

AONTAS

Submission to the
Department of Children,
Equality, Disability,
Integration and Youth's
Public Consultation on the
Review of the Equality Acts



Date: December 2021



The Voice of
Adult Learning

Introduction

AONTAS welcomes the opportunity to engage in the Department of Children, Equality, Disability, Integration and Youth's public consultations to review the Equality Acts. AONTAS views adult learning as a human right and vital for achieving the United Nations Sustainable Development Goal 4 on educational equality for all; therefore, it must play more of a central role in guaranteeing the legal protection of human and civil rights in Ireland.

As a membership organisation with over fifty years' experience advocating for equality and social justice in the area of adult and community education, AONTAS represents a diverse adult learning community on the shared island of Ireland. The adult and community education sector is home to Ireland's most disadvantaged, marginalised, and discriminated against learners, including those with disadvantaged socio-economic status. Our sector has a long history as a social justice movement, and educational equality has a fundamental role in ensuring the equal rights and empowerment of all people.

The [Learning for Life: The White Paper on Adult Education](#) (Department of Education, 2000) published 21 years ago outlines the barriers adults face from discriminated against groups. The White Paper is a policy response to address these barriers, stating that equality should underpin all adult education policy initiatives. The lived experiences of minority groups excluded from participating equally in tertiary education is a lens through which the Department must review the Equality Acts. In Ireland, Traveller experiences in society and in education provide a historical example of discrimination and educational disadvantage. For example, the 2017 ESRI report [A Social Portrait of Travellers in Ireland](#) and the 2019 Joint Committee on Education and Skills [Report on Education Inequality & Disadvantage and Barriers to Education](#) outline the issues that have blocked Travellers from equal educational participation and attainment. This year, the Joint Committee on Key Issues Affecting the Traveller Community launched its [Final Report](#), which has again highlighted that Travellers who are '[A]dult learners face financial barriers when taking up education, with many fearing they will lose social welfare benefits' (2021, 13) and reflects the need for an intersectional approach within the Equality Acts.

The legislation must provide protection and access to justice for all within society. Adult learners must have the opportunity to fully engage in education and to feel safe, included,

and protected while doing so. AONTAS believes that statutory bodies must be held accountable within future legislation and that the re-defining of specific groups and the addition of disadvantaged socio-economic status will provide a fairer, more equitable and just society. In this paper, we have provided a list of recommendations and answered the questions outlined in the consultation.



Summary of Recommendations

The following are a list of key recommendations put forth in response to the parameters of the Equality Acts Review public consultation, exemplified, and further detailed within this paper:

1. AONTAS recommends adult learning is deemed a human right. All adults should have the right to adult learning, especially those who did not achieve their educational aspirations and are yet to obtain a Leaving Certificate (or equivalent) qualification.
2. AONTAS recommends that if a non-EU migrant learner meets the conditions of the 'right to reside' test – which provides a legal basis for the individual to reside in the state – then they should not have to also pass the Habitual Residence Condition (a secondary instrument to the Equal Status Act) in order to access tertiary education.
3. AONTAS recommends removing the 'non-national' exception from Section 14(1) (aa) of the Equal Status Acts which will hold public authorities accountable to ensure equal treatment of all individuals accessing tertiary education, regardless of their nationality.
4. AONTAS recommends that the Equality Acts be reviewed with a view to implement clear, plain English or accessible English versions of the acts for those with limited literacy. A review of the wording on the acts with an emphasis on accessibility and plain English, would remove one of the barriers that many face when seeking information or wishing to take an action.
5. AONTAS recommends the use of community education as a means of increasing awareness and encouragement of action for marginalised persons. Community education is the most accessible form of adult education in Ireland, taking place in localities with an emphasis on accessibility. It plays an invaluable role in the personal empowerment of learners, building critical thinking skills, imbuing understanding of equality and citizenship, and fostering social inclusion. In doing so, it aims to support personal and community development, and political participation. Community Education also aims to cater to those most marginalised and socially and educationally disadvantaged, who may fall under several the communities recognised in the Equality Acts.
6. AONTAS recommends that future definitions on disability continue to use an inclusive approach that allows people with short and long-term impairment to access justice.
7. AONTAS recommends , in a bid to address intersectional discrimination, that the Equality Acts be amended to allow persons to submit a single complaint that draws on multiple grounds of discrimination, to represent and address with integrity the true nature of the discrimination they have experienced.
8. AONTAS recommends the resolution of issues associated with the exemption relevant to grants, fees, allocation of places by making updated legislation more learner-centred. All legally resident adult learners must receive equal treatment.
9. AONTAS recommends the inbuilt inclusion of periodic reviews for the Equality Acts that involve public consultation to ensure that any legislation providing protection against discrimination does so in a contemporary and effective manner.
10. AONTAS recommends the review of Section 14 within the Public Sector Duty Act 2014.

