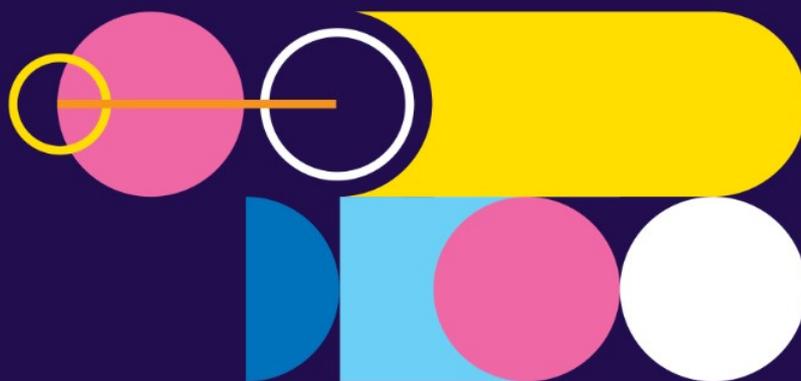


Public Sector Human Rights and Equality – BAI Assessment Report



ÚDARÁS
CRAOLACHÁIN
NA hÉIREANN

BROADCASTING
AUTHORITY
OF IRELAND

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1 Introduction

Section 42 of the Irish Human Rights and Equality Commission Act 2014 (“IHREC Act 2014”) imposes a statutory obligation on public bodies in performing their functions to have regard to the need to:

- Eliminate discrimination;
- Promote equality of opportunity and treatment for staff and persons to whom it provides services; and
- Protect the human rights of its members, staff, and the persons to whom it provides services.

This obligation laid out in Section 42 is called the Public Sector Equality and Human Rights Duty (“the Duty”). The Duty is an ongoing obligation on public bodies, which must be incorporated as part of an organisation’s overall strategic planning cycle. This is laid out in 42(2)(a) of the IHREC Act 2014 that requires an organisation to set out in its strategic plan “*an assessment of the human rights and equality issues it believes to be relevant to the functions and purpose of the body and the policies, plans and actions in place or proposed to be put in place to address those issues.*”

The Irish Human Rights and Equality Commission (IHREC) identifies a three-step approach for organisations to follow to implement the Duty in line with the statutory obligations.

Implementing the Public Sector Equality and Human Rights Duty: a three-step approach



1. Assess – set out in its strategic plan an assessment of the human rights and equality issues it believes to be relevant to the functions and purpose of the body;

2. Address – set out in its strategic plan the policies, plans and actions in place or proposed to be put in place to address those issues;

3. Report – report on developments and achievements in its annual report.

More information on this three-step approach is available on the [IHREC website](#).



This report commences the IHREC 3-Step Process for the BAI in 2020 and provides:

1. An overview of the key equality and human rights issues for the BAI as set out in the Broadcasting Act 2009 and the BAI Strategy Statement 2017-2019 (Section 2);
2. An evaluation of the structures, initiatives and work in the BAI that protects human rights and promotes equality (Section 3); and
3. Next Steps in the IHREC 3-Step approach (Section 4).

A high-level overview of human rights and equality legislation is attached at *Appendix 1*.

2 What are the key human rights and equality duties of the BAI?

2.1 Broadcasting Act 2009

The Broadcasting Act 2009 sets out the objectives, functions and obligations that guide, inform, and drive the work of the BAI and for which it is accountable for achieving. A broad range of human rights are at the core of this legislation and therefore rightly inform the statutory obligations placed on the BAI.

From a legislative perspective, the 2009 Act is centrally informed by the Irish Constitution (the rights therein and the wider European and International rights that are given effect via the Constitution). The 2009 Act is also the legal instrument that transposes the European Audiovisual Media Services Directive (“the AVMSD”). This directive governs EU-wide coordination of national legislation on all audiovisual media, both traditional TV broadcasts and on-demand services. Like the Irish Constitution, the Directive is underpinned by fundamental human rights.¹

The table below identifies specific functions or objectives of the Broadcasting Act 2009 that can be directly aligned against equality and human rights identified in Section 2.

Broadcasting Act	Text	Public Sector Duty
23 (1)	The Authority shall, as soon as may be, draw up and adopt a code of conduct in respect of controls on interests and ethical behaviour to apply to each member of the Authority, a statutory committee, an advisory committee and each member of the staff of the Authority.	Right to Good Administration
25(1)(a)	The Authority and the statutory committees, in performing their functions, shall endeavour to ensure— (a) that the number and categories of broadcasting services made available in the State by virtue of this Act best serve the needs of the people of the island of	Cultural, Religious and Linguistic Diversity

¹ The Directive was updated in 2018 to provide for the regulation of content provided by video sharing platform services (VSPs). The Directive will be transposed into Irish law via the OSMR Act. Additional information on the OSMR Bill and the work of the BAI in preparing for its enactment is provided in Section 3.2 below.



