re-examination of policies.[75]

What Needs to Change: The Circuit Court judgment in *Deans v Dublin City Council*[76] has created some uncertainty about whether an Adjudicator can make an order for a specified course of action which imposes a general obligation on the respondent or one which goes beyond the facts of a specific case. However, as already noted, EU law requires sanctions in equality law to be effective and dissuasive, which appears to envisage and allow for sanctions be made which goes beyond the circumstances of the particular case.

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[72] The Equality Authority commented that "*problems in relation to remedies [including the cap on redress] are exacerbated in that there is no provision to apply for any type of interlocutory relief pending the hearing of the claim*". On that basis, the Authority recommended that "*the legislation should allow applications for interlocutory relief in cases under the equality legislation*". See: Equality Authority (2006), *Embedding Equality in Immigration Policy: Submission on the discussion document of the Department of Justice, Equality and Law Reform on the Immigration and Residence Bill 2006*, p.17.

[73] Section 117 of the Residential Tenancies Act 2004.

[74] Judy Walsh, *Equal Status Acts 2000-2011: Discrimination in the Provision of Goods and Services* (Lonsdale Law Publishing, 2013) p351.

[75] For example, in discrimination cases under the Employment Equality Acts, employers have been directed to put in place pathways for discrimination complaints, revise staff handbooks, review recruitment, or other employment procedures, and provide training to staff. In 2020, such orders were issued in approximately 20% of the complaints upheld. Respondents in cases under the Equal Status Acts have been directed to create an equal opportunities policy, retrain staff, and revise discriminatory policies. Orders for courses of action were issued in 16 of the 35 ESA (45%) complaints upheld by the WRC in 2020; ten of these comprised orders that extended beyond rectifying the position of the individual complainant to address broader discriminatory practices. In two successful complaints on the disability ground, for example, the respondent airlines were ordered to put in place processes to ensure that at the point of boarding and disembarking passengers who have requested assistance are provided with such assistance.

[76] (Circuit Court, Hunt J, Unreported, 15 April 2008)

Recommendation

The Equality Bill should amend section 88 of the Employment Equality Acts and section 27 of the Equal Status Acts to clarify the scope of 'orders for a specified course of action' which adjudicators may make and, in particular, that they may impose obligations which go beyond the facts of a particular case, for example to provide equality training to all employees.

Enforcement of WRC Decisions

The Current Position: The District Court is empowered to enforce decisions which are made against employers and providers of goods and services under the equality legislation. In some cases, IHREC, the WRC or trade unions may apply to the District Court for enforcement on behalf of the successful complainant.

What Needs to Change: The legislation concerning enforcement of decisions is unclear and inconsistent. The legislation is heavily amended and confusing.

Recommendation

The Equality Bill should provide that enforcement proceedings relating to decisions in discrimination cases may be taken by the complainant themselves or by IHREC, the WRC or a trade union on their behalf.

4. Access to Justice

This section examines access to justice under the equality legislation. The very low levels of discrimination complaints which are taken in Ireland (despite rising levels of discrimination) indicate significant issues in the area of to justice for victims of discrimination.

Access to justice is a right of itself, it also vital for the realisation of other rights and to ensure that they are effective in practice.[77] FLAC understands access to justice as a continuum which encompasses access to legal information, advice and advocacy, access to the legal aid/legal representation, access to the courts and tribunals, fair procedures, effective remedies, just outcomes, and fair and just laws.

In its recent concluding recommendations concerning gender equality in Ireland, the United Nations Committee on the Elimination of Discrimination Against Women ('CEDAW') placed a particular emphasis on access to justice and access to legal assistance. Its findings underscore the crucial role of access to justice in securing human rights and equality for all groups including women, Travellers, Roma, minority ethnic and migrant communities, and people with disabilities.[78]

There are a number of bodies involved in promoting access to justice in Ireland:

- **IHREC** is Ireland's National Equality Body. One reason for the creation of specialised equality bodies is the acknowledged difficulties in access to justice for individuals and groups trying to enforce their anti-discrimination rights.[79] There is also a significant role for equality bodies in promoting a critical mass of cases and, by extension, promoting a culture of compliance with equality law.
- **The Legal Aid Board** delivers the State scheme of civil legal aid. It provides legal advice and representation, mainly in the area of family law, through a network of Law Centres. The Civil Legal Aid Review Group reported to the Minister for Justice in April

[77] Access to justice is reflected in the Irish constitutional system of justice where access to the courts is guaranteed. Access to justice is an element of the right to fair procedures under the International Covenant on Civil and Political Rights, the European Convention on Human Rights and the Charter of Fundamental Rights of the European Union.

[78] CEDAW (2025), *Concluding observations on the eighth periodic report of Ireland*.

