

## Submission from Independent Law Centres to the Anti-Racism Committee's Public Consultation on a new National Action Plan against Racism for Ireland

### 1. Executive Summary

We, the undersigned Independent Law Centres (ILCs), welcome the opportunity to make submissions on the National Action Plan against Racism for Ireland. As ILCs, we are governed by S.I. No. 103/2006 - The Solicitors Acts, 1954 to 2002 (Independent Law Centres) Regulations, 2006. Each centre has been granted charitable status by the charities regulator and we provide, amongst other services, free legal advice and, in some circumstances, legal representation. Community Law & Mediation makes this submission on behalf of the undersigned ILCs.

Racism has been defined for the purposes of the National Action Plan as the power dynamics present in those structural and institutional arrangements, practices, policies and cultural norms, which have the effect of excluding or discriminating against individuals or groups, based on their identity, as outlined in Article 1 of the International Convention for the Elimination of Racial Discrimination (ICERD), which provides: '...the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

This definition covers the circumstances in which approved practices within institutional bodies and society may be indirectly racist and discriminatory.

This submission discusses the areas of the Consultation most relevant to our work as Independent Law Centres, namely

- Theme 1: Access to Justice
- Theme 3: Employment, education, health, and accommodation

The submission is formatted in response to the suggested questions posed in the Consultation document.

The submission makes a case for an expanded system of civil legal aid and supports for those who experience racism and discrimination in seeking redress. The submission also makes recommendations which aim to improve accessibility in the areas of the justice system, the labour market and accommodation for racial minorities in Ireland.

Signed,

Community Law & Mediation

Mercy Law Resource Centre

Ballymun Community Law Centre

Immigrant Council of Ireland

Irish Refugee Council Independent Law Centre

## 2. Theme 1: Access to Justice

a) What actions would be effective in removing barriers to justice for victims of racism?

### *Access to Legal Advice/Aid*

Some of the most prevalent issues affecting minority groups in Ireland, including migrants and members of the Traveller and Roma communities, are excluded from the remit of the Legal Aid Board. Such issues include social welfare appeals and employment and equality cases, as well as discrimination when accessing goods and services. Civil legal aid is not currently available in cases before the WRC challenging discrimination in the workplace or in accessing services.

This unmet legal need is a constant theme of our work and it constitutes a serious barrier to accessing justice. In practice, employers, service-providers and public bodies are often legally represented, creating concern from the point of view of equality of arms and natural justice. Legal aid being available in this context would greatly improve access to justice for victims of racism.

### Recommendation

1. We propose the Civil Legal Aid Scheme be expanded to cover discrimination cases taken to the WRC under employment equality and equal status legislation, as well as in other quasi-judicial tribunals such as the Social Welfare Appeals Office and the PRTB. See also Recommendation 24 below in relation to expansion of Civil Legal Aid in respect of certain housing matters.

### *Increasing accessibility under Equal Status Acts*

Research conducted by the Fundamental Rights Agency across the European Union has highlighted that awareness of the national legislative and procedural framework which gives effect to the prohibition of discrimination appears to be low among racial minorities.<sup>1</sup> This in turn, affects the degree to which victims pursue their rights and reduces the frequency with which the prohibition of discrimination is enforced and remedies are obtained.<sup>2</sup>

Race is one of the grounds protected from discrimination under the Equal Status Acts. In order to make a complaint under the Equal Status Acts 2000-2015, a complainant is required to first notify the person or organisation they are making the complaint against within 2 months of the last act of discrimination.

The requirement for the submission of an ES1 form within 2 months of the discriminatory act taking place is overly restrictive on those who may require additional assistance in the areas of literacy, translation, understanding of the legal arguments etc. In addition, applicants are often confused by the naming of the Workplace Relations Commission, believing it adjudicates only on employment matters. Applicants often realise that the WRC is the correct body to refer their complaint under the Equal Status Acts to, after the strict 2 month time limit of submitting an ES1 form has passed. Consideration should be given to these factors when strictly implementing the rules on time limits on complainants. We believe the 6 month time limit for lodging a claim is similarly restrictive and should be lengthened.