<p>25(1)(b)</p> <p>25(1)(c)</p>	<p>Ireland, bearing in mind their languages and traditions and their religious, ethical and cultural diversity,</p> <p>The Authority and the statutory committees, in performing their functions, shall endeavour to ensure -</p> <p>(b) that the democratic values enshrined in the Constitution, especially those relating to right liberty of expression are upheld.</p> <p>(c) the provision of open and pluralistic broadcasting services.</p>	<p>Freedom of Expression</p>
<p>25(2)(d)</p>	<p>(2) Without prejudice to the generality of subsection (1), the Authority, and the statutory committees, shall—</p> <p>(d) provide a regulatory environment that will sustain independent and impartial journalism.</p>	<p>Freedom of Expression</p>
<p>25(2)(f)</p>	<p>(f) protect the interests of children taking into account the vulnerability of children and childhood to undue commercial exploitation.</p>	<p>The Rights of the Child</p>
<p>25(2)(g)</p>	<p>(g) provide a regulatory environment that will facilitate the development of a broadcasting sector in Ireland that is responsive to audience needs and in particular is accessible to people with disabilities.</p>	<p>Disability Rights and Equality</p>
<p>26(2)(g)</p>	<p>(2) The Authority has the following ancillary functions—</p> <p>(g) to undertake, encourage and foster research, measures and activities which are directed towards the promotion of media literacy, including co-operation with broadcasters, educationalists, and other relevant persons.</p>	<p>Right to Education</p>
<p>42(2)(b)</p>	<p>42.(1) The Authority shall prepare, and from time to time as occasion requires, revise, in accordance with this section, a code or codes governing standards and practice (“broadcasting code”) to be observed by broadcasters.</p> <p>(2) Broadcasting codes shall provide—</p> <p>(b) that the broadcast treatment of current affairs, including matters which are either of public controversy or the subject of current public debate, is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster’s own views,</p>	<p>Freedom of Expression</p>
<p>42(2)(d)</p>	<p>(d) that in programmes broadcast by a broadcaster, and in the means employed to make such programmes, the privacy of any individual is not unreasonably encroached upon,</p>	<p>Right to Privacy</p>
<p>42(2)(g)</p>	<p>(g) that advertising, teleshopping material, sponsorship and other forms of commercial promotion employed in any broadcasting service, in particular advertising and other such activities which relate to matters likely to be of direct or indirect interest to children, protect the interests of children having particular regard to the general public health interests of children,</p>	<p>The Rights of the Child</p>



42(4)	(4) A broadcasting code prepared by the Authority under subsection (2)(g) may prohibit the advertising in a broadcasting service of a particular class or classes of foods and beverages considered by the Authority to be the subject of public concern in respect of the general public health interests of children, in particular those which contain fat, trans-fatty acids, salts or sugars.	The Rights of the Child
43(2)	(2) Without prejudice to the generality of subsection (1)(c), broadcasting rules with respect to that paragraph shall require each broadcaster of audio-visual material to take specified steps to provide access to that material by persons who are deaf or have a hearing impairment, persons who are blind or partially sighted, and persons who have a hearing impairment and are partially sighted by means of specified services such as— (a) sign language, (b) teletext services, (c) subtitling, and audio description	Disability Rights and Equality
47(5)	47.(1) A broadcaster shall give due and adequate consideration to a complaint on one or more of the grounds specified in section 48(1), made in writing by a person in respect of the broadcasting service provided by the broadcaster which, in the opinion of the broadcaster, has been made in good faith and is not of a frivolous or vexatious nature. (5) The Compliance Committee may prepare and publish guidance for broadcasters for the purposes of ensuring compliance with subsection (3).	Right to an Effective Remedy
48(1)	48.—(1) Subject to this section, the Compliance Committee may investigate and decide upon any of the following complaints— (a) a complaint that in broadcasting news given by it and specified in the complaint, a broadcaster did not comply with one or more of the requirements of section 39(1)(a) and (b), (b) a complaint that in broadcasting a programme specified in the complaint, a broadcaster either did not comply with one or more of these requirements or was in breach of the prohibition contained in section 39(1)(d), (c) a complaint that on an occasion specified in the complaint, there was an encroachment by a broadcaster contrary to section 39(1)(e), (d) a complaint that on an occasion specified in the complaint, a broadcaster failed to comply with a provision of a broadcasting code providing for the matters referred to in section 42(2)(a) to (d) and section 42(2)(f), (g) and (h).	Right to an Effective Remedy
49 (2)(3)	(2) Subject to this section, any person whose honour or reputation has been impugned by an assertion of incorrect facts or information in a broadcast shall have a right of reply. (3) The Authority shall prepare, within 6 months of the establishment day, following a period of public consultation, a scheme for the exercise of the right of reply	Right to Respect for a Private and Family Life Right to an Effective Remedy



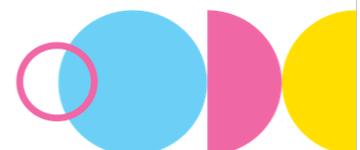
66(2)(d)	(2) In the consideration of applications referred to in subsection (1) received by it and in determining the most suitable applicant to be awarded a broadcasting contract, the Contract Awards Committee shall have regard to— (d) the quantity, quality, range and type of programmes in the Irish language and the extent of programmes relating to Irish culture proposed to be provided, (f) the desirability of having a diversity of services in the area specified in the notice catering for a wide range of tastes including those of minority interests,	Irish Language Promotion and Equality
70(2)(a)	(2) The Authority shall ensure that a television programme service provided by a television programme service contractor under this section shall in its programming— (a) be responsive to the interests and concerns of the whole community, be mindful of the need for understanding and peace within the whole island of Ireland, ensure that the programmes reflect the varied elements which make up the culture of the people of the whole island of Ireland, and have special regard for the elements which distinguish that culture and in particular for the Irish language,	Irish Language Rights and Equality Cultural, Religious and Linguistic Diversity
70(2)(b)	(b) uphold the democratic values enshrined in the Constitution, especially those relating to rightful liberty of expression	Freedom of Expression
73	73.—The Authority may, of its own initiative or at the request of a local community or community of interest, carry out an assessment of the needs of a community in respect of broadcasting and such an assessment shall include an ascertainment of the extent to which production facilities, training and resources are available to the community to enable the community to best serve its interests in respect of those needs.	Disability Rights and Equality Prohibit Discrimination
154(1)(a)(vi)	154.(1) The Authority shall prepare and submit to the Minister for his or her approval a scheme or a number of schemes for the granting of funds to support all or any of the following— (vi) the Irish language,	Irish Language Rights and Equality
154 (6)	154(6) The Authority in preparing the scheme shall have regard to the understanding and enjoyment of television programmes under the scheme by persons who are deaf or hard of hearing.	Disability Rights and Equality
155(1)(b)	155.(1) The objectives of a scheme in relation to programmes referred to in section 154(1)(a) are to— (b) develop these programmes in the Irish language.	Irish Language Rights and Equality Official Languages Act 2003



