

THE EQUAL STATUS ACTS, 2000 – 2004

Complaint to the Equality Tribunal of discrimination in provision of goods, services or facilities

(See Notes attached)

1. Details of complainant (the person who considers they have been discriminated against or unlawfully treated under the Equal Status Acts)

Complainant's Name:	Contact phone number
Contact Address:	Fax number/ e-mail

Details of respondent (person or organisation you consider discriminated against you or treated you unlawfully under the Equal Status Acts)

Respondent's Name:	Phone number
Address:	Fax number / e-mail

(For completion by the Tribunal only)

Case reference no:	Date of receipt at Tribunal:
--------------------	------------------------------

Complainant's Representative:

If you are using a representative (for example, Equality Authority, solicitor, support group), please give their contact details:

Name:	Phone number:
Address:	Fax number / e-mail

2. I say that the respondent treated me unlawfully by:

Please tick below which box(es) apply. (Most of these terms are explained in the Notes attached):

- Discriminating against me**
- Harassing me or allowing me to be harassed** (other than sexual harassment)
- Sexually harassing me or allowing me to be sexually harassed**
- Victimising me**
- Discriminating against me by association**
- Failing to provide me with “reasonable accommodation”** (see Notes: only for a person with a disability)

contrary to the Equal Status Acts 2000-2004.

3. I claim that the respondent did this on the following discriminatory ground or grounds:

Please tick the box or boxes below which apply:

- gender** (male or female)
- marital status** (single, married, separated, divorced or widowed)
- family status** (pregnant; parent or acting parent of child aged under 18; parent or resident primary carer of a person with a disability who needs continuing care: see Notes)
- sexual orientation** (heterosexual, homosexual or bisexual orientation)
- religion** (religious belief / background or lack of belief)
- age** (must be 18 years of age or over, except regarding motor insurance, see Notes)
- disability** (see Notes)
- race** (colour, nationality, ethnic or national origins)
- membership of the Traveller community**
- victimisation** (see Notes)

**NOTICE TO PERSONS SENDING OR RECEIVING A COMPLAINT:
VERY IMPORTANT**

The Equal Status Acts say that **before** a person can refer a complaint to the Equality Tribunal, they **must first write** to the person they are thinking of making a complaint against. This letter is called a **notification**.

The Equal Status Acts also say that the notification (letter) **must do all of the following:**

- **be in writing,**
- **explain what the complaint is about**
- **warn them** that the sender is thinking of taking a case against them under the Equal Status Acts if s/he is not satisfied with their reply to the letter
- **be sent within 2 months** of the incident the sender is complaining about. (If there is more than one similar incident, then s/he must send the letter within 2 months of the last incident).

The complainant may write the notification letter themselves (if it does all of the above), or they may use a standard form (Form ES.1). **Form ES.1** is available from the Equality Tribunal by post, or from its website (www.equalitytribunal.ie).

The Tribunal cannot accept a complaint if the complainant has not sent a notification which satisfies these conditions. If they do not notify correctly, or notify too late, the Equal Status Acts may automatically disqualify them from taking a case.

4. Notification (see box above for explanation)

I have already:

- written to the respondent: Yes No
- explaining what my complaint is about Yes No
- warning them that I might complain under the Equal Status Acts if not satisfied with their reply: Yes No

I sent the notification to the respondent on (date):

(Please attach a copy of the notification.)

I received a reply (please tick yes or no) Yes No

The reply was dated :

(Please attach a copy of the reply, if any).

5. Details of the claim:

Date of first discriminatory or unlawful act:

.....

If there was more than one act, date of the last act:
(If you say the act is ongoing, please explain in box below)

.....

Place where the discriminatory or unlawful act(s) happened: (if applicable)

.....

This is what I say happened :

(You may refer to what you said in your notification: please add any other relevant information. You can continue on another page if you need to).

Signature of Complainant or Representative

.....

Date _____

**The completed and signed complaint form should be sent promptly to:
The Equality Tribunal, 3 Clonmel Street, Dublin 2**

(Phone: 01 - 477 4100 LoCall number: 1890 34 44 24 Fax : 01 - 417 4141)

Explanatory Notes

For anyone sending or receiving this complaint form.

Please read carefully.

(Please note that this information is not legal advice or a legal interpretation. This Form and Notes are provided as a practical plain-language aid, to ensure that both parties and the Equality Tribunal have clear information on what the complaint is about. Therefore, the language used may not be as accurate as the exact text of the legislation, and remains subject to the exact wording of the Acts in every case.¹

These Notes only refer to the situation under the Equal Status Acts with effect from 18th July 2004².

1. What is this form about?

Under the Equal Status Acts 2000-2004, it is generally unlawful in Ireland to *discriminate* when providing goods, services or facilities, on the basis of a person's gender, marital status, family status, sexual orientation, religion, age, disability, race, or membership of the Traveller community.

Some related conduct is also unlawful:

- harassment* based on any of these factors,
- *sexual harassment*,
- victimising* a person for seeking rights protected by the Equal Status Acts,
- failing to provide "*reasonable accommodation*" (explained at point 9) for a person with a disability.

The Acts also provide for a number of specific exceptions to these general rules.

Under the Equal Status Acts, if a person believes they have been discriminated against (or otherwise unlawfully treated) under the Acts, they can refer a complaint to the Director of the Equality Tribunal for investigation and a legally binding decision. Effectively, this form begins a legal case against the respondent under the Equal Status Acts.

¹ The full text of the Equal Status Acts 2000 – 2004 is available at www.equalitytribunal.ie, or from the Government Publications Office.) Some of the relevant definitions from the Acts are also set out below, at point 9.

² On 18 July 2004, the Equality Act 2004 came into force, making a number of changes to the Equal Status Act 2000. Incidents which took place before 18 July 2004 will be decided according to the original text of the Equal Status Act 2000, which may differ from what is stated here.

Accessibility and special needs

If you have any particular difficulty in dealing with the complaint form (for example due to disability, or language or writing difficulties), please contact the Equality Tribunal. We will try to help in making alternative arrangements, as appropriate.

2. What happens next?

The complainant sends the complaint to the Equality Tribunal, which forwards a copy to the respondent. The Tribunal will also send both parties the “Guide to Procedures under the Equal Status Acts”, which explains in more detail what happens next. (Copies of the Guide are also available directly from the Tribunal at the address given above, or at www.equalitytribunal.ie).

To ensure fairness to both parties, the Tribunal will copy the complaint form and any other material it receives from either party, to the other party. This is important in order to ensure that each party is fully informed of the case made by the other.

Decisions, including relevant details of the evidence presented, will be published as required by law. Otherwise, the details held by the Tribunal on individual cases are treated as confidential to the parties concerned. (In cases raising particular sensitivities, such as sexual harassment cases, the decision is published in a form which does not identify the individuals concerned.)

3. What is the Equality Tribunal and what does it do?

The Equality Tribunal is an independent body set up by law to mediate, or investigate and decide on, complaints under equality legislation. The Tribunal is impartial: it does not act on behalf of either party, and cannot advise any person on a claim. If you need advice, you should contact your solicitor, representative organisation or support group.

You can get more information about the Tribunal by calling or writing to the Equality Tribunal, 3 Clonmel St, Dublin 2; by phoning the Tribunal, at lo-call 1890 34 44 24; or on the Tribunal website at www.equalitytribunal.ie.

4. Is there a time limit for making a complaint?

The Equal Status Acts provide that a complaint of discrimination or other conduct prohibited under the Acts must be referred to the Director of the Tribunal within six months of the date when the incident occurred (or, in the case of repeated incidents, last occurred).

The Tribunal may extend the time limit up to a maximum of twelve months from date of last incident, but only if the complainant makes an application and satisfies the Tribunal that there is reasonable cause to extend time.

The date on which a complaint is referred is the date on which the Tribunal receives a completed complaint form, letter of complaint, or a complaint made through appropriate alternative arrangements as agreed with the Tribunal.

5. What happens if we disagree about whether there was proper notification?

The complaint form explains about notification on page 3. If a party thinks that notification was not correctly sent, they should inform the Tribunal. The rules set down in the Acts, and the conditions for extending time, are explained in the Guide to Procedures.

6. What do the legal terms in the complaint form mean?

The Equal Status Acts define the terms below as follows:

“age” : The Equal Status Acts provide that it is not discrimination on the *age* ground to treat a person under 18 years old more, or less, favourably than another person. (There is one exception: it may be discriminatory to treat a licensed driver aged under 18 less or more favourably than another person, in relation to providing motor vehicle insurance.)³ However, it may still be unlawful to discriminate against a person aged under 18 on any of the *other* protected grounds, e.g. based on race or disability.

“disability” means—

- “(a) the total or partial absence of a person's bodily or mental functions, including the absence of a part of a person's body,*
- (b) the presence in the body of organisms causing, or likely to cause, chronic disease or illness,*
- (c) the malfunction, malformation or disfigurement of a part of a person's body,*
- (d) a condition or malfunction which results in a person learning differently from a person without the condition or malfunction, or*
- (e) a condition, illness or disease which affects a person's thought processes, perception of reality, emotions or judgement or which results in disturbed behaviour”.*

³ See section 3(3) Equal Status Acts 2000-2004.

“direct discrimination”: takes place “*where a person is treated less favourably than another person is, has been, or would be treated in a comparable situation*” on any of the protected grounds (gender, disability, race, etc). For example, if a man is treated more or less favourably than a woman is treated in similar circumstances, and it appears that he was treated differently because he was male, there may be direct discrimination based on gender.

“discrimination”: The Equal Status Acts prohibit various forms of discrimination, including *direct discrimination*, *indirect discrimination*, *failure to provide “reasonable accommodation”* for a person with a disability (explained below), and *discrimination by association* (where a person is treated less favourably because they are associated with another person under a protected ground, for example because of the other person’s colour, disability, nationality, etc). *Victimisation* is also treated as a type of discrimination.

“family status” means “*being pregnant or having responsibility—*

(a) as a parent or as a person in loco parentis in relation to a person who has not attained the age of 18 years, or

(b) as a parent or the resident primary carer in relation to a person of or over that age with a disability which is of such a nature as to give rise to the need for care or support on a continuing, regular or frequent basis,

and, for the purposes of paragraph (b), a primary carer is a resident primary carer in relation to a person with a disability if the primary carer resides with the person with the disability”,

“goods” means any articles of movable property.

“ground” means the basis on which discrimination may occur: the “grounds” protected under the Equal Status Acts are ***gender, marital status, family status, sexual orientation, religion, age, disability, race, membership of the Traveller community, or victimisation***.

“harassment” means “*any form of unwanted conduct⁴ related to any of the discriminatory grounds ...[which] has the purpose or effect of violating a person’s dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person”*,

⁴ “Such unwanted conduct may consist of acts, requests, spoken words, gestures or the production, display or circulation of written words, pictures or other material”.

“indirect discrimination” may take place where *“an apparently neutral provision puts a person, [as a member of a group covered by a particular protected ground], at a particular disadvantage compared with other persons”* who are not a member of that group. (For example, an employment rule that part-time workers may not join the employer’s pension scheme. The rule is apparently neutral: it does not discriminate directly on any of the protected grounds, since it applies irrespective of gender, nationality, age, etc. However, if the part-time workers are almost all female, they could argue that the rule, which is apparently neutral as regards gender, actually disadvantages women far more than men and hence discriminates indirectly against women.

Indirect discrimination is subject to a further test: it may still be lawful if it is *“objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.”*

“marital status” means *“being single, married, separated, divorced or widowed”*;

“reasonable accommodation”: The Acts define discrimination as including *“a refusal or failure by the [respondent] to do all that is reasonable to accommodate the needs of a person with a disability by providing [or allowing] special treatment or facilities, if without such special treatment or facilities it would be impossible or unduly difficult for the person to avail himself or herself of the service”*. However, this is not unlawful if providing the special treatment or facilities *“would give rise to a cost, other than a nominal cost, to the provider of the service in question.”*

“religious belief” includes *“religious background or outlook”*;

“sexual harassment” means *“any form of unwanted verbal, non-verbal or physical conduct⁵ of a sexual nature ...[which] has the purpose or effect of violating a person’s dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person”*,

“service” means *“a service or facility of any nature which is available to the public generally or a section of the public, and, without prejudice to the generality of the foregoing, includes—*
(a) access to and the use of any place,
(b) facilities for—

⁵ “Such unwanted conduct may consist of acts, requests, spoken words, gestures or the production, display or circulation of written words, pictures or other material”.

- (i) banking, insurance, grants, loans, credit or financing
 - (ii) entertainment, recreation or refreshment,
 - (iii) cultural activities, or
 - (iv) transport or travel
- (c) a service or facility provided by a club (whether or not it is a club holding a certificate of registration under the Registration of Clubs Acts, 1904 to 1999) which is available to the public generally or a section of the public, whether on payment or without payment, and
- (d) a professional or trade service, but does not include pension rights within the meaning of the Employment Equality Act 1998, or a service or facility in relation to which that Act applies”

"sexual orientation" means “heterosexual, homosexual or bisexual orientation”;

“Traveller community” means “the community of people who are commonly called Travellers and who are identified (both by themselves and others) as people with a shared history, culture and traditions including, historically, a nomadic way of life on the island of Ireland” ,

“victimisation” means that a person who —

- “(i) has in good faith applied for any determination or redress provided for in the [Equal Status Acts],
- (ii) has attended as a witness before the [Equality] Authority, the Director [of the Equality Tribunal] or a court in connection with any inquiry or proceedings under [the Acts],
- (iii) given evidence in any criminal or other proceedings under [the Acts]
- (iv) has opposed by lawful means an act which is unlawful under [the Acts], or
- (v) has given notice of an intention to take” any of the above actions” ,

is treated less favourably on that account, than a person who has not done so is treated, has been treated or would be treated in otherwise similar circumstances.