

Workshop Nr.3-Equality Legislation (Ireland)

Briefing Notes

Introduction

Within a relatively short period of time, a body of equality-related legislation has been developed in Ireland. Furthermore, new equality legislation is in the offing—a new Disabilities Bill is currently being worked on. This paper identifies legislation both Irish and international with an equality focus which imposes obligations on signatory nations. The first section a) identifies Irish legislation with an equality focus and equality-related legislation emanating respectively from the EU and from international bodies of which Ireland is a member. The remaining two sections give an overview of b) the Equal Status Act 2000 re: education and c) the Equality Authority.

a) Sources on Equality Legislation

The Constitution of Ireland makes reference to equality.

Article 40.1 of the Constitution of Ireland in relation to fundamental personal rights says that:

“All citizens shall, as human persons, be held equal before the law. This shall not be held to mean that the State shall not in its enactments have due regard to differences of capacity, physical and moral, and of social function.”

In a wide-ranging review of the Constitution in 1996, the Constitutional Review Group reviewed Article 40.1 and the interpretation applied to the text. It examined the desirability of extending the guarantee of equality to all individuals (i.e. not just citizens) and the elimination of unacceptable bias. The Group recommended that a further section be added to Article 40.1 as follows:

“No person shall be unfairly treated against, directly or indirectly, on any ground such as sex, race, age, disability, sexual orientation, colour, language, religion, political or other opinion, national, social or ethnic origin, membership of the Travelling community, property, birth or other status.”

Two recent Acts, the Employment Equality and Equal Status Acts, are the key equality-related legislation enacted in this country. Both Acts prohibit discrimination across the nine grounds of gender, marital status, family status, sexual orientation, religion, age, disability, race and membership of the Traveller Community. Both Acts prohibit direct and indirect discrimination with the Equal Status Act also prohibiting discrimination by association. Sexual harassment and harassment are prohibited under both Acts. The reasonable accommodation of people with disabilities is subject to nominal cost exemption, is required by both Acts.

Employment Equality Act, 1998

The Employment Equality Act prohibits discrimination in the work-place. It permits positive actions, in certain circumstances, for women, for people with disabilities, for members of the Traveller Community and for people over 50 years of age.

The Equal Status Act, 2000

The Equal Status Act of 2000 prohibits discrimination, with some exceptions, in the provision of goods and services. It makes particular provision in relation to accommodation and education. Specific provisions are made in relation to registered clubs. The Act applies to goods and services which are available to the public, whether on payment or not, and irrespective of whether provided by the public sector or private sector. It permits positive action across the nine grounds.

Other Equality related Acts

Maternity Protection Act, 1994

The Maternity Protection Act sets out legal minimum terms relating to maternity and maternity leave in work.

Adoptive Leave Act, 1995

The Adoptive Leave Act makes provision for adoptive leave from work.

Parental Leave Act, 1998

The Parental Leave Act provides for a new entitlement for men and women to avail of unpaid leave from employment to enable them to take care of their young children and

for limited paid (force majeure) leave to enable employees to deal with family emergencies resulting from injury or illness of a family member.

Carer's Leave Act, 2001

The Carer's Leave Act provides for the temporary unpaid absence from employment of employees for the purpose of the provision of full-time care and attention to a person requiring it.

Prohibition of Incitement to Hatred Act, 1989

The Prohibition of Incitement to Hatred Act makes it an offence for a person to publish or distribute written material which are intended or likely to stir up hatred against any person in the State or elsewhere on account of their race, colour, nationality, religion, ethnic or national origins, membership of the Traveller Community or sexual orientation. The Prohibition of Incitement to Hatred Act is currently being reviewed to with a view to improving its effectiveness.

Unfair Dismissals Acts, 1977–1993

The Unfair Dismissals Acts protect employees from being unfairly dismissed from their jobs by laying down criteria by which dismissals are to be judged unfair and by providing an adjudication and redress for employees whose dismissal has been found to be unfair.

Human Rights Commission Act, 2000

Has fulfilled an obligation under the Good Friday Agreement. It led to the establishment of the Human Rights Commission in July 2001. The Commission has an overall role in monitoring, protecting and promoting human rights.