<sup>1</sup> [https://fra.europa.eu/sites/default/files/fra\\_uploads/1916-FRA-RED-synthesis-report\\_EN.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/1916-FRA-RED-synthesis-report_EN.pdf)

<sup>2</sup> [https://www.flac.ie/assets/files/pdf/flac\\_response\\_to\\_draft\\_programme\\_for\\_government\\_2020\\_final\\_ver.pd](https://www.flac.ie/assets/files/pdf/flac_response_to_draft_programme_for_government_2020_final_ver.pd)

The current maximum penalty an adjudication officer can order in the WRC is compensation of up to €15,000. A higher maximum award may act as a stronger deterrent in preventing discrimination.

#### Recommendations

2. We propose a review of the complaints process under the Equal Status Acts to be carried out with a view to making the process more accessible through the provision of increased time limits and supports.
3. We propose that the maximum award which may be awarded under the Equal Status Acts by an adjudication officer in the WRC be increased.
4. We propose the roll-out of an information campaign targeted towards racial minorities on the process of making a complaint of discrimination under the Equal Status Acts.

#### Hate crime legislation

The general scheme of the Criminal Justice (Hate Crime) Bill 2021 was published in April 2021. The protected characteristics under the Criminal Justice (Hate Crime) Bill 2021 are: race, colour, nationality, religion, ethnic or national origin, sexual orientation, gender and disability. The aggravated offences will generally carry an enhanced penalty, compared to the ordinary offence, and the record of any conviction for such an offence would clearly state that the offence was motivated by prejudice – that it was a hate crime. It is essential that this Bill is passed into law as expeditiously as possible.

#### Recommendation

5. We support the expedient passing into law of hate crime legislation.

#### International Protection Process

Delays in the international protection process exacerbate the exclusion of people in that process from enjoyment of their rights and their integration into society. In January 2021, applicants were waiting on average 18 months for a decision, while prioritised applicants are waiting approximately 13 months.<sup>3</sup> The Irish Refugee Council 2021 report, *Hanging On a Thread*, highlights the negative impact the lengthy processing of claims for international protection has on family life, individuals' mental health and general wellbeing.<sup>4</sup>

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<sup>3</sup> Minister for Justice Helen McEntee, Response to Parliamentary Question No. 632, 27 January 2021, available at: <https://bit.ly/31qAaLX>.

<sup>4</sup> IRC Report "Hanging on a Thread" Delays in Irish Protection Process, June 2021

#### Recommendations

6. We propose a significant reduction in the processing times for international protection applications so as to reduce time spent in Direct Provision and so that individuals in the international protection process so that applicants can move forward with their lives and plan for their future.
7. The International Protection Office and International Protection Appeals Tribunal must be given the financial, technological and personnel resources to issue decisions to applicants within a reasonable timeframe.
8. The Government ought to introduce, without delay, the recommendation made by the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process, in which individuals who have spent more than two years in the system would be given five years leave to remain status.

- b) Do you think racism impacts on legal adjudication and the courts, and if so, what actions need to be taken?

#### *Structural Racism in the courts system*

The courts system in Ireland is inherently difficult to navigate for the average lay-litigant, even with the assistance of legal representation. The formalistic nature and language of proceedings before the courts can act as an intimidating and deterring factor for those who may be faced with additional language barriers.

IHREC has recommended that human rights and equality standards, intercultural awareness, and cultural competency are central to the initial and continuous training of all members of An Garda Síochána, as well as personnel in the wider criminal justice system.<sup>5</sup> We are in agreement with IHREC's recommendations and wish to further their assertion that there is a lack of appropriate service provision and cultural competency within the public sector generally and the courts service specifically.

There is a need for increased training and education on cultural competency throughout the legal system, including the judiciary and adjudicators, to facilitate cultural understanding between parties.

#### Recommendation

9. We propose the implementation of cultural competency training and diversity training for members of the judiciary and staff of the justice system generally.

