

An Coiste Comhairleach Náisiúnta
ar Chiníochas agus Idirchultúrachas

National Consultative Committee
on Racism and Interculturalism

Third Floor, Jervis House, Jervis Street, Dublin 1.

Tel: 00-353-1-858-8000

Fax: 00-353-1-872-7621

Email: info@nccri.ie

Website: www.nccri.ie



**Submission to the Legal Aid Board
Corporate Plan Review**

**National Consultative Committee on
Racism and Interculturalism (NCCRI)**

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Introduction

The National Consultative Committee on Racism and Interculturalism (NCCRI)¹ welcomes this opportunity to contribute to the Legal Aid Board Corporate Plan Review. Promoting interculturalism has been identified as a priority for the Irish government, particularly through the recent publication of the National Action Plan against Racism (NPAR). An intercultural approach seeks to overcome all inequality experienced by minority ethnic groups, including access to legal services.

A Profile of Cultural Diversity in Ireland

The 2002 Census of Population provides information on national origin, Travellers, religious diversity and inward migration to Ireland. The inclusion of a comprehensive ethnicity question in future Census of Population should provide a more complete picture of ethnic diversity in Ireland. National diversity in Ireland has increased significantly in recent years, mainly due to inward migration. There are five main regions of origin for non-Irish nationals living in Ireland. These are the UK and other EU countries (3.4% of the total population), Asia (0.5%), African (0.5%), non-EU European countries (0.5%) and the United States (0.3%).

Travellers are the largest minority ethnic group in Ireland comprising around 24,000 people or 0.6% of the total population. Travellers have a distinct culture and way of life that is reflected in customs, their tradition of nomadism and the importance of the extended family. As with Roma and Travellers throughout Europe they face particular hostilities and discrimination.

Between 1991 and 2002, the number of Muslims in Ireland quadrupled to 19,000, primarily due to inward migration. Over the same period, the number of Orthodox Christians in Ireland grew from 400 to over 10,000 mainly reflecting inward migration from eastern European countries some of which are now members of the European Union. There is a long established Jewish community in Ireland dating back to the nineteenth century and associated with larger urban areas including Dublin, Belfast, Cork and Limerick. The Sikh and Hindu religions are also increasingly part of the rich mix of religious diversity in Ireland.

Throughout most of its recent history, Ireland has consistently been a country where emigration exceeded immigration, with the exception of the 1970s and the most recent intercensal period 1996-2002 (see Table 1). Though a high proportion of those migrating to Ireland in recent years are returning Irish nationals, the increase in inward migration in the 1990s has been a major contributor to the broadening of cultural diversity in Ireland. Migrant workers, and students from outside the European Economic Area have come to Ireland in increasing numbers. This has been a direct consequence of skill and labour

¹ The National Consultative Committee on Racism and Interculturalism (NCCRI) was established in 1998 as an independent expert body focusing on racism and interculturalism. The NCCRI is a partnership body which brings together government and non-government organizations, and is core funded by the Department of Justice, Equality and Law Reform. Further information is available from www.nccri.ie.

force shortages in recent years and the proactive efforts by Irish companies and colleges to recruit people for work and study purposes.

The main countries of origin for migrant workers have been Latvia, USA, Philippines, Czech Republic and Poland. Almost 40% of migrant workers coming to Ireland in 2002 were from new EU countries, such as Poland, Latvia and the Czech Republic. Many migrant workers want to work in Ireland for relatively short periods of time before returning home or finding work elsewhere. Others will make Ireland their home and will apply for long-term residency and citizenship.

In 2003 there were 7,939 asylum applications to Ireland, compared with over 11,600 in the previous year. The main countries of origin for asylum seekers in Ireland in 2003 were Nigeria (39.4%). Romania (10.2%), DR Congo (3.2%), Moldova (3.0%), and the Czech Republic (2.4%).