Legislation to incorporate the European Convention on Human Rights into Irish law is under consideration. The European Convention on Human Rights Bill, 2001 is designed to fulfil this commitment. The Government has announced that the Disabilities Bill will be resubmitted to the Oireachtas following a new consultation process. In addition to the body of legislation, it is also important to point to the growing body of case law arising from decisions taken in the courts as well as those made by the Labour Court and ODEI – Equality Tribunal.

EU legislation

Articles 2 and 3 of the Amsterdam Treaty enshrine the principle of gender equality, Article 13 has a broader focus:

“The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.”

Articles 137 and 141 restate the European Union’s (EU) commitment to equality between men and women at work.

A new Directive (Directive 2000/43/EC) on equal treatment irrespective of racial or ethnic origin was adopted by EU Member States on foot of Article 13. The scope of the new directive covers goods and services, health, education, sport and employment. It also makes provision for positive action on the race and ethnic grounds in relation to employment and training.

A second directive on foot of Article 13, the Framework Employment Directive (Directive 2000/78/EC), prohibits discrimination in employment and occupations on the grounds of religion, disability, age or sexual orientation. A third Directive that will require incorporation into Irish equality legislation revisits gender equality. This is the new Equal Treatment Directive. The implementation of these Directives will require amendments to the Employment Equality Act, 1998 and Equal Status Act, 2000.

International legislation

Ireland is obliged under its commitment entered into at the Fourth UN World Conference on Women held in Beijing (1995) to develop a National Plan for Women covering all areas of national policy. The Beijing Platform for Action set out twelve critical areas of concern in relation to which the advancement of women should be promoted. The Government reaffirmed its endorsement of the Platform at a special session of the UN in 2000. A Draft Plan was launched in October 2001 and was followed by a comprehensive

consultation process, which will lead to the finalisation of the National Plan for Women (2001–2005).

Obligations will also arise from the proceedings of the UN World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR) conference held in South Africa in 2001. The WCAR report urged States to establish and implement without delay national policies and action plans to combat racism, racial discrimination, xenophobia and related intolerance, including their gender-based manifestations. The national action plan to combat racism is being prepared in accordance with parameters agreed at the conference. The Department of Justice, Equality and Law Reform is co-ordinating the preparation of the Irish National Action Plan.

Ireland is a signatory country to the 1951 United Nations Convention relating to the Status of Refugees and the 1967 Protocol which provides the foundation for the system of protection for refugees. Other international conventions which have been ratified by Ireland include:

- The International Convention on Economic, Social and Cultural Rights;
- The International Convention on Civil and Political Rights;
- The Convention on the Rights of the Child;
- The European Convention for the Protection of Human Rights and Fundamental Freedom;
- The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

b) The Equal Status Act 2000-Education- Overview

The aim and the scope of the Equal Status Act, 2000 is far more wide ranging. It seeks to promote equality of opportunity and eliminate discrimination again on the exact same nine grounds that are in the Employment Equality Act, 1998. Firstly there are the familiar and connected grounds of gender, marital status, family status, the newer grounds of

sexual orientation, religion, disability, age, race and membership of the Traveller Community.

Like the Employment Equality Act, 1998 the discrimination has to be related to one of the nine grounds. **Arguably one of the biggest causes of educational inequality isn't included: the socio-economic ground.** The Equality Authority in its review of the nine grounds under the Employment Equality Act, 1998 has recommended that a socio-economic ground be included.

The Equal Status Act, 2000 moves beyond the familiar territory of the employment relationship and out into the public arena where people:

- buy, sell, rent, or exchange a wide variety of goods,
- access and use a wide range of services including public services like welfare, health and education,
- buy, sell or rent houses, apartment or book a room in a hotel.

The Equal Status Act, 2000 applies to the public arena with one exception in relation to registered clubs i.e., private clubs that are licensed to sell alcohol to members and guests. Here the Act reflects the constitutional guarantee of freedom to associate as interpreted by the Supreme Court in the earlier referral of the previous Bill by Mary Robinson. Unlike other areas of the Equal Status Act, 2000, there isn't an actual prohibition on discrimination in relation to "discriminatory clubs". However the sanction imposed by the State is that an application can be made to the District Court to have the license of the discriminatory club to sell alcohol suspended.

It is important to stress that the Equal Status Act, 2000 isn't really a stand-alone document. This is particularly true in relation to the provisions on education.

