



**Community  
Law & Mediation**

# Guide to Taking an Employment Equality Case



**NCU**

TRAINING FOR EVERYONE



# Contents

---

<b>ABOUT THE GUIDE</b>	<b>3</b>
<b>INTRODUCTION</b>	<b>4</b>
<b>WHO IS COVERED BY THE EMPLOYMENT EQUALITY ACTS</b>	<b>4</b>
<b>EXEMPTIONS</b>	<b>5</b>
<b>DISCRIMINATION</b>	<b>6</b>
<b>THE DISCRIMINATORY GROUNDS</b>	<b>7</b>
The Gender Ground	7
The Civil Status Ground	8
The Family Status Ground	8
The Sexual Orientation Ground	8
The Religion Ground	8
The Age Ground	8
The Disability Ground	8
The Race Ground	9
The Traveller Community Ground	9
<b>HARASSMENT AND SEXUAL HARASSMENT</b>	<b>9</b>
<b>DISABILITY</b>	<b>10</b>
Reasonable Accommodation	10
<b>EQUAL PAY</b>	<b>10</b>
<b>VICTIMISATION</b>	<b>11</b>
<b>VICARIOUS LIABILITY</b>	<b>11</b>
<b>ADVERTISEMENTS</b>	<b>11</b>
<b>MAKING A CLAIM</b>	<b>12</b>
<b>MAKING A CLAIM TO THE WRC</b>	<b>12</b>
<b>TIME LIMITS</b>	<b>13</b>
<b>PRE-CLAIM STEPS</b>	<b>13</b>
The EE2 Form	13
Data Access Request	14

---

---

Freedom of Information Request	14
Preparation for your case	14
PROCESS OF BRINGING A CLAIM	15
APPEALS	16
REMEDIES	18
COSTS	19
BURDEN OF PROOF	19
ENFORCEMENT	19
CIRCUIT COURT CLAIMS	20
TIME LIMITS	20
PRE-CLAIM STEPS	20
PROCESS OF BRINGING A CLAIM	20
REMEDIES	20
COSTS	21
APPEALS	21
APPENDICES	22
Appendix 1: Sample Data Protection Request	22
Appendix 2: Sample Freedom of Information Request	23
Appendix 3: Sample Terms of Settlement	25
Appendix 4: Sample Circuit Court Civil Bill	27
Sample Notice of Appeal from Circuit Court to High Court	28
Appendix 5: Sample Enforcement Application for the District Court in relation to a decision of an Adjudication Officer	30
Appendix 6: Sample Enforcement Application for the District Court in relation to a Labour Court Decision	33
Appendix 7: Useful Websites	36

---

## ABOUT THE GUIDE

This guide is for advocates and members of the general public who are taking a case to the Workplace Relations Commission (WRC) or the Circuit Court under the Employment Equality Acts. At the back of the guide you will find some sample documents and website addresses of organisations which might be able to assist you further.

### About the Authors

Community Law & Mediation (CLM) is an independent, community-based organisation that works to empower individuals experiencing disadvantage by providing free legal information, free legal advice, education and mediation services. At a national level, we seek to have a wider impact through our campaigns for law reform and by acting as a resource for other advocacy organisations. CLM has a number of services including two community law centres: CLM Northside based in Coolock, Dublin and CLM Limerick. We also provide a free mediation service, community education and resources including Casebase, a social welfare decision database and the Irish Community Development Law Journal.

### Acknowledgements

CLM would like to thank Ellen O'Callaghan BL for her invaluable research and drafting skills. CLM would like to acknowledge the financial support provided by the Northside Centre for the Unemployed. The Northside Centre for the Unemployed is a non-profit independent organisation. It is one of the leading training providers in Dublin serving thousands of certified clients each year. Its main training centre is located in Coolock, Dublin but training is delivered in any location in Ireland. It operates a free employment, education and enterprise service for people living in its catchment area. If you are looking to return to work or have never previously been in employment, the Northside Local Employment Service Network provides a user friendly service that will assist you in seeking employment.

### Legal Aid

The civil legal aid scheme does not usually cover cases taken to the Workplace Relations Commission (WRC). However, it is open to you to make an application. The Legal Aid Board considers applications for legal aid on a case-by-case basis. You are allowed to represent yourself if you do not have an advocate to represent you. It is preferable to instruct a solicitor to represent you, if you are in a position to pay legal costs.

### Disclaimer

The information in this document is not intended to provide, and does not constitute, legal or any other advice on any particular matter, and is provided for general information purposes only. The authors give no guarantees or warranties concerning the accuracy, completeness or up-to-date nature of the information provided in this guide and do not accept any liability arising from any errors or omissions. The information is correct as of September 2017. Please note that there are links provided to external sites over which the authors have no control and for which they accept no responsibility.



## INTRODUCTION

The Employment Equality Acts 1998 – 2015 (the EE Acts) is the main piece of legislation covering employment equality in Ireland. The aim of the EE Acts is to promote equality in the workplace. If you want more detailed information about the EE Acts, a revised version of the Act is available on [www.lawreform.ie](http://www.lawreform.ie).

This booklet only gives information – it is not a legal document.

The Employment Equality Acts do not cover discrimination against people trying to access goods and services. This is covered by the Equal Status Acts and a separate information booklet covering discrimination in access to goods and services is available at [www.communitylawandmediation.ie](http://www.communitylawandmediation.ie).

In this booklet, you will find information on the following:

- *How do the Employment Equality Acts protect me?*
- *Am I covered under the Employment Equality Acts?*
- *What is discrimination under the Employment Equality Acts?*
- *What is harassment and victimisation under the Employment Equality Acts?*
- *Where can I bring a complaint if I am discriminated against?*
- *Will I have to pay the legal costs of the other side if I lose my case?*
- *What information will I need to make my complaint?*
- *What remedies can I receive if I win my case?*
- *Can I appeal the decision if I lose my case?*
- *How do I enforce a decision if I am successful?*
- *In the Appendices, you will find some useful documents*

## WHO IS COVERED BY THE EMPLOYMENT EQUALITY ACTS

An employer cannot discriminate against an employee, prospective employee or former employee in relation to the following:

- a) access to employment
- b) conditions of employment
- c) pay
- d) training or experience for or in relation to employment
- e) promotion or re-grading
- f) classification of posts
- g) dismissal
- h) advertising

The EE Acts protect against **discrimination** in employment as well as in applying for employment (e.g. discrimination during an interview process). They also protect against discrimination in the termination of employment and in the treatment of former employees.

The EE Acts provide protection against **victimisation** to anyone who makes a complaint under the Acts, witnesses or people who assisted others in their claims (see further details in the victimisation section). The EE Acts also give specific protection in relation to **harassment** and **sexual harassment**.

The EE Acts prohibit discrimination on the basis of nine grounds (subject to some exceptions):

1. The Gender Ground
2. The Civil Status Ground
3. The Family Status Ground
4. The Sexual Orientation Ground
5. The Religion Ground
6. The Age Ground
7. The Disability Ground
8. The Race Ground
9. The Traveller Community Ground

The following types of employees are covered by the EE Acts:

- a) Public and private sector employees
- b) Full-time employees
- c) Part-time employees
- d) Agency workers (in certain circumstances)
- e) Self-employed contractors
- f) Apprentices

Unlike the Unfair Dismissal Act, you can make a complaint under the EE Acts even if you have less than 12 months' continuous service with your employer.

Protection is also available in the context of collective agreements, which discriminate or provide for different rates of pay in respect of similar work based on any of the nine discriminatory grounds.

