

Equality News

Spring 2004

*Including All – Primary Schools
and Equality*

Speaking up for Advocacy

Work Life Balance

*Improving the health of the
Scottish Minority Ethnic
Communities*

*Viewpoint: The Family Diversity
Initiative*

What does everyone at **WORK** have in common?

**A
L
I
F
E!**

Work Life Balance



THE EQUALITY AUTHORITY
AN tÚDARÁS COMHIONANNAIS

Contents

- p2** Update by *Niall Crowley, Chief Executive Officer, Equality Authority*
- p4** Including All – Primary Schools and Equality by *John Carr, General Secretary, INTO*
- p7** European Briefing by *Brian Harvey*
- p9** Improving the health of the Scottish Ethnic Minority communities: The work of the National Resource Centre for Ethnic Minority Health by *Eleanor McKnight, National Resource Centre for Ethnic Minority Health, Scotland*
- p11** Speaking up for Advocacy by *Máiríde Woods, Comhairle*
- p13** Equality Research File: Ageing and Labour Market Participation by *Helen Russell and Tony Fahey*
- p15** Work Life Balance by *Greg Heylin, Head of Development, Equality Authority*
- p19** Long-term Chronic Illness and the workplace by *Sandra Kavanagh, Equality Authority*
- p24** Guidelines for Gays, Lesbians and Bisexuals by *Esther Lynch Industrial Officer, Congress*
- p26** Building an Inclusive Workplace
- p28** Case Reports by *Patrick O'Leary, Equality Authority*
- p29** Viewpoint by *Karen Kiernan, Cherish*
- p32** Resources

The contributions to Equality News are welcome and appreciated. The opinions of contributors do not necessarily reflect the position of the Equality Authority. We welcome your feedback on any article in Equality News and will publish information about events or diary notices of interest to our readers. Please send information to Patrick O'Leary (contact details on back page).



Update

By Niall Crowley

Friday 20th February marked an important landmark in the legal work of the Equality Authority. In the first case of its kind, under the Equal Status Act 2000, the District Court found Portmarnock Golf Club to be a discriminatory club for its exclusion of women as members. The matter is still within the judicial domain as Portmarnock are pursuing constitutional proceedings in the High Court.

The case is important for its interpretation of the provisions of the Equal Status Act in relation to registered clubs. It holds obvious benefit for women who play golf. Equally it holds a benefit for the wider goal of gender equality in society. Where significant social institutions in our society can exclude women it presents a barrier to turning a strong societal commitment to gender equality into real change in the situation and experience of women.

The Equality Authority has finalised its business plan for 2004. This contains a commitment to form an advisory committee to report to it on implementing equality for carers. Initial contacts have been made to form this committee drawing from carers organisations, the social partners, organisations representing the interests of care recipients and the statutory sector. The response to date has been very positive.

The focus for the committee will be carers defined as those who provide help and support on an unpaid basis to family members, relatives or friends who are dependent because of disability, old age, long term illness. It will explore issues such as:-

- Access to income, to employment and to lifelong learning.
- Access to health and social services.
- Participation in decision making.

- Recognition and the status and diversity of carers and caring situations.
- Legal status of and provision for carers.

Its work will begin in March and the goal will be to report to the Equality Authority within a year.

The Equality Bill 2004 is currently going through the Óireachtas. This Bill aims to transpose three EU Directives into the Employment Equality Act and the Equal Status Act – the Race Directive, the Framework Employment Directive and the Gender Equal Treatment Directive.



The Equality Bill reflects important advances with new definitions of discrimination, sexual harassment and harassment, positive action and victimisation.

It removes the upper age limit for the age ground in the Employment Equality Act and enhances the reasonable accommodation of people with disabilities provisions under the same Act. However, it fails to develop remedies and redress under the legislation to the point of being effective, dissuasive and does not expand to the scope of the Equal Status Act to include the functions of the state as required under the Race Directive. The Equality Authority is finalising a full analysis of the Equality Bill.

The new business plan commits the Equality Authority to further develop its work on the reasonable accommodation of customers with disabilities. Work in this area has focussed on key services in local communities. It has involved working at national level.

In the past year valuable work in this area was developed with the National Library Council, An Post and the Irish Bankers

Federation. These joint ventures will be continued this year. An important new development in this work has been very positive contact with RGDATA and the Irish Pharmaceutical Union and discussion with them on joint ventures in these important areas of service provision.

The Equality Authority has published its submission to the Forum on the Workplace of the Future. This is entitled 'The Inclusive Workplace'. It emphasises that:

Diversity in the labour market has been identified as a key source of economic growth.

Diversity and equality are intertwined and need to be pursued in an integrated manner in the workplace.

The workplace of the future needs an equality infrastructure with a capacity to be planned and systematic in its approach to equality and diversity.

An infrastructure of legislation, institutions and resource programmes is required external to workplace to stimulate, support and require this planned and systematic approach to equality in the workplace.

The Forum seeks to develop a guiding vision for Ireland's workplaces of the future and to set an agenda for change to make this vision a reality. It provides a valuable opportunity to establish equality and diversity as a key component to this vision – a component that demands innovation if its potential is to be realised and a component that will be a source of ongoing innovation when its potential is realised.



Including all

Primary Schools and Equality

by John Carr
General Secretary, INTO



Primary schools should be models of inclusion and equality – that is what the founders of the Irish national school system intended and what the Irish National Teachers' Organisation (INTO) works to achieve.

Basic Principles

In the communication founding our primary school system in 1831, Chief Secretary Stanley set out as a key aim: "to unite in one system children of different creeds". The inclusion principle notwithstanding, we know that the system soon became de facto denominational.

Included in two of INTO's objects are basic equality principles:

"to promote the interests of education and to support the concept of equal access to full education for all children..." and

"to promote the principle of equality in all aspects of education and the teaching profession"

(extract from Rule 3, "INTO Rules and Constitution").

In many ways, our primary schools are unique. The 3000+ schools are centres of inclusion. In every town and village, children of different social classes, of varying abilities and backgrounds and (increasingly) of all religions and none, attend school together. There is no private sector to speak of in Irish primary education, no selection tests and even the denominational schools (the vast majority) are increasingly multi-denominational in pupil population.



Challenges in Law and in Practice

So everything in the garden is rosy? Not quite. Real progress has been made in including Traveller children, but questions remain about outcomes.

Inclusion of children with special needs is not properly resourced, the work of our special schools is undervalued and their contribution to inclusion misunderstood. International children bring an enriching diversity of languages, cultures and faiths to schools but scarce resources are stretched to meet their particular needs. The effects of socio-economic disadvantage, while not a ground in equality legislation, are devastating the lives of many young children.

Teachers have welcomed equality legislation. We have been significant users of employment equality law since the Act of 1977. Some of the benchmark cases – generally (even since the 1998 Act) on the gender ground - were supported by INTO. We currently have cases due for hearing at the Equality Tribunal on the gender, marital status and age grounds.

The Equal Status Act 2000 has challenged schools to check policies and practice against its anti-discrimination standards. We do not experience primary schools having serious difficulties with implementing the Act and any such problems are, I believe, ones of resources rather than of principle.

INTO's Record

Last summer, INTO published the first guide to equality legislation specifically aimed at schools. The Foreword states that "putting into practice the principles of inclusion and equality is at the heart of teachers' work".

"Doing equality" is not something new for INTO members who have a record of

- supporting inclusion through such publications as "Travellers in Education" (1992), "Inclusion" (Special Needs in Mainstream Schools-Proceedings of an INTO Conference (2000)) and "Intercultural Guidelines" (2002);
- implementing education legislation based on "maximum accessibility" to schools and on respecting "principles of equality" (Education Act 1998, Sections 9 & 15 respectively); and
- supporting a child-centred curriculum which respects each child for him/herself.

School Admission – the Key Issue?

Not a single education-related case has yet been heard under the Equal Status Act at the Tribunal. We can, however, see trends from Section 29 appeals under the Education Act which indicate where parents have concerns.

Education Act appeals may relate to one of three matters – (i) expulsion from school, (ii) suspension amounting to 20 school days or more in a year, or (iii) refusal to enrol. Figures up to the end of the 2002-2003 school year showed that 53 appeals had been commenced at primary level. The suspension and expulsion categories accounted for just one appeal each while the other 51 were related to enrolment. This must lead one to question whether equality issues arise regarding admission to primary schools.

Without a detailed study of the basis for each enrolment appeal, it is difficult to comment on the issues being raised. We know that some schools in growing areas are heavily over-subscribed and must refuse many applications on space

grounds. We also know that the proportion of appeals being lost by schools gives little basis for complacency.

The lack of written, argued judgements leaves us unclear as to the reasons for the appeal decisions. This is something INTO has sought to discuss with the Department of Education and Science (DES) and on which we wish to offer guidance to members.

School Admissions and Disability

By law, schools may not refuse admission to students except in accordance with their published policy (Education Welfare Act 2000, Section 19). INTO/management enrolment guidelines set out principles of inclusiveness, equality, parental choice and respect for diversity. They also suggest objective criteria for enrolment.

One area which the guidelines address is that of students with special needs where enrolment is being sought in the absence of essential supports or of adequate information about those needs. In such circumstances, it may be necessary to defer enrolment pending full reports and provision of resources.