STATUTORY EXEMPTION:

Before looking at the main provisions concerning education in the Equal Status Act, it is important to emphasise firstly that there is an important crucial exemption in the Act.

Section 14 of the Equal Status Act, 2000 provides that anything that is required by Statute is exempted. If there is a provision in Educational Acts that obliges or requires universities, HEI's or boards of management, to do something then it cannot be reviewed under the Equal Status Act, 2000 (though it may be possible to challenge it as being unconstitutional). The Educational Acts allow the universities and institutes or technology to exercise a great deal of independence and therefore they are often charged with responding to legislation themselves or through the HEA initiatives. The Act provides that the primary and second level and certain HEI courses (medicine, law ect) must comply with the government curriculum/standards.

There are some interesting mandatory provisions in the Educational Act that in effect enhance the rights provided in the Equal Status Legislation rather than in any way diminish the provisions in Equal Status Act, 2000. These mandatory provisions provide a forum for and HEI's to comply with obligations under Equal Status Act. The following provisions of the Education Act should be borne in mind when considering the provisions of the Equal Status Act, 2000.

THE EQUAL STATUS ACT, 2000

Like the Employment Equality Act there are provisions and definitions on direct discrimination and indirect discrimination. Direct Discrimination happens if someone is treated less favourably specifically on one of discriminatory grounds, for example one recent query to the Equality Authority concerned a student who had been denied access to university because they suffer from a disability. Indirect Discrimination amounts to discrimination by impact or effect. It happens when there is a policy or requirement which people belonging to one of the discriminatory grounds find they can't comply with and which is unreasonable in all the circumstances. The Equal Status Act, 2000 introduces a new concept of discrimination, that is discrimination by association. A potential claimant does not actually have to belong to one of the nine grounds but if s/he is treated less favourably because of an association with someone who does then that would amount to discrimination by association and that person could bring a claim.

EDUCATIONAL ESTABLISHMENTS

The provisions on education in the Act are set out in section 7 of the act. The scope of these provisions are broad. They apply to educational establishments which are defined to include pre-school, primary, post primary education or further education, university, third level or higher level whether supported by public funds or not. The provisions cover every conceivable type of educational institution. The basic rule is that educational institutions shall not discriminate in four respects - admission, access, terms or conditions, or expulsion. The first area that the prohibition applies to is:-

(1) The admission or the terms or conditions of admission of a person as a student. Universities and boards of management have to publish their admission policies including policies concerning the admission of students with disabilities or other special educational needs. Obviously these policies must also have regard to the prohibition on discrimination in the Equal Status Act, 2000. The provisions in the Education Act require management to ensure that in its admission, policies, the principles of equality are complied with. Yet at the same time the admission policy must abide by directives issued by the Minister (Universities have greater independence) having regard to the characteristic spirit of the institution and the constitutional rights of all persons concerned. In the light of the Equal Status Act, 2000 the admissions policy should also comply with the prohibition against discrimination (subject to the exemptions set out in the Act.). The Act provides at Section 7(3)(c) that a primary or secondary school (this exemption doesn't apply to third level) which has the objective of providing education in an environment which promotes certain religious values may admit students of a particular religious denomination in preference to others or it can refuse to admit as a student a person who is not of that denomination. However it has to be able to prove that the refusal "**is essential to maintain the ethos of the school**". The general provisions of the Equal Status Act apply not just to religion. An admissions policy cannot refuse admission simply because someone is a member of the Traveller community or has a disability.

2) Access

The second area that education institutions can't discriminate is in relation to the access of a student to any course, facility or benefit provided by the establishment. This would cover other facilities and benefits, for example membership of clubs and societies, access to libraries (which would be very important for students with disabilities) participation in Events, field work. But it also covers access to subjects that everyone else has access too.

3) Terms or Conditions

The third area that the prohibition against discrimination applies to is **any other term or condition of participation in the establishment by a student**. This would cover, for example, rules concerning examinations or competitions.

4) Expulsion of a student or any other sanction.

All punishments, or disciplinary action are covered up to and, including expulsion (there are provisions in Educational and Welfare Act on this). The Equal Status Act, 2000 doesn't prevent a school from imposing sanctions but the sanctions cannot be imposed in a discriminatory way.