The EE Acts not only apply to **employers** but also specifically prohibit discrimination in the dealings between an employment agency and an agency worker. Bodies offering vocational training and certain other bodies are also covered, for example:

- a) an organisation of workers or of employers
- b) a professional or trade organisation
- c) a body which controls entry to, or the carrying on of, a profession, vocation or occupation
- d) partnerships

### EXEMPTIONS

Under the EE Acts, there are general exemptions which apply across the Acts and there are also exemptions which apply to each discriminatory ground (more information in section on discriminatory grounds).

### **Qualifications**

Nothing in the EE Acts stops an employer from rejecting an individual who has applied for a job because they don't have the necessary educational, technical or professional qualifications.

### **Competence**

An employer is not obliged to employ a person who is unable to carry out the tasks associated with that job. However, if someone has a disability but would be able to do the job if **reasonable accommodation** was made (e.g. an employee with a back injury may be able to work at a desk if the desk height was adjustable), the employer may be required to do so (for further details see information on reasonable accommodation).

### **Officers of the State**

Where an employee is an officer/servant of the State, it is not discrimination to ask them to provide evidence of residency, proficiency in the Irish language and/or citizenship etc. e.g. members of An Garda Síochána/Defence Forces and Civil Servants.

### **Religious, Educational, and Medical Institutions**

The EE Acts allow schools, religious organisations and hospitals to discriminate if it is necessary to protect the religious ethos of the organisation. However, this exception will only apply to an educational or medical institution funded by the State where it does not constitute discrimination on one of the other discriminatory grounds and where the religion or belief of an employee is a **genuine occupational requirement**.

### **Employment in the Home**

In relation to access to employment only, an individual who applies for work in the home of another person in relation to personal



service (e.g. child minding in the child's home) is not protected under the EE Acts from discrimination.

### **Irish Language**

It is not discriminatory to require proficiency in the Irish language from teachers in primary and secondary schools.

### **Positive Action**

The EE Acts allow employers to put measures in place which are not required under the law but which promote equality in the workplace. Such measures are designed to eliminate, reduce or compensate for inequality. This might mean that there is some discrimination against other groups but such positive action is allowed under the EE Acts. Positive action can only be taken when it can be demonstrated that an inequality exists e.g. women are underrepresented in a certain area of employment.

#### **Example:**

If an employer offers employees childcare facilities at work, this may assist female employees and employees with young families in access to employment.

## **DISCRIMINATION**

The EE Acts provide that discrimination takes place, on any of the discriminatory grounds, when one person is treated less favourably than another is, has been or would be treated.

Less favourable treatment is known as **direct discrimination** and in order to establish direct discrimination, you must be able to prove that you have been treated less favourably as compared with another person in a similar position. Direct discrimination can never be permitted except in the case of the

age ground (for further details see the age ground below).

You will need to have a **comparator** with whom you can be compared. Your complaint will fail if you cannot show that you were less favourably treated than a comparable employee. If you and your fellow employees were all treated equally badly, then your claim for discrimination will fail. It is important when considering whether to bring a claim to determine whether or not you have a comparator. Complaints made in relation to pregnancy-related discrimination (gender ground) are not required to have a comparator as the law will accept a hypothetical non-pregnant comparator. The EE Acts also allow for the use of hypothetical comparators in some circumstances, except in relation to some equal pay cases.

**Indirect discrimination** is also covered under certain sections of the EE Acts. This is when an apparently neutral provision disadvantages a person in a protected group (i.e. a person who falls within one of the discriminatory grounds) more significantly than other employees. It may be possible for an employer to justify this on the basis of what is known as objective justification. Indirect discrimination may be permitted if the employer can prove that there is a legitimate aim and the means of achieving that aim are appropriate, necessary and proportionate (i.e. does not go any further than is necessary).

#### **Example:**

A mandatory height restriction in the context of employment is an example of indirect discrimination. The height restriction will apply to both men and women equally but women will find it harder to meet the restriction as, in general, men are taller than women.



**Discrimination by association** can also occur. This is where a person is treated less favourably not because they come within one of the discriminatory grounds, but because of their connection, relationship or association with another person who is part of a protected group that falls within the discriminatory grounds.

### Example:

A complainant successfully claimed that she was harassed and discriminated against on the disability ground for seeking flexible working arrangements to allow her to care for her son, who was disabled, even though she herself was not disabled.

It is important to note that even if you are not actually covered by one of the discriminatory grounds, it is possible that you may nonetheless have been discriminated against where the ground was imputed to you. This is known as **discrimination by imputation**.

### Example:

Where it is wrongly assumed that a worker is a homosexual and is treated less favourably on this basis, this is discrimination by imputation.

## THE DISCRIMINATORY GROUNDS

You may be a member of one of the groups protected by the following discriminatory grounds. It is **very important** to note in relation to each of the grounds below that the EE Acts permit schools, religious organisations and hospitals, to discriminate in the context of keeping employees on or employing them in the first place if it is necessary to protect the religious ethos of the organisation. However, this exception will only apply to an educational or medical

institution which is funded by the State where it does not constitute discrimination on one of the other discriminatory grounds and by reason of the nature of the activities or context in which they arise, religion or belief of an employee is a **genuine occupational requirement**. The occupational requirement must be valid and the objective of the employer must be legitimate and proportionate.

### The Gender Ground

The EE Acts protect you from discrimination on the basis of your gender e.g. paying a female employee a lower wage for the same work than that of a male employee is not allowed. The Gender Ground also covers pregnancy discrimination and transgender discrimination. This ground often overlaps with other discriminatory grounds such as the family status ground and the civil status ground.

### Example:

A health service provider advertises a job for a Carer to adults with physical and intellectual needs. The health service provider wishes to only employ a male candidate on the basis that the client who would receive the care on a 24 hour basis had a history of convictions for sexual offences involving females. It may be considered that such a role is a male gender specific role on the basis of staff welfare.

There are further exceptions to gender discrimination found in the EE Acts in connection with family and personal services and in relation to the Gardaí and the Prison Services.

### Example:

It may be allowed to require a number of female prison guards to be employed in a female prison on the basis that it is necessary in the interests of privacy and decency or is required for security.

## The Civil Status Ground

You cannot be discriminated against on the grounds of your civil status i.e. whether you are single, married, separated, divorced, widowed, in a civil partnership or have been in a civil partnership that has been dissolved or ended by death.

If you wish to make a complaint in relation to your civil status as member of a same-sex civil partnership, you could also claim under the sexual orientation ground.

## The Family Status Ground

Your employer cannot discriminate against you on the basis of your family status. Family status refers to an individual having responsibility:

1. As a parent to a child who is under 18 or is a child over 18 but who suffers from a disability which requires care or support on a continuing, regular or frequent basis;
2. As a person in loco parentis (a person acting in the place of a parent) in relation to a child under the age of 18; or
3. A resident primary carer in relation to a person over the age of 18 with a disability which requires care or support on a continuing, regular or frequent basis.

## The Sexual Orientation Ground

Less favourable treatment on the basis of one's sexual orientation (i.e. on the basis of a person being heterosexual, homosexual, bisexual etc.) is not permitted under the EE Acts.

## The Religion Ground

Discrimination on the grounds of religious belief is not allowed under the EE Acts and this even extends to people who have no religious beliefs.

## The Age Ground

In general, an employer is not allowed to discriminate against an employee on the basis of their age. However, this general position is subject to a number of exceptions and, unlike the other discriminatory grounds, direct discrimination on the basis of an individual's age may be allowed.