2.2 BAI Strategy Statement 2017-2020

The BAI prepares a Strategy Statement every three years in accordance with section 29 of the Broadcasting Act, 2009. This Statement details the BAI's **Mission, Vision, Values and Strategic Objectives**. It also identifies **expected outcomes** from the work of the BAI over this period. The strategic themes and objectives identified in the BAI's most recent Strategy Statement 2017-2019 identify the areas where the BAI focussed its attention and resources. These are outlined below along with the human rights and equality issues to which they relate.

Promoting Diversity & Plurality
<p><u>Strategic Objectives</u></p> <ul style="list-style-type: none"> • Facilitate a mix of voices, opinions and sources of news and current affairs in audio-visual media which enhances democratic debate and active citizenship in Ireland. • Increase the production and availability of culturally relevant audio-visual content for Irish audiences. • Foster a media landscape that is representative of, and accessible to, the diversity of Irish society. • Foster and promote quality programming in the Irish Language. <p><u>Key Deliverables</u></p> <ul style="list-style-type: none"> • Continue to articulate an informed policy position on Media Plurality in Ireland that is supported by relevant research, and provide advices to the Minister as required. • Develop and implement a revised Broadcasting Services Strategy that continues to facilitate dynamic licensing policies and plans and promotes quality programming in the Irish language. • Continue to develop, implement and review broadcast funding schemes that support an increase in the production and availability of diverse, innovative and/or culturally relevant Irish audio-visual content, including content in the Irish language. • Develop, implement and review an action plan that supports increased representation of the diversity of Irish society in the broadcast media with particular focus on gender and the Irish language.
<p><u>Public Sector Duty Identified</u></p> <ul style="list-style-type: none"> • Freedom of Expression • Promotion of Equality and Diversity • Eliminate Discrimination • Cultural, Religious and Linguistic Diversity



Achieving Excellence and Accountability

Strategic Objectives

- Regulate to achieve a responsible and accountable broadcasting sector.
- Show leadership in sustainable development by modelling and promoting high standards of environmental, social and governance practice.
- Promote an innovative working environment that motivates, challenges and develops the BAI.

Key Deliverables

- Develop, implement and review a compliance action plan that supports robust compliance and governance practices by all licensed broadcasters and funding contractors.
- Establish and implement an action plan to ensure that the BAI operates to a high standard in relation to environmental, social and governance practices and promote this to the wider broadcasting sector.
- Build on organisational structures and culture that support individual and team learning and performance, particularly through enhanced HR processes and improved knowledge management.

Public Sector Duty Identified

- | | |
|--|---|
| <ul style="list-style-type: none"> • Fair and just working conditions • Freedom of Expression • Environmental protection | <ul style="list-style-type: none"> • Right to good administration • Right of access to documents • Eliminate Discrimination |
|--|---|

Communicating and Influencing

Strategic Objective

- Promote public debate and inform policy to facilitate a vibrant, dynamic media landscape.

Key Deliverables

- Continue to enhance our expertise to advise, inform and influence national and European audio-visual media policy, law and practice particularly through participation in relevant National and European fora.
- Develop, implement and review an annual communications action plan which informs and engages our stakeholders, especially the public, in a relevant and timely manner.

Public Sector Duty Identified

- **Freedom of Expression**
- **Eliminate Discrimination**
- **Promotion of Equality and Diversity**



Empowering Audiences

Strategic Objective

- Develop the understanding, engagement and participation of the public in an evolving media landscape.

Key Deliverables

- Ensure that BAI Broadcasting Codes and Rules and the BAI broadcasting complaints process continue to support audience enjoyment, understanding, and interaction with, audio-visual content.
- Develop, implement and review a set of media literacy activities which increases audiences' ability to engage with, evaluate and understand audio-visual content in an evolving media environment.
- Facilitate an increase in the participation of members of the public in broadcast media, in particular in respect of community media services.

Public Sector Duty Identified

- | | |
|---|--|
| <ul style="list-style-type: none"> • Freedom of Expression • Eliminate Discrimination • Promotion of Equality and Diversity | <ul style="list-style-type: none"> • Right to an effective remedy • Right to privacy |
|---|--|

Enhancing Innovation and Sectoral Sustainability

Strategic Objectives

- Work with stakeholders to support the achievement of greater sustainability for the Irish audio-visual sector.
- Encourage creativity and innovation as distinctive features of the Irish audio-visual sector.
- Ensure an increased focus on creativity and innovation across all BAI activities.

Key Deliverables

- Develop and implement a structured programme of activities, in collaboration with the public, commercial and community broadcasting sectors, that facilitates the development of enhanced sustainable sectoral funding models.
- Develop and implement a framework that promotes and supports creativity and innovation in the Irish audio-visual sector and across all BAI activities.