EXEMPTIONS

These provisions cover practically all aspects of education though not as much in higher education. But like the Employment Equality Act, 1998 there are a number of major exemptions. The religious ethos exemption has already been considered.

Other exemptions are that:

- Same sex schools are allowed at primary and secondary level.
- Schools or institutions established for training ministers of religion can discriminate on grounds of religion and gender.
- Third level institutions can discriminate against non EU Nationals when it comes to fees and allocation of places.
- Third level institutions can also offer assistance by way of sponsorship, bursaries and other awards which can be justified with regard to historical or traditional

considerations.

- Student Exchange Programmes are allowed.
- Universities and other third level colleges are allowed cater for what are called mature students.
- Reasonably necessary different treatment of students on the gender, age or disability ground in relation to the provision or organisation of sporting facilities or events.

HARASSMENT AND SEXUAL HARASSMENT

Like the Employment Equality Act, 1998 there are definitions and provisions on harassment and sexual harassment in the Equal Status Act, 2000. These provisions extend to Educational Establishments. The Act provides that in relation to educational institutions a person shall not sexually harass or harass another person (the victim) where the victim is a student at, or has applied for admission to, or seeks to avail of any services offered by the educational establishment at which the person is in a position of authority. Lecturers cannot sexually harass or harass a student or potential students. What about the harassment or sexual harassment of students by students? The protection is provided as follows in Section 11(2)

Responsible Person

"A person (the responsible person) who is responsible for the operation of any place that is an educational establishment shall not permit another person who has a right to be present in to suffer sexual harassment or harassment at that place"

It is a defence for the responsible person to prove that he/she take such steps as are reasonably practicable to prevent the sexual harassment or harassment. What reasonably practicable steps can the responsible person take? It is clear that schools must have policies and procedures that deal with sexual harassment and harassment. A lot of schools have policies on bullying, but how many of these policies cover sexual harassment and harassment on the discriminatory grounds?

The Education Act provides education institutions with ample opportunities for dealing with this in that the school must have an admission policy which covers admission and participation in the school. The HEI's plan is supposed to set out the measures which the HEI's proposes to take to achieve equality of access to and participation in the school. This plan should refer to policies and procedures on sexual harassment and harassment on the other grounds. The code of behaviour required under the Education (Welfare) Act, 2000 is the ideal place to locate policy and procedures on sexual harassment and harassment. The admissions policy, the HEI's plan and the code of behaviour all encompass and provide for policies and procedure to deal with sexual harassment and harassment.

DISABILITY AND EDUCATION

There are significant provisions in the Act that relate to disability and education. The Equal Status Act, 2000 cannot be read in isolation. Nowhere is this more important than in the area of disability and education. The provisions of the Education Act when read together with provisions of Equal Status Act have great potential for providing a statutory basis for right to education as a constitutional right.

REASONABLE ACCOMMODATION

Firstly, educational establishment must do all that is reasonable to accommodate the needs of a person with a disability by providing special facilities or treatment, if without such treatment or facilities it would be impossible or unduly difficult to avail himself or herself of service. Note the mandatory nature of such an obligation. There then is the provision which in other areas dilutes the mandatory nature of the obligation, that is the nominal cost exemption. The nominal cost exemption provides that the obligation to provide reasonable accommodation stops when the reasonable accommodation costs more than what is called in the legislation 'nominal cost'. This nominal cost exemption reflects the judgement of the Supreme Court on the earlier reference of the previous Equal Status Bill by Mary Robinson. The Supreme Court held that the obligation to provide for people with disabilities should not lie on private employers or service providers. However, in the realm of Education it is the State who provides the resources

so it would be a question of what is nominal to the State. Importantly the provisions of the Equal Status Act, 2000 are without prejudice to the provisions of the Education Act and there is no nominal cost exemption in this Act.

MAINSTREAMING

An important provision in the Equal Status Act, while stated in the negative effectively provides for a presumption in favour of mainstreaming students with a disability. A student with a disability can only be discriminated against if the disability makes it impossible or has a seriously detrimental effect on the provision by an educational establishment of its services to other students. That places a very high onus of proof to allow schools to discriminate against students with disabilities. The provisions in the Education Act and in the Equal Status Act together provide that:

1. The Minister shall ensure that there is made available to every person in the State including a person with a disability, support services and a level and quality of education appropriate to meeting the needs of the person (this is effectively a statutory right of every person to education.)
2. There is an obligation on schools to ensure that the educational needs of all students including those with a disability are identified and provided for.
3. There is a mandatory obligation to provide reasonable accommodation where it will be difficult to rely on the nominal cost exemption.
4. There is a presumption of mainstreaming of students with disabilities.

