

equalitynews

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work **against** racism

Anti-Racist Workplace Week November 4th - 8th 2002

The Future for Older People in Ireland - *Paul Murray*

The 'eist' Project in Pavee Point - *Colette Murray*

Viewpoint - *Fr. Bobby Gilmore*



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A level of workplace initiative is required to eliminate discrimination and to ensure compliance with equality legislation. Policies and procedures are required so that employers do not find themselves liable in casework under the legislation. There is another level of initiative that builds off these foundations to achieve a workplace characterised by equality as well as the absence of discrimination

The building blocks necessary for such an enterprise have been a focus for the Equality Authority and the Social Partners in recent months. Working within the Framework Committee for Equal Opportunities at the level of Enterprise these building blocks have been identified, promoted and supported. They include:-

- Policies and procedures that set out commitment to equality and non-discrimination and activities to turn these commitments into practice. Such policies and procedures require a capacity to ensure compliance with equality legislation and need an ambition to achieve equality outcomes.

The Framework Committee has published 'Guidelines for Employment Equality Policies in Enterprises' to support this building block. Further support has been provided by the Equality Authority with its 'Code of Practice on Sexual Harassment and Harassment in the Workplace'.

The contributions to EqualityNews are welcome and appreciated. However, the opinions of contributors do not necessarily reflect the position of the Equality Authority. We welcome your feedback on any article in EqualityNews. Please send comments, queries or quips to Patrick O'Leary. All our contact details are listed on the back page.

- Knowledge, values and competencies that endow the workplace with a capacity for and a culture of equality

The Framework Committee has published 'Guidelines for Equality and Diversity Training in Enterprises' to support this building block.

- The development of an analysis and understanding of the current equality context in the workplace and the change necessary to enhance this. Such an analysis and understanding requires an exploration of policies, practices, procedures and perceptions in the workplace for their contribution to equality outcomes.

The Equality Authority with support from the social partners and with funding from the Department of Justice, Equality and Law Reform, has developed a scheme of Employment Equality Reviews and Action Plans. There is a growing take up of this scheme which will assist the development of this building block.

This work has been a major focus for the Equality Authority over the past period. Its origins lie in the Programme for Prosperity and Fairness. A new agreement could usefully ensure that the work of the Framework Committee on Equal Opportunities at the level of Enterprise would continue and would expand its scope to include employment equality and equal status issues in the provision of goods and services.

A new national agreement will inevitably have a wider impact on the context for the promotion of equality and combating discrimination. This has very much been the tradition in past agreements.

The Equality Authority would like to advise all callers that they can contact our Public Information Centre directly at 01 4173333 or Lo Call number 1890 245545, for information on the Employment Equality Act, 1998 and the Equal Status Act, 2000. Information is also available on the Maternity Protection Act, 1994, the Adoptive Leave Act, 1995 and the Parental Leave Act, 1998. This information is also available at www.equality.ie. For business and other services, please call 01 4173336.

Giving continuity to this tradition could involve:

- Building on the work done under the Programme of Prosperity and Fairness on equality proofing and secure a commitment that equality legislation would be developed to include a statutory duty on the public sector to promote equality.
- It might also involve building on work done under the Programme of Prosperity and Fairness on equality data so that a wide ranging and comprehensive equality data strategy is implemented.
- The social partners have played an ongoing emphasis on equality legislation. This could be continued through seeking further evolution of equality legislation. This would involve the transposition of EU equality Directives into Irish law by means of primary legislation so that provisions can be levelled up across all nine grounds of the two equality Acts. It would involve a new Disabilities Bill with strong positive duties on the public sector and a coherence with equality legislation in terms of enforcement, definitions and evolution of the positive duty on public sector service providers to reasonably accommodate people with disabilities.
- Finally, the social partners have played a range of roles in implementing equality legislation. This focus could continue through securing resources for programmes of community based advocacy to enhance the impact of the Equal Status Act and to provide alternative sources of support to those making complaints under this Act.

Niall Crowley



The new gender equality directive

By Brian Harvey



The European institutions agreed this summer a new gender equality directive. Its long winded title belies its significance: it is called An Amendment to Directive 76/207/EEC on the Implementation of the Principle of Equal Treatment for Women and Men as regards Access to Employment, Vocational Training and Promotion and Working Conditions.

This legislation was introduced in 2000 and approved this July when the Parliament, the Council and the Commission tidied up the final outstanding clauses. The person who steered the legislation through the Parliament was Finnish Green MEP Heidi Anneli Hautala.

It has been popularly called the 'sexual harassment directive': typical press stories were headlined 'Sex pests crackdown'. The scope of the legislation is much wider than that. The directive:

- Updates the classic directive 76/207/EEC on equal treatment in the workplace.
- Guarantees equal treatment for women and men in employment, vocational training, promotion and working conditions. Some exceptions are still permitted (in practice mainly in the areas of the armed forces, police and some industries).
- Takes account of the case law of the European Court of Justice since 1976 (about 40 cases) and of modifications to the treaties (e.g. articles 2, 13 and 141).
- Defines direct and indirect discrimination (see Definitions, panel).
- Requires member states to eliminate 'laws, regulations and administrative provisions' contrary to the principle of equal treatment and declares null and void provisions in contracts, collective agreements and internal rules that are contrary to the principle.
- Strengthens enforcement proceedings, specifically permitting associations and organizations to take legal action on the part of victims.
- Obliges member states to bring in measures to protect employees or their representatives who bring cases under this directive.

- Requires member states to set up equality bodies where they have not already done so. These have a role in the monitoring and promotion of equality, assisting victims, conducting surveys, publishing reports and making recommendations. Member states are encouraged to have dialogue with non-governmental organizations on equality issues.
- Defines and prohibits harassment in general and sexual harassment in particular.
- Encourages member states to promote collective agreements to prevent discrimination and sexual harassment.
- Reinforces maternity legislation which lays down that a woman must, on returning to work, be offered her previous job or an equivalent post on terms and conditions which are no less favourable to what she would have enjoyed had she not been absent.

It is actually a short directive as European directives go, only ten pages, most taking the form of inserts into the existing Directive, 76/207/EEC.

The sexual harassment aspects of the directive are those that attracted most comment and contention. The Commission first began to consider the issue from 1987 and the Council passed a resolution on the dignity of women and men at work in 1990. The Commission published 'Sexual Harassment at the Workplace in the European Union' in 1998, including a short report on the situation in Ireland. Overall, the Commission says that between 40% and 50% of women and 10% of men are sexually harassed at least once in their working lives. The offenders are generally male superiors.

The second contentious area was what is called positive action. In effect, the directive notes changes in the case law of the European Court of Justice since 1976. This permits, under certain circumstances, the maintenance or adoption of measures designed to compensate for disadvantages suffered by a group of persons of one sex and the adoption of specific advantages to make it easier for the under-represented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers.

The first article of the new directive is, in effect, a mainstreaming article, for it requires member states to take into account the objective of equality between men and women when formulating laws, regulations, administrative provisions and activities in relation to matters covered by the Directive. Mainstreaming has previously been defined by the Commission as 'incorporating equal opportunities for women into all Community policies and opportunities'. Mainstreaming already has a legal basis in the treaties and this new article effectively requires this approach to be developed at member state level.

The new directive takes a step toward a mainstreaming approach in the private sector where article 8b (3) requires member states to encourage employers to promote equal treatment for men and women in the workplace in a planned and systematic way, whether that be through national law, collective agreements or practice.

The final text still awaits publication in the official journal. Member states will have until 2005 to implement the new directive into domestic law. Some countries already have legislation against harassment (e.g. Ireland, France, Belgium) and for them the changes will be less; other states do not (e.g. Portugal, Greece) and the legislative changes for them will be more significant. The directive requires member states to set down within their laws penalties that provide 'real and effective' compensation and that are 'proportionate and dissuasive'. The Commission will report on its implementation at regular intervals thereafter. Although the legislation did not go as far as some Members of the Parliament would have liked, its shortness, the nature of the media coverage and the fact that it is amending legislation should not take away from its significance.

Definitions

The actual definitions used in the directive will prove to be important not only in terms of this legislation but in the broader promotion of equality. Here is how the directive defines five of the most crucial terms:

Direct discrimination - where one person is treated less favourably on grounds of sex than another is, has been or would be treated in a comparable situation.

Indirect discrimination - where an apparently neutral provision, criterion or practice would put persons of one sex at a particular disadvantage compared with persons of the other sex unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

Harassment - unwanted conduct related to the sex of a person with the purpose or effect of violating the dignity of a person and creating an intimidating, hostile, degrading, humiliating or offensive environment.