Public Sector Duty Identified

- | | |
|--|--|
| <ul style="list-style-type: none"> • Freedom of Expression • Promotion of Equality and Diversity | <ul style="list-style-type: none"> • Cultural, Religious and Linguistic Diversity • Eliminate Discrimination |
|--|--|



2.3 Summary

It is clear that the objectives and functions and activities of the BAI as set out in the Broadcasting Act 2009 and the objectives and related outcomes in the BAI Strategy Statement aim to promote equality and ensure protection of human rights and key societal values. The rights and values most relevant to the functions and purpose of the BAI are:

- **Freedom of Expression;**
- **Protection of Minors;**
- **Prohibition of Incitement to Hatred;**
- **Right to Privacy;**
- **Right to an Effective Remedy;**
- **Cultural, Religious and Linguistic Diversity;**
- **Employment Rights;**
- **Promotion of Equality with a focus on gender equality, disability equality, and positive action in the promotion of the Irish Language in the Irish broadcasting landscape; and**
- **Elimination of Discrimination.**

3 BAI Organisational Evaluation 2017-2020

To ensure the effective implementation of the public sector duty, the BAI established a cross functional steering group in early 2020 to review and report on the specific work areas and the policies, plans and initiatives over the period of the BAI Strategy Statement 2017-2019 that give effect to our public sector duty. This Assessment Report is set out below.

Key BAI Initiatives and Activities

3.1 [Promoting Diversity and Plurality](#)

Between 2018-2020 and under the Strategic Theme of Diversity, the BAI focussed on Language and Gender Diversity Action Plans. The Plans aimed to assist the Authority in its central role in the promotion of diversity in the Irish audiovisual landscape, thereby helping to meet the strategic objective of fostering ‘a landscape that is representative of, and accessible to the diversity of Irish society’. Diversity is also to the forefront of the BAI’s Sound and Vision and Sectoral Development Schemes.

Irish Language Action Plan

The Irish Language Action Plan, published in February 2019, provides a structured framework for facilitating and supporting Irish Language initiatives within the Irish audio-visual sector. The key objectives of the Plan are to support, develop and promote Irish-language programming and Irish-language stations through licensing and Sound and Vision initiatives; to foster Irish-language partnerships within the broadcasting sector, to support research in relation to Irish language in the broadcast media; to collect data in relation to Irish-language programming; and to monitor and report on Irish language commitments within the BAI and across the Irish broadcasting sector.

By developing and progressing targeted initiatives under these key objectives, the Plan implements the BAI’s Public Sector Duty to promote diversity and inclusion with regard to the Irish Language and protect the rights of the Irish language speaking community.



In addition, the BAI in partnership with Foras na Gaeilge established an Irish Language Advisory Committee, which furthers the BAI's Irish-language objectives and engages on a wider level with Irish Language stakeholders in the industry. The BAI publishes an annual report on the work of the Committee and the reports for 2019 and 2020 can be found at www.bai.ie.

BAI Gender Action Plan

In 2018, the BAI launched its BAI Gender Action Plan. Through an extensive consultation process with key external stakeholders, and aligned with the Council of Europe's recommendation on Gender Equality in the Audio-visual sector, the BAI Gender Action Plan targets four key areas: data collection, research, development of gender-based initiatives and accountability.

Regarding the data collection, the BAI collects gender data at three stages of its Sound & Vision process: applicants must outline the gender of key creative roles at application stage, at contracting stage once their application has been successful and at delivery stage, when the project is completed and delivered to the commissioning broadcaster. This 3-tier data collection process helps to cater for frequent changes within the creative process and ensures that projects maintain a focus on diversity of creative talent.

The BAI, working with its stakeholders supports and/or commissions research which provides additional data and information on the gender breakdown both on- and off-screen/air in an Irish context. Research from 2020 includes a joint project between Dublin City University and RTÉ which looks at on-screen diversity particularly in relation to the early stages of Covid-related lockdown and a partnership research project between Mary Immaculate College in Limerick, Maynooth University and University College Dublin with a specific focus on auditing the diversity policies in place with broadcasters. These research projects are funded under the Media Research Funding Scheme and aim to assist the BAI in meeting its commitment into Gender and Diversity Research as outlined in the BAI Gender Action Plan.

On the development of gender initiatives, the BAI has a long-established policy of working with representative organisations and bodies to deliver learning and development initiatives to various constituencies of the Irish audiovisual sector. In particular, key representative organisations such as Screen Producers Ireland (SPI), the Writers Guild of Ireland (WGI), the Screen Directors Guild of Ireland (SDGI), Women in Film and Television Ireland (WIFTI) and Women on Air (WoA) all cater for various needs of the audiovisual landscape and deliver targeted learning and development initiatives to their various members. The BAI is a key funder of initiatives that help promote women and minorities get access to the industry, whether as a writer, an expert contributor, a director or any other role. In 2019, the BAI also incorporated actions from its Gender Action Plan (2017-2020) into the Sound and Vision evaluation process of applications to assist and encourage applications that have more women in lead creative roles within production (see below under Broadcasting Funding Scheme).

Licensing

The Broadcasting Act 2009 requires the BAI to regulate and licence broadcasting services so that they best serve the needs of the people of the island of Ireland, bearing in mind their languages and traditions and their religious, ethical and cultural diversity. The BAI does this through its licensing process, guided by its Broadcasting Services Strategy.

Licensing focuses on different categories of services meeting different needs. These are the commercial radio and television sector, the community radio and television sector, temporary licences for local, community, educational and charitable purposes, as well as institutional licences, mainly for radio services located on hospital campuses.

The purpose of these services is to provide audiences with a wide mix of voices, opinions and cultural context that serve audiences at national, regional, local, community and institutional levels with a view to entertaining, informing and educating citizens through the production of a wide variety of content. In



the case of the community sector, empowering audiences to produce and broadcast programming is a key objective in a context where such services are owned and controlled by the communities served.

Broadcasting Funding Scheme

The work undertaken by the BAI under its Sound & Vision Funding Scheme aligns with a number of principles that also relate to the Public Sector Duty. Funded with 7% of the Irish Television Licence Fee, more information on the Scheme can be found here: www.bai.ie.