This is an area where tension between rights exists. To cite a practical example, a school enrolling a student with disabilities, who requires constant individual attention is not being fair to all other students in his/her class, if it does so without adequate supports. This tension is recognised by the Equal Status Act in its "detrimental effect" exception (Section 7.4).

It is likely that aggrieved parents will continue to avail of Section 29 rather than take the protracted route of the Equality Tribunal on the enrolment issue, something which may leave us in the dark for some time about how the specific provisions and exceptions in the Equal Status Act should be applied.

The Equality Agenda

The key equality debates for teachers, INTO and all who care about inclusion revolve around a number of ideas and provisions.

First, there is the question of setting out policy on inclusion in all aspects of school life, a “mainstreaming inclusion” idea. I believe that primary schools have moved beyond the “first generation” equality practices (as reflected in anti-discrimination law) towards being pro-inclusion. The thinking now taking place is about opportunities for inclusion.

Second, there is the tension between inclusion principles and the “majority rights” argument. This has been referred to earlier under enrolment/admission to school and is also reflected in the Equal Status Act exceptions in relation to “harm” and “detrimental effect”. The tension is a healthy one when approached from the point of view of seeking to include, the prevailing mindset among teachers.

Third, the areas of bullying and harassment need an approach and resourcing to reflect the potential seriousness of their effects on members of staff and, in the case of schools, on students. To reflect the harassment provisions in the equality legislation, the INTO Equality Committee has been examining this area from the point of view of a statutory right to dignity at work for employees. In relation to allegations of harassment of pupils, INTO has assisted schools in drawing up procedures to address this matter, in the context of the school discipline policy. This continues to be an area where enormous demands are made on school leaders; we should recall that the great majority of school principals have full-time class teaching responsibilities.

Fourth, teachers continue to articulate concerns about the effects of Section 37 (1) of the Employment Equality Act 1998, which in effect allows schools under religious management to discriminate in certain circumstances. The INTO has consistently sought excision from the Act of this unnecessary provision. Gay teachers are among those who are uncertain whether their lifestyles will, in the words of Section 37, be found as “undermining” the ethos of their schools.

Fifth, the male-female imbalance in primary teaching raises equality questions. At present, less than ten per cent of undergraduate primary teachers are males. What does this teach children about gender stereotyping of caring roles? Whether positive action is permissible (and/or desirable) in order to tackle the imbalance is a subject of ongoing debate on which INTO intends to make proposals shortly.

This is not an exhaustive listing of the equality issues affecting schools. In the disability area, for example, we deplore the administrative delays in dealing with requests for supports. We prefer the definition in equality legislation to that being presented by the Minister for Education and Science in the Education for Persons with Disabilities Bill. In addition, we await publication of intercultural education guidelines for schools, and especially the training of teachers necessary to utilise these. A key issue here, redolent of the current debate in France, is how the cultures, beliefs and identities of all pupils can be valued without unnecessarily identifying differences which may divide on discriminatory grounds. This is not an easy challenge in practice in today’s classrooms.

Quality and Equality

At the launch of the DES/Equality Authority booklet on the Equal Status Act, the Minister stated that “to achieve quality there must be equality”. The INTO agrees, but such a principle must be extended beyond the sound bite to a commitment of support for schools and teachers in implementing the principles of equality.

Teachers’ commitment is there in abundance. The issue is the implementation of equality principles. The question is not one of whether to have inclusive primary schools, but rather of how such schools should operate and be supported.

We in INTO greatly look forward to our Joint Conference with the Equality Authority at the end of March on “The Inclusive School”. Our combined efforts in tackling the theme and its practical implications have the potential to be of real benefit in today’s changing schools.




European briefing



The new round of the structural funds - a preliminary look

by **Brian Harvey**



Details of the new round of the structural funds, covering 2006-13, were published this spring by the Commission. They were given in the Third Cohesion Report, which is an annual report on the state of regional development in the European Union. This is the fourth round of the reformed structural funds, which date to the late 1980s. Here is a preliminary report.

Regional affairs Commissioner Michel Barnier fought a long battle throughout 2003 to protect the concept of a strong regional policy and for an important role for the structural funds. In this he seems to have been successful. Over 2006-13, the Commission proposes to spend €350bn on the structural funds, or 0.46% of European Gross National Income.

At present, the structural funds are divided into three objective areas:

objective 1 (the poorest regions); objective 2 (areas in structural difficulties); and objective 3 (education, training and employment). There are also four Community Initiative Programmes operating at European level: EQUAL, for human resources and equality; INTERREG, for cross-border cooperation; LEADER+, for rural development; and URBAN, for urban development.

There are important changes. There will be three objective areas this time:

- Objective 1: convergence: 75% to 78% of the funds
- Objective 2: regional competitiveness and employment: 18%
- Objective 3: territorial cooperation: 5%

Thematically, the new objective 1 bears the closest resemblance to the current objective 1. These are the poorest regions of the Union, defined as falling below 75% of average European Gross Domestic Product. Geographically, most of these zones will now be in eastern and central Europe, where the vast bulk of the new round will be spent. Between 18 and 20 regions in the old western European 15 member states will leave objective 1, largely because of the addition of the new, poorer member states which mathematically lowers the 75% relative threshold. These are called 'regions leaving objective 1 due to statistical effect'. Some have called them objective 1b and they will receive transitional assistance, to definitely end in 2013. The border, midlands and western area of Ireland is possibly such a case.

Objective 2 will be a thematic objective covering all the non-objective 1 areas (in Ireland, the Southern and Eastern region would be an example). There will be no specific micro-zones for objective 2 targeting. Objective 2 will comprise a regional programme, financed by the European Regional Development Fund; and a national programme to support the European Employment Strategy funded by

the European Social Fund. Objective 2 will be allocated under agreements between the member states and the Commission according to a common set of criteria.

Objective 3 will be for cross-border cooperation. This will take the place of the old INTERREG programme. A new legal instrument will be prepared to enable the programme to be carried out by cross-border regional authorities acting across frontier zones.

The focus of European Regional Fund investment will be on innovation, information technologies, transport, telecommunications, energy, water, environmental protection and improved administrative capacity. The focus of European Social Fund investment will be on education, training, social and care services, investment in human capital and improved administrative capacity. In supporting the European Employment Strategy, the European Social Fund will give priority to:

- Adaptability, skills, company training, lifelong learning;
- Attracting more people to the labour market, preventing early exit from the labour market, active ageing, measures to support the participation of women;
- Assistance to those who face particular difficulty accessing the labour market, such as people with disabilities, ethnic minorities and migrants.

One of the most important, but least discussed, aspects of the new round is the disappearance of the Community Initiative Programmes. On EQUAL, this is what the Commission says:

'The new generation of employment-related programmers should also seek to take on board the lessons of the current EQUAL initiative, covering innovation, empowerment, partnership and transnational cooperation in employment matters'.

The Commission makes it plain that the issues raised by URBAN will be fully

integrated into the objective areas. Each member state will be invited to propose a list of urban areas to benefit from the new programmes. At least 70 urban areas will be so supported, with responsibility delegated to appropriate city authorities. LEADER+ will be integrated into mainstream programming, although the Commission is not precise in saying how this will be done.

Administratively, a number of changes are proposed. There is a continued emphasis on simplification. There will be a more proportionate system of auditing and checking, meaning that the Commission will be prepared to accept national audits of smaller projects, rather than insisting on running its own as well. The lengthy Community Support Frameworks and programme complements are gone. Instead, there will be strategic policy documents agreed between the Commission and the member state; and simplified operational programme documents containing only the top level of information. This time, non-governmental organizations are to be properly brought on board:

'To promote better governance, the social partners and representatives from civil society should become increasingly involved through appropriate mechanisms in the design, implementation and follow-up of the interventions'.

Finally, member states will be asked to set aside a small reserve for economic and industrial restructuring, to be used for retraining of workers affected by change and for economic diversification. More information will be available when the new regulation governing the operation of the round is issued during the summer.



Improving the health of the Scottish

Minority Ethnic Communities:

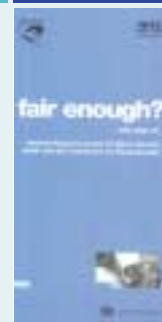
The work of the National Resource Centre for Ethnic Minority Health, Scotland

by Eleanor McKnight

Since devolution, the vision of a culturally-competent National Health Service delivering services and employment opportunities fairly amongst all of Scotland's citizens has been central to the Scottish Executive's social justice agenda. The achievement of such a vision is not just a legal necessity – as set out in the Race Relations (Amendment) Act 2000 – but is also a measure of how we see ourselves and how we wish to be seen by others.

The Scottish Executive Health Department (SEHD) fully recognises the need to improve the health care of Scotland's minority ethnic groups (which constitute just over 2% of the total population). In response to this challenge, in 2000, the SEHD supported a comprehensive audit of how each of the fifteen NHS Boards were performing in this area and identified the existing gaps and weaknesses. The SEHD then issued the Fair for All (FFA) Health Department Letter 2002, which outlined new responsibilities for NHS Boards to provide a culturally competent service and meet the demands of the new legislation.