1. The functioning of the Acts and their effectiveness in combatting discrimination and promoting equality

AONTAS acknowledges the positive and progressive steps various government departments and agencies, particularly the Department of Children, Equality, Disability, Integration and Youth, have taken to address and reform legislation and policy documents in recent years. However, we are concerned with the limitations of the current Equality Acts, and we support the reform of this legislation. The Acts must reflect and protect our diverse society and be written in a manner that ensures they are clearly understood and enforceable. At present, caveats within the legislation do not afford the appropriate protection of marginalised groups. One example of this is under the ‘reasonable accommodation’ for people with disabilities. This is an area that impacts negatively on adult learners with disabilities.

Reasonable Accommodation

The Equality Acts require employers to make reasonable accommodation for people with disabilities. However, this includes a caveat to this requirement which states that there is no obligation to provide reasonable accommodation where this would cost more than a nominal amount to those selling goods or providing services. Whereas comparatively in the UK, the Equality Acts (2010) allow for no such caveats exempting educational institutes or employers from providing reasonable accommodation (EHRC, 2010). The UK Equality Acts are supplemented with a Statutory Code of Practice; a legal framework detailing steps that all parties subject to the Acts should take to ensure that they do not discriminate. The Code states that if reasonable accommodation is unobtainable, the responsibility is put back on the institution to provide reasonable alternatives and requires the institution to account for the steps it has taken. Therefore, the UK legislation affords learners further protection and supports when compared to the current Irish legislation. AONTAS suggests that educational institutions and employers must be held accountable and show positive actions take to support learners with disabilities. In addition,

“I feel they should have facilities for people with dyslexia. You can get computer software that will help you with all your assignments. There is a pen you can get. Now I can read, but there is a pen you can get to read it to you. Now I bought one and it was €250, but the centre should have one.” (Adult learner, 2019)

the Irish Government must ensure services are adequately funded to action this detail of the legislation.

AONTAS calls for the development of a code of practice that will hold educational institutions accountable for the reasonable accommodation of learners with disabilities.

In addition, AONTAS calls for recognition and action on the following points to ensure the Acts combat discrimination and promote equality:

- AONTAS calls for an extension to the two-month requirement written notification in the Equal Status Acts. This timeframe is limiting, in particular for the most vulnerable communities, who may take time to process and seek support after traumatic discrimination experiences. In addition, this excludes people with lower levels of literacy, many of whom come from a disadvantaged socio-economic background and the Traveller community. AONTAS calls for an exemption on the written notification for people below Level 5 on the National Framework of Qualifications.
- The Acts should include an introduction with key principles that inform a Judge's understanding and approach in enforcing the legislation.
- The use of 'non-disclosure agreements' should be removed or reduced to necessary cases. At present, this practice damages the legal equality discourse as vulnerable groups have limited access to previous cases.
- The Acts protect certain State Services and Agencies through exemptions from rather than the marginalised and vulnerable community's which equality legislation should serve. All State Services and Agencies should be open to legal recourse to ensure fair treatment with public services in Ireland.
- Specific discrimination complaints against hotels, restaurants, and pubs currently being heard in the District Court requires additional formal engagement which places undue stress on marginalised communities. This particular area is an additional barrier for the Traveller community and reduces their access to protection under the legislation.

- The current discrimination faced by Travellers accessing public spaces impacts negatively on their ability to engage in adult learning and other social activities due to the stigma and shame associated with these encounters. AONTAS further argues that advocacy-based NGO's should have the legal right to take on cases on behalf of individuals or communities. This would further enhance the protection afforded to groups and prevent pubs, hotels and restaurants from discriminating against people they view as having little or no capacity to protect themselves.

