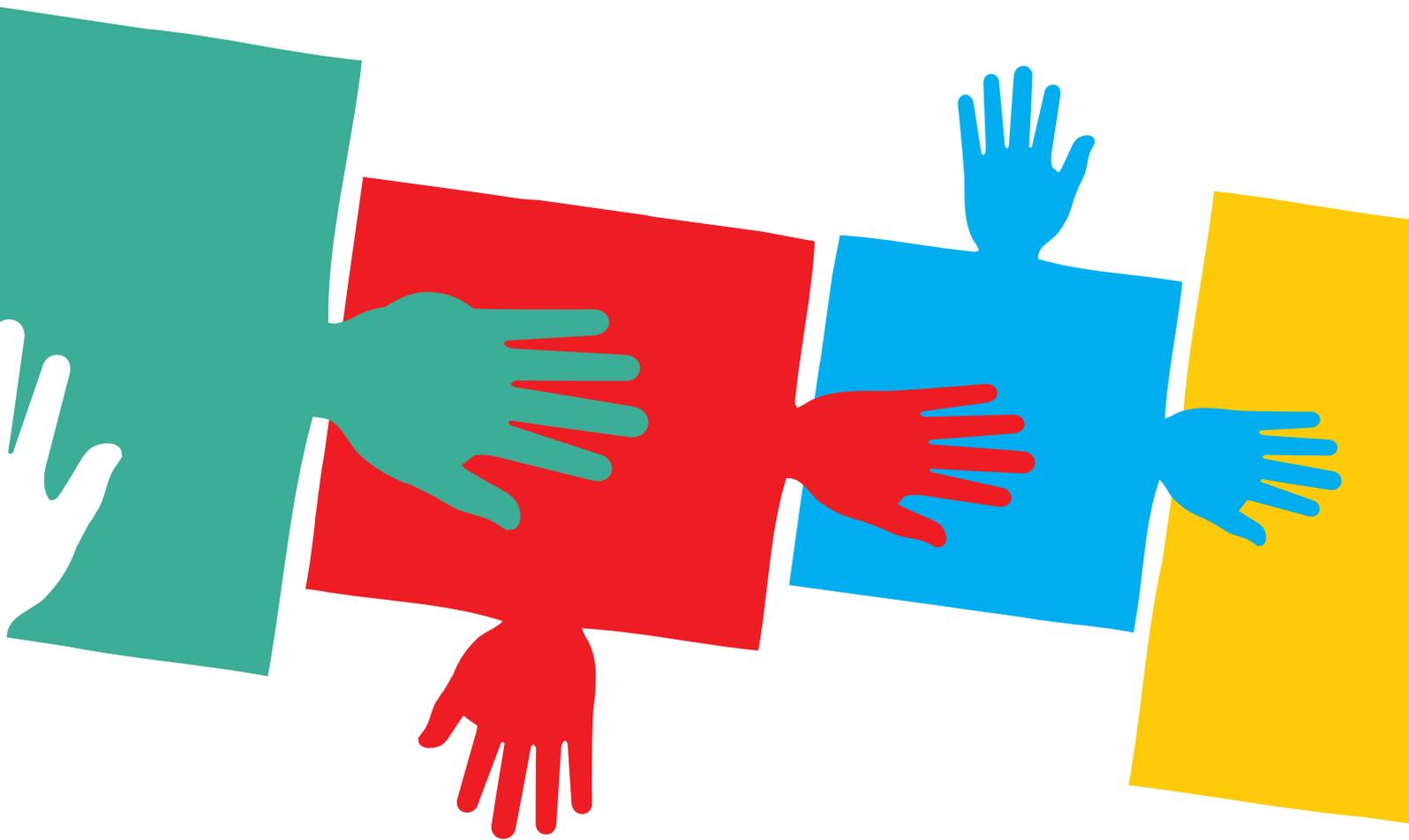




# ■ MAPPING STUDY REPORT





# MAPPING STUDY OF 3 EQUALITY BODIES:

Malta, Northern Ireland and Austria



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# CHAPTER 1: THE EQUALITY FRAMEWORK IN EUROPE

## 1.1 Introduction

The basic definition of the term equality refers to a state of being equal. This denotes that everyone has equal rights, opportunities and status (White, 2007). The European Union (2010) developed a legal framework in order to safeguard against discrimination on the grounds of gender and gender identity, sexual orientation, belief or religion, age, disability and racial or ethnic origin. This mapping exercise will focus on presenting the strategic plans of three Member States, namely Malta, Northern Ireland and Austria. It identifies several good formal and informal practices of equality bodies in these countries. In addition, this mapping exercise aims to highlight transferability of these good practices.

## 1.2 Discrimination

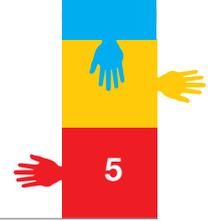
The term discrimination encompasses a number of different concepts. The following is a list of the main forms of discrimination:

- Direct discrimination – A person is treated less favourable than another in a comparable situation (Barnard, 2012)
- Indirect discrimination – a neutral provision puts an individual at a disadvantage when compared to other individuals, for no legitimate reason (Barnard, 2012)
- Instruction to discriminate – a person/s instructs other person/s to discriminate
- Victimization – a person is treated unfairly because he/she filed a complaint regarding discrimination or have helped someone in proceeding about a case of discrimination
- Harassment – a person performs undesirable behaviour that violates the dignity of the person while also creating an intimidating and demeaning atmosphere (Schindlauer, 2012)

## 1.3 United Nations Charter of Human Rights

The United Nations Charter of Human Rights (UNCH) is a landmark document in the history of human rights. It was drafted by people of different cultural and legal backgrounds from all over the world. The United Nations General Assembly in Paris presented this Declaration on 10th December 1948, as a common standard for the entire world. It contains 30 articles which protect human beings from a range of abuses (United Nations, 2014). Some of these articles are directly linked to equality, namely Articles 1, 2 and 7:

- **Article 1** All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.
- **Article 2** Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or



social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

- **Article 7** All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Thus, the basic legal framework protecting people from discrimination was already in place back in 1948. This was followed by the European Union laws and Directives that were enacted in order to strengthen the protection for all persons in Europe from anti-discrimination practices.

### 1.4 Legislative Frameworks

There are two different legislative frameworks regarding non-discrimination and equality. There is the convention falling under the jurisdiction of the Council of Europe – the European Convention of Human Rights (ECHR); and several EU Directives on non-discrimination. Additionally, the United Nations gives a comprehensive legislative framework on a global level (EQUINET, 2014).

#### EU Directives

All EU Member States have to implement the European Union legislative framework. This framework with regards to non-discrimination and equality consists of a number of Directives that tackle diverse grounds of discrimination in different spheres of life (EUROPA, 2015).

The Directives are the following:

- **Directive 2000/78/EC** against discrimination at work on grounds of religion or belief, disability, age or sexual orientation
- **Directive 2000/43/EC** against discrimination on grounds of race and ethnic origin
- **Directive 2006/54/EC** on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast)
- **Directive 2004/113/EC** implementing the principle of equal treatment between men and women in the access to and supply of goods and services
- **Directive 2010/18/EU** implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC
- **Directive 2010/41/EU** of the European Parliament and of the Council, of 7 July 2010, on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC
- **Directive 92/85/EEC** of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding
- **Directive 79/7/EEC** of the 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security

The following Directives are still at the discussion stage:

- Proposal for a Directive against discrimination based on age, disability, sexual orientation and religion or belief beyond the workplace.



- Proposal for a Directive on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures (European Commission).
- Proposal for a Directive of the European Parliament and of the Council amending Council Directive 92/85/EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding.

### The European Convention of Human Rights

The European Convention of Human Rights (ECHR) is an international agreement adopted by 47 European states, including all 27 EU Member States. This law is legally binding and each State has the responsibility to ensure its full implementation. Cases concerning potential breach of the Convention are heard before the European Court of Human Rights in Strasbourg (Koch, 2009).

Article 14 of the ECHR prohibits any discrimination in the enjoyment of the rights of the Convention on “*any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status*”. Thus, there is no general prohibition of discrimination as such but an extended prohibition of discrimination on any ground in the enjoyment of the rights of the Convention. (EQUINET, 2014)

In addition to the above-mentioned legislative framework, there are a number of other Conventions protecting minority groups in society. These are:

- Convention on the Rights of Persons with Disabilities (CRPD)
- Convention on the Elimination of all Form of Discrimination Against Women (CEDAW)
- International Covenant on Economic, Social and Cultural Rights (CESCR)
- International Covenant on Civil and Political Rights (ICCPR)
- Convention on the Rights of the Child (CRC)

## 1.5 EQUINET

EQUINET is a European network of equality bodies designed specifically to protect against discrimination and support equality. It comprises 31 member states and 41 national equality bodies. EQUINET has a vision of a more equal Europe and assists communication between equality bodies in order to foster support and capacity building. Additionally, EQUINET serves as a medium for “*legal interpretation and implementation in practice of the EU equal treatment Directives and the promotion of equality and the elimination of discrimination.*” (EQUINET, 2014)

EQUINET contributes to increasing awareness with regards to national equality bodies and enhances their ability to promote equality. It is a network that facilitates the independence and effectiveness of these equality bodies by providing a platform that “*gives a voice to... experience, expertise, learning and insights*”, thus helping equality bodies address the considerable challenges that can act as barriers to the promotion of equality. This empowers equality bodies in order to be independent and act as valuable catalysts for more equal societies (EQUINET, 2014).

Since 2007, EQUINET has been registered as an independent legal entity under Belgian law. A General Assembly of Members exists within this network, representing its highest decision-making body. The reg-

ulations established in EQUINET’s constitution ensure that members, through the General Assembly, have power over the direction of key strategic decisions. The Executive Board of EQUINET is composed of nine members who are at a senior level of national equality bodies. The board members are elected by the General Assembly and maintain their position for two years, which can be renewed twice. The board members appoint the chairperson and the treasurer.

The secretariat of EQUINET is a professionally staffed structure situated in Brussels. The secretariat is responsible for the effective implementation of its strategic plan and annual work plans. This work is developed on the basis of proposals made by the secretariat, approved by the Board for implementation. Its’ work mainly involves commissioning outside experts and supporting work done by member bodies. It also serves as a contact-point for EU institutions and other stakeholders.

During the 2014 EQUINET Annual General Meeting, a Strategic Plan for 2015 – 2018 was developed in order to guide its work for the coming four years. This Strategic Plan includes four objectives:

- Building capacity and peer support of equality bodies
- Contributing to the European equality agenda
- Serving as a knowledge and communication hub on equal treatment
- Consolidating the network and the position of its members

In order to implement these objectives, EQUINET will use a number of work- plans and tools such as seminars, conferences, training events, publications, ICT and communications, thematic clusters, research, projects, engagement (meeting and representations) and exchanges among equality bodies.

#### Members of EQUINET

COUNTRY	ORGANISATIONS THAT PROMOTE EQUAL TREATMENT
Austria	Ombud of Equal Treatment
Belgium	Interfederal Centre for Equal Opportunities Institute for the Equality of Women and Men
Bulgaria	Commission for Protection Against Discrimination
Croatia	Office of the Ombudsman Gender Equality Ombudsperson
Cyprus	Office of the Commissioner for Administration (Ombudsman)
Czech Republic	Office of the Public Defender of Rights
Denmark	Board of Equal Treatment Danish Institute for Human Rights
Estonia	Gender Equality and Equal Treatment Commissioner
Finland	Ombudsman for Equality Ombudsman for Minorities
Former Yugoslav Republic of Macedonia (FYROM)	Commission for Protection against Discrimination



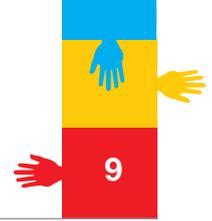
France	Defender of Rights (formerly HALDE)
Germany	Federal Anti-Discrimination Agency – FADA
Greece	Greek Ombudsman
Hungary	Equal Treatment Authority Office of the Commissioner for Fundamental Rights
Ireland	Irish Human Rights and Equality Commission
Italy	National Equality Councillor National Office against Racial Discrimination - UNAR
Latvia	Office of the Ombudsman
Lithuania	Office of the Equal Opportunities Ombudsperson
Luxembourg	Centre for Equal Treatment
Malta	National Commission for Persons with Disability – NCPD National Commission for the Promotion of Equality – NCPE
Netherlands	Netherlands Institute for Human Rights (formerly Equal Treatment Commission)
Norway	Equality and Anti-Discrimination Ombud – LDO
Poland	Human Rights Defender
Portugal	High Commission for Migration Commission for Citizenship and Gender Equality – CIG Commission for Equality in Labour and Employment – CITE
Romania	National Council for Combating Discrimination – CNCD
Serbia	Commissioner for the Protection of Equality National Centre for Human Rights
Slovenia	Advocate of the Principle of Equality
Spain	Council for the Elimination of Ethnic or Racial Discrimination
Sweden	Equality Ombudsman
United Kingdom	Great Britain – Equality and Human rights Commission (EHRC) Northern Ireland – Equality Commission for Northern Ireland (ECNI)

### 1.6 Focus on Three Member States - Northern Ireland, Austria and Malta

The three equality bodies that will be presented in this study – Northern Ireland, Austria and Malta - are predominantly promotion-type and legal support bodies. According to a European Commission study on Equality Bodies, predominantly promotion-type equality bodies “spend the bulk of their time and resources on a broader mix of activities that include supporting good practice in organisations, raising awareness of rights, developing a knowledge base on equality and non-discrimination, and providing legal advice and assistance to individual victims of discrimination” (EC study as cited by EQUINET, pg. 44).

