



Add the 10th Alliance Submission to DCEDIY Review of the Equality Acts

Introduction

The # Add The 10th Alliance welcomes the opportunity to make a submission to the Consultation on the Review of the Equality Acts.

Add The 10th Alliance includes a number of organisations which have come together to highlight the urgent need for the inclusion of socio-economic status as a ground in Irish equality legislation. The current Alliance members include:

- All Together in Dignity Ireland,
- Association for Higher Education Access & Disability,
- Community Action Network,
- Free Legal Advice Centres,
- European Anti-Poverty Network Ireland,
- Independent Living Movement Ireland
- Irish National Organisation of the Unemployed.

Many of the organisations were previously members of the Equality and Rights Alliance.

The member organisations of the Alliance have a close connection to the people and communities they represent. They see first-hand the impact of discrimination and inequality on people and communities experiencing socio-economic disadvantage and the lack of protection offered by Irish equality legislation. It is this connection and experience that provides the basis for the expertise the Alliance members bring to this submission. It is also this connection and experience that provides the strong motivation among Alliance members to reverse an inequality in Irish equality legislation that has existed for over two decades and to improve the situation for the people and communities they represent.

“Equal rights depend on the person at the opposite side of the table... The table between us ...it's a hierarchy. With so many people, there's a difference between us. I've been in these situations with people where they haven't treated me as equal.”

While the focus of the Alliance is on ensuring the inclusion of socio-economic discrimination in Irish equality legislation, members are also very aware of the intersection of this form of discrimination with other grounds already covered in legislation. Members are also clear on the need to strengthen equality legislation and its implementation so that it is effective in protecting people from discrimination and promoting and strengthening equality.

At the outset, we wish to acknowledge that 20 years ago, the introduction of this legislation was very welcome as a radical step in the direction of making us, as a society, better equipped to deal with issues of discrimination. Where it has worked well, it has helped some of those named under the nine grounds to know that they do not have to live with discrimination.

Why a 10th Ground?

“I believe that the way in which the government and other powerful institutions do not recognise poverty as a major issue is a form of socio-economic discrimination in itself.”

It is now approximately two decades since Ireland introduced, what was then considered radical equality legislation, primarily in the guise of the Equal Status Act and the Employment Equality Act. Ireland was once at the forefront of Europe in terms of equality law. However, there are now several serious questions about whether these equality instruments meet our obligations under European and international law or provide an effective remedy to those who experience discrimination or mistreatment while engaging with the labour market, or with private and public services in our country. Both the Equal Status Act and the Employment Equality Act are underpinned by the traditional nine grounds of discrimination. However, the Alliance argue that this form of redress and protection for the disadvantaged is no longer fit for purpose. In particular, for those who inhabit the lower social margins of a country that is now aggressively divided by wealth and power dynamics propagated by neoliberal mores which highlight the poverty/discrimination binary.

The changes in Irish society, politics, economy and practices in the intervening years, now inform serious questions predicated on the efficacy of existing equality legislation in protecting all our citizenry. At present, one in six of the Irish population are said to be living in poverty (CSO, 2017), a significant portion of the population. In recent years, international (Sepulveda, 2011) and domestic academia (McKeon, 2019), NGOs (ATD, 2016) and IHREC have identified this population as being unprotected by adequate equality legislation. As such, a legitimate gap in legislation has been located, with many of those who live in poverty experiencing discrimination and mistreatment. The protection of this significant portion of the population’s interests and rights through the implementation of updated equality legislation has become normative practice throughout the European Union in recent years, with twenty of the thirty-five member states facilitating protection by incorporating socio-economic status into redress mechanisms as a tenth ground of discrimination, (McKeon 2019).

This review of Irish equality legislation is vital in that it must allow for all to access remedy and recourse to prohibit powerful public and private actors from imposing their will on those considered less powerful through coercion, manipulation and often force. To this end, the Alliance join the ever-growing voice that calls for Ireland to follow this example by establishing a rights and equality lens to inhibit the discrimination that is often encountered due to socio-economic status. The rationale for a tenth ground to advance an effective avenue for redress for this section of society is four-fold, encompassing international obligation, moral obligation, the addressing of a tangible gap in equality legislation and the completion of past legislative developments that encapsulate socio-economics in Ireland (the Public Sector Duty and The Miscellaneous Provision Act 2015).

