



Workplace Equality in Ireland 2008

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Foreword

Congress believes in equal rights for all workers and is committed to combating all forms of discrimination and promoting equality. We were therefore very pleased to be an active national partner in the Irish activities for the European Year of Equal Opportunities for All in 2007. A major part of our activities during the year was the commissioning of a number of research papers on equality issues. The papers authors are to be congratulated for their very thoughtful and provocative contributions and Congress would like to extend our sincere thanks to: Mel Cousins (who also wrote this summary); Margaret Fine Davis (TCD); Eileen Drew (TCD); Ronnie Munck (DCU); and James Wickham (TCD) for their participation in this initiative. This particular paper does not represent a definitive Congress policy paper but rather is an attempt to pull together the evidence and learning from those contributions in order to make a contribution to a national debate on equality.

Unfortunately, that debate is now needed more than ever before as things have changed dramatically since 2007. The unprecedented economic difficulties the country now faces have resulted in an attack on our equality infrastructure with disproportional budget cutbacks to the Equality Authority and the abolition of important bodies such as the National Consultative Committee on Racism and Interculturalism just when their presence is needed to protect groups vulnerable to discrimination. It is our view that such an approach is not only wrong but also short sighted given the evidence for business benefits from equality and diversity policies. The evidence presented in the papers also confirms the need for strong enforcement of equality legislation. It is crucial to ensure that people know their rights under equality legislation and that those facing discrimination have effective access to redress. But as the OECD has recently pointed out "... in general legal

rules will have more impact if enforcement is not exclusively dependent on individuals deprived of their rights". It therefore highlights the key role of specialised equality bodies – such as the Equality Authority – in raising awareness of discrimination and building public support for equality, and also in investigating and challenging discriminatory practices beyond simply relying on individual complaints.

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Finally Congress would like to express its appreciation to the Equality Authority for its support, both financial and professional, throughout the European Year and in bringing this particular initiative to conclusion. In particular thanks are due to Carol Baxter and Laurence Bond and to former CEO of the Equality Authority, Niall Crowley, without whose advice and drive much of this would not have been possible.

We hope that you find the papers a useful contribution. Some of the data has been rather dated by recent events but the commitment of the trade union movement to equality remains and we are of the view that National recovery should not be achieved at the expense of dismantling hard-won protections for the rights of the vulnerable and weakest in our society or institutions to combat discrimination and promote equality and human rights. Any Plan for National Recovery should include a strong, effective, independent and adequately resourced equality, anti-racism and human-rights infrastructure so that we can emerge from this crisis with a better, fairer society that respects and protects the dignity of all its members.

David Begg
General Secretary



Introduction

Congress welcomed the designation of 2007 as the year of equal opportunities for all and shared in the objective of providing additional momentum for anti-discrimination measures, the further promotion of equal opportunities for all, and the celebration and valuing of diversity.

We provided a major focus on equal opportunities for the year so as to increase the profile of the equality agenda within Irish Trade Unions and workplaces, including at our biennial delegate conference in Bundoran in July 2007. A key part of our contribution to the year, was the commissioning of a number of policy briefing papers on key themes of relevance to our membership. In order to maximize the learning from these briefing papers and to assist in charting a course forward for the trade union movement, Congress has brought together the key messages from these papers and other recent publications on inequality in this report on Workplace Equality.

The potential impact of this initiative on the promotion of equality within Irish workplaces is immense. Congress is the largest civil society organisation on the island, representing over 750,000 workers across a wide range of sectors in the economy. At previous biennial delegate conferences, motions in relation to the promotion of equality have been passed. These include a requirement to report back to future conferences on union activity in relation to workplace equality initiatives and future reports should hopefully reflect increased activity in relation to the themes identified above.

This report begins by setting out the continuing high level of inequality in Irish society and Irish workplaces (chapter 1). It goes on (in chapter 2) to identify the key issues in achieving equality in a range of key areas. Finally, (in chapter 3) it sets out a range of recommendations to promote equal opportunities for all.



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Equality in Ireland today

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Although employment equality legislation has existed in Ireland since 1974 and general equality laws since 1998, it is clear that many people experience inequality in aspects of their daily working lives. Key examples of this inequality include

- Persistently low employment rates for people with disabilities and Travellers,
- the continuing equality pay gap,
- occupational segregation,
- inadequate flexible working possibilities and childcare provision,
- experience of discrimination.

1.1 Low employment rates

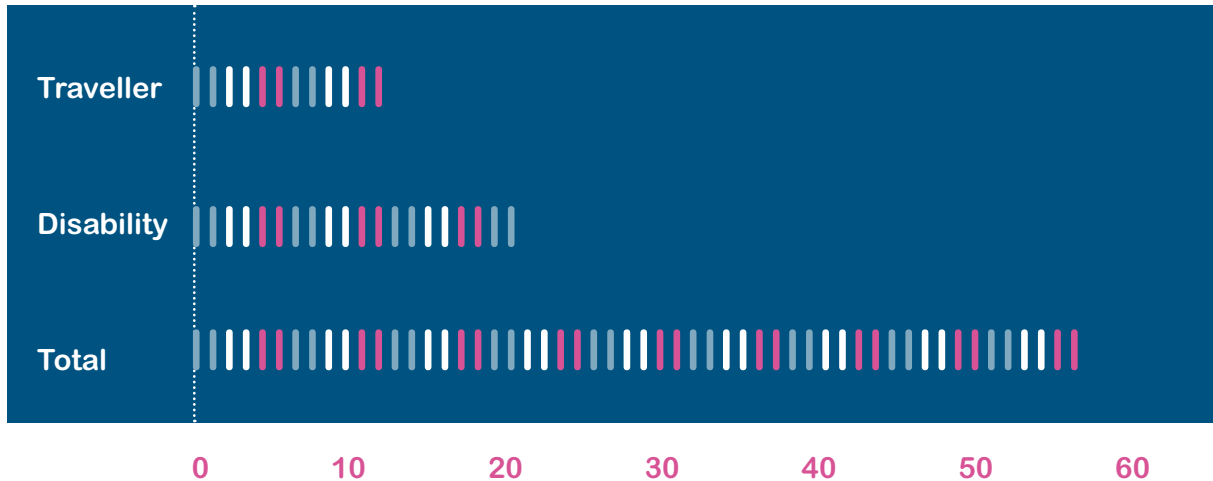
While the overall employment rate during the boom years (for people aged 15 and over) was almost 60%, in certain groups a much lower proportion of people are in employment. In particular only one in five people with disabilities (21.6%) and less than one in seven Travellers (13.8%) are employed. The following table from the CSO publication Equality in Ireland 2007 (CSO 2008) gives Census information in relation to all the grounds of Irish equality legislation, with the exception of sexual orientation (as data has not been collected on that ground):

Economic status by equality ground, 2006

Ground				% of	000
	Employed	Unemployed	Not in labour force	category	persons
Total	Total	Total	Total	Total	Total
Gender					
Male	66.0	6.3	27.7	100.0	1,678.1
Female	48.5	4.3	47.2	100.0	1,697.3
Marital status					
Single	57.5	7.3	35.2	100.0	1,453.2
Married	61.6	3.6	34.8	100.0	1,565.0
Separated/divorced	61.7	8.6	29.7	100.0	166.8
Widowed	14.4	1.4	84.2	100.0	190.4
Family status					
Lone parents	54.8	11.4	33.8	100.0	112.1
Other parents	74.1	4.4	21.5	100.0	813.5
Carers³²	56.3	4.2	39.5	100.0	160.9
Religion					
Roman Catholic	56.7	5.0	38.2	100.0	2,923.5
Other Christian	56.1	6.9	37.0	100.0	194.3
Other stated religions	53.2	11.0	35.8	100.0	46.9
No religion	65.2	6.5	28.3	100.0	210.7
Age group					
15-24	39.5	7.5	53.0	100.0	632.7
25-44	78.8	6.2	15.0	100.0	1,345.9
45-64	63.0	5.3	31.6	100.0	928.9
65 & over	7.2	0.0	92.8	100.0	467.9
Disability	21.6	4.4	74.0	100.0	360.5
Nationality					
Irish	56.1	4.8	39.1	100.0	2,909.4
UK	56.7	6.7	36.7	100.0	96.9
Other EU	81.7	7.9	10.4	100.0	150.2
Other stated	55.7	12.7	31.6	100.0	120.2
Not stated	49.2	7.0	43.9	100.0	34.9
Ethnicity					
White	57.3	5.0	37.6	100.0	3,160.1
Black or Black Irish	40.7	26.6	32.6	100.0	26.2
Asian or Asian Irish	57.8	7.3	34.9	100.0	42.5
Other including mixed	60.1	10.2	29.7	100.0	34.0
Irish Traveller	13.8	41.2	45.0	100.0	13.1
Total aged 15 & over	57.2	5.3	37.5	100.0	3,375.4

