

EQUALITY AND RIGHTS ALLIANCE

CIVIL SOCIETY GUIDE TO THE PUBLIC SECTOR DUTY

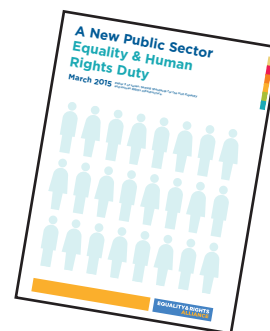


EQUALITY
& RIGHTS
ALLIANCE

PUBLIC SECTOR DUTY WHAT IS IT?



This is an Easy-to-Read introduction to the ERA Public Sector Duty Booklet. There is more information in that booklet.



What is a Public Sector Duty?

This means that public bodies must take steps to

- promote equality
- protect human rights
- stop discrimination from happening

What is a public body?

This means that public bodies must take steps to

Public bodies include:

- All Government Departments (e.g. the Department of Health etc) but not the Department of Defence
- Local authorities (e.g. city and county councils)
- The Health Service Executive (HSE)
- Education and Training Boards (ETB)
- Public bodies set up or funded by the Government

Rights

What should public bodies do?

- See what the human rights and equality issues are for their work
- Put in place a plan fix these issues
- Put together a report on how things are going

Who monitors the duty?

The Irish Human Rights and Equality Commission can help public bodies and can also check how well they are getting on.

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

Introduction

This booklet aims to support Civil Society organisations to make use of the new Public Sector Duty in their work for equality. It looks at:

- What the Public Sector Duty is.
- How it could be implemented.
- What Civil Society could do to promote implementation of the Public Sector Duty.

It provides some draft letters that can be used in order to build momentum for implementing the Public Sector Duty

This booklet has been developed by the Equality and Rights Alliance Public Sector Duty Working Group. It will hopefully support a shared, grassroots analysis of the potential in this Public Sector Duty and how this potential might be realised. It is based on the Values-Based Approach to implementing an Equality and Human Rights Public Sector Duty developed by the Equality and Rights Alliance.

The Public Sector Duty

What is the Public Sector Duty?

The Irish Human Rights and Equality Commission Act 2014 introduced a duty on the public sector that should bring a focus on non-discrimination, equality and human rights centre-stage in their planning, policy-making, employment, service provision and procurement. It is a legal requirement that requires public bodies to have regard to the need to promote equality, protect human rights and prohibit discrimination for employees and people accessing public services in carrying out their functions.

The Irish Human Rights Equality Commission Act 2014 (Section 42)

- (1) A public body shall, in the performance of its functions, have regard to the need to —
 - (a) eliminate discrimination,
 - (b) promote equality of opportunity and treatment of its staff and the persons to whom it provides services, and
 - (c) protect the human rights of its members, staff and the persons to whom it provides services.

What are Public Bodies required to do under the Act?

Public bodies, as part of their strategic planning (or similar exercise) have to:

- Carry out an assessment of the human rights and equality issues relevant to their functions
- Identify the policies, plans and actions they have in place, or propose to implement, to address these issues.

Public bodies, as part of their annual reports (or similar exercise) have to:

- Report on developments and achievements in relation to their action on these equality and human rights issues in their annual reports (or equivalent report).

The Irish Human Rights Equality Commission Act 2014 (Section 42)

- (2) For the purposes of giving effect to subsection (1), a public body shall, having regard to the functions and purpose of the body and to its size and the resources available to it—
 - (a) set out in a manner that is accessible to the public in its strategic plan (howsoever described) an assessment of the human rights and equality issues it believes to be relevant to the functions and purpose of the body and the policies, plans and actions in place or proposed to be put in place to address those issues, and
 - (b) report in a manner that is accessible to the public on developments and achievements in that regard in its annual report (howsoever described).

What is IHREC's role in relation to Public Sector Duty?

What is the role of the Irish Human Rights and Equality Commission in relation to the Public Sector Duty?

