



Consultation on the Review of the Equality Acts.

Submission by the Citizens Information Board

November 2021

Introduction

The Citizens Information Board (CIB) welcomes the opportunity to contribute to the review of the Equality Acts. The fact that the review will examine the operation of the Acts from the perspective of the person taking a claim under its redress mechanisms is highly important. The intention to consider the degree to which those experiencing discrimination are aware of the legislation and whether there are practical or other obstacles which preclude or deter them from taking an action is welcome.

The Programme for Government commits to an examination of “the introduction of a new ground of discrimination, based on socio-economic disadvantaged status to the Employment Equality and Equal Status Acts”. It also commits to “amend the gender ground in equality legislation, to ensure that someone discriminated against on the basis of their gender identity is able to avail of this legislation”. The Review will also include “a review of current definitions, including in relation to disability”.

CIB assists and supports people in identifying their needs and options and in accessing their entitlements. This role is carried out mainly through our delivery services – Citizens Information Services (CISs), the Citizens Information Phone Service (CIPS), the Money Advice and Budgeting Service (MABS) (including National Traveller MABS), and the National Advocacy Service (NAS) for people with disabilities. CIB also supports the Sign Language Interpreting Service (SLIS).

Each year CISs and CIPS receive almost a million queries from over half a million people on all aspects of rights and entitlements to public and social services. A significant proportion of these queries are broadly equality rights related.

Ireland’s equality laws (*Employment Equality Acts (EEA)* and *Equal Status Acts (ESA)*) prohibit discrimination on specific grounds and aim to promote equal work opportunities and equal treatment when accessing goods, services, facilities and accommodation, including access to public services (social housing, income supports and health care). Evidence from CIB services

clearly indicates an ongoing need for protection of the rights of disadvantaged groups across all of the equality grounds.

1. Functioning of the Acts and their effectiveness in combatting discrimination and promoting equality

Employment and equality

In 2020, there were over 44,000 employment rights and conditions queries to CISs, over 60 per cent of all employment queries. A proportion of rights-related queries received by CISs and CIPS concern employment equality issues, averaging just under 2,000 per annum over the past five years. There were 1,227 queries relating specifically to equality in work, and of these two thirds related to bullying and harassment, and discrimination, and the remainder related to pay and conditions, victimisation, and other queries. While a small percentage of overall queries require only the provision of information, a substantial proportion, 75% are deemed to be complex, often necessitating the provision of considerable advice and assistance by CIS staff. In terms of CIS advocacy case work, in 2020, there were 305 employment cases requiring advocacy casework and representation, the majority of these involved a Workplace Relations Commission hearing (77%).

As noted in CIB's social policy report "Employment Rights that Work for All" (2020), CISs continued to report on-going issues regarding dismissal of people employed for less than 12 months, as this group is not protected by legislation. CISs received complaints from clients that have been penalised because of maternity leave as well as equality issues in the workplace regarding disability, gender, age and race.

Despite the intention that the systems and processes involved in dealing with employment rights issues should be easily accessed, the experience in practice suggests that it is increasingly difficult for people to effectively navigate the system without support.¹ In some instances, the system can be unduly difficult in enabling an individual to seek redress under employment equality legislation. CIS Advocacy Support Workers have pointed to some of the main barriers in this regard as:

- Applicants still needing a degree of legal knowledge in order to take a case
- Employers being represented by barristers and solicitors, whereas many employees do not have legal representation
- Workplace Relations Commission (WRC) adjudicators not having legal training

"It is asking a lot for employees to engage with legal professionals in a forum that is not designed for lay people. Very quickly hearings become legalistic and difficult to follow for our clients. Clients can choose to be legally represented but only at their

¹ See *Employment Rights that Work for All: A Citizens Information Perspective*, https://www.citizensinformationboard.ie/downloads/social_policy/socialpolicy-employment-rights-for-all.pdf

own cost. And when they are represented by the CIS, or another lay advocacy service, there is still a distinct disadvantage between them and their employers.’ [CIS Advocacy Support Worker]².

Even with advocacy support, the absence of free legal aid for employment cases can mean that employees cannot afford the cost of pursuing an employer through the courts for enforcement of a complaint made in their favour³.

Another issue highlighted in CIB’s report, is that of technological discrimination. People with underdeveloped IT skills experienced difficulties with job application processes that are exclusively online. Examples include job advertisements on social media platforms that overtly or subtly discriminate on the basis of age, gender, race, disability etc. New sourcing software and use of the internet to establish jobs boards also has the potential to incentivise employers to use pre-screening tools. These can limit, and profile the pool of potential candidates for any given job, before any formal recruitment screening begins, effectively determining who learns about open job opportunities and who can apply for a job.

The introduction of artificial intelligence and predictive hiring tools was intended to overcome human biases in recruitment, but the reality appears to be that these tools can mirror underlying systemic and societal biases. Concerns have been raised that the growth of these technologies are outpacing employers’ and regulators’ capacity to understand and respond to them⁴.

Discrimination in housing

There is clear evidence of inequality of access to housing with particular reference to people with disabilities, lone parents and Travellers. The provision of private rented accommodation is a service under the Equal Status Acts 2000-2015. The Act prohibits discrimination against both actual and potential tenants. The Equality (Miscellaneous Provisions) Act 2015 inserted a tenth ground, the “housing assistance” ground. This ground applies only to the provision of accommodation and protects anyone who has applied for and is eligible to receive rent supplement, housing assistance payments and other social welfare payments. It applies both to existing tenants and to those who are looking for accommodation.

Forms of discrimination typically experienced by users of CIB services include⁵:

- Landlords refusing to rent a property based on one of the nine grounds, including, in particular, people with disabilities and people with mental health difficulties

² *Employment Rights that Work for All: A Citizens Information Perspective*, https://www.citizensinformationboard.ie/downloads/social_policy/socialpolicy-employment-rights-for-all.pdf, p.55.

³ CIB (2020) *Employment Rights that Work for All*.

⁴ CIB (2020) *Employment Rights that Work for All*.

https://www.citizensinformationboard.ie/en/publications/social_policy/research.html

⁵ Housing Assistance Payment (HAP) The experience of Citizens Information Services, https://www.citizensinformationboard.ie/downloads/social_policy/HAP_Report_CIB_2017.pdf

- Refusing to accept Housing Assistance Payment (HAP) or Rent Supplement (RS) tenants
- Refusing to complete the necessary forms to enable a tenant to receive HAP or RS
- Ending (or refusing to renew) a lease or other tenancy agreement where one of the grounds has been identified by the tenant as a likely contributory factor

Recent (2021) IHREC/ESRI research, *Monitoring Adequate Housing in Ireland*⁶, emphasises the challenges facing people with disabilities related in part to the significant shift in housing policy away from direct provision by the State and its agencies to an increased use of the private sector.

The research points to higher rates of affordability issues amongst people with disabilities when compared to those without a disability; significantly higher rates of reported poverty after housing costs; significantly higher chances of arrears; and significantly higher likelihood of experiencing poor quality of housing.

Previous research carried out by the Irish Human Rights and Equality Commission and the ESRI⁷ shows that people with disabilities were over twice as likely as people without disabilities to experience discrimination in access to housing. For example, people with disabilities are overrepresented among homeless people (more than one-in-four homeless people have a disability) and are more likely to experience bad housing conditions, are more at risk of poverty and deprivation and they also are more likely to be discriminated against in a series of domains, including housing.

A forthcoming social policy report prepared jointly by CIB and Disability Federation of Ireland (DFI) highlights the particular difficulties faced by disabled people and people with mental health difficulties in accessing social housing through the private rented sector (frequently the only option available). These include in particular, difficulties in getting accessible accommodation and difficulties in accessing Housing Adaptation Grants following an acquired disability because landlords do not want to carry out adaptations to their property. This report notes that the situation of a person with a disability or a mental health difficulty that results from having to rely on the private rented sector for social housing is at odds with a human rights approach. It can also be reasonably suggested that it undermines legislative provisions relating to equality of access to goods and services.

In relation to Travellers, the rates of energy poverty, conditions of mobiles/trailers, health and safety concerns and poverty and financial exclusion among Travellers have been regularly highlighted by CIB and MABS.⁸

In the 2021 IHREC/ESRI research referenced above, lone parents emerged as a disadvantaged group on several indicators, being overrepresented on the housing waiting

⁶ *Monitoring Adequate Housing in Ireland*

<https://www.ihrec.ie/app/uploads/2021/09/Monitoring-Adequate-Housing-In-Ireland-Sept-2021.pdf>

⁷ *Discrimination and Inequality in Housing in Ireland*

<https://www.ihrec.ie/app/uploads/2018/06/Discrimination-and-Inequality-in-Housing-in-Ireland..pdf>

⁸ See, for example, *Addressing Energy Poverty Among Travellers Living in Mobile Homes and Trailers*,

https://www.citizensinformationboard.ie/downloads/social_policy/MABS_Energy_Poverty_Report_2019.pdf

list, amongst homeless families, and being much less likely to own their own home compared to couples with children.

It can be argued that the current approach to social housing provision in Ireland with a heavy reliance on the private rented sector, notwithstanding the role of the Housing Assistance Payment and Rent Supplement, weakens equality legislation relating to access to housing.

Access to public services

Section 42 of the *Irish Human Rights and Equality Commission Act 2014* - Section 42(1) requires public bodies, in the performance of their functions, to have regard to the need to eliminate discrimination, promote equality and protect human rights of staff and people availing of their services. Section 42(2) requires public bodies to assess, address and report on progress in relation to equality and human rights in their strategic plan and annual reports in a manner that is accessible to the public. Notwithstanding these provisions, CIB has regularly drawn attention to the difficulties faced by people with disabilities, older people, people with language difficulties, Travellers in accessing public services. Such problems relate for example, to difficulties with on-line applications, inadequate provision for Irish Sign Language interpretation,⁹ the ongoing inaccessibility of some public buildings and underdeveloped disability awareness among some frontline staff.

A further issue needing consideration in the legislation is the definition of 'services', and what specifically is included in the legislation, in particular in relation to inclusion of the functions of public authorities within the definition of the services in Section 5 of the Equal Status Acts¹⁰ and public services provided by NGOs on behalf of the State and funded accordingly, ensuring it is in line with EU law.

Equality of access to healthcare

Equality of access to health care is based on the premise that everyone has the right to timely access to affordable, preventive and curative health care of good quality¹¹. Some groups may be particularly affected by unequal or discriminatory healthcare practices, such as older people, people with disabilities and ethnic minorities. This inequality of access stems from a range of factors, including a two-tier health care system (and increased privatisation of health care), inadequate public health resources and geographical imbalance of services and a power imbalance between patients and professionals. Covid-19 highlighted these inequalities in relation to people resident in nursing homes.

⁹ CIB has published a Report, *Information provision and access to public and social services for the Deaf Community*, https://www.citizensinformationboard.ie/downloads/social_policy/Deaf_Community_Research_Rpt_Feb2018.pdf

¹⁰ In line with UNCERD 2019 recommendations

¹¹ European Pillar of Social Rights, https://ec.europa.eu/info/sites/default/files/social-summit-european-pillar-social-rights-booklet_en.pdf

There is significant evidence that Irish Travellers have poorer health outcomes than the general population.¹²

While there may be a need to look at the adequacy of equality legislation in relation to access to health and community care, what is probably much more important is the need to provide adequate resources and to develop stronger equality standards for health and community care provision.

Equality and safeguarding

The experience of CIB services is that discrimination based on age most frequently arises with regard to employment equality. However, increasingly, cases involving older people's ability to access safeguarding services are coming to the attention of NAS and other advocacy bodies, as well as cases involving the financial and other abuse of people with reduced decision-making capacity associated with dementias or other cognitive impairment. Easy and equal access to safeguarding services, in particular, HSE Safeguarding Teams, is critically important for such people, as is access to independent advocacy.

Equality legislation should, therefore reflect and reinforce safeguarding legislation (when introduced¹³) in protecting the rights of persons who may be discriminated against because they are unable, without support, to seek protection from the State.

Implications of the Assisted Decision-Making (Capacity) Act 2015

Equality legislation should reflect the provisions of the Assisted Decision-Making (Capacity) Act 2015 (and the forthcoming amending legislation) which underpins the presumption of capacity by making legal provision for supported decision-making.¹⁴ The Act provides for a more robust system for ensuring that people with reduced decision-making capacity have equality of access to services and supports. The commencement of this legislation (planned for 2022) will be a significant milestone and will reflect in Irish law core provisions of the UN Convention on the Rights of Persons with Disabilities in respect of supported decision-making.

The Act sets out guiding principles that are intended to safeguard the autonomy and dignity of persons with reduced decision-making capacity. The guiding principles include:

- ✓ A presumption of decision-making capacity

¹² See Pavee Point Submission to the Special Committee on Covid-19 Response, https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/special_committee_on_covid_19_response/submissions/2020/2020-09-30_submission-ronnie-fay-director-pavee-point-traveller-and-roman-centre-scc19r-r-0426_en.pdf

¹³ An Adult Safeguarding Bill, introduced in 2017 <https://data.oireachtas.ie/ie/oireachtas/bill/2017/44/eng/initiated/b4417s.pdf>, fell with the dissolution of the 32nd Dáil in January 2020. The Legislation Programme for Autumn 2021 includes a Health (Adult Safeguarding) Bill – which focuses on safeguarding vulnerable or at-risk adults in the context of their interactions with the health sector.

¹⁴ The Act provides for three types of decision-making support options to respond to the range of support needs that people may have in relation to decision-making capacity.

- ✓ No intervention unless it is necessary
- ✓ Any intervention to be the least restrictive of a person's rights and freedoms and give effect to the person's will and preferences

The implications of these provisions for equality of access to services for people with disabilities and related legislation are profound.

2. Awareness of the legislation, and obstacles to taking action

Poor understanding of rights and obligations

Feedback from CIB services strongly suggests that there are considerable shortcomings in the extent to which citizens, employers and service providers are adequately informed of the rights, obligations and responsibilities that they respectively have with regard to equality legislation. Persons experiencing discrimination, in the absence of good information, may not seek redress under the legislation or may be reluctant to pursue actions to a conclusion. For example, in relation to employment rights, evidence from services showed that certain groups, including part-time and migrant workers, were poorly informed and, therefore, less likely to pursue their rights. Language, literacy and digital literacy barriers feature regularly for people seeking to challenge discrimination

There is, therefore, a clear need for further steps to be taken to increase the levels of knowledge and awareness of rights under equality legislation. There is a related need for a re-examination of the processes and procedures involved in seeking redress if individuals are to be enabled to pursue justice as intended by the legislation. For example, in relation to employment, CIB recent research identified problems relating to the length of time to process complaints made to the WRC and to obtain appeal hearings; lack of adequate information on the part of some employers and employees; limitations on access to detailed legal advice and representation when necessary for employees, and low levels of prosecutions for breaches of employment legislation. While changes may be needed in the law, it is equally, if not more important, that the actual implementation of equality legislation be reviewed and restructured where necessary.

At present the experience of CIS, CIPS and NAS points most strongly to the difficulties involved in implementing the equality legislation. While people's rights may be protected by legislation, those rights are often not recognised, enforced or pursued. The onus is frequently on individuals to assert their rights under equality legislation which presumes that everyone has the capacity and skills to do so, which is clearly not the case. While CISs, NAS, MABS and other advocacy organisations support people with enforcing their rights and seeking redress, not everybody will know about or wish to contact such services.

Complexity of cases

CIB has regularly noted the level of complexity involved in many of the cases dealt with by our services and the challenges involved for clients in dealing with these cases. Similarly, CIB wishes to point to the imbalance that frequently exists between clients of our delivery

services and the parties against which claims are being pursued in their access to the expertise and resources needed to fully work through a case. The real and perceived challenges and obstacles involved in pursuing claims often result in claimants abandoning claims at an early stage or in accepting lower levels of compensation. The possibility of cases extending over a protracted timeframe further accentuates this imbalance. In particular, there is a need to improve access to the WRC for those experiencing discrimination in the workplace by increasing the time period within which claims must be lodged.

3. Scope of the nine grounds, in particular, re. gender, disability, and introduction of new ground, socio-economic discrimination.

Definition of 'disability'

In considering the issue of current definitions, especially as applied to disability, CIB sees value in keeping definitions as wide as possible rather than engaging in a process of having to deal with discrimination cases on a 'ground-by-ground' basis. In this regard CIB's view coincides with that suggested by the Irish Human Rights Commission (IHRC) in its response to a previous review on extending the scope of employment legislation.

*'...that there is appeal in allowing the courts to develop a strong body of anti-discrimination law around the core values of equal treatment and reasonableness, rather than forcing the courts to engage in what can sometimes be an artificial process of approaching discrimination cases on a "ground-by-ground" basis.'*¹⁵

However, conversely it is important that definitions are not so wide as to make it difficult for a person to meet the criteria and be considered eligible to take a case under the legislation. The definition of disability under the Employment Equality Acts and the Equal Status Acts includes physical, intellectual, learning, cognitive and emotional disabilities and a range of medical conditions. People with experience of mental health difficulties are covered by the disability ground.

CIB is of the view that the existing definition of 'disability'¹⁶ is largely based and worded on a medical model of disability. There is a strong case for ensuring that the very language used

¹⁵ Irish Human Rights Commission, Extending the Scope of Employment Equality Legislation https://www.ihrec.ie/download/doc/sub_extending_scope_emp_legislation.doc

¹⁶ 'Disability' is defined in the Equal Status Act 2000 as:

- a) the total or partial absence of a person's bodily or mental functions, including the absence of a part of a person's body
- b) the presence in the body of organisms causing, or likely to cause, chronic disease or illness
- c) the malfunction, malformation or disfigurement of a part of a person's body
- d) a condition or malfunction which results in a person learning differently from a person without the condition or malfunction, or
- e) a condition, disease or illness which affects a person's thought processes, perception of reality, emotions or judgement or which results in disturbed behaviour

in equality legislation should reflect a social and human rights model rather than a medical/charitable model. It should embrace the concept of people with disabilities as active participants in society. It is also important to reiterate that any changes to the definition need to be such that do not make it more difficult for a person with a disability to make a complaint on this ground under the Acts. The attitudinal shift that is demanded if we are to fully take on board the spirit and commitments attaching to the UN *Convention on the Rights of Persons with Disabilities* (UNCRPD) requires a shift in language and terminology as do the provisions of the Assisted Decision-making (Capacity) Act 2015, particularly the functional approach to capacity referred to above.

Introduction of an additional socio-economic ‘equality ground’

Many users of CIB services experience financial exclusion, energy poverty, many are on low incomes and many have weak social capital and suffer more because of the related structural inequalities in housing, healthcare, and public service provision generally. Inequality of access is frequently the result of low incomes, poverty, inadequate housing, indebtedness and a lack of access to appropriate services in a timely manner. There are clear links between poverty, social exclusion and the existing discrimination grounds. In many cases our clients’ disadvantaged socio-economic situations are a result of a multiplicity of issues.

CIB is, therefore, of the view that the introduction of socio-economic status as a discrimination ground would enhance existing equality legislation and would complement the scope of the existing grounds. In this regard, the definition of socio-economic status contained within the Equality (Miscellaneous Provisions) Bill 2021 is relevant.

The introduction of disadvantaged socio-economic status as a new ground for discrimination is seen as a logical and beneficial step in constructing a comprehensive and effective legal basis for the protection of people who are excluded and marginalised and for ensuring equality of access to redress.

The addition of this new ground would reinforce the message that discrimination against persons experiencing disadvantage will not be tolerated in Irish society and would provide a more robust set of tools for use in protecting citizens’ rights.

The ground of socio-economic status is particularly relevant in access to health care.¹⁷

4. Intersection of discrimination across the grounds

Clients of CIB services frequently present with cases involving discrimination on more than one of the prohibited grounds, resulting in additional exclusion. The possibility of multiple discrimination when individuals occupy a number of disadvantaged statuses, as well as potentially increasing the negative impact caused, can also present problems in identifying

¹⁷ Equality, Diversity, and Non-Discrimination in Healthcare. Learning from the work of equality bodies, <https://equineteurope.org/wp-content/uploads/2021/06/Health-Perspective.pdf>

clearly which discriminatory ground or grounds is at the root of the problem and where efforts to seek redress are best targeted.

It is felt that such intersectional discrimination based on a combination of grounds warrants inclusion in the legislation as well as a stronger and more integrated response in the manner in which legislation is enforced. For example, the rights of a Traveller woman may be infringed in respect of housing, and this infringement may be based on her identity as a woman, and as a member of the Travelling community. Recognition for the infringement of rights based on the combined grounds needs to be provided for in the legislation and in enforcement and redress structures.

Digital Discrimination

CIB services frequently encounter clients who experience barriers to public services due to literacy issues - there is in tandem growing evidence that technological discrimination is on the rise, as discussed above. Many people and particularly, older people, and people with disabilities experience challenges in affordability and accessing, using digital technology, and thus experience digital exclusion, as well as digital constraint, whether that is to do with a lack of access to the requisite technology or an inability to use the internet due to literacy or digital literacy problems¹⁸. This has implications for their ability to secure public services and assert their equality rights on an equal basis with others.

5. Exemptions

There are a large number of exemptions, most of which reflect practicalities and norms in provision, but some of which are problematic.

Under the Equality Acts, minimal obligations are placed on the education sector to provide reasonable accommodation for people with disabilities. Many third level institutions have implemented their own measures on reasonable accommodation that go significantly beyond the provisions of the Acts and this should be the bar to aspire to. They have been supported by the development of the Inclusive Education Road Map¹⁹. The Equality Act provisions are now out of step with the practical efforts being made in the sector.

Within the school system, we see examples of callers to CISs who encountered resistance to accommodating students with disabilities. This limits opportunities for these students to achieve the same outcomes as peers. Under the Act any special treatment, facilities or accommodation that gives rise to more than 'nominal cost' does not have to be provided. If the State funds most schools and provides grants or resources, such as Special Needs

¹⁸ A CIB report on Digital Exclusion and E-government in Ireland discusses these.

¹⁹ AHEAD, 2018, 'Inclusive Learning and the Provision of Reasonable Accommodations to Students with Disabilities in Higher Ed in Ireland', Association of Higher Education Access and Disability and the Disability Advisers Working Network, www.ahead.ie/reasonableaccommodations

Assistants (SNAs), to enable reasonable accommodation then the ‘nominal cost’ exemption is redundant²⁰.

Under EU legislation²¹, employers are not obliged to provide reasonable accommodation if the cost of doing so is excessive or disproportionate. Reasonable accommodation should be seen as a tool that supports recruitment, retention and advancement, and not a cost incurring measure, and the challenge here is who is the arbiter of what is excessive or disproportionate cost.

The provisions relating to Reasonable Accommodation in general in the Acts need to be reviewed to more accurately reflect the principles of the UNCRPD.

Section 14 of the Equal Status Acts exempts complaints in relation to discrimination where it is required by another Irish law or EU law and therefore cannot be regarded as discrimination under the Acts²². This means that legislation that potentially discriminates on one of the nine grounds, falls outside the Equal Status Acts. For example, it is not discrimination to refuse a social welfare payment to a person if that person is excluded from entitlement to the payment or benefit under social welfare law. While the Public Sector Duty exists and places an obligation on public bodies, to promote equality, prevent discrimination and protect the human rights of their employees, customers, service users and everyone affected by their policies and plans, it can be argued that it lacks sufficient enforcement potential. This exemption therefore, should be examined as part of the review of Equality legislation.

There are broad exemptions in respect of the powers of immigration authorities. While part of the exempt provisions relate to illegal immigration, the rest exempt any actions that immigration authorities may take *‘in accordance with any provision or condition made by or under any enactment and arising from his or her entry to or residence in the State’*. This means that legal non-national residents or applicants for asylum are effectively excluded from protection under the Act arising from the actions or behaviour of immigration authorities.

An Garda Síochána are also excluded from the prohibition on discrimination and harassment.

²⁰ National Disability Authority, www.nda.ie/Publications/Education/Education-Publications-/Improving-the-Accessibility-of-School-Buildings-read-online/Content-Improving-the-Accessibility-of-School-Buildings/Legislation.html

²¹ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation

²² Section 14 (a) Equal Status Act 2000, ‘Nothing in this Act shall be construed as prohibiting— (a) the taking of any action that is required by or under— (i) any enactment or order of a court, (ii) any act done or measure adopted by the European Union, by the European Communities or institutions thereof or by bodies competent under the Treaties establishing the European Communities, or (iii) any convention or other instrument imposing an international obligation on the State,

The provisions of the *Assisted Decision-making (Capacity) Act (ADM) 2015* may overtake the exemption based on incapacity to enter a legal contract or to give informed consent. It is therefore essential that all of the provisions of ADM are commenced and that its principles and provisions are reflected in any reform of equality legislation.

Under the Employment legislation, employers are allowed to offer different pay rates to workers if their disability means that they cannot do the same amount of work in the same time as a co-worker without a disability. This exemption also needs review.

Overview/Recommendations

- CIB recognises the crucially important role that equality legislation plays in protecting disadvantaged and often marginalised and excluded members of society.
- CIB is of the view that changes are needed particularly in relation to the policies, processes and procedures involved in the application and implementation of the law, as well as in the legislation itself.
- CIB sees merit in the inclusion of a new ground dealing with socio-economic status.
- CIB wishes to point to the complexity of existing implementation mechanisms and the difficulties and deterrents that people face in seeking redress.
- It is clear that there is a significant gap in the knowledge that individuals possess regarding their rights. There is a clear need to address this deficit in an effective manner. In particular, there is a need to strengthen the role for Citizens Information Services in the provision of targeted information on equality and rights, in collaboration with IHREC.
- Provide further resourcing to the WRC to assist with increasing awareness of their service in the context of their role in providing accessible information in line with the public sector duty as well as strengthening their enforcement role.
- In many instances, people experience discrimination on a combination of grounds – there is a need for recognition of this in the legislation as well as stronger and more integrated enforcement structures if such discrimination is to be avoided.
- CIB sees some value in enabling a wider application of definitions of discrimination based on core values rather than concentrating on unduly technical definitions around each of the grounds.

- There is a need to ensure that the language and terminology used in legislation with regard to disability, reflect and reinforce a positive, rights-based social model rather than medical-model approaches and values.
- Consideration should be given to the extent to which equality legislation reinforces and complements safeguarding legislation (when introduced), particularly with regards to people whose decision-making capacity is in question.
- The Assisted Decision-making (Capacity) Act 2015, once commenced, will have major implications for how people with reduced decision-making capacity are to be supported in asserting their rights under equality legislation.
- While there is international and national legislation prohibiting discrimination relating to housing, CIB believes that there would be much merit in enshrining the right to adequate housing in the Irish Constitution—this would strengthen significantly equality legislation as it applies to access to housing.

The experience of CIB services points strongly to the difficulties involved in implementing the equality legislation as well as to flaws in the legislation itself. While people's rights may be protected by legislation, those rights are often not recognised, enforced or pursued. There is a need, therefore, for a re-examination of the processes and procedures involved in seeking redress if individuals are to be enabled to pursue justice as intended in the legislation. While some changes are needed in the law, it is equally (if not more important) that the implementation of existing equality legislation be reviewed and restructured where necessary.