

# Annual Report 2012

**IHRC**

AN COIMISIÚN UM CHEARTA AN DUINE  
IRISH HUMAN RIGHTS COMMISSION

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By

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The Irish Human Rights Commission (IHRC) was founded under statute in 2000, to promote and protect human rights in Ireland. The human rights that the IHRC is mandated to promote and protect are the rights, liberties and freedoms guaranteed under the Irish Constitution and under international agreements, treaties and conventions to which Ireland is a party.

# **Annual Report 2012**

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# 1. Introduction

In 2012, the Irish Human Rights Commission (IHRC) commemorated 12 years promoting and protecting human rights in Ireland with a short legacy document produced in July.

2012 was also the year that the merger of the IHRC and the Equality Authority moved closer to becoming a reality. The Working Group established to make recommendations on the process of bringing the two bodies together published its report in April, followed by the publication of the Scheme of the Irish Human Rights and Equality Commission (IHREC) Bill 2012. The IHRC provided Observations on the Scheme of the Bill in June which sought to identify how its provisions could be improved.

There were a number of developments in 2012, including the steep rise in communications from members of the public to the IHRC, particularly in relation to economic and social rights. During the year, the IHRC continued to actively monitor, scrutinise, intervene and **influence Ireland's fulfilment of its human rights obligations. This Annual Report presents work carried out by the IHRC across a broad range of human rights concerns in accordance with its statutory mandate. This progress was enabled and driven by the IHRC's staff, contractors, interns, and professional placements. Despite the pressures of reduced finances and personnel, the IHRC remained focused on producing high quality work which was both credible and of enduring quality.**

**Highlights of the IHRC's research, policy and promotion work in 2012 included the successful launch of Express Yourself! – Young People Promoting Human Rights, targeted at Civic, Social and Political Education (CSPE) students which culminated in a human rights poster exhibition in the Light House Cinema, Dublin. The Human Rights Education and Training Project - undertaken with philanthropic support - continued to expand its training and development programme with the civil and public service including Government departments, statutory bodies, the Defence Forces, and local authorities.**

The IHRC also submitted observations to the Government on draft legislation and policy with human rights implications, including its Observations on the following legislative provisions: spent convictions, vetting, whistle blowing, regulation of legal services and on the establishment of the Irish Human Rights and Equality Commission. Other policy recommendations to Government included reform of mental capacity legislation, data protection, input to the new National Children and Youth Policy Framework and maintaining CSPE as a core mandatory Junior Certificate subject. During the year, the IHRC used its website and e-bulletin to brief a wide range of stakeholders on its ongoing work.

The IHRC appeared before the Joint Oireachtas Committees on Health and Children, and Justice, Defence and Equality respectively. A packed house deliberated on the extent of human rights protection under both the Constitution and European law at the IHRC and **Law Society's 10th Annual Human Rights Conference in October. Uachtarán na hÉireann, Michael D. Higgins, delivered a powerful and thought-provoking Annual Lecture to celebrate International Human Rights Day on 10 December.**

The IHRC provided legal assistance to a number of individuals during the year. It provided legal representation to a person with an intellectual disability threatened with summary eviction by a local authority and who had no access to legal aid. A settlement was reached **before the case was heard in the High Court resulting in the person's rights being** protected, the decision to evict him being reversed and a new and more suitable home being allocated to the individual. The IHRC also granted legal assistance to a family for the conduct of an inquest into the death of a family member from a methadone overdose while on temporary release from prison. During the course of the inquest, a number of systemic issues concerning the lack of safeguards in early prison release protocols for vulnerable persons were uncovered. Adequate and appropriate accommodation for the Traveller community remains a problem and the IHRC provided legal assistance to a Traveller family, consisting of a lone parent with two children with special needs who had been informed by the local authority that they would be forcibly removed from their roadside location with no alternative place to live offered to the family.

The relationship between its legislative and legal work was highlighted when the IHRC granted legal assistance to a person concerned that the system of Garda Vetting would reveal her acquittal for an offence some years previously and that this would negatively impact on her application for employment although she had worked in the sector for many years. In this regard, the IHRC had previously recommended that the proposed Spent Convictions legislation and the Vetting legislation be integrated with each other.

In its amicus curiae (or friend of the court) interventions, the IHRC presented a human rights perspective on issues such as mental capacity, mental health detention and treatment, data protection, housing, and assisted suicide before the Superior Courts. The IHRC also intervened at the European Court of Human Rights in a case where a person had been sexually abused by the principal of her primary school and where the extent to which the State is responsible for policing against such abuse was at issue.

Although the IHRC continued to work on most areas of its mandate and on a broad range of human rights issues, in 2012 its financial situation remained challenging. Only the non-replacement of Commission members and IHRC staff ameliorated the financial situation,

however, this in turn led to a governance deficit from August with the retirement of the President Dr Maurice Manning.

In January, the Chief Executive, Éamonn Mac Aodha, was appointed Ambassador to Belgium. Commission members and staff joined in acknowledging the leadership demonstrated by Mr Mac Aodha since his appointment in 2007, which had allowed the IHRC to continue discharging its statutory remit despite a precarious budgetary situation through innovative responses to the challenges posed and through partnering with key actors, including philanthropic support.

**The interim Commission comprising Conleth Bradley, Helen O'Neill and Roger Sweetman concluded its term in May and in July, the President's second five year term concluded.** Dr Maurice Manning had led a strong independent National Human Rights Institution for ten years prior to his retirement and had chaired the European Group of National Human Rights Institutions for five years. Staff, former Commission colleagues and a wide range of statutory, civil society and international colleagues led tributes to the President.

The Government decided not to appoint an interim Commission pending an independent process established for selection of a new Commission which would also be the Commission Designate for the Irish Human Rights and Equality Commission. In those circumstances, the Acting Chief Executive also acted as head of institution from August to **year's end. During that period, the interim Commission members agreed to serve along with Tom O'Higgins, on the IHRC's Finance, Risk, Audit and General Purposes Committee,** to provide corporate oversight and advice to the Executive pending the appointment of a new Commission.

To this end, I wish to record my deep appreciation for the support afforded to the Executive in 2012 by the former Chief Executive, the former President and the members of the oversight committee which enabled the IHRC to ensure adequate interim corporate governance including **for the purpose of its "A" status as a National Human Rights Institution.** To my colleagues in the Executive I convey my deep appreciation for their unstinting dedication during the year which allowed the work of the IHRC to continue to have resonance across Irish society, in accordance with its statutory remit to promote and protect human rights for all in Ireland.



Des Hogan  
Acting Chief Executive

## **2. Role and Functions**

The Irish Human Rights Commission (IHRC) is an independent statutory body set up to promote and protect human rights in Ireland. Established pursuant to the Belfast/Good Friday Agreement, the composition, functions and powers of the IHRC are set out in the Human Rights Commission Acts 2000 and 2001. Under these Acts, the IHRC has a statutory remit to ensure that the human rights of all people in Ireland which derive from the Constitution and the international treaties to which Ireland is a party, are promoted and protected in law, policy and practice.

The key functions of the IHRC are: providing recommendations and observations on the human rights implications of key legislative and policy proposals, monitoring compliance with international and Constitutional human rights standards, promoting awareness, carrying out human rights education and training, conducting enquiries into human rights issues and acting as *amicus curiae* (or “friend of the court”) before the courts in individual cases.

The specific functions of the IHRC, as set out in the Human Rights Commission Act 2000, are:

- To keep under review the adequacy and effectiveness of law and practice in the State relating to the protection of human rights;
- If requested by a Minister of the Government, or of its own volition, to examine any legislative proposal and report its views on any implications of such a proposal for human rights;
- To consult with such national and international bodies or agencies having knowledge or expertise in the field of human rights as it sees fit;
- Either of its own volition or on being requested to do so by the Government, to make such recommendations to the Government as it deems appropriate in relation to the measures which the Commission considers should be taken to strengthen, protect and uphold human rights in the State;
- To promote understanding and awareness of the importance of human rights in the State and, for these purposes, to undertake, sponsor or commission, or provide financial or other assistance for research and educational activities;
- To conduct enquiries;



- To prepare and publish, in such manner as it thinks fit, reports on any research undertaken, sponsored, commissioned or assisted by it or in relation to enquiries;
- To apply to the High Court or the Supreme Court for liberty to appear before the High Court or the Supreme Court, as the case may be, as amicus curiae in proceedings before that court that involve or are concerned with the human rights of any person and to appear as such an amicus curiae on foot of such liberty being granted;
- To take whatever action is necessary to establish and participate in the joint committee of representatives referred to in paragraph 10 of the section entitled **“Rights, Safeguards and Equality of Opportunity”** of the Agreement Reached in the Multi-Party Talks (the Belfast/Good Friday Agreement);
- To provide assistance to persons in connection with legal proceedings involving law or practice relating to the protection of human rights;
- To institute legal proceedings to vindicate the human rights of a person or a class of persons.

The role and functions of the IHRC derive from international standards: the United Nations Principles Relating to the Status and Functioning of National Institutions for Protection and Promotion of Human Rights (**“Paris Principles”**). **The IHRC is Ireland’s National Human Rights Institution (NHRI)**, which means that its powers and functions fully comply with the Paris Principles. The Principles, which set out the role, composition, status and functions of NHRIs, were endorsed by the United Nations General Assembly in December 1993. **As Ireland’s NHRI, the IHRC has an independent international mandate and standing, representing Ireland’s strong commitment to human rights internationally.** NHRIs currently exist in over 70 countries throughout the world, with more being established every year. The IHRC currently chairs the Legal Working Group of the European Group of National Human Rights Institutions.

### **3. The Commission**

Under the Human Rights Commission Acts (2000, 2001), the Commission consists of a President and 14 other members, all of whom are appointed by the Government. The legislation establishing the IHRC requires that not less than seven Commissioners shall be women and not less than seven shall be men.

All Commissioners other than Dr Maurice Manning, President of the IHRC, completed their mandates in September 2011. In December 2011, an interim Commission of Conleth Bradley, Helen O'Neill and Roger Sweetman had been appointed while the process of merging the IHRC and the Equality Authority was to be progressed in 2012. They completed their mandate in May 2012. The President's term ended on 31 July 2012. Thereafter, former Commissioners Tom O'Higgins, Conleth Bradley, Helen O'Neill and Roger Sweetman agreed to serve on the IHRC's Finance, Risk, Audit and General Purposes (FRAGP) Committee to provide corporate oversight and advice to the Executive pending the appointment of a new Commission.

#### **a. IHRC Strategic Statement**

In 2012, a Strategic Statement was published, setting out the IHRC's priorities. This statement was adopted as 2011 was the final year of the IHRC's Second Strategic Plan 2007-2011 Promoting and Protecting Human Rights in Ireland. Pending the announced merger of the IHRC and the Equality Authority, the IHRC's focus in 2012 was:

- To continue to address the strategic priorities identified in its Strategic Plan 2007-2011 Promoting and Protecting Human Rights in Ireland, namely:
  - ✓ To promote a culture and ethos of respect for human rights in Irish society;
  - ✓ To promote the centrality of human rights in the formulation and administration of law, public policy and justice;
  - ✓ To work jointly with the Northern Ireland Human Rights Commission to promote human rights on the island of Ireland;
  - ✓ To promote a society that values inclusiveness and diversity through respect for human rights;
  - ✓ To assess and anticipate emerging challenges to human rights;
  - ✓ To strengthen the organisational capacity of the IHRC to carry out its mandate.

In addition, in 2012 the IHRC would:

- ✓ Continue to carry out strategic human rights work as set out in its 2012 Business Plan;
- ✓ Undertake work focusing on the human rights responsibilities of Non-State Actors and **the State's continuing human rights responsibilities** where functions of the State are privatised;
- ✓ Continue to address discrimination against vulnerable and disadvantaged groups;
- ✓ Continue to promote its human rights education and training initiatives;
- ✓ **Monitor the State's implementation of its international human rights obligations including agreed measures under its UN Universal Periodic Review.**

Underpinning the delivery of the Strategic Statement is **the IHRC's mandate to ensure that** the human rights of all people in Ireland are promoted and protected in law, policy and practice, including the human rights guaranteed in the Irish Constitution and the international treaties and conventions to which Ireland is a party. The goals set out in the Strategic Statement informed the priorities and work of the IHRC in 2012.

## **b. Executive Structure of the IHRC**

The IHRC executive is structured into two divisions: A Research, Policy and Promotion Division and an Enquiries, Legal Services and Administration Division. The Research, Policy and Promotion Division has responsibility for the mandate of the IHRC in the areas of **legislative review, 'shadow reports' to international treaty bodies, research, policy, human rights education, awareness, outreach, media and international work.**

The Enquiries, Legal Services and Administration Division has responsibility for dealing with individual complaints, conducting enquiries, providing legal assistance and instituting proceedings to vindicate the human rights of persons in the State and appearing before the Superior Courts in suitable cases involving human rights issues as *amicus curiae* (or **'friend of the court'**). **The Division also incorporates the IHRC's administration functions including finance, human resources and general administration.**

## **4. Research, Policy and Promotion**

### **a. Research and Policy**

The research, policy, legislative review functions of the IHRC are set out in section 8 of the Human Rights Commission Act 2000. These are:

- To keep under review the adequacy and effectiveness of law and practice in the State relating to the protection of human rights;
- If requested by a Minister of the Government, to examine any legislative proposal and report its views on any implications of such a proposal for human rights;
- To consult with such national and international bodies or agencies having knowledge or expertise in the field of human rights as it sees fit;
- Either of its own volition or on being requested to do so by the Government, to make such recommendations to the Government as it deems appropriate in relation to the measures which the Commission considers should be taken to strengthen, protect and uphold human rights in the State;
- To take whatever action is necessary to establish and participate in the Joint Committee of Representatives of the Commission and of the Northern Ireland Human Rights Commission.

A range of policy initiatives of the IHRC also emanated from its casework and legal functions.