2. The degree to which those experiencing discrimination are aware of the legislation and whether there are obstacles which deter them from taking an action

The complexity of discrimination and social isolation experienced by marginalised and vulnerable groups such as Travellers, older people, women or those from a disadvantaged lower socio-economic class is compounded by barriers faced in accessing State services and legal protection. AONTAS suggests that part of the barriers faced in accessing justice and legal protection is related to the pre-requisite education standards and access to peer support that is absent within the most vulnerable communities. This creates a further disparity between groups in Irish society and harms those who should be protected under equality legislation.

AONTAS calls for plain language to be used within all equality legislation documents and related material.

AONTAS recommends the acts be reviewed with a view to implement clear, plain English and accessible English versions of the Acts for those with lower levels of literacy, or English as an additional language. There is precedent for supporting the need for legal text to be understandable as to be legitimate; Lon L Fuller's principles of legality from 'Story of Rex' states that all legal rules must meet the criteria of "at least minimally clear and intelligible" in order to maintain the required standard of respect, equality and applicability needed to maintain the rule of law (Murphy, 2004). AONTAS urges the Dept to meet this standard and ensure that literacy and digital literacy are not barriers imposed upon marginalised and vulnerable communities.

Member case study

As part of this consultation, AONTAS surveyed members to gather expertise and share a range of experiences for the development of this submission. National Traveller Mabs referenced a recent EU Fundamental Rights Agency Report (2020), which found that 49% of Irish Travellers are aware of at least one Irish equality body (Equality Tribunal, Irish Human Rights and Equality Commission or Office of the Ombudsman) when compared to Travellers or Roma in other countries. They also highlighted how, among Irish Travellers, awareness of laws against discrimination based on skin colour, ethnic origin or religion is among the highest (58%). In addition, it also highlights that the proportion of Traveller respondents who reported or filed a complaint in Ireland (28%) is among the highest from all survey groups. While this report has positive outcomes, members of the Traveller community still face a range of barriers accessing legal protection as outlined:

“Financial considerations, literacy issues, burden of evidence gathering, time limits in reporting, fear of further discrimination, apathy because they know from experience through the years that nothing will really happen or be done about it.”

AONTAS urges the Dept to include community education as a means for increasing publicity of equality legislation and encouraging action to protect marginalised communities.

There are varying degrees of engagement and understanding within communities protected by the current Acts. AONTAS urges the Dept to include policy actions in-line with legislation that offer community-based and civil society infrastructure to address the needs of the groups outlined. This will empower individuals with the information and capacity to recognise and self-advocate when experiencing discrimination. Community education supports marginalised people who are socially and educationally disadvantaged, many of whom come from communities recognised in the Acts. It operates under a transformative education model, empowering learners to analyse their place in community and society using active citizenship processes. Community education programmes can be utilised both to inform learners of their legal protection and to provide them with the information they need to act.

In addition, **AONTAS recommends including accessibility supports for all groups protected under the legislation via free legal aid centres and civil society organisations.**

3. The scope of the current definitions of the nine equality grounds. This will include consideration of the gender ground, the disability ground and whether new grounds should be added, such as the ground of socio-economic discrimination

AONTAS calls for the inclusion of disadvantaged socio-economic status as a 10th Ground within the Equality Acts

There is a growing consensus within civil society to legislate for and protect people who experience discrimination due to their socio-economic status within the Irish equality framework. FLAC, IHREC, the INOU, EAPN, the Community Platform, Dublin Adult Learning Centre, Community Action Network, National Traveller Mabs and many others are organisations and groups involved in this movement. Reports including *'Ireland under the scrutiny of the UN Committee on Economic, Social and Cultural Rights'* (2015), *'The Equality & Rights Alliance Report'* (2016) *'Who experiences discrimination?'* (2017), *'The Sustainable Development Goals National Implementation Plan'* (2018) and *'Does it Only Happen to Me?'* (2019) recognise that people experience discrimination due to poverty and socio-economic disadvantage. According to the UN Committee on Economic, Social and Cultural Rights (2009) *"A person's social and economic situation when living in poverty or being homeless may result in pervasive discrimination, stigmatization and negative stereotyping which can lead to the refusal of, or unequal access to, the same quality of education and health care as others, as well as the denial of or unequal access to public places"* (p.11).