Sexual harassment - where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment.

Positive Action - member states may maintain or adopt measures within the meaning of Article 14 (4) of the Treaty with a view to ensuring full equality in practice between men and women.

The debate about moving to a single equality body for Britain

By Amanda Ariss, Head of Policy and Partnerships at the GB Equal Opportunities Commission

Equality campaigners in Britain were in for a surprise late in 2001 when the British Government published its consultation document on implementing the Article 13 Employment and Race Directives. Tucked in with questions about new definitions and requirements was a short paragraph saying that in the long term our Government could see a strong case for moving to a single equality body. Currently Britain has three separate bodies dealing with race, disability and gender, but no legislation or statutory agency concerned with discrimination on grounds of age, sexual orientation and religion or belief.

In May 2002 Barbara Roche – the Minister responsible for co-ordination of British equality policy – launched a project to explore the feasibility of creating a single equality body. The remit of this project includes looking at whether a new equality body should also deal with broader human rights issues and whether there should be separate organisations for Scotland, England and Wales. Barbara Roche is expected to make a statement in the autumn on whether the Government is proposing to go ahead with a single equality body.

What's been the reaction? Equality campaigners have expressed a variety of views. Organisations representing people whose interests do not come within the remit of the existing British equality commissions – such as older people and gay men and lesbians – have generally welcomed the idea of a single equality body. Others are concerned that a single body might not be able to give sufficient

attention and resources to such a wide remit. The Disability Rights Commission is particularly concerned that after a long struggle to secure their own statutory agency, disabled people face losing it again just a few years after its creation. Although business organisations and service providers are mostly in favour, trade unions are sounding a more cautionary note.

The Commission for Racial Equality (CRE), the Disability Rights Commission (DRC) and the Equal Opportunities Commission (EOC) decided early on that they wanted to work together to debate the proposals and create shared responses. We made a joint response to the Government's initial suggestion of a future single body arguing that although it could bring benefits, a single body would need to be accompanied by comprehensive reform of equality legislation. We are now working on a document setting out a joint vision of the case for equality in Britain together with the goals and powers that we think any new equality body should have.

At the heart of our vision of equality are four key ideas. We want Britain to be a place where:

- differences are respected, valued and harnessed productively to enrich all aspects of life
- everyone is able to fulfil their potential and make choices about their life free from stereotyping, discrimination and prejudice
- individuals and communities can live with dignity and safety, free from the threat of prejudice or aggression because of their identity

To deliver this kind of vision, any new equality body would need to have a wide range of powers and functions, together with the resources to make a real difference.

- everyone feels they have a full stake in our society and democracy and is able to participate in decisions that affect them.

To deliver this kind of vision, any new equality body would need to have a wide range of powers and functions, together with the resources to make a real difference. In particular, we want it to have the same range of powers for all the issues within its remit, including the new areas of sexual orientation, religion or belief and age. We also want any new body to be able to work on a number of levels tackling:

- problems to do with one aspect of inequality (e.g. inaccessible physical environment, pregnancy dismissal, racial harassment in housing) and
- generic equality issues (eg representation in public life, harassment at work, recruitment and selection); and
- multiple discrimination.

It will be essential for changes to the equality commissions to take place either after or alongside major reform of our equality legislation. Currently, British equality legislation is in a mess. There are separate pieces of legislation covering different aspects of discrimination, with different definitions of key terms, divergent remedies for discrimination and differing powers for the three commissions. All this makes for confusion not just for individuals needing protection but also for employers and service providers needing to comply with the law.

The bulk of GB legislation is also based on individuals taking cases after they have experienced discrimination. We want to see positive duties for organisations to promote equality alongside individual anti-discrimination rights. Last but not least, even after the Race and Employment Directives have been implemented, Britain will have a hierarchy of equality rights with no protection against discrimination in the provision of goods and services on the grounds of age, religion, transgender status or sexual orientation.

In the end, creating a single equality body will only be worthwhile if it can achieve more than is possible in a framework in which different bodies deal with individual aspects of equality, including the 'new strands' of age, religion or belief or sexual orientation. For now, the debate is on.

[Amanda Ariss is currently working on behalf of all three of Britain's statutory equality bodies on their response to the proposed single equality body.](#)

Equality bodies in the European Union

By Brian Harvey

The European Commission has issued a report entitled Specialized bodies to promote equality and or combat discrimination - final report. The report was done by PLS Ramboll Management Consultants, Stockholm. Ireland's Equality Authority was one of five bodies analysed in detail.

There are 21 equality bodies in the European member states. Some states have equality bodies addressing different grounds of discrimination or have regional bodies. The bodies are:

- Centre for Equal Opportunities and the Fight against Racism, Belgium
- Commissioner for Foreigners Affairs, Berlin
- Board for Ethnic Equality, Denmark
- Advisory and Documentation Centre on Racial Discrimination, Denmark
- Regional Citizenship Commissions (CODAC), France
- Group to Study and Combat Discrimination, France
- Equality Authority, Ireland
- ODEI; the Equality Tribunal, Ireland
- Commission for Integration Policies, Italy
- Special Commission against Racial Discrimination, Luxembourg
- Equal Treatment Commission, Netherlands
- Expertise Centre for Age & Society, Netherlands
- National Bureau against Racial Discrimination, Netherlands
- Commission for Equality and against Racial Discrimination, Portugal
- Disability Ombudsman, Sweden
- Ombudsman against discrimination on grounds of sexual orientation, Sweden
- Ombudsman against ethnic discrimination, Sweden
- Ombudsman for Minorities, Finland
- Commission for Racial Equality, Britain
- Disability Rights Commission, Britain
- Equality Commission for Northern Ireland

Some countries have specific bodies to address different types of discrimination. At the other end of the spectrum, Ireland's Equality Authority works horizontally across many grounds. In Britain and Ireland,

governments prefer to work with commissions/ authorities, whilst in other countries there is a preference to work with expert groups. Most are established by legislation, others by administrative order.

The consultants made the following observations on the equality bodies:

- Those with the clearest mandates experienced the least political interference
- The legislative field in which the various bodies had to work varied - some operating well defined and compact legislation (e.g. Ireland), others having to cope with fragmented legislation (e.g. Sweden)
- Some are automatically consulted by government regarding equality
- Many depend for their success on the integrity, credibility and continuity of the chief executive: generally, equality bodies have made good choices here
- Typically, board members serve four to six years
- Many also work through advisory boards or reference groups
- All are financed through the state, mainly through an annual parliamentary grant. Some supplement their funding through the sales of publications etc.

There are two ways of choosing the boards of equality bodies. One is to appoint a series of stakeholder/ representative groups to the board such as ministerial representatives, social partner organisations, non-governmental organisations and political parties. A second approach is to appoint individuals on merit. The consultants are positive regarding the appointment of party political representatives since this buys the political process into equality.

The nature of working against discrimination puts a premium on communications skills and accessibility. The report says that for a victim of discrimination, who may often belong to a marginalized group in society, the mere step of seeking advice and reporting a discriminatory experience may be a rather daunting task. If they have to overcome great obstacles to reach the anti discrimination body, it is likely that the case will never be reported and registered.

Several of the equality bodies are regionalised. The Commission for Racial Equality has offices in six British cities, the French CODAC has 100 offices in 22 regions while the Commission for Equal Treatment in the Netherlands has more than 20 regional anti-discrimination agencies. The Berlin Commissioner provides information in 12 languages and the Swedish Ombudsman against Ethnic Discrimination in 17 languages. For communications, the equality bodies use walk-in facilities, telephone services, confidential freephone lines, universal complaint numbers and web-based standardized complaint forms.

The consultants observed that some equality bodies focussed on particular forms of discrimination while others had a broad approach (the most horizontal being the Equality Authority). The report identified the advantages of horizontal working thus: advances in one area can assist advances in others; it helps to avoid hierarchies of discrimination; makes for administrative simplicity; and acknowledges that some people may experience multiple forms of discrimination. The specific circumstances of some grounds may be missed, however.

The consultants approve the horizontal approach followed in Ireland, adding that Britain, Sweden, Germany, the Netherlands, Northern Ireland and Belgium are considering ways of making their approaches more horizontal. Individual bodies there are concerned that their issues may lose out in the process of integration. Perhaps there is broadest scope for horizontal working in Belgium, where discrimination is defined as any form of distinction, exclusion, restriction or preference whose purpose or result is or could be to destroy, compromise, or limit the equal recognition, enjoyment or exercise of human rights and fundamental freedoms on a political, economic, social or cultural level or in any other areas of social life.

