

3. Gearing up for the Public Sector Duty: A Value-Based Model of Implementation

Note: This is an extract from course material provided to students on the **Professional Diploma in Human Rights and Equality**, an accredited programme delivered by the Institute of Public Administration in association with the Irish Human Rights and Equality Commission. This extract is from the module on Human Right and Equality in Public Management.

Content

This lesson introduces how values could shape the approach to implementing the public sector duty. It identifies the importance of values, how organisations approach values, and the capacity of values to draw together the two traditions of equality and human rights.

Learning Objectives

On completing this lesson and the associated reading, you should be able to:

- understand the important role played by values within organisations
- know about and assess how organisations might best identify and work to their values
- understand the potential of a values-based approach to implementing the public sector duty
- know how to implement a values-based approach to the public sector duty
- explore and critique the values-based approach to implementing the public sector duty.

3.1 Values

Values represent our guiding principles: our broadest motivations, influencing the attitudes we hold and how we act (PIRC 2011: 25).

Personal Values

Values are personal. They are the ideals we hold to be important, that motivate and guide us. They lie at the core of the attitudes we hold, the choices we make, and the behaviours we act out. They provide a filter through which we view and interpret the world around us. Values are enduring.

Values are distinct from traits and characteristics. These describe what we are like rather than what we consider important. Values are distinct from norms, ethics, or

morals. Values motivate, whereas norms, ethics and morals constrain. Values transcend specific actions and situations we might find ourselves in.

Research into human motivation has found a strong consistency in the things people say they value in life. Research, across diverse countries and cultures, has shown that it is possible to put together a list of repeatedly occurring values. People do not prioritise values in a random manner. The research found that values are related to each other. Some values were unlikely to be prioritised strongly at the same time by the same individual; others were often prioritised strongly at the same time.

Repeatedly Occurring Values: Schwartz (Schwartz 1992: 26)

A spiritual life, A varied life, A world of beauty, A world at peace, Accepting my portion in life, Ambition, An exciting life, Authority, Broadmindedness, Capable, Choosing own goals, Cleanliness, Creativity, Curiosity, Daring, Detachment, Devout, Enjoying life, Equality, Family security, Forgiving, Freedom, Health, Helpfulness, Honesty, Honouring of parents and elders, Humble, Independence, Influence, Inner harmony, Intelligence, Loyalty, Mature love, Meaning in life, Moderation, National security, Obedience, Pleasure, Politeness, Preserving my public image, Protecting the environment, Reciprocation of favours, Respect for tradition, Responsibility, Self-discipline, Self-indulgence, Self-respect, Sense of belonging, Social justice, Social order, Social power, Social recognition, Success, True friendship, Unity with nature, Wealth, Wisdom.

Organisational Values

Values are also organisational. Values guide the purpose, policies and programmes of organisations. They inform the issues that organisations prioritise and shape the way organisations work on issues. They influence the attitudes and behaviour of staff. The values of an organisation are usually implicit. It is important that they are made *explicit*, however, if they are to make their full impact. Values can be made explicit in the internal and external policies, communications, and practices of an organisation.

Values are undermined in an organisation where they are the product of a top-down approach with little or no ownership from staff. Values are threatened when an organisation is incoherent in applying and living up to its values. Values are threatened when external stakeholders are allowed to change or shape the values of the organisation because they hold some power over the organisation.

Values are safeguarded and promoted within an organisation through policies that set out and give meaning to the values held and that identify how these values are to be realised in the organisation. Training and other opportunities for staff to explore and understand the values of the organisation and the implications of these for policy and practice is useful.

Management practice that ensures values are given consideration in planning and decision-making protects and gives expression to a coherent and consistent value base for the organisation. Performance management of staff to give feedback on their practice in relation to the values of the organisation assists in this.

Monitoring and evaluation of outputs and outcomes could usefully be implemented from the perspective of the values of the organisation.

