



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

Update on Disability related work in IHREC for period January 2023 – May 2023

Issues paper

Disability Advisory Committee

19th June 2023



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1. Legal Team Update

For the period of **01 January 2023** to **31 May 2023** the Legal Team has undertaken the following disability related work.

Section 40¹ – Legal Assistance Update

Grants of Legal Advice (only):

A Student v A University

ESA - disability discrimination in third level education

A Pupil (Minor suing by his Next Friend) v A Primary School

ESA/Disability and Membership of the Traveller community – discriminatory treatment by a primary school

Traveller family v. A Local Authority

Housing law/disability – access to adequate housing/medical priority application

Extension of Legal Assistance - Grant of Legal Advice then Representation:

Two Clients v A Care Home

ESA/disability

A Client v the HSE

ESA/disability – application for Public Assistance Service

An Individual v The State – Advice and Representation

Human rights – immigration - disability – social welfare

¹ Section 40 of [the Irish Human Rights and Equality Commission Act 2014.](#)



An Applicant v An Employer

Employee experienced discrimination and failure to provide reasonable accommodation on the grounds of disability by employer

An Employee v A Public Body

EEA/Disability – discriminatory dismissal and failure to provide reasonable accommodation

A Customer (Minor suing by his Next Friend) v A Store

ESA/Disability – discriminatory treatment on the ground of disability

Legal Advice Outcomes

A Client v. A Potential Employer

EEA/Disability/Harassment – recruitment process

Legal Representation Outcomes²

A Client v. The Department of Justice

Human Rights/Disability – refusal of permission to be self-employed.

A Client v. A Potential Employer

EEA – disability – reasonable accommodation – recruitment process

An Individual v An Insurance Company

ESA – disability/age/gender – insurance

An Employee v An Employer

Discrimination on ground of disability – refusal to provide reasonable accommodation - victimisation

² Outcome in a legal representation case is a number of things, for example (1) judgment of Court /decision of adjudicator before WRC (2) settlement following mediation before the WRC or (3) general settlement.

A Service User v A State Body

Discrimination on the ground of disability – refusal to provide reasonable accommodation - travel

A Potential Employee v A Transport Company

Discrimination on the ground of disability – imputed disability – refusal to hire

AMICUS CURIAE³ UPDATE

V. v Minister for Health and Ors

High Court - Wardship jurisdiction – Marriage of Lunatics Act 1811

The Supreme Court granted the Commission liberty to intervene as *amicus curiae* on 18 November 2022. The proceedings relate to a couple with intellectual disabilities who wish to marry. The matter has been continuously adjourned pending the commencement of the Assisted Decision-Making (Capacity) Act 2015 (“ADMCA”) which may resolve the core issue. The matter was adjourned until 10 July 2023 to facilitate the parties meeting to discuss V’s future and welfare. As it will have no role in those talks, the Court encouraged the Commission to contact the General Solicitor for Wards of Court ahead of 10 July.

OBA and Anor v Health Service Executive and Ors

Court of Appeal - UNCRPD - Disability Act 2005 – Definition of Disability

The Supreme Court granted the Commission liberty to intervene as *amicus curiae* on 17 January 2022.

The proceedings relate to a refusal by the HSE to diagnose a child’s disability and the supports that flow from such a diagnosis. The case was heard on 22 January 2022 with Judgment reserved.

³ The Commission's legal powers include the power to apply to the High Court, Court of Appeals or the Supreme Court for liberty to appear before the courts as *amicus curiae* (friend of the court) in proceedings that involve or are concerned with human rights or equality.

SECTION 31 – CODE OF PRACTICE UPDATE

Code of Practice on reasonable accommodation for employees and applicants with disabilities

A draft of this Code of Practice, as approved by the Commission, was the subject of public consultation from 29 May 2022 to 29 July 2022. Twenty-one responses were received. The Legal team reviewed all of the responses and liaised with Counsel in order to prepare an updated final draft. The final draft of the Code of Practice was considered by the Commission in January 2023 and some net queries subsequently addressed in an updated draft Code of Practice, which has now been sent to the Minister for his consideration. In mid- April 2023, the Department engaged with the Legal team regarding its consideration of the Code. The Legal team followed up with the Department in mid-May 2023 and a response is awaited.

STAFF DIRECT ENGAGEMENT UPDATE

Date	Details of Event / Meeting	Attendee/Role
11 January 2023	Meeting with representatives from the Open Doors Initiative	Rebecca Keatinge, Clare McQuillan
11 January 2023	Meeting with representatives from the National Council for the Blind Ireland	Clare McQuillan
19 January 2023	Meeting with representatives from the Disabled Women Ireland	Clare McQuillan
19 January 2023	Meeting with representatives from the Mental Health Reform	Clare McQuillan, Stephen Collins
23 January 2023	Meeting with representatives from the Family Carers Ireland	Rosa Eivers, Clare McQuillan
25 January 2023	Meeting with representatives from the Independent Living Movement Ireland	Rosa Eivers, Clare McQuillan
25 January 2023	Meeting with representatives from the National Advocacy Service	Rosa Eivers, Áine Bhreathnach, Clare McQuillan
31 January 2023	Meeting with representatives from NAS, National Advocacy Service	Rosa Eivers and Anna Sheehan



8 February 2023	Meeting with representatives from Inclusion Ireland	Rosa Eivers, Clare McQuillan
13 February 2023	Meeting with the National Advocacy Service Dublin (Area Manager)	Rebecca Keatinge
15 February 2023	Meeting with the National Advocacy Service	Áine Bhreathnach
17 February 2023	Meeting with representatives from AHEAD	Clare McQuillan
27 February 2023	Meeting National Advocacy Service	Stephen Collins
1 March 2023	Meeting with representatives from ASIAM	Rosa Eivers and Clare McQuillan
2 March 2023	Meeting with representative from WALK	Clare McQuillan
8 March 2023	Meeting with representatives from NAS (Dublin & Wicklow)	Rebecca Keatinge
16 March 2023	Meeting with representative from ASIAM	Rosa Eivers
21 March 2023	Information Meeting to Mental Health Reform	Clare McQuillan and Stephen Collins
23 March 2023	Presentation to Wards of Court Research Advisory Group	Stephen Collins
27 March 2023	Meeting with representative from Irish Guide Dogs	Clare McQuillan
29 March 2023	Meeting with representative from Irish Deaf Society	Clare McQuillan
27 April 2023	Presentation to ASIAM	Rosa Eivers
09 May 2023	Legal Information Roundtable Meeting to representative of civil society engaged during outreach	Legal Team
16 May 2023	Presentation to Irish Guidedogs for the Blind	Clare McQuillan and Rebecca Keatinge

'Your Rights' Activity Data

For the period of **01 January 2023** to **31 May 2023** the Your Rights Team received a number of queries that fall within the IHREC remit and relate to discrimination on the ground of disability under the Equality Acts.



The following data is available outlining the number of queries received from **01 January 2023** to **30 April 2023** that fall within the IHREC remit and relate to discrimination on the ground of disability under the Equality Acts:

Act Month	Equal Status Acts 2000–2015	Employment Equality Acts 1998–2015	Intoxicating Liquor Act 2003	Total
January	12	11	0	23
February	12	11	0	23
March	10	5	0	15
April	10	4	0	14
Totals	44	31	0	75

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2. Policy and Research Team Update

GREVIO⁴:

- In January 2023, IHREC met the GREVIO Committee in January 2023. In preparation for this we published a parallel report on Ireland and the Council of European Convention on preventing and combating violence against women and domestic violence which included discussion on disabled women's experiences of domestic, sexual and gender-based violence.

Committee on the Rights of the Child:

- In January 2023, staff from the Policy and Research team attended Ireland's review under the Committee on the Rights of the Child, which included discussion about violation of the rights of disabled children and mental health.

ENNHRI⁵ Working Group on Disability:

- Meetings: A meeting of the ENNHRI CRPD Working Group took place in January 2023 and was attended by Policy and Research. During the meeting, Policy and Research provided updates on recent Commission work in the area of disability and provided inputs on the draft CRDP WG Work Plan 2023. Policy and Research has also provided updates for the quarterly newsletter of the Working Group and has submitted its responses to the Annual Survey, which seeks inputs on priority areas for 2023 (from Director's report)
- Request for Information: Policy and Research sent the following request for information and received one response. "At IHREC, we were recently notified that the Conference of State Parties to the UNCRPD has created a devoted space for NHRIs to register their observance at meetings, due to an increasing number of participating NHRIs in recent years. I am wondering if any members of the ENNHRI CRPD network have engaged with the Conference of State Parties to the UNCRPD and, if so, what was their experience?"

⁴ Group of Experts on Action against Violence against Women and Domestic Violence; IHREC, [Submission Ireland and the Council of Europe Convention on preventing and combating violence against women and domestic violence](#) (December 2022).

⁵ The European Network of National Human Rights Institutions.

Assisted Decision-Making (Capacity) (Amendment) Act:

- In February 2022, staff from the Policy and Research team met with the Department of Children, Equality, Disability, Integration and Youth on Assisted Decision-Making (Capacity) (Amendment) Act.

EU Directives on Standards for Equality Bodies:

- In February 2023, the Policy and Research Team submitted papers to the Department of Children, Equality, Disability, Integration and Youth on IHREC's list of issues with the EU Directives on Standards for Equality Bodies.
- In February 2023, the Policy and Research Team made comments on Equinet's⁶ draft position paper on the EU Directives on Standards for Equality Bodies.
- In February and March 2023, staff from the Policy and Research Team met with officials from the Department of Children, Equality, Disability, Integration and Youth and the Children Attaché at the Permanent Representation of Ireland to the EU.

Family Courts Bill 2022:

- In March 2023, we submitted Follow-up letter from the Chief Commissioner to the Minister for Justice regarding IHREC's outstanding concerns with the Family Courts Bill 2022, including a discussion of the recognition of the needs of disabled people in court proceedings.

Education for Persons with Special Educational Needs ('EPSEN') Act 2004:

- In March 2023, we made a submission to the Department of Education on the review of the EPSEN Act.⁷ In addition, staff from the Policy and Research team met with the Ombudsman for Children's Office (28 February), Disabled Women Ireland (28 February), and the National Disability Authority (9 May) on this review.

Review of the Civil Legal Aid Scheme:

- In March 2023, we made a submission to the Independent Review of the Civil Legal Aid Scheme. This submission included a chapter on accessibility highlighting:

⁶ European Network of Equality Bodies.

⁷ IHREC, [Submission on the Review of the Education for Persons with Special Educational Needs \('EPSEN'\) Act 2004](#).



- Access to justice, defined in a manner that complies with human rights and equality standards, be a core value of the Legal Aid Board;
- That the State conduct a review into the barriers which may impede the accessibility of the Scheme for structurally vulnerable groups; and
- That the Civil Legal Aid Scheme be equality proofed to guarantee equality of access to civil legal aid and advice for all those who need to avail of the Scheme.

Civil Legal Aid Research

- IHREC has devised a substantial multi-annual programme of work to inform our engagement with the Civil Legal Aid Review Group in developing an appropriate and effective civil legal aid system. This work will include primary research, stakeholder engagement, modelling work and consultation submissions. As part of this work, in March 2023 a Request for Quotation was issued for a baseline analysis study of the implementation of CRPD Article 13 Access to Justice. The study is designed to explore the extent to which legislation, policy, provision and data in Ireland are adequate and effective in realising the CRPD Article 13 Access to Justice, the current baseline status of rights holders' enjoyment of the CRPD Article 13 Access to Justice, and the priorities for change.

Public consultation on the mid-term review of the Pathways to work Strategy:

- In March 2023, we wrote to Minister Heather Humphries to express our views as part of the public consultation on the mid-term review of the Pathways to Work Strategy 2021 – 2025, this included a discussion on barriers experienced by disabled people accessing employment, decent pay and fair working conditions.⁸

Family Courts Bill 2022:

- In March 2023, we submitted Follow-up letter from the Chief Commissioner to the Minister for Justice regarding IHREC's outstanding concerns with the Family Courts Bill 2022, including a discussion of the recognition of the needs of disabled people in court proceedings.

The Disability Advisory Committee (DAC):

- The secretariat of the DAC has organised and facilitated four DAC meetings to date.

⁸ Submission to [Public Consultation on the mid-term review of the Pathways to Work Strategy 2021-2025](#).



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3. Strategic Engagement Team Update

Oirechtas Appearances

- On 14 February 2023, IHREC Commission Members Dr Frank Conaty and Dr Rosaleen McDonagh spoke to the Oireachtas Joint Committee on Autism on the need for the State to approach all policy and legislation for autism and for all disabled people, in a rights-based and equality framework. They said that the best way to improve access for autistic people to services, employment and participation in social, cultural and political life is to focus on the full implementation of CPRD in Ireland.
- On 16 February 2023, Chief Commissioner Sinéad Gibney together with Head of Policy and Research, Dr Iris Elliott spoke to the Oireachtas Joint Committee on Disability Matters on the need for the Human Rights Model of Disability in terms of all data and for central government to take responsibility for holding public bodies to account in compliance of the Public Sector Equality and Human Rights Duty. Dr Elliott noted that in our role as CRPD Independent National Monitor, we have been working for 5 years to advance the establishment of a national data infrastructure with comparability across data sources.

Worker and Employer Advisory Committee Employer/Employee Guide to Reasonable Accommodation:

- The Worker and Employer Advisory Committee (WEAC) will produce an Employer/Employee Guide to Reasonable Accommodation. It will complement and add value to the Code of Practice on Reasonable Accommodation current with Minister O’Gorman for approval.
- The first meeting of a WEAC Working Group established to advise on the development of the Guide met on the 25 May. The Working Group is composed of members of the Commission, members of WEAC (Ibec and ICTU), a range of disabled persons organisations and organisations representing people with disabilities as well as the Open Doors Initiative – an employer focused organisation working on access to employment issues. The Guide will be developed in-house by IHREC.



Accessibility Training on Word and Accessible Events

- In May 2023, Strategic Engagement ran an internal accessibility training in word and on accessible events for 16 staff members.
- Four staff members and the designers used by Strategic Engagement completed advanced PDF accessibility training with Interaccess, so that our designed documents are adhering to best practices.
- The IHREC Annual Report will have a new accessible layout, using plainer English this year and work is continuing on having new Your Rights information in plain English and video format on how to take a case to the WRC.

Disability Advisory Committee – pieces to camera

- In March 2023, Strategic Engagement recorded DAC member's pieces to camera to be used as part of a social media awareness raising campaign of the members and the work of the Committee.

2023-24 Grants Scheme:

- There were 78 eligible applications, the assessment process is ongoing and will be finalised in June.

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4. The Office of the Director Update

Future of Equality Legislation Advisory Committee

- In June 2021, the Minister for Children, Equality, Disability, Integration and Youth announced a review of Ireland's equality legislation. IHREC is fully engaging with the review as a significant opportunity to reform the equality code. To support and inform this engagement, in November 2021 the Commission established a Future of Equality Legislation Advisory Committee ('FELAC').
- The FELAC brings together relevant legal and civil society experts with Commission members to assist the Commission to identify and examine the key issues that must be addressed to build a more comprehensive and effective framework of equality legislation and supporting equality infrastructure. With Commission member Professor Caroline Fennell as Chair and Chief Commissioner Sinéad Gibney as Vice-Chair, the FELAC has met nine times to date to consider a broad range of issues in relation to the Equality Acts and produced two reports.

5. Corporate Services Update

Re-opening of the Changing Space Facility

- A new contract was put in place for the servicing and maintenance on the electronic hoist and trolley in the Changing Space Facility. The equipment has been inspected and is ready for use again and re-opened to the public.
- Training has been provided to the facilities team on how to have the equipment ready for each use e.g. charging the battery for the trolley and how to put everything back in place for the next person who may wish to avail of these services.