These provisions read together provide very powerful enforceable statutory rights.

REMEDIES

The Education Act makes no provision for a separate and specific remedy. This does not mean that the duties imposed by the Act do not give rise to rights which can be enforced. A claimant can seek to enforce his/her rights by bringing proceedings which will compel the Minister/School etc. to comply with its statutory obligations. The traditional remedy

available would be to seek judicial review compelling the Minister/Educational Institution etc. to comply with the statutory obligation.

ALTERNATIVE REMEDIES

There is a potential remedy for the enforcement of rights under the Education Act but using the remedies provided in the Equal Status Act, 2000. In the Equal Status Act, 2000 a claimant may bring a claim to the ODEI alleging that he/she has been discriminated against (including the failure to provide reasonable accommodation). A claimant could make the following arguments.

- The State is the funder for education and therefore it is a question of what is nominal for the State.
- In any event, the Minister has stated publicly that funding isn't an issue and therefore the State should not rely on the defence of nominal cost.
- In any event the provisions of the Education Act have no nominal cost exemption and the provisions in the Equal Status Act, 2000 are expressly stated to be "without prejudice to the provision of section 7(2)a, 9(a) and 15(2) of the Employment Equality Act, 1998, in so far, as they relate to functions of the Minister for Education and Science, recognised schools and boards of management in regard to students with a disability" so therefore they override the nominal cost exemption. It is therefore possible to use the Equal Status Act, 2000 to enforce rights under the Education Act, 1998. It would be preferable if there was a provision in the Equal Status Act, 2000 which explicitly allowed for this. The absence of such a provision however is not fatal. In the Equal Status Act, 2000 an Equality Officer may award up to £5,000 (which is linked to the maximum a district judge may order). In addition however an Equality Officer may make an order requiring a specified course of action.

c) Equality Authority-introduction

The Equality Authority is accorded a dual role under the new equality legislation. It is mandated not only to combat discrimination but also to promote equality. As such it organise's it work around:-

- enforcement objectives that seek to promote and defend the rights established in the legislation. This work has already touched on the education sector around issues of sexual harassment, school uniforms and access issues.
- development objectives that seek to create and provide supports for the effective pursuit of equality. This work is only beginning to touch on the area of education.

An key foundation is a research project, currently in progress, that seeks to map out the education sector, to identify equality issues across the nine grounds and to establish a viable agenda for the Equality Authority to make its contribution to resolving these issues. In this way the Equality Authority can work in pursuit of an education system that contributes to equality both in the benefits it confers on the various groups that make up our society, in the value base that underpins our society and in structuring the positive relationships between these different groups.

General Equality Education- Comments

It has been a decade of wide ranging debate, policy making, new programmes and new investment in our education system. In part this has been at the service of the labour market and competitiveness. In part it has been at the service of greater social justice. Sometimes, but not often enough, it has been at the service of both. The new equality legislation with its focus on nine grounds encourages us to take stock of this progress, to identify challenges that persist and to assess where we now need to advance. This is not easy to do. Data that is gathered is completely inadequate for any such review process. Effective planning and evaluation of impact requires a wider collection of data that would track progress across the nine grounds of the legislation. Research on equality and education is limited with, in particular, little exploration of the experience of the education system from the perspectives of the groups covered by the equality legislation. This is not fertile ground within which to take stock of progress. Yet the data available and the evidence to hand suggests there are still challenges in relation to outcomes from the education system for these groups, in their experience of the education system and in the assumptions held within the system that underpin this experience.

CHALLENGES

When we explore these challenges across the nine grounds of the new equality agenda interesting commonalities emerge. These suggest that there is a potential to deploy equality strategies that embrace and bring forward all nine grounds simultaneously. There are significant advantages to be drawn from such an integrated approach. These include:

- avoiding hierarchies across the experiences of inequality as nine separate strategies become impossible to manage and some receive less attention than they should.
- securing a coherent approach to students in terms of their often multiple identities. Fragmented strategies can demand a fragmentation of identity for example a Traveller with disabilities is forced to identify as either a Traveller or as a person with disabilities.
- reinforcing the case for change given the number of beneficiaries - which is in effect a majority of the student population if not the whole student population.

