



ENGAGE FOR CHANGE:

Building Civil Society
Engagement with the
Public Sector Equality
and Human Rights Duty

**EQUALITY
& RIGHTS
ALLIANCE**

November 2018

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FOREWORD

The Equality and Rights Alliance commissioned this project to enable civil society participation in implementing the public sector equality and human rights duty. We believe that the effective implementation of the duty depends on an active and informed participation by civil society organisations. The duty offers a new lever through which our shared aspirations for a society characterised by equality and human rights can be further advanced. We are challenged to find new ways to operate so as to engage appropriately with this new lever and develop new agendas for equality and human rights capable of unlocking its full potential.

It will be important that IHREC guidance issued on the public sector duty asserts the need for civil society engagement by public bodies in implementing the public sector duty, in particular, at the point of assessment of equality and human rights issues and at the point of planning policies, plans and actions to respond to them. In turn, civil society organisations must invest scarce resources in this work if the potential of the public sector duty is to be realised. We hope this publication encourages and makes such an investment possible.

We now have a resource to underpin an active and effective civil society engagement with the public sector duty - all that remains is to get started.

Niall Crowley,
Chair, Equality and Rights Alliance

INTRODUCTION

THIS PUBLICATION AIMS TO:

- support civil society organisations, working to address equality and human rights concerns, to build a collective engagement with local public sector bodies to ensure implementation of the public sector equality and human rights duty; and
- support the Irish Human Rights and Equality Commission in developing and implementing guidance on the public sector duty, in particular, regarding public sector consultation with civil society when implementing the public sector equality and human rights duty.

During 2018 the Irish Human Rights and Equality Commission funded the Equality and Rights Alliance to implement a project to support the involvement of civil society organisations in the implementation of the public sector equality and human rights duty by local public bodies. The core of the project was five regional workshops with civil society organisations.

This publication sets out the work completed as part of this project and identifies the learning from this work for civil society, the Irish Human Rights and Equality Commission and public sector organisations.

This publication is the companion to a further publication “Engage for Change: A Training Module to Support Civil Society Engagement with the Public Sector Equality and Human Rights Duty, Equality and Rights Alliance (2018)” which has been produced as part of this project.

The public sector equality and human rights duty provides the starting point for this project. This is set out in the Irish Human Rights and Equality Commission Act 2014, section 42.

THE PROJECT

Section 42 obliges public bodies to have regard to the need to:

- (a) eliminate discrimination,
- (b) promote equality of opportunity and treatment of its staff and the persons to whom it provides services, and
- (c) protect the human rights of its members, staff and the persons to whom it provides services.

The introduction of the public sector equality and human rights duty is a necessary and welcome evolution in Ireland's domestic legislative framework to promote equality, prevent discrimination, and protect, respect, and fulfill human rights. It moves from a reactive approach to addressing complaints of discrimination in the design and delivery of public services and programmes (based on an individual enforcement model under equality legislation), to a proactive institutional approach to preventing discrimination and promoting equality in the design and delivery of public services and programmes.

The duty presents both a challenge and an opportunity, given that it is the first statutory public sector duty in Europe to combine an equality and human rights focus. The challenge lies in the need to develop and implement new approaches to implementing the duty that would address equality and human rights concerns in an integrated manner. The opportunity lies in the potential to establish new and more powerful tools to advance both the achievement of equality and the fulfillment of human rights, provided such an integrated approach can be developed and pursued.

The Equality and Rights Alliance advocated for the introduction of the public sector duty. This work has included:

- development of a position paper arguing the case for the introduction of a public sector duty as a further evolution of the legislative provisions to address discrimination and promote equality and human rights: Equality and Rights Alliance 2011, "Setting out the Case for a Public Sector Positive Duty",
- hosting an international seminar on the benefits of public sector equality and human rights duties and the lessons from other jurisdictions in this regard,

- successfully lobbying for the inclusion of a public sector duty as part of the proposed legislation to establish the Irish Human Rights and Equality Commission in 2014.

The Equality and Rights Alliance has developed a body of knowledge in regard to the duty, including the following:

- publication of the first guidance on the S42 equality and human rights duty: Equality and Rights Alliance 2015 "A New Public Sector Equality and Human Rights Duty"⁽¹⁾,
- publication of a guide for civil society: Equality and Rights Alliance 2016: "Civil Society Guide to the Public Sector Duty",
- establishment of a public sector duty working group, in 2016, to encourage and support civil society to engage as key drivers for the implementation of the duty.

During 2018 five regional workshops were hosted by the Equality and Rights Alliance in: Letterkenny, Galway city, Cork city, Ennis, and Wexford. The workshops were attended by eighty-five people, from fifty-eight civil society community organisations and networks working with a diversity of groups and individuals who experience inequality and discrimination: women; Travellers; disabled people; people who are homeless or at risk of becoming homeless; migrants and people with a minority ethnic status; people in direct provision centres;

LGBTI people; older people; young people; and children. While not specifically targeted, a small number of public service employees also attended four of the workshops. These participants were working in the following areas: health, social inclusion, housing, education, policing, and probation services.



1. Equality and Rights Alliance (March 2015) "A New Public Sector Equality and Human Rights Duty", author: Rachel Mullen.

The central aim of the workshops was to support locally based civil society organisations to pursue a collective engagement to drive and support implementation of the public sector duty with the public sector organisations in their geographical areas. The workshops also aimed to engage civil society in a values-led approach to this task.

The specific workshop objectives were to:

- raise awareness and deepen understanding about the public sector duty and the potential of the duty to further support participants in their work to address equality and human rights concerns,
- build the capacity of participants to seek and support compliance with the public sector duty, and
- support participants to develop a shared understanding of values, and a values-led approach, as a useful framework for work on the public sector duty.

THE FRAMEWORK OF A VALUES-LED APPROACH

Values offer a useful framework to implementing the public sector equality and human rights duty. Values are those ideals that people deem to be important. They motivate people's choices, attitudes and behaviours. Within organisations, values motivate decision-making, priorities, practices and processes. Specific values can be identified that motivate a concern for equality and human rights.

The core values that underpin and connect the goals of promoting equality, preventing discrimination, and protecting, respecting, and fulfilling human rights provide a basis for the development of an integrated approach to implementing the public sector equality and human rights duty. The Equality and Rights Alliance has previously set out a values-led approach that public bodies might take to implementing the public sector duty⁽²⁾.

The traditions of equality and human rights are based on shared, underpinning values. Five core values are identified by the Equality and Rights Alliance as underpinning and connecting these two traditions and approaches:

2. Equality and Rights Alliance (March 2015) op cit.

Autonomy: encompassing choice, agency, freedom, self-determination and the absence of coercion.

Democracy: encompassing participation, voice, empowerment and accountability from those in positions of power.

Dignity: encompassing respect, relationships of care and love, human worth and the absence of inhumane and degrading treatment, harassment and discrimination.

Inclusion: encompassing a sense of belonging and community, interdependence, collective responsibility and a valuing of diversity.

Social Justice: encompassing redistribution of wealth, income, jobs, and social goods, and the absence of privilege and entitlement (3) .

This set of values, or similar values, provide a starting point for developing approaches to a values-led implementation of the public sector duty that integrates a concern for equality and for human rights. They further:

- provide a basis for a collective engagement by civil society organisations with the public sector duty, given that these, or similar, values are shared across the different parts of civil society and serve to link and give coherence across these parts of civil society,
- provide an alignment and a basis for joint work between civil society organisations and public sector bodies given that such values are shared across the two sectors,
- offer a template for civil society organisations to make their collective inputs to public bodies in their implementation of the duty, and
- offer a means through which public sector organisations could implement the public sector duty.

THE IMPORTANCE OF CIVIL SOCIETY ENGAGEMENT WITH THE PUBLIC SECTOR DUTY

Civil society organisations working to address inequality, discrimination and human rights abuses already have a significant track record of engagement with the public sector at national and local level. The nature and extent of this engagement at local level can range from: joint work through local structures, such as Local Community Development Committees; submissions to inform legislative, policy and programme development; and day-to-day engagement with public servants to inform the development of services, programmes and policies.

Civil society organisations are uniquely placed to support public bodies to effectively implement the duty. They hold a wealth of expert knowledge on the identity, situation, and experience of specific groups experiencing inequality, discrimination and human rights abuses. In order to give effect to the duty, a public body is obliged to undertake “an assessment of the human rights and equality issues it believes to be relevant to the functions and purpose of the body” (4) . An effective engagement with relevant civil society organisations is critical to achieving a quality and strategic assessment.

Civil society organisations offer evidence-based strategies to better inform and enable public sector policies, programmes and services to benefit groups experiencing inequality, discrimination and human rights abuses. In order to give effect to the duty, a public body is obliged to establish “the policies, plans and actions in place or proposed to be put in place to address those issues” identified through the assessment (5). A strategic development of such policies, plans and actions with the potential to achieve new outcomes for groups experiencing inequality, discrimination and human rights abuses requires an input from relevant civil society organisations.

From the perspective of civil society, there are significant gains to be achieved through investing time and resources in engaging with public bodies on their implementation of the duty. If the duty were ambitiously implemented, it has huge potential to reduce inequalities in the delivery of key public services.

4. S42(2)(a) Irish Human Rights and Equality Commission Act 2014.

5. Ibid.

It was acknowledged by many organisations attending the workshops that while they are regularly engaging at local level with key public sector agencies, the duty has rarely been a focus for this engagement. Some reasons for this lack of focus are:

- a dearth of knowledge 'on the ground' about the duty and how it might be a beneficial tool for addressing inequality in the distribution of key public goods,
- a tendency to view the duty as the sole responsibility of the public body without consideration of what role civil society organisations might have in this regard,
- engagement with public bodies tending to focus on specific issues relevant to the groups that specific civil society organisations represent rather than the broader focus required by the duty.

The engagement by civil society with local public bodies is most often on an individual organisational basis in pursuit of specific agendas. A collective, rather than singular form of civil society engagement might usefully be considered for the public sector duty.

A number of potential benefits from pursuing a collective civil society approach to the implementation of the duty were identified in the workshops, including:

- collective civil society engagement can allow for a more strategic approach: for example, selecting key equality and human rights objectives which, if addressed by the public body in question, would accrue benefit for a number of diverse groups experiencing inequality and disadvantage,
- collective engagement is more sustainable in the longer-term as it is not reliant on one or two individual organisations to pursue the change required,
- shared knowledge, expertise and experience of equality and human rights concerns for a diversity of groups, as well as in relation to the remit and powers of public bodies, allows for more informed and evidence-based advocacy on the duty by the organisations involved,

➤ pooling scarce resources can enhance the capacity of civil society organisations to sustain their advocacy efforts with local public bodies on the duty.

VALUES AS A BASIS FOR CIVIL SOCIETY ENGAGEMENT WITH THE PUBLIC SECTOR DUTY

Shared values offer an important but often overlooked area of potential that civil society might explore as a basis for effective, collective action. A values framework can effectively underpin this collective civil society engagement.

The civil society equality and human rights landscape is diverse and fragmented. This reflects a necessary focus on the specific needs of different groups, communities, and issues, to address discrimination, inequality, poverty, social exclusion and human rights concerns. This fragmented landscape can, however, militate against solidarity and collective impact.

A common set of core values concerned with equality, social justice, and human rights, underpins this work in its diversity. These values are a thread of connectivity between diverse civil society groups and organisations and can serve as a basis for linkage and alliance building, and through this, greater impact⁽⁶⁾.

At the opening of each of the workshops, participants were invited to identify three values that they believe to be most central to the strategic mission of their organisation or network. A high degree of commonality was evident across the diversity of civil society organisations participating in regard to their stated core values.

This evidences a basis for collective engagement with the public sector duty. The small cluster of values most frequently identified by the majority of participants were:



‘Equality’ is commonly cited as a core value of civil society organisations and campaigns working to address systemic inequalities for diverse groups. ‘Equality’, however, also constitutes a broad strategic goal of these organisations. As a strategic goal, ‘equality’ can be seen as motivated by a number of specific values (7). A similar issue exists in regard to the area of human rights: having a ‘rights-based approach’ is a value focus, underpinned by a specific subset of values, that together motivate the broader goal of addressing human rights concerns.

The cluster of values identified by participants align well with the five values identified by the Equality and Rights Alliance as motivating a concern for and connecting the goals of ‘equality’ and ‘human rights’: Dignity, Autonomy, Social Justice, Inclusion, and Democracy.

These values offer an alignment with public sector values and a basis for public sector bodies to build linkages with civil society organisations in giving practical expression to shared values in areas such as health, education, housing and social care.

The workshops evidenced a degree of overlap between the core organisational values identified by those attending from civil society organisations and public sector organisations. The values of respect, empowerment, and inclusion, in particular, were likely to be identified as core by both. It is noteworthy, however, that a small cluster of values were singularly identified by the public servants as being core to their organisation’s mission: value-for-money; productivity; and impartiality.

This chimes with earlier work carried out to examine the priority values across the Irish public service. A 2008 Institute of Public Administration discussion paper on public service values noted the emergence of new, non-traditional, values identified by public sector officials (8). The new emerging values included: flexibility, value-for-money, and effectiveness, and suggested a shift in public sector values towards emerging priorities regarding efficiency and effectiveness.

In the discussion in some of the workshops regarding the values chosen, some public servants noted their unease with a seeming dominance of a 'value-for-money' value focus in their organisations, which some believed was in danger of crowding out other important public sector values concerned with equity and fairness.

While the workshop sample was too small to draw any definitive findings, it perhaps suggests the need for more public sector reflection on the emergence and possible dominance of particular values and whether a rebalancing might be required, in particular, to ensure implementation of the public sector equality and human rights duty.

PUBLIC SECTOR BODIES TAKING A VALUES-BASED APPROACH TO THE DUTY

Workshop participants identified a small number of examples where public sector and civil society organisations are engaging collectively to implement the duty using a values-led approach. A values-led approach is based on identifying and defining the organisational values that motivate a concern for equality and human rights. This set of values then serves as a framework for assessing the equality and human rights issues as required by the duty.

A number of Local Community and Development Committees (LCDCs) have developed a values-led approach to implementing the public sector duty (9).

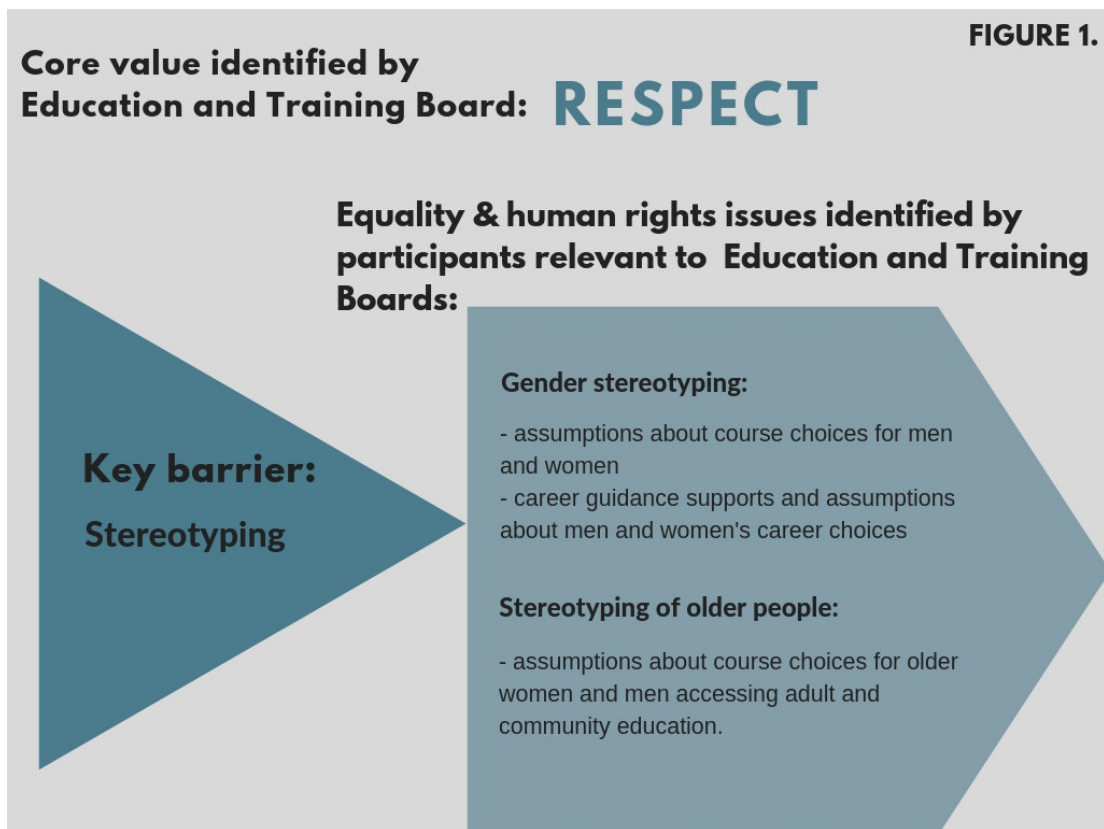
8. Mac Carthaigh M. (2008) "Public Sector Values. Dublin: CPMR Discussion Paper No. 39", Institute of Public Administration.

9. Local and Community Development Committees are established on a statutory basis in all 31 local authorities. They are tasked with bringing a more co-ordinated and joined-up approach to local and community development at local level. Membership includes: local authority elected members and officials; State and non-State local development agencies; community and voluntary organisations; and other representatives of civil society, including business interests and farming interests.

These LCDCs have developed equality and human rights values statements to support the implementation of the duty, with regard to their work of planning, coordinating, and monitoring local development and community development(10). Some individual public bodies have also developed a values-based approach to the public sector duty within their organisations.

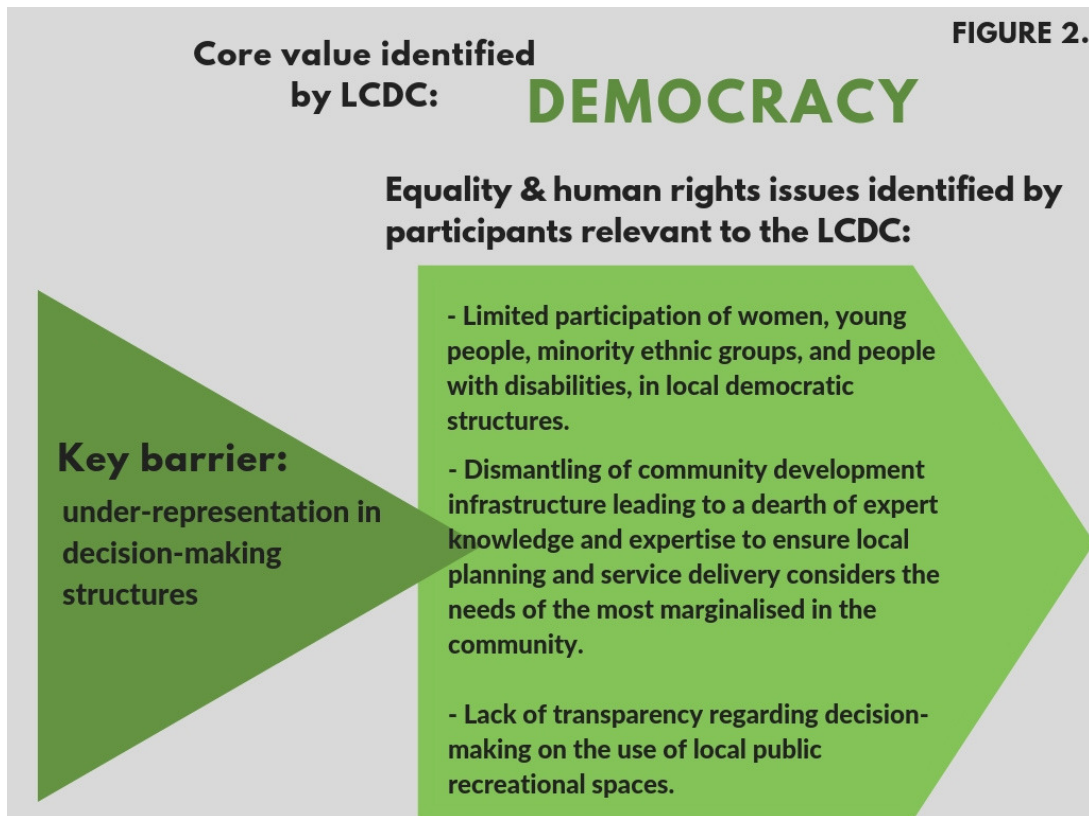
Where this groundwork existed in different regions, we used this work as a basis for the workshop exercises and discussion.

In one region the local Education and Training Board has developed an equality and human rights values statement to guide its work on the duty. This identifies, defines and concretises a set of equality and human rights values. For example, the value of ‘Dignity’ is identified and defined as one such value and this serves as the basis for assessing the equality and human rights issues (Figure 1). The issues, which have relevance for the remit of the Education and Training Board, included: gender stereotyping in the availability of courses and career guidance; and stereotyping of older women in regard to course options in adult and community education provision.



10. The Equality and Human Rights Values Statement was developed by Values Lab as a tool to support public bodies to implement the public sector duty. For more information: <http://www.values-lab.ie/learn-more.php> for some examples of this work

In another region, a local LCDC had developed an equality and human rights values statement to underpin its approach to implementing the public sector duty. For example, the value of 'Democracy' is identified and defined as one core equality and human rights values. The equality and human rights issues identified, which have relevance for the remit of the LCDC, included: under-representation of some groups in local decision-making structures; the dismantling of the local community development infrastructure; and lack of transparency regarding the decision-making on the use of local public recreational spaces (Figure 2).



CHALLENGES FOR CIVIL SOCIETY IN ENGAGING WITH THE PUBLIC SECTOR DUTY

The workshops identified challenges for civil society organisations in engaging with the public sector duty. These included:

1. Concretising core organisational equality and human rights values:

Workshop participants were readily able to name the core values that motivate the work of their organisation. It was, however, more difficult for people to make the connection between the equality and human rights issues they are working to address and the values that corresponded to these issues. Making the connection between values and the equality and human rights issues and concerns that run counter to these values, is particularly important when taking a values lens to the duty. Equality and human rights values offer a framework for the required assessment of equality and human rights issues. Participants found it hard to step back from 'lobby' mode and to strip back their current work to an assessment of the underlying equality and human values that underpin the issues they are attempting to address. This suggests that engagement with the public sector duty makes new demands on civil society organisations to present their knowledge and expertise in new ways while sustaining their core objectives.

2. Promoting values-based approaches to implementing the public sector duty:

Workshop participants readily identified their organisations as values-led. They quickly identified the potential in values-based approaches to the duty. However, they were less familiar with the need for values-systems within organisations to ensure values espoused actually find expression in their work and that values espoused are defended and sustained over time. Values are often taken for granted to the extent that the need for such systems is not something that organisations consider.

However, in promoting values-based approaches to the public sector duty, there needs to be some focus on the values systems required of values-led organisations if these approaches are to bear fruit. This suggests that engagement with the public sector duty makes new demands on civil society organisations in terms of advocating for organisational change in the public sector to underpin implementation of the duty⁽¹¹⁾.

11. For more information and tools on this process, see: Mullen, R. (2018) "Values-Led Organisations: Releasing the Potential of Values", Values Lab, www.values-lab.ie

LEARNING FOR THE IRISH HUMAN RIGHTS AND EQUALITY COMMISSION FROM THE WORKSHOPS

The critical role of the Irish Human Rights and Equality Commission to drive the implementation of the duty, was raised across all workshops. A number of key issues to be addressed by the Irish Human Rights and Equality Commission were raised:

- a 'carrot and stick' approach is needed with public bodies to ensure they discharge on their obligations under the duty. Some organisations perceive the current approach as having more of a singular 'carrot' focus,
- the urgency of guidance and support from the Irish Human Rights Commission for public bodies on implementing the duty. Local public sector organisations had cited an absence of such direction as their reason for not implementing the duty,
- the need for the Irish Human Rights and Equality Commission to emphasise the centrality of participation by relevant civil society organisations in the implementation of the public sector duty and to develop specific guidance in this regard jointly with civil society organisations,
- the Irish Human Rights and Equality Commission could usefully focus their attention on key public bodies, with remits in areas such as health, education, and housing, that have the greatest capacity to reduce inequalities in society;
- the absence of a strong sanction, in the legislation, for failure to comply with the duty, underscoring the need for the Irish Human Rights and Equality Commission to adopt a lead role in driving implementation of the duty and to bring forward new legislative proposals to further reinforce the duty.

LEARNING FOR CIVIL SOCIETY ORGANISATIONS FROM THE WORKSHOPS

A framework for action by civil society organisations in relation to the duty emerged in the discussions at the workshops. This encompassed three action areas: organising; engaging; and monitoring:

ORGANISING:

- Developing a system of networking for interested civil society organisations with a view to developing a collective approach to engaging with the implementation of the duty by public bodies,
- Developing a shared understanding of the duty and its potential and a shared values-led framework for engaging with the duty,
- Building a demand for action by public bodies on implementing the duty, and
- Promoting and supporting a values-based approach to implementing the duty by public bodies.

ENGAGING:

- Lobbying public bodies to build a commitment to implementing the public sector duty and to put in place an equality and human rights values statements and an infrastructure to apply the statements in a values-led approach to the public sector duty,
- Convening at key moments: when a public body is implementing the duty; developing its strategic or annual plan; or a key policy, service, or programme, to:
 - prepare and submit an assessment of the key equality and human rights issues of relevance to a public body, and
 - prepare and submit proposals for policies, plans, and actions to address equality and human rights issues assessed by the public body.

MONITORING:

- Monitoring public bodies to ensure they are implementing the duty,
- Monitoring public bodies to ensure the equality and human rights issues identified by civil society organisations are included in the assessment by public bodies and are being effectively pursued by the public body in identified policies, plans, and actions, and
- Engaging with the Irish Human Rights and Equality Commission where key public bodies are failing to implement the duty.

CONCLUSION

The collective engagement of civil society organisations with public sector bodies is critical to drive a meaningful implementation of the duty across the public sector and to ensure real outcomes from the duty for those experiencing inequality, discrimination and human rights abuses. The benefits of a collective rather than an individual civil society organisational approach to the duty was seen as something worth pursuing by those participating in the regional workshops.

ABOUT THE EQUALITY AND RIGHTS ALLIANCE

Established in August 2008, the Equality and Rights Alliance is a coalition of civil society groups and activists working to strengthen political and popular commitment to an effective and resilient equality and human rights infrastructure in Ireland and to provide strategic leadership in protecting, strengthening and critiquing the equality and human rights infrastructure.

WWW.ERACAMPAIGN.ORG