



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



# The Public Sector Duty: ICTU

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Irish Congress of Trade Unions  
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# Agenda

- Brief introduction to the Irish Human Rights and Equality Commission
- The Public Sector Duty
- Public Sector Duty and Public Bodies
  - What does human rights and equality mean?
  - Implementing the Public Sector Duty



# About the Commission

- Ireland's national human rights institution - accredited 'A' status by the United Nations International Coordinating Committee
- Ireland's national equality body under EU directives
- Commission of 15 human rights and equality experts, appointed by President Michael D. Higgins following an open competition – accounting directly to the Oireachtas
- Our teams: Legal, Policy & Participation, Research
- Derive statutory functions and legal powers from Irish Human Rights and Equality Commission Act 2014, commenced 1 November 2014



*Number 25 of 2014*

**IRISH HUMAN RIGHTS AND EQUALITY COMMISSION ACT 2014**

# VISION

An inclusive Ireland where human rights and equality are respected, protected and fulfilled for everyone, everywhere.

# MISSION

To build a fair and inclusive society that protects and promotes human rights and equality in Ireland.

# STRATEGIC GOALS

GOAL 1

**Leadership**

GOAL 2

**Proactive  
implementation  
of our legal  
powers,  
in particular  
public duty**

GOAL 3

**Promoting  
understanding  
of the  
indivisibility  
of equality and  
human rights**

GOAL 4

**Making equality  
and human  
rights real**

GOAL 5

**Intercultural  
understanding  
and diversity**



# Worker and Employer Advisory Committee

Inaugural meeting held on 30<sup>th</sup> March

made up of worker and employer representatives nominated by ICTU and IBEC

Main areas of concern:

- Employment equality and workplace issues;
- Equal status in service provision;
- Human rights in the workplace and service provision;
- Diversity and interculturalism.



# What is the Public Sector Duty?

The Public Sector Duty is a new requirement on public bodies to take pro-active steps to:

- Eliminate discrimination
- Promote equality
- Protect human rights.

It **complements** existing requirements under equality legislation, and emphasises the role that public bodies already have in **protecting** human rights.

The Public Sector Duty is contained in Section 42 of the Irish Human Rights and Equality Commission Act 2014. We call it the **Public Sector Duty**

Here is what it says:



# What is the Public Sector Duty?

## **Public bodies**

- 42.** (1) A public body shall, in the performance of its functions, have regard to the need to—
- (a) eliminate discrimination,
  - (b) promote equality of opportunity and treatment of its staff and the persons to whom it provides services, and
  - (c) protect the human rights of its members, staff and the persons to whom it provides services.





# Public bodies – note broad definition

- Government Departments
- Local Authorities
- Health Service Executive
- Universities and Institutes of Technology
- Education and Training Boards
- Most schools
- Semi-state bodies
- All bodies financed with public money (even partially)



# Steps to be taken

1. In preparing strategic plans, set out in a manner *accessible to the public* an **assessment** of the human rights and equality issues it believes to be or relevance to its functions
2. **Develop** policies, plans or actions proposed to address those issues
3. **Report** in a manner *accessible to the public* on developments and achievements in that regard



# The Commission's role

- Section 42(3): May **give guidance** to public bodies in developing policies, and exercising, good practice and operational standards in relation to human rights and equality
- Section 42(4): May **issue guidelines** or **prepare codes of practice**



# The Commission's role

Where IHREC considers there is failure by a public body to perform its functions in a manner consistent with section 42, it may invite the public body to:

- carry out a **review** in relation to the performance by that body of its functions
- prepare and implement an **action plan** in relation to the performance by that body of its functions
- such a review or action plan may be general or specific to a particular aspect of human rights or discrimination



# INSTITUTE OF PUBLIC ADMINISTRATION PROFESSIONAL DIPLOMA IN HUMAN RIGHTS AND EQUALITY

PART-TIME PROGRAMME DELIVERED  
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Suitable for students from all parts of the wider public service, the Professional Diploma in Human Rights and Equality provides a comprehensive introduction to the increasingly important place of human rights and equality in the Irish public service.