It is of course important that integrated approaches build on existing progress and do not diminish current achievements. Equally they cannot ignore the situations or experiences specific to particular groups. They cannot be about homogenising those experiencing inequality. This focus on challenges emphasises the goal of inclusive education. Inclusive education achieves outcomes for all across the nine grounds. It achieves a sense of ownership and belonging for all across the nine grounds. It reflects, recognises and gives value to the variety of identities across the nine grounds. This is what we can see being built as we acknowledge the progress that has been made. There remains some significant way to go however. The development of the inclusive school is likely to be an evolving process. We don't know exactly what a school looks like that can achieve a sense of ownership and belonging across a diversity of identities but it is likely to be very different to what we know now. While we need to work on our vision of what it might look like, progress will depend on identifying challenges and moving forward incrementally to meet these. Such challenges will focus on the role of education as:-

- an employer
- a provider of benefit to students
- a contributor to the value base of our society

CHALLENGES – for education as an employer

In looking to the educational institutions as employers we focus our attention on the experience of lectures. When we examine the make up of the lectures from the perspective of nine grounds:-

- there are far more men than women working as lectures
- there are far more men than women working in management positions with some research suggesting that married women in particular experience promotion difficulties.
- there is a virtual absence of minorities or at least an invisibility. Minority ethnic lectures, lectures with disabilities, gay, lesbian and bisexual lectures are not much in evidence.

This situation has implications for our goal of inclusive education. It obviously raises issues for lectures themselves. It raises issues in terms of role models for students. It raises issues in terms of decision making both in the classroom and in the wider system, and what perspectives shape these decisions. The second challenge emerges when we see lecturers taking cases of sexual harassment. It is further expanded when we hear of the fears of gay, lesbian and bisexual teachers – and even anecdotes of this group avoiding the teaching profession as an option. The ethos and culture of the school as a workplace should be such that harassment and the fear of harassment should not be present. Without such a work environment the inclusive school is not an option.

CHALLENGES- For education as service provider

When we look to the educational institution as provider of benefit across the nine grounds, four common areas of challenge emerge. These address issues of segregation, of access, of experience and of accommodating diversity for the student population. It focuses on mainstreaming rather than special provision on the Traveller and disability

grounds. There are particular difficulties for those of minority who do not have the critical mass necessary for separate provision. If diversity is not accommodated and the students may be exposed to harassment.

Mainstreaming of course still has a long way to go particularly to secure the inclusion of people with disabilities and to secure equal benefit for Travellers and for people with disabilities. Support systems clearly have an important role to play in successful mainstreaming. There has been significant investment in such systems though it is clear further investment is required. Equally it is important to continually assess these support systems to make sure they are:-

- adequate to ensure the mainstreaming experience for minorities is not one of dispersal, isolation and less of the group solidarity that is so important to one's sense of identity.
- not predicated on the assumption that all students from minorities have learning difficulties.
- adequate to meet particular needs in terms of such as language - both English and mother tongue, assistive technology, personal assistants, access to one's own culture, and emotional or therapeutic support required.
- available even where small numbers are involved.
- not provided in a manner that creates new segregations within mainstream provision.

Sexist norms and practices can contribute to a different type of segregation experienced on the gender ground. This relates to subject preferences and take up. The outcomes are very evident when we look at where men and women are located in the labour market and the very significant segregation there. This has very real and obvious implications for gender equality. Looking to the theme of access, recent media coverage suggests very immediate issues for Travellers and for people with disabilities. This is at the very basic level of securing a place in the education system. Access as a theme needs to embrace not just this basic level but also levels relating to participation and outcome. This leads to the theme of experience. Harassment has been identified as an issue by gay, lesbian and bisexual students. The term 'gay' is easily bandied about in the school play areas as a

term of insult, as are derogatory terms for Travellers and other minority ethnic groups and for people with disabilities. Harassment has also been raised as an issue for Travellers, for other minority ethnic groups and for students from minority religious beliefs. Access and failure of access also raises the theme of accommodating diversity which is the key challenge to the inclusive education. Accommodating diversity involves a range of elements including

- acknowledging, understanding and valuing difference as it is expressed within each of the nine grounds.
- taking account of needs specific to groups within a diverse student population.
- assessing the impact of decisions, policies and procedures on students within each of the nine grounds.
- creating a positive environment for all students and potential students.