#### *Interpretation*

Interpretation services in Ireland are not accredited or professionally regulated. This results in a significant disparity in the nature and quality of the interpretation services being provided to non-

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<sup>5</sup> [https://www.ihrec.ie/app/uploads/2019/11/IHREC\\_CERD\\_UN\\_Submission\\_Oct\\_19.pdf](https://www.ihrec.ie/app/uploads/2019/11/IHREC_CERD_UN_Submission_Oct_19.pdf)

English speakers and can seriously impede individuals' ability to adequately access justice and advance their case.

#### Recommendation

10. We propose that interpreting services provided in courts, tribunals and to applicants for international protection are professionally regulated and that interpreters are required to undergo accreditation prior to providing such services.

#### *Removal of s19 from the jurisdiction of the WRC*

Under section 19 of the Intoxicating Liquor Act 2019, any person who believes that they have been discriminated against at or on the point of entry to a licensed premises on the basis of one of the nine grounds included in the Equal Status Acts 2000-2018 must bring their case to the District Court rather than the Workplace Relations Commission. This requirement places a disproportionate burden on members of the Traveller community who are 38 times more likely than other white-Irish to experience discrimination in accessing goods and services.<sup>6</sup> Whereas the WRC was designed to facilitate personal litigation in a less adversarial manner, the courts system is not designed in this manner, as discussed above. Furthermore, there are greater costs associated with lodging a case before the District Court. Members of the Traveller community who wish to raise a claim of discrimination against a licenced premises therefore face a number of additional barriers in relation to costs, time limits and the onus of proving evidence and literacy. These additional barriers are unnecessary deterrents in bringing such a discrimination case.

#### Recommendations

11. We recommend that s19 is returned to the remit of the Workplace Relations Commission to increase accessibility in making a complaint of discrimination under this section.
12. We propose the roll-out of an information campaign on the process of proceeding with a claim under s19 to increase awareness and empowerment amongst members of the Traveller community in making a complaint of discrimination.

#### *High Court Direction 81*

The introduction of High Court Practice Direction 81 on 17<sup>th</sup> December 2018 placed numerous additional burdens on applicants for judicial review in the "asylum" list and their solicitors, which do not apply to other applicants for judicial review.<sup>7</sup> While some of those burdens were eased somewhat with an explanatory note and Covid measures, the Practice Direction remains in place and disproportionately impacts non-EEA nationals.

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<sup>6</sup> Irish Human Rights and Equality Commission and Economic and Social Research Institute, "Who experiences discrimination in Ireland?", Evidence from the QNHS Equality Modules (F. McGinnity, R. Grotti, O. Kenny and H. Russell), November 2017, page 36

<sup>7</sup> <https://www.courts.ie/acc/alfresco/e5e5270d-3f71-452d-9932-5b00b12514dd/HC81%20-%20Asylum%2C%20immigration%20and%20citizenship%20list.docx/file#view=fitH>

**Recommendation**

13. We recommend a review of High Court Practice Direction 81 to ensure that applicants for Judicial Review do not face unreasonable additional burdens in seeking to challenge decisions relating to immigration and international protection.

c) Are there particular issues connected with racism and gender and access to justice?

*Domestic Violence*

Women's Aid have reported that 37% of women accessing refuges identified themselves as Travellers, 6% as Black, and 2% as Asian.<sup>8</sup> These figures are representative of the fact that minority women face additional barriers to obtaining long-term safety and lack other possible options than emergency accommodation.

Exchange House Travellers Service have reported that racist beliefs and practices can serve to prevent minority women from seeking or finding effective interventions and that stereotyping and discrimination experienced when seeking assistance can cause them to feel unprotected by the domestic violence, social service, housing, health or criminal justice systems. Racism, therefore, can make it appreciably more difficult for ethnic minority women to access the resources they need to escape domestic violence.<sup>9</sup>

*Access to Services and Employment*

The Irish Network Against Racism reports that even after securing a visa to live and work full time in Ireland, migrant women face other obstacles such as a lack of previous references in Ireland for either housing or employment; a dependence on employers to obtain a PPS numbers; the lack of access to basic healthcare, as without their PPS number they cannot even avail of a Cervical Smear check.<sup>10</sup> Language barriers, visa status and lower incomes act as further barriers to accessing health services. These issues affect not only migrant women whose employers do not pay PRSI but also women who have never officially worked in the country, and are thus undocumented, and women living in Direct Provision.<sup>11</sup>

Many female migrants struggle to access employment and secure job interviews due to subtle racism. Migrant women have reported that despite having relevant qualifications, they do not get called for interview. Many feel that this is due to their name being of foreign origin or their address being linked to a direct provision centre.<sup>12</sup>

**Recommendation**

14. We welcome the acknowledgement of intersectional racism in the Interim Report and note its deep impact on the people we work with. We recommend providing targeted outreach support and information to vulnerable groups on access to justice.

<sup>8</sup> <https://www.womensaid.ie/about/policy/natintstats.html>

<sup>9</sup> <https://exchangehouse.ie/userfiles/file/reports/research/DVWomen17jun09SFN.pdf>

<sup>10</sup> <https://inar.ie/migrant-women-and-racism-in-ireland/>

<sup>11</sup> <https://inar.ie/migrant-women-and-racism-in-ireland/>

<sup>12</sup> <https://www.meathchronicle.ie/2018/06/19/meath-based-group-says-migrant-women-have-little-or-no-chance-of-employment/>

### 3. Theme 3: Employment, education, health, and accommodation

a) How can we ensure the equality of all children in terms of access to services?

*HRC applies in respect of child benefit/Children in direct provision*

The Habitual Residence Condition is a qualifying condition for social welfare payments and continues to apply in respect of child benefit. Although the habitual residence condition applies to all applicants ‘regardless of their nationality,’ it has a disproportionate impact on migrant families, Traveller families, and Roma families, who will have greater difficulty in proving their habitual residence. A report by Pavee Point pointed to examples of Traveller children who were born in Ireland but have been denied child benefit as their parents had previously spent time in Northern Ireland or England.<sup>13</sup>

Child benefit is not payable in respect of children who are Irish citizens and are living in direct provision as their parents are not considered to have a right to reside in the State while their applications for international protection are being processed and therefore the parents cannot satisfy the habitual residence condition which is a pre-condition to claiming Child Benefit. The State has said that many of the additional costs associated with bringing up a child are not in fact incurred by the applicants as a consequence of residing in the direct provision system. (*Agha (a minor) & ors v Minister for Social Protection & ors and Osinuga (a minor) & anor v Minister for Social Protection & ors [2018] IECA 155*). This case went to the Supreme Court where it was renamed *Michael v MSP [2019] IESC 82*. However, children living in direct provision, both seeking international protection and those with status, experience poverty and social exclusion with limited access to services.

#### Recommendation

15. We propose a review of the requirement of the Habitual Residence Condition to be proved in respect of Child Benefit.

#### *Children in State Care*

Children and young people in the care system are some of the most disadvantaged in Ireland. Issues of health, education, housing etc impact them as they do other children, however the challenges are often compounded due to the circumstances of their care. While Tusla collect data regarding ethnicity in a limited number of areas, they do not do so systematically. Based on international practice in the child protection sector, ethnic data is collected to identify disparities between groups, to examine referral patterns, to explore the representation of groups in care, measure outcomes and duration of time in care.<sup>14</sup>

Children and young people from ethnic minorities in the care system face barriers in accessing information and thus justice. As highlighted by the Immigrant Council of Ireland, “[a]ccess to information is an essential aspect of the right of access to justice and due process, as well as of children’s participation rights. It is critical for children to know and understand their immigration-related duties and to taking appropriate action. Children in Ireland face significant challenges in accessing clear, accurate and child-friendly information about their immigration status, routes to regular immigration status and their duties under immigration law. The absence of clear information

<sup>13</sup><https://www.lenus.ie/bitstream/handle/10147/143240/PositPapImpactHRCOnTravellers%20Roma.pdf?sequence=1>

<sup>14</sup>[https://www.tusla.ie/uploads/content/Ethic-Data-Final-Report-2\\_230819.pdf](https://www.tusla.ie/uploads/content/Ethic-Data-Final-Report-2_230819.pdf)

is a significant barrier to maintaining regular immigration status.”<sup>15</sup> In addition particular issues relating to housing, education and after care arise from the immigration status of children and young people in the care system.

