

The Equality Tribunal

Annual Report 2013

**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 1990-2013.

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 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 2013, significant progress on implementing the Minister's plans was made.

A single Complaint Form had been launched on 3rd January 2012 and is now used for all complaints, including Equality complaints, lodged through Workplace Relations Customer Services. A further update of the Form and an e-complaints submission facility were launched in September 2013.

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. The Workplace Relations Customer Services also commenced operations on 3rd January 2012 and an interim website was launched on the same day. The final website, replacing the website of the Equality Tribunal was launched in September 2013. A single determinations database, replacing the separate databases

of the Equality Tribunal, the Labour Court and the Employment Appeals Tribunal was launched in September 2013.

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 Jobs, Enterprise and Innovation for their welcome and support for the Tribunal. The Tribunal relocated from Clonmel Street, Dublin 2 to Davitt House, Dublin 2 where it shares accommodation with the Employment Appeals Tribunal and the Labour Affairs division of the Department of Jobs, Enterprise and Innovation. This has resulted in significant savings in overhead and better coordination in the implementation of the Reform Programme.

The number of decision makers, in particular Equality Mediation Officers fell further in 2013. In two years the number of Equality Mediation Officers has halved from 14 to 7. This loss has impacted negatively on the outputs of the Tribunal in 2013, particularly in mediation. Moreover, the loss in 2013 of our Head of Mediation and Equal Status has resulted in a greater management burden on the remaining managers, reducing the individual caseload they can take on. As a result while the number of new cases referred to the Tribunal increased from 671 to 694, the number of cases closed fell from 877 to 685 meaning that no further progress was made in reducing the backlog of cases on hands. The number of cases on hands on 31/12/2013 was 1176, an increase of 9 over the year.

Faced with this shortfall we commenced planning and training for the appointment of five Rights Commissioners as Equality Officers and nineteen other officers of the Department and Workplace Relations agencies as Equality Mediation Officers to address the backlog and delay in cases in the Equality Tribunal. It is hoped that these appointments will come into effect in 2014.

Niall McCutcheon,
Director
June 2014.

Services of the Tribunal in 2013

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 2013

Complaints	Employment Equality & Pensions	Equal Status	Total
On hand 31/12/2012	986	181	1,167
Referrals made in 2013	570	124	694
Complaints closed in 2013	620	65	685
On hand 31/12/2013	936	240	1,176

- 5 % reduction in the number of Employment complaints on hand at the end of 2013 compared to 2012
- Overall increase of 1% in the total number of complaints on hand at the end of 2013

Referrals to the Tribunal 2012 and 2013

Referrals	2012	2013	
Employment Equality & Pensions Acts	538	570	+6%
Equal Status Acts	133	124	-7%
Overall referrals	671	694	+3%

- 766 individuals made complaints to the Tribunal in 2013
- 10 complaints were made in 2013 under the Pensions Acts (8 in 2012)
- 474 cases referred in 2013 were considered suitable for mediation.

Outcomes 2012 and 2013

Outcomes	2012	2013	
Employment Equality & Pensions Acts	731	620	-15%
• Decisions	202	203	+1%
• Mediated agreements	68	45	-34%
• Otherwise closed	461	372	-19%

Equal Status Acts	146	65	-55%
• Decisions	46	19	-59%
• Mediated agreements	20	11	-45%
• Otherwise closed	80	35	-56%
Overall outcomes	877	685	-22%

- 10% decrease in Decisions
- 36% decrease in Mediated Agreements
- Overall 22% decrease in outcomes in 2013
- 4 Decisions issued in 2013 for complaints referred under the Pensions Acts

Employment Equality (EE)

Grounds for referral (EE and Pensions) 2012 and 2013

Breakdown By Ground	2012	2013	
Age	48	52	+8%
Disability	87	114	+31%
Family Status	23	16	-30%
Gender	62	77	+24%
Civil Status	14	2	-86%
Race	103	102	-1%
Religion	2	1	-50%
Sexual Orientation	4	5	+25%
Traveller Community	1	0	-100%
Multiple Grounds *	151	148	-2%
No Grounds Listed	43	53	+23%
Total	538	570	+6%

* 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.

- Disability exceeded Race as the most frequently cited single ground.
- 31% increase in disability cases referred.

- A total of 616 individuals referred employment complaints to the Tribunal in 2013

Outcomes (EE and Pensions) for 2012 and 2013

Employment Equality and Pensions Cases	2012	2013	
Decisions Issued	202	203	+1%
• For Complainant	54	52	
• For Respondent	143	149	
• Preliminary*	0	1*	
• No Jurisdiction	5	2	
Mediation agreements	68	45	-34%
Other outcomes	461	372	-19%
• Inadmissible	24	1	
• Out of time	15	11	
• Dismissal	30	27	
• Withdrawn	352	307	
• Not pursued	22	9	
• Closed at mediation	18	17	
Total	731	620	-16%

* Preliminary decisions are not included in totals to avoid double-counting.

