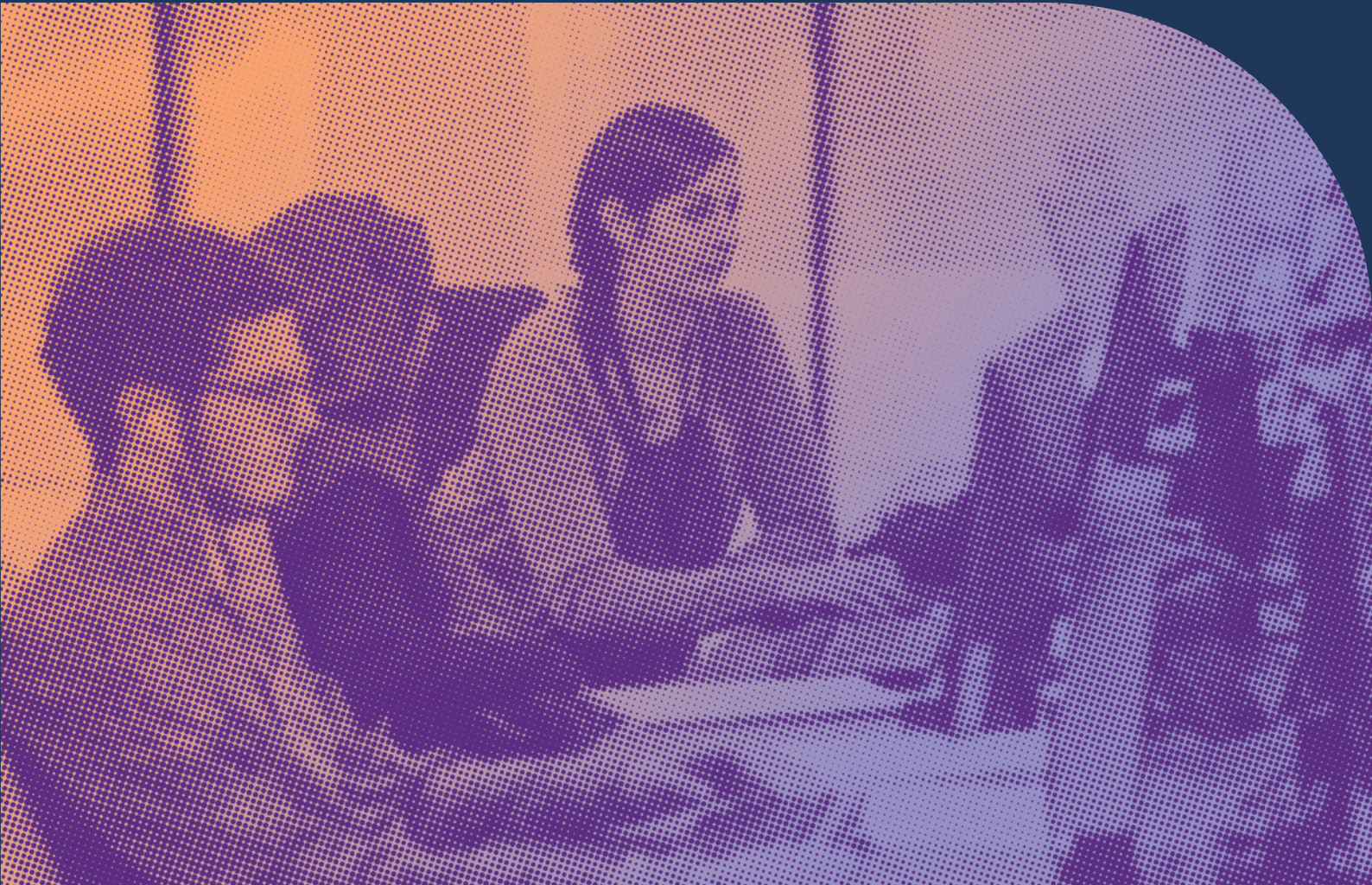




Coimisiún na hÉireann um Chearta
an Duine agus Comhionannas
Irish Human Rights and Equality Commission

Implementing the Public Sector Equality and Human Rights Duty

Guidance for Public Bodies - Second Edition



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

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The Public Sector Equality and Human Rights Duty

Introduction

The Irish Human Rights and Equality Commission (Commission) is Ireland's national human rights and equality institution. We are 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'). We have a broad statutory remit to protect and promote human rights and equality under the IHREC Act, 2014. We have a mandate to give guidance to, and encourage, public bodies to develop policies and good practice in relation to human rights and equality.

The Public Sector Equality and Human Rights Duty ('the Duty') is contained in Section 42 of the Irish Human Rights and Equality Commission Act 2014. It places a statutory obligation on public bodies to have regard to human rights and equality considerations in the performance of their functions. It is contained in Section 42 of the IHREC Act.

We have developed this guidance as part of that mandate, to support public bodies to understand and comply with their statutory obligations under Section 42 of the IHREC Act 2014.

There is no one size fits all approach to implementing the Duty, and while public bodies may, and can, take similar approaches to meeting their statutory obligations, we recognise that every organisation is different.

Following this guidance is not compulsory and you are free to take other actions to meet your statutory obligations, as appropriate to the resources available to you, and the size of your organisation.

What is the Public Sector Equality and Human Rights Duty?

The Public Sector Equality and Human Rights Duty ('the Duty') is set out in Section 42 of the Irish Human Rights and Equality Commission Act 2014.

It places a statutory obligation on public bodies to have regard to human rights and equality considerations in the performance of their functions.

It contains two distinct but interrelated specific statutory obligations (duties) - *Section 42 (1) and Section 42 (2)*.

— Section 42 (1)

Encourages public bodies to integrate human rights and equality issues into **every aspect** of how public bodies **performs their functions** on an ongoing basis.

— Section 42 (2)

Requires public bodies to assess relevant human rights and equality issues and set out policies, plans and actions to address these in its **strategic/corporate plan**. It must then to report on developments in relation to addressing the equality and human rights issues identified in its **annual report**.

The two duties place different obligations on you as a public body. However, your compliance with the obligations under section 42 (2) may assist in ensuring your compliance with section 42 (1).

Section 42 of the IHREC Act states:

(1) A public body shall, in the performance of its functions, have regard to the need to—

- (a) eliminate discrimination,
- (b) promote equality of opportunity and treatment of its staff and the persons to whom it provides services, and
- (c) protect the human rights of its members, staff and the persons to whom it provides services.

(2) For the purposes of giving effect to subsection (1), a public body shall, having regard to the functions and purpose of the body and to its size and the resources available to it—

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

(b) report in a manner that is accessible to the public on developments and achievements in that regard in its annual report (howsoever described).

Why is the Duty important?

Implementing the Duty means public bodies address human rights and equality issues in a proactive way, rather than waiting until an issue or complaint arises, before addressing it. The Duty has an important role to play in supporting public bodies to deliver efficient, accessible services to citizens and communities, in particular those at risk of inequality and discrimination. It supports a public service-wide approach to equality, human rights, diversity and inclusion. The Duty applies across all functions of a public body, and implementing it puts equality and human rights into the mainstream of how public bodies carry out their daily work.

What is a public body?

In the IHREC Act 2014 the definition of a public body for the purposes of the Duty includes:

- a Department of State,
- a local authority,
- the Health Service Executive,
- a university or institute of technology,
- an education and training board,
- “any other person, body or organisation established by an enactment (other than the Companies Act), by charter, by Ministerial scheme or under the Companies Act in pursuance of

powers conferred by or under another enactment and financed wholly or partly by the Government, whether through the provision of funds, loans or the issuing of shares”.

In addition, any other person, body, organisation or group financed wholly or partly out of moneys provided by the Oireachtas, may, in the public interest, be prescribed as a public body by the Minister for Children, Equality, Disability, Integration and Youth, following consultation with the Irish Human Rights and Equality Commission. To date, no public body has been prescribed.

What are the functions of a public body?

The functions of a public body relate to the activities that form part of the purpose of their organisation, including the duties and powers entrusted to them by legislation or Government. The Duty applies to all public bodies, and all functions entrusted to them.

— How does the Commission support and monitor public bodies?

We have legal powers to monitor and provide guidance and assistance to public bodies to understand and meet their statutory obligations under section 42 IHREC Act 2014. We provide support to public bodies to implement the Duty by providing information, guidance and education on the Duty. This guidance and a range of other supporting guidance and training materials, such as our eLearning module, which can be accessed on our website, have been developed as part of that role.

Where we consider that there is evidence that a public body is failing to perform its functions in line with the Duty, we can invite a public body to:

- carry out a review;
- prepare and implement an action plan to address equality and human rights issues related to the performance of its functions; or
- both.

— How does the Commission monitor publication requirements?

We actively monitor the performance of public bodies in relation to the publishing requirements under section 42 (2) of the IHREC Act 2014.

We monitor the current strategic plans (howsoever described) and websites of all public bodies for the inclusion of an assessment of human rights and equality issues relevant to the functions and purpose of that public body, and details of the policies, plans and actions in place (or proposed to be put in place) to address the issues identified in that assessment.

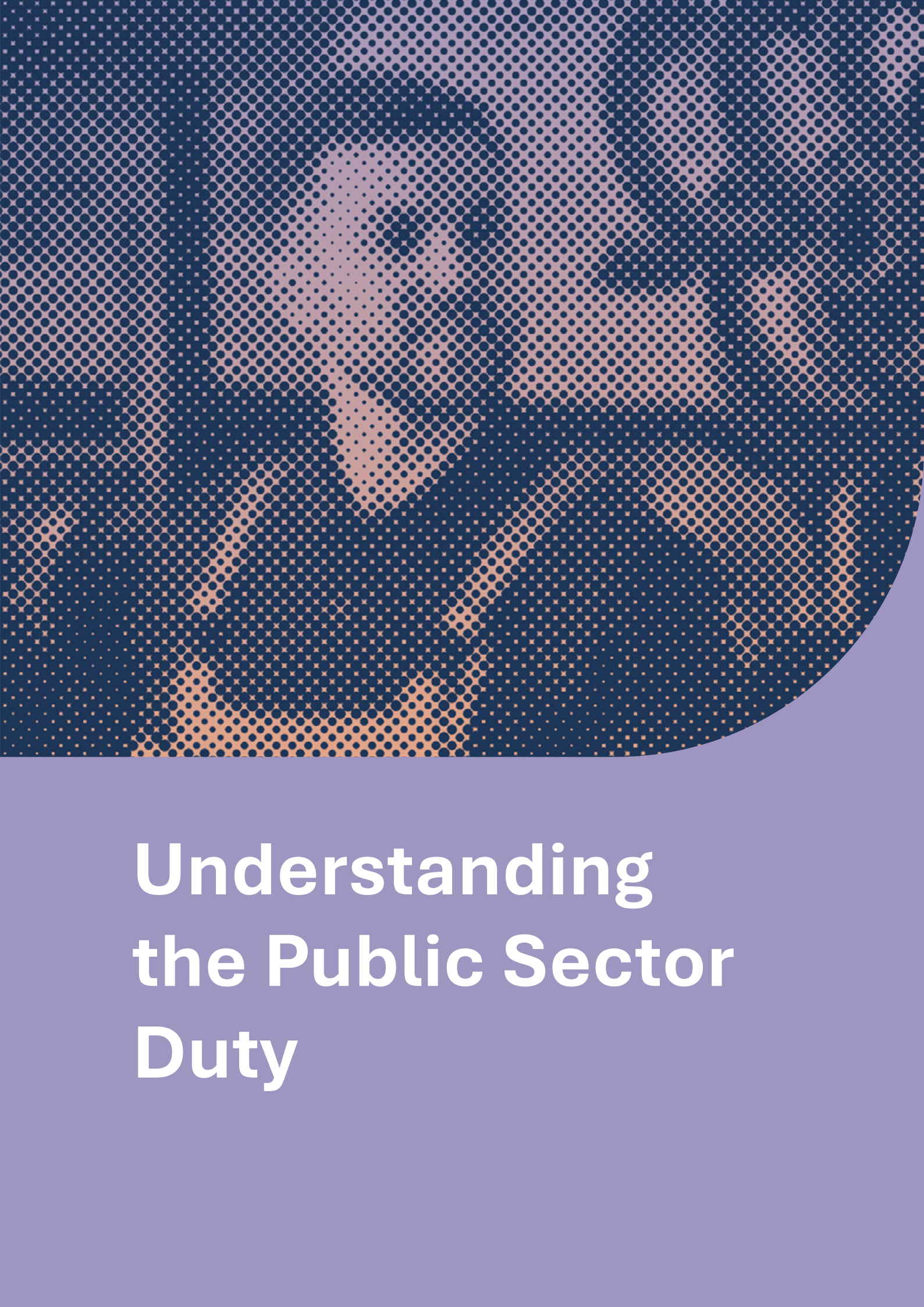
At the beginning of each calendar year we will provide all public bodies with a link which will provide access to our monitoring portal. Access to the portal will allow a designated officer to review our findings in relation to their publication status. All public bodies will then have an opportunity to amend the record on the portal within a specified window of time and to provide feedback or additional information as required. Following this period, the Public Sector Duty team will finalise the data on the monitoring database and provide “publishing status” for each public body.

The purpose of the monitoring process is to assist public bodies to perform its functions in a manner consistent with section 42 and to assist us to gain accurate insights into compliance levels and trends generally across the public sector.

What actions can the Commission take if a public body is not meeting its requirements?

When we consider that a public body may have failed to perform its functions in a manner consistent with section 42 (1), section 42 (5) of the IHREC Act 2014 allows us to:

- invite any public body to carry out a review in relation to the performance of its functions having regard to section 42 (1);
- or
- prepare and implement an action plan in relation to the performance of its functions having regard to section 42 (1);
- or both.



Understanding the Public Sector Duty

Understanding the legislative context of Human Rights and Equality in Ireland

The promotion of equality and elimination of discrimination in the Duty as required in Section 42 of IHREC Act 2014 is built on, Ireland's Equality Acts: *The Employment Equality Acts 1998-2015 ('EEA')*, and *The Equal Status Acts 2000-2015 ('ESA')*.

The promotion of equality of opportunity and treatment for the purposes of section 42 of the IHREC Act 2014 is understood as meaning that a public body affords the same opportunities and treatment to staff in the workplace and to service users in the provision of services, without such staff and/or service users being disadvantaged on the basis of any discriminatory grounds listed in the Employment Equality Act and the Equal Status Act and with a view to ensuring full equality in practice among staff and/or service users.

The elimination of discrimination for the purposes of section 42 of the IHREC Act 2014 is understood as discrimination occurring where one person is treated less favourably than another person in a comparable situation on any of the discriminatory grounds listed in the Employment Equality Act and the Equal Status Act.

The protection of human rights for the purposes of section 42 of the IHREC Act 2014 are the rights, liberties and freedoms which are binding under the law of the State, whether by virtue of the Constitution, the European Convention on Human Rights Act 2003, or international agreements binding on, and given the force of law in, the State.

The State has committed to progressing human rights and equality through a number of national plans and strategies. The Duty compliments existing public policy and provides a strategic framework for public bodies to support the delivery of national equality strategies and policies that have been established to create a more inclusive society.

Implementing the Duty will also assist public bodies to adhere to their requirements under: *'Code of Practice for the Governance of State Bodies: Annex on Gender Balance, Diversity and Inclusion'* and the Government's *'Guiding Principles of Quality Customer Service'*.

What are the concepts underpinning the Duty?

To properly understand your obligations, and then implement Section 42 (1) and Section 42 (2) of the Act, it is vital to be aware of, and to understand the concepts of eliminating discrimination, promoting equality of opportunity and treatment, and protecting human rights.

Eliminating discrimination

The concept of eliminating discrimination in the Duty requires public bodies in the performance of their functions to consider and ensure that individuals or groups of individuals are not treated less favourably because of their characteristics or identity.

— Discrimination

Discrimination occurs where one person is treated less favourably than another person in a comparable situation on any of the discriminatory grounds listed in the Equality Acts. Discrimination can impact on all areas of a person's life –their health, education and work opportunities and experience of social belonging.

— What types of discrimination are covered by law?

You can experience discrimination in four different ways:

These include:

- **Direct discrimination** – Where someone treats you less favourably than another person in a similar situation because of a different personal characteristic or circumstance that falls under the protected grounds.
 - For example, if you are paid less than someone else simply because of a personal characteristic or circumstance, such as having a disability, going on maternity leave or not being an Irish citizen.
- **Indirect discrimination** – Where a seemingly neutral system or policy disadvantages you because of a personal characteristic or circumstance that falls under the protected grounds.

- For example, if a restaurant bans all dogs, it may indirectly discriminate against a person who needs an assistance dog.
- **Discrimination by imputation** – Where someone treats you less favourably than another person in a similar situation because someone has incorrectly assumed (‘imputed’) that you fall under the protected grounds.
 - For example, if an instructor incorrectly assumes you have a learning disability and therefore stops you taking part in a group activity.
- **Discrimination by association** – Where someone treats you less favourably than another person in a similar situation because of your connection, relationship or association with someone who falls under the protected grounds.
 - For example, where it could be shown that an employer chose to pay you less money than a co-worker because you have a relationship with a member of the Traveller community.

You can find out more about your rights if you experience discrimination on our website.

Reasonable accommodation

Reasonable accommodation means the measures that need to be taken to enable a disabled person to use a service.

This means that when you as a public body are providing a service, you must do all that is reasonable to accommodate the needs of a disabled person, if it would be impossible or very difficult for them to access your service without the reasonable accommodation. This could involve providing assistive technology, or adapted equipment and facilities, as required.

— Examples of reasonable accommodation include providing:

- an Irish Sign Language interpreter at school or college for a deaf person;
- a ramp for a wheelchair user to access to a premises; and
- a member of staff to help guide a physically impaired or blind person through an office building they are visiting.

The Equality Acts place a legal obligation on public bodies as employers and service providers to provide reasonable accommodations for disabled people

who need them, to ensure equality of opportunity and treatment. In the context of the disability ground, discrimination also includes a failure to provide reasonable accommodation.

The Employment Equality Acts 1998-2015 require employers, including public bodies, to take appropriate and reasonable measures to enable a disabled person to have equal opportunities and treatment in employment. An employer might not have to provide these types of measures, if it means that the employer would suffer a disproportionate burden. You can find out more about Reasonable accommodation on our website.

Positive Action

Some measures are allowed under the Equality Acts if they are positive actions designed to promote equal opportunity for people who fall under one or more protected grounds.

— Must public bodies take positive action?

The Acts only allow for positive action to be taken. They do not require it. It is not possible to complain under the Acts on the grounds that a public body has failed to take positive action to help someone, as it has no legal duty to do so.

This is different to where someone has a disability and request reasonable accommodation from a service provider.

— How does positive action work?

Where a public body treats certain people more favourably than others, they may be able to argue that they are doing so to offer fairer opportunities for people who come under one or more protected grounds. If the public body can demonstrate the need for positive action, the positive action will not be considered discriminatory under the Equal Status Acts.

For example:

- providing employment programmes specifically aimed at minority or disadvantaged groups; or
- designating certain times for only a select group of people to access services.

Promoting equality of opportunity and treatment

The concept of promoting equality of opportunity and treatment in the Duty requires public bodies to provide equal opportunities to access, avail of and enjoy any service or function provided by the public body. Providing equality of opportunity ensures staff and/or service users are not being disadvantaged because they belong to one or more grounds of the Equality Acts. This may require public bodies to minimise the disadvantages experienced by people belonging to one or more of the discriminatory grounds by removing or minimising any barriers that exist. It is also important to take all appropriate measures (including positive actions) to meet the needs of people protected under equality law that are different from the needs of people who are not.

Protecting Human Rights

The concept of protecting human rights in the Duty requires a public body to consider and ensure that in the performance of their functions, every individual engaging with or employed by them has their human rights protected.

Human Rights are universally agreed basic standards that aim to ensure that every person is treated with dignity and respect. Human rights laws are rules which set out how people should expect to be treated, including by a public body when accessing a service.

It is the responsibility of the State to protect and vindicate the human rights of its citizens and those residing in the State. As such, the law in relation to the protection of human rights becomes important when a person engages with the institutions of the State. The concept of human rights in the Duty requires a public body to consider and ensure that every individual engaging with or employed by a given public body have their human rights protected in that interaction.

Although the Irish Constitution does set out a number of fundamental human rights, there are certain unenumerated rights, such as the right to bodily integrity, which have been identified by the Irish Courts, based on their interpretation of the Constitution. The European Convention on Human Rights Act 2003 provides for rights that are directly applicable in the domestic context. Although Ireland has ratified many international human rights treaties, not all international and European human rights laws are enforceable in Irish human rights law and practices. Some have persuasive influence but are not enforceable before the Courts.

Understanding Section 42 (1)

Section 42 (1) states that public bodies 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.

Section 42 (1) is a duty of process and an ongoing functional duty. It requires you, as a public body to have regard to the need to eliminate discrimination, promote equality of opportunity and treatment and protect the human rights of your staff and everyone you provide services to when performing your functions.

This is the overarching statutory obligation under section 42 of the Act, which you, as a public body, must comply with on an ongoing basis.

It is not a one-off activity, and is not separate from the performance of your functions. It requires you to integrate human rights and equality issues into every aspect of how you perform your functions.

The statutory obligation to have regard to means that you, as a public body must:



Inform yourselves about equality and human rights, eliminating discrimination, promoting equality of opportunity and treatment and protecting human rights in the performance of your functions.



Give due consideration to these equality and human rights issues and take steps to address them in your day to day work, such as how you design, develop and deliver your functions.



Demonstrate that you have taken steps to educate yourselves about equality and human rights and demonstrate where you have considered equality and human rights issues in how you develop, deliver and evaluate your functions.

Understanding Section 42 (2)

The specific statutory obligations under section 42 (2) apply to all public bodies. In discharging its statutory obligations under section 42 (2), a public body must first inform itself as to its functions, purpose, size and the resources available to it.

Section 42 (2) requires that a public body, depending on the functions, purpose, the size and resources available it shall:

- Carry out an assessment of the **human rights and equality issues** it believes to be relevant to the functions and purpose of the body ('human rights and equality assessment');
- Put in place **policies, plans and actions to address the issues identified** in its human rights and equality assessment;
- Publish its human rights and equality assessment, and the policies, plans and actions in place or proposed to be put in place to address the issues identified in that assessment in a manner that is accessible to the public in its strategic plan. (howsoever described);
- Report, in a manner that is accessible to the public, on developments and achievements, in respect of the policies, plans and actions in place or proposed to be put in place to address issues identified in its assessment, in its annual report (howsoever described).

Section 42 (2) is a strategic duty. It requires you to include human rights and equality in your overall strategy, planning and reporting cycles and to publish specific documents. These are the specific statutory obligations which you as a public body must comply with. Complying with your obligations under section 42 (2) may help you to ensure that you are having regard to the matters you are required to consider in section 42 (1).

The strategic duty in Section 42 (2) **is a statutory obligation to implement a three step approach:**

1 	2 	3 
Assess Carry out an assessment of equality and human rights issues relevant to your functions as the public body.	Address Set out the plans, policies and actions you will take to address the human rights and equality issues you identified during step one.	Report Set out in your annual report the developments and achievements as a result of the plans, policies and actions you put in place to address equality and human rights issues.

In implementing your statutory obligations under section 42 (2) you should have regard to your functions and purpose and to the size and the resources available to your organisation.

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Implementing Section 42

Implementing the Public Sector Equality and Human Rights Duty

Implementation of the Public Sector Equality and Human Rights Duty puts equality and human rights at the heart of how a public body carries out its daily business. The Duty encompasses both current service users and those who could and should be availing of their services but are not currently doing so. It also encompasses both current staff and those who might seek employment in the public body.

There are two key elements to Section 42 of the IHREC Act 2014:

- **Section 42 (1)** is the **overarching statutory obligation** under section 42 of the Act, which you, as a public body must comply with, on an ongoing basis. Section 42 (1) requires you to put in place measures to ensure that you are promoting equality of opportunity, eliminating discrimination and protecting human rights are incorporated into how you carry out the day to day work of the organisation.
- **Section 42 (2)** sets out the specific statutory obligations that you must comply with in your organisation's strategic plan and annual report to support your compliance with the overarching statutory obligation in section 42 (1) of the IHREC Act.

The section below explains the statutory obligations of Section 42 (1) and Section 42 (2) of the IHREC Act 2014 and the steps a public body can take to meet these statutory obligations.

Implementing Section 42 (1)

Section 42 (1) states that public bodies **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.

Section 42 (1) is the **overarching statutory obligation** under section 42 of the Act, which you, as a public body must comply with, on an ongoing basis. To support your organisation to promote equality of opportunity, eliminate discrimination and protect human rights for service users, potential service users, staff and potential staff and demonstrate this compliance with the Duty on an ongoing basis, you should develop:

- performance measures;
- operational standards; and
- written preventative strategies.

Performance Measures

Performance measures are processes you should establish to evaluate the success of the steps you have taken to reduce discrimination and promote human rights and equality in your workplace and in the provision of services to the public.

These could involve, but are not limited to:

- performing internal reviews of the extent and effectiveness of whatever measures you proposed to put in place;
 - analysing whether you gave due regard to Section 42 (1) when making decisions; and
 - collecting information to inform your human rights and equality assessment.
-

Operational Standards

Operational Standards are established or agreed methods or approaches that you follow routinely to reduce discrimination and promote human rights and equality in your workplace and when providing services to the public.

These could involve, but are not limited to:

- designing and implementing processes to ensure you comply with the Duty;
- undertaking equality and human rights impact assessments before adopting a policy, plan or strategy; and
- maintaining all necessary records to demonstrate you are complying with the Duty.

If records are not kept it may make it more difficult, evidentially, for a public body to demonstrate that it has fulfilled the Duty imposed by Section 42.

Written Preventative Strategies

Written Preventative Strategies are strategies you put in place to reduce discrimination and promote human rights and equality in your workplace and in when providing services to the public.

These could involve, but are not limited to:

- ensuring that you have processes in place to provide training on the Duty for management and staff;
- incorporating and referring to the Duty in all relevant corporate governance standards, frameworks and processes, including your Strategic Plan and Annual Report; and
- consulting with staff and service users when carrying out a human rights and equality assessment, and before adopting any policies, plans and actions.

Examples of a Performance Measure

A public body set up a Public Sector Duty Committee, comprised of staff and service users, to oversee and evaluate the success of steps they are taking to meet their statutory obligations of under Section 42 of the IHREC Act 2014.

The Committee oversees the development of a Public Sector Duty action plan for implementation over the period of their strategic cycle.

They perform internal reviews to ensure that all actions were appropriately documented and that records relating to the steps taken were maintained to demonstrate that they are complying with their obligations under the Duty.

They use these documents and records to prepare and publish their results in their Annual Report, as required under Section 42 (2).

Further information on this performance measure can be found in Appendices.

Example of an Operational Standard: Equality and Human Rights Impact Assessment

Carrying out an Equality and Human Rights Impact Assessment (EHRIA) before adopting a new policy or implementing decisions which could have significant implications on equality and human rights. An EHRIA is an instrument for assessing the impact of a plans, programmes or policies developed and/or delivered by a public body on the on specific groups protected under the Public Sector Duty and under Irish equality law.

Further information on this operational standard can be found in section 6.

Example of Operational Standard: Maintaining Records

In order to demonstrate compliance with the statutory obligations of the Duty on an ongoing basis a public body should establish a process of recording and maintaining records that support activities to reduce discrimination and promote human rights and equality in its workplace and in the provision of its services to the public.

For example:

Maintaining records in respect of the human rights and equality assessment carried out;

Maintaining records in respect of the policies, plans and actions in place, or proposed to be put in place, to address the issues identified by a public body in its assessment;

Maintaining records in respect of the manner in which the Duty has been integrated in the performance of a public body's functions;

Maintaining records of a public body's decision-making demonstrating that the public body had regard to the need to the specific obligations of the Duty.

Implementing Section 42 (2)

Section 42 (2) 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) carry out an assessment of the human rights and equality issues it believes to be relevant to the functions and purpose of the body ('human rights and equality assessment');
- (b) put in place policies, plans and actions to address the issues identified in its human rights and equality assessment;
- (c) publish its human rights and equality assessment, and the policies, plans and actions in place or proposed to be put in place to address the issues identified in that assessment, in a manner that is accessible to the public in its strategic plan, (howsoever described);
- (d) report, in a manner that is accessible to the public, on developments and achievements, in respect of the policies, plans and actions in place or proposed to be put in place to address issues identified in its assessment, in its annual report (howsoever described).

Section 42 (2) includes specific statutory obligations that you must comply with to support your compliance with the overarching statutory obligation in section 42 (1) of the IHREC Act.

Section 42 (2) sets out three key steps a public must take to support compliance with the **statutory obligations** under section 42 of the Act. The steps set out in section 42 (2) are:

1 	2 	3 
Assess Carry out an assessment of equality and human rights issues relevant to your functions as the public body.	Address Set out the plans, policies and actions you will take to address the human rights and equality issues you identified during step one.	Report Set out in your annual report the developments and achievements as a result of the plans, policies and actions you put in place to address equality and human rights issues.

Step 1 and 2 must be set out in a manner that is accessible to the public in your organisation’s strategic plan.

Implementing the Assess step

Understanding the Assess Step

The Assess step requires you to undertake an assessment to identify key **equality and human rights issues** for staff and service users. It involves carrying out evidence-based identification and prioritisation of the equality and human rights issues relevant to your functions and purpose. Undertaking an evidence-based assessment of equality and human rights issues will help you **to identify** where potential **discrimination, inequality** and **violation of human rights** may exist in the provision of services and in the workplace. The assessment should be informed from available **evidence**, including the knowledge and experience of your staff and people you provide services to, and in particular, from people with the **lived experience** of inequality and discrimination.

Your assessment of human rights and equality issues should focus on the following identified groups:

- people covered by the nine grounds under equality legislation: gender (including transgender persons or persons transitioning to another gender), civil status, family status (including lone parents and carers), age, sexual orientation, disability, race, religion, and membership of the Traveller community;
- people at risk of poverty and social exclusion; and
- rights-holders under the various human rights instruments relevant to the functions and purpose your public body.

Preparing to implement the Assess step

Setting up a Public Sector Duty steering committee

You should set up an internal working group or steering committee to oversee the implementation of your obligations outlined Section 42 of the Act. When establishing your steering committee to oversee implementation of the Duty it is important to remember the Duty applies to all functions of your organisation and any structure should include people from all key sections and departments including senior management, as well as the engagement of staff with knowledge and expertise across different functions, roles and levels within the organisation.

A Public Sector Duty steering committee would oversee the implementation of the three steps required under section 42 (2):

		
Assess	Address	Report
Carry out an assessment of equality and human rights issues relevant to your functions as the public body.	Set out the plans, policies and actions you will take to address the human rights and equality issues you identified during step one.	Set out in your annual report the developments and achievements as a result of the plans, policies and actions you put in place to address equality and human rights issues.

Suggested approach to implementing the Assess step

As an approach to carrying out the assess step you could consider reviewing and assessing how your organisation delivers on its functions to ensure that:

- individuals or groups of individuals are not treated less favourably because of their characteristics or identity when engaging with or employed by the organisation;
- every individual has an equal opportunity to access, avail of and enjoy any service or function provided by the organisation including employment; and
- every individual engaging with or employed by the organisation have their human rights protected.

Guiding questions for an assessment of equality and human rights issues

Consider how you perform/deliver a function, are there barriers, challenges and issues that may be experienced by groups protected under the Public Sector Equality and Human Rights Duty?

Examples include people:

- with a physical disability or reduced mobility;
 - with sensory impairments (vision, hearing, speech);
 - with intellectual/learning disabilities;
 - with literacy difficulties, language barriers or communication difficulties;
 - without access or skills to use digital services;
 - of different genders;
 - from the LGBTQIA+ community;
 - from ethnic minorities; and
 - of different civil or family statuses (e.g. lone parents, carers).
-

Gathering information and data

Have you qualitative or quantitative information available to you about the groups protected to support you to:

- identify equality and human rights issues?
- to address equality and human rights issues identified?

Have you considered how to process personal data in manner compliant with GDPR?

Identifying existing equality and human rights initiatives

What programmes/plans/strategies to address equality and human rights issues are currently delivered by your organisation and can be utilised to address the issues you have identified?

Consultation

Do you need to carry out an inclusive consultation exercise to address the gaps in information available to you?

The template in the appendices provides you with sample questions you could use to identify equality and human rights issues relevant to your functions.

The outcome of the Assess step

The intended outcome of the Assess step is to assist you to identify equality and human rights issues that exist or may arise for people protected under the Duty. When you are carrying out an equality and human rights assessment, you need to consider the needs and requirements of identified groups related to the performance of your functions.

Steps involved in implementing the Assess step

We have identified five key steps that you, as a public body should take to implement an equality and human rights assessment:



Leadership and Responsibility



Gathering evidence for the assessment



Considering and prioritising equality and human rights issues



Approving the final draft assessment



Publishing and communicating the assessment of equality and human rights issues

During the assessment you should consider how you perform your functions, including human resources functions, from the perspective of your organisation's staff and people you provide services to.

Leadership and Responsibility

Senior management should demonstrate leadership and ownership of the **assessment of equality and human rights issues** and keep progress on implementing the Duty under ongoing review by:

- formally establishing the assessment of equality and human rights issues as an integral part of the strategic planning cycle; and
- building capacity and developing a shared understanding of equality and human rights in general for everyone involved in implementing the Duty, by completing training before beginning the assessment.

Gathering evidence for the assessment

It is good practice for the assessment to be **evidence-based**, this involves collecting and analysing relevant equality and human rights information and data with specific focus on the **identified groups**. A range of **data and information sources** are available to public bodies, both internal and external.

When you are gathering evidence, it is particularly important to:

- gather evidence from **lived experience of inequality** and discrimination;
- engage specifically with civil society organisations who can provide evidence of their experience of inequality and discrimination; and
- consider when you are reviewing any evidence and data, where people belonging to the groups may **face inequality and discrimination** due to belonging to more than one of the groups identified.

You can find more information about gathering information in the [Taking an evidence-based approach](#) section of this document.

Considering and prioritising equality and human rights issues across the functions

Once you have considered and identified the equality and human rights issues that are relevant to all of your functions, you should prioritise the issues you wish to address during the current strategic planning cycle.

Further information in relation the Duty and oversight functions can be found at the end of this section.

Approving the final draft assessment

You should then check, revise and prepare a final draft of the assessment of equality and human rights issues, which should be considered and approved at senior management level.

It may be beneficial to make the final draft assessment available for consideration by civil society organisations and staff that are representative of the identified groups, to ensure it represents their concerns.

Publish and communicate

Once you have completed all of the above steps, you should publish the assessment of equality and human rights issues in an accessible format in your strategic plan.

Implementing the Address step

Understanding the Address Step

The Address step will help you to identify the actions, plans and policies you will implement to eliminate discrimination, promote equality of opportunity and treatment, and to protect the human rights of your staff and service users. The Address step requires you to prioritise actions to address the equality and human rights issues you have identified, that will be implemented during the strategic planning cycle.

The Address step supports you to:

- enhance **equality and human rights** outcomes for your service users and policy beneficiaries;
- enhance **equality and human rights** outcomes for your staff; and
- drive **cultural change** within your organisation, ensuring a focus on **equality and human rights** that shapes organisational priorities, procedures and practice.

Preparing to implement the Address step

You should undertake the Address step once you have completed **Step 1 Assess**. When you have identified the equality and human rights issues, you should prioritise areas for action, having regard to the functions and purpose of your organisation, its size and the resources available to you.

Once you have identified the equality and human rights issues you believe to be relevant to your functions, the Address step identifies the policies, plans and actions to address the issues raised.

Suggested approach to implementing the Address step

In your approach to carrying out the Address step you could consider identifying and agreeing:

- the priority equality and human rights issues to be addressed during the lifetime of the strategic plan;
- existing plans/policies or actions that are currently addressing equality and human rights issues that will be continued during the lifetime of the strategic plan; and
- any new policies, plans or actions to be delivered to ensure issues raised in the assessment will be addressed.

— The outcome of the Address step

The intended outcome of the Address step is to identify the policies, plans, and actions in place, or proposed to be put in place, to address the equality and human rights issues identified from the assessment. It involves identifying priority actions that you will implement during the lifetime of the strategic plan, and should include any existing actions that are currently addressing equality and human rights issues, and new actions to tackle priority issues that you are not currently addressing. The Address step should also include policies, plans and actions that will support your compliance with Duty on an ongoing basis, as referenced in the section [Implementing Section 42 \(1\)](#) section.

Actions involved in implementing the Address step

Once you have identified the equality and human rights issues relevant to your organisation, you need to consider and prioritise the actions required to address them.

— Identifying actions to address issues

The address step may involve identifying both short term and more long term actions. It is likely that some new actions will have emerged during the assessment process. It is important that you include the agreed actions in your strategic plan and annual work programme.

Actions may include, but are not limited to:

- building on existing policies, plans and good practices that are already in place;
- developing performance measures, operational standards and written preventative strategies to ensure that an equality and human rights lens is built in to your organisational policies and practices on an ongoing basis; and
- activities that continue to build awareness and staff capacity in relation to equality and human rights or include activities to further examine an issue.

It may be necessary to allocate a budget, and to clearly identify staff roles and areas of responsibility across specific departments or teams, in relation to these actions.

— **Considering and prioritising actions to address equality and human rights issues**

Once you have considered and identified actions that will address the equality and human rights issues you identified, you should prioritise the actions you have committed to addressing during the current strategic planning cycle.

When considering actions to address equality and human rights issues, you may consider:

- **Corporate services:** communications, information provision, customer engagement
 - Actions to address equality and human rights issues in your communication and information dissemination practices.
- **Budgeting:** procurement, grant funding or commissioning
 - Actions to ensure that your budgeting, procurement and funding allocation policies consider the needs of people covered by the Duty.
- **Human resources:** recruitment, promotion, working conditions, and staff training and career development
 - Actions to ensure that your human resources policies and practice accommodate the needs of groups protected, promote equality of opportunity and take steps to eliminate discrimination.

- **Service and programme provision:** design, delivery and evaluation of services and programmes
 - Actions to ensure you consider and accommodate equality and human rights issues with regard to the people protected under the Duty in the design and implementation of services, programmes policies and plans.
- **Policy-making:** research, policy-making, and policy evaluation
 - Actions to ensure you consider and accommodate equality and human rights issues with regard to the people protected under the Duty when developing and adopting policies and relevant research projects.
- **Regulatory functions:** development of regulations for different sectors, and monitoring and enforcement of regulations.
 - Actions to ensure that you have considered and accommodated equality and human rights issues with regard to the people protected under the Duty in the delivery of any oversight or regulatory functions.

Further information in relation the Duty and oversight functions can be found at the end of this section.

— Incorporating ongoing compliance with the Duty during the Address step

The Address step provides you with the opportunity to develop and incorporate actions to progress and enhance appropriate performance measures, operational standards and written preventative strategies to support you in having regard to the need to eliminate discrimination, promote equality of opportunity and treatment, and protect human rights on an ongoing basis as required under section 42 (1) IHREC Act 2014.

— Developing an action plan

To support the effective implementation and monitoring of compliance with the statutory obligations of the Duty you may consider developing a Public Sector Duty action plan, which could be overseen by your Public Sector Duty steering committee. Your action plan could be prepared for implementation over the period of your strategic plan and would include actions, plans and policies to address equality and human rights issues identified during the Assess step. A Public Sector Duty action plan should also include appropriate performance measures, operational standards and written preventative strategies to ensure that you are complying with the Duty on an ongoing basis.

There are four key areas that a Public Sector Duty Action Plan could consider when developing actions:

1. Developing current progress;
2. Addressing new issues;
3. Capacity building; and
4. Mainstreaming.

Developing current progress

Addressing equality and human rights is not new to public bodies. Many public bodies are implementing policies, plans and strategies relating to the promotion of equality, elimination of discrimination and protection of human rights. Your Public Sector Duty action plan could build on any actions, plans and policies that are currently in place. It could ensure that the actions already in place are continued to respond to the equality and human rights issues you identified in your assessment, and where relevant, enhanced.

Addressing new issues

If your equality and human rights assessment identifies issues that are not currently being addressed through your strategic plan, you should identify new actions to address these issues. This may require developing new ways of working within your public body, in terms of staff management, service provision, decision-making or policy development. Such actions would aim to improve outcomes for your staff, service users or policy beneficiaries from the identified groups, or to take account of their specific needs. This could also include positive actions targeting the identified groups, as allowed by equality legislation.

Capacity building actions

To embed and mainstream the obligations of the Duty across the organisation it is important for staff and management to have a shared understanding of equality and human rights. Actions to support this would involve developing actions/plans/policies that focus on building and developing the capacity of the organisation to meet the obligations of the Duty in your day to day work.

Mainstreaming actions

Your Public Sector Duty action plan could include actions that support mainstreaming the obligations of the Duty into every aspect of how you perform your functions. Mainstreaming actions would also support you to comply with the Duty on an ongoing basis. Mainstreaming actions should include actions that support development and implementation of appropriate performance measures, operational standards, written preventative strategies as referenced in section five.

Mainstreaming actions you may consider include:

- Corporate governance
 - Actions that incorporate the obligations of the Duty into your relevant corporate governance standards, frameworks and processes, including any decision-making processes and records of decisions.
- Equality and Human Rights Impact Assessment
 - Establishing a process of recording and maintaining records that demonstrate you are complying with the statutory obligations of the Duty on an ongoing basis such as an Equality human rights and impact assessment
- Consultation
 - Actions that ensure you are appropriately consulting staff and service users when carrying out your human rights and equality assessment, and when adopting policies, plans and actions that have an impact on equality and human rights.
- Engagement on an inter-agency level to inform policy development
 - The assessment may identify equality and human rights issues that you cannot directly address in the context of your purpose and mandate. In circumstances such as this, you may have an opportunity to raise these issues and support them to be addressed at an inter-agency level. There may also be opportunities to raise the relevant issues at a policy level with a view to informing national policy and development of relevant legislation. An inclusive and evidence-based approach to addressing issues strengthens opportunities to assist other organisations to do this effectively.

Publish and communicate

As required under section 42 of the IHREC Act, the actions, plan and policies put in place to address equality and human rights issues should be set out in an accessible format, in the strategic plan of the public body.

Implementing Step 3 - The Report step

Understanding the Report step

The Report step will help you to identify the actions, plans and policies you have implemented to eliminate discrimination, promote equality of opportunity and treatment, and to protect the human rights of your staff and service users. The Report step requires you to review and communicate progress in relation to addressing equality and human rights issues identified in the **Step 1 Assess** stage of implementation. The report should draw from updates on progress provided by lead staff responsible for the indicated plans, policies, and actions; and the working group's report on initiatives for the effective implementation of the Duty in your organisation.

Preparing to implement the Report step

After you have completed Step 1 and 2, as laid out above, to complete Step 3, you should prepare a specific public sector duty report, either integrated into your annual report or included as an appendix. In implementing the report step you should focus on progress made on eliminating discrimination, promoting equality of opportunity, and protecting human rights, for your service users, policy beneficiaries, and employees. In addition, it assists an organisation to report on the delivery of its strategic plan and to inform future strategic plans.

Progress communicated in the report step can incorporate:

- new outcomes achieved for groups protected under the Duty;
- developments and improvements about how you deliver your functions with regard to groups protected under the Duty; and
- improvements in policy development and implementation, communication processes, and service delivery for the specific needs of policy beneficiaries, employees and service users.

— The outcome of the Report step

The intended outcome of the Report step is for you to report annually on developments and achievements relating to equality and human rights issues, and to make this report available to the public in your annual report. Reporting on developments and achievements in an accessible manner clearly highlights the benefits that implementing the Duty has for your organisation, your staff, and the people you provide services to.

Steps to implement the Report step

— The Annual Report

Under Section 42, your annual report is the key publication for implementing **Step 3 Report**. When preparing for the annual report, your senior management team should put in place a process for collating all of the necessary information in relation to implementation of the Duty and the progress you have made in addressing the issues outlined in the assess step. Your report is not a compilation of every action or initiative you have taken in relation to equality and human rights. It should focus on how you implemented the Duty, i.e. the equality and human rights issues you assessed as relevant and the steps you have taken to address those issues.

It would be useful for you to explicitly identify the requirement to report on progress with the Duty in any relevant governance documents developed to assist in preparing the annual report.

Specifically, your Public Sector Duty annual report could identify and communicate outputs, outcomes and impact of the policies, plans, and actions you have taken to address the equality and human rights issues identified in the **Step 1 Assess** stage of implementing the Duty.

This could include:

- any changes to actions taken or new initiatives required to address equality and human rights issues;
- good practices you have developed;
- mainstreaming opportunities for equality and human rights;
- how you are addressing barriers to accessing the services and participating in the workplace;

- changes to how people are treated and improvements in service delivery;
- positive experiences of the workplace that recognise and accommodate diversity and cater for particular needs;
- challenges you met in implementing the Duty;
- plans, policies and actions still to be progressed, and how you will address them; and
- reflections on the issues that have been identified and how they have been addressed across key functional areas.

Publish and communicate

As required under section 42 of the IHREC Act the report step should be set out in an accessible format in the annual report of the public body.

The Duty and oversight functions of a public body

Some public bodies have specific functions that involve governance oversight of an external entity which is affiliated with a parent organisation. The term ‘oversight function’ collectively refers to such arrangements. It is important to have regard to the Duty in relation to any oversight functions your public body has.

Where you have an oversight function that involves another public body, the oversight function would generally include a requirement on the other public body to comply with the Duty, and to provide evidence of its compliance.

Where your oversight function involves an organisation that is not a public body, the oversight function would include a requirement on the parent organisation to have systems in place, appropriate to their purpose, scale and resources, to have regard to the need to eliminate discrimination, promote equality of opportunity and to protect the human rights of staff and the persons to whom they provide services, and to provide evidence of this.



Equality and Human Rights Impact Assessment

What is the Equality and Human Rights Impact Assessment?

As highlighted in the Implementing Section 42 section, an equality human rights and impact assessment ('EHRIA') is a useful tool to support you to meet the ongoing obligations of the Duty. An EHRIA is an instrument you can use for assessing the impact of plans, programmes or policy developments you deliver on the specific groups protected under the Duty and under Irish equality law. You should be able to demonstrate that you have made your organisation familiar with, and considered all relevant equality and human rights issues in the performance of your functions and in the development and implementation of plans/policies/strategies and services.

What is the purpose of an equality and human rights impact assessment?

Public bodies make decisions which inform the development of policies, plans, strategies and service delivery methods. An EHRIA brings equality and human rights into the analysis, development and implementation of the policies, plans, strategies and service delivery methods of your organisation. The principal purpose of the impact assessment process is for you, as a public body to think about the purpose of the policy/plan/service and how the proposed actions relate to and impact on the public, in particular those protected under the Duty. Carrying out an EHRIA is the key to mainstreaming equality and all human rights throughout your organisation. It helps to ensure that no one is left behind when decisions are made when developing policies, plans, strategies, and services.

Why carry out an equality and human rights impact assessment?

The Duty is a positive proactive duty which provides a framework to ensure that public services are provided in such a way that they are fully accessible to all. The policies/plans/strategies that you, as a public body put in place can affect people in different ways, in particular people protected under equality legislation. Often a negative impact of a policy is unintentional. An example of an unintended negative outcome would be restructuring a service to be delivered in an online only format. While this plan could streamline service provision, it could also have

an unintended negative effect on people with disabilities, older people or people without access to the required skills or technology to access the service. An EHRIA supports you to implement the statutory obligations of the Duty by ensuring equality and human rights issues are identified and addressed in planning and decision-making processes.

Who does an Equality and Human Rights Impact Assessment (EHRIA) focus on?

An EHRIA should focus on the groups protected under Irish equality legislation:

- gender;
- civil status;
- family status;
- sexual orientation;
- disability;
- age;
- race;
- religion; and
- membership of the Traveller community.

It is important to remember there is diversity within each of the grounds; people have multiple identities and can belong to more than one ground of the equality legislation.

When should you carry out an equality and human rights impact assessment?

You should carry out an EHRIA at the planning and development stage of any new functions, plans or policies. Similarly, when you are reviewing functions or policies you should carry out an EHRIA early on in the reviewing process. You should see an EHRIA as an integral part of the planning process and you should be prepared to make changes to the function or policy should the EHRIA identify any equality and human rights issues.

Carrying out an EHRIA will support you to ensure that the proposed plan, programmes or policy:

- provides equal opportunity and treatment to all intended beneficiaries;
- does not discriminate against any of the groups protected under the Duty; and
- protects and respects the human rights of all intended beneficiaries.

How to carry out an equality and human rights impact assessment

An EHRIA aims to ensure that equality and human rights are embedded within the objectives and activities you are planning to do.

It involves six key stages:

1. Setting the context;
2. Screening;
3. Information and consultation;
4. Assessing the impact;
5. Review and revise; and
6. Monitoring.

— Setting the context

To set the context, you need to identify the overall aim of the plan, programme or policy. You should also identify the intended beneficiaries of the plan, programme or policy.

— Screening

The screening stage helps you to determine the relevance of equality and human rights to the policy/plan/programme or strategy you are developing. As public bodies deliver a wide range of services, it is possible that not all public services that you provide will be relevant to equality and human rights considerations. Where you identify that the plan/policy/programme being developed has a relevance to equality and human rights, the screening stage will help you to identify who is likely to be impacted by the decisions made, and therefore require further consideration and assessment.

— Information and consultation

During this stage, you should gather and analyse relevant quantitative and qualitative information about groups experiencing inequality or human rights violations. An EHRIA should always be an evidence based process. If you don't have sufficient information about the needs and concerns of protected groups and the likely impact of your plans, programmes or policies, you should take action to inform yourself of these issues. Undertaking inclusive consultation processes with relevant groups experiencing inequality and discrimination will support you to identify equality and human rights issues and pinpoint how your proposed plans, programmes and policies will impact on the community but in particular those protected under equality law.

— Assessing the impact

To assess the impact of the proposed plan/policy programmes, you should use the information gathered to assess for potential negative, neutral or positive impact. From your evidence, then decide if the function or policy is going to have a positive, neutral or negative impact.

- **Positive Impact** – A positive impact is an impact that could improve equality of opportunity and eliminate discrimination for protected groups and promote the better realisation of all human rights.
- **Neutral Impact** – A neutral impact is neither positive nor negative on any of groups protected or on a beneficiaries' human rights.
- **Negative Impact** – A negative impact is an impact that could discriminate against or not provide equality of opportunity or treatment for one or more groups protected. A negative impact could also create a potential human rights infringement.

— Review and revise

The review and revise stage will help you to identify any actions or changes required to address any equality and human rights issues you have identified. During this stage of the development of an EHRIA you will consider and mitigate negative impacts identified in the proposed policy/plan/programme.

You could consider the following questions to support this stage:

- What changes could you make to eliminate potential discrimination and promote equality of opportunity?
- Can you deliver the proposed policy/plan/programme in a different way, which prevents any negative impacts on the protected groups?
- What could further promote equality and protect human rights of the intended beneficiaries?

— **Monitoring**

Monitoring is an essential part of the EHRIA process, as you will only know the actual impacts of the proposed function or policy once it has been put into practice. The Duty obliges you to monitor equality and human rights issues relevant to your organisation as an ongoing process and annually deliver a report outlining developments. It is important to remember the Duty is an ongoing process rather than a one-off exercise. Information from the monitoring process can provide you with information on models of good practice for implementing the Duty. Please refer to the appendices for an Equality Impact Assessment Template.



Taking an evidence-based approach

What is an evidence-based approach?

An evidence-based approach to implementing the Duty involves identifying clear sources of information to inform an assessment of equality and human rights issues. An evidence-based approach can include information gathering and data analysis, consultation and screening. Where a public body identifies gaps in information on equality and human rights issues relevant to its functions, further information gathering and data analysis, consultation and screening may also be identified as actions that may be appropriate to address these specific issues.

Sources of information to support implementation of the Duty

There are many sources of data and information available to public bodies to support an evidence-based approach to implementing the Duty:



**Internal sources
of information**



**External sources
of information**



Consultation

All data and information collected must be treated carefully and in a manner compliant with GDPR.

Internal sources of information

Internal sources of information come from within your own organisation, or from your own staff. They include, but are not limited to information and data gathered from:

- when you were developing existing strategies, plans and programmes that provide evidence on the issues affecting identified groups;
 - recent research or evaluation initiatives or through internal equality and human rights structures;
 - interagency work you are involved in;
 - complaints from staff and/or service users;
-

- staff exit interviews;
- staff and customer surveys;
- your risk management register; and
- representations from elected representatives.

External sources of information

External sources of information come from sources outside of your organisation. They include, but are not limited to:

- information and data gathered from national equality and human rights focused policy strategies;
- recommendations from treaty monitoring bodies on Ireland's performance under international human rights instruments (e.g. UN, Council of Europe);
- official data publications;
- national and local research from academic institutions and civil society organisations;
- decisions of the Workplace Relations Commission on cases taken under employment equality and equal status legislation; and
- local development data gathered through Pobal and the local development companies.

Consultation

Consultation is both an internal and external exercise. It should provide an opportunity for all members of the community to express their views about policies and programmes and services.

Those you should consult with include, but are not limited to:

- service users and those to whom services are available;
 - staff;
 - people with experience of discrimination and human rights abuses and their representative organisations; and
 - anyone who may be impacted by your proposed actions.
-

Engagement with staff and service users is important throughout the process of assessing, addressing and reporting on the Duty. Public consultation is an essential and valuable part of developing Government policy, programmes and services. Consultation and engagement should also inform your processes of assessing, addressing and reporting on the public sector duty. If a public body engages in a consultation exercise with external stakeholders and/or staff as part of the strategic planning process, this is also an opportunity to consult specifically in relation to that body's obligations under the Duty. This can inform part of the evidence base in conducting an initial assessment.

Public consultation exercises can:

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

— The importance of consultation

Consultation with staff and service users assists in developing an evidence-based human rights and equality assessment. It can also inform how you can most effectively address your priority actions, and it can form part of your ongoing monitoring of progress against those priority actions.

— Inclusive consultation

It is important to recognise that different categories of stakeholders may have different needs or ability to engage in communication. This has implications for the planning and design of consultation processes. A lack of engagement in consultation processes can create the perception that people in the community are not interested in the issue being consulted on. It may mean that the opportunity to contribute or have their voice heard was not accessible to

them, and you need to rethink your methods. Inclusive consultation ensures the barriers that often prevent someone from participating in a consultation process are removed and a variety of opportunities to engage in a consultation process are provided.

— Key principles of consultation

The key principles of consultation are:



Participation – encouraging and including a diversity of voices, applying targeted and appropriate consultation methods which take into account how to reach and engage different audiences.



Transparency – indicating openly how the consultation has informed the issue, taking into account resources available, effectiveness, coherence and mandate of the public body, as appropriate.



Information – providing clear, concise communication, providing clear guidelines outlining the objectives, and timeline of the consultation.



Accessibility – including a commitment to advertising and providing information about the consultation in a way that takes into account the needs of people with disabilities, literacy issues, digital literacy issues and language barriers.



Reasonable accommodation – ensuring that people with disabilities can notify you of particular supports they may require to participate in the consultation.



Targeted support – identifying the need for targeted approaches to support participation of disadvantaged groups or to cater for the needs of specific categories of people within the consultation process.

— Steps to ensure consultation is inclusive

It is important to provide the opportunity for everyone in the community to have their views heard in a consultation on the issues that impact on their lives. Developing a consultation plan can ensure steps are taken to ensure a consultation process is inclusive.

A consultation plan should include clear accessible information on:



Purpose of consultation – Why you are undertaking a consultation? What it is you want to find out?



A clear timeline – When will consultation take place, including a start and end time.



Equality of opportunity – Provide and clearly outline the variety of ways available for people to participate and engage in the consultation process.



Feedback processes – Outline how you intend to feedback on the consultation.



Advertising – Ensure that you advertise in a variety of ways to reach as many people as possible.



Information – Ensure that all information relating to the consultation is accessible and easy to read.



Documenting Compliance with the Duty

Why document your compliance with the Duty?

Section 42 of IHREC Act 2014 sets out specific obligations that you must comply with. You should be able to demonstrate your compliance with the statutory obligations under Section 42 IHREC Act 2014. This section will provide you with information on how you, as a public body can demonstrate and document compliance with the statutory obligations under both section 42 (1) and section 42 (2).

Documenting Compliance with section 42 (1)

In documenting compliance with the statutory obligations under section 42 (1) you should:

- develop and maintain records about how the Duty has been integrated in the performance of your functions;
- develop and maintain records of your decision-making, demonstrating that you had regard to the need to eliminate discrimination, promote equality of opportunity and protect the human rights of your members, staff and everyone you provide services to;
- develop and maintain records where a policy is adopted and/or a decision is taken which may have implications on equality and human rights; and
- ensure that there is an appropriate process in place to provide training for management and staff on the Duty and developing and maintaining records of training, including records of who and when training has been provided.

Documenting Compliance with section 42 (2)

In documenting compliance with the statutory obligations under section 42 (2) you should develop and maintain records about the:

- human rights and equality assessment completed under the assess step, including records of any information, evidence or other material considered by you in the context of your assessment, the date when you carried out the assessment and the process you took to carry out the assessment.
- policies, plans and actions in place, or proposed to be put in place, to address the issues identified in your assessment.

Documenting the Assess and Address steps in the Strategic plan

In documenting compliance with the statutory obligations under the Duty in your Strategic plan, you may include the wording below or similar:

(Name of public body) has

Conducted an assessment of the human rights and equality issues it believes to be relevant to its functions and purpose.

Arising from this assessment, the public body has put in place the following policies, plans and actions to address the human rights and equality issues it believes to be relevant to its functions and purpose.

This assessment is publicly available and proposed policies, plans and actions are publicly available:

- as an appendix to this strategic plan
- on (public body) website (insert link)

Documenting the Report step

In reporting on developments and achievements – in respect of the policies, plans and actions in place or proposed to be put in place to address issues identified in its assessment - in its annual report (howsoever described), a public body may include wording to the following effect:

The following are the developments and achievements in regard to the policies, plans and actions which have been put in place (or are proposed to be put in place by the public body) to address the human rights and equality issues which have been assessed by the public body to be relevant to its functions and purpose: [INSERT].

Further information on these developments and achievements are available on the public body's website on [INSERT] [and for inspection at its office(s)].

Making your documents accessible to the public

You can make your documents accessible to the public by ensuring they are easily available:

- online on your website;
- for inspection at your office of a public body; and
- upon request to people who are unable to access it online or at your office(s).

To ensure that a document is accessible to the public as a whole, you should produce it in an accessible style and format and should comply with the provisions of section 28 of the Disability Act 2005 and the Web Accessibility Directive for online documents. Public bodies have a requirement under the Disability Act 2005 and the Web Accessibility Directive to make sure their services and information are accessible to all members of the public, including people with disabilities. To assist public bodies with this requirement, the National Disability Authority published a Code of Practice on Accessibility of Public Services and Information Provided by Public Bodies.



Case Studies

Case Study 1: Implementing Section 42 (1) – An Education and Training Board

— Introduction

An Education and Training Board (ETB) has agreed in its strategic plan to develop and implement an education and training programme to support local people back into employment. In order to comply with the overarching statutory obligation under the Duty to have regard to the need to eliminate discrimination, promote equality of opportunity and protect human of all those who are eligible to take part in the programme, the ETB carried out an Equality and Human Rights Impact Assessment on the education and training programme planned. Undertaking an Equality and Human Rights Impact Assessment allows the ETB to:

- consider how they will deliver the programme in way that individuals or groups of individuals are not treated less favourably because of their characteristics or identity;
- ensure that every individual has an equal opportunity to access, avail of and or benefit from the programme; and
- ensure they identify and take steps protecting human rights of all those participating in the programme.

— To begin the process, the ETB:

- identified the intended beneficiaries of the programme, considering in particular people from the groups protected under the Equality Acts. The process also identified where people are members of more than one group protected under the Duty;
- identified the key data/information you may require to identify potential equality/human rights issues that may arise within implementation of the strategy objectives and supporting actions; and
- ensured a process to record the decision making process where the ETB discussed and agreed any steps taken to ensure equality and human rights issues have been considered and accommodated.

Equality and human rights and impact assessment

In carrying out an equality and human rights impact assessment, the ETB followed the steps set out below.

1. Setting the context

The ETB identified who is entitled to take part in the programme and documented where people entitled to take part may be members of groups protected under the Duty. When considering people protected under the Equality Acts, the ETB took steps to ensure all potential participants would:

- be free from discrimination when accessing, participating in and benefiting from all aspects of the programme;
- have equality opportunity to access, participate in and benefit from all aspects of the programme, ensuring any barriers to participation were identified and addressed; and
- have their human rights protected when engaging with the programme.

2. Information and consultation

The ETB identified and gathered any data they felt they required in order to effectively review and consider the impact of the proposed objectives of the programme. There were areas where the ETB felt they didn't have sufficient information about some protected groups. To address this an inclusive consultation was held with local representative groups to identify key barriers to accessing education and training and ensure any potential equality or human rights issues are identified and addressed.

3. Action

Once the ETB were satisfied they had sufficient information to assess the impact of the objectives of the programme they began the process of identifying any changes or additions to the programme objectives that were needed to ensure the elimination of discrimination, promotion of equality of opportunity and protection of human rights for the beneficiaries of the programme.

Some of the actions identified during the impact assessment and included in the programme were:

- including a range of pre development supports to build the capacity of people from the groups protected to participate in educational opportunities;
- ensuring all training locations used were fully accessible and close to public transport;
- revising advertisement methods used to promote opportunities to ensure information is accessible and available to all; and
- including a range of targeted and specific initiatives to support different groups to participate and remain engaged in the programme.

4. Monitor and review

In order to measure the effectiveness of the programme in meeting the obligations of the Duty, the ETB ensured ongoing monitoring of the programme including feedback from participants. A review of the programme and the experiences of participants from the perspective of the Duty was included in the overall programme. The review will inform any changes that may be required for future programmes and other areas of the ETB's work where it may relate to equality and human rights.

Case Study 2: Implementing Section 42 (2) – A Governmental Department

— Introduction

Following the formation of a new Government, a governmental department prepared a new Statement of Strategy, in line with its statutory obligations under Section 42 of the IHREC Act 2014. The governmental department carried out an assessment of the equality and human rights issues they believed to be relevant to the purpose and function. The department gathered information to support this assessment which included consultation with representative organisations for individuals and groups protected under the Duty.

— Governmental department's statement of strategy:

- This department has conducted an assessment of the human rights and equality issues it believes to be relevant to its functions and purpose.
- Arising from this assessment, the public body has put in place the following policies, plans and actions to address the human rights and equality issues it believes to be relevant to its functions and purpose.
- This assessment and proposed policies, plans and actions are available below:

Function: Provision and communication of information on their services to the public	
Equality and Human Rights issues identified	Actions identified to address equality and human rights issues
» Digital exclusion experienced by people with a lack of digital literacy or insufficient access to digital devices and/or the internet.	» Ensure services and information aren't digital only and alternative accessible methods of providing and communicating information on services are provided.
» Communication methods used by the department don't reflect the diversity of communication methods used by service users.	» Review and update the department's communication policy to ensure communication methods accommodate the diversity of communication methods used by service users.
» Language barriers for people with limited English language. » Information provided is complicated, difficult to understand and inaccessible.	» Review information provided on services and revise to ensure information is easy to read and accessible including opportunities for information translation.
» A lack of staff awareness about disability and how to support people with disabilities to access services and information.	» Ensure all staff undertake Disability Awareness training to ensure staff understand the needs of people with disabilities in relation to communication and information provision.
» A lack of cultural awareness which impacts on communications reaching services users from different cultures.	» Ensure all staff undertake cultural awareness training to ensure staff understand barriers experienced by people from different cultures when trying to access services.
» Website is not accessible for people with disabilities and people with limited English language proficiency.	» Carry out and audit of website to ensure accessibility for diversity of service users.



Appendices

Template for Assess/Address

Public Sector Equality and Human Rights Duty Assessment Document					
Step One Assess			Step Two Address		
Assessment of Equality and Human Rights Issues			Addressing Equality and Human Rights issues		
Team/ Division	Relevant function/ purpose	Relevant human rights and/or equality issues	Policies/ plans/ actions in place	Gap	Policies/ plans/ actions to be put in place
	[Subheading text] [Body text] [Bullet point text]	[Sample – Constitution of Ireland] [Issues text] [European Convention on Human Rights] [Issues text] [Equal Status Acts] [Issues text] [Employment Equality Acts] [Issues text]	[Body text] [Bullet point text]	[Body text] [Bullet point text]	[Body text] [Bullet point text]

Template for Equality Impact Assessment

This Equality and Human Rights Impact Assessment template will support you to assess the impact of plans, programmes or policy on the on specific groups protected under the Public Sector Equality and Human Rights Duty. This template will bring you through six key steps which aim to ensure equality and human rights are embedded within the objectives and activities you are planning to do.

1. **Setting the context** – The first stage of an EHRIA involves Identifying the overall aim of the plan, programme or policy. This step also involves identifying the intended beneficiaries of the plan, programme or policy.
2. **Screening** – The screening stage determines the relevance of equality and human rights to the policy/plan/programme or strategy being developed.
3. **Information and consultation** – This stage involves gathering and analysing relevant quantitative and qualitative information about groups experiencing inequality or human rights violations.
4. **Assessing the impact** – This stage involves assessing the impact of the proposed policy/plan/programmes on people protected under the Duty.
5. **Review and revise** – The review and revise stage seeks to Identify any actions or changes required to address any equality and human rights issues identified.
6. **Monitoring** – The Monitoring is an essential part of the EHRIA process, as you will only know the actual impacts of the proposed function or policy once it has been put into practice.

— Step One – Setting the context

What is the aim or the purpose of the plan, programme or policy?	
Who are the intended beneficiaries?	
Is the plan, programme or policy aimed at a specific target group or groups?	

How will the aims of the plan, policy or programme be achieved?	
Who is responsible for implementing the plan, programme or policy?	
Is the plan, programme or policy subject to any specific constraints or requirements (e.g. legislation/Government circular)	

— Step Two – Screening

Does this proposed plan, policy or programme impact on the public?	
Are equality and human rights relevant to the implementation of this plan, policy or programme?	
What groups protected under the Public Sector Equality and Human Rights Duty are likely to be impacted by the proposed plan, policy or programme?	
What are the human rights you consider to be relevant to proposed plan, policy or programme?	

— Step Three – Information and consultation

Identify the sources of quantitative information available to you about experience of groups protected?	
Identify the sources of qualitative information available to you about the experience of the groups protected?	

Does the data identify barriers experienced by the groups protected that are relevant to the programme/policy/plan?	
Does the data identify issues that need to be addressed to ensure a reasonable accommodation for people with disabilities?	
What gaps exist in the data available?	
Do you need to carry out inclusive consultation exercise to address the gaps in information available?	

— **Step Four – Assessing the impact**

	Positive Impact	Neutral Impact	Negative Impact
How might people with a physical disability or reduced mobility be impacted?			
How might people with sensory impairments (vision, hearing, speech) be impacted?			
How might people with intellectual/learning disabilities be impacted?			
How might people with literacy difficulties, language barriers or communication difficulties be impacted?			
How might people without access or skills to use digital services be impacted?			

How might people of different genders be impacted?			
How might people from ethnic minorities be impacted?			
How might people from different family statuses be impacted? (e.g. lone parents, carers)			

— **Step Five – Review and revise**

	Recommendation	Action required
Detail recommendations, including action required, to address any negative impacts identified for the groups below		
Disability		
Race/ Culture		
Gender		
Age		
LGBTQI+		
Travellers/ Ethnic Minorities		
Religion		
Family Status		
Literacy/ Digital Literacy		
Low income households		

— **Step Six – Monitoring**

When and how is the Policy, Practice or Project due to be reviewed?	
How you will monitor the impact of this policy, plan or programme on people protected under the Duty?	
Are there any areas of good practice identified that can be mainstreamed across the organisation to support compliance with the statutory obligations of the Duty?	

Equality and Human Rights Impact Assessment completed

Date:

Signed off:



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