[79] The significant powers of equality bodies reflect the fact that it may be impossible for an individual or group to challenge certain forms of discrimination, including structural and systemic discrimination.
In addition to their power to take own name proceedings, IHREC may conduct equality reviews (section 32 of the IHREC Act 2014) and undertake inquiries (section 35 of the IHREC Act 2014). These powers are extremely significant in terms of promoting a compliance with equality law and in terms of challenging structural discrimination. However, the review power has only been utilised rarely and IHREC has never conducted an inquiry.

2025 after having been tasked with undertaking the first ever comprehensive review of the scheme of civil legal aid in Ireland.

- **The Citizens Information Board** is a statutory body with information, advice, and advocacy functions.[80]
- **Independent Law Centres** operate under the auspices of registered charities (rather than as part of the State system of civil legal aid). As an independent law centre, FLAC undertakes public interest litigation and also operates a Traveller Legal Service, a Roma Legal Clinic and, until recently, and LGBTQIA+ Legal Service. FLAC also provides a national Legal Information and Referral Line, Phone Legal Advice Clinics and a Pro Bono Referral Scheme for social justice organisations to access legal assistance from private lawyers acting *pro bono* through PILA (the Public Interest Law Alliance).

Recommendation

The Joint Committee should engage with IHREC, the Legal Aid Board, the Citizens Information Board and the Department of Justice in relation to access to justice for victims of discrimination.

4.1. Equality Bodies

The Current Position

Ireland had two dedicated equality bodies when the equality legislation was first introduced, the Equality Tribunal and the Equality Authority. Those bodies have since been subsumed into the Workplace Relations Commission (WRC) and the Irish Human Rights and Equality Commission (IHREC) respectively. The new bodies have assumed the responsibilities of the previous dedicated equality bodies, while also having significant mandates beyond the equality sphere. IHREC has a dual equality and human rights mandate. In addition to hearing equality complaints, the WRC deals with complaints under employment and industrial relations law. The latter areas dominate its workload.

What Needs to Change

In our submission to the review of the equality legislation, FLAC highlighted the need to strengthen and increase the visibility of the equality mandate of both IHREC and the WRC. The amalgamation of the Equality Authority into IHREC (in the 2014 Act) has led to a loss of

[80] The CIB carries out its information, advice and advocacy functions in a number of different ways. The CIB funds eight regional Citizens Information Services (CISs). The regional CISs in turn operate a national network of Citizens Information Centres (CICs) which provide information, advice and advocacy through a network of over 100 offices.

visibility and strategic direction in the area of equality. While one of IHREC's functions is the provision of information to the public on the provisions of the equality legislation, awareness of the legislation remains low. FLAC regularly hears from individuals and NGOs who are unaware of IHREC or the assistance which it can provide to victims of discrimination.

At present, IHREC does not have a specific and separate unit or staff roles dedicated to promoting equality. It also does not have a dedicated legal unit which focuses exclusively on the provision of legal assistance to victims of discrimination under the equality legislation. Neither their Annual Reports nor their Strategy Statements contain separate and distinct provisions or sections about their equality functions.

The Equality Tribunal was established in 1998 as a dedicated equality body with the function of investigation, hearing and deciding claims of discrimination under the equality legislation. It was amalgamated in the WRC in 2015. There is no separate unit or specialised staff charged with dealing with claims under the equality legislation within the WRC. Even the title of the WRC is confusing in that it gives no indication whatsoever that it hears claims under the Equal Status legislation.

New EU Directives on Standards for Equality Bodies

There are two new EU Directives on Standards for Equality Bodies which must be transposed into Irish law by 19 June 2026. [81] These Directives have significant implications for how both IHREC and the WRC operate in terms of their respective equality mandates and functions (which will need to be strengthened). They are particularly relevant to the area of access to justice for victims of discrimination. The Directives contain specific provisions concerning "*multi-mandate bodies*" such as IHREC and the WRC:

- Article 3(4): "*Member States shall ensure that the internal structure of multi-mandate bodies guarantees the effective exercise of the equality mandate*."
- Article 4: "*Member States shall, in accordance with their national budgetary processes, ensure that each equality body is provided with the human, technical and financial resources necessary to perform all its tasks and to exercise all its competences effectively, on the grounds set out in and in fields covered by Directives 79/7/EEC, 2000/43/EC, 2000/78/EC and 2004/113/EC, including where the equality bodies are part of multi-mandate bodies*."

The new Directives now require a significant strengthening of the equality mandate and functions within IHREC and the WRC. A report published by the European Network of Legal

[81] Directive 2024/1499 & Directive 2024/1500.

