

**Submission by Community Law & Mediation
to the DEASP consultation on the *Pathways to Work Strategy***

Executive Summary

- Community Law & Mediation (CLM) was established in 1975 as the first independent, community-based law centre in Ireland. It represents and advocates for people who are experiencing difficulties accessing work or who are being treated unfairly in the workplace - including older jobseekers, women, lone parents, people with disabilities, and other groups.
- Any focus on increasing labour market participation should not take away from the need for a comprehensive social welfare system that protects those who are vulnerable or experiencing disadvantage in our communities. Where individuals are in a position to seek employment, there should be no barriers to their entering the workforce.
- Some of the barriers to entering the workforce that CLM has encountered in its casework are outlined in this paper, along with recommendations on how these might be addressed. These include:
 - Indirect discrimination against jobseekers/workers on the basis of their age
 - Concentration of women in part-time and lower paid employment, the gender pay gap and the high cost of child care
 - Lack of recognition of the contribution to the economy of unpaid care-givers and the economic and societal pressure their work alleviates
 - The introduction of labour activation measures targeting lone parents without adequate supports to care for children
 - Difficulties faced by people with disabilities joining the workforce, including adjustments being made for their needs by employers, cost, transport support and training.
- Access to justice - the lack of legal aid in employment and equality cases before the Workplace Relations Commission is a major barrier to enforcing employment rights for older jobseekers, women, lone parents, people with disabilities and others.



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Introduction

Community Law & Mediation (CLM) welcomes the opportunity to make a submission to the Department of Employment Affairs and Social Protection's consultation on the *Pathways to Work* Strategy, based on our experience representing and advocating for older jobseekers, women, lone parents, people with disabilities, and other groups.

CLM was established in 1975 as the first independent, community-based law centre in Ireland. Today, CLM supports more than 3,000 people annually through its range of services, which include free legal advice and representation; information and education; mediation and conflict coaching; and law reform. It operates two Community Law Centres, CLM Northside (Dublin) and CLM Limerick, and partners with other organisations to provide outreach advice clinics around Ireland.

Importance of a comprehensive social welfare system

At the outset, it is important to emphasise that any focus on increasing labour market participation should not take away from the need for a comprehensive social welfare system that protects those who are vulnerable or experiencing disadvantage in our communities. CLM has represented and advocated for many clients who, due to their circumstances, are not able to enter the workforce and who need the protection of a social welfare system that provides them with an adequate standard of living.

Structural barriers to entering the workforce

Where individuals are in a position to seek employment, there should be no barriers to their entering the workforce, nor should they be encouraged to take any job, or the first job that they are offered.

Some of the barriers to entering the workforce that CLM has encountered in its casework are outlined below, along with recommendations on how these might be addressed:

(i) Older jobseekers

- CLM advises and advocates on behalf of individuals experiencing age discrimination in employment.
- Age discrimination in employment affects many different elements of a person's working life, including access to employment, pay and conditions of employment and access to promotions or training and policies in the workplace which disadvantage individuals on the basis of their age.
- Indirect discrimination occurs when a practice, policy or rule applied to all employees has a disproportionate impact on certain individuals or groups. Newer requirements to fulfil selection criteria such as third level qualifications or qualifications in information technology, for example, can indirectly exclude older jobseekers or workers from opportunities for employment or promotion.
- Support for older workers and meaningful access to an effective remedy when discrimination occurs, as well as education to promote inter-generational understanding and cooperation are essential to addressing ageism in workplaces.
- The education of employers and employees on issues affecting older workers, including age discrimination in accessing employment, promotions and training opportunities, as well as what does and does not constitute objectively justified mandatory retirement is paramount.
- Finally, CLM feels strongly that the lack of the type of flexible work and financial supports (including social welfare and revenue arrangements) necessary to support phased retirement is an issue in Ireland. An abrupt separation from the labour market fails to recognise the value of experience, potentially causing serious harm to motivation and job satisfaction both for older workers and those who expect to work as long as they can and need to, personally and financially. It is important to be clear that choice is paramount here. While many people are happy to retire as soon as they can, those who wish to and are able to continue to do so should be supported in that regard.

(ii) Women

- A significant number of working women are at risk of poverty, particularly lone parents and older women.
- The concentration of women in part time and lower paid employment is of note and they are generally less likely to earn as much as men. The latest figures from the EU Commission show that the gender pay gap in Ireland is 13.9% - in other words women in Ireland are paid almost 14% less than men. This, coupled with the high cost of motherhood and childcare, persistently constrains women in terms of employment
- The contribution to the economy of unpaid care-givers and the economic and societal pressure their work alleviates is consistently under-valued. The lack of recognition of care-giving and parenting affects women's choices and opportunities for employment and thus their potential to move out of poverty. Issues arise such as poverty in old age, being economically dependent and less able to escape domestic violence and having incomplete access to Pay Related Social Insurance (PRSI) when working in caring and atypical work situations.
- CLM urges acknowledgement of the value of care in the economy, together with more meaningful support for women entering the employed work force.
- Increasing the economic independence of women at all stages of their lives is predicated on narrowing the gender pay gap and increasing flexibility in terms and conditions to accommodate parents and carers.
- CLM advocates for a pension and social welfare system that increases the possibility of economic independence and a decent standard of living for older women in a way that recognises periodic gaps in employment for reasons of parenting or care-giving. While some progress has been made in this area with the introduction of the Social Welfare, Pensions and Civil Registration Act 2018, it is not far-reaching enough. CLM is of the view that the failure to introduce a fully inclusive scheme constitutes indirect discrimination which continues to affect women as they grow older.

(iii) Lone Parents

- The introduction of labour activation measures targeting lone parents, without adequate consultation of the affected groups, and without provision of supports to care for children is a policy that is regressive in effect, and incompatible with the state's obligation to treat all children equally.
- The objective of activation could be achieved in a fairer way by attaching job seeking conditions to a fully restored One Parent Family Payment. The current policy is counterintuitive as it removes the supports that are necessary if those who are parenting alone are to access the labour market, and furthermore, it creates inequality in the treatment of households with children. Children of 14 years and over require care and supervision, and lone parent job seeking claimants continue to be disadvantaged in trying to access the labour market and address the needs of his or her children when they are not attending school.
- CLM recommends that the One Parent Family Payment be fully restored to 2011 levels (weekly income disregard); that the cut-off for Jobseekers Transition Payment be extended to age 18 (for the youngest child); and reduce the working hours requirement to 15 hours per week for lone parents accessing the Working Family Payment.

(iv) People with disabilities

The needs of people with disabilities can be complex and highly subjective. CLM represents and advocates for people with disabilities who have been treated unfairly by employers on the basis of their disabilities. Some of the difficulties our clients have faced include employers not making appropriate adjustments for their needs or returning them to different departments or work on their return from sick leave. In this context, CLM recommends that the Department of Employment Affairs and Social Protection consider the following:

- Joining or returning to the workforce may be less affordable for some people with disabilities than for their comparators.
- Access to transport supports is a particular issue for people with disabilities seeking to fulfil their employment ambitions and provision should continue to be made for those with disabilities who join or return to the workforce to access public transport.

- While there are several transport supports available for persons with disabilities, responsibility for administering these supports is spread across a number of government departments and agencies with differing qualification criteria. As a result, some people who have significant transport needs could, if they were to take up employment, fall between different schemes of supports. Others may find their entitlement difficult to understand or navigate. These features of the present system can act as a barrier to taking up employment.
- Regarding early engagement programmes for those receiving Disability Allowance at 18, the voluntary nature of such programmes is fundamental. CLM supports early engagement to ascertain what supports can be provided to people with a disability who are able to work and interested in getting a job, to assist them in fulfilling their employment goals. However, the necessity for a holistic and subjective approach to the requirements of each individual must also be emphasised here. The complex and differing needs of each individual must be carefully considered and, in this regard, CLM would welcome the training of highly specialised staff.
- The importance of a joined-up inter-departmental approach to assisting people with disabilities to gain and retain employment cannot be overstated.
- CLM would welcome concrete initiatives to introduce more disability friendly training courses or make current training courses more accessible to persons with disabilities.
- CLM would also welcome the simplification of the at times labyrinthine system which is difficult for people to navigate.
- Finally, CLM would urge the Department to prioritise raising awareness of the initiatives that are available to people with disabilities.

Access to Justice

CLM's practical experience is that the lack of legal aid in employment and equality cases before the Workplace Relations Commission is a major barrier to enforcing employment rights for older jobseekers, women, lone parents, people with disabilities and others. Sometimes equality and employment law cases involve complex legal issues which are difficult for unrepresented claimants to grasp. As a result, there is a

risk that individuals may not be able to present their cases in the manner that fairness demands without legal representation.

Additionally, while the Workplace Relations Commission has certainly introduced some essential reforms, there is a concern that those without the educational attainment, legal experience or simply the technological knowhow to navigate an increasingly virtual process may be left behind.

Conclusion

Many barriers to employment continue to persist for under-represented groups such as people with disabilities, older jobseekers, women and lone parents.

CLM hopes that in preparing for the next phase of its Pathways to Work strategy, the Department of Employment Affairs and Social Protection will focus on removing the barriers outlined above and ensuring equality of opportunity for all when seeking to enter the workforce and progress their careers.

CLM is available to discuss the issues highlighted in this submission further if required. Thank you.