· International Obligations:

International obligations are effective, external factors as drivers for change. Among others they include the United Nations Sustainable Development Goals (Goal one in particular which addresses poverty and the objective “to end poverty in all its forms everywhere”).

The Lisbon Treaty entered into effect in December 2009. It offers a valuable foundation for an enhanced response to the link between poverty and discrimination. Article 6 of the Treaty on the European Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union. Article 21 of the Charter represents a very progressive understanding of discrimination, covering a considerably wider field and scope than that in the

European Treaties. It stipulates that *'any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited'*. This open-ended understanding of discrimination and the naming of the ground of social origin reflects an understanding of discrimination that usefully links poverty and discrimination.

In the second cycle of the UN's Universal Periodic Review (UPR) mechanism, in May 2016, Ireland received three recommendations from the Working Group on the UPR to adopt comprehensive anti-discrimination legislation that would cover all grounds of discrimination including "social origin, property, birth or other status", (McKeon 2019).

- Moral Obligation:

We have a moral obligation to protect the vulnerable of society and it is argued by the Alliance that the current nine grounds often fail to do this for all. Current labour market practices, social welfare conditionality and neoliberal work-centric attitudes have gradually engendered barriers for those in, or approaching poverty, to rights and social inclusion. Often referred to as the Capability Approach, this locates socio-economics as an intersection of discrimination and poverty which often works dialectically and therefore should be combated using a more integrated approach. A tenth ground would provide recourse for those living in deprivation.

- Legislative Gap:

The grounds covered in the current Irish framework need to be expanded to include socioeconomic status as a standalone ground that often intersects with other grounds to magnify discrimination and propagate inequality. An avenue for recourse by employing accessible equality legislation will bring Irish Equality legislation into alignment with many other countries who have already ratified this into law with the objective of protecting a vulnerable populace.

- Incorporating existent developments:

It could be argued that socio-economic status is already alluded to in many facets of Irish law. Our Constitution states that "All citizens should be free as human persons, be held equal before the law". (Article 40.1). The Public Sector Duty, Article 42 of the Irish Human Rights and Equality Act 2014 prohibits discrimination, inequality and states that all human rights should be realised by Public Bodies. Whereas the Equal Status Act had a tenth ground added in with the integration of The Miscellaneous Provision Act 2015, which included protection for social welfare recipients when seeking properties to rent while requiring housing assistance. It is now illegal for landlords to discriminate against those who potentially would require housing assistance (e.g., rent allowance, HAP etc.) in order to meet soaring rental prices, a practice that was becoming increasingly common at the time.

Therefore, it is clear that tangible steps have been taken to incorporating socio-economic status into Irish Equality legislation. However, with this type of discrimination often manifesting in a variety of ways; accent, dress code, place of birth/living, a clear and succinct statement is required in the guise of implementing socio-economic status as a tenth ground of discrimination to preclude many of these practices that restrict and inhibit the lives of this section of our population.

1. The functioning of the Acts and their effectiveness in combating discrimination and promoting equality

“There needs to be humanity when you’re dealing with people”

Given that cases taken under the Equal Status Act under all nine grounds are falling year on year since 2017, there clearly is an issue with Ireland’s Equality and Human Rights Infrastructure.

IHREC is our National Human Rights Institute (NHRI) and is an independent public body that accounts to the Oireachtas, with a mandate established under the Irish Human Rights and Equality Commission Act 2014 (IHREC Act 2014). The IHREC Act includes and further enhances the functions of the former Irish Human Rights Commission and the former Equality Authority. IHREC’s role is to protect and promote human rights and equality in Ireland and build a culture of respect for human rights, equality and intercultural understanding in the State.

IHREC’s role includes providing practical assistance, including legal assistance, to persons in vindicating their rights; to institute proceedings in certain matters. There is a concern that IHREC in the last seven years has not used its legal powers enough to institute proceedings to challenge systemic inequalities or to provide supports for a critical mass of casework that enables a culture of compliance. IHREC has a duty to develop casework across all grounds and in all key areas for human rights which has not been evidenced.

IHREC has a key role to create increased awareness among groups that find it difficult to access justice on their rights and how to exercise these. The year-on-year deduction of case work indicates that the support being given to people seeking assistance from IHREC is not translating into cases taken to the WRC.

The Workplace Relations Commission (WRC), having taken over the statutory functions of the employment rights fora and the Equality Tribunal is a key element of the equality and human rights infrastructure.

It is a concern for the # Add The 10th Alliance that in the Workplace Relations Bill (2015), the equality remit is not explicitly listed in its terms of reference. As organisations working with people who also experience discrimination in non-workplace related settings (in accessing goods and services), we recognise, that the name of the organisation that is the designated national body that does not clearly state its role is a challenge. This challenge is exacerbated in that the equality role is not explicit from the terms of reference in the legislation.

Indeed, the WRC annual report for 2020 shows that for the “Information and Customer Services” work programme, objectives such as “Provide non-directive information on WRC activities generally, employment legislation and redress mechanisms through a variety of delivery formats” make no reference to the Equal Status Act. The sole reference to the Equal Status act in Information and Customer Services is to “Complete Equal Status campaigns in relation to the needs of minority ethnic and the LGBT+ communities”.

Whilst the WRC annual report makes reference to “Provide appropriate legal training to staff and adjudicators”, there is and never has been any WRC training plan for all staff on issues of equality and diversity in place. It is vital for WRC staff, especially front-line staff, to be sensitive to diversity and aware of the impact of discrimination on people from the different grounds to ensure that all claimants are received in a respectful and supportive manner, that is experienced as valuing diversity and is free from prejudice.

WRC staff need appropriate training and supports to recognise the different needs of the diversity of claimants, including, in particular, those from across the nine grounds, most specifically the ground of disability, and to put in place a process to make reasonable adjustments for these needs.

WRC is a confusing title and does not capture what this has to do with equality. The procedures are not accessible. There is no dedicated complaint form and the online platform can be a challenge for people without legal support. The legal requirement to send notification to the respondent, using the correct language that conveys an intention to make a complaint to the WRC if it is not satisfactorily dealt with, is a big ask of people who are coping with the impact of feeling discriminated against. While we can see that this was intended to allow the respondent to address the issue, it has in fact, become a barrier for people to make a complaint.

2. The degree to which those experiencing discrimination are aware of the legislation and whether there are obstacles which deter them from taking an action

i. An accessible system

“It shouldn’t be how cute you are, or how you play the system, the system should be fair.”

a) The information gap

There is a lack of public information and awareness of the rights, obligations and protections in place under Irish equality legislation. This lack of awareness both means that some in society avoid their legal obligations while others are not adequately protected.

Also 17.9% or about 1 in 6 of Irish adults may be unable to understand basic written information (OECD Adult Skills Survey). In addition, the digital divide impacts most directly on marginalised and low-income groups and communities and those with limited or no access to the internet. Both of these barriers impact directly on access to information on people’s rights under equality legislation, but also on the ability of many to access, understand and use the process and forms necessary to take a case under equality legislation.

Understanding the need for greater awareness of the legislation and the barriers facing many in accessing information, the agencies responsible for equality legislation should take a more proactive approach, using all available tools and possibilities, in creating public awareness of people’s rights and obligations under the legislation. The agencies should also work in a more targeted way to ensure this information gets to those groups and communities covered by equality legislation, and those not covered, who are likely to experience discrimination.

The WRC has a role to also publicise casework in relation to equal status proceedings, with details broken down by grounds under which cases are taken, and made clearly accessible on the WRC website. This plays an important role in informing people who have faced discrimination that cases can result in justice. Difficulty in accessing WRC casework in relation to equality makes it difficult to build cases based on precedent. For organisations who work with people who experience discrimination, reports from the WRC should provide disaggregated data not only on casework but also information referral in order to build a more accurate assessment of inequalities faced, especially in relation to systemic inequalities.

This issue links closely to the other issues in this section and the wider submission.

b) An overly legalistic system

The current system of taking a case via the WRC involves an overly legalistic format compared to the previous process whereby the Equality Tribunal supported the self-advocacy of those taking a complaint. The current legalistic system acts as a barrier for many in taking cases, and potentially means that many with a genuine experience of discrimination decide not to proceed with their complaint.

The amount of information that complainants have to gather and the onerous timelines places an unfair burden on someone who has experienced discrimination, especially if they have no recourse to legal support. There is a question of equality of arms as many employers and service providers will have legal representation which may not be available to vulnerable people taking equality cases; and therefore, the issue of legal aid needs to be addressed.

The Alliance proposes that, to be more effective, the system for taking cases is reformed to one which includes supports for self-advocacy.

If this change is not to take place, then the state must ensure that those taking a case have access to legal representation to ensure greater equality within the whole process.

In order that people who experience discrimination have access to the legal supports, Legal Aid should be available for people taking cases to the WRC under the Equal Status Acts and Employment Equality Acts.

c) Restrictive time-limits

The Alliance is keenly aware of the concerns raised by people who have tried to use Ireland's equality with regard to the time limits they must adhere to when taking a case. It has been noted that the two-month requirement under the Equal Status Act is unique to this piece of legislation, and it begs the question why. At six months, the time period under the Employment Equality Act is longer but it can still raise difficulties for people if they feel they lack the support and knowledge to challenge an employer.

As highlighted in our submission, it can take time for people who have experienced discrimination throughout their life to come to the realisation that there is something they may be able to do about it.

Many people experiencing discrimination will have additional and overlapping support needs. Some people experiencing discrimination may require additional supports to fill in an ES-1 form, due to barriers such as:

- Literacy issues in filling in forms
- Lack of access to broadband or technology to access forms online
- Lack of access to suitable software for screen-reading for blind and visually impaired people who have experienced discrimination.
- Restrictions to face to face supports services due to Covid-19 where people experiencing discrimination need additional supports
- Language barriers, including lack of access to ISL translation for Deaf People
- Some disabled people may require support from a Personal Assistant to physically fill in a form on their behalf
- Some people may require an advocate to fill in a form on their behalf

Extending the time limit to ensure people who experience discrimination have recourse to justice could be justifiably be seen as a reasonable accommodation under Equality Legislation for people who additional recognised need for supports.

So, in the hopeful expectation that a socio-economic status ground will be added to Ireland's equality legislation, it will be really important that these time limits are revisited and extended; that people are supported to take collective actions; and that NGOs are resourced to help people use Ireland's equality legislation when appropriate and required.

ii. The internalisation of discrimination

"Because I think with discrimination, it can just hammer away at a person until they just feel so insecure that they feel like they're not part of society, and like they're on the fringes all the time. I think that if you don't have that insecurity then you are better able to stand up to discrimination."

'I think you do internalise these things, you know? And it's not a good thing... and I think men, especially men, don't express how they feel.'

As clearly articulated by the above quotes from those directly impacted, many people internalise the oppression and discrimination they experience, to the extent that it becomes normalised, reinforcing their exclusion from society. At a societal level, this reality highlights the urgency in addressing the structural inequality and discrimination experienced by many groups and communities in society. At an individual, but also a community level, it results in strong levels of stigma and an undermining of people's dignity to the extent that they do not take action to have infringements on their rights addressed, including their rights under equality legislation. For those experiencing socio-economic discrimination, and not covered under Irish equality legislation, this reality is further reinforced.

While the structural inequality needs to be addressed through a wider range of policy measures, it is important to address the impact at an individual and community level in the context of ensuring effective equality legislation.

Reflective spaces need to be available where people experiencing discrimination can go to articulate their lived, individual and collective, experiences and have an opportunity to understand the systemic causes behind this discrimination. Investment is needed in community groups to enable them to provide this reflective space. This links to the following point on the inadequate resourcing of community organisations.

iii. Impact of the loss of community organisations to support awareness and advocacy

"And that's why we're still being discriminated against, because there's nobody to represent voices of the minority groups in power, and that's how it's going to keep on continuing until either we raise our voices like this and bring it to parliament, or until we're more represented in powerful positions. And that's how we'll change the mind-set."

It is estimated that during the last economic crisis between 2008 and 2011 cuts were made by the Government to the community and voluntary sector in Ireland, estimated at between 35% to 41%, far higher than cuts made to other sectors of approximately 7%. Many of these cuts, such as to the Community Development Programme, were to grassroots community development organisations working closely in and for the most marginalised communities in the country, with staff and expertise with the capacity to support people from these communities to understand and access their rights. In the years since then these cuts have not been reversed. This destruction of the local community development sector, with the ability to respond to the needs of communities, erodes and undermines the capacity of people in these communities to self-advocate in the achievement of their rights including under equality legislation.

When the community infrastructure was in place, grass root community development organisations actively engaged in promoting awareness and understanding of the legislation. It featured in core training within geographical communities and communities of interest. While this continues to take place where there are groups dedicated to supporting some communities of interest, it no longer happens in geographical communities. There is now a significant information, awareness and knowledge gap on the legislation itself and its applicability to situations.

iv. Connection with wider Government Policy

The issues outlined in this submission underline the fact that in order for equality legislation to be fully effective it needs to be supported by and consistent with wider government policy. An example of this is the resourcing of autonomous community group as highlighted above.

3. The scope of the current definitions of the nine equality grounds

As this submission is from the # Add The 10th Alliance the focus under this section will be on the addition of the long awaited and sought ground of socio-economic status.

Members of the Alliance have noted the issues and challenges their work has thrown up and highlighted including that people experiencing socio-economic exclusion are likely to be discriminated against because of a number of features including address, accent, how they look, how they dress, the schools they went to, the type of accommodation they live in, whether or not they are employed. In July 2019, the Central Statistics Office published *Equality and Discrimination Quarter 1 2019*. In this survey, the CSO noted that *nearly 18% of people aged 18 years or over said that they felt discriminated against in the two years prior to interview; and that the highest rates of discrimination were reported by people who identify as LGBTI+ (33.2%), followed by persons from non-white ethnic backgrounds (33.1%), unemployed (30.2%) and non-Irish (26.7%)*. The existing legislation may well cover some of the issues identified in these quotes, but it will not cover those who are unemployed unless people felt they were also discriminated against because of, for example, their age, ethnicity, or disability.

In Alliance member's experience, people facing socio-economic discrimination are most likely (though not exclusively) to live within large similar communities and as such are identified in both an individual and a collective way. Quite often people only begin to feel discrimination when they begin to engage with education, health, economic opportunities, social services, people from other social classes, try to participate in more general events and activities where they encounter others with a different socio-economic status. It is at such points, that the sense of being inferior gets mirrored back to them in attitude or in actions, where they very quickly become aware that their circumstances are different and less valued than that of the general population. This devaluing negatively impacts the self-esteem of the individual, leads to a loss of confidence, ability to engage with socio-economic opportunities that may arise.

It is not uncommon for people living in Local Authority estates to reject, for example, the labels "Poor", "Disadvantaged", when applied to them as individuals or as communities. Such terms bring with them a sense of failure, judgement, feelings of inadequacy and do not in any way reflect the positives or strengths in their lives - happy families, good networks, caring communities etc. The human rights and equality-based approach takes people through a process of understanding how the weave of poor socio-economic conditions prevents them from fully reaching their potential to live a life of dignity and respect. This is required to empower them and the rest of society to see the interconnections between poor housing, poor health, poor education and poor employment. In so doing, it places the focus back onto how we structure society, the systems, processes and procedures we put in place that in turn amount to a failure to respect, protect and fulfil the rights of all our citizens.

Participants in research undertaken by one Alliance member noted: *“Discrimination is in everything – not just schools or taxis or buses. It’s everywhere – it’s out on the streets and it’s not nice you know. The way I see it is that it’s a disregard for people, that people can be overlooked because there’s a stereotype that’s being reinforced.”* And that *“It’s (discrimination) constant...norms, values, beliefs that are embedded within society”*

Given the above and the way in which people with poor economic and social status are often defined as a collective, it is important to allow for NGOs to have a role in supporting communities/groups to make complaints. It is often hard to break the silence around internalised discrimination but working as a group or collective allows people to see the patterns and themes across their experience and to voice it more powerfully. It will be essential that any review and revision of Ireland’s equality legislation allows for and resources collective work in addressing inequality and discrimination. This will be a critical development if the systemic issues underpinning socio-economic exclusion and inequality are truly to be addressed. The rationale for this is expanded upon under Section 6.

The 9 grounds, while very important, are often cited / prioritised within policies as the focus for tackling discrimination. This can result in a hierarchy of inequalities, missing out on the discrimination of those on the ground of socio-economic status. A very recent example is the Dublin City Council (DCC) Implementation Plan for the Public Sector Equality and Human Rights Duty. DCC is a huge landlord and stakeholder in service provision within Local Authority Estates, where they deal, on a daily basis, with people who are in this potential tenth ground, which if named, might generate a better outcome for their tenants. To address this issue, it is imperative that an additional ground of socio-economic status is added to Ireland’s equality legislation.

In the Equality Rights Alliance’s report, *An analysis of the introduction of socio-economic status as a discrimination ground*, chapter 7 explores *Defining a socio-economic status ground*. In this chapter the report notes *“Many countries stipulating a socio-economic status ground do not provide a specific definition for the ground. However, given the number of different categories used it is advisable to offer a definition or a number of indicators to avoid uncertainty. The 2004 report in Ireland lists a number of possible key indicators to define socio-economic status, such as level of education, level of literacy, homelessness, geographical location, source and level of income, type of work or profession, and employment status. These indicators are still valid and can be used in defining this ground.”*

Further on in the report *“It is suggested that the definition of a socio-economic status ground could be built by taking into account all the above elements to ensure that it follows an asymmetric approach and enables a situation-specific analysis, responding to disadvantages in the fields of: Economic and financial means, Education, Employment, Family background, Health, Housing, including the geographic location, and Social class.”*

The legislation should include a socio-economic status ground, defined in asymmetric terms aligned with the report of the Equality Rights Alliance.

The review of gender ground needs to include Transgender, Non-Binary and Intersex people who experience significant discrimination and are not currently protected under Equality Legislation.

4. Whether the legislation adequately addresses intersectionality or the intersection of discrimination across a number of grounds

Many people experience discrimination for a variety and often interconnected number of reasons: for example, because they are an older woman; a young person with a disability from an ethnic minority; young people from a certain area or community. At present, people seeking to use Ireland's equality legislation to address these experiences must assess and decide whether or not to take a case on one or more of these grounds. They may feel that they would have a stronger or more straight forward case just using one alone, they may be concerned about the need to establish that it had happened on each of the grounds named. But what happens for people who feel that it is the combination of identities, the cumulative impact of lived experiences that has led to the negative experience for which they are seeking redress? While unfortunately in the third example, the young people involved may not be able to use the equality legislation as geographical communities / areas will only be covered if socio-economic status is incorporated as a new ground.

Add The 10th Alliance believes that addressing the reality of the interconnectedness, the intersectionality of people's lives will be vital to address the issues people face who experience discrimination because of their socio-economic status. Without a doubt the experiences of people who face other forms of discrimination are exacerbated if people are less well off, have less resources, and also experience socio-economic exclusion.

To that end, for Ireland's equality legislation to offer meaningful redress it must provide the wherewithal to address the intersection of discriminations and their cumulative impact. Such a recognition would not only be important to support the individual to take a case that better reflects their experience, but it could also inform better policy making and implementation.

The development of policy should be aware of and informed by Ireland's equality legislation; many people who experience discrimination do so because of the design and delivery of public services and supports. Many structural inequalities arise because policy makers and implementers do not realise what life is really like for people; and they may assume that what they understand the correct approach to be, is indeed the correct approach when it may not be at all.

Equality legislation that acknowledges intersectionality, the complexity of life, could inform more holistic policy making and delivery. It could encourage equality proofing at all stages: when the policy is being made, being implemented, being reviewed and revised in light of the review. It could help to create a situation whereby people and NGOs working on issues would not always have to remind policy makers that, for example, women may also be young, older, have a disability, belong to an ethnic minority, and / or have a family.

No national strategy can work on any one issue, one aspect of life on its own. Life is complex, people's situations change over their lifetime, different parts of their life may intersect differently at different stages. Some people may only experience discrimination as they age, others may experience it because they are young and parent alone.

Others experience discrimination and inequality because of the group, community they belong to or are perceived to belong to. NGOs working on these collective experiences and the impact on people's lives, note that many people internalise these experiences, that it can take time to tease it out and articulate it, time that the parameters of taking a case rarely affords.

