

The Equality Tribunal

Annual Report 2012

**Presented, in accordance with section 75(8) of
the Employment Equality Acts 1998 to 2011,
to the Minister for Jobs, Enterprise and Innovation,
Mr. Richard Bruton, T.D.**

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Our Mission

To contribute to a fairer society through providing a fair, accessible and impartial forum to remedy unlawful discrimination

Our Mandate

The Employment Equality Act 1998, which established the Equality Tribunal, provides a statutory framework whereby we mediate and/or investigate claims of unlawful discrimination in accordance with the provisions of the Act. Various legislative changes have occurred since our establishment and we now have a unique responsibility for mediating and investigating complaints of unlawful discrimination under the following legislation:

- Employment Equality Acts 1998 - 2011
- Equal Status Acts 2000 -2012
- Pensions Acts 1990-2008.

Our Values

Since its establishment, the Tribunal has sought to reflect a series of core values that support the implementation of its Mission Statement and underpin the manner in which the Tribunal would like to see its services operate. We will continue to be guided by the fundamental service principles set out in our first two Statements. These include:

For Service

Professionalism
Impartiality
Accessibility
Timeliness

For Staff

Optimum training and development
Collaborative working

For Government

Cost effectiveness and value for money
Impartial resolution of discrimination disputes

Director's Report

In July 2011, the Minister for Jobs, Enterprise and Innovation, Mr. Richard Bruton, TD, announced a programme to radically reform the State's workplace relations/employment rights and industrial relations structures and frameworks.

The Programme will provide for a two tier Workplace Relations structure by merging the activities of the Equality Tribunal, the National Employment Rights Authority, the Labour Relations Commission, and the first instance functions of the Labour Court and the Employment Appeals Tribunal into a new Body of First Instance - the Workplace Relations Commission (WRC). The appellate functions of the Employment Appeals Tribunal will be incorporated into an expanded Labour Court.

The overall objective of the Workplace Relations Reform Programme is to deliver a world-class workplace relations service and employment rights framework that serves the needs of employers and employees and provides maximum value for money.

The reforms are driven by the need to improve customer service, in light of the acknowledged complexity, backlogs and delays in the resolution of grievances and disputes, provide greater value for taxpayers' money, in light of current fiscal constraints and rationalise institutions in light of the Government's public service reform agenda.

During 2012, significant progress on implementing the Minister's plans was made.

A single Complaint Form was launched on 3rd January 2012 and is now used for all complaints, including Equality complaints, lodged through Workplace Relations Customer Services.

The development of a single portal of entry/contact for all employment and equality related information requests and employment and equality rights complaints, claims and referrals, is ongoing. The Workplace Relations Customer Services also

commenced operations on 3rd January 2012 and an interim website was launched on the same day.

The Minister published a Blueprint on 5th April 2012 setting out his reform proposals in detail. Internal consultations have now been completed and a Final Staffing and Structures Plan was finalised in December, 2012.

The Government on 16 February, 2012 announced that it had agreed to implement the recommendations of the Review of Certain Decentralisation Programme Projects, which was carried out by the Department of Public Expenditure and Reform in liaison with the OPW and the relevant Departments. These included the closure of the Portlaoise Office of the Equality Tribunal and the transfer of its activities to the Dublin office. The Portlaoise office closed in December 2012. The staff employed in the Portlaoise office who did not wish to transfer to the Dublin office were redeployed to other offices in the Midlands region. I would like to express my thanks for their dedication to the Tribunal and my best wishes for the future.

As part of the reform process the Government approved on 18th December, 2012 the transfer of the Equality Tribunal to the Department of Jobs, Enterprise and Innovation from the Department of Justice and Equality with effect from 1st January, 2013. I would like to thank the Department of Justice and Equality for their support for the Tribunal.

The number of Equality Officers and Equality Mediation Officers fell by four during 2012. This loss has impacted negatively on the outputs of the Tribunal in 2012. As a result while the number of new cases referred to the Tribunal, at 671 was the same as in 2011, the number of cases closed fell from 940 to 847. The number of cases on hands on 31/12/2012 was 1169, a reduction of 204 over the year.

Niall McCutcheon,
Director
December 2013.

Services of the Tribunal in 2012

Note: All statistical information contained in tables and charts in this chapter is given as grouped cases rather than individual claims. Each case therefore may have more than one complainant and/or respondent. Many cases have also involved a number of claims e.g. equal pay, dismissal, harassment.

Complaints throughput in 2012

Complaints	Employment Equality & Pensions	Equal Status	Total
On hand 31/12/2011	1,179	194	1,373
Referrals made in 2012	538	133	671
Complaints closed in 2012	731	146	877
On hand 31/12/2012	987	181	1,169

- 16 % reduction in the number of Employment complaints on hand at the end of 2012 compared to 2011
- Overall reduction of 15% in the total number of complaints on hand at the end of 2012

Referrals to the Tribunal 2011 and 2012

Referrals	2011	2012	
Employment Equality & Pensions Acts	517	538	+4%
Equal Status Acts	154	133	-14%
Overall referrals	671	671	0%

- Almost 760 individuals made complaints to the Tribunal in 2012
- 8 complaints were made in 2012 under the Pensions Acts (4 in 2011)

Outcomes 2011 and 2012

Outcomes	2011	2012	
Employment Equality & Pensions Acts	788	731	-7%
• Decisions	267	202	-24%
• Mediated agreements	53	68	+28%
• Otherwise closed	468	461	-1%
Equal Status Acts	152	146	-4%

• Decisions	67	46	-31%
• Mediated agreements	16	20	+25%
• Otherwise closed	69	80	+16%
Overall outcomes	940	877	-7%

- 24% decrease in Decisions
- 26% increase in Mediated Agreements
- Overall 7% decrease in outcomes in 2012
- No Decisions issued in 2012 for complaints referred under the Pensions Acts

Employment Equality

Grounds for referral (EE and Pensions) 2011 and 2012

Breakdown By Ground	2011	2012	
Age	42	48	+14%
Disability	88	87	-1%
Family Status	23	23	0%
Gender	64	62	-3%
Civil Status	1	14	+1300%
Race	137	103	-25%
Religion	1	2	+100%
Sexual Orientation	1	4	+300%
Traveller Community	1	1	0%
Multiple Grounds *	145	151	+4%
No Grounds Listed	14	43	+207%
Total	517	538	+4%

* Where a claim is made under more than one ground it is not counted in each of the grounds on which the claim is based but only in the "Multiple Grounds" category.

- Race continued to be the most frequently cited single ground, although this category reduced sharply.
- 4% increase in EE referrals

- 26% decrease in race cases
- A total of 588 individuals referred employment complaints to the Tribunal in 2012

Outcomes (EE and Pensions) for 2011 and 2012

Employment Equality and Pensions Cases	2011	2012	
Decisions Issued	267	202	-24%
• For Complainant	54	54	
• For Respondent	208	143	
• Preliminary	0	0	
• No Jurisdiction	5	5	
Mediation agreements	53	68	+28%
Other outcomes	468	461	-1%
• Inadmissible	28	24	
• Out of time	15	15	
• Dismissal	47	30	
• Withdrawn	325	352	
• Not pursued	32	22	
• Closed at mediation	21	18	
Total	788	731	-7%

- Equality Officers found in favour of the complainant in approximately 27% of decisions.
- 68 Employment Equality cases reached agreement by the Mediation Service in 2012, and 18 further cases were closed at Mediation
- No Decisions issued in 2012 under the Pensions Acts.
- In 2012 the average time taken for a Decision to be issued from the date that a hearing was held was 68 days for an Employment complaint.