The Irish Human Rights Commission is accorded a range of roles in encouraging and supporting the implementation of the Public Sector Duty including issuing guidelines and codes of practice. It is also accorded roles in dealing with public bodies who fail to implement the Public Sector Duty by inviting them to conduct an equality and human rights review and action plan for equality and human rights.

The Irish Human Rights Equality Commission Act 2014 (Section 42)

- (3) In assisting public bodies to perform their functions in a manner consistent with subsection (1), the Commission may give guidance to and encourage public bodies in developing policies of, and exercising, good practice and operational standards in relation to, human rights and equality.
- (4) Without prejudice to the generality of subsection (3), the Commission may—
 - (a) issue guidelines, or
 - (b) prepare codes of practice in accordance with section 31, in respect of the development by public bodies of performance measures, operational standards and written preventative strategies for the purpose of reducing discrimination and promoting human rights and equality in the public sector workplace and in the provision of services to the public.
- (5) Where the Commission considers that there is evidence of a failure by a public body to perform its functions in a manner consistent with subsection (1) and that it is appropriate in all the circumstances to do so, the Commission may invite the public body to—
 - (a) carry out a review in relation to the performance by that body of its functions having regard to subsection (1), or
 - (b) prepare and implement an action plan in relation to the performance by that body of its functions having regard to subsection (1), or both.


What Public Bodies are covered under the Act?

All Government Departments, except the Department of Defence and the defence forces, are included. Local authorities, the Health Service Executive, Education and Training Boards, and public bodies established under an enactment or charter or any scheme administered by Government and financed wholly or partly by Government are also included.

What Impact could the Public Sector Duty have?

The public sector duty requires public bodies to move beyond a reactive approach to equality and human rights issues to also pursue a proactive approach. Legislation to date has required them to address issues of discrimination and human rights violations after they had occurred. A Public Sector Duty requires them to plan to avoid such issues in a proactive manner. It requires them to plan for more ambitious goals beyond the elimination of discrimination and human rights violations and to work for equality and the fulfilment of human rights.

Public Sector Duties in other jurisdictions, such as Britain and Northern Ireland have been found to hold great potential for the public bodies themselves and for those groups experiencing inequality and human rights violations. These include:

- 
- Public Sector Duties have driven cultural change in public bodies. Equality and human rights are valued and become an ongoing concern and priority for staff as they go about their work. Equality and human rights are no longer something “extra” to the work of the organisation but just part of their daily concern.
 - Public Sector Duties have achieved benefit and improved outcomes for employees of public sector bodies and their service users and policy beneficiaries.
 - Public Sector Duties make policy making more effective in ensuring policy is designed in a way that can engage and benefit the full diversity of the stated target group. Public Sector Duties drive policy-making that achieves better value for money.
 - Public Sector Duties reduce instances of discrimination and human rights violations and the negative experiences and the conflicts and institutional damage these involve.
 - Public Sector Duties lead to policy that is more evidence-based. They contribute to greater transparency in policy-making by involving those who experience inequality and human rights violations. They contribute to improved relationships across all stakeholders.

If the Public Sector Duty is to achieve this potential, its implementation needs to be planned, supported and resourced. Investment in implementing the Public Sector Duty in other jurisdictions has proven to be good value.

Implementing The Public Sector Duty

A Values-Based Approach to Equality and Human Rights

Values held at the level of an organisation shape how that organisation sets priorities and implements its functions. Values can underpin and drive an organisation's ambition to eliminate discrimination, achieve equality and fulfil human rights. Values, therefore, could be very useful for implementing a process such as the Public Sector Duty.

Values also serve to integrate the equality and human rights dimensions to the Public Sector Duty. The valuing of human worth underpins both equality and human rights. There are a set of values that connect and give expression to equality and human rights if they are held and promoted within an organisation. These have been identified by the Equality and Rights Alliance as:

- Autonomy:** A value that encompasses choice, agency, freedom, self-determination, and the absence of coercion.
- Democracy:** A value that encompasses participation, voice, empowerment, and accountability from those in power.
- Dignity:** A value that encompasses respect, relationships of care and love, human worth, and the absence of inhumane and degrading treatment, harassment and discrimination.
- Inclusion:** A value that encompasses a sense of belonging and community, interdependence, collective responsibility and a valuing of diversity.
- Social Justice:** A value that encompasses redistribution of wealth, income, jobs and social goods such as housing, health and education

These five values serve as a starting point for public bodies to implement the Public Sector Duty.