There are four main exceptions provided under the EE Acts in relation to the Age Ground:

1. Employers may be allowed to fix different ages for admissions to occupational benefit schemes and use age-related criteria
2. Employers may be allowed to fix mandatory retirement ages where they are objectively justified
3. Employers may be allowed to fix maximum age of recruitment where it would not be efficient for an older person to be taken into employment due to training and that there is insufficient time to recoup the costs of training before the person retires
4. Employers may be allowed to treat employees differently in relation to a collective agreement which provides for seniority/length of service

## The Disability Ground

Discrimination on the basis of disability is not allowed. Disability has a broad definition under the EE Acts and covers a large number of conditions/impairments and even covers some disabilities which are of a temporary nature.

Exceptions under the EE Acts permit an employer to pay a disabled employee a particular rate of pay (this rate cannot be below the minimum wage) where the disabled employee is unable to do the same

amount of work as an employee without a disability. For further information on this ground, see the section on disability.

### The Race Ground

Less favourable treatment on the ground of race, skin colour, nationality or ethnic/national origins is not allowed under the EE Acts.

There are certain exceptions to this protection. Employers may require valid requirements of residency and/or citizenship in the context of an employee who holds an office in the service of the State e.g. Gardaí. It is also allowed to have language requirements for certain forms of employment e.g. it is permissible to require primary teachers to have a proficiency in Irish.

### The Traveller Community Ground

It is not permissible to discriminate against an employee on the basis of their membership of the Traveller community.

#### Example:

A complainant was successful in her claim for discrimination on the basis of membership of the Traveller community in the context of access to employment. After the complainant's first day, she was not asked to return. Another employer suggested that she would not have the same concept of cleaning as the other employees due to the way she lived.

## HARASSMENT AND SEXUAL HARASSMENT

Discrimination also includes **harassment**. The EE Acts provide protection from any form of unwanted conduct related to any of the discriminatory grounds.

#### Example:

A complainant was successful in his claim for harassment on the basis of race where he was referred to as a "fiery latin" by another employee.

Additionally, the EE Acts specifically protect individuals from **sexual harassment**. This is defined as any form of unwanted verbal, non-verbal or physical conduct of a sexual nature.

#### Example:

A complainant was successful in her claim for sexual harassment on the basis of being subjected to dirty jokes, sexually explicit remarks and sexually explicit pictures being placed in her office.

In order to establish discrimination on the basis of harassment or of sexual harassment, you need to show that the conduct has the purpose or effect of violating your dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for you.

The EE Acts provide some examples of what unwanted conduct can look like e.g. acts, requests, spoken word or gestures or the production, display or circulation of written words, pictures or other material.

Harassment can be based on any of the discriminatory grounds e.g. you could be harassed on the basis of your religion or your race.

It is possible for an employer to defend itself against an allegation of harassment on the basis that it has taken reasonable steps to prevent the action complained of.

**N.B.** If the conduct which you are being subject to is not linked to a discriminatory



ground then you may possibly have a general claim for bullying or harassment, which can be taken in the civil courts.

## DISABILITY

### Reasonable Accommodation

Discrimination on the basis of disability is treated differently to discrimination on the basis of age/sex etc. on the basis that the sex or age of a person should not impact an employee's ability to carry out their job. Protection of people with a disability under the EE Acts acknowledges that employers should not have to employ persons who cannot perform the tasks associated with the job. This must be balanced against the right of people with a disability not to be discriminated against in a working environment.

Balancing these sometimes competing interests is dealt with through the concept of **reasonable accommodation**, which requires employers to take **appropriate measures**, where needed, to enable a person with a disability to participate in employment unless such measure would impose a disproportionate burden on the employer. The purpose of reasonable accommodation is to remove the barriers to effective participation of people with disabilities in the workforce.

An employer is obliged to look at the options available to accommodate the needs of an employee with a disability. Nothing under the EE Acts requires an employer to recruit, promote, or retain a person in employment if they are no longer competent and able to undertake the duties attached to the job role.

However, the EE Acts go on to provide that a person with a disability is fully competent and/or able to undertake duties if the person would be fully able to carry out these duties

if reasonable accommodation was made.

**Appropriate measures** are not limited to physically changing the premises but may also involve changes in work patterns. The obligation to provide reasonable accommodation can only be properly satisfied where the employer has done an assessment to see whether reasonable accommodation can be made and has engaged with the employee. An employer is not required to make reasonable accommodation where the measures would cause a disproportionate burden on the employer. The EE Acts provide that the following factors should be considered when deciding what would be a **disproportionate burden**:

- (i) the financial and other costs entailed
- (ii) the scale and financial resources of the employer's business
- (iii) the possibility of obtaining public funding or other assistance

#### Example:

An employee has been working as a secretary for 15 years and she is involved in a car crash, which has led to a back injury. She would be able to return to her job but only if she was provided with a lower desk and a chair with lumbar support. The desk and chair are the appropriate measures which, if put in place, would allow the employee to return to work.

## EQUAL PAY

The EE Acts provide for equal pay for like work. Where work is the same, similar or work of an equal value, employees should be paid a similar rate of pay.

The EE Acts apply a term to every contract of employment that there is an entitlement

to equal pay between men and women. This principle also applies to equal pay between employees who are different on the basis of the discriminatory grounds i.e. one employee is a member of the Traveller community and the other is not.

The definition of pay is quite broad and includes sick pay, travel concessions, redundancy payments and bonus pay.

### VICTIMISATION

Victimisation takes place where an employee is dismissed or suffers adverse treatment by their employer as a reaction to a **protected** act such as:

1. Making a complaint of discrimination
2. Being involved in a claim under the EE Acts either in the Workplace Relations Commission or in the Courts
3. Representing or supporting a complainant
4. The work of an employee having been compared with that of another employee for any of the purposes of the EE Acts (i.e the employee who was the comparator)
5. Acting as a witness in any proceedings under the EE Acts or Equal Status Acts
6. Opposing by lawful means an act which is unlawful under the EE Acts
7. Having given notice of an intention to take any of the actions mentioned above

In order to be successful in a claim that you have been victimised, you need to have taken one or more of the protected acts listed above in relation to discrimination and have subsequently been subjected to adverse treatment by your employer as a result.

#### Example:

Protection from victimisation can even apply after employment has ceased e.g. a poor reference is given to possible employers and indicates that you previously made an employment equality complaint.

### VICARIOUS LIABILITY

Under the EE Acts, there is special provision for what is commonly known as **vicarious liability**. This means that your employer is liable for the actions of its employees, whether or not the act was done with the employer's knowledge, so long as the act was done during the course of employment. The concept of vicarious liability is limited where the employer can prove that it took **reasonably practicable steps** to prevent the employee from doing the act.

#### Example:

An employee discriminates against a fellow employee of the company, who is not Irish, calling him names and referring to his country of origin. Whether this incident happened in the workplace or in a work related function outside the workplace, the employer can be found liable. In defending a claim under the EE Acts, the employer might show evidence that all employees had previously been given racism awareness and diversity training.

### ADVERTISEMENTS

The EE Acts prohibit the publishing or displaying of an advertisement which relates to employment and which indicates an intention to discriminate or could be understood as indicating such an intention.



### Example:

Ryanair placed an advertisement in the Irish Times seeking “a young and dynamic professional” and that the ideal candidate will be “young and dynamic”. This advertisement was be found to be discriminatory on the basis of the age ground.

## MAKING A CLAIM

### MAKING A CLAIM TO THE WRC

If you believe your rights have been infringed under the EE Acts, you can make a complaint to the Workplace Relations Commission (WRC) and there is also a general right of appeal to the Labour Court. In order to make a complaint, you will have to submit a complaint form to the WRC in writing. This can be done online by using the online Complaint Form available on the ‘Refer a Dispute/Make a Complaint’ page of the WRC’s website ([www.workplacelrelations.ie](http://www.workplacelrelations.ie)).