- Equality Officers found in favour of the complainant in approximately 26% of decisions.
- 45 Employment Equality cases reached agreement by the Mediation Service in 2013, and 17 further cases were closed at Mediation
- 4 Decisions issued in 2013 under the Pensions Acts.
- In 2013 the average time taken for a Decision to be issued from the date that a hearing was held was 78 days for an Employment complaint.

Awards and Directions

- Amounts totalling €954,856 (excluding equal pay and pay arrears etc.) were awarded in compensation where discrimination was found.
- The average award was €18,363 compared to €16,247 in 2012.

- Awards ranged from €500 to €85,000.
- 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 will be found in the Tribunal’s forthcoming Legal Review 2013.

Equal Status (ES)

Grounds for referral (ES) 2012 and 2013

Breakdown By Ground	2012	2013	
Age	6	5	-17%
Disability	31	27	-13%
Family Status	4	1	-75%
Gender	3	9	+200%
Civil Status	2	2	0%
Race	31	17	-45%
Religion	1	3	+200%
Sexual Orientation	1	2	+100%
Traveller Community	22	17	-23%
Multiple Grounds*	30	41	+37%
No Grounds Listed	2	0	-100%
Total	133	124	-7%

**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.*

- 7% decrease in referrals in 2013
- Disability, Traveller Community and Race were the most frequently cited grounds
- A total of 150 individuals referred complaints to the Tribunal in 2013

Outcomes (ES) for 2012 and 2013

Equal Status Cases	2012	2013	
Decisions Issued	46	19	-59%
• For Complainant	9	8	
• For Respondent	36	10	
• Preliminary	0	0	
• No Jurisdiction	1	1	
Mediation Agreements	20	11	-45%
Other outcomes	80	35	-56%
• Inadmissible	18	9	
• Out of time	10	4	
• Dismissal	16	1	
• Withdrawn	30	20	
• Not pursued	3	1	
• Closed at mediation	3	0	
Total	146	65	-55%

- Equality Officers found in favour of the complainant in approximately 42% of decisions.
- 11 Equal Status cases reached agreement by the Mediation Service in 2013
- In 2013 the average time taken for a Decision to be issued from the date that a hearing was held was 102 days for an Equal Status complaint.

Awards and Directions

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

- Amounts totalling €32,197 were awarded in compensation where discrimination was found.
- The average award was €3,237 compared to €2,316 in 2012.
- Awards ranged from €200 to €6,349 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 2013.

Mediation Service

Mediation Outcomes for 2012 and 2013

Mediation Sessions	2012	2013	
Cases closed by way of Mediation agreements	88	56	-36%
Cases closed otherwise during Mediation process	21	34	
Cases closed as a result of Mediation cases not proceeding to investigation	21	10	
Cases not resolved at Mediation and returned to investigation	102	77	
Total	232	177	-24%

Of 177 cases which completed the mediation process in 2013, 100 were closed. This is a success rate of 56%.

Support Services in 2013

Financial Management

The Equality Tribunal is funded by the Exchequer, through the Department of Jobs, Enterprise and Innovation. Expenditure totalling € 1.76m was incurred by the Tribunal during 2013. This comprised € 1.51m in respect of pay and €0.25m 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.

For details see Appendix 1: Financial Report for 2013.

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 €7,171 in 2013. This excludes expenditure by our parent Department and generic civil service training.

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 2013 on the Tribunal's case law and functions.

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 2013

€	
Pay:	1,511,129.99
Non-pay:	251,376.06
TOTAL	1,762,506.01

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

	€
Accommodation	39,982.60
Information Technology	67,605.92
Translation/Interpretation	32,083.70
Library	18,163.07
Removal Expenses	10,003.84
Telephone & Postage	39,444.45
Training	7,171.00
Office Equipment/Stationery	18,358.23

Appendix 2: Organisation Chart of the Equality Tribunal

(as at 31 December 2013)

Director <i>Niall McCutcheon</i>	
Employment Equality/Equal Status	Legal Management/ Secretariat
Head of Equality Investigations Deirdre Sweeney	Legal Advisor/Head of Secretariat /Head of Mediation <i>Sile Larkin *</i>
Equality Officers** Stephen Bonnlander * Vivian Jackson * Orla Jones Orlaith Mannion * Gary Dixon Valerie Murtagh * Marian Duffy * Peter Healy Hugh Lonsdale *	Registrar/ Secretariat Manager <i>Peter Healy</i>
	Deputy Registrar/ Secretariat Unit Manager <i>Marcus Maginnis</i>
	Executive Officers <i>Tony Mulhaire Diarmuid O Gruagain</i>
	Support Officers <i>Audrey Bradshaw Roisin Cahill Amanda Cullen Susan Fetton Nigel Hickey Noel Kelly Grainne Sullivan Gary Revins</i> Legal Unit Support Officer <i>Deirdre McCormack</i>

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

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

The following staff left the Tribunal in 2013:

- *John Fitzgerald*
- *Joe Pettigrew*
- *Liam O'Connell*
- *Damien Byrne*
- *Elaine Cassidy*
- *Conor Stokes*
- *Brenda Ward*