A key objective of this Scheme is to support the creation of programming that reflects Irish culture, history, language and diversity, programming that has a cultural and/or community purpose for a diversity of Irish audiences and programming that is in the Irish language. Between 20% and 25% of funding annually is provided specifically for Irish language/bilingual content. Educational, media literacy and adult literacy are also supported.

The BAI is committed to making programming funded under the Scheme accessible to all audiences. All television drama and animation projects funded must make provision for either audio description or Irish Sign Language and all television programming must be carried with the availability of subtitling.

The BAI is also committed to supporting the development of talent and skills across the production and broadcasting sectors, for example, by incorporating a criterion into the evaluation process of applications to encourage potential applicants to employ new talent or to develop talent and also, to include training in their proposal to support upskilling.

In 2019, the BAI launched a special ‘Women’s Stories’ round as part of Sound & Vision Round 33. For this round, an additional assessment criterion for ‘women’s stories’ was included for all applications, in a bid to bring more female voices to Irish audiences. Applications across all genres were assessed on their demonstration of women’s narrative. As a result, approximately 70% of radio projects and all television projects recommended for funding included a female narrative to some extent. This represented an increase on previous funding rounds and the aim of the initiative was that it would lead to more diverse programme content that promotes women’s voices and stories. Round 33 also resulted in a significant increase in funding awards for projects in which women take a lead creative role, compared to the previous round. For instance, the number of TV projects recommended for funding increased by 67% for those with a female director, by 50% for those with a female writer, by 56% for those with a female director of photography, by 17% for those with a female producer, and by 31% for those with a female editor. The number of radio projects recommended for funding increased by 36% for those with a female producer, by 33% for those with a female writer, and by 25% for those with a female editor.

Gender balance is also a key consideration on the BAI’s adjudication assessment Panels.

The fund also funds ancillary measures which further the objectives of the Scheme, these measures have been used to support much needed skills training and development across various sectors and to support the development of local and community radio.

Public Sector Duty: These activities protect and promote a range of rights including: disability, gender and language equality, the right to freedom of expression, the right to communicate, the right to freedom of assembly and association, diversity, inclusion and media pluralism Irish Elimination of Discrimination amongst others.



3.2 Communicating and Influencing

Communication

The Communication function of the BAI promotes a wide variety of organisational activities, and regularly engages with the public and other stakeholders to inform and seek views on BAI policies and activities. In carrying out such work, BAI communications policy and operational practices address and / or are cognisant of human rights and equality issues as outlined below.

- Cognisant of its public sector duty to help eliminate discrimination and promote disability equality, the BAI website is designed to meet the latest web accessibility standards. The website offers features such as text to speech, reading and translation support, to facilitate access to digital content for a diverse online audience, including those with reading difficulties and / or visual impairments.
- The BAI also promotes accessibility when undertaking public consultations to help inform its policies in a range of areas, for example Broadcasting Codes, Funding Schemes and Strategy Statement. Such consultations are open to all, and the BAI endeavours to be clear and concise in its language, using plain English to fully inform and seek the views of stakeholders that are reflective and representative of the diversity in Irish society.
- Separately, in line with its Irish Language Action plan and public sector duty to promote diversity and inclusion with regard to the Irish language, the BAI's website is accessible in the Irish language and the majority of communications, for example press releases, public consultation documents, schemes and guides are issued bi-lingually. The BAI also endeavours to issue bi-lingual communications on social media and will likewise communicate with stakeholders in Irish should this be their preference.

AVMSD and OSMR Bill

In January 2020, the Minister for Communications, Climate Action and Environment published the scheme of the Online Safety and Media Regulation Bill (OSMR Bill). The Bill sets out the approach to the transposition of the revised AVMS Directive along with the establishment of a new online regulatory framework to address harmful content and create a safer online environment.²

In terms of the AVMSD, the directive was updated in 2018 to provide for the regulation of content provided by video sharing platform services (VSPs). The new provisions aim to protect users of VSP services from specific types of harmful material in videos.³ The main goal of the changes introduced by the revised AVMSD is to ensure that citizens are better protected from harmful and illegal audiovisual content and user generated videos as well as commercial communications in online environments. The Directive also seeks to ensure that those who upload, share and provide access to videos in online environments do so in a responsible way.

² The Bill creates a number of categories of harmful online content including cyberbullying, encouraging or promoting eating disorders, encouraging or promoting self-harm or suicide.

³ This includes protecting under-18s from potentially harmful material and all users from material inciting violence or hatred, and content constituting criminal offences relating to terrorism; child sexual abuse material; and racism and xenophobia. VSPs are also required to ensure certain standards around advertising are met.



The OSMR Bill aims to strengthen protections for users in online environments even further than the protections provided for by the revised AVMSD. The Bill encompasses user-protections for other forms of content beyond videos. Both pieces of regulation address a wide range of fundamental rights. Key rights in this regard include Freedom of Expression, Freedom of Thought, the Rights of the Child, the Right to Privacy, the Right to an Effective Remedy, the right to Free Association, rights in relation to Disability and Equality and the right to the Protection from Discrimination.

In 2019, an Audiovisual Media Services Directive project team was established. In 2019 and 2020, this project work included: -

1. **Policy Development.** A large focus of the Team's work is on designing and promoting rights-focused solutions for the regulation of services in online environments. For example, the introduction of protection standards for audiences (e.g. protecting children from inappropriate content, or content which might incite hatred and violence) must be balanced with much needed protections for freedom of expression, freedom of association and the protection of users' personal data (where relevant).
2. **Communications and Stakeholder Engagement.** To support and inform its work, the BAI engages with a range of stakeholders with expertise in different kinds of harmful and illegal content. This includes, for example, child protection groups, organisations dedicated to the promotion of freedom of expression in online environments, digital rights organisations, bodies involved in law enforcement and other regulators. This engagement is intended to actively ensure that the views of stakeholders directly impacted by this regulation inform the BAI's regulatory approaches.
3. **European Affairs.** The BAI is an active participant in the European Regulators Group for Audiovisual Media Services ("ERGA"). It cooperates with its fellow European Regulators at ERGA to develop pan-European solutions to issues that will be encountered when regulating online services and to ensure that the protections envisioned by the revised AVMSD can be implemented effectively and consistently across Europe and in accordance with fundamental rights reflected in European and International law.