FFA provides guidance to ensure that the organisational, structural and clinical barriers to health care are eliminated and that the distinctive health needs of minority ethnic groups are met in a culturally competent manner. FFA defines a 'culturally competent service' as: 'A service which recognises and meets the diverse needs of people of different cultural backgrounds' - this includes, but is not limited to, making provision for religious and cultural



beliefs, catering for communication and language diversity and involving users in service development. A key part of cultural competence is ensuring that discrimination on the basis of race, colour, nationality or ethnic origin has no role in the planning and delivery of services.

The FFA process contains specific deliverables (required in the form of a detailed and targeted three-year Action Plan) which are designed to reflect five major strands of policy: Energising the Organisation; Demographic Profile; Access and Service Delivery; Human Resources; and Community Development.

To provide support to local and national Boards in delivering the minority ethnic health agenda, in 2002, the SEHD resourced the establishment of the National Resource Centre for Ethnic Minority Health (NRCEMH). The NRCEMH, which is currently staffed by a Director, four Project Managers (each facilitating a national network) and two Project Secretaries, sits within NHS Scotland and is accountable to the SEHD. An important driver for the work of the NRCEMH is cross-departmental integration at Executive level to ensure that the FFA guidance remains firmly embedded in the wider NHS corporate responsibilities of community planning, human rights, equality and diversity and the patient focus, public involvement agenda.

While Boards have responsibility at local levels, the NRCEMH ensures a co-ordinated and standardised approach at national level. Over the past twelve months, the NRCEMH has concentrated on three main areas - policy

development, training and ethnic monitoring and analysis. This work has been developed and led at operational level by key personnel, including Chief Executives in each of the Health Boards, who sit on a Lead Network which meets monthly.

From the beginning, the NRCEMH has attempted to maintain a balance between the need to develop the evidence-base with more practical, tangible changes on the ground. To date, practical outcomes (completed or in progress) include:

- Comprehensive training needs analysis of all Health Board staff across Scotland
- Recruitment of a health link-worker for Gypsy/Travellers to carry out a community-led health needs assessment
- Development of a national, patient-held health record for Gypsy/Travellers
- On-line guidance for health practitioners on Refugee/Asylum Seekers
- Report on the epidemiology of diabetes amongst Scotland's minority ethnic groups
- Needs assessment for screening in Haemoglobinopathies
- Briefing paper on partnership working
- Literature review of health and minority ethnic young people
- Race impact assessment of mental health and well-being policies and practice.

The NRCEMH has also been instrumental in developing a working partnership with the Commission for Racial Equality (CRE) which provides a more unified and supportive message to health organisations in Scotland than currently exists in the other three regions of the United Kingdom. This powerful partnership enables health to lead the way in the area of race equality and the joint approach between the NRCEMH and the CRE has led to more effective mainstreaming, built on leadership and commitment at a senior level.

A National Assessment Framework developed by the NRCEMH in partnership with the CRE is now being used to progress race equality issues. This framework is an important tool. It was used in a national review carried out in 2003 and continues to offer practical guidance in policy development as Boards begin to implement their second and third year FFA Action Plans and measure actual progress on the ground. The NRCEMH is now beginning work around this implementation phase and will progress this in two ways; first, with support for race impact assessments and second, with performance

indicators, which will feed into all Boards' annual Performance Assessment Frameworks.

The success of the NRCEMH is, in large part, due to the visionary leadership of the Director, Dr Rafik Gardee, and the commitment of the Steering Committee, which is chaired by Professor Raj Bhopal from Edinburgh University.

By harnessing political will, strong leadership from the Boards, adequate resources and widespread goodwill from within NHS, NRCEMH has made considerable progress throughout Scotland in tackling the formidable policy and legal challenges posed by the creation of a health service that is responsive to the needs of a multi-ethnic, intercultural society.

However, if this momentum is to be maintained, this strategy must be seen as long-term and must focus on those priorities which are agreed in partnership with the various stakeholders.

The voice of patients and carers is fundamental to this process. Each Board has now established a local Minority Ethnic Consultative Forum and, in order to work towards even more effective participation and engagement, work is underway at a national level to develop further guidance around consultation and community empowerment. Recognition of the development and sustainability of good practice will also be marked by annual 'Ethnicity Awards' from the SEHD, with community representatives being responsible for nominating Boards for such awards.

In line with new equality legislation targeting religion and faith, sexual orientation and age, as part of the wider diversity agenda, NHS Scotland must now begin to take forward race equality. The NRCEMH's role in this is to sustain the focus on race equality which its inherent challenges and tensions deserves whilst, at the same time, integrating the work of the NRCEMH into a stronger, united framework, crossing all the equality strands. One of the many key challenges for 2004 will be strengthening this infrastructure within Scotland's newly-unified NHS Boards.

For further information on the NRCEMH and its work, please contact Eleanor McKnight, Policy Manager at:

**National Resource Centre for Ethnic Minority Health
NHS Health Scotland, Clifton House, Clifton Place
GLASGOW G3.**

Tel. No: 0141 300 1037

Eleanor.McKnight@phis.csa.scot.nhs.uk

Speaking up for Advocacy



by **Máiríde Woods**
Advocacy Executive, Comhairle

In the last ten years the term “advocacy” has crept back into common parlance usually in tandem with rights. The word can be off-putting but takes in “speaking up and claiming” activities whether undertaken for oneself or for others. Many people can advocate for themselves most of the time. Some however need support and on occasions may need someone to draw out and express their concerns. This person may be a friend or family member or an independent and informed outsider.

Advocacy has three sides:

- enabling
- representative
- lobbying.

The first side helps people speak up for themselves, the second helps people who cannot put across their own case and the third presses for solutions at the macro-level.

Advocacy is closely linked to rights –it may be the means a person uses to make their rights real. For it to succeed, attitudes in government departments and among service providers need to change so that seeking entitlements, requesting services, making a complaint or having support at a review-meeting appear normal. Where services are available and regulations clear, there will be less need for formal advocacy.

In Ireland formal advocacy is just beginning. At a statutory level advocacy is already part of Comhairle’s remit. Comhairle’s key functions are to support the provision of independent information, advice and advocacy services and to assist and support individuals, in particular

those with disabilities, in identifying and understanding their needs and options and in accessing their entitlement to social services. The promised Disability Bill is likely to name Comhairle as the agency responsible for providing advocacy for people with disabilities. At present most of Comhairle’s advocacy work is done through the independent Citizens Information Centres (CIC) network but it also resources voluntary projects and has commissioned research on advocacy - for example *Jigsaw of Advocacy* which appeared in 2003. Comhairle sees advocacy as being closely linked to accurate, comprehensive and accessible information. Sometimes the advocate’s role may simply be to unearth the nugget of information relevant to an individual who cannot digest the official documentation. Some advocacy flows naturally from information-giving -for example a query about Disability Allowance may lead to contact with a social welfare office or reveal that a person is entitled to another allowance.

Advocacy comes in many shapes and sizes. There are five broad categories:

- Self advocacy
- Personal Advocacy
- Citizen Advocacy
- Peer/group advocacy
- Public policy advocacy.

Self-advocacy involves empowering people so that they can claim their rights and entitlements independently and, as such, is a form of education and capacity building. One form of self-advocacy has been

developed in services for people with learning disabilities and entails building up their confidence and knowledge so that they can make their own choices.

Personal or professional advocacy involves a trained worker with expertise supporting people to access services and in some cases representing them at quasi-legal tribunals. Some CICs provide this form of advocacy.

Citizen advocacy refers to a long-term supportive relationship, usually between a volunteer and a person who has major difficulties in speaking for themselves. Sometimes such a person will be totally dependent on a service and a citizen advocate can help ensure that his/her rights and choices are respected. A citizen advocacy scheme has started in the Brothers of Charity Galway service.

Peer/group advocacy. This includes mutual support and action by groups from a similar disadvantaged position. The Equality Authority supported community advocacy among Traveller groups with a programme of training.

In the mental health area peer advocacy involves a trained ex-user of services speaking for someone who cannot at that particular time do so on account of illness. The Irish Advocacy Network provides this type of advocacy for mental health service users.

Public policy advocacy happens where groups or organisations lobby for legislative and policy improvements.

Different advocates therefore do different things. Most experts consider self advocacy the ideal – but the paradox is that the most disadvantaged people cannot do this all the time. Comhairle's regional consultation forums on advocacy saw the following significant barriers as leading to a need for advocacy:

- Language/literacy and cultural impediments;
- Approach of State bureaucracies;
- No statutory entitlement to some services;
- Social inequalities.

The need for advocacy is not confined to people with disabilities - the same report

mentioned older people, Travellers, people with literacy difficulties, people with mental health difficulties, marginalized groups, victims of abuse, children, victims of traumatic events as all possibly (but not necessarily) needing advocacy.

The disability movement has been a strong supporter of advocacy and a number of projects are underway in this sector. The Forum of People with disabilities and NAMHI both have projects which have received funding from Comhairle. Formal advocacy services require considerable funding as they are staff intensive.

Key principles emerging from most discussions of advocacy are:

- Respect for the person.
- Independence – particularly of service agencies and Government.
- Consistent funding.
- Professionalism.
- High ethical standards.
- Confidentiality.
- Choice.

Independence is the most contentious of these principles - separating advocacy from service-provision while guaranteeing continuity of funding can be difficult.