Source: CSO Census of Population

Employment rate by equality ground, 2006



1.2 The equality pay gap

The gender pay gap

According to the CSO National Employment Survey October 2006 (CSO 2008), female average hourly earnings were 86.2% of male hourly earnings. In all sectors men earned more than women. The difference is smallest in the Hotels and restaurants sector with women earning 92% of male earnings and largest in the financial sector where women earn 72.4% of male earnings.

Eurostat's comparative indicator on the gender pay gap for 2007 identifies the gap between the pay of men and women in Ireland at 17.1%. This places us somewhere in the mid range of EU countries with Portugal at 8.3% and Estonia at 30.3%. Another recent study for the EU Commission found that Ireland's private sector gender pay gap in 2002 was over 25% - a figure much higher than the EU average and higher than all other

EU countries except the UK, Slovakia, Cyprus and Austria (Plantegna and Remery, 2006).¹This finding is confirmed by recent research by the European Foundation for the Improvement in Living and Working Conditions (EFILWC, 2007) on the basis of a European working conditions survey carried out in 2005.

Nationality pay gap

Possible discrimination on the 'race' ground (which includes race, colour, nationality, national or ethnic origins) is of increasing importance in Ireland given the significant increase in the number

¹ More recent EU data show Ireland with a much smaller pay gap of only 11%. However, as the CSO points out the data exclude persons working 15 hours or less who are mainly women and are not comparable with other data presented on gender pay comparisons such as that derived from the Revenue Commissioners. Eurostat points out that as a new data series they are subject to quality review. Given that the most recent data is not consistent with almost all other data series, it would be unwise to assume that it indicates a narrowing of the gender pay gap pending further examination of the reason for the different findings.

of persons born in countries other than Ireland in the Irish labour market in recent years. Only limited data is currently available on this issue and given that widespread in-migration is a relatively recent feature of the Irish labour market it will take some time before trends become fully apparent. The National Employment Survey 2006 found that in most sectors, non-Irish employees earned between 77% to 86% of the amount per hour received by Irish employees. The figure was 91.1% in the Hotels and restaurant sector. Non-Irish employees earned more than Irish employees in Public administration, defence and the health sector. A recent analysis (Barrett and McCarthy, 2007) of data for 2005 found that, controlling for education and work experience, on average immigrants earn 15% less than indigenous Irish workers and immigrants from non-English speaking countries were at a 30% wage disadvantage compared to indigenous Irish workers.

1.3 Occupational segregation

Pay inequalities are linked to occupational segregation whereby men and women are employed in different jobs in the workplace. Research by the ESRI has shown that Ireland has had a 'relatively high degree of occupational segregation' (Hughes, 2004, p. 91). Although some progress has been made in reducing segregation in the period since 1991, the ESRI argued that much remained to be done as a 'very unequal situation' persisted in 2001. However, more recent studies do not indicate any significant change in the level of occupational segregation (FÁS, 2007). These studies also show that segregation is highest amongst people with lower levels of qualifications. Thus women with lower

skill levels are effectively trapped in particular (and usually lower paying) sectors while a majority of men do not face much competition for jobs from women. Comparative data shows that occupational segregation in Ireland is comparatively high in EU terms (MOCHO, 2004, p. 138)

1.4 Inadequate flexible working possibilities and childcare

Pay inequalities are, of course also linked to inequalities in access to flexible working possibilities and childcare. For people with family responsibilities (in particular women) there are difficulties in accessing employment unless there are adequate possibilities for flexible working and childcare. However, Irish research shows that there are major problems in this area. Studies show that (in 2001) only 20% of eligible employees took parental leave and, of these, 84% were women. The largest barrier to taking up parental leave is the fact that it is unpaid.

Similarly a study by the ESRI found that most forms of flexible working were only available to a minority of Irish workers. Part-time working was available in the workplace of half employees but job-sharing was available in the workplace of less than one-third of employees and working from home in less than one in seven (O'Connell et al, 2004).

A recent study by the OECD (2003) found that Ireland has a shortage of affordable childcare. An EU funded comparative study of EU member states as to the extent to which their childcare systems supported female employment and early child development found that Ireland

was amongst the countries with the least supportive childcare systems (MOCHO, 2004). Children of working parents in Ireland have traditionally been looked after by family or friends. But as increasing numbers of women take jobs, the supply of such childminders has declined. In future, the OECD predicted that working Irish mothers will be far more dependent on formal childcare and recommended that to increase work opportunities for mothers, additional public investment in childcare would be needed especially for low-income families.

In a context where there is inequality in the sharing of caring responsibilities between men and women this is an issue that impacts most negatively on women.

1.5 Experience of discrimination

Just over 12% of Irish adults feel that they have been discriminated against in the preceding two years according to a 2008 report published by the ESRI and the Equality Authority (Russell et al, 2008). Rates of reported discrimination rise to 23% among lone parents, 31% among those of Black, Asian or Other ethnicity, 24% among non-Irish nationals, 20% among people with disabilities and 29% amongst the unemployed.

The results are based on new analysis of the CSO's *Quarterly National Household Survey: Equality Module*, which asked Irish adults about their experience of discrimination in a range of different situations. The results show that the highest rates of reported discrimination occur while looking for work (5.8%) and in the workplace (4.8%).

Overall, men and women are equally likely to report discrimination in this national survey but their experiences are concentrated in different settings. Women are more likely to report discrimination in the workplace and accessing health services, while men are more likely to report discrimination while looking for work and accessing financial services. Women were more likely to report that they had been discriminated against because of their marital status, family status or gender, while men were more likely to feel discriminated against on the grounds of their age or nationality/ethnicity.

A separate study has shown that women are almost twice as likely to experience bullying in the workplace as men (O'Connell et al., 2007). Over 10 per cent of women reported that they had experienced bullying compared to 5.8% of men.

Conclusion

These studies all show the extent to which inequality still occurs in many aspects of Irish society and how it affects many of us at some point in our working lives.



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Key Issues

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2.1 Access to the workplace and promotions

As highlighted in chapter 1, there are major challenges in relation to access to employment particularly for people with disabilities and Travellers. These issues require to be addressed at a number of different levels. First of all there is a need for a major change in overall public policies. Towards 2016 commits all social partners to “give concentrated attention to achieving progress” in the area of employment for groups that have experienced long-term difficulties in labour market participation. In relation to people with disabilities, the National Disability Authority has recently published a report – entitled A Strategy of Engagement. The report provides a blueprint for a system that would engage fully with people with a disability and address the changes in employment, education and welfare policies required. Ireland has seen a massive expansion in employment over the last decade, with

the numbers at work rising by about 50%. Despite this jobs growth was reflected in a major drop in unemployment, there appears to have been little or no impact on the numbers of disabled people at work.

The study found that Ireland had a legacy of segregated provision for people with disabilities in education, in training and in the labour market. In the past, the message sent to people with disabilities, whenever in life that disability is acquired, was that they were unlikely to be economically productive and likely to be economically dependent. The report points out that there has not been a process of systematic engagement with disabled people to establish their employment capabilities or aspirations. The study identified a range of issues which restrict the possibility of taking up employment including the benefits trap, inaccessible workplaces or lack of transport. The report sets out a range of proposals to address the structural barriers facing people with disabilities.