Through its work, the BAI aims to ensure that many of the same principles, values and protections for audiences and children that are available in respect of television broadcasting services can be successfully extended to online environments (as envisioned by the revised AVMSD). The impact of online services on users' rights are at the forefront of the BAI's considerations.

The implementation of the AVMSD in an Irish context and the introduction of the OSMR Bill will require a careful consideration and balancing of each of the fundamental rights set out above.

Public Sector Duty: These activities protect and promote a range of rights including: Freedom of Expression, Freedom of Thought, Rights of the Child, Right to Privacy, Right to an Effective Remedy, Right to Free Assembly and Association, Equality, Elimination of Discrimination amongst others.



3.3 Empowering Audiences

Codes, Rules and Complaints

The BAI makes Codes and Rules for the different types of broadcasting content to implement legislative requirements and to inform broadcasters, listeners and viewers of the standards expected in broadcasting content. The BAI's complaints process ensures the right to an effective remedy. The Code of Programme Standards, Code of Fairness, Balance and Impartiality, Commercial Communications Codes and Access Rules address and seek to protect fundamental human and equality rights as follows: as follows:

- **Code of Programme Standards**

The main aim of the Code of Programme Standards is to promote responsible broadcasting and to advise viewers on the standards they can expect from broadcasting services and to enable viewers and listeners to hold broadcasters to account in the event they believe that a broadcaster has behaved irresponsibly. There are seven guiding principles underpinning the Code of Programme Standards and against which all complaints will be assessed. These principles include protection from harm, protection of children, respect for persons and groups in society and respect for privacy.

- **Commercial Communications Codes**

One of the main objectives of this Code is to ensure that the public can be confident that commercial communications are legal, honest, truthful, decent and protect the interests of the audience. The General Commercial Communications Code is underpinned by the following four principles:

- Ensuring that commercial communications are legal, honest, decent and truthful;
- That such communications shall not prejudice respect for human dignity, cause serious or widespread offence, cause harm or encourage harmful behaviour;
- Ensuring transparency so that audiences are fully aware of the nature of the communications that they see and/or hear;
- That the interests of children are protected, and commercial communications do not take advantage of their credulity and inexperience.

Further protection of minors (under the age of 18) from commercial communications is provided in a separate Code, the Children's Commercial Communications Code.

- **Children's Commercial Communications Code**

This code deals with advertising, sponsorship, product placement and other forms of commercial promotion aimed at children or broadcast in or around children's programming. It includes rules on the promotion to children of food that is high in fat, salt or sugar (HFSS food).

- **The Code of Fairness, Impartiality and Objectivity in News and Current Affairs**

The aims of this Code include setting out clearly the minimum standards and practices that are expected of broadcasters in their treatment and broadcast of news and current affairs content, informing and generating awareness among citizens with regards to standards they may expect in relation to news



and current affairs content and protecting the interests of citizens in their right to access fair, objective and impartial news and current affairs content.

In devising these codes, the BAI took into account the Irish Constitution and the European Convention on Human Rights and in particular the provisions relating to freedom of expression, the right to privacy, protection of minors and the securing of rights without any discrimination on any ground.

The Codes help viewers and listeners who believe that they have a legitimate complaint about a broadcast and infringement of a right to make a complaint to the BAI and therefore provide the right to an effective remedy. Details on the Complaints process, including guidance on how to make a complaint and how complaints will be assessed by the BAI, are set out on the BAI website and within the published Codes

- **Accessibility and Disability**

Television is an audio and visual experience, and is viewed by practically all of population, from young to old. It provides entertainment, information and sport, and is an essential tool in the provision of news, current affairs and vital government information. If the viewer cannot experience both the audio and visual elements of a programme they will not understand the full meaning of the programme and could be unaware of important information that relates to them. The Covid-19 pandemic is a case in point.

Sections 43(1)(c) and 43(2) of the Broadcasting Act 2009 relate to the promotion of the understanding and enjoyment of television programmes for persons who are deaf or hard of hearing, blind or partially sighted. These sections are designed to ensure that programmes are transmitted in such a manner as to allow all members of society enjoy and understand them.

Those who are blind or partially sighted benefit from Audio Description (AD) which provides additional commentary to describe what is happening on screen. This is of particular benefit for documentaries and dramas. Those who are deaf or hard of hearing benefit from subtitles and/or Irish Sign Language (ISL). Subtitles are lines of text at the bottom of the screen which carry the words spoken on screen and additional information about other sounds on screen. Subtitles are of benefit to the hard of hearing community and the older people in society. ISL is a visual language where an interpreter is displayed in the corner of the screen. The interpreter translates what is being said using hand, arm and facial expressions.

The BAI has, in consultation with broadcasters, audiences and user groups, developed the Access Rules over the past number of years. The **BAI Access Rules** determine the levels of subtitling, Irish sign language and audio description that broadcasters licensed in Ireland are required to provide. The Rules are designed to provide the following benefits for viewers.

- Increase the quantity of television programmes with access services (subtitles, audio description and Irish Sign Language) for viewers with hearing and visual problems.
- Improve the quality and reliability of access services on television programmes.
- Ensure better promotion of programmes with access services during continuity announcements, via broadcaster websites and on print media.
- Ensure that audience members requiring access services are kept informed about national emergencies. Broadcasters will ensure that key information provided by the government on-air,



including relevant telephone numbers, is subtitled and spoken and, if possible, provided via Irish Sign Language.