Equality Commission for Northern Ireland – United Kingdom

The Equality Commission for Northern Ireland (ECNI) remit “is to promote equality of opportunity and affirmative action, work towards the elimination of unlawful discrimination, keep relevant legislation under



*review, promote good relations between persons of different racial groups and oversee the effectiveness of statutory duties on public authorities”* (EQUINET, 2014). The Equality Commission for Northern Ireland covers the grounds of gender, race and ethnic origin, disability, sexual orientation, religion and belief, and political opinion in employment, education, housing, social protection and goods and services. It also covers the ground of age in employment, education and housing.

With regards to legal action, ECNI can:

- Represent in front of courts
- Bring proceedings in its own name
- Intervene before the court
- Intervene as *amicus curiae*

Ombud for Equal Treatment – Austria

The Austrian Ombud for Equal Treatment is made up of three components. These are:

- Ombud for Equal Treatment between women and men in employment and occupation
- Ombud for Equal Treatment irrespective of Ethnic Origin, Religion or Belief, Age or Sexual Orientation in Employment and Occupation
- Ombud for Equal Treatment irrespective of Ethnic Origin and Gender in other areas

The Ombud for Equal Treatment covers the ground of gender in employment, housing and goods and services; the ground of race and ethnic origin in employment, education, housing, social protection and goods and services; and the grounds of age, sexual orientation and religion and belief in employment.

With regards to legal action, the Ombud for Equal Treatment can:

- Intervene before the court
- Formally decide on complaints – *not legally binding*
- Representation in front of Equal Treatment Commission

National Commission for the Promotion of Equality – Malta

The National Commission for the Promotion of Equality (NCPE) works towards the promotion of equality and non-discrimination on the grounds of *“gender and family responsibilities, sexual orientation, age, religion/belief, race/ethnic origin and gender identity, gender expression and sex characteristics by raising awareness; monitoring national laws and EU Directives; implementing policies; networking with different stakeholders; investigating complaints and providing assistance to the general public.”* (EQUINET, 2014)

## **1.7 Conclusion**

The following chapters will provide in-depth information about the equality bodies of Northern Ireland, Austria and Malta. Chapter 2 offers an overview of the Maltese National Commission for the Promotion of Equality. Chapter 3 and Chapter 4 analyses the Equality Commission for Northern Ireland and the Austrian Ombud for Equal Treatment, respectively. Chapter 5 describes the good practices identified in the three Member States. In conclusion, Chapter 6 outlines practices that can be transferred from one country to the other.



## CHAPTER 2: MALTA

### 2.1 Introduction

This Chapter will look at the structure and remit of the National Commission for the Promotion of Equality (NCPE) – the Maltese equality body. A general overview will be presented and the legal basis and framework for this equality body will be discussed in some detail. Different working processes will also be identified and effective strategic decisions will be explained and analysed.

### 2.2 NCPE – A General Overview

NCPE was established by Chapter 456 of the Maltese legislation in 2003. This law protects against discrimination on the grounds of gender and family responsibilities, race or ethnic origin, religion or belief, age, sexual orientation and gender identity, gender expression and sex characteristics, in education, employment, and banks/financial institutions<sup>1</sup>.

NCPE's functions emanating from this legislation are:

- (a) To identify, establish and update all policies directly or indirectly related to issues of equality and non-discrimination on the grounds within its remit
- (b) To identify the needs of persons who are disadvantaged by reasons of characteristics covered by the equality law and to take such steps within its power and to propose appropriate measures in order to cater for such needs in the widest manner possible;
- (c) To monitor the implementation of national policies with respect to the promotion of equality;
- (d) To liaise between, and ensure the necessary coordination between, government departments and other agencies in the implementation of measures, services or initiatives proposed by Government or the Commission from time to time;
- (e) To keep direct and continuous contact with local and foreign bodies working in the field of equality issues, and with other groups, agencies or individuals as the need arises;
- (f) To work towards the elimination of discrimination;
- (g) To carry out general and independent investigations with a view to determine whether the provisions on equality and non-discrimination are being complied with;
- (h) To independently investigate complaints of a more particular or individual character to determine whether the provisions of the Act covering equality are being contravened with respect to the complainant and, where deemed appropriate, to mediate with regard to such complaints;

<sup>1</sup>Disability is not covered by the NCPE since a separate entity, the National Commission Persons with Disability, is responsible for this ground as outlined by the Equality Opportunities Act

- (i) To inquire into and advise or make determinations in an independent manner on any matter relating to equality may be referred to it by the Minister;
- (j) To provide independent assistance, where and as appropriate, to persons suffering from discrimination in enforcing their rights under Maltese equality legislation;
- (k) To keep under review the working of equality legislation, and where deemed required, at the request of the Minister or otherwise, submit proposals for its amendment or substitution;
- (l) To perform such other functions as may be assigned by law or such other functions as may be assigned by the Minister

NCPE aims to achieve a more equal society where every individual has the opportunity to accomplish his or her full potential. NCPE works towards achieving this objective by raising awareness on discrimination and equality as well as by monitoring EU Directives and national laws and policies. It has the faculty to investigate cases of discrimination and facilitates the lodging of complaints by providing support and assistance to the general public. Moreover, NCPE keeps direct and continuous contact with different stakeholders to create and maintain a positive networking relationship.

### 2.3 EU Co-Funded Projects

NCPE has obtained European Union co-financing as part of the ESF, EQUAL and PROGRESS funds for a number of projects aimed at raising-awareness and carrying-out research concerning equality and strategies to eliminate discrimination. Outputs of these projects are of long-term use to NCPE. In some cases, such as that of the Equality Mark Certification<sup>2</sup>, a project becomes part of NCPE's core work and is continued beyond the EU co-financing period. A few of the most recent and successful projects implemented by NCPE are:

#### Voice for All

The aim of this project was to empower participants to challenge the learning and thinking processes which give rise to discrimination on the basis of race and ethnic origin, sexual orientation, gender, age, religion and disability as well as double and/or multiple discrimination. Training, awareness-raising events and research were the main components of the project. These initiatives:

- Encouraged the endorsement of diversity, by providing information, space and time for participants to think about discrimination and the six grounds of discrimination.
- Activated cooperation and promoted dialogue to enable participants to adopt an outlook which is based on awareness and understanding.

<sup>2</sup>The Equality Mark is a certification given to those companies and organisations that put the values of equality at the heart of their company or organisation. The Equality Mark will be further discussed in Chapter 5.



## Strengthening Equality Beyond Legislation

This project was designed to sensitise and stimulate specific action by stakeholders as their contribution towards de facto equality. This initiative was based on six grounds of discrimination: gender (which was treated horizontally throughout), age, disability<sup>3</sup>, sexual orientation, race and ethnicity, religion/belief. It aimed for

- A better implementation of legislation on non-discrimination;
- Development of a national policy to combat discrimination and promote equality beyond legislation;
- The fostering and dissemination of information on EU and national policies and legislation in the non-discrimination field.

As part of the initiative, research on under-reporting was conducted and the National Minimum Curriculum for schools was reviewed from an equality perspective. Moreover, a pilot study on the preferred media of minorities in Malta was carried out.

## I'm Not Racist, But...

This project was aimed at combating racial discrimination by:

- Developing a clear understanding of the situation of ethnic minorities and housing
- Empowering respective stakeholders to prevent discrimination in this area
- Empowering the African minority to get their voice heard, to advocate for their rights and to report discrimination; and
- Raise awareness on racial discrimination and promoting cultural diversity

As part of the initiative, research on immigrant/ethnic minority groups and housing and accommodation was carried out. Training was delivered to minority ethnic groups on lobbying and advocacy, empowerment, rights and remedies. An Anti-Racism Theme Day was also organised and visual material against racism was developed and distributed.

## Gender Balance in Decision-Making

This initiative is intended to facilitate, through knowledge and specific action, gender-balanced representation in decision-making. The aim of the project is:

- To increase the number of women in decision-making positions;
- To empower and enable women to take up decision-making positions; and
- To tangibly support and advise policy makers on gender-balance in decision-making

As part of this initiative, a Directory of Professional Women is being developed and research focusing on gender-balanced representation in boardrooms of both the public and private sectors is being con-

<sup>3</sup>The project was implemented in collaboration with the National Commission Persons with Disability

ducted. The project also includes a mentoring programme where professionals having experience in a decision-making position encourage, guide, support and motivate women who wish to advance in their careers.

## 2.4 Equality Legislation

Chapter 456, *The Equality for Men and Women Act*, covers discrimination in employment, education and banks/financial institutions. No person can be discriminated against on the grounds of gender or family responsibilities, sexual orientation, age, religion or belief, racial or ethnic origin and gender identity, gender expression and sex characteristics. Moreover, Legal Notice 85 of 2007, *Equality Treatment of Persons Order*, and Legal Notice 181 of 2008, *Access to Goods and Services and Their Supply (Equal Treatment) Regulations*, prohibit discrimination in the access to and provision of goods and services on the grounds of race/ethnic origin and gender, respectively.

Sexual harassment is a prohibited form of gender discrimination which is essentially defined as ‘unwelcome sexual conduct’ and is unlawful under the Equality for Men and Women Act, 2003 (Cap 456) and under The Employment and Industrial Relations Act, 2002 (Cap 452). The Commission Recommendation of 27 November 1991 on the protection of the dignity of men and women at work (92/131/EEC) defines sexual harassment as ‘conduct of a sexual nature, or conduct based on sex affecting the dignity of women and men at work...’. It may take many different forms such as physical acts, words or gestures, and display of sexually offensive material (NCPE, 2005). Persons responsible for any entity or establishment are legally bound to take whatever precaution necessary to prevent sexual harassment.

### **The Act also addresses a number of specific issues and areas:**

- With regards to employment vacancies and recruitment, Chapter 456 states that it is unlawful for persons to publish or display, or cause to be published or displayed, any advertisement or to advertise a vacancy for employment which discriminates between job seekers or to request from job seekers information concerning their private life or family plans or which promotes discrimination. Advertising includes disseminating information about the vacancy by word of mouth.
- It specifies that spouses of self-employed workers which help out their partners by participating in the work activities of their self-employed partners are entitled to receive from their partners a fair compensation for their work to value their contribution.
- Not granting any person any facility in respect of the establishment by a bank or financial institution or insurance company is also unlawful, unless the bank/financial institution or insurance company reflect genuine considerations based on the financial risk in the grant of such facilities or of such insurance cover.
- It is unlawful for any educational or vocational institution to discriminate against any person in:
  - The access to any course, vocational training or guidance; or
  - The award of educational support for students or trainees; or
  - In the selection and implementation of their curricula; or
  - In the assessment of the skills or knowledge of the students or trainees



It is the duty of educational establishments and entities providing vocational training, within the limits of their competence to ensure that curricula and textbooks do not propagate discrimination.

In relation to access to and provision of goods and services, NCPE covers non-discrimination based on race/ethnic origin and gender as outlined in Legal Notice 85 of 2007 and Legal Notice 181 of 2008.

By virtue of these Legal Notices, NCPE has the mandate to ensure that no person, establishment or entity, whether in the private or public sector, discriminates against any other person in relation to:

- Social protection, including social security and healthcare
- Social advantages
- Access to and supply of goods and services which are available to public, including housing
- Access to any other service

## 2.5 Complaints and Investigations

The Commissioner is empowered to (i) provide information to victims of discrimination (ii) assist victims of discrimination in seeking redress (iii) provide information to employers and service providers (iv) assist employers and service providers to ensure compliance with the law (v) assist in in-house training.

The Commissioner may initiate an investigation on the receipt of a complaint by persons who claim to be the victims of an act or omission contrary to the provisions of this Act. Complaints put forward to NCPE must be in writing. NCPE provides a complaints form (in English and in Maltese) and this can be collected from NCPE's offices or downloaded from NCPE's official website. The filled complaints form is to be sent by email or by post.

The Commissioner may offer assistance to those persons who wish to formulate a complaint, such as if the complainant is unable to read or write, or has some questions concerning the form. This is done in the presence of a witness, to ensure an accurate record of the facts stated by the complainant. Complainants are encouraged to provide all relevant documentation they may possess in order to support their claim. Once an individual files a complaint, an investigation will only be initiated with the individual's permission. Each complaint is acknowledged within one working day from receipt and a case file is opened containing all relevant documentation.

After carrying out an investigation, the Commissioner may dismiss the complaint or find that the allegation has been proved. The Commissioner refers its opinion to the Commissioner of Police in those cases where breach of equality legislation potentially constitutes a criminal offence. If the complaint does not constitute an offence, the Commissioner may try to mediate between the parties. In the opinion issued, the Commissioner gives recommendations to redress the discriminatory situation.

The Commissioner may require any person to give information during its investigation. Any person who does not comply may face legal action against him/her. The Commissioner may also refer the matter of the complaint to the civil court or the Industrial Tribunal for redress. Both the complainant and the alleged harasser are urged to provide a list of witnesses to further support their case.

Any person who allegedly suffered discrimination shall have a right of action before the competent court of civil jurisdiction requesting the court to order the defendant to desist from such unlawful acts and, where applicable, to order payment of compensation for such damage suffered through such an unlawful act.