Enforcement mechanisms vary. Britain's Commission on Racial Equality can issue a notice requiring a company to follow specific instructions. If it fails to do so, the Commission may obtain a court order. In Northern Ireland, the Equality Commission may close a business that acts in a discriminatory manner. Some equality bodies have little more than persuasive powers. When France's CODAC receives a complaint, it appoints reference persons in an organisation complained about to

try to resolve matters. Most equality bodies can investigate discrimination issues on their own initiative, without a complaint being filed. Belgium's equality body can engage in situational testing where, for example, staff may test bars to see whether different ethnic groups receive equal treatment.

Most equality bodies try to work toward a negotiated settlement between complainant and defendant. In some countries, a majority of cases are settled by this method. The Swedish ombudsman is specifically enjoined to promote a negotiated settlement in the first instance. Most equality bodies prefer a negotiated outcome, for it is often more helpful to victims and can be more effective in changing behaviour of defendants and buying them into a process of change. Negotiated settlements are also cheaper. The only downside is that soft solutions are less amenable to success measurement. The threat that the complaint might go to court is helpful where defendants are recalcitrant. Belgium's equality body can act as complainant and has done so successfully. In some countries, legal procedures can be lengthy and require a higher standard of proof/evidence. Generally, the criteria used by equality bodies for going to court are:

- Serious injustice
- Establishment of a precedent
- Continuing resistance
- No other legal avenues open
- Last resort

The Dutch Equal Treatment Commission operates hearings to listen to the views of the different parties. These are less formal than court procedures and are designed to promote reconciliation. Its opinions are not legally binding, but this means that there is a heavy onus on it to present persuasive recommendations.

Some equality bodies complement their own legal strategies by supporting vulnerable groups to set up their own legal bodies to address discrimination. An example cited was the community advocacy work of the Equality Authority with the Traveller community in Ireland.

For a copy of the full report on equality bodies in Europe, please contact Nicola Twamley at +353-1-417 3354 or email ntwamley@equality.ie

The future for older people in Ireland

By Paul Murray, Head of Information & Publishing, Age Action Ireland.

Older readers will remember the days when women had to flee the Public Service on marriage. There was a fear that that they would take up jobs that could be done by married men, "heads-of-household", that hearth and home would be destroyed if women were having babies and working outside the home.

It sounds preposterous, but even worse was our acquiescence to an ethos that had already been abandoned in the more sophisticated European democracies. We had not yet been sensitised to the finer points of equality as they affected women. This State has, however, moved on. There is at the very least an agenda, some excellent legislation, and a wish list of measures needed to champion the rights of every individual.

The last sentence, of course, is not quite true. Is there even an agenda for the rights of older people, rights so well flagged in the Equality Authority's report, 'Implementing Equality for Older People'. Many reports, yes, speaking of the desirability for older people to live in their own homes as long as possible, that they be consulted, nods towards community care, various expenditures, and even the appointment of a Minister of State with Responsibility for Services for Older People.

But the mindset that sets older people apart is still there, no matter that nearly 12% of the population is over 65, that this percentage will be 14 per cent before long, that in world terms the older population of 600 million will be two billion by 2050, according to Kofi Annan, the UN Secretary General.

It becomes apparent, perhaps, in the population cohort for three recent measures, the Back to Education scheme organised by the Department of Social and Family Affairs, the Breast Check programme, and the Employment Equality Act 1998 which was highlighted in 'Implementing Equality for Older People'.

In the education programme, perhaps every category of social welfare recipient is rightly targeted, the widowed, the sole parent, the unemployed, the disabled, the visually impaired, among them. But pensioners, the older version, are excluded. Why? It is a truism that the more you ask "why" the dafter can be the answer. We are told the Back to Education is to raise the skills of people who might have missed out in their education, people who might be trying to get into the workforce.

The suggestion, however unintended, is that older people might not want to be upskilled, that they necessarily want to stay at home, that they do not want to work. Now, of course, retirement can be a joy for many people — a National Council on Ageing and Older People conference was told that many retirees look at it positively - but why should older people be denied choice. In the words of Tony Fahey and Helen Russell, of the ESRI: "The retired are generally satisfied though those who want paid work are somewhat less positive than those who do not want paid work."

If the older person does get work, they can be harassed, bullied, and their lives made miserable, but if they are over 65, they are not covered by the Employment Equality Act 1998. Astonishing!

There is at the very least an agenda, some excellent legislation, and a wish list of measures needed to champion the rights of every individual.



Again we ask why? It is probably nothing deliberate, merely an oversight. But it's the oversights that hurt, particularly when we know that some older people do want paid work. Dr Anna Murphy, of Forfás has said that 25% of over 55s, not in full-time employment, are interested in paid jobs. They want to ensure, however, that their pensions are not unduly affected and that they have flexible hours. Surely these requirements can be met by our planners and human resources managers!

Older people, too, want to be consulted on when they retire, with many favouring a system of gradual retirement. Fahey and Russell say this preference is widespread, and is particularly strong, at 70%, for those still at work. Indeed, a European barometer indicates that 74% of Europeans favour gradual retirement, with higher percentages in Scandinavian countries.

So our thoughts have to be realigned. Every social policy should be "age proofed". There are no doubt reasons of scientific comparison for stopping the Breast Check programme at 64. It may also be considered important to target women at specific ages. The question, however, is why it always seems to be older people who are excluded. As the percentage of older people increases, as the

number of carers declines while those in need of care goes up, it is time for eternal vigilance to ensure that the older generation is not left out. It must be ensured that older people are not seen merely as "bed blockers" in the acute hospitals, and that, bearing in mind the Health Board "pocket money" scandal, their entitlements are upheld in regard to nursing home care.

So our thoughts have to be realigned. Every social policy should be "age proofed". There are no doubt reasons of scientific comparison for stopping the Breast Check programme at 64. It may also be considered important to target women at specific ages

Most older people, however, will continue to live in their own homes, the wish of the majority. All they want is a fair deal, to be included, and consulted, not to be patronised or shepherded about in the final stages of their life. They want to be judged on their abilities, experience, personalities and education, not on their chronological age. They are not a grey amorphous mass but individuals who deserve the protection of equality legislation and most importantly, enlightened attitudes.

For information on Age Action Ireland, please go to: www.ageaction.ie

The 'éist' project in pavee point: action for equality in the early childhood and primary sector in Ireland

By Colette Murray, Coordinator, 'éist' project, Pavee Point

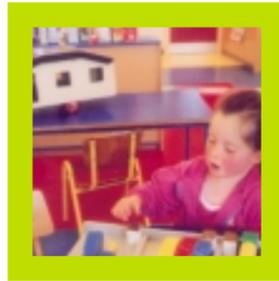
The 'éist' project (funded by the Equal Opportunities Childcare Programme under the NDP) in Pavee Point Travellers Centre commenced in September 2001 and will run for three years. It aims to develop a diversity and equality approach relevant to the Irish context and to promote its inclusion within the early childhood and primary sector. The project is working in partnership within the sector to develop the approach, which incorporates, baseline research, the piloting of the approach at pre-service and in-service levels and the development of resources for training and for use in practice.



Racism, in particular against the Traveller community and other forms of discrimination are not new to Ireland. However, the recent increase in the number of non-national families coming to Ireland has increased awareness about equality issues in the early childhood and primary sector. The 'éist' project aims to support practitioners in their crucial role of promoting diversity and challenging discrimination.

There have been significant developments in recent years in the Irish early childhood sector at policy level, including the enactment of the Equal Status 2000 legislation. This legislation has implications for early childhood and primary services, as educational establishments are included under the Act ('pre-school services' as defined in the Child Care Act 1991 and primary

schools). The legislation prohibits discrimination direct or indirect on nine grounds, in areas such as access and participation in educational establishments. Another significant policy development has been The National Children's Strategy launched by the Government in 2000, which recognises the rights and needs of children in line with the UN Convention on the Rights of the Child. The Strategy states that it presents 'an opportunity to enhance the status and further improve the quality of life of Ireland's children' (National Children's Strategy, 2000, p.6). This is



an exciting challenge for policy makers and service providers to meet the requirements of the strategy. A strong focus in the first year of the project was on raising awareness through submissions, representative and policy work. This is vital as diversity and equality require a prominent place on the agenda of early childhood and primary practice and training. The project is now beginning its second year and is developing training in the area of diversity at pre-service and in-service level. The training includes a variety of issues, such as:

- developing, implementing and evaluating equality policies;
- the development of pre-prejudice and identity in children;
- diversity as a majority issue;
- the role of the adult in facilitating the development of empathy and critical thinking in children,

- the consequences of ignoring diversity;
- the effects of discrimination on children
- how to provide an inclusive environment for all children.