Intersectionality must be acknowledged in Ireland's equality legislation; the legislation needs to explicitly prohibit multiple and intersectional discrimination and provide for additional sanctions where this is found; people must be able to take cases on the grounds they believe they were discriminated on; policy making and implementation must also acknowledge the complexity of life and the multiple dimensions to any issue and its appropriate redress; the NGOs working on the

cumulative and collective impact of inequality and exclusion must be properly supported, so that structural inequalities can be articulated and addressed.

5. Whether existing exemptions in the legislation should be modified or removed

i. Exemptions for State under section 14 under the Equal Status act

Members of the Alliance are concerned that the state is seen to and ought to abide by its own equality legislation. This will be particularly important for people who experience discrimination because of their socio-economic status as a key player in their lives is the State itself. People well experienced in the exercise or not of these laws have noted that Section 14 of the Equal Status Act leads to a situation whereby other primary legislation takes precedence over it. Notwithstanding the positive implications of the introduction of the Public Sector Duty which should encourage the State to play a more positive and pro-active role in addressing inequality and breaches of human rights, people who feel the State has discriminated against them should be able to use Ireland's equality legislation when they are seeking redress. This exemption needs to be removed in its entirety.

Currently, Section 14(1) exempts certain actions by public authorities relating to 'non-nationals'. Given the extreme marginalisation many people in direct provision, their lack of recourse to challenge systems that discriminate against them based on impairment needs to be addressed in this review.

ii. Instances of Discrimination in Licenced Premises

The Intoxicating Liquor Act, 2003, section 19 meant that instances of discrimination in a licenced premises are heard in a District Court rather than before the Equality Tribunal (whose function the WRC has now absorbed). The District Court has not proven to be an accessible venue for such cases, with a dramatic decline in such cases presenting after this change. This needs to be addressed by changes in legislation to ensure people can take cases against licenced premises holders. These cases need to be heard by adjudicators in the WRC.

6. Other issues arising from the legislation

i. Making the mechanisms that tackle systemic inequality more effective

Given the systemic nature of some issues of inequality and the fact that they impact population groups in a similar way, there is a need to strengthen the existing mechanisms that can proactively place the obligation on public and private bodies to change their policies and practices. Section 32 and Section 42 of the *Irish Human Rights and Equality 2014 Act* relating to Equality Reviews and Public Sector Equality and Human Rights Duty are both very welcome ways of focusing in on such systemic issues.

With regard to Equality Reviews, it is not very clear exactly how issues are brought to the attention of IHREC. The decision-making process that is used in deciding which issues are taken up is also unclear. Even when a civil society group is aware that an issue of concern is under an Equality Review, there is no engagement of any kind with that interested group.

We recommend that a more transparent process be put in place that outlines how issues can be raised and progressed within IHREC.

When an organisation or public body responds with an Action Plan, there appears to be no way in which NGO's or the affected population can play a role in monitoring or commenting on what that organisation or body claims it is or will do. This is a missed opportunity in terms of building upon the initial equality assessment and engagement to progressively address the issue.

We recommend a more open and transparent process, similar to that in operation in the reporting and monitoring of European and International human rights treaties i.e., an agreed timeframe for reporting on progress that allows NGO's and population groups to feed in their own comments on progress.

The Public Sector Equality and Human Rights Duty is a welcome shift in focus from anti-discrimination to proactively placing the burden on public bodies to respect, protect and fulfil equality and human rights. It too has the potential to address systemic issues that are experienced collectively. In order to avoid a superficial box ticking approach to the requirements to assess, address and report on equality and human rights issues within the remit of a public body, the implementation, monitoring and enforcement powers need to be strengthened and need to include a role for civil society groups. Clear sanctions need to be in place for failure to implement the Duty, alongside the explicit possibility for IHREC and for civil society to seek a judicial review in such a situation. The standards for implementing the Duty developed by the IHREC should have a standing such that they can be used as evidence in any such proceedings.

ii. Extending Reasonable Accommodation

Reasonable Accommodation needs to be extended from the disability ground across all grounds (including additional grounds sought for socioeconomic status) to reflect the supports that many people will need to take cases to the WRC to challenge discrimination. These could include translation (including ISL) and also access to supports to overcome literacy barriers.

Note: Quotes used in this report have been drawn from “Does It Only Happen to Me? Living in the shadows of Socio-Economic Discrimination”, a report by All Together in Dignity Ireland drawing on the lived experiences of people who experience discrimination because of their socio-economic background.