Experts in Gender Equality and Non-Discrimination has identified "*good practice*" which should inform the transposition of the Directives:

> "*The People's Ombudsman in Croatia, the Office of the Greek Ombudsman, and the Commissioner for Human Rights in Poland demonstrate good practice in the active management of their various mandates. Each has taken specific steps to ensure the equality mandate is underpinned and rendered visible and effective by various means:*
>
> > *Leadership: with a specific deputy appointed to give strategic direction to implementing the equality mandate.*
> >
> > *Action: with a specific staff unit expert in and dedicated to implementing the equality mandate.*
> >
> > *Visibility: with a specific annual report on the equality mandate.*
>
> *Leadership enables visibility and strategic direction for the equality mandate, a strong drive to implement the equality mandate and access to specific expertise to assist in its effective implementation"*[82]

Recommendations

The transposition of the new Equality Bodies Directives should be urgently advanced via the current reform of the equality legislation. In order to give effect to the new Directives, the Equality Bill should:

- **Amend the Workplace Relations Act 2015 to mandate the creation of a dedicated equality unity within the WRC with specialised staff. The unit should be responsible for the policies and procedures followed in the investigation of discrimination complaints and promoting access to justice for victims of discrimination. It should be empowered to work collaboratively with IHREC to raise awareness of equality rights and in providing legal information concerning equality rights, including the provision of information targeted at the groups and individuals that come within the ambit of the equality legislation. The name of the WRC should be changed to the Workplace Relations and Equality Tribunal.**
- **Amend section 12(1) of the Irish Human Rights and Equality Commission Act 2014 to create a new leadership role within IHREC which is focussed on equality: "*The Commission shall consist of not more than 15 and not less than 12 members, one of whom shall be the Chief Commissioner of the Commission, and another of whom shall be Deputy Chief Commissioner of the Commission with specific responsibility***

[82] Niall Crowley (2018), *Equality bodies making a difference*.

***for the implementation of the Employment Equality Acts 1998 to 2015 and the of the Equal Status Acts 2000 to 2018*"**.

- **Amend section 27 of the Irish Human Rights and Equality Commission Act 2014 to provide for the creation of an equality unity within IHREC: "(7) *The Commission shall establish and adequately resource a dedicated staff unit with responsibility for the implementation of the Employment Equality Acts 1998 to 2015 and the of the Equal Status Acts 2000 to 2018.***
- **Amend section 25(2) of the Irish Human Rights and Equality Commission Act 2014 to require IHREC to address its equality mandate in its Strategy Statements: "*A strategy statement shall—(a) comprise— (i) the key objectives and related strategies, specifically detailing objectives and related strategies with regard to the implementation of the Employment Equality Acts 1998 to 2015 and the of the Equal Status Acts 2000 to 2018, including the use of resources of the Commission and within this specifying the use of resources on the implementation of the Employment Equality Acts 1998 to 2015 and the of the Equal Status Acts 2000 to 2018, and (ii) having had regard to subparagraph (i), the key priorities and objectives of the Chief Commissioner for his or her term of office and the Deputy Chief Commissioner with specific responsibility for the implementation of the Employment Equality Acts 1998 to 2015 and the of the Equal Status Acts 2000 to 2018 for his or her term of office, and…"***
- **Amend section 28(2) of the Irish Human Rights and Equality Commission Act 2014 to require IHREC to provide "*an account of its activities and any developments undertaken by the Commission in relation to the operation and implementation of the Employment Equality Acts 1998 to 2015 and the of the Equal Status Acts 2000 to 2018*" in its Annual Report.**

IHREC should be provided with sufficient resources in relation to its functions to provide information to the public on the provisions of the equality legislation. Together with WRC, the Legal Aid Board and the Citizens Information Board, it should engage in targeted information and awareness campaigns about the provisions of the legislation directed at the individuals and groups who come within the discriminatory grounds.

4.2. Legal Information & Awareness of Rights

The Current Position

The recent study published by the Central Statistics Office suggests very low awareness of the anti-discrimination legislation, equality rights and the discrimination complaint process.

Research conducted by the Fundamental Rights Agency across the European Union has highlighted that awareness of the national legislative and procedural frameworks giving effect to the prohibition on discrimination appears to be low among minorities. This, in turn, affects the degree to which victims pursue their rights and reduces the frequency with which the prohibition of discrimination is enforced and remedies are obtained.[83] These findings have been reflected in FLAC's experience of providing dedicated legal services to groups protected by the equality legislation, including the Traveller Legal Service, Roma Legal Clinic and LGBTQI Legal Clinic. CEDAW specifically highlighted "*limited awareness of… rights*" as a barrier to justice "*faced by Traveller, Roma, migrant and rural women and women with disabilities*".[84]

What Needs to Change

The Legal Aid Board has no specific mandate in relation to the provision of legal information, awareness raising, or public legal education. The 'Migration Pact'[85] requires the State to introduce new forms of public legal assistance for international protection applicants, including early information and advice. FLAC believes that the provision of both of these services should be mainstreamed into all areas of the legal aid system.

