

# Assisting the Effective Implementation of the Public Sector Equality and Human Rights Duty

Tool for an evidence-based assessment of equality and human rights issues



Coimisiún na hÉireann um Chearta  
an Duine agus Comhionannas  
Irish Human Rights and Equality Commission

# **Assisting the Effective Implementation of the Public Sector Equality and Human Rights Duty**

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The Irish Human Rights and Equality Commission was established under statute on 1 November 2014 to protect and promote human rights and equality in Ireland, to promote a culture of respect for human rights, equality and intercultural understanding, to promote understanding and awareness of the importance of human rights and equality, and to work towards the elimination of human rights abuses and discrimination.

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## INTRODUCTION

**This Assessment Tool** is a companion document to the Irish Human Rights and Equality Commission's guidance: Implementing the Public Sector Equality and Human Rights Duty.<sup>1</sup> The tool focuses on the first step required under the Duty: the **assessment of human rights and equality issues** relevant to the functions and purpose of the public body.

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1. Implementing the Public Sector Equality and Human Rights Duty, Irish Human Rights and Equality Commission, 2019, available on Commission website: <https://www.ihrec.ie/our-work/public-sector-duty/>

## Section 42 of the Irish Human Rights and Equality

**Commission Act 2014** requires:

- (1) A public body shall, in the performance of its functions, have regard to the need to—
  - Eliminate discrimination;
  - Promote equality of opportunity and treatment of its staff and the persons to whom it provides services; and
  - Protect the human rights of its members, staff and the persons to whom it provides services.
- (2) (a) set out in a manner that is accessible to the public in its strategic plan (howsoever described) an **assessment** of the human rights and equality issues it believes to be relevant to the functions and purpose of the body and the policies, plans and actions in place or proposed to be put in place to address those issues, and  
  
(b) **report** in a manner that is accessible to the public on developments and achievements in that regard in its annual report (howsoever described).

The assessment is an evidence-based identification and prioritisation of the equality and human rights issues relevant to the functions and purpose of the public body. The focus for the assessment is the following **identified groups**:

- people covered by the nine grounds under equality legislation: gender (including a transgender person or a person who is transitioning to another gender), civil status, family status (including lone parents and carers), age, sexual orientation, disability, race, religion, and membership of the Traveller community; and
- people at risk of poverty and social exclusion.

The assessment of equality and human rights issues is required to be an integral part of the strategic planning cycle of the public body. The assessment should, where possible, be undertaken at the commencement of a new strategic planning cycle. An equality and human rights assessment should be conducted at the start of each subsequent strategic planning cycle.

