

# EQUALITY & RIGHTS ALLIANCE

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## The Irish Human Rights and Equality Commission Bill 2014 Observations and Recommendations

### Introduction

1. The detailed Heads of the Irish Human Rights and Equality Commission Bill were published in June 2012. At the time of their publication the Equality and Rights Alliance (ERA) [issued its observations](#) regarding the amendments required to strengthen the Bill to ensure the establishment of an effective and independent Irish Human Rights and Equality Commission (IHREC) and to ensure the creation of a national human rights and equality body that is fully compliant with international standards.

2. ERA welcomes that a number of amendments sought in the Heads of Bill have been reflected in the IHREC Bill 2014. In particular we welcome:

- the removal of the narrow definition of equality;
- the removal of Head 17, thus allowing the Commission to appoint its own Director;
- the removal of the proposed application of a ‘sliding scale’ to the Commission’s enforcement powers and functions;
- the inclusion of conditions regarding the necessary expertise of the panel appointed by the Public Appointments Service to appoint Commissioners; and
- the inclusion of a specific reference to engagement between the IHREC and civil society.

### Effectiveness and Independence

3. The two fundamental standards recognised internationally as the key benchmarks for human rights and equality institutions are: independence and effectiveness. Independence depends, inter alia, on the process of appointing the Board and the staff, the accountability established for the body, and its freedom from government influence. Effectiveness depends, inter alia, on the resources provided to the body and the functions and powers accorded to the body. ERA has identified a number of areas, set out below, where the IHREC Bill 2014 requires further amendment to ensure the independence and effectiveness of the IHREC.

4. The Irish Human Rights and Equality Commission Bill offers new potential to the work of protecting and fulfilling human rights and combating discrimination and promoting equality. This is most evident in the new provisions in relation to a duty on public bodies to have regard to equality in carrying out their functions. ERA has

identified a number of areas where the IHREC Bill 2014 requires further amendment to strengthen the IHREC and to ensure that the IHREC can achieve its full potential. It could be further evident if provision was made to address already documented impediments in the equality legislation (see section 31 below).

### **International standards relating to equality bodies and NHRIs**

5. The UN Paris Principles provide a set of standards for the effective and independent functioning of National Human Rights Institutions (NHRI), against which NHRIs are measured for accreditation by the UN Sub-Committee on Accreditation.<sup>1</sup> The EU requires Member States to establish an independent equality body, under the EU Race Directive 2000/43/EC.

6. The Minister for Justice and Equality has reiterated his commitment to ensuring that the established IHREC is fully compliant with the UN Paris Principles and to “*ensuring that we have the best possible statutory architecture for the protection of and respect for human rights and equality rights, which reflect the principles of our own Constitution and our obligations as a member of the international community*”. ERA has identified a number of areas where the IHREC Bill 2014 requires further amendment to ensure that the IHREC is fully compliant with the UN Paris Principles. These are set out in paragraphs 14 to 19 below with recommendations for amendment.

## **Part 1 of IHREC Bill: Preliminary and General**

### **Bill Title**

7. The short title of the IHREC Bill 2014 contains limited detail regarding the provisions of the Bill, in comparison to the Equal Status Act 2000 and the Employment Equality Act 1998 which contain specific detail regarding the focus of those Acts. The detail contained in a Bill title has some significance as it is sometimes looked at to aid interpretation. In circumstances where there are concerns that the merging of the Equality Authority and the Irish Human Rights Commission (IHRC) may lead to a reduced focus on equality and/or human rights, rather than a more streamlined approach, it is important that the Bill title contain more detail.

**Recommendation:** The IHREC Bill title should contain specific detail regarding the provisions of the Bill in relation to promoting equality, prohibiting discrimination and protecting and fulfilling human rights. The title could also usefully reflect that the IHREC will become Ireland’s specialised equality body, as required under EU equal treatment directives.

### **Interpretation**

8. The definitions contained in Section 2 of the Bill do not include a definition of “functions”. The Employment Equality Act 1998 defines “functions” as being inclusive of “*powers and duties*”.<sup>2</sup> The Human Rights Commission Act 2000 defines “functions”

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<sup>1</sup> The Irish Human Rights Commission was awarded an A-status rating from the UN in 2008. Ireland’s re-accreditation has been postponed by the UN, to allow for the establishment of the IHREC.