### Burden of Proof

Once the complainant establishes a prima facie case of discrimination/harassment, the defendant is then responsible for proving that no discrimination/harassment has occurred.

## 2.6 Commission Members of NCPE

The National Commission for the Promotion of Equality is composed of a Chairperson, also known as the Commissioner; and six other members, at least three of whom are women. These members are appointed by the Prime Minister and every member of the Commission holds the office for a period of 2 years and may be re-appointed.

The Commissioner may appoint any one or more of its members to appear on its behalf in any judicial proceedings. The Commission is administered by an Executive Director, who acts in accordance with the policies established by the Commission.

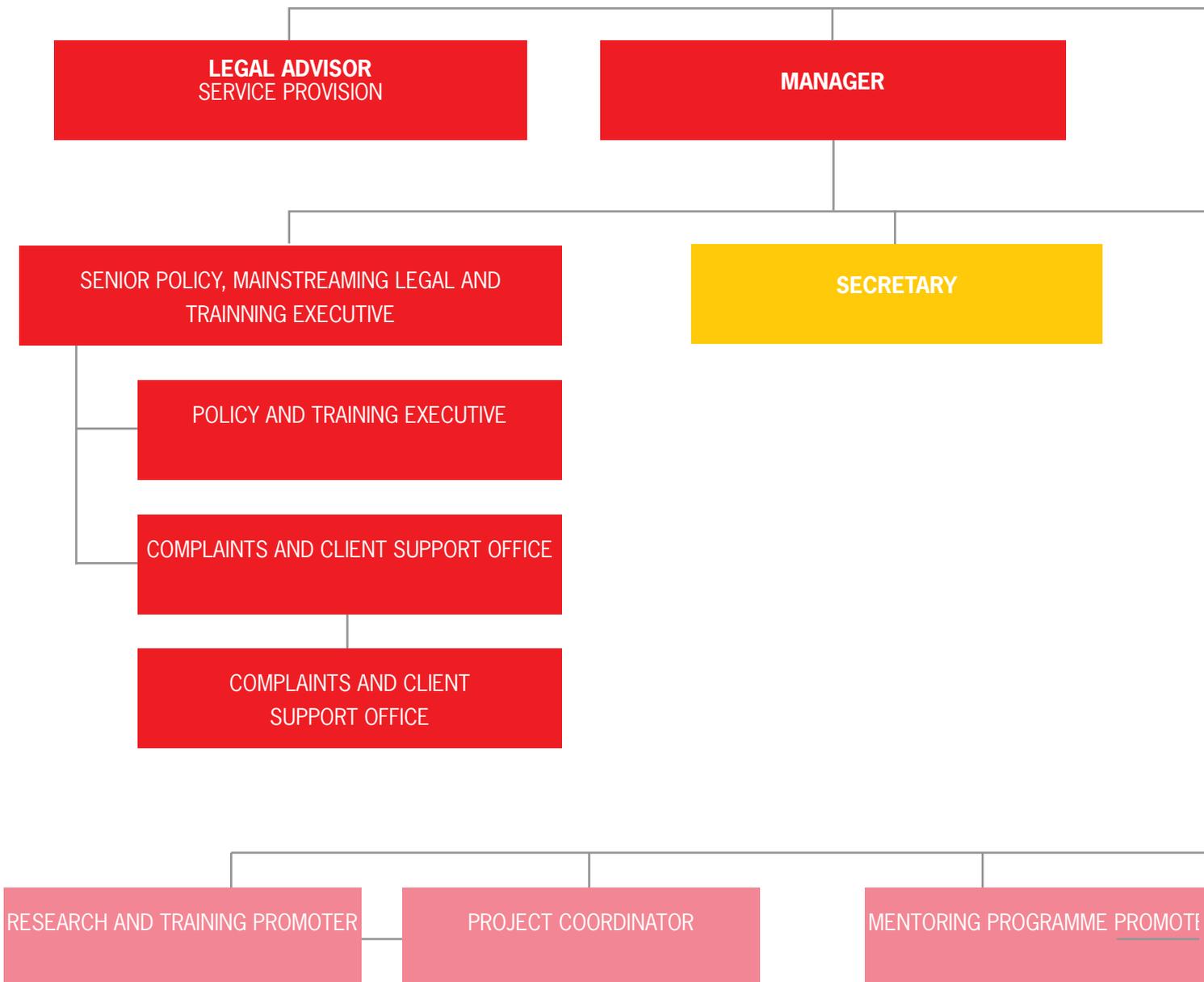
## 2.7 Funds

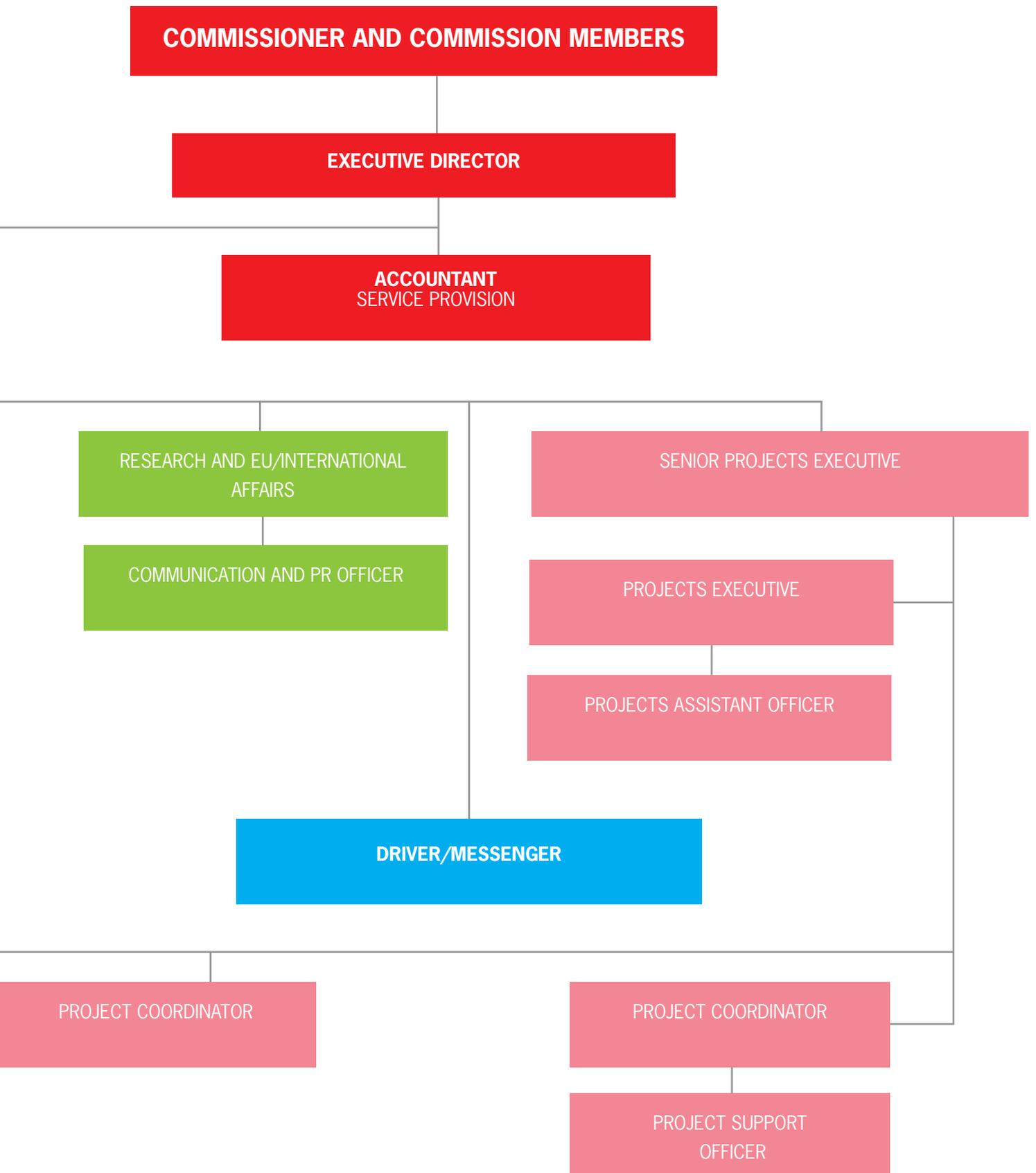
The Minister for Social Dialogue, Consumer Affairs and Civil Liberties allocates funds for the Commission, that are then approved by Parliament. The Commission has to submit a business plan to the Minister for Social Dialogue, Consumer Affairs and Civil Liberties which includes a financial plan covering the proposed activities of the Commission during the following financial year. This business and financial plan has to be submitted at least 2 months prior to the end of its financial year. The Minister for Social Dialogue, Consumer Affairs and Civil Liberties, as well as the Minister of Finance, need to approve the business plan and the budget of the Commission.

The Commission has to keep proper accounts of its income and expenditure and has to prepare and send all statements of accounts in relation to each of its financial years to the Minister for Social Dialogue, Consumer Affairs and Civil Liberties. The accounts of the Commission are audited by an auditor appointed by it with the approval of the Minister for Social Dialogue, Consumer Affairs and Civil Liberties. Furthermore, after the end of every year, and not later than 31<sup>st</sup> March of the following year, the Commissioner has to submit an Annual Report of its activities to the Minister. The report includes a general overview of developments during the period to which it relates, with respect to matters falling within the functions of the Commission. It also includes a report on the activities, initiatives, investigations and proposals undertaken to address discrimination and to promote equality.

## 2.8 NCPE Organisation Chart

The following is an Organisation Chart of NCPE's in 2015







## CHAPTER 3: NORTHERN IRELAND

### 3.1 Introduction

The Equality Commission for Northern Ireland (ECNI) is a non-departmental public body and was established by the Northern Ireland Act 1998<sup>4</sup>. The ECNI became an independent public body on 1st October 1999. This equality body provides protection against discrimination on the grounds of age, disability, race, religion, political opinion, sex and sexual orientation. The Northern Ireland Act of 1998 also mandates certain responsibilities to the Commission with regards to duties that are specific to public authorities. This Commission is predominantly promotion-type and a legal support body.

The Commission replaced four separate bodies: the Fair Employment Commission, the Equal Opportunities Commission, the Commission for Racial Equality and the Disability Council.

The Equality Commission for Northern Ireland's mission is to improve people's lives by providing a society that offers fairness and equality for all by improving equality of opportunity for everyone. In doing so, it contributes to the creation and maintenance of a more equal society. This is sought through the responsible and effective use of the Commission's powers. Moreover, the Commission aims to achieve change, particularly in relation to the situation and experience of disadvantaged groups and individuals (NI website & EQUINET website).

### 3.2 Legal Framework

The Commission is committed to challenge discrimination and use its legal assistance powers strategically to affect positive change. The main pieces of legislation from which the Commission derives its duties and powers are:

- Equal Pay Act (NI) 1970, as amended
- Sex Discrimination (NI) Order 1976, as amended
- Disability Discrimination Act 1995, as amended
- Race Relations (NI) Order 1997, as amended
- Fair Employment and Treatment (NI) Order 1998, as amended
- Northern Ireland Act 1998 Equality (Disability, etc.) (NI) Order 2000
- Employment Equality (Sexual Orientation) Regulations (NI) 2003, as amended

<sup>4</sup>Section 73 and 74 and Schedule 8

- Special Educational Needs and Disability (NI) Order 2005, as amended
- Disability Discrimination (NI) Order 2006
- Employment Equality (Age) Regulations (NI) 2006, as amended
- Equality Act (Sexual Orientation) Regulations (NI) 2006, as amended

Advice and assistance to individuals who are prospective complainants or claimants may be granted by the Equality Commission for Northern Ireland under the provisions of legislation falling under its remit.

## Responsibilities

The Equality Commission for Northern Ireland has certain responsibilities that are mandated by law. These responsibilities include:

- Promoting equality of opportunity and affirmative action
- Work towards the elimination of unlawful discrimination and harassment
- Keep relevant legislation under review
- Promote good relations between persons of different racial groups and good practices in relation to disability
- Oversee the effectiveness of statutory equality duties on public entities

This statutory framework enables the Commission to:

- Promote equality through a range of mechanisms (e.g. by providing direct advice and support to individuals and organisations)
- Produce publications and run conferences and seminars
- Undertake research and educational activities
- Influence policy makers
- Assist individuals with complaints of discrimination under the law
- Undertake investigations
- Encourage and enforce changes to policy, practices and procedures in favour of greater equality

## Services

ECNI offers a range of services related to equality and non-discrimination. These include:

- Giving advice and support to individuals with potential complaints under the anti-discrimination legislation
- Providing guidance to employers and service providers about their obligations under the law and promoting good practices
- Encourage public authorities to promote equality of opportunity and address inequalities in fulfilling their equality and good relations duties
- Ensuring that equality considerations are central to decision-making by focusing particular attention on a number of key public policy areas.

- Provision of information acceding to individual requests under the FOI (Freedom of Information) legislation
- The Employment Training Programme, which runs throughout the year and covers the full range of equality areas requested by employers. The Commission covers topics like employment, equal pay, and non-discrimination in the provision of goods, facilities and services.

### 3.3 Structure

The Equality Commission for Northern Ireland is led by a distinct board. It consists of a Chief Commissioner, a deputy Chief Commissioner and up to 18 other Commissioners all appointed by the Secretary of State for Northern Ireland. The Secretary of the State is required to ensure that the Commissioners are representative of the community of Northern Ireland, if practicable. Commissioners establish the overall direction for the organisation, set the policy framework and oversee the delivery of planned results against objectives and targets. The Commission appoints the Chief Executive to lead the staff team to achieve the organisation’s objectives. The staff compliment of the Commission is currently a full-time equivalent of 96 people.

#### Organisation Chart



#### Core Divisions

Equality Commission’s senior management team is led by Chief Executive. There are four core divisions.

*Advice and Compliance:* This division provides advice and compliance support, training and guidance to employers and service providers on all aspects of their equality obligations, including codes of practice and best practice. It also oversees the effectiveness of equality and good relations duties and disability duties on public authorities.

*Legal, Policy and Research:* This division focuses on public policy, research and evaluation, along with legal casework and formal investigations. It provides public policy recommendations, including equality law reform, and an evidence based approach to policy development and delivery.

*Communications and Promotion:* The Communications and Promotion Division is responsible for stakeholder engagement, media relations, public engagement, and campaigns and marketing.

*Corporate Services:* This division plays an overarching organisational support role for the Commission, supporting and enabling the other divisions in their outward facing service delivery. The division is responsible for corporate governance, strategic planning, business efficiency and shared services

### **3.4 Funds and Accountability**

For the financial year 2011 – 2012, the Commission's budget comprised of £6.8million of grant-in-aid from its sponsor Department, the Office of the First Minister and Deputy First Minister.

The Commission's sponsor department in the Northern Ireland Executive is the Office of the First and Deputy First Minister. In general terms, the sponsor department is responsible for negotiating the resources allocated to the Commission and it is accountable to the Northern Ireland Assembly for the activities and performance of the Commission.

### **3.5 Complaints**

ECNI provides information and guidance on request for all discrimination complaints. Additionally, ECNI offers free legal assistance including representation at tribunal (although this occurs only in a limited number of cases). The Commission will not proceed further with an enquiry without the expressed permission of the complainant.

The policy on the provision of legal advice and assistance appears on ECNI website and is accessible to everyone. Moreover, one can contact the Commission regarding a complaint by contacting a Discrimination Advice Officer who will offer free and confidential information and guidance. The Commission encourages persons to first raise their complaint directly with the employer in question and seek a resolution. If a resolution is not reached and the complainant wishes to take the case further, the Commission will provide him/her with legal representation. It is advised to lodge the complaint of discrimination with the tribunal. Only the tribunal can decide on whether the complainant experienced unlawful discrimination. The tribunal is separate and independent from the Equality Commission.

Alternatively, one can also contact the Commission by email or by using their online form. Similarly, a Discrimination Advice Officer offers guidance through the process of filing a complaint. Interpretation services are also provided.

It is important to note that there are strict time limits for taking a case of discrimination in Northern Ireland. Complaints on employment issues must be made to the Tribunal within 3 months of the alleged discriminatory act and complaints on service provision must be made to the Country Court within 6 months.

## The Complaints Procedure



### 3.6 Communication

The corporate communications strategy of the Equality Commission for Northern Ireland aims at assisting the Commission to achieve its vision of fairness and equality for all. The current Corporate Plan for ECNI has four strategic priorities:

- To address key inequalities,
- To extend equality practice in workplaces and in the provision of goods and services,
- To challenge discrimination, and
- To deliver effective and efficient services.

The Communications strategy assists the delivery of the above-mentioned priorities. Additionally, the communication strategy also aids to anticipate the communication needs of the next corporate plan period, which will see the establishment of the Equality and Good Relations Commission.

The Communications strategy sets out a corporate communications framework which includes: guiding principles; key objectives; audience classification and prioritisations; thematic message; and evaluation.

Furthermore, the communications strategy aspires to support the effective delivery of the above-mentioned responsibilities. These are also reflected in the priorities and actions set out in the Corporate Plan. The communications framework will help the Commission to be more anticipatory, responsive and adaptive in its messaging and use of channels to meet the needs of its diverse audiences.

Over the current and previous corporate plan periods, the Commission has considered and adopted a number of key communication principles. Following feedback from Commissioners in September 2013, these principles have been updated to increase their relevance and dynamic quality to ensure that:

- The communication processes are two-way
- Evidence-based insights guide the planning of ECNI
- Activities reflect the needs of the Commission's audiences
- ECNI's work is evaluated in order to be able to improve their strategies

The positioning of the Commission and its work with its diverse stakeholders base is a complex task. Four corporate communication objectives have been developed with a view to being flexible enough to support the delivery of the four strategic Corporate Plan priority areas. The following objectives enable a stretch of the communications ambition and aim at creating an improved return on investment. The following objectives are adopted:

- Build understanding of equality of opportunity and good relations, with identified audiences
- Increase the take-up and recommendation of Commission services with identified audiences
- Increase influence of Commission positions, with identified audiences
- Encourage positive perceptions of the Commission with identified audiences

These objectives will be used to form the basis of the evaluation framework at both a strategic and project-based level.

The Commission has a complex audience-base and engages with its stakeholders in different ways. The classification of audiences is based on an analysis of the current corporate and business plan and is informed by the range of research and evidence bases previously outlined. It does not represent an exhaustive list and it is updated as business needs change and new groups are identified. This grouping includes those audiences who have been identified as vital in securing organisational goals. These tend to receive very regular, tailored communications, reflecting their needs and for whom there are established two-way communication channels.

Identified key audiences include:

- Internal - Staff, Commissioners,
- Political - Ministers, party leaders and equality spokespersons, advisers, Assembly committees
- Senior level staff/board in public sector bodies/civil service
- Media (offline and online);
- Advice networks (including legal practitioners),
- Larger employers and service providers, unions and representative organisations
- Opinion formers and commentators

On the whole, these are organisations and individuals that have been identified as essential to the achievement of a corporate objective, at a point in time. They are not audiences that have a direct and continuous relationship with the Commission and who may not feel that they wish to have one. ECNI is aware that

greater effort to understand and meet their needs is required, as well as, at times, the need to establish a new communications channel for them. This may include designed marketing activities, including advertising.

As effective communication channels and relationships are established, there may be opportunities to convert a target audience to a key audience, if this is of strategic interest. The target audiences for the short to medium term, as indicated by the Corporate Plan and an analysis of Commission surveys and uptake of Commission services, are:

- Individuals who may be in need of the Commission's services - with the prioritisation of the following – those from lower socio-economic groupings; those who are black and part of an ethnic minority, including migrant workers; those who are older; those who are transgender, lesbian, gay and bisexual; people with a disability, with a focus on mental health.
- Representative organisations, which can extend the reach to the above groups, particularly those who provide advice and support networks for e.g. political representatives, church, community and voluntary groups.
- Small and medium-sized businesses (employers and service providers)
- Those who are interested in the Commission's work and may be advocates, including younger people, academics and researchers

## External Communications

The Communications Team has a series of targets to meet on a monthly and quarterly basis. These include:

- Publicising two legal cases of individuals who have experienced discrimination which the Commission has supported to Tribunal in each annual quarter. The details and outcomes of these cases are publicised across all media platforms including print, broadcast and social media.
- Writing a platform piece for the Chief Executive for a local newspaper once a month
- Writing, scheduling and issuing a minimum of 6 tweets about the Commission daily from its corporate account – these tweets cover a wide range of work of the Commission and provide links back to the Commission's website.
- The Commission receives media enquiries from a range of journalists covering a breadth and depth of topics within its equality remit. The Communications Team aims to answer all these enquiries within the deadline provided by the journalist.
- The Communications Team is tasked with identifying opportunities to write articles of interest covering its work and remit for a range of communications channels including: newspapers, websites, Ezines and blogs.
- The Chief Commissioner writes a personal 'Blog' which covers a range of topical issues and is available from the Commission's website and is tweeted by the communications team.
- Ezines – the Commission produces a number of Ezines for a range of audiences. A corporate Ezine is issued to a range of stakeholders who have signed up to receive this e-newsletter, in addition the Commission issues a specific Ezine to Northern Ireland's elected politicians and their parties and another version to Employers with articles and information specific to their needs.
- Website – the Commission has invested considerable time and resources in its website. The website is structured to support the needs of individuals, businesses and has a dedicated section to detail and present the Commission's policy positions and research findings etc.

- Other social media – the Commission runs a number of Twitter accounts to ensure its key messages and updates on its work are channelled to all of its followers via social media.

In addition to the communications outlined above the Commission attends a range of outreach events. At these events various personnel from the Commission will give speeches or facilitate workshops to assist and empower others with our expertise in the equality field.

### Internal Communications

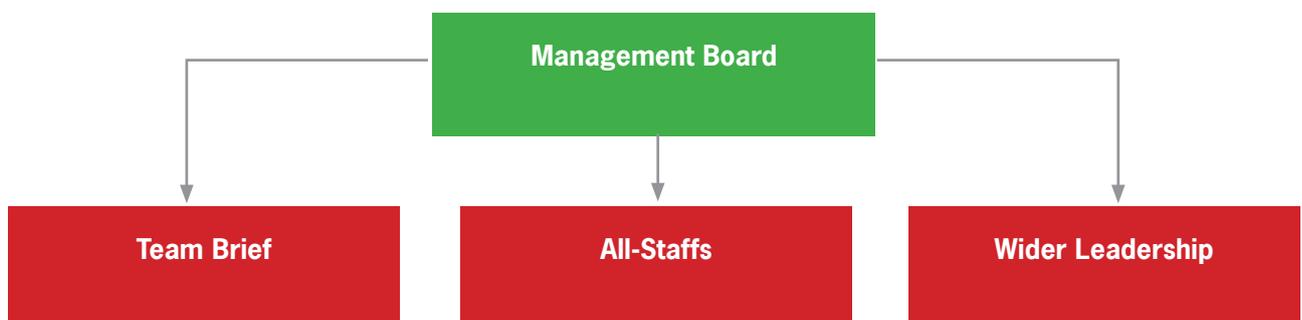
The Commission has an internal communications framework designed to aid the delivery of the business plan by: helping to build organisational capacity, keeping people well-informed, encouraging constructive dialogue and debate, building relationships and motivating staff by engaging, involving and empowering.

Its dedicated purpose is to:

- Deliver a simple, appropriate, effective and timely internal communications process
- To maximize the efficiency and impact of new and existing communication vehicles
- Support communication skills of leaders/managers
- To promote and support the Commission’s values of independence, challenge, excellence, co-operation, transparency, accountability, integrity, inclusivity, accessibility and learning.

### Communication Channels

The strategic framework is aimed at keeping communications simple and accessible and focuses on three face-to-face forums. The first is the Team Brief, which forms the cornerstone of the Internal Communications activity. The second is the further development of All-Staffs to provide a forum for sharing information, dialogue and debate. The final platform is a Wider Leadership Group, which is composed of all managers in the Commission.



The framework is supported by a series of low impact channels that are vital for the flow of information including: Intranet, All-Staff emails and posters. Other communication channels, including team building and away-day events, are not formally part of the framework but are recognized as useful vehicles for a tailored communications campaign.



## CHAPTER 4: AUSTRIA

### 4.1 Introduction

The Austrian Ombud for Equal Treatment (AOET) is a predominantly promotion-type and legal support body. *The Equal Treatment Act*<sup>5</sup>, enacted on 1<sup>st</sup> January 1991, paved the way for the formation of a national equality body. The legal basis of AOET was established in 2004, based on the *Equal Treatment Act and Act relating to the Ombud for Equal Treatment and the Equal Treatment Commission*<sup>6</sup>. The AOET is a government agency. It is an independent agency with regard to legal competences within the Federal Chancellery.

The AOET covers the grounds of gender and race/ethnic origin in the fields of employment, education, goods and services and housing. It covers the grounds of age, sexual orientation and religion/belief in the field of employment.

AOET's powers as outlined in the relevant legislation include the power to intervene before the court; formally deciding on complaints in a non-legally binding manner; and represent persons in front of Equal Treatment Commission.

### 4.2 Composition

The Austrian Ombud for Equal Treatment is an organisation set up at the federal government level to enforce the right to equal treatment and full equality between women and men. The Austrian national equality body encompasses the following bodies, reflecting the different grounds of discrimination covered by it:

- The Ombud for gender equality in employment
- The Ombud for equal treatment on the ground of ethnic belonging, religion or belief, age and sexual orientation in employment
- The Ombud for ethnic equality in goods and services
- The Regional Ombuds for gender equality in employment
- The deputies to the above
- The staff members of the above

<sup>5</sup>BGBl Nr. 410/1990

<sup>6</sup>BGBl. Nr. 98/2008

### 4.3 Activities

The Austrian Ombud for Equal Treatment (AOET) is responsible for the following activities:

- Promotional activities aimed at duty bearers (by way of training/guidance material)
- Promotional activities aimed at potential victims (training/awareness raising)
- Communication activities
- Publications and research projects
- Inquiries/complaints lodged and investigation of cases

The Ombud for Equal Treatment in Austria offers protection against discrimination, by appointing Regional Ombuds that are responsible for particular sections of the Equal Treatment Act. The Austrian government ensures adequate resources and equipment.

The main tasks of the Ombud for Equal Treatment in Austria (AOET) are:

- Counseling and support services to persons feeling discriminated against within the meaning of the Equal Treatment Act
- Conducting independent investigations into matters of discrimination
- Presenting cases in front of the Equal Treatment Commission
- Publishing independent reports
- Reporting to the National Assembly every second year
- Providing recommendations on issues regarding discrimination.
- Clearing function - In case of requests that are not within the scope of the Ombud legal competences, clients are given the information about institutions with competences to support them.
- Providing information in the form of lectures, workshops and seminars about equal treatment issues

### 4.4 Areas of Discrimination

Legislative frameworks

The Federal Equal Treatment Act defines the legal basis on for the AOET. The Act prohibits discrimination on five grounds in employment and occupation:

- Sex/Gender
  - The German expression “Geschlecht”, (the term used in the Equal Treatment Act) includes ‘sex’ and ‘gender’. Protection against discrimination on grounds of “Geschlecht” also comprises ‘gender identity’. Therefore, discrimination against Transgender and Intersex persons is prohibited by the Equal Treatment Act
- Ethnicity
- Religion or belief.
- Age
- Sexual orientation



Discrimination on two grounds is prohibited in areas beyond employment and occupation:

- Ethnicity
- Sex/gender

The Federal Act on the Equal Treatment Commission and the Ombud for Equal Treatment establishes the tasks and powers of the AOET and defines the basic principles of the proceedings before the Equal Treatment Commission.

In 2013, the Equal Treatment Act was amended and part of this amendment concerned the time limit for asserting claims. In the context of sexual harassment, this time limit was extended to three years. However, other grounds in relation to harassment in employment and occupation were excluded from the scope of the amendment. The considerably shorter period of one year continues to apply to gender-related harassment and harassment on grounds of ethnicity, religion or belief, sexual orientation and age.

In accordance with the definition provided by law, conduct only amounts to sexual harassment if third parties are responsible for it. As far as discrimination outside employment and occupation is concerned, there is currently a lack of clear provisions on which “third parties” could be held liable for their actions in relation to sexual harassment. In accordance with Part 3 of the Equal Treatment Act, service providers do not have to provide effective remedy.

Equality treatment in employment and occupation irrespective of ethnicity, religion or belief, age or sexual orientation

The AOET investigate cases concerning discrimination on the basis of ethnicity, age, religion, sexual orientation and belief (Part 2 of the Equal Treatment Act). Such cases are often related to establishing or terminating employment relationships, discrimination related to work conditions or harassment.

Experts, on behalf of the Ombud for Equal Treatment, check job advertisements – both in terms of content and concept – to make sure that there is no wording that could give rise to discrimination on the grounds of ethnicity, age, religion or belief. A survey on administrative court decisions dealing with discriminatory job advertisements is available on the website of the AOET.

Equal treatment irrespective of sex or ethnicity in other areas

Requests for advice from the Ombud for Equal Treatment in relation to equal treatment irrespective of sex or ethnicity (Part 3 of the Equal Treatment Act) mostly concern the pricing and admission policies of bars and discotheques and are often based on unequal treatment on grounds of sex - men complain that entrance fee for women are less or free. The Ombud for Equal Treatment has repeatedly found that these practices constitute discrimination. However, many bars and discotheques continue to have discriminatory admission and pricing policies.

Housing Advertisements

In accordance with the Equal Treatment Act, housing advertisements have to use language which is non-discriminatory with regards to sex and ethnicity. In cases of infringement of this provision, 1st time offender receive a warning from court. Repeat offender can receive administrative fines of up to 360

Euros. Additionally, the Ombud for Equal Treatment is also empowered to institute administrative penal proceedings.

### Discrimination in sports

Complaints in the area of sports mainly deal with the lack of training opportunities for girls in certain sports such as triathlon or ice hockey. This is often linked to lack of trainers in these areas, leading to women finding themselves forced to discontinue sports. As there is a lack of case-law on this matter there is no authoritative clarification as to what extent this type of discrimination falls within the scope of protection by the Equal Treatment Act.

### Equal pay transparency requirements

From 1st January 2014, all enterprises with more than 150 employees are obliged to prepare income reports in order confirm that equal pay occurs in their organisation. The management and works council have to analyse the internal pay system at least once a year. This legal obligation aids in raising awareness on gender-related pay differences within a company. Nonetheless, many individual court cases dealing with pay discrimination often result in a negative ruling. There is a lack, at both local and EU level, of a legal definition of the term 'equal work'.

## 4.5 Court Proceedings

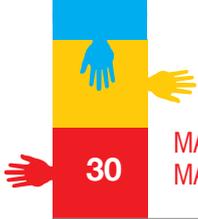
The AOET has the necessary legal powers and financial resources to participate in court proceedings. Moreover, the government adjusted the rules regarding equal treatment proceedings to conform with rules dealing with labour law and civil law proceedings. Following these amendments, the defendant's legal costs do not have to be paid when a case is unfounded.

The procedures before the Equal Treatment Commission are free of charge. In court proceedings, persons claiming discrimination have to bear the cost involved in putting forward their case. In cases of discrimination affecting Part 3 of the Equal Treatment Act, there are no institutions granting legal assistance. Even after the Equal Treatment Commission acknowledges that discrimination has occurred, most persons will still not consider initiating legal proceedings.

## 4.6 Information Activities

The information material of the Ombud for Equal Treatment has been developed to support events, training programmes and workshops. It is available free of charge and can be downloaded from the Ombud's website. Some examples of this kind of information material are:

- Folders – These provide a brief overview of the rights of persons who are discriminated against as well as the issues covered by the Equal Treatment Act and the consultation services of the Ombud for Equal Treatment.
- Information Brochure for Multipliers – To improve the information provided to institutions and NGOs dealing with persons feeling discriminated against. The Ombud also published a short brochure containing numerous case examples and information on possible actions that one can take.



- Information Flyer: Sexual Harassment in access to goods and services – the aim of this flyer is to raise awareness of possible situations constituting harassment as well as the range of consultation services offered by the Ombud for Equal Treatment.
- Free-cards (postcards) – In 2013 free-cards were developed depicting discriminatory situations sanctioned under the Equal Treatment Act. The sixth ‘free card’ provides a solution to the discriminating situation and shows the same persons in a non-discriminatory context.
- Website – Offers comprehensive legal information, general information on the Ombud for Equal Treatment, its tasks and relevant news.
- Case of the Month – A special section on the website which describes and analyses a case which is severe or common.
- Electronic newsletter – Informs on recent developments, important cases and events focusing on equal treatment issues
- The Ombud for Equal Treatment at [www.help.gv.at](http://www.help.gv.at) – An electronic guide to Austria’s public officers, authorities and institutions. Following a recommendation of the Ombud for Equal Treatment, an appropriate format has been developed to treat equal treatment issues in “Help”. The information is updated regularly.
- Workshops, Lectures and Training Programmes for specific Target Groups – The Ombud for Equal Treatment tries to meet the demand for lectures, training programmes and workshops on equal treatment issues to the extent possible with the human resources available.

The Ombud for Equal Treatment offers free and confidential advice and support. A brochure has been developed, offering a definition of discrimination and examples of how people can be discriminated. Furthermore, this brochure informs the public that the Ombud for Equal Treatment offers advice and assistance to those who feel that they have been discriminated against. The 5 regional offices providing advisory services in Austria are: Vienna, Graz, Klagenfurt, Linz and Innsbruck. The public is also informed about possible actions one can take if discrimination is experienced or witnessed. A free helpline is provided.

#### Advisory Services

The process for accessing the Commission advisory services is as follows:

1. Contact – via telephone, written letter or email; personal meeting
2. First Consultation – to gather facts and legal information
3. Individual Analysis of needs and objectives of the person feeling discriminated against
4. Decisions on further steps to be taken based on the needs of the person and the analysis of the legal situation by the Ombud for Equal Treatment

#### 4.7 Gender Equality

AOET has four pillars aimed at ensuring effectiveness in the area of gender equality. These are:

- Ensuring equal opportunities for access to executive positions and jobs in male-dominated areas
- Eliminating discrimination in the structuring of work and pay policies for activities traditionally associated with the ‘female’ sphere.
- Facilitating the reconciliation of work and family life for both women and men
- Improving the gender mainstreaming competence and equality motivation among executives

## Gender equality in the Equal Treatment Act

Rather than simply endorsing the concept of equal treatment, the Equal Treatment Act explicitly mentions the need for an active gender equality policy (as stipulated by EU law, particularly by Directive 2002/73/EC). Gender equality is more than just equal treatment. Gender equality implies a participation of both genders in all areas of society, based on equal rights and equal resources. This requires concrete legal and institutional benchmarks as well as structural changes in the labour market.

Gender equality, as specified by the Equal Treatment Act, is both a declaration of intent and interpretation principle. All provisions of the Equal Treatment Act must be interpreted from the perspective of gender equality. Reference to marital or family status has been included as a specific form of gender-based discrimination in the Equal Treatment Act.

The Act covering equal treatment between women and men in employment grants persons affected by gender-based discrimination the right to file complaints and bring actions. They are also entitled to claim compensation. In the case of indirect discrimination, this also applies to members of disadvantaged groups (e.g. part timers). Thus, the Equal Treatment Act makes it possible to address gender-based occupational discrimination using a comparator. The Equal Treatment Act also contains the principle of equal pay for men and women.

In principle, protection against discrimination must be enforced by the individual. The Act is only enforced if persons protected by it institute cases. Support for persons affected by discrimination is provided by the national equality body. Under the Equal Treatment Act, the Equal Treatment Commission is authorised to review collective agreements for discrimination and prepare an expert opinion.

The most common discrimination cases related to employment are:

- Gender-neutral job advertisements
- Establishing an employment relationship
- Pay scales
- Fringe benefits
- Basic and advanced vocational training and re-training
- Job advancement/ promotion
- Working conditions
- Termination of Employment

## Gender pay gap

The income gap between men and women in Austria has narrowed over recent decades, as reflected by working-hour adjustment calculations. According to Eurostat, the female employment rate increased from 58.9% in 1994 to 62% in 2005. On average, women entering the job market earn 18% less than men.

Women's disadvantaged status in employment is a complex problem. Its causes are to be found partly outside the world of work, such as in the gender-specific choice of schools and basic training, or in a lack of childcare facilities. There needs to be an active, targeted and systematic equality policy in all areas of society.



## Positive Action

Affirmative action promotes equal opportunities for women and men by means of specific measures. The Equal Treatment Act stipulates that actions specifically aimed at the promotion of gender equality – through laws, statutory regulations, collective agreements, work agreements - do not infringe on the equal treatment principle. The Federal Government provides grants/subsidies to employers for special expenses in connection with promoting policies aimed at eliminating or diminishing de facto inequalities between women and men.

## Gender-related harassment

Besides the prohibition of sexual harassment, the Equal Treatment Act includes also a ban on gender-related harassment. This is a type of harassment that involves gender-related behaviour outside the sexual sphere and is subjectively unpleasant to the person concerned - for example, misogyny. This may include verbal comments, gestures, or the writing, displaying and circulation of texts or images. This conduct must have a serious character and must also create a disturbing and/or hostile work atmosphere. Gender-related bullying also constitutes a form of gender-related harassment.

## Gender-inclusive job advertisements

Under Austrian law, it is not permissible to place newspaper ads looking for one of the sexes, such as *'committed young man'* or a *'young, dynamic, flexible, very attractive, female and single management assistant'*. It is also prohibited to publish job adverts that have references to one's family responsibilities. Gender-specific adverts are permitted only in exceptional cases where the sex of a person constitutes a genuine occupational requirement for performing the activity concerned.

## Legal Options

The national equality body (Ombud for Equal Treatment), and, in particular, the independent Ombud for Gender Equality in Employment, have been established by law to support and advise individuals who feel they have been gender-discriminated at work. Moreover, the Federal Ombud and the Regional Ombuds are responsible for assisting and supporting individuals in company negotiations to implement the non-discrimination principle and to advise them to the best of their capacity. Whether and to what extent any support is to be given is decided by the individual after consultation.

The Ombud is entitled to obtain information from the employer or works council. It may also institute proceedings with the Equal Treatment commission to investigate whether the case actually involves discrimination, and it will assist complainants throughout the proceedings. Individuals feeling discriminated within the meaning of the Equal Treatment Act may, alternatively, contact the Equal Treatment Commission directly and apply to have their case investigated.

The Equal Treatment Commission is an independent body established by the Federal Ministry of Health and Women. It consists of the chairperson, eight representatives of employees' and employers' organisations and three representatives of the Ministry. Proceedings before the Commission are free of charge and serve to settle discrimination-related problems between the individual involved and her/his employer in

an informal, non-public framework. In contrast to judicial proceedings, this procedure does not end with a (legally enforceable) judgment but with non-binding expert opinion where the Commission explains and gives reasons for its decision on whether or not discrimination has occurred.

In relation to court cases, women and men who are discriminated against or harassed at work, whether directly or indirectly, because of their sex are entitled to be compensated for the damage from the employer and/or any other person responsible for such discrimination. If the court finds that the complainant has been discriminated against because of gender or marital status, she/he may lodge a claim for monetary compensation.

The complainant is only asked to produce prima facie evidence of:

- The kind of discrimination involved
- Why it is a gender or status based discrimination

The employer, on the other hand, needs to prove that it is likely that no discrimination within the meaning of the Act occurred. In the case of an infringement of the Act, the complainant, as a rule, is entitled to be restored to a non-discriminatory state.

An individual suffering from discrimination can sue for:

- Achievement of a non-discriminatory state
- Compensation for the financial loss suffered in the past
- Compensation for the personal injury suffered

Claims for compensation must be asserted within a specified time limit which depends on the type of infringement against the Equal Treatment Act.

#### **4.8 Reconciling Employment and Family Life**

Women bear a much larger burden than men in relation to household tasks, childcare and care of elderly relatives.

Very few fathers avail themselves of the legal option to claim parental leave after the birth of a child or to share parental leave with the child's mother. To date, men have never accounted for more than 3% of Austrians on parental leave. However, the percentage of men on parental leave had doubled after the introduction of childcare allowance.

In an effort to contribute towards remedying this situation, the Austrian Federal Economic Chamber launched a campaign called "Paternity Leave Consulting". Initiated by the management consulting division, the campaign aims at providing advice and support to companies in the management of parental leave. This is based on the belief that once companies develop their ability to address management-related challenges with respect to parental leave, paternity leave will start being viewed as a chance rather than a nuisance. Promoting paternity leave is an asset for every enterprise. It has a positive impact on the loyalty of employees, the working climate and on the company's image as a family-friendly enterprise committed to equal opportunities for women and men.



## CHAPTER 5: GOOD PRACTICES

### 5.1.1 The Equality Commission for Northern Ireland

The following sections will outline various good practices by the Equality Commission for Northern Ireland. These include: addressing gender bias in Science, Technology, Engineering and Mathematics (STEM) industries; promoting equality in employment through a fair employment model; and measuring the impact of equality bodies in Northern Ireland.

### 5.1.2 Addressing Gender Bias in STEM Industries

#### Background

In common with most Western economies, Northern Ireland recognises:

- That it needs an increasing number of skilled workers with qualifications in Science, Technology, Engineering and Mathematics (STEM), and that;
- Women have long been under-represented in their employment in STEM industries.<sup>7</sup> The NI Labour Force Survey<sup>8</sup> indicated that out of the 11% of jobs in Northern Ireland that are high level STEM posts, only 25% are occupied by women.

The Northern Ireland Executive's Programme for Government for the 2011/15<sup>9</sup> identified (as an economic priority) the need to increase the uptake in of economically relevant STEM places. To contribute to STEM skills growth within the workforce a publication called *Success through STEM Strategy*<sup>10</sup> was issued in 2011.

One of the recommendations of this strategy was to remove any barriers in employment for females in STEM industries and, thereby, widen the pool of talent from which employers could potentially draw.

#### Resources

<sup>7</sup>Equality Commission for Northern Ireland Statement on Key Inequalities in Northern Ireland, October 2007

<sup>8</sup>Source: Labour Force Survey DETI NI

<sup>9</sup>Source: Northern Ireland Executive Programme for Government 2011-15

<sup>10</sup>Source: Success through STEM- STEM Strategy

In February 2013, a partnership was established between the Department for Employment and Learning (STEM business Group in the Department) and the Equality Commission for Northern Ireland to work towards addressing the gender balance issue in STEM.

In June 2013, the STEM Business Subgroup and the Equality Commission ran a seminar entitled '*Are you getting the balance right- Is gender an issue for you?*' Over 70 delegates, mostly from STEM employers, attended this seminar where a draft version of the report *Addressing Gender Balance –Reaping the Gender Dividend in STEM* was presented. The report demonstrates the business case for gender diversity and contains several tools to help business engage with the issue. These include a STEM CEO Charter and 22 good practice guidelines. The seminar included a range of speakers, including the Minister for Employment & Learning, senior staff from major STEM employers as well as a woman working in a senior STEM employment position. Attendees were asked to consider the series of *Good Practice Guidelines to address Gender Imbalance* in groups and provide feedback from their group. Feedback from the event was used to inform the next draft of the report.

The Good Practice Guidelines and STEM CEO Charter were further consulted upon with companies and seven good practice case studies were gathered from different organisations. The Good Practice Guidelines were examined by the Equality Commission to ensure that they were legal and fitted within the positive action measures, as appropriate<sup>11</sup>.

#### Launch of STEM Charter

In June 2014, the STEM CEO charter was launched by the Equality Commission and STEM Business subgroup within the DE.<sup>12</sup> Sixty people attended the launch. The Charter enables STEM organisations to demonstrate their commitment to equal opportunity for women in their employment. Twenty organisations committed themselves on the day of the launch and 36 companies have signed up to the Charter. Many companies at the event also indicated that they would like to be part of a STEM Employers Equality Network.

#### STEM Employers Equality Network (SEEN)

The premise of the STEM network is to learn about relevant research and hear about good practice from other businesses. Participants can then discuss alternative models they may have been operating in their companies and how the good practice initiative could be implemented in their own organisations.

In September 2014, the first meeting of the STEM Employers Equality Network (SEEN) was held. Following input from key speakers, participants began to benchmark their practice against the 22 good practice guidelines from the *Addressing Gender Balance* report. Participants identified the areas that they would like more information about, to enable them to address the under representation of women in the STEM sector. These included mentoring, networking and challenging unconscious bias. Further meetings were planned to address these identified needs.

<sup>11</sup>The area of law that governs any work in this area of gender equality is the Sex Discrimination Order 1976 (Northern Ireland) (as amended). The Equality Commission for Northern Ireland has a guide to this legislation which includes a section on Positive Action

<sup>12</sup>Source: STEM Charter



A second meeting took place in February 2015. This meeting included input from key academics and researchers followed by discussion and learning on mentoring programmes.

A third meeting of the Belfast SEEN took place in June 2015 which addressed networking and featured a good practice case study. Participants discussed the benefits of networking in a STEM setting and how to start and sustain a network. The speakers shared their expertise in answering members' questions.

### **Launch of STEM Charter and another network in Derry Londonderry**

In order to broaden the business participation in the Charter and Network across the whole of Northern Ireland, both the STEM Gender report and STEM Charter were launched in the North West in April 2015. Over 30 people attended the meeting and four organisations signed up to the STEM Charter. Participants were given the opportunity to discuss the Good Practice Guidelines in groups and again highlighted the areas in which they would welcome further support to implement it. The areas identified were similar to those identified in the Belfast network i.e. mentoring, networking, unconscious bias and aspects of positive action.

Benefits of the policy, challenges, obstacles and constraints encountered

In order to be successful, it was important that ECNI maintained a good relationship with the STEM organisations. To date, two large seminars had between 60 to 70 attendees, while smaller network meetings had 20 to 30 participants; and a total of 36 organisations have signed the Charter so far.

The businesses that contributed case studies to the report and/or have become STEM Charter signatories have highly benefited from their participation, as their good practice has been recognised and their profile as good employers has been enhanced. An improvement in the overall talent pool benefits both the job-seeker and the companies, and the economy of Northern Ireland as a whole. Hence the sharing of good practice has been very beneficial and is discussed in terms of problems and solutions for all the potential competitors.

A future challenge for ECNI will be to make the networks sustainable and to keep the topics of the network meetings relevant to the needs of the businesses. At the start of this project, the Labour Force Survey indicated that only 25% out of the 11% of high level STEM jobs in Northern Ireland were held by female. The figure has increased to 30%. Whilst it is impossible to say what has caused this increase, the work of this project may have helped to support this change in some ways since this project has raised awareness on the issue, engaged with employers and shared potential solutions.

### **5.1.3 Promoting equality in employment – fair employment model**

Background

As stated in Article 55 of the *Fair Employment and Treatment (NI) Order 1998*, all employers are required to complete (at least once every three years) a review of their employment composition and practices. The purpose of the review is to determine whether or not the employer needs to take action to ensure that Protestants and Roman Catholics are enjoying and will continue to enjoy fair participation in employment.

Employers are required by law to have regard to the *Fair Employment code of Practice* when carrying out the Article 55 Review.

The context of this legal requirement is the overall under representations of Roman Catholics in employment in comparison to their availability in the general population. The Government is committed to introduce tougher fair employment legislation in Northern Ireland.

The Fair Employment (NI) Act of 1989, which was updated in 1998 to extend its coverage to goods, facilities and services i.e. the Fair Employment and Treatment (NI) Order 1998).

The 1989 Act placed a number of proactive duties on employers and others. Employers, public authorities and private sector employers with more than 10 employees working 16 hours or more per week were required to:

- Register with the Commission
- Provide annual monitoring returns to the Commission. Detailed monitoring regulations were also enacted stipulating the monitoring requirements.
- Conduct a triennial review of monitoring information and assess whether ‘fair participation’ was being afforded to both communities in the workplace. The review also included a review of employment practices and determinations as to whether affirmative action and goals and timetables were appropriate.

The Act also placed a range of duties on the Commission (at that time the Fair Employment Commission). These duties included powers of enquiry and investigation as well as promotion/education duties. The Act also set up an independent Tribunal.

Strategy for promoting equality in the workplace – fair employment

While the fair employment legislation provides the Commission with strong powers, the Commission has taken the approach to ensure that employers are facilitated to comply and will enhance equality rather than take immediate recourse to enforcement of the law.

The Commission’s approach has therefore been to facilitate employer compliance, by:

1. Providing templates and standard documentation to assist employers
2. Reminding employers when they must forward information to the Commission
3. Advising employers where there are errors in their monitoring forms so that they may amend in a timely manner
4. Working with strategic employers (larger employers and public sector employers) to promote affirmative action and good employment practices more generally
5. Providing a general advisory service – telephone enquiry line, training programme, office contact, and advisory information.

This approach has resulted in a high level of employer/Commission engagement as well as very high

levels of compliance with the fair employment legislative requirements. There are standard objectives in the Commission business plans to ensure 99% compliance with monitoring regulations and 95% with review requirements. These objectives are consistently met. There are also various research reports (Commission Annual Monitoring Reports and McCrudden et al. research), which confirm that the comparative overall employment situation between the Protestant and Roman Catholic community is now broadly what would be expected.

### Promoting employment equality across all grounds

The Equality Commission was formed in 1999, taking over the functions of the previous Commissions (on religion/politics, sex, disability and race). Over the years, the remit has extended to include anti-discrimination legislation on sexual orientation, age and the statutory duties on public authorities.

The Commission was able to build on its engagement with employers in the area of fair employment and extend this to other equality grounds. For example:

1. The Commission was able to utilize the contact details it holds for all employers in Northern Ireland (which fell within the remit of the fair employment legislation) as well as the personal contact with the larger strategic employers.
2. The facilitative approach adopted by the Commission in terms of fair employment meant that employers were more willing to engage with ECNI on the more voluntary aspects of equality legislation e.g. sex, race, age.
3. The monitoring data collected under fair employment legislation included the composition of employees broken down according to different characteristics. This enabled the Commission to engage with employers on matters such as under-representations of women in occupations, sectors.

The Commission was able to work with employers to extend the affirmative action plans they may have developed as a result of fair employment legislation to include other equality areas. Many employers have developed equality plans covering various equality strands.

## 5.1.4 Measuring the Impact

### Background

ECNI developed a series of mechanisms aimed at measuring the impact of its work. Underlying these mechanisms is the question: how can equality bodies measure, not just the outputs, but also the impacts of their activities? This is limited to matters the Equality Body can measure, and the adequacy, of this in order to assess how they have performed.

It is not easy to establish the impact of an equality body as it is not always clear what component of social change an equality body can take credit for. Nevertheless, despite the complexities and the unavailability of data, the search for measurements of an equality body's impact is worthwhile.

Measuring changes in society as a consequence of an equality body's efforts can be very difficult and accordingly equality bodies are often criticized for measuring what can be measured rather than measuring

what matters. Of course, measured change in the position of an equality group may not necessarily be as a consequence of the work of an equality body. Things may get better but apportioning credit for this social change is not always simple.

At the most basic level equality bodies aim to measure value for money; they will seek to assess the success of the programmes of work they have completed in terms of the resources they have put to this work (a value for money exercise). These programmes of work will be two-fold:

- They are directed to supporting those with equality and human rights responsibilities to meet these responsibilities and;
- Supporting those with protected characteristics (women, minority groups, disabled persons etc.) to access their rights.

For example, a discrimination complaint which succeeds in court may seem momentous but it is only with the promotion of the clear responsibilities as set out in the legal decision and the subsequent work to ensure that employers / service providers revise their practices as a consequence of the judgment, that the win is in fact ground-breaking.

#### Benchmarks and baselines of inequalities

All measurement starts with establishing the baselines. These are usually the comparative position of the equality groups. For example:

- 1 What is the median annual income of men and women of migrant and indigenous people? (equal pay and pay gaps)
- 2 In employment, what proportion of senior executive jobs are held by women or other marginalised groups? (employment status)
- 3 How do persons with disabilities succeed in school and college, and in employment? (educational and career attainments).

Baselines set out the degree of disadvantage and on occasion allow for the establishment of goals. For example, in Northern Ireland, the Government measure of successful educational outcome is that all school children at the end of their 5<sup>th</sup> year in secondary level school will have achieved good results in 5 subjects in their GCSE's. The educational results in previous years showed that this target was particularly difficult for some marginalized groups including working class Protestant boys. Generally, baselines and benchmarks will be set by using publicly available data-sets usually collected by Government statistical services through such means as the Population Census. The Census of Employment, which is Europe wide and accordingly allows for intra-country comparisons, can be of great value in setting benchmarks.

Where large data sets are not available, equality bodies may consider commissioning customised surveys to identify inequalities and to inform the need for and to help measure the impact of the equality body effort.

#### Surveying Public Awareness and Attitudes



The Equality Commission uses surveys regularly to help it understand where it is most needed and over time to establish its impact. Below are some of the key components of this evaluation work. The Commission regularly (3/4 yearly intervals) survey awareness of inequalities. This provided outcomes such as:

- 33% of respondents said they had been subjected to some form of harassment during the last three years because they belonged to a particular group.

Surveys are also used to get snap shots of current attitudes and to compare these attitudes. For example:

- In the Eurobarometer Survey when asked whether enough was being done to fight all forms of discrimination, 49% replied yes. These results were similar to those in Northern Ireland while it was slightly higher at 56% in the UK.

A key objective of this attitudinal work is to bring about a change in attitude. Information on attitudinal change is also collected by survey work. ECNI's survey work explores public attitudes towards specific groups; for example how positive or negative do you feel towards specified equality groups such as Travellers; Transgendered; Eastern European Migrants; Lesbian, Gay or Bisexual Persons.

In this survey 'social distance' questions are also asked, examining the extent to which people feel comfortable with varying degrees of closeness to members of a different group. These types of questions are more complex to design and require more time to explain to respondents but can be very valuable.

Respondents were asked to indicate their opinion on whether they would mind or would not mind having a member of each group as a work colleague, a neighbor, or if one of them was to marry a close relative. The findings showed that, for example, 35% of respondents would mind having a Transgender person as a work colleague, as a neighbour (40%); or as an in-law (52%).

These surveys are done every three or so years and although the data to be collected is reconsidered each time, one important consideration is the ability to compare results across the years so that one can, for example, compare the data from 2005 with that from 2008. One could see, for example, that negative attitudes had increased for some groups (trans; Eastern European migrants and those with mental ill health) throughout the years.

#### Measuring the impact of ECNI's work: employers and service providers

A key objective of an equality body is to encourage and support those who have responsibilities to deliver equality. On a regular basis, (every 3 or 4 years), data is collected from employers and service providers, both public and private. The aim is to evaluate the impact of the equality legislation and the ECNI support of employers. In addition to attitudes towards equality, employers are asked if they have revised some aspects of their policies in the light of the advice given.

The evidence from this shows clearly that the services provided by the Commission to employers and service providers are highly valued and overall satisfaction remains consistently high. The Employers Survey has also recorded a high degree of confidence in the ability of the Commission to promote equality of opportunity for all. The survey also allowed the respondents to suggest where improvements to the service could be made to the employers' services that ECNI already supplies.

## Victims of discrimination (Complainants)

Another key element of ECNI's work is to support those who think they may have been discriminated against. ECNI runs a telephone Discrimination Advice service in which a number of advisors respond to approximately 3,000 enquiries each year and offer advice to the caller on their rights and on how to approach an employer or service provider and ask for these rights to be respected. ECNI also advises on the legal remedies available. ECNI regularly then commissions a survey of the satisfaction of callers with this advisory service. The results have been very positive with a large proportion of those surveyed confirming that the service was of value and enabled them to secure compliance with their legal rights.

Each year some 10% of those who made initial calls to ECNI's advisory service return to ask ECNI to support them in challenging what they consider to be discriminatory practice and (approximately 20%) some of these cases are selected for legal support. Also, every couple of years ECNI surveys those to whom legal support has been given to establish their satisfaction with the legal service. Again, the results of this exhibit a high degree of satisfaction with the service.

## Surveys and research to set and measure equality goals

The most difficult measurement for an equality body is to measure the impact it has had on society. Bringing about or contributing to social change is the ultimate and long-term objective of equality bodies.

ECNI recognises the complexity of this in Northern Ireland but nevertheless it has made an attempt to set out the key inequalities and to measure progress in addressing these. Moreover, ECNI establishes longer term plans over a 3 or 4-year period (corporate plan) and from these it draws up annual plans (business plan) for each year. In the current plan, which was initially drawn up by ECNI to cover the 3-year period but then extended to 4 years, a key element was to update work which was done some years ago on stating the key inequalities in society. This work on key inequalities is focused on impacts that are contributing to the journey from inequalities to equality in Northern Ireland.

In 2007, across each of the equality grounds ECNI had set out, mostly from existing research, the key inequalities in each of the six areas which were believed to be addressed in Northern Ireland were noted. These areas were: education, employment, health and social care, housing, participation in civic and public life and prejudice

In preparing ECNI's statement of Key Inequalities the organisation aimed to identify and highlight some of the most pressing inequalities which need to be addressed and to encourage others to act to address them too. These statements of key inequalities were mostly created from existing data sets, for example, population census, school leaving results and regular surveys of employment.

ECNI is committed to revise its Statement(s) of key inequalities and to measuring its work to address key inequalities.

The measures of success vary in terms of effort and sophistication:

- Has the statements of key inequalities been updated?
- Has the level of public awareness of key social inequalities increased?



- What is the level of stakeholders' (public authorities, employers etc) acceptance and adoption of specific actions to address key inequalities?
- To what extent did ECNI make use of the information in its publications, in responding to consultations and in disseminating the information about the key inequalities?

The dissemination objective is more complex to measure as it is about the reputation of ECNI as an expert in equality and inequality. Measurement will also seek to find out if the ECNI is seen as an expert by key stakeholders especially arms of government.

The work also addresses non-governmental stakeholders including those organisations representing equality groups and asks if these bodies are accurately informed about the key inequalities and if they use the information in their lobbying.

The final objective is to know to what extent the work of the Equality Commission, and that of all others with potential influence, bring about improvements in Northern Ireland's Key Inequalities.

### 5.2.1 National Commission for the Promotion of Equality – Malta

The following section will outline various good practices by the National Commission for the Promotion of Equality in Malta. These include: the Equality Mark; the Directory of Professional Women; and NCPE training programmes.

### 5.2.2 The Equality Mark

#### Background

Throughout the years, the National Commission for the Promotion of Equality (NCPE) has managed to obtain key European funds that enabled the Commission to implement several EU co-financed projects under ESF, EQUAL and PROGRESS funds. NCPE carries out projects as a way to raise awareness and conduct research concerning equality and strategies to eliminate discrimination. There are cases in which the projects become part of the core-work of the Commission and continue to be implemented beyond the EU funding period.

The Equality Mark certification was first launched in July 2010 as part of an EU co-funded project *Unlocking the Female Potential – ESF 3.47*, and following its successful uptake by organisations, NCPE continued working on this initiative following the termination of the project in December 2012. The Equality Mark became an ongoing initiative, and by 2014 there were 56 certified companies and 15,700 employees working in equality certified conditions.

The Equality Mark award aims to address challenges in the field of gender equality and employment in Malta, namely: a relatively low rate of women in employment and a gender-segregated labour market where a high percentage of women are employed in low-paid sectors. The Equality Mark promotes female participation in the labour market and career advancement for women.

## Certification

The Equality Mark Certification is intended to further empower employers and managers to foster gender equality at the workplace and enhance equal opportunities for women and men in employment as well as in the access to goods and services. Certified organisations would have demonstrated a commitment to gender equality by proactively addressing stereotypes, discrimination and sexual harassment in their policies and practices. The Equality Mark incentivises private companies and government entities to adopt good practices in the field of gender equality and recognizes their efforts in this area.

The 'Equality Mark' certification is awarded by the National Commission for the Promotion of Equality (NCPE) following an assessment of the policies and measures of organisations in relation to:

- Policies and initiatives on equality and sexual harassment
- Equal opportunities in recruitment and employment
- Equality in career advancement and personal development
- Availability of family friendly measures for women and men with caring responsibilities
- Equal pay for work of equal value
- Employee equality representatives
- Gender equality in the access to and supply of goods and services.

Entities that wish to be certified with the Equality Mark can download the application form and the information document from NCPE's website, and submit the filled in form and relevant documentation to NCPE offices. It is also possible to set a meeting with an NCPE official to discuss the concept of the Equality Mark and the certification process.

An audit is carried out at the applicant's premises to ascertain that the entity is really committed to gender equality. During the audit NCPE checks:

- Recruitment files
- Template of interview questions and score sheets
- Procedure for the circulation of internal communication
- Vacancy adverts
- Training records
- Contracts/payslips

Throughout the process NCPE builds a file containing the relevant information about the entity applying for the Equality Mark. Once the process is completed this file is presented to the Equality Mark committee. The committee may then decide to either award the Equality Mark or provide further feedback on what actions are still needed for the certification criteria to be met.



## Recertification

The Equality Mark is valid for two years from the date of certification. After the two-year period elapses entities go through a re-certification process that includes a training session delivered by NCPE to a number of their employees.

NCPE also gives two different questionnaires, one to the employer and one to the employees, with questions about the Equality Mark and gender equality within their entity. During the re-certification process NCPE ensures that the commitments taken were adhered to and that the entity is willing to keep these good practices in the years to come. These questionnaires together with the relevant documents submitted with it, are reviewed by the Equality Mark committee that decides on the recertification of the entity.

## Benefits for equality certified employers

NCPE assists entities to put in place the necessary structures that promote equality in employment and in the provision of goods and services. There are a number of benefits in being an equal opportunities employer. Some of these include:

- Accessing the full talent pool: In today's specialized global economy, successful companies are characterized by employees demonstrating high creativity and skills. This is more likely to happen when recruitment is sourced from the population's total pool of talent, and not just half.
- Higher profitability through gender diversity: there is a link between gender distribution in a company's management and its profitability. Encouraging gender diversity at each level of the organisation and decision making process means more innovative approaches based on the different skills and experiences of both genders.
- Being an 'employer of choice': Studies of young leaders show that the linear, unbroken career model is no longer applicable. Both women and men want challenges and development opportunities from work but also choice and flexibility in order to accommodate their personal lives.
- Reduce costs through staff retention: Equal access to family friendly measures helps organisations retain valuable staff thus leading to decreased training costs. Staff are also more likely to be motivated through increased job satisfaction and organisational loyalty, thus leading to more productivity and efficiency
- Customers' perspective: By involving both genders into their decision-making process, organisations are more likely to meet customers' needs and expectations. In mirroring their market demographically businesses are more likely to adapt to the changing social and consumption trends.
- Risk management: Discrimination, in all its forms, is a factor that is taken up in risk assessments. Adopting policies and business structures that safeguard the rights of all employees buffer against possible risk and cost of reputation damage and potential litigation. On the other hand it attracts investors and business opportunities that increasingly take gender diversity into consideration.

NCPE supplies certified organisations with a logo which can be featured on all PR material and correspondence. In addition to this, the practices of the certified organisation are promoted across the island as being the benchmark for other organisations to achieve. This means that certified organisation benefit from free promotion, further raising its profile within its specific sector.

A section on NCPE's website contains a list of all equality certified organisations in Malta

### 5.2.3 Directory of Professional Women

#### Background

The Directory of Professional Women is an online database with profiles of professional women from various fields and backgrounds. This initiative was one of three components of the EU co-funded project *Gender Balance in Decision-Making (ESF3.196)*. The two other components were a mentoring programme and two research studies.

The Directory of Professional Women aims to serve as a positive initiative to address the significant under-representation of women in decision making positions in the public and private sectors. The online Directory gives visibility and more opportunities to professional and competent women for appointment on boards and committees, and/or to assume decision-making positions in the labour market.

#### Eligibility

To be eligible for inclusion in this Directory one has to meet the following criteria:

- 5 years experience in a decision-making/management position and/or
- 10 years specialised expertise in a particular field.

#### Visibility

The main aim of the Directory is to give visibility and enhance the opportunities of professional women. It includes information about the qualifications, experience and skills of Maltese and Gozitan professional women.

This Directory is a useful tool for employers to find a fully qualified professional to appoint on a decision-making board/committee. The Directory facilitates the location of professional women in the relevant fields by saving both time and money (service is free of charge). The Directory is also a powerful networking tool for women to identify and find other professionals in Malta and Gozo.

In 2015, NCPE officially launched the software of the Directory of Professional Women. Professional women who fulfilled the eligibility criteria created an online profile related to their work, experience and qualifications. This profile can be updated.

The Directory is available to the general public as well as to companies, businesses and media. Users of the Directory can search professional women by areas of expertise to ensure visibility to the fully qualified and experienced professionals who are on the Directory.



## 5.2.4 Training

### Background

The promotion of equality principles through the delivery of training is an essential part of NCPE's work. Training is given to a wide range of persons, including employees in the private and public sector, students, educators, managers and employers. On-going internal training and continuous development of the executive staff at NCPE is also prioritized in order to ensure that all the staff is provided with updated skills pertaining to different areas related to equality and anti-discrimination.

The content and structure of training sessions designed by NCPE is tailor-made according to the setting. The main topics covered are:

- Equality legislation: Maltese laws prohibiting discrimination, the areas they cover and the grounds that are protected by these laws
- Discrimination: Different forms of discrimination and harassment at the work-place and in the provision of goods and services
- Sexual Harassment: What constitutes sexual harassment and how it can be addressed?
- Grounds of Discrimination: Social issues surrounding the protected grounds within NCPE's remit - gender, sexual orientation, age, religion/belief, race/ethnic origin and gender identity, gender expression and sex characteristics
- Stereotypes: Defining the term stereotypes and the importance of avoiding stereotypical portrayals
- Equality and education: Fostering a more inclusive and diverse educational environment
- Gender and equality mainstreaming: Integrating gender and equality concerns in all policies, practices and actions
- Diversity Management: Creating an environment that values and respects differences by taking into account the needs of different groups in the implementation of human resource practices and in the provision of goods and services.

### Gender Mainstreaming

Information sessions are regularly organised to equip public service officers with a better understanding of gender mainstreaming and the reporting obligations emanating from government policy. This policy obliges every department and entity to prepare an annual report on the measures taken and the progress achieved in the sphere of gender equality and gender mainstreaming. NCPE had been designated as the entity in charge with receiving these reports and compiling them for the attention of the office of the Permanent Secretary. In the information sessions NCPE officers explain that gender mainstreaming concerns the improvement, development and evaluation of policy processes, so that a gender equality perspective is incorporated in all policies, at all levels and at all stages. Directions are also given as to how the reporting template is to be filled in a way that presents a clear account of work done in this area.

### Equality Mark recertification training

Training sessions are also held as part of the Equality Mark re-certification process. Each organisation with the Equality Mark that is going through recertification has approximately 10% of its employees chosen

to attend 1.5 hours of training. During these sessions the trainer outlines the role of NCPE, discusses matters pertinent to sexual harassment and to discrimination on the basis of gender, and looks at gender equality issues present in society at large.

#### Training to NCPE staff

NCPE staff attends internal, external and international training sessions as well as seminars and symposia in order to enhance their knowledge and expertise in specific anti-discrimination areas and to develop their own personal skills.

Training includes Train-the-Trainers courses for NCPE staff focusing on the practical side of handling all areas of discrimination and equality mainstreaming. NCPE receives training on development and delivery of training on equality and diversity management, audit/monitoring and evaluations tools. Such tools are to be used when working with departments/ministries, as well as for NCPE to enhance its evaluation and outcome measurement capacity. The latter is of particular importance given that the work of NCPE mainly comprises actions which contribute towards bringing about a change in mentalities. Moreover, a training manual has been developed and is used by NCPE staff for its own delivery of training to its various target groups.

Key NCPE staff and Commission members also receive training on communicating the equality message and reaching-out mechanisms. Sessions by these communications experts assist NCPE in developing a concrete and effective communication plan.

### **5.3.1 The Austrian Ombud for Equal Treatment**

The following sections will outline two good practices by the Ombud for Equal Treatment in Austria (OET). These are: a public communications strategy and an electronic application for equal treatment.

#### **5.3.2 Communication Strategy**

##### Background

Effective communication is pivotal in enhancing equality and bringing about positive change in society. The Austrian Ombud for Equal Treatment is attentive to developing strategies and material that increase the public's awareness of equality issues and the rights safeguarded by anti-discrimination law.

##### Focal topics

A focal topic is chosen every 2 years by working-groups within the Commission. The focal-topic creates the framework for work carried out by all province offices. Specific information material on that topic are developed and distributed to all Ombud's offices in Austria. In the past years the OET has tried to standardise the design of the information material to increase the recognition value of the equality body.



Examples of topics chosen in the past years are 'sexual harassment and harassment', and 'multiple discrimination'. The regional office in Innsbruck provides the first event on the focal topic targeting managers, HR managers, employers, multipliers, stakeholders and interested persons.

#### Case of the Month

On their website, the AOET monthly provides a description of cases that have been investigated or encountered by the Ombud. This includes facts, procedures and the legal opinion of the AOET. Journalists regularly access this section and report about such cases.

### 5.3.3 An Electronic App. For Equal Treatment

#### Background

To improve the public's awareness of the equality body and equal treatment legislation, the Ombud for Equal Treatment (OET) is currently developing an equal treatment electronic application. This contains brief information about the OET and the possibility to anonymously send information about discriminatory situations and requests for advice and further documentation.

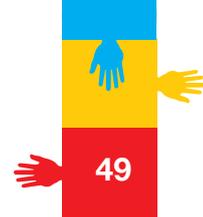
#### The App.

The Equal Treatment: App (Gleichbehandlungs: App) has two main parts:

- Information about the services and the accessibility of the AOET and;
- Providing information on the Equal Treatment Act.

It links users to the homepage of AOET and the Equal Treatment Act. A newsletter of AOET can be request directly from this application. Additionally, it also includes examples and visual material showing typical discriminatory situations.

The other part of the application provides the public a venue where to describe and send experiences of discriminatory incidents faced or witnessed. The discriminatory situation(s) can be described in words and alleged discriminatory grounds can be selected. There is also the possibility to add the date, time and pictures of the observed or experienced situation. Persons or organisations responsible for the (alleged) discrimination can also be identified in the information sent through this application. Records can be protected by a pin code.





## CHAPTER 6: TRANSFERABILITY

### 6.1 Introduction

Equality bodies in the three countries discussed in this mapping exercise country have a number of good practices that vary in their method, style and content. These differences broadly reflect the pressing equality issues in each country, the different trajectories of equality bodies over the past decades, organisational structure and size as well as the legal framework governing them. Sharing and discussing these different experiences and contexts can be a valuable tool for equality bodies since actions and practices implemented across EU member states can be a source of new ideas for national equality bodies. When these practices are taken on board by national equality bodies, and adjusted to match the needs of any specific context, they are potentially innovative and effective in addressing discrimination issues and communicating the equality message.

### 6.2 Good Practices from Northern Ireland

The Equality Commission of Northern Ireland is the largest organisation of the three bodies presented in this study. Compared to National Commission for the Promotion of Equality and the Ombud for Equal Treatment in Austria, they have the most robust structure in terms of human and material resources. This is closely linked to the historical context of Northern Ireland and the important role of the equality body in ensuring non-discrimination on the basis of religion, which was then widened to include other grounds. As discussed, the resources and networks the Commission had developed as part of its work on religious discrimination constituted a sound base for its actions in other areas.

ECNI good practices highlighted in this study can be transferred to Malta and Austria. Its comprehensive programme on encouraging female participation in STEM industries is relevant to both the Austrian and Maltese contexts since both have an under-representation of women in this sector. A project intended to pro-actively eliminate stereotypes and other barriers hindering the full participation of women in STEM, could lead to a more gender-balanced representation in the STEM sector as well as contribute to address the broader problem of gender-segregation in the labour market. Any such programme would need to be tailored according to the specificities of the local context, including the resources and expertise of the equality bodies in these two countries.

Another ECNI good practice that could be transferred to Malta and Austria is their systematic and continuous measurements of the impact of their equality body on society. This allows the equality bodies to identify the degree of action efficacy and possible improvements to future actions. The measurement tools ECNI uses to gauge their impact has multiple levels that include both data developed at national and EU level as well as data collected and produced by the body itself. This offers an interesting model that can be followed by Malta and Austria, by first conducting an analysis of what tools already exist at national and EU levels, relevant to their particular contexts, and then identify what other tools need to be developed in order to measure their impact on specific areas.

ECNI communication strategy is developed through systematic organisation and planning and involves the identification of target groups and constant needs analysis. Using ECNI's model of a comprehensive communication strategy and its focus on addressing specific audiences would aid the Maltese and Austrian equality bodies prioritize areas and groups targeted in their actions, thus maximizing their impact proportionally to the resources available. Moreover, as part of its communication efforts ECNI has developed a user-friendly website that includes a guide targeting employers with a clear explanation of equality law and employers' obligations under this legislation. Having such an online-guide in Malta and Austria might assist employers in improving their practices and procedures and help them ensure that they are in line with equality legislation in these countries.

### 6.3 Good Practices from Malta

The National Commission for the Promotion of Equality in Malta (NCPE) is a relatively small organisation in terms of both financial and human resources. It has, however, managed to carry out more projects than one would expect for an organisation of its size. This was partly due to its ability to tap EU funding for specific projects. This increased its human resource and financial capacity as well as its knowledge and expertise on the wide range of subjects it tackled over the past decade.

It has also been able to incorporate the material, knowledge and programmes developed as part of EU co-funded projects into its core work. The Equality Mark is an example of this. The concept of the Equality Mark can be transferred to both Northern Ireland and Austria since acknowledging and publicising good employment practices incentivises organisations to voluntarily put in place structures that are conducive to equality. It is also useful in establishing contacts and networks involving employers, employees and equality bodies, thus facilitating other initiatives undertaken by equality bodies such as the organisation and delivery of training within certified companies as well as the participation of employers and managers in seminars and conferences.

Another good practice that was developed as part of an EU co-funded project was the Directory of Professional Women. The practice of giving visibility to professional women could also work in Austria and Northern Ireland as a way to address the under-representation of women in decision-making positions.

### 6.4 Good Practices from Austria

The Austrian Ombud for Equal Treatment (AOET) invests considerable time and energy in constantly improving its communication work. Effective communication is pivotal in building public trust and recognition, in encouraging people to report cases of discrimination and in raising awareness on particular subjects within the equality sphere. The AOET have recently standardized their design and communication style. Both Malta and Northern Ireland have a number of good practices with regards to professional and effective communication design.

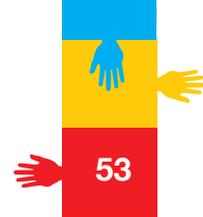
The electronic application on equal treatment launched by the AOET with information on the Commission and equality legislation is in one of the AOET innovative actions in the sphere of communication. Should a similar app be developed in Malta and in Northern Ireland it could directly and positively contribute to the work of equality bodies in these two countries. This app could be successful particularly because it offers the possibility of engagement between the equality body and the users through a feature allowing the public to upload information about observed or experienced discrimination.



The creation and use of postcards presenting discriminatory situations is another effective way of illustrating the meaning of equal treatment and discrimination, and of stimulating discussion on the subject. Malta and Northern Ireland could easily adapt this tool to their particular context. These can come handy in a number of different situations such as training and seminars and, as has been done in Austria, they can be distributed in different public places.

## 6.5 Concluding Remarks

The aim of this mapping exercise was to better understand how equality bodies in three different Member States work in the field of equality and non-discrimination. The three bodies operate within a common EU framework as well as within distinct national realities. Through outlining the multi-dimensional work of these equality bodies, and then focusing on some good practices carried out by each, both similarities and differences have come to the fore. Notably, each equality body has a different remit with regards to protected characteristics and spheres of life covered by legislation. They also have different legal mandates with regards to enforcing anti-discrimination law. From this study it emerges that one common area of concern to all bodies is that of communication. Equality bodies in Austria, Malta and the Northern Ireland endeavour to promote equality beyond sanctioning discrimination. Through training programmes, equality charters and certifications, awareness-raising campaigns and constant engagement with the public, equality bodies sensitise people on their rights and promote the value of equality and benefits of diversity. It is primarily in this field that equality bodies can engage in a mutual learning process to understand the most successful strategies, improve their work and develop innovative projects in this field.



## REFERENCES:

Article 2(2)(b), drawing on Case C-237/94 O'Flynn v. Adjudication officer [1996] ECR I-2617, par.18; as cited in Barnard, C. (2012). *EC employment law* (4th ed.). Oxford: Oxford University Press.

Articles 16-30, *United Nations Declaration of Human Rights: Youth For Human Rights Video*.

Retrieved February 4, 2015, from

<http://www.youthforhumanrights.org/what-are-human-rights/universal-declaration-of-human-rights/articles-16-30.html>

*Basic facts about the United Nations* (Rev. ed.). (2014). United Nations Department of Public Information: New York.

ECNI - Equality Commission, Northern Ireland. Retrieved April 11, 2015, from

<http://www.equalityni.org/Home.aspx>

*Equal Treatment in Employment and Occupation Directive* (2002/78/EC). European Union: European Commission.

*Equality for Men and Women Act*, (2003) Chapter 456

Equinet. (2014). *Equality bodies and the gender goods and services directive*. Equinet: Brussels

Equinet – European network of equality bodies. Retrieved October 19, 2015 from:

<http://www.equineteurope.org>

Equinet - European network of equality bodies. Retrieved January 7, 2014.

<http://www.equineteurope.org>

European Union Agency for Fundamental Rights, (2010). Council of Europe. Retrieved October 9, 2015 from:

[http://fra.europa.eu/sites/default/files/fra\\_uploads/1510-FRA-CASE-LAW-HANDBOOK\\_EN.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/1510-FRA-CASE-LAW-HANDBOOK_EN.pdf)

Freeman, R. (1984). *Strategic management: A stakeholder approach*. Cambridge Univ. Press: Cambridge

Koch, I. (2009). *Human rights as indivisible rights the protection of socio-economic demands under the European Convention on Human Rights*. Leiden: Martinus Nijhoff.

*Equal Treatment of Persons Order*, Legal Notice 85 of 2007

*Equal Treatment in Self-Employment and Occupation Orders*, Legal Notice 86 of 2007

*Access to Goods and Services and their Supply (Equal Treatment) Regulations*, Legal Notice 181 of 2007

NCPE website. Retrieved January 13, 2015, from  
[https://socialdialogue.gov.mt/en/NCPE/Pages/NCPE\\_Home.aspx](https://socialdialogue.gov.mt/en/NCPE/Pages/NCPE_Home.aspx)

*Racial Equality Directive* (2000/43/EC) of 29 June 2000. European Union: European Commission.

Regulations, Directives and other acts (EUROPA). Retrieved October 19, 2015 from:  
[http://europa.eu/eu-law/decision-making/legal-acts/index\\_en.htm](http://europa.eu/eu-law/decision-making/legal-acts/index_en.htm)

Schindlauer, D. (2012). *The EU anti-discrimination directives Definition of key-concepts*. Retrieved July 16 from:  
[http://www.era-comm.eu/oldoku/Adiskri/02\\_Key\\_concepts/2012\\_schindlauer\\_EN.pdf](http://www.era-comm.eu/oldoku/Adiskri/02_Key_concepts/2012_schindlauer_EN.pdf)

United Nations, (2014). Retrieved October 10, 2015 from:  
<http://www.un.org/en/documents/udhr/>

White, S. (2007). *Equality*. Cambridge, UK: Polity Press

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