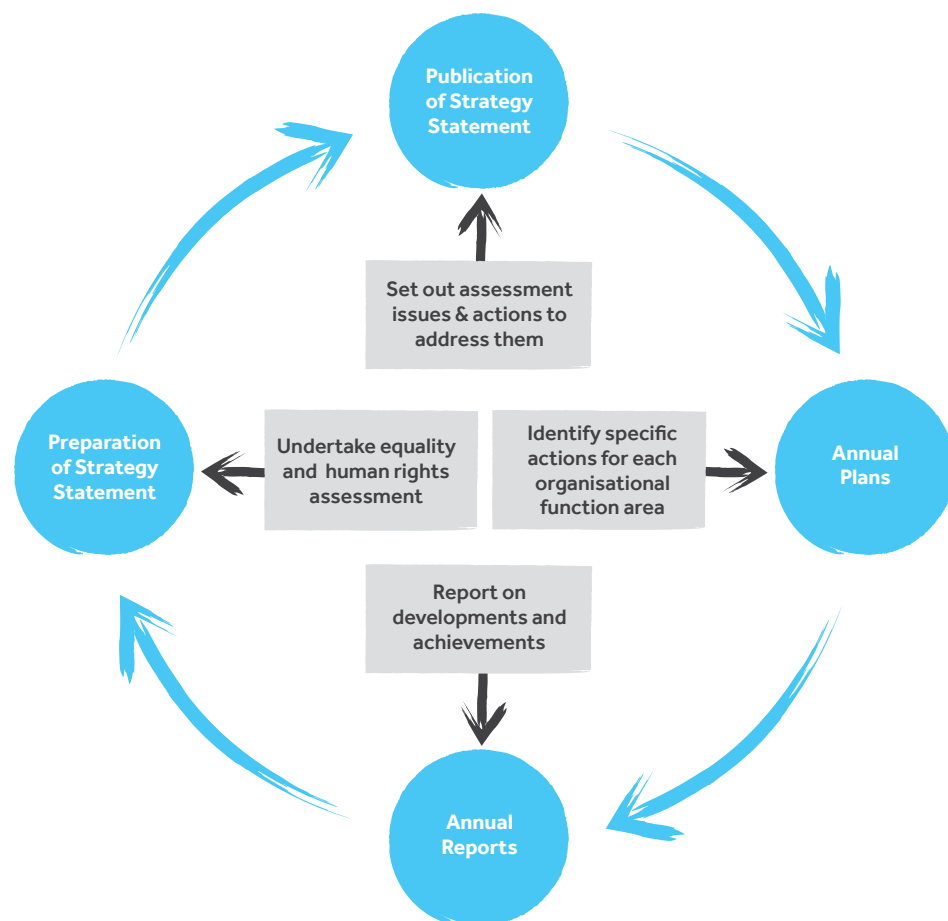
## Strategic Planning Cycle and the Public Sector Duty

The Commission's guidance states: 'Drawing on the available evidence, including the knowledge and experience of the organisation's staff and people to whom it provides services, the assessment informs the strategic cycle of planning, implementation and evaluation'.<sup>2</sup>

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2. Implementing the Public Sector Equality and Human Rights Duty, Irish Human Rights and Equality Commission, 2019. Page 15.

## The Assessment: link to the strategic planning cycle



Key equality and human rights issues are identified and prioritised in the assessment. The prioritised issues are then actioned as an integral part of the preparation and review of: strategic plans; each annual work plans; and each annual report.

### Public Sector Duty: Values In Action

Organisational culture, and the values driving and shaping that culture, impact strongly on organisational performance. This has been identified as an important factor in the public sector reform framework, Our Public Service 2020. Organisational values are, therefore, central to the effective and ongoing implementation of all steps required under the Duty and an organisational culture of human rights and equality.

The Commission Guidance states: 'Implementation of the Duty can assist an organisation to define and give expression to equality and human rights values related to its purpose and key public sector values'.<sup>3</sup>

Many public bodies are guided by core values, including those with an equality and human rights focus such as: respect, participation, partnership, empowerment, inclusion and diversity.<sup>4</sup> Implementing the Duty offers public bodies the opportunity to give expression to and re-prioritise their core equality and human rights values.

3. Implementing the Public Sector Equality and Human Rights Duty, Irish Human Rights and Equality Commission, 2019. Page 18.

4. See Action 16 of Our Public Service 2020: Promote Equality, Diversity and Inclusion. For more information <https://www.ops2020.gov.ie/what-is-ops2020/overview/>

## FIVE STEPS TO UNDERTAKE THE ASSESSMENT

Assessment of equality and human rights issues:

### 5 Steps

#### 1. Leadership and Responsibility



#### 2. Gather Evidence



#### 3. Assess and Prioritise Relevant Issues



#### 4. Validate and Approve Final Draft



#### 5. Publish and Communicate the Assessment

### Step One: Leadership and Responsibility

The assessment of equality and human rights issues requires senior management **leadership** and **ownership**. The senior management team should keep progress on implementing the Duty under ongoing review. The assessment of equality and human rights issues should be agreed by the senior management team and be formally established as an integral part of the strategic planning cycle.