Education is one of the clearest examples of social injustice due to social class (Lynch, 2020). It is system that maintains social hierarchy by exacerbating class inequalities resulting in poor outcomes for disadvantaged working-class people and Travellers. In defining the 10th ground, we must learn from the negative experiences of people in the formal schooling system and the barriers faced by adults returning to learning. Negative experiences which have resulted in feelings of shame, exclusion and low self-esteem. Reay (2017) found working-class

"I left school at the age of 14 and had very negative experiences in school. These experiences were traumatic and had a profound impact on my life. In school, I saw a lot of violence. The school was actually known locally as the 'slaughter school'. We had over 60 people in a class with many children coming from the tenements in the city centre. I was belittled and called names by teachers. We were dehumanised. Imagine being told as a little girl that you would never amount to anything. You believe it. In those early years my education was knocked out of me. Back then I didn't have the words for it but it was trauma. In disadvantaged schools the teachers abused the system. They took advantage and hurt us."

Winnie Coakley, adult learner, 2019.

mothers used words such as *'humiliating'*, *'scared'*, and *'terrified'* when talking about previous experiences of school. ATD Ireland (2019) found that adults from this group described feeling ostracised and being seen as *'different'* by both teachers and other students. While engaging in adult learning can be a transformative experience, AONTAS research shows that structural, economic and social barriers still exist. In 2020, the National FET Learner Forum found a lack of internet connection, software, IT devices, and suitable study space, during the COVID-19 pandemic, as barriers associated with social disadvantage. In previous traditional teaching and learning circumstances, AONTAS research (2018; 2019) showed that adult learners reported course costs, travel costs, childcare, and low-wages for apprenticeships as key barriers faced when entering adult learning. In addition, the adult education sector reflects the social class division by receiving the least funding in the education sector, despite having a majority cohort of marginalised and vulnerable people. This means that people with the least amount of resources are then faced with the most under resourced education provision.

AONTAS argues that the portrayal and stigmatisation of people from disadvantaged socio-economic conditions is an additional factor which highlights the need for protection and access to justice under equality legislation. People in poverty, including learners, are described by deficiencies and blamed for their circumstances (Reay, 2017) while being discriminated against. This is similar to the experience of Travellers, Roma, and people of

colour who are continue to be portrayed negatively in the media using images of crime and ‘othering’ to stigmatise them. As the majority cohort in the adult learning sector is people who come from a disadvantaged socio-economic status, AONTAS suggests that this may cause a perceived negative view of adult learning institutions (Reay, 2017, AONTAS, 2019).

Barriers due to social origin, including social class, create discrimination, unfavourable treatment, and poor living conditions. AONTAS urges the Department of Children, Equality, Disability, Integration and Youth to include a 10th ground on disadvantaged socio-economic status to ensure access to justice for people who are currently unprotected within the legislation, and with appropriate wording to ensure the Act is enforceable.

AONTAS also provides the following recommendations to provide legal protection for our richly diverse adult learning community:

- AONTAS recommends that future definitions on disability continue to use an inclusive approach that allows people with short and long-term impairment to access justice.

4. Whether the legislation adequately addresses intersectionality or the intersection of discrimination across a number of grounds

“The concept of intersectionality emerged in the 1980s and has its origins in feminist theory and anti-racist theory and has since gained in popularity. The term was first coined by Kimberlé Crenshaw (1989). For Crenshaw intersectionality ‘is a tool particularly adept at capturing and theorising the simultaneity of race and gender as social processes’ (Crenshaw, 1992, p. 403). Since then the concept has been extended to include interaction between other forms of inequality such as class so that as Anthias states the intersectionality of inequalities means that ‘classes are always gendered and racialised and gender is always classed and racialised and so on’ (Anthias, 2005, p. 33). The focus has, therefore, moved away from just looking at one form of inequality to recognising that people experience multiple forms of inequality and domination in society.”

(Merril and Fejes, 2018)

Therefore, “intersectionality addresses the inequalities, disadvantaged position and oppression of particular groups so this has relevance for adult education and adult students (Merrill and Fejes, 2018)”.

While the Equality Acts may provide important provisions that allow for redress under the nine grounds of discrimination, the answer as to whether the legislation adequately addresses intersectionality, can be answered unequivocally, as no.

