



Equality & Rights Alliance  
ICTU Friday Briefing 7<sup>th</sup> April 2017  
The Public Sector Duty

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- The Equality Rights Alliance
  - Public Sector Duty: Opportunities
  - Challenges
  - Integrating human rights & Equality
  - Values
  - The role of Civil Society
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- Formed in 2008 as response to cuts in Equality & Human Rights Infrastructure
  - Coalition of 170 individuals, Civil Society groups & unions
  - Mission is to defend and strengthen the equality and human rights statutory infrastructure
  - Published “A New Public Sector Equality & Human Rights Duty” March 2015
  - Working group on Public Sector Duty formed in March 2016
  - Published “Civil Society Guide to the Public Sector Duty” November 2016
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## PSD: Opportunities

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- The public sector duty requires public bodies to move beyond a reactive approach to equality and human rights issues to also pursue a proactive approach.
- Legislation to date has required them to address issues of discrimination and human rights violations after they had occurred.
- A Public Sector Duty requires them to plan to avoid such issues in a proactive manner. It requires them to plan for more ambitious goals beyond the elimination of discrimination and human rights violations and to work for equality and the fulfilment of human rights.

## PSD: Opportunities

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- Public Sector Duties have achieved benefit and improved outcomes for employees of public sector bodies and their service users and policy beneficiaries.
- Public Sector Duties make policy making more effective in ensuring policy is designed in a way that can engage and benefit the full diversity of the stated target group.
- Public Sector Duties reduce instances of discrimination and human rights violations and the negative experiences and the conflicts and institutional damage these involve

## PSD: Opportunities

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- Public Sector Duties drive policy-making that achieves better value for money.
- Public Sector Duties lead to policy that is more evidence-based. They contribute to greater transparency in policymaking by involving those who experience inequality and human rights violations. They contribute to improved relationships across all stakeholders.

## PSD: Opportunities

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- If the Public Sector Duty is to achieve this potential, its implementation needs to be planned, supported and resourced.
- Investment in implementing the Public Sector Duty in other jurisdictions has proven to be good value.

## PSD: Challenges

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- Awareness of legal obligations under the duty
- The need for leadership to drive the duty (politically, organisationally)
- The potential for Public Sector Workers not to embrace the Duty
- Setting right level of ambition for the duty
- Avoiding a siloed approach – Equality / Human Rights



## Integration of Equality & Human Rights

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### Equality:

- Traditionally a focus on activism
- Mobilizing & organizing people who experience inequality & discrimination
- Work with specific groups on the basis of their identity & status in society
- Looks at institutional & structural sources of inequality
- Focus on social change & Alternative forms of society

## Human Rights:

- Traditional focus has been individual & legalistic
- Traditionally a focus on watchdog & monitoring
- State legally bound to deliver on obligations to rights holders (individuals)
- Significant focus on utilizing UN & EU reporting & courts to compel State to protecting & respecting rights

# Human Rights in the Constitution

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- Right to life (Article 40.3)
- Equality before the Law ( Article 40.1)
- Right to a fair trial (Article 38.1)
- Right to Liberty (Article 40.4)
- Right to freedom of expression, assembly and association (Article 40.6.1)
- Protection of the family (Article 41)

## Interpretation of Human Rights not explicitly set out in constitution

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- Right to bodily integrity
- Right to freedom from torture, inhuman or degrading treatment or punishment
- Right to work and earn a livelihood
- Right to privacy

## Civil and political rights covered under ECHR

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- Prohibition of torture and ill-treatment (Article 3)
- Right to a fair trial (Article 6)
- Freedom of thought, conscience and religion (Article 9)
- Right to marry (Article 12)
- Right to education (protocol 1, article 2)
- Prohibition of discrimination in the enjoyment of Convention rights (Article 14)

## Human Rights

### Every Individual

**Concepts:**

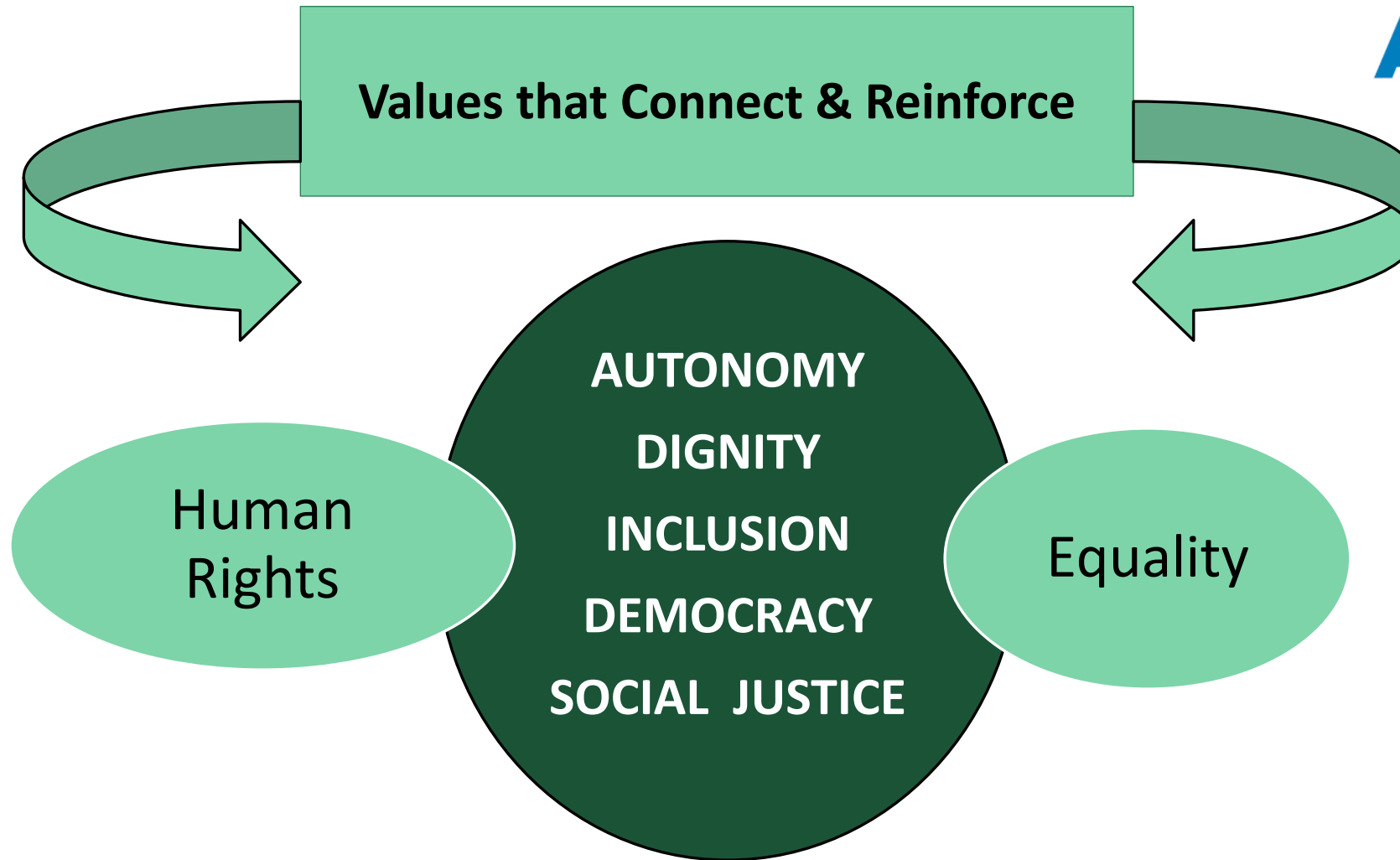
Basic standards  
Rights holders/Duty  
bearers  
Universal/Interdependent/  
Indivisible  
non-discrimination

## Equality

### Different Groups (Identity, status)

**Concepts:**

non-discrimination  
Systemic Inequality  
Diversity  
Positive action  
Equality of Opportunity  
Equality of Outcome



# Values that connect Equality & Human Rights

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- **Autonomy** choice, agency, freedom, self-determination and absence of coercion
- **Democracy** participation, voice, empowerment and accountability from those in positions of power
- **Dignity** respect, relationships of care & love, human worth, absence of inhuman & degrading treatment & discrimination
- **Inclusion** Sense of belonging & community, interdependence, collective responsibility and a value of diversity
- **Social justice** Redistribution of wealth, income, jobs and social goods and absence of privilege and entitlement



# Values in the Public Sector

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IPA research (2008):

- efficiency,
- impartiality,
- honesty,
- loyalty,
- risk-aversion,
- equity,
- hierarchy,
- integrity,
- accountability and fairness.

EQUALITY AND RIGHTS ALLIANCE

**CIVIL SOCIETY GUIDE  
TO THE  
PUBLIC SECTOR DUTY**

**EQUALITY  
& RIGHTS  
ALLIANCE**

**Draft Letter/email to trade unions representing workers in the public sector to seek their engagement with the Public Sector Duty.**

To whom it may concern

We are contacting you in relation to Public Sector Duty and how we could make links with public sector employees and their representatives to realise the potential in this new requirement on public bodies.

Section 42 of the Irish Human Rights and Equality Commission Act 2014 requires public bodies to have regard, in carrying out their functions, to the need to eliminate discrimination, promote equality of opportunity and treatment for staff and service users, and protect the human rights of *both staff and service users*. Specifically the Act requires public bodies in giving effect to this duty to:

- a "set out in a manner that is accessible to the public in its strategic plan (howsoever described) an assessment of the human rights and equality issues it believes to be relevant to the functions and purpose of the body and the policies, plans and actions in place or proposed to be put in place to address those issues, and
- b report in a manner that is accessible to the public on developments and achievements in that regard in its annual report (howsoever described)".

Government Departments (except the Department of Defence and the defence forces), local authorities, the Health Service Executive, Education and Training Boards, and public bodies established under an enactment or charter or any scheme administered by Government and financed wholly or partly by Government are covered by this duty. Public bodies, as part of their strategic plans (or similar exercise) will have to:

- Carry out an assessment of the human rights and equality issues relevant to their functions.
- Identify the policies, plans and actions they have in place, or propose to implement, to address these issues.