Awards and Directions

- Amounts totalling €1,202,244 (excluding equal pay and pay arrears etc.) were awarded in compensation where discrimination was found.
- The average award was €16,247 compared to €12,993 in 2011.

- Awards ranged from €500 to €315,000.
- In a number of cases Equality Officers used their power to direct action that would help to prevent future discrimination.

An overview of outcomes and redress in all decided cases can be found in the Tribunal’s forthcoming Legal Review 2012.

Equal Status

Grounds for referral (ES) 2011 and 2012

Breakdown By Ground	2011	2012	
Age	6	6	0%
Disability	36	31	-14%
Family Status	4	4	0%
Gender	6	3	-50%
Civil Status	3	2	-33%
Race	26	31	+19%
Religion	4	1	-75%
Sexual Orientation	3	1	-66%
Traveller Community	31	22	-29%
Multiple Grounds*	32	30	-6%
No Grounds Listed	3	2	-33%
Total	154	133	-14%

**Where a claim is made under more than one ground it is not counted in each of the grounds on which the claim is based but only in the “Multiple Grounds” category.*

- 14% decrease in referrals in 2012
- Disability, Traveller Community and Race were the most frequently cited grounds
- A total of 177 individuals referred complaints to the Tribunal in 2012

Outcomes (ES) for 2011 and 2012

Equal Status Cases	2011	2012	
Decisions Issued	67	46	-31%
• For Complainant	23	9	
• For Respondent	39	36	
• Preliminary	0	0	
• No Jurisdiction	5	1	
Mediation Agreements	16	20	+25%
Other outcomes	69	80	+16%
• Inadmissible	34	18	
• Out of time	7	10	
• Dismissal	4	16	
• Withdrawn	19	30	
• Not pursued	2	3	
• Closed at mediation	3	3	
Total	152	146	-6%

- Equality Officers found in favour of the complainant in approximately 20% of decisions.
- 20 Equal Status cases reached agreement by the Mediation Service in 2012
- In 2012 the average time taken for a Decision to be issued from the date that a hearing was held was 96 days for an Equal Status complaint.

Awards and Directions

The maximum award under the Equal Status Acts is €6,349.

- Amounts totalling €20,848 were awarded in compensation where discrimination was found.
- The average award was €2,316 compared to €2,522 in 2011.
- Awards ranged from €250 to €6,348 per person.

In a number of cases Equality Officers used their power to direct action that would help to prevent future discrimination.

An overview of outcomes and redress in all decided cases will be found in the Tribunal's forthcoming Legal Review 2012.

Mediation Service

Mediation Activity 2012

- 458 invitations to Mediation were issued in 2012
- 250 Mediation sessions were held, of which 28 were still ongoing at the end of 2012
- 232 Mediation outcomes were recorded in 2012
- This represents 39% of the total referrals for 2012, which is an increase on the 31% which were recorded in 2011
- Of the 198 declined invitations to Mediation 26 cases were closed at this stage.

Mediation Outcomes for 2011 and 2012

Mediation Sessions	2011	2012	
Cases closed by way of Mediation agreements	69	88	+27%
• Employment Equality & Pensions Acts	53	68	
• Equal Status Acts	16	20	
Cases closed during Mediation process	26	21	
• Employment Equality & Pensions Acts	22	17	
• Equal Status Acts	4	4	
Cases closed as a result of Mediation cases not proceeding to investigation	33	21	
• Employment Equality & Pensions Acts	30	18	
• Equal Status Acts	3	3	
Cases not resolved at Mediation and returned to investigation	78	102	
• Employment Equality & Pensions Acts	67		
• Equal Status Acts	11		
Total	206	232	+13%

- 38% of cases concluded with signed Mediation Agreements in 2012
- A further 9% were closed during the Mediation process.
- Additionally 17% of non-resolved claims were not pursued to investigation after the Mediation session.
- Overall 56% of cases referred to Mediation were closed as a result of the Mediation process.

