



IBEC Submission

to the Minister for Justice, Equality and Defence

**Consultation on the New Human Rights and Equality
Body**

23 November 2011

Introduction

IBEC welcomes the opportunity to participate on behalf of its members, in this consultation process, although we note it is of quite a broad nature and the consultation period is quite brief. It is essential that a robust, independent and expert equality and human rights mechanism is in place if Ireland is to maintain an open, diverse and tolerant society particularly in difficult times. IBEC has a rich history of working with employers and equality bodies to further the culture of equality and diversity in Ireland. This has been achieved through the provision of legislative and best practice education, advice, support, and the development and dissemination of various initiatives and tools to support equity in the workplace.

The Minister's stated objective of the establishment of the new Human Rights and Equality Commission to "*provide better value for money and a more streamlined structure which would improve its ability to fulfil its obligations in a more effective and co-ordinated manner, delivering savings on board and administration fees*" while having regard to both bodies respective responsibilities under International law and current legislation within the scope of this exercise is welcomed. Given the budget cuts that each of these organisations has experienced independently a merged structure is likely to facilitate the operation of their activities more comprehensively.

It is vital that the important role that these individual bodies serve is not undermined through their merger but instead achieves the Minister's objectives of becoming a more efficient, stronger and more effective structure which retains the key aspects of each, while carrying out its functions in an adequately resourced manner.

1. What do people want the new body to do?

The new streamlined body should continue to champion the principles of equality and human rights (as is currently achieved by the respective bodies), while respecting the UN Paris Principles.

Given that the merger is being driven by an expressed desire to reduce the number of quangos and securing efficiencies while retaining the obligations of both bodies under EU law, IBEC would have some concerns that the purpose of the working group suggests the expansion of the remit of the merged organisation which does not make sense in light of today's economic conditions. The focus needs to be on the existing portfolio of responsibilities and achieving best practice in these areas.

While the general model of the Equality Authority and the Irish Human Rights Commission (IHRC) is similar and complementary, there are a number of integral distinctions between them. They each have a broad range of statutory functions regarding legal assistance, advice and information provision within which they can choose what areas to focus on, yet they also have distinct and separate competencies under the legislation where their expertise lies. For example, the 'regulatory' function of the Equality Authority has been an important aspect of

its work to date, through its statutory role to advise the relevant Minister on possible changes to legislation and through its ability to assist individuals they feel have experienced discrimination.

Clear synergies and economies of scale can be achieved through shared services, the integration of premises, systems and back office roles. A number of overlapping functions exist between the two bodies, for example in the promotion, education and research areas, and where possible, savings should also be made by streamlining these functions. Similarly there are areas such as mental health and disability that both bodies have significant expertise in which could be treated in a more holistic fashion within a new body. However failure to retain the unique skillsets and expertise currently within each body would be an error.

2. What features and functions does it need to do these things?

The briefs of each body are not always aligned and the balance between equality and other rights will sometimes collide. For example, the Human Rights brief appears to be quite driven by the interpretation of the Irish Constitution and the strides we have made in Ireland for example, surrounding the recognition of civil partnership and same sex relationships might have featured poorly in such origins. Similar issues arise regarding religion and sexual orientation or gender and as such would need clarification. Any such merger would require a clear strategy for dealing with these possible impasses within the new organisation.

The Equality Tribunal which adjudicates cases of discrimination is currently undergoing reform consideration as part of the Government's recently published Public Service Reform proposal. IBEC welcomes the move to rationalise the employment rights institutions and agrees that the functions of the Equality Tribunal has many synergies with other similar employment rights bodies. Consultation and communication with stakeholders has always been a feature of the Equality Authority's brief and we would like to see such engagement retained within the new merged body as it enables the dissemination of the messaging amongst for example, employers thus assisting with the communication remit of the body. This is particularly the case with regard to the continued role of the Equality Authority insofar as it determines policy matters which heavily influence how employers engage with their employees and the wider community. It is vital that future decisions of the new body are made having had regard to employer and employee representative bodies' views on policy matters which are likely to affect the workplace, or employment law generally.

In addition to the merger activities this activity provides a good opportunity to review how the new body will carry out its roles more efficiently. For example, more cost effective methods of information and education campaigns could be more readily utilised by the merged body through the advanced use of social media which would often disseminate the message further than more traditional methods.

3. How should it be structured and what working methods should it use to achieve the above?

It is essential that this merger is carried out in an orderly and reasoned fashion if the anticipated advantages are to be achieved and the inevitable management challenges avoided unlike the initial experiences of the UK human rights and equality bodies merger. This will be challenging given the different traditions of the two bodies, making the need for a coherent new structure more essential.

A root and branch review of both bodies is necessary to ensure that the staffing levels and more importantly the mix of staff skills is fit for purpose. Retention of the key expertise that has been built up to deliver the remit of each body is crucial if they are to continue to deliver on their legislated responsibilities.

The board of each body needs to be merged to an appropriate size and clearly the duration of service, selection methods and composition of members would need to be identified. IBEC would strongly emphasise the need for stakeholders to retain a formal role in the new organisation.

The independence of the equality and human rights bodies is essential. This must be protected through whatever structure is maintained for the merged body while ensuring transparency and accountability are achieved. Given the direct reporting access to the Oireachtas via committee system the new body will have, this will offer greater independence to the HREC and bring it in line with internationally recommended standards.

Conclusion

Both the Equality Authority and the Irish Human Rights Commission have amply demonstrated their ability to promote, protect and monitor equality and human rights issues generally. We must preserve the essence of the system that has served us well and protects often the most vulnerable in our society and engages with interested parties, whilst embracing reform to ensure greater efficiency and effectiveness.

IBEC thanks the Department of Justice, Equality and Defence for the opportunity to participate in this consultation process and we look forward to further supporting the merger as it develops.