### **Legislative Observations**

#### **Scheme of the Legal Services Regulation Bill 2011 ("LSRA Bill 2011")**

In February, the IHRC published its Observations on the Scheme of Legal Services Regulation Bill 2011 ("LSRA Bill 2011"), calling for the independence of the proposed Legal Services Regulatory Authority ("LSRA") to be further strengthened. The IHRC submitted its Observations on the LSRA Bill 2011 to Alan Shatter T.D., Minister for Justice, Equality and Defence.

The IHRC welcomed aspects of the Bill that would have a positive outcome for users of legal services. It considered that robust independent oversight of the legal profession is important, and greater transparency and accountability in relation to legal costs can also increase access to justice. From a human rights perspective, the IHRC recommended that the LSRA must however be able to discharge its functions independent of Government or any Government Minister. The IHRC considered that the LSRA could be strengthened by using the concept of independence drawn from the United Nations principles (Paris Principles) upon which the IHRC has been established.

The IHRC considered that the independent appointment of the LSRA Board and independent recruitment of its staff were essential, as was its ability to publish reports of its own volition. In relation to the LSRA's remit to inspect complaints, there should be sufficient safeguards built into the legislation to ensure that any encroachment into solicitor-client confidentiality is minimal and directly proportionate to the purpose of the investigation.

The IHRC also called for reform of the civil legal aid system, recommending in conjunction with the LSRA Bill that the Civil Legal Aid Act 1995 be reviewed to remove any unnecessary exclusions from the Act.

### **Criminal Justice (Spent Convictions) Bill 2012**

In June, the Irish Human Rights Commission (IHRC) published its **Observations on the Criminal Justice (Spent Convictions) Bill 2012**. The Observations were submitted to Alan Shatter T.D., Minister for Justice, Equality and Defence. In its Observations, the IHRC suggested that the proposed legislation is overly restrictive and would not assist in re-integrating people convicted of minor offences back into society and employment. It considered that there was also a need to assess the benefits of Spent Convictions Bill in light of the impact of the Vetting Bill, which was also before the Oireachtas at that time, particularly in light of the scope of vetting being undertaken in Ireland, for example, in areas such as applying for a range of CAO courses. The IHRC called for the introduction of a prohibition on discrimination on grounds of criminal conviction into Equality legislation. It considered that proposed rehabilitation periods in legislation should be shortened to be proportionate with offences.

The IHRC also proposed that information on spent convictions be subject to data protection provisions and requested that the requirement to declare spent convictions outside of Ireland be removed. It suggested that the sentencing threshold be extended

beyond 12 months to enable people convicted of a more serious offence to apply to a court to have their sentences considered spent, if appropriate.

### **Scheme of the Irish Human Rights and Equality Commission Bill 2012**

In June, the IHRC submitted detailed observations on the Scheme of the Irish Human Rights and Equality Commission Bill 2012 to Alan Shatter T.D., Minister for Justice, Equality and Defence. These Observations were being provided in order to assist the Minister and Department in ensuring that the new IHREC will meet its stated aim of creating a strong institution that is fully compliant with the UN Paris Principles.

The IHRC considered it important to provide Observations for three reasons:

- The IHRC has a statutory remit to provide observations on legislation impacting the protection of human rights in Ireland;
- As Ireland's National Human Rights Institution, the IHRC has a duty to consider any legislation regarding the reform of Ireland's national institution and indeed, should the IHRC not do so, its own independence would be called into question nationally and internationally;
- To the extent possible within its independent position, assist the Minister and Department in their consideration of the draft legislation with the aim of strengthening it so that the new IHREC may attain international "A" status re-accreditation as set out in the Observations.

The IHRC Observations made a number of recommendations on the proposed Scheme aimed at strengthening the independence and remit of the new body to ensure it could **retain "A" Status as the successor body to the IHRC.**

### **Scheme of the Protected Disclosures in the Public Interest Bill 2012**

In June, the IHRC published its Observations on the Scheme of the Protected Disclosures in the Public Interest Bill 2012. The Observations were submitted to Brendan Howlin T.D., Minister for Public Expenditure and Reform. In its Observations, the IHRC welcomed the introduction of the legislation as an important step to encourage identification of malpractice, but raised concerns that the legislation may inadvertently put off potential whistleblowers. The IHRC called for a review of the Scheme of the Bill to ensure that there was not an undue burden on whistleblowers. It considered that the confidentiality provisions should be strengthened so that the identity of the whistleblower may not be disclosed without the worker's consent and that anyone disclosing the identity of a whistleblower may be subject to sanction. There was also a need for an independent mechanism for the reporting of all disclosures made to an employer or independent body to ensure structural problems are identified and no victimisation of the whistleblower takes place. It was also

considered necessary to introduce clear, accessible guidelines once the legislation is published and to independently scrutinise the quality of whistleblowers policies in each public sector organisation.

### **National Vetting Bureau (Children and Vulnerable Adults) Bill 2012**

In October, the IHRC published its Observations on the National Vetting Bureau (Children and Vulnerable Adults) Bill 2012 ("The Vetting Bill"). The Observations were submitted to Alan Shatter T.D., Minister for Justice, Equality and Defence. The IHRC welcomed the establishment, on a statutory basis, of mandatory vetting of all people working with children and vulnerable adults. However, it called on the Government to harmonise the provisions of the Vetting Bill with the Criminal Justice (Spent Convictions) Bill 2012 and to refrain from taking a blanket approach to the disclosure of criminal records including pending prosecutions.

### **31st Amendment to the Constitution (Children) Bill 2012**

In October, the IHRC published its Observations on the 31<sup>st</sup> Amendment to the Constitution (Children) Bill 2012 and broadly welcomed the proposal to put the Thirty-First Amendment to the Constitution to the people insofar as it advances the rights of children in the State.

It was recommended that there be included in the proposed amendment a clear statement that Article 42.A.1 is to be interpreted in light of the provisions of the Convention on the Rights of the Child, as this would greatly assist all those involved in making decisions that concern the rights of the child. It would also provide useful guidance to the courts in interpreting the new Article, if passed by the people.

In regard to the proposed Articles 42.A.2 to 42.A.4, the IHRC welcomed the proposed wording in these Articles and did not make any recommendation in relation to same.

## **Oireachtas Hearings**

### **Mental Capacity Legislation**

The IHRC appeared before the Oireachtas Joint Committee on Justice, Equality and Defence on Wednesday 29 February in relation to the development of mental capacity legislation, where it called on the Government to enact long overdue mental capacity legislation this year and ratify the UN Convention on the Rights of Persons with Disabilities (CRPD).

In November 2008, the IHRC provided its observations to Government on the Scheme of the Mental Capacity Bill 2008. It made a submission on the proposed mental capacity

legislation to the Oireachtas Joint Committee on Justice, Defence and Equality in August 2011. In its latest appearance before the Committee, the IHRC reiterated that to conform with the CRPD, domestic mental capacity legislation must be based on the presumption that every person has legal capacity (or decision making capacity) and the strict safeguards which should apply where the law removes one's legal capacity.

### **New Irish Human Rights and Equality Commission**

Soon after the Scheme of the Irish Human Rights and Equality Commission Bill 2012 was published, the Joint Oireachtas Committee on Justice, Defence and Equality called for submissions on the draft legislation. It then held a hearing at which the Commission spoke, highlighting the importance of the new body being independent and sufficiently resourced to discharge its functions and to be able to hold the State to account in relation to its respect for, protection of and fulfilment of its human rights obligations.

### **Policy**

#### **Submission on the National Children and Young People's Policy Framework**

In July, in response to a consultation process initiated by Frances Fitzgerald T.D., Minister for Children and Youth Affairs, the IHRC made a submission to inform the development of a **new National Children and Young People's Policy Framework**. The submission made recommendations in relation to children and young people in detention and in the care of the State, human rights education, religion and education (patronage), health, children and **young people's participation**, and the role of children and youth organisations in supporting the active participation of young people in society.

#### **Proposed National University of Ireland Charter on Human Rights**

Following the events concerning the Royal College of Surgeons in Bahrain, in late 2011, the National University of Ireland ("**NUI**") approached the IHRC to seek assistance in the development of human rights guidelines to guide its policies at home and abroad. Following initial positive meetings, the IHRC agreed to work with the NUI on drafting these guidelines. The guidelines were aimed at strengthening the observance of human rights standards by NUI member institutions, including how to address human rights issues which may arise in countries in which those institutions operate. The guidelines were still under discussion **within the NUI at year's end**.

#### **"Mosquito Devices"**

The IHRC made a submission to the Minister for the **Environment on "mosquito devices"** being used by retail outlets which target alleged anti-social behaviour of teenagers. The mosquito device has been specifically designed to move young people from a particular



area by the application of discomfort through sound. The IHRC considered that the use of these devices could have human rights implications under the Constitution and other international human rights instruments such as the Convention on the Rights of the Child.

The IHRC noted that there is a lack of scientific studies confirming the **devices' safety, and** as such, could pose a risk to children and young people in this State. It is for this reason that the IHRC called on the Minister for the Environment to carry out a review of the impact of these devices and consider their regulation if merited. The submission was also sent to the Minister for Children and Youth Affairs.

### **Submission to the Department of Justice on EU Data Protection**

In the context of a consultation being carried out with member states by the European Commission on the development of a new data protection regulation and directive, the IHRC made a submission to the Department of Justice in May to inform **the State's** response. The IHRC drew attention to relevant case law of the European Court of Human Rights in relation to the right to privacy, and other international standards, including the International Convention on Civil and Political Rights.

### **Submission on Persons with Mental Illness and Interactions with the Criminal Justice System**

In May the IHRC provided a submission to the Inter Departmental Group on persons with Mental Illness and Interactions with the Criminal Justice System. The IHRC drew on the relevant standards in the UN Convention on the Rights of Persons with Disabilities, and in relation to the Right to Health under Article 12 of the International Covenant on Economic, Social and Cultural Rights. In this regard, the IHRC recommended that all health care in prisons should be provided directly by the Health Service Executive (HSE) rather than the Irish Prison Service (IPS), in order to provide equality of care and continuity of care between prisons and the community. The IHRC criticised the manner in which special observation cells are used in relation to people with mental health concerns in a prison setting, and their similarity to a punishment regime and the absence of any independent oversight of their use. The IHRC also drew attention to relevant standards regarding the right to life and dealing with a risk of suicide under the European Convention on Human Rights (ECHR), and recommendations made by the World Health Organisation (WHO), as to how such a risk should be addressed in the context of prisons.

### **Representation**

Throughout the year, the IHRC participated in a number of high level policy advisory working groups including the Strategic Human Rights Advisory Committee of An Garda Síochána, the Mental Health Act Review Group and the HSE's National Implementation

Project Team – Congregated Settings Report and a North-South Irish Responses to Transnational Organised Crime Project.

## **Monitoring International Human Rights Obligations**

### **Adoption of Ireland’s Universal Periodic Review**

At the meeting of the United Nations Human Rights Council in Geneva on 15 March, the Irish Government committed to accepting 91 of a total of 126 recommendations put forward by the Council. The IHRC, as Ireland’s National Human Rights Institution, made an oral statement to the Human Rights Council (HRC), giving its perspective on the report of Ireland’s Universal Periodic Review (UPR).

The IHRC also circulated a longer statement to the Members of the Council at the Session. In the statement, the IHRC welcomed the commitments the Government had made to strengthening human rights in Ireland. However, the IHRC considered that Ireland’s implementation of the recommendations must be a benchmark against which its application for membership of the Human Rights Council would be assessed. This means that the Government needs to make serious, sustained and quantifiable progress on the rights of women including women in Magdalen Laundries, people with disabilities, Travellers, prisoners, asylum seekers, migrant workers and children as well as in the areas of poverty, health, education, and human rights training of the Civil and Public Service. The IHRC committed to itself to monitoring the State’s progress in this regard.

The IHRC also called for specific guarantees to be put in place by the Government including ensuring sufficient resources for the proposed new Irish Human Rights and Equality Commission to fulfil its functions.

## **b. Awareness & Human Rights Education**

### **Awareness**

#### **Media**

The IHRC’s media work resulted in consistent coverage on a month-by-month basis. Issues that received publicity included our work on draft legislation such as spent convictions, vetting, legal services regulation, whistle-blowing and mental capacity. Ireland’s Universal Periodic Review Process, the Annual Report, the Annual Human Rights Conference with the Law Society, the Annual Lecture delivered by Michael D. Higgins, President of Ireland, and the merger of the IHRC with the Equality Authority also received good coverage.

## **Website**

The IHRC continued to develop and update its website, particularly in relation to human rights education. In 2012, 53,655 people visited the site. Of that figure, 35,817 were new and unique visitors. This is an increase of over 4,000 visitors compared to 2011. In terms of the pages most visited on the site, there has been an 89% increase in visits to the “Your Rights” section which provides information on people’s human rights and a 51% increase in visits to the “enquires and legal” section which deals with the IHRC’s legal assistance, legal cases and enquiries work. It is interesting to note that the actual number of formal queries made by individuals and groups in relation to their human rights concerns to the IHRC also increased by 18% on 2011 figures.

## **E-Bulletin**

The IHRC circulated its Human Rights E-Bulletin to its stakeholders, updating them on its work throughout the year. It used the E-Bulletin to direct readers to more detailed material on the website.

## **Public Affairs**

The IHRC circulated its legislative observations to relevant Oireachtas committees and sought to appear before them as appropriate. In 2012, the IHRC appeared before the Oireachtas Joint Committee on Health on the proposed mental capacity legislation and the Oireachtas Joint Committee on Justice, Equality and Defence on the Scheme of the Irish Human Rights and Equality Commission (IHREC) Bill 2012.

## **Roundtable on Racial Discrimination and Racism**

In February, the IHRC hosted a meeting of Racism NGOs, chaired by ENAR-Ireland and the IHRC. Anastasia Crickley (UN Committee on Convention on Elimination of Racial Discrimination) and Michael Farrell (European Committee on Racism and Intolerance) presented on engaging with international treaty bodies on racial discrimination and on the EU Directive on Racial Discrimination. The meeting was well attended by the relevant stakeholders, including a wide range of community and voluntary organisations active in this area.