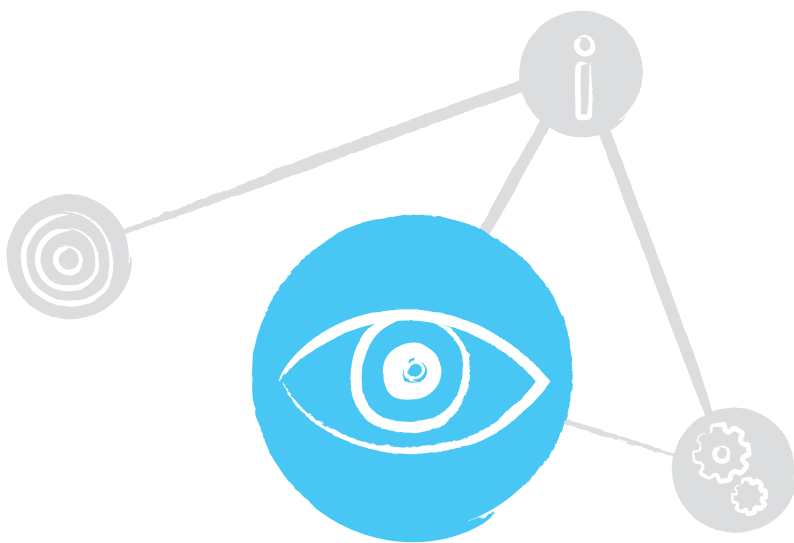
The assessment of equality and human rights issues should be preceded by **capacity building** for those involved in leading and implementing the Duty. This would include training to enable a shared understanding of: equality and human rights; the requirements of the Duty; and the approach being taken to its implementation by the public body.

The assessment should be undertaken by an **internal working group** (if there is not already some internal structure in place) given responsibility for implementation of the Duty in the public body. This group should involve senior management and include representation from all key sections and departments, to ensure all function areas<sup>5</sup> are included.

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5. E.g. corporate services; human resources; service and programme provision; policy-making; regulatory functions. Further details at page 13.

The Commissions' guidance states: 'Possible approaches include incorporating responsibility for the Duty into existing cross-organisational structures such as the senior management team, forums involving heads of departments, or structures responsible for areas such as business planning or risk management. Alternatively it may involve building on the work of an existing committee, such as an equality committee or diversity committee. In larger organisations it may be useful to consider establishing a specific unit to support implementation'.<sup>6</sup>



6. Implementing the Public Sector Equality and Human Rights Duty, Irish Human Rights and Equality Commission, 2019. Page 21.

## Step Two: Gather Evidence for the Assessment

Identifying clear sources of information to inform scrutiny of issues or gaps ensures an evidence based approach to the assessment and to prioritising issues. Remember that relevant information may be quantitative or qualitative in nature and exist in your organisation through equality and human rights monitoring exercises already in place e.g. as a requirement under particular funding programmes.

The evidence gathered should focus specifically on the identified groups. This involves identifying and collating relevant data and information on each of the identified groups, both quantitative and qualitative.

When reviewing data and information sources it is important to consider where people belonging to the groups may face intersecting or compounding disadvantage, discrimination or barriers, due to belonging to more than one of the groups identified<sup>7</sup>.

A range of **data and information sources** are available to public bodies, both internal and external:<sup>8</sup>

7. While identifying an appropriate legal basis under Article 6 and a permissible condition under Article 9 of the General Data Protection Regulation (GDPR) for processing equality data is a matter for each public body as a data controller, the legal basis and condition does now exist to allow public bodies to process equality data. While there is a responsibility to protect personal data and comply with regulations, it is important to ensure that data is collected on all populations including minority cohorts to ensure that statistical analysis can be used to inform future legislation, policies and services. For more information and guidance see Guidelines on Improving the Collection and Use of Equality Data, Equality Sub-Group, High Level Group on Non-Discrimination, Equality and Diversity, European Commission, DG Justice and Consumers, Brussels, 2018.