- Ensure that broadcasters consult with access user groups on an annual basis as to their viewing preferences.
- Ensure that broadcasters provide a method for viewers to complain about access services provided as part of a television programme.
- Undertake monitoring to ensure compliance with Access Rules.

The Irish Sign Language Act 2017 requires that government agencies make their offices, website and documentation fully accessible to all. The BAI provides ISL translators if requested to do so by a member of the public.

Section 47 (1) a of the Disability Act requires public bodies, in so far as practicable, to take all reasonable measures to promote and support employment by them of people with disabilities. Under the Comprehensive Strategy for People with Disabilities (2015 – 2024), the Government has committed to increasing the public service employment target for persons with disabilities on an incremental basis from a minimum of 3% to a minimum of 6% by 2024.

The BAI reports every year by 31st March to its parent Department on compliance with these obligations. It also conducts a staff survey staff to determine the percentage of people with disabilities employed by the BAI and reports to the National Disability Authority (NDA) once a year on whether or not it has met these targets. In 2019, the BAI exceeded the minimum target. The BAI's HR function talks in confidence to any member of staff who has declared a disability in the survey and puts in place any accommodations they may require.

Media Literacy

Under this Theme, the BAI has been to the forefront in the promotion of **media literacy** through its publication of a Media Literacy Policy and ongoing support of Media Literacy Ireland initiatives and event. In the 2017-2019 Strategy Statement, this Theme identified one single objective – *to develop the understanding, engagement and participation of the public in an evolving landscape*. The BAI's Policy sets out competencies and skills that are considered essential for navigating the current and emerging media environment and aims to empower Irish people to make informed choices in terms of their use of media. In line with this policy, the BAI undertakes and supports a range of media literacy activities on an annual basis.

The BAI is an active member of *Media Literacy Ireland*, ("MLI") and also a key facilitator of the network in terms of the provision of funding, coordination and administrative support. In general terms, the network's membership continues to be representative of a range of sectors, including broadcasters, academia, online platforms / providers, libraries, community and civic organisations.

A national awareness campaign *Be Media Smart*, funded by the BAI and aimed at the general public was launched on the 17th March 2019. A range of adverts were developed through MLI partners and rolled out across television and radio. These adverts called on people of all ages to *Be Media Smart* and *Stop, Think, and Check* that the information they see, read or hear across any media platform is accurate and reliable. A range of social media assets were also developed to deliver the message



across platforms such as Twitter and Facebook. All these messages in turn, whether across tv, radio or social media, directed people to a microsite specifically developed for the campaign, www.bemediasmart.ie, which offered advice in terms of top tips and resources from partners in Ireland and abroad. It should be noted that the BAI funded the bulk of the campaign, but that significant in-kind contributions were provided by MLI members to bring the campaign to fruition.

In 2020, given the impact of the Covid-19 pandemic and concerns relating to misinformation, it was agreed to refocus the 2019 campaign concept to help counter misinformation circulating about the virus. To emphasise the importance of accessing reliable information, the *Be Media Smart* message of ‘Stop’, ‘Think’ and ‘Check’, was repurposed by MLI members and the public were encouraged to think about Covid-related information they may receive and / or share on various platforms and devices. The campaign assets generated in 2019, including the television and radio adverts and social media resources, were broadcast and circulated once more by members. Some non-profit MLI members also availed of free advertising credit offered by Facebook and Twitter to promote the *Be Media Smart* message. In addition, both the *Be Media Smart* (www.bemediasmart.ie) and MLI (www.medialiteracyireland.ie) websites were updated to support the public health guidelines, include contributory articles from members, resources and tips to help the public combat misinformation circulating regarding the pandemic.

The BAI Sound and Vision Funding Scheme also supports media literacy activities by including categories of funding for programming that promotes media literacy and adult literacy.

Public Sector Duty: These activities protect and promote a range of rights including: Freedom of Expression, Freedom of Thought, the Rights of the Child, the Right to Privacy, the Right to an Effective Remedy, rights in relation to Disability and Equality and the Right to a Private and Family Life amongst others.



3.4 Enhancing Innovation and Sectoral Sustainability

Sectoral Development

Sectoral Learning & Development is an area of the BAI that implements ancillary functions of the BAI's statutory obligations which are set out in section 26 (2) of the Broadcasting Act 2009. Sectoral Development engages with the broadcasting sector in order to establish training and development needs and to adopt strategies that will support the sector in developing and strengthening its role within the wider media environment. Sectoral training and development initiatives are supported by means of a range of funding schemes. The promotion of equality, diversity and inclusion rights are at the forefront of sectoral development activities.

- **Network Funding Scheme**

Networks supported under this scheme include Community Broadcasters, networks who provide training to Irish-Language speakers, and groups advocating for Gender Equality and Mental Health Support. 2020-supported activities/events include those encouraging diverse groups to engage with community media, support for parents/carers returning to work, gender equality support and awareness campaigns, animation training for individuals with physical or intellectual disabilities, and a suicide-prevention programme for musicians.

- **Community Broadcasting Support Scheme**

This scheme offers support to Community Broadcasters. Recent funding was given to a pilot programme which developed an evaluative toolkit for the community radio sector, to enable community broadcasters to better assess the level and nature of social benefit they generate for their communities. The term 'social benefit' is used in the Broadcasting Act 2009 Section 64 (a)(i) with reference to community sound broadcasting. It states that programme material must have the objective of "specifically addressing the interests of, and seeking to provide a social benefit to, the community concerned".