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# Guidance available and in draft

## The Public Sector Duty

Eliminating discrimination, promoting equality and protecting human rights



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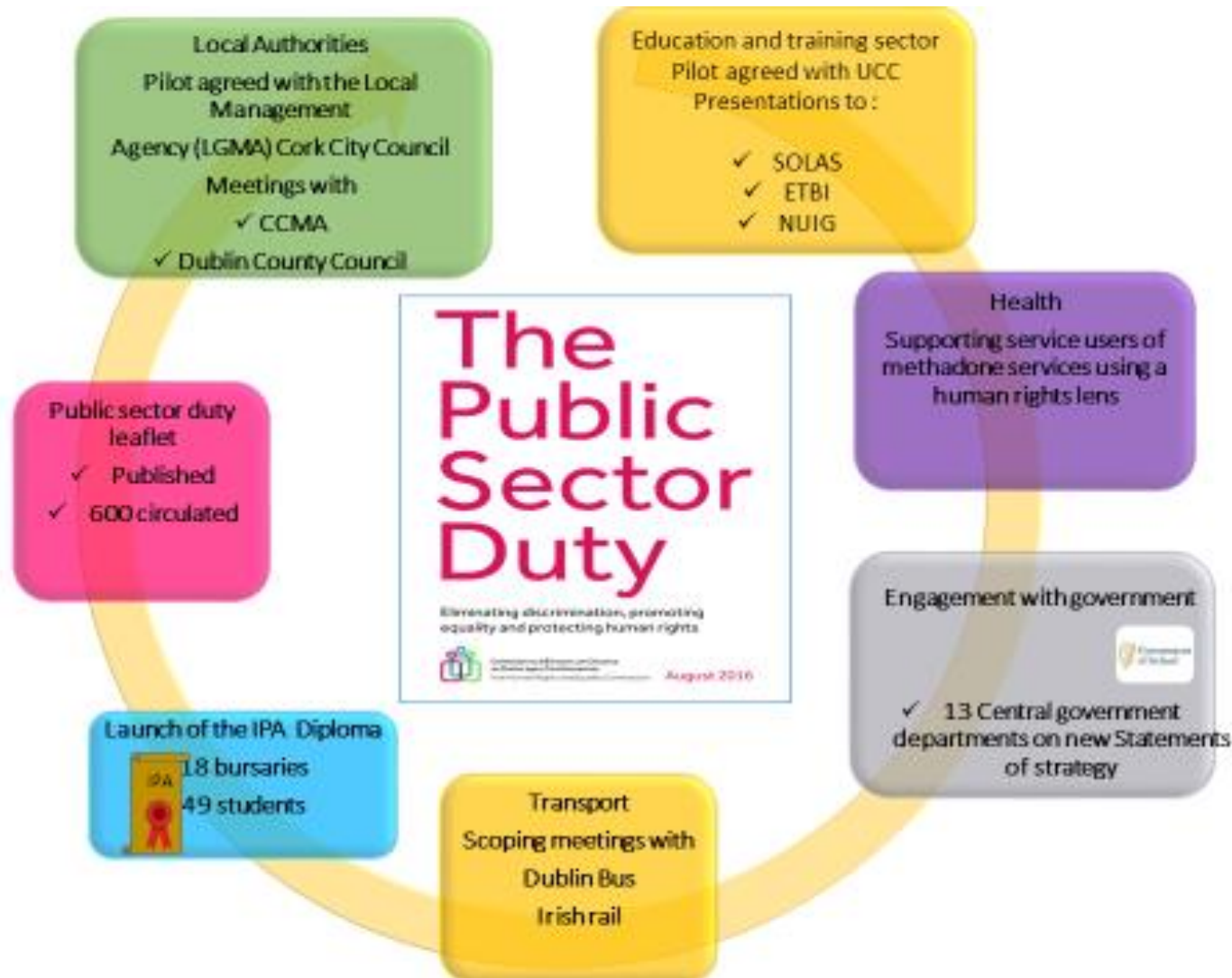
August 2016

Other guidance (in draft):

- Getting started with the public Sector Duty
- Developing an action plan, defining outcomes and writing a human rights / equality statement



# Public Sector Duty – engagement in 2016



# Public Sector Duty Pilots

## 1. UCC Pilot Project Underway



- trial an **approach** to, and **guidance** for, implementing the “Public Sector Duty” within an Irish higher education institution.