IHREC is mandated to provide information to the public in relation to human rights and equality generally[86], as well as specifically in relation to the equality legislation[87]. Section 11(1)(h) of the Workplace Relations Act 2015 confers an information provision function on the WRC, but expressly excludes legislation relating to equality from the ambit of this function (despite the fact that the WRC is ideally placed to provide such information). While the CIB's mandate is confined to the provision of information on social services, it provides a significant amount of basic information including legal information on rights. It also provides advocacy to a limited extent, including in discrimination claims.

Article 5 of the new Equality Bodies Directives requires the State to *"adopt appropriate measures, such as strategies, to raise awareness among the general population… with particular attention to individuals and groups at risk of discrimination, of the rights under [the EU Equality Directives] and on the existence of equality bodies and their services*." Notably, this obligation is not targeted specifically at Equality Bodies but applies to the State generally.

[83] European Union Agency for Fundamental Rights (2012), *The Racial Equality Directive: Application and Challenge*, p.19.
[84] CEDAW (2025), *Concluding observations on the eighth periodic report of Ireland*, para.17(b).
[85] The European Union EU Migration and Asylum Pact.
[86] Section 2(a) of the IHREC Act 2014
[87] Section 30(1) of the IHREC Act 2014.

As a result, its implications extend beyond IHREC and apply to bodies such as the Legal Aid Board.

Recommendations

The Joint Committee should engage with the Minister for Justice in relation to the expansion of the remit of the Legal Aid Board to include an awareness-raising function and the provision of legal information concerning equality rights.

The Joint Committee should engage with the Minister for Social Protection in relation to the expansion of the remit of the Citizens Information Board to include the provision of basic legal information, including information concerning equality rights and advocacy in non-complex cases before the WRC.

The Joint Committee should engage with the Minister for Equality and the WRC in relation to the expansion of the WRC's information remit to include information on equality rights and the discrimination complaint process.

4.3. Legal Advice & Advocacy

Beyond legal information in relation to equality and anti-discrimination law, individuals and groups require legal advice to "*clarify their rights and possible ways of securing these rights*".[88] There are significant benefits to 'early and preventive' forms of legal assistance such as information, advice and advocacy. They can prevent legal problems from arising to begin with and they can prevent them from escalating or resulting in litigation. This means that the 'knock-on' effects of experiencing a legal problem (which can include financial difficulty, debt, stress and other health issues) may be avoided. These services also generate a saving for the State as these forms of legal assistance are less costly to provide than legal representation. FLAC's submission to the review of the civil legal aid scheme highlighted the significant unmet need for early and preventative forms of legal assistance in Ireland and made recommendations for addressing this.[89]

The Current Position

Section 10(2)(f) and section 40 of the IHREC Act 2014 provide for IHREC's legal assistance function, including through the provision of legal advice. The Civil Legal Aid Act 1995 empowers the Legal Aid Board to provide legal advice (as defined in section 25 of that legislation) subject to certain criteria set out in section 26 of that legislation.

[88] ECRI (2017), *General Policy Recommendation on Equality Bodies to Combat Racism and Intolerance at National Level*.
[89] FLAC (2023), *Stakeholder Submission to the Review of the Civil Legal Aid Scheme*, section 9.

What Needs to Change

In practice, the Legal Aid Board do not provide legal advice in relation to equality law to any significant extent. The CIB provides advocacy in discrimination claims to a very limited extent and its mandate to perform this function is somewhat unclear.

Recommendations

The Joint Committee should engage with the Minister for Justice in relation to the expansion of the remit and resourcing of the Legal Aid Board to mandate the provision of legal advice in the area of equality/anti-discrimination.

The Joint Committee should engage with the Minister for Social Protection in relation to the expansion of the remit of the Citizens Information Board to include the provision advocacy in discrimination complaints.

4.4. Legal Representation

The Current Position: Representation in the WRC

The Legal Aid Board cannot provide legal representation in discrimination claims under the equality legislation before the Workplace Relations Commission,[90] irrespective of how complex or sensitive the issue may be and irrespective of the resources, capacity or vulnerability of the claimants.

What Needs to Change

Article 47(3) of the Charter of Fundamental Rights provides that *"[l]egal aid shall be made available to those who lack sufficient resources in so far as aid is necessary to ensure effective access to justice*". Given that the equality legislation gives effect to the State's obligations under EU law, this provision is of particular relevance. The blanket exclusion of equality law from the scheme of civil legal aid represents a breach of Ireland's obligation under the Charter and is also contrary to Ireland's obligations under the European Convention on Human Rights.[91]

There is a concern that the provision of legal aid in discrimination claims may lead to a more adversarial and complex process before the WRC. However, the provisions of the equality

[90] The Minister for Justice may "prescribe" the tribunals in which the Legal Aid Board may provide representation under section 27(2)(b) of the Civil Legal Aid Act 1995 – the WRC is not so prescribed.

[91] The European Court of Human Rights and the Court of Justice of the European Union have held that the question of whether legal aid is necessary for a fair hearing should be determined by reference the specific circumstances of an applicant under a number of established factors. See: FLAC (2023), *Stakeholder Submission to the Review of the Civil Legal Aid Scheme*, section 3.

legislation are already complex; cases often involve the interpretation of EU Law and other complicated legal and evidential issues.

While employers and businesses can often afford to pay for private legal representation in equality cases before the WRC, persons making complaints often cannot. Where a person alleging discrimination does not have such financial means and is faced with an experienced legal team on the other side, this can give rise to an inequality of arms in practice. Research undertaken by LLM students in Trinity College Dublin examining "*the absence of Legal Aid for Employment Equality cases",* found that *"professional legal representation significantly improves the chance of winning an employment equality dispute before the WRC*":

> *"It is very difficult to win an employment equality case before the WRC. Of the cases brought before the WRC between the 1st of January 2019 and the 31st of January 2021, complainants lost over 75% of the cases. From January 2018 to the end of January 2021, claimants with professional representation won more than 30% of the cases before the WRC and claimants with union representation won 32.6% of their cases. For those claimants without representation, there was a loss rate of more than 86% before the WRC. Overall, unrepresented claimants had a success rate of less than 14%, indicating that legal representation more than doubles a claimant's chance of success."*[92]

Concerns around the absence of legal aid before tribunals such as the WRC are all the more pressing in light of the recent decision of the Supreme Court in *Zalewski v Adjudication Officer & Ors*. In that decision, the Court held that the exercise of powers by WRC Adjudication Officers, while permissible under Article 37 of the Constitution, also constitutes the administration of justice under Article 34. Notably, Mr Justice O'Donnell held that: "*The standard of justice administered under Article 37 cannot be lower or less demanding than the justice administered in courts under Article 34*".

In 2019, the UN Committee on the Elimination of Racial Discrimination expressed its concern "*about the absence of legal aid available for claims of racial discrimination under equality legislation brought before the Workplace Relations Commission, which results in non-equality of arms as respondents are mostly represented by legal counsels*".[93] Thereafter the Committee recommended:

> *"…that the State party extend the scope of the Legal Aid Board to the areas of law that are particularly relevant to Traveller and other ethnic minority groups, including by*

[92]Trinity College Dublin, LLM Human Rights Law Clinic (2021), *A Report on the Absence of Legal Aid for Employment Equality Cases in Ireland*.

[93] UN Committee on the Elimination of Racial Discrimination (2019) *Concluding observations on the combined fifth to ninth reports of Ireland*. Geneva: OHCHR, para.43.

designating the Social Welfare Appeals Office and Workplace Relations Commission as prescribed tribunals under Section 27(2)(b) of the Civil Legal Aid Act 1995."

A UN Special Rapporteur on Extreme Poverty and Human Rights[94] and the UN Committee on Economic, Social and Cultural Rights[95] have previously expressed similar concerns. The same concerns were expressed by CEDAW recently and that body called on the State to "*[e]xpand access to legal aid and legal representation for women in all areas of law where discrimination occurs, including labour disputes*."[96]

Section 10(2)(f) of the IHREC Act 2014 provides for the Commission: "*to provide such practical assistance, including legal assistance, to persons in vindicating their rights as it sees fit in accordance with section 40*". Section 40 of the legislation gives IHREC broad powers to provide legal assistance by reference to certain criteria.[97] However, IHREC has neither the staff nor the resources to provide representation in every equality or discrimination case where it is required, or in a sufficient number of cases to achieve a culture of compliance with the equality legislation across all grounds.[98]

The Current Position: Representation in the Courts

The vast majority of discrimination claims are heard by the WRC. However there is an option for gender discrimination to be brought in the Circuit Court instead of the WRC. Certain discrimination cases relating to clubs and licenced premises are heard by the District Court. Further, certain appeals and enforcement proceedings in discrimination cases are heard by the courts.

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[94] In 2011, the then UN Special Rapporteur on Extreme Poverty and Human Rights noted her concern that "*several areas of law that are particularly relevant for people living in poverty*" are excluded from the scope of the Legal Aid Board. See: Office of the High Commissioner for Human Rights (2011) *Report of the UN Independent Expert on Extreme Poverty and Human Rights, Magdalena Sepúlveda Carmona to the Human Rights Council*, Geneva: OHCHR, p.4.

[95] In 2015, UNCESCR expressed concern regarding the exclusion of certain areas of law from the civil legal aid scheme "*which prevents especially disadvantaged and marginalised individuals and groups from claiming their rights and obtaining appropriate remedies, particularly in the areas of employment, housing and forced evictions, and social welfare benefits*". Thereafter, UNCESCR recommended that the remit of the Legal Aid Board be expanded and that civil legal aid services be made available in a wider range of areas. See: UN Committee on Economic, Social and Cultural Rights (2015) *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Ireland*, Geneva: OHCHR.

[96] CEDAW (2025), *Concluding observations on the eighth periodic report of Ireland*, para.18(c).

[97] Additionally, under section 85 EEA and section 23 ESA, IHREC may institute 'own name' proceedings in the WRC including in circumstances where discrimination is being generally practised or where it is not reasonable to expect an individual to pursue a complaint.

[98] For example, IHREC's 2020 Annual Reports states that 77 applications for legal assistance were approved by IHREC in that year, of which 22 were offered legal advice only. 15 of the files completed by IHREC in 2020 related to equality matters. See: IHREC (2021), *Annual Report 2020*.

As with cases heard by the WRC and Labour Court, IHREC may provide legal assistance before the Courts in equality matters. However, its resources to do so are limited.

What Needs to Change

Despite being able to do so[99], the Legal Aid Board does not generally provide legal representation in equality matters before the courts. For example, civil legal aid is, in theory, available for applications to the District Court for redress under section 19(2) of the Intoxicating Liquor Act 2003. However, in the period between January 2014 and November 2019, the Legal Aid Board was unable to identify any cases in respect of which legal aid had been granted to individuals who intended to and/or who did in fact institute proceedings under section 19 of the 2003 Act. Between November 2019 and February 2022, legal aid was provided to as little as four individuals in proceedings in which they sought redress under section 19.[100]

Recommendation

The Joint Committee should engage with the Minister for Justice in relation to the expansion of the remit and resourcing of the Legal Aid Board to mandate the provision of legal representation in the area of equality/anti-discrimination before the WRC and the Courts.

4.5. Dedicated Legal Services

The Current Position

This submission is heavily informed by FLAC's experience in providing dedicated and targeted legal services for the Roma, Traveller and LGBTQIA+ communities. Despite having very limited resources, these services have proven to be a very effective way of responding the legal needs of disadvantaged people and communities. The services are tailored to the needs of the communities they serve and offer greater flexibility than the services provided through the State scheme of civil legal aid.

What Needs to Change

FLAC believes that the Legal Aid Board should support the development and delivery of targeted and specialised services, including through the provision of long-term funding.

[99] By virtue of section 27(2) of the Civil Legal Aid Act 1995, which stipulates that legal aid can be provided in respect of proceedings conducted at all levels of the courts system, legal aid may be provided in equality matters heard by the Courts (rather than the WRC or Labour Court).

[100] IHREC (2022), *Report of a review of section 19 of the Intoxicating Liquor Act 2003 carried out pursuant to section 30 of the Irish Human Rights and Equality Commission Act 2014*.

CEDAW has highlighted the need for Ireland to provide "*culturally appropriate [legal] services for Traveller, Roma and migrant women and women with disabilities*".[101]

Recommendation

The Joint Committee should engage with the Minister for Justice in relation to the expansion of the functions of the Legal Aid Board to include supporting the development and delivery of targeted and specialised services for communities that come within the discriminatory grounds, and in relation to the resourcing of such service.

4.6. Representative Actions

The Current Position

At present NGOs cannot take discrimination cases in their own name or on behalf of one or some of their members. FLAC regularly hears from Traveller organisations who have experienced discrimination as a group. For example, in 2023 FLAC represented the members of a local Traveller organisation whose booking for a team-building day had been cancelled. A separate non-Traveller organisation sought to make an identical booking and were informed that they could be accommodated. After initially refuting the claim, the venue issued an apology and paid €10,000 in compensation to the Traveller organisation as part of a settlement of the claims. In cases such as these, each individual member or employee of the group must make an individual discrimination complaint. They cannot make one single complaint in the name of the organisation.

What Needs to Change

Article 7 of the Race Directive[102] obliges EU Member States to ensure that associations, organisations or other legal entities may engage in judicial or administrative proceedings on behalf of, or in support of victims, with the victim's permission.[103]

The EU's Fundamental Rights Agency (FRA) has stated that one of the ways by which the existing frameworks to combat discrimination on the grounds of race and ethnic origin could be strengthened is to widen access to complaints mechanisms, including by increasing funding for voluntary organisations in a position to assist victims.[104] The FRA research made compelling findings as to the benefits of resourcing civil society organisations to undertake

[101] CEDAW (2025), *Concluding observations on the eighth periodic report of Ireland*, para.17(b).
[102] There are similar provisions in Article 9 of the Framework Employment Directive, 2000/78/EC, Article 17 of the Gender Recast Directive 2006/ 154/EC and Article 8 of the Gender Good and Services Directive.
[103] Directive 2000/43/EC.
[104] European Union Agency for Fundamental Rights (2012) *The Racial Equality Directive: Application and Challenges*, Luxembourg: FRA, p.25.

litigation, and relaxing the rules of legal standing to empower such groups to pursue representative actions:

> *"The role of such civil society organisations, which may include NGOs, trade unions or equality bodies themselves, is particularly valuable in facilitating the enforcement of discrimination law for several reasons. Firstly, their participation may help to reduce the financial and personal burden on individual victims, giving them greater access to justice. Secondly, particularly where the permission of the victim is not required, the ability to enforce the directive is enhanced since, as noted below, members of ethnic minorities are often unaware of their rights or available procedures or unwilling to pursue claims. Thirdly, if claims can be brought even in the absence of an identifiable victim, it allows cases to be chosen on a strategic basis in order to address those practices that result in discrimination against large numbers of individuals… The ability of civil society organisations to provide assistance or engage in litigation is dependent upon expertise and resources… [In] Sweden and the UK, NGO advice centres receive funding or other forms of support from equality bodies. Although civil society organisations appear to play an important role in referring cases to equality bodies and participating in litigation, a lack of human and financial resources constitutes a significant limitation on their capacities, and public funding is mostly sparse or unavailable."*

In light of this, FRA recommended that:

> *"Consideration could be given to taking measures that widen access to complaints mechanisms, including: broadening the mandate of equality bodies that are not currently competent to act in a quasi-judicial capacity; relaxing the rules on legal standing for NGOs and other civil society organisations; increasing funding for voluntary organisations in a position to assist victims. In light of the fact that victims are often reluctant to bring claims, allowing civil society organisations, including equality bodies, to act of their own motion in bringing claims to court or conducting investigations, without the consent of a victim, or without an identify able victim, could constitute an important step towards facilitating enforcement."*

Recommendation

The Equality Bill should amend the equality legislation to ensure that that representative NGOs are given unambiguous legal standing in appropriate cases to initiate proceedings on behalf of those affected by discrimination.

5. Equality in the Constitution

This section looks at the relationship between the equality legislation and Article 40.1 of the Constitution (the 'equality guarantee') which states:

> *"All citizens shall, as human persons, be held equal before the law.*
>
> *This shall not be held to mean that the State shall not in its enactments have due regard to differences of capacity, physical and moral, and of social function."*

5.1. Limited Interpretation of Article 40.1

Although "*the text of Article 40.1 permits a range of possible equality approaches*", the Supreme Court has generally adopted a limited 'process-based' approach.[105] As a result, the equality guarantee "*confines itself to protecting the individual against certain forms of prejudice, without being concerned with challenging the inherent inequalities of existing social structures*".[106] CEDAW has also expressed concerns about the narrow interpretation of Article 40.1 and its focus on "*procedural rather than substantive equality*".[107]

In our casework, FLAC has sought to rely on the equality guarantee in cases concerning discrimination, housing and homelessness, and social welfare. As a result, we are keenly aware of the limitations of Article 40.1, as well as how the provision (and the manner in which it has been interpreted) has reduced the impact and potential of Ireland's equality and anti-discrimination legislation.

Past decisions of the courts clearly illustrate the fact that Article 40.1 is insufficient, out-dated and fails to support meaningful social rights. The following judgments are worth noting:

- In *Donnelly v Minister for Social Protection & Ors,* the Supreme Court examined a situation where a father was deemed ineligible for Domiciliary Care Allowance while his severely disabled child was resident in hospital for extended periods of time. The Court decided that the law which distinguishes between parents who care for children with severe disabilities at home and parents caring for such children while they are in hospital was not contrary to the equality guarantee.[108]
- In *Michael v Minister for Social Protection*[109], the Supreme Court decided the denial of Child Benefit to asylum seekers with Irish citizen children did not constitute

[105] Colm Ó Cinnéide, 'Aspirations Unfulfilled: The Equality Right in Irish law' (2006) IHRLR 41.
[106] Colm Ó Cinnéide, 'Aspirations Unfulfilled: The Equality Right in Irish law' (2006) IHRLR 41.
[107] CEDAW (2017*), Concluding observations on the combined sixth and seventh periodic reports of Ireland*, p.3.
[108] *Donnelly v Minister for Social Protection & Ors* [2022] IESC 31.
[109] *Michael v Minister for Social Protection* [2019] IESC 82.

unconstitutional discrimination against those children (as compared with other Irish citizen children).