## **Convention on the Rights of Persons with Disabilities Seminar**

In April, the IHRC partnered with NUI Galway in holding a seminar on the requirements for independent Article 33.2 monitoring under the Convention on the Rights of Persons with Disabilities. The event which took place on 27 April at the IHRC offices was very well attended by a range of stakeholders and identified the need for an independent Paris Principles-compliant national monitoring mechanism to be introduced in advance of the State’s planned ratification of the Convention.

## **IHRC 2011 Annual Report Launched**

In June, the IHRC's 2011 Annual Report was published and launched by Alan Shatter T.D., Minister for Justice, Equality and Defence. A capacity audience attended what was the last event presided over by Dr Maurice Manning, President of the IHRC before he completed his mandate. There was extensive coverage on TV and radio and in the print media.

## **12 Years Promoting and Protecting Human Rights in Ireland**

The IHRC published a booklet on **12 Years Promoting and Protecting Human Rights in Ireland** highlighting the work of the IHRC since its establishment. It highlighted the work of **the IHRC in relation to disability rights, women's rights**, migrant and minority rights including the Traveller community, as well as lesbian, gay, bi-sexual and transgender rights. It highlighted the importance of **the IHRC's** legislative scrutiny, amicus curie and enquiry work, human rights education and training initiatives and its **reporting on Ireland's human rights** record to UN and Council of Europe human rights monitoring bodies. It describes the **IHRC's** interaction with the general public and community and voluntary groups who bring their human rights concerns to the Commission. The publication was launched with the Annual Report 2011.

## **IHRC & Law Society of Ireland 10th Annual Human Rights Conference**

In October, the IHRC & Law Society of Ireland held their 10th Annual Human Rights Conference. This year the timely theme was Promoting and Protecting Human Rights in Ireland: the Role of the Irish Constitution and European Law. On Saturday 13 October, an audience of 250 people which filled the **Presidents' Hall at the Law Society** were treated to insightful speeches from 25 national and international speakers including Mr Justice William McKechnie, Supreme Court, Ms Justice Mary Laffoy, High Court, **Dr Siofra O'Leary**, Court of Justice of the European Union, and **Mr Michael O'Boyle**, **European Court of Human Rights**. The overarching themes of the conference were discussed in great detail in parallel sessions. The topics included: The Irish Constitution, the European Court of Human Rights, the European Court of Justice and the Quasi-Judicial mechanisms. Rich discussions took place in these sessions, facilitated by able chairs and insightfully summated by the closing panel.

The conference papers were made available on the websites of the IHRC and the Law Society of Ireland.

## **Migrant Domestic Workers, Gender Equality & Human Rights Conference**

In October, the IHRC and the Centre for Criminal Justice and Human Rights, University College Cork (CCJHR) jointly organised a conference entitled Migrant Domestic Workers, Gender Equality, and Human Rights. The conference took place on the 19 October and it examined whether the rights protected under the Irish Constitution and international law are providing effective safeguards for migrant domestic workers.

The conference was formally opened by Kathleen Lynch T.D., Minister of State for Disability, Equality, Mental Health and Older People. Maria Grazia Giammarinaro, Organisation for Security and Co-operation in Europe (OSCE) Special Representative and Co-ordinator for Combating Trafficking in Human Beings, gave the keynote address. Other experts from the United Nations, the European Union, Oxford University and the American University - Washington DC, as well as organisations such as the Migrant Rights Centre Ireland offered their perspectives on the challenges facing policy makers in ensuring the requisite protections are available to migrant domestic workers. The conference also heard from Mariaam Bhatti of the Women Domestic Workers Action Group. The conference was well attended by key policy stakeholders and researchers.

## **IHRC Annual Human Rights Lecture**

The IHRC was delighted that the President of Ireland, Michael D. Higgins gave the 6<sup>th</sup> Annual Human Rights Lecture on International Human Rights Day, 10 December.

**The President's lecture touched on** a wide range of human rights themes from the importance of the principles set out in the Universal Declaration of Human Rights to the need for human rights to be a central part of our consciousness. President Higgins said:

*"The human rights dimension in society is tested by the presence or absence of it as a perspective among decision shapers, and decision makers as much as it is by decisions ultimately taken in a parliament. The search for, agreement on, and vindication of basic rights that are never made conditional on gender, race, ethnicity, capacity or circumstances has to be accepted as part of our contemporary consciousness and our public decision making."*

The lecture by the President was very well received by an audience of more than 250 people representing a wide range of stakeholders with whom the IHRC works including public representatives, members of the judiciary, the legal professions, academics, teachers, students, state bodies and representatives of the community and voluntary sector.

## **Human Rights Education**

The IHRC takes its approach to human rights education and training from the UN World Programme for Human Rights Education where education and training is understood to be about building knowledge of the human rights framework and mechanisms and developing values, beliefs and attitudes that will support a human rights culture and encourage action that will sustain human rights in the future.

Education and training that strengthens human rights and fundamental freedoms is a long standing obligation that the Irish State has committed to respect, protect and fulfil. While human rights education has been most explicit in formal primary and secondary school curricula, human rights training is having a growing impact in the civil and public service through the programmes delivered by the **IHRC's** Human Rights Education and Training Project (HRETP).

### **Human Rights Education and Training Project (HRETP)**

Embedding human rights in policy, practice and legislation is a key function of the IHRC. For Ireland to fulfil these obligations, the civil and public service must be aware of how human rights influences and impacts on their work and should form a core part of learning and development. The **IHRC's** Human Rights Education and Training Project (HRETP) with the Civil and Public Service commenced in 2010 and continues to be supported by The Atlantic Philanthropies.

The HRETP is set to continue to the end of 2013, which will see completion of the second Phase of its work; this follows the successful completion of Phase 1, in September 2011. The project continues to meet its desired outcomes while also gaining international recognition for the creation of a unique, practical model of human rights training for the Civil and Public Service. It was showcased in December when the IHRC was invited by the Organisation for Security and Co-operation in Europe (OSCE) to present at the launch of their Guidelines for Law Enforcement Officials, in collaboration with An Garda Síochána.

The intention of Phase 2 has been to roll-out the training more widely and, where appropriate, in more depth across the Civil and Public Service. By the end of 2012 the HRETP had:

- Delivered training to approximately 600 participants across the civil and public service;
- Published a second reference Guide focusing on the European Convention on Human Rights, launched at the IHRC Annual Lecture on Human Rights Day 2012;

- Continued to distribute the first reference guide, 'Human Rights Guide' (approximately 7000 to date);
- Continued to develop the training website ([www.ihrc.ie/training](http://www.ihrc.ie/training));
- A Human Rights Training video was made available on DVD as well as featured on-line;
- Continued the development of a Training for Trainers programme to support Civil and Public Service Trainers to deliver and incorporate human rights training;
- Updated and expanded training to Local Authorities;
- Continued to receive independent evaluation, following the establishment of an Evaluation Advisory Committee combining Training Managers within the Civil and Public Service and experts on Human Rights Education.

- **Reference Guide**

One of the project highlights in 2012 was to develop and publish the **European Convention on Human Rights Guide, to compliment the original 'Human Rights Guide' published in 2010**. Like the original publication, the European Convention Guide provides a vital resource for the Civil and Public Service in raising awareness of the European Convention on Human Rights Act 2003 and highlights the importance of the European Convention for the work of Civil and Public Servants at all levels, throughout Ireland.

- **Training for Trainers**

A comprehensive and in-depth programme on Training for Trainers continues to form a key part of the HRETP work. These programmes allow for much more intensive human rights education and training to take place, which assists participants in practically applying learning within the workplace. Of the 245 participants trained in Phase II Year 1, 60 received Training for Trainers courses ranging from 2-4 days.

- **Training with Local Authorities**

Tailored training for Local Authorities has been delivered throughout Ireland since March 2011, increasing in number and duration from a 2 hour to a 3 hour session. Feedback from the groups who have received this training has been very positive overall. The HRETP held a focus group with participants of the training to discuss all aspects of the training to maximise **the Project's** learning.

The training runs from March until June each year and is held on Council premises in order to minimise disruption to Council staff. In 2012, 129 City and County Council staff received the training in human rights in Roscommon, Cavan, Donegal, Dublin, Wicklow, Louth and Waterford. The course participants are from a diverse range of backgrounds, from Housing, Social Inclusion, Environment, Roads and Planning, Library, Fire Services, Corporate Services and Finance. All participated fully in the activities and the majority felt

that the information was relevant and useful to their position, regardless of background. Many Local Authority staff move between departments, carrying their skills and knowledge with them between roles. Housing matters, housing lists, anti-social behaviour and disability issues were common issues for discussion in the sessions.

Training sessions have been extended from two to three hour sessions, based on feedback from 2011 which indicated that staff felt they would benefit from a longer session. The training continues to have an in-depth focus on the 2003 ECHR Act and the obligations it places upon local authorities to carry out their duties in a manner compliant with the ECHR. Some sample cases of the European Court on Human Rights have been created **specifically for these groups, where participants are asked to act as a 'judge' of the Court** and explore what their judgment might be in various scenarios. Recent case law relevant to Local Authorities has also been included.

- **Microsite – [ihrc.ie/training](http://ihrc.ie/training)**

The HRETP fit-for-purpose training website continues to provide an on-line platform for human rights training information, tailored to the needs of the Civil and Public Service. During 2012 the site featured new information directed at Local Authorities, the ECHR Guide and support materials, and many new video resources aimed at simplifying human rights law with the aim of increasing awareness, understanding and application. In 2012 there were a total of 6,623 visitors to the site. 4,659 were new and unique visitors and 1,964 returning visitors. This is an increase of more than 1,000 visitors on 2011 figures.

### **Review of 2<sup>nd</sup> Phase of UN World Programme for Human Rights Education**

The IHRC provided an update on human rights education in Ireland to the UN Office of the High Commissioner for Human Rights (OHCHR) including developments regarding CSPE, the publication of its Human Rights Education in Ireland study and its Human Rights Education and Training Project with Civil and Public Servants. This followed a request from the OHCHR for information from NHRIs on their activities to gauge implementation of Second Phase the UN World Programme on Human Rights Education (2010-2014), which focuses on Higher Education Institutions, Civil Servants, Law Enforcement Officials and Military Personnel.

### **Changes to CSPE in the new Junior Certificate Programme**

In March, the IHRC made a submission to Ruairi Quinn T.D., Minister for Education and Skills, and the National Council for Curriculum and Assessment (NCCA) to voice its concern that Civic, Social and Political Education (CSPE) would no longer be a compulsory subject in the Junior Cycle. This would be the first time since 1966 that a civics/citizenship subject would not be mandatory in the curriculum.



The submission focused on Ireland's duty to ensure that education is aimed at strengthening human rights and fundamental freedoms and emphasises in particular the importance of CSPE to the advancement of human rights education in post-primary education settings. It pointed out how CSPE represented the only opportunity available to every student in Ireland to experience learning that equips them for what the UN Convention on the Rights of the Child (CRC) describes as "a responsible life in a free society" as active participatory citizens. The submission highlighted the contribution that CSPE made to fulfilling Ireland's human rights education obligations, nurturing active citizenship, addressing diversity and sensitive issues, as well as promoting political and social literacy.

### ***Express Yourself! Young People Promoting Human Rights in Ireland***

In September, the IHRC launched **Express Yourself! Young People Promoting Human Rights in Ireland**. CSPE students were invited to make the human rights of people in Ireland the focus of their CSPE Action Project. Students were provided the opportunity to play a prominent role in promoting human rights by creating images that expressed what human rights in Ireland meant to them for display in their schools or community, and at a National Exhibition organised by the IHRC at the Lighthouse Cinema, Smithfield, Dublin 7 and due to take place from 27 February to 6 March 2013.

The IHRC organised the initiative in collaboration with the Association of CSPE Teachers (ACT); the Irish Second-Level Students' Union (ISSU); the Professional Development Service for Teachers (PDST); and the National Association of Principals and Deputy Principals (NAPD) and was grateful for the support from their representatives who took part in the Advisory Group for the initiative.

The IHRC produced Guides for both teachers and students setting out a 6-Step approach to taking part in Express Yourself! A **section of the IHRC's website** [www.ihrc.ie/cpse](http://www.ihrc.ie/cpse) was dedicated to the initiative. To make it as easy as possible for teachers and students to participate, a huge range of interactive educational and information resources on a wide variety of human rights were made available on the web-site portal.

Communicating about the initiative was vital. Each school was sent copies of the guides and each CSPE Co-ordinator received a follow-up call and email. Express Yourself! was promoted by the partners involved, Education Centres, the teacher unions, youth organisations, Spunout.ie and in the special supplement on CSPE produced and distributed by the Irish Independent. The IHRC promoted the initiative at the Annual General Meeting of the Association of CSPE Teachers and at the Young Social Innovators National Showcase.

### **c. Joint Committee with the Northern Ireland Human Rights Commission**

The terms of the Belfast/Good Friday Agreement provided for the establishment of both the IHRC and the Northern Ireland Human Rights Commission (NIHRC), and the respective laws under which both Commissions were established provided for both to meet on a **number of occasions each year as a “Joint Committee”**. **The Joint Committee acts as a** forum for considering human rights issues on the island of Ireland and also provides an opportunity for both Commissions to cooperate in pursuit of commonly agreed objectives.

For the IHRC, this function is set out in section 8(i) of the Human Rights Commission Act 2000:

4. To take whatever action is necessary to establish and participate in the joint committee of representatives referred to in paragraph 10 of the section entitled **“Rights, Safeguards and Equality of Opportunity”** of the **Agreement reached in the Multi-Party Talks**.

Due to the non-appointment of a new Commission during 2012, the Joint Committee did not meet, however the IHRC remained in close contact with its colleagues in the NIHRC **and in November travelled to Belfast for a meeting of the “Four Jurisdictions”** which comprises the NIHRC, the IHRC, the Scottish Human Rights Commission and Great Britain’s Equality and Human Rights Commission. **The meeting discussed emerging human rights issues in the United Kingdom and Ireland.**

### **d. International**

In addition to its work in monitoring the State’s compliance with international treaties to which Ireland is a party, set out above, the IHRC, as Ireland’s National Human Rights Institution (NHRI) engages with international human rights bodies. The basis for the IHRC’s international engagement can be found in section 8 of the Human Rights Commission Act 2000.

In 2012, the IHRC engaged with the European Group of NHRIs and the International Coordinating Committee (ICC) of NHRIs and put forward the Irish perspective on a range of different initiatives and proposals. In April, the IHRC was one of a number of NHRIs which attended the Brighton Ministerial Conference on the Reform of the European Court of Human Rights and addressed the Conference on proposed changes to the Convention.

The IHRC also continued its Irish Aid-Funded project to provide peer-support capacity building to other NHRIs in Irish Aid Programme Countries.

### **NHRI Capacity Development Partnership Project**

Following the successful implementation of the pilot phase of the National Human Rights Institutions (NHRI) Capacity Development Project from August 2011-2012, the IHRC received funding for a longer-term project to run from September 2012-2015. Through this project and building on previous collaboration with NHRIs from Uganda, Ethiopia and South Sudan, the IHRC is working in partnership with colleague NHRIs to provide support and assistance in realising their mandates. This initiative allows for exchange of good practices and identification of possible joint work. Providing support to other NHRIs is an important role for a NHRI. Such support can include providing peer-based assistance on the practicalities of running a national institution in a spirit of partnership.

In 2012 the IHRC worked in partnership with the Human Rights Commission of Sierra Leone (HRCSL) and commenced a partnership with the Malawi Human Rights Commission (MHRC).

- **Sierra Leone**

The IHRC and HRCSL collaborated on the implementation of a comprehensive project plan based on the recommendations of the 2011 IHRC-HRCSL Capacity Assessment Report. The IHRC also collaborated with UNDP in Sierra Leone on key capacity development initiatives. Prior to the 2012 Sierra Leone Presidential elections, the IHRC participated in a conference on Electoral Justice in Freetown which brought together political parties and the HRCSL ahead of the election to discuss the upholding of human rights during the election campaign. The election passed peacefully in December.

- **Malawi**

In November, the IHRC undertook a Capacity Assessment with the Malawi Human Rights Commission in Lilongwe with a view to establishing a second partnership to be developed in 2013.

- **Engagement with Other Stakeholders**

In February, the IHRC participated in the Department of Foreign Affairs NGO Forum which was dedicated to the Irish Aid White Paper Review. The IHRC made a formal submission on the Irish Aid White Paper Review in April, highlighting the importance of human rights frameworks in Development programmes and in particular the benefits of engagement between Irish Aid and NHRIs in partner countries.

At the ICC meeting in Geneva in March and Amman in November, the IHRC held meetings with colleagues from NHRIs/NHRI networks to explore opportunities for collaboration with them on capacity building work over the coming years. There is also ongoing engagement between the IHRC and research/academic institutions to explore opportunities for collaboration on capacity building work.

### **OSCE Special Representative on Human Trafficking**

The IHRC met with the OSCE Special Representative on Human Trafficking in its offices in Jervis St., Dublin, on 1 February and discussed IHRC concerns on trafficking and possible engagement with the European Group of NHRIs. Following on from that meeting, the Special Representative addressed the IHRC and UCC conference on Migrant Domestic Workers, Gender Equality and Human Rights in October.

### **European Commission Against Racism and Intolerance (ECRI)**

The IHRC met with members of the European Commission Against Racism and Intolerance (ECRI) and the Advisory Committee on the Framework Convention on National Minorities (FCNM) on 1 March to discuss the IHRC's views on issues relevant to the Committees' mandates.

### **Council of Europe Commissioner for Human Rights**

On 17 October, the IHRC met with Council of Europe Commissioner for Human Rights, Mr Nils Muižnieks during his visit to Ireland where it outlined the major human rights concerns in Ireland and stressed the need for a strong independent human rights infrastructure to hold the State to account.

### **25th Meeting of the International Coordinating Committee (ICC) of NHRIs**

The 25<sup>th</sup> meeting of the ICC – the global network of national institutions - took place at the United Nations in Geneva in March. The meeting was opened by UN High Commissioner for Human Rights Navi Pillay, who reiterated, in her speech, her support for NHRIs and emphasised the important role NHRIs play in the national and international human rights framework. The Meeting was also opened by the President of the Human Rights Council H.E. Laura Dupuy Lasserre, Permanent Representative of Uruguay to the United Nations Office at Geneva and a representative of UNDP.

The meeting discussed both structural and thematic issues, including Business and Human Rights, Environment and Human Rights, NHRIs and OPCAT, Rights of Indigenous Peoples and UPR. Two very well attended side events held during the meeting discussed NHRIs and Accreditation and LGBT rights. The meeting was attended by over 300 participants from over 100 NHRIs from around the world.

## **11<sup>th</sup> Biennial Conference of the International Coordinating Committee (ICC) of NHRIs**

The 11<sup>th</sup> International Biennial Conference of the International Co-ordinating Committee of NHRIs was held in Amman, Jordan between the 4th and 7th November on the theme Human Rights of Women and Girls: Promoting Gender Equality: The Role of NHRIs. The Conference considered NHRI approaches to promoting gender equality in different regions and across different cultures and religions on the basis of universal human rights norms.

The Conference concluded with the adoption of the Amann Declaration and Programme of Action on the Human Rights of Women and Girls which saw NHRIs and their regional groupings commit to specific target actions to promote and protect the human rights of girls and women.

## **Business and Human Rights**

The IHRC addressed an ICC European Regional Workshop organised by the German Institute for Human Rights on business and human rights in September. The purpose of the Workshop was to build capacity of NHRIs in the European region to fulfil their Paris Principles mandates to advance respect for human rights in the corporate sector, including through supporting the implementation of the UN Framework and UN Human Rights Council's Guiding Principles on Business and Human Rights.

## **5. Enquiries, Legal Services and Administration**

### **a. Enquiries and Legal Services**

The enquiry and legal functions of the IHRC are set out in sections 8 to 11 of the Human Rights Commission Act 2000, and are carried out by the Enquiry and Legal Services Section.

These functions are:

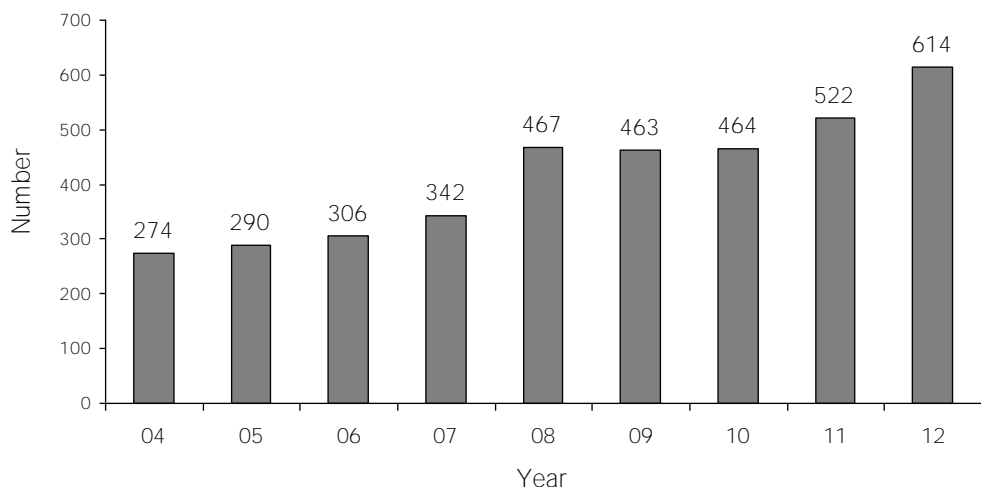
- To consider requests for an enquiry into a relevant human rights matter or to initiate enquiries at its own volition;
- To consider applications for assistance in connection with legal proceedings involving human rights law or practice;
- To offer its expertise in human rights law to the Superior Courts as *amicus curiae* (or “friend of the court”) in suitable cases involving human rights;
- To institute proceedings to vindicate the human rights of persons in the State.

In performing these functions in 2012, the IHRC considered requests for enquiries and legal assistance, provided legal assistance and appeared on a number of occasions as *amicus curiae* during the year. It did not, however, exercise its formal enquiry function during the period or its power to institute proceedings to vindicate the human rights of people in the State.

### **Communications**

During 2012, the IHRC received **614** individual communications from members of the public or organisations. This equates to an increase of 18% over the number of communications received in 2011 (522) and an increase of 125% on the figure for 2004 (274), which was the first full year in which the Commission had dedicated staff to formally process such communications. The level of communications received by the IHRC in recent years is illustrated in Figure 1. As can be seen, the number of people contacting the IHRC with their concerns has steadily increased over time, with a spike this year caused by a significant increase in communications related to economic and social rights.

Figure 1: Communications received by Year



Of the 614 communications received in 2012, 347 (63%) were received from men, while 202 (37%) were received from women. This is illustrated in Figure 2. The remaining 65 communications were notifications of legal proceedings, amicus curiae requests or from organisations or multiple parties.

Figure 2: Communications received in 2011 by Gender

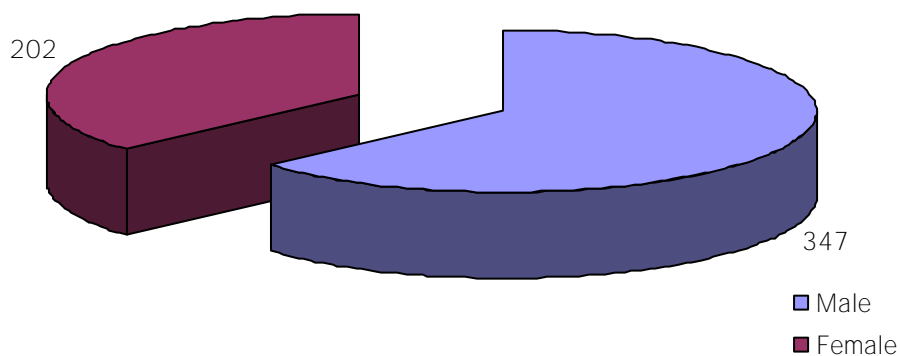
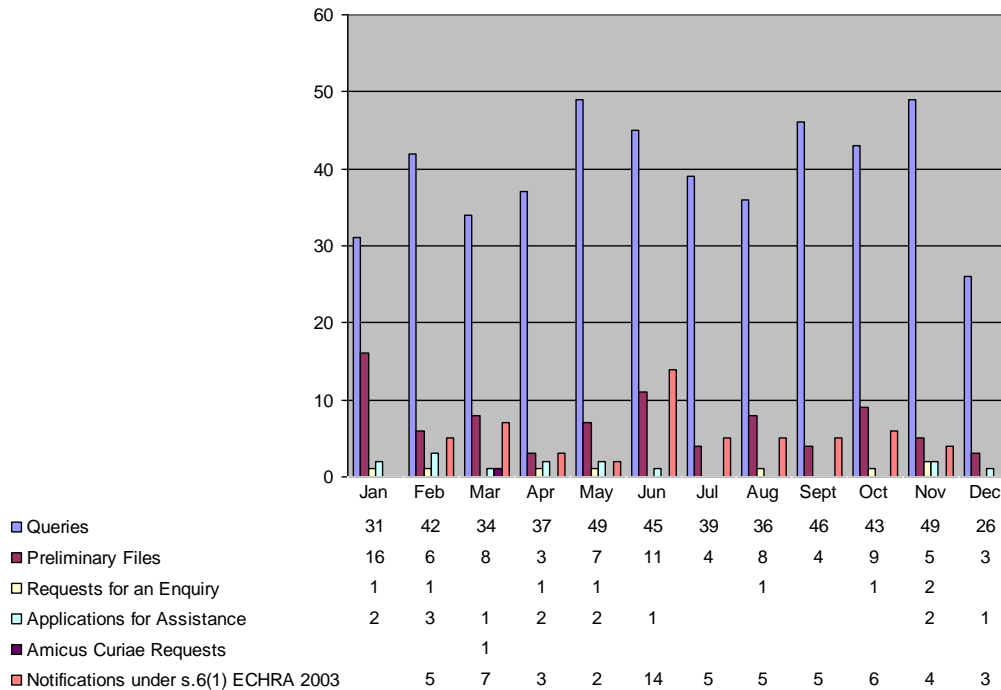


Figure 3 provides a breakdown of the communications to the IHRC in 2012, by category and by month. In 2012, as in previous years, the most common method by which people chose to contact the IHRC to raise their concerns was by way of a telephone query. There **was also another strong positive response in 2012 to the facility on the IHRC's website for submitting complaints in relation to alleged breaches of human rights.** Communications to the IHRC through this facility in 2012 accounts for the second most common method by which members of the public chose to contact the IHRC.

Figure 3: Communications received in 2012



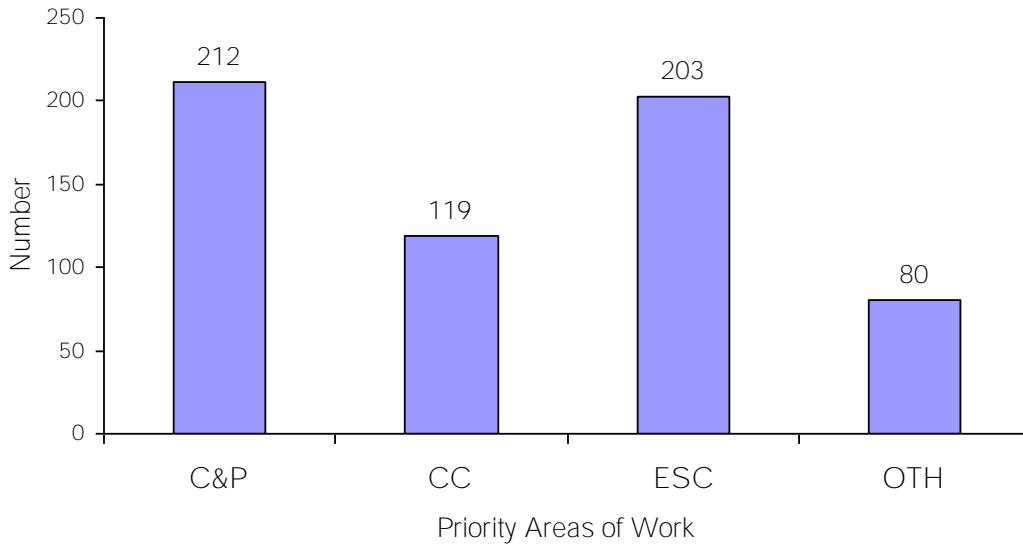
Communications to the IHRC concerned issues from across the spectrum of civil, political, economic, social and cultural rights. Communications to the Commission which concern **both categories of rights are referred to, for convenience, as “cross-cutting” issues. As in previous years, civil and political rights (35%) were the most common priority area of work in terms of communications received in 2012 by the IHRC.**

However, the number of communications received by the Commission in relation to economic, social and cultural rights rose significantly in 2012 and accounted for one-third of all communications received in the period, nearly reaching parity with civil and political rights for the first time. Economic, social and cultural rights concerns raised with the Commission include those relating to access to healthcare, education, housing, social welfare and employment rights.