Support Services in 2012

Financial Management

The Equality Tribunal is funded by the Exchequer, through the Department of Justice, Equality and Law Reform. Expenditure totalling € 2.26m was incurred by the Tribunal during 2012. This comprised € 1.76m in respect of pay and €0.5m in respect of non-pay. As well as arranging its own tenders the Tribunal also availed of drawdown from our parent Department in such areas as training, office supplies and equipment. Expenditure is monitored constantly and is reviewed on a monthly basis by an internal Budget Committee, chaired by the Director.

For details see Appendix 1: Financial Report for 2012.

Customer Service

The Tribunal's Customer Service Charter outlines our commitment to providing a quality customer service, based on the principles of quality customer service for the Public Service and the Civil Service Code of Standards and Behaviour endorsed by the Government. The Tribunal considers that it met the commitments undertaken in the Customer Service Charter. The Tribunal continued to operate its complaints procedures.

Training and Development

The Equality Tribunal continued its training programme, designed to facilitate pooling the expertise and enhancing the quasi-judicial, analytical and legal skills of Equality Officers. During 2012 internal workshops were held on different aspects of equality law and on related areas of Irish and European Community law.

The Tribunal is very supportive of individuals seeking to gain relevant additional academic qualifications. In addition to pursuing or completing formal qualifications, Tribunal Equality Officers also pursued a continuing programme of in-house training.

Support staff underwent wide-ranging training to enable them deliver a professional administrative service to internal and external customers. With the range of enquiries that the Tribunal deal with on a daily basis it is essential that support staff have a good general knowledge of the working of the Acts and are aware of the issues and concerns that encompass the equality area as well as having a professional approach to administration, communication and customer service matters. Training for support staff therefore includes an introduction to the legislation, Customer Service Skills, Communication Skills as well as necessary IT Skills, Health and Safety and Awareness Training.

Our parent Department continued to provide support to the Tribunal's staff in generic Civil Service training and development identified through the operation of PMDS.

Direct training expenditure alone amounted to €30,000 in 2012 which represents 2% of direct payroll costs. This excludes expenditure by our parent Department and generic civil service training.

Accessibility

In 2012 the Equality Tribunal continued to ensure optimum accessibility in the office premises at Clonmel Street, Dublin 2. The Tribunal's services are free of charge. Parties to a dispute do not need to be legally represented to avail of the services.

The Tribunal provides modern and accessible offices and meeting rooms that fully meet with occupational, health and safety standards. The Tribunal has a range of technology, which improves accessibility and assists in delivering quality service and facilities to our staff and customers, including documents in Braille and audio format, full wheelchair access and sign language and other language interpretation when sought, and hearing rooms which are air-conditioned and equipped with "deaftech" for hearing-impaired clients. For customers outside Dublin, during 2012 Equality Officers and Mediators travelled to hearings in numerous different locations to suit complainants and respondents. Due to budgetary restraints, the Tribunal consolidated its external hearings at a smaller number of locations.

The Tribunal maintains an accessible, informative and updated website at www.equalitytribunal.ie.

Publications

During 2012 the Tribunal published the following documents on its website—

- ✓ Annual Report 2011
- ✓ Legal Review 2011

Copies of information leaflets are available in large print, Braille or audio tape on request and in Irish, French, Russian, Polish and Chinese at reception, by post and on the website.

All publications can be downloaded from the Tribunal's website

www.equalitytribunal.ie.

Communications

As required by the legislation, the Tribunal published all Decisions issued during the year, both in the media and on the website.

The Director, the Legal Advisor and the Heads of Unit made presentations on the functions and case law of the Tribunal to a number of organisations within Ireland and international forums during 2012 on the Tribunal's case law and functions.

Consultative Forum

The Consultative Forum comprises representatives from the Tribunal's prime customer groups. Its primary focus is to give interested parties a mechanism whereby their views can make a real contribution to the procedures for examining claims of unlawful discrimination. It provides a forum for discussion and resolution of issues relating to accessibility and customer service. It also provides valuable feedback on the operations of the Tribunal and the effectiveness of our customer service. The quasi-judicial functions of the office are excluded from discussion, due to the statutorily independent role of the Director and the Equality Officers. The organisations represented at end 2012 on the Consultative Forum are listed in Appendix 2.

Website

The Tribunal's website www.equalitytribunal.ie continues to be used as an important resource for both Tribunal staff and customers alike. The website contains information on employment equality, equal status and mediation procedures. Its information leaflets are available in English, Irish, Polish, Russian and French. The decision database contains all decisions of the Tribunal and the search function allows users to identify specific decisions under a variety of search criteria. The website also contains equality legislation. The Tribunal uploads decisions to the website on the third Monday of every month following issue of the decision to the parties.

Performance Management and Development System (PMDS)

Role profile forms and reviews of performance were completed for all staff as part of PMDS during the year. The system provides clarity of staff roles and responsibilities and the management of performance in a structured way. It also provides a valuable forum for identifying training requirements.

Appendix 1: Financial Report for 2012

	€
Pay:	1,752,000
Non-pay:	507,000
TOTAL	2,259,000

The main areas of non-pay expenditure were as follows:

	€
Accommodation	108,000
Information Technology	58,000
Legal	146,000
Library	16,000
Office Equipment	20,000
Telephone & Postage	61,000
Training	30,000

Expenditure on casework which required hearings to be conducted in locations outside the Equality Tribunal's headquarters gave rise to expenditure of €15,000.

Energy usage and Recycling

In accordance with Government Decision S180/20/10/0269 on Energy Efficiency in Public Sector Buildings, the Equality Tribunal takes steps to reduce energy usage, including participating in the ESB's Winter Demand Reduction Incentive and recycling arrangements for paper and glass, printer and copier toner cartridges.

Prompt payments

The Equality Tribunal continued to comply with the Prompt Payment of Accounts Act 1997 as amended by the European Communities (Late Payment in Commercial Transactions) Regulations 2002.

Appendix 2: Consultative Forum as at end 2012

Bar Council

Equality Authority

Incorporated Law Society

Irish Business and Employers' Confederation

Irish Congress of Trade Unions

Irish Insurance Federation

Irish Traveller Movement

National Gay and Lesbian Federation

National Women's Council of Ireland

People with Disabilities in Ireland Ltd

Appendix 3: Organisation Chart of the Equality Tribunal

(as at 31 December 2012)

<i>Director</i> <i>Niall McCutcheon</i>		
Employment Equality	Equal Status	Legal Management/ Secretariat
Head of Employment Equality Deirdre Sweeney	Head of Equal Status Elaine Cassidy*	Legal Advisor/Head of Secretariat Sile Larkin *
Equality Officers** Stephen Bonnländer * Vivian Jackson * Orla Jones Orlaith Mannion * Conor Stokes * Valerie Murtagh *	Equality Officers ** Marian Duffy * Peter Healy Hugh Lonsdale *	Registrar/ Secretariat Manager Brenda Ward *
		Deputy Registrar/ Secretariat Unit Manager Marcus Maginnis
		Executive Officer Tony Mulhaire
		Support Officers Damien Byrne Roisin Cahill Amanda Cullen Susan Fetton Nigel Hickey Liam O'Connell Noel Kelly Grainne Sullivan Legal Unit Support Officer Deirdre McCormack
		Services Officers John Fitzgerald Joe Pettigrew

The following staff left the Tribunal in 2012:

- Tara Coogan
- Catherine Jestin
- James Kelly
- Enda Murphy
- Gary O’Doherty
- Martin Kehoe
- Frank Bergin
- Mary Daly
- Stephen Laffan

* *These staff members have dual roles. Ten people act as Equality Mediation Officers (mediators).*

** *All Equality Officers investigate both Employment and Equal Status Cases.*