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Guides on the equality legislation and mental health

The Equality Authority launched two guides on tackling mental health inequality on 2 February 2012 in partnership with See Change, the National Mental Health Stigma Reduction Partnership. The two guides clearly and simply outline how current law protects the rights of people with mental health problems, and what employers need to do to protect these rights in the workplace.

The information guides are a useful starting point, both for people who experience mental health problems and also for employers interested in finding out more about the law and what it means for them.

The guide on ‘how the law can help you’ provides practical information for people with experience of mental health difficulties on their equality rights in employment and access to services. It explains why equality law in Ireland is important for people with experience of mental health difficulties, what the laws says and how people are protected from discrimination and can seek redress.

The guide on ‘what the law means for your workplace’ provides information for employers on their responsibilities towards employees and potential employees with experience of mental health issues. This guide explains the legal requirement on employers to provide reasonable accommodation for employees and potential employees with experience of mental health difficulties. It also provides some good examples of what reasonable accommodation measures can look like in practice, so that people with experience of mental health difficulties can have access to employment, participate or advance in employment and undertake training.

The guides were launched by the Chairperson of the Equality Authority, Dr Angela Kerins. Other speakers included Renee Dempsey, CEO, Equality Authority; John Saunders, Director, Shine – Supporting People Affected by Mental Ill Health; Dr Liam Mac Gabhann, Lecturer, School of Nursing and Human Sciences, DCU; iobhan Connell, Expert by Experience; Kara McGann, Project Diversity Officer, IBEC; and David Joyce, Equality Officer, Irish Congress of Trade Unions.

The guides can be downloaded at http://www.equality.ie/en/
Guidelines for Government Departments: How to Conduct a Disability Impact Assessment

The National Disability Authority and the Equality Authority worked with the Department of Justice to develop and pilot guidelines for Government Departments to disability proof substantive proposals to Cabinet. The guidelines, *How to Conduct a Disability Impact Assessment: Guidelines for Government Departments*, support Departments to apply a disability lens when developing policies in a wide range of areas as memoranda to Government form the basis for Cabinet decisions. The Department of Environment, Community and Local Government, the Department of Health and the Department of Transport participated in the pilot.

The Minister for Justice, Equality and Defence, Alan Shatter T.D. and the Minister of State for Disability, Equality, Mental Health and Older People, Kathleen Lynch TD, today announced the publication of the guidelines on 28 March 2012. The press release and the guidelines are available at:

Equality Authority Welcomes Minister Quinn’s Announcement on Lesbian, Gay and Bisexual Teachers

The Chairperson of the Equality Authority, Ms Angela Kerins, welcomed the announcement by Mr Ruairi Quinn T.D., Minister for Education and Skills, that section 37(1) of the Employment Equality Act is to be amended to ensure it cannot be used to discriminate against lesbian, gay and bisexual teachers.

"It is clear that this clause has reinforced fears of discrimination against lesbian, gay and bisexual workers in religious-run institutions, for example in schools and hospitals and makes it even more difficult for such workers to be open about their sexuality", Ms Kerins said.

The Equality Authority first called for the provision to be removed ten years ago, in 2002 in its report on Implementing Equality for Lesbians, Gays and Bisexuals.

"Research published jointly by the Equality Authority and the Equality Commission for Northern Ireland in 2007 has found that the fear associated with section 37(1) has a significantly negative impact on lesbian, gay and bisexual teachers. The presence of this provision effectively forces these teachers either to avoid seeking employment in given sectors or to take up employment in conditions where they are compelled to conceal their sexuality", Ms Kerins said.

