

Implementing the Public Sector Duty in the Department of Justice and Equality

Presentation by Carol Baxter, Head of Civil Justice
and Equality Policy, Department of Justice and
Equality

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Phase One: Establish a Public Sector Duty Working Group

- The Management Board took the decision in November 2017 that a Public Sector Duty Working Group should be established in February 2018, chaired by a member of the Management Board, and that the Working Group should report to the Board on an ongoing basis, reflecting the senior management commitment to the implementation of the duty within the Department.
- Establishing a Public Sector Duty Working Group enabled the Department of Justice and Equality to develop a systematic and whole of Department approach to implementing the duty.
- Each Division was represented on the Working Group either by a Principal Officer or by an AP.
- The Working Group had a secretariat to support its work provided by Corporate Services.

Public Sector Duty Working Group : Terms of Reference

- To consider and assess the Department's obligations under Section 42 of the Irish Human Rights and Equality Commission Act 2014 drawing on the expertise and support of IHREC and other relevant organisations as needed.
- To set out an initial plan of action and timetable to fulfil these obligations and drive and oversee implementation.
- To raise awareness of public sector duty obligations amongst senior management, management and staff and to identify any training needs.
- to undertake the required assessments and identify the human rights and equality issues that are relevant to the Department's functions in conjunction with all areas of Department on a phased basis.
- to identify the policies and practices that the Department has in place or plans to be put in place to address these issues.
- to encourage and progress new initiatives that embed and support fulfilment of the public sector duty.
- to report on progress on a regular basis to the Management Board.

What we did

- We developed a work programme which began with an exercise to assess how we were integrating the public sector duty into our work.
- This involved an assessment of how we were integrating the duty in criminal legislation, policing, immigration services, the Irish Refugee Resettlement Programme and in the Reception and Integration Agency.
- We asked Divisions to examine if they were taking the duty into account, how they were doing so and the evidence on which they were basing their assessment.
- We based the policy and legislation assessments on the equality and human rights obligations which arise from the international conventions which Ireland has ratified, such as the Convention Against Torture or the Convention on the Elimination of Racial Discrimination, and the specific recommendations that had been made by the UN and Council of Europe Committees. This enabled the exercise to become more concrete.

What we did (1)

- We developed a series of pilot initiatives to identify the measures needed to increase our capacity to implement the duty.
- One pilot involved the delivery of an equality and diversity and public sector duty training programme to front-line staff in INIS, the immigration service.
- Another pilot involved integrating the duty into a funding programme. We integrated criteria relating to the public sector duty into the Communities Integration Fund funding programme which required applicants to demonstrate how they would take account of the duty in the projects for which they were seeking funding.
- A third pilot involved taking the duty into account in the review of the Incitement to Hatred Act and in the development of policy on whether or not specific legislation would be needed on hate crime.

What we did (2)

- The Working Group recognised the need for awareness raising for its own members and for the Department more broadly.
- We sought a briefing from IHREC for the Working Group itself so that it would have a clearer understanding of what needed to be achieved.
- We also asked IHREC to deliver a lunch and learn presentation to the staff of the Department on implementing the duty.
- We worked to identify experts with direct experience of implementing the duty or aspects of the duty in areas relevant to the Department's work.
- In May 2019, we invited Seamus Taylor, formerly of the UK Crown Prosecution Service and of the UK Commission for Racial Equality to speak about implementing the race duty in the work of the Crown Prosecution Service.

What we did (3)

- We worked to identify opportunities to embed the public sector duty into established structures and processes that had the force of obligation and that would prompt action by parties under our auspices so to make implementation of the duty more sustainable and to expand its reach beyond the Department.
- The key action was to insert a paragraph into all governance agreements with agencies from 2019 onwards. This required them to include the public sector duty in their strategic plans and to report to the Department on progress in implementing the duty.
- This built upon an existing commitment from 2018 to raise the public sector duty in governance-related meetings with An Garda Síochána.

Challenges

- The duty is perceived as very complex. Staff regularly indicated that they did not understand what they needed to do. The duty was not always seen as relevant to the work of Departments.
- Officials often have a mistaken understanding of what is encompassed by the duty.
- Officials can mistakenly assume that they are fulfilling the obligations of the duty without needing to review whether or not this is the case.
- Assessments may be based on anecdotal evidence rather than on solid data. There is often an absence of data disaggregated by equality grounds, thus making it very difficult to assess a Department's performance, for instance in terms of access to services for people from specific equality groups.

Resources

- IHREC's guidance is very useful in developing our understanding of what the duty is and what needs to be done. Learning about the work that has been done to implement the duty in a series of pilot sites such as in the Probation Service is also very useful to get practical insights into what can and must be done.
- Work is being done within the framework of the Equality Budgeting process led by D/PER to identify the data currently available. The CSO has just completed an equality data audit which will be published shortly.
- European Institute for Gender Equality and the OECD have useful toolkits on gender impact assessment and on gender mainstreaming which can be adapted for use in implementing the duty. The Fundamental Rights Agency highlights the human rights issues that are current areas of concern.
- Session for Departments on undertaking a gender impact assessment on the impact of Covid 19.

Thank You

Questions and Comments?



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