A professional advocacy service will involve training, review and support. Training for advocates is only beginning. The Equality Authority and the Irish Advocacy Network have provided some training and Comhairle has added advocacy to its accredited information givers course. In an innovative move, Comhairle, the Institute of Technology Sligo and the Equality Authority are jointly developing an accredited distance learning course in Advocacy. This certificate level course will have 12 modules and it is hoped that the first three – Communications, Introduction to Advocacy and Equality Issues - will be ready to go by the autumn of 2004. Participants will receive a pack, will access some information through a website and will have 4-5 seminars for each module. A brochure on this course will appear in May 2004.

The proportion of people aged 50-69 years in employment rose during the 1990s, thus reversing long-term downward trend. The purpose of this study was to examine the components of this upward movement, in the context especially of an interest in the role of public policy in shaping the labour market behaviour of older people.

Key Findings

The rise in older people's employment rates during the 1990s was driven less by a delay in retirement than by an increase in the movement of the formerly non-employed into jobs. This increase was mostly due to women entering jobs from home duties. Men entering from unemployment also played a substantial role. Even though older men's employment rates rose slightly in the second half of the 1990s, the proportion that were retired also rose slightly, so that in their case it was possible for employment rates and retirement rates to rise at the same time.

It was only among the self-employed, and especially among farmers, that there was a notable tendency to work beyond age 65. This aspect of older people's working patterns also gave rise to one of the few marked regional differences observed in the study, namely, the higher incidence of self-employment in the Border, Midland and Western region compared to the Southern and Eastern region.

Ill-health played an important role as a cause of non-employment among older people, not only among those who reported their main economic status as 'unable to work due to sickness or disability' but also among the unemployed and those who retired early. Those who classify themselves as unemployed or ill/disabled have much lower levels of psychological well-being and are

much more dissatisfied with their situation than the retired and those in home duties.

This strongly suggests that unemployment and being unable to work due to sickness or disability are not functional equivalents of early retirement. These are qualitatively different situations and represent much more negative exits from the labour market for older workers.

The significance of not being employed, or of exiting from employment into non-employment, varied greatly according to the type of non-employment entered. Generally speaking, retirement and home duties were experienced positively, even though they often entailed a lower level of income than could be obtained by entering into or staying in employment.

Unemployment and being unable to work due to sickness or disability, by contrast, were experienced as overwhelmingly negative by people in those situations. While overall rates of exit from employment do not differ greatly by social class, the destination of exit does, as those in higher level occupations are more likely to exit to retirement or, in the case of women, home duties, while those in manual occupations have a higher risk of exiting to unemployment than other social classes.

The likelihood of entering jobs for older people is highest among those with third-level education, yet because few older people have third-level education, most of those entering



jobs have only primary or lower second-level education (71%). Reflecting the latter finding, a high proportion of older persons moving from non-employment to employment enter the occupations of service, shop and sales workers (22%), and elementary occupations (28%). The likelihood of entering employment is also strongly influenced by length of time out of employment, particularly in that those who have been out for less than two years have a stronger chance of going back to employment than those who have been out for longer periods. Having good health and having a partner in a job are also positive influences.

The most general benefit experienced by people who entered jobs from non-employment was a rise in income and a consequent decline in risk of poverty.

Men also gained a boost to psychological well-being, as they typically exited unemployment when they entered jobs. Women, by contrast, generally suffered some psychological stress from entering jobs, despite the income boost they obtained, indicating that the transition to employment is of a qualitatively different kind in their case.

Policy Implications

From the point of view of the welfare of older people, the key problematic aspects of labour market patterns occur in connection with unemployment and being unable to work due to sickness or disability rather than with retirement or being in home duties. To improve the circumstances of older people, therefore, it is necessary for policy to pay particular attention to the problems of older unemployed workers and those who are ill/disabled.

Health policy has a major role to play in this area alongside labour market policy. Ill health or physical impairment are not only central to the problems of those who report their economic status as unable to work due to illness or disability but are also a common problem among the older unemployed.

Equality policy can also play a role here, since discrimination related to disability and gender may amount to a significant influence both on exits from employment and inability

to re-enter employment among some categories of older workers.

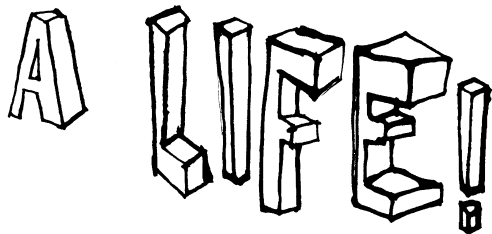
Older people enter work as well as leave it, and while entry into jobs has many important positive effects, it can be a stressful transition for older women who take up jobs. Such stress needs to be taken account of in active labour market policies for older people.

As older people are now being encouraged to remain in or return to the workforce, largely due to economic factors, public policy needs to promote flexible pension arrangements, enhanced employer practices and arrangements and an emphasis on work-life balance that takes into account social and human factors. It has long been recognised that the abrupt ending of working life is not the best approach to retirement and research has revealed that the majority of working older people would like gradual retirement. Therefore promoting the option to retire in a phased way and ensuring older people have access to the labour market on the same basis as other adults are significant policy issues.

The period examined in this report was one of exceptional growth in the labour force in Ireland and of high levels of labour demand for all age groups. It is unclear how the slow-down in growth which has emerged since 2002 will alter the patterns observed in the preceding high-growth period. On the one hand, it is likely to hamper opportunities for movement into paid work among older people which were so characteristic of the 1990s. On the other hand, the high level of inactivity found among people in their 50s a decade ago has been lowered since then and leaves the pool of people likely to be interested in such a movement considerably smaller. Competition for jobs among older workers may thus be reduced. The net effect of these changes on patterns of labour force participation among older people is difficult to predict.

You can download a copy of *Ageing and Labour Market Participation* on www.equality.ie/research

What does everyone at work have in common?



by **Greg Heylin, Equality Authority**

Monday March 1st, 2004 is the first Irish Work Life Balance Day. It follows on from three Family Friendly Workplace days in 2001, 2002 and 2003. More and more people are seeking practical solutions to new pressures so that they can have a life.

Obviously organizing childcare can be one such pressure. While we are having smaller families than before, both partners are increasingly in paid employment now. Combining work and family responsibilities can be difficult. This is true in a particular way for single parents. Caring extends beyond children, however, and may include caring for aged parents, relations and others. Work life balance arrangements in the workplace can help to ease the strain of combining caring and working. This is in addition to existing statutory entitlements for employees.

Another major issue for those in employment is commuting. E-working and compressed working weeks can reduce the stress in some cases. Work life balance arrangements can also facilitate studying while working, taking the opportunity to travel widely, and visiting family connections in distant countries over an extended period.

Decreasing working hours gradually over a number of years can be a good preparation for retirement. Reasonable accommodation for some people with disabilities may include working unconventional hours or working some or all of the time from home.

Voluntary work can be supported by work life balance arrangements and in some cases so can attending to religious observances.

Why would any employer want to consider introducing or expanding work life balance arrangements? Obviously if employees want to be doing something else rather than working, their motivation and productivity can be reduced.

Research¹ has shown that employers in Ireland are of the view that work life balance arrangements can help:

- Increase employee satisfaction (85% of employers surveyed)
- Attract / retain staff (74%),
- Increase employee productivity (58%),
- Improve the reputation of the organisation (56%),
- Reduce labour turnover (55%), and
- Decrease absenteeism / sick leave (50%).

Employers also realise that work life balance arrangements, many of which involve a reduction in take home pay, do not suit all employees at the same time. Therefore, at any one time only a proportion of employees will be availing of arrangements. Also peoples' circumstances change over time as do their work life balance expectations and needs.

In any event when introducing work life balance arrangements the balance has to be struck not only at individual level, but also at organisational level. The organisation needs to be able to service or supply its customers. Indeed when creatively managed work life balance arrangements can improve the organisation's performance.

This leads on to the question of how best to manage the development and introduction of work life balance arrangements.

What does everyone at **WORK** have in common?

A

W

O

R

K

E



Work Life Balance Day, March 1st 2004

Work Life Balance initiatives include family friendly policies and make sense for employers and employees alike. Get further information on what you can do to mark the day from www.worklifebalance.ie Lo Call 1890 245 545



THE EQUALITY AUTHORITY
AN TÚDARÁS COMHIONANNÁIS



Partnership with employee/trade union representatives seems to be the way to go. In this way the needs of the organisation and of employees can be clarified and a solution teased out to satisfy both.

If your organisation has less than 250 full time equivalent employees you could qualify for 75% of the cost of up to three days consultancy to introduce new work life balance measures or develop existing ones.

Contact Aoife Joyce at the Equality Authority (phone: 01 417 3356 or email: Aoife_Joyce@equality.ie).

Why has the name been changed to Work Life Balance Day (it was Family Friendly Workplace Day from 2001)? The Committee was originally established under the Programme for Prosperity and Fairness as the National Framework Committee for the Development of Family Friendly Policies at the Level of the Enterprise. It was seen as a complementary measure to the commitments in that agreement about the development of accessible, affordable, quality childcare.

As the Committee proceeded it became clear that broadening the scope to work life balance had clear advantages. From an industrial relations point of view it had the potential to build a larger constituency who supported the arrangements and could eliminate any sense of unfairness about the availability of arrangements.

From an equality perspective it had the potential to move beyond the perception that arrangements were for women with children only remaining connected to the workforce during child rearing years tends to be more advantageous for women than leaving and re-entering subsequently. However, research¹ carried out for the Committee suggests that a focus on women taking up family friendly arrangements to take on caring roles can lead to women losing out career wise and thus financially in the longer term. Therefore, it is important to broaden the scope and acceptability of work life balance arrangements. In this regard it is also important to highlight the prohibition on discrimination on the family status ground in the equality legislation.

Also it is clear that work life balance arrangements can have a positive impact in relation to entry and retention in the labour force of people under a range of equality grounds including disability, young and old age, minority ethnic groups, family status and religion.

On Work Life Balance Day we are encouraging organisations to start taking action which will have an ongoing contribution to make to employees at all levels balancing their work and their lives. **A leaflet with detailed suggestions is available on www.worklifebalance.ie or from The Equality Authority.**

The Work Life Balance Framework Committee operates under Sustaining Progress. It is chaired by the Department of Enterprise, Trade and Employment and includes as members Congress, IBEC, the Equality Authority, Department of the Taoiseach, Department of Finance, Department of Justice, Equality and Law Reform and the Department of Social and Family Affairs. The views expressed in this article are those of the author and do not purport to represent the views of the Committee.

The National Framework Committee recently agreed to fund seven projects which are taking innovative action in the area. Their names were announced on the 1st March. The projects which started in 2002 have now completed their work.

Finally, just remember with all the encouragement of work life balance; that perfect balance, like perfect parenting or perfect happiness is probably not attainable. Our lives keep changing and new interests and demands have to be accommodated. What most of us are striving for is a good enough balance.

¹ National Framework Committee for Family Friendly Policies at the level of the Enterprise, "Off the treadmill: Achieving Worklife Balance", 2003

Long-term chronic illness and the workplace

by **Sandra Kavanagh,**
Equality Authority



Introduction


Chronic illness can have a major effect on a person's self image and feelings of confidence and self worth. Being ill can be a lonely experience. While there may be good supports from family and friends, you may still feel that no one really understands what you are going through. Sometimes the only person who truly comprehends how you feel and how your symptoms can impact on your life and your working environment is you.

seriously. A person may experience debilitating symptoms on a daily basis while at the same time having to deal with scepticism from the medical profession and a certain amount of prejudice from people in their day to day lives, although this mistrust is slowly changing.

Impacts and challenges

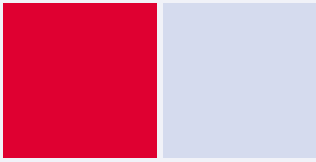
Someone who has an illness that is viewed as relatively minor, may look well and yet experience unpleasant symptoms which are not that evident to those around them. They may be unaware as to how these minor illnesses can impact on a person's life and well-being. Everyone knows how a single bout of even a minor illness can be very debilitating. We have all experienced a bout of flu. Most people have experienced an episode of illness in their lives and most will in the future. But what if those symptoms were with you every day and you were told you would more than likely experience them for the rest of your life?

Many people are told that they will get better one day: for others the challenge is to survive the best way they know how. People use different coping mechanisms. They use humour, the support of family and friends. They face what is often an unknown future with resilience and with optimism. Some people because of the nature of their illness live with pain on a daily basis. Living with chronic pain can be wearing. Pain can also have an impact on a person's mood and concentration. There are very good drugs on the market and new pain management techniques. But they don't work every day or for every individual.



Long-term illness has many variants. There are genetic disorders, degenerative diseases such as osteoarthritis, motor neurone disease, cancers, viruses, mental illnesses, depressive illnesses, auto-immune diseases such as MS, asthma, and a whole range of circulatory and respiratory conditions.

There are bacterial infections which are deemed incurable and those that are highly treatable. There are illnesses such as ME which are not widely understood; someone with this condition may not always be taken



Symptoms

Pain can restrict mobility and is an issue for those employees who are involved in physical lifting. Whether that physical lifting takes place in a residential setting or in a manufacturing area. Someone with arthritis for example, may have periods of remission but they may have mobility problems, and may find it difficult to walk for long periods of time or climb stairs, and standing for long periods of time can present difficulties.

Again not every person will experience the exact same symptoms, and it may not be immediately apparent to colleagues in a working environment as to the kinds of barriers faced by people with a long-term chronic illness. Employees involved in mostly manual work can experience a particular set of difficulties in remaining in the workforce.

Others experience difficulties taking medications for their illnesses. The side-effects of these medications coupled with the symptoms of the illness, can be overwhelming. At best it can necessitate missing time from work, and at worst having to leave the workforce altogether entering into a cycle of poverty and low income.

Supports and accommodations in the workplace

This is where the issue of supports and accommodation in the workplace becomes an essential lifeline. The support an employee receives at this time is vital. It makes the difference for an employee by enabling them to stay on in their workplace with the possibility of more flexible or reduced hours during an exacerbation of illness. Or perhaps it could mean making some temporary changes to their role within the organisation. Long-term it could mean making significant changes by looking at

retraining in a new post which would assist them through a difficult period.

What this means in practice is the retention of a valued employee who has given long service. It means valuing their experience and skills, the contribution they bring to a company or organisation. Most of all it means recognising the contribution they will make in the future, particularly if someone is a new employee.

When a company or organisation makes an investment in plant machinery or new IT equipment it does not immediately decide to throw away that equipment if it is experiencing problems. Likewise, companies and organisations whether they are in the public or private sector, invest in staff and their training and skills. Therefore they need to provide support at a crucial time for their employees and do all that is possible to provide accommodation in the workplace.

It may only be for a short period of time, and it may be longer. Yes there may be some difficulties with the recruitment and retention of employees with a long-term illness but there is also a great deal of commitment from staff with long-term illnesses. Employees who have been out of the workforce for a number of years due to illness and those who remain in the workforce, value the opportunity to work and to contribute. They are just as committed as other staff. Employers should recognise this commitment, value the contribution that employees with a long-term illness make to their working environment, by assessing their needs and developing mechanisms and strategies to support them.

We are all individuals and we deal with illness in our own unique way. Three or four people with the same chronic illness will have a different experience; a different perspective of that illness because of their gender, age,

social class, or because of their ethnic origin or sexual orientation. They may be in employment or they may be precluded from working because of the debilitating nature of their illness which will keep them out of the workforce. And that is because we still view people on the basis of what they cannot do, rather than looking at what they are able to do. As Tom Shakespeare has stated, it is often impossible to tell what people are able to do on the basis of their disability or chronic illness alone (Shakespeare, 1998).

Disclosing your illness

For those people in employment or for those rejoining the workforce after a long absence, the issue of disclosure is a major one; the consequences to an individual who chooses to disclose an illness can be great. It can be damaging to a person's career and promotional prospects. It can impact on how a person is viewed by colleagues and on their perceived ability to do the job. On the other hand, not disclosing can mean that employers might be less sympathetic to a sickness absence. If someone needs to have frequent hospital appointments for example, then it is probably better to discuss it with colleagues and your manager to avoid speculation. It also means that you have supports in place to ensure that your work is being covered in your absence.

There can be situations where an employee will have to take extended sick leave for a hospital admission, but it is only in the minority of cases. The vast majority of people with an illness or disability are able to work without the necessity of taking long extended sick leave absences and without incurring any additional sick leave pay or other special provisions.

Making a decision about whether to tell an employer that you have a long-term chronic

illness is a very hard choice to have to make. It is particularly difficult if you have an illness that is not visible, if you feel that it does not impact on your ability to do your job or affect your performance. Some people make the decision to hide their illness because they fear that disclosure would cost them their job. Employees may feel that their employers will discriminate against them if they know they have an illness. They may decide to choose someone who is healthy as opposed to someone with a health problem. Given the choice they may still view an employee with an illness as a liability.

However disclosing a disability or illness to an employer at the outset may mean that your employment is afforded protection under equality legislation. If you declare your illness or disability and feel that you have been treated unfairly in your application or selection for interview process you may be able to seek redress under the Employment Equality Act, 1998. Section 2 of the Employment Equality Act, defines disability as:

- the total or partial absence of a person's bodily functions, including the absence of a part of a person's body;
- the presence in the body of organisms causing or likely to cause, chronic illness or illness;
- the malfunction, malformation or disfigurement of a part of a person's body;
- A condition or malfunction which results in a person learning differently from
- A person without the condition or malfunction;
- a condition, illness or disease which results in a person's thought processes, perception of reality, emotions or judgement or which results in disturbed behaviour;

- Includes a disability which exists at present, or which previously existed but no longer exists, or which may exist in the future or which is imputed to a person.

The Act is wide-ranging in that it outlaws discrimination by employers, discrimination in collective agreements, discriminatory advertising, discrimination by employment agencies, discrimination in the provision of vocational training, and discrimination by certain vocational and other bodies. The Act refers to specific areas such as access to employment, your conditions of employment, training and promotion, regrading, classification of posts and discriminatory advertising.

It means that an employer cannot refuse to employ you because of your illness or disability without good reason. However Section 16(1) of the Act provides that an individual must be available and fully capable of doing the job that he or she was employed to do.

Another favourable reason for disclosing an illness is that you may have gaps in your working life due to ongoing health problem. You could have been out of the workforce for a few months or a few years. You may be asked to account for that gap on your curriculum vitae and declaring your illness at the outset will clear up any misunderstandings. Not all employers will see your illness as a liability although in practice you may still find that there are unhelpful attitudes and discriminatory practices.

However when you apply for a post and are selected for interview, the main criteria for selection is that you have the requisite experience, skills and educational qualifications to do the job. The interview process should be about you the candidate, imparting information on your ability to meet the conditions of the job. It is about you discussing the skills you have acquired

that could be useful. They could be skills you acquired during a period of absence. Most people with a long-term chronic illness will be acutely aware of the struggle to overcome their illness and to cope on a daily basis with their family, social and working lives. That same determination can be brought to the workplace. It can and should be recognised by employers.

For many people with a long-term chronic illness, the medical examination is viewed with great alarm. In most cases the medical examination should be about your capability to do the job not your fitness levels. If someone attends for a medical examination and a medical condition or illness is discovered, they should still be presumed to be available to undertake duties of the post and it should not preclude them from taking up their post. This means doing all that is practicable in providing reasonable accommodation and putting the right type of supports in place.

Reasonable accommodation

Section 16(3) of the Employment Equality Act, 1998 outlines the provisions relating to reasonable accommodation:

- for the purposes of this Act, a person who has a disability shall not be regarded as other than fully competent to undertake, and fully capable of undertaking, any duties if, with the assistance of special treatment or facilities, such person would be fully competent to undertake, and be fully capable of undertaking, those duties.
- An employer shall do all that is reasonable to accommodate the needs of a person who has a disability by providing special treatment or facilities.
- Refusal or failure to provide for special treatment or facilities relates shall not be deemed reasonable unless such provision would give rise to a cost other than a

nominal cost, to the employer. (This exemption will be changed to one of disproportionate burden when the new Equality Bill 2004 is enacted).

We all need support systems

When we speak of reasonable accommodation with regard to illness or long-term chronic illness, we are looking at the concept or understanding of the notion of accommodation from a slightly different angle.

How many of us can honestly say that we could get through our working day without aids such as computers, telephones, faxes, e-mail, pens, or personal aids such as reading glasses. We all have a set of practical and human support systems which assist us in our day-to-day tasks. For someone with an illness or impairment, the level or structure of that support system will be different from that of a non-impaired person. This is wholly different from stating that people with an illness need aid.

The reality is that we all need some form of assistance or support to participate in our social and working lives. We are all interdependent on one another to some degree. We all have our own requirements, some will be common to all, and some will be more individually tailored.

Conclusion

Reasonable Accommodation for people with a long term illness is all about flexibility. It is about flexible working arrangements; allowing employees time off for medical appointments without recourse to sick leave; offering support when someone is experiencing an exacerbation of their symptoms; providing assistance to those employees who have been out of the workforce for a long period of time. Most people retain their skills but returning to a

working environment following diagnosis of a chronic illness creates a whole new set of challenges. It can be a daunting experience. Someone who has been incapacitated for a long time may need some emotional and social supports. These could take the form of keeping up contact with the employee during their absence, keeping the employee aware of what is happening in the company, changes to work practices, new developments and helping the employee to develop new skills once they return to work. Keeping up contact with an employee will make a stressful time that little bit less stressful.

Accommodating employees with a long-term illness, recognising an individual's identity and providing support systems which meet those needs. It can be something as simple as providing a room for someone to inject their medication. It can be ensuring that someone does not have to attend very long meetings or that they have several breaks during a meeting, particularly if they have a mobility problem. Or it could be a simple recognition that a person with a long-term illness has a lot to offer an employer, and that sick leave absences should not be viewed as a determining factor for promotion but rather the individual's commitment and contribution overall should take precedence.

Chronically ill people's identities are diverse. We should not assume that disability is the same for everyone. Employment and equality policies which recognise this and which build on the potential which people with long term illnesses have to offer will reflect the fact that sickness is an issue likely to affect every individual at one stage of their lives or another.

References:

Shakespeare, T. (1998) Choices and rights: eugenics, genetics and disability equality, *Disability and Society*, 13(5), pp665-681.

Guidelines for lesbians, gays and bisexuals

by **Esther Lynch,**
Industrial Officer,
Congress, with
responsibility for
Equality

The Equality Authority in their report *Implementing Equality for Lesbians, Gays and Bisexuals*, May 2002, put forward a number of recommendations that aimed to develop a coherent strategy for achieving equality for Lesbian, Gay and Bisexual people. Among their recommendations was that Congress would update our Guidelines for Lesbian and Gay Rights at Work to take account of new legislation.

Since Congress first published our "Lesbian and Gay Rights in the Workplace Guidelines for Negotiators" in 1982 there have been significant developments. Congress has won improvements in employment and other anti discrimination legislation to make discrimination against lesbian gay and bisexual people unlawful. The extent of equality and anti-discrimination legislation has improved in recent times and shows there is a growing climate of equality and support for anti-discrimination action. All political parties and the social partners have supported powerful anti-discrimination legislation such as the Employment Equality Act along with the recent Employment Equality (SO) (NI) Regulations 2003 and Section 75 the Northern Ireland (1998) Act.

Recent cases won by affiliated unions show that unions are meeting the challenges of representing a diverse workforce. Trade Unions believe in equal rights for all workers and unions are committed to combating all forms of discrimination and promoting equality. This includes representing the interests of our lesbian, gay and bisexual members.

Despite being unlawful, discrimination on grounds of sexuality can still happen in the



workplace. Discrimination leads to isolation, abuse and the victimisation of lesbian, gay and bisexual workers. Discrimination means treating workers less favourably because of their sexual orientation or because other people have prejudices about that sexuality. In the workplace it can be direct, subtle, conscious or unwitting. It can come from supervisors, managers and also from other members of the workforce and from outside the workforce. Discrimination against lesbians, gays and bisexuals in the workplace manifests itself in a wide range of ways including, being overlooked for promotion, denied training, unfair selection for difficult or unpleasant tasks, being called names, being the butt of jokes, innuendo, verbal harassment or sustained unfriendly contact or exclusion. Physical forms of anti-lesbian and gay prejudice include persons damaging the property of others and in its most extreme form, physical violence.

Unions are negotiating policies and procedures that counteract discrimination and prejudice in all its forms against lesbian, gay and bisexual workers. The objective of such policies and procedures is to create a workplace environment where lesbian women, gay men and bisexual men and women experience equality and are free of harassment or discrimination from other workers or management, and to ensure that steps are taken to prevent such harassment or discrimination.

The Workplace Agenda **The Equal Opportunities Policy**

Equal Opportunities policies are now common place in both the public and private sectors. Unions have found that an important first step is to ensure that this policy explicitly covers lesbian, gay and bisexual workers. In some circumstances unions have found that some employers may not be convinced that that such an explicit reference in the equal opportunities policy is necessary. Sometimes even to win a mention for lesbian, gay and bisexual workers in a list of those covered by an equal opportunities

policy can be a battle but in the process of arguing for it, discriminatory practices can be identified and dealt with.

Unions have found that having the explicit inclusion of lesbians, gay and bisexual workers in a policy statement is important. It will help to increase the culture of equality in the organisation or enterprise and will encourage lesbian, gay and bisexual workers to have confidence to raise issues. Its omission or its replacement by a bland general statement has the opposite effect.

Data collection and Equality Audits

Congress has constantly argued that the composition of the work force should be monitored on grounds of gender, race or disability to check that equal opportunity policies are working. However this may not be helpful for dealing with discrimination on grounds of lesbian, gay or bisexual orientation. Lesbians, gays and bisexuals are not necessarily underrepresented in the workforce but they may be very reluctant to risk "coming out" through a statistical questionnaire. Therefore a simple head count may not be the appropriate way to monitor lesbian, gay or bisexual employees.

Unions have recognised the importance of examining the workplace processes and procedures in respect of all aspects of employment including social and family events to establish if any of the provisions discriminate against gay, lesbian or bisexual workers.

Ensuring Equal treatment for Lesbian Gay and Bisexual Workers

In addition to ensuring against unlawful discrimination in pay, conditions of employment, training and promotion unions are negotiating at the level of the enterprise for more than the legal minimum. Negotiating for positive improvements for gay, lesbian and bisexual workers should be undertaken even if there are no lesbian, gay and bisexual workers "out" in the enterprise. Clear policies recognising the rights of lesbian, gay and bisexual workers can operate as a signal that the enterprise is open to diversity.

Some examples of the trade union negotiation agenda:

Parental Leave and ForceMajeure: Unions are negotiating at workplace level to ensure that lesbian, gay and bisexual workers have the same rights and entitlements to leave for parenting or urgent family reasons as other couples.

Training: Unions are negotiating for training, information and briefing sessions on equality to

be provided to staff at all levels of the organisation. One aspect of this training should address the sexual orientation ground and the implications for employers and employees of the Employment Equality Act 1998.

Access to employment: Unions are ensuring that interviewers for recruiting and promotion are provided with detailed guidance in relation to non discrimination and equal opportunity issues relevant to lesbian, gay and bisexual workers.

Pensions: Unions are already negotiating at workplace level to ensure that lesbian, gay and bisexual workers have the same rights for pensions as other couples.

Family and social events: Where enterprises organise family events it is important that the enterprise recognise all types of families. An invitation to participate to partners of lesbian, gay and bisexual workers can act as a reassurance that the enterprise is open to lesbian, gay and bisexual workers.

