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Guide to the Equal Status Acts for Respondent



WRC

An Coimisiún um Chaidreamh san Áit Oibre
Workplace Relations Commission

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Contents

Introduction.....	3
Complaints.....	5
How do I respond to a Complaint?	5
What happens when the WRC receives a complaint?	7
What is Mediation?.....	8
What happens at the Hearing?	9
What happens after the Hearing?	9
What will the decision say?.....	10
Enforcement	11
Can decisions be appealed?.....	11
Can the WRC give advice?.....	11



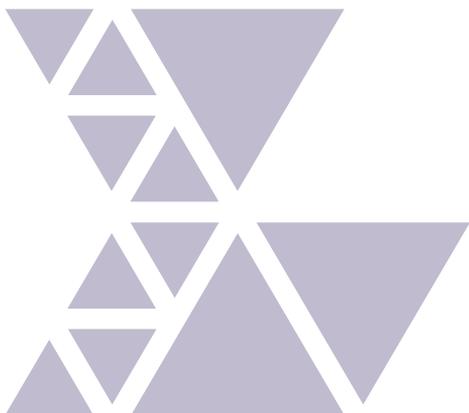
Introduction

The Adjudication Service of the Workplace Relations Commission (WRC) is the independent body set up by law to investigate or mediate complaints of discrimination. We remain neutral and treat all complaints fairly and professionally and as quickly as we can.

What do the Equal Status Acts do?

These Acts make it unlawful to discriminate when providing goods and services. All services that are generally available to the public, whether provided by the State or the private sector, are covered, including:

- access to and the use of any place,
- banking, insurance, grants, loans, credit or financing,
- entertainment, recreation or refreshment,
- cultural activities,
- transport or travel,
- services or facilities provided by clubs, and
- professional or trade services.



Discrimination in the selling, renting or leasing of property and providing accommodation or access to education is banned subject to a number of exemptions.

Discrimination is unlawful on ten grounds:

- gender,
- marital status,
- family status,
- sexual orientation,
- religion,
- age,
- disability,
- membership of the Traveller Community, and
- race, colour, nationality, ethnic or national origin, and housing assistance.

Discrimination also applies to someone who is treated less favourably because they associated with someone protected under the grounds.

What about victimisation?

Victimisation is also covered by the legislation. Victimisation occurs where a person is treated less favourably than another because they oppose discrimination or are involved in a complaint of unlawful discrimination.



Complaints

Anyone can make a complaint of unlawful discrimination against a service provider on one of the ten grounds or where they think they have been victimised. When a person makes a complaint, they are known as the complainant. As the person or organisation complained about, you are known as the respondent, as you must respond to the complaint.

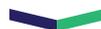
Complaints against registered (licensed) clubs or licensed premises (such as pubs or hotel bars) are dealt with by the District Court, not the WRC.

How do I respond to a complaint?

Do I need a lawyer?

No, neither side needs a lawyer. However, if you choose, you may be represented by a solicitor, professional association, support person or a support organisation. The complainant may also be represented.

The WRC cannot award legal costs to either side, so if you do use a lawyer you must pay your own legal fees even if the complaint is unsuccessful.



How will I first learn about a complaint against me?

As a respondent, you will first learn that somebody is thinking of making a complaint of discrimination against you when you receive a notification from that person. The WRC is not involved at this stage.

In equal status cases, a person who thinks you have discriminated against them must first write to you to give you formal notice that they are considering making a complaint under the Equal Status Acts 2000 to 2015. This letter must set out the details of the complaint and say that if the complainant is not happy with your reply, they may seek a remedy under the Acts. The letter must contain this specific information by law. The complainant may also ask you for additional information to help them to decide whether to bring a complaint and to find out what happened. The WRC provides Form ES1 to help the complainant get this information.

You would normally get the notification within 2 months of the date of the incident.

How do I reply to a notification?

If you want to reply to the notification, you should reply directly to the person making the complaint. The WRC provides Form ES2 to help you do this. You can get this form from the WRC on www.workplacelrelations.ie. You will find our contact details at the end of this leaflet.

You do not have to reply to a notification. However, if you do not reply, or if your reply is false or misleading, the Adjudication Officer may take this into account when reaching a decision.



What if the notification arrives late?

If there is a good reason for being late, the Director General of the WRC can extend the time limit for notifying you to a maximum of 4 months from the date of the incident. In exceptional cases, the Director General may allow the complaint to go ahead even if the complainant did not notify you within the maximum 4-month period.

If you are not happy with the Director General's decision on the extension of time you can appeal to the Circuit Court.

What happens after notification?

The complainant will consider further whether to make a complaint, in the light of any reply you made to notification. They have 6 months from the date of the incident to refer the complaint to the WRC. If they have a good reason for being late, they may ask the Director General of the WRC to extend this time up to 12 months. If you are not happy with the Director General's decision on extending the time, you can appeal to the Circuit Court.

What happens when the WRC receives a complaint?

We will send you a copy of the complaint form and any other relevant material.

There are then two ways in which the WRC can act on the complaint: mediation or investigation. The outcomes of both options are legally binding. The case goes to mediation if neither side objects to it and if the Director General of the WRC considers the case suitable. If you do not wish to take part in mediation, you must tell the WRC that you object. The case will then go to investigation and decision.

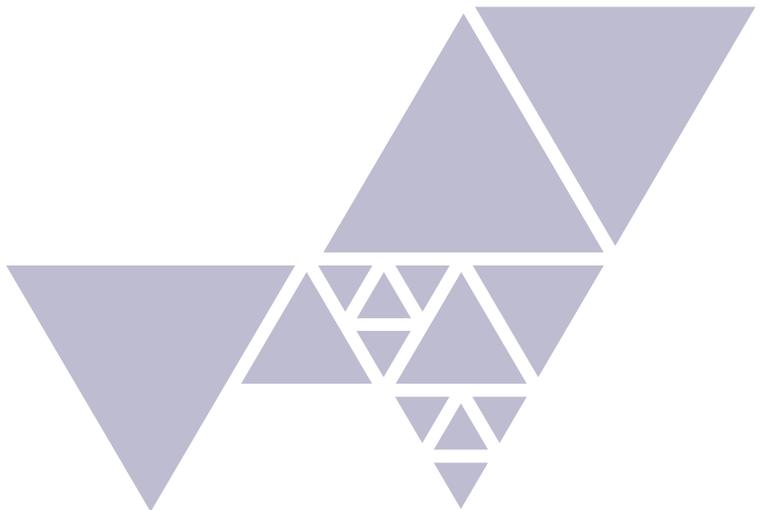


What is mediation?

In mediation, you and the complainant sit down with a trained Mediation Officer, who will help you reach an agreement that is acceptable to both of you. Either side may withdraw from mediation at any stage. If mediation is not successful, the case may be dealt with by investigation. Agreements reached through mediation are confidential and their terms must be obeyed by both sides.

What is an investigation?

An investigation is a formal examination of a complaint carried out by an Adjudication Officer. The WRC may ask the complainant to provide a written statement, known as a submission, setting out the facts of their case and the arguments they want to make. The WRC will send a copy of this and any other relevant material to you. The WRC may also ask you to provide a written statement and will in turn send a copy of this and any other relevant material to the complainant. The WRC will then set a date to hear the case.



What happens at the hearing?

At the hearing, the Adjudication Officer will give you and the complainant a chance to present your cases, to call witnesses and to answer points made by the other side. The Adjudication Officer may also question both of you.

Burden of proof

It is up to the complainant to establish facts that would support their claim of discrimination. If they establish these facts, then you have the burden of proving that discrimination did not take place.

What happens after the hearing?

The Adjudication Officer will consider all the evidence and issue a written decision. This decision is legally binding, meaning that you and the complainant must obey its terms.

By law, the WRC must publish decisions. Copies of all decisions are made available on our website.



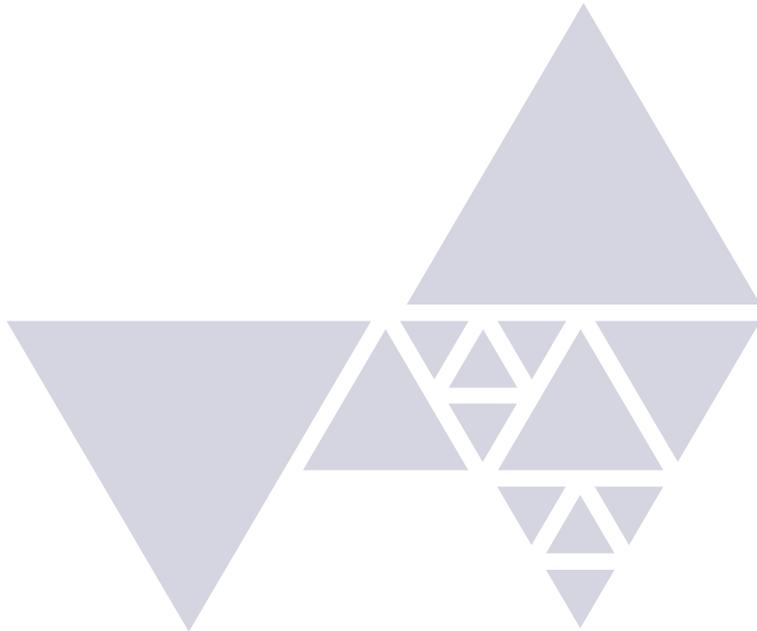
What will the decision say?

The decision will give a summary of the evidence and say whether the Adjudication Officer upholds the complaint and why.

If the Adjudication Officer finds in favour of the person making the complaint, they will make an order. This can be for:

- a monetary award of up to €15,000 and/or
- a specified course of action by a specified person (usually you as the respondent).

If the Adjudication Officer finds in favour of you, it means that the complaint was unsuccessful and that unlawful discrimination did not occur.



Enforcement

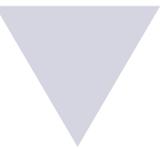
If the decisions of the Adjudication Officer are not obeyed, either side can ask the District Court to enforce them.

Can decisions be appealed?

Yes, if either side is unhappy with the Adjudication Officer's decision, they can appeal to the Circuit Court within 6 weeks (42 days) of the date of the decision.

Can the WRC give advice?

No, the WRC cannot give advice to either side on the merits of a case. We must remain absolutely neutral and can only give information on how the system works.





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