Communications involving cross-cutting issues accounted for 19% of all communications in **2012. Communications categorised under the “other” heading (13%) witnessed a significant reduction in 2012 compared to previous years. ‘Other’** refers to matters which did not clearly raise human rights issues, such as disputes between private persons. Figure 4 below sets out the communications received by the IHRC in 2012 by priority area of work.



Figure 4: Priority Areas of Work and Communications received in 2012



During the course of the year, the IHRC considered and decided upon three formal enquiry requests and thirteen formal legal assistance applications. The IHRC granted legal assistance in respect of five applications to it under section 10 of the Human Rights Commission Act, 2000. The IHRC also decided to seek liberty to intervene in three sets of legal proceedings as amicus curiae, in addition to participating in ongoing proceedings. IHRC decisions on enquiry requests and assistance applications, in addition to its decisions on amicus curiae requests and proposals, are set out in Figure 5 below.

Figure 5: Decisions taken in 2012



## **Legal Assistance Provided**

### **EC**

The IHRC previously granted legal assistance in this case in May 2011. The case concerns Orders for the repossession (in both the District Court and **Circuit Court**) of the tenant's house by his local authority landlord, pursuant to section 62 of the Housing Act, 1966 (as amended). The tenant is a person with an intellectual disability, and also with a number of health concerns. The tenant was unable to obtain legal aid from the Legal Aid Board and represented himself before both the District Court and the Circuit Court.

In May 2011, the IHRC initiated proceedings in the High Court challenging the actions of the local authority in seeking to evict the individual concerned and the Orders of the District Court and Circuit Court as being in breach of his constitutional rights, and his rights under the European Convention on Human Rights. The IHRC also challenged the failure of the State to provide adequate legal aid to the person in respect of the District Court and Circuit Court proceedings.

Before the proceedings came on for hearing in the High Court, the local authority made an offer to the individual concerned, which included providing a tenancy of a new house, which was a significant improvement on the house from which the tenant was being evicted. On this basis, a settlement was reached between the parties in January 2012 that preserved **the individual's rights as a local authority tenant and essentially** reversed the decision to evict. The person concerned was relieved that the threat of eviction was finally lifted and was happy with his new home.

### **DC**

The IHRC decided to grant legal assistance in this case in March. The matter concerned the death of a man while on temporary release from prison and the subsequent inquest before the Coroners Court. **In granting legal representation to the deceased man's** next of kin, the IHRC took into account the fact that the State has no formal system for granting legal aid to next of kin before inquests, where the responsibility of the State may be engaged in relation to the death.

The deceased died of an apparent overdose of methadone, which had not been prescribed to him. The deceased had been experiencing mental health problems before going to prison as well as during his time in prison up to the point of his temporary release. The deceased was also homeless. The IHRC in representing the next of kin at the inquest requested that additional witnesses be called to ensure that the full circumstances surrounding the death of the man be examined. It submitted that witnesses should be called in relation to his medical care in prison prior to his death and the circumstances in which he was granted temporary release. These requests were granted by the Coroner.

The hearing of the Inquest commenced in November, and a further hearing date was **pending at year's end.**

## **SM**

The IHRC decided to grant legal assistance in this case in July. This matter related to the concerns of a person that the system of Garda Vetting would reveal her acquittal for an offence some years previously and that this would negatively impact on her application for employment in the care sector. The IHRC made an extensive submission to the Garda **Central Vetting Bureau and requested that it not disclose the person's acquittal via the vetting process in circumstances where this was a disproportionate breach of her right to privacy.**

Correspondence between the IHRC and the Garda Central Vetting Bureau was ongoing at **year's end.**

The IHRC has previously recommended to Government that it develop an appropriate system for dealing with spent convictions in order to guard against discrimination in employment matters and, more generally, to aid the rehabilitation and reintegration of prisoners after they serve their sentences. In addition the IHRC made formal Observations on the National Vetting Bureau (Children and Vulnerable Persons) Bill during 2012 (see above), and recommended that the proposed Spent Convictions legislation and the Vetting legislation be integrated with each other. The National Vetting Bureau (Children and Vulnerable Persons) Act 2012 was signed into law in December (but had not been **commenced at year's end**). **Spent conviction legislation was not enacted in the period.**

## **AW**

The IHRC decided to grant legal assistance in this case in July. The matter concerns the housing needs of a lone parent and her three children, including two with special needs. The family are members of the Traveller community and had been informed by the local authority that they would be forcibly removed from their roadside location pursuant to a Court Order and no alternative place to live was offered to the family.

The IHRC was concerned that the rights of this family, particularly those of the children, were not being respected. It contacted the local authority to seek a resolution of the matter. When no agreement was reached on the housing needs of the family, the IHRC indicated that legal proceedings would be issued to stop the family being removed from the side of the road, without appropriate alternative accommodation being made available.

The local authority agreed not to move the family before it had considered the woman's housing application and the particular needs of her children. A multi-disciplinary approach was then adopted by the local authority regarding the housing application. It held discussions with the health professionals and social workers dealing with the family. On this basis, the commencement of legal proceedings was delayed by the woman to give the local authority an opportunity to consider the situation of her family. The matter remained **unresolved at year's end.**

## **DK**

The IHRC decided to grant legal assistance in this case in October. The matter concerns the living conditions of a lone parent and her three children in local authority accommodation. The person had made numerous complaints to the local authority about the unhealthy living conditions she and her children were living in, as she alleged the apartment was suffering from extreme levels of damp, and also about overcrowding and fire safety. She was seeking a transfer out of her apartment to more suitable accommodation from the local authority, but did not receive a response to her concerns.

The IHRC wrote to the local authority setting out the concerns of the person and highlighted the contents of a report by a Consultant Mycologist (expert on moulds and fungi) which described the presence of mould growth throughout the property. The IHRC did not receive a substantive response from the local authority and the alleged health risk to the person and her children was not addressed. On this basis, the IHRC informed the local authority of its intention to institute legal proceedings on behalf of the person to vindicate her rights and those of her children.

The initiation of legal proceedings in the matter was pending at year's end.

## **Section 6(1) of the European Convention on Human Rights Act 2003**

The IHRC continued to receive case notifications under the European Convention on Human Rights Act 2003 (ECHR Act) in 2012. The number of case notifications received under the ECHR Act or otherwise (complementary copies of proceedings involving human rights issues or cases stated to the Superior Courts) was 59. The IHRC continued to track these (and previous cases) as they progressed through the courts.

Section 6 of the ECHR Act requires that both the Attorney General and the IHRC be notified of the proceedings prior to a Court making a Declaration of Incompatibility under section 5 of the ECHR Act. Subsequent Rules of Court (Order 60 A) require the party taking the case to forward the pleadings to both the Attorney General and IHRC and these bodies are updated as the case progresses.

A Declaration of Incompatibility under section 5 of the ECHR Act may be made where the High Court or Supreme Court (on appeal) finds that legislation or a rule of law is **incompatible with the State's obligations under the European Convention on Human Rights**. Where a court makes such a declaration, the Taoiseach must ensure a copy of the court order is laid before each House of the Oireachtas within 21 sitting days. However, the making of a declaration of incompatibility does not affect the continuing enforcement or operation of the law in question, which continues to have effect until it is either amended in legislation or struck down as being unconstitutional by the Superior Courts.

## **Amicus Curiae Appearances**

Since the enactment of the ECHR Act, the IHRC has been granted liberty to appear as amicus curiae (or “friend of the Court”) in an increasing number of cases. It continued to appear in a number of cases heard before the Superior Courts (High Court and Supreme Court) in 2012. These cases addressed a variety of human rights concerns including mental health detention, data protection, summary eviction from local authority accommodation and the right of a person with disabilities to assisted suicide. In addition, the IHRC intervened in 2012 in a case before the European Court of Human Rights and also maintained its involvement in two such cases in which it had previously intervened in 2011.

### ***MX v Health Service Executive***

In October 2011, the IHRC decided to seek liberty to appear in these proceedings which concerned the treatment of a person in the Central Mental Hospital where the individual was deemed to lack mental capacity but resisted the taking of blood samples, which were a necessary precaution in the administration of certain drugs to her. The application to appear was granted. The case had not been heard by year end (2011) with regular periodic orders permitting the taking of blood samples being made by the Court.

The case was heard in the High Court in July and the IHRC appeared as amicus curiae in the case, highlighting key human rights standards and safeguards under the Constitution, the UN Convention on the Rights of Persons with Disabilities (CRPD) and the European Convention on Human Rights (ECHR). Judgment was delivered in the matter (MX v Health Service Executive) on 23 November. The IHRC welcomed the Judgment of the High Court. Although the Court did not find **that the person’s rights under the constitution or the ECHR had been breached**, it made important observations regarding the constitutional rights of persons in mental health detention and also about the applicability, in domestic law, of the UN Convention on the Rights of Persons with Disabilities (CRPD).

In particular, the High Court, in its Judgment, stated that the CRPD is “a helpful reference point for the identification of “prevailing ideas and concepts”, which are to be assessed in harmony with the constitutional requirements of what is “practicable” in mind.” In the view of the IHRC, this statement is an important endorsement of the rights of persons with disabilities. The decision of the High Court is now under appeal to the Supreme Court.

### ***PL v St Patrick’s Hospital & Anor***

In May, the IHRC decided to seek liberty to appear in these High Court proceedings which concerned **the rights of a person defined as a “voluntary patient” under the Mental Health Act 2001**, but who was being treated in a locked ward which he could not leave at will. The proceedings arise from an earlier decision of the High Court (of 1 February 2012) in the matter, concerning an unsuccessful **challenge to the person’s detention in a psychiatric facility**.

The matter was heard by the High Court (Mr Justice Peart) in July and addressed the **applicant's contention that certain rules of law emanating from the earlier Judgment were incompatible with the European Convention on Human Rights (ECHR)**. In its written and oral submissions to the proceedings, the IHRC drew attention to the circumstances under which nominally voluntary patients were found to have been deprived of their liberty in a manner contrary to the ECHR by the European Court of Human Rights. The second Judgment of the High Court was delivered on 14 December with the Court deciding that the ongoing treatment of the patient in a locked psychiatric ward, after he had been discharged from the order detaining him there, was in compliance with the Mental Health Act 2001 and not incompatible with the requirements of the ECHR.

The decision of the Court was based on the fact that there was an established need for **ongoing psychiatric care of the patient, and the Consultant responsible for the person's care** was not satisfied that he was ready to be treated in a less restrictive environment. In addition, the patient concerned, although expressing a wish to leave the ward on a number of occasions, and indeed after attempting to physically leave on at least one occasion, was persuaded to remain in the locked ward as a voluntary patient by staff of the hospital. On the basis that the person was deemed to be capable of understanding matters and of giving his consent to remaining in the hospital as a voluntary patient, and, crucially, that he was deemed to have in fact given such consent, the Court decided that there had been no deprivation of the person's liberty as protected by Article 5 of the ECHR.

***Digital Rights Ireland Limited v The Minister for Communications, Marine and Natural Resources, The Minister for Justice, Equality and Law Reform, The Commissioner of An Garda Síochána, Ireland and the Attorney General***

In December 2007, the IHRC had made an application to the High Court for liberty to appear as amicus curiae in the case of Digital Rights Ireland Limited v. The Minister for Communications, Marine and Natural Resources, The Minister for Justice, Equality and Law Reform, The Commissioner of An Garda Síochána, Ireland and the Attorney General. That application along with three motions was heard in July 2008 over five days by Mr Justice McKechnie. The case involves the retention of telecommunications data by service providers for access and use by State authorities for a period of up to three years and also significantly includes challenges to both European Union law and domestic law concerning data retention mechanisms (including the Criminal Justice (Terrorist Offences) Act 2005). The core human rights principles at issue are the right to respect for private life and correspondence under Article 8 of the ECHR and freedom of expression under Article 10.

In the event, the Court granted leave for the IHRC to appear in the case and the IHRC made submissions in relation to the motions before the Court, including the issue of the locus standi of the Plaintiffs, a non-governmental organisation, whose mission is stated to be to defend personal liberties in relation to data protection. In May 2009, Mr Justice

McKechnie delivered Judgment on a preliminary issue and found that the Plaintiffs had locus standi to bring the challenge.

The matter was heard again in January 2012 and, by Order of 27 January 2012, the High Court referred questions to the Court of Justice of the EU (Court of Justice) for a preliminary ruling (in accordance with Article 267 of the Treaty of the Functioning of the European Union). In referring the matter to the Court of Justice, the Court High asked whether EU Directive 2006/24/EC (requiring the retention of certain mobile, internet and e-mail traffic data), respects the Plaintiff's rights. The High Court also asked the Court of Justice, whether national legislation intended to implement an EU Directive must itself comply with the human rights standards set out in the EU Charter of Fundamental Rights in order to be compatible with EU law. This question had been suggested by the IHRC, and was accepted by the High Court. In September, the IHRC submitted its Written Observations to the Court of Justice, and a date for hearing was pending at year end.

### ***Pullen v Dublin City Council***

In 2008, the IHRC appeared as amicus curiae in this case before Ms Justice Irvine in the High Court. Judgment was delivered in 2009, and the parties both lodged appeals in the Supreme Court during 2010. In December 2010, leave was granted to the IHRC to be joined as amicus curiae in the appeal before the Supreme Court.