Negotiating for Improvements at National Level

At national level Congress is negotiating for an increase in rights for Lesbian, Gay and Bisexual workers. Congress has secured a commitment as part of the recent national agreement, 'Sustaining Progress' that "the steps necessary to give effect to the issue of force majeure leave in respect of same sex partners will be addressed." Congress is currently pursuing this commitment with Government.

In addition Congress is examining other partnership rights for same sex couples at work including the right:

- to nominate a partner or successor for pensions
- to designate a next-of-kin for medical or emergency reason.

Congress particularly welcomes the provisions in the Social Welfare Bill 2004 to provide that where pension schemes pay dependants benefits to non-marital opposite sex partners, they now have to pay to same sex partners. This is an important provision that will begin to remove discrimination experienced by lesbian, gay and bisexual workers in pension schemes.

If you would like any further information on the issues covered here or if you would like copies of the **Lesbian, Gay and Bisexual Rights in the Workplace, Congress Guidelines for Negotiators** contact your union or Irish Congress Trade Unions, 31/32 Parnell Square, Dublin 1.

Building an inclusive workplace

The key message of **Building an Inclusive Workplace**, the Equality Authority's submission to the Forum on the Workplace of the Future, is that equality and diversity must be at the centre of workplace change in Ireland.

The composition of the Irish workforce has changed rapidly in recent years and will become more diverse in the years ahead. Employee diversity encompasses all of the nine grounds, of gender, marital status, family status, age, disability, sexual orientation, race, religion and membership of the Traveller community, which are covered under equality legislation.

As a society, we are only beginning to appreciate how future growth prospects are dependent on successfully mobilising, retaining and developing increasingly diverse sources of labour. Equally, future prospects for social inclusion and social justice are heavily dependent on successfully accommodating this diversity in the workplace and in the wider society.

Furthermore, investing in diversity and equality is in the interests of individual enterprises. The business benefits of equality and diversity come in a number of ways, such as:

- By reducing costs arising where discrimination limits the supply of, and/or pushes up the cost of, labour.
- Changes in the labour force are making firms' ability to attract and retain a diverse workforce a growing factor in their competitive success.
- Managing diversity successfully allows firms and organisations tap a wider pool

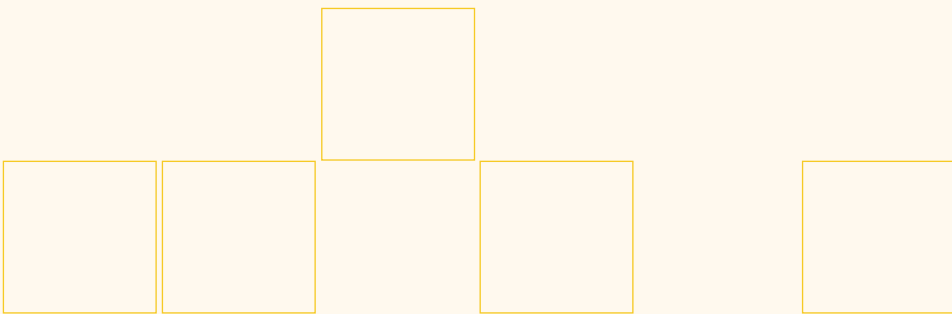
- of skills and abilities among employees.
- Greater employee satisfaction supports better employee performance.
- Equality and diversity within organisations supports their access to and/or promotes greater satisfaction among an increasingly diverse customer base; and
- Proactively addressing equality and diversity supports the wider capacity for organisational flexibility and adaptability.

Building an Inclusive Workplace sets out the emerging evidence for such benefits to firms and organisations. For example, a recent study for the European Commission on 'The Costs and Benefits of Diversity' concludes that:

"Investments in diversity policies contribute to a strategy of long-term value creation by creating and strengthening human and organisational capital. Along with knowledge capital, these are the principal intangible assets used by companies in a wide range of sectors to establish competitive advantage and to create value. Leading companies accept that there is no simple "cause and effect" relationship between strengthening these factors, improving competitiveness, and creating value. However, they believe that, taken together, these factors have a powerful indirect impact on their competitiveness over the long-term"

A central question is how to bring about more inclusive workplaces in Ireland. Equality in the workplace is about:

- Preventing and eliminating workplace discrimination, sexual harassment and harassment, and victimisation.



- Promoting equality of opportunity in terms of access and participation and realising equality outcomes.
- Accommodating differences and diversity and, in particular, making reasonable accommodation for people with disabilities as required by the legislation.

This can only be achieved through planned and systematic action at workplace level. In this context equality and diversity management initiatives are best seen as integrated approaches to planned change which must simultaneously address organisational culture, systems, policies, practices and people. The process of workplace change also requires the further development of broader supporting policies and structures including the further evolution of the equality legislation and of national supports.

Equality legislation has been an important stimulus for positive change in the workplace and in service provision to date. There is a growing recognition that existing equality legislation based on the individual enforcement model, while very effective at breaking down many visible barriers and prejudices, proves inadequate in dealing with more complex and deeply rooted patterns of exclusion and inequality.

Building an Inclusive Workplace calls for the evolution of a new generation of equality legislation aimed at ensuring that discrimination is prevented and equality is proactively pursued.

This should involve the development of a statutory duty on the public sector to promote equality across all of the nine grounds in the areas covered in the

Employment Equality Act 1998 and the Equal Status Act 2000. It should also involve the development of a positive duty on enterprises in the private sector to put in place planned and systematic approaches to equality across the nine grounds. It would require employers to carry out periodic reviews of the equality impact of their employment policies and practices and to develop action plans to enhance this impact. Such a duty should not place a disproportionate burden on companies, and must have particular regard to the position of smaller companies.

Institutional development is also required to support workplace equality and diversity . Such supports are currently being developed through the Framework Committees first established under the 'Programme for Prosperity and Fairness' in 2000 and which continue in operation under 'Sustaining Progress.' The two committees are the Equal Opportunities Framework Committee and the Work Life Balance Framework Committee. **Building an Inclusive Workplace** argues that this approach needs to be further developed and resourced. In particular it will be important to further develop the role of the Framework Committees in resourcing trade unions, employer networks, and specialist organisations to develop their capacity to shape, support, resource and stimulate a focus on equality and diversity at enterprise level. It will be important to develop a similar focus on equality and diversity for customers across the nine grounds. A third Framework Committee should be established to further this dimension to the Workplace of the Future.

€4,000 for unfair dismissal

Case reports



Man refused entry to pub

by Patrick O'Leary, Equality Authority

Equality Cases Highlight Failure to Reasonably Accommodate People with Disabilities

Two new cases from the Equality Tribunal and one from the Labour Court, highlight significant issues with regard to reasonable accommodation of people with disabilities.

Equality legislation affords important rights to people with disabilities not to be discriminated against and to be reasonably accommodated both at work and in the provision of services. Employers and service providers need to be aware of the needs of people with disabilities and their responsibility to accommodate them (subject to a nominal cost exemption).

In a case before the Labour Court, a waiter with diabetes became disorientated due to low sugar levels. After taking some food and drink he was prepared to go back to work. His manager told him to go home and he was dismissed the following day. The Labour Court would not accept that the proximity in time between the complainant's diabetic incident and his dismissal within 24 hours was mere coincidence. The Labour Court awarded €4000 to the employee for

discriminatory dismissal on the disability ground. He was represented by the Equality Authority.

This case emphasises that employers need to look beyond the disability and at what the person can actually do. Adjustments to the workplace or working practices enhance capacity and productivity. Such practice is good for business and good for people with disabilities.

In a second case, the Equality Tribunal has awarded financial compensation to a man who was discriminated against by a public house because of his disability. Along with his family, he was celebrating his mother's birthday. His disability affects his balance, co-ordination and facial expressions. On approaching the public house, he and his family were refused entry by the doorman who claimed that he appeared to be intoxicated. The Equality Officer awarded €600 to the complainant and a further €900 to his family for the effects of the discrimination. The Equality Authority represented the claimant.

This case highlights the problems people with disabilities face when they go out to socialise and the need for service providers to be aware that some of their customers may have disabilities that affect their balance, coordination and demeanour. This raises the importance of the level of awareness of service providers and of dialogue with customers with a disability to identify their needs and how best to meet these. Such a conversation would have quickly identified that the claimant in this case had no drink taken and was not

Disabled 'still face' discrimination

intoxicated. This type of engagement with customers is central to meeting obligations under the Equal Status Act to make reasonable accommodation of customers with disabilities. It is important to train staff on disability issues and to create a safe space for this engagement.

A total of 17% of current case files of the Equality Authority refer to discrimination on the disability ground in employment and in the provision of goods and services. In employment they include claims in relation to access to employment as well as dismissal, promotion and working conditions. In the provision of goods and services they include claims of discrimination in education, supermarkets, public houses, hotels and transport. The issue of making reasonable accommodation for employees and customers with disabilities is central to many of the case files.

Equality Authority case files under the equality legislation reflect a failure by employers and service providers across a range of sectors to make reasonable accommodation for people with disabilities. This is a failure that reflects the significant barriers faced by people with disabilities in participating in the economic, cultural and social life of society. A new context is needed where employers and service providers develop systems and institutional practices that include for the participation of people with disabilities.