8. A range of specific external sources of evidence are set out in the appendix to this publication.

## Examples of Data Sources:

Internal	External
<ul style="list-style-type: none"> <li>• Information and data gathered on policy beneficiaries, service users and staff members that provide evidence on the issues affecting identified groups</li> <li>• Information and data gathered through recent research or evaluation initiatives or through internal equality and human rights structures</li> <li>• Information and data available from inter-agency work</li> <li>• Complaints from staff and/or service users</li> <li>• Staff exit interviews</li> <li>• Staff and customer surveys</li> <li>• Risk management register</li> </ul>	<ul style="list-style-type: none"> <li>• National equality and human rights focused policy strategies</li> <li>• Recommendations from treaty monitoring bodies on Ireland's performance under international human rights instruments (e.g. UN, Council of Europe)</li> <li>• Official data publications</li> <li>• National and local research from academic institutions and civil society organisations</li> <li>• Decisions of Workplace Relations Commission on cases taken under employment equality and equal status legislation</li> <li>• Local development data gathered through Pobal and the local development companies</li> </ul>

## Step Three:

### Assess and Prioritise the Relevant Equality and Human Rights Issues

Once the data and information are gathered, the equality and human rights issues evident from this data are **assessed** for their immediate relevance to each of the specific functions of the public body:<sup>9</sup>

- corporate services: budgeting, procurement, and grant funding or commissioning;
- human resources: recruitment, promotion, working conditions, and staff training and career development;
- service and programme provision: design, delivery and evaluation of services and programmes;
- policy-making: research, policy making, and policy evaluation; and
- regulatory functions: development of regulations for different sectors, and monitoring and enforcement of regulations.

The issues are then prioritised. This prioritisation would be assisted by establishing the following:

1. **Areas of action that would have potential for maximum impact:**
  - in particular, actions that:
    - address issues that are shared by a number of the identified groups; and/or
    - address inequality at a systemic level; and/or
    - would have a domino effect in addressing a number of equality and human rights issues;

9. Implementing the Public Sector Equality and Human Rights Duty, Irish Human Rights and Equality Commission, 2019. Page 16.



## 2. Areas of action that demand urgent attention:

- in particular, actions to respond to situations where the progress or wellbeing of a specific group or groups is under particular risk;

## 3. Areas of action that could build on current work by the public body:

- in particular, actions building on the work already done or being done on specific equality and human rights issues;

## 4. Areas of action that are timely in being able to secure support and drive from emerging opportunities:

- in particular, actions that are aligned with recent developments for the public body.



## Step Four: Validate and Approve the Final Draft Assessment

The final draft assessment of equality and human rights issues should then be checked, modified and validated through a participative exercise involving civil society organisations and staff that are representative of the identified groups.<sup>10</sup> The assessment should then be considered and approved at senior management level.

### Taking an Evidence Based Approach: Importance of Consultation

The Commission's guidance states: 'Consultation and engagement are important throughout the process of assessing, addressing and reporting on the public sector duty. Consultation with staff and service users assists in developing an evidence-based human rights and equality assessment; it can also inform how an organisation could most effectively address its priority actions; and it can form part of the ongoing monitoring of progress against those priority actions'.<sup>11</sup>

10. The Irish Human Rights and Equality Commission has developed a tool for a consultative approach to support implementation of the duty. Available at <https://www.ihrec.ie/our-work/public-sector-duty/>

11. Implementing the Public Sector Equality and Human Rights Duty, Irish Human Rights and Equality Commission, 2019. Page 25.

## Step Five:

### Publish and Communicate the Assessment of Equality and Human Rights Issues

The assessment is required to be set out in the strategic plan. This public communication of the assessment could be reinforced by making it available in:

- an accessible location on the website;
- external communication materials;
- the annual report of the public body or other relevant reports;
- the actual policy, plan, programme, or procedure worked on; and
- relevant internal communication materials and processes for staff.

## Case Study

A local authority set out its commitment to implement the Public Sector Equality and Human Rights Duty in its Corporate Plan, with some detail on the steps to be taken, including a commitment to undertake an assessment of equality and human rights issues. Leadership comes from the Chief Executive who identified this as a priority and has engaged directly at key moments in implementing the Duty. Responsibility for driving the implementation of the Duty has been assigned to a senior manager.

An internal project group was formed to progress the work, led by the senior manager with responsibility for the Duty. The project group has representatives from all key function areas of the local authority. The members are mainly staff with designated roles that include an equality or human rights dimension.

The project group participated in training workshops on: the Duty and its requirements; taking a values-led approach to the Duty; establishing shared understanding of, and ambition for, equality and human rights; and skills in implementing the steps required by the Duty. The project group developed an approach for implementing the Duty across all functions of the organisation.

The project group completed a draft assessment of equality and human rights issues. Each member took on to explore a specific local or national data and information source to gather relevant data and information on the identified groups. This material was then collated, assessed for relevance, and prioritised for action at meetings of the project group.

Focus groups on the Duty were hosted for staff groups in each of the four service areas of the local authority. This enabled: a shared understanding of the Duty and the values

that underpin the organisation's approach to the Duty; and a wider contribution by staff to the assessment of equality and human rights issues. These staff members took on to further disseminate the information provided.

The draft assessment of equality and human rights issues was checked, modified and validated at a civil society workshop. This involved representatives from local civil society organisations that represent the interests of the different identified groups. Many of these organisations had existing working relationships with the local authority.

Once approved by the Chief Executive and senior management team, the assessment and action plan is to be published on the local authority's website. It is to be used in implementing the action plan for the Duty, so that actions to address the issues prioritised are included in all work plans and procedures.

The project group adopted a formal Terms of Reference and serves as the internal working group for the next period of implementation of the Duty.



## Checklist

### Have we:

- ✓ Integrated the assessment of equality and human rights issues and its ongoing review into our **strategic planning cycle**?
- ✓ Established the necessary **leadership and ownership** at management level for the Duty?
- ✓ Created or identified an **internal working group** for the Duty?
- ✓ Developed the necessary **knowledge and skills** among those responsible for the Duty?
- ✓ Gathered and reviewed **adequate data and information** on the identified groups?
- ✓ Included all of the organisation's **functions** in the assessment?
- ✓ **Prioritised** the relevant equality and human rights issues for action?
- ✓ Reviewed and validated the assessment at draft stage with **civil society organisations** representative of the identified groups and **staff**?
- ✓ **Communicated** the assessment of equality and human rights issues to staff, service users and the general public?

## Appendix: Sources of External Evidence

**For the most up to date information please visit the Commission website at [www.ihrec.ie](http://www.ihrec.ie)**

### Equality Data Guidance

[Guidelines on Improving the Collection and Use of Equality Data](#), Equality Sub-Group, High Level Group on Non-Discrimination, Equality and Diversity, European Commission, DG Justice and Consumers, Brussels, 2018.

### National Policy Framework

There are a range of national policies that directly address equality and human rights issues, some of which are aimed at specific groups. The strategies include background data and analysis to support the strategy which, along with the actions identified, indicate issues identified by government departments in the development of the strategy. These strategies are, therefore, a valuable and accessible source of information on pertinent equality and human rights issues across the identified groups:

1. [The Migrant Integration Strategy: A Blueprint for the Future](#). Department of Justice and Equality.
2. [The National Disability Strategy Inclusion Strategy 2017-2021](#). Department of Justice and Equality.
3. [Comprehensive Employment Strategy for People with Disabilities 2015-2024](#). Department of Justice and Equality.
4. [The National Strategy for Women and Girls 2017-2020: Creating a better society for all](#). Department of Justice and Equality.
5. [The National Traveller and Roma Inclusion Strategy 2017-2021](#). Department of Justice and Equality.