Ms Kerins concluded: "Removing this provision helps to create a culture in schools in which homophobic bullying of students is no longer tolerated. Combating homophobic bullying has been a priority for the Equality Authority for many years"

Notes:

(1) Section 37(1) of the Employment Equality Act came into force in October 1999. The wording of the section is as follows

"A religious, educational or medical institution which is under the direction or control of a body established for religious purposes or whose objectives include the provision of services in an environment which promotes certain religious values shall not be taken to discriminate against a person for the purposes of this Part or Part II if—

"(a) it gives more favourable treatment, on the religion ground, to an employee or a prospective employee over that person where it is reasonable to do so in order to maintain the religious ethos of the institution, or

"(b) it takes action which is reasonably necessary to prevent an employee or a prospective employee from undermining the religious ethos of the institution."

"
(2) The report *Implementing Equality for Lesbians, Gays and Bisexuals* was published in June 2002. It was the report of the first Advisory Committee set up by the Equality Authority under section 48 of the Employment Equality Act 1998. It was the first report by an official body providing a comprehensive review of the legal and administrative challenges to equality for lesbian, gay and bisexual people. In addition to employment discrimination, it dealt with Partnership rights, Health, Education, Youth services, Training, Commercial and public services, and Violence and harassment.

(3) The Equality Authority and Equality Commission for Northern Ireland jointly commissioned research on *Enabling Lesbian, Gay and Bisexual Individuals to Access their Rights under Equality Law*, and the results of the study were published in November 2007. The researchers were Judy Walsh, Catherine Conlon, Barry Fitzpatrick and Ulf Hansson.

(4) The Equality Authority has undertaken a number of projects to combat homophobic bullying in second-level schools, including a poster and awareness raising campaign in 2006, in partnership with BeLonG To Youth Services, and the development and implementation of a training module for students and teachers, in partnership with GLEN and BeLonG To.
Multiple Disadvantage in Ireland - An equality Analysis of Census 2006

Double Disadvantage? It depends ...

This report examines disadvantages faced by members of groups identified by the nine grounds covered by the Equality Acts. This comprehensive analysis was made possible by access to the full Census 2006 Research Micro-data File. For the first time in Ireland, we were able to examine in a single study the consequences of membership across all of these groups and across five different outcomes. Using the Census data, there are enough members of small groups such as Travellers, other ethnic minorities and religious minorities to compare their situations with other groups.

We examine five different outcomes: low levels of education, being outside the labour market, unemployment, lower manual social class and lack of access to a car. The focus is on adults of working age (25 to 64 years).

Some of the key findings of the report are:

- Some groups experience disadvantage across all or most outcomes, even controlling for education e.g. Travellers, people with a disability.

- Several groups are educationally advantaged, but this does not seem to translate into better outcomes in terms of labour market participation, unemployment, social class and living standard. This is true of women, who are less likely to have left school before completing second level, but are more likely to be outside the labour market. Other groups for whom we find a similar pattern include nationals of the 10 countries that joined the EU in 2004 (EU 10), nationals of non-European countries, people of African ethnicity and people in same-sex partnerships.

- Some groups who are a minority in numerical terms are advantaged on most outcomes, e.g. those with no religious affiliation.

- Are some people faced with ‘double disadvantage’— someone who is a member of two groups, both of which have a higher risk of negative outcomes? We examined this with respect to gender and disability. Our analysis shows that ‘double disadvantage’ need not always be the outcome. For instance, both women and people with a disability have a higher risk of being outside the labour market. However, women with a physical disability have a lower risk of being outside the labour market than we would expect from adding the two risks together. In fact, men with a physical disability are more likely than women with a physical disability to be outside the labour market when we control for other characteristics.
Implications

In general, the results caution against broad generalisations and highlight the need to consider very precisely the arena where disadvantage emerges (in the educational system, labour market, family roles, migration and life cycle) and the way these may interact with each other and with public policy to result in different outcomes.