The high levels of embarrassment and distress that people with disabilities experience on foot of discrimination that prevents their access to regular day to day activities needs to be acknowledged. It is clear that this experience becomes a further barrier to participation, as confidence levels drop and isolation grows. The elimination of this discrimination and practical and simple steps to take account of people's disabilities, become ever more urgent in such a context.

Portmarnock Golf Club found in breach of equality law

The Equality Authority welcomes the finding of the District Court that Portmarnock Golf Club is a discriminating club under the Equal Status Act 2000. This finding was on foot of a case brought under the Act by the Equality Authority due to the policy and practice of Portmarnock Golf Club in excluding women from membership.

While highlighting that the case is still in the judicial domain with constitutional proceedings being pursued by Portmarnock Golf Club, the decision is important for women golfers and for women in general.

The outcome in this case has a wide benefit in a context of gender inequality in our society. Where significant social institutions in our society can exclude women we face real barriers in turning our commitment to equality into real change in the situation and experience of women.

For women golfers, this outcome should contribute to a new access to golf clubs and to the benefits – recreational, social and economic – that accompany membership. The Equality Authority expresses the hope that this decision of the District Court would herald a change of perspective on the inclusion of women, not only in Portmarnock Golf Club but in other institutions where women experience exclusion or find their ambitions and aspirations blocked by discrimination, inflexibility and negative stereotyping.

Viewpoint

The Family Diversity Initiative – welcoming the diversity of family life in Ireland



By Karen Kiernan

What do you think of when you hear the word family? Do you think of the constitutionally recognised family – one which is based only in marriage, do you think of your own family or do you think that it is difficult to define what family is as there are currently so many different family forms in Ireland?



Although there are a myriad of family types in Ireland not all have equal opportunities to do well, to access appropriate services, to flourish under positive state policies and services designed for them and to live up to their full potential.

The concept of diversity is widely accepted in common parlance and generally welcomed. However, for many families, their diversity is not welcomed or even accepted when trying to achieve equal treatment in the law and the full range of public services. Their diversity is regarded as a problem and the services they are offered reflect this approach of problematisation.

Recently in the media there has been a return to the debate on whether family structure impacts on the well-being of family members or whether substance is more relevant than form in determining the experience of a family member. This debate often centres on the central question of “which family type is best” while research has increasingly been highlighting the fact that it is the substance, relationships and processes within a family that are important rather than who may be in a specific household, what legal contracts exist between members and the narrow legal definitions of what family is.

Much as diversity may be welcomed in general, it often appears that while it is acceptable to be diverse in some areas of life, there remain barriers to be faced if a family is perceived as “non-traditional” or as being a problem. This issue is further compounded by a social and legal system which gives special recognition to the family based in marriage in its written constitution and affords no protective rights to other family forms.

Barriers also arise from an Equal Status Act which does not afford rights under the family status and marital status grounds to all families who are in various situations of inequality. For example, there is no right of redress or access to equal treatment for two different families under the tax law, one headed by a married couple, one not. These barriers to the full equality of every family in Ireland, regardless of its structure or the situations in which it lives must be overcome if we are to achieve a fully inclusive society.

The Family Diversity Initiative (FDI) is a coalition of organisations working with and representing the interests of diverse families in Ireland. Established in 2002, this coalition recognises that the family exists in different structures and circumstances and we work to challenge discrimination. Our vision is to achieve an Ireland in which people define their own families and which all these families are treated equally. Our mission is to promote equality, acceptance and understanding in Ireland for all families.

The Family Diversity Initiative (FDI) is concerned with highlighting areas where improvements can be made for families whose structure varies from the constitutionally protected family based in marriage, for example – one parent families,

families where children live in two separate one parent families, families where children do not live with their family of origin, families where partners or parents are not married to each other, families where children are raised by grandparents or other relatives, same sex partnerships, etc.

We are also concerned with families where their structure may be negatively impacted by a lack of services or appropriate policy, for example – families that are separated due to one member having a disability, families separated due to immigration laws, families separated due to homelessness.

All of these diverse family types have a lessened ability to be fully socially included due to inappropriate social policies, services and laws.

The objectives of the FDI are to:

- Co-ordinate and develop effective partnership working between Community & Voluntary Organisations who promote and represent diverse families, including the sharing of relevant resources.
- Identify key knowledge gaps in the experience of diverse families and seek to address these by research or other appropriate means.
- Support and co-ordinate policy interventions that address the institutional and social barriers to equality and social inclusion faced by diverse family groups.
- Co-ordinate an effective public awareness campaign on family diversity in Ireland.

A number of key principles underline the work of the FDI:

- An understanding of "family life" that derives from our Vision Statement that people define their own families.
- Promoting equality of opportunity and social justice in its work and within the operating policies/ practices of the initiative.
- Acknowledging the right of people and families facing discrimination/ inequality to participate in solutions to redress that inequality.
- Partnership working with relevant external people/organisations which furthers the mission/aims of FDI.

The steering group of the FDI currently includes membership from a range of organisations

working with and representing families with varying structures and those who live in varying social situations. Current members include, Age Action Ireland, Children's Rights Alliance, Gay and Lesbian Equality Network (GLEN), Focus Ireland, Forum of People with Disabilities, National Consultative Committee on Racism and Interculturalism (NCCRI), Older Women's Network, One Family (formerly Cherish), One Parent Exchange and Network (OPEN), Treoir-National Federation of Services for Unmarried Parents and their Children.

The FDI also operates a mailing list which is open to any organisation or individual who supports the vision and objectives of the Family Diversity Initiative. Benefits of membership of the mailing list include access to information and resources and consultation on their views on family diversity.

2004 marks the 10th Anniversary of the International Year of the Family. In 2004 there remain gaps that need not exist in our legal and social systems for many families. The FDI will challenge the inequalities faced by the diverse range of real families in Ireland in 2004. The FDI will be using the opportunity of the 10th anniversary year to celebrate the diversity of family life in Ireland while creating awareness of the realities of Irish family life. Activities during the year will focus on developing partnership links with relevant statutory agencies and key departments and by raising public awareness. We will also be launching our promotional materials and website www.familydiversity.ie in late Spring.

In challenging the lack of progress over the last 10 years and the failure of state policy and provision to recognise that not all families are the same and that diverse families are valid family forms the FDI will hopefully reach its key goal: an Ireland in which people define their own families and which all these families are treated equally.

Karen Kiernan is Director of One Family, providing voice support and action for one parent families (formerly Cherish) and Chairperson of the Family Diversity Initiative.

For further information on the FDI or to join the mailing list please contact us c/o One Family, Cherish House 2 Lower Pembroke St, Dublin 2 T: 01 662 9212 or email info@familydiversity.ie



Resources

GRANT SCHEME FOR SMALL AND MEDIUM ENTERPRISES

The Framework Committee for the Development of Equal Opportunities at the Level of the Enterprise is now seeking applications for grants from individual enterprises with less than 250 employees to buy in equality expertise to:

1. Put in place equality policies, or
2. Develop and implement equality training, on foot of guidelines published by the Framework Committee.

Conditions of Funding are:

1. Funding for up to a maximum of five days for a consultant to be hired to deliver any or all of the above;
2. Each consultant will be required to attend a half-day session to discuss the Guidelines;
3. The Framework Committee is interested in supporting projects that apply the partnership approach bringing together employer and employee/trade union representatives to implement projects;
4. Feedback will be welcome to support the further development of this scheme.

A leaflet and application form, and the Guidelines on Employment Equality Policies and Equality & Diversity Training are available from Fiona in the Equality Authority at 01-4173341. The Guidelines are also available on the Equality Authority website www.equality.ie

Should your business be one to watch?

Free 'Quality Through Equality' Training Video



Use this free training video to put equality on your business agenda.

The 'Quality Through Equality – How To Build An Equality Infrastructure in the Workplace' training video provides valuable advice and support. An equality infrastructure supports compliance with equality legislation; enables the necessary steps to accommodate diversity in the workplace to be taken; and ensures action to realise equality outcomes in your enterprise.

Developed by IBEC, Congress and the Equality Authority under the National Framework Committee for Equal Opportunities at the Level of the Enterprise, the video focuses on guidelines for employment equality policies, equality and diversity training and conducting equality reviews. A free resource pack is available with the video.

To avail of the video and support pack, send your contact details to Nicola Twamley at the Equality Authority: NTwamley@equality.ie
Fax (01) 417 3331 or Lo Call 1890 245 545.

'Equality in Diversity - The New Equality Directives' is a collection of papers, some of which were presented at a conference organised by the Equality Authority and the Irish Centre for European Law and which have been updated and added to since then. The report provides an important analysis and critique of the EU equality Directives and their implications for Irish equality legislation. It also provides a comprehensive overview of equality law in Ireland and explores how this legislation could further evolve to meet the requirements of the EU Directives and to be increasingly effective in combating discrimination and promoting equality.

Equality in Diversity - The New Equality Directives is available from the Irish Centre for European Law PH: 6081845 Price: €45 (non-members), €30 (members)



The Equality Authority would like to advise all callers that they can visit www.equality.ie or contact our Public Information Centre directly at 01 417 3333 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.

The Equality Authority,
2 Clonmel Street, Dublin 2, Ireland.
Business Tel: 353-1-417 3336
Information – Lo Call: 1890 245 545
Tel: +353-1-417 3333
Fax: +353-1-417 3366
Text Phone: +353-1-417 3385
Email: info@equality.ie
Web: www.equality.ie