6. [The LGBTI+ National Youth Strategy 2018-2020: Visible, valued, and included](#). Department of Children and Youth Affairs.
7. [National LGBTI Inclusion Strategy 2019-2021](#). Department of Justice and Equality.
8. [Positive Ageing Starts Now: The National Positive Ageing Strategy](#). Department of Health.
9. [Better Outcomes, Brighter Futures: The National Policy Framework for Children & Young People \(2014-2020\)](#). Department of Children and Youth Affairs.
10. [National Youth Strategy 2015-2020](#). Department of Children and Youth Affairs.
11. [Roadmap for Social Inclusion 2020 - 2025](#). Department of Employment Assistance and Social Protection.

### Central Statistics Office Data Publications

The Central Statistics Office (CSO), through the census data and other national surveys, publishes a significant range of equality and human rights relevant data. This is often presented in graphic form providing easy to access evidence. Surveys and reports of particular relevance to the identified groups include:

1. [Equality and Discrimination, Quarter 1](#) 2019.
2. [Survey on Income and Living Conditions 2017](#).
3. [Women and Men in Ireland, 2016](#).
4. [Census of Population 2016 – Profile 8: Irish Travellers](#), Ethnicity, and Religion.
5. [Census of Population 2016 – Profile 9: Health, Disability, and Carers](#).

## IHREC and ESRI Research Publications<sup>1</sup>

The Economic and Social Research Institute (ESRI) has published a wide range of research reports and journal articles of relevance to equality and human rights that provide an evidence base for the identification of equality and human rights issues. In particular they have published the following as part of the Research Programme on Human Rights and Equality it is implementing with the Commission:

1. [Caring and Unpaid Work in Ireland](#), Helen Russell, Raffaele Grotti, Frances McGinnity and Ivan Privalko, July 2019.
2. [Ethnicity and Nationality in the Irish Labour Market](#), Frances McGinnity, Raffaele Grotti, Sarah Groarke & Sarah Coughlan, ESRI and IHREC December 2018.
3. [Disability and Discrimination in Ireland: Evidence from the QNHS Equality Modules 2004, 2010, 2014](#), Joanne Banks, Raffaele Grotti, Éamonn Fahey and Dorothy Watson, ESRI and IHREC, October 2018.
4. [Discrimination and Inequality in Housing in Ireland](#), Raffaele Grotti, Helen Russell, Éamonn Fahey, Bertrand Maître, June 2018.
5. [Attitudes to Diversity in Ireland](#), Frances McGinnity, Raffaele Grotti, Helen Russell and Éamonn Fahey, March 2018.
6. [Who experiences discrimination in Ireland? Evidence from the QNHS Equality Modules](#), Frances McGinnity, Raffaele Grotti, Oona Kenny and Helen Russell, November 2017.

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1. These reports were prepared for the Irish Human Rights and Equality Commission by the Economic and Social Research Institute as part of the Research Programme on Human Rights and Equality.

## International Human Rights Law

Ireland is a party to a range of international human rights treaties. These are monitored by the relevant European or United Nations committees on the basis of reports provided by the Irish government. Shadow reports are also prepared as part of this process by civil society and by the Commission. The committees, on foot of their assessment, publish conclusions and make recommendations.

For example the **Concluding Observations** of the various UN Committees provide a valuable and accessible source of information on human rights and equality issues pertaining in Ireland<sup>2</sup>. They identify positive aspects in relation to the particular convention, raise concerns, and make recommendations:

1. Convention on **Economic, Social and Cultural Rights**, requiring periodic reporting. Latest concluding observations: Committee on Economic, Social and Cultural Rights, Concluding observations on the third periodic report of Ireland, E/C.12/IRL/CO/3, United Nations, 8 July 2015.
2. Convention on **Civil and Political Rights**, requiring periodic reporting. Latest set of concluding observations: Human Rights Committee, Concluding observations on the fourth periodic report of Ireland, CCPR/C/IRL/CO/4, United Nations, 19 August 2014.
3. Convention on the Elimination of Discrimination Against **Women**, requiring periodic reporting. Latest concluding observations: Committee on the Elimination of Discrimination against Women, Concluding observations on the combined sixth and seventh periodic reports of Ireland, CEDAW/C/IRL/CO/6-7, United Nations, 9 March 2017.