Profile of the Different Forms of Racism in Ireland

Racism is a complex and multi faceted concept, ranging from small, everyday acts of discrimination, through the barriers and omissions that may be inadvertently established at an institutional level, to acts of threatening behaviour and violence. The different forms of racism include:

- Racism experienced by Travellers on the basis of their distinct identity, nomadic tradition and culture
- Racism experienced by recent migrants, which includes migrant workers, refugees, asylum seekers
- Racism experienced by 'people of colour' and visible minority ethnic groups, including black people on the basis of their skin colour and ethnic and/or national identity, irrespective of their legal status
- Racism experienced by Jewish and Muslim people in the form of anti-Semitism and Islamaphobia
- The intersection between racism and other forms of inequality, including the inequality that can be experienced by women, people with disabilities, gay and lesbians, older and younger people or on the basis of family status.

Racism is a multifaceted issue that can range from acts of snubbing and exclusion through to discrimination, the creation of barriers that can emerge at all levels in public and private institutions, to acts of threatening behaviour and violence. In an Irish context, there are four main manifestations of racism that can be summarised as follows:

- Discrimination
- Assaults, threatening behaviour, and incitement
- Institutional/systemic forms of racism
- Labelling.²

² National Action Plan against Racism, p. 57.

National Action Plan Against Racism

On 27 January 2005 the Government launched 'Planning for Diversity: The National Action Plan Against Racism'. Copies of the Plan are available from the Equal Status Unit in the Department of Justice, Equality and Law Reform, or from the web at: www.justice.ie.

The NPAR originates from commitments given by Governments at the United Nations World Conference Against Racism in South Africa in 2001. The decision to develop the NPAR was further reaffirmed in the Social Partnership Agreement for 2003-2005. The emphasis throughout the Plan is on developing reasonable and common sense measures to accommodate cultural diversity in Ireland. The overall aim of the NPAR is to provide strategic direction to combat racism and to develop a more inclusive, intercultural society in Ireland based on a commitment to inclusion by design, not as an add-on or after thought and based on policies that promote interaction, equality of opportunity, understanding and respect. The Plan outlines an intercultural framework which will underpin the overall approach to its implementation. The Framework is summarised in Table 1.

Table 1: Summary of the Intercultural Framework underpinning the NPAR

Protection:	Effective protection and redress against racism
Inclusion:	Economic inclusion and equality of opportunity
Provision:	Accommodating diversity in service provision
Recognition:	Recognition and awareness of diversity
Participation:	Full participation in Irish society

Accommodating Diversity in Service Provision

In many countries research has shown that cultural and ethnic minorities can experience higher levels of poverty and linked forms of social exclusion. Access to appropriate public services has an important role to play in combating poverty and social exclusion. The National Action Plan Against Poverty and Social Exclusion, launched in July 2003 makes specific acknowledgement of Travellers and migrants as a vulnerable groups.

The key challenge is to ensure that access to and delivery of public services make reasonable accommodation of cultural diversity and take positive action measures. The NCCRI would advocate a whole organisation approach to ensure that access to and the delivery of public services make reasonable accommodation of cultural diversity and take positive action measures including use of equality reviews and equality action plans.

The NAPR recommends the:

1. Development of a template to provide guidance to service providers in implementing the National Action Plan Against Racism, with reference to broader equality, anti-poverty and public service modernisation policy
2. Development of further resource materials / awareness initiatives to support greater understanding among service providers of the needs of customers from cultural and ethnic minorities and implement a programme of cultural awareness training among service provider staff.

3. Implementation of equal status reviews and action plans by service providers in the public sector, supported by guidance materials developed by the Equality Authority
4. Integration of anti-racism and intercultural training into in-service modules under the public service modernisation programme (SMI), with reference to broader equality/diversity policy
5. Development of an anti-racism/intercultural training for trainers programme for training units in government departments and statutory agencies
6. Where groups including Travellers, refugees and migrants experience additional barriers in accessing key public services, targeted strategies will be developed to overcome these barriers.
7. Outline as part of Government departments/statutory agency strategy statements/corporate plans/customer service plans, clear and reasonable mechanisms to engage with external customers/key stakeholders, including a specific reference to cultural and ethnic minorities.³

The NAPR further recommends the continued development of intercultural strategies within the refugee application and appeals process including ORAC, RAT and the RLS. It also recommends the further development of anti-racism and intercultural awareness training for staff working in ORAC, RAT and RLS. It further recommends the production of a Customer Charter which sets out clearly a commitment to ensuring that the service they provide is equitable, non-discriminatory and takes account of increasing cultural diversity in Ireland.⁴

Inclusive and Non-discriminatory Legal Aid Service

The NCCRI notes that the Legal Aid Corporate Plan Review aims to identify new priorities having regard to customer expectations and demands for an accessible and high quality civil legal aid and advice service. Due to the significant diversity that exists in Ireland at present it is imperative that all state services plan for an inclusive service provision to adequately meet the needs of minority ethnic groups including Travellers.

It is important that the Legal Aid Board further develop the capacity of the organisation and staff to respond positively to a changing working environment and to contribute to the national social infrastructure by providing an efficient and quality civil legal aid service for people of modest means.⁵ As part of developing the capacity of staff to respond to a more diverse clientele, the provision of anti-racism and intercultural awareness training to solicitors providing legal aid services is essential.

The NCCRI notes that the Board in its Corporate Plan 2003-2005 was seeking to further develop its equality and diversity policy. The NCCRI advocates a whole organisation approach to addressing racism and promoting interculturalism.⁶ This involves equality

³ See NAPR Objective 3: 3.1-3.7. pp 100-103. www.justice.ie

⁴ See pp135 of NAPR, objective 7.4

⁵ As identified in Legal Aid Board Corporate Plan 2003-2005

⁶ See NCCRI: Developing a Whole Organisation Approach to Addressing Racism and Promoting Interculturalism (2003). www.nccri.ie

proofing of existing policies and structures of an organisation while ensuring that future policies and plans are fully inclusive of minority ethnic groups. Reasonable accommodation of diversity means taking account of the practical implications of cultural diversity in the design and implementation of policies, programmes and organisational practices. It is about making adjustments and providing special treatment and facilities to secure inclusion for black and minority ethnic groups.

The Board must seek to deliver a quality service ensuring comparable treatment for all of its customers, irrespective of ethnicity. We note that as part of its customer service, the Board conducts customer surveys and has established client user panels for ongoing consultation on delivery of services. The NCCRI would encourage the development of a customer survey that is targeted at users from minority ethnic communities to gauge their satisfaction with the service to date. It is also important that there is adequate and accessible complaints mechanism available to all clients.

Ethnic monitoring of the use of and satisfaction with key services, is essential in tracking the experiences of minority ethnic groups. In particular the inclusion of an ethnicity question in the next national census, provides an opportunity to enhance understanding of the issues facing minority ethnic communities in Ireland. The NCCRI recommends modelling ethnic monitoring procedures within organisations on the framework provided in the Census. Figure 1 illustrates the ethnicity question in the next census.

Figure 1: Ethnicity question in the 2006 census, Source: CSO

14 What is your ethnic or cultural background?
Choose ONE section from A to D, then ✓ the appropriate box.

A White

1 Irish

2 Irish Traveller

3 Any other White background

B Black or Black Irish

4 African

5 Any other Black background

C Asian or Asian Irish

6 Chinese

7 Any other Asian background

D Other, including mixed background

8 Other, write in description

It is also vital that the Board continue to integrate the Board's actions with those of other bodies involved in all civil law areas and advice organisations including FLAC, Migrant Rights Centre Ireland, Immigrant Council of Ireland, Refugee Information Service and Irish Traveller Movement Legal Unit. It involves maintaining proactive contact and formal liaison with agencies that deal with asylum seekers, refugees, migrant workers and the Traveller community. There is a network of Traveller organisations around the country in which local legal aid centres could establish contact with.

It is also important to ensure wide dissemination of information on the availability and range of services provided to the Legal Aid Board. In the context of a more diverse society the possibility of providing information on the Board in different languages or making leaflets available in different languages on the Board's website would be a way of reaching out to different ethnic communities. An information strategy is often dependent on resources. However networking with key migrant organisations in the field and minority led community organisations can be a cost-effective way of highlighting the services of the Board.

The range of legislative provisions enacted in the immigration field over the past 10 years has resulted in a need for migrant communities living in Ireland of modest means to have access to comprehensive legal advice and assistance on a range of complex matters. It is important for the Legal Aid Board to respond in a flexible manner to new or unexpected demands arising from new legislative developments in immigration law.

Refugee Legal Service (RLS)

In February 1999 a legal service for those seeking asylum was set up. A significant expansion took place in 2001. The NCCRI has been represented on the Independent Monitoring Committee of the Refugee Legal Service since its inception. The NCCRI notes that the Legal Aid Board, in common with other parts of the public service, is currently experiencing financial constraints which have an impact on the Board's operations e.g. the budget allocation for the RLS has been reduced each year. It can be argued that the decrease in the number of asylum seekers in 2004 can justify a further decrease in 2005. Yet it must be highlighted that the procedure for applying for asylum has become increasingly layered and complex which will require the maintaining of current resources to the RLS to ensure a fair and efficient procedure for asylum seekers.

Review of the Civil Legal Aid Act 1995

The NCCRI also note that the Civil Legal Aid Act 1995 provides for a number of exclusions in relation to its work. In particular it excludes the provision of legal aid in respect of Tribunal work (e.g. Employment Appeals Tribunal) and licensing matters. This exclusion constitutes a significant barrier to accessing legal advice and assistance for both migrant workers and members of the Traveller community and it falls to voluntary organisations such as the Migrant Rights Centre Ireland and the Irish Traveller Movement Legal Unit to try and assist them in taking their own case.

The Employment Equality Act 1998 and the Equal Status Act 2000 outlaw discrimination in employment matters or in the provision of goods and services on nine grounds

including race, nationality and the Traveller community. As a result of Intoxicating Liquor Act 2003, claims of discrimination are now dealt with in the District Court instead of the Equality Tribunal since the 19 September 2003. It has been reported to the NCCRI that minority ethnic groups including Travellers encounter difficulties in bringing a case of discrimination to the District Court in respect of licensed premises. Many choose not to bring a claim as it is often necessary to obtain the services of a solicitor, which they cannot afford. The Legal Aid Board could provide legal advice and assistance to minority ethnic groups of modest means who may wish to pursue such a case through the District court.

Conclusions

The NCCRI is aware of and welcomes the work of the Legal Aid Board in supporting minority ethnic communities in Ireland. Ethnic diversity will continue to be a challenge for all service providers in the years to come. This submission has outlined some of the key issues, which have been brought to the attention of the NCCRI by organisations working with minority ethnic communities, which it believes the Board should be cognisant of in the preparation of the current review. In particular the NCCRI recommends that:

- The review should take account of the need to develop intercultural service provision, as identified in the National Action Plan against Racism.
- Undertake targeted initiatives to respond to the legal issues facing minority ethnic communities, including the Traveller community
- Provide for anti-racism and intercultural awareness training
- Provide for the development of a whole organisation approach to responding to diversity
- Provide for ethnic monitoring of its services, including client surveys
- Enhance coordination with other organisations working with minority ethnic groups
- Disseminate accessible information to ethnic minority communities about the services of the Legal Aid Board.

For further information contact: Jacqueline Healy, Information and Communications Officer, NCCRI, email: jacqueline@nccri.ie, Tel: 01 8588003. Anna Visser, Research and Policy Officer, NCCRI, email: anna@nccri.ie