It is important when submitting your complaint form that you insert the correct name of your employer. This information can be found in your contract of employment (if you have received one), your payslip (if you have received one) or on any headed paper you have received in connection with your employment. If you have not received any paperwork from your employer, then you should give what you believe to be the correct name of your employer.

It is important when submitting your complaint form that you insert the correct legal name of the company. You can find this on the Companies Registration Office website ([www.cro.ie](http://www.cro.ie)). If there is a possibility of two names, then you should name both and discontinue the case against the incorrect one at a later date. All information

provided in the complaint form should be accurate to the best of your knowledge.

When submitting a complaint under the EE Acts, you must set out a clear statement giving details of the complaint. It is important to be as precise as possible about dates. If the incidents of discrimination are continuing, you can refer to these as **ongoing discrimination**. In this statement, you are required to set out the facts, the links between the discriminatory grounds and the alleged discrimination and any other relevant information. If you do not provide this statement, your claim may be struck out by the Director General of the WRC for non-pursuit.

The WRC and the Labour Court have the power to strike out your claim without any prior notice to you if it has not been pursued within the period of one year. It is very important that if you change address you inform that WRC or Labour Court of any such change so that you receive all correspondence and are in a position to respond.

Your claim can be dismissed if the Adjudication Officer forms a view that the claim is frivolous or vexatious. The decision to dismiss a claim on this basis can be appealed to the Labour Court. Any information received by the WRC or the Labour Court from either party will be copied to the other.

If you have questions about the process, you can phone the WRC. Staff at the WRC can answer general telephone queries, give information about publications and explain how the system works. They cannot assist you in filling out the form, or give you legal advice, such as advising you whether your complaint is likely to be successful.

## TIME LIMITS

A complaint must be filed with the WRC within six months of the date of the breach of the EE Acts. This **six-month** time limit can run from either:

1. The most recent date of the offending conduct;
2. The ending of a discriminatory regime or practice; or
3. In the case of an isolated incident, simply six months from the date of the incident.

If your complaint has not been made within the six-month time period, it is possible to make an application for an extended period of time but the time limit can only be extended to a maximum of twelve months. In order to succeed in an application to extend time you will need to demonstrate reasonable cause for doing so. Such an application should be made as soon as possible to the WRC and should give reasons for the delay and attach any supporting documentation.

## PRE-CLAIM STEPS

As discussed above, where you are taking a claim of discrimination on the basis of one or more of the discriminatory grounds, you need to establish that you have received less favourable treatment compared with another person in a similar position. Without a **comparator** your claim will fail and therefore it is very important that you choose a comparator (this requirement does not apply to a claim of discrimination on the basis of pregnancy as discussed above).

In order to receive information from your employer/prospective employer which may be of assistance to your claim there are a variety of ways in which you can seek information in connection with your employment that you may not have.

## The EE2 Form

Under the EE Acts, there is special provision for a right to information which provides assistance to a person who considers that they may have been discriminated against, victimised, dismissed or have an equal pay claim under the EE Acts. The right to information is aimed at assisting an individual in deciding whether or not to bring a claim. It is possible to ask your employer for information in relation to:

1. Their reasons for doing or omitting to do any relevant act and any practices or procedures around the act
2. Pay or treatment of other people in the same or a similar position as the person seeking the information (other than confidential information)
3. Other information that is not confidential information or information about the scale or financial resources of the employer's business and which, in the circumstances of the case in question, it is reasonable for the person seeking the information to require.

There are statutory forms for seeking this information and replying to a request. These are known as the EE2 form and the EE3 form. These are available on [www.workplacereactions.ie](http://www.workplacereactions.ie). The information gathered from any response given may assist an employee in deciding whether or not they have a case and may also help in establishing whether they may have a **comparator**.

The employer can respond to the EE2 form using the EE3 form. There is no legal obligation for the employer to respond. However, if there is no reply or if the replies are false or misleading, this may be taken into account in deciding the case.



## Data Access Request

Under the Data Protection Act, you have the right, subject to certain restrictions, to know if a person/company holds information in relation to you and you can also seek a copy of this information. An individual can seek from their employer/prospective employer any information kept in relation to them. This information may be of assistance in establishing whether or not you have a case.

In order to seek this information, you must write to your employer/prospective employer (sample letter can be found at Appendix 1). A payment may be requested (maximum €6.35) for a copy of the documentation. Once you have made the request and paid any fee, you must receive the information within 40 days. For more information on this and what to do if your data access request is not complied with, see [www.dataprotection.ie](http://www.dataprotection.ie).

### Example:

If you are employed by a private company, you can make a request for any information held in relation to you under the Data Protection Act and the maximum that you will be charged for a copy of these documents is €6.35.

## Freedom of Information Request

The Freedom of Information Act grants an individual the right, subject to certain restrictions, to access information held by Government departments, agencies or other designated bodies in receipt of state funding. In order to access such information, you can write a letter seeking access or complete a request for access to records form (see sample form at Appendix 2). This information may be of assistance in establishing whether or not you have a case.

Once you have made the Freedom of Information (FOI) request, an acknowledgement of the request must be made within 10 working days and a substantive reply within 20 working days. No fees apply where your request is in relation to your personal records. For further information on this and what to do if your request is not complied with, see [www.foi.gov.ie](http://www.foi.gov.ie)

### Example:

If you are employed by the HSE, you can make a request for your personal records under the Freedom of Information Act and no charge will apply for a copy of these documents.

## Preparation for your case

In advance of the hearing of your case, ensure that you have kept a copy of all documentation that will support your claim. A good tip is to print off a copy of all email and text correspondence, which may be of assistance to your claim. Ensure that you keep all of your wage slips and make a copy of them.

If you have left your employment or have been dismissed as a result of discrimination and you have been unsuccessful in finding new employment, you should keep records of any attempts to find new employment (e.g. any email correspondence with employment recruitment agencies, application forms for employment etc.). If you have been successful in finding new employment, you should keep documentation that shows your new rate of pay and conditions (e.g. new contract of employment and payslips).

It is important that you bring copies of all documents you intend to rely upon (preferably three copies) to the hearing



of your case and you should send any documents that you wish to rely upon to the Adjudication Officer in advance of the hearing.

You should also consider if there are any witnesses that you may need at the hearing who would be able to corroborate your claim and approach these individuals to see if they will agree to attend at the hearing of your case. A witness will have to answer questions from both sides and from the Adjudication Officer. If a witness refuses to attend, an Adjudication Officer or the Labour Court can, in certain circumstances, require the attendance of a witness or the production of a document.

You will find previous decisions at [www.workplacerelations.ie](http://www.workplacerelations.ie) under Decisions & Determinations.

### PROCESS OF BRINGING A CLAIM

Once your complaint has been formally submitted, the WRC may refer your matter to mediation if both parties agree. This is where the Director General of the WRC appoints a mediation officer to help settle the dispute. The mediation officer is a neutral person whose job it is to work with both parties to reach an agreement and settle the claim. To resolve a dispute through mediation, both parties must agree on the terms of settlement. If a settlement is reached through mediation, the terms of the settlement are confidential and legally binding. Mediation agreements can be enforced through the Courts.

In the event your case is not resolved or referred to mediation, the matter will be referred for investigation to an Adjudication Office who will deal with your case.