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2. A repository of concluding observations by UN treaty monitoring bodies, and specifically concluding observations on Ireland, is available on the website of the Office of the High Commissioner for Human Rights [www.ohchr.org](http://www.ohchr.org) and can be accessed: [HERE](#)

4. Convention on the Elimination of **Racial Discrimination**, requiring periodic reporting. Concluding observations: Concluding observations of the Committee on the Elimination of Racial Discrimination, CERD/C/IRL/CO/5-9, United Nations, 23 January 2020.
5. Convention on the Rights of the **Child**, requiring periodic reporting. Latest concluding observations: Committee on the Rights of the Child, Concluding observations on the combined third and fourth periodic reports of Ireland, CRC/C/IRL/CO/3-4, United Nations, 1 March 2016.
6. Convention Against **Torture** and Other Cruel, Inhuman or Degrading Treatment or Punishment, requiring periodic reporting. Latest concluding observations: Committee against Torture, Concluding observations on the second periodic report of Ireland, CAT/C/IRL/CO/2, United Nations, 31 August 2017.
7. Convention on the Rights of **Persons with Disabilities**, requiring periodic reporting.

The Commission has developed a series of Shadow Reports to accompany and inform the monitoring process that are rich sources of evidence for the assessment of equality and human rights issues. The Commission has also submitted to treaty monitoring bodies in Europe – please refer to international reporting section on our website at <https://www.ihrec.ie/reports-international-bodies/>

1. [Submission to the UN Committee against Torture on the List of Issues for the Third Examination of Ireland](#), Irish Human Rights and Equality Commission, January 2020.
2. [Ireland and the Convention on Racial Discrimination, Submission to the United Nations Committee on Racial Discrimination on Ireland's Combined Fifth to](#)

[Ninth Periodic Report](#), Irish Human Rights and Equality Commission, October 2019.

3. [Comments on Ireland's 16th National Report on the implementation of the European Social Charter](#), Irish Human Rights and Equality Commission, May 2019
4. [Submission to the Universal Periodic Review of the UN Human Rights Council: Second Cycle Mid-Term Review](#), Irish Human Rights and Equality Commission, April 2019
5. [Ireland and the Convention on the Elimination of all forms of Discrimination Against Women, Submission to the United Nations Committee on the Elimination of Discrimination Against Women on Ireland's Combined Sixth and Seventh Periodic Reports](#), Irish Human Rights and Equality Commission, January 2017.
6. [Irish Human Rights and Equality Commission Report, Ireland and the International Covenant on Economic, Social, and Cultural Rights, Irish Human Rights and Equality Commission](#), May 2015.
7. [Ireland and the United Nations Convention on the Rights of the Child, report by the Irish Human Rights and Equality Commission to the UN Committee on the Rights of the Child on Ireland's Combined Third and Fourth Periodic Reports](#), Irish Human Rights and Equality Commission, December 2015.
8. [Irish Human Rights Commission Submission to the UN Human Rights Committee on the Examination of Ireland's Fourth Periodic Report under the International Covenant on Civil and Political Rights](#), Irish Human Rights Commission and Equality Authority, June 2014.



**16-22 Sráid na Faiche,  
Baile Átha Cliath 7, D07 CR20**  
16-22 Green Street,  
Dublin 7, D07 CR20

**Guthán/Phone + 353 (0) 1 858 9601**  
**Ríomhphost/Email [info@ihrec.ie](mailto:info@ihrec.ie)**  
**Idirlíon/Web [www.ihrec.ie](http://www.ihrec.ie)**