



Autism
Rights & Equality Alliance

IRELAND

Submission to
The Working Group on the
Establishment of the
Human Rights and Equality
Commission

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1. Introduction

The Autism Rights & Equality Alliance (AREA) consists of a cross section of community based organisations, service providers, parents and professional allies working with the Autism Spectrum Condition (ASC) population throughout Ireland. The Alliance was formed in 2010 to create awareness, build capacity and foster collaboration amongst all stakeholders that will support the Government of Ireland's vision of active citizenship and equal participation of all individuals with Autism Spectrum Conditions in every aspect of Irish Society.

Persons with Autistic Spectrum Conditions (ASC), as well as other persons with disabilities, have fundamental rights that are enshrined in the International and European legislation. AREA aims at raising awareness of the various existing instruments. AREA also advocates for the full recognition of their rights at Global and national level in order to enhance the enjoyment of human rights and fundamental freedoms by persons with ASC towards a full, participative citizenship.

Human rights violations against individuals with Autism Spectrum Conditions take place daily. The right not to be discriminated against in the enjoyment of human and fundamental rights, as a matter of fact, is also violated when persons whose situations are significantly different fail to be treated differently without reasonable justification. Notwithstanding their diversity and the complexity of their needs, individuals with ASC should not be considered nor treated as a population that is not able to achieve goals such as independence, self-determination and dignity, but as human beings with unique, unlimited potential.

The old negative perspective emphasises disability, considers disabled persons as objects of assistance and provides facilities tailored to impairments. AREA promotes a shift in values away from the traditional, "medical" perspective towards a rights-based "social" model that sees persons with disabilities as active subjects with rights and not passive objects of assistance. It implies that AREA considers that persons with ASC do not face disadvantages because of their impairments but experience discrimination exclusion and life-long dependency in the way society fails to meet their needs, to remove barriers of assumption, stereotype and prejudice and to outlaw unfair treatment in daily lives.

This includes failing to provide persons with ASC the positive actions they need in order to have access to proper services and facilities ensuring early, life-long, effective education, vocational training, habilitation and health programmes. This shortage of proper facilities and services prevent them to have access to work, leisure, sport and cultural activities in the mainstream.

The proposed merger of The Irish Human Rights Commission & The Equality Authority, is welcomed by Autism Rights & Equality Alliance Ireland and it our view that this new body should be independent, adequately resourced in order for it to be an effective champion for all its stakeholders.

This submission highlights some of the shortcomings of the current structures. It explicitly highlights the void in mandatory role of NHRI & designation of NHRI

designated as an independent mechanism pursuant of Articles 33.2 CPRD. This is a vital issue to be addressed in the context of Ireland's commitments to ratification of CRPD as part of S.U.R. (State Under review) and commitments given by Minister Alan Shatter to the Human rights Council and formerly adopted in October 2011 by the Human rights Council.

2. What should the new body do?

The new Human Rights and Equality Commission (HREC) must have the powers necessary to ensure that it fully complies, in a substantive way, with the "Paris Principles".

The new HREC should be empowered to promote and monitor human rights and to protect, enforce and promote equality across the nine grounds, - marital status, age, disability, family status, gender, race, religion, traveller community and sexuality.

Work with the government to create effective legislation to protect people's rights and help to bring about an Ireland confident in its diversity.

The government promotes a fair and equal society, where everyone has the opportunity to prosper and reach their full potential. The New HREC must have the remit to monitor the performance of the government in relation to these commitments.

The new HREC must be empowered to influence the development and amending of all government policy, making sure that policy takes into consideration the importance of equality, diversity and human rights.

Furthermore, the new commission (HREC) should have added focus on the human rights of persons/groups internal of state. This new focus should be reflected in the composition of new board.

3. What features and functions will it need in order to carry out its work?

The new Human Rights & Equality Commission (HREC) should fully comply with the Paris Principles not only formally but in a substantive sense. It should have appropriate legal functions such as amicus curiae, legal representation, institution of legal proceedings monitoring investigation and review.

The new HREC works with organisations in the public, private and voluntary sectors to reduce discrimination and promote equal opportunities for all employees, customers and the users of services.

The new HREC must ensure that equality is given priority, not only in policy but in plans and departmental strategies across government.

The new HREC must be empowered to make sure that equality is effectively promoted.

The new HREC should review and advise on the adequacy and effectiveness of current law in the state and make submissions relating to proposed legislation that may impact on the human rights or equality of individuals or groups of individuals.

The new HREC should have the power to “human rights equality proof “proposed legislation.

The new HREC will endeavor to define and enhance, promote and publish best practice, in order to create a more fair and equitable society. This should be achieved by conducting research in furtherance of its mandate and produce codes of practice for practical application within the different aspects of equality legislation.

The new HREC must be empowered to assess equality and inequality in Ireland and how much progress has been made.

The new HREC will provide help and advice on equality opportunities policy and practice to organisations; liaise with government departments and representative organisations from all sectors.

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

The new HREC remit and structure reflects the different legal and constitutional positions in Ireland and the way the HREC works must take into account the distinctive and diverging political and policy agendas across all sectors in Ireland.

The new HREC must have good governance – this means focusing on the organisation’s purpose and on outcomes for citizens and service users, also knowing and understanding the duties and responsibilities of the new HREC.

The HREC should be formally accountable to the Oireachtas and or one of its Committees, to which the new body should present its Annual Report, strategic plans and annual/business plans.

The new HREC must have an infrastructure that allows the commission to carry out their functions and be accountable and transparent regarding the way they operate.

The new HREC must have adequate funding to allow the commission to be independent of the government, and not be subject to financial control which might affect their independence. Funding for the HREC should be “ring fenced” and safeguards put in place to ensure that its budget cannot be affected, particularly as Ireland has undergone a severe economic crisis since 2008. This should not be used as an excuse to reduce the promotion and protection of human rights.

The new HREC must have the capacity to fund its programmatic work and it must also have adequate human resources if it is to operate in an independent and effective manner.

The new HREC must act independently to establish the facts, including being entitled to hear any person or gather any evidence needed to consider matters falling within their competence.

The new HREC must be able to produce guidance and statutory codes of practice to support individuals and organisations to comply with the law and promote good practice and use its influence and authority to lead new debates, building arguments from the evidence collected and published.

Conclusion

Strong NHRI's are those that are:

- Fully independent
- Have pluralistic representation in their membership
- Have adequate and sufficient capacity & resources
- Have secure & stable funding from the central budget
- Have a broad range of functions
- Have a mandate covering all human rights issues
- Are linked to the Oireachtas
- Have provision for strong engagement with NGOs and Civil Society
- And the ability to make recommendations on national legislation, practice and policy.

Article 33.2 of the UN CRPD shall oblige Government to designate the framework with one or more independent mechanisms to Promote Protect and Monitor the CRPD.

(AREA) strongly recommends that the Government explicitly make the formal decision to designate the HREC the "independent" NHRI pursuant to Article 33.2 UN CRPP thereby ensuring consistency with international best practice , bearing the situation as the designation of the Northern Ireland Human Rights Commission and Equality Commission, and Irelands obligations under the Good Friday Agreement.

Members of the Autism Rights & Equality Alliance

Gheel Autism Services, Shine Autism IPAA, ASD Initiatives,

Professional / Parent - Individual Advocates

Irish Autism Action, ASPIRE, Autism LifeCare Trust.



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