The Adjudication Officer may write to you looking for certain information in advance of hearing the matter. It is advisable to send all paperwork which you intend to rely on and a list of your witnesses to the Adjudication Officer in advance of the hearing (for further information on what type of documents may be relevant see pre-claim section above).

When the matter has been listed for hearing, you will receive a letter telling you the time and location of the hearing. It is important to attend on the date for the hearing. If you do not attend, the matter may be struck out in your absence. In the event that you are unable to attend on the hearing date, you should contact the Adjudication Officer assigned to your case as a matter of priority to indicate your difficulty and request that the matter be adjourned (moved to another date). Adjournments are rarely given in the WRC. However, in certain cases the hearing date can be adjourned (e.g. medical treatment). When making a request for an adjournment, you should forward any supporting documentation which will support your application. If the matter is adjourned, both sides will be informed of the adjourned date and location.

Ensure that you arrive early to the hearing in order to ensure that you know in which room your hearing is taking place and to get yourself settled in advance of the hearing commencing.

It is common that parties may engage in negotiation on the morning of the hearing to see if they are able to resolve the matter between themselves without the necessity to proceed to a hearing (the same practice may occur before a Labour Court hearing). There is no obligation for you to engage in negotiation. In the event that negotiation takes place and the matter can be resolved



between the parties, it is important that you write up written terms of settlement which can be enforced through the Courts (see sample terms of settlement at Appendix 3).

The hearing before the Adjudication Officer is in private and therefore members of the public or press cannot attend. Witnesses will either be permitted to be present during the hearing or will be called in one by one and excused after they give their evidence.

It is entirely up to the Adjudication Officer as to how the case is to be heard. The Adjudication Officer will generally introduce themselves at the start of the hearing and you can refer to her/him by their name or refer to them as “Chair”. There is no provision for evidence to be heard on oath during the hearing before an Adjudication Officer (i.e. there is no requirement for the complainant or witnesses to take an oath before they give their evidence as would be required in a court). Each party will be entitled to give evidence and call witnesses; the Adjudication Officer can ask questions of all parties and any witnesses.

When the hearing has concluded the Adjudication Officer will generally give you an outline of the timeline in which you can expect their written decision (e.g. generally 4-6 weeks). When you receive their decision, it will generally set out the background of the case and evidence given – you will find their decision on the last page of this document. All decisions of Adjudication Officers are currently anonymised and published online.

It is possible that the WRC may decide that your case could be suitable to be decided **on the papers** (i.e. the decision would be based on the information provided and there would be no oral hearing of the case). Prior

to a decision being made on the papers the Director General of the WRC is required to write to the parties indicating his/her intention to do so. Either party has 42 days to respond to indicate that they are not happy to have the matter decided on the papers. If either party objects to this course of action then the matter will proceed to an oral hearing. It is important to understand that if your case is decided on the papers you will not get an opportunity to present your case personally.

## APPEALS

If you are unsuccessful in your claim or part of your claim, you are entitled to appeal the decision to the Labour Court. This type of appeal is known as a **de novo appeal** (i.e. the case is heard again from the beginning and you are entitled to bring witnesses/evidence to the hearing that you did not present before the Adjudication Officer).

In order to appeal the decision of an Adjudication Officer, you need to fill out an appeal form (available on [www.workplacerelations.ie](http://www.workplacerelations.ie)) and you must submit the form within a period of **42 days**. You should also attach a copy of the Adjudication Officer’s decision to the appeal form.

The hearing before the Labour Court on appeal is different from that of the Adjudication Officer in the following ways:

- a. The Labour Court sits in a panel of three members made up of a Chair/Deputy Chair and an employers’ and workers’ representative
- b. Evidence before the Labour Court is heard under oath (i.e. the complainant and witnesses will swear an oath that the evidence they give is truthful)
- c. There is provision for examination and cross-examination

- d. Members of the public can attend a hearing before the Labour Court unless there are special circumstances which demand that the matter be heard in private

The Labour Court's own guidelines provide that there are a number of stages to an appeal:

1. The submitting of an appeal within 42 days of the date notifying the parties of the decision of the Adjudication Officer
2. The appellant (the party making the appeal) is required to lodge their written submissions within a period of 3 weeks of lodging the appeal. The purpose of these written submissions is to give the Labour Court an outline of the factual background of the case, the matters in dispute, the position of the appellant, any legal issues and to summarise the appellant's position. These written submissions should list any documentation on which the appellant seeks to rely (a copy of these documents should be attached). If you wish to rely on any pieces or legislation or case law/ previous decisions Adjudication Officers/Labour Court these should also be referred to and attached (you will find previous decisions at [www.workplacerelations.ie](http://www.workplacerelations.ie) under Decisions & Determinations). In addition to the submissions, you are also required to submit a list and details of any witnesses you intend to call.
3. The appellant's submissions will then be sent to the respondent (the party responding to the appeal) and the respondent's submissions will be required within a further 3 weeks. Once written submissions are received from both sides the matter will be listed for hearing.

4. The Labour Court will contact you with details of the time, date and venue for the hearing of the matter. In the event that you are unable to attend on the hearing date, you should contact the Labour Court as a matter of priority to indicate your difficulty and request that the matter be adjourned (moved to another date). Adjournments are rarely given in the Labour Court; however, in certain cases the hearing date can be adjourned (e.g. medical treatment). When making a request for an adjournment forward any supporting documentation which will support your application. If the matter is adjourned both sides will be informed of the adjourned date and location.
5. During the hearing before the Labour Court you should refer to the Chair as "Chairman" or "Madam Chairman" and the other two members of the Court as Mr A or Ms A. You should stand when the Court enters and leaves the room. You may be required to read out your written submissions or the Court may indicate that they have read them already. Both parties will be entitled to give evidence and call witnesses, all persons who give evidence can be subjected to cross-examination – the Court members may also ask questions of the parties and witnesses.
6. When the hearing has concluded the Labour Court will generally give you an outline of the timeline in which you can expect their decision which is usually six weeks. When you receive their decision it will generally set out the background of the case and evidence given – you will find their decision on the last page of this document. All decisions of the Labour Court will be published online.

The Labour Court may decide that your case could be suitable to be decided **on**



**the papers** (i.e. the decision is based on the information provided and there is no oral hearing of the case). Prior to a decision being made on the papers, the Labour Court is required to write to the parties indicating its intention to do so. Either party has 42 days to respond to indicate that they are not happy to have the matter decided on the papers. If either party objects to this course of action, then the matter will proceed to an oral hearing. Is it important to understand that if your case is decided on the papers, you will not get an opportunity to present your case personally.

It is only possible to appeal a decision of the Labour Court to the High Court on a point of law – this is not a general right of appeal. The appeal must be based on a legal point rather than an evidential point and the High Court will not hear the whole case again. Such appeal must be made within **42 days** from the date that the decision was issued to the parties.

All proceedings before the WRC i.e. hearings before an Adjudication Officer and Labour Court can be the subject of a Judicial Review application brought in the High Court, where either party can challenge the procedural fairness of the hearing. Such an application must be made to the High Court within three months from the service of the notice of the decision.

## REMEDIES

Under the EE Acts, the maximum compensation which can be awarded by either an Adjudication Officer or the Labour Court on appeal is as follows: -

- (a) In relation to **an equal pay claim** an order that you receive equal pay from the date on which the complaint was made and a maximum of three years pay arrears

- (b) In relation to **discrimination claim** or **victimisation claim** where you were an employee when the claim was referred to the WRC you can be awarded compensation for the effects of discrimination or victimisation up to a maximum of two years pay or €40,000 whichever is the greater
- (c) If you are not an employee (i.e. you are applying for a job) you can be awarded a maximum of €13,000
- (d) An order for equal treatment in whatever respect is relevant to the case
- (e) An order that a person or persons specified in the order take a course of action which is so specified
- (f) An order for re-instatement or re-engagement, with or without an order for compensation

If an Adjudication Officer or the Labour Court on appeal determines that the claimant has been discriminated against, it may require that a course of action is taken (e.g. that the employer undergoes a racism awareness course) and/or make a monetary award. An order can also be made that the complainant is re-instated or re-engaged in their previous employment.