The case concerns the operation of Section 62 of the Housing Act 1966, which allows local authorities to summarily recover possession of dwellings from their tenants without an independent hearing on the merits of the decision to evict. The case also addresses what remedies are available for a breach of the obligations placed on organs of the State to act in compliance with the European Convention on Human Rights under domestic legislation. A hearing date was still awaited at the end of 2012.

### ***Fleming v Ireland***

In November, the IHRC decided to seek liberty to appear in these proceedings, which concerned a challenge to the criminal law prohibition of assisted suicide, under which it is an offence to "aid, abet counsel or procure the suicide of another". On 8 November, the President of the High Court granted leave to the IHRC to intervene in the proceedings.

The Plaintiff in the case, a person in the final stages of Multiple Sclerosis with a limited life expectancy, wishes to be able to end her life with assistance at a time of her choosing. The Plaintiff argued that the blanket ban on assisted suicide breached her constitutional rights and her rights under the European Convention on Human Rights.

The case commenced hearing on 4 December before a Special Division of the High Court comprising of the President of the High Court and two other judges. The proceedings were heard over 6 days. The IHRC made oral and written submissions to the Court in relation to the constitutional right to equality, as it applies to individuals in the circumstances of the

Appellant, and also the right to autonomy and bodily integrity. The Judgment was pending at year's end.

## **European Court of Human Rights (ECtHR) Interventions**

### ***O'Keeffe v Ireland (Application No. 35810/09)***

This case involves an application to the ECtHR by an individual who was sexually abused, in the 1970s, by a principal in a primary school which was under the patronage of the Bishop of Cork and Ross. The person brought a case against the State to the High Court and to the Supreme Court (on appeal) but was unsuccessful on both occasions with both courts agreeing there was no State responsibility for the acts of the school principal. The person then made an application to the ECtHR.

The case before the ECtHR concerns the extent of State responsibility for the abuse of a child by a primary school principal in circumstances where the school is run not by the State but under the auspices of a religious patron.

Article 36 of the European Convention on Human Rights permits third parties to make submissions to the ECtHR, within 12 weeks of a case being "communicated" to a respondent State by the Court. Liberty must be sought from the Court to do so. In August 2011, the IHRC was granted leave by the ECtHR to make a third party intervention, its first in a case concerning Ireland and provided its submission to the ECtHR. The IHRC submission drew attention to the patronage model of education in Ireland, how allegations of child abuse were dealt with historically (and in recent times) and addressed how the Irish Courts interpret the responsibility of schools under the doctrine of vicarious liability, developed in the context of tort (personal injuries) law.

In 2012, the Court decided that the matter would be heard by the Grand Chamber. The hearing of the case was pending at year end.

### ***Gauer v France (Application No. 61521/08)***

In May 2011, the IHRC applied on behalf of the European Group of National Human Rights Institutions (NHRIs), to the ECtHR for permission to intervene as a third party in the proceedings. Leave was granted by the ECtHR in June 2011 to intervene and, in August 2011, written observations were submitted on behalf of the European Group of NHRIs.

The case involves the alleged sterilisation of five girls with an intellectual disability in circumstances where neither their consent nor that of their parents was sought.

The European Group's submission focused on relevant UN Standards on disability, health and gender and how these standards should inform the Court's approach to the matters before it.



In October 2012, the European Court of Human Rights decided that the case was inadmissible as the Applicants had not brought their application within six months of the final decision by the relevant French authorities. Accordingly the case did not proceed.

### ***Magee v Ireland (Application No. 53743/09)***

In January, the IHRC applied to the ECtHR for permission to intervene in proceedings involving the suspicious death of a person in the custody of An Garda Síochána and the **lack of availability of legal aid for the deceased's next-of-kin** with which to participate in the Inquest proceedings. In February, leave to intervene was granted by the Court and the IHRC submitted its written observations to the Court in March.

In October, the Irish Government indicated that it would enter into a “friendly settlement” in the matter, and committed to carrying out, inter alia, the following steps:

1. It is the expressed intention of the Government to secure the enactment into law of *the Coroner's Bill 2007 and in particular section 86 of the Bill providing* for legal aid and advice to parties to certain proceedings before a coroner subject to the provisions and limitations of the Civil Legal Aid Act 1995.
2. The [Government] agrees to pay a sum of EUR 10,000 in respect of non-pecuniary loss to [the applicant].

The Applicant agreed to this friendly settlement and, on that basis, the Court struck out the matter.

### **Follow up to European Court of Human Rights Judgments**

As Ireland's National Human Rights Institution (NHRI), the IHRC made a written submission under the Rules of the Committee of Ministers of the Council of Europe on the State's response to the Judgment in *McFarlane v Ireland* (Application No. 31333/2006) in September 2010. The Judgment found that there had been unreasonable delays in relation to the prosecution of the applicant, and that he had no remedy at the national level for such delays, leading to a breach of Article 13 (right to a remedy) and Article 6 (right to a fair trial) of the ECHR. The IHRC submission pointed to a number of underlying structural problems with the incorporation of the ECHR into domestic law, thus in certain circumstances depriving applicants of an effective remedy for a breach of their rights under the ECHR.

An Expert Group was established by the Minister for Justice and Equality to report on the measures required to address the Judgment in *McFarlane*. The IHRC had made a presentation to that Group in September 2011. The report of the Expert Group was **awaited at year's end**.

### **European Court of Human Rights Reform**

During 2012, the IHRC continued its engagement, as the Chair of the Legal Working Group of the European Group of NHRIs, with the process of reform of the ECtHR. To this

end, in April, together with other members of the European Group of NHRIs, the IHRC attended the High Level Conference on the Future of the European Court of Human Rights held in Brighton, England, organised by the United Kingdom Chairmanship of the Committee of Ministers of the Council of Europe, and delivered a presentation to the Conference. The interventions of the European Group of NHRIs was to protect as far as possible the right to individual petition and the accessibility of the Court while also ensuring that the Court is in a position to deal with the back log of cases pending before it.

**During the Conference, the “Brighton Declaration” was formally adopted, on 20 April 2012,** by all 47 member states of the Council of Europe, and provides a framework for the ongoing reform of the ECtHR.

In addition during 2012, as Chair of the Legal Working Group, the IHRC participated in discussions within the Council of Europe’s **Steering Committee on Human Rights** in relation to accession of the EU to the ECHR, and also in relation to the implementation of the Brighton Declaration.

## **b. Administration**

### **Corporate Services**

#### **Human Resources**

2012 was another challenging year for the staff of the Irish Human Rights Commission but another year when commitment and dedication shone through in the face of the lowest staff numbers since 2003. The continuation of the public sector recruitment embargo meant that the most recent new addition was in 2008 and for most of the year the IHRC operated with just 6 staff.

#### **Placements Programmes**

The IHRC commenced offering two types of voluntary placement opportunities in 2009 and both schemes continued successfully into 2012: Internships and Professional Placements. The IHRC internship programme was intended to provide work-placements for individuals who have completed studies to postgraduate level and who wished to work in the field of human rights.

The IHRC professional placement programme was targeted at volunteer opportunities for legal professionals in supporting some of the legal functions of the IHRC.

There was a very strong interest from volunteers to work with the IHRC throughout the year and the Commission has been very fortunate to benefit from the dedicated hard work and professionalism of its placements in 2012. The IHRC has also benefited from placements through AkidWa, Fordham University, Job Shadow Programme and through the Job Bridge programme.

#### **Outsourced Services**

The IHRC continued to work with Byrne and McCall, Chartered Accountants, in 2012 to ensure compliance with best practice in financial controls, financial record keeping and financial statement production. The IHRC also continued its relationship with Infinite Technology to provide full IT Technical support and disaster recovery services to the IHRC.

Among the new policy documents introduced or updated in 2012 were the following:

- System of Internal Financial Control
- Register of Principal Risks
- IHRC Travel Policy
- Procurement Authorisation Policy.

## **Financial Situation**

The grant-in-aid provided to the IHRC in 2012 was reduced to **€1,425,000**, a further reduction of **€38,000** from the **€1,463,000** received in 2011 and a reduction of more than 39% on the grant received in 2008 (**€2,342,000**).

The years of successive budgetary cuts were alleviated by the savings made from reduced pay costs and previous efforts to lower outgoings.

During 2009, the Department of Justice, Equality and Law Reform (as it then was) negotiated a deferral of rental obligations with the Landlord to the IHRC premises. While this has been of temporary benefit to the IHRC during the years of deferral, it is an issue which was still to be addressed at the end of 2012.

Many of its statutory functions could not be properly supported due to a lack of staff and funds, while the IHRC continued to rely on the pro bono generosity of volunteers and counsel in order to discharge some of its basic statutory functions.

The IHRC was able to undertake work in the specific areas of human rights training as a result of further funding from the Atlantic Philanthropies as the Human Rights Education and Training Project (HRETP) entered its second phase.

The IHRC was also able to undertake peer capacity support work for NHRIs in Irish Aid programme countries due to project funding from Irish Aid and this led to significant work in Sierra Leone in 2012 (detailed separately) and in Malawi.

## **6. Appendices**

### ***Appendix 1 - The IHRC Commissioners***

The Irish Human Rights Commission consists of 14 members and the President, appointed by the Government for a period of five years. The first Commission served from July 2001 to June 2006. The second Commission served from 2 October 2006 to 1 October 2011. An interim Commission was appointed on 22 December 2011 to 31 May 2012.

The President, Dr Maurice Manning, assumed office on 1 August 2002, and was reappointed in August 2007. His mandate ended on 31 July 2012. Thereafter Mr Des Hogan, Acting Chief Executive was also Acting Head of Institution.

The following is a biographical note on the President and the 3 interim Commissioners:

#### **Maurice Manning (President)**

An academic by background, Dr Manning previously lectured in politics at University College Dublin, where he is currently Adjunct Professor in the School of Politics and International Relations. He is Chancellor of the National University of Ireland, and has been a member of the Governing Authority of the European University Institute at Florence.

Dr Manning has written several books on modern Irish politics. He was a member of the Oireachtas for twenty-one years, serving in both the Dáil and the Seanad. He has been a member of the New Ireland Forum and the British - Irish Inter Parliamentary Body. He has served as both Leader of the Seanad and Leader of the Opposition in that House.

#### **Conleth Bradley**

Conleth Bradley SC is a barrister, appointed as a Commissioner on 3 September 2008 and again on 22 December 2011. His areas of practice include judicial review and human rights law.

#### **Helen O'Neill**

Helen O'Neill was appointed a Commissioner in 2006 and again on 22 December 2011. She is Professor Emeritus in the Centre for Development Studies in UCD where she was its founding-Director. She obtained her BComm degree at UCD and her Masters and PhD degrees in Economics at McGill University, Montreal, Canada. She recently completed a Masters in Human Rights at University College Dublin in 2012.

She was President of the European Association of Development Research and Training Institutes from 1993 to 1999, President of the Association of Canadian Studies in Ireland from 2000 to 2002, and has chaired the Irish government's Advisory Committee on Development Cooperation and the Irish Commission for Justice and Peace.

Professor O'Neill has been a member of a number of international committees including the policy committee on developing countries of the International Council of Science (ICSU). She has been a visiting professor in a number of institutions including the University of Zambia, the World Bank Institute, Corvinus University, Budapest and Vidzema University, Latvia. She has carried out assignments for international organisations (including the World Bank and UN Industrial Development Organisation) in over a dozen African countries and the trans-Caucasus region. She has acted as expert to the Economic and Social Committee in Brussels on a wide range of issues in international relations and regional development and has acted as a consultant to EU Directorate General of Development.

Professor O'Neill has represented the IHRC as advisor on human rights issues in a number of developing countries. She has been a consultant to Irish Aid for a number of years. She has published six books and over 50 academic papers on topics in development, human rights and international relations and given guest lectures in universities in all five continents of the world. She was honoured in 2006 with a festschrift (Trade, Aid and Development, edited by Majda Bne Saad and Maura Leen, published by UCD Press).

## **Roger Sweetman**

Roger Sweetman was appointed a Commissioner in 2006 and again on 22 December 2011. Until 1981, Mr Sweetman was a solicitor who practised (and later became Partner) in Herman, Good & Co. He then enrolled in the Kings' Inns. From 1979 to 1989 he was a tutor/consultant in Advocacy and Criminal Law to the Law School of the Incorporated Law Society. In 1983 he was conferred with the degree of Barrister-at-Law and was called to the Bar. For the next 19 years, he practised at the Bar both in Dublin and on the Eastern Circuit. Having been appointed to the Director of Public Prosecution's Dublin Prosecution Panel, his practice thereafter was mostly involved in crime, both prosecution and defence.

In 2002 Mr Sweetman was admitted to the Inner Bar, where he has acted as leading Counsel, principally for the defence, in serious criminal cases. He has also been involved in the areas of habeas corpus and judicial review. As a criminal law practitioner, he has been involved in enunciating and vindicating the human rights of accused persons in a range of areas. Mr Sweetman has twice been short-listed for appointment to the European Court of Human Rights. In 2008 he was appointed to the panel of independent Chairmen to preside over Garda Disciplinary enquiries.

## ***Appendix 2 - IHRC Committees in 2012***

1. Finance, Audit, Risk and General Purposes Committee
2. Casework Committee

### **1 Finance, Audit & General Purposes Committee**

#### **Members**

Tom O'Higgins (Convenor), Conleth Bradley, Helen O'Neill, Roger Sweetman, Maurice Manning (to July), Éamonn Mac Aodha (to January), Des Hogan (from January),

#### **Terms of Reference**

- In conjunction with the Chief Executive, to report regularly to the Commission on budget income and expenditure at such intervals as may be laid down from time to time;
- To advise and make recommendations to the Commission, subject to the functions of the Chief Executive, regarding the financial policy and management of the Commission, and in particular:
  - to consider and approve budgets;
  - to provide oversight in accordance with the financial and Governance recommendations in the PriceWaterhouseCooper internal audit report in addition to best practice in the area;
  - to review controls and procedures in place and to recommend any changes and improvements that can be made thereon as appropriate;
- To report to the Commission on any pertinent financial or corporate governance matters throughout the year.
- To review the IHRC obligations in relation to matters of Risk Management and brief the Commission on risk compliance.