- Educational disadvantage is important in accounting for later outcomes in terms of labour market and living standards.
- Disadvantage can emerge in different arenas (education, labour market, living standards) for particular groups. For example, nationals of the EU 10 are more educated but more likely to be in low-skilled jobs.
- The role of choice and constraint needs to be considered, particularly in terms of labour market participation of parents. To some extent, the decision to remain outside the labour market to care for children is a matter of choice, but this is a choice made within the constraints of affordability and access to alternative childcare arrangements.
- Membership of two groups, both of whom experience higher levels of disadvantage, does not necessarily result in 'double disadvantage'. We need to consider how the processes involved may interact for each particular group.
- The study points to the value of census data for studies of group disadvantage particularly where the groups are small in number; the number of indicators may be limited, but this is more than compensated by the large number of cases and the virtually complete population coverage.

Welcoming the report, Renee Dempsey CEO of the Equality Authority, said “This innovative analysis provides important new insights into the nature of inequality in Ireland and adds significantly to the evidence base for policy on equality and social inclusion.”

Report author Dorothy Watson said “There were some unexpected findings that are particularly noteworthy. For instance, disadvantage can be particular to certain spheres – some groups do well in terms of education but not in terms of labour market, and vice versa. Also, being a member of two different disadvantaged groups does not always result in the worst outcomes.”

Notes:


2. The ten countries who acceded to the EU in 2004 (EU 10) are Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia.

3. *Multiple Disadvantage In Ireland: An Equality Analysis Of Census 2006, by Dorothy Watson, Pete Lunn, Emma Quinn and Helen Russell (ESRI), jointly published by the Equality Authority and the ESRI, will be published on the ESRI website and the Equality Authority website* on Friday 23rd March.
The LEAD – Living Equality & Diversity

The Equality Authority provided funding to the Irish University Association’s Equality Network to develop and implement an innovative eLearning project. The LEAD – Living Equality & Diversity eLearning project, involved six Irish Universities DCU, NUIG, UCC, UCD, UL and TCD. The programme was funded by the Equality Mainstreaming Unit, which is jointly funded by the European Social Fund 2007 - 2013 and by the Equality Authority.

The aim of the project was to collaboratively pilot an introductory tailored eLearning programme covering all nine grounds of discrimination under Irish Equality Legislation as part of a blended approach to generating mainstream staff engagement with diversity issues. The purpose was to give employees a general understanding of why it is important that Universities maintain and support inclusive environments that value diversity and promote equality across the nine grounds.

The Equality Mainstreaming seeks to engage at an institutional level with a variety of sectors to support the development of equality competency. We work collaboratively with stakeholders to seek to change how organisations do their business and how services are delivered to groups experiencing inequality – essentially to place equality considerations at the centre of organisations. Our work with the Irish University Association is a practical demonstration of how this works.

The LEAD project successful developed and piloted an eLearning equality training tool. It consists of 5 modules and the estimated overall time for completion of the 5 modules is 2 hours.

The 5 Modules are:-

- **Module 1 – Understanding Diversity**
- **Module 2 – What’s it got to do with you?**
- **Module 4 – From Compliance to commitment**
- **Module 4 – Recruitment & Selection**
- **Module 5 – Dignity & Respect**

Due to the collaborative nature of this project the cost savings to each of the participating Universities has been significant. No one institution could have afforded to undertake this project on their own so all 6 institutions have gained significantly from a financial and a development perspective.
The use of this interactive resource will enable 1000’s of employee across the University sector to undertake important equality and diversity training thus ensuring that promoting equality and combating discrimination remains a core value within our Universities. The project was recently shortlisted for an award at the Irish Institute of Training and Development Awards for Most Innovative Use of Technology.

The project can be viewed on [www.leadequalitynetwork.com](http://www.leadequalitynetwork.com).
Introduction to and overview of the Consumer Protection Code 2012

The Consumer Protection Code (the Code) was introduced in August 2006 and it set out the requirements that regulated firms must comply with when dealing with consumers in order to ensure a similar level of protection for consumers, regardless of the type of financial services provider. The Code required regulated firms to always act in a consumer’s best interests by ensuring that they know and understand the consumer’s needs, sell them products and services that are suitable to their circumstances and provide the consumer with appropriate information to enable them to make an informed choice.

A review of the Code was undertaken during 2010 and 2011. The purpose of this review was to:

- reflect the current and emerging developments in financial services and their impact on consumers;
- use the knowledge and experience gained from consumer-focused inspections of regulated firms;
- take account of market intelligence received; and
- take account of the impact of EU legislation, including maximum harmonisation directives, and other developments.

As part of this review, the Central Bank of Ireland (Central Bank) engaged in two public consultations in October 2010 and June 2011. In total, 92 submissions were received from interested parties, including consumer representative bodies, financial institutions, trade bodies, representatives from the voluntary and community sectors, regulatory bodies, individuals and academics. Following detailed analysis and consideration of these submissions, the Code was revised and is available on the Central Bank’s website (www.centralbank.ie). The Consumer Protection Code 2012 (2012 Code) came into effect on 1 January 2012.

The Central Bank has published a guidance document, “Consumer Protection Code 2012 Guidance”, which is also available on its website.

Objective of the Consumer Protection Code 2012

The 2012 Code builds on the protections of the previous Code, but includes more detailed requirements in many areas. The overriding objective continues to be the strengthening of the consumer protection framework and the introduction of new measures which will benefit consumers in their dealings with regulated firms.
What it means for Regulated Firms

The 2012 Code increases the protections for consumers in a number of key areas, including arrears handling, knowing the consumer, suitability, mis-selling of products, transparency and errors and complaints resolution.

Another key area that the 2012 Code addresses is the area of vulnerable consumers, who may require additional protection in their dealings with regulated firms when carrying out their financial affairs. The new requirements in the 2012 Code provide additional protections for vulnerable consumers while, at the same time, providing a practical approach for regulated firms in their approach to identifying and dealing with these consumers. A “vulnerable consumer” is defined within the 2012 Code as a natural person who:

a) has the capacity to make his or her own decisions but who, because of individual circumstances, may require assistance to do so (for example, hearing impaired or visually impaired persons); and/or
b) has limited capacity to make his or her own decisions and who requires assistance to do so (for example, persons with intellectual disabilities or mental health difficulties).

Regulated firms must now consider whether there is any evidence of vulnerability on the part of the consumer, for example, a vision or hearing impairment or a lack of knowledge, experience or financial capability, which may indicate that additional care and assistance must be given by the regulated firm to the consumer.

Identification of a consumer’s vulnerability or otherwise will require the exercise of judgement and common sense and should be based on a consumer’s ability to make a particular decision at a point in time.

The identification of a vulnerability should be an inherent part of the Knowing the Consumer process, during which regulated entities should consider whether there is any evidence of consumer vulnerability, as outlined in categories 1, 2 and 3 below.

<table>
<thead>
<tr>
<th>Categories of Vulnerable Consumers</th>
<th>Examples of Vulnerabilities</th>
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<tbody>
<tr>
<td>1 Capable of making decisions but their particular life stage or circumstances should be taken into account when assessing suitability</td>
<td>Age, poor credit history, low income, serious illness, bereaved, etc.</td>
</tr>
<tr>
<td>2 Capable of making decisions but require reasonable accommodation in doing so</td>
<td>Hearing-impaired, vision-impaired, English not first language, poor literacy</td>
</tr>
<tr>
<td>3 Limited capacity to make decisions (temporary / permanent)</td>
<td>Mental illness/ intellectual disability</td>
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Consumers that fall into category one should have their circumstances taken into account by regulated entities as part of the revised Knowing the Consumer and Suitability requirements.

Categories two and three have been included in the definition of “vulnerable consumer” and, in addition to existing protections, including the Knowing the Consumer and Suitability requirements, regulated entities must provide those identified as “vulnerable consumers” with such reasonable arrangements or assistance that may be necessary to facilitate their dealings with that regulated entity.
Implementation of the 2012 Code

As compliance with some of the new and enhanced requirements of the 2012 will require regulated firms to introduce systems and procedural changes and will require further staff training to ensure that staff understand and implement the 2012 Code, for the first six months, up to 30 June 2012, the Central Bank will be cognisant of these issues in monitoring compliance with the 2012 Code.

Any queries in relation to the Consumer Protection Code 2012 should be emailed to code@centralbank.ie.

The Equality Authority has welcomed the publication of the Report of the Working Group established by the Minister for Justice and Equality to scope the merger of the Equality Authority and the Irish Human Rights Commission.

“The publication of this anticipated Report is a positive development” said the Equality Authority Chairperson Angela Kerins. “The working group has demonstrated that it is has clearly focussed on its mandate and begun the much-needed discussion that will ensure the appropriate prioritisation of the equality and human rights agenda in a recovering Ireland. The implementation of the benefits of equality compliance and respect for human rights will make Irish society a fairer and more productive society ; and ensure that this is considered in the ongoing economic debate”, she added.

“This is an important time for equality and human rights in Ireland. The issuing of this Report and the positive response of the Minister is a clear indication of a new chapter in Ireland’s evolution as a nation which values and promotes equality for all and actively strives to combat discrimination.” continued Angela Kerins.

“The Board of the Authority will study the detail of the document at its formal meeting next week. I am confident the Authority will be creative and supportive in its role in the transition of both organisations to a single entity on which the citizen can rely for redress and proactive compliance of our equality and human rights obligations under national and international law

“We look forward to maximising the potential for positive change offered in the Report’s recommendations and to continuing to work with the Minister as he considers the report and presents his final recommendations to Government”, Ms Kerins concluded.
Say No To Ageism Week 2012

The 9th Say No To Ageism Week was launched on Tuesday June 5th 2012 by Minister of State Fergus O Dowd TD who represent Louth, Ireland’s age friendly county. The week is the Equality Authority’s contribution to this EU Year of Active Ageing and Solidarity between Generations.

"So much can be achieved when a negative attitude is changed to a positive. Combating ageism doesn’t necessarily cost money, it just takes us a moment to reflect on why or how we might see age as a ‘qualification’ to participate in our society. Is this fair? Age is one of the nine grounds protected from discrimination in employment and in the provision of goods and services under Irish equality legislation” stated Equality Authority Vice Chairperson, Christy Lynch at the launch.

"Age is a ground that has a 'boomerang effect'. Young people experience ageism – through the negative stereotype that alleges they all behave exactly in the same and often negative way? We know this is not the case. Then, as we advance into adulthood, we get some ‘time off’ from being the victims of ageism. Just when we feel all is good, we enter into another age cohort where ageism can boomerang back at us in our later years. That is why it is important to Say No To Ageism no matter what age you are today” continued Mr Lynch.

"We tackle this issue as one which if left unaddressed today, may result in a further negative experience later in life or for the young people we care for. That is why the Equality Authority uses this time of the year to remind people that changing ageism begins in a personal understanding of age. Think of the many areas you might use age as a judgement call and see if it is really valid? Take a positive stand and reject ageism by joining the campaign this week” he concluded.

Supporting the campaign, Paschal Moynihan, Specialist Older People Services in HSE West added "Growing older brings many opportunities but, as with any stage in life, also presents challenges, none more so than how ageing is viewed and responded to by society. If the response and attitudes are negative, this can have a harmful impact on an older person's expectations and self-worth.

Ageism has significant effects on older people. The stereotyping of older people by language, behaviour, policies and practices affects their self-esteem, and they may start to perceive themselves in the same way that others in society see them, eroding their confidence and limiting their potential. Sadly, it also deprives society of the benefit of the skills, knowledge and experience that many older people have accumulated.
Initiatives for the week include an online dvd discussing attitudes to ageism and a viral message circulated to many key employments, a seminar in Dublin Castle on Wednesday June 6th on Age and the Insurance sector, and an advertising campaign supported by public transport providers and public awareness initiatives throughout the HSE.