Importantly, any money awarded for the effects of discrimination is not linked to loss of wages but is aimed at remedying the effect of the discrimination. The following criteria will be taken into consideration when measuring the damages:

- All the effects of the discrimination
- Any financial loss suffered
- Any distress or indignity suffered

Awards of compensation which are not for loss of salary but for the effects of discrimination are not taxable. In the decision given by the Adjudication Officer or the Labour Court it may be specified

whether the award is or is not in relation to loss of salary.

The remedies available in the Circuit Court in relation to gender equality cases are discussed in further detail below.

### COSTS

In the event that you are successful in your claim, you will not be awarded any money for the costs of your legal representatives (if you have retained any). If you have retained legal representation, you will have to pay this out of your own pocket.

If you are unsuccessful in your claim, you will not be directed to pay for your employer's legal representatives. This is what is known as a **non-cost environment**.

There is provision under the EE Acts for an Adjudication Officer or the Labour Court, if they are of the opinion that a person is obstructing or impeding an investigation, to order that that person pay to another person a specified amount in respect of the travelling or other expenses reasonably incurred by that other person in connection with the investigation or appeal. However, such an order is rarely made and any expenses cannot relate to the attendance of any person representing the complainant or respondent and will not cover your legal expenses.

### BURDEN OF PROOF

When you bring a claim under the EE Acts, you must establish facts from which discrimination may be inferred (known as a **prima facie case**) and if you successfully establish this, the onus shifts to the employer to prove that there was no discrimination. This means that you must show the basic facts of the case and these facts must be of sufficient significance to

suggest discrimination has taken place. Once a prima facie case has been established, the employer must demonstrate that there was no discrimination or if there was discrimination, it was justified.

### ENFORCEMENT

You can enforce a decision of an Adjudication Officer or of the Labour Court through making an application to the District Court where an employer fails to comply with the decision. The application for enforcement is made by notice of application (see sample notices at Appendix 5 and Appendix 6). The application must be made to the District Court in which the employer resides (i.e. your employer's registered address) or carries on any profession, business or occupation.

However, before making such an application a certain minimum amount of time must have passed:

1. Before making an application in connection with a decision of an Adjudication Officer a period of **56 days** must elapse from the date that the decision was issued to the parties.
2. Before making an application in connection with a decision of the Labour Court a period of **42 days** must elapse from the date that the decision was issued to the parties.

The complainant, their legal representative, their trade union or certain accepted bodies can make the application for enforcement in the District Court. The claimant will be required to give evidence on oath stating that either some or all of the decision remain outstanding. The employer will have to be served with the notice of application and you will be required to have a declaration



of service (a sample of this document is available on the Courts website [www.courts.ie](http://www.courts.ie)) to prove that your employer has been made aware of the application.

As this application is made before a Court, you can ask the Court to direct that the legal costs (if you have legal representation) of making such an application must be paid by your employer, if you are successful in your application.

The District Court has the power to replace an order of re-instatement or re-engagement with an order for compensation. It is also possible to seek interest on the amount outstanding.

In certain circumstances, the WRC will agree to make the application for enforcement on your behalf and you are required to apply to the WRC to request this. For more information see [www.workplacerelations.ie](http://www.workplacerelations.ie). The WRC take certain matters into consideration when deciding whether they will make the application on your behalf.

## **CIRCUIT COURT CLAIMS**

A claim for discrimination for gender can be brought to the WRC or, alternatively, to the Circuit Court. It is important to note that the only proceedings which can be brought straight to the Circuit Court under the EE Acts relate to discrimination on the grounds of gender.

## **TIME LIMITS**

The same time limits apply to proceedings brought before the Circuit Court as for the WRC (for further information see time limits above).

## **PRE-CLAIM STEPS**

It is open to an individual to seek information from their employer in the same manner as

that of a WRC claim (for further information see pre-claim steps in relation to a WRC complaint).

## **PROCESS OF BRINGING A CLAIM**

In order to commence proceedings for gender discrimination in the Circuit Court, you must issue an Employment Law Civil Bill (see sample civil bill at Appendix 4). You are required to give details of your complaint in this document and your civil bill should be issued in the Circuit Court Office where the employer resides (i.e. your employer's registered address) or carries on any profession, business or occupation e.g. The civil bill would issue in the Dublin Circuit if the employer carried on a business in Dublin.

You will need to serve the Employment Law Civil Bill on your employer in accordance with the Circuit Court Rules (available at [www.courts.ie](http://www.courts.ie)). If your employer wishes to dispute your claim, they are entitled to deliver a defence to the claim.

It is possible to seek discovery of documentation in the Circuit Court from the employer by means of an application known as discovery. This application cannot be made to the Adjudication Officer or Labour Court on appeal.

All Circuit Court claims will be heard in public and the case will be heard by way of oral evidence subject to cross-examination.

## **REMEDIES**

The Circuit Court is entitled to order any of the forms of redress provided under the EE Acts and is not limited to its normal monetary jurisdiction (in general the Circuit Court cannot award damages over the sum of €75,000). Therefore, the Circuit Court can order the following redress:

- (a) In relation to **an equal pay claim** an order that you receive equal pay from the date on which the complaint was made and a maximum of six years pay arrears
- (b) In relation to a **discrimination claim** or a **victimisation claim** where you were an employee when the claim was referred to the WRC you can be awarded compensation for the effects of discrimination or victimisation up to a maximum of two years pay or €40,000 whichever is the greater
- (c) An order for equal treatment in whatever respect is relevant to the case
- (e) An order that a person or persons specified in the order take a course of action which is so specified
- (f) An order for re-instatement or re-engagement, with or without an order for compensation.

The Circuit Court is not limited in the amount of compensation that it can award. However, it can only award back-dated arrears of remuneration for a period of six years.

### COSTS

As this type of action is brought before the civil courts, costs orders can be made. The general position is that **costs follow the event** i.e. the winning side has their costs paid for by the unsuccessful side.

In general, if you are successful in your claim you will be awarded your legal costs to cover the costs of your legal representation (if you have it). However, if you are unsuccessful in your claim then you will be liable for the other side's legal costs.

This general position can be departed from in certain circumstances.

### APPEALS

It is possible to seek to appeal some or all the decision of the Circuit Court to the High Court. This appeal is made way of a notice of appeal (available on [www.courts.ie](http://www.courts.ie)) and must be filed within a period of ten days from the date on which the judgment and/or order is made. The employer is required to be placed on notice of this application and you will be required to have an affidavit of service (a sample of this document is available on the courts website [www.courts.ie](http://www.courts.ie)) to prove that your employer has been made aware of the appeal.

## APPENDICES

### Appendix 1: Sample Data Protection Request

[INSERT YOUR ADDRESS]

[INSERT EMPLOYERS ADDRESS]

[INSERT DATE]

Re: Data Access Request

---

To Whom It May Concern,

I wish to make an access request under Section 4 of the Data Protection Acts 1988 - 2003 for a copy of any information you keep about me, on computer or in manual form in relation to my employment.

Details which may be of assistance:

- My PPS number is [INSERT];
- My Staff number is [INSERT];
- I was employed during the period of XX to XX [INSERT];

I look forward to hearing from you.

Kind Regards,

---

[INSERT NAME]

Email: [INSERT]



## Appendix 2: Sample Freedom of Information Request

REQUEST FOR ACCESS TO RECORDS UNDER THE  
FREEDOM OF INFORMATION ACT, 2014

Please address this request to relevant FOI Contact

Please use BLOCK letters

Details of Applicant

Surname: \_\_\_\_\_

First Name: \_\_\_\_\_

Postal Address: \_\_\_\_\_

Telephone Number(s) \_\_\_\_\_

\_\_\_\_\_

OFFICIAL USE ONLY

Home : \_\_\_\_\_

Date FOI request Received: \_\_\_\_\_

Business: \_\_\_\_\_

Identity Verified: \_\_\_\_\_

Mobile: \_\_\_\_\_

Consent Confirmed:

\_\_\_\_\_

Personal Information

My preferred form of access is: (please tick as appropriate)

to receive copies of the record by post

other – please specify \_\_\_\_\_

Details of Request

In accordance with Section 12 of the Freedom of Information Act, I request access to records which are: (please tick as appropriate)

Personal

Non-personal

In the space provided below, please describe the records as fully as you can. If you are requesting Personal Information, please state precisely, in whose name those records are held. You will not normally be given access to personal information of another person unless you have obtained the written consent of that person.

I request the following records: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Please sign here: \_\_\_\_\_

Date: \_\_\_\_\_

### Appendix 3: Sample Terms of Settlement

Workplace Relations Commission

Case Reference No:

[Insert title of legislation complaint has been brought under]

Between:

[Insert]

(Complainant)

And

[Insert]

(Respondent)

#### TERMS OF SETTLEMENT

1.

The Respondent agrees to pay the complainant the sum of €\_\_\_\_\_ in full and final settlement of the above named claims and any or all claims arising from the complainants employment with the respondent and its termination thereof howsoever arising whether under statute, common law, contract, tort or as a claim for breach of the complainant's constitutional or convention rights. The amount of €\_\_\_\_\_ is payable as compensation in respect of the complainants claim for discrimination and does not include any element of remuneration and is not subject to any deductions.

2.

The payment of €\_\_\_\_\_ is to be made directly to the complainant by EFT to the bank account, details for which are already known to the respondent within four (4) weeks of the date of this agreement. In the event of default of payment, the respondent consents to judgement in the sum of €\_\_\_ being entered against it in a court of competent jurisdiction.

3.

The complainant accepts that the respondent is entitled to make a deduction of an amount not exceeding €\_\_\_\_\_ in respect of claim number \_\_\_\_\_ from the net monies owed to the complainant in

respect of payment for annual leave and other entitlements arising from the termination of employment.

4.

For the avoidance of doubt, where the complainant's entitlements arising from the termination of her employment do not provide for a sum equal to or exceeding € \_\_\_\_\_, the respondent agrees not to seek any further recovery of this amount or part thereof or any amount from the complainant. In consideration of the above the complainant agrees to withdraw the above \_\_\_\_\_ claims listed for hearing before the Workplace Relations Commission on the \_\_\_\_\_ day of \_\_\_\_\_ and the complainant confirms that as of the date of this agreement there are no other proceedings in being between the complainant and the respondent and that no other proceedings will be initiated.

5.

The parties agree that the terms of settlement will remain confidential between them, the complainant's immediate family and their legal advisors save where disclosure is required by law.

Signed \_\_\_\_\_

Signed: \_\_\_\_\_

Complainant

For Respondent

Witnessed \_\_\_\_\_

Witnessed \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20....

## Appendix 4: Sample Circuit Court Civil Bill

FORM 2Q

AN CHUIRT CHUARDA

THE CIRCUIT COURT

Record No:

DUBLIN CIRCUIT

COUNTY OF THE CITY OF DUBLIN

EMPLOYMENT LAW CIVIL BILL

IN THE MATTER OF SECTION 77(3) OF THE EMPLOYMENT EQUALITY ACT,  
1998 AS AMENDED

BETWEEN

[INSERT EMPLOYEE'S NAME]

Plaintiff

AND

[INSERT EMPLOYER'S NAME]

Defendant

You are hereby required within ten days after the service of this Civil Bill upon you to enter or cause to be entered with the County Registrar at his/her Office at ....., an Appearance to answer the claim of ..... of ....., the Plaintiff herein.

AND TAKE NOTICE that unless you do enter an Appearance you will be held to have admitted the said claim and application may be made to the Court in your absence for the orders sought herein.

AND FURTHER TAKE NOTICE that, if you intend to defend the proceeding on any grounds, you must not only enter an Appearance, but also, within ten days after Appearance, deliver a statement in writing showing the nature and grounds of your Defence.

The Appearance may be entered by posting same to the said Office and by giving copies thereof to the Plaintiff or his Solicitor by post and the Defence may be delivered by posting same to the Plaintiff or his Solicitor.

Dated the .... day of .....

Signed:  
Plaintiff/Solicitors for the Plaintiff  
To:  
Defendant/Solicitors for the Defendant  
And  
To: The County Registrar

INDORSEMENT OF CLAIM

[Insert details of the Plaintiff's claim including the basis upon which jurisdiction is claimed]

THE PLAINTIFF CLAIMS:

[Insert details of reliefs sought by the Plaintiff]

Plaintiff /Solicitors for the Plaintiff

Sample Notice of Appeal from Circuit Court to High Court

THE HIGH COURT  
CIRCUIT COURT APPEAL

Record No:  
DUBLIN CIRCUIT  
COUNTY OF THE CITY OF DUBLIN  
EMPLOYMENT LAW CIVIL BILL  
IN THE MATTER OF SECTION 77(3) OF THE EMPLOYMENT EQUALITY ACT,  
1998 AS AMENDED

BETWEEN

[INSERT EMPLOYEES NAME]

Plaintiff/Appellant

AND

[INSERT EMPLOYERS NAME]

Defendant/Respondent

---

## Guide to Taking an Employment Equality Case

### NOTICE OF APPEAL TO THE HIGH COURT SITTING IN DUBLIN

---

---

TAKE NOTICE that the Plaintiff/Appellant hereby appeals to the High Court sitting in Dublin at the first opportunity after the expiration of ten days from the date of service hereof from

\* the whole of the judgment and order of Mr/Ms Justice [INSERT NAME OF THE JUDGE] of the Dublin Circuit Court given on the [INSERT DATE]

OR

\* so much of the judgment and or order, of Mr/Ms Justice [INSERT NAME OF THE JUDGE] of the Dublin Circuit Court given on the [INSERT DATE] as [INSERT PORTION OF THE JUDGMENT COMPLAINED OF].

Dated this

day of 201\_.

Signed:

Plaintiff/Appellant or Solicitor for the Plaintiff/Appellant]

To:

[Defendant/Respondent or Solicitor for the Defendant/Respondent]

And

To: The Chief Registrar,  
Central Office,  
High Court,  
Four Courts,  
Dublin 7.

## **Appendix 5: Sample Enforcement Application for the District Court in relation to a decision of an Adjudication Officer**

40C.01

Notice of Statutory Application

AN CHÚIRT DÚICHE  
THE DISTRICT COURT

District Court Area of Dublin  
District No 1

Record number:

IN THE MATTER OF SECTION 43 OF THE WORKPLACE RELATIONS ACT  
2015

ON THE APPLICATION OF [INSERT CLAIMANT'S NAME]

Between:

[INSERT EMPLOYEES NAME]

Claimant

-and-

[INSERT EMPLOYERS NAME]

Respondent

NOTICE OF APPLICATION

TAKE NOTICE that the above-named claimant will apply to the District  
Court sitting at ..... on the ..... day of ..... 20.... at ..... a.m./p.m. (the  
“return date”) for:

1.