#### **Casework Committee:**

##### **Members:**

Maurice Manning (Convenor), Conleth Bradley, Roger Sweetman

Maurice Manning (Sole Member) from May-July

## **Terms of Reference:**

- To establish procedures for the performance of the functions of the Commission under sections 8(f) (in relation to section 9 (1) (a), 8(h) and (k) of the Irish Human Rights Commission Act 2000 (the Act), subject to approval by plenary;
- To consider proposals by the Chief Executive in relation to the performance of the functions of the Commission under sections 8(f) (in relation to section 9(1)(a), 8(h) and (k) of the Act, and to report to the Commission sitting in plenary thereon;
- To consider matters referred to it by the Chief Executive under sections 9(1)(b) or 10 of the Act and either make any recommendations thereon to the Chief Executive, or refer the matter to plenary for its views;
- To develop, subject to the direction of the Commission and subject to the **delegation of any function to the Chief Executive, the Commission's policy and strategy** with respect to casework and make recommendations to the Commission sitting in plenary thereon;
- To consider requests by individuals or proposals by the Chief Executive, further **to the Commission's Amicus Curiae Guidelines**, that the Commission apply, further to section 9(h) of the Act, to the High Court or the Supreme Court for liberty to appear before the relevant court as amicus curiae in proceedings before the relevant court that involve or are concerned with the human rights of any person and to make recommendations to the Commission sitting in plenary thereon;
- To consider requests by individuals or proposals by the Chief Executive that the Commission institute court proceedings seeking relief in respect of a human rights matter, further to sections 8(k) and 11 of the Act and to make recommendations to the Commission sitting in plenary thereon.



### ***Appendix 3 - IHRC Staff in 2012***

Éamonn Mac Aodha	Chief Executive (to January 2012)
Des Hogan	Acting Chief Executive (from January 2012)

#### **Enquiries, Legal Services and Administration Division**

Sinéad Lucey	Senior Enquiry and Legal Officer
Gerry Finn	Enquiry and Legal Officer
David Carolan	Administrator (Finance and Human Resources)
Karine Petrasuc	Desk Officer
Aideen Damery	Clerical Officer (Career break from May 2012)
Sharon Brooker	Clerical Officer (Career break from 2011)

#### **Research, Policy and Promotion Division**

Kirsten Roberts	Director of Research, Policy and Promotion, Deputy Acting CEO (Career break from August 2013)
Fidelma Joyce	Senior Human Rights Awareness Officer
Róisín Hennessy	Senior Research and Policy Officer (Career break from 2010).

## **IHRC Project Contractors in 2012**

In 2011, the IHRC launched a Human Rights Education and Training Project (supported by Atlantic Philanthropies). In 2012 the Project Team comprised of Fiona Murphy (Project Manager and Senior Advisor), Ruth Gallagher (Senior Project Officer), Gillian Martin (Multi-media Project and Training Assistant) and Clodagh-Kate O'Briain.

In 2012, the IHRC commenced a three year Capacity Building Project for overseas National Human Rights Institutions (supported by Irish Aid), following on from a successful pilot year. During the year, Dr Avril Hutch was the Project Manager.

## ***Appendix 4 - The Paris Principles***

### ***Principles relating to the Status of National Institutions (The Paris Principles)***

Adopted by General Assembly resolution 48/134 of 20 December 1993

#### Competence and responsibilities

1. A national institution shall be vested with competence to promote and protect human rights.
2. A national institution shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text, specifying its composition and its sphere of competence.
3. A national institution shall, inter alia, have the following responsibilities:
  - (a) To submit to the Government, Parliament and any other competent body, on an advisory basis either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports on any matters concerning the promotion and protection of human rights; the national institution may decide to publicize them; these opinions, recommendations, proposals and reports, as well as any prerogative of the national institution, shall relate to the following areas:
    - (i) Any legislative or administrative provisions, as well as provisions relating to judicial organizations, intended to preserve and extend the protection of human rights; in that connection, the national institution shall examine the legislation and administrative provisions in force, as well as bills and proposals, and shall make such recommendations as it deems appropriate in order to ensure that these provisions conform to the fundamental principles of human rights; it shall, if necessary, recommend the adoption of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures;
    - (ii) Any situation of violation of human rights which it decides to take up;
    - (iii) The preparation of reports on the national situation with regard to human rights in general, and on more specific matters;

(iv) Drawing the attention of the Government to situations in any part of the country where human rights are violated and making proposals to it for initiatives to put an end to such situations and, where necessary, expressing an opinion on the positions and reactions of the Government;

(b) To promote and ensure the harmonization of national legislation, regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation;

(c) To encourage ratification of the above-mentioned instruments or accession to those instruments, and to ensure their implementation;

(d) To contribute to the reports which States are required to submit to United Nations bodies and committees, and to regional institutions, pursuant to their treaty obligations and, where necessary, to express an opinion on the subject, with due respect for their independence;

(e) To cooperate with the United Nations and any other organization in the United Nations system, the regional institutions and the national institutions of other countries that are competent in the areas of the protection and promotion of human rights;

(f) To assist in the formulation of programmes for the teaching of, and research into, human rights and to take part in their execution in schools, universities and professional circles;

(g) To publicize human rights and efforts to combat all forms of discrimination, in particular racial discrimination, by increasing public awareness, especially through information and education and by making use of all press organs.

#### Composition and guarantees of independence and pluralism

1. The composition of the national institution and the appointment of its members, whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civilian society) involved in the protection and promotion of human rights, particularly by powers which will enable effective cooperation to be established with, or through the presence of, representatives of:

(a) Non-governmental organizations responsible for human rights and efforts to combat racial discrimination, trade unions, concerned social and professional organizations, for

example, associations of lawyers, doctors, journalists and eminent scientists;

(b) Trends in philosophical or religious thought;

(c) Universities and qualified experts;

(d) Parliament;

(e) Government departments (if these are included, their representatives should participate in the deliberations only in an advisory capacity).

2. The national institution shall have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding. The purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the Government and not be subject to financial control which might affect its independence.

3. In order to ensure a stable mandate for the members of the national institution, without which there can be no real independence, their appointment shall be effected by an official act which shall establish the specific duration of the mandate. This mandate may be renewable, provided that the pluralism of the institution's membership is ensured.

#### Methods of operation

Within the framework of its operation, the national institution shall:

(a) Freely consider any questions falling within its competence, whether they are submitted by the Government or taken up by it without referral to a higher authority, on the proposal of its members or of any petitioner,

(b) Hear any person and obtain any information and any documents necessary for assessing situations falling within its competence;

(c) Address public opinion directly or through any press organ, particularly in order to publicize its opinions and recommendations;

(d) Meet on a regular basis and whenever necessary in the presence of all its members after they have been duly concerned;

(e) Establish working groups from among its members as necessary, and set up local or

regional sections to assist it in discharging its functions;

(f) Maintain consultation with the other bodies, whether jurisdictional or otherwise, responsible for the promotion and protection of human rights (in particular, ombudsmen, mediators and similar institutions);

(g) In view of the fundamental role played by the non-governmental organizations in expanding the work of the national institutions, develop relations with the non-governmental organizations devoted to promoting and protecting human rights, to economic and social development, to combating racism, to protecting particularly vulnerable groups (especially children, migrant workers, refugees, physically and mentally disabled persons) or to specialized areas.

Additional principles concerning the status of commissions with quasi-jurisdictional competence

A national institution may be authorized to hear and consider complaints and petitions concerning individual situations. Cases may be brought before it by individuals, their representatives, third parties, non-governmental organizations, and associations of trade unions or any other representative organizations. In such circumstances, and without prejudice to the principles stated above concerning the other powers of the commissions, the functions entrusted to them may be based on the following principles:

(a) Seeking an amicable settlement through conciliation or, within the limits prescribed by the law, through binding decisions or, where necessary, on the basis of confidentiality;

(b) Informing the party who filed the petition of his rights, in particular the remedies available to him, and promoting his access to them;

(c) Hearing any complaints or petitions or transmitting them to any other competent authority within the limits prescribed by the law;

(d) Making recommendations to the competent authorities, especially by proposing amendments or reforms of the laws, regulations and administrative practices, especially if they have created the difficulties encountered by the persons filing the petitions in order to assert their rights.

***Appendix 5 - Annual Statement to the Minister for Justice, Equality and Defence on the Code of Practice for the Governance of State Bodies***

On behalf of the Human Rights Commission, I acknowledge our responsibility for maintaining compliance with the Code of Practice for the Governance of State Bodies.

I can confirm that each Commission member has signed the "Register of Members Interests" which covers this code and that the Human Rights Commission is fully committed to ensuring, through the work of the members of the Commission, the Finance, Audit, Risk and General Purposes Committee and Management that there remains a strong commitment to ethics in public office.

In addition to the financial controls and procedures in place, the Human Rights Commission also has a significant number of policies and codes that it keeps under review which support its ongoing adherence to best practice in this area including Codes of Conduct for both staff and Commission members, a Travel Policy, Customer Service Charter and Risk Management Policy.

## ***Appendix 6 - Draft Financial Statements for Year ended 31 December 2012***

The financial statements have been prepared in accordance with Section 16 of the Human Rights Commission Act 2000. The accounts presented in this Annual Report appear in a draft pre-audited form. At the time of publication, the draft statements had yet to be cleared.

### **Statement of the Responsibilities of the Human Rights Commission**

The Commission is required to prepare financial statements for each financial year which give a true and fair view of the state of the affairs of the Human Rights Commission and of the income and expenditure for that period.

In preparing those statements, the Commission is required to:

- select suitable accounting policies and apply them consistently
- make judgements and estimates that are reasonable and prudent
- disclose and explain any material departures from applicable accounting standards
- prepare financial statements on a going concern basis unless it is inappropriate to presume that the Human Rights Commission will continue in existence.

The Human Rights Commission is responsible for keeping proper accounting records which disclose with reasonable accuracy at any time the financial position of the Human Rights Commission and which enable it to ensure that the financial statements comply with the Order.

It is also responsible for safeguarding the assets of the Human Rights Commission and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

The term of office of members of the second Commission, apart from one of the members (the President) expired on 1 October 2011. The President remained in office as the sole member of the Commission until the appointment of an interim Commission, comprised of four members (the President and three other members), on 22 December 2011. The term of office of three members of the interim Commission expired on 31 May 2012, and the term of the fourth member (the President) expired on 31 July 2012. There were no members of the Commission from 1 August 2012 until the current fourteen members were appointed on 16 April 2013.

While the current members of the Commission were not in office during the reporting year to 31 December 2012 and on the basis that nothing has been brought to their attention that would have given them reason not to sign, the Commission approved the signing of this statement and the financial statements for the year ended 31 December 2012 on 31 July 2013.



## Statement on Internal Financial Control

### Responsibility for the Systems of Internal Financial Controls:

On behalf of the Human Rights Commission, I acknowledge our responsibility for reviewing and ensuring the effectiveness of the organisation's system of internal financial controls.

The Human Rights Commission through the Chief Executive is responsible for monitoring the systems of internal control and providing assurances to the Commission.

A system of internal control is designed to reduce rather than eliminate risk and such a system can provide only a reasonable and not absolute assurance that assets are safeguarded, transactions authorised and properly recorded, and that material errors or irregularities are either prevented or detected in a timely manner.

### Key control Procedures:

The following is a description of the key procedures which have been put in place by the Human Rights Commission designed to provide effective internal financial control:

- (i) The Human Rights Commission has an established organisational structure with clearly defined lines of responsibility and reporting. Formal procedures for reporting significant control failures and ensuring corrective action are in place.
- (ii) The strength of the internal financial control systems is dependent on the quality and integrity of both management and staff.
- (iii) The Human Rights Commission operates a comprehensive Financial Management and Reporting process. A breakdown of expenditure is submitted to the Department of Justice, Equality & Defence.
- (iv) The Human Rights Commission has defined authorisation procedures in respect of procurement and payment of creditors. These authorisation limits form part of the Human Rights Commission's statement on internal financial control.
- (v) The procedures for monitoring the effectiveness of the internal financial control system include:
  - A Finance, Risk, Audit and General Purposes Committee that meets regularly and reviews financial Performance;
  - **The Human Rights Commission's Financial Management System contains** inbuilt authorisation controls to ensure that only authorised staff can carry out specific processes.

**The Human Rights Commission's monitoring and review of the effectiveness of the system of internal control** is informed by the work of the members of the Board, the Finance, Risk, Audit and General Purposes Committee and the comments made by the Comptroller and Auditor General in his management letter or other reports.

### Annual Review of Controls:

The Human Rights Commission conducted a review of the effectiveness of the system of internal financial controls in respect of 2012.

## Statement of Accounting Policies and Principles

### General

These accounts have been prepared in accordance with Section 16 of the Human Rights Commission Act 2000.

The Financial Statements cover the year from 1 January 2012 to 31 December 2012.

### Basis of Accounting

The Financial Statements have been prepared on an accruals basis under the historical cost convention in the format approved by the Minister for Justice, Defence and Equality and in accordance with generally accepted accounting practice.

### Oireachtas Grants

Grant-in-aid from the Department of Justice, Equality and Law Reform is shown on a cash receipts basis except for grants for specific purposes.

### Tangible Fixed Assets

Tangible fixed assets are stated at cost less accumulated depreciation. Depreciation is calculated in order to write off the cost of tangible fixed assets over their estimated useful lives as follows.

Buildings:	4%
Office Furniture:	20%
Fixtures & Fittings	20%

### Capital Account

The Capital Account represents the unamortised value of income used to purchase fixed assets.

### Pensions

The Commission operates a defined benefit pension scheme which is funded annually on a pay as you go basis from monies provided by the Department of Justice, Equality and Defence (DJED). Pension scheme liabilities are measured on an actuarial basis using the projected unit method.

Pension costs reflect pension benefits earned by employees in the period and are shown net of staff pension contributions which are refunded to the Department of Public Expenditure and Reform in accordance with agency financing arrangements. An amount corresponding to the pension charge is recognised as income to the extent that it is recoverable, and offset by grants received in the year to discharge pension payments.