There is also a need for practical initiatives to improve access to employment such as those carried out under the Equal at Work project (Dublin Employment Pact, 2007). A study by the ESRI (O'Connell and Russell, 2005) shows that equality policies in an organisation are closely associated with higher levels of job satisfaction and organizational commitment. A later study published by the Equality Authority and NCPP shows that equality and diversity strategies are associated with increased productivity and innovation and lower employee turnover (Flood et al 2008). However, a 2007 survey by Chambers Ireland, in the context of the EU Year of Equal Opportunities for All, showed that only a minority of Irish organisations have as yet integrated a focus on equality and diversity into their HR and other policies. This emphasises the need for practical measures to demonstrate what can be achieved in this area and to support this integration of equality and diversity.

Projects supported under the Equal at Work project included:

- Employment Equality reviews involving audits of existing policies, procedures and practices in relation to equality and diversity and both quantitative and qualitative research with workers in the companies;
- the provision of disability training;
- the promotion of multi-cultural work teams which are becoming the norm in the Irish health sector including new training modules being piloted in relation to intercultural working and diversity management;
- the training and employment of young Traveller men and women in a local authority;

- the development of promotional opportunities for outdoor local authority staff.

These projects have been independently evaluated and have proved to be highly successful in building equality and diversity in the labour market.

Perhaps more flexible recruitment and promotional conditions could be introduced by agreement, thus enabling people with the skills but not necessarily formal qualifications, to get employed and promoted where they meet the skill requirements. For example, under the Equal at Work project, the Dublin Employment Pact developed a model in Dublin City Council for replacement of the Leaving Certificate requirement for entry level and promotional grade clerical officer jobs through a Competency Based assessment system based on Job Profiling. Trade Union involvement in the process ensured that there was no lowering of job quality involved. In addition, the model developed in Dublin City Council was subsequently the subject of a Ministerial Order throughout the local authority sector;

2.2 The equality pay gap

There is fairly extensive European and national legislation on equal pay. Yet, as we saw in chapter 1, significant differences in pay still remain - even in the case of men and women where the legislation dates back to 1974. Why is this the case? There have been a number of recent studies which have looked at the extent to which differences in pay can be explained by factors such as education or work experience and the extent to which such differences remain

unexplained. It should be noted that it should not be assumed that “explained” differences are not discriminatory while “unexplained” differences are. On the one hand, some of the explained differences – such as differences in educational attainment or length of work experience – may involve discriminatory assumptions in relation to, for example, the type of subjects which girls should study. Similarly, women’s shorter work experience (on average) may – at least in part – be due to inadequate provision of maternity leave and childcare and inequality in the sharing of caring responsibilities between women and men. Conversely, some of the unexplained differences may be due to characteristics which are not observed in the study (as opposed to discrimination). Nonetheless such studies do provide a very useful analysis of the factors related to differential pay.

Gender

An EU study of the factors related to pay of men and women identified a number of key factors (EC Commission, 2002): The study found that the factors that contribute to increasing the gender pay gap in the EU are:

- the higher employment shares of women with short experience and tenure on the job, in non-supervisory positions and in smaller firms, as well as in relatively low paying sectors;
- the lower remuneration for married women with children;
- the lower remuneration for women with previous career interruptions;
- the lower remuneration for women in female-dominated sectors and occupations;

- the lower remuneration for women with high educational background, in part-time employment and in supervisory job status.

Conversely the factors that contribute to reducing the gender pay gap in the EU are:

- the higher employment shares of women with high educational background, in part-time employment and, in particular, in the public sector;
- the more compressed earnings distribution across occupations for women compared to men;
- the higher remuneration for women staying with their employer; and
- the higher remuneration for women working in small firms and in the public sector.

Up to half the gender pay gap in Ireland was found to be the result of differences in personal and job characteristics between men and women. Discrimination is also identified as a factor. The EU study recommended that to reduce the pay gap, the following factors need to be addressed:

- differences in activity and employment rates between men and women
- differences in the wage structure
- differences in the workforce composition and
- differences in remuneration between men and women.

Russell and Gannon (2002) have examined the gender pay gap at a national level. In general their conclusions are in line with those of the EU study. They found that years of work experience and years out of the labour market were an important influence on the pay gap in Ireland. This suggested that policies to reconcile work and family life (such as parental and maternity leave, flexible working arrangements and childcare) and measures to reintegrate women returning to the labour force would be necessary to reduce the gender pay gap. The study also suggested that the segregation of male and female employees in different occupations and industrial sectors increased the pay gap. This indicates that policies to reduce gender segregation in employment would also be an important component of a strategy to reduce gender pay inequalities. The study also identified that discrimination continues to be a factor in unequal pay.

Russell et al. (2005) looked at the earnings of recent graduates. As the authors point out, this study is worthy of note because the group are both highly educated and just starting their careers so one would not expect to find significant differences in earnings between men and women. However, although the study found no difference in hourly pay in the public sector, there was a significant gap in pay in the private sector with women earning 8% less than men per hour. On a weekly basis, women earned 11% less and there was a pay gap in both public and private sectors (because women tended to work fewer hours than men). The study also found that a higher proportion of men received bonuses and that men received 25% higher bonuses.

This study highlights the systematic inequalities which remain even amongst

this relatively advantaged group. The authors' analysis indicated that the area of education had a strong influence on pay with lower earnings for arts graduates affecting mainly women while higher earnings for engineering graduates benefiting mainly men. Men – for unexplained reasons – tended to receive higher pay for higher qualification levels and to get a higher reward for length of work experience. The study highlighted the need to focus not only on actual participation in the labour force but also on career choice and early career integration. It emphasised the fact that the process that channels female and male graduates into different jobs begins at the junior cycle of secondary school. Therefore, the authors argued that “attention needs to be focused on giving students information about and access to a wide range of subjects at each transition point (junior cycle, senior cycle, college entry)” and that “third level students need access to information on a wide range of employment opportunities” (2005, iv). It also suggested that employers continue to play a role in reproducing gender segregation and gender inequality in the labour market. It appeared that public sector employment, which includes include formalised and transparent employment practices such as formal pay scales and recruitment and promotion practices, and the operation of explicit equality policies, leads to greater gender equality. However, many of these features were absent in the private sector.

The importance of the gender pay gap as a policy issue has been recognised in the National Women's Strategy 2007-2016 (Ireland, 2007). Unfortunately, the NWS has not set out a specific numerical target for reducing the gender pay gap but progress will be reviewed as part of the 2010 review of the strategy. The Equal

Gender pay gap in average industrial earnings, 2007



Opportunities at the level of the Enterprise Framework Committee has been identified as a suitable location to develop initiatives on the gender pay gap and Congress has been seeking progress through this forum.

Nationality

As mentioned above, studies have found that non-nationals receive significantly lower wages than Irish workers (controlling for education and work experience) and this gap is particularly large for workers from non-English speaking countries (Barrett and McCarthy, 2007; O'Connell and McGinnity, 2008)). It is difficult to identify the reasons for such differences (i.e. whether they actually reflect differences in human capital such as language skills) and obviously not yet possible to identify trends over time. It has been argued that Initial low pay for immigrants would not be unexpected as immigrants may initially lack location-specific human capital (such as language). This analysis would expect immigrants' earnings to converge with those of Irish people over time. However,

whether this thesis is correct and whether convergence will occur in practice remains to be seen. Furthermore the 'human capital/language' interpretation is not the only possible interpretation of the experience of immigrant workers in the Irish labour market (. It is also possible that the lower pay of such workers reflects discrimination in both access to employment commensurate with their qualifications and in their treatment within work. Recent ESRI research on discrimination in recruitment (McGinnity et al 2009) suggests that discrimination is a relevant factor.