It requires us to re-examine how we conceptualise particular groups. Traveller students have the experience of being viewed in terms of special needs, of disadvantage and only more recently in terms of cultural difference. Students with disabilities have the experience of being defined and organised in terms of their impairment and only more recently in terms of a disabling environment. Gay, lesbian and bisexual students have the ongoing experience of invisibility as their identity is denied.

It requires us to monitor teaching methodologies and curriculum content to assess their capacity to realise outcomes across the diversity of the nine grounds. What visibility is afforded to people within the different grounds? Whose identities, values, way of life, perspectives and histories are affirmed? What is the relevance and practical implications of difference and diversity for teaching methodologies? How do we ensure the same accommodation of diversity pervades both the curricular and extra curricular life of the university? These are all complex areas and require a wide range of expertise to develop adequate responses. Yet it is here that the key to the inclusive education is to be found.

CHALLENGES – for education as social good

The final set of challenges requires us to look to higher education as contributor to society's value base. The inclusive university, from this perspective, is for the benefit of all students. Policy and practice to combat discrimination and promote equality must be for all.

The U.N. World Conference Against Racism produced a programme of action with a particular focus on education - an area that generated much debate and positive consensus. This emphasised not only access, participation and outcomes for Black and minority ethnic students, but also the crucial contribution to be made by anti-racist education for all. This approach is needed across the whole equality agenda. Students need access to knowledge, ideas and behaviours that allow them to understand the causes of inequality, help them to take a stand against these and motivate them to play no role in these. This will involve focused attention on the curriculum as well as on the environment created in the university. This challenge also requires a focus on how those who experience inequality are taught about. These groups need to be visible in the curriculum and university life, their contribution to history and society needs to be highlighted, and an understanding needs to be disseminated that is empowering to these groups. This will obviously nurture their identity and self esteem. It has a wider benefit to the full student population. The exploration of difference in this positive way will address misconceptions and false assumptions. Better still it affirms a sense of identify and self for all students as difference is obviously a comparative concept.

MOVING FORWARD

Current policy making, initiatives and commitments are a source of optimism that we can build further towards this inclusive education. University plans need to incorporate clear equality objectives, relevant across the nine grounds. Strategies, targets and time scales need to be developed around these objectives. Indicators of progress on the broad equality agenda need to be defined, agreed and applied in evaluation strategies.

University policies and initiatives are required to address issues of harassment and sexual

harassment. These need to be explicit about the nine grounds and be adequate to addressing the experience within each ground. Lectures and student officers need to be resourced to play their role in further building, managing and running the inclusive university. Access to training and other resources will be important in reinforcing the necessary knowledge and skills base. Processes of partnership and participation within the school need to explicitly include those who are experiencing inequality. Students' Unions involvement in management decision making is an important arenas for change. It is unlikely to be adequate to just encourage participation if this is not currently happening in these arenas. New processes are likely to be required to secure inclusion.

Finally, at the level of the Students' Union, linkages could usefully be developed with organisations from within those communities experiencing inequality. These community based organisations are important arenas where a common experience and a common agenda for change can be identified, formulated and articulated. Linkages can be of mutual benefit. At a wider policy level both teacher and student unions have an important role to play in continuing a contribution that ensures policy, investment and provision continue to evolve the inclusive education.

Terms-

Gender - man/woman/transgender

Marital Status - single, married, separated, divorced or widowed.

Family Status - pregnant, parent of a child under 18 years or resident primary carer of person with a disability.

Sexual Orientation - heterosexual, homosexual or bisexual.

Religion - different religious outlook, belief, background or none.

Age - discrimination on age ground is prohibited within the 18 - 65 age group for employment and between the school-leaving age and 65 for vocational training.

Disability - very broadly defined.

Race - including skin colour, nationality, ethnic or national origin.

The Traveller Community - people who are commonly called Travellers.