This is the ninth year of the initiative, co-funded in 2012 by the European Union under the PROGRESS Programme 2007-2013 and the Equality Authority. Saying NO To Ageism has many benefits to an inclusive society.

Speeches from the Launch and the Seminar are available on our website at http://www.equality.ie/en/Events/Say-No-To-Ageism-Week/SNTA2012.html

Watch our 'Discussing Ageism' dvd on http://vimeo.com/43244260
https://www.facebook.com/#!/pages/Say-No-To-Ageism/119327468097995
https://twitter.com/#!/SayNoToAgeism

Top Left Photo: Paschal Moynihan (HSE), Renee Dempsey (Equality Authority), and Minister of State Fergus O Dowd TD at the launch of Say No To Ageism Week 2012
Top Right: Minister of State Fergus O Dowd TD at the launch of Say No To Ageism Week 2012

Bottom Left: Brian Merriman, Head of Legal Services in the Equality Authority, Tom Comerford, Deputy Financial Services Ombudsman, Paul MacDonnell, Head of EU and Regulatory Affairs Irish Insurance Federation (IIF), Mary Honan, Barrister at Law specialising in employment law, anti-discrimination cases and equality matters. John Armstrong, health economist and Actuary at Aviva Health Insurance at the 'Attitudes to Health and Age in Insurance Provision' seminar in Dublin Castle.

Bottom Right: Brian Merriman, Equality Authority and Prof. Charles Normand, TCD

“The Equality Authority, over the course of its existence, has contributed significantly to the promotion of equality in Ireland. One of the longest-lasting legacies of the Authority will be the educational measures undertaken with schools and with community groups and the business community, in addition to the awareness campaigns targeted at the general public, that have ensured that, across generations and across backgrounds, many more people have a deeper understanding of a diversity of cultures and views. We have had successful campaigns raising awareness of the issues of racism, age discrimination, gender discrimination and homophobic bullying, to name but a few,” said Angela Kerins, Chairperson of the Equality Authority at the launch of the 2011 Annual Report, the final annual report of the Authority.

“As the merger of the Equality Authority and the IHRC progresses the Authority looks forward to a new strong institution which will promote equality, defend victims of discrimination and enhance human rights,” she added.

“In a time of economic challenges vulnerable people are at greatest risk of discrimination, for this reason it is essential that ordinary people have a place that is accessible to them should they experience discrimination. Therefore the new merged body must be approachable, supportive and clearly available to everybody. It is also important the new body continues its promotion and advocacy role which underpins the culture of equality and anti-discrimination across all aspects of our society and makes our economy a good place to invest and to live in” Ms. Kerins emphasised, referring to the forthcoming merger of the Human Rights Commission and the Equality Authority.

CEO Renee Dempsey noted “communication and raising awareness of Equality legislation is a key strategy for the Authority. In 2011 the target of 8,000 queries to the PIC (Public Information Centre) was exceeded by 168. These queries from the public related to the five pieces of legislation under the remit of the Equality Authority. The Authority website www.equality.ie was maintained and up-dated throughout the year with 291,707 visits to the home page and 1,054,374 pages viewed” she added.
Ms Dempsey also stated ‘the Legal Service of the Equality Authority supports people who have been discriminated against in employment or accessing goods, facilities and services. During 2011, the legal section opened 156 new case-files. By year end 134 case-files had been closed; 25 applications for representation were considered with 23 granted. The number of case-files processed reflects the current resources and capacity of the Authority’s legal Section. They are not a measure of discrimination or the level of demand for the services’ she emphasised.

"The skills and expertise of the staff of the Equality Authority will be an invaluable asset to the new body as it seeks to embrace its new role and powers and to ensure a positive impact in its delivery. Equality is at the heart of every civilised society and democracy. Our legacy as an Equality Authority is important and must be reflected at the core of this new body. The renewed vigour and scope to progress the equality and human rights agenda, which is fair to all our citizens, is another pillar on which to build the optimism and structures needed to accelerate our progress towards recovery” Angela Kerins concluded.