A Values-Based Approach to Implementing the Public Sector Duty?

There are few examples of how public bodies are implementing the Public Sector Duty and no published guidance. Two examples are set out below along with an example from civil society. Civil society needs to champion the Public Sector Duty as well as offering public bodies an approach to its implementation. The approach being promoted by the Equality and Rights Alliance involves:



A. Create the Conditions

Public bodies should:

- Establish a working group drawn from senior management across its different functions to oversee and drive the process of implementing the Public Sector Duty.
- Provide training to working group members and key relevant staff on equality and human rights issues and on the implementation of the Public Sector Duty.
- Establish data systems to ensure systematic data gathering in relation to the affected groups and indicators must be established to ensure that progress on equality and human rights issues can be tracked and monitored over time.
- Establish contacts and systems to secure participation by organisations representing groups experiencing inequality and human rights violations in the process.

B. Establish the Organisational Values for Equality and Human Rights

Public bodies should:

- Identify and agree the equality and human rights values held by the organisation and that will be used to shape implementation of the Public Sector Duty. The five values identified by the Equality and Rights Alliance could be considered.
- Develop agreed definitions for each of these values.

C. Prepare an Equality and Human Rights Statement

Public bodies should:

- Gather and analyse relevant data across the nine grounds covered by the equality legislation and a socio-economic status ground.
- Identify an objective under each value that the organisation would want to achieve for each of its functions as a policy maker, employer, service provider and procurer of goods and services.
- For each of these objectives, establish the pertinent equality and human rights issues that the organisation needs to address in its work through each of these four functions.
- Ensure participation by organisations representing groups experiencing inequality and human rights violations.

D. Deploy the Equality and Human Rights Statement

Public bodies should:

- Deploy the equality and human rights statement in:
 - Preparing the strategic plan of the organisation or similar exercise;
 - Managing the work of the organisation;
 - Reporting on and evaluating implementation of functions of policy-making, service provision, employment, and procurement of the organisation.
 - Conducting employment equality and human rights reviews within the organisation.
 - Conducting service provision equality and human rights reviews for the organisation.
 - Implementing equality and human rights impact assessments on key policies and plans.

Exemplars

The Wexford Children and Young People Services Committee

Wexford Children and Young People Services Committee (WCYPSC), as with similar structures established around the country are charged with planning and coordinating services to children and young people with a view to improving outcomes from these. They must prepare and implement a three year children and young people's plan.

In developing their plan, the WCYPSC were conscious of the need to implement the Public Sector Duty. They prepared an Equality and Human Rights Statement for this purpose. This is available at:

http://www.cypsc.ie/_fileupload/Documents/Resources/Wexford/Wexford_Equality_and_Human_Rights_Statement.pdf

Meath County Council Local Community Development Committee

The Meath Local Community Development Committee, as with other similar structures around the country, were charged with developing the community element of the Local Economic and Community Plan (LECP) for the County. In doing so, they were conscious of their obligations under the Irish Human Rights and Equality Commission Act. They prepared an Equality and Human Rights Statement to guide and shape their planning. This is available at:

<http://www.meath.ie/Community/CommunityDevelopment/LocalEconomicandCommunityPlan/File,61352,en.doc>

Inclusion Ireland

Inclusion Ireland sought to promote the implementation of the Public Sector Duty in the services that they were engaging with to promote equality and human rights for people with disabilities. They decided to serve as an example themselves by applying the public sector duty within their own strategic planning process. To this end they prepared an equality and human rights statement. This is available at:

<http://www.inclusionireland.ie/sites/default/files/attach/book-page/508/inclusion-ireland-equality-human-rights-statement.pdf>

The Public Sector Duty and Civil Society

What can Civil Society Organisations do in relation to Public Sector Duty?