## 2. Cork City Council Monaghan County Council Local Government Management Agency



## 3. Community Action Network



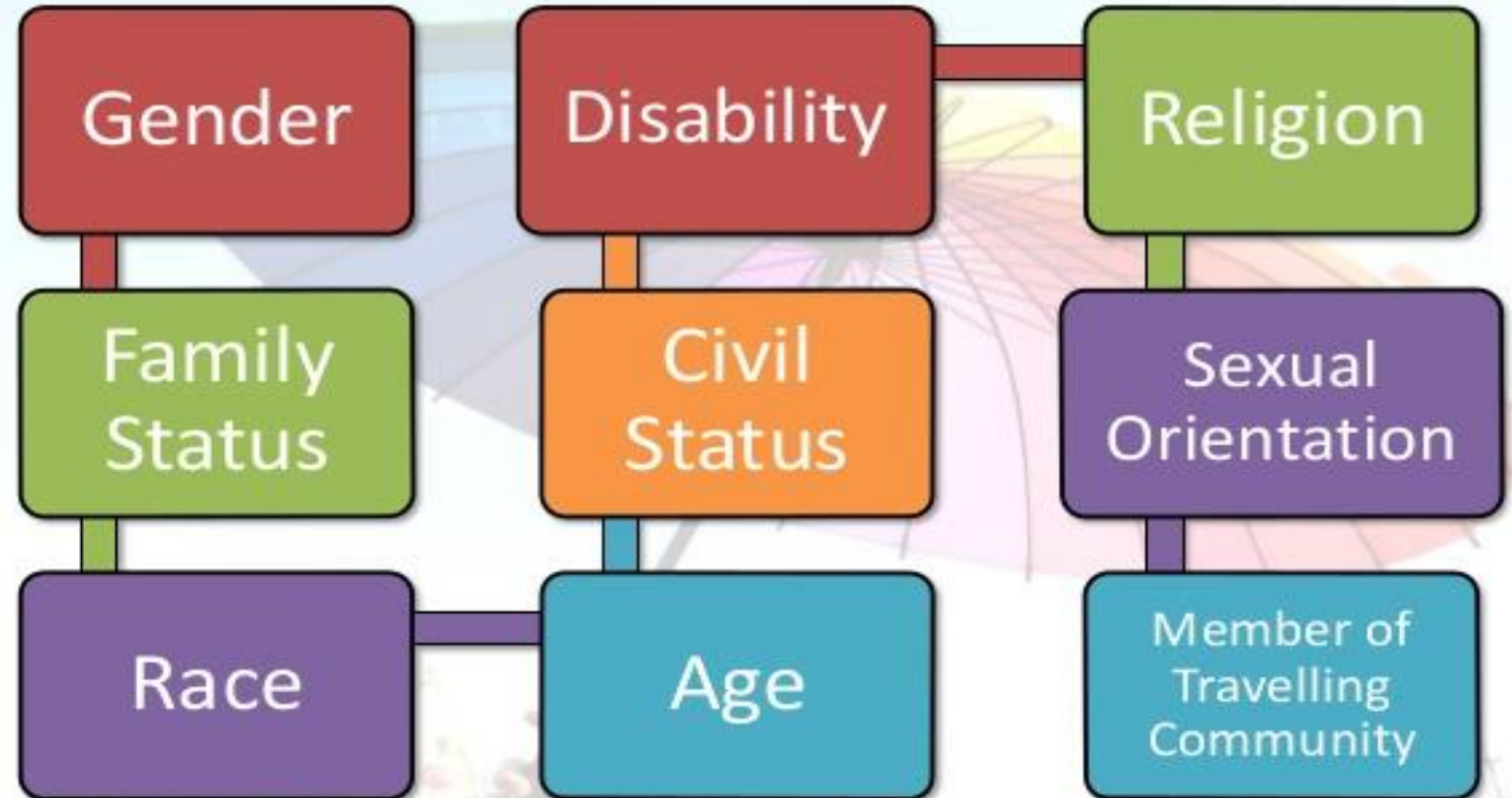


# What is Equality and Human Rights?



# Equality

- Employment Equality Acts 1998-2015
- Disability Act 2005
- Equal Status Acts 2000-2015
  - 9 grounds



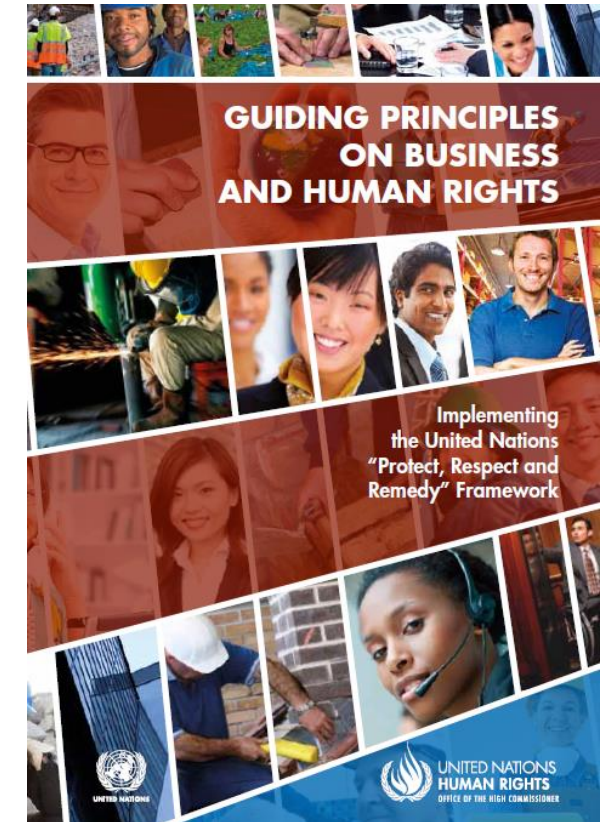
A further protection against discrimination was introduced in 2015, with regard to people in receipt of housing assistance payments.

# Human Rights

- Irish Constitution
- European Convention on Human Rights Act 2003
  - The European Convention on Human Rights Act 2003 incorporates the European Convention on Human Rights into domestic (national) legislation. This largely pertains to civil and political rights.
- European Union Charter of Fundamental Rights, incorporated in European Treaties
- European Convention on Human Rights
- Revised European Social Charter
- Universal Declaration of Human Rights
- International Covenant on Civil and Political Rights
- International Covenant on Economic, Social and Cultural Rights

# Which human rights

- It is useful to begin the discussion by looking at what human rights does your organisation already facilitate?
- Each public body needs to determine for itself which given human rights may need to be prioritised
- Has to consider, under IHREC Act 2014
  - European Convention on Human Rights
- Should at a minimum refer to:
  - The Universal Declaration of Human Rights;
  - The International Covenant on Civil and Political Rights;
  - The International Covenant on Economic, Social and Cultural Rights; and
  - The International Labour Organisation's Declaration on Fundamental Principles and Rights at Work.



*Guiding Principles on Business and Human Rights – Implementing the United Nations 'Protect, Respect and Remedy' Framework, Office of the High Commissioner for Human Rights, UN, 2011.*

[http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

# Implementing the Public Sector Duty:

## The process



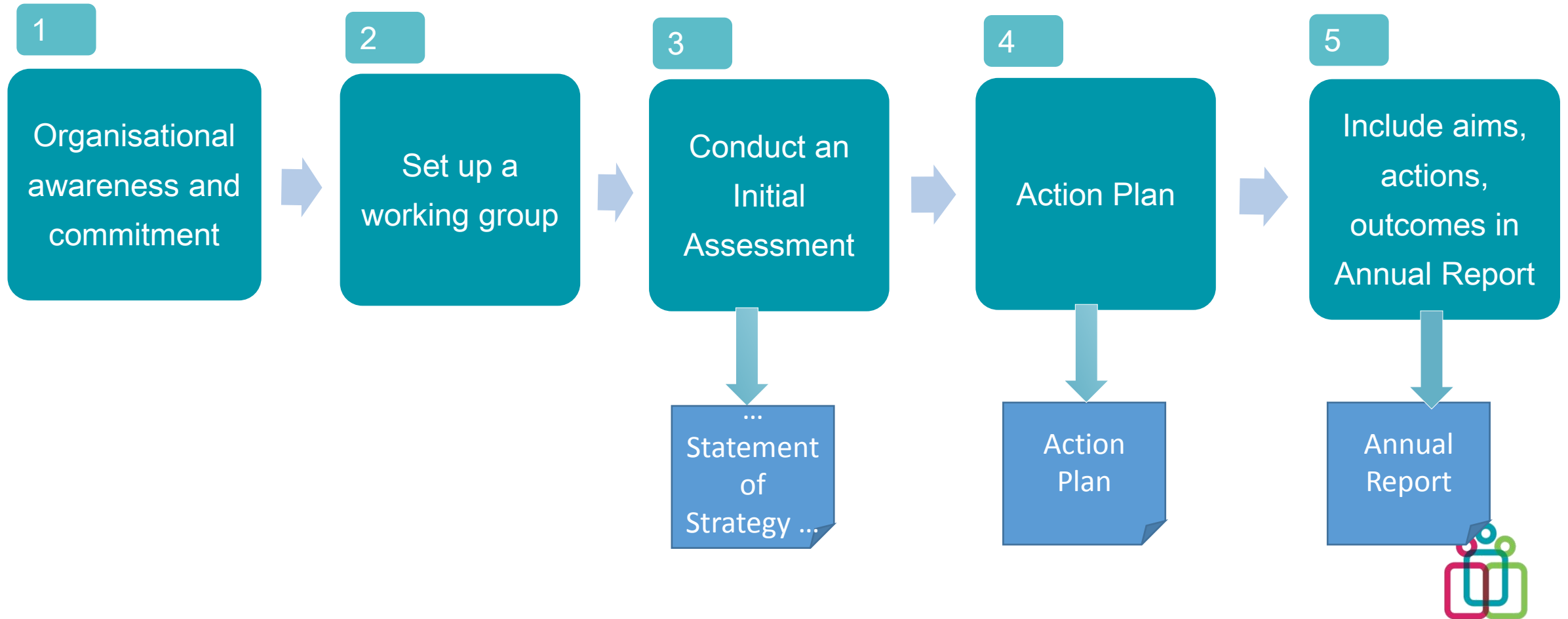
# The Public Sector Duty Process

The follow process is recommended by IHREC in getting started with the Public Sector Duty:

1. Secure organisational commitment and awareness
2. Establish a cross-organisational working group
3. Conduct a human rights and equality assessment
4. Develop an implement an action plan
5. Monitoring, report and publish these outcomes.



# Public Sector Duty process:



# The Assessment

This is the key step for any organisation to undertake, and is usually coordinated by the Public Sector Duty Cross-Organisational Working Group

- What is a public body required to review?

*“human rights and equality issues it believes to be relevant to the functions and purpose of the body and the policies, plans and actions in place or proposed to be put in place to address those issues”*

*(Section 42 IHREC Act 2014)*





# The Assessment

The purpose of the Human Rights and Equality Assessment is to:

- Assess how your organisation currently protects human rights and promotes equality.
- Identify and acknowledge what work has already been undertaken.
- Identify what are the known issues and challenges that are specific to the work of your organisation
- Review how your organisation currently addresses human rights and equality on an ongoing basis.
- Based on this review, develop a list of actions to address current gaps and issues, and address human rights and equality on an ongoing basis.



# The Assessment

- What is a public body required to review?
  1. Functions
  2. Policies
  3. Plans
  4. In place – or plan to put in place
- The following are 4 steps that will assist you to conduct the Human Rights and Equality Assessment

# Assessment - the process

	Step	Description
A.	<b>Mapping Functions</b>	List the functions of your organisation: Functions include the services you provide, the policies you design, revise and implement, and obligations your organisation has as an employer.
B.	<b>Current Human Rights and Equality Infrastructure</b>	List your current equality and human rights infrastructure i.e. existing policies, initiatives and plans.
C.	<b>Prioritisation of most relevant functions</b>	<p>Conduct a review of the functions list, prioritising the functions you consider to have most relevance to human rights and equality.</p> <p>(Remember: : Functions include the services you provide, the policies you design, revise and implement, and obligations your organisation has as an employer.)</p>
D.	<b>Scrutiny of Priority Areas</b>	Apply greater scrutiny to the functions you have prioritised as potentially engaging human rights and equality issues by conducting a screening exercise along the lines of the below step-by-step screening template.

# Planned and systematic approaches

- Commitment and leadership
- Internal structures
- Organisational capacity and competences
  - Equality and human rights training
- Dedicated roles
- Specific policies and strategies for equality and human rights
- Consider the organisation as a whole .....strategic plan, organisational culture & values, work processes, human rights and equality infrastructure
- Consider a particular policy / practice / area of work / function

# Key Features of Public Sector Duty (PSD)

- The PSD is a positive duty
- The PSD is an 'ongoing' duty
- The PSD is a duty on the public body
- The PSD applies at all levels of the organisation – e.g. management, administration, frontline
- The PSD applies across the functions of the organisation and is relevant for strategic planning, policy making, policy implementation, service delivery, employment, day-to-day activities

# Questions for Public Bodies to consider

- Have you considered the Public Sector Duty in your Strategic Plan?
- Do you have an assessment of relevant human rights and equality issues?
- Do you have policies, plans or actions to address issues?
- How do you report on progress?
- What structures do you have in place? E.g. working group? Equality Officer, Access Officer?
- Is there awareness across the organisation about the Public Sector Duty?
- How do you gather information about relevant equality and human rights issues?
- How do you consult with stakeholders about relevant human rights and equality issues? (e.g. policy beneficiaries, service users, employees)

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