



**Coimisiún na hÉireann um Chearta
an Duine agus Comhionannas**

Irish Human Rights and Equality Commission

**INFORMATION NOTE PUBLICATION OF DECISIONS BY THE WORKPLACE RELATIONS COMMISSION
UNDER THE EMPLOYMENT EQUALITY ACTS 1998 – 2015 AND THE EQUAL
STATUS ACTS 2000 – 2015**

*Issued under the Irish Human Rights and Equality Commission Act 2014,
sections 10(2)(a) and 30(1)*

Introduction

1. The Irish Human Rights and Equality Commission is an independent public body that seeks to protect and promote human rights and equality.
2. The Commission is Ireland's designated national body under a range of EU anti-discrimination measures. Its functions include that of providing information to the public in relation to human rights and equality, and keeping under review the effectiveness of certain enactments, including the Employment Equality Acts 1998 – 2015 ('EEA') and the Equal Status Acts 2000 – 2015 ('ESA').
3. The Irish Human Rights and Equality Commission has issued this information note in exercise of the foregoing functions, following consultation with the Workplace Relations Commission.

Purpose

4. This information note is intended to clarify issues arising in relation to the publication of decisions of the Director General of the Workplace Relations Commission in respect of proceedings under the EEA and ESA.

Publication of decisions

5. Decisions of the Director General of the Workplace Relations Commission under the EEA and the ESA are required to be published on the internet in such form and manner as the Director General considers appropriate.¹ The Director General therefore enjoys a discretion as to the form and manner in which decisions are to be published on the internet.
6. The Director General has delegated her functions in respect of the investigation of disputes and the publication of decisions to adjudication officers appointed under the Workplace Relations Act 2015.

¹ EEA section 89(1), as amended by sections 83(1)(c)(ii) and 83(1)(h) of the Workplace Relations Act 2015; ESA section 30(1), as amended by sections 84(1)(b) and 84(1)(f) of the Workplace Relations Act 2015.

7. As such, the form and manner of publication of decisions under the EEA and the ESA is a matter for the discretion of those adjudication officers to whom the Director General has delegated her functions.

Anonymity of decisions

8. While investigations conducted by the Director General under the EEA and the ESA must be held in private,² there is no statutory requirement that decisions arising from these investigations be published in anonymised form.
9. This may be contrasted with the position in relation to decisions of the Workplace Relations Commission in respect of complaints to the Director General that an employer has contravened a provision specified in Schedule 5 to the Workplace Relations Act 2015. The Workplace Relations Commission is required to publish decisions of an adjudication officer in respect of such complaints on the internet in such form and in such manner as it considers appropriate, without publishing information that would identify the parties in relation to whom the decision is made.³ The requirement of anonymity in relation to decisions in respect of such proceedings is reflected by the Workplace Relations Commission's *Procedures in the Investigation and Adjudication of Employment and Equality Complaints* (October 2015).⁴
10. However, neither the EEA nor the ESA are included in the categories of proceedings set out at Schedule 5 to the Workplace Relations Act 2015. As such, the requirement of anonymity as provided for under the Workplace Relations Act 2015 and under the *Procedures* adopted by the Workplace Relations Commission **does not** apply to the publication of decisions of an adjudication officer under the EEA and the ESA.

Exercise of discretion

11. A decision as to whether or not to anonymise one or both of the parties to a dispute in a published decision under the EEA and the ESA is a matter for the discretion of the Director General of the Workplace Relations Commission, and/or an adjudication officer to whom the Director General has delegated her functions.
12. It is open to the parties to proceedings under the EEA and ESA to make representations to the adjudication officer hearing their dispute as to whether a decision should be published in anonymised form.
13. In exercising his or her discretion, an adjudication officer must have regard to all the relevant circumstances of the case, in light of the requirements of constitutional justice, as well as the need to ensure that remedies for breaches of the EEA and ESA are effective, dissuasive, and proportionate, having regard to the requirements of EU law.

² EEA, section 79(2), ESA, section 25(2)

³ Workplace Relations Act 2015, section 41(14).

⁴ Section 7 of the *Procedures* provides: 'After the completion of the investigation, a written decision will issue within 28 working days or as soon as is practicable [...] All parties and witnesses will be anonymised and all decisions will be published on the website www.workplacerelations.ie'.

Disclaimer

14. This information note is intended to reflect the law as it stood on 11 April 2017. It does not constitute legal or other professional advice and should not be relied upon as such.

Emily Logan
Chief Commissioner

11 April 2017