Civil society organisations need to:

- **Create** awareness within our organisations (staff, management, volunteers and those who access our organisations) about the Public Sector Duty, what it is, how it might have a positive impact, and how it could be implemented.
- **Create** demand for the implementation of the Public Sector Duty by public bodies that they interact with. This advocacy could usefully promote the values-based approach.
- **Build** links with other civil society organisations who are working on other equality and human rights issues and a collective voice behind a shared analysis on what Public Sector Duty should achieve and how it should be implemented.
- **Offer** expertise to Public Bodies on a range of equality and human rights issues which Public Bodies need to be aware of and address in order to fulfil their Public Sector Duty.
- **Contact** the Irish Human Rights Equality Commission and ask them to use their powers in relation to Public Sector Duty when a public body has failed to implement the Public Sector Duty.

Find Out more

Read the Equality and Rights Alliance paper: "A New Public Sector Equality & Human Rights Duty"

<http://www.eracampaign.org/uploads/A%20New%20Public%20Sector%20Duty%20March%202015.pdf>

Read the Values Lab paper: "A values based approach to incorporate an equality and human rights focus in work with children and young people"

<http://www.values-lab.ie/resources/Social%20Work%20Conf%20Paper.pdf>

Read the IHREC information leaflet on Public Sector Duty

https://www.ihrec.ie/app/uploads/2016/09/ihrec_public_duty_booklet.pdf

Keep informed: join ERA discussions on Public Sector Duty (see www.eracampaign.org)

Resources

ERA has developed some draft documents for civil society groups which may be useful for creating demand for Public Sector Duty. They are a draft letter to a public body, a draft letter to a local union and a draft motion to be raised by a supportive politician at local authority level.

Draft letter/email to public body

To whom it may concern

We are contacting you in relation to Public Sector Duty and to see how your organisation intends to meet the requirements of the Irish Human Rights and Equality Commission Act 2014, who will lead it internally, what your timeframe for implementing it will be and to offer our organisations support to be part of any processes to include the voices of rights holders and people who face discrimination.

Section 42 of the Irish Human Rights and Equality Commission Act 2014 requires public bodies to have regard, in carrying out their functions, to the need to eliminate discrimination, promote equality of opportunity and treatment for staff and service users, and protect the human rights of staff and service users. Specifically the Act requires public bodies in giving effect to this duty to:

- a "set out in a manner that is accessible to the public in its strategic plan (howsoever described) an assessment of the human rights and equality issues it believes to be relevant to the functions and purpose of the body and the policies, plans and actions in place or proposed to be put in place to address those issues, and
- b report in a manner that is accessible to the public on developments and achievements in that regard in its annual report (howsoever described)".

Government Departments (except the Department of Defence and the defence forces), local authorities, the Health Service Executive, Education and Training Boards, and public bodies established under an enactment or charter or any scheme administered by Government and financed wholly or partly by Government are covered by this duty

Public bodies, as part of their strategic plans (or similar exercise) have to:

- Carry out an assessment of the human rights and equality issues relevant to their functions
- Identify the policies, plans and actions they have in place, or propose to implement, to address these issues.
- Report on developments and achievements in relation to their

action on these equality and human rights issues in their annual reports (or equivalent report).

The Equality and Human Rights Alliance has developed guidance material to support an effective implementation on an ongoing basis by public bodies: *A New Public Sector Equality and Human Rights Duty*.¹ This recommends a number of steps that should be taken by public bodies to create the conditions for implementing the duty and develop a methodology for its implementation. This values-based approach has much to offer and we would welcome an opportunity to discuss it with the relevant people in your organisation.

As a civil society organisation representing people who access your services, we see the potential for Public Sector Duty to embed equality and human rights into the work of your organisation. This has gains for your organisation and its employees and for the people that we are working with. We would be keen to find out more about how you intend to implement the Public Sector Duty. We would be happy to provide support and expertise to assist you in this and would be keen to discuss these possibilities with you.