#### Recommendation

16. We recommend the collection of data on ethnicity within the care system and access to information for children from minority groups who are within the care system.

#### b) What measures would help to address racism in access to accommodation?

Minority groups are disproportionately impacted by homelessness and housing insecurity, as shown in a 2018 IHREC study that found that black people are five times more likely to report housing discrimination than white people, and that non-white Irish nationals are 1.7 times more likely to experience housing deprivation than Irish nationals and are 2.5 times more likely to live in overcrowded housing than Irish nationals.<sup>16</sup>

In relation to social housing, the experience of Independent Law Centres advising clients in this area is that there are a number of existing legal barriers which contribute to racially discriminatory outcomes for minority groups seeking housing services. These include measures which are directly discriminatory, such as a requirement for non-Irish nationals to provide burdensome proof that they do not own property overseas, and measures which on their face are ‘neutral’ but in their application can have discriminatory effects. For example, the ‘local connection’ requirement for accessing social housing supports in particular areas.

Removing these barriers would help to address racism and discrimination in the provision of social housing. At a more general level, awareness of the risk of discriminatory and racist outcomes in the provision of social housing and social housing supports must be kept to the forefront. In this regard, the implementation of the Public Sector Equality and Human Rights Duty across public bodies engaged in provision of housing and housing supports is crucial.

In relation to private rental accommodation, we note that it is outside our expertise but that we expect other expert organisations will make submissions on that issue.

#### *Direct Provision*

The system was originally introduced in 2000 as a temporary measure to meet an immediate accommodation need. It was intended that individuals seeking international protection would spend a period of up to six months in the system prior to being transferred to independent living. However, over 21-years later, the system remains in operation, with many individuals remaining in Direct Provision for long periods of time awaiting a determination on their application for international protection. It is well documented that the Direct Provision system has a detrimental impact on many levels for its residents<sup>17</sup>, who are often segregated from the public and struggle to integrate into their local communities in what can only be described as a form of institutional racism. In addition,

<sup>15</sup> <https://www.immigrantcouncil.ie/sites/default/files/2017-10/CMM%202016%20Child%20Migration%20Matters.pdf> ; <https://www.irishtimes.com/news/ireland/irish-news/children-seeking-asylum-moved-from-foster-care-to-direct-provision-at-18-report-1.4590082>

<sup>16</sup> Rafelle Grotti, Helen Russel, Éamonn Fahey and Bertrand Maître, ‘Discrimination and Inequality in Housing in Ireland.’ Irish Human Rights and Equality Commission (June 2018)

<sup>17</sup> Report, “Transition from Direct Provision to Life in the Community (July 2016)

in recent years, we have witnessed open racist acts against individuals seeking international protection, including physical attacks.

The Independent Law Centres welcome the White Paper on Ending Direct Provision; and look forward to its swift implementation to end this structural form of racism in the provision of accommodation to people seeking international protection. The Law Centres note that immediate steps must be taken to commence the procurement of new accommodation models so that the target dates set by the White Paper will be met. It is disappointing that the White Paper did not adapt the recommendations of the Independent Advisory Group<sup>18</sup> to introduce an “amnesty” for those in the international protection process in order to enable the new accommodation system to succeed.

The Reception Conditions Directive requires that vulnerability assessments are carried out in respect of all people seeking international protection within 30 days of submitting their applications. While vulnerability assessments have commenced for new applicants, they remain outstanding for all those who applied for international protection before January 2021, and therefore their accommodation has not been designated in line with their special reception needs.

#### Recommendations

17. We recommend that steps are taken immediately to implement the White Paper to End Direct Provision, that the amnesty recommended by the Advisory Committee is introduced for those people seeking international protection for a specified period and that vulnerability assessments are carried out in respect of all applicants for international protection, and that accommodation is designated in line with individuals’ special reception needs as assessed.
18. We propose an increase of the rate of social assistance provided to asylum seekers while the new system is being developed.
19. We recommend the organisation of diversity awareness workshops at Direct Provision centres to tackle issues of racism and hate crime towards people of other nationalities, races and sexual orientations.

#### *Social Housing - Housing Circular 41/2012 and property ownership*

Housing Circular 41/2012 (the “Circular”) sets out certain requirements for non-Irish nationals from accessing social housing support. The Circular is outdated and refers to legislation which has been repealed. It is not legislative in nature but can be applied rigidly to non-Irish nationals when accessing housing, notwithstanding their legal entitlements.

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<sup>18</sup> Report of the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process, 21 October 2020

CLM and Mercy Law Resource Centre have assisted a number of clients in successfully appealing local authority decisions to refuse social housing support under the Circular. However, legal intervention should not be required for social housing supports to be accessed and we are concerned that for the many EU/EEA nationals who will not be not aware of the legal issues with the Circular or how to challenge its application.

#### Recommendation

20. We recommend a review to be carried out on the Circular to ensure that it is brought in line with current laws and that EEA nationals are not unlawfully discriminated against in accessing social housing supports. If the Circular or a version of it are to be retained, guidance should be provided to housing authorities regarding the implementation of such non-legislative circulars to eliminate inconsistencies in application.

A further discriminatory practice concerns the application of Regulation 22 of the Social Housing Assessment Regulations 2011. While it is accepted that this Regulation permits a local authority to enquire as to property ownership, such a requirement must be applied in a non-discriminatory fashion. A practice has been observed in some local authorities where non-Irish nationals are asked to provide burdensome legal declarations to confirm that they own no property in another jurisdiction. Irish citizens are not required to provide similar proof. In practice this is a real barrier for certain groups accessing their legal housing entitlements.

#### Recommendation

21. We recommend that the practice of some local authorities requiring non-Irish nationals to provide burdensome legal declarations to confirm that they own no property in another jurisdiction be ended.

#### *Normal Residency and the Local Connection Test*

Under the Social Housing Assessment Regulations 2011, a household applying for social housing support shall either apply to the authority for the functional area in which the household normally resides, the authority in which the household has a local connection, or the authority that agrees at its discretion to assess the household's application.

The requirement to prove that an applicant normally resides in an area can create disproportionate burdens for minorities, particularly new arrivals to Ireland and Travellers. As Mercy Law Resource Centre reports,<sup>19</sup> for this reason the local connection test in Regulation 5(b) of the 2011 Regulation appears to be the type of policy that the concept of indirect discrimination in the Equal Status Acts is

#### Recommendation

22. As was recommended by Mercy Law Resource Centre in its report *Minority Groups and Housing Services: Barriers to Access*, we recommend that consideration be given to the issuing of guidance to housing authorities on the proper exercise of this discretion, and that such guidance highlight the particular burden that this test can impose on minority groups.

<sup>19</sup> [https://mercyllaw.ie/wp-content/uploads/2021/03/ML\\_2020\\_Minority-Groups-and-Housing-Services\\_Report\\_D6.pdf](https://mercyllaw.ie/wp-content/uploads/2021/03/ML_2020_Minority-Groups-and-Housing-Services_Report_D6.pdf)

designed to combat. The potential for a local authority to inconsistently apply their discretion in relation to local connection when accepting an application where these conditions are not met can lead to discriminatory outcomes.

#### *Traveller Access to Social Housing Support*

IHREC recently found that Travellers are 22 times more likely than other white-Irish respondents to report that they have experienced discrimination in access to housing and while Travellers represent less than 1% of the Irish population, they make up more than 9% of the homeless population.<sup>20</sup>

There continues to be a failure to make provision for culturally appropriate accommodation in the form of transient halting sites for Travellers. The lack of such accommodation prevents many travellers from carrying out their cultural practice of nomadism. It is often the case that halting sites are overcrowded with poor maintenance and management of the sites. Due to the lack of culturally appropriate accommodation, many Travellers are forced into private rented accommodation, which can expose Travellers to increased instances of racial discrimination from landlords and neighbours.

The Civil Legal Aid scheme does not extend to eviction proceedings, which disproportionately impacts members of the Traveller Community due to the suppression of nomadism through legislation regulating trespass. IHREC reports that the Irish Traveller Movement Independent Law Centre closed in 2014 due to lack of funding.<sup>21</sup>

#### Recommendations

23. We recommend the implementation of the recommendations of the *Traveller Accommodation Expert Review Report 2019*.
24. We recommend that Civil Legal Aid in the form of specialist advice and representation in the areas of forced evictions and discrimination experienced by Travellers is provided for in order to ensure equal access to justice in the area of accommodation.

#### *Public Sector Equality Duty*

Connected to all of this is the Public Sector Equality and Human Rights Duty, a statutory obligation on public bodies to promote equality, protect human rights, and eliminate discrimination in the performance of their functions imposed under the Irish Human Rights and Equality Commission Act 2014 places.<sup>22</sup> Housing authorities should be compelled to fully implement the duty. In this regard, Housing authorities should complete the three-stage review of their functions envisaged under Section 42(2) of the Irish Human Rights and Equality Commission Act 2014.

<sup>20</sup> <https://www.ihrec.ie/app/uploads/2018/06/Discrimination-and-Inequality-in-Housing-in-Ireland..pdf>

<sup>21</sup> [https://www.ihrec.ie/app/uploads/2019/11/IHREC\\_CERD\\_UN\\_Submission\\_Oct\\_19.pdf](https://www.ihrec.ie/app/uploads/2019/11/IHREC_CERD_UN_Submission_Oct_19.pdf)

<sup>22</sup> section 42 of the Irish Human Rights and Equality Commission Act 2014

*Supports and Methods of Redress*

Currently, a complaint of discrimination under the Equal Status Acts can be made to the Workplace Relations Commission where an adjudication officer<sup>23</sup> may make a decision which can be appealed to the courts. As the forum adjudicating on private rental matters, the Rental Tenancies Board could play more of a role in ensuring landlords accept HAP and rent supplement.

*Recommendations*

25. We propose the roll-out of information campaigns targeted specifically at tenants and landlords, on the provisions of the Equal Status Acts and means for redress under the Acts.
26. We propose stronger involvement of the Rental Tenancies Board in ensuring landlords accept HAP and rent supplement.

- c) What initiatives and actions would you like to see undertaken to combat racism in access to employment?

*Accessibility to Employment Equality legislation and methods of redress*

A recent study by IHREC entitled *Ethnicity and Nationality in the Irish Labour Market*<sup>23</sup> found that people from the Black non-Irish group are less than half as likely to be employed than the White Irish group and five times as likely to experience discrimination when seeking work and that people from the Black Irish group are twice as likely to experience discrimination seeking work and just under three and a half times as likely to experience discrimination in the workplace as White Irish. This study is one example of the direct racial discrimination that is occurring in the Irish labour market.

Difficulties in access are compounded by a lack of recognition of international qualifications, a lack of targeted support, language skills and misinformation. Many participants in the Irish Refugee Council's Employment Programme had a mistaken belief that those seeking international protection were limited to working as health care workers.

Employment and equality laws can be complex and technical and the majority of the people who access our free legal advice clinics in the areas of employment and equality law cannot afford to pay for legal representation. They are faced with the choice of either representing themselves against an employer, service-provider or public body, who often have legal representation before the WRC, or being unable to enforce their human rights and equality protections. This difficulty is compounded when a complainant has lower levels of literacy and understanding of English and also where the complainant may be a non-national and has little to no knowledge of the Irish legal system. People in the international protection process fear that any complaint they make will negatively impact the outcome of their application for international protection. When rights cannot be enforced, they are not meaningful in a practical sense.

Under the Employment Equality Acts the WRC can make an order for compensation of up to 2 years pay or up to €40,000 for the effects of discrimination or victimisation. The WRC are only entitled to award up to €13,000 for someone who is not an employee of the respondent. This distinction acts as a deterrent for those who may wish to make a complaint after experiencing racism or discrimination

<sup>23</sup> <https://www.esri.ie/pubs/BKMNEXT369.pdf>

by a prospective employer in the recruitment process, which is often the point at which discrimination occurs.

Recommendations

27. We propose the roll-out of an information campaign on Employment Equality legislation and the means of redress through the WRC.
28. We propose appropriate translations of such resources be made available.
29. We propose that the maximum award of compensation available to a WRC adjudicator in circumstances where the complainant is not an employee of the respondent be increased.