The 'éist' training programme is broadly based on the anti-bias approach originally developed by Louise Derman-Sparks in the United States of America. This approach encourages practitioners to facilitate every child in developing a positive understanding of who they are and their cultural background. The notion of becoming bi-cultural is also an important goal of the approach which simply means, children are supported in the early childhood or primary setting in maintaining their cultural identity and supported in operating within the culture of the larger or dominant society.

Research shows us that children are influenced by the prevailing biases in society. From a very young age children are capable of recognising differences in areas such as gender, race, ethnicity and disability. Children learn directly and indirectly from their families and society in general, the positive and negative attitudes attached to differences. At a young age children can begin to show signs of pre-prejudice and discomfort or fear of certain differences. It is clear that, equality is an important issue to be addressed in early childhood and primary level. If we do not support children, they are at risk of developing real prejudice and discrimination. Furthermore, direct and indirect discrimination can have detrimental effects on a child's educational progress. Early childhood and primary services therefore can be very influential in shaping children's attitudes and in preparing children for dealing with the prejudice of others.

By fostering in children the ability to critically think about inequalities in our society we are giving them a valuable tool. In discovering the inequalities that exist in our society



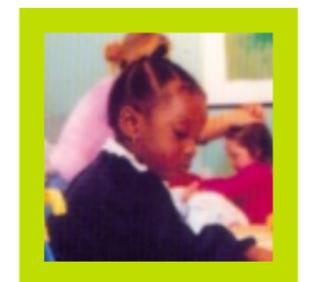
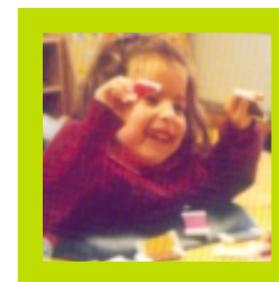
children can be encouraged in a developmentally appropriate way to challenge injustices with the support of the practitioner. Through understanding that we share a common humanity and a multitude of similarities and differences, children will find it normal to interact with children or adults who may be different to them. Clearly, this process, which can be difficult but also enriching involves learning for the adult as well as the child.

Available supports for practitioners and trainers developed by the 'éist' project -

- Resource materials: Posters and sequence cards designed by the project and funded by the Know Racism Campaign, Barnardos and the NCCRI. The packs contain positive images of children from a variety of backgrounds, cultures and minority groups.
- Resource list, which recommends resources (and where to source them) for promoting diversity and equality in early childhood and primary levels.
- Published two reports 'Respect' and 'éist' which offer an excellent introduction and guidelines for the area of diversity education.
- Training at a limited level this year, but will be expanded late 2003 and 2004.

The vision of the 'éist' project is that early childhood and primary services in Ireland will be accessible to all children regardless of difference, and that every child can participate and gain equitably from this experience.

For orders or for further information about the 'éist' project please contact Pavee Point at 01 8780255 or pavee@iol.ie.



Workway

By Catherine Maguire, Social Policy Officer, IBEC

2003 is the European Year of People with Disabilities. Each European country will be celebrating and highlighting the abilities of people with disabilities and the message from the European Disability Forum for the year is clear; people with disabilities want... "Full equality and participation in all sectors of life."

Securing employment for people with disabilities can be a major step forward to achieve equality at the level of the enterprise and also to improve their integration into society.

Experience to date suggests that no single-factor, rather a complex range of factors, are operating which prevent the take up of employment opportunities by people with disabilities. Perceptual, physical and / or procedural barriers can all contribute to this in various ways and make it a more difficult and complicated process for a person with a disability to gain employment as compared to a non-disabled person. The ILO Draft Code of Practice on Managing Disability in the Workplace (2001) also suggests that even gender is an important factor in determining the opportunities that are open to people with disabilities. The Code states that "women with disabilities generally face greater difficulties than women in general, and than disabled men, in finding jobs and generating income."

There have been many commitments, projects and initiatives launched over the years to combat these problems, but despite these continued efforts, the unemployment level among people with disabilities remains unacceptably high. However, a new and exciting IBEC / ICTU partnership

initiative set up under the auspices of the Programme for Prosperity and Fairness (PPF), 'Workway', aims to take an innovative and practical approach to tackling these barriers.

Workway was chosen as the name for the project as it symbolises the role of the project in paving a way for people with disabilities into sustainable employment. Modern technology has helped to increase the mutual adaptability between people with disabilities and their work environment, but that has only brought about a limited amount of physical change to help their integration into the workforce. It is still necessary to continue to combat all the barriers, if inclusion rather than exclusion is to be the norm.

The Workway project is the first project, on the basis of social partnership, that aims to create awareness, contest negative attitudes and maximise the employment opportunities for people with disabilities in regionally based companies operating in the private sector. Specifically, Cork, Kerry, Galway, Donegal and the Midlands will be targeted in the next two years by two locally based regional facilitators.

The facilitators were appointed to establish, coordinate and support the initiative through regional networks. These networks will be established in the autumn and will be comprised of representatives from Irish Business and Employers Confederation (IBEC), Irish Congress of Trade Unions (ICTU), state agencies, employers, support organisations and people with disabilities. These networks will provide

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an important channel for exploring local skills availability and employment opportunities through a partnership approach. The members of the networks will also be involved in identifying barriers, and solutions, to employment at local level by employers and people with disabilities.

In the next few months, the regional facilitators will establish the networks, build up awareness and harness all relevant resources of the local community to ensure the achievement of the aims of the Workway project. A National Steering Committee comprised of members from IBEC, ICTU, Department of Enterprise, Trade and Employment, Department of Social and Family Affairs, Department of Health and Children, FAS, CNEASTA, IASE and DFI and Comhairle, will oversee the operation of the role of the facilitators as well as the regional networks and contribute, where appropriate.

Even though the Workway project is only a two-year project, it is anticipated that this project will set up a structure through which future initiatives can continue to increase the participation of people with disabilities in the workplace.



For more information on the progress of the Workway project, please check out www.workway.ie

work against racism

is committed to making our workplace
an anti-racist workplace

An anti-racist workplace:

- is free from discrimination and harassment
- is welcoming to Black and minority ethnic (including Traveller) employees and customers
- accommodates and values cultural diversity in the workplace
- takes practical steps to ensure equality
- communicates a message for greater equality within the wider community



For more information, contact the Equality Authority
on Lo Call 1890 245545 or www.equality.ie

Anti-Racist Workplace Week 4th – 8th November 2002

Equality and the Irish health services: an idea whose time has come?

By Dr. Philip Crowley

It's the third annual Anti-Racist Workplace Week from November 4th – 8th 2002. Anti-Racist Workplace Week aims to prevent racism and to promote interculturalism in the workplace.

The Work Against Racism partners (the Equality Authority, IBEC, Congress, the CIF, and Know Racism, the National Anti-Racism Awareness Programme) are launching a new advertising campaign 'It Works Both Ways' to increase awareness of migrant workers issues. A postcard and poster are being distributed by all partner organisations. Look out for a second postcard on the 'It Works Both Ways' theme which will be available for the month of November in cafes, bars and shops throughout the country.

The week's events will commence on Monday 4th with a launch of a new Report, an 'Overview of the Equality Infrastructure in Companies with Special Reference To Minority Ethnic Workers Including Travellers'.

A second major event in the week is the 'It works both ways: Migrant Workers in Ireland - Recruitment and Workplace Integration Towards an Intercultural Practice' seminar to be held on Wednesday 6th November in the Burlington Hotel, Dublin between 9.30am-4.30pm.

In this conference, practical intercultural approaches in the recruitment of migrant workers and in providing a support infrastructure for migrant workers in the workplace will be explored. There is no fee for attendance at the seminar and bookings should be made before Friday 1st November as the numbers are strictly limited.

For conference bookings contact: Ms Ciara de Mora at the Equality Authority. Tel: (01) 417 3311 Email: cdemora@equality.ie



To celebrate Anti-Racist Workplace Week, November 4th - 8th 2002, why not:

- Distribute the Know Racism emblem in your workplace (details from Know Racism campaign on (01) 663 2694)
- Launch an equality policy, or start the process of implementing an equality policy
- Hold an anti-racism training event
- Display the Work Against Racism poster
- Organise an event to celebrate workplace diversity
- Attend the seminar on migrant workers on 6th November

For information and details on any of the above contact the Equality Authority (contact details on back page of equalitynews).

Having lived overseas in Nicaragua and England for the last 13 years, I am struck at how Ireland has changed in that time. There has been a period of such economic growth that Irish people, who had sought economic refuge overseas, have been returning in large numbers and, for the first time, have been accompanied by people seeking refuge in our country. Modern Ireland is a more heterogeneous society with many different minority groups playing a much more prominent role in society. Alongside this, the Irish State has adopted far-reaching equality legislation which recognises the need to protect individuals from discrimination on nine grounds.

There is extensive evidence demonstrating health inequalities in Ireland. Experience in England suggests that rising national wealth can result, paradoxically, in greater disparities in wealth and health between the best and least well-off in society. Older people struggle to maintain their economic position in society and women are still paid less than men. People with disabilities and minority ethnic groups are more likely to be unemployed or in low wage work and the long-term effect of this on health is exacerbated by inequalities in access to health services.

Health inequalities can be looked at in different ways. Inequalities exist in:

- 1) access to exercise, healthy food, warm homes and other determinants of good health;
- 2) access to health services and;
- 3) health outcomes.

Inequality in health outcomes can be identified by differing death and disease rates in different socio-economic, and other groups. This cannot be tackled through the health service alone, the social and economic circumstances of those with low earnings must be improved.

Modern Ireland is a more heterogeneous society with many different minority groups playing a much more prominent role in society

Too often the analysis of health service inequalities becomes mired in debate about waiting lists and overall access to hospital health care. As long as there is a two-tier health service in Ireland, with those on health insurance able to bypass the public and longer waiting lists, particularly for non-emergency operations, it is inevitable that access to hospital care will dominate the debate.

Inequalities in access to health, however, can occur at all levels of the health service and can affect different groups in society in different ways. Access to general practice is an issue in poorer parts of the city, as there is clear evidence, in Dublin for example, that general practices are very heavily concentrated in more wealthy areas.

Let us examine health service inequalities in the context of the nine grounds encompassed in the equality legislation. I have done work in the UK which suggests that general practice is not always perceived as being a welcoming place for lesbians or gay men. When general practice waiting rooms have no literature or imagery to suggest that lesbians and gay men are welcome, the result is that these people often do not feel confident in disclosing their sexuality to the GP. Equally, the lack of translated information can send a negative message to patients from minority ethnic groups.

There is evidence that minority ethnic groups are less likely to get referred from general practice to hospital care. People with physical and sensory disabilities encounter significant obstacles whenever they need to access health care. The health, and health care deficiencies, facing the Traveller community have been well documented in Ireland. Men's health is relatively neglected by the health services and a wide range of health issues specific to women remain to be adequately addressed.

The Irish Health Services clearly face major challenges if they are to truly embrace an equality agenda. It is imperative that there is an equality of service provided to all, free from discrimination and taking account of sexual orientation, marital status and religion; to rich and poor, to minority ethnic groups, to people with disabilities, to young and old, to members of the Traveller community and to women and men.

Improving services for minority groups improves them for everyone. Good primary care in poorer areas prevents people having to resort to attending hospital casualties. This allows the staff there to concentrate on dealing with the emergencies for which they were designed. Making services more accessible for minority groups make them more accessible for everyone. When documents are in larger print most people find them easier to read and there are many people, who don't use wheelchairs, who find stairs difficult to climb.

In order to create equitable health services the first challenge is to develop an acceptance that inequalities exist and need to be tackled. To this end we need to ensure that our health information systems can identify patients from groups experiencing inequalities, for example ethnic monitoring. Once documented, evidence of

unequal access can then form the basis of action.

The area of individual prejudice against minority groups and on the basis of gender has been documented to exist in health service provision, and needs to be tackled with sensitive training programmes which examine our attitudes and make us think about how we might be discriminating against different groups in the way we design and deliver health services.

At the level of service delivery we need to ensure that resources are identified to translate health information into minority languages. Minicomms and loop systems need to be purchased in all areas of the health service, physical access must be guaranteed and incentives must be developed to ensure an equal distribution of general practices in under-provided areas. Service waiting areas should have images and literature that demonstrates the fact that they are there to serve all people equally in all their diversity. Generally it is preferable that mainstream services reach out to meet the needs of minority groups, but in some cases it may be necessary to establish targeted specialised services for some groups in some areas of care. One of the biggest steps for the health services

It is imperative that there is an equitable service provided to all irrespective of sexual orientation, marital status and religion, to rich and poor, to ethnic minority groups, to those who are disabled, young and old, and to members of the travelling community

would be to take active steps to ensure that the health workforce reflects the society it serves employing from all minority groups, and with a balance of women and men at all levels, through combating ageism, sexism, racism and discrimination against lesbians and gay men in service recruitment.

Health service policy-making needs to ensure that it employs mechanisms for checking new and existing plans to ensure that they encompass the needs of all the diverse groups that make up Irish society. Simple checklists can be employed that ask does this decision/plan/strategy meet the needs of older people, of women, of lesbians and gay men, of Travellers, of other minority ethnic groups or of people with disabilities?

How can the energy be created to ensure positive change in tackling health inequalities in Ireland? The first step has to be to develop a process of engagement with the communities experiencing health inequality and barriers to accessing health services. Involvement of local communities, both geographical and, crucially, of identity, ensures that programmes

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developed are appropriate and focussed on eliminating the obstacles so that the programmes truly make a difference to the health of these communities. Community involvement also brings with it the drive needed to maintain the long-term commitment which will ensure that the focus is maintained on tackling health inequalities

when other priorities may appear more pressing. From my experience in Newcastle Upon Tyne, only by getting minority group representatives together with health service managers will an understanding develop that will guarantee that services are modified to ensure that they are accessible, acceptable and used equally by all groups in society.

Reconciling work & family life - the case for paid parental leave

By Joan Carmichael, Assistant General Secretary, Irish Congress of Trade Unions

Working parents (women and men) have the legal right to 14 weeks Parental leave since December 1998, however recent research found that only 20% of eligible workers have taken this leave since its introduction. The research confirmed that the most common type of leave made available to employees, by their employers in the private sector, is 'a continuous block of 14 weeks', and that the absence of payment was the biggest disadvantage to workers availing of such leave.

In Ireland Parental Leave is unpaid - neither the Employer nor the State is required to make a payment to the employee and the leave must be taken in a single block of 14 consecutive weeks, unless the employer agrees to a more flexible approach and allows the parent to take the leave on a part-time basis over a number of periods.

Parental Leave is now the only form of "caring leave" that does not qualify for a PRSI related benefit in Ireland. Maternity Leave, Adoptive Leave and Carer's Leave all qualify for a PRSI related benefit.

The majority of EU Member States provide payment for parents taking Parental Leave to care for their children, i.e., Austria, Belgium, Denmark, Finland, France, Germany, Italy, Luxembourg and Sweden.

Background

EU Parental Leave Directive - In 1995 the European Trade Union Confederation (ETUC) negotiated the first Framework Agreement between Employers and Unions at European level under the Social Protocol to the Maastricht Treaty. I was part of the ETUC negotiating team and at that time there were only three Member States that did not already have Parental Leave i.e. Ireland, the UK and Luxembourg. The EU Commission adopted the Directive on 3 June 1996 setting out the minimum requirements and provisions for Parental Leave.

The Parental Leave Act, 1998 provides working parents (men and women) with an individual right to 14 weeks leave from work to take care of their child up to age five. Each parent including parents of adopted children, have the legal right to Parental Leave. In the case of an adopted child under three years of age at the time of the adoption the leave must be taken before the child reaches five years of age. However, if the child is aged between three years and eight years at the time of the adoption, the leave must be taken within two years of the adoption order.

The Act also provides for force majeure leave, i.e. paid time off from work for urgent family reasons in cases of sickness or accident. This leave is limited to cases where the immediate presence of the employee, at the place where the ill or injured person is located, is indispensable. Force majeure leave consists of one or more days, not exceeding 3



days in any period of 12 consecutive months, or five days in any period of 36 consecutive months. This leave is not confined to caring for children - it may be taken in respect of a spouse, a partner, a brother or sister, a parent or grandparent. (see Equality Authority website www.equality.ie for details.)

Parental Leave Review Group

The Programme for Prosperity & Fairness provided for a review of the Parental Leave Act in consultation with the Social Partners and its Report and Recommendations were published in April this year.

As part of the review research was carried out by MORI MRC, which showed that only 20% of eligible workers have taken Parental Leave since its introduction in 1998. The majority of those taking Parental Leave were women i.e. 84%. The research also confirmed that the most common type of leave made available to employees, by their employers in the private sector, is 'a continuous block of 14 weeks'.