The Irish public service is currently undergoing a process of reform. This reform process refers to specific values that should be driving this process, such as transparency, accountability and better customer service. Specific codes of conduct and ethics legislation also regulate the public and civil service in Ireland, and these refer to values and consequent behaviours that should be reflected in organisational practices.

3.2 A Shared Value Base for Equality and Human Rights

Equality and human rights are values. They are asserted as European values in the European Treaties. The Treaty on European Union states: “The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities” (Article 2, Consolidated Version of Treaty on European Union).

The equality and human rights infrastructure established suggests a valuing of equality and human rights by the Irish state. It would be appropriate for public sector organisations to espouse, hold and operate out of these values. The public sector duty holds a capacity to enable these organisations to do so and to strengthen their current endeavours in that regard.

Human worth and dignity is a foundational value for both equality and human rights. When we explore the values that underpin equality and human rights it is possible to establish that values hold a potential to integrate a concern for both equality and human rights, alongside a capacity to give expression to an ambition to achieve equality and fulfil human rights.

Crowther and O’Cinneide, in their study of statutory bodies that seek to integrate an equality mandate and a human rights mandate, identified a common value base as underpinning equality and human rights work and offering a “strategic compass” for integrating equality and human rights (Crowther and O’Cinneide 2013: 17). They note that “the argument can be made that the functions of integrated bodies are ultimately linked by a common respect for the underpinning principle of human dignity and associated values such as individual autonomy and equality of status”.

The **FREDA** framework of values was developed in the health sector in to support the NHS in using human rights-based approaches to improve service design and

delivery (Department of Health 2008: 27). FREDA is an acronym for the values of fairness, respect, equality, dignity and autonomy.

The Scottish Human Rights Commission developed the PANEL framework of principles to underpin the implementation of a human rights-based approach as part of its equality and human rights impact assessment resource (Scottish Human Rights website viewed March 2016). **PANEL** is an acronym for values of participation, accountability, non-discrimination and equality, empowerment, and legality.

Both initiatives, however, subsume the tradition of equality within the tradition of human rights. This means that equality is reduced to non-discrimination. In FREDA it is defined in terms of the right not to be discriminated against in the enjoyment of other human rights. In PANEL non-discrimination and equality is defined in terms of the prohibition, prevention and elimination of all forms of in the realisation of rights and the prioritisation of those in the most “marginalised or vulnerable situations who face the biggest barriers to realising their rights”.

The Equality and Rights Alliance established a framework of values to integrate a concern for equality and for human rights and drive the implementation of the public sector duty (Crowley 2015: 29). This framework is rooted in an ambition for substantive equality and the fulfilment of human rights. It is concerned with the nine grounds of gender, civil status, family status (with its concern for lone parents and carers), age, disability, sexual orientation, race, religion, and membership of the Traveller community as well as the ground of socio-economic status.

A framework of values to underpin equality and human rights (Crowley 2015: 29):

- **Autonomy:** encompassing a concern for choice, agency, freedom, self-determination and the absence of coercion.
- **Democracy:** encompassing a concern for participation, voice, empowerment and accountability from those in positions of power.
- **Dignity:** encompassing a concern for respect, relationships of care and love, human worth and the absence of inhumane and degrading treatment, harassment and discrimination.
- **Inclusion:** encompassing a concern for a sense of belonging and community, interdependence, collective responsibility and a valuing of diversity.
- **Social Justice:** encompassing a concern for redistribution of wealth, income, jobs and social goods and the absence of privilege and entitlement.

Organisations should be free to identify their own set of values to underpin equality and human rights and their own definitions of these. This would enhance ownership of the process and contribute to meeting the challenge of motivation.

Embedding a common value base in plans, policies, service provision, employment, and procurement would develop an increased capacity to realise new impacts on issues of equality and human rights and further outcomes for individuals and groups experiencing inequality and human rights violations. When combined with adequate qualitative and quantitative data collection it would contribute to meeting the challenge of attunement.

MacCartaigh identified a range of values associated with public service: “efficiency, impartiality, honesty, loyalty, risk-aversion, equity, hierarchy, integrity, accountability and fairness” (IPA 2008: 40). He found that new non-traditional values were occasionally identified by public sector officials, including flexibility, ‘value for money’ and effectiveness. The prioritisation of values was seen to have changed as part of the modernisation of the public services. Many public servants reported that accountability was now the dominant value in their work. Efficiency, in the sense of speedy service delivery, had grown in importance.

Public sector reform is essentially an exercise in changing the public sector value base. Modernisation involves the incorporation of private sector values. As these new values take hold, the more traditional public sector values are diminished. The 1996 ‘Delivering Better Government’ strategy identified ‘equity’ and ‘integrity’ as core values of the public service. However, it noted that values of professionalism, openness, flexibility, impartiality and customer orientation are integral to the public service. The Public Sector Reform Plan 2011-2014 emphasised values of efficiency, productivity and cost-reduction. Value-for-money has emerged as a dominant public sector value.

3.3 Applying a Values-Based Framework

The application of a values-based framework for equality and human rights starts with agreement on the values that give expression to equality and human rights for that organisation. The values of autonomy, democracy, dignity, inclusion, and social justice are suggested as a useful starting point. Once the values are chosen, a shared meaning for each of these values that has regard to the functions of the organisation should be agreed. Then the framework of values is ready to be applied.

Three key mechanisms can be used to bring these values into the work and processes of the organisation at key moments and to make these values integral to employment process, service provision or policy making within the organisation:

- an equality and human rights statement, which is a new tool for a planned and systematic approach to equality and human rights
- an equality and human rights policy, which is an adaptation of an element that makes up this planned and systematic approach
- an equality and human rights impact assessment, which is an adaptation of an element that makes up this planned and systematic approach.

- an equality and human rights action plan, which ensures responsibilities, timeframes, allocation of resources and monitoring mechanisms for the implementation of the policy.

The experience of implementing public sector duties suggests that there are challenges in securing an effective implementation. There are challenges of:

- motivation, such that public bodies would deploy the necessary resources and develop the necessary capacities to implement the public sector duty effectively
- alignment, such that the implementation of the public sector duty could be integral to the internal planning and operational processes of public sector bodies
- attunement, such that policy, services, and employment are attuned to the needs of particular individuals and groups experiencing inequality and human rights violations and hold a capacity to achieve outcomes for them
- integration, such that the public sector duty can afford parity to both the equality tradition and the human rights tradition and can create a mutually reinforcement between the traditions
- culture shift, such that the public sector duty can stimulate cultural change within institutions and bring equality and human rights more naturally to the core of decision-making.

The manner in which the public sector duty is laid out in the Irish Human Rights and Equality Act 2014 already contributes to meeting some of these challenges. It is built around strategic planning and annual reporting by public bodies. It involves a straightforward assessment of the equality and human rights issues relevant to the functions of the public body as employer, service provider, policy maker, and procurement agent. This simple approach can be robust while avoiding a complexity that can diminish motivation.

A values-based approach to implementing the public sector duty would involve:

- establishing the values that are held or need to be held by the organisation that would underpin a concern for equality and human rights
- ensuring a shared understanding of these values and their implications for how the organisation might go about implementing its functions
- applying these values to securing outcomes for groups covered by the nine grounds in the equality legislation as well as a socio-economic status ground.
- explicitly bringing these values to bear in planning, managing, reporting, and evaluating the work of the organisation.
- gather and analyse relevant data across the nine grounds covered by the equality legislation and a socio-economic status ground
- map which functions of the organisations are most likely to impact on the human rights and equality of employees, service users, and stakeholders involved in the exercise of such functions
- prepare and agree an equality and human rights statement

- deploy the equality and human rights statement in planning, managing, reporting on and evaluating implementation of functions of policy-making, service provision, employment, and procurement.

The process should keep in mind the diversity of groups concerned, including, as appropriate, groups such as women, trans people, carers, lone parents, people with disabilities, lesbian, gay and bisexual people, Black and minority ethnic people including Travellers, people from minority and no religions, older people, young people, children, homeless people, people in prison, drug users, and people living in poverty or at risk of poverty.

Gather Data

A Framework for Gathering and Assessing Data (Crowley 2006: 22):

For each group that is relevant for the roles and functions of the public body data could be gathered and analysed in relation to:

- identity: any the particular characteristics, values, beliefs and aspirations held by the group
- situation: the broad status of the groups in terms of relevant policy areas such as the labour market, education, and income
- experience: the relationships between the groups and the wider society and its institutions.

Sources of Information

Sources of information, while respecting confidentiality and data protection legislation, could include internal information held by the public body in relation to employees, service users and beneficiaries or surveys carried out on these groups by the public body. It might be necessary for the public body to develop its internal data systems to secure the data in relation to all the relevant groups that it needs to implement effectively the public sector duty. It might also be necessary to commission or conduct further surveys of employees, service users or policy target groups or to commission or conduct research projects.

Sources of information could include data held by other organisations in the statutory sector, academia, or civil society on foot of surveys and research projects. They could include data gathered by the Central Statistics Office.

Qualitative data is also important for the effective implementation of the public sector duty, particularly so given deficits that exist in qualitative data across the various groups that need to be considered.

Engagement with staff, service users, and policy beneficiaries would provide valuable equality and human rights information. Dialogue with organisations representing groups experiencing inequality and human rights violations would be valuable.

Prepare an Equality and Human Rights Statement

The steps in preparing and equality and human rights statement:

1. identify an objective under each value that the organisation would want to achieve for each of its functions as a policy maker, employer, service provider and procurer of goods and services.
2. for each of these objectives, establish the pertinent equality and human rights issues that the organisation needs to address in its work through each of these four functions
3. establish an action plan to bring the equality and human rights statement into play in the organisation at relevant moments.

Deploy an Equality and Human Rights Statement

In planning: The strategic or other plan being prepared by the public body would reflect the equality and human rights statement in the objectives set, the actions prioritised, and the indicators established. In particular, it would identify the policies, plans, and actions in place or proposed to be put in place to address the objectives and issues under each value for each function covered by the plan. The equality and human rights statement would be published in the plan.

In management: The equality and human rights statement could serve as a sounding board for the public body at management level against which progress can be tracked and decisions evaluated. More specifically:

- in employment it could provide a focus in performance management of staff and in equality and human rights reviews of employment policies, procedures, practices and perceptions in the organisation
- in service provision it could provide the basis for feedback mechanisms from service users and in equality and human rights reviews of service provision policies, procedures, practices and perceptions in the organisation
- in policy making it could provide the basis for an equality and human rights impact assessment of new policies and plans at design stage
- in procurement, it could provide the basis for demands that would be made of supplier organisations in relation to their policies, procedures, and practices.
- in legislative proposals
- in the definition and implementation of regulatory standards
- in required regulatory impact assessments (social, poverty, health, health and safety, disability, etc.).

In evaluating: The equality and human rights statement could serve as a basis against which to evaluate the performance of the public body as a policy maker, employer, service provider, and procurer of goods and services. Any evaluation of would examine outputs, outcomes, and impacts that relate to the objectives set and the issues identified in the equality and human rights statement.

In reporting: The equality and human rights statement would provide a framework to report in the Annual Report of the public body on progress made in addressing the equality and human rights objectives and issues identified. This would apply to other reporting arrangements for any plans that have been subject to the public sector duty. Particular attention would be given to reporting on the implementation and impact of policies, plans and actions put in place to address the equality and human rights issues identified. It would be useful to review and update the equality and human rights statement annually on foot of this report and making use of new data, qualitative and quantitative, that comes available.

Participation

The public sector body could usefully research and establish a list of external and internal stakeholders to be involved in implementing the public sector duty. These stakeholders would be the organisations representing the groups experiencing inequality and human rights violations that have been identified as relevant to the public body's functions.

The key engagement with these stakeholders would be during the preparation and agreement of the equality and human rights statement that lies at the heart of the values-based approach. This engagement would examine and respond to the:

- values chosen and their definition
- quality of the data gathered and its analysis
- objectives set for each value and function, and the issues identified for each objective
- manner in which it is proposed to deploy the equality and human rights statement.

This engagement would need to enable and empower these stakeholders. It should support their capacity to make an input with the provision of adequate information and resources for coordination to limit consultation fatigue. It would need to ensure timely feedback on how the public body is responding to the consultation inputs.

Equality and Human Rights Policies

An equality and human rights policy establishes the standards that an organisation aspires to in its work and identifies the steps an organisation will take to maintain these standards. It serves as a guide for the organisation in its roles of policy maker, employer, service provider, and purchaser of goods and services.

In developing a values-based approach to its equality and human rights policy, an organisation seeks to reflect its values in how it approaches its work. It establishes the standards an organisation seeks to achieve in giving expression to the values of dignity, autonomy, inclusion, social justice, and democracy in its work.

Each function of the organisation as policy maker, employer, service provider, and purchaser is considered in turn. For each function, the following two questions are addressed:

1. What issues does each value raise for the way the organisation will approach each these functions?
2. What statement does the organisation want to make in relation to these issues in its equality and human rights policy?

Equality and Human Rights Impact Assessments

An equality and human rights impact assessment tests plans, policies and services for their impact on equality for and human rights of the diversity of policy target groups, service users, and employees. It involves: data gathering; impact assessment; consultation; decision-making; action planning and monitoring. The equality and human rights impact assessment should/could be used to test, at design stage, what the organisation does and plans to do against its equality and human rights statement. Such an equality and human rights impact assessment places equality and human rights at the heart of decision-making of an organisation; ensures compliance with equal treatment legislation and respect for human rights; and ensures outcomes for or benefits to the diversity of its employees, service users and target groups.

3.4 Key Learning Points

Effective implementation of a public sector duty must address challenges of motivation, alignment with internal planning and operational processes, senior management buy-in, attunement to the needs of particular individuals and groups experiencing inequality and human rights violations; integration of the equality tradition and the human rights tradition, and culture shift in stimulating cultural change within institutions.

The steps in a values-based approach include to: develop, agree, and define the values to be prioritised; gather and analyse relevant data across the nine grounds covered by the equality legislation and a socio-economic status ground; map and identify all organizational functions that might have a likely impact on human rights and equality; prepare and agree an equality and human rights statement; ensure participation by organisations representing groups experiencing inequality and human rights violations; and deploy the equality and human rights statement in planning, managing, reporting on and evaluating implementation of functions of

policy-making, service provision, employment, procurement, regulation, legislative proposal, regulatory standard setting, etc.

Student Activities

1. Consider the functions of your organisation and identify issues raised under each value, and how they apply to each function of your organisation as policy maker, employer, service provider and purchaser from the perspective of human rights and equality.
2. Identify and define the values you believe underpin equality and human rights and compare these with the values held by your organisation.
3. Identify a set of equality and human rights values for your organisation; establish your definition of each of these; assess the capacity of these values to drive a culture of equality and human rights in your organisation.
4. Sketch out a draft equality and human rights statement for your organisation based on the values proposed at the beginning of this chapter.
5. Assess the values-based approach by exploring the strengths and weaknesses of this approach for implementing the public sector duty.

References and Further Reading

- *A New Public Sector Equality and Human Duty*, Equality and Rights Alliance, Dublin, 2015.
- Blehein, Crowley, Mullen, and Donohue, *Equality and Human Rights Focus in Work with Children and Young People*, Paper on www.values-lab.ie, 2015.
- *The Common Cause Handbook*, Public Information Research Centre, Great Britain, 2011.
- Crowley, *Equality and Human Rights: An integrated approach*, Equality and Rights Alliance, Dublin, 2015.
- Content on the Values Lab Website: values-lab.ie