- In *Re Article 26 of the Constitution and in the matter of the Employment Equality Bill 1996*[110] the Supreme Court struck down draft employment equality legislation on the basis that the reasonable accommodation provisions it imposed were an unconstitutional interference with the property rights of employers.
- In *Stokes v Christian Brothers High School*[111] a school-admission policy was challenged on the basis that it constituted indirect discrimination against a prospective student who was a member of the Traveller community. The case was unsuccessful and the Supreme Court stated that, in order to prove a case of indirect discrimination, statistical analysis is required to establish that a person belonging to a protected group is at a 'particular disadvantage' compared with others (whereas EU equality law does not include such a requirement).
- In *Equality Authority v Portmarnock Golf Club & Ors* the Supreme Court ruled that a male-only golf club could avail of an exception to the prohibition of discrimination because its principle purpose was to cater for the "*needs*" of men who play golf.[112]
- In *AB v Road Safety Authority*[113] the High Court decided (on the basis of a broad interpretation of an exception to the equality legislation) that the Road Safety Authority had not discriminated against a woman living in Direct Provision by refusing her application for a driver's licence.

5.2. Proposal to Amend Article 40.1

In June 2021, the Citizens' Assembly on Gender Equality[114] published its report – which included three recommendations for constitutional reform in relation to equality, the family and care.[115] The Joint Oireachtas Committee on Gender Equality was established to consider the

[110] *Re Article 26 of the Constitution and the Employment Equality Bill 1996* [1997] 2 IR 321.
[111] [2015] IESC 13.
[112] *Equality Authority v Portmarnock Golf Club & Ors* [2009] IESC 73.
[113] *AB v Road Safety Authority* [2021] IEHC 217.
[114] The Assembly was established in July 2019 to "consider gender equality and make recommendations to the Oireachtas to advance gender equality…". See: Terms of Reference for the Citizens' Assembly on Gender Equality.
[115] "(1) Article 40.1 of the Constitution should be amended to refer explicitly to gender equality and non-discrimination. (2) Article 41.2 of the Constitution should be deleted and replaced with language that is not gender specific and obliges the State to take reasonable measures to support care within the home and wider community. (3) Article 41 of the Constitution should be amended so that it would protect private and family life, with the protection afforded to the family not limited to the marital family." See: The Citizens' Assembly (June 2021), *Report of the Citizens' Assembly on Gender Equality*, p.12.

recommendations of the Assembly.[116] In December 2022, that Committee published its final report setting out its proposed wording for amendments to Articles 40 and 41.[117] In December 2023, the Government published their proposals for holding two referendums to amend Article 41 in relation to family and care.[118] They did not propose to amend Article 40.1.

FLAC believes that Article 40.1 requires urgent amendment and that the process of reviewing and updating the equality legislation should provide an impetus for reform. FLAC has provided draft wording for a new constitutional equality guarantee with a non-exhaustive list of grounds and strong positive action provisions.

> *"1° The State recognises that, in a democratic society, the principles of equality and non-discrimination are fundamental to the common good.*
>
> *2° All persons shall be held equal before the law and shall enjoy the equal benefit and protection of the law without discrimination, save only for measures which constitute a proportionate means of achieving a legitimate aim.*
>
> *3° Discrimination includes direct discrimination, indirect discrimination and discrimination by association, on the ground of gender, race, colour, nationality, ethnicity (including membership of the Traveller community), disadvantaged socio-economic status, sexual orientation, language, religion or belief, political opinion, disability, age, family status, civil status, other such status, or a combination of grounds.*
>
> *4° With a view to ensuring full equality in practice, the Oireachtas may take legislative and other measures to promote equality and to prevent and compensate for discrimination, disadvantage and social exclusion.*
>
> *5° In order to promote equality and eliminate discrimination, the State shall take all appropriate steps to ensure that reasonable accommodation is provided to people with disabilities."*[119]

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[116] The JCGE began its work by considering the recommendations of the Assembly in relation to constitutional reform and conducted targeted stakeholder consultation through public and private meetings of the Committee. In July 2022, the JCGE published an "*Interim Report on Constitutional Change*" which set out "various options for constitutional text which could form the basis of amendments to give effect to the recommendations of the Citizens' Assembly". The Interim Report also noted that the JCGE would "[seek] the views of interested stakeholders, citizens, and members of the public on these options". See: Joint Committee on Gender Equality (July 2022), *Interim Report on Constitutional Change*.

[117] Joint Committee on Gender Equality (December 2022), *Final report: Unfinished Democracy - Achieving Gender Equality*.

[118] Department of the Taoiseach (7 December 2023), *Press Release: Government approves proposals for referendums on family and care*.

[119] FLAC (May 2023), *Submission to the Inter-Departmental Committee: Referendums on Family, Care and Equality*, p.x.

Recommendation

The Joint Committee should engage with the Minister for Equality in relation to the need to amend Article 40.1 of the Constitution. It should call on her Department to examine the need for reform in this area in light of the findings to emerge from the review of the equality legislation.