The Research also showed that overall only 2% of employees took force majeure leave and as with Parental Leave the uptake of force majeure leave was higher amongst women at 4% compared to 2% for men.

Newmarket Consulting Ltd., carried out an attitudinal survey of Employers, Employees and Unions. Not surprisingly this research showed that

63% of employees stated that the absence of payment was the biggest barrier to them of availing of such leave. For the most part, employers stated that they do not/would not pay employees in relation to periods of parental leave taken and only one employee interviewed indicated that the employer had made a payment in that case. The survey showed that 82% of employees favoured taking the leave in a form other than a continuous block of 14 weeks, including 49% who wished to take the leave in the form of one or two days per week over a number of weeks. 42% of employers preferred their employees to take parental leave in a continuous block of 14 weeks.

The Review Group Recommendations cover a number of issues including:

- Payment of Parental Leave - The majority of the members of the Working Group recommended that Parental Leave should attract payment. However this was not supported by the Employers (IBEC) the Department of Finance or the Farming Pillar.
- Manner in which Parental Leave may be taken - There was consensus that the manner in which Parental Leave can be taken should change. The Group recommended the introduction of a new option that would give parents the legal right to take Parental Leave in separate blocks, each block consisting of a minimum of six continuous weeks, subject to the maximum period of leave allowed.
- Duration of Parental Leave - The majority of the Group recommended that the duration of

Case Reports

By Patrick O'Leary



parental leave should be increased by 4 weeks, bringing the total to 18 weeks. In the event of parental leave attracting a payment in the future, the additional 4 weeks parental leave would not attract such a payment. The Department of Finance and IBEC did not support this recommendation.

- Maximum age of a child - The majority of the Group recommended that the maximum age of the child in respect of whom employees may avail of parental leave should be increased from five to eight years of age. IBEC did not recommend extending the maximum age beyond six years of age.

In the case of a child with a disability the Group recommended that the maximum age of the child should be increased to 16.

- Force Majeure Leave - The Group recommended that the Act should be amended to provide a statutory basis for the development of Codes of Practice in relation to force majeure and parental leave; and that the issue of force majeure leave in respect of same sex partners be addressed.

The majority of the Group recommended that provision be made for a half-day's force majeure leave. The Department of Finance and IBEC did not support the recommendation.

Women still carry the main responsibility for childcare and 84% of those taking Parental Leave are women. Unpaid Parental Leave reinforces the gap in incomes between men and women.

- Paternity Leave - The Group did not reach consensus on this issue. The majority of the Group supported a recommendation to introduce a statutory entitlement to 3 days paid paternity leave per child, payable by employers. IBEC and the Farming Pillar could not agree to the introduction of paid paternity leave by employers, at present.

(The full details of the Review Groups Recommendations are available on the Department of Justice, Equality & Law Reform's website - Publications - Review of Parental Leave Act - www.justice.ie)

Conclusions

It is clear to me that the lack of payment and the requirement to take Parental Leave in 'a continuous period of 14 weeks' are both barriers to working parents availing of their right to Parental Leave, hence the extremely low uptake of only 20%.

Women still carry the main responsibility for childcare and 84% of those taking Parental Leave are women. Unpaid Parental Leave reinforces the gap in incomes between men and women.

Congress will continue to press Government to implement all of the recommendations of the Parental Leave Group including the introduction of a payment which Congress believes should be a PRSI related Parental Leave Benefit.

Company dismisses employee with disability

The Equality Authority welcomed the recent decision of the Labour Court in relation to an employee who was discriminated against due to a hearing impairment. The employee worked as a service receptionist. Shortly after the commencement, he was informed that there appeared to be a problem with communicating on the telephone. The claimant wore a hearing aid but stated that he had never before had any complaints or difficulties with the telephone work. A headset was subsequently provided but further complaints were made about the claimant's work performance. After a three month period, the employee maintained that the company terminated the employment.

The Labour Court concluded that the company dismissed the claimant on grounds of disability and did not do all that was reasonable to support the claimant to do the job. A specialised headset that could have eased the claimant's hearing difficulties was not provided. Under the Employment Equality Act, employers must do all that is reasonable to accommodate staff with disabilities, unless such a provision would give rise to a cost other than a nominal cost to the employer. The court did not accept the company's argument that the cost of providing facilities or accommodating the claimant's need was other than "nominal". The claimant was awarded 3,000 euro.

This ruling is valuable in providing further clarification on the obligations of the employer to reasonably accommodate people with disabilities. It emphasises the provision of assistive technology but clarifies that reasonable accommodation goes beyond the provision of equipment by highlighting the contribution suitable induction training would have made to the job performance. This ruling highlights again that nominal cost is not a fixed sum but will be assessed on the basis of company size and turnover. This is important for the legislation's positive impact on the situation of people with disabilities.

The disability ground currently accounts for over 19% of the Equality Authority case files under the Employment Equality Act. Disability issues need to become a higher priority for employers if this situation is to change. Cases such as this should assist and encourage employers to take necessary steps to change this situation.

COMPENSATION AWARD: The Equality Authority has welcomed a Labour Court decision to award €3,000 compensation to an employee who was dismissed due to his hearing disability. Gerard Smith, who took his unfair dismissal claim against Irish Commercial (Sales) Ltd, was offered the job of service receptionist on December 14, 2000. He was dismissed, after being given four weeks' notice, at the end of a three-month trial period. The company said he was unsuitable for the job. The court ruled Mr Smith was dismissed because, in the opinion of his employer, his hearing difficulties interfered with his performance.

Care attendant awarded €5,000 for harassment

By Catherine Cassidy
A FORMER care attendant has been awarded €5,000 by ODEI

in a "harassment" case. He was shocked and embarrassed. She eventually took the case and informed him that a complaint had been made about

Health board liable for harassment of employee from the Traveller community

The Equality Authority welcomed the decision of the Office of the Director of Equality Investigations (ODEI) – the Equality Tribunal in awarding 5,000 euro to an employee of the North Eastern Health Board. The decision of the Equality Officer of the ODEI stated that the employee was harassed at the organisation's Christmas party because of his membership of the Traveller community. The North Eastern Health Board discriminated against the claimant and failed to investigate the matter and protect him from harassment. Also the reduction in working hours allocated to the claimant after the complaint of harassment was made, amounted to victimisation.

The implementation of the Employment Equality Act 1998 has already revealed sexual harassment as a widespread problem in the workplace. This case highlights the issue of harassment beyond the gender ground. Casework would indicate that such harassment is a significant workplace problem, not only on the Traveller ground but also across the grounds of sexual orientation, disability and race.

The need to have a formal and structured approach to identify and deal with harassment is clear. The Equality Authority has published a Code of Practice on Sexual Harassment and Harassment in the Workplace. This Code was used in evidence in the case. It provides clear guidance to employers on their obligations to prepare and disseminate anti-harassment policies and to put in place procedures to deal with issues of harassment when they arise.

This case indicates the importance of employers being pro-active in combating and addressing harassment. The Code of Practice sets out the clear steps required. This case also highlights the barriers faced by Travellers in achieving economic independence through employment. Harassment damages any potential for the workplace to be intercultural. If we don't achieve intercultural workplaces, we condemn Travellers and other minority ethnic groups to unemployment and marginalisation.

€5,000 payout for worker who was called 'knacker'

By Catherine Cassidy
A TRAVELLER who was called "knacker" at his workplace Christmas party has been awarded €5,000.
Francis Maguire, an ex-care attendant with the North Eastern Health Board (NEHB), and his employers had agreed his allegations of harassment at the party and had cut his working hours following his complaint.
He also claimed, at a hearing of the Equality Tribunal, that he was treated differently by both management and colleagues when they found out that he was a Traveller.
Mr Maguire started work with the NEHB in November 2001, as a care attendant in a temporary capacity as the services for the elderly in Douglas.
Three weeks into the job, a fellow worker said the respondent had been from school as a Traveller. He said after this, workplace attitudes towards him changed and he felt unwelcome. In December, Mr Maguire handed out Christmas cards to his fellow workers and he accepted to give one to the Clinical Nurse Manager.
He said she returned it in a rude manner. She told him, he said, that there had been a complaint made against him, but when he asked what it was, he was told "forget about it". Mr Maguire said the Clinical Nurse Manager also asked him to carry out tasks on his work break, something he didn't ask of anyone else. On December 20, Mr Maguire went to the staff Christmas party in the Bridgford Hotel. He said everything was going well until the end of the night, when the fellow worker he had known from school mentioned that she was having a party in her house after the function in the hotel and she was inviting all her fellow workers. He said he heard her say to them "the knacker is not coming". Mr Maguire said when he asked her not to call him a knacker, her boyfriend kicked him to the ground and attacked him.
The next day, Mr Maguire told the tribunal that he would be unable to work as he had exposed his finger and he explained about the incident at the party the night before. He asked her to apologise and to ask the female in question not to call him names, but the Maguire stated that it had nothing to do with her. Mr Maguire said she then told him he was not suitable for the job, that he was slow and that his work would be cut back to two days a week.
On January 7, he was told by the Director of Nursing that his productivity was not suitable for the job and that he was being let go.
The NEHB argued that they had only employed Mr Maguire as a relief attendant on an "if and when required" basis, and that management had received a recent complaint about his performance. However, the NEHB admits Mr Maguire had reported Christmas party incident to and they had not got involved because it had taken place away from work.
The equality officer found the Christmas party was not work because Mr Maguire was home when at the function but not being employed by NEHB.
She also found after said complaint about the way it treated his working hours cut and he was ultimately charged. The NEHB was ordered to pay Mr Maguire €5,000.

Traveller awarded €5,000 after slur at Christmas staff party

By Catherine Shanahan

A TRAVELLER, who was called "knacker" at his workplace Christmas party has been awarded €5,000.
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COMPENSATION AWARD: The Equality Authority has welcomed a Labour Court decision

Labour Court awards significant compensation for pregnancy dismissal

The Equality Authority welcomed the recent Labour Court decision regarding the discriminatory constructive dismissal of an employee due to pregnancy.

The employee was the only graphic designer employed by the company and was therefore regarded as a key employee. The employee informed her employer of her pregnancy. Following one day's illness she returned to work to discover that her positions had been advertised approximately six months before she was due to take maternity leave.

The Labour Court was satisfied that the actions of the employer in advertising her position without consulting her shortly after the announcement of her pregnancy, coupled with the suggestion that she should no longer work in the profession for which she was trained and recruited, amounted to an undermining of the relationship of confidence and trust between the parties such as to entitle her to claim that she was constructively dismissed. The Court was satisfied that she considered all options open to her and that it was not unreasonable that she should wish to continue working in her professional capacity. It found that her pregnancy was a contributory factor in her dismissal, which was in breach of the Employment Equality Act and the Pregnancy Directive and awarded 12,500 euro compensation.

This recommendation of the Labour Court is a highly significant award given that the employee had been employed for less than five months and that the award constituted approximately a year's salary. It sends a very clear message to employers that pregnancy discrimination will not be tolerated and that employers who discriminate against pregnant workers run the risk of incurring significant financial loss.

Gender inequality is a persistent problem within the workplace. Our current case files would appear to indicate that in some sectors women workers are almost routinely discriminated against, including dismissal, when they become pregnant. Of 282 current cases files under the Employment Equality Act, 94 refer to gender discrimination and 33% of these refer to pregnancy-related discrimination. This is a situation that demands change.

We need concerted action to eliminate this discrimination. This should include:

- Sustained significant awards from the Office of Director of Equality Investigations and the Labour Court to serve as a deterrent.
- Joint initiatives by employers, employees and trade unions within enterprises to create a workplace culture where the rights of women workers are respected and realized and where there is an informed awareness of these rights.

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The Code of Practice on Sexual Harassment and Harassment in the Workplace

By Brian Merriman, Head of Communications, Equality Authority



The Code of Practice on Sexual Harassment and Harassment in the Workplace, published recently is the first use of Section 56 of the Employment Equality Act 1998 by the Equality Authority. This section allows for the production of Codes of Practice to assist in the elimination

of discrimination and in the promotion of equality of opportunity. These have a legal status and are designed as a means of support for the legislation. Section 56 provides "An approved Code of Practice shall be admissible in evidence and, if any provision of the code appears to be relevant to any question arising in any criminal or other proceedings, it shall be taken into account in determining that question."

The Code of Practice essentially explains, in a customer friendly manner, what sexual and other harassment means. It outlines the practices and procedures that should be in place in the workplace to ensure prevention and redress should it occur. It was drawn up in consultation with Employer Organisations and Trade Unions and has been approved by the Minister for Justice, Equality and Law Reform.

Sexual harassment and harassment on any of the nine grounds is prohibited in employment (Employment Equality Act 1998).

Sexual Harassment occurs where an employer, colleague, customer, client, or other business contact subjects the victim to physical intimacy, request for sexual favours, spoken words, gestures, display of pictures/materials with sexual connotations which are unwelcome to the victim, and which can reasonably be regarded as sexually or otherwise intimidatory, offensive or humiliating. Previous agreement with the behaviour does not prevent

a change of mind by the victim, and unfavourable treatment resulting from the rejection of any of the above behaviours is also protected by the Code. A single incident may constitute sexual harassment, and it is not limited to the workplace itself, as such behaviour at conferences, training venues and work related social events may also constitute sexual harassment.

Harassment, on the other hand applies to the eight (non gender) grounds and occurs where a person subjects the victim to any unwelcome act, request or conduct including spoken words, pictures or other material which is based on any discriminatory ground and which is unwelcome and could reasonably be regarded as offensive humiliating or intimidating to the victim. Examples include racist, homophobic or ageist emails, 'jokes' posters etc.. Bullying that is not linked to one of the grounds is not covered under the Employment Equality Act 1998.

The Code applies to all employments, employment agencies, Trade Unions, Employer Bodies and Professional Bodies covered under the Employment Equality Act, 1998. The intention of the perpetrator of sexual or other harassment is irrelevant and not a defence. The Code also addresses victimisation of people involved in a complaint of sexual harassment or harassment whether or not their complaint taken in good faith is upheld.

Typical behaviour that may breach this Code includes...

Physical: Unnecessary touching, patting, pinching, brushing against, assault, coercive sexual intercourse; jostling, shoving, intimidatory gestures or poses.

Non Verbal Conduct: Display of pornographic or sexually suggestive pictures/objects (or racist, homophobic, anti-Semitic etc.), written materials, emails, text messages, faxes,



leering, whistling, suggestive or offensive gestures, visual display of posters, emblems or badges.

Unwelcome/unwanted/offensive: Flirtations, suggestive, racist, ageist etc. remarks, innuendoes, lewd comments.

Verbal: Unwelcome sexual advances, propositions or pressure, continued suggestions for outside the workplace (after these have been rejected), jokes, comments or ridicule.

Isolation and exclusion from social activities or pressure to behave in an appropriate manner e.g. dress without regard to ethnic origin or religious belief may also constitute harassment.

The Code sets out that an employer should act in a preventative and remedial way to ensure the employee is not being harassed or being treated less favourably. Such action can be used as a defence by an employer in any casework arising. Employers are legally responsible for the actions of their clients, co-employees, customers and business contacts unless they took reasonably practicable steps to prevent or reverse the behaviour.

An employee is entitled to seek material information about the alleged acts of harassment, or the employers failure to deal with the complaint or about relevant procedures when formulating their complaint. Whereas there is no obligation on the employer to provide such information, the Courts may draw an inference from that refusal.

The best remedy of course is prevention. The Code sets out clearly the essential steps for creating a harassment free working environment in the drawing up and implementing of correct policies and procedures.

Anti-harassment policies should declare the organisation's commitment to a workplace that is free of sexual harassment and harassment.

- It should affirm the right of employees and customers to their dignity and respect.
- It should set out clearly that complaints will be treated fairly, sensitively and in a confidential manner.

The Policy should state that all forms of harassment will not be tolerated, outline the serious consequences including disciplinary action, suspension of contracts or

exclusion from premises that may result from a complaint being investigated and upheld, and assign responsibility within the organisation for the implementation and review of the anti-harassment policy. The policy should refer to the goals of the organisation in securing a harassment free environment. It should set out the statutory rights of the individuals involved and emphasise that it is essential to lodge a complaint within six months of the date of the last act of harassment - otherwise it may fall outside the limits as set out in the legislation.

The Code outlines the key steps to a successful policy in that it should be drawn up in partnership within the workplace and be disseminated widely. Training should be undertaken by the employer, management, employees and trade unions to ensure the policy and its goals are understood.

Guidelines are also given for the procedures in dealing with a complaint to ensure impartiality, confidentiality, sensitivity and fairness. It is essential that procedures for dealing with complaints are widely publicised and attached to any anti-harassment policy. If an informal approach to the problem fails then formal procedures that are set out in the policy should be invoked in order to remedy the problem. These should handle the issues sensitively, respect the rights of both parties, be independent and objective, investigate the allegations and remain focussed on the complaint.

With proper policies and training it should be possible to resolve most issues within the workplace without recrimination or victimisation. Designated contact people from all grades should be trained and publicized as the first port of call when harassment arises. They should have a clear understanding of their role and offer correct advice and invoke proper procedures in dealing with the complaints. Accurate record keeping is essential.

If it is not possible to remedy the situation within the workplace then it may be necessary for the issue to be resolved before the ODEI - the Equality Tribunal, the Labour Court or in cases of sexual harassment only, the Circuit Court. Cases must be lodged within six months of the last incident of sexual harassment or harassment in order to comply with the time limits set out in the Employment Equality Act. The Code of Practice on Sexual Harassment and Harassment is available free of charge from the Equality Authority and can be downloaded from our web site www.equality.ie.

Viewpoint: Migration an agent of international development

By Fr. Bobby Gilmore

Over the past two years I have visited about three hundred secondary schools throughout Ireland at the request of teachers and students to speak about immigrants. Initially, there is always a certain amount of indifference regarding this subject. In some instances there is hostility about the fact that there are immigrants in Ireland.

However, on asking the audience who are planning careers as nurses, social workers, carers for children and older people, church ministry, cleaning the streets, working in tourism and other service jobs there is still enthusiasm. On asking who will do those jobs and fill the vacancies in the Irish and European economy wonderment crosses the student's faces. I put the question- do we empty Dublin's dustbins in India or do we send our ill to the Philippines to be cared for? So, if you do not want to do the service jobs and you do not want immigrants to do those jobs what other option is available?

As interest increases and a debate gathers pace about migration generally and taking a particular look at Irish migration trends it begins to dawn on students that they are living in a world wherein if one watches the movement of people one can trace the movement of investment. They gradually begin to realize that if they wish to live in a fast developing economy immigrants are necessary to maintain the fabric of such a society.

Over the past one hundred and fifty years Ireland has had an experience of emigration that to a great extent has been too difficult to collectively

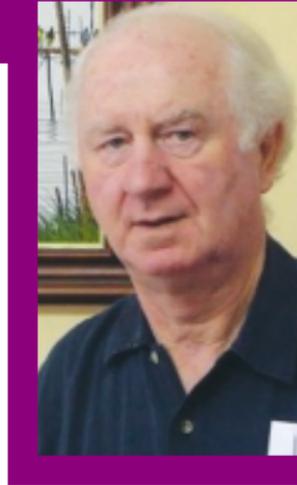
personalize because of the tremendous loss and grief involved. People both at home and away were abandoned to cope with a loss that was not part of the national debate that would at least have given to both an understanding of their plight. The official line of government responsibility to those who had to leave to have a life was one of indifference. Yet, government accepted immigrant remittances and usually during March in Irish diaspora destinations worldwide Irish government and local officials praised Irish emigrants for the contribution they were making to the development to that society.

The recent arrival of significant numbers of immigrants in Ireland has begun a debate about Irish migration that was long overdue.

Hearing about the plight of immigrants in Ireland is gradually bringing home to Irish people the difficulties experienced by their own emigrant relatives. The sight of strangers on Dublin streets is rising in Irish people similar emotions to those felt by people at destinations where the Irish arrived.

Immigrants are usually between the ages of eighteen and twenty-five. They are young, healthy, energetic, idealistic, educated and want to make money to return home. A country that receives such people is getting an asset paid for by the public purse in the country that they left. Last year the United States claimed that the immigrants it received were an asset in excess of a billion dollars. More than forty thousand immigrants came to Ireland last year.

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Ireland in the past. All that are left are grandparents, parents and children. The energy is gone.

However, there is an important aspect to modern international migration that needs to be looked at by governments, the commercial sector, trade unions and other institutions both nationally and internationally so that development will not be totally skewed towards the rich world at the risk of impoverishing further the developing world.

Since there is greater cooperation between governments that have shortages and surpluses of labour, even with antiquated immigration laws there is the possibility that migration can be used as an agent of development.

Most of modern migration is market driven in a commercial mind-set that is little removed from the plantocracy era of European colonization. A good example of this is the work permit program that really is a remnant of nineteenth century indenture. This system places power in the hands of agencies taking away the right of an individual to access his or her own migration.

The developed economies need immigrants as an asset to generate and maintain growth while the underdeveloped economies need investment and

Countries that lose such an age band in their populations are losing an asset that generally leaves them in a state of underdevelopment. Many countries that are losing their young people now are like

foreign exchange. Immigrant remittance according to many economists is the best agent of supplying both foreign exchange and investment in small industries at home. Governments in developing countries whose labour force is needed in developed economies should be negotiating better trade, tariff and trade quota agreements in lieu of their loss of human capital.

The level of subsidized agriculture production in the developed world and the dumping of surpluses in the form of aid is destroying the initiative of the poor and shackling large populations in poverty.

But, at the core of migration are human beings, people that have to leave the familiar surroundings of home to experience the wonder of the new and the discomfort of the unfamiliar. Everything for the immigrant and settled is different. The skyline, weather, food, people's language and colour are all new to each other. And the important point for both immigrant and settled is that both are encountering a new and uncharted journey of adjustment and understanding.

This meeting of different cultures in the migration experience brings about a realisation that we live in a global atmosphere of interchange and encounter. This encounter is facilitated by the many public and private agencies that are concerned with the mutual welfare of both the individual in the interest of society in general.

Immigration is a global issue. Immigrants however live locally.

The Migrant Information Centre can be contacted at (01) 8881355.

Events/Diary

The Bronfman Lecture Series on the Jewish Experience in the Modern World

The Herzog Centre for Jewish and Near Eastern Religion and Culture at Trinity College Dublin is holding a series of eight lectures entitled 'the Bronfman Lecture Series on the Jewish Experience in the Modern World', running from 17th October to 5th December. All lectures at the Ussher Theatre (Arts Building), UCD, Thursdays at 8pm. For more information, please contact Jane Welch at 01- 6081297.

Realising Social Change - the Equality Studies Public Lecture Series for the first semester has commenced. All lectures take place in Room B101 Arts Building, UCD at 8.00pm unless otherwise stated.

Dr Niamh Reilly, Executive Director, Women's Human Rights Net will speak on 'Advancing Women's Rights through International Law' on Thurs. 7th November.

Professor Barry Fitzpatrick, Head of Legal Policy, NIEOC on 'Equality Proofing Public Policy: The Northern Ireland Experience' on Thursday 14th November.

Youth - Beyond Disability Seminar

PWDI are holding a seminar entitled 'Youth-Beyond Disability' in the Ormonde Hotel, Kilkenny on Wednesday 6th November.

The PWDI is currently organising four regional seminars on this theme, and the outcome will be used as a basis for a major international conference to be held in 2003, European Year of the Disabled. It is intended that a strategy document will be presented to government on the findings of these seminars.

For further information please contact Dara Rafter on 01-8721744.

Gender Matters in Higher Education Conference

This NUI conference on 8th and 9th of November will address the issues of gender equality in higher education and will focus particularly on the effects of higher education: on the personal lives of mature and disadvantaged students; women in the non-traditional sectors; and equity issues for staff. For information, contact Vivienne Batt at the Women's Studies Centre, NUI, Galway on 091-750455 or email wsc@nuigalway.ie or Liz Walsh at the Human Resources Department, NUI Galway 091-524411 ext. 3495.

Employment Week 2002 Conference

The Employment Week conference in Brussels from 19th to 21st November will look at new developments in the labour market and structural issues. It will be opened by Odile Quintin, Director General Employment and Social Affairs Directorate, European Commission and will include contributions from Anna Diamantopoulou, Commissioner for Employment & Social Affairs, European Commission. Four main strands will dominate the programme: Active Ageing, Mobility, Industrial Restructuring and Work Organisation. There will be over 150 exhibiting organisations. Further details are available from the conference organisers on 00 44 208 846 2740; or via email at Imilburn@employmentweek.com

The Women's Human Rights Project

The Women's Human Rights Project is hosting a two day residential workshop on the UN Convention on the Elimination of all forms of Discrimination against Women (CEDAW) at TI Chulainn, Mullach Ban, Co. Armagh on Monday and Tuesday 18th and 19th November. Further information may be obtained by contacting Noirin Clancy at (01) 8827375.

Equality News will publish information about events or diary notices which we think may be of interest to our readers. Please send details to Patrick O'Leary at the Equality Authority, at 417 3386 or via email to pat_oleary@equality.ie

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