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Guide to the Equal Status Acts for Complainant



An Coimisiún um Chaidreamh san Áit Oibre
Workplace Relations Commission

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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,
- race, colour, nationality, ethnic or national origin, and housing assistance

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.

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



Complaints

When a person makes a complaint, they are known as the complainant. The person or organisation complained about is known as the respondent, as they must respond to the complaint. In equal status cases, the respondent may also be known as a service provider - a person, an organisation or a business in the public or private sector that provides goods or a service of any kind.

If you feel you have been discriminated against on any of the grounds when receiving goods and services or if you have been victimised, you may bring a complaint against the respondent to the WRC.

If you have a complaint against a registered (licensed) club or a licensed premises (such as pubs or hotel bars), you should refer it to the District Court, not the WRC.

Do I need a lawyer?

No, neither side needs a lawyer. However, if you choose, you may be represented by a solicitor, professional association, trade union, support person or a support organisation. The respondent 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 your complaint is successful.



How do I make a complaint?

There are two important steps that you must follow to make a complaint to the WRC.

1. You must notify the respondent.

You must write to the respondent within 2 months of the alleged incident, setting out the nature of the complaint and saying that if you are not happy with their reply, you may seek a remedy under the Equal Status Acts 2000 to 2015. Your complaint is not valid unless this is done. If you wish, you may also ask for additional information to help you decide whether to bring a complaint and to find out what happened.

The WRC has the Complaint form to help you do this. You can get this form from the WRC on www.workplacerelations.ie or ask for it on the phone or in person. You will find our contact details at the end of this leaflet.

The respondent does not have to reply to this notification but if they do not reply or if their reply is false or misleading, the Adjudication Officer may take this into account when reaching a decision.

2. You may refer the complaint to the WRC.

You must do this within 6 months of the date of the incident, using the Complaint form. This form is available from the WRC on www.workplacerelations.ie. You will find our contact details at the end of this leaflet.

Along with the complaint form, you should send us a copy of the letter you sent to the respondent, proof of postage and a copy of any reply you received.

Please note the WRC cannot deal with your case until a month after you have notified the respondent, unless you have already got a reply from them.

What happens if the notification or complaint is late?

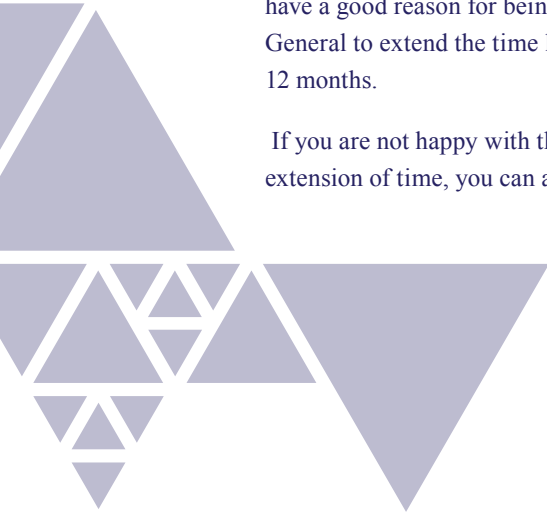
1. If you do not notify the respondent within 2 months of the incident, the complaint is said to be ‘out of time’. However, if you have a good reason for being late, you can write to the Director General of the WRC and ask for an extension of time to 4 months from the date of the incident.

In exceptional cases, the Director General may allow your complaint to go ahead even if you did not notify the respondent within the maximum 4-month period. However, there are strict legal conditions for this.

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

2. If you do not refer the complaint to the WRC within 6 months of the incident, the complaint is ‘out of time’. However, if you have a good reason for being late, you can ask the Director General to extend the time limit for making the complaint up to 12 months.

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 when the WRC receives my complaint?

We will write to you and let you know that we have received the complaint. We may also ask you to explain any points that are unclear. We will then send a copy of the complaint form and all other material to the respondent.

There are then two ways in which the WRC can act on your 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. Your case will then go to investigation and decision.

What is mediation?

In mediation, you and the respondent 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, you may ask in writing for the case to 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 you to provide a written statement, known as a submission, setting out the facts of your case and the arguments you want to make. The WRC will send a copy of this and any other material to the respondent. The WRC may also ask the respondent to provide a written statement and will send a copy of this and any other relevant material to you. The WRC will set a date to hear the case.

What happens at the hearing?

At the hearing, the Adjudication Officer will give you and the respondent 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. Hearings are held in private.

Burden of proof

It is up to you to present facts that would support your claim of discrimination. If you establish these facts, the respondent has the burden of proving that discrimination did not take place.



What happens after a hearing?

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

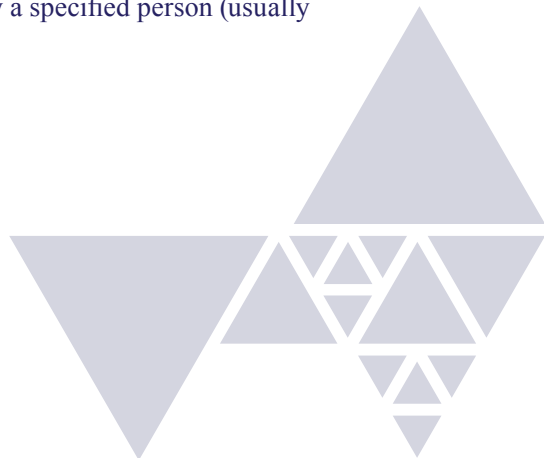
By law, the WRC must publish decisions. However, in sensitive cases, either side may ask for their names to be left out. Copies of all decisions are made available on our website.

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 the respondent).



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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