

PILA Legal Education – Advocacy Skills
Equality Group
19th April 2011

Geraldine Hynes
Solicitor
Equality Authority

What is advocacy?

- Public support of a cause or policy
- Working to make change happen
- Individual support in speaking for those who need assistance

Role of Advocacy

- **Advocacy** – a means of empowering people by supporting them to assert their views and claim their entitlements and where necessary representing and negotiating on their behalf
- **Principles:** empowerment, autonomy, inclusion.
- **Based on:** respect, confidentiality, independence, equal access, person's best interest

(Advocacy Guidelines, Citizens Information Board, 2007)

Inclusion and Participation

Inclusion and participation involves:

- hearing people
- shared decision-making
- challenging disadvantage, social exclusion and inequalities
- recognising that people have the right to participate in decisions and structures that affect their lives

Equality Legislation

Employment Equality Acts 1998-2008

Equal Status Acts 2000-2008

- promote equality
- prohibit certain types of discrimination across nine grounds
- prohibit sexual harassment and harassment
- prohibit victimisation

- require reasonable accommodation of people with disabilities
- allow a broad range of positive action measures

Examples of successful outcomes in equality cases

A local authority was ordered to pay maximum compensation and within 12 months to construct an extension suitable to the needs of a child with autism or to rehouse the family in suitable alternative accommodation. (Equality Tribunal)

Examples of successful outcomes (contd.)

- Voluntary organisation ordered to pay compensation for victimisation of member who complained when she was not allowed to take her guide dog to a training event. Also ordered to readmit her.
(Joan Salmon v Para Equestrian Ireland, Circuit Court 2004)
- Labour Court ordered employer to pay compensation for discriminatory dismissal of migrant worker where she was wrongly accused of theft and dismissed without right of representation or appeal.
(Rasaq v Campbell Catering, Labour Court)

Examples of successful outcomes (contd.)

Insurance company ordered to pay compensation to driver refused insurance because he was over age 70. Tribunal stated that a “blanket ban” on grounds of age is discriminatory and in breach of the Equal Status Acts.

(Ross v Royal & Sun Alliance, Equality Tribunal)

The Equality Tribunal

The Equality Tribunal is not a court. Representing or speaking up for somebody in the Tribunal can work very effectively. The Tribunal is an accessible venue because of its capacity to provide a wider right of audience, flexible procedures, less formal atmosphere and no awarding of legal costs. You do not have to be the master of legal argument!

The Equality Tribunal

Consult the website to access guides to procedures and forms to be used for notifying and referring complaints. A database of Decisions is also published on the website and can be searched for specific names, grounds, subject matter etc. All Decisions must be published but some are “anonymised” either at request of claimant or discretion of Equality Officer. In **all** cases, names will be published if case is appealed to the Courts.

The Equality Tribunal (contd.)

Hears cases under:

- The Equal Status Acts
- Employment Equality Acts
- Pensions Acts

Strict time limits apply in all cases
(2 /6 /12 months)

Equality Legislation

The Nine Grounds

- gender
- civil status
- family status
- sexual orientation
- religion
- age
- disability
- race
- membership of the Traveller community

Scope of Equality Legislation

Equal Status Acts cover provision of goods, services, housing and accommodation, educational establishments, registered clubs, advertising.

Employment Equality Acts cover all aspects of employment including access, conditions, pay, promotion, dismissal, partnerships, independent contractors, agency workers, trade and professional bodies, vocational training, advertising.

Equality Legislation (contd.)

Pensions Acts prohibit discrimination on any of the nine grounds in relation to access to, membership of, and benefits from occupational pension schemes.

There are many exceptions and exemptions contained in all the Acts.

Tribunal Hearings

Paperwork:

- copies of all notification/complaint forms as lodged
- copies of all correspondence, memos, notes relating to the complaint
- copies of all documents including contracts, handbooks, brochures etc. relating to the complaint
- copy of submissions/statements made by each party

Tribunal Hearings

It is also advisable to have a prepared opening statement, list of questions for each witness and closing statement.

Bring a copy of the relevant Act and any cases you want to refer to.

Tribunal Hearing

- strict rules of evidence applied in Courts are not applied in the Tribunal.
- witnesses rarely sworn.
- some witnesses may be excluded from part of hearing
- witnesses names/details must be notified in advance to the Tribunal
- no observers permitted to attend
- notetaking of evidence is essential (assistant/caseworker)

Mediation

- alternative dispute resolution
- available at any stage
- where both parties agree
- generally confidential to parties
- legally enforceable
- flexible and informal

Useful Websites

equalitytribunal.ie

labourcourt.ie

courts.ie

curia.europa.eu

lawreform.ie

bailii.org

equality.ie