Cases such as *Freeman v Superquinn* and *Lawless v Eurozone* have already established that individuals can submit complaints under multiple grounds, but each submission must be pleaded separately. The inflexible and prescriptive nature of the legislation as it stands compromises the intentions of the legislation to provide protection to those most vulnerable and marginalised. It renders entire cohorts of marginalised persons who fall into this legislative lacuna invisible, through a lack of provision for the complex, layered, and, most

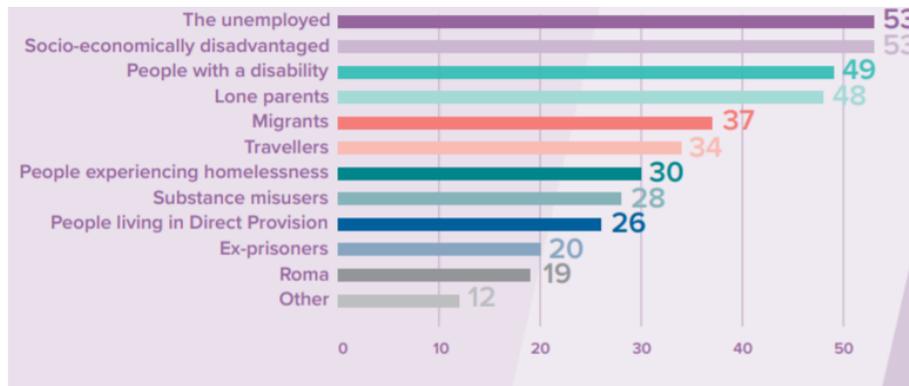


critically, unique, discrimination they may receive, borne of a combination of discriminatory factors. The need to deconstruct and unravel a person’s lived experience in order to tidily transform their one fundamental complaint into multiple, independently reviewed complaints, is invalidating and unjust. The legislation is out of touch with

the lived experiences of those whose lives do not fit into neat boxes and categories, and those whom the different threads of personality composing their identity, do not subscribe singularly to the menu of grounds currently available.

Adult learners are at an elevated risk of falling foul of this single axis model of legislation. The adult and community education sector represent a diverse, and complex cohort of learners, who would be ill defined within single categories. To provide an example of the breadth of learners represented within the adult and community education sector, it is pertinent to review figures presented by the CEN Census 2020, which was published by AONTAS in June 2021 (Cobain et. al, 2021). The below figures summarise the number of community education groups that engaged with specific learner cohorts, where groups could select multiple learner cohorts. The four most common learner cohorts selected were learners experiencing

unemployment and social-economic disadvantage (53 groups each). Several groups indicated that they were working with “other” groups, including “elderly persons,” “women in abusive relationships,” the “rural community,” and “people working part-time.”



(AONTAS, 2020)

A further example from our research through the National Further Education and Training Learner Forum with 1,871 adult learners in 2020 highlights the richly diverse identities of adult learners including:

- 77 non-native English speakers
- 22 Traveller or Roma
- 67 lone parents
- 117 living in Direct Provision
- 131 persons with a disability
- 228 born outside Ireland

Many of the adult learners represented in the above figures are those whom the legislation seeks to protect. It is vital that the legislation is transformed so as to protect and afford justice with an inclusive, meaningful and flexible approach. It is more reasonable and more accurate to state that many adult learners possess different facets of their identity, that exist simultaneously and help form part of their unique lives. In reflection of this, the single-axis manner in which the legislation currently operates is untenable and in severe need of update.

According to Judy Walsh (2012) *“a legislative amendment could explicitly allow for a flexible approach by specifying that dual or even multiple grounds could be applied with reference to a single hypothetical comparator”*.

Alongside the introduction of a new ground, **AONTAS recommends that the legislation be updated to allow persons to submit a single complaint that draws from multiple grounds, to represent with integrity, the true nature of the discrimination they have experienced.**

5. Whether existing exemptions in the legislation should be modified or removed

AONTAS supports the expansion of exemptions that provide discriminated-against groups with a mechanism for rebalancing educational equity. Below are areas that function to redress endemic educational inequalities. These must not only remain central to any updated legislation, but they should also be expanded to bring about more equal access to educational opportunities and ensure equitable educational outcomes for all adult learners.

Grants, fees, allocation of places

Currently, the Equality Acts allow universities and other third-level or adult education institutions to treat non-European Union (EU) nationals differently in relation to fees, educational grants and the allocation of places. AONTAS considers this highly problematic for a number of reasons. For example, the Fund for Students with Disabilities (FSD) aims to support students with a range of conditions and additional needs including sensory and physical disabilities, learning difficulties such as dyslexia, autism, mental health conditions and significant ongoing illness (HEA, 2017). In order to be eligible for support under the FSD, a student must be legally resident in Ireland for at least three of the five years up to the day before their approved course commences in an approved institution (HEA, 2017). This is a requirement on the basis that a piece of secondary legislation (a statutory instrument called the Habitual Residence Condition [HRC]) requires an applicant to provide evidence of ‘normal residence’ in the State (FLAC, 2016). The Acts allow for the Minister for Further and Higher Education, Research, Innovation and Science to treat Irish citizens and EU citizens differently compared to non-EU migrants, in relation to accessing education grants for accessing and

participating in further and higher education. There is no set time frame as to when an individual can acquire HRC and is behest to the discretion of a deciding officer in the Department of Social Protection (FLAC, 2016). Another way in which this exception within the current legislation negatively impacts migrant learners are that people with resident permits for non-EU-migrants have to obtain a re-entry visa every time they wish to leave the State and return. This is the case even for those who have lived in the Republic for many years. It hinders their attempts to successfully access or complete education by impacting on their Habitual Residence Condition (HRC), especially if they need to leave the state to visit family. As one adult learner elaborates;

“I feel like I am stuck in the crossroads now between work and education. Because I went to (a higher education institution) to see if I would either go back full-time because I was ready and I was focused. Then they told me that I was out of Ireland so long that I would have to pay foreign fees. I was shocked by it. It was a real kick in the gut. And I said to him, so basically if I was on the dole here for five years taking off the government then I could get all payment for free or I would at least get the subsidised rate if you were Irish. Money is the be all end all at the end of the day, so that was it for me.”

Adult Learner, 2019

Furthermore, section 14(1) (aa) of the Equal Status Acts contains another broad exemption to the Equal Status Acts, which means it does not apply to certain actions by public authorities ‘in relation to a non-national. This exemption has the potential to prevent non-EU-migrants from challenging discriminatory conduct under the Equal Status Act which is arguably countering Ireland’s obligations under the Committee on the Elimination of Racial Discrimination; an assertion supported by the paucity of race discriminations taken against public authorities (CERD) (Fennelly and Murphy, 2021). AONTAS would therefore like to see the Department resolve such issues associated with these outcomes of the exemptions in question.

AONTAS recommends that if a non-EU migrant learner meets the conditions of the ‘right to reside’ test – which provides a legal basis for the individual to reside in the state – then they should not have to also pass the HRC in order to access tertiary education.

AONTAS believes that by replacing the HRC with the ‘right to reside’ test will offer non-EU migrant learners a more equitable learning experience with their EU counterparts, and thus increase their participation in our educational institutions and centres.

AONTAS’ most recent annual synthesis report 2020-2021 survey indicates that 30% (or 211 out of 684 applicable responses) are born outside of Ireland, thus showing the scope of our learners which the HRC can impact upon (AONTAS, 2021). Removing the ‘non-national’ exception from Section 14(1) (aa) of the Equal Status Acts will signify a major step forward towards having an equitable tertiary education system in Ireland. The gravity and breadth of issues relating to the public authorities exempt from the Equal Status Act warrants further exploration and is discussed in other areas throughout this submission.

6. Any other issues arising from the legislation

In addition to the previous sections and recommendations, AONTAS would like to outline further points for consideration:

Right to Education:

It is crucial that moving forward, the Equality Acts have periodic reviews that involve public consultation, to ensure that any legislation providing protection against discrimination does so in a contemporary and effective manner. An example of where contemporary input is needed is in regard to the right to lifelong learning. Across Europe, this right has become touted as “a catalyst for a changing society” (Fernandes and Kerneis, 2021) and has been included in the *European Pillar of Social Rights*, the *Convention against Discrimination in Education*, the *Universal Declaration of Human Rights*, and the *new European Agenda for Adult Learning* to name but a few areas where the right to lifelong learning has been given significant status.

However, in Ireland, legislation such as the Equality Acts does not currently provide room or scope for the amalgamation of such EU principles, due to limitations such as the ones placed on the right to free primary education in the Constitution, following the result of *Sinnott* case. The High Court during this case originally concluded that free primary education should be free to avail of by all who continue to gain value from it, but the Supreme Court overturned this decision, instead, determining that free primary education is only suitable for children, and should only be available until the age of 18. This age constriction, in combination with the language used within the Irish constitution (there is no adult reference to education, only “the child,” “the family,” the “parents”) precludes the expansion of the right to lifelong learning to encompass all learners within Ireland. AONTAS acknowledges that the Equality Acts are not the primary means for addressing this, but by ensuring that periodic reviews and public consultations are sought in regard to legislation, a more democratic collaboration can develop and exist, fostering equality, equity, and inclusion that more accurately reflects the needs of our current society.

Public Sector Duty Act 2014:

AONTAS urges the Department to review and amend related legislation, indirectly linked to the Acts under review which we believe warrant consideration. The *Irish Human Rights and Equality Commission Act (2014)* which provides for the Public Sector Equality and Human Rights Duty, has a mandate to give guidance to, and encourage, public bodies in developing policies and good practice in relation to human rights and equality. Where the Commission considers that there is evidence of a failure by a public body to perform its functions in line with the Public Sector Duty, it has the power to invite a public body to carry out a review, or to prepare and implement an action plan related to the performance of its functions, or both (IHREC, 2014).

The following subsection of the *Public Sector Equality Act (2014)* suggests a lack of legal recourse for an individual to take court action against a public authority about their public sector equality duty:

Section 42, *Irish Human Rights and Equality Commission Act 2014*

(11) *“Nothing in this section shall of itself operate to confer a cause of action on any person against a public body in respect of the performance by it of its functions under subsection.”* (1) (IHREC, 2014).

While acknowledging that the Equal Status Act also protects people in receipt of rent supplement, housing assistance payments or other social welfare payments against discrimination when they are accessing relevant services, AONTAS and its members have yet to find one instance where a learner successfully brought a discrimination case against a state agency providing these services. We are concerned that our learners are unaware that these particular public sector services are subject to the Equal Status Act.

Furthermore, public services such as social welfare offices are community-based and are often the first port of call for many adult learners setting out on their learning journey. If they do not receive equal treatment at these crucial initial points of contact with the state and tertiary education system then such public services risk failing more than just those who would like to take that difficult step back into education. They also threaten the equal access to educational opportunities and equity of educational outcomes for their families, communities and our society as a whole. The devastating ripple effect of discrimination at these important stages of an adult learner’s journey jeopardises the a much wider range of issues surrounding equality which include health, wellbeing, employability, intergenerational prosperity and many other policy goals within numerous Government strategies and actions plans.

Comparatively, in the UK, *The Equality Act (2010)* says public authorities must comply with the public sector equality duty. A claimant may be able to refer their complaint to the Equality and Human Rights Commission. As part of their enforcement powers, the Commission can take action against a public authority if they've failed to comply with the public sector equality duty. The claimant can also take court action against a public authority about their public sector equality duty (EHRC, 2010).

Learners who are social welfare claimants trying to assert their rights and entitlements, often without the necessary knowledge or expertise, therefore face an uphill struggle in navigating an increasingly complex social welfare system without the safeguards they need to ensure fair treatment. A fairer and thorough legal recourse, whereby all of the public sector is subject to Ireland's relevant Equality legislation, will have permanent benefits for society as a whole. Furthermore, adult learners from discriminated against backgrounds often rely on public services and supports to engage in education. It is unacceptable, legally and morally, that Section 14 exemptions permit further vulnerability for those who must be protected under the Equality Acts.

Conclusion

This submission has raised a number of important issues and provided key recommendations regarding how the current Equality Acts can be amended to ensure that adult learners' rights are protected by the State. AONTAS thanks the Department of Children, Equality, Disability, Integration and Youth for engaging stakeholders in this consultation. As we have laid out in this submission, AONTAS believes it is necessary that the next iteration of the legislation place a strong and clear legal emphasis on including and engaging with people and communities who are most discriminated against in Irish society and whom benefit most from participating in adult learning. We hope that this submission and our recommendations create a discussion within the Department, as well as inside the agencies and institutions responsible for protecting equal rights, about the broad societal importance of adult and community education in empowering discriminated against groups. Furthermore, we hope that the submission highlights why adult learning needs to play an increasingly central part in shaping a more equal Ireland.

AONTAS would like to thank our members, adult learners, IHREC and FLAC for their contributions and guidance with this paper.

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