We hope it might be possible to meet with you and those responsible for leading out the implementation of your Public Sector Duty to discuss this and look forward to hearing from you.

Yours

¹ Available at:

<http://www.ercampaign.org/uploads/A%20New%20Public%20Sector%20Duty%20March%202015.pdf>

Draft Letter/email to trade unions representing workers in the public sector to seek their engagement with the Public Sector Duty.

To whom it may concern

We are contacting you in relation to Public Sector Duty and how we could make links with public sector employees and their representatives to realise the potential in this new requirement on public bodies.

Section 42 of the Irish Human Rights and Equality Commission Act 2014 requires public bodies to have regard, in carrying out their functions, to the need to eliminate discrimination, promote equality of opportunity and treatment for staff and service users, and protect the human rights of *both staff and service users*. Specifically the Act requires public bodies in giving effect to this duty to:

- a “set out in a manner that is accessible to the public in its strategic plan (howsoever described) an assessment of the human rights and equality issues it believes to be relevant to the functions and purpose of the body and the policies, plans and actions in place or proposed to be put in place to address those issues, and
- b report in a manner that is accessible to the public on developments and achievements in that regard in its annual report (howsoever described)”.

Government Departments (except the Department of Defence and the defence forces), local authorities, the Health Service Executive, Education and Training Boards, and public bodies established under an enactment or charter or any scheme administered by Government and financed wholly or partly by Government are covered by this duty. Public bodies, as part of their strategic plans (or similar exercise) will have to:

- Carry out an assessment of the human rights and equality issues relevant to their functions.
- Identify the policies, plans and actions they have in place, or propose to implement, to address these issues.
- Report on developments and achievements in relation to their action on these equality and human rights issues in their annual reports (or equivalent report).

The Public Sector Duty holds potential gains for public bodies themselves and in particular their employees and their service users. It must be creatively and effectively implemented to achieve this potential. The Equality and Rights Alliance have developed some useful guidance on how to implement the Public Sector Duty which might serve as a useful starting point for us to cooperate in promoting the Public Sector Duty.


We hope that civil society and workers within public bodies and their representatives could work together to raise awareness of the Public Sector Duty and to explore an effective approach to its implementation.

We would welcome an opportunity to meet with you and to start a discussion and build an ongoing relationship to develop common ground on what Public Sector Duty could become in the years ahead and to work together to secure its full and effective implementation.

Yours


To make contact with local Public Sector Union reps, visit the ICTU website here <http://www.ictu.ie/centres/listing.html> or SIPTU website <http://www.siptu.ie/>






Another way to generate momentum on implementation of the Duty is to get a supportive local councillor to raise a motion at your local authority. We have included a draft motion (below) that you can edit for your area. You can use the information in this guide to expand on how the Duty should be implemented and the values informing civil society's vision for the Duty

Draft Motion to a local authority to commit to carrying out its Public Sector Duty"



The Irish Human Rights and Equality Commission Act 2014 introduced a duty on the public sector that brings a focus on non-discrimination, equality and human rights centre-stage in planning, policy-making and service provision. It is a legal requirement on public bodies to take proactive steps to promote equality, protect human rights and prohibit discrimination (for employees and people accessing public services) in carrying out their functions.



That the *local authority* commit to meeting its obligations under section 42 of the Irish Human Rights and Equality Commission Act (2014) by:

- a As a matter of urgency, develop a plan for implementing the Public Sector Duty
- b Embed a values-based approach to integrating human rights and equality objectives in its approach to implementing the Public Sector Duty
- c Commit to ensuring participation by organisations representing groups experiencing inequality and human rights violations in developing and implementing the plan



Background information:

Public Sector Duty legally requires all public bodies, as part of the duty, to:

- Carry out an assessment of the human rights and equality issues relevant to the functions of the council.
- Identify the policies, plans and actions the council has in place, or propose to implement, to address these issues.
- Report on developments and achievements in relation to their action on these equality and human rights issues in the council's annual reports.



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