

EQUALITY & RIGHTS ALLIANCE

A Proposed Framework for Planning

Briefing Note to the IHREC on the Development of its Strategic Plan

The Equality and Rights Alliance (ERA) has developed this planning framework which we hope will be of assistance to the Irish Human Rights and Equality Commission (IHREC) in the process of developing its first strategic plan. As this process will produce the first strategic plan for this new and important institution it is of particular importance to civil society stakeholders.

ERA has previously submitted to the IHREC, a document of the outcomes of discussions at our event in September 2013, where civil society stakeholders developed observations and recommendations regarding the way forward for IHREC. This briefing note on the proposed strategic planning process should be read in conjunction with that document.

The key areas that ERA focuses on in this briefing note are:

1. The consultation process for the plan
2. The content of the plan
3. The evaluation of the plan

It is suggested that these three areas offer a framework which would assist in the process of preparing this strategic plan for IHREC.

1. The Consultation Process for the Plan

1.1 Legacy issues

The establishment of the IHREC has not been easy. There are a number of historical issues which present a certain amount of ‘baggage’ which the precursor bodies both bring to this merger. These legacy and current establishment issues present a difficult starting point for the IHREC and grappling with them will be essential to ensure the effectiveness and credibility of the new body. The strategic planning process offers an opportunity for the IHREC to examine and address these legacy issues.

The recent research led by Colm O’Cinneide and Neil Crowther which examined the merger processes of equality bodies and national human rights institutions in six EU Member States, including Ireland, offers important learning for Ireland regarding how the merger process here should best proceed, if it is to be successful.¹ The report refers to the importance of learning from legacy issues:

¹ Colm O’Cinneide and Neil Crowther (2013) “Bridging The Divide? : Integrating the Functions of National Equality Bodies and National Human Rights Institutions in the European Union”, UCL Laws and Nuffield Foundation, UK.

*“Irrespective of exactly how integrated bodies are established, the previous institutional arrangements that were in place appear to cast a long shadow..... how they manage this legacy can have a considerable bearing on their effectiveness and credibility”*²

The Irish merger report (conducted by Tom Pegram as part of O’Cinneide and Crowther’s research) together with a report commissioned by ERA in 2009 on the issues surrounding the cuts to the IHRC and the Equality Authority both offer useful information regarding the legacy issues which both the Irish Human Rights Commission (IHRC) and the Equality Authority (EA) are bringing to the merger process.³ The main issues in this regard are:

- the difficult starting point for the merger process: the lack of transparency and consultation regarding the initial government decision to merge the two bodies; the issues of concern raised by the Chair of the independent selection panel appointed to select the Commissioners and Chief Commissioner; and the continued delays in the appointment of the Chief Commissioner and the publication of the legislation to establish the IHREC,
- the significant cuts to the precursor bodies in 2009, which signaled the vulnerability of the institutions to arbitrary cuts by the parent Department, and a worrying lack of financial autonomy,
- the different cultures in the precursor bodies: for example, the IHRC staff are independently recruited while the Equality Authority has a mix of civil service and independently recruited staff,
- the documented attempts to undermine the independence of the IHRC and the EA (prior to the 2009 budget cuts) by the same government Department to which the IHREC is accountable,⁴
- the impact of the budget and staffing cuts in terms of the outputs, impact and visibility of both the IHRC and the EA since 2009, and
- the process of decentralizing the Equality Authority, which is described as having been “highly disruptive”.⁵

Unless the staff and board are facilitated to examine the possible impact of such legacy issues, as part of the strategic planning process, it is highly likely that the repercussions will continue to ripple through the culture and operation of the IHREC into the future.

1.2 Consultation process

The strategic planning process now begun, offers the IHREC an opportunity to develop a consultation mechanism with civil society which can serve as the basis for longer-term engagement between civil society and the IHREC into the future.

[An ERA survey](#) of member organisations highlighted a legacy of positive engagement between civil society and the EA and IHRC.⁶ This is a positive legacy issue that can be

² Colm O’Cinneide and Neil Crowther (2013) Op Cit pg 16

³ Thomas Pegram (2013) “Bridging the Divide: the merger of the IHRC and the Equality Authority” Policy Institute, TCD. and Brian Harvey and Kathy Walsh (2009) “Downgrading Equality and Human Rights: Assessing the Impact”, Equality and Rights Alliance, Dublin

⁴ Harvey and Walsh (2009) IBID pg 83

⁵ Pegram (2013) Op Cit pg 30

built on for the IHREC. At the ERA event in September 2013, ERA presented a paper on [engagement between civil society and the IHREC](#).⁷ In the small group discussions, where participants were asked to consider the key issues regarding the development of a more strategic engagement with civil society, three key themes emerged:

1. Strategic approach: The IHREC needs to apply a strategic approach to its engagement with civil society, which avoids tokenism. The idea of a “*dual strategy*” was raised which would include a broad strategic engagement along the lines of a civil society forum⁸ as well as more specific targeted engagement strategies to address particular issues and to respond to emerging issues.

2. Accessibility: The key issues noted were: the need to consult outside of Dublin; the perceived inaccessibility of human rights discourse was noted as a key barrier; the need to take advantage of the civil society infrastructure and networks in local communities.

3. Inclusion: Engagement strategies with civil society need to be cognisant of the challenge to increase the participation of *all* civil society stakeholders, particularly the most marginalised. This was seen by some as the key test of whether any proposed engagement strategy of the IHREC was ‘meaningful’.

The ERA paper on engagement between civil society and IHREC sets out concrete proposals for strategic consultation including processes of engagement to inform:

- the preparation of strategic plans and annual work plans involving consultative fora at national and local level to enable the IHREC to present its mandate and ambitions and to hear civil society needs and perceptions and to give feedback to civil society regarding how strategic objectives are decided and prioritised.
- the annual reporting of the IHREC and its evaluation processes involving consultative fora, submissions, opportunities for dialogue particularly in relation to any evaluation process and activities to broadly disseminate and take feedback on the annual report of the IHREC.
- the strategic choices being made by the IHREC and their implementation involving a standing civil society forum to provide feedback to the IHREC on the development of indicators for its work and on the balance achieved in the focus of its work between equality and human rights, between the different groups experiencing discrimination and human rights abuses, and between the different powers and functions deployed by the IHREC in pursuit of its mandate.

2. The Content of the Plan

The first strategic plan of the IHREC is an important one and must set the groundwork for the successful integration of the precursor bodies, their mandates and their powers and functions. All of the strategic goals set out in the plan could usefully have an underpinning strategic focus on the process of integrating the human rights and equality mandates and functions.

⁶ The details and responses to this survey can be accessed the ERA website (ERA Resources page)

⁷ ERA (2013) “Creating A Strategic Engagement Between Civil Society and the IHREC”

⁸ The idea of establishing a civil society forum was mooted in the ERA paper IBID.

2.1 The process of integration

The research by O’Cinneide and Crowther, on the lessons from six mergers across the EU, emphasises the vital importance of attending to the work of integrating the human rights and equality agendas as being key to ensuring the success of the merged institution. Key challenges to successful integration, identified in the research are:

- **Role, purpose and priorities of the body:** Key issues in this regard are: devising a strategic approach to the selection and prioritization of actions, given the broader mandate; ensuring a balance between the human rights and equality mandates and between the enforcement and promotional work of the body; and avoiding a ‘one-size fits all’ approach.
- **The legal framework:** The equality and human rights frameworks arise from different legal contexts.⁹ This can result in silo approaches to the enforcement work of the body, unless concerted effort is made to develop an integrated approach where appropriate.¹⁰
- **Independence and Resources:** The *de jure* and *de facto* independence of the body, as well as the differing ideas about and approaches to ‘independence’ brought to the merged institution by the precursor bodies, pose particular challenges. Linked to this, the budget allocated to the body and whether it is sufficient to develop its broad mandate and whether the body has sufficient control over this budget are also key challenges.
- **External fragmented environment:** The IHREC will be working to integrate its human rights and equality functions within a broader context of fragmented approaches to these agendas across civil society and government. A challenge exists for the IHREC in finding ways to bridge such gaps through stakeholder consultation and other consultative forums.

O’Cinneide and Crowther recommend that the process of integration and its inherent challenges should be addressed through a proactive change management strategy, which is conducted in an open and transparent manner with all relevant stakeholders, and which could usefully include the following elements:

- **Internal measures:** relating to staff, structure and internal functioning (such as, staff training in new competencies to counter silo working),
- **External measures:** relating to stakeholder needs and expectations and how to develop meaningful linkages with different communities of interest,
- **Coordinated approach to integration:** including addressing any obstacles to integration and continuous assessment of actions to ensure the potential for integrating functions and powers is being maximised.

⁹ see also Neil Crowther (2013) “*Bridging the divide – matters to be taken into account regarding the integration of the functions of national equality bodies and national human rights institutions .Case study: the British Equality and Human Rights Commission*” pages 51-52 for a discussion on how the concepts of equality in the European Convention on Human Rights are less robust than the concept of direct discrimination in EU equal treatment law regarding sex and race.

¹⁰ see Crowther IBID pg 52-53 for some examples of an integrated approach to its enforcement powers, by the UK EHRC

2.2 Prioritizing actions

One key challenge will be to avoid a loss of focus given the much broader mandate of IHREC. The challenge of this broader mandate is compounded by a much diminished staffing compliment and budget than the precursor bodies enjoyed, and new functions being accorded to the IHREC in particular the proposed public sector duty.

Three principles emerged from discussions at the ERA event, to guide the IHREC in prioritising their work:

1. An integrated approach across the dual mandates of human rights and equality that accords equal focus to equality and human rights is required,
2. The need to work collaboratively with civil society stakeholders. Participative structures and strategies to ensure the issues facing the most marginalised are addressed were identified as key in this regard,
3. The relevance of human rights must be made more visible. Concern was raised by participants that the human rights-based approach has not had the same ‘trickle-down’ effect into local communities as has an equality focus.

Areas for priority attention were identified:

1. Addressing under-reporting of discrimination and human rights abuses in Irish society,
2. Developing a greater focus on economic, social and cultural rights,
3. Maximising the enforcement powers of the IHREC and ensuring a critical mass of casework is supported.

The IHREC needs to develop a methodology to enable a strategic and transparent approach to how its priorities are determined, which actions it pursues, and how an integrated focus on both the equality and human rights agendas will be mainstreamed across all its strategic goals.

3. Evaluation of the Strategic Plan

Establishing targets and setting performance indicators will allow the IHREC to measure and monitor its work and to learn from and further evolve work that will inevitably be ground breaking as it seeks to integrate equality and human rights interventions.

While the UN Paris Principles offer a useful benchmark against which to measure the structure and performance of NHRIs they only have a limited focus on effectiveness. The IHREC needs to establish effectiveness as the key measure of success.

The Working Group Report on the merger to establish the IHREC, posits a list of questions for the IHREC which could frame the assessment of the impact of the IHREC:¹¹

- What kind of society are we trying to achieve?
- How do vulnerable and marginalised groups regard the Commission?
- How has it improved people’s lives and what has it done to eliminate discrimination and promote equality and inclusion?

¹¹ Report of the Working Group on the IHREC: to the Minister for Justice, Equality and Defence , 19 April 2012, para 4.50 pg 67

- What has the Commission put in place or removed to allow, and indeed encourage, each person to flourish with the greatest degree of freedom without impinging on the dignity and worth of any other individual?
- What impact has the Commission had on public opinion, in terms both of public awareness of its work and support for human rights and equality?
- Has the Commission had sufficient regard for individual liberty in its decision making?

The Equinet report on the development of indicators to measure the impact of equality bodies by Niall Crowley, suggests a framework for evaluation in terms of the body contributing to change at three interconnected levels¹²:

- **The individual level:** Contributing to change in the situation and experience of people who experience discrimination and human rights abuses
- **The institutional level:** Contributing to change in institutions (policies, practice, procedures, service delivery); Contributing to change in policy making; and Contributing to change by mobilizing and enabling a broader set of institutions/organisations to promote equality and protect and fulfill human rights,
- **Societal level:** Contributing to change in public attitudes; Contributing in attitudes of employers and service providers; and Contributing to change in attitudes towards reporting discrimination among those protected by equal treatment legislation.

The report suggests that a formal examination of the theory of change held by the equality body will underpin the choice of goals and strategy to be pursued and the mix of activities to be implemented by the body. It recommends that equality bodies should identify a small number of indicators that relate to the goals that it has set for its work and reflect the theory of change held by the equality body. Indicators can be established in relation to the change the equality body seeks to achieve at individual level, at institutional level and at societal level.

¹² Niall Crowley (October 2013) "Processes and Indicators for Measuring the Impact of Equality Bodies", pgs 26 and 30 Equinet European network of equality bodies, Brussels, Belgium. http://www.eracampaign.org/uploads/indicators_paper_merged.pdf