
Consultation on the draft Code of Practice on the Public Sector Equality and Human Rights Duty

As a public body with a statutory obligation to meet the Public Sector Equality and Human Rights Duty and the regulator of pharmacies and pharmacists, PSI welcomes the opportunity to participate in this consultation from the Irish Human Rights and Equality Commission (IHREC) on the draft Code of Practice on the Public Sector Equality and Human Rights Duty.

We welcome the draft Code and its aim to assist public bodies in understanding and implementing their Public Sector Equality and Human Rights Duty and the legal obligation on public bodies to promote equality, prevent discrimination and protect human rights.

Language and structure

Our main observation on the draft Code relates to accessibility and clarity. From reading the document and attending IHREC's recent online briefing session on the draft Code, our understanding is that the draft code aims to:

- assist public bodies in understanding and implementing their Public Sector Human Rights and Equality Duty
- provide practical guidance to public bodies on implementing the Duty, and
- promote awareness and understanding of the Duty among staff, service users and the public.

In this regard we consider that the current draft, including the definitions themselves, could be significantly more accessible in terms of its language and would benefit from being in [plain English](#), in so far as possible. We acknowledge the inherent challenge in simplifying legislation and legal definitions into plain English, however, the current draft is quite legalistic in language. This is particularly important if it is intended that the draft code promote understanding of the Duty among the public in a clear and simple way. In our own work we have benefited from engagement with NALA, the National Adult Literacy Agency, in relation to increasing the accessibility of our publications and messaging.

We would suggest an infographic might be helpful in highlighting what public bodies are required to do in order to fulfil their obligations (for example, to assess, address and report).

Regarding any consequences of a public body not meeting the Duty, these are not entirely clear in the current draft. The draft Code refers to various courts and evidence of failure to meet the Act but this needs to be more explicit for public bodies to understand its relevance regarding the draft Code and the Duty. The document could also outline how IHREC will carry out reviews. It would also be

useful to have greater clarity in the document on which aspects of the code are mandatory versus 'should' or 'have regard to'. While 'have regard to' is defined, could a more accessible term be used?

Regarding the introductory sections of the document, we would suggest that key information be structured under accessible headings as appropriate – for example:

- What is the Public Sector Equality and Human Rights Duty?
- Who is the Code for?
- Why was the Code developed?
- How can a public body show that they are meeting the Duty?

Duty to Assess

Paragraph 19 of the draft Code sets out the responsibilities of the public body in relation to assessing and identifying the issues which might give rise to a breach of duty under the Act. The public body is furthermore obliged to report on those efforts. It might be helpful in the interest of consistency and reporting, to include monitoring trends, performance and compliance, that a basic template or checklist be provided for public sector bodies, noting that an element of discretion does appear to be inherent in the assessment where resources or the size of the public body differs. Templates could for example, be unified relative to headcount or budget.

Duty to Report

Is it intended that public bodies report on any complaints made to them alleging failure to comply with their duty under section 42 of the Act? If so, is the Ombudsman in turn intending to have any role in assessing such complaints?

Operational Standards

The draft Code recommends that public bodies should develop operational standards, however, it is not clear what these should cover. Given that standards are in general outcomes-focused, could it be considered that IHREC develop outcomes-focused operational standards that all public bodies could use, regardless of their size or particular remit? This would make the task more approachable and encourage uptake.

Supportive resources

The draft Code provides links to a number of tools and resources on your website. It would be very helpful if specific relevant sections of these resources were referred to and linked to throughout the document. It would also be helpful if it was clearly outlined as to how these other documents and guidance fit in with the draft Code of Practice and whether these are all intended to be read in conjunction with each other.

On a small note – the link to the first resource does not appear to be working.

Examples of good practice

We understand that there is great variance between public bodies in terms of size and remit, and it would be difficult to provide a template that would fit all public bodies, however, in addition to the supportive resources referred to above, examples of good practice would be very helpful. In particular, examples of what an assessment might look like for different sized organisations in terms of the level of detail required, length and so on, would aid understanding and as a result, may improve uptake of the Code and compliance with the Duty.

We consider it is also important that the Code, once finalised, be regularly reviewed to ensure it continues to meet its aims.

Conclusion

We look forward to continuing to engage with IHREC as part of meeting our obligations under the Public Sector Equality and Human Rights Duty and promoting equality, preventing discrimination and protecting human rights.

PSI – The Pharmacy Regulator, PSI House, Fenian St, Dublin 2, D02TD72

July 2023