<sup>2</sup> Employment Equality Act 1998 S2(1)

as inclusive of “ *powers and duties and references to the performance of functions includes, as respects powers and duties, references to the exercise of the powers and the carrying out of the duties* ”<sup>3</sup>. It would be important that the IHREC Bill contain a definition of “functions”, particularly in furtherance of correct interpretation of Section 44(1) of the Bill which notes that “*all functions that, immediately before the establishment day, were vested in a dissolved body are transferred to the Commission*”.

**Recommendation:** The IHREC Bill, Section 2, should include a definition of “functions” as per the definitions contained in the Human Rights Commission Act 2000 and the Employment Equality Act 1998.

## **Part 2 of the IHREC Bill: Irish Human Rights and Equality Commission**

### **Functions of the IHREC**

9. Section 10 of the Bill, outlining the functions of the IHREC, provides that a function of the Commission shall be “*to work towards the elimination of human rights abuses, discrimination and prohibited conduct, while respecting the diversity and the freedom and dignity of each person*”.<sup>4</sup> The saver “*while respecting the diversity and the freedom and dignity of each person*” may represent a diminution of the current functions of the Equality Authority and the Irish Human Rights Commission as no such saver exists in the current legislation. An interpretation of this saver could, for example, interpret the “freedom of each person” to include the freedom to discriminate.

**Recommendation:** Section 10 (1)(e) should be amended to remove the saver “*while respecting the diversity and freedom of each person*”

10. Section 10 has no reference to what is a key function of the Commission, that of holding the State to account on equality and human rights issues.

**Recommendation:** That Section 10 includes a reference to the duty of the Commission to hold the State to account on human rights and equality issues.

11. Section 10(2)(e) refers to the power of the IHREC to apply to the High Court or Supreme Court for liberty to appear before those courts as *amicus curiae*. Given that the majority of cases under the Equality legislation are taken before the Equality Tribunal and Labour Court (soon to be Workplace Relations Commission) and that such cases may be referred to the Court of Justice by the Equality Tribunal and the Labour Court it would be important that the IHREC would have power to apply to appear as *amicus curiae* before these bodies and also the District Court and Circuit Court (in cases under the Equality Legislation and including the Intoxicating Liquor Act 2003).

**Recommendation:** Section 10(2) should be amended to enable the IHREC to also apply to the Equality Tribunal, the Labour Court, the District Court, and the Circuit Court for liberty to appear before them as *amicus curiae*.

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<sup>3</sup> Human Rights Commission Act 2000 S1(1)

<sup>4</sup> IHREC Bill Section 10(1)(e)

## **Appointment of Director**

12. Section 20(4) of the Bill, referring to the Director of the Commission, notes that “*the Commission may designate a person to be appointed the first Director*”. There is no reference to subsequent appointments in the Bill, nor is there reference to the need for the Commission to conduct an open, transparent appointment process for this key role.

**Recommendation:** That Section 20 is amended to include a reference to the process of appointment of the Director of the Commission, including a provision regarding a requirement for an open transparent recruitment process.

## **Role of Chief Commissioner**

13. Section 21 of the Bill outlines the role and functions of the IHREC Director. However, there is no similar detail regarding the proposed role and functions of the Chief Commissioner. The report of the working group on the Irish Human Rights and Equality Commission, to the Minister for Justice, notes the importance of the Chief Commissioner role and advises of the need for clarity regarding the proposed role of the Chief Commissioner including: accountability of the Director; the setting of performance targets and indicators for the Director; and providing policy guidance and direction.<sup>5</sup>

**Recommendation:** Part 2 of the Bill should include a section on the role and functions of the Chief Commissioner. This should include to: lead the delivery of the mission of the IHREC; ensure effective operation of the IHREC Board; maintain key relationships for the IHREC; ensure robust governance within the IHREC; and ensure accountability of the Director and executive.

## **Financial and Reporting Accountability of the IHREC**

14. The UN Paris Principles establish that an NHRI should be independent from government, should report directly to Parliament and should not be subject to financial controls which might affect its independence. The UN Belgrade Principles on the relationship between NHRIs and Parliaments state that NHRIs should report directly to Parliaments, and that Parliaments should have a role in agreeing the annual budgets of NHRIs and “*should ensure that NHRIs have sufficient resources to perform the functions assigned to them by the founding law*”.<sup>6</sup> The UN Sub-Committee on Accreditation states that “*financial systems should be such that the NHRI has complete financial autonomy. There should be a separate budget line over which it has absolute management and control*”.<sup>7</sup>

15. The UN Office of the High Commissioner submitted observations to the Minister for Justice and Equality on the Heads of the IHREC Bill, drawing attention to the need for the provisions of the Bill to have coherence with standards set out in both the UN Paris

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<sup>5</sup> April 2012 “Working Group on the Irish Human Rights and Equality Commission” Report to the Minister for Justice, Equality and Defence. pg 61

<sup>6</sup> Belgrade Principles on the Relationship Between National Human Rights Institutions and Parliaments (Belgrade 22-23 February 2012) sec B (9)

<sup>7</sup> UN Sub Committee on Accreditation General Observations 2.6 on Adequate Funding.

