



PUBLIC SERVICE EXECUTIVE UNION

30 Merrion Square,
Dublin 2.

Phone: + 3531 6767271
Fax: + 3531 6615777
www.pseu.ie
info@pseu.ie

BC 039/17

Positive Duty of Public Sector Bodies
Section 42 of the Irish Human Rights and Equality Commission Act 2014

25 July 2017

Dear Branch Secretary,

I am directed by the Executive Committee to refer to the following motion (A.89) in the name of the Revenue Group which was adopted at the Annual Delegate Conference of the Union in April 2017:

"This ADC instructs the PSEU Executive Committee to ensure that any changes to our members' terms and conditions are in keeping with the Union diversity policies and equality legislation. This diversity proofing will include introduction /change / or removal of

1. Software
2. Office equipment
3. Buildings
4. Work practices
5. Training
6. Pay"

In considering the motion the Executive Committee noted that section 42 of the Irish Human Rights and Equality Commission Act 2014 places a positive duty on public sector bodies to have regard to the need to eliminate discrimination, promote equality, and protect human rights, in their daily work, in their functions, policies and practices.

The actual section of the legislation is appended to this letter.

The Executive Committee believe that this legislative provision should enable Branches to address some of the issues raised in the motion. The Executive Committee suggests that Branches should consider seeking to have the matter of employers' Section 42 obligations both in respect of staff and more generally listed as a standing item on the agenda for Departmental Councils or other appropriate consultative fora.

Yours sincerely,

Billy Hannigan
Deputy General Secretary

**To: Each Branch secretary,
Executive Committee
Standing Orders Committee
HQ Staff**

Section 42 of the Irish Human Rights and Equality Commission Act 2014

Public bodies

42. (1) A public body shall, in the performance of its functions, have regard to the need to—
- (a) eliminate discrimination,
 - (b) promote equality of opportunity and treatment of its staff and the persons to whom it provides services, and
 - (c) protect the human rights of its members, staff and the persons to whom it provides services.
- (2) For the purposes of giving effect to subsection (1), a public body shall, having regard to the functions and purpose of the body and to its size and the resources available to it—
- (a) set out in a manner that is accessible to the public in its strategic plan (howsoever described) an assessment of the human rights and equality issues it believes to be relevant to the functions and purpose of the body and the policies, plans and actions in place or proposed to be put in place to address those issues, and
 - (b) report in a manner that is accessible to the public on developments and achievements in that regard in its annual report (howsoever described).
- (3) In assisting public bodies to perform their functions in a manner consistent with subsection (1), the Commission may give guidance to and encourage public bodies in developing policies of, and exercising, good practice and operational standards in relation to, human rights and equality.
- (4) Without prejudice to the generality of subsection (3), the Commission may—
- (a) issue guidelines, or
 - (b) prepare codes of practice in accordance with [section 31](#) ,
- in respect of the development by public bodies of performance measures, operational standards and written preventative strategies for the purpose of reducing discrimination and promoting human rights and equality in the public sector workplace and in the provision of services to the public.
- (5) Where the Commission considers that there is evidence of a failure by a public body to perform its functions in a manner consistent with subsection (1) and that it is appropriate in all the circumstances to do so, the Commission may invite the public body to—
- (a) carry out a review in relation to the performance by that body of its functions having regard to subsection (1), or
 - (b) prepare and implement an action plan in relation to the performance by that body of its functions having regard to subsection (1), or both.
- (6) A review or an action plan under subsection (5) may relate to—
- (a) equality of opportunity or human rights generally, or
 - (b) a particular aspect of human rights or discrimination, in the public body concerned.
- (7) The Commission may, and, if requested by the Minister, shall, review the operation of subsection (1).
- (8) For the purposes of assisting it in carrying out a review under subsection (7), the Commission shall consult such persons or bodies as it considers appropriate.
- (9) Where the Commission carries out a review under subsection (7) it—
- (a) may, or
 - (b) where the Minister has requested the review, shall,
- make a report of the review to the Minister and any such report shall include such recommendations as the Commission thinks appropriate.
- (10) The Commission shall cause a copy of the report to be laid before each House of the Oireachtas.
- (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).