



Coimisiún na hÉireann um Chearta  
an Duine agus Comhionannas  
Irish Human Rights and Equality Commission

## Invitation for Submissions - Irish Human Rights and Equality Commission Strategy Statement 2022-24 Consultation

### Introduction

The Irish Human Rights and Equality Commission (IHREC/Commission) would like to invite you to make a written contribution to the consultation process for its new Strategy Statement 2022-2024.

The Irish Human Rights and Equality Commission Act 2014 sets out the Commission role in relation to promoting and protecting human rights, equality and intercultural understanding in Ireland. The Act will provide the framework for the Commission's next Strategy Statement 2022-24.

#### Irish Human Rights and Equality Commission Act 2014

Under the Irish Human Rights and Equality Commission Act 2014 (the Act), the overall functions of the Commission are:

- (a) To protect and promote human rights and equality;
- (b) To encourage the development of a culture of respect for human rights, equality and intercultural understanding in the State;
- (c) To promote understanding and awareness of the importance of human rights and equality in the State;
- (d) To encourage good practice in intercultural relations, to promote tolerance and acceptance of diversity in the State and respect for the freedom and dignity of each person; and
- (e) To work towards the elimination of human rights abuses, discrimination and prohibited conduct.

Section 42 of the Act sets out the Public Sector Equality and Human Rights Duty, which places a statutory obligation on public bodies to eliminate discrimination, promote equality of opportunity and protect the human rights of those to whom they provide services and staff when carrying out their daily work. The Commission gives guidance to public bodies in developing policies and good practice based on human rights and equality standards.<sup>1</sup>

<sup>1</sup> <https://www.ihrec.ie/our-work/public-sector-duty/>

## Consultation with Individuals and Stakeholders

The Commission is inviting submissions from people (rights-holders) and groups working to eliminate discrimination, and promote and protect human rights and equality. Your contributions will put a spotlight on the issues that you believe should be taken into account when the Commission is developing its' strategic priorities for the next three years.

### Submission details

The closing date for submissions is **16 August 2021**.

### Format

This submission document is set out in three sections:

The context for the coming three years

The performance of the Irish Human Rights and Equality Commission

Achieving change

### Background

Please select one of the below options:

- Individual
- X Civil Society Organisation
- Other body (please specify) \_\_\_\_\_

If an individual, what group(s) do you self-identify with or wish to highlight here?

If a representative of a group or an organisation, which of the following groups does your organisation's human rights and equality work relate to?

Please select one or more of the following options:

- Age
- Disability
- Civil status
- X Family status (including lone parents and carers)
- X Gender (including a transgender person or a person who is transitioning to another gender)
- X Race
- Religion
- Sexual orientation
- Traveller community
- X Housing Assistance

- X People at risk of poverty and social exclusion
- Migrant workers and their families

What is the name of your group or organisation? (Optional but helpful if you include)

Migrant Rights Centre Ireland

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## Section 1: Context for the Commission's work over the next three years

We would like to understand your experience so that it informs the context in which the Irish Human Rights and Equality Commission will work over the next three years.

### What is going well for you (and your community / constituency)? (Max 200 words)

The pandemic has exposed inequality, intensified long-standing, poor health and safety practices in workplaces, amplified social exclusion and lack of rights for undocumented migrants and embedded exploitation and job losses for many. Despite this there has been much progress.

- Regularisation for undocumented people and their families has become a mainstream public and political matter of concern. The Justice for the Undocumented campaign group succeeded in their biggest win to-date: a commitment from government *creating new pathways to residency for undocumented people and their dependents*. The scheme will be open for applicants by the end of the year.
- MRCI secured a 'Firewall' between government departments for undocumented people accessing government supports during the COVID-19 pandemic, so that no data was shared which may result in a deportation order.
- In 2020, our Drop in Centre continued to provide vital casework to migrant workers and their families, supporting a total of 3,442 cases, with over 60% of cases successfully resolved.
- Over 1,000 people joined our campaigns for migrant rights in 2020 and over 500 took direct action
- 1,000 undocumented workers participated in our survey on working and living in Ireland
- 150 meat factory workers came forward and shared their experiences in our research on working conditions in the meat sector, lifting the lid on the exploitation
- Our caseworkers provided legal assistance and support to 18 people who were suspected victims of trafficking for labour exploitation.

### What are the challenges and barriers that you (and your community / constituency) face, including intersectional challenges, please be specific? (Max 300 words)

Migrant workers remain overrepresented in low-waged and precarious employment. Years of under-investment in state-led regulation and enforcement, coupled with inherent structural inequalities in the labour market has further exposed those living on the edge. Migration will continue to be a feature of the global and Irish labour market, yet the focus on outdated labour migration models and frameworks is worrying.

Last year we launched a report, [Working to the Bone](#), which lifted the lid on the exploitation of meat factory workers and the poor working conditions across the meat processing sector. While we were met with support from some politicians, it was very apparent that the business owners in the meat industry hold a lot of power and influence.

A person's immigration status, or lack thereof, determines their access the labour market, third level education and basic services. Ireland operates a two tiered labour migration system which favours highly skilled over essential skilled workers. Right now our system traps workers on general employment and may well play into the hands of unscrupulous employers. To ensure equality and for people to realise their rights, they must have; (1) mobility after 2 years for all

employment permit holders the same as critical skills; (2) immediate right to family reunion and (3) the right to work for spouses/dependents.

MRCI is very much against the proposed introduction of seasonal work permits. We do not believe this approach is suitable for Ireland. It is well documented that temporary migration systems create power imbalances and workers find it difficult to assert and vindicate their rights.

MRCI believes that all work is work, and that undocumented migrant workers perform work just like any other worker and as such should be protected by the same rights and regulations as other workers. Consequently, they should have access to the Workplace Relations bodies, which is the appropriate body to deal

**What do you (and your community/ constituency) need to thrive – to have your human rights and equality protected? (Max 200 words)**

**Rights and regularisation for undocumented children, families and workers**

- i. Incoming regularisation scheme's criteria are applied to all people in the system, including people on Section 3 and with Deportation Orders and in any change of legal status process.
- ii. Introduce a series of firewalls to allow undocumented people safely access essential services
  - a. Reporting crime
  - b. Accessing healthcare
  - c. Securing a PPS number
  - d. Engaging with WRC inspections
- iii. Amend legislation to ensure undocumented workers can take cases of exploitation to the WRC

**An equal, fair and safe labour migration system**

- i. Introduce mobility (full access to the labour market) for general employment permit holder after 2 years, similar to critical skills permits
- ii. Provide the right to immediate family reunification for general employment permit holders similar to critical skills permits
- iii. Provide the right to work for spouses/dependents of all employment permit holders

**An end to labour exploitation and trafficking for forced labour**

- i. **Empower and resource the Workplace Relations Commission** to enforce employment law regardless of the worker's legal status
- ii. **Multi-agency approach on early identification of victims** of human trafficking is include of NGO's and civil society

**A comprehensive and proactive approach to tackling racism and discrimination**

- i. Introduce a robust **National Action Plan against Racism** to comprehensively address racism and discrimination
- ii. Increase funding/introduce a specific fund for communities and community projects to **ensure participation, active citizenship and diverse representation** in community and public life, in politics and across civil society

**A transparent, robust and fair immigration framework for non-EEA migrants**

- i. Introduce **maximum waiting time** of 1 year for all immigration applications

- ii. Introduce an **independent appeals body** for all application refusals
- iii. Increase the 4 month status to **8 months** for the reactivation permit
- iv. Provide clear and transparent criteria and procedure for **leave-to-land refusal**

## Section 2: Performance of the Irish Human Rights and Equality Commission

We would like to understand how you perceive the Irish Human Rights and Equality Commission's performance over the past three years.

### Strategic Statement 2019-2022 – Priorities

1. Protect the rights of individual persons who face the greatest barriers to justice;
2. Influence legislation, policy and practice;
3. Engage with key organisations to address discrimination and human rights abuses; and
4. Raise the quality and broaden the extent of the dialogue on human rights and equality issues.

### Thematic Priorities that crosscut the Strategic Priorities:

1. Promoting access to justice;
2. Advancing social and economic rights;
3. Combatting racism and promoting intercultural understanding; and
4. Progressing the rights of people with disabilities

What are your views on the issues we have addressed and our impact over the past three years? Were there gaps?

Where possible, please refer to a specific aspect of our work – i.e. our legal work; research; legislative and policy submissions; international reporting; civil society engagement, grants programme, public awareness campaigns; public communication; promotion of the Public Sector Equality and Human Rights Duty etc. **(Max. 400 words)**

We are commenting on this section from the perspective the human rights of migrant workers in the State. Under its overall statutory mandate and functions, the Commission and its work does not meet the needs of some of the most vulnerable cohorts in society.

In 2019, on the grounds of **racial** discrimination of, **Legal Advice Assistance** was given in only 4 cases: 1 under Employment Equality Acts 1998 – 2015; 3 under Equal Status Acts 2000 – 2018; and under Human Rights, it is unclear whether any of those cases were related to migrant workers. Only one of the cases assisted relates to employment: *Access to public employment and EU free movement of workers*

In that same year, on the grounds of **racial** discrimination, **Legal Representation Assistance** was given to six cases, none of which related to workplace rights issues: Employment Equality Acts 1998 – 2015 – zero; Equal Status Acts 2000 – 2018 – 5; under Human Rights there was one case represented regarding EU nationals accessing housing.

In 2020, similarly the figures are low. On the grounds of **racial** discrimination **Legal Advice Assistance** there was no advice given under any of the acts named.

In terms of **Legal Representation Assistance** on the grounds of **racial** discrimination, there were only 4 cases under the Equal Status Acts 2000 – 2018, and none under the Employment Equality

Acts 1998 – 2015. Under Human rights, there were only two cases represented of people who have a right to reside in Ireland under EU law, in accessing housing.

#### **Submissions 2019**

*Caring and Unpaid Work in Ireland* – the research did not include people from a migrant background who provide care in the private home.

#### **Submissions 2020**

*United Nations Human Rights Committee on the List of Issues for the Fifth Periodic Examination of Ireland and UN Committee on the Rights of the Child on the List of Issues Prior to Reporting for the fourth periodic examination of Ireland.* It is welcomed to see its position and recommendation on pathways to residency for undocumented people, families and children

*Letter to political parties on the Programme for Government.* It was disappointing to read that there were no recommendations made regarding the human rights of migrant workers. However it was welcomed to see the recommendation re the *law governing family reunification be reformed to allow for a definition of family in line with international human rights law.*

#### **Annual Report 2020**

We welcome the *amicus curiae*, role played in the familiarly reunion and citizenship cases. We welcome the new Role give to the IHREC as Ireland’s National Rapporteur on the Trafficking of Human Beings and look forward to robust review of impact on human rights in this area. We welcome the focus on equal pay through the code of practice and hope this has a focus on the migrant pay gap.



### Section 3: Achieving Change

We would like to understand how we could work effectively to fulfil our mandate and achieve change.

**What issues should the IHREC continue to address and build upon in our new Strategy Statement 2022-24 and programme of work as a priority? (Max. 300 words)**

- A greater focus on equality cases and discrimination cases for migrant worker in for recruitment and progression within the work place.
- A focus equal pay with recognises, exposes and addresses the migrant pay gap
- Addressing and highlighting discrimination in accessing housing for immigrants
- New Role as Ireland’s National Rapporteur on the Trafficking of Human Beings

**What emerging or other issues should the IHREC begin to address in our new Strategy Statement 2022-24 and programme of work as a priority? (Max. 300 words)**

- Broaden the lens of migration to include labour migration and bring a bigger focus on the migrant workers in the labour market
- Examine equality of the employment permit system and its impact on the human rights of migrant workers and families
- Make representations under the Employment Permits Consolidation Bill with a focus on mobility, family reunification and right to work for spouses.
- Work to ensure access to the WRC so that undocumented migrants can take a case when their employment rights are breached.
- Work to restore the non-discriminatory universal payment of child benefit before the EU widening (1 May 2004) where all children living in the State are entitled to Child benefit regardless of immigration status and no need to comply habitual residency condition
- As Ireland’s National Rapporteur on the Trafficking of Human Beings; develop a programme of work, which ensures a victim centred approach includes supporting cases on behalf of people who have been failed by the system; focuses on identification of victims and supports. Ensure a focus on Trafficking for labour exploitation.

**How best can the IHREC work with and support the further development of civil society as key actors in addressing discrimination and human rights infringements? (Max. 200 words)**

The commission needs to engage more closely with organisations working in the area of labour migration to develop its analysis of the impact of the employment permit system on equality outcomes, worker rights, exploitation and human rights of migrant workers and make recommendation to government in this area.

Engage with organisations working in the area of Anti-trafficking to feed into programme of work and to identify cases which may highlight poor practice or procedures.

**What impact would you like to have seen from the IHREC by 2024? (Max. 200 words)**

- IHREC increase strategic cases that impact on equality human rights of migrant workers.
- IHREC is proactive on the impact of labour migration system in Ireland and is advancing the rights of migrant workers.
- National Rapporteur on the Trafficking of Human Beings acts as a watchdog and produces analyses and recommendation for government
- Increased number of cases taken under Equality legislation on behalf of Migrant workers
- Increased number of cases taken for discrimination in the housing market

**Thank you for making this submission! [Consultation@ihrec.ie](mailto:Consultation@ihrec.ie)**