Principles and the UN Belgrade Principles.<sup>8</sup> The correspondence from the UN OHCHR in particular noted concern that “*some provisions of the General Scheme may undermine the financial autonomy of the new IHREC*”.<sup>9</sup>

16. The IHREC Bill cedes considerable financial control to the Minister for Justice regarding the financial resourcing of the IHREC and its financial accountability. Section 26 provides that the Minister for Justice may advance to the Commission “*such sums as appear to the Minister, with the consent of the Minister for Public Expenditure and Reform, to be reasonably sufficient for the purposes of expenditure by the Commission in the performance of its duties*”. This wording is problematic in terms of independence. This section effectively allows for the budget of the IHREC to be reduced by the Minister for Justice, without any Oireachtas oversight. Such a situation would leave the IHREC vulnerable to another abrupt cut to its funding such as the situation that arose in 2008 when the budgets of both the IHRC and the Equality Authority were subject to disproportionate cuts by the then Minister for Justice.

17. This wording also represents a diminution on the previous wording in the Heads of Bill which stated that “*the Commission shall be provided with sufficient resources to ensure that it can carry out each of its functions effectively*”.<sup>10</sup>

**Recommendations:** The IHREC Bill should be amended to:

- reflect the wording in Head 28 of the Heads of the IHREC Bill 2012 regarding sufficient resourcing of the IHREC,
- strengthen the financial autonomy of the Commission by way of ensuring that the resources allocated to the Commission (to such extent as may be sanctioned by the Minister for Finance) be paid out of moneys provided by the Oireachtas in a manner that replicates provision for the funding of the Office of the Ombudsman and the Office of the Ombudsman for Children.<sup>11</sup>

18. The IHREC Bill provides that the Commission will continue to report directly to the Minister for Justice and Equality. Section 28(1) provides for the Commission to “*prepare a report on its activities during that year, and the Commission shall as soon as may be after preparing the report, cause copies to be laid before each House of the Oireachtas*”. Section 25(4) provides that the Commission will lay its prepared strategic plan before the Houses of the Oireachtas. These provisions provide for merely a symbolic reporting of the Commission to the Oireachtas and it is regrettable that the recommendations of international human rights bodies, that the IHREC should be directly accountable to Parliament, have been ignored.<sup>12</sup>

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<sup>8</sup> Correspondence from the Deputy High Commissioner for Human Rights, to the Minister for Justice, July 16 2012, obtained under the Freedom of Information Act.

<sup>9</sup> IBID correspondence notes that the IHREC should have a separate budget line over which “it has absolute management and control”.

<sup>10</sup> Heads of IHREC Bill May 2012. Head 28 (2)

<sup>11</sup> S11 of the Ombudsman Act 1980 and S3 of the Ombudsman for Children Act 2002.

<sup>12</sup> ERA has [compiled a summary of UN and Council of Europe recommendations](#) to the Irish Govt in this regard . See for example: UN International Covenant on Civil and Political Rights, concluding observations of the Human Rights Committee 30 July 2008 CCPR/C/IRL/CO/3 (concluding Ob 7) ; Concluding observations of the UN Committee against Torture June 2011 (concluding Ob 8); Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Ireland from 1 to 2 June 2011 (“*the Commissioner recommends promoting the independence of the Irish Human Rights Commission (IHRC) by detaching it from the executive and submitting it to direct parliamentary control, including as regards its budget*”) : Report of the Special

19. In addition to the recommendations of international human rights bodies, the UN ICC Sub-Committee on Accreditation, the body responsible for the accreditation of NHRIs under the UN Paris Principles, recommended accountability of the Irish body to parliament, as part of its commentary during the 2008 assessment of the IHRC for accreditation.<sup>13</sup> As noted previously, the Minister has committed to ensuring that the IHREC is fully compliant with the UN Paris Principles. It is likely that the continued linkage of the IHREC to the Department of Justice and Equality will be scrutinized during Ireland's accreditation process by the ICC Sub-Committee of the IHREC, scheduled for 2014/15.

### **Recommendations:**

- The IHREC should account to the Oireachtas, in a manner as pertains for the Office of the Ombudsman. It should not account to a single government department as is set out in the Bill.
- Section 28 regarding the annual reporting of the Commission to the Oireachtas should be amended to include reference to a designated Oireachtas Committee having responsibility to discuss and debate the priority issues of the Commission and its budget proposals in a manner that ensures the independence and effectiveness of the body.

### **Part 3 of IHREC Bill: Enforcement**

#### **Definitions for the purposes of Part 3**

20. There are two definitions of human rights in the IHREC Bill. A broad definition of human rights is contained in Part 1 and applies to all parts of the Bill with the exception of Part 3 (dealing with the enforcement powers and functions of the Commission).<sup>14</sup> The narrower definition, Section 29, refers to those rights guaranteed by the Constitution or enshrined in law within the State and is proposed to apply to all of the enforcement powers of the Commission outlined in part 3<sup>15</sup>: codes of practice; provision of legal and other assistance to individuals (including advice and information); instituting legal proceedings in own name; preparing guidelines for best practice in relation to human rights and equality; inquiries<sup>16</sup>; compliance notices; and the public sector duty.

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Rapporteur on the situation of human rights defenders, Margaret Sekaggya, following her visit to Ireland Nov 2012 (PARA 48): List of issues (for the Irish Government to respond to in relation to the fourth periodic report of Ireland under the ICCPR in July 2014 (s3(a) requires detail regarding the manner in which the IHREC will report directly to parliament).

<sup>13</sup> UN ICC Sub-Committee on Accreditation, General Observations page 7

[http://nhri.ohchr.org/EN/AboutUs/ICCAccreditation/Documents/2008\\_November%20SCA%20Report.pdf](http://nhri.ohchr.org/EN/AboutUs/ICCAccreditation/Documents/2008_November%20SCA%20Report.pdf)

<sup>14</sup> The broad definition refers to human rights conferred or guaranteed: in the Constitution; by any treaty, agreement or convention to which the State is a party; and as may reasonably be inferred as being inherent in persons as human beings and necessary to enable each person to live with dignity and participate in the economic, social or cultural life of the State.

<sup>15</sup> The narrower definition does not appear to apply to the amicus curiae role of the IHRC, referenced in a separate section to that of the enforcement functions.

<sup>16</sup> The IHRC in its observations on the Heads of the IHREC Bill 2012 (para 126), has noted that had a narrower definition of human rights (as proposed in this Bill) applied under the Human Rights Commission Act 2000, then it is unlikely that any of the inquiries carried out by the IHRC would have been undertaken.

21. The proposal to apply this narrower definition of human rights to *all* of the enforcement powers and functions of the IHREC would represent a diminution of the current powers of the IHRC. The definition of human rights in the Irish Human Rights Commission Act 2000<sup>17</sup> is a similarly broad definition as that proposed in part 1 of the IHREC Bill, and this definition applies to all of the current functions of the IHREC, other than the power to institute legal proceedings.<sup>18</sup> It is acknowledged that the enforcement functions as outlined in Section 41 (institution of legal proceedings by the Commission) and in Sections 36 to 39 (relating to the issuing and appeal of compliance notices pursuant to an inquiry by the Commission) should appropriately pertain to those human rights which have force of law in the State. The remaining powers in Part 3 should not, however, be subject to this narrower definition.

**Recommendation:** The broad definition of human rights, as outlined in part 1 of the IHREC Bill, should apply to all of the legal and enforcement powers of the IHREC, with the exception of Section 41 and Sections 36 to 39 inclusive.

### **Provision of Information to the Public**

22. Section 30 1(a) provides that the Commission shall “*provide information to the public and keep under review the effectiveness of any enactments relating to the protection and promotion of human rights and equality*”. A similar function is also noted in the Bill in Section 10 2(a) which provides that a function of the Commission shall be “*to provide information to the public in relation to human rights and equality generally including information in respect of the enactments to which section 30 refers*”. The function to provide information to the public is, therefore, split between two sections of the Bill to which different definitions of human rights (as outlined in above) are applicable.

**Recommendation:** The provision of information function should be retained under Section 10 2(a).

### **Public Bodies**

23. Section 42 of the Bill introduces a new public sector duty. This is a welcome and important evolution of the equality and human rights legislative framework. The introduction of such a provision advances the State’s commitment to fulfilling the requirement for an equivalence of protection of rights with Northern Ireland established in the Belfast/Good Friday Agreement 1998. It enables a coherent approach to equality and human rights across the public sector.

24. The duty set out in the Bill requires public bodies to “*have regard to*” the need to eliminate discrimination, promote equality of opportunity and protect the human rights of its employees and service users. The duty states: “*a public body shall, having regard to the functions and purpose of the body and to its size and the resources available to it— (a) set out in a manner that is accessible to the public in its strategic plan (howsoever described) an assessment of the human rights and equality issues it believes to be relevant to the functions and purpose of the body and the policies, plans and actions in*

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<sup>17</sup> Irish Human Rights Commission Act 2000 S2

<sup>18</sup> Irish Human Rights Commission Act 2000 S11

*place or proposed to be put in place to address these issues, and (b) report in a manner that is accessible to the public on developments and achievements in that regard in its annual report (howsoever described)”. The duty, therefore, as set out in the Bill is structured primarily in terms of adhering to procedures rather than in terms of achieving progressive equality and human rights outcomes. The Bill provides that the IHREC may issue guidelines or codes of practice to a public body regarding this duty and may carry out a review of the operation of the duty by public bodies.*

25. The learning from other jurisdictions where public sector duties operate points up that a number of amendments are required to ensure that this proposed duty is to be effective.<sup>19</sup> In making recommendations on this provision, ERA has considered an approach which would place fewer procedural requirements on public bodies, yet would be sufficiently robust to ensure that the duty it is more outcomes focused in terms of advancing equality and human rights, effective in mainstreaming an approach to equality and human rights within public authorities, and containing an enforcement mechanism to ensure compliance by public bodies.

**Recommendation:** Section 42 should be amended to strengthen the public sector duty as follows:

- The definition of a ‘public body’ should be broadened to include schools.
- The public sector duty should be more specific in its requirement on public bodies to reference their proposals regarding equality and human rights in strategic plan and annual reports by specifically requiring the preparation of, and reporting on, an equality and human rights scheme that sets out their approach to protecting and fulfilling human rights and promoting equality and combating discrimination.<sup>20</sup>
- In complying with the duty, public bodies should be specifically required to carry out an equality and human rights impact assessment on new policies, programmes and proposals in relation to budgeting and resource allocation.
- Where a public body has failed to comply with the provisions of the duty , the IHREC should have the power to issue a notice requiring that the body:
  - Comply with the duty, and
  - Give the Commission, within 28 days beginning with the date on which the authority **or person** receives the notice, written information of steps taken or proposed to be taken for the purpose of complying with the duty.

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<sup>19</sup> The s. 75 duty in Northern Ireland imposes more onerous reporting duties on public authorities than is the case with the s. 149 duty in Britain. The UK Duty is also considered to be more outcome focused than the NI duty. The duties in Norway and Canada are largely considered to be too vague and therefore less effective in mainstreaming an approach to equality within public authorities.

<sup>20</sup> Equality and human rights schemes would focus on (a) Assessing and consulting on policies adopted or proposed to be adopted for their likely impact on: the elimination discrimination, harassment and victimization; the advancement of equality; and the protection and fulfillment of human rights;(b) Monitoring, consulting on, and addressing any adverse impact on equality and human rights of policies adopted by the public body;

- In fulfilling their obligations under this duty, a public body should be required to consult persons who are likely to be affected by the scheme, in accordance with guidelines issued by the Irish Human Rights and Equality Commission.

**26. Equality Reviews and Action Plans:** Section 32 of the Bill allows for the IHREC to undertake equality reviews and action plans (as currently pertain under equality legislation). In terms of leveling-up the powers and functions of the IHREC across its equality and human rights functions, it is important that this power also extends to the human rights mandate of the Commission.

**Recommendation:** Section 32 should be amended to include the power to conduct equality and human rights reviews and action plans.

**27. Inquiries:** Section 35 provides for the Commission to conduct inquiries, continuing existing powers of the Equality Authority and the IHRC. However, there are new pre-conditions in the Bill, all of which must be satisfied before an inquiry can be embarked upon by the IHREC. These pre-conditions require that the Commission considers that:

- (a) there is, in any body (whether public or otherwise) institution, sector of society, or geographical area, evidence of—
  - (i) a serious violation of human rights or equality of treatment obligations in respect of a person or a class of persons, or
  - (ii) a systemic failure to comply with human rights or equality of treatment obligations, and
- (b) the matter is of grave public concern, and
- (c) it is in the circumstances necessary and appropriate so to do.

28. The explanatory memorandum to the IHREC Bill outlines that the inquiry function, as outlined in Section 35, has been re-designed to align it with the Commission of Investigation Act 2004. The only pre-condition required to be met in the latter Act, however, is that matter to be investigated must be considered “*to be of significant public concern*”.<sup>21</sup>

29. The pre-conditions in Section 35 of the Bill represent a significant departure from the current requirements to conduct an inquiry as pertaining to the powers of the IHRC and the Equality Authority, where no such onerous preconditions exist.<sup>22</sup> Furthermore, they

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<sup>21</sup> Commission of Investigation Act 2004 S3(1)(a)

<sup>22</sup> The provisions of the Employment Equality Act (S58) regarding the conducting of an inquiry, note that the Equality Authority “*may, for any purpose connected with the performance of its functions, conduct an inquiry, and shall do so where required by the Minister.*” The only preconditions that apply (S58(4)) are that the Authority must draw up terms of reference for the inquiry or in consultation with the Minister (where the Minister has requested an inquiry) draw up terms of reference; and must advertise its intention to conduct an inquiry.

The provisions of the Irish Human Rights Commission Act 2000 (S9) regarding enquiries, provide that: the Commission may conduct an inquiry of its own volition or at the request of a person “*if it considers it necessary or expedient to do so for the purpose of the performance of any of its functions*” . The only preconditions that apply are: the Commission may refuse to conduct an enquiry if it is of opinion that the matter could be dealt with or has already been dealt with, more appropriately by the institution of legal proceedings; if the Commission is of opinion, or, as the case may be, it becomes, during the course of the enquiry, of the opinion, that—(a) the matter to which the request relates (“the matter concerned”) is trivial or vexatious or any alleged violation of human rights concerned is manifestly unfounded, or(b) the person making the request has an insufficient interest in the matter concerned.

are likely to prove unworkable. The purpose of an inquiry is, ostensibly, to establish if there is, or has been, serious violation of human rights or equality of treatment, or a systemic failure to comply with human rights or equality of treatment obligations. It is unlikely therefore, that there would already be evidence of such failures *before* an inquiry has been conducted. In addition, the requirement to show that the matter is “*of grave public concern*” as a pre-condition, defeats the unique nature of an inquiry which is to investigate matters that may be hidden or where there is such vulnerability that the matters will never be exposed as matters of grave public concern unless by way of inquiry.

**Recommendation:** Section 35(1) should be amended such that the Commission should be empowered to carry out an inquiry where the Commission considers there has been a breach of human rights or equal treatment, **or** a systemic failure to comply with human rights and equal treatment obligations **or** a matter of grave public concern is involved.

### **Legal and other assistance**

30. Section 40 of the Bill refers to the powers of the Commission to provide legal assistance to individuals. Section 40(3)(a) provides for the re-enactment of section 10(3)(a) of the Human Rights Commission Act 2000, whereby it is a precondition of the exercise of its discretion, in granting legal assistance, that the Commission shall consider whether the assistance sought could be obtained under civil or criminal legal aid. The operation of this criterion over the last decade provides evidence of a significant restriction in the ability of the IHRC to provide legal assistance.

**Recommendation:** Section 40 (3)(a) of the Bill should be deleted.

### **Final Recommendation**

31. The IHREC Bill offers welcome synergy across the human rights and equality mandates of the IHREC. This will allow for greater coherence in the promotion of equality and human rights and prohibition of discrimination. The inclusion of a public sector duty is a welcome evolution in the development of the equality and human rights legislative framework. However, the IHREC Bill misses an important opportunity to address some of the weaknesses inherent in current equality legislation. These include, but are not limited to the need to:

- broaden the protected equality grounds to include other groups experiencing high levels of discrimination in particular on the ground of gender identity and socio-economic status,
- delete the general exemption in S14 of the Equal Status Acts 2000-2011 providing that nothing shall prohibit the taking of any action that is required under statutory provision,
- delete the exemption in relation to ‘non-nationals’ in S14 of the Equal Status Acts 2000-2011, whereby any action by a public authority or Minister in relation to certain categories of non-Irish nationals is permissible, and
- remove Section 37(1) of the Employment Equality Acts 1998-2011 that allows a broad exemption on the basis of religious ethos to certain religious, educational or

medical institutions. This offers considerable scope to discriminate against employees or potential employees, in particular on the grounds of gender, family status, and sexual orientation.

**Recommendation:** That additional provisions are made to address documented issues with the operation of the current equality legislation.