

**Consultation on the Review of the Equality Acts:
(Equal Status Acts 2000-2018 and the Employment Equality Acts 1998-2015)**

Submission by: The Irish Association of Social Workers (IASW) Anti-Racism Advisory Group (ARAG)

To: The Department of Children, Equality, Disability, Integration and Youth

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Introduction

The Irish Association of Social Workers (IASW) is the national professional body for social workers in the Republic of Ireland. It was founded in 1971 and has a membership of over 1,500 social workers from different cultural backgrounds, ethnicities, and nationalities. We also work in a variety of diverse settings which include child protection and welfare services, mental health, disability, medical, community care settings, mental health services, Local Authority Housing, older people, primary care, probation services, work with refugees, asylum seekers and other migrants, and the area of substance abuse. Underpinned by principles of social justice and human rights, our profession seeks to promote respect for human rights so that equality for all can be realised.

This submission made by the Antiracism Advisory Group (ARAG) within the IASW is a response to Minister O’Gorman’s public consultation invitation of the review of the Equality Acts. (Equal Status Acts 2000-2018 and the Employment Equality Acts 1998-2015) While interested in all aspects of the Equality Acts because of the diverse groups we work with as the (ARAG) this submission specifically addresses inequalities which arise from racial discrimination.

In that respect we submit as follows:

1. **Equal Status Acts 2000-2018: Definition**

Definition of Race in the Act under the section Discriminatory Grounds

The current Definition of Race in the Equality Act is narrow and excludes other ethnicities by exclusively naming member of the travelling community as an ethnic minority group at the exclusion of other ethnic minority groups in Ireland.

Recommendation: We recommend bringing the definition of race and racial discrimination in line with International Human Rights law by including a section

on all ethnic minority groups in Ireland. A broader definition will ensure that no one is left behind.

2. Intersectional Discrimination:

The intersectionality of racism with other grounds of discrimination is not specifically mentioned in any of the Equality Acts.

Recommendation: We call upon the government to acknowledge the intersectionality of grounds of discrimination and expressly address it in the Equality Legislation. Intersectionality relates to an individual experiencing multiple forms of discrimination for example a Black woman of African descent who is also disabled. In our work we come across individuals such as these who experience discrimination on multiple grounds in the form of the intersection of race, gender, and disability or age. We recommend that the government to legislate for the Workplace Relations Commission to specifically be required to ban discrimination on multiple grounds, thereby acknowledging it is a problem. Secondly, the WRC should be explicitly required to take into consideration the impact that intersectionality has in individual complaints during the hearing. Even though at present, the level of compensation awarded under S.27 can reflect the fact that discrimination occurred on more than one ground. This, however, does not require the WRC to take into consideration the compounding impact of intersectionality for individuals.

3. Equal Status Act 2000-2018 Part II (5): Definition of services

It is not clear if the definition of services on Section 2 of the Equal Status Act 2000 includes social services i.e., childcare services. This needs to be more explicit given that the Equality Act is about prohibiting discrimination in all services including public authority services. As a profession whose remit is that of agents of the State, we believe that clarity of definition to include public services is important.

Recommendation: We call upon the government to explicitly include public service authorities such as Tusla and the HSE in its definition of services in the Equal Status Act.

This would make the legislation more accessible to people who rely on such services provided by these organisations. We also call on the Oireachtas to implement the UNCERD recommendation from their 2020 concluding observations; 'Explicitly including the functions of public authorities within the definition of the "services" in section 5 of the Equal Status Acts'

4. Equal Status Act 2000-2018 Part II (5) of: Disposal of goods and provision of services

Discrimination and Related Activities: A person shall not discriminate in disposing of goods to the public generally or a section of the public or in providing a service ...

We call upon the government to include in this section of the Act specific mention of Prohibition of Racial Discrimination by service providers. Section 42 of the Irish Human Rights and Equality Act 2014 provides for the **Public Sector Equality and Human Rights Duty**. It places a statutory obligation on public bodies in Ireland to promote equality, prevent discrimination and protect the human rights of their employees, customers, service users and everyone affected by their policies and initiatives.

Recommendation: The government must legislate for vicarious liability by statutory and non-statutory bodies such as Tusla and the HSE who provide services to the public to ensure protection of service users and staff impacted by racism, racial discrimination, and other forms of oppression.

Conclusion

Due to the remit of our work as social service providers not legal practitioners the four points put forward in our submission have predominantly focused on discrimination in the Equality Acts which impact the provision of equitable services to service users and to staff thereby creating inequalities. Along with the four pertinent points we have raised in this submission we call upon the government to implement recommendations made by the Committee on the Elimination of Racial Discrimination (CERD) in December 2019 and fulfil its commitment under international human rights law.