An order directing the Respondent to carry out the decision of the  
adjudication officer made in favour of the Claimant dated the [INSERT  
DATE] and bearing Adjudication Reference number [INSERT] in the sum of  
€[INSERT AMOUNT];



2.

An Order directing the Respondent to discharge to the Claimant interest on the compensation at the rate referred to in section 22 of the Act of 1981, in respect of the whole award of the period beginning 56 after the date on which the decision of the adjudication officer was communicated to the parties being the \_\_\_ day of \_\_\_201\_ [INSERT ADDRESS] and ending on the date of the order.

3.

Such further or other relief and or consequential direction as this Court deem fit and meet;

4.

An Order providing for the costs of and ancillary to these proceedings.

B.

The grounds for the application are as follows:

The Claimant brings this application for relief in circumstances where the Claimant has received a decision of the adjudication officer dated the [INSERT DATE] and bearing Adjudication Reference [INSERT] in which he/she [DELETE INAPPLICABLE] was awarded the sum of €[INSERT AMOUNT]. The award provided by the decision of the adjudication officer remains outstanding.

The Claimant will rely on the proceedings herein, the decision of the adjudication officer dated the [INSERT DATE] bearing Adjudication Reference [INSERT] and the nature of the case and the reasons offered.

Submissions will be made to the Court to the effect that the Respondent has failed to comply with the decision of the adjudication officer and will seek orders from this Honourable Court pursuant to section 43 of the Workplace Relations Act 2015.

C.

The Applicant herein will rely on the jurisdiction conferred on the District Court by the Workplace Relations Act 2015.

LIST OF DOCUMENTS ON WHICH THE CLAIMANT WILL RELY AND COPIES OF WHICH ARE ATTACHED

Document: \_\_\_\_\_

Date: \_\_\_\_\_

Description: \_\_\_\_\_

1

Adjudication Officer decision [DELETE THE INAPPLICABLE]

\_\_ day of \_\_ 20\_\_

bearing Adjudication Reference [INSERT]

2

Insert any other relevant document

Etc

Signed: \_\_\_\_\_

Claimant or Solicitor for the claimant: \_\_\_\_\_

To: District Court Clerk at [INSERT ADDRESS]

And To: [Respondent or Solicitor for the Respondent]

This notice of the application has been filed with the District Court Clerk at ..... and issued to the above return date on the ..... day of ..... 20....

## **Appendix 6: Sample Enforcement Application for the District Court in relation to a Labour Court Decision**

40C.01

Notice of Statutory Application

AN CHÚIRT DÚICHE  
THE DISTRICT COURT

District Court Area of Dublin  
District No 1  
Record number:

IN THE MATTER OF SECTION 45 OF THE WORKPLACE RELATIONS ACT  
2015

ON THE APPLICATION OF [INSERT CLAIMANT'S NAME]

Between:

[INSERT EMPLOYEE'S NAME]

Claimant

-and-

[INSERT EMPLOYER'S NAME]

Respondent

NOTICE OF APPLICATION

TAKE NOTICE that the above-named claimant will apply to the District Court sitting at ..... on the ..... day of ..... 20.... at ..... a.m./p.m. (the "return date") for:

5.

An order directing the Respondent to carry out the Labour Court decision made in favour of the Claimant dated the [INSERT DATE] and bearing determination number [INSERT] in the sum of €[INSERT AMOUNT];

6.

An Order directing the Respondent to discharge to the Claimant interest

on the compensation at the rate referred to in section 22 of the Act of 1981, in respect of the whole award of the period beginning 42 after the date on which the decision of the Labour Court was communicated to the parties being the \_\_\_ day of \_\_\_201\_ [INSERT ADDRESS] and ending on the date of the order.

7.

Such further or other relief and or consequential direction as this Court deem fit and meet;

8.

An Order providing for the costs of and ancillary to these proceedings.

B.

The grounds for the application are as follows:

The Claimant brings this application for relief in circumstances where the Claimant has received a decision of the Labour Court dated the [INSERT DATE] and bearing determination number [INSERT] in which he/she was awarded the sum of €[INSERT AMOUNT]. The award provided by the decision of the Labour Court remains outstanding.

The Claimant will rely on the proceedings herein, the decision of the Labour Court dated the [INSERT DATE] bearing determination number [INSERT NUMBER] and the nature of the case and the reasons offered.

Submissions will be made to the Court to the effect that the Respondent has failed to comply with the Labour Court decision and will seek orders from this Honourable Court pursuant to section 45 of the Workplace Relations Act 2015.

C.

The Applicant herein will rely on the jurisdiction conferred on the District Court by the Workplace Relations Act 2015.

## Guide to Taking an Employment Equality Case

LIST OF DOCUMENTS ON WHICH THE CLAIMANT WILL RELY AND COPIES OF WHICH ARE ATTACHED

Document: \_\_\_\_\_

Date: \_\_\_\_\_

Description: \_\_\_\_\_

1

Labour Court decision [DELETE THE INAPPLICABLE]

\_\_ day of \_\_ 20\_\_

bearing determination number [INSERT]

2

Insert any other relevant document

Etc

Signed: \_\_\_\_\_

Claimant or Solicitor for the claimant: \_\_\_\_\_

To: District Court Clerk at [INSERT ADDRESS]

And To: [Respondent or Solicitor for the Respondent]

This notice of the application has been filed with the District Court Clerk at ..... and issued to the above return date on the ..... day of ..... 20....

## Appendix 7: Useful Websites

### **Community Law & Mediation**

*[www.communitylawandmediation.ie](http://www.communitylawandmediation.ie)*

### **Northside Centre for the Unemployed**

*[www.ncutraining.ie](http://www.ncutraining.ie)*

### **Workplace Relations Commission**

*[www.workplacerelations.ie](http://www.workplacerelations.ie)*

### **Courts Service of Ireland**

*[www.courts.ie](http://www.courts.ie)*

### **Irish Human Rights and Equality Commission**

*[www.ihrec.ie](http://www.ihrec.ie)*

### **Citizens Information**

*[www.citizensinformation.ie](http://www.citizensinformation.ie)*

### **Irish Statute Book**

*[www.irishstatutebook.ie](http://www.irishstatutebook.ie)*

### **Law Reform Commission**

*[www.lawreform.ie](http://www.lawreform.ie)*

### **Data Protection Commissioner**

*[www.dataprotection.ie](http://www.dataprotection.ie)*

### **Freedom of Information**

*[www.foi.gov.ie](http://www.foi.gov.ie)*





# Community Law & Mediation

CLM Northside

CLM Limerick

Education

Mediation

Law Reform

Community Resource

## Contact Us On:

**CLM Head Office:**

**Northside Civic Centre,  
Bunratty Road, Coolock, Dublin 17**

T (01) 847 7804 F (01) 847 7563  
E [info@communitylawandmediation.ie](mailto:info@communitylawandmediation.ie)  
W [www.communitylawandmediation.ie](http://www.communitylawandmediation.ie)

**CLM Limerick:**

**Limerick Social Service Centre,  
Henry Street, Limerick**

T (061) 536 100 F (061) 536 101  
E [limerick@communitylawandmediation.ie](mailto:limerick@communitylawandmediation.ie)  
W [www.communitylawandmediation.ie](http://www.communitylawandmediation.ie)