Actuarial gains or losses arising on scheme liabilities are reflected in the Statement of Recognised Gains and Losses and a corresponding adjustment is recognised in the amount recoverable from DJED.

Pension liabilities represent the present value of future pension payments earned by staff to date. Deferred pension funding represents the corresponding asset to be recovered in future periods from DJED.

## Income & Expenditure Account for the year ended 31 December 2012

	Notes	2012 €	2011 €
<b>INCOME</b>			
Oireachtas Grant Received		1,425,000	1,462,748
Irish Aid Project		100,000	100,000
World Bank Project		22,464	0
IHRC Education & Training Project	7	150,065	144,582
IHRC Universal Periodic Review Project	8	6,779	36,222
Transfer to Capital Account		0	0
Amortisation of Grants in year	39,987	39,987	42,394
Net Deferred Funding for Pension	9 (d)	113,800	100,100
Refunded Eee Conts. to the Dept. of Public Exp. & Reform		(31,800)	(32,500)
Rent Received		27,665	30,180
Bank Interest Receivable		0	146
Total Income for year		<u>1,853,960</u>	<u>1,883,872</u>
<b>EXPENDITURE</b>			
Staff Salaries	1	662,276	914,464
Commissioner Fees and Expenses	2	6,229	146,584
IHRC Education & Training Project	7	150,065	144,582
IHRC Universal Periodic Review Project	8	6,779	36,222
Support for the European Group		0	(540)
Joint Committee		0	201
Pension Costs	9 (a)	82,000	67,600
Irish Aid Project		75,917	34,280
World Bank Project		13,485	0
Conferences		7,092	8,299
Media & Consultancy		2,299	1,815
Heat and Light		11,811	17,527
Office Requirements		29,950	28,905
Cleaning		5,162	4,794
Premises	4	361,391	363,542
Printing and Publishing		9,113	9,136
IT & Support		12,328	12,949
Library		2,097	68
Telephone		11,316	11,364
Post and Packing		1,507	1,647
Bank Charges		568	663
Insurance		19,985	17,313
General Expenses		4,838	5,332
Training		5,546	6,685
Subsistence		12,606	18,340
Advertising		0	1,200
Legal Fees	11	(925)	4,774
Audit Fee		7,000	7,000
Accountant's Fees		9,124	11,547
Depreciation Charge		39,987	42,394
Total Expenditure		<u>1,549,546</u>	<u>1,918,687</u>
Surplus / (Deficit) for the year		304,414	(34,815)
Balance brought forward from prior year		(137,312)	(102,497)
Balance carried forward at the end of the year		<u>167,102</u>	<u>(137,312)</u>
<b>Statement of Total Recognised Gains and Losses</b>			
(Deficit) / Surplus for the year		304,414	(34,815)
Actuarial Loss/(gain) on Pension Liabilities		309,800	50,600
Adjustment to Deferred Pension Funding		(309,800)	(50,600)
Total Recognised (Loss) / Gain for the year		<u>304,414</u>	<u>(34,815)</u>

The Statement of Accounting policies and principles and notes 1 to 13 form part of these accounts.

**Human Rights Commission**  
**Balance Sheet as at 31 December 2012**

		2012 €	2011 €
		_____	_____
<b>Fixed Assets</b>	<b>3</b>	557,320	597,306
 <b>Current Assets</b>			
Cash at Bank and on Hand		880,879	447,482
Debtors	<b>5</b>	14,775	8,960
		_____	_____
		895,654	456,442
 <b>Current Liabilities</b>			
Creditors & Accruals	<b>6</b>	(728,550)	(593,753)
<b>Net Current Assets</b>		_____	_____
		167,104	(137,311)
<b>Net Assets Before Pensions</b>		_____	_____
		724,424	459,995
Deferred Funding Asset for Pensions	<b>9 (c)</b>	1,045,000	621,400
Pension Liabilities	<b>9 (b)</b>	(1,045,000)	(621,400)
<b>Net Assets</b>		_____	_____
		724,424	459,995
 <b>Represented by</b>			
Capital Account	<b>10</b>	557,321	597,306
Income & Expenditure Surplus/(Deficit)		167,102	(137,311)
		_____	_____
		724,423	459,995

The fourteen Commissioners currently in office were appointed on 16 April 2013 and were not consequently in office during the reporting year to 31 December 2012. The Commission have approved the signing of this Balance Sheet for and on behalf of the Commission members who were in office during the reporting year ended 31 December 2012 on the basis that nothing has been brought to their attention that would have given them reason not to sign.

The statement of accounting policies and principles and notes 1 to 13 form part of these accounts.

## Notes to the Financial Statements for the Year Ended 31 December 2012

### 1 Staff Salaries

Under Section 18 of the Human Rights Commission Act 2000 the Commission in determining the remuneration or other allowances shall have regard to Government or nationally agreed guidelines. The Commission shall comply with any directives with regard to such remuneration, allowances, terms or conditions which the Minister may give to the Commission with the consent of the Minister for Finance.

€34,964 was deducted from staff by way of pension levy during 2012 and was paid over to the Department of Justice, Defence and Equality.

### 2 Commissioners Fees and Expenses

The President's term of office ended on 31 July 2012 and he received salary payments of €119,754.11 in 2012. The President received recoupment of travel and subsistence expenses of €144.85 in 2012. The President is not a member of the Human Rights Commission superannuation scheme.

Eamonn Mac Aodha was Chief Executive of the IHRC until 30 January 2012 when he took up his appointment as Ambassador to Belgium. Des Hogan was appointed Acting Chief Executive on 31 January 2012.

Eamonn Mac Aodha recouped €29.15 in expenses during the year. Des Hogan recouped €4,958.04. These figures include travel and subsistence costs for other staff and interns/placements.

The following fees were paid to Commission members in 2012:

Conleth Bradley	-
Roger Sweetman	€3,462
Helen O'Neill	€3,462

No expenses were paid to Commission members in 2012.

### 3 Fixed Assets

	<b>Buildings</b> SL Over 25 Yr:	<b>Equipment</b> 20% RB	<b>Fixtures</b> 20% RB	<b>Total</b>
<u>Cost</u>	€	€	€	€
Balance 1st January	736,555	105,809	138,589	980,953
Additions	-	-	-	0
Disposals	-	-	-	0
<b>Balance 31 December</b>	<b>736,555</b>	<b>105,809</b>	<b>138,589</b>	<b>980,953</b>
<b><u>Accumulated Depreciation</u></b>				
Balance 1st January	190,978	86,294	106,376	383,648
Charge for the year	29,642	4,324	6,019	39,985
Acc Depr on Disposal	-	-	-	0
<b>As at 31 December</b>	<b>220,620</b>	<b>90,618</b>	<b>112,395</b>	<b>423,633</b>
<b><u>Net Book Value</u></b>				
Balance 31 December 2012	<b>515,935</b>	<b>15,191</b>	<b>26,194</b>	<b>557,320</b>
Balance 31 December 2011	545,577	19,515	32,213	597,305

#### 4 Premises

The Human Rights Commission holds a 25 year lease from 8 October 2003, in respect of office accommodation in Jervis House. The annual cost of the lease is €301,383.

Following a substantial reduction in the grant-in-aid available to the Commission in 2009 to the period 2012, officials from the Department of Justice, Equality and Law Reform met with the landlord and negotiated a 25% deferral of payments to 2012 on an interest free basis .

The 2009, 2010 and 2011 deferred amount is included in the accruals figure.

Negotiations are ongoing with the receiver appointed to the landlords properties to seek a solution to the rent arrears issue.

<b>5 Debtors</b>	<b>2012</b>	<b>2011</b>
	€	€
Prepayments	14,775	8,960
	<u>14,775</u>	<u>8,960</u>

<b>6 Creditors &amp; Accruals within one year</b>	<b>2012</b>	<b>2011</b>
	€	€
Trade Creditors	6,327	14,041
IHRC HR Education & Training Project	213,959	189,024
IHRC Universal Periodic Review Project	8,874	15,652
PA YE/PRSI	10,290	25,909
Pension Levy	2,158	4,091
Fees owing to Commission Members	0	695
Professional Withholding Tax payable	5,073	2,894
Accruals	451,869	311,447
Deferred income	30,000	30,000
	<u>728,550</u>	<u>593,753</u>

<b>7 IHRC Education &amp; Training Project</b>	<b>2012</b>	<b>2011</b>
	€	€
Opening Balance	189,024	133,606
Funds Received	175,000	200,000
Expenses	Note 7 (150,065)	(144,582)
Balance	<u>213,959</u>	<u>189,024</u>

The IHRC Human Rights Education & Training project is an IHRC project which Atlantic Philanthropy has agreed to support. €250,000 has been designated by Atlantic Philanthropy for the completion of Phase I of this project. This project is now in Phase II which is due to run until the end of 2013.

<b>8 IHRC Universal Periodic Review Project</b>	<b>2012</b>	<b>2011</b>
	€	€
Opening Balance	15,652	51,874
Funds Received	-	-
Expenses	Note 8 (6,779)	(36,222)
Balance	<u>8,873</u>	<u>15,652</u>

The IHRC Universal Periodic Review Project is an IHRC project which Atlantic Philanthropy has agreed to support. €68,000 has been designated by Atlantic Philanthropy in 2011. The majority of project was due for the completion in 2011 with some follow up reviews in 2012 and 2013.

## 9 Superannuation

### (a) Analysis of total pension costs charged to Expenditure

	<u>2012</u>	<u>2011</u>
	€	€
Current service cost	85,800	77,100
Interest on pension scheme liabilities	28,000	23,000
Settlement	-	-
Total operating charge	<u>113,800</u>	<u>100,100</u>

### (b) Movement in net pension liability during the financial year

	<u>2012</u>	<u>2011</u>
	€	€
Surplus / (Deficit) in Scheme liability at 1 January	(621,400)	(470,700)
Current service cost	(85,800)	(77,100)
Settlement	-	-
Interest cost	(28,000)	(23,000)
Actuarial loss / (gain) recognised in STRGL	(309,800)	(50,600)
Net Pension Surplus/(Deficit) at 31 December	<u>(1,045,000)</u>	<u>(621,400)</u>

### (c) Deferred Funding for Pensions

The Human Rights Commission recognises these amounts as an asset corresponding to the unfunded deferred liability for pensions on the basis of the set of assumptions described above and a number of past events. These events include the statutory basis for the establishment of the superannuation scheme, and the policy and practice currently in place in relation to funding public service pensions including contributions by employees and the annual estimates process. While there is no formal agreement regarding these specific amounts with the Department of Public Expenditure and Reform, the Human Rights Commission has no evidence that this funding policy will not continue to meet such sums in accordance with current practice. The deferred funding asset for pensions as at 31 December 2012 amounted to €1,045,000 (2011: €621,400).

### (d) The Net Deferred funding for Pensions recognised in the Income and Expenditure Account was as follows:

	<u>2012</u>	<u>2011</u>
	€	€
Funding recoverable in respect of current year pension costs	113,800	100,100
	<u>113,800</u>	<u>100,100</u>

### (e) General description of the scheme

The Human Rights Commission operates its pension scheme as a 'Pay as You Go' pension arrangement and therefore holds no assets. The membership as at the balance sheet date consisted of 11 active members and 8 deferred members. Membership and pensionable salary details have been provided by the Scheme administrators. The past service liability for the Scheme as at 31 December 2012 based on final projected salaries is given in the table below.

### (f) The main financial assumptions used were:

	<u>2012</u>	<u>2011</u>
Discount rate	3.50%	4.50%
Rate of increases in salaries	3.20%	3.10%
Inflation	2.20%	2.10%
State Pension Increases	2.20%	2.10%
Mortality Table	62% of PNML00	62% of PNML00
	70% of PNFL00	70% of PNFL00
Improvements	0.39% pa	0.39% pa
Life expectancy Male age 65	21.80	21.70
Life expectancy Female age 65	23.50	23.40

Projected Unit Method as prescribed under FRS17.

Note that the current service cost will rise under this method if the average age of the active members rises.

<b><u>10</u></b>	<b>Capital Account</b>	<b><u>2012</u></b>	<b><u>2011</u></b>
		€	€
	Opening Balance	597,306	639,700
	Transfer from/(to) Income and Expenditure		
	Portion of grant awarded used for capital purposes	0	0
	Amortised in the year in line with asset depreciation	<u>(39,985)</u>	<u>(42,394)</u>
	Net movement in year	<u>(39,985)</u>	<u>(42,394)</u>
	Closing balance	<u><u>557,321</u></u>	<u><u>597,306</u></u>
<b><u>11</u></b>	<b>Legal Fees</b>	<b><u>2012</u></b>	<b><u>2011</u></b>
		€	€
	Enquires	0	0
	Amicus Curiae	0	0
	Legal Assistance	(9,000)	0
	Legal Fees General	8,075	4,774
		<u>(925)</u>	<u>4,774</u>

## **12** Going Concern

The Human Rights Commission and the Equality Authority were included in the Public Service Reform publication by the Department of Public Expenditure and Reform in November 2011 as bodies to be merged to form a new Human Rights and Equality Commission in 2012. The IHRC assumes that all existing activities will continue to be carried out by the new Commission with its assets and liabilities likely to be transferred to it. In the circumstances, it does not believe that any adjustment is needed to the financial statements to reflect any possible restructuring and it has prepared these accounts on a going concern basis.

In April 2013, the Minister for Justice, Defence and Equality appointed 14 members to the board (designate) of the Irish Human Rights and Equality Commission (IHREC) who would also serve as members of the IHRC in the period prior to the establishment of the IHREC.

## **13** Approval

The fourteen Commissioners currently in office were appointed on 16 April 2013 and were not consequently in office during the reporting year to 31 December 2012. The Commission have approved the signing of these Financial Statements for and on behalf of the Commission members who were in office during the reporting year ended 31 December 2012 on the basis that nothing has been brought to their attention that would have given them reason not to sign.

The financial statements were approved by the Commission on \_\_\_\_\_ and signed on its behalf by: