

EQUALITY & DIVERSITY

A GUIDE FOR TEEU WORKPLACE REPRESENTATIVES



TECHNICAL ENGINEERING & ELECTRICAL UNION





This guide has been Funded
under the
Workplace Diversity Initiative
by the Office for the
Promotion of Migrant Integration



THE EQUALITY AUTHORITY
AN tÚDARÁS COMHIONANNAIS



AN ROINN DLÍ AGUS CIRT AGUS COMHIONANNAIS
DEPARTMENT OF JUSTICE AND EQUALITY

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FOREWORD

Dear Colleagues,

I am very pleased to introduce our latest publication for workplace representatives and branch activists on the subject of equality and diversity in the workplace.

These guidelines are provided to help you develop an understanding of what you can do to promote equality, to explain that equality is a fundamental human right, a value to live by and an objective to be promoted and worked for in your workplace.

The guidelines set out the arguments for promoting equality in the workplace. It will assist you as a workplace representative or branch activist to recognise that equality in the workplace is good for all workers and direct them in the steps to be taken to provide effective support to members who experience inequality or harassment.

This guide provides you with useful information and suggestions on equality and diversity and how we as a union can work with other colleagues to ensure that all our members work in an environment free of discrimination and racism.

I would like to thank the following people for their valuable contribution in working with the TEEU to produce this guide: Maria Hegarty of Equality Strategies Ltd, the author of the guide, David Joyce, *Equality Officer*, Congress and also the Equality Authority.

I hope you will retain this guide as a useful tool in your role as a TEEU workplace representative or branch activist.



Eamon Devoy
TEEU
General Secretary

SECTION 1

INTRODUCTION

This guide is provided to help TEEU union representatives to develop an understanding of what they can do to promote equality in the workplace. Equality is a fundamental human right, a value to live by and an objective to be worked for.

This guide sets out the arguments for promoting equality in the workplace. It will assist you to recognise that equality in the workplace is good for all workers and direct you to steps to be taken in providing effective support to members who experience inequality or harassment.

- i. Section One is the introduction, with an overview of the guide.
- ii. Section Two provides an overview of diversity, equality and racism issues in Ireland,
- iii. Section Three provides guidance on what union representatives can do to promote integration and accommodate diversity in the workplace.
- iv. Section Four contains an outline of Employment Equality Acts 1998-2011, and provides information covering the nine grounds, definitions of discrimination, indirect discrimination, harassment and sexual harassment and reasonable accommodation.
- v. Section Five provides guidance on developing effective employment equality policies.
- vi. Section Six gives information on steps to take to be in a position to help members who may be experiencing discrimination and considering making an equality complaint.
- vii. Section Seven contains case studies of equality activities undertaken by unions all over Europe.
- viii. Section Eight contains a checklist to help guide union representatives to act to promote equality in the workplace.
- ix. Section Nine provides a range of practical resources, many of which can be accessed online.

Equality is a core value of trade unions and therefore *it must be given the political importance it deserves in trade union policy and practice* (Irish Congress of Trade Unions, 2007, p. 5). By producing this guide, the TEEU is demonstrating its commitment to promoting equality in the workplace.

We hope that this guide will make a contribution towards vindicating that right of all workers.

SECTION 2: UNDERSTANDING DIVERSITY AND EQUALITY IN IRELAND

The promotion of human rights, equality and diversity is an integral part of trade unions' activity. Trade unions have long fought for equality and as their memberships have become more diverse, they have been particularly active in seeking to ensure the inclusion of all workers.

A survey released in 2009 by TASC shows 85% of respondents believe that wealth is distributed unfairly in Ireland – a 15 percentage point increase on the previous year. The study also shows that the recession has been accompanied by an increased awareness of economic disparities (TASC, Aug 2010, p. 1).

The working population is changing with many people having to stay in work for longer and many are trying to juggle work with caring responsibilities. Workplaces are changing also, they are now staffed by people from many countries and different ethnicities, and some workplaces have introduced equality policies and procedures to ensure they accommodate diversity and promote equality at work.

We now have a comprehensive legal framework that protects workers from discrimination because of age, civil status, disability, family status, gender, membership of the Traveller Community, race, religion or belief, and sexual orientation.

Diverse workplaces in Ireland

Diversity refers to the differences and similarities we have, including our gender, our ethnicity, our nationality, our qualifications, our experience, etc. Ask any of your colleagues what is important to them about their identity and you will get a range of answers; some of us refer to geography first, some our sex, some religion. Diversity is a fact of life, yet if we do not accommodate our differences it can be difficult to work well together.

Census 2006 revealed there were non-Irish nationals living in every town in Ireland (Central Statistics Office, 2008, p. 11). The vast majority were living in cities and large towns, some people lived in small and medium sized towns and one in four non-Irish persons lived in rural areas. Two thirds of these were UK

nationals; excluding the UK, only one in seven non-Irish nationals were living in rural areas¹.

Almost two-thirds (63.7%) of people in ethnic groups other than White Irish were under 35. Just 3 per cent of people in these ethnic groups were 65 or older, confirming the younger age profile of migrants².

The Eurobarometer survey reveals that citizens in Ireland tend to have a fairly diversified circle of friends and acquaintances, 2 to 9 percentage points higher than those recorded at European level. These included *people of different religions or beliefs than theirs, disabled people and homosexuals*. However, on the other hand people appear to mix less than respondents from other EU Member States, with people from a different ethnic background (Eurobarometer, Nov 2009).

Looking at the labour market focusing on gender and age, the number of women entering the labour market, particularly married women, has increased dramatically in Ireland. Between 2000 and 2010 the employment rate for women aged 55-64 in Ireland increased from 26.9% to 43%. Over the same time period the employment rate for men in Ireland aged 55-64 increased from 63.2% in 2000 to 68.1% in 2007, before dropping back to 58.4% in 2010.

Patterns of occupational segregation remain significant. In 2011, 20.9% of women in employment were employed in administrative and secretarial occupations, and craft and related occupations were the least gender-balanced, with men representing 94.7% of craft workers (Central Statistics Office, Jan 2012, p. 19).

The CSO states clearly the importance of gender in Irish society....

Irish women work fewer hours, earn less and are under-represented in the Oireachtas and in local and regional authorities. Men leave school earlier and women are more highly qualified. Men have a higher rate

1 Emigration from Ireland in the twelve months to April 2010 is estimated to have remained broadly constant at 65,300 while the number of immigrants into Ireland fell sharply, from 57,300 to 30,800 over the same period. The figures show the highest level of net outward migration since 1989. The number of immigrants from the EU12 States is estimated at 5,800 in the year to April 2010, representing a continuing decline from the peak of 52,700 in the year ending April 2007. Central Statistics Office. (Sept 2010). Population and Migration Estimates April 2010. Cork: Stationery Office .

2 Central Statistics Office, accessed on the 16th April 2012 <http://www.cso.ie/en/media/csoie/census/documents/census2011pdr/Pdf%203%20Commentary.pdf>

of employment, but also a far higher rate of unemployment. Men are more likely to be in the labour force and those looking after home/family are overwhelmingly female. (Central Statistics Office, Jan 2012, p. 10).

Discrimination in Ireland

Surveys in Ireland reveal that 12% of the population felt discriminated against and this figure has remained consistent from 2004 to 2010 (Central Statistics Office, July 2011), (Central Statistics Office, August 2005). The percentage of people who believed they had been discriminated against in the workplace increased from 26% to 30% between Q4 2004 and Q4 2010 (Central Statistics Office, July 2011, p. 5).

The only category to report an increase in work-related discrimination were those who identified the race/skin colour/ethnic group/nationality ground, which increased from 19% to 27% (Central Statistics Office, July 2011, p. 5) Respondents who believed they had been discriminated against at work were asked to identify the main focus of this discrimination. Bullying or harassment (28%) and working conditions (24%) were the most common issues identified by respondents.

Almost half of those who experienced discrimination in 'shops, pubs or restaurants' said it had 'little or no effect' on their lives. In contrast, at least one fifth of people who experienced discrimination in the workplace said that it had 'a serious effect' on their lives (Central Statistics Office, July 2011, p. 10).

Importantly, 42% of people who felt they had been discriminated against believed that the ground was not one of the nine included in the equality legislation (Central Statistics Office, July 2011, p. 1).

Almost 60% of people who experienced discrimination in the two years prior to Q4 2010 did not take any action in response to their experience. This may have something to do with the fact that almost three quarters of people who experienced discrimination also reported that they had no understanding of their rights under equality legislation (Central Statistics Office, July 2011, p. 12).

Racism in Ireland

The Charter of Fundamental Rights of the European Union became legally binding with the adoption of the Treaty of Lisbon. The European Union and its institutions – as well as the Member States when they are implementing EU law – are now legally bound to observe the rights listed in the Charter.

Race is a problematic term. The FRA (European Union Agency for Fundamental Rights) highlights the first UNESCO statement on race of 1950 which remarked *'for all practical social purposes race is not so much a biological phenomenon as a social myth'*. This myth has *'created an enormous amount of human and social damage'*, and by implication, should be discarded altogether and replaced by ethnicity in social and political analysis. Racism however, is a term we use to describe *"a specific form of discrimination and exclusion faced by cultural and ethnic minorities. It refers to practices and institutions that negatively discriminate against people based on characteristics such as colour, ethnicity, etc"* (Irish Congress of Trade Unions).

Fanning et al (2011) highlight that 73% of black African respondents in Ireland believed that discrimination based on ethnicity or immigration status was widespread (Fanning, Killoran, Ní Bhroín, & McEvoy, 2011). The EU-Midis report found that 76% of black respondents in Ireland did not report their experiences of discrimination to the relevant authorities. They also highlight the study published in April 2010 by the Teachers' Union of Ireland (TUI), involving 332 second and third-level teachers, which found that 28% were aware of racist incidents that had occurred in their school or college during the previous month. Black children were identified as particularly vulnerable to such incidents. An ESRI study highlights that 9.2% of Asian respondents, 15% of non-EU European and 18.7% of black respondents described being treated badly or receiving a poor service from healthcare services on at least one occasion. Again, of those who received substandard treatment, most (82.5%) did not make a complaint (Fanning, Killoran, Ní Bhroín, & McEvoy, 2011, pp. 8-10).

In a research experiment project looking at discrimination in recruitment, McGinnity found that candidates with Irish names were over twice as likely to be invited to interview for advertised jobs as candidates with identifiably non-Irish names, even though both submitted equivalent CVs (McGinnity, Nelson, Lunn, & Quinn, 2009).

A survey of TDs recently found that three in five encountered racism on the canvass in the general election in 2011. A third acknowledged that speaking up for immigrant rights would damage them electorally. Racism can lead to extreme behaviour. Officially recorded racist crime, though low, was up 28% between 2000 and 2009³.

3 Irish Times article March 22nd 2012, accessed on the 16th April 2012 <http://www.irishtimes.com/newspaper/opinion/2012/0322/1224313700478.html>

SECTION 3:

UNION REPRESENTATIVES PROMOTING INTEGRATION

Many argue that trade unions play a key role in fighting all grounds of discrimination, by means of a variety of actions and tools. These include negotiating with employers to ensure that discrimination in the workplace is eliminated and equal opportunities are promoted, supporting victims of discrimination, and monitoring discrimination in the workplace. Trade unions are critical sources of support and information for workers and you as a TEEU member can help to:

- a) address the information gap – as many workers are unaware of their rights, the procedures and the options open to them;
- b) promote understanding of diversity and the value of equality at work;
- c) ensure equality and diversity are addressed in all your activities, from individual support to collective agreements, to policy making and advocacy; and
- d) help workers resolve equality issues satisfactorily.

In a recent case the complainant, a black Zimbabwean national, was employed by the respondent as a security operative between December 2002 and June 2007. He complained of racial harassment over the period. He said that only once did he work with a white employee. He added that this employee handed him his mobile phone and showed him the contents of a text he had received. The text was from the respondent (the complainant recognised his number) and read '*Remember you are working with a black guy, you will have to watch him*'. The complainant stated that the long working hour regimes were exclusively assigned to the black Zimbabwean employees. The respondent failed to attend. The Equality Officer awarded €25,000 by way of compensation for the distress suffered by the complainant as a result of discrimination in working conditions and harassment (European Commission, 2012).

GLEN (the Gay and Lesbian Equality Network) argue that equality in the workplace affects the 130,000 lesbian, gay, bisexual and transgender (LGBT) people at work in Ireland (Maycock, Brian, Carr, & Kiching, 2009). Many would say there has been a positive shift towards accepting people irrespective of their sexual orientation in Ireland. However, in a recent survey 15% of the respondents admitted to having experienced verbal threats at work because they were, or were believed to be lesbian, gay, bisexual or transgender. Almost 7% admitted to having been physically threatened by a work colleague, while almost 10% admitted to missing work because they were afraid of being hurt or felt

threatened because of their LGBT identity⁴. Congress has produced a guide for trade unions, which provides practical steps and information on how to promote equality for lesbian, gay, bisexual and transgender people at work. This is particularly important since civil partners are entitled to the same treatment as their colleagues' married spouses in the workplace. This includes pension schemes and employment benefits. Any workplace benefits for married spouses must now also cater for civil partners of employees in the same manner and this includes a 'member of the family,' including the child of his or her civil partner. Any benefits to employees' children must not discriminate between employees on the basis of the "civil status" or the sexual orientation of the employee. Congress and Transgender Equality Network Ireland (TENI) produced an Introductory Guide to promote equality and to help foster understanding of gender identity and transgender experiences in workplaces - see <http://www.ictu.ie/publications/fulllist/congress-and-teni-gender-identity-in-the-workplace-guide/>

Migrant workers can be particularly at risk of exclusion and discrimination because their work permit is tied to a particular employer, making it difficult for them to complain, especially if they have family to support or if family members work for the same employer. In addition, Irish based migrant workers are typically not members of trade unions. Congress produced a Good Practice Guide with examples of trade union engagement with migrant workers to help union representatives in their efforts to promote equality and foster understanding of diversity - see <http://www.ictu.ie/publications/fulllist/congress-trade-unions-and-migrant-workers/>

Interculturalism is about developing a more inclusive society, about creating the conditions for interaction, equality of opportunity, understanding and respect. We know instinctively that 'one size does not fit all', and that by planning for and accommodating cultural and ethnic diversity, everyone will benefit from the process. The following steps are taken from the Congress' Good Practice Guide on Migrant Workers, which provides practical steps and examples of work undertaken by a range of trade unions in Ireland.

4 Equality in the workplace was ranked as the single most important issue affecting LGBT people in a poll of 1,127 LGBT people published in 2009. For more information go to <http://www.glen.ie/attachments/fadc9044-086f-4ef0-8fc5-a71ad5ea884e.PDF>

TO PROMOTE EQUALITY AND TACKLE RACISM YOU CAN

Quantify migrant worker involvement in your trade union

Build partnerships with new community groups and NGO's locally

Promote your union's efforts to combat racism, and ensure all members know what to do if they observe racism in the workplace

Run local and national forums for migrant workers

Ensure migrant workers' voices are heard

Organise joint employment rights campaigns around, for example:

- ▶ lower rates of pay and poorer conditions of agency workers,
- ▶ addressing the inconsistency and lack of recognition of non-EU qualifications,
- ▶ reform the work permit system

Organise specific recruitment drives

Actively encourage/support migrant workers' involvement in all aspects of the union's activity

Develop English language training opportunities for migrant workers

Set goals/targets for the representation of migrant workers in decision-making roles in the union

SECTION 4: MAKING USE OF THE EQUALITY LEGISLATION

Equality legislation provides a foundation for the creation of equitable workplaces. In Ireland there are a number of Equality Acts that protect people from discrimination and promote reasonable accommodation and these are:

- ▶ the Employment Equality Act 1998 – 2011;
- ▶ the Equal Status Act 2000 – 2011;
- ▶ The Disability Act 2005⁵.

The Employment Equality Acts 1998-2011 cover all aspects of employment including advertising, equal pay, access to employment, vocational training and work experience, terms and conditions of employment, promotion or re-grading, classification of posts, dismissal and collective agreements.

The Nine Grounds Protected

The legislation prohibits discrimination on the following nine grounds:

- ▶ The **age** ground: this applies to all ages above the maximum age at which a person is statutorily obliged to attend school;
- ▶ The **civil status** ground: single, married, separated, divorced, widowed, in a civil partnership or previously in a civil partnership;
- ▶ The **disability** ground: this is broadly defined including people with physical, intellectual, learning, cognitive or emotional disabilities and a range of medical conditions.
- ▶ The **family status** ground: a parent of a person under 18 years or the resident primary carer or a parent of a person with a disability;
- ▶ The **gender** ground: a man, a woman or a transsexual person (specific protection is provided for pregnant employees and in relation to maternity leave);
- ▶ The **race** ground: a particular race, skin colour, nationality or ethnic origin;
- ▶ The **religion** ground: different religious beliefs, background, outlook or none;

⁵ For a detailed guide on the Disability Act 2005 go to http://www.inis.gov.ie/en/JELR/Pages/Guide_to_Disability_Act_2005

- ▶ The **Traveller Community** ground: people who are commonly called Travellers, who are identified both by Travellers and others as people with a shared history, culture and traditions, identified historically as a nomadic way of life on the island of Ireland;
- ▶ The **sexual orientation** ground: gay, lesbian, bisexual or heterosexual.

Defining Discrimination

Discrimination in the Acts includes **direct discrimination** - defined as the treatment of a person in a less favourable way than another person is, has been or would be treated in a comparable situation on any of the nine grounds⁶. Less favourable treatment is determined through a comparison between the alleged victim and another person in a similar situation who does not possess the protected characteristic. **Indirect discrimination** happens where there is less favourable treatment in effect or by impact, for example, if people are refused employment or training because of a provision, practice or requirement which they find hard to satisfy.

Sexual harassment and harassment

Harassment is any form of unwanted conduct related to any of the discriminatory grounds. Sexual harassment is any form of unwanted conduct of a sexual nature. In both cases it is conduct which has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person.

Reasonable accommodation

The Disability Act 2005 places significant obligations on public bodies to make buildings and services accessible to people with disabilities and requires public bodies to take positive actions to employ people with disabilities. The National Disability Authority is the independent state body providing expert advice on disability policy and practice to the Minister, and promoting Universal Design in Ireland. See: <http://www.nda.ie/>

The Employment Equality Acts also protect people with disabilities and promote

⁶ An instruction to discriminate is also prohibited.

reasonable accommodation, whereby an employer is obliged to take appropriate measures to enable a person who has a disability to:

- ▶ have access to employment,
- ▶ participate or advance in employment,
- ▶ undertake training,

unless the measures would impose a disproportionate burden on the employer.

Appropriate measures are effective and practical measures to adapt at the employer's place of business and include the adaptation of premises and equipment, patterns of working time, distribution of tasks or the provision of training or integration resources, but do not include any treatment, facility or thing that the person might ordinarily or reasonably provide for himself or herself.

Disability is defined as the total or partial absence of a person's bodily or mental functions, including the absence of a part of a person's body; the presence in the body of organisms causing, or likely to cause, chronic disease or illness; the malfunction, malformation or disfigurement of a part of a person's body; a condition or malfunction which results in a person learning differently from a person without the condition or malfunction; or a condition, disease or illness which affects a person's thought processes, perception of reality, emotions or judgement or which results in disturbed behaviour (Equality Authority, p. 6). The first ever World Report on Disability, produced jointly by WHO and the World Bank, suggests that more than a billion people in the world today experience disability. People with disabilities have generally poorer health, lower education achievements, fewer economic opportunities and higher rates of poverty than people without disabilities. This is largely due to the lack of services available to them and the many obstacles they face in their everyday lives.

The Equality Authority launched two Equality and Mental Health guides. In one they highlight the case - reference number - DEC-E2008-26. In this case an employer dismissed an employee while he was on sick leave. The employer issued the dismissal letter after they became aware that the employee was experiencing depression. The Equality Officer found that the employer discriminated against the employee on the disability ground. The employee was awarded €17,500 in compensation for the distress suffered due to the discriminatory dismissal (Equality Authority & See Change, 2011, p. 6). Their second guide provides practical information about equality law and strategies in the workplace (Equality Authority & See Change b, 2011).

Congress produced a Code of Practice with a specific focus on mental health and illness within the wider definition of disability and provides practical guidance for unions as service providers and as employers. The Code provides sample policies that can be very easily adapted to suit your work environment (http://www.ictu.ie/download/pdf/ictu_code_of_practice.pdf)

TO PROMOTE REASONABLE ACCOMMODATION YOU CAN

Encourage employers to assess the workplace to improve accessibility

If you are working in the public sector, check what is being done to fulfil the legal obligations under the legislation

Facilitate review of the Congress' Code of Practice and adaptation to your work environment

Encourage discussion to share learning about making the workplace accessible

Surveys reveal that, if they were victims of discrimination or harassment, respondents in Ireland would turn first of all to their trade union (Eurobarometer, Nov 2009; Irish Congress of Trade Unions). As a union representative you have a key role to play in building awareness of value of promoting equality at work and building a collective understanding of how to promote equality at work.

TAKE THE FIRST STEPS TO PROMOTING EQUALITY

Promote equal rights for all members, by seeking to negotiate with employers policies and procedures that advance equality

Ensure all workplace negotiations take account of the different needs and situations of workers and do not lead to any groups in the workplace being disproportionately disadvantaged

Create a supportive atmosphere at work and in the union, in which all members feel that they can participate and that their views are valued and experiences considered

Help people understand their rights and find solutions to their situation

Encourage and, where possible, help employers develop equality policies, equality training, action plans and help to monitor progress in implementing equality initiatives

Ensure harassment and discrimination complaints are dealt with effectively

SECTION 5:

DEVELOP EMPLOYMENT EQUALITY POLICIES

Equality policies help us all understand what is expected of us with regard to promoting equality in the workplace. The 2011 ESRI (Economic & Social Research Institute) study found that 84% of employees worked in an organisation with a formal equality policy, compared to 75% of employees in 2003 (Russell & McGinnity, 2011). The increase in coverage was particularly marked in the private sector.

They highlight that employees who work in organisations with a formal equality policy are much more likely to consider that opportunities for recruitment, pay and promotion are fair in their organisation. In addition, they found that the presence of an equality policy is associated with lower levels of work pressure and work-life conflict, and with higher job satisfaction and higher employee commitment to their organisation.

They conclude that formal equality policies are associated with benefits for both employees and the organisations they work for.

An Equality Policy is a statement of commitment and measures that organisations develop so that everyone knows what is expected of them and understands the procedures for promoting equality in the workplace. The Equality Authority recommends a ten step approach (Equality Authority).

TO DEVELOP AN EQUALITY POLICY YOU CAN

1. Agree and support an equality committee and an equality officer
2. Take an audit of policies in the organisation, including collective agreements, equality policies, anti-racism policies, etc... to see if they are up-to-date, known about and used by the workers
3. Put in place an Employment Equality Policy, following best practice guidelines, if there is none – to cover equality commitments, measures, complaint mechanisms, organisational infrastructure and review mechanisms
4. Argue for company audits to check if there is equality of opportunity in recruitment, selection and promotion processes and any job re-grading or reclassification processes
5. Find out if you need to develop positive actions for particular groups
6. Integrate the equality dimension into job orientation, training, work experience, etc.
7. Develop a network, internally, to ensure momentum is maintained in your organisation, and externally to keep up-to-date with developments outside your workplace
8. Promote your equality efforts with employees, clients, business contacts and service providers
9. Evaluate, monitor and review your equality initiatives, policies and practices.

SECTION 6: PREPARING FOR EQUALITY CASES

If you are approached by a colleague who feels they are being discriminated against, it is important to listen to them and give them time to explain their situation.

TO HELP MEMBERS YOU CAN

Prepare yourself by reading the Congress' Guide to taking an equality claim and remember it is really important to listen to what the person is saying and what they want to happen next

Organise equality training, so that union representatives and members learn about the equality legislation, and what to do if they are presented with an equality issue by a colleague

Put in place clear procedures for managing equality complaints that are presented to the union

Network with other unions to build good practice in making equality claims to the Equality Tribunal

Congress published guidance on taking an equality case, which is very detailed and provides practical steps on what to do. Congress also provides training for union representatives - see <http://www.ictu.ie/publications/fulllist/congress-equality-how-taking-an-equality-case/>

The Equality Authority

The Equality Authority is an independent body set up under the Employment Equality Act 1998. Its mission is to achieve positive change in the situation and experience of those groups and individuals experiencing inequality, by stimulating and supporting a commitment to equality. See: <http://www.equality.ie>

The Equality Tribunal

The Equality Tribunal is the impartial forum to hear or mediate complaints of alleged discrimination under equality legislation. It is independent and quasi-judicial and its decisions and mediated settlements are legally binding. They have a video on their website that explains the process very clearly. See: <http://www.equalitytribunal.ie/>

Mediation

All too often workplace disputes are ignored, and the people involved develop positions. If left, people can become entrenched and focus on holding onto these positions rather than finding solutions. Mediation is an option in conflict resolution that is gaining recognition in organisations. It is important that you find out about mediation, see what is involved and be in a position to answer questions about mediation objectively, if a worker enquires about this option.

In mediation, an independent dispute resolution practitioner, a mediator, will usually talk with each of the parties separately, and then bring them together so that they can find and, if possible, agree on solutions which suit both their needs. The mediator does not suggest or impose a solution on people. Their main role is to help the parties discuss the problem in a reasonable way to allow them to find their own solution. For further information on mediation, see <http://www.themii.ie/>

SECTION 7:

UNION EQUALITY ACTION - SOME CASE STUDIES

Research in the EU in 2010 identified trade union initiatives that fight discrimination or promote equality in 34 European countries. The 130 initiatives reported dealt with four main ways in which trade unions combated discrimination:

- a) social dialogue and workplace practices to promote equality and combat discrimination,
- b) union practices to promote equality and combat discrimination,
- c) working with NGO's against discrimination,
- d) union training to promote equality.

The reported outcomes from the initiatives were greater membership participation, recruitment of new members and a wider public profile for the union. The greatest number of initiatives was 47 in the area of union training and awareness-raising (36%), followed by 31 initiatives relating to union practices (24%), mainly involving changes to structures or new ways of organising, and 29 on social dialogue (22%). Fewer than one in five (23) of the initiatives were in relation to joint work with NGO's (European Commission, May 10). They highlight that by far the most common significant and innovative initiatives were concerned with issues of racial and ethnic origin (10). (European Commission, May 10)

One: A training programme for young ethnic minority workers

The TIB – Timber and Construction Workers' Union in Denmark – represents approximately 70,000 members in the construction, wood and furniture industry. Just 4% of its membership is of migrant or ethnic minority origin. The initiative undertaken was the introduction of a trial pre-apprenticeship trainee programme, the outcome of an agreement between the union and the employers' organisation.

Results

The project was formally evaluated and has given rise to requests for similar agreements from other employers in the sector, aimed at increasing the participation of young people generally and leading to further agreements.

Further information: <http://www.tib.dk/sider/forside/>

Two: Collective agreement on diversity management

The Comisiones Obreras (CCOO) consists of both regional and sector-based organisations. Its main areas of activity are the metalworking sector, transport, communication and chemicals. The case study is concerned with signing a Diversity Charter within a large hotel chain.

Results

The new agreement has encouraged a growing awareness among new activists, within the hotel sector and in the union, as well as in civil society. The initiative has a strategic relevance because it supports the acquisition of new and different experiences and is transferable to other companies. Currently the CCOO is sending leaflets to companies that potentially might be interested in the initiative and it is in the process of signing another eight similar agreements. Currently, development of the collective agreement with Majestic Hotel is continuing, in particular the HR department is drawing up a draft of the internal reception plan.

Further information: <http://www.ccoo.es/cscceo/menu.do>

Three: Auditing union equality work and advancing workplace equality

The Trades Union Congress (TUC) had three significant initiatives. The first is a rule change introduced in 2001, committing the TUC and its affiliated trade unions to promoting equality in all aspects of its work and to conducting regular equality audits. The second is through the establishment of trade union equality representatives. The third initiative is on sexual orientation, where the TUC works to get affiliated unions and employers to address issues affecting LGBT employees.

Results

External evaluation of the first TUC equality audit concluded that overall the process of auditing union structures and equality work had been a valuable one for most unions. Many said that it had helped to integrate the unions' equality and negotiating agendas and a majority felt it had brought to light gaps in union policy and action on equality, which they planned to rectify.

Further information: <http://www.tuc.org.uk>

Four: Working on LGB and disability issues

The Irish National Teachers' Organisation (INTO) has an Equality Committee that advises the union's Central Executive Committee (CEC) on equality and initiates equality policies, activities and projects. The LGB Teachers' initiative began when four union members independently contacted the union's Head Office requesting the establishment of an LGB group. The union agreed to facilitate a group whose fundamental objectives were to provide mutual support and to enable gay, lesbian and bisexual union members to be more visible and more vocal within the union, particularly in working towards the elimination of homophobia in schools.

Results

The number of LGB activists has grown from 14 in 2004 to over 50. The success of the initiative is visible in that more LGB members are now willing to speak publicly and to the media about the reality of what it is like to be an LGB teacher in Irish schools.

Further information: <http://www.into.ie/>

Five: Equal rights — no exceptions campaign against social dumping

The Icelandic confederation of Labour (ASI) is one of three confederations in Iceland. There is a reported increase in migrants joining and this has meant greater emphasis on issues concerning migrants and policies regarding foreign workers. Many migrant workers were working in the construction industry, being paid less, sometimes undocumented and working without social insurance. The trade unions realised that they had to inform such workers about their rights.

Results

As a result of the campaign, ASI gained a couple of thousand new members. The union campaign was viewed as an important success and as an eye-opener for all involved. The aim of the campaign was to defend the conditions and rights of all wage earners in the Icelandic labour market. Due to the campaign, there is greater awareness in the community of companies trying to abuse migrant workers, paying them less and taking advantage of their situation.

Further information: http://www.asi.is/desktop- default.aspx/tabid-382/521_read-1115/

Six: Union negotiation on religion

The Christian Trade Union Confederation of Belgium took actions in response to union representatives' needs to support mainly Muslim workers, relating to working hours; accommodation; time for prayer, particularly during Ramadan; the wearing of the headdress; prayer areas; kosher meals; days off for Muslim holidays; and leave to undertake a pilgrimage to Mecca. The significance of the action is in the way that the union has engaged with relevant NGO's (Non Government Organisations).

Result

The outcome has been to encourage a debate around religion at the workplace in a service public trade union committee where the delegates were asking for concrete solutions. It also raised awareness of religion as an important dimension of diversity.

Further information: <http://www.csc-en-ligne.be/>

Seven: Partnership for equality: promotion of anti-discriminatory practices regarding sexual orientation at the workplace

The Association of Free Trade Unions of Slovenia (ZSSS) is the largest trade union confederation in Slovenia, with 23 representative branches. Since 2004 the union has been active in combating LGBT discrimination at work. The 'Partnership for equality' project was conducted between 2004 and 2007. The central office, and the Committee of ZSSS for Equal Opportunities, planned and coordinated the project within the union. The partnership aimed to educate, raise awareness and develop the anti-discrimination policies of the social partners that are major actors in the field of employment and the labour market, involving trade unions and employers.

Results

The project also produced two toolkits, (i) 'Measures against discrimination in the workplace for employers and (ii) 'Measures against discrimination in the workplace for trade unions, and undertook research on the attitudes of trade unions and employers towards discrimination in the workplace. The TRACE transnational collaboration produced the brochures 'Open up your workplace and norms at work' and TV commercials that were shown at least 150 times on national TV stations, while 13 regional seminars for trade unions and employers were organised.

Further information: <http://www.zsss.si/>

Eight: Positive discrimination in collective bargaining for older workers

The Confederatia Sindicatelor Democratice din Romania (CSDR) is one of four major confederations, organised along employment sectors and political affiliations. The initiative 'The TIC caravan' aimed to reduce the level of reticence in the case of older workers living in rural areas, especially women, working mainly in the subsistence agricultural sector, to engage in adult professional training programmes and to actively seek alternative employment opportunities.

Results

By 31 August 2009, some 63 people had participated in the job search training sessions, and 62 in the career counselling; of these, 86% were women and 14% were men. The same consortium of organisations, with the possible engagement of other partners, is developing both youth and adult programmes for the labour market integration of people belonging to the Roma minority.

Further information: <http://www.confederatii.ro/article/252/C-S-D-R-Confederatia-Sindicatelor-Democratice-din-Romania>

SECTION 8:

CHECKLIST – PROMOTE EQUALITY AT WORK**Good equality practice in the workplace**

- ▶ Make sure your employer has an employment equality policy.
- ▶ Ensure interview and promotion panels are diverse and that all who sit on them have been given equality and diversity training.
- ▶ Encourage regular training of all staff to make them aware of the importance of equality and respect for diversity in the workplace. More detailed training may be required for managers and trade union representatives on particular issues such as reasonable accommodations for disabled people, avoiding discrimination in recruitment and selection, dealing with bullying and harassment.
- ▶ Regular monitoring of the workforce can be useful. As well as composition of the workforce, ideally it would also cover applicants, appointments, starting salaries, performance assessments, training, grievances and disciplinary cases, and leavers.
- ▶ The union can assist with getting good return rates from monitoring, by enabling consultation with the workforce before it is undertaken, ensuring the questions asked are appropriate and that the workforce understands why the information is being gathered, and what will happen as a result.
- ▶ Information from monitoring and staff surveys should be acted upon and not gathered for its own sake. Ask to see the data and feedback and what action the employer plans to take as a result.
- ▶ Press employers to carry out equal pay audits on a regular basis, to check for any unjustified gender pay gaps. Ensure the results are shared with you and action is taken to address any unjustified gaps.
- ▶ Press employers to audit their policies on a regular basis, checking for any disproportionate negative impact or potential impact on particular groups and amending them if a policy or practice cannot be objectively justified.

- ▶ If a new pay structure or employment policy is proposed, get the employer to consider at an early stage the impact it will have on different groups. Speak to members about the proposals and see whether there is any potential negative impact. If there is evidence of disadvantage for some groups, press the employer to amend the proposals or put in place measures to mitigate any negative impact.
- ▶ Ensure policies on family-friendly leave are inclusive and reflect the diverse range of families that exist. Such policies and benefits should make clear that they apply to same-sex couples and parents.
- ▶ Flexible working opportunities should be made available to all workers. Flexible working is not just for women with young children: it can be important in advancing equality of opportunity for disabled workers, carers and older workers as well. Plus, if it is available to everyone it is more likely that the culture of the workplace and the design of jobs will change to meet demand for flexible working, so those who really need it will be more likely to get it.
- ▶ Consider dress codes, facilities, working time and leave policies and whether these should be amended to accommodate the requirements of different religions.

Adapted from TUC Equality Duty Toolkit, 2011

SECTION 9: EQUALITY AT WORK – MORE RESOURCES

Trade Union Guides

I. Congress Guide – Race, Culture and Identity

Congress produced a *Good Practice Guide*, with examples of trade union engagement with migrant workers to help union representatives in their efforts to promote equality and foster understanding of diversity. See: <http://www.ictu.ie/publications/fulllist/congress-trade-unions-and-migrant-workers/>

II. Congress Guide – Identity and Transgender

Congress and Transgender Equality Network Ireland (TENI) produced an Introductory Guide to promote equality and to help foster understanding of gender identity and transgender experiences in workplaces. See: <http://www.ictu.ie/publications/fulllist/congress-and-teni-gender-identity-in-the-workplace-guide/>

III. Congress Guide – Disability

The Code provides sample policies that can be very easily adapted to suit your work environment. See: http://www.ictu.ie/download/pdf/ictu_code_of_practice.pdf

IV. Congress Guide – Taking an Equality Case

Congress published guidance on taking an equality case. See: <http://www.ictu.ie/publications/fulllist/congress-equality-how-taking-an-equality-case/>

V. PCS UK Guide – Race Equality Toolkit

The Public and Commercial Services Union (PCS) is one of the largest trade unions in the UK, produced a race equality toolkit. See: http://www.pcs.org.uk/en/equality/guidance-and-resources/race_equality_toolkit/

VI. TUC Guide – Equality Duty Toolkit

The TUC produced an Equality Duty Toolkit for trade union negotiators, to help them understand the new public sector equality duty in England and how they can use it. See: <http://www.tuc.org.uk/equality/tuc-20159-f0.cfm>

Equality Body Guides

I. Your Employment Equality Rights Explained – Equality Authority

Your Employment Equality Rights Explained, produced by the Equality Authority is a guidebook that provides information on the equality legislation. This can be accessed at www.equality.ie

II. The Equality Tribunal – Employment Equality Information

The Equality Tribunal website also provides useful information on taking employment equality cases; for more information see: <http://www.equalitytribunal.ie/Employment-Equality/>

III. Equality and Human rights Commission UK – Equal Pay Quick Start Guide

The Commission has produced a series of checklists or guidance notes to help employers deal with the more common causes of unequal pay in the workplace and make it easier for small and medium sized businesses to examine their pay systems to ensure they comply with equal pay laws. See: <http://www.equalityhumanrights.com/advice-and-guidance/guidance-for-employers/tools-equal-pay/checklists-equal-pay-in-practice/>

IV. NDA eLearning – Disability Equality Training

The NDA (National Disability Authority) is developing an eLearning module to provide basic Disability Equality training to public sector staff in Ireland. The training content includes an overview of disability in Ireland, with statistics and relevant legislation. The training shows some of the barriers faced by customers with disabilities and explains how good customer service can get over these barriers. Trainees learn how to engage with a person with a disability in a customer services setting. See: <http://elearning.nda.ie/>

V. EU Agency for Fundamental Rights – Handbook on European non-discrimination law

In January 2010, the European Court of Human Rights and the European Union Agency for Fundamental Rights decided to collaborate on the preparation of this Handbook on European case-law concerning non-discrimination.

International Standards

I. ILO Decent Work Agenda

The ILO (International Labour Organization) has adopted the Decent Work Agenda (DWA) in the last decade. This builds on the fundamental workers' rights enshrined in the ILO Core Conventions, but extends the provisions of these by also encouraging employers and governments to work together to provide employees with skills training and lifelong learning opportunities, flexible hours, job security, increased labour market access, and better work-life balance. In this, the DWA goes significantly further than the ILO Core Conventions, and calls for better legislation and practice from both business and states in the areas above, which are of central importance to women, due to their reduced access to skills and training, and the disproportionate domestic burden they carry. See: www.ilo.org/global/about-the-ilo/decent-work-agenda/lang-en/index.htm

II. OECD Guidelines for Multinational Enterprises

The OECD (Organisation for Economic Co-operation and Development) Guidelines for Multinational Enterprises are recommendations made by 42 governments, covering all major areas of business ethics, including the steps that multinational companies must take to obey the law and observe internationally recognised standards.

The Guidelines provide voluntary principles for business conduct consistent with applicable laws and internationally recognised standards. The OECD Guidelines are generally supported by multinational enterprises, and corporate codes of conduct often refer to them. Commentators see these as the most important international mechanism seeking to set standards of behaviour for international corporations and point out that, unlike the ILO Core Conventions, the OECD Guidelines are targeted specifically at corporations rather than governments, and are more comprehensive in coverage than the UN Global Compact or the ILO's Tri-partite Declaration on Multinational Enterprises (www.ergonassociates.net/?p=98&option=com_wordpress&Itemid=161). On 26 May 2011, an update of the Guidelines was released. The biggest change was the inclusion of the concept of 'due diligence'. Also, previously it was unclear whether the Guidelines extended into the vast network of supply and distribution chains that multinationals rely on. Now it is clear that they do. See: <http://www.oecd.org/dataoecd/43/29/48004323.pdf>

III. EU Charter of Fundamental Rights

The Charter of Fundamental Rights of the European Union (the Charter) was signed and proclaimed in 2000 by the European Parliament, the European Commission and by the EU member states, comprising the European Council. It is the first formal EU document to combine in a single text the whole range of civil, political, economic and social rights and certain “third generation” rights such as the right to good administration or the right to a clean environment. When the Treaty of Lisbon entered into force in 2009, it altered the status of the Charter of Fundamental Rights to make it a legally binding document. As a result, the institutions of the EU are bound to comply with it.

The Charter’s prime objective is to make rights more visible. The text is not intended to establish new rights, but to assemble existing rights that were previously scattered over a range of sources, including the European Convention on Human Rights and Fundamental Freedoms (ECHR) and other Council of Europe (COE), United Nations (UN) and International Labour Organisation (ILO) agreements. The Charter applies to the EU institutions (European Commission, European Parliament, European Council, the Council, the Court of Justice of the European Union, European Court of Auditors and European Central Bank) and bodies set up under secondary legislation (such as Europol, Eurojust, the European Economic and Social Committee, and the Committee of the Regions). The Charter also applies to all EU member states, but only when they are acting within the scope of EU law. For example, the Charter would apply to Ireland if it was passing a law about trade regulation but not if it was passing a law about a purely Irish matter.

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