- **Media Research Funding Scheme**

Examples of diversity themed research projects funded under this scheme in 2020 are:

- **Broadcasting Difference - Diversity in Public Broadcasting** is a collaborative research project between Dublin City University and RTÉ which will examine age, gender, sexual identity, ethnic/cultural identity and disability across a selection of RTÉ's radio, television and on-line output over a three-month period.
- **Auditing gender and diversity change in Irish Media sectors** is a collaborative project between Maynooth University, Mary Immaculate College Limerick and University College Dublin which will examine how gender and diversity policies are promoted and implemented by broadcasters, training bodies and production companies.



- **Innovation Scheme**

This scheme encourages creative and innovative initiatives for the broadcasting sector. 2020 funding support has been provided to **Glúin Nua**, a partnership commissioning fund and mentorship programme which will nurture emerging Irish-language directors/writers and support them to create new short-form Irish-language content for young audiences.

- **Diversity Funding Support**

This funding stream offers targeted support for Diversity, Gender and Irish-language initiatives. Irish-language initiatives funded in 2020 include the development of a database recruitment resource for radio stations seeking Irish language presenters, and the creation of an online learning resource for broadcasters to enable them to improve their Irish language skills. Incubator is a 2020-funded mentorship programme which aims to support and advance the careers of new Irish female talent.

- **Panel participation/Speaking at events**

In 2020, BAI staff have spoken at events and participated in high-profile panel discussions driving the cause of equality of opportunity, promoting diversity initiatives, and supporting the development of Irish-language programme production.

- **Diversity Data Collection**

A new initiative for 2020 is to request additional detail from contractors in order to map any funded event/activity which has a specific focus on or encourages participation from one or more of the following categories: Disability (Physical, Mental, Sensory, Cognitive), Gender, Irish Language, LGBTQI+, Minors (those under 18), Older Adults (65+), Racial/Ethnicity, Religion or Belief, Specific socio-economic groups. The collection of diversity data will allow Sectoral Development to build up a knowledge base in relation to the number and range of diversity activities being supported under its funding programmes.

Public Sector Duty: These activities protect and promote a range of rights including: Disability and Elimination of Discrimination, Equality, Promotion of Diversity and Inclusion, Irish Language Promotion, Right to Education amongst others.



3.5 Achieving Excellence and Accountability

Environmental, Social and Governance Practices

The BAI strives to demonstrate accountability and good governance in all its practices and to promote these practices to the wider broadcasting sector. Internally, the **BAI Governance Handbook** contains all key BAI governance policies and procedures, set out using the framework of the key principles of the **2016 Code of Practice for the Governance of State Bodies**.

The Code specifies that appropriate policies should be in place so that members of the Authority and its Committees and staff taken decisions objectively and that steps are taken to avoid or deal with any potential conflicts of interest, whether actual or perceived. This goes towards ensuring continued integrity and transparency in the work of the BAI and avoiding public concern or loss of confidence. To this end, the BAI has developed a **Code of Business Conduct**. The BAI Code of Business Conduct is intended to state the agreed standards of principle and practice which inform the conduct of all personnel and to act as a clear statement to BAI stakeholders and to citizens on the standards of conduct they can expect from the BAI. The BAI is committed to an inclusive culture of respect, dignity, equality and fairness in how we engage with the public, our stakeholders and between our staff.

The Code of Business Conduct includes the **BAI Whistleblowing Policy** which sets out how personnel can raise any concerns about possible irregularities concerning the organisation's duties and obligations or matters presenting a risk for the organisation. Recognising that this can be a difficult experience for employees and the BAI commits to support them in any way possible to ensure those employees are not subject to victimisation or risks to job security or promotion.

In line with the Code of Practice for the Governance of State Bodies, the BAI has also developed a **Customer Charter** which sets out the level of service all customers can expect under a range of headings including Equality and Diversity, Official Languages Equality, Physical Access, how information is provided and choices of contact methods.

The selection process for appointments to the Authority and its Committees is conducted by the Public Appointments Service, in accordance with the **Guidelines on Appointments to State Boards**.

In line with the Code of Practice for the Governance of State Bodies, appointment to the Authority and the Statutory Committees are made against objective criteria with due regard for the benefits of diversity including gender. Pursuant to Section 8(3) of the Act, not less than 4 of the members of the Authority are men and not less than 4 of them are women.

Data Protection

As a public sector organisation which controls and processes personal data across its operational areas, the BAI is subject to the requirements of the General Data Protection Regulation (GDPR) and in turn the Data Protection Act 2018. In compliance with the said legislation, and prior to the implementation of the GDPR in May 2018, the BAI appointed a Data Protection Officer (DPO) and developed a series of Data Protection Policies and work practices which have been implemented across the organisation.

In line with the GDPR, the primary role of the DPO is to ensure that the BAI processes the personal data of its staff, the public, service users and other stakeholders in compliance with the highest standard of data protection rules. Between 2018 and 2020, the DPO, and the wider GDPR team have developed



a range of Data Protection Policies, provided staff training, conducted workshops involving personal data mapping and regularly attend data protection training and conferences in order to ensure up-to-date best practice and implementation. The *BAI's Privacy Statement* provides our service users with information on how the BAI collects and processes their personal data.

Broadcasting Sustainability Network

The BAI has established the Broadcasting Sustainability Network. The aim of this voluntary network is to bring together the radio and television sector, programme makers, and their supply chain associates with a view to fostering and supporting sustainability in broadcasting, instigating positive action across society, and to be a forum for collaboration and partnerships. A Roadmap has been developed to support individual organisations in the broadcasting industry to develop their own sustainability plan. This Roadmap has been developed using the United Nations Sustainable Development Goals (SDGs) to guide its objectives. The SDGs provide a blueