



The Equality Authority Annual Report 2011

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by

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The Equality Authority was established in 1999. It has a mandate to promote equality of opportunity and to combat discrimination in the areas covered by the Employment Equality Acts, the Equal Status Acts and the Intoxicating Liquor Act. It is a specialised equality body in Ireland for the promotion of equal treatment as required under the EU Race Directive and the amended Gender Equal Treatment Directive.



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Note: Publications of the Equality Authority, Equality Authority Representation on Policy Committees and Casework Activity Data are available on www.equality.ie

Chairperson's Foreword

The Equality Authority enjoyed a busy and successful year in 2011, the final year of the 2009-2011 Strategic Plan, which was brought to a successful conclusion. A number of highlights are recorded below. In a very practical example of how the equality area continues to evolve, we saw a small but extremely significant change in our long-established language, with the ground of Marital Status being replaced by Civil Status, arising from the Civil Partnership Act of 2010. The most significant event must be noted as the plans announced by the Government in September 2011 to merge the two bodies concerned with equality and human rights, the Equality Authority and the Irish Human Rights Commission, into one body.

As the Board finished its four year term of office, the Minister for Justice, Equality and Defence Mr Alan Shatter requested that the board remain in place to ensure a smooth transition process in governance to the new entity, and that a delegation of board members would serve to develop the structure of the new body, in partnership with our colleagues in the IHRC. At the time of writing, this process is underway. This decision, due to be implemented in 2012, will make this the last annual report of this body as a separate entity, and so this publication will serve as a foreword to a new chapter in Ireland's evolution as a nation which values and promotes equality for all and actively strives to combat discrimination.

2011 was a challenging year for the Authority and once again this report details significant activity and progress. Engaging with the public, to inform them of their rights and to prevent discrimination, has been a maintained priority for the Equality Authority. Through its Information and Development functions, the Authority continually engages with individuals and with a range of public, private and voluntary organisations in driving forward the equality compliance agenda.

In 2009, the Authority set itself an ambitious target of processing 8,000 calls annually from the general public. This target has been reached every year, and in 2011 it was surpassed by 168 queries. The family leave area returned to its primary position taking up 56% of the total enquiry base. Gender, Disability and Age were the key areas of enquiry in 2011 under the Equal Status Acts.

The impact of our Employment Rights Information Initiative was so successful in 2010 boosting equality queries in that year and clearly indicating when we have resources to promote information on the legislation, these have prompted a significant engagement with and from the public. In 2011, funded by the EU's PROGRESS Fund we issued guides to the equality legislation translated into 14 different languages and formats and this resulted in a significant increase in our online downloading of these publications with a majority downloading the two equality based guides. In addition to hard copies distributed, 31,790 copies of the two guides to the Equality Acts were downloaded and 23,281 copies of the three guides to the Family Leave Acts were downloaded in 2011. The number of enquiries is also supported by almost 300,000 visits to www.equality.ie with over 1 million pages being viewed in 2011.

Partnership has always been an essential component of the work of the Equality Authority, and in 2011 we built on this, with successful new partnerships commenced alongside consolidation of long lasting alliances with organisations with whom we have worked previously.

A series of developmental initiatives in 2011 underpinned our work for equality compliance. Education remains a key area where embedding equality in practice yields important results. Initiatives included the completion of a draft resource to enable equality reviews to be undertaken in primary schools, funded by PROGRESS. The commencement of a project with the INTO on combating racist bullying in schools, and assisting the forum on Patronage and Pluralism in the Primary sector established by the Minister for Education and Skills. The Equality Authority also made a submission on the regulatory framework for the school environment, advocating that no school can engage in discrimination or act in a way that contributes to inequality, and that any new regulations must explicitly prohibit schools from issuing policies that have discriminatory or potentially discriminatory provisions.

Further work in the education sector in 2011 included support packages to promote equality mainstreaming within the VEC and further education sector under our EU funded Equality Mainstreaming Unit. The Equality Mainstreaming in Further Education and Training Conference was held in October 2011, which also launched USB keys containing many equality resources.

Employment based initiatives to support compliance in the workplace were further enhanced within the Equality Mainstreaming Unit with the completion of five partnership based sectoral workplace projects in 2011. The Irish Universities Association Equality Network developed and tested an on-line equality and diversity training module for staff during 2011. SIPTU led a project focused on female migrant workers in the mushroom sector. IBEC undertook research to develop and pilot a gender pay audit tool, The Gay and Lesbian Equality Network led a project focused on gay and bisexual diversity for employers in the financial services and information technology sectors.

One Family and Marks & Spencer, Boots and Superquinn worked to support the employment of lone parents in the retail sector. The diverse and broad base of these projects reached into many sectors during the year, ensuring that equality compliance made an important contribution to workplace diversity in a time of economic challenge.

Work with the social partners progressed in 2011 with EMU initiatives with ISME which produced a handbook on equality in the workplace, the Irish Congress of Trade Unions, which designed a comprehensive equality course and IBEC which organised a seminar to showcase the equality and diversity work that employers in Ireland are undertaking. The Equality Authority is heartened by the priority given by these key players in our economic recovery to equality in the workplace. These projects emphasise the positive contribution that compliance can make to productivity and growth in economically difficult times.

The Equality Authority also organised a series of seminars for members of the Public Sector Equality Learning Network on mental health issues, on developing equality skills, on delivering equality awareness workshops and on religious diversity in 2011. Work in the public sector also included an initiative with Wicklow County Council on Equality and housing, with Donegal VEC on an equal status policy. The Equality Authority supported the production of a bench book on diversity for the judiciary by the Judicial Studies Institute. The Equality Authority in partnership with the Department of Justice and Equality and the National Disability Authority also worked on a pilot project to support Government departments to disability proof memoranda prepared for Government.

The Equality Authority's expertise in addressing serious complaints is crucial to combating discrimination and in building an equal society. The Authority also used its powers to act as an *amicus curiae* in a case relating to access to education, brought by the Stokes family.

Casework and the assistance of people who have been discriminated in the workplace or in accessing goods, facilities and services in Ireland is a key pillar of the Authority's work in 2011. Unemployment reduces the pool of people covered by the employment legislation and improved customer competition has seen a welcome advance in companies and businesses broadening their traditional customer base. There were 289 casefiles progressed in 2011. That means cases were either settled, closed, investigated or further material was accumulated to assess and advance the cause for complaint. This is a decrease of 42 in total on 2010. However the number of new casefiles opened showed a significant increase from 116 in 2010 to 156 in 2011. 134 cases were closed in 2011 as against 199 in 2010. The number of applications for representation by the Equality Authority also increased in 2011 from 15 to 23.

Disability, Gender, Age and Race were the main areas of legal activity in 2011 reflecting previous trends. The State is by far the biggest supplier of services

in Ireland and our statistics reflect that in the largest area of legal complaints being government departments and state agencies and the education sector. Our development work, particularly in the area of education, is well placed when assessing the sectors where legal cases arise.

Under the Equal Status Acts a crucial area of importance is the need to provide statutory supports for parents who conceive a child through surrogacy. The Equality Authority supported a case which sought the payment of Maternity Benefit to a mother, who, following a serious cancer, could no longer support a pregnancy. The complainant is married and together with her husband availed of a surrogacy service to achieve the birth of their biological and genetic child. The case was not successful before the Equality Tribunal but the Equality Authority has launched an appeal to the Circuit Court. The Equality Authority has other complaints in relation to supports for surrogate parents on its caseload and is advocating that legislation is introduced or amended to recognise the needs of this small group of new parents. A ground-breaking case was decided in the area of discrimination in employment; in *Louise Hannon v. First Direct Logistics Ltd*, Ms Hannon, a transgendered employee, was successful in her action against the discriminatory treatment suffered on grounds of gender and disability.

Equality research plays a key role in informing our understanding of diversity, inequality and discrimination in our society. A highlight this year was the joint publication with the HSE Crisis Pregnancy Programme of *Pregnancy at Work: A National Survey*. This groundbreaking report presents the findings of Ireland's first nationally representative survey of women's experiences at work during and after pregnancy. Up to 30% of women workers reported unfair treatment during pregnancy. Five per cent reported that they were dismissed, made redundant or treated so badly that they had to leave their job. Protection from discrimination was outlawed by the Employment Equality Act in 1977 and it is of concern that discriminatory practices are still being experienced and reported upon 35 years later in Ireland.

In November the ESRI and the Equality Authority jointly published *Workplace Equality in the Recession: The Incidence and Impact of Equality Policies and Flexible Working*. This research examines the incidence and impact of equality policies and flexible working arrangements in Irish workplaces, drawing on data collected after the current recession impacted on Ireland's economy. 84% of employees were working in an organisation which had a formal equality policy compared to 75% in 2003, reducing the gap between public and private sector provision. This is very significant progress in ensuring that discrimination does not impede productivity and the maximising of human resources in these challenging times.

The Equality Authority reached a landmark in the completion of its Strategic Plan 2009 to 2011. The matters reported upon in this publication reflect the broad and diverse remit of the Authority and the many sectors where it

made an impact in 2011. Our maintenance of services in times of cutbacks is testimony to the resilience, good governance and commitment of the executive, staff and Board of this agency and is a strong legacy on which to embrace the new challenges of the planned merged body in 2012. Our capacity to deliver a quality service on reduced resources, our frontline engagement with the public and our ability to resource, inform and facilitate compliance is a core value which will enhance the development of the anticipated Irish Human Rights and Equality Commission.

I wish to express my appreciation to all who have assisted us in reaching our goals this year. The partnership and cooperation is evident in the account of the many activities published in this report. The support of the Minister and the staff of the Department of Justice and Equality is a significant contribution to our capacity to reach these ambitious goals and provide a quality service to the public in 2011.

Equality is the premise of the human right that everyone has to participate in their own society. Participation underpins democracy. People participate in many ways, economically, politically and socially. Barriers which prevent that participation erode the inclusiveness of democracy. The role the Equality Authority will play in the new body will underpin this fundamental human right in a practical and meaningful manner. An inclusive society is stable, productive and reflects the views, needs and resources of its components. We look forward to reconfiguring the State's resources into a new body, with a new energy, expertise and commitment to play its role in ensuring that the barriers of inequality, which impede the progress of any society, will be addressed, confronted and removed, as we strive to advance into a new economic climate. Equality is at the heart of every civilised society and democracy. 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.

Finally, I wish to pay a tribute to the contribution of my fellow Board members who not only fulfilled their four year term of office this year to the highest standards, but then all responded positively to the Minister's invitation to guide the Authority towards its new entity. We look forward to a new strong institution being formed in 2012 which will build on the great work and achievement of all those people, individuals and organisations who have worked tirelessly in the area of equality and anti discrimination over the last number of years. It is our desired wish that these individuals and organisations continue to be involved in the drive to ensure that equality remains at the heart of our economic, cultural and political progress.

Angela Kerins

Chairperson

Chief Executive's Summary

2011 was the final year of the 2009-2011 Strategic Plan cycle for the Equality Authority. Work therefore was directed towards completing the delivery of the Plan 'Equality for all in a time of Change' through the Business Plan 2011 and in accordance with the priorities of the Board. As our grant-in-aid budget was restricted we worked on other opportunities to achieve the maximum support from all funding strands available. We were successful in the continuation of the ESF (European Social Fund) support for Equality Mainstreaming programmes, and also in programme work under the PROGRESS Fund of the European Union.

We were supported and guided by the Board of the Equality Authority throughout the year and thanks to the continued commitment, diligence and flexibility of the staff of the organisation, key targets were met, the Strategic Plan was delivered, financial affairs and corporate governance were properly managed, and morale was maintained.

In 2011, the Ministerial and Departmental responsibility for the Equality Authority was changed by Government. In 2010, this responsibility had moved from the (then) Department of Justice, Equality and Law Reform, to a new Department of Community, Equality and Gaeltacht Affairs. In 2011 the responsibility was moved back, this time to the renamed Department of Justice and Equality. The positive support of all those involved in managing the logistics of two significant changes in the space of less than one year is hereby acknowledged and appreciated. The courtesy and commitment of colleagues in the Departments in what was a challenging operation was very much appreciated. Thanks are also due to the staff of the Equality Authority, who supported the Board and coped with these changes while maintaining delivery of the work programme and high quality public service.

The Board of the Equality Authority oversees and monitors the management and delivery of the work of the organisation. The Chief Executive Officer reports on all aspects of Equality Authority business at each Board meeting and tight focus on budgets as well as corporate governance fosters efficiency and effectiveness. In August 2011, the Board completed its term of office. Shortly afterwards, on foot of the Government's decision to merge the Equality Authority and the Irish Human Rights Commission, the Board re-formed for a shorter term at the request of the Minister for Justice, Equality and Defence.

The work of the Equality Authority and delivery of the Business Plan is implemented and managed across five operational sections, Administration and Finance, Communications, Development, Legal and Research Section. During 2011 each Section continued to deliver the programme of work and key achievements and highlights are set out hereunder. The work programme is delivered from both the Roscrea office and the Dublin office, and strong liaison and communication between both centres ensures that it is carried out efficiently and effectively. Activities are adapted as necessary to new circumstances or arising issues. The work ethic, flexibility and adaptation by staff to changing circumstances is a core value of the organisation in meeting its obligations and commitments.

Communication and raising awareness of Equality legislation is a key strategy for the Authority and 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. Presentations, workshops and training were provided to a number of institutions as well as presentations to International groups. The Authority continued its outreach information programme with participation in training seminars, information talks and hosting information stands at a number of conferences and events.

The Legal Service of the Equality Authority supports people who have been discriminated against in employment or accessing goods, facilities and services. People who contact the Public Information centre (PIC) will have access to the legislation and will be informed of the current strategic enforcement criteria. Cases that appear to come within the current criteria are reviewed and where appropriate, are then assigned to a solicitor. 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.

A proactive approach by employers and service providers in key sectors to promote equality and achieve compliance with equality legislation was delivered through equality partnerships with a wide range of organisations in the public and private sector. Through our EU-funded Equality Mainstreaming Unit, we facilitate and support institutional change within providers of further education, training and labour market programmes; within small to medium enterprises; and within employers' and trade unions' networks by strengthening their capacity to combat discrimination and to accommodate diversity.

The focus in 2011 was on work in relation to Support Packages to promote Equality mainstreaming within the VEC and Further Education Sector. An innovative example of a sectoral project to support workplace equality was the development and testing of an on-line equality and diversity training module on workplace equality for all staff within the university sector carried out by the

Irish Universities Association Equality Network. GLEN, the gay and lesbian equality network developed and piloted a high quality, interactive, online self assessment tool on lesbian, gay and bisexual diversity for employers in the financial services and information technology sectors. Other collaborative work was developed with One Family; with ISME (Irish Small and Medium Enterprises Association) where a handbook on Equality in the Workplace was developed and made available to members; and with many other key groups such as the Irish congress of Trade Unions (ICTU).

The Equality Authority considers that research to enable evidence based policy is pivotal and it aims for continuous enhancement of evidence for and understanding of equality issues. The research programmes' overall objective is to enhance knowledge and understanding of discrimination and inequalities across the nine grounds covered by the equality legislation and of relevant policies and programmes to address these inequalities. In 2011 the Authority worked with the HSE Crisis Pregnancy Programme in a major and groundbreaking research project exploring women's experience in paid work after pregnancy. The research generated three reports carried out by a team of researchers at the ESRI. Also with the ESRI, the Equality Authority jointly published *Workplace Equality in the Recession? The Incidence and Impact of equality Policies and Flexible Working* which was a project funded under the PROGRESS programme. A Research report was completed in 2011 entitled *Multiple disadvantage in Ireland: An Equality Analysis of Census 2006* and will be published in 2012. A National Equality Survey was collected in 2010 as a module of the CSO (Central Statistics Office) Quarterly national household Survey. The Equality Authority has commissioned detailed statistical analysis of the Survey micro-data which will be published when completed in 2012.

The Equality Authority was a partner in One Family's Family Day event in May 2011 and we are participating in the See Change campaign led by Shine to combat stigma in mental health. We launched *For service For All: A Practical Guide for Credit Unions to improve accessibility for their Members* which is the outcome of a joint project with the Irish League of Credit Unions and the Equality Commission for Northern Ireland. A workshop on Promoting Traveller Employment in the Private Sector was well attended by members of the Traveller community and representative bodies, public sector organisations, ISME, IBEC, ICTU, Chambers Ireland and Athlone Chamber also participating. Together with the National Association of Principals and Deputy Principals, BeLong To Youth Services and GLEN, the Authority continued a project to deliver training modules to second level schools on combating homophobic bullying.

Throughout the year the Equality Authority both contributed to and benefitted from active engagement with other European groups including EQUINET, the European network of Equality Bodies.



Effective and efficient management of the organisation is crucial and all aspects of the Authority's business are managed in accordance with the highest levels of public service. Strong adherence to the principles and practice of sound budgetary management, efficient delivery of the Business Plan, regular audits to ensure compliance with best practice and corporate governance, procurement rules, and human resource management are core values. During 2011 a particular focus was placed on risk assessment and management and four audit processes were carried out with highly satisfactory outcomes that were presented to the Board.

To prepare for the new Strategic planning cycle, 2012-2014, a series of stakeholder consultation in various regions were held in 2011. The resulting Plan was submitted to the Minister for Justice, Equality and Defence in October. The decision to merge the Authority with the Irish Human Rights Commission was taken during the year and the outcome of that process is awaited. This signals a further change for the Equality Authority and as before, staff will be called upon to show flexibility and adaptability in this changing environment.

Finally I wish to express my thanks to the Board and the staff for ensuring a successful year for the Equality Authority, as well as to other key partners, stakeholders, and the colleagues in the Department of Justice and Equality.

Renée Dempsey
CEO



The Board

The Board met seven times up to the end of their term in office on 31 August 2011. Subsequently, the Minister for Justice, Equality and Defence, Mr. Alan Shatter T.D. invited the Board members to serve for a further six months commencing in September 2011 to oversee the proposed merger between the Equality Authority and the Irish Human Rights Commission. All members agreed to comply with the Minister's request. The Board met a further four times before the end of 2011 making a total of eleven meetings in 2011.

Dr. Angela Kerins (Chairperson)

Christy Lynch (Vice-Chairperson)

Nigel Brander

Salome Mbugua

Ellen Mongan

Betty O'Leary

Kieran Rose

Lynn Jackson

Seán Fogarty

Peter White

Rhona Murphy

Paddy Maguinness

Linda Tanham¹

David Joyce²

Annette Dolan

Anne Davis was Secretary to the Board.

BOARD MEMBERS ATTENDANCE AT BOARD MEETINGS

Board Member	Meetings Attended in 2011	Board Member	Meetings Attended in 2011
Angela Kerins	9	Rhona Murphy	10
Christy Lynch	10	Peter White	8
Linda Tanham	3	Paddy Maguinness	6
Annette Dolan	3	David Joyce	9
Salome Mbugua	6	Sean Fogarty	10
Ellen Mongan	10	Kieran Rose	10
Betty O'Leary	11	Nigel Brander	9
Lynn Jackson	7		

¹ Ms Tanham resigned from the Board in July 2011.

² Ms Dolan joined the Board in September 2011.

Committees of the Board

The Board has five working committees: **the Finance Committee, the Legal Committee, the Personnel and Administration Committee, the Audit Committee and the Board's Governance Committee.**

The Committees were reappointed in line with the reappointment of the Equality Authority Board in September 2011 for a six months period. The Committees report to and make recommendations to the Board.

Legal Committee:

- Betty O'Leary (Chairperson)
- Kieran Rose
- Ellen Mongan
- Rhona Murphy
- Christy Lynch

Four meetings were held.

Finance Committee:

- Nigel Brander (Chairperson)
- Salome Mbugua
- Christy Lynch
- Paddy Maguinness
- Seán Fogarty

Four meetings were held.

Audit Committee:

- Derek Staveley (Chairperson)
- David Scott
- Nigel Brander
- Kieran Rose

Four meetings were held.

Mr Staveley addressed the Board at the July 2011 meeting.

The Board's Governance Committee and the Board's Personnel and Administrative Committee did not meet in 2011.

Strategic Goals

Rights & Responsibilities

Strategic Goal 1: *The majority of people in Ireland are aware that they have rights and responsibilities under equality legislation and that they have statutory leave entitlements.*

Objective 1³: To Raise Awareness Of Rights Under Equality Legislation

A key role of the Equality Authority is to raise awareness amongst the public of their rights under the equality legislation. The Authority applies a range of communications strategies including:

- (a) The provision of information to callers to the Authority's Public Information Centre (PIC) call centre, which is based in the Roscrea office.
- (b) The provision of an Equality Authority website and the dissemination of the Equality News e-zine.
- (c) The provision of information stands, presentations, training and attendance at meetings of strategic relevance.

(a) The Public Information Centre (PIC)

The Equality Authority has an information function in relation to:

- The Employment Equality Acts 1998 to 2011;
- The Equal Status Acts 2000 to 2011;
- The Maternity Protection Acts 1994 and 2004;
- The Adoptive Leave Acts 1995 and 2005 and
- The Parental Leave Acts 1998 and 2006.

³ Paragraph numbers refer to actions contained in Strategic Plan 2009-2011 available at www.equality.ie.

The Equality Authority's Public Information Centre (PIC) deals with enquiries from the public in relation to these five pieces of legislation. The Maternity, Parental and Adoptive Leave legislation can be known as the "family leave" cluster while the Employment Equality and Equal Status elements fall under the general title of "equality legislation". We can give information and may process a query into a potential casefile under the equality legislation. The Equality Authority has no legal functions under the 'family leave' cluster and provides an 'information only' service on these Acts. For the past decade, the majority of queries dealt with by the PIC were in the 'family leave' cluster, and the Strategic Plan set out an ambition to balance the demand between both clusters. The Strategic Plan for 2009-2011 set a target for the PIC of handling a combined total 8,000 queries for both clusters in each year of the new Strategic Plan. The total number of queries dealt with by the PIC in 2011 exceeded the 8,000 combined equality and family leave legislation target by 168 queries as compared to a total of 8,345 in 2010.

There is a difference between the number of calls to the PIC and the number of queries recorded as one caller may raise a number of cross ground queries in one phone call. The report therefore quantifies the number of queries logged under each ground in line with practice established for the past ten years.

Information is provided to the public in a number of formats including:

- A designated public information telephone service;
- A voice mail option on our Lo-Call number with frequently asked questions (FAQs) on the Maternity Protection Acts and the Parental and Adoptive Leave Acts and an option to speak directly to a communications officer;
- Regularly updated information on our website **www.equality.ie**;
- An e-mail contact system via **info@equality.ie**;
- Provision of materials through Citizen Information Centres and City and County Libraries or by request;
- Booklets providing information in various formats and languages on all five pieces of legislation;
- Plain English Guides to the Employment Equality Acts and the Equal Status Acts;
- Information videos/DVDs on the equality legislation; and
- A public equality library resource at the Dublin office.

OVERVIEW OF QUERIES RECEIVED BY THE PUBLIC INFORMATION CENTRE IN RELATION TO THE EQUALITY LEGISLATION.

Queries include requested information and enquiries from the public via telephone, letter or email.

During 2011, the Equality Authority dealt with 8,168 enquiries from the public on the five pieces of legislation under its remit. This represents a 2.1% increase over the planned target of 8,000 agreed in the Strategic Plan. The percentage of queries received in 2011 regarding equality legislation decreased in comparison to the unusually strong performance in 2010. Equality legislation-based queries reverted to the established trends of the previous decade in 2011 and were almost 44% of the total, with 'family leave' queries just in excess of 56%. 2010 saw a huge surge in equality related queries which returned to equilibrium in 2011, reflecting previous trends. Employment rights queries decreased by 31% when compared with 2010 figures. There has been a 21% decrease in the number of queries under the provision of goods and services. These figures in 2010 had reflected the demand created by the publishing and promotion of the Employment Rights Rule Book in 2010.

PERCENTAGE OF TOTAL QUERIES

	2010		2011	
	Queries	%	Queries	%
Employment Equality Acts	2830	33.9	1946	23.8
Equal Status Acts	2075	24.9	1639	20.0

A significant number of enquiries to the Public Information Centre are contextually broad and all do not directly tally with the wide range of topics on our database. In 2011 the top three queries by ground were recorded under Gender, Disability and Age. These remained in the top three for 2011 but in a different order. The order under the Equal Status Act queries for 2011 was also Disability, Age and Gender. Of those that included sufficient information, the following can be ascertained:

KEY GROUNDS OF DISCRIMINATION CITED:

Employment Equality Acts		Equal Status Acts	
Gender	250 queries	Disability	224 queries
Disability	207 queries	Age	131 queries
Age	183 queries	Race	109 queries

KEY ISSUES CITED:

Employment Equality Acts Equal Status Acts		Equal Status Acts	
General Information	(485 queries)	General Information	(431 queries)
Working Conditions	(264 queries)	Provision of Services	(184 queries)
Access to Employment	(237 queries)	Educational Establishments	(104 queries)
Dismissal	(143 queries)	Accommodation	(68 queries)
Harassment	(107 queries)	Access to Pub/Nightclub	(53 queries)

QUERIES UNDER THE EMPLOYMENT EQUALITY ACTS DURING 2011

Type and Number of Query		Regional Breakdown	
General Information	485	Dublin	543
Working Conditions	264	Rest of Leinster	186
Access to Employment	237	Munster	216
Dismissal	143	Connacht	117
Harassment	107	Ulster (ROI)	31
Bullying	69	Ulster (NI)	–
Positive Action	67	Not Specified	853
Equal Pay	46	Total	1,946
Constructive Dismissal	39		
Equal Opportunities	38	County	
Sexual Harassment	38	Carlow	14
Access to Promotion	34	Cavan	06
Job Advertisements	22	Clare	14
Victimisation	18	Cork	83
Vocational Training	05	Donegal	20
Access to Trade Union	03	Dublin	543
Workplace Anti-Racism	02	Galway	55
Other	329	Kerry	18
Total	1,946	Kildare	31
		Kilkenny	17
		Laois	10
		Leitrim	08
		Limerick	40
		Longford	05
		Louth	24
		Mayo	20
		Meath	19
		Monaghan	05
		Offaly	07
		Roscommon	20
		Sligo	14
		Tipperary	39
		Waterford	22
		Westmeath	19
		Wexford	23
		Wicklow	17
		Not Specified	853
		Northern Ireland	–
		Total	1,946
Ground			
Gender	250		
Disability	207		
Age	183		
Race	149		
Family Status	46		
Sexual Orientation	32		
Marital Status	28		
Religion	25		
Traveller Community	07		
Not specified	1,019		
Total	1,946		

Objective 2⁴: To Raise Awareness Of Statutory Leave Entitlements Under The Maternity Protection Acts, Parental Leave Acts And Adoptive Leave Acts

OVERVIEW OF QUERIES RECEIVED BY THE PUBLIC INFORMATION CENTRE IN RELATION TO THE “FAMILY LEAVE” CLUSTER.

There has been an increase in the number of queries under family leave legislation.

Maternity Leave queries have risen by 25% in comparison to 2010 figures. Parental Leave queries have increased significantly by 60% and Adoptive Leave queries have risen by 21%.

FAMILY LEAVE

	2010		2011	
	Queries	%	Queries	%
Maternity Protection Acts	2523	30.2	3147	38.5
Parental Leave Acts	846	10.1	1350	16.5
Adoptive Leave Acts	71	0.9	86	1.0

As with queries regarding the equality legislation, queries under the “family leave” cluster can be quite broad and a significant number do not include full details. Of those that included sufficient information, the following can be ascertained:

Key Issues Cited:

Maternity Protection Acts	Leave Entitlements	400 queries
	Annual Leave	336 queries
	Return to Work	333 queries
	Public Holidays	301 queries
	Additional Maternity	249 queries
Parental Leave Acts	Force Majeure Leave	272 queries
	General Entitlements	260 queries
	Broken Leave	254 queries
	Notification of Leave	113 queries
	Annual Leave	77 queries

⁴ *Ibid.*

Adoptive Leave Acts	Leave Entitlements	32 queries
	Foreign Adoption	6 queries
	Return to Work	5 queries
	Additional Leave	4 queries
	Annual Leave	4 queries
	Public Holidays	4 queries

QUERIES UNDER THE MATERNITY PROTECTION ACTS DURING 2011

Type and Number of Query	County
Leave Entitlements 400	Carlow 17
Return to Work 333	Cavan 08
Redundancy 206	Clare 19
Annual Leave 336	Cork 102
Public Holidays 301	Donegal 18
Additional Maternity Leave 249	Dublin 737
Notification 213	Galway 74
Ante-Natal/Post-Natal Care 150	Kerry 24
Time Off For Breast Feeding 50	Kildare 43
Leave For Fathers 43	Kilkenny 18
Ante-Natal Classes 33	Laois 14
Other 499	Leitrim 06
Outside the scope of the Acts:	Limerick 56
- Social Welfare Benefit 134	Longford 04
- Paternity Leave 126	Louth 24
- Sick While Pregnant 74	Mayo 14
Total 3,147	Meath 28
	Monaghan 07
	Offaly 28
	Roscommon 10
	Sligo 21
	Tipperary 35
	Waterford 41
	Westmeath 21
	Wexford 24
	Wicklow 26
	Not Specified 1,728
	Northern Ireland -
	Total 3,147
Regional Breakdown	
Dublin 737	
Munster 277	
Rest of Leinster 247	
Connacht 125	
Ulster (ROI) 33	
Not specified 1,728	
Total 3,147	

QUERIES UNDER THE PARENTAL LEAVE ACTS DURING 2011

Type and Number of Query		County	
General Entitlements	260	Carlow	15
Force Majeure Leave	272	Cavan	06
Broken Leave	254	Clare	16
Notification	113	Cork	58
Annual Leave	77	Donegal	06
Public Holidays	72	Dublin	445
Pay	29	Galway	25
Other	148	Kerry	20
Outside the scope of the Acts:		Kildare	21
- PRSI Contributions	68	Kilkenny	14
- Disputes	33	Laois	13
- Sick While On Parental Leave	08	Leitrim	04
- Social Welfare Benefit	16	Limerick	30
Total	1,350	Longford	02
		Louth	18
		Mayo	13
		Meath	21
		Monaghan	03
		Offaly	25
		Roscommon	04
		Sligo	14
		Tipperary	39
		Waterford	15
		Westmeath	08
		Wexford	18
		Wicklow	08
		Not Specified	489
		Northern Ireland	-
		Total	1,350

Regional Breakdown	
Dublin	445
Munster	178
Rest of Leinster	163
Connacht	60
Ulster (ROI)	15
Ulster (NI)	-
Not specified	489
Total	1,350

QUERIES UNDER THE ADOPTIVE LEAVE ACTS DURING 2011

Type and Number of Query		County	
Leave Entitlements	32	Carlow	02
Foreign Adoption	06	Cavan	0
Additional Leave	04	Clare	01
Public Holidays	04	Cork	07
Annual Leave	04	Donegal	0
Certificate Of Placement	02	Dublin	18
Notification	02	Galway	01
Return To Work	05	Kerry	02
Other	20	Kildare	02
Outside the scope of the Acts:		Kilkenny	01
- Social Welfare Benefit	03	Laois	01
- Disputes	01	Leitrim	0
- Leave for Foster Parents	03	Limerick	01
- Sick While On Leave	0	Longford	0
Total	86	Louth	0
		Mayo	01
		Meath	0
		Monaghan	0
		Offaly	0
		Roscommon	0
		Sligo	01
		Tipperary	03
		Waterford	01
		Westmeath	01
		Wexford	03
		Wicklow	0
		Not Specified	40
		Northern Ireland	-
		Total	86
Regional Breakdown			
Dublin	18		
Munster	15		
Rest of Leinster	10		
Connacht	03		
Ulster (ROI)	-		
Not specified	40		
Total	86		

Objective 3⁵: To Raise Awareness Of Responsibilities Under Equality Legislation

(b) The Equality Authority website and Equality News e-zine

The Equality Authority website **www.equality.ie** was maintained and updated throughout the year with 291,707 visits to the home page and 1,054,374 pages viewed.

Two editions of the Equality News were published in an e-zine format. These were issued to 3,490 organisations and individuals.

Our IT system tracks downloads of our online publications. The statistics for the download pages for the information booklets are as follows

DOWNLOADED PUBLICATIONS

Employment Equality Acts 1998 - 2011	20,945
Equal Status Acts 2000 - 2011	10,845
Maternity Protection Act 1994 - 2004	10,417
Parental Leave Acts 1998 - 2006	8,185
Adoptive Leave Acts 1995 - 2005	4,679

(i) Training

Presentations, workshops and training were provided to the following during 2011:

- Ballyfermot College;
- Cross border local authority representatives in Armagh;
- Staff of Waterford College of Further Education;
- RADE (Recovery through Art, Drama, Education), Dublin;
- Equality Laws and Infrastructure at Liberty Hall;
- SIPTU College, Dublin;
- Gurteen Youth Club, Dublin;
- ICTU;
- National Traveller Monitoring and Advisory Committee;
- Doras Luimni, Limerick;
- Kavanagh Group, Westport, Co. Mayo and Donegal Town;
- Mandate Training Centre, Dublin;
- La Make Up Academy, Dublin;

⁵ *Ibid.*

- Co. Roscommon VEC;
- Public Appointments Commission;
- FRS Training Ltd, Roscrea, Co. Tipperary;
- Balbriggan Educate Together National School, Co Dublin;
- National LGBT Youth Service, Dublin;
- Leargas Study Visit;
- Citizens Information Board, Dublin;
- Clonkeen College, Dublin;
- Roslyn Park students, Dublin;
- Public Sector Equality Learning Network, Dublin;
- Men's Development Network;
- Clare Intercultural Network, Ennis, Co. Clare.

International talks included:

- Presentations at European conference on *Challenging Homophobia in Education: Promoting Best Practice*, in Edinburgh, Scotland;
- To the National Equality Delegation from Macedonia;
- Presentation on Promoting Equality in Employment at international seminar on *Parity in job opportunities and working environment*, University of Bucharest;
- Input at the European Institute for Gender Equality conference on Gender Mainstreaming, Brussels
- Presentation to Communications Working Group Equinet, Vienna.

(ii) Information Stands and Events

During 2011, the Equality Authority continued its outreach information programme and participated in training seminars, information talks and hosted information stands at a number of conferences and events including:

CIC Outreach Centres in Harold's Cross, Stradbally, Mountmellick, Mountrath, Portarlinton, Rathdowney, Kilbeggan, Rathmines, Athlone, Mullingar

HSE Disability Centre, Athlone, ACCS Conference in Wexford, IBOA Conference in Croke Park Conference Centre, Older People and Insurance Conference in Dublin Castle, Rights/Health Awareness Day in Tallaght Library, ICTU Conference in the INEC Killarney, SIPTU Biennial Delegate Conference in Ennis, Over 50's Show at the RDS, *Equality Mainstreaming in Further Education and Training Conference: Achievements and Challenges* in Dublin Castle and the ISME Annual Delegate Conference.

The Equality Authority staff and Board members also organised and attended a range of seminars, events and conferences during the year including a series of Strategic Plan consultation meetings in Templemore, Galway, Waterford, Dublin and Cork.

Access To Rights

Strategic Goal 2: *Enhanced access to redress under Irish equality legislation and EU Equal Treatment Directives for people experiencing discrimination.*

Objective 1⁶: Pursue Strategic Casework Within The Resources Available To Further The Elimination Of Discrimination

1. Overview of Equality Authority Legal Casework Activity 2011

The Equality Authority's legal service supports people who have been discriminated against in employment or accessing goods, facilities and services. People who contact the Public Information Centre (PIC) will have access to information on the legislation and will be informed of the current strategic enforcement criteria. Cases that appear to come within the current criteria are reviewed and, where appropriate, are then assigned to a solicitor. The solicitor will bring the potential claim to the stage where an application for legal representation will be considered by the Head of Legal Services. People may also contact the Equality Authority by letter or email and the same process is initiated on their behalf.

The number of applications for representation considered by the Head of Legal Services does not equal the number of contacts considered or processed by the Legal Section. There are many stages involved in addressing and advising on potential complaints before they may acquire a more formal case or for mediation status, which will be supported by the Equality Authority. An application for representation is considered by the Head of Legal Services in only a minority of cases – those that fulfill the strategic enforcement criteria as set down by the Board of the Equality Authority. The equality legislation is designed to facilitate a remedy to discrimination and harassment. In many complaints, the involvement of the Equality Authority will be sufficient to bring about an early resolution of the matter. In a significant number of cases, the claim is resolved or settled to the satisfaction of the claimant and there is no further need to proceed with the application

⁶ *Ibid.*

for formal legal representation of the claim. On occasion, the claimant will not want to proceed for a number of reasons e.g.

- S/he may be advised that the claim is unlikely to succeed.
- the potential length of time involved in bringing a claim before the Equality Tribunal.
- the risk of having to pay the legal costs, if a case is lost in an appeal to a higher Court, which is not supported by the Equality Authority.

Legal advice and representation continues to be a key pillar of the Equality Authority's core services. The volume of work generated by a case-file cannot be accurately reflected in a numerical statistic. Some files remain open for a number of years and are included in annual statistics, depending on the issue and complexity of the case. Some files only require a limited amount of work to provide a solution, while others may proceed as far as the Supreme Court.

A 'case-file' is the broad term used to describe any form of legal activity arising from a complaint that is supported by the Equality Authority's Legal Section. It may involve the Equality Authority contacting an employer or service provider on behalf of a service user, employee or potential employee, and may include:

- correspondence;
- assessing any response or recommending further action in the absence of a response or one which addresses the issues outlined;
- formulating, pursuing or closing the potential claim;
- reaching a settlement on the client's behalf;
- recommending legal action and preparing a case for hearing/mediation at the Equality Tribunal where the Equality Authority will bear the costs;
- acting as an *amicus curiae* in cases of interest;
- representing a claimant at the Equality Tribunal's mediation or investigation services;
- considering and pursuing any grounds for the appeal of any decision of the Equality Tribunal to the Labour Court or the Civil Courts;
- representing a claimant at the District Court.

During the year, 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 applications granted.

The number of case-files processed reflects the current resources and capacity of the Equality Authority's Legal Section. They are not a measure of the extent of discrimination or of the level of demand on the Authority's services. The types of case-files processed reflect the priorities established by the criteria set down by the Board of the Equality Authority.

STATISTICS ON CASE-FILE ACTIVITY

	2010	2011
Case-Files progressed by the Equality Authority	332	289
Under the Employment Equality Acts 1998-2011	150	132
Under the Equal Status Acts 2000-2011	143	120
Under the Intoxicating Liquor Act 2003	39	37
New Case-Files opened	116	156
Case-Files closed	199	134
Applications for representation granted	15	23
Applications for representation refused	0	2

2. Employment Equality Acts 1998-2011

In 2011 there were 132 case-files processed under the Employment Equality Acts 1998-2011. Of these, 64 were new files opened in 2011 with the grounds of Disability, Gender, Age and Race accounting for the majority of new case-files. The table below provides a breakdown of the categories of all case-files by ground.

Ground	Total Case-files
Age	22
Civil Status*	1
Disability	41
Gender	31
Mixed	9
Outside Scope	1
Race	18
Religious Belief	3
Sexual Orientation	3
Traveller	2
Victimisation	1
Total	132

**In 2011, the ground of 'Marital Status' was changed to include those in Civil Partnerships and was re-titled 'Civil Status'*

Government Departments and State Agencies as the largest service providers in the State, constitute the largest sector where case-files were processed. This was followed by the Education Sector, 'Other Services' (mainly private) Sector and the Health Sector. The table below provides a breakdown of the largest categories of case-files by sector.

Sectoral Breakdown		Number of Case-files	Percentage of Total
1	Government Departments & State Agencies	30	22.73%
2	Education Sector	29	21.97%
3	Other Services	25	18.94%
4	Health	12	9.01%

Working conditions accounted for the largest category of cases followed by Access to Employment, and Dismissal.

The following table provides a breakdown of the largest categories of case-files by type.

Case-file Type		Number of Case-files	Percentage of Total
1	Working Conditions	37	28.03%
2	Access to Employment	28	21.21%
3	Dismissal	11	8.33%

A gender breakdown of the 132 case-files processed under the Employment Equality Acts 1998-2011 is as follows:

Ground	Male	Female	Transgender	Files opened by the Equality Authority
Age	14	4	1	3
Civil Status*	1	0	0	0
Disability	24	13	0	4
Gender	3	26	1	1
Mixed	1	8	0	0
Outside Scope	1	0	0	0
Race	4	10	0	4
Religious Belief	3	0	0	0
Sexual Orientation	3	0	0	0
Traveller	0	2	0	0
Victimisation	0	1	0	0
Total	54	64	2	12

* In 2011, the ground of 'Marital Status' was changed to include those in Civil Partnerships and was re-titled 'Civil Status'

In 2011 the Equality Authority provided representation under the Employment Equality Acts 1998-2011 in the following:

- 05 Equality Tribunal Decisions
- 10 Settlements
- 01 Labour Court Determination

The decisions and settlements are reported as follows.

2.1 Employment Equality Acts 1998-2011: DECISIONS

Louise Hannon - v - First Direct Logistics Ltd. Decision No. DEC-E2011-066 Ground: Gender and Disability

Ms Hannon is a transgender person who has been diagnosed with Gender Identity Disorder. She claimed that since she had informed her employer of her true identity and her need to live in this identity her working conditions were made so intolerable that she was ultimately constructively dismissed.

Ms Hannon had been employed by the respondent as a Business Development Manager from January 2007 having previously worked with the company in a self employed capacity for approximately five years.

When Ms Hannon initially revealed her true identity to the company in October 2006 she intended to resign her position to work in an open environment but was persuaded to remain on. In December 2006 she sought to clarify when she could begin to change over to her female identity at work and was asked to wait a couple of months to allow a new staff member to settle in.

Ms Hannon had an appointment to change her name by deed poll on 5 March 2007 and arrived in the office the following day in her true gender using her female identity. She requested that her email be changed over to her new name. Ms Hannon was told that she must complete her sales over the phone in her male identity and that the Operations Manager would meet any clients personally should the need arise and that she might have to work using her male identity until Christmas 2007. Later that month the Operations Manager approached Ms Hannon and expressed concerns about her productivity. Ms. Hannon claims she was asked to revert to her male identity for another three month period. The Director of the company subsequently agreed that she could return to the office dressed as a woman but asked that she change into her male identity when seeing clients. Ms Hannon found this request very difficult to comply with and she dealt with clients over the phone instead although she did meet with client companies in her male identity on two occasions. Ms. Hannon also claims that she was asked not to use the female toilets. In April 2007 she was asked if she would move to the new office where she could work in her female identity but was asked if she could work from home until such time as the office was set up. She agreed as she understood this would be for a brief interim period of one month.

Ms Hannon found it very difficult to work from home as her leads dried up when she was out of the office environment. However, despite requests she

was not allowed to return to the office and was informed that a new person had started and there was no room for her. On 19 July 2007 the Director contacted her to inform her that he was not happy with her work and that she needed to produce new clients in the next weeks if she wanted to keep her job. Ms Hannon subsequently met with the Director and requested that she be allowed to return to the office but her request was refused on the basis that her presence caused a bad atmosphere. Ms Hannon decided that she had no alternative but to leave her employment at the end of July 2007.

In response to Ms Hannon's complaint, First Direct Logistics Ltd claimed that they had provided the necessary supports to her to enable her pursue her gender transition. They argued that they had met with her and formulated a plan to deal with the transition. The plan included:

- (i) At an agreed time the respondent's staff would be informed of the complainant's gender identity disorder;
- (ii) Ms Hannon would continue to contact current clients as "John Smith" and generate new clients in her new identity;
- (iii) Ms Hannon would continue to fulfil her transport duties whilst she remained with the name "John";
- (iv) At an agreed time Ms Hannon would stop wearing male clothing.

The respondent claimed that Ms Hannon's productivity reduced dramatically in early 2007. The respondent submitted that despite their efforts to accommodate her, Ms Hannon was depressed and unhappy and failed to make phone calls to generate new business. The respondent claimed that in April 2007 it decided that no further sales work would take place in its old premises and that this function would be moved to new dedicated premises upon their completion. The respondent accepted that it had asked Ms Hannon to work from home which she had agreed to do and it had increased her wages as a gesture of good will. The respondent accepted that Ms Hannon was the only employee asked to work from home but that this was because she was the only employee working in this area. The respondent claimed that Ms. Hannon's productivity continued to deteriorate and that she subsequently secured alternative employment at the end of July 2007.

In her conclusion the Equality Officer stated that it was well established in law that the gender ground protects transgender persons from sex discrimination and she made reference to the European Court of Justice approach in *P v S and Cornwall County Council (Case C-13/9)*. The Equality Officer also noted that it was accepted by the parties that Ms. Hannon who had been diagnosed with Gender Identity Disorder had a disability and that the respondent was on notice of this fact. The Equality Officer stated that transsexualism is a recognised medical condition which is treated by a combination of hormone therapy, surgery (in some cases) and real life experience. The Equality Officer went on to state that to gain "real life experience the person must be able to live their life continuously in the other sex without the need to revert to the

birth sex". The Equality Officer went on to state that this applied to the work place and that there is an obligation on employers to accommodate such real life experience.

The Equality Officer found that the plan formulated by the respondent to allow the transition from John Smith to Louise Hannon was clearly a unilateral approach which had not been fully explored with Ms Hannon. The Equality Officer was satisfied that requesting Ms Hannon to switch between a male/female identity whenever the respondent felt the need for it constituted direct discrimination on the gender and disability grounds. The Equality Officer was not satisfied that the company had a genuine business need for Ms Hannon to work from home. She found that had Ms Hannon remained in her male identity she would not have been requested to work from home. She concluded that the request to work from home was discriminatory on both the gender and disability grounds.

The Equality Officer found that the respondent had little if any understanding that the gender transition process was a form of treatment relevant to Ms. Hannon's condition. She was satisfied that an employer has a duty to obtain enough knowledge about an employee's disclosed disability to ensure that their actions do not discriminate against a person whose disability may require the person to behave or act in a certain way. While the Equality Officer found Ms Hannon did not require reasonable accommodation per se, she did require a workplace that recognised her right to dress and be identified as a female. The Equality Officer pointed out that the difficulties concerning Ms Hannon's gender lay entirely with the respondent and that it was apparent that the respondent presumed that there would be negative consequences because of her female identity.

The Equality Officer found that Ms Hannon had suffered discriminatory treatment on the grounds of gender and disability. The Equality Officer found that Ms Hannon received no relevant support from the respondent and was isolated in her home from late April 2007. She found that the respondent's approach amounted to discriminatory dismissal on the gender and disability grounds. The issue of victimisation was raised in relation to ex-gratia payments but this was not upheld. The Equality Officer awarded redress in the sum of €35,422.71. She also ordered the respondent to pay interest at the Court's rate on the award.

Ellen Thorsch - v - ESB National Grid/EirGrid
Decision No. DEC-2011-060
Ground: Gender

Ms Thorsch, who is legally qualified, commenced employment as a regulatory analyst with the respondent company in 2001. She was on a three year fixed term contract, following which she was made permanent. In 2003, her comparator, who was an engineer, commenced employment in the same

area as Ms Thorsch. Ms Thorsch claims that she performed work of equal value with her comparator between the time he was appointed in March 2003 and the time she left the company on 31 August 2006. The comparator was paid about €11,000 per annum more than Ms Thorsch. She raised the issue with her employer in 2003 and again in 2005 but with no success. She had her equal pay complaint heard by the Industrial Council of the company in an attempt to have the matter resolved internally. The Industrial Council offered Ms Thorsch an ex gratia payment of €14,000 in 2007 but she declined to accept this, considering it to be inadequate. In 2006 Ms Thorsch was offered a voluntary severance package and, because she had been suffering from ill health as a result of her work related problems, she accepted the offer. However, she believes that the package offered was inadequate and would be increased if she succeeded in her equal pay claim.

The complaint was heard by the Equality Tribunal in four sessions between September 2009 and July 2010. The Equality Officer issued his Decision on 23 March 2011.

The respondent had denied the claims and had also contended that the complaint had not been brought against the correct respondent. They contended that Ms Thorsch had worked for the ESB and not ESB National Grid/Eirgrid. They also claimed that the comparator and claimant did not work for the same employer as the comparator was employed by Eirgrid, a company which did not receive its operator's licence until July 2006. Thirdly, the respondent claimed that Ms Thorsch had accepted a voluntary severance package in 2006 and in doing so had forfeited any rights to pursue other claims against the company. Similarly the respondent claimed that Ms Thorsch's submission of a complaint to the internal procedures of the ESB and the Industrial Council prevented her from referring a complaint under the Employment Equality Acts.

In its Decision of 23 March 2011, the Equality Tribunal found for Ms Thorsch in respect of the four preliminary issues set out above. The complaint was therefore properly before the Tribunal for adjudication. The Tribunal however found that the work performed by Ms Thorsch was not of equal value to the work of her comparator. This conclusion was based on a comparison of the job descriptions, tendered by both sides in respect of Ms Thorsch and the comparator, as well as statements made by respondent personnel at a meeting held at the premises of the respondent. The Equality Officer concluded his investigation and decided that Ms Thorsch did not undertake like work with the named comparator and was therefore not entitled to the same rate of remuneration.

Gwendolin Mangwi Ngongban - v - Dublin Institute of Technology
Decision No. DEC-E2011-144
Ground: Race

Ms. Mangwi Ngongban was offered a full time place on a postgraduate course with a Dublin Institute of Technology (DIT). However they assessed her as an overseas student/non-EU national and requested her to pay the sum of €11,000 fees for academic year 2008/2009. This is the 'Non-EU' rate of fees. Ms Mangwi Ngongban has been resident in Ireland for the past 7 years and is in fact the holder of an Irish passport since August 2006.

Ms Mangwi Ngongban made a complaint under the Employment Equality Acts, Vocational Education provisions. In issuing his decision the Equality Officer found that the course in question does not constitute vocational training in terms of section 12 of the Employment Equality acts and as such he had no jurisdiction to investigate the substantive aspects of the complaint. This case is currently under appeal to the Labour Court.

Weronica Zanievska - v - Laurel Lodge Nursing Home
Decision No. DEC-E2011-166
Ground: Race

Ms Zanievska is a Polish national with very poor English. She started working at the nursing home as a care assistant in January 2008. She encountered difficulties with management and her co-workers because of her poor English. She had difficulties communicating with her co-workers. They refused to assist her in learning the job and in some instances refused her when she asked for help.

She was called to a disciplinary hearing in July 2008 where allegations and charges were put to her. She discussed the hearing with her husband that evening and they drafted a written response to the hearing. She gave this to her employer the next day but was publically reprimanded about her husband's involvement in the case.

In August Ms. Zanievska was reprimanded by a new manager in relation to a complaint of unsatisfactory service made against her by the occupant of a certain room. It turned out, on further checking, that the occupant had not referred to Ms Zanievska. However on 15 August after completion of her working week Ms Zanievska went to the office to find out her work schedule for the next week but was told that she was not working there any more and then given an envelope with her cheque and P45.

The case was heard over 3 days in January, February and March 2011. The Equality Officer's decision was issued on 7 September 2011. The Equality Officer found that the respondent did discriminate against Ms Zanievska in relation to training and in relation to conditions of employment but that Ms

Zaniewska was not harassed or dismissed in a discriminatory manner. The Equality Officer awarded Ms. Zaniewska €5,000 in compensation for the discriminatory treatment suffered.

The discriminatory dismissal part of the complaint is under appeal to the Labour Court.

Ms. McN - v - A Charity
Decision No. DEC-E2011-246
Ground: Disability

The complainant was successful at a job interview with the respondent where she pointed out that she had congenital glaucoma. She was due to start work subject to completion of a medical examination. The complainant attended the medical examination with a general practice nominated by the respondent. The complainant passed the medical examination and was given a letter stating she was physically fit and suitable for employment albeit pointing out her visual impairment. However, when she met with the Director of Human Resources with the respondent, she discovered that the doctor had added a paragraph to her original letter. This addition stated that the complainant was of very short stature and had a low body mass index. This in conjunction with her visual impairment means that she would not be well-suited for a position in which she would be dealing with clients with challenging behaviour.

The complainant had previously disclosed poor eyesight to the respondent at interview. The respondent was also fully aware of the complainant's stature at interview. The respondent still offered the job to the complainant despite knowing of her disability and having seen her. The respondent subsequently refused to employ the complainant based on the doctor's second medical report and without any assessment as to whether or not the complainant could be reasonably accommodated in the job. The complainant claimed that she was discriminated against both in her disability and on an imputed disability of having a low body weight and mass index together with a small stature. She alleged that she was not given any opportunity by the respondent to show that she could be reasonably accommodated within the work place in her new job and that assumptions were made because of her disability and her imputed disability that she was unable to do the job. The complainant contended that having worked before in the organisation as a part-time worker, she was fully familiar with the job process and dealing with the in-house residents and that she was fully capable of doing the job. The complainant further alleged that she should have been at least allowed a probationary period to allow her to be assessed for reasonable accommodation in the workplace should she need the same to complete her job.

The Equality Officer found that:

- (i) the respondent had not discriminated against the complainant on the grounds of disability regarding access to employment
- (ii) the respondent had not failed to provide appropriate measures that would allow the complainant to be employed by them

This complaint is under appeal to the Labour Court.

Appeal to Labour Court

Sharon Brierton - v - Calor Teoranta
Decision No. EDA1121
Ground: Age

Ms Brierton's claim for equal pay was heard by the Equality Tribunal in January 2009 and February 2010. The Tribunal issued a Decision on a preliminary issue on 19 March 2010, finding that there were no grounds, other than age, for the difference in pay between Ms Brierton and her comparator. This preliminary decision was appealed to the Labour Court by the respondent and the Labour Court sat on 8 June 2011 to hear the appeal. The Court informed the parties on the day that it did not propose to hear the appeal, but rather was sending it back to the Equality Tribunal to proceed to a full decision on the substantive case. A written decision in this regard was requested by the Equality Authority and the determination issued on 27 June 2011. The Court stated that the main reasons for its decision were that it would be "inappropriate for it to embark upon such an investigation of these matters, before they are fully considered by the Equality Officer at first instance." The Tribunal has been advised of the Decision and further communication from the Tribunal is awaited.

2.2 Employment Equality Acts 1998-2011: SETTLEMENTS

There were ten settlements reached on behalf of clients in 2011, details of which can be found on our website www.equality.ie. A selection of settlements are reported on below:

Finbar Burke - v - Boston Scientific, Clonmel, Limited
Ground: Disability

Mr. Burke complained to the Equality Tribunal that following heart surgery in 2005 he was discriminated against by his employers when they refused to give him a salary increase/merit award because of his disability-related absence from work. He also complained that his annual leave entitlement had

been reduced in that year, because of the absence associated with his heart surgery and further that he did not receive accommodation from the company in relation to ongoing medical appointments relating to his condition.

The Equality Officer found that Mr. Burke was not entitled to paid time off for medical appointments under his contract and that therefore he was not treated less favourably, than anyone else in his situation, in relation to the loss of pay. The equal pay claims also failed because the Equality Officer said that there was no comparator without a disability who had been absent for the same period of time. (DEC-E2010-001)

Mr. Burke appealed the decision to the Labour Court with the assistance of the Equality Authority. The Labour Court sat twice and there was detailed discussion of the complex legal issues involved. The Court gave certain directions and asked the parties to confer privately in relation to them. Eventually, a confidential settlement was reached to the satisfaction of all parties. [24 February 2011]

An Employee - v - A Hotel **Ground: Gender**

The complainant was employed with the company as a Reservations and Revenue Manager from April 2006. In 2007 she became pregnant. In the eighth month of her pregnancy, the company 'advertised' a position with the company that duplicated her duties. The complainant raised her concerns with the general manager but was assured that this was a separate job. When she asked if she could apply, she was told that she could, but that he already had someone in mind for the position. In October 2007, the post was filled by a lady who moved from a similar organisation in the UK. This lady's husband also took up a position in senior management in the hotel at the same time. On her return to work from maternity leave, the complainant found that she had no computer or desk from which to work. Staff who had previously reported to her were now reporting to the person in the new position. On 26 May 2008 she was told that her position was being made redundant.

This case went for mediation but failed and was subsequently scheduled for hearing on 20 September 2011. The case was settled at hearing with payment of €50,000 in compensation. Following the agreement between the parties, the complaint was withdrawn.

Regina Cruise - v - Nail Zone Ltd
Ground: Gender Discrimination (Pregnancy)

Ms Cruise was successful in her case before the Equality Tribunal on 15 October 2009. The respondents appealed to the Labour Court where the Decision was upheld and the compensation awarded was doubled. The respondents said they could not afford to pay. Proceedings were issued for enforcement in the Circuit Court and following three court appearances, a Circuit Court order was granted for enforcement. The respondents were represented in the Circuit Court and again pleaded inability to pay. An offer of settlement was made but was not accepted and an Execution Order was then procured from the Circuit Court. A further and substantially increased offer of settlement was then received from the defendants and the matter resolved to the satisfaction of the plaintiff on 8 July 2011.

A Complainant - v - A Private Company
Ground: Mixed – Gender, Disability & Family Status

[see also Equal Status Acts Decisions – case No (iii)]

The complainant works in a private company. In June 2006, she underwent a radical hysterectomy following discovery of a carcinoma of the cervix. As a result she cannot support a pregnancy, although she has healthy ovaries and is otherwise fertile.

She is married, and both she and her husband availed of a surrogacy service in order to achieve the birth of their biological child. They availed of this service in the USA where surrogacy pregnancy/birth is legalised. The surrogate mother carried the baby to term, but in all senses, the baby is the biological and genetic child of the complainant and her husband, having being created from their gametes. A surrogate mother had to be used because of the complainant's 'disability'.

The complainant and her husband's baby was born in January 2011 to the surrogate mother in the USA. Both the complainant and her husband were registered as the biological parents on the child's birth certificate. The surrogate mother has not been identified on the birth certificate.

The complainant made an application to her employer for leave, equivalent to adoptive leave. The Equality Authority wrote an explanatory letter to the respondent setting out reasons as to why it should consider granting the complainant leave similar to that of maternity / adoptive leave. The respondent agreed to offer the complainant the same entitlements as that of an adoptive mother thus affording the complainant the same protective work entitlements as that of an adoptive mother on leave. The complainant then withdrew the complaint.

Equal Status Acts 2000-2011

In 2011 there were 120 case-files processed under the Equal Status Acts 2000-2011. Of these, 67 were new files opened in 2011 with the grounds of Age, Disability and Race accounting for the majority of new case-files. The table below provides a breakdown of the categories of all case-files by ground.

Ground	Total Case-files
Age	27
Civil Status*	2
Disability	47
Gender	4
Mixed	8
Outside Scope	5
Race	9
Religious Belief	4
Traveller	14
Total	120

* In 2011, the ground of 'Marital Status' was changed to include those in Civil Partnerships and was re-titled 'Civil Status'

The Education Sector constituted the largest sector where case-files were processed, followed by the Government Departments and State Agencies Sector and the Financial & Business Services Sector.

Sector	Age	Civil Status	Disability	Gender	Mixed	Outside Scope	Race	Religious Belief	Traveller	Grand Total
Clubs	0	0	0	4	0	0	0	0	0	4
Education	0	0	25	0	4	0	5	4	1	39
Financial & Business Services	4	2	2	0	0	1	1	0	0	10
Government Dept & State Agencies	18	0	7	0	2	1	2	0	7	37
Health	1	0	6	0	1	0	0	0	0	8
Hotels, Restaurants & Licensed Premises	0	0	2	0	0	0	0	0	5	7
Other Services	4	0	1	0	0	1	0	0	1	7
Private Household	0	0	2	0	0	2	0	0	0	4
Social Welfare	0	0	0	0	1	0	1	0	0	2
Transport, Storage & Communication	0	0	2	0	0	0	0	0	0	2
Grand Total	27	2	47	4	8	5	9	4	14	120

Within the Disability Ground the largest number of case-files concerned the provision of Education followed by the provision of services by Health Agencies and those relating to Government Departments.

Disability Ground breakdown				Number of Case-files	Percentage of Total
1	Provision of Education:	Primary	6	22	46.8%
		Secondary	10		
		Third level	6		
2	Provision of Services by Health Agencies			7	14.9%
3	Government Departments			7	14.9%

Case-files relating to the largest service providers in the State, Government Departments, local authorities, State agencies, schools and third level institutions accounted for 63.3% (76) of all case-files dealt with under the Equal Status Acts 2000 – 2011. The table below shows a breakdown of the State sector related cases. (Percentages given are of all cases under the Equal status Acts)

State Sector	Number of Case-files	Percentage of Total
Provision of Education: Primary 09 Secondary 14 Third level 12	35	29.17%
Provision of services by health agencies	11	9.17%
Provision of services by State agencies	15	12.5%
Government Departments	8	6.67%
Provision of services by local authorities	5	4.17%
Provision of services by social welfare	2	1.67%

The table below shows a complete breakdown by sector of case-files dealt with under the Equal Status Acts 2000 – 2011.

Sector	Number of Case-files	Percentage of Total
Clubs	4	3.33%
Education	39	32.5%
Financial & Business Services	10	8.33%
Government Departments & State Agencies	37	30.83%
Health	8	6.66%
Hotels, Restaurants & Licensed Premises	7	5.83%
Other Services	7	5.83%
Private Household	4	3.33%
Social Welfare	2	1.66%
Transport, Storage & Communication	2	1.66%

A gender breakdown of the 120 case-files processed under the Equal Status Acts 2000-2011 is as follows:

Gender	Male	Female	Transgender	Files opened by the Equality Authority
Age	23	3	0	1
Civil Status*	2	0	0	0
Disability	22	23	0	2
Gender	0	1	0	3
Mixed	4	3	1	0
Outside Scope	1	3	0	1
Race	3	5	0	1
Religious Belief	1	2	0	1
Traveller	9	5	0	0
Total	65	45	1	9

* In 2011, the ground of 'Marital Status' was changed to include those in Civil Partnerships and was re-titled 'Civil Status'

In 2011, the Equality Authority supported under the Equal Status Acts 2000-2011 the following:

- 3 Equality Tribunal Decisions;
- 10 Settlements;
- 1 Court Determination.

The decisions and settlements are reported as follows.

3.1 Equal Status Acts 2000 – 2011 Decisions

A Complainant - v - Dep. Of Social Protection

Decision No. DEC-S2011-053

Ground: Mixed – Gender, Disability & Family Status

[see also Employment Equality Acts Settlements – case No (x)]

The complainant works in a private company. In June 2006 she underwent a radical hysterectomy following discovery of a carcinoma of the cervix. As a result she cannot support a pregnancy, although she has healthy ovaries and is otherwise fertile.

The complainant is married, and together with her husband, availed of a surrogacy service in order to achieve the birth of their biological child. They availed of this service in the USA where surrogacy pregnancy/birth is legalised. The surrogate mother carried the baby to term, but in all senses, the baby is the biological and genetic child of the complainant and her husband, having being created from their gametes.

A surrogate mother had to be used because of the complainant's 'disability'. The complainant and her husband's baby were born in January 2011 to the surrogate mother in the USA. Both the complainant and her husband were registered as the biological parents on the child's birth certificate. The surrogate mother has not been identified on the birth certificate.

The complainant made an application to her employer for leave equivalent to adoptive leave in December 2010. The company agreed to offer the complainant the same entitlements as that of an adoptive mother. However the company does not pay its employees when absent on maternity or adoptive leave. In these cases employees would apply to the Department of Social Protection for the statutory payments.

The Equality Authority contacted the Department on the complainant's behalf on the 6 January, outlining the situation and requested that the Department consider her request for paid benefits. The request was made pursuant to the Employment Equality Acts 1998-2008 and the Equal Status Acts 2000-2008 and was based on the fact that she qualified, neither under the Maternity Protection Acts or the Adoption Protection Acts, but as an employee and a mother of a young baby. The complainant was applying for equivalent benefits that are provided under the aforementioned Acts for women who have given birth to a child or adopted a child.

The Department replied on 20 January 2011 to state that payment of either Maternity Benefit or Adoptive Leave Benefit is outside the current legislative framework and is therefore not possible as such payment would be ultra vires. It also went on to state that without a declaration of suitability issued by An Board Uchtála, Adoptive Leave Benefit is not payable.

The Equality Tribunal heard the complaint on 7 October 2011. In a decision issued on 18 November 2011, the Equality Officer found that the definitions as set out by the Oireachtas, to establish a special scheme for Maternity and Adoptive Leave, and currently contained in the statutes, do not recognise the situation that the complainant finds herself in and in such circumstances the respondent had no option but to turn down the application. The Equality Officer found that the complainant had not established a prima facie case of discrimination on the gender, family status or disability grounds. This case is currently under appeal to the Circuit Court.

Daniel Fitzpatrick -v- Declan McCaul (Mini Bus Hire)
Decision No. DEC-S2011-026
Ground: Disability

Mr Fitzpatrick used the mini bus service provided by the respondent to travel from his home in Carrickmacross to the Institute of Technology (IT) in Cavan from September 2007 until 21 November 2008.

On 19 November 2008 Mr Fitzpatrick was informed that the service was being discontinued and as a result he arranged for an alternative taxi company to provide transport to the college. The following day he spoke to the respondent and asked him to notify all the passengers that alternative transport had been arranged for the following Monday. He had also spoken to one of the other passengers who had not been aware that the service was being discontinued.

On 24 November the alternative taxi service picked up Mr Fitzpatrick at the first pick up point, but there were no other passengers at any of the other pick up points. On arriving at Cavan IT, Mr Fitzpatrick was informed that the taxi service would not be able to continue with only one passenger availing of it. Mr Fitzpatrick and his assistant at the college met with his class tutor who informed them that Mr McCaul was still doing the bus run. A call was subsequently made to Mr McCaul and they were informed that he would not be providing Mr Fitzpatrick with any further transport. As a result, Mr Fitzpatrick was unable to attend college for the rest of the week and stayed with a friend from college the following week until alternative transport was set up by the college.

Mr McCaul submitted that there had been a downturn in his business and that the bus run was costing too much. He said that he consulted with Mr Fitzpatrick about the use of a smaller vehicle for the run and that Mr Fitzpatrick declined and checked out other services instead. Mr McCaul said that he contacted the college to seek further funding to no avail. He denied that he told Mr Fitzpatrick he would be discontinuing the service. He stated that he informed the other passengers on Friday 21 November that he would be discontinuing the service. It was only at this point that the issue of using a smaller vehicle, at a higher cost, was raised by him with the other

passengers. Mr McCaul stated that this was arranged over the weekend and that he did not contact Mr Fitzpatrick as he had his own transport organised.

Mr Fitzpatrick said that he had never been spoken to about continuing the service in a smaller vehicle. He confirmed that he had travelled to college in Mr McCaul's mother's car, while Mr McCaul was on holidays.

Mr McCaul confirmed that he received a telephone call from the college but that he was unable to provide transport for that particular week as his mini bus was being used by his friend. He stated that he would "have something organised" if the college rang back later in the week. This was denied by both Mr Fitzpatrick and his assistant, who were both present when the call was made. Mr McCaul also stated that he himself did not have an issue with the guide dog but a number of his passengers had a problem because of the dog smell and dog hairs on the bus.

In his conclusions, the Equality Officer considered whether the respondent had always intended continuing with the service in a smaller vehicle and had deliberately misinformed the complainant, because he did not want the guide dog on the bus or whether he changed his mind about continuing with the service over the weekend.

Having considered all the evidence, the Equality Officer did not find that Mr McCaul's claim that he had changed his mind over the weekend to be credible. He found the evidence of Mr Fitzpatrick and his assistant to be more compelling. The Equality Officer was satisfied that Mr McCaul did not intend to withdraw the service at the time and that he had formed this view based on the other passengers telling him that the number of people using the service was dwindling because of the presence of the guide dog. The Equality Officer found that Mr McCaul had deliberately misinformed the complainant that he was discontinuing the service to prevent his availing of that service because he did not want his guide dog on the bus. The Equality Officer found that by treating Mr Fitzpatrick in the manner in which he did, because of his guide dog, Mr McCaul discriminated against him. He found that Mr. Fitzpatrick had established a prima facie case of discrimination which Mr McCaul had failed to rebut. He was also satisfied that the issue of nominal cost did not arise in the case.

In his final comments, the Equality Officer stated that Mr McCaul was concerned at the business he might lose from certain customers, who complained about the smell of the dog. However, by taking those views on board Mr McCaul had failed in his responsibility as a service provider, to comply with the provisions of the Equal Status Acts. In providing redress, the Equality Officer took into account the fact that Mr Fitzpatrick relied quite heavily on the minibus service and that at least a week of his education had been seriously disrupted and also the extent of the distress that was caused to him by what had happened. The Equality Officer found that Mr McCaul

had discriminated against Mr Fitzpatrick on grounds of his disability and by his failure to provide reasonable accommodation and awarded him the sum of €2,500 for the effects of the discrimination.

Mr. Desmond McGreal - v - Cluid Housing
Decision No. DEC-S2011-004
Ground: Age and Disability

Mr Desmond McGreal is a retired bachelor with no dependent relatives or close family. He claimed that he was being harassed, discriminated against and victimised by the respondent, Cluid Housing Association, a charitable organisation that provides purpose built sheltered housing for people with low incomes. In particular it provides a service which enables older people to live independently, privately with dignity, security and fulfilment within their own home for as long as they wish and are able to do so. The Housing Acts do not directly apply to the respondent.

Mr McGreal complained that he was subjected to ongoing harassment and discrimination by local estate manager(s) as a result of making various recommendations and complaints during the course of his tenancy. He claimed that instead of having his complaints dealt with in a reasonable manner, the estate management threatened him with notice to quit. They also failed to advise him of or allow him complete a new tenancy agreement, which would be more favourable to him as a tenant of the property. Several other tenants were so advised and had completed new tenancy agreements which had more favourable conditions.

Subsequent to Mr McGreal having made his initial complaint to the Equality Tribunal, the respondent made an application to the District Court for an order for his eviction. Mr McGreal informed the respondent that he had no legal representation to defend the court proceeding and was unable to represent himself due to ongoing health problems. He requested an adjournment and produced documentation from two doctors in support of this request to allow him time (a) to instruct a solicitor to represent him and (b) to allow him to be physically healthy enough to give evidence. The request for an adjournment was refused by the respondent who then proceeded with their case in the District Court.

Mr McGreal maintains that he has not breached any of the conditions of his tenancy agreement with the respondent. He believes that because of an archaic clause in his letting agreement, that he is being punished by the respondent for having voiced his concerns to the estate management over certain issues in the running of the estate.

The case was heard by the Equality Officer on 1 September and 6 October 2010. Correspondence continued between the parties until 8 November 2010 when the presentation concluded. The Equality Officer's decision was

issued on 20 January 2011. She found against the complainant in the matter of the complaints alleging harassment and victimisation, but in favour of the complainant on the allegation of discrimination on the grounds of age. She awarded him the maximum amount allowed under the legislation. She also ordered the respondent to carry out a review of their policies and procedures to ensure that they are in compliance with the Equal Status Acts.

Appeal to Circuit Court

Michael O'Brien - v - Kerry County Council

Ground: Membership of the Traveller Community

(Appeal by Kerry County Council, against a decision of an Equality Officer)

This appeal was lodged, by the respondent, in the Circuit Court against an Equality Officer's decision. Mr O'Brien was represented in the Equality Tribunal hearing by Ms Una O'Neill who is a visiting teacher with the Kerry Travellers Development Project. The case was successful with the discrimination aspect of the claim and failed on the harassment element. The Tribunal Decision of Ms Bernadette Treanor, Equality Officer, determined that the complainant had not made a case under harassment as defined in Section 11(5) of the Act, nor for victimisation as defined in Section 3(2) (j) of the Act. However, she did find in favour of the complainant in respect of discrimination under Section 6 of the Act. She awarded maximum compensation together with five recommendations for Kerry County Council to implement.

Mr O'Brien's primary complaint was that of harassment and victimisation by the Travelling Liaison Officer (TLO) Mr Dan O'Leary, who is employed by Kerry County Council to assist Travellers with their housing applications and other requirements. Mr O'Brien alleged that Mr O'Leary made discriminatory comments against him and his family and acted in an inappropriate manner when he called to the complainant's home on the 8 October 2004.

The appeal case before the Circuit Court was a "de novo" hearing and therefore all issues were due to be considered in their entirety.

The Circuit Court Judge found that:

1. On 8 October 2004, following a visit from the Traveller Liaison Officer from Kerry County Council, comments were made by the TLO which the complainant found objectionable.
2. The complainant was also unhappy because as a Traveller, he had to deal with the TLO. He felt discriminated against because if he was a member of the settled community then he would only deal with the Housing Officer.



3. The Judge said that he had no doubt in his mind that the words spoken were objectionable and actionable in Tort, but they were not discriminatory against Mr O'Brien, because they did not refer to him in his capacity as a Traveller.
4. He further went on to say that the ESA 2000 provides assistance, especially in relation to harassment under Section 11 (5) of the Act. The Judge believes that the words used by the TLO were not discriminatory and do not refer to him in the capacity of a Traveller. Therefore the complainant could not ground an application under the Act, even if these words were said.
5. In respect of the 2nd ground of complaint, as outlined by the Judge in paragraph 2, he said that the TLO and Kerry County Council were under statutory obligations to provide accommodation needs. There were considerable duties needed to assess accommodation needs of all persons that applied. It seems necessary to appoint somebody responsible for referring County Council provisions of the Housing Act. In this regard, he was referring to the TLO and Housing Officers who do not seem to have executive functions but have general duties to administer the provisions of the Housing Act.
6. As a result of this, it is not objectionable to have a TLO or a system for requests to local authority through the Traveller Liaison Officer. Therefore there was no sustainable action of less favourable treatment and no decision or Act of the local authority is, in itself, challenged.
7. He therefore allowed the appeal of the respondent. He made no order as to costs for either side.



3.2 Equal Status Acts 2000 – 2011 SETTLEMENTS

There were ten settlements reached on behalf of clients in 2011 and the details are published online on www.equality.ie. A selection appear below:

A Complainant - v - A Bank

Ground: Disability

The complaint claimed that her son, who has Down's Syndrome, was discriminated against when a bank refused to open an account for him, due to his inability to read or write. She claimed that the bank also refused to open a joint account for her and her son, for the same reason.

Following correspondence from the Equality Authority and a subsequent meeting between the Authority, the complainant and the bank, the matter was resolved. The bank agreed to open an account for the complainant's son. The bank also agreed to lodge an amount of €250 into the account as a goodwill gesture. The complainant subsequently contacted the Equality Authority to confirm that the account has been opened and the money lodged into it.

Complainants on behalf of their wives - v - Child Benefit Section Department of Social Protection

Ground: Race

The complainants are both men of Irish nationality who are married to non- Irish women. The women are both EU nationals. Both families have children for whom they receive Child Benefit from the Department of Social Protection. The Child Benefit is paid to the mothers. Because they are not Irish citizens, the mothers in this case are required to provide a certificate on a quarterly basis, to confirm that their children are still resident in the country. This certification procedure does not apply to "Irish national customers".

Both women have been resident and employed in Ireland for over 10 years. Their children are Irish citizens, as are their husbands. They argued that if the payment was made to their husbands, they would not be subject to the registration requirement or, that if they had taken her husbands' names, they would not be subject to this registration requirement.

After some correspondence, the Department confirmed that customers, who were married to Irish nationals, would be subject to the same reviews as Irish customers who are employed and living in Ireland. Therefore the complainants would not receive a quarterly registration certificate from now on. The case was then withdrawn.

4. Discriminatory Advertising SETTLEMENTS

The Equality Authority may refer a claim to the Equality Tribunal under section 85(a), where it appears to the Equality Authority that a publication or display is in contravention of section 10 of the Employment Equality Acts 1998-2011. In 2011 there were 4 case-files processed concerning allegations of discriminatory advertising under the Employment Equality Acts 1998-2011. There were no decisions issued relating to discriminatory advertising.

The settlements are reported below:

Equal Status Acts 2000-2011

The Equality Authority may also refer a claim to the Equality Tribunal under section 23 where it appears to the Authority that a publication or display is in contravention of section 12 of the Equal Status Acts 2000-2011.

Employment Equality Acts 1998-2011 SETTLEMENTS

Taxi Company Ground: Race

The Equality Authority was contacted in relation to an advertisement by a taxi company on Twitter which was believed to be discriminatory on the race ground.

In this instance the wording "Has only IRISH Drivers" and "are looking for an experienced base controller, computer skills a must" appeared to indicate an intention to discriminate against potential employees who were not Irish.

The Equality Authority wrote to the company who denied any intention to discriminate. The company 're-tweeted' the vacancy for a base controller, stating "all nationalities welcome to apply."

Jobs Website Ground: Age

An advertisement was posted on 'Loadzajobs.ie' website, seeking a young, dynamic office manager. The Equality Authority wrote to Loadzajobs saying the advertisement appeared to discriminate on the age ground and asking them to publish a non discriminatory version of the advertisement.

The company re-advertised the position and forwarded a copy to the Equality Authority.

5 Intoxicating Liquor Act 2003

In 2011 there were 37 legal case-files dealt with under the Intoxicating Liquor Act 2003. Of these, 25 were new files opened in 2011, with the grounds of Traveller, Disability and Sexual Orientation accounting for the majority of new case-files. The table below provides a breakdown of the categories of all case-files by ground.

Ground	Total Case-files
Age	1
Disability	9
Family Status	2
Marital Status	1
Mixed	1
Race	1
Sexual Orientation	6
Traveller	16
Total	37

All cases taken under the Intoxicating Liquor Act 2003 were in the Hotels, Restaurants & Licensed Premises sector. The table below gives a breakdown of cases by ground within the sector:

Ground	Nightclubs	Public Houses	Restaurants
Age	0	1	0
Disability	2	6	1
Family Status	0	2	0
Marital Status	0	1	0
Mixed	0	1	0
Race	0	1	0
Sexual Orientation	3	3	0
Traveller	0	16	0
Total	5	31	1

In 2011 under the Intoxicating Liquor Act 2003 there were:

- 9 Settlements;
- 1 Court Determination.

The decisions and settlements are reported below.

5.1 Intoxicating Liquor Act 2003 DECISIONS

Robert McGee - v - Downey's Pub Ground: Disability

The claimant is a man who has been blind since the age of five. He is a very independent person who lives on his own and looks after himself. He uses a white walking cane to navigate.

On the night of Sunday 24 October 2010, Mr McGee and three of his friends were enjoying a drink in the bar of Downey's Pub. They decided to go into the lounge of the pub, but Mr. McGee was stopped by the doorman, who claimed the lounge was overcrowded and too dangerous for him. Mr McGee believed that he was denied entrance because he was blind and not because the lounge was full. Several witnesses stated that at 10:30 that night there was plenty of room at tables. Witnesses also confirmed that while Mr McGee was speaking with the doorman several other people entered into the lounge without being stopped.

Mr McGee returned to the pub on 28 October 2010. He was also intending to seek an explanation as to the reason why he was refused access to the lounge. When he asked for service he was informed by the barman that he needed to have somebody with him, before the barman could serve him.

The respondent denied any discrimination stating the lounge of the public house was very full on the night in question, due to Mary Byrne singing on X-Factor - the TV programme. The respondent also denied that any discrimination took place in relation to the second incident. They explained that the refusal of service was due to the barman mistakenly believing that Mr McGee was being accompanied by a friend, who the respondent alleges caused trouble on the Sunday night, when in the presence of Mr McGee.

In her judgement, Judge Mary Collins expressed her concern that Mr McGee would feel discriminated against, because of his disability, given his very independent lifestyle and the fact that he never allowed his disability to affect his life.

In relation to the first incident the Judge then referred to the evidence of the bar manager who had told the Court that Mr McGee was not allowed into the lounge because it was too full and dangerous. He was therefore directed to go back into the bar. The Judge found that in view of this evidence it was difficult to see where discrimination had occurred against Mr McGee. The numbers in the lounge had to be restricted because of health and safety issues and not only was Mr McGee restricted from entering but so were his three friends, none of whom have a disability. She found that it was not because of Mr McGee's disability that he was refused entry into the lounge, but because of the large number already present, and therefore there was no discrimination.

In relation to the second incident, Judge Collins commented that the respondent dealt with this matter badly. Although she felt that Mr McGee was very unfairly dealt with on this occasion again she did not feel that it was a discriminatory act against him on the ground of his disability. She expressed the hope that an appropriate apology would issue to Mr McGee from the respondent, in relation to the manner in which he was treated on the second incident.

Finally, Judge Collins noted that the Equality Authority had written to the publican outlining Mr McGee's complaint on 30 November 2010. She noted that the respondent did not reply to the Equality Authority until 10 February 2011. In her view, the respondent should have replied earlier, as the matter might never have proceeded to a Court hearing if an adequate and timely response had issued to the complainant. She noted the Equality Authority's statutory role to legally assist complainants in respect of alleged prohibitive discriminatory conduct. The delay in replying left the complainant and the Equality Authority with no option but to issue proceedings.

In conclusion Judge Collins dismissed the complaint of discrimination against the respondent and made no order as to costs for either party.

5.1 Intoxicating Liquor Act 2003

SETTLEMENTS

There were 9 settlements reached on behalf of clients under the Intoxicating Liquor Acts. These are available on www.equality.ie. A selection appears below:

CD - v - A Bar

Ground: Membership of the Traveller Community

The complainant contacted the Equality Authority alleging discrimination on the Traveller ground after she was refused a booking for a function room in licensed premises. When the complainant enquired by telephone as to the availability of the function room, she was advised that the room was

available. However, when she went to view the room, she was asked what she required the room for? When she disclosed that it was to celebrate the 25th anniversary of a Traveller Action Group, she was told "we don't take Travellers" "we had trouble with Travellers last year".

Following representation from the Equality Authority, a written apology was received from the licensee. The claimant was satisfied with the apology and considered the matter resolved to her satisfaction.

MB - v - A BAR/Nightclub

Ground: Disability

The complainant suffers from a condition known as Benign Essential Tremor and Raynauds disease which causes her limbs to shake and which can give her the appearance of being intoxicated. She was refused entry on several occasions to the night club. The Authority contacted the night club and informed them of the position. The night club agreed to grant her admission in future. However, the complainant was subsequently refused admission again by the security staff. Following further contact between the Equality Authority and solicitors for the night club, the complaint was resolved with the issue of an apology and a payment by way of compensation.

Complainants - v - a Public House

Ground: Membership of the Traveller Community

The complainants contacted the Equality Authority claiming that they were discriminated against when they were refused service in the respondent public house on Sunday 27 March 2011. The complainants with two friends decided to enter the pub after seeing a poster outside the premises, advertising music that evening. Immediately on entering, one of the complainant ordered drinks from the bar lady but was told that there was a private party and that as none of the group had been invited they would not be served. The complainants state that there were no signs up in the bar to show that there was to be a private party and indeed there was one table with 14 people in the bar who were not attending any party.

Following representation from the Equality Authority, a written apology was received from solicitors acting on behalf of the respondent. The complainants were satisfied with the apology and considered the matter resolved.

6. Applications for Representation

Any person may apply to the Equality Authority for assistance in taking proceedings under the Employment Equality, Equal Status or Intoxicating Liquor Acts. The Equality Authority supports cases of strategic importance that fulfill the criteria as set down by the Board of the Equality Authority. The Equality Authority is not, therefore, in a position to provide assistance to everyone who contacts it. Everyone who contacts the Equality Authority for assistance is informed about the criteria which govern the selection of cases for the provision of legal assistance. They are also told at the outset if it appears that the claim falls outside the criteria. Authorisation is first given by the Head of Legal Section to provide preliminary assistance. The file is then assigned to a solicitor who will enter into communication with all parties. They may subsequently proceed to process the application for substantial assistance i.e. representation. Not all people who contact the Equality Authority and/or who receive preliminary advice and assistance qualify or want to apply for representation. In 2011, preliminary advice and assistance was given in 156 new case-files:

- 64 under the Employment Equality Acts 1998-2011;
- 67 under the Equal Status Acts 2000-2011;
- 25 under the Intoxicating Liquor Act 2003.

25 applications for substantial assistance were considered during 2011. 18 under the Employment Equality Acts 1998-2011, 6 under the Equal Status Acts 2000-2011 and 1 under the Intoxicating Liquor Act 2003. 23 applications for assistance were granted. 2 applications were refused.

The breakdown of substantial assistance requested is as follows:

(I) Employment Equality Acts 1998 - 2011

Ground	Total
Gender	4
Race	2
Disability	9
Mixed	3
Grand Total	18

(II) Equal Status Acts 2000 - 2011

Ground	Total
Age	1
Disability	3
Membership of Traveller Community	1
Mixed	1
Grand Total	6

(III) Intoxicating Liquor Act 2003

Ground	Total
Disability	1
Grand Total	1

Partnership for Equality in Employment & Service Provision

Strategic Goal 3: *A proactive approach by employers and service providers in key sectors to promote equality and achieve compliance with equality legislation*

Objective 1a⁷: Promoting And Assisting Practices That Contribute To Equality And Non-Discrimination In Schools, Health Institutions, Housing Authorities And Private Sector Accommodation Providers.

Equality Reviews in Primary Schools

In 2011, the Equality Authority completed work on a draft resource to enable an equality review to be undertaken in a primary school. The resource was developed specifically for Irish primary schools by a team of experienced primary teachers working with the Equality Authority. The process set out in the draft resource consists of ten steps, sampling four school policies, three curriculum areas, and drawing on the insights and views of the school staff, a sample of pupils, a sample of parents, and one school-level statistics. The resource is designed to enable schools to use effectively the limited time that an Irish primary school has available for school development planning and professional development.

The Equality Authority was advised in its work by an Advisory Committee consisting of the Church of Ireland Board of Education, the Catholic Primary School Management Association, the Inspectorate of the Department of Education and Science, Educate Together, An Foras Patrúnachta, the Irish National Teachers' Organisation (INTO), the Irish Primary Principals' Network, the Patron of Muslim Schools, the Primary Professional Development Service (now merged into the Professional Development Service for Teachers), and the Principals' Network of the INTO. Funding has been secured under the EU's PROGRESS Programme 2007–2013 to enable the resource to be tested in two

⁷ *Ibid.*

schools. The process of selecting schools and securing the services of suitably qualified educators to undertake the reviews in the schools has begun.

INTO Project to Combat Racist Bullying in Schools

The Equality Authority began a project in cooperation with the INTO to develop an online training module for teachers to enable them to combat racist bullying in schools. This project will be completed in 2012.

Forum on Patronage and Pluralism in the Primary Sector

The Advisory Group appointed by the Minister for Education and Skills to oversee a Forum on Patronage and Pluralism in the Primary Sector sought information from the Equality Authority on the issues that arise in terms of religion and the equality legislation in primary schools. The Equality Authority's contribution noted that discrimination on the religion ground in education has been a constant feature of the Equality Authority's legal work. In every year since 2000, the Equality Authority has always had casefiles concerning schools and the religion ground.

The Equality Authority also drew on research that it had undertaken on admissions policies and on its cases / casefiles to highlight issues on the religion ground in areas such as admission policies, admission practices, arrangements during religion classes, religious segregation, racial segregation, school celebrations, and bullying of lesbian, gay and bisexual students. The Equality Authority also noted that current legislation and education provision creates the potential for difficulties for students with a disability from minority religions. It also noted the complexity involved in accommodating religious requirements while protecting students and teachers against discrimination on the gender, sexual orientation, civil status, and family status grounds.

Regulatory Framework for School Enrolment

The Department of Education and Skills issued an invitation for submissions on a discussion paper on a regulatory framework for school enrolment. The Equality Authority in response drew on research that it had commissioned on admissions policies as the basis for its submission.

The Equality Authority's key recommendation was that any changes to primary or secondary legislation governing school admissions should seek to ensure that no school can engage in discrimination or act, in a way that contributes to inequality. Any new regulations must explicitly prohibit schools from issuing policies that have discriminatory or potentially discriminatory provisions. The Equality Authority identified other issues to be addressed in any reform of school admissions, including the definition of 'characteristic spirit' in the Education Act and the role of statutory bodies in the education sector such as the National Educational Welfare Board, Vocational Education Committees (VECs) the National Council for Special Education, and Section 29 committees.

The Equality Authority recommended that consultation processes should include parents who experience inequality and that information on admissions should be transparent and accessible to a range of parents. The Equality Authority pointed to the need for a 'positive duty' on those who implement any new regulations and for new regulations to be equality proofed. The Equality Authority also identified the need to ensure that new regulations do not place linguistic requirements on parents or apply the exemption in the Equal Status Acts on the religion ground in a way that would contravene the Equal Status Acts and the EU Race Directive

Objective 2a⁸: Developing And Implementing Support Packages For Providers Of Vocational Training And Employment Services And Implement A Programme Of Work Through The Equal Opportunities Framework Committee Under The Equality Mainstreaming Unit. This Action Will Be Part-Funded Through The European Union.

Equality Mainstreaming Unit

The Equality Mainstreaming Unit (EMU), established with funding from the European Social Fund through the Human Capital Investment Operational Programme of the National Strategic Reference Framework 2007-2013, continued to deliver a programme of activity in 2011. The main objective is to contribute to addressing labour market gaps in Ireland for specific groups that are experiencing inequality across the nine grounds covered by the equality legislation.

The EMU facilitates and supports institutional change within providers of further education, training and labour market programmes, within small to medium enterprises and within employers' and trade unions' networks by strengthening their capacity to combat discrimination, to promote equality and to accommodate diversity.

The EMU focused on the following areas of work across four strands of activity in 2011.

⁸ *Ibid.*

STRAND A: Support Packages to Promote Equality Mainstreaming within the VEC and Further Education Sector

The EMU issued a public call for proposals on 21 April 2011 seeking applications from Vocational Education Committees (VECs) to develop projects that would apply an equality mainstreaming approach to the inclusion of Travellers in mainstream vocational education and training. The VEC sector was in the process of reviewing its services in order to ensure that Traveller learners would not be disadvantaged in accessing mainstream courses in the context of the planned closure of Senior Traveller Training Centres.

During 2011, the EMU funded seven VECs to develop and implement action plans to prepare VECs to facilitate the inclusion and integration of Traveller learners. These were County Cork VEC, Limerick College of Further Education, County Wicklow VEC, North Tipperary VEC, City of Galway VEC, County Galway VEC and Roscommon VEC. All of these participants successfully concluded their projects and carried out a range of equality actions such as focus groups, training sessions on Traveller culture and equality, consultations with Traveller learners and VEC staff, senior management meetings focused on this issue and the drafting of action plans on Traveller inclusion into mainstream VEC provision. The projects followed loosely the process model that had been developed by County Louth VEC in a similar project funded by EMU in 2010.

STRAND B: Sectoral Projects to Support Workplace Equality

This strand of funding supports projects that apply a sectoral approach to workplace equality. The intention is that these workplaces become proactive in combating discrimination and promoting equality. Five sectoral projects were successfully concluded during 2011. Each of these projects demonstrated a partnership approach and included employer and employee representatives in the design and delivery of their actions. The following are some of the project achievements:

The **Irish Universities Association Equality Network** developed and tested an on-line equality and diversity training module on workplace equality for all staff within the university sector. The on-line programme enables each participant to develop his/her knowledge of equality and diversity in a flexible way that suits the participant's work commitments. The programme consists of five modules. The participant can complete part of a module, save the progress made and return to complete the module at his / her convenience.

MODULE 1 Understanding Diversity

MODULE 2 What's It Got to Do with You?

MODULE 3 From Compliance to Commitment

MODULE 4 Recruitment & Selection

MODULE 5 Dignity & Respect

Six universities were actively involved in the implementation of this project. These were:

- Trinity College Dublin;
- University of Limerick;
- National University of Ireland Galway;
- University College Cork;
- University College Dublin;
- Dublin City University;

Full details of this project can be viewed on www.leadequalitynetwork.com.

SIPTU (Services Industrial Professional Trade Union) and the Commercial Mushroom Producers (CMP) undertook an equality project primarily focused on female migrant workers in the mushroom-picking sector. They reviewed the existing employment policies and procedures for workers in the mushroom industry to ensure their compliance with equality legislation. An Employment Handbook was developed and translated into Polish, Russian, Latvian, Lithuanian and Romanian for employees of the sector.

Irish Business and Employers' Confederation (IBEC) undertook to research, develop and pilot a gender pay audit tool. Tackling the gender pay gap remains an ongoing issue in the Irish and European labour markets. Results from the Central Statistics Office (CSO) National Employment Survey of August 2011 report that the gender pay gap in Ireland has widened.

IBEC engaged with a range of organisations to ensure that the review tool was relevant and effective and piloted it among different companies including a number of Irish Medical Devices Association companies and a multinational financial services company based in Dublin. The gender review tool will be disseminated and promoted among employers at HR fora, IBEC events and networks. It is also envisaged that the gender pay review tool will be available to members via the members' section of the general IBEC website. The template and guidelines that IBEC have developed will enable companies to undertake a gender pay review and to identify how they can address pay disparities between male and female employees.

The Gay and Lesbian Equality Network (GLEN) developed and piloted a high quality, interactive, online self-assessment tool on lesbian, gay and bisexual diversity for employers in the financial services and information technology sectors. Citigroup, Ernst and Young, Ulster Bank, Microsoft, Dell and IBM participated in the pilot phase. The tool includes 15 downloadable resource guides which include information on good practice from a range of organisations including An Garda Síochána, IBM, Microsoft, University College Cork, the Irish National Teachers Organisation and the Public Service Executive Union. The online assessment tool is available here.

www.diversitychampions.ie

One Family developed a project in partnership with Marks & Spencer, Boots and Superquinn to support the employment of lone parents in the retail sector. They produced a toolkit on tips for employing and retaining lone parents. *Six Steps to Promote Equality for Lone Parents in the Retail Sector* details six practical steps to promote equality for lone parents in the workplace and shows how undertaking these steps can constitute good business sense for retailers. Finally, it showcases a number of good practice examples from retail businesses.

STRAND C: Supports to Trade Unions' and Employers' Networks

During 2011, EMU issued a call for proposals for trade unions' and employers' networks to develop projects to encourage, inform and support planned and systematic approaches to workplace equality. The following three organisations undertook equality projects aimed at developing the capacity of their members to promote equality in the workplace.

Irish Small and Medium Enterprises Association (ISME)

ISME developed a handbook for SMEs (Small and Medium Enterprises) on Equality in the Workplace. This was made available to all members of ISME and also to visitors on the ISME website. The handbook was officially launched at the ISME Annual Delegate Conference held on 11 November 2011 at the RDS in Dublin.

Irish Congress of Trade Unions (ICTU)

The Irish Congress of Trade Unions designed a comprehensive equality course which is being delivered as part of the general provision of the ICTU Education and Training Service. The course is available on the INTO learning site, www.intolearning.ie. It was introduced to trade union equality and education and training officials at a joint meeting of the Education and Training Committee of ICTU on 29 November 2011. The online course will prepare trainees for face-to-face sessions on taking a case to the Equality Tribunal and will be supported by an ICTU resource previously funded by EMU - *Equality How? An ICTU guide to taking a case under the Employment Equality Acts 1998-2011*. This resource is available at:

<http://www.ictu.ie/equality/equalitytribuna.html>

Irish Business and Employers' Confederation (IBEC)

IBEC organised a seminar and networking event in the Burlington Hotel, Dublin to showcase some of the equality and diversity work that employers in Ireland are undertaking. Key employers including Citi, Dell, Deloitte and Ernst & Young made presentations highlighting a range of different diversity initiatives. Attendees spanned small, medium and large employers, private and public sector and NGOs including the financial services, ICT, health and pharmaceutical sectors. The event highlighted and promoted a range of tools, resources and guidelines that have been developed over the last few years, many with the support of the Equality Authority or the Equality Mainstreaming Unit

Following the seminar, IBEC had requests from a number of employers to engage with them on developing a diversity strategy or setting up networking groups or awareness programmes. Three new organisations also joined the IBEC Diversity Forum.

STRAND D: Research and Resources

Equality Mainstreaming Annual Conference

The *Equality Mainstreaming in Further Education and Training Conference: Achievements and Challenges* took place on 25 October in Dublin Castle. Minister of State Ciaran Cannon T.D. officially opened the conference which showcased the work of the Equality Mainstreaming Unit to date through a presentation by the Head of the EMU Carole Sullivan. Guest speakers included Professor Sheila Riddell from the University of Edinburgh. Dr Padraig Kirk, CEO of County Louth VEC, presented the learning from the 2010 EMU funded project on the inclusion of Traveller learners in VEC mainstream provision.

The EMU conference presented an on-line equality training tool developed by the Irish Universities Association Equality Network. It then provided an opportunity for participants to participate in an interactive session using this tool as well as an on-line disability equality training programme developed and funded by the National Disability Authority (NDA). Attendees learned how they could use these tools in their work.

The EMU also launched a new Equality Mainstreaming USB key containing many Equality Authority resources and research publications which have been developed and produced with funding from the EMU.

Equality Benefits Tool

The Equality Benefits Tool, produced as a web-based tool in 2010, was disseminated in hard copy to participants at the VET conference. The Equality Benefits Tools includes three publications:

- ***Equality Benefits Tool: Your Service Users and You: Realising the Benefits in the Public Sector*** (which provides a series of templates for embedding equality in service provision in the public sector);
- ***Equality Benefits Tool: Your Customers and You: Realising the Benefits in the Private Sector*** (which outlines a series of templates for equality actions in customer service in the private sector);
- ***Equality Benefits Tool: Employment*** (which outlines how to realise the benefits of equality in employment practices in the public and private sectors).

The development of the Equality Benefits Tool was part-funded by EU PROGRESS funding.

Equality Works for SMEs

The EMU produced a new booklet in 2011 presenting a number of good practice examples of equality actions taken by SMEs (Small and Medium Enterprises) showing how they have benefited from taking action on equality. The SMEs showcased were supported through a scheme for SMEs run by the EMU between 2007 and 2010.

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Objective 3a⁹: Supporting A Network Of Organisations Within The Private, Public, University, Local Authority, Trade Union And Community And Voluntary Sectors To Support Good Practice In Promoting Equality, Accommodating Diversity, And Eliminating Discrimination.

.....

Public Sector Equality Learning Network

The Equality Authority organised four learning events for members of the Public Sector Equality Learning Network (PSELN) during 2011 including:

Mental Health Issues in the Workplace and in Employment The event included contributions from Shine / See Change, Amnesty International and the Equality Authority focusing on stigma and discrimination in relation to mental health issues. It also gave the participants the opportunity to discuss a case-study based on employment equality law and its applicability to mental health issues.

Why equality matters: developing equality skills in the public sector,

The event supported public sector officials to make the case for equality at a time of recession and to train them to undertake an equality review of employment practices. Terry McDonough of the National University of Ireland Galway presented the case for equality, focusing on how inequalities create poorer societal outcomes across a range of social areas. Maria Gilsean of Melior Management delivered training on applying, in a public sector context, the employment equality templates developed as part of Westmeath EQUAL's Equality and Diversity Healthcheck tool. The employment equality audit template can be accessed in the Equality Authority's **Equality Benefits Tool: Employment** (see Template C).

A one-day workshop on **Religious Diversity Awareness** was focused on religious diversity awareness and how to respond to organisational needs in relation to religion. The learning event was facilitated by Diversiton, a non-profit organisation based in Northern Ireland.

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⁹ *Ibid.*

The final event was facilitated by the Equality Authority on practical guidance on how to deliver an **Equality Awareness Workshop**, drawing from the PSELN Equality Awareness module developed in 2010.

Objective 3b¹⁰: Supporting Projects To Develop An Equality Competence In Public And Private Sector Organisation.

Project with LGMA and Wicklow Council on equality and housing

The Equality Authority worked in partnership with the Local Government Management Agency (LGMA) and with Wicklow County Council on a project to identify how equality considerations could be embedded in a local authority's decision-making on housing allocation. The project received EU PROGRESS funding. The project included one-to-one semi-structured interviews with officials of Wicklow County Council's Housing Department and equality training for the Housing Department's officials. The LGMA workshop for local authority officials on 20 September 2011 outlined the findings of the project and showed them how equality considerations could be embedded more effectively in housing allocation. A report has been prepared of the findings of the project.

The project found that housing officials were conscious of their responsibilities under the equality legislation but were having to make difficult decisions in the context of tightening resources and strengthening pressures. There was a need for a more systematic focus on equality and data collection. The scheme of letting priorities needed to be equality proofed as did housing supply. As local authorities were required to comply with national policy on housing, which did not include an equality focus, there was a need for a national code of practice on equality and housing that would embed equality into the key policies governing housing allocation. The project also led to the development of a framework for integrating equality into housing allocation. Details of the project are outlined in *Embedding Equality in Public Services: What Works in Practice* (see below).

County Donegal VEC's Equal Status Policy Project

The Equality Authority issued a call for proposals to members of the PSELN for a project on embedding equality in service provision in the public sector. County Donegal VEC was selected to undertake a project to develop an equal status policy and implementation plan for its education services. The project was funded with EU PROGRESS funding.

The equal status policy and implementation plan were developed on the basis of a participative process that included the active engagement of

¹⁰ *Ibid.*

County Donegal VEC's Strategy Development Team and an online survey of teachers and learners. The participative process was found to be beneficial in developing equality capacity and confidence within the Strategy Development Team. The positive reaction among service users to being consulted about services helped to reassure the VEC in terms of its efforts to promote equality in service provision.

Publication: *Embedding Equality in Public Services: What Works in Practice*

The Equality Authority produced this publication which provides advice for public sector organisations on implementing equality in service provision. It includes successful implementation models applied by local authorities in previous equality projects. It highlights the lessons arising from the project by Wicklow County Council on embedding equality in housing allocation and the learning from County Donegal VEC's project to develop an equal status policy covering its education services. It draws on the lessons of a range of equality projects to develop the EQUALITY model as the recipe for implementing an equality project and is part funded by EU PROGRESS.

The EQUALITY model sets the following eight ingredients as essential for implementing equality in public services. These are:

- Engagement
- Quality
- Understanding
- Assessment
- Leadership
- Innovation
- Training
- Yield Results.

Equality for All in a Time of Change

The Equality Authority received funding from the EU PROGRESS fund to undertake a programme of activity entitled *Equality for All in a Time of Change* aimed at promoting equality knowledge and capacity. The programme encompassed a series of actions by the Equality Authority which are reported separately. It also included the production of a bench book on diversity for the judiciary produced by the Judicial Studies Institute.

Workshop: *Implementing Equality in Service Delivery, 25 October 2011*

The Equality Authority organised a workshop for public sector officials, entitled *Implementing Equality in Service Delivery* in Dublin Castle on 25 October 2011. The workshop, funded by EU PROGRESS funding, was designed to provide advice and training to public sector officials on embedding equality in service delivery, even in a context of tight resources.

Training Event: *Equality: The Business Case*

The Equality Authority organised a training event for businesses on 13 September 2011 in Dublin on making the business case for equality. Training was given on applying a toolkit that was developed with Athlone Chamber which identifies the business impact of equality and diversity. It shows how equality and diversity can be turned to competitive advantage by businesses and enables a company to audit its performance on equality across a range of business functions such as sales and marketing, HR, finance, operations and product and to harness the benefits of equality in these areas. The toolkit can be accessed in hard copy or online through the Equality Authority's *Equality Benefits Tool: Your Customers and You: Realising the Benefits in the Private Sector*.

**Objective 5a¹¹: Developing Equality
Impact Assessment Tools To Be Used
By Government Departments.**

Pilot Project on Disability Proofing of Cabinet Material

The Equality Authority and the National Disability Authority supported the Diversity and Equality Law Division, Department of Justice and Equality, on a pilot project to support Government Departments to disability proof memoranda prepared for Government. The guidelines, *How to Conduct a Disability Impact Assessment: Guidelines for Government Departments*, were completed supporting Departments to apply a disability lens when developing policies in a wide range of areas as memoranda form the basis for Cabinet decisions. The Department of Environment, Community and Local Government and the Department of Health and the Department of Transport participated in the pilot. The guidelines will be disseminated in 2012.

11 *Ibid.*

Evidence For & Understanding of Equality

Strategic Goal 4: *Continuous enhancement of evidence for and understanding of equality issues*

Objective 1¹²: To Build The Evidence Base On Diversity, Current Inequality And Discrimination And Of Effective Responses To These Issues.

The overall aim of the Equality Authority’s research programmes is to enhance knowledge and understanding of discrimination and inequalities across the nine grounds covered by the equality legislation and of relevant policies and programmes to address these inequalities.

Pregnancy at Work

It is illegal for women to be discriminated against at work because they are pregnant or for a reason relating to their pregnancy – for example, childbirth or the taking of maternity leave. Despite this, pregnancy discrimination remains a significant barrier to full equality for women in the Irish labour market. It is essential, therefore, that women be made aware of their rights regarding pregnancy at work, and are supported in vindicating those rights. It is also essential that employers accept and embrace their responsibilities in this regard. More broadly, the enforcement of the law in this area needs to be underpinned by a culture of compliance and an informed public opinion that forthrightly rejects discrimination whenever and wherever it occurs.

Authoritative evidence on inequality and discrimination plays an indispensable role in informing public opinion and in building public support for equality in the workplace and in society. The Equality Authority is very pleased, therefore, to have had the opportunity to work with the HSE Crisis Pregnancy Programme in a major research project exploring women’s experience in paid work during and after pregnancy. Three reports arising from this project, which was carried out by a team of researchers at the ESRI, were published in June 2011. These were:

¹² *Ibid.*

- *Pregnancy at Work: A National Survey* by Helen Russell, Dorothy Watson and Joanne Banks;
- *Pregnancy and Employment: A Literature Review* by Helen Russell and Joanne Banks;
- *Pregnancy Discrimination in the Workplace: Legal Framework and Review of Legal Decisions, 1999 to 2008* by Joanne Banks and Helen Russell.

Pregnancy at Work: A National Survey

This groundbreaking report presents the findings of Ireland's first nationally representative survey of women's experiences at work during and after pregnancy. The majority of mothers with young children and women of childbearing age are now in the workforce and their experience at work during and after pregnancy have become increasingly relevant over time. The survey sample of 2,300 women was randomly selected from the Department of Social Protection's universal child benefit register and comprised women whose youngest child was born between July 2007 and June 2009. Areas surveyed include treatment by employers during pregnancy, crisis pregnancy, health and safety, maternity leave, parental leave and return to work.

This survey provides the first nationally representative data on the extent to which women experience *unfair treatment at work due to pregnancy* in Ireland. Two-thirds of the women who were the focus of this study had been in employment during pregnancy. The majority of these women felt that their employer was supportive (71 per cent) and most were satisfied with their treatment at work during pregnancy (63 per cent). Nevertheless, a significant minority of women in employment during pregnancy experienced problems:

- Up to 30 per cent of women reported unfair treatment during pregnancy.
- 5% of women employed during pregnancy reported that they were dismissed, made redundant or treated so badly that they had to leave their job.
- Other forms of unfavourable treatment included loss of salary, bonus, or denial of promotion (10 per cent); being given unsuitable work or workloads (12 per cent), receiving unpleasant comments from managers/co-workers (8 per cent); being discouraged from attending antenatal appointments during work time (8 per cent) and a range of other problems.
- Unfair treatment was more common among women working in the retail and wholesale sector, in organisations with few flexible work arrangements and without a formal equality policy. Unfavourable treatment was less common in small organisations (1 to 9 employees).
- Younger women and women expecting their second child were more likely to have experienced unfair treatment.
- Three-quarters of women who experienced unfair treatment during pregnancy took no action.

This survey also provides compelling evidence that work-related reasons are a contributory factor in crisis pregnancy experience. The main findings regarding crisis pregnancy were:

- 33 per cent of women stated that their pregnancy was emotionally traumatic or represented a personal crisis for them at some stage during the pregnancy.
- The rates of crisis pregnancy were slightly lower among women who had been employed at some stage during their pregnancy (29 per cent) than among those who were not employed during their pregnancy (39 per cent). However, this is mainly due to differences between employed and non-employed women in age and family circumstances. Nevertheless, because of the high rates of employment among women of childbearing age, 60 per cent of women reporting crisis pregnancy were in employment.
- 60 per cent of mothers aged under twenty-five years and 58 per cent of lone mothers experienced their pregnancy as a personal crisis.
- A high risk of crisis pregnancy was also found among mothers who were limited in their daily activities at the time of the survey (61 per cent), although we cannot be sure this limitation was present during the pregnancy itself.
- There was a strong association between unfair treatment at work during pregnancy and crisis pregnancy: 40 per cent of mothers experiencing one form of unfair treatment and 51 per cent of those experiencing 2 or more forms of unfair treatment reported that their pregnancy had been emotionally traumatic or a personal crisis (compared with 26 per cent of mothers who did not experience unfair treatment).
- On the positive side, the availability of flexible working practices was associated with a reduced likelihood of crisis pregnancy for women in employment. Mothers who experienced lower levels of work-family conflict during pregnancy were less likely to report a crisis pregnancy.

Most women, who were in employment during pregnancy, reported that their health was not negatively affected by their job during pregnancy (87 per cent). Nevertheless, a significant minority of women in employment during pregnancy experienced problems:

- 13 per cent of women stated that their physical or mental health had been adversely affected by employment during pregnancy (either 'a great deal' or 'quite a bit').
- 8 per cent of women experienced a crisis pregnancy where work issues were a contributing factor.
- 12 per cent of women reported problems around unsuitable work or workloads.

The survey also investigates uptake of *maternity and parental leave* and finds evidence that strongly points to inequalities among women. Women with higher earnings potential, better levels of education and an employed partner, are more likely to avail of the extended period of unpaid maternity leave and to receive top-up payments from the employer while on maternity leave. On the other hand, among women with lower earnings potential, not only are they less likely to receive employer-provided top-up payments, but financial pressures result in a lower take-up of unpaid leave and an earlier return to work.

The main findings regarding maternity leave for those women who were in employment during pregnancy were:

- 92 per cent of women took paid maternity leave. Women who were self-employed or who worked in temporary/casual jobs or part-time employment during pregnancy were less likely to take paid maternity leave.
- 41 per cent of women took unpaid maternity leave, mostly taking it in addition to paid leave. Taking combined paid and unpaid leave was related to the mother's ability to afford a period of unpaid leave.
- 48 per cent of women received a top-up payment from their employer in addition to state maternity benefit. Receipt of such payments was higher among women who were already more financially secure.
- 32 per cent of women experienced problems around maternity leave. The most commonly experienced difficulties involved the length of the period of leave.

The main findings regarding parental leave for those women who were in employment during pregnancy were:

- Only 18 per cent of women who had returned to work had requested to take any parental leave; however, since leave can be taken at any point until the child reaches eight years of age, more women may avail of this at a later stage.
- 19 per cent of women who had applied for parental leave had their request refused, or it was granted but not in the requested form.
- Take-up of parental leave is linked to women's ability to afford it.

Most women had returned to work by the time of the survey (71 per cent), usually to the same employer, and a further 22 per cent intended to return to work within two years. The main findings regarding *return to work* after childbirth for those women who were in employment during pregnancy were:

- Most women who returned to work did so either at the end of the statutory paid maternity leave period (35 per cent) or at the end of the period of statutory paid and unpaid maternity leave (31 per cent). About one in eight of the mothers took less than the 26 weeks' statutory paid leave entitlement.

- Remaining outside the labour market after childbirth was associated with low earnings potential, larger family size and working in a temporary/casual job or for a small organisation during pregnancy.
- Early return (before the end of statutory paid maternity leave) was linked to financial constraints and job insecurity.
- The most substantial change in working conditions on a mother's return to employment, compared with her job during pregnancy, was a reduction in her working hours: 33 per cent of mothers who had worked full time during pregnancy reduced their working hours after the birth.
- 21 per cent of women who returned to work felt that their opportunities for training had decreased.
- 24 per cent of women who returned to work felt that their opportunities for promotion had decreased.

Pregnancy and Employment: A Literature Review

This literature review brings together evidence from a range of national and international sources on:

- Pregnancy discrimination at work;
- The health consequences of working during pregnancy; and
- The impact of having children on women's future careers and earnings.

Pregnancy is a pivotal point in the intersection between family and work, and women's experience during and after pregnancy has important implications not only for their current well-being (psychological, physical and financial) but also for their longer-term labour-market prospects.

The duration of time spent out of the labour market around childbirth is shown, through a wide range of studies, to influence women's probability of experiencing downward occupational mobility and pay penalties. However comparison of women's experiences across countries shows that the deterioration in conditions experienced by women can be minimised where institutional factors such as maternity and parental leave legislation protect women's employment position and support their reintegration into employment following any interruption for childcare.

It is also crucial to ensure that women are not directly discriminated against due to their pregnancy. International studies shows that a significant minority of pregnant women experience negative treatment in the workplace, ranging from unsuitable work/workloads, denial of maternity rights, changes in working conditions through to dismissal.

Seen in a comparative context, the research reviewed makes it clear that public policy makes a difference, both in combating discrimination and in supporting mothers – and fathers – to positively reconcile work and family life.

Pregnancy Discrimination in the Workplace: Legal Framework and Review of Legal Decisions 1999 to 2008

This report provides a summary of the legal protections in place for pregnant women in employment. It also examines 54 pregnancy related cases decided by the Equality Tribunal and Labour Court under equality legislation over a recent ten year period. Specifically it provides a detailed profile of the characteristics of the women who brought these cases, their employment and the nature of their experience in the workplace that led to the case. Key findings include:

- In the majority of cases, discrimination was alleged to have occurred for the woman involved during her pregnancy, as opposed to during maternity leave or on return to work after childbirth.
- Almost half the cases (25 of the 54) involved dismissal of pregnant women.
- The majority of discrimination cases were successful for the claimant at the initial hearing (63%).
- Cases involving discriminatory dismissal were more likely to be successful than those involving other forms of discrimination.
- Full-time workers and workers with short job tenures were more likely to take discrimination cases against their employers.
- 'Personal Services and Sales' was the largest occupational group represented in the case-load, with over half of the dismissal cases involving this group.
- Public sector workers were significantly less likely to take cases of pregnancy discrimination than private sector workers.

Workplace Equality in the Recession

In November the Equality Authority and the Economic and Social Research Institute jointly published *Workplace Equality in the Recession? The Incidence and Impact of Equality Policies and Flexible Working* by Helen Russell and Frances McGinnity. This project was co-funded by the European Union Programme for Employment and Social Solidarity - PROGRESS (2007-2013).

Workplace Equality in the Recession? examines the incidence and impact of equality policies and flexible working arrangements in Irish workplaces. This study draws on data from the National Workplace Survey 2009, collected after Ireland had entered a deep recession. Importantly, many of the findings can be compared with the results of a similar survey carried out in 2003.

Equality Policies

In 2009 some 84% of employees were working in an organisation with a formal equality policy, compared with 75% of employees in 2003. Coverage in the private sector has increased significantly since 2003, reducing the gap between public and private sector provision. Having a formal equality policy

impacts positively on employees' perceptions of workplace fairness, on workers' well-being and on organisational outcomes, but has no discernible impact on job quality. The report found that:

- Employees who work in an organisation with a formal equality policy are much more likely to consider that opportunities for recruitment, pay and promotion are fair and equal in their organisation, taking account of other factors.
- The presence of an equality policy is associated with somewhat lower levels of work pressure and work-life conflict, taking all other factors into account.
- Equality policies are associated with higher job satisfaction and higher employee commitment to their place of work (organisational commitment), as was the case in 2003. One important mechanism by which equality policies are associated with satisfaction and commitment is through their positive impact on employees' perceptions of fairness in their organisation.
- Equality policies are also associated with higher levels of output innovation in the previous two years, as reported by employees.
- The presence of an equality policy has no direct impact on absenteeism, either positive or negative.
- The presence of an equality policy has no discernible impact on job quality, measured as earnings and autonomy. This result is consistent with findings from 2003.

The overall conclusion is that formal equality policies are associated with benefits for both employees and the organisations they work for.

Flexible Working Arrangements

The study looks at four flexible working arrangements: flexible working hours, including flexitime; part-time work; working from home and job-sharing. In 2009, 30 per cent of employees worked flexible hours, including flexitime, and 25 per cent worked part-time. Some 12 per cent regularly worked from home during normal working hours, and 9 per cent were job-sharing. This represents a marked increase since 2003.

At organisational level, having more flexible working arrangements available in an organisation is associated with higher job satisfaction and increased output innovation. For the participating individuals flexible working arrangements have mixed effects, for example:

- Part-time work reduces work-life conflict and work pressure significantly, even accounting for other factors.
- However, part-time workers and job sharers tend to have lower earnings and lower autonomy compared to others with the same education and work experience.

- Those who work from home during normal working hours have higher work-life conflict and work pressure, though they also have higher job autonomy and earnings.

Thus not all flexible working arrangements promote work-life balance, and those that do may be associated with trade-offs in terms of rewards and autonomy.

Overall this report demonstrates that the positive outcomes for employees and for enterprises identified in the 2003 survey have been confirmed in 2009 - despite the very different situation in the Irish economy and labour market. Companies that capture these benefits through proactive equality and diversity strategies are strengthening their prospects for recovery and future growth.

Equality Analysis of Census 2006

The Employment Equality Acts 1998 to 2011 and the Equal Status Acts 2000 to 2011 mandate the Equality Authority to work towards the elimination of discrimination on nine specified grounds – gender, civil status, family status, sexual orientation, religion, age, disability, race and membership of the Traveller community – and to promote equality of opportunity in relation to the matters to which the legislation applies.

Data on the nine grounds is essential to underpin the objectives of the equality legislation and more generally to support effective equality strategies at local and national level. In recent years the Central Statistics Office (CSO) has made considerable progress in the collection of equality data. The inclusion of equality classification variables is particularly advanced in the Census which now includes specific variables for all the grounds except sexual orientation, where it is only possible to derive limited information on same-sex couples from the household relationship questions.

The collection of data on the grounds in the Census provides an essential demographic profile of these groups. It also means that the comparative position of the grounds can be identified in respect of the socio-economic variables – in regard to education, the labour market and so on - which are collected in the Census.

A research report, *Multiple Disadvantage in Ireland: An Equality Analysis of Census 2006* by Dorothy Watson, Pete Lunn, Emma Quinn and Helen Russell, was completed in 2011 and will be jointly published with the ESRI in early 2012. This study examines the risk of disadvantage associated with the equality grounds in five areas: low levels of education, being outside the labour market, unemployment, lower manual social class and lack of access to a car. In addition to providing data on the overall or 'gross' differences between the grounds, this study statistically models the 'net' risks associated with membership of the grounds when other relevant factors are controlled. This innovative analysis provides important new insights into the nature of inequality in Ireland and into the processes giving rise to it.

Evidence from the QNHS Equality Module 2010

In late 2010 the CSO carried out a National Equality Survey, collected as a module with the Quarterly National Household Survey. This survey is largely a repeat of the groundbreaking survey carried out by the CSO in 2004. The initial results of the 2010 survey were published by the CSO on 14 July 2011. This nationally representative survey examines the reported experience of discrimination of people of the age of 18 years and over. It finds that 12% of people felt they had experienced discrimination in the previous two years. This was the same rate of discrimination as in the last such survey carried out in 2004.

- 12 % of those aged 18 years or over - some 400,000 people in the population - felt they had experienced discrimination in the 2 year period prior to the survey.
- 6% had experienced work related discrimination and 7% had experienced discrimination in accessing services (some people had experienced both).
- The highest rates of discrimination were reported by people from non-White ethnic backgrounds (29%), unemployed people (22%), non-Irish nationals (20%) and people who were not Catholic (18%).
- Looking across the nine grounds of the equality legislation - race and age were the most widely reported grounds for discrimination - with race/skin colour/ethnic group/nationality cited by 22% of those experiencing discrimination and age cited by 19%.

The survey also examined people's awareness of their rights under equality legislation. It found that:

- Just 30% had a good understanding of their rights under equality legislation - though this was up from 28% in 2004.
- People in employment - at 36% - were more likely to have a good understanding of their rights than other adults.
- However younger people, people with disabilities, non-Irish nationals, people from non-White ethnic backgrounds and people with less than Leaving Certificate level education were all considerably less likely to understand their rights than others.
- People with a greater awareness of their rights were more likely to take action when they experienced discrimination.

In order to maximise the value of this important initiative, the Equality Authority has commissioned detailed statistical analysis of the 2010 Equality Survey microdata. Following a competitive tender, the contract for this research project was awarded to the ESRI. The project involves the preparation of a major research report on *The Experience of Discrimination in Ireland* and two further studies on *Ethnicity and Nationality in the Irish Labour Market* and on *People with Disabilities in the Irish Labour Market* respectively. This project is being co-funded by the European Union Programme for Employment and Social Solidarity – PROGRESS (2007–2013) and is scheduled for completion in the second half of 2012.

Objective 2a¹³: Promoting And Supporting Public Debate On Key And Emerging Equality Issues

Responding To Racist Incidents and Racist Crimes in Ireland

In 2011 Seamus Taylor of the National University of Ireland at Maynooth was commissioned by the Equality Authority to produce an Issues Paper for the Board of the Equality Authority on the subject of responding to racist incidents and racist crimes in Ireland. The Issues Paper identified areas for possible action on legislation, monitoring, data collection, policing, consultation and coordinated action by public sector organisations, including the Equality Authority. The issues raised have been considered by the Board of the Equality Authority in the context of its broader work on race. A copy of the full report is available on our website www.equality.ie.

Equality Innovation Fund

With financial support from the European Union's PROGRESS Programme 2007–2013, the Equality Authority operated an Equality Innovation Fund to support five civil society organisations to develop and implement projects that aimed:

- to develop innovative thinking on equality policy and issues; or
- to identify new equality issues; or
- to showcase good practice on addressing equality issues.

A total of forty applications were received. The five projects that were successful were as follows:

- The **Angling Council of Ireland** received funding to design and deliver a programme to people with intellectual disabilities and their supporters to equip them with the skills to participate in angling. 156 people with disabilities and from immigrant communities participated in one-day 'taster' courses on angling. The Angling Council also trained 40 angling coaches in three training events to enable them to support participants with disabilities and to secure the longer-term sustainability of this project.
- **ENAR Ireland** was funded to hold a number of local seminars on the reporting, recording and referral of incidents of racism, to prepare a report from the seminars, and to upgrade the ENAR website to include references to local and regional organisations that receive and collate reports of incidents of racism. ENAR Ireland organised four seminars in

¹³ *Ibid.*

Navan, Galway, Cork and Longford. ENAR Ireland also produced a report entitled *Putting Racism on the Record: a Framework for Monitoring Racist Incidents*.

- **GLEN** (The Gay and Lesbian Equality Network) was funded to develop a promotional paper setting out the evidence on the economic case for equality and diversity and to hold a briefing event to discuss and highlight the evidence. GLEN conducted interviews with a range of personnel in key Irish economic organisations and held a seminar on 12 September to disseminate the learning from this project. GLEN also produced a report entitled *Equality, Diversity and Economic Competitiveness*.
- **The National Association for Youth Drama** received funding to develop a training programme that uses “forum theatre” to explore issues of equality and discrimination and to prepare a resource pack for youth workers on using forum theatre to explore issues of equality and discrimination. Six workshops were held for young people and a resource pack was developed for use by youth workers, youth arts workers, youth theatre leaders, drama facilitators, community workers and teachers.
- **TASC** The think-tank was funded to undertake a gender-impact assessment of Budget 2011, to prepare a costed ‘equality budget’ that demonstrates how equality objectives can be reconciled with solving the fiscal crisis and the requirements to close the deficit. It also analysed specific equality issues relating to the gender and sexual orientation grounds and implemented a communications and public education strategy including a round-table event with key stakeholders. Two reports were produced – *Towards an Equality Budget* and *Winners and Losers?: Equality Lessons for Budget 2012*. TASC also presented its findings at three conferences organised by ICTU, the Community Foundation for Northern Ireland and the National Commission for Promotion of Equality in Malta.

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Objective 2e¹⁴: Implementing A Strategy To Build Awareness Of Stereotyping Across The Nine Grounds Covered By The Equality Legislation

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Stereotyping

The Stereotyping Working Group prioritised work in the area of education for 2011. A resource, *Spotlight on Stereotyping*, was developed for the Civic, Social and Political Education (CSPE) curriculum in second level schools. It was piloted by CSPE teachers, with the support of the Department of Education and Skills' Professional Development Service for Teachers (PDST). *Spotlight on Stereotyping* was disseminated to all schools and will be formally launched in 2012.

Spotlight on Stereotyping:

- Supports teachers to work with students on understanding and challenging the impact of stereotyping;
- Links to key concepts included in the CSPE curriculum such as identity, human rights and human dignity, equality, community and the law;
- Includes ideas for action projects;
- Is a flexible resource - the seven lessons can be used consecutively. Alternatively, lessons can be grouped into sections and used at different times during the three years of the CSPE curriculum;
- Includes a curriculum framework illustrating how it can link with other Junior Certificate subjects.

The resource was developed by the Equality Authority in collaboration with NGOs and education experts involved in a working group on stereotyping, as well as the PDST. The direct input and support of CSPE teachers was critical in ensuring that the material is directly relevant and applicable to key concepts within the CSPE curriculum.

The Equality Authority and the Stereotyping Working group are working with the Curriculum Development Unit of the City of Dublin VEC and with teachers with experience of the Transition Year curriculum, to develop a transition unit on equality and diversity. This work involves the development of a menu of action project ideas to accompany a series of lesson plans on equality and diversity. Together, the lesson plans and the action project ideas will provide teachers with the necessary materials to deliver a transition unit on equality and diversity.

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14 *Ibid.*



The Curriculum Development Unit has developed lessons plans on equality and diversity as part of their involvement in an education for reconciliation project supported by PEACE III Programme. The Equality Authority commissioned an education expert to prepare the menu of action project ideas with the support and collaboration of teachers with experience of the transition year curriculum. The final draft of the resource will be approved and published in 2012.

National Traveller Monitoring and Advisory Committee (NTMAC)

The Equality Authority and Galway Traveller Movement briefed the National Traveller Monitoring and Advisory Committee (NTMAC) on a pilot action that would provide a better understanding of how stereotyping can impact on service delivery and identify good practice in terms of addressing stereotyping in this area. The National Traveller Monitoring and Advisory Committee indicated an interest in the project.

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Objective 3c¹⁵: Participating In The Development And Work Of EQUINET, The European Network Of Specialised Equality Bodies

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EQUINET Europe

Throughout 2011, the Equality Authority both contributed to and benefited from active engagement with EQUINET Europe, the network of national equality bodies. Four staff participated in specialist training on a range of issues, including conflict of rights, legal issues in discrimination and insurance, the scope of European anti-discrimination law, data collection on discrimination complaints, and communications strategies. The Equality Authority contributed to Equinet’s working groups on communication strategies and practices, policy formation, and strategy development. The Equality Authority also participated in the Equinet High-Level Meeting between Heads of National Equality Bodies and European Institutions.

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15 *Ibid.*



Equality Issues

Strategic Goal 5: *Practical responses made to critical priority issues for groups experiencing inequality*

Objective 1¹⁶: To Support Initiatives Responding To Priority Issues For Specific Equality Grounds Through The European Year Legacy Action Plan.

Objective 1d¹⁷: Promoting Family Diversity Day. Supporting A Response To Accommodation Issues For Lone Parents

Family Day, 15 May 2011

The Equality Authority was a partner in One Family's Family Day event at Iveagh Gardens on 15 May 2011 which was organised to celebrate family diversity. The Equality Authority organised an information and activity session for families at the event on the equality legislation and on relevant awareness raising campaigns

Objective 1f¹⁸: Supporting Action To Achieve Access For People With Disabilities

See Change - the National Mental Health Stigma Reduction Partnership

The Equality Authority is participating in the See Change campaign, led by Shine, to combat stigma in mental health. Two leaflets have been developed. The first leaflet, *Equality and Mental Health: How the Law Can Help You* highlights the rights and protections of people with experience of mental health difficulties under the equality legislation. The second leaflet, *Equality*

16 *Ibid.*

17 *Ibid.*

18 *Ibid.*

and Mental Health: What the Law Means for Your Workplace is aimed at employers and informs them that the equality legislation applies to people with experience of mental health difficulties. The leaflet also outlines practical ideas in relation to providing reasonable accommodation in the workplace. See Change, Amnesty International, Mental Health Reform, the National Disability Authority and Shine all supported the development of the leaflets. Both leaflets will be launched in 2012.

The Equality Authority in collaboration with See Change and Shine organised a roundtable to identify key equality messages related to mental health on 15 February 2011. We also collaborated with See Change and Shine to ensure that the training and workshops delivered by both organisations reflected both equality and mental health considerations. Amnesty International and Mental Health Reform also participated in this process.

Launch of For Service For All guidelines, 24 August 2011

The chairperson of the Equality Authority Angela Kerins launched *For Service For All: A Practical Guide for Credit Unions to Improve Accessibility for their Members* on 24 August 2011. These guidelines (produced in web-based format) are the outcome of a joint project undertaken with the Irish League of Credit Unions and the Equality Commission for Northern Ireland.

The *For Service For All* guidelines help credit unions to review their current services to see how they meet the needs of members with disabilities, to communicate better with members who are visually impaired or hard of hearing, to understand the credit union’s responsibility to members who can no longer independently operate their own accounts and to ensure accessibility when designing new services. They enable the credit union staff or volunteers to review the credit union’s external and internal physical environment to assess how well it makes reasonable accommodation for people with disabilities. They also provide templates for credit unions seeking to disability proof their premises and services.

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Objective 1g¹⁹: Promoting Access For Travellers To Mainstream Services And An Acknowledgement Of Traveller Ethnic Identity.
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Equality Proofing of Two Traveller Interagency Plans

County Galway Traveller Interagency Group (TIG) and County Mayo Traveller Interagency Forum (TIF) are participating in a pilot project to undertake an equality screening of their Traveller interagency plans as well as completing an equality impact assessment on one or two specific actions. The initial work has been completed with a final review meeting planned for January 2012.

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19 *Ibid.*

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Objective 2b²⁰: Promoting Positive Action In The
Employment Of Travellers

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**Promoting Traveller Employment in the Private Sector,
8 December 2011**

The Equality Authority organised a workshop on *Promoting Traveller Employment in the Private Sector* on 8 December 2011 in Dublin. The National Traveller Monitoring and Advisory Committee (NTMAC) had agreed to endorse the workshop, following a presentation by the Equality Authority to an NTMAC meeting on 14 April highlighting the need for attention to be given to the issue of supporting Traveller employment in the private sector.

The workshop enabled participants to discuss the issues involved in achieving better outcomes for members of the Traveller community in private sector employment. Facilitated by Dr Chris McInerney of the University of Limerick, the speakers included Renée Dempsey (Equality Authority), Marie-Therese Martin (FÁS), Martin Collins (Pavee Point), Damien Peelo (Irish Traveller Movement), Paddy Richardson (Business in the Community) and Joe Horan (South Dublin County Council). The workshop was a participative event in which all participants got the opportunity to provide their perspective. Discussions focused on the current situation of Travellers in terms of private sector employment, on barriers to participation in employment and on good practice initiatives that could be mainstreamed to promote greater participation by members of the Traveller community in private sector employment.

Participants included members of the Traveller community, national and local Traveller representative bodies and public sector organisations. ISME, IBEC, ICTU, Chambers Ireland and Athlone Chamber also participated at the event. Brid O'Brien of the INOU acted as respondent at the end of the workshop, summarising the main themes of discussion. The Equality Authority subsequently engaged with the speakers to see how the momentum of the workshop could be developed further in 2012.

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Objective 2d²¹: Supporting Employers To Develop
Integrated Workplaces In A Context Of A Culturally
Diverse Workforce. This Initiative Will Be Developed
In Partnership With The Office Of The Minister For
Integration And The Social Partners

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²⁰ *Ibid.*

²¹ *Ibid.*

Workplace Diversity Initiative

The Office of the Minister for Integration funded the Equality Authority to organise a *Workplace Diversity Initiative* in 2011. This provides practical supports to business and trades unions to enable them to promote and champion diversity in the workplace.

Employer Strand

IBEC, the national representative body for employers in Ireland, received funding to undertake the following actions:

Operate a '**help-desk**' to respond to specific queries from employers. These queries received ranged from problems which employers were facing, proactive measures which they needed assistance in taking, requests for views on their diversity strategies or information on what other organisations in their sector were doing in the area of workplace diversity.

Hold **networking** events for employers

IBEC also organised briefings on workplace diversity at quarterly Diversity Networking Fora attended by HR Managers, HR Directors and Diversity Specialists. Many of the key topics raised by employers formed the basis for a best practice seminar and networking event which was held in November.

IBEC also developed a **diversity awareness workshop** which was tailored to suit the needs of individual companies and employers and also to take account of the cultural diversity of their customer base. The workshop content, once completed, was piloted to a range of employers in Dublin and Cork.

To disseminate information through **e-bulletins**

In 2011 IBEC published three Diversity E-Newsletters which dealt with equality issues and highlighted new legislation or equality tools.

Business Strand

The Workplace Diversity Initiative funded actions by two Chambers of Commerce in Clonmel and Wexford with the aim of providing information to businesses at local level on the benefits of workplace diversity.

Wexford Chamber of Commerce was funded to host a breakfast network event to highlight to companies the steps that they could introduce, to ensure that migrants are better integrated into the workplace. Wexford Chamber also organised an evening seminar in Enniscorthy on the topic of diversity and inclusion in the workplace and on how to realise the benefits of diversity.

Clonmel Chamber of Commerce was funded to host a networking event on diversity in the workshop and on the measures that companies can take to facilitate a more diverse working environment.

Trade Union Strand

The Irish Congress of Trade Unions, the national representative organisation for trades unions in Ireland, was funded to build the capacity of the trades unions to play a positive role in supporting workplace diversity. Challenge funds were made available to individual trades unions, to implement practical initiatives to increase awareness and competency in the area of diversity and equality. The Irish Bank Officials' Association, the Communications Workers Union, SIPTU, the Irish Nurses and Midwives Organisation and UNITE were funded to undertake a range of actions to promote and implement actions in support of workplace diversity.

Also under this initiative, ICTU launched a publication entitled *Towards a Strategy for the Inclusion of Migrant Workers in Trade Unions*²² on 12 October 2011.

Sectoral Strand

The Workplace Diversity Initiative 2011 funded Limerick Chamber in partnership with Doras Luimní to organise a networking event / information session on workplace diversity for local businesses. The Irish Universities Association Equality Network is organising the launch of its on-line equality tool. Both actions will be completed in 2012.

Objective 2f²³: Contributing To An Understanding Of And Appropriate Responses To Religious Diversity In Ireland

I'm Ok, You're Ok and That's OK – exploring the intersection between interculturalism, equality, religious diversity and human rights in Irish education – Conference

The Equality Authority supported Clare Intercultural Network to organise a conference for human rights day on 10 December 2011 in Ennis, County Clare on the theme of interculturalism, religious diversity, equality and human rights in Irish education. The issue of religious diversity and education has become a burning issue in the context of recent debate and proposals regarding patronage in Irish schools.

The conference *I'm Ok, You're Ok and That's OK – exploring the intersection of these issues in Irish education* included a key focus on student voice. Opened by the Mayor of Clare, Cllr Pat Hayes, guest speakers included Dr Mary Murphy, National University of Ireland Maynooth, on the theme of equality, social and cultural values and Elaine D'Alton, Clare Women's Network on behalf of Dr Roja Fazaeli, Trinity College Dublin, on the theme of

²² http://www.ictu.ie/download/pdf/ictu_migrant_workers_a5.pdf.

²³ Paragraph numbers refer to actions contained in Strategic Plan 2009-2011 available at www.equality.ie.

gender, human rights and the right to a belief system.

A research project on *Listening to Young People's Voices, Helping the Education Systems to Value Diversity* was also officially launched. This is a collaborative project between Clare Intercultural Network, University of Limerick and Mary Immaculate College and will commence in 2012 with schools in County Clare. Tools for diversity and education in practice were also presented. The Irish Traveller Movement highlighted the Yellow Flag Programme and the Equality Authority highlighted the teaching resource that it has developed entitled *Spotlight on Stereotyping*.

The conference was attended by over 60 people including young people, non-government organisations with interests across the 9 equality grounds including religion, representatives across different faiths, parents and educators. Discussion was inclusive of all participants and was based on participative facilitation methodologies (world café and market place of ideas).

The conference also marked Human Rights Day with the launch of a book by Hassan H. Faramarz *The Flagless Ones: An Iranian Refugee Family's Story* and a DVD, *A Journey of Hope* by Firoozeh Faramarz.

Objective 2g²⁴: Supporting A Safe Learning Environment For Lesbian, Gay And Bisexual People In Schools.

Homophobic Bullying in Second-Level Schools

The Equality Authority, in partnership with the National Association of Principals and Deputy Principals, BeLonG To Youth Services, and GLEN, continued a project to deliver training modules to second-level schools on combating homophobic bullying. The module focuses on developing a whole-school approach to tackling this issue.

The project partners involved a range of participants from each participating school in each training session including the school principal or deputy principal; representatives of staff with pastoral roles (e.g. year head, guidance counsellor, the SPHE (Social, Personal and Health Education) subject co-ordinator, or chaplain); and representatives of the student council.

Two courses were delivered in 2011 to twelve schools and a total of 68 students and staff participated. Part of the training entails individuals from different schools in the same or similar roles sharing experiences and insights from their perspective. For the final exercise, all of the participants from each school identify actions together that they can undertake in their own schools. Feedback from the participants was extremely positive, and the design of a course where school management, the school pastoral team, and students worked together was favourably received.

24 *Ibid*

Capacity Building

Strategic Goal 6: *An Effective and Efficient Equality Authority*

Decentralisation

The Equality Authority operates from offices in both Roscrea and Dublin. The four main functions operating out of Roscrea are the Public Information Centre, including its 1890 lo-call services, part of the Legal function and some Development functions, with the Financial, Corporate and other Administrative Support functions. The Communications, the Development research function and part of the Legal Function, operate from the Dublin Office. The CEO bi-locates between the Roscrea and Dublin offices.

Parent Department

As part of the restructuring of Departments and agencies announced following the February 2011 General Election, the Equality Authority was moved from the aegis of the Department of Community, Equality and Gaeltacht Affairs to the Department of Justice and Equality.

Human Resources

Staffing

At year end 2011 there were 36 staff at the Equality Authority. Ms. Renee Dempsey continued to serve as Chief Executive Officer throughout 2011. A number of staff changes took place in 2011. The Authority would like to take this opportunity to thank all former colleagues for their important contribution to its work and to reiterate its welcome to those staff who came to work with it during 2011.

Training & PMDS

Staff performance is managed and rated under the integrated model of the *Performance Management and Development System* (PMDS). Individual training needs are identified for staff through this system to assist in staff development and to facilitate the achievement of the organisations Strategic Goals. A total of 70 days training days was provided for staff in 2011. The training included Management Development, IT, Health and Safety, Quality Assurance, Foreign Language training, Continuing Professional Development as well as Diversity Training. The support received from the Department of Justice and Equality in providing training to staff is very much appreciated.

Internal Stakeholder Strategic Consultations

A full staff meeting took place on the 9th February 2011. The meeting consulted with staff on the new Strategic Plan 2012-2014. A further full staff meeting was held on 22 November to inform staff on the implications of the merger with the Irish Human Rights Commission, to identify and address any concerns and to provide an opportunity to make an input to the process.

Health & Safety

Health & Safety reviews were carried out on a monthly basis in both the Dublin and Roscrea offices in 2011. The Safety Statements for both the Dublin and Roscrea Offices were formally reviewed in 2011 and a risk analysis of both premises was carried out in line with Sections 19 & 20 of the Safety, Health and Welfare Acts 2005. Training was provided for Fire Marshals and Safety Representatives. A safety committee was established together with Department officials to manage safety issues in both Roscrea and Dublin Offices.

Financial Management and Audit

The Financial Management of the Equality Authority is reported on separately in its Annual Accounts. The following reviews were carried out in 2011:

- Audit of 2010 accounts by the C&AG;
- Internal Audit of the "Purchase to Pay" process;
- Internal Audit of "payroll";
- Testing of the SIFC for the 2011 year.

Procurement

During 2011, 13 "Requests for Tender" were issued and 53 contracts signed.

Prompt Payment of Accounts Act, 1997

The Equality Authority complies with the requirements of the Prompt Payment of Accounts Act, 1997. All invoices presented for payment are examined to ensure they are in compliance. The Equality Authority's procedures provide reasonable but not absolute assurance against material non-compliance with the Act. During the year ended 31 December 2011 no payments were made in relation to obligations under Prompt Payment of Accounts Act, 1997.

Customer Service

Customers continue to be encouraged to comment on the Equality Authority's services provision in writing or through the dedicated customer feedback page on our website. Alternatively, a Comment Card is made available in the Reception Area and through the Public Information Centre.

Strategic Planning

The Equality Authority Strategic Plan *Equality for All in a Time of Change* was published in March 2009. The Plan covered the three-year period 2009-2011. It is available on www.equality.ie. In line with obligations under Section 40(1) of the Employment Equality Act 1998, the Equality Authority commenced a process in early 2011 of developing of its Strategic Plan for 2012-2014. Extensive consultation with Stakeholders took place in early 2011 across the country and the sectors. A final draft plan was noted by the Board of the Equality Authority in July and submitted to the Minister in September 2011.

Freedom of Information

The Freedom of Information Acts 1997 to 2003 applies to the Equality Authority. The Act asserts the right of members of the public to obtain access to official information to the greatest extent possible consistent with the public interest and the right to privacy of individuals. One Freedom of Information request was received during 2011 and it was granted in full.

Risk Management

The Equality Authority carried out an extensive assessment of risk in line with obligations under the *Code of Practice for the Governance of State Bodies* in 2011. A full Risk Analysis was presented to the Board and Audit Committee and risk exposure will be monitored throughout 2012.

Conference and Meeting Facilitation

Meeting facilities at the Equality Authority were in constant use throughout the year, 113 meetings held by the Equality Authority and a further 57 by the Irish Youth Justice Office who were co-tenants in the building in Dublin. Stakeholder groups were facilitated for meeting on 11 occasions throughout the year.

Appendix 1: Joint Initiatives & Representation on Policy Committees

1. Equality Authority Joint Initiatives in 2011

The following is a list of the organisations that worked with the Equality Authority on joint initiatives in 2011.

We thank them for their co-operation

Age and Opportunity	County Cork VEC
Age Action	County Donegal VEC
AkiDwa	County Galway Traveller Interagency Group
Athlone Chamber	County Galway VEC
Amnesty International	County Louth VEC
Angling Council of Ireland	County Mayo Traveller Interagency Group
Arts Council	County Wicklow VEC
BeLonG To Youth Services	CPLN Area Partnership
The Camogie Association	Curriculum Development Unit, City of Dublin VEC
Catholic Primary School Management Association	Inspectorate of the Department of Education and Science
Chambers Ireland	Department of Jobs, Enterprise and Innovation
Church of Ireland Board of Education	Educate Together
City of Galway Vocational Education Committee (VEC)	ENAR Ireland
Clare Intercultural Network	Equinet Europe
Clonmel Chamber	European Institute for Gender Equality
Comhairle Cluiche Corr na hÉireann	Fáilte Isteach
Commercial Mushroom Producers	FÁS
Committee for Judicial Studies	An Foras Patrúnachta
The Irish Congress of Trade Unions	

1. Equality Authority Joint Initiatives in 2011 *(continued)*

GAA	National Association of Principals and Deputy Principals
Galway Traveller Movement	Principals
An Garda Síochána	National Association for Youth Drama
Gay and Lesbian Equality Network (GLEN)	National Disability Authority
IBEC	National Women's Council of Ireland
Irish Handball Association	North Tipperary VEC
Irish League of Credit Unions	One Family
Irish National Teachers' Organisation	Patron of Muslim Schools
Irish Primary Principals' Network	Pavee Point
Irish Senior Citizens' Parliament	Professional Development Service for Teachers
Irish Small and Medium Enterprises Association	Public Sector Equality Learning Network
Irish Sports Council	Roscommon VEC
Irish Universities Association's Equality Network	See Change
Irish Traveller Movement	Sport Against Racism Ireland
Ladies Gaelic Football Association	Shine
Limerick Chamber	SIPTU
Limerick College of Further Education	Sligo Chamber
Local Government Management Agency	TASC
Men's Development Network	Wexford Chamber
Mental Health Reform	Wicklow County Council

2. Equality Authority Representation on Policy Committees in 2011

Representation on Policy Committees:

Advisory Committee on Equal Opportunities for Women and Men

Renée Dempsey

Advisory Committee - WG for Opinion on Gender Aspects of Active Ageing and Solidarity Between Generations

Renée Dempsey

Advisory Committee, National Office for Equity of Access to Higher Education in the Higher Education Authority

Cathal Kelly

Advisory Group for Irish Contraception and Crisis Pregnancy Survey (11)

Laurence Bond

Border Midland Western Operational Programme Monitoring Committee

Carole Sullivan

Consultative Forum on an Employment Strategy for People with a Disability

Deirdre Toomey

Employment and Human Resources Operational Programme Monitoring Committee

Carole Sullivan

European Institute for Gender Equality

Renée Dempsey

Equinet Policy Formation Working Group

Carol Baxter

Equinet Communications Working Group

Brian Merriman

Equinet Strategy Development Working Group

Cathal Kelly

FETAC Standards Advisory Board

Laurence Bond

GAA Inclusion and Integration Committee

Vincent Edwards

Garda Síochána Diversity Strategy Board

Brian Merriman

Garda Síochána Strategic Human Rights Advisory Committee

Carol Baxter

HSE Gender Mainstreaming Steering Group

Stefania Minervino

European Year of Active Ageing and Intergenerational Solidarity National Steering Committee

Brian Merriman

National Women's Strategy Monitoring Committee

Carol Baxter

National Women's Strategy Sub-Committee on Women in Decision-Making

Carol Baxter

NDA Advisory Group on the Development of Practical Guidelines for Accessible Primary, Community and Hospital Care Services in Ireland

Stefania Minervino

Research Ethics Committee – National Longitudinal Study of Children in Ireland (NLSCI)

Laurence Bond

Social Inclusion Division – Technical Advisory Group

Laurence Bond

Southern and Eastern Region Operational Programme Monitoring Committee

Cathal Kelly

Working Group on Ethics in Children's Research (Office of the Minister for Children)

Laurence Bond

Yellow Flag Programme Steering Committee, Irish Traveller Movement

Deirdre Toomey