Conclusion

As can be seen from the studies quoted above – particularly in relation to gender – (un)equal pay in a much more complex issues than simply ensuring equal pay for equal work (which is the focus of EU and national legislation). Rather it goes back to educational choices which are made at an early stage in secondary school (if not before). It also involves the (highly unequal) structure of the Irish labour force

in terms of occupational segregation, and the need to reconcile work and family life. Of course, the need to actually ensure equal pay for equal work is also an important factor. In general it can be said that Women receive a poorer return on their human capital because of the nature of gender segregation and because they experience direct discrimination.

16 2.3 Work-life balance

The Irish economy is demanding more qualified workers which causes the interaction between the workplace and personal lives to become increasingly complex. One of the consequences of the Celtic Tiger's growth is that organisations have become more and more 'time hungry'. Despite this, existing policies still reflect a prevailing 'breadwinner' model with a working husband and dependent 'housewife'. This has resulted in conflict for working parents and caregivers who struggle to balance responsibilities in the absence of significant institutional supports.

Certain policies have been developed to enable workers to reconcile the conflict, but as we saw in chapter 1 these are available in a minority of workplaces and Drew et al. (2003) found that these arrangements were aimed almost exclusively at making the workplace 'family-friendly' (e.g. through facilitating part-time working). Hence the Irish uptake of flexible working arrangements has tended to be highly gendered. The fact that certain policies have been availed of almost exclusively by women has helped to solidify the belief that the relationship between the labour market and the family is solely an issue for mothers of young children and consequently not applicable to all workers.

While it remains more common for women to make adjustments to their working patterns in response to household responsibilities, changing socio-economic conditions make it increasingly difficult to sustain one-earner households (Esping-Andersen, 2004). The growing number of dual-income couples are facing new challenges which are further complicated by the added pressure many companies face to compete in a 24-7 workplace. The limited nature of 'family-friendly' policies has often served to reinforce traditional gendered breakdowns of labour and such gendered policies do little to address the issues and pressures that newer family structures face (Leira, 1992; Walby, 1990).

Statutory regulations, such as the introduction of unpaid parental leave, have attempted to address the needs of working parents. However, in Ireland the limited nature of these policies and lack of financial compensation is problematic in addressing the labour market shortage. Uptake of leave remains highly gendered and parental leave is a luxury few can afford to utilise fully. Consequently, these limited policies have done little to help groups whose labour market participation is most vulnerable. Work life balance and flexible working arrangements are important for other groups experiencing inequality in the labour market. Flexible working arrangements can enhance the presence in and contribution to the workplace of people with disabilities, older people and minority ethnic people. The skills of older workers, single parents, parents of larger family and those struggling with mental or physical disabilities, are often lost because the needed support systems are currently not available (Fine-Davis et al., 2005).

To date, most work-life balance arrangements in Ireland have focused

on reconciling work and family life and traditionally they have concentrated exclusively on women. The Commission on the Family criticised this focus as ignoring the changing role of men in society, stating that:

Expectations are changing about what it is to be a good father. It is no longer presumed that the father is the sole breadwinner or that his role is simply to provide the weekly wage packet. There is a presumption that today's father will want to be present at the birth of their children, to be emotionally involved with them and subsequently to take interest in their schooling and to share the housework (Commission on the Family, 1998).

Workers in countries such as Norway, Sweden and Finland can avail of greater public supports to parents/carers, such as State funded childcare. Hence they find it significantly easier to combine their jobs with their family lives. Not coincidentally, these countries also have a much higher level of gender equality in the workplace (Fine-Davis et al., 2004; Leira, 1992; 2002; Walby, 1986; 1990). Thus, workplace policies can eliminate or perpetuate poor working conditions, work-life (im)balance and gender pay gaps as well as gender segregation and stratification.

Research supported by Congress (Drew and Daverth, 2007) found that the greatest issue to arise in relation to supporting work-life balance in practice was the existence of a workplace culture that runs counter to attempts to achieve WLB in the form of: 'long hours' and, its corollary, presenteeism. The research shows that these work patterns are not conducive to WLB – not just for parents of young children but for all employees. In such a climate seeking WLB arrangements

e.g. working from home/reduced hours/flexitime are not seen as compatible with holding management posts. There is a paucity of role models willing to display any contrary behaviour and a fear of alternative working patterns. The research points to a genuine concern about the transition to a WLB culture in terms of: demonstrating, by example, how it might work; overcoming the fear of the abyss; and providing assistance for managers (and their staff) who seek to avail of alternative working patterns. There is abundant evidence that policies supporting WLB are not enough in themselves to ensure take-up and acceptance. It will require trust and courage to champion work-life balance, not just at management level.

2.4 Childcare

A related issue concerns access to childcare which is also of critical importance to the development of an equal workplace.

Consistent Quality

While recent Government policies have been helpful in the short term in terms of stimulating the provision of childcare places and in helping to subsidise childcare costs, they have not moved Ireland any closer to having the kind of comprehensive, integrated national programme of childcare facilities evident in some other European countries such as France and Denmark. The funding allocated in the recent budgets, to provide capital grants and staffing grants have gone and will continue to go primarily to private sector childcare and also to community based groups. Yet, the variety of kinds of childcare is enormous and one must ask how consistent can the

quality of such a diversity of childcare provision be? This is of particular concern given the recent findings of inspections of childcare centres. In a recent report of health inspections of childcare centres throughout the country numerous worrying things emerged (Irish Times, 28 November, 2006). Another worrying aspect of current childcare policy in Ireland is that in the childcare sector, no qualifications are required. It is not currently necessary to have any formal qualifications to own, manage or work in childcare in Ireland. It is estimated that 30% of childcare staff in Ireland are without any qualifications (OECD, 2006).

Cost

In addition to the need for consistent quality through a coordinated national childcare strategy, the issue of cost still remains. Childcare costs in Ireland consume a higher proportion of working parents' earnings than in any other EU member state. Childcare costs are so high that people, especially those on lower wages, have to spend a very significant proportion of their take-home pay on childcare. Childcare costs increased five times the rate of inflation over the two year period from late 2002 to early 2005.

The Role of Men in Childcare

Research has shown consistently that within dual earner couples men do not contribute to the domestic and childcare tasks as much as women do and women consequently have a significantly greater dual burden (Eurostat, 2001; Villa, 2002; Fine-Davis, et al., 2004). This undoubtedly contributes to the twin track system in which women are more likely to choose, of necessity, flexible arrangements involving shorter hours (Drew, Humphreys and Murphy, 2003). As O'Callaghan points out, "Further advances by women and mothers in particular may depend on the

extent to which fathers take up their caring responsibilities, thus freeing up mothers to achieve their potential in the workplace. That may be the greatest challenge facing us as we frame family friendly policies in the future" (Ibid., p. 85).

It is evident that attitudes of male workers toward work-life balance issues are not yet fully understood. While men are less likely to take up flexible options such as part time work and job sharing, research has shown that 82% of Irish fathers of young children would like to spend more time with their families (Fine-Davis et al. 2004). It is thus apparent that further in-depth research on male attitudes needs to be conducted to examine the conflicts and contradictions apparent among male working fathers. We still do not understand how to facilitate men to contribute more to sharing of domestic and childcare responsibilities given their apparent wish to spend more time with their families. Secondly, we need to learn more about the attitudes of senior managers and their staff in order to understand how to facilitate greater flexibility of working patterns among male and female staff at all levels.

One of the ways that men can contribute to childcare is through their participation as professionals in child care centres. This would also help to promote non-stereotyped role models in the childcare sector in order to foster the development of egalitarian gender role attitudes and behaviour in children. By seeing men in caring roles at such an early stage children will begin to develop fundamental ideas of equality, including the notion that men can be carers. Recent pilot research in Ireland in this area has shown that having male childcare workers is perceived as positive by centre managers, parents, and most importantly, children (Fine-Davis,

O'Dwyer, McCarthy, Edge, O'Sullivan, & Wynne, 2005b). The value and importance of including men as childcare workers has also been recommended by the NESF (2005) in its Forum Report on Childcare. This is a critical piece in the overall strategy to overcome traditional gender roles and the persisting dual burden which women carry. It is only through the development of ideas of equality at an early age that male and female children will grow up with notions of sharing and equality in the workplace and the home.

However, one of the main problems the research identified is that there are not enough men coming forward to pursue childcare as a career (Fine-Davis et al, 2005b). It is clear that it will be necessary to target young men – probably in schools – to encourage them to go into childcare. Those men who are already in the profession find it very satisfying. However, it was necessary for them to overcome the stereotyped view that this was a woman's job. Research has shown that childcare workers do not perceive that their profession is highly valued. This is reflected in low salaries in the profession. All of these issues, together with the need for more training of childcare workers, need to be addressed in order to provide the quality of childcare that children deserve.

International Best Practice

In most other European countries, children aged 3 – 5 (the “pre-school” group) are usually catered for in pre-school centres, écoles maternelles, etc. They are at an ideal age to respond favourably to an educational programme which is imbedded in play and are also ready for interaction with groups of similar aged children. In Ireland, we currently have the infant class in national schools, which cater for children aged four and five.

However, these classes are not optimally designed to meet the needs of this age group and the class sizes and adult:child ratios in the infant classes “compare very unfavourably with the optimum group sizes identified by research for early years settings (Hayes and O’Flaherty, 1997, p. 37)”. The average adult:child ratios in these classes are 1:25 or 1:26, whereas the optimum is 1:8 with class sizes of 15. Concern about the class sizes and staff:child ratios have also been raised by the OECD (2006). Moreover, the curriculum is not play based and is more like “school” than preschool.

In spite of the limitations of the infant classes, which need to be addressed in any case, these existing infant classes could be seen as a beginning to be built upon and improved toward developing a national preschool infrastructure of the highest quality. A new programme could be specially designed for the 3 – 5 year age group, involving an educational pre-school programme imbedded in play. An ideal pre-school environment in terms of child development needs, appropriate staffing, curriculum, child-staff ratios, etc. could be created for this age-group, based on the best international standards and practice. In this way, a high quality preschool curriculum could be incorporated into the mainstream educational system to benefit large numbers of children. In developing such a new approach, the experience of the Early Start programme, currently operating in schools in areas of social disadvantage should be drawn upon, as well as that of the Centre for Early Childhood Development and Education (CECDE), the Department of Education and Science, the Office of the Minister for Children and other childcare and pre-school education experts. The proposal of a free year of preschool education for three year olds

would tie in very nicely with this idea. We already have free preschool for four and five year olds, this would add a third year and give us a more comprehensive educational preschool programme.

This re-organisation of an existing programme could significantly contribute to solving the pre-school needs of this key age group, without adding an additional tier of bureaucracy. The infrastructure is already there throughout the country. The public provision of this quality childcare available to all in local schools would augment other existing childcare facilities, thus enabling parents to have choice. It would create additional needed childcare places and provide free, accessible childcare which was of consistent high educational quality. Existing teachers could receive training in pre-school education and new teachers would receive it through the relevant educational establishments. There are currently moves to review the curriculum at this stage of primary education in Ireland - particularly the discussion document recently published by the National Council for Curriculum and Assessment [NCCA] 'Towards a Framework for Early Learning' (2004). This document identifies the need for a review of early educational practices for children from birth to 6 years and may form the basis for discussion and agreement on the best way to go forward nationally.

Initially, it would be possible to pilot such a programme in a few schools. The aim would be to create a model childcare facility, which would provide educational child care as well as day care. Such a model childcare facility would provide child care to synchronise with parents' working hours and after-school care. This is an area in which the City and County Childcare Committees could form linkages with the new pilot project in

ways to optimise provision of childcare for working parents. A major advantage of a programme such as this is that in addition to meeting the childcare requirements of working parents, it would provide an excellent foundation course for children, especially disadvantaged children and contribute to their long term development and, in the future, their ability to participate in education and employment.

The childcare needs of parents with children aged 0-2 are also not adequately being met. As the OECD (2006) points out, "services for children under 3 have often been seen as an adjunct to labour market policies, with infants and toddlers assigned to services with weak developmental agendas . . . A challenge exists in many countries to focus more on the child, and to show greater understanding of the specific developmental tasks and learning strategies of young children" (p. 16). In this context, there are many examples of innovative approaches to childcare in other EU countries which ideally should be researched with a view to possible replication. These include good models of integrated or 'wraparound' services linking community based early educational services (or childcare) to preschool services and back into afterschool services – such as the Surestart initiatives in the U.K. The Dutch have been notably successful in designing model facilities which help parents to combine work and family life by providing one-stop centres where not just childcare but other services are available, such as after-school care (Mol, 2002). The Netherlands is also one of the few countries where part-time employment is common for men as well as women. There is much to learn from their experience in facilitating work-life balance of working parents here.

2.5 Workplace culture

Organisational structures, cultures and practices have a major impact – for good or for bad – on the equality agenda. The norms, values and assumptions within a workplace play a major role in facilitating or inhibiting the development of a strong equality agenda, in principle and in practice. In considering the role of workplace culture, it is important to understand that informal networks and cultures can be a means to avoid, subvert or counter formal organisational commitments to equality.

Organisations do not work in a social and political vacuum and can reflect social prejudices and political biases of society at large. Such a workplace culture can lead to discrimination, sexual harassment or harassment or can set the parameters that make these issues more likely. Organisational culture and socialisation into it, is thus a powerful element in creating a positive or a negative climate for inequality. This means that organisations need to create a culture of compliance vis-à-vis equality and a culture that values diversity and is committed to equality.. They need to engage vigorously with informal workplace cultures, to create values and common understandings that are more comfortable with equality than with harassment and discrimination. Clearly trade unions and other workplace organisations have a key role to play here.

In terms of embedding equality within a workplace culture a focus on the legal aspects and the requirement to avoid discriminatory acts is an important starting point. This approach can become purely tokenistic if it is contradicted by informal workplace cultures. It is now widely believed that a ‘managing diversity’

approach is also required in embedding equality in an organisation.

Kathy Monks (Equality Authority 2006) in her review of international research on the business case for equality has usefully set out the definition of diversity management as: “an approach to workplace equality that draws its distinctiveness largely from the focus on equality through **difference** rather than **sameness**”. Congress, IBEC and the Equality Authority, working through the Equal Opportunities at the level of the Enterprise Framework Committee have promoted and supported an approach to managing diversity based on a planned and systematic approach to workplace equality. This involves employers:

- Putting in place and equality policy that sets out this commitment to equality and standards they seek to achieve in this regard;
- Providing equality and diversity training to all staff to develop their skills and awareness to implement the equality policy effectively;
- Implementing and equality action plan with the objective of achieving full equality in practice for employees from across the nine grounds covered in equality legislation. This plan is based on a review of the equality situation in the company and of company policies, procedures and practices for their impact on workplace equality.

This approach is most effectively pursued as a partnership between employers and trade unions.

Since the early 1990’s, the Irish workplace has undergone a huge expansion but also diversification. The first significant

transformation was caused by the feminisation of the labour force. The second slightly later transformation of the workplace was caused by the growing internationalisation of the workforce, from the mid-1990's onwards. A further transformation in progress involves ageing of the workforce.

The impact of diversity on the organisation and its employees has been extensively researched in the business studies literature (Richard, 2000; Bacharach et al., 2005). The benefits include

Long term

- Access to a talented workforce
- Improved image – easier to recruit
- Innovation and creativity
- Good reputation with government and other stakeholders
- Marketing image
- Easier to adapt to change

Short and medium term

- Cost reductions: litigation and legal costs, reduced labour turnover, and lower absenteeism
- Access to labour
- Access to new markets
- Performance in existing markets

However, the presence of diversity in the workplace is by no means a guarantee for success: 'to reap these benefits, diversity must be managed effectively' (D'Netto and Sohal, 1999: 538).

Research published by the Equality Authority and the NCPP has quantified the impact of diversity and equality strategies in increasing Labour productivity and product innovation and in decreasing employee turnover.

However, as the European Commission (2003) indicates, 'for diversity strategies to succeed, they need to overcome an overriding obstacle that is common to most businesses – opposition in the workplace' (: 6). The conclusions of the report indicate that, companies should approach the management of diversity in the workplace as a 'culture change process'. A key point made in the report is that 'support from unions, works councils and other staff groups or networks, is another prerequisite for successful implementation of diversity policies' (European Commission, 2003: 6). The workers' representatives need to be considered key stakeholders in the design and implementation of equality and diversity strategies in the workplace.

Over the last decade, the pervasiveness and the cost of sexual harassment has become a growing concern at the national and international level. In the European Union, 40-50% of women have reported some form of sexual harassment at the workplace. Harassment across the nine grounds has also been highlighted as a concern by the Equality Authority. The first code of practice published by the equality authority relates to addressing sexual harassment and harassment in the workplace.

Sexual harassment and harassment are prohibited under the Employment Equality Acts. Employers are liable for the acts of their employees in this regard. They have a defence where they have taken practical steps to prevent the discrimination and or

to deal with the incident. At a minimum such steps should include a policy on combating sexual harassment and harassment, procedures to deal with any such incident that arises and initiatives to disseminate the policy and ensure that all staff are enabled to implement the policy. A workplace culture that does not tolerate discrimination, values diversity and that is committed to equality is key to ensuring the workplace is free from sexual harassment and harassment.

2.6 A broader approach to equality

A common theme across the range of the studies commissioned by Congress is the need for a broader approach in equality legislation to achieving equality. As we have identified in this chapter, the causes of inequality are structural and multi-dimensional. However, the current approach to the implementation of equality legislation is based on individual cases brought by workers affected by discrimination, sexual harassment or harassment. A number of organisations, including the Equality Authority, have argued there would be a value in moving towards a more positive obligation on employers to promote equality including a requirement on employers to be planned and systematic in their approach to workplace equality.

This approach has been adopted in a number of other jurisdictions. They can be directed towards the public sector as is the case in Finland, Canada, the United Kingdom, and Northern Ireland for example. Under the 2004 Equality Act, Finnish public bodies have responsibility to systematically promote equality in all their activities as well as to take remedial

steps to tackle obstacles to the realisation of equality. A practical means of promoting equality of opportunity provided for by the Act is the requirement on public authorities to draw up an Equality Plan. There has been a statutory duty on public bodies to draw up a Gender Equality Plan since 1995, and the 2004 Equality Act introduced a requirement to produce a separate plan on race and ethnicity (Centre for Strategy and Evaluation Services, 2007). This positive duty is enforced. The Helsinki City Authority was required under the 2004 Act to produce an equality plan on race and ethnic background. Internal guidelines, setting out minimum requirements, were drawn up for each of the departments by Helsinki City Authority's Human Resource department in October 2004. Each of the six departments within the City Authority (social services, education, housing, health, employment and human resources) then drew up their own equality plans, which combined into an overarching Equality Plan for Helsinki City Authority containing 25 separate measures to mainstream equality of opportunity. Each department must submit an annual progress report outlining progress in delivering the Equality Plan. The submission of an annual report is seen as important and valuable in highlighting areas where progress has been made and identifying areas where further action needs to be taken. Performance monitoring is largely qualitative, but there are plans to measure performance using quantitative and qualitative indicators.

In Canada, federal equality legislation imposes a "duty to accommodate" upon public and private bodies across all the equality strands. This ensures that compliance with the legislation requires proactive action. Equality strategies in the public sector complement this

requirement. Legislative requirements are necessary to give any real bite to mainstreaming initiatives.

Race Relations legislation in England provided for a general duty supplemented by specific duties imposed by the Home Secretary on specific types of public authorities, which are also required to produce a Race Equality Scheme. This requires public bodies to:

- assess whether their functions and policies are relevant to race equality;
- monitor their policies to see how they affect race equality;
- assess and consult on policies they are proposing to introduce;
- publish the results of their consultations, monitoring and assessments;
- make sure that the public have access to the information and services they provide; and
- train their staff on the duties.

Listed public authorities must monitor, on ethnic lines, the composition of their staff and the ethnic make up of the pool of applicants for posts, promotion and training. Those that have more than 150 staff are required to monitor the composition of those involved in grievance, disciplinary procedures and performance appraisals, training and those who are dismissed.

The single most extensive positive duty imposed on public bodies is that provided for by Section 75 of the Northern Ireland Act 1998. This imposes a duty on specified public authorities to have

“due regard to the need to promote equality of opportunity” across all the equality grounds, including disability, age, sexual orientation and also political belief, in carrying out their public functions (McCrudden, 1999). A duty to promote good relations is imposed in respect of race, religion and political belief. To give effect to this duty, all Authorities to which the duty applies are required to prepare an “Equality Scheme”. This Scheme sets out the impact assessment, monitoring, consultation, training and information access arrangements, including the preparation of equality impact assessments (EQIAs), that the Authority intends to take to implement the duty. Equality Impact Assessments are to be carried out on policy-making and the outcomes of impact assessment and consultation must be taken into account in policy design and review. Impact Assessment Statements must be published and the legislation clearly specified the information to be included in Impact Assessment Statements.

Section 75 thus obliges policy-makers to consider all policies from an equality perspective and to take proactive measures rather than merely preventing potential discrimination. The Northern Ireland Equality Commission has set out detailed guidelines for drafting Equality Schemes and carrying out Equality Impact Assessments. If dissatisfied with a scheme the Northern Ireland Equality Commission can refer the Authority in question to the Secretary of State for Northern Ireland, who can impose an alternative scheme if necessary. The Commission can also investigate the extent of compliance with the duty or with a specific scheme, as well as investigate complaints about non-compliance. If the Authority fails to respond to action recommended by the Commission following such an

investigation, the Commission can refer the matter to the Secretary for State. Escott and Whitfield (2002) highlight the benefits of the statutory duty in Northern Ireland. They state it has helped to identify gaps in social data, and to raise the profile of gender and other equality issues.

An effective positive duty requires well resourced support and monitoring institutions. The Equality Commission for Northern Ireland has approximately 150 staff working across a full range of functions. Furthermore, consultation processes, regarded as key to the effectiveness of the statutory duty need to be well targeted and resourced to ensure that the capacity of those being consulted is enhanced. The experience of implementing statutory duties in Wales and Scotland also demonstrate the need for guidance, support for action and monitoring outcomes. Positive duties require clear guidelines and reporting templates.

Positive duties have also been established for public and private employers in relation to pay equality. For example in Ontario all employers with more than 10 employees are required to examine their pay determination systems and, if any inequalities are found, to rectify these (Gunderson, 2002; Weiner, 2002). Similarly the Swedish Equal Opportunities Act provides that employers who employ ten persons or more are required to survey annually and analyse pay practices and differentials and to prepare a plan of action for equal pay (Plategna and Remery, 2006). Under Finnish legislation on equality between women and men, which came into force on 1 June 2005, an employer must draw up a gender equality plan in cooperation with staff when employing at least 30 workers on a regular basis. The content of the gender equality plan covers pay and other terms

of employment. Norwegian legislation requires employers to set out in their annual reports any gender pay differentials and the positive action measures which will be taken to address these. This type of proactive approach recognises that pay inequality is not only about individual discrimination but rather reflects the systemic nature of such inequalities which are often based on broader societal assumptions about the role and value of different groups. It has the value for employers of providing greater certainty in relation to pay obligations and removing the uncertainty of retroactive payments (Weiner, 2002, S106). However, it also involves an administrative and cost burden on employers. A recent independent review of UK law recommended that a similar positive duty to review pay should be set out in law (Hepple et al., 2002). The report of the Independent Review recommended that employers with more than 10 full-time employees should be obliged to conduct a periodic pay audit (once every three years) covering both full- and part-time employees, and to publish this in the company's report, and to inform employees or their representatives. If, following an audit, an employer found a significant disparity between predominantly female and predominantly male job classes, it would be obliged to draw up a pay equity plan in negotiation with trade unions with a view to reaching a collective agreement, or where no union is recognised, after consultation with employees or their representatives. The failure of an employer to conduct an audit would be admissible in evidence in any proceedings for pay discrimination, and the tribunal would be entitled to draw an adverse inference from this fact, having regard to the size and administrative resources of the employer.



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Recommendations

Although Ireland has comprehensive equality legislation both in the area of employment equality and in the provision of goods and services, accommodation and education a wide range of inequalities still persist. The studies carried out for Congress indicate a range of areas in which specific changes to the legislation are required and these are discussed below. A key issue identified by Congress is the need for a more proactive approach to implementing equality and, in particular the need for a positive duty requiring private sector organisations to be planned and systematic in their approach to equality and for public sector organisations to have due regard to equality in carrying out their functions and the need to further develop a support infrastructure to assist organisations in implementing this proactive approach to equality.

3.1 A positive duty to achieve equality

Positive duties, require organisations to give due consideration to equality concerns in employment policy, service delivery and policy design. They are used in many other jurisdictions and are proving important in the promotion of equality. There are two types of positive duty, that which requires the state in its public service provision to integrate equality into its policies, programmes and services and that which requires the private sector to implement a planned and systematic approach to equality. This is a logical objective that is greatly strengthened by the evidence for business benefits arising from the presence of equality policies in the workplace. (O'Connell, & Russell, 2005; Monks, 2007; and Flood et al, 2008). In Ireland we need to define a set of obligations to give effect to the requirement to promote equality in the workplace and in public services. Positive

duties are legally based requirements to act to promote equality. A positive duty would require organisations to act specifically in measurable ways to achieve full equality in practice.

A Model of Effective Positive Duty

A statutory duty would require a public body to establish equality as a core responsibility, and require that it give “due regard” to promoting equality. This could also include a duty to promote Good Relations. Authorities would be required to take appropriate steps to counter prejudice and victimisation in the community at large, a duty to promote “good community relations”. This duty should be effectively enforced. The Equality Authority should establish and monitor standards for its implementation. Trade Unions and NGOs should be enabled to bring enforcement actions.

Meaningful and inclusive consultation, which reaches all affected groups, is crucial to ensure the effective implementation of this positive duty. The results of consultation should also be genuinely incorporated into the equality impact assessment. This should form part of the duty on public sector organisations.

Extensive training and an efficient exchange of information are all necessary to make sure that this proposed set of equality duties do not fall into the “process” trap.

A positive duty for the private sector would legally require organisations to implement planned and systematic approaches to equality and report on outcomes. This would reflect the work done by the Equal Opportunities Framework Committee in defining a planned and systematic approach to equality. A similar enforcement regime should be

implemented with the Equality Authority establishing and monitoring standards and trade unions and NGOs enabled to take enforcement actions.

3.2 Access to the workplace and promotions

In relation to access and promotion in the workplace it is recommended to:

- Promote the elimination of discrimination in these areas through the effective implementation of equality legislation. This requires additional investment in the equality infrastructure to eliminate the backlog in the Equality Tribunal and to enable the Equality Authority to implement the full range of its powers and to expand its advocacy services. Further investment should also be made available to increase and develop trade union advocacy services;
- The financial limits on compensation for cases in relation to access to employment have been highlighted as a particular barrier to the dissuasive impact of equality legislation. They should be removed;
- Further expand and invest in the positive action measures developed to secure employment for Travellers in the public and civil service and in South County Dublin Council. These positive action measures should be further evolved to support these Travellers who have secured such employment to progress their careers;
- Review current labour market programmes and employment services for the employment outcomes they

are securing for Travellers and develop a national action plan to enhance the capacity of those programmes and services to achieve such outcomes for Travellers.

In relation to disability, it is recommended to:

- remove disincentives and benefit traps arising from the operation of the welfare system and ensure that transitions to employment are possible, financially rewarding, and sustainable;
- enhance the capacity and effectiveness of the education, training and employment system – active labour market policy – to ensure that people with disabilities are equipped to compete for employment in the contemporary labour market and to benefit from future patterns of occupational growth;
- ensure that both the public and private sectors implement policies to support the recruitment and retention of people with disabilities, which are rooted in a knowledge of the capabilities of people with disabilities.

3.3 The equality pay gap

Because unequal pay is caused by a wide range of different factors, a co-ordinated range of measures will be needed to reduce pay gaps. In the area of gender, the recent National Women’s Strategy clearly identifies the gender pay gap as a priority. However, it is less specific on the steps which will be taken to address it. This is in contrast to the approach in some other EU countries. In Finland, for example, the government published

an equal pay programme (May 2005) which aims to reduce the wage disparity between women and men by at least five percentage points by the year 2015. The programme includes measures focusing on remuneration systems and on wage and collective bargaining policies in general, redressing the gender imbalance in industries dominated by men or women, career development of women, temporary work, gender equality planning, harmonising work and family life, improving the compilation of statistics and enhancing the social responsibility of businesses and organisations. A similar level of commitment will be required in Ireland if we are to address unequal pay. This should include a range of policy measures which are discussed below.

Research

While research is available in relation to the gender pay gap and, to a lesser extent, in relation to nationality and disability pay gaps, there is an absence of research and analysis on many of the grounds covered by the Employment Equality Act. If we are to identify the factors which need to be addressed it is essential that policy makers and interested organisations should have this type of basic information. Therefore, existing research should be updated on a regular basis to identify pay gap trends (and new avenues of research explored where necessary)² and research should be carried out in those areas which have not been studied to date drawing, where possible, on existing data sources such as EU-SILC, the QNHS and the National Employment Survey.

Education choices

Russell et al (2005) have shown that the factors behind the gender pay gap can begin at the junior cycle of secondary

² In the gender area, such research is currently being carried out by the ESRI for the Equality Authority.

school whereby choices made at that stage lead young men and women into different careers. Similar issues are likely to apply to children of persons falling within some of the other equality grounds including race, (i.e. colour, nationality, national or ethnic origins), and membership of the Traveller community. Children from other groups experiencing inequality such as lone parents (family ground) and people with disabilities are also likely to be effected by (lack of) educational opportunities. This highlights the importance of equality at all stages within the education system in terms of future life outcomes. It also shows that, as recommended in that study, the education system needs to ensure that students are given information about and access to a wide range of subjects at each transition point (junior cycle, senior cycle, college entry) and that third level students be provided with access to information on a wide range of employment opportunities.

Equality at work

The studies clearly show the extent to which equal pay is affected by issues such as work experience (or lack of it) and occupational segregation. The length of work experience is, in turn, related to factors such as the reconciliation of work and family life and policies to support women returning to the labour force. Thus policies to reconcile work and family life (such as parental and maternity leave, childcare and flexible working arrangements in the workplace) and measures to reintegrate women returning to the labour force should form an important part of a strategic approach to reducing the gender pay gap. Policies to reduce gender segregation in employment would also be an important component of a strategy to reduce gender pay inequalities.

One specific equality-related issue arises in relation to people with disabilities in sheltered employment. Such workers currently receive welfare benefits topped up by the 'employer'. Congress has consistently called for this system to be replaced by one of proper pay and employment conditions. A draft code of practice was drawn up under social partnership agreements but has yet to be finalised. It is recommended that the code of practice should be agreed as a matter of urgency. Further steps should also be taken to secure proper pay and employment conditions for these workers.

Equal pay and the law

The need to actually ensure equal pay for equal work is also an important factor. This study has identified a number of areas where legal reform would assist in the implementation of equal pay:

1. **Group actions** – Given that unequal pay is a systemic rather than an individual issue, procedures to allow group multi-party claims should be introduced in relation to equal pay claims drawing on the approach recommended by the Law Reform Commission for such claims in the general courts (LRC, 2005) and trade unions should be allowed to initiate an action on behalf of a complainant.
2. **Right to information** – the Employment Equality Act should be amended to include a clear right to information.
3. **Developing the case law** – There is clearly a need to develop the case law in relation to the new grounds under the Employment Equality Act such as age and disability. Issues such as how to identify discrimination on the basis of these grounds and possible objective

justifications clearly raise important conceptual issues. The development of case law in this area might be assisted by legal research into the approach in other jurisdictions and (albeit limited to date) at EU level. In addition, there will clearly be a need to continue to develop the courts' and tribunals' understanding of concepts such as appropriate comparators, indirect discrimination, and objective justification. Again this might be assisted by legal research and seminars.

4. **A more proactive approach** – International experience would suggest that a more proactive approach could make an important contribution to achieving equal pay. It is recommended that employers with more than 10 full-time employees should be obliged to conduct and publish a periodic equality pay audit. Where an audit showed a significant disparity between groups covered by the equality grounds, the employer would be obliged to draw up a pay equity plan in negotiation with trade unions. The failure of an employer to conduct an audit should be admissible in evidence in any equal pay claim. Such audits should draw on the experience already gained through the equality reviews and action plans supported by Equality Authority.
5. **Agency workers** – The position of agency workers is one area where blatant inequality can still remain between national workers (employed by a company itself) and non-nationals (employed by an employment agency) who are doing precisely the same work but receiving different pay. This is not a conceptually difficult issue and could be addressed by a simple amendment of the Employment Equality legislation and/or by

agreement of the draft EU directive of temporary agency workers.³

3.4 Work-life balance

A range of measures are needed in this area including both the promotion and support of WLB within firms and the establishment of more effective policies at national level.

1. Flexible working arrangements should be made more available, so that parents can better synchronise their working times with their childcare responsibilities and so that other groups experiencing inequality can access the flexible working arrangements they need to enable their participation in and contribution to the workplace. Equality legislation should require employers to make available such flexible working arrangements unless they would result in a disproportionate burden on them.
2. Employers and trade unions should promote take up by men of flexible working patterns. It should be clear that this includes men in management positions as well as other positions.
3. A system of paid parental leave should be introduced to ensure that at least one parent is with the child during its first year.
4. A system of paid paternity leave should also be introduced
5. The practical support developed through the Worklife Balance

³ As argued above, such inequality of pay would appear to be in breach of EU law insofar as EU nationals (or others falling within the scope of EU law) are concerned. However, persons not covered by EU law would appear to have no remedy at present under national law.

Framework Committee to support enterprises to develop more planned and systematic approaches to WLB should continue and expand to meet increased demand. Adequate funding should be made available for this work.

6. Campaigns promoting WLB are needed to raise awareness of the benefits to employees and employers of flexible working arrangements and to promote the provision of such arrangements. The work of the WLB Framework Committee should continue in this regard with a particular emphasis on WLB day. It is important that increased funding be made available to the Committee to further develop this work and maximize its impact.
7. There is evidence that the working hours of many workers are in excess of those permitted under the EU Working Hours Directive. It is essential to secure compliance on grounds of health and safety; for societal/ethical reasons (and indeed on grounds of productivity).
8. Information and Communication Technologies can facilitate working from home. There is a need for a Code of Conduct/Guidelines to eliminate intrusive and excessive use of ICT through, for example, limits on contacting staff outside office hours on land line and mobile phones. More positively organisations could pilot flexiplace/teleworking by providing Broadband/work stations for employees to use in their homes, with the clear message that this should not be used to lengthen the working day.

3.5 Childcare

Many of the approaches which the Government has introduced in recent years to address the childcare crisis have been useful in the short term. The Government has succeeded in providing more childcare places and has created local bodies (City and County Childcare Committees) with responsibility for certain aspects of childcare co-ordination and quality. The Government has also helped to make childcare somewhat more affordable to parents and it has increased paid and unpaid maternity leave. These are positive steps. However, a longer-term comprehensive strategy is required, which more successfully addresses the issues of affordability, consistent quality and provision of accessible childcare, that synchronises with the real work schedules of working parents with children of different ages at different stages of childcare.

Congress has consistently supported the notion of a national infrastructural changes and investment in childcare. As Congress has pointed out, care has to be approached in a “strategic and holistic fashion with the creation of a national ‘infrastructure of care’ now an urgent priority.” In policy terms, care must assume the status of a ‘public good’ similar to that enjoyed by education” (ICTU, 2006). The predictions concerning what will happen if we fail to do this are already coming to pass. Our birth rate is falling and our labour needs are already being met increasingly by migrant workers. However, it has been seen in other societies that migrants soon adapt to the fertility patterns of the host country and thus the falling birth rate will still be a problem for this country unless the cost of having children is reduced through mechanisms such as public childcare

facilities. Were there a national programme of public childcare facilities of consistent high quality could be guaranteed. Given the benefits of quality early childhood education, the lack of a centralised high quality programme is a serious social policy deficit with implications for children and their development, for working parents in meeting their childcare needs and for society in preventing later social problems.

On the basis of these conclusions, it is recommended that:

1. A new national approach to childcare be taken, which involves the development of a national childcare infrastructure. This could be based on a re-design and extension of the existing infant classes in the national schools, currently catering for four and five year olds. The extension would involve the inclusion of three year olds, so that the three to five year preschool age group would be accommodated in this national programme.
2. The staff: child ratios would be improved to be in line with best international practice, as would the class sizes. The curriculum would be revised to be appropriate to the preschool age group.
3. Wraparound care would be developed so that the start and finishing times would synchronise with parents' working hours. This would give parents choice, so that some children would attend for fewer hours and some would be cared for for a longer part of the day.
4. After school care would also be provided in these local facilities built around national schools, with connecting ancillary services as necessary. This would involve co-

ordination between the national schools and the City and County Childcare Committees.

5. Exchequer funds would be re-directed to providing universal free services throughout the country for children of employed and non-employed parents.
6. Young men should be encouraged in schools through career guidance counsellors to consider child care as a profession.
7. Government resources should strengthen professional training of childcare workers and salaries of these workers should be increased to a level commensurate with their value to society.

3.6 Workplace culture

The approach to equality in the workplace needs to be a twin-track one that focuses equally on the formal legal domain and the informal workplace culture. Only a joined up strategy like this, implemented with vigour by all elements of the partnership will be successful. The shared norms, values and assumptions within a workplace play a major role in facilitating or inhibiting the development of a strong equality agenda, in principle and in practice. Thus equality and diversity policies and practices need to include in their scope employees at all levels of an organisation, including agency workers.

The presence of trade unions in the workplace is a positive asset. The involvement of workers in workplace decision-making can support a proactive pro-equality culture.

It is recommended therefore that:

- Planned and systematic approaches to workplace equality should be stimulated and supported at the level of the enterprise. The Equal Opportunities Framework Committee has developed important supports in this regard. However demand is outstripping supply and resources to this committee should be increased to address this deficit.
- Equality legislation should be amended to further support a valuing of diversity and an accommodation of diversity in the workplace. The reasonable accommodation requirement on the disability ground provides an important model in this regard. These requirements on employers should be extended to apply in relation to all nine grounds covered by Equality legislation.
- On a number of occasions in recent years Equality Officers have stated that they felt constrained in particular cases of sexual harassment by the limits on compensation set in the Employment Equality Acts. These financial limits on compensation should be removed.



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This report draws on a number of research studies funded by Congress as part of its contribution to the EC Year of Equal Opportunities for All 2007. These included:

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E. Drew and G. Daverth *Work-life balance in Ireland*;

M. Fine-Davis *Childcare in Ireland Today*;

M. Hegarty and R. Munck with M. Doherty and A. McAuley *Achieving Equality in Practice*;

R. Munck and M. Hegarty with M. Doherty and A. McAuley *Workplace Equality: Workplace Culture and the Law*.

All are available on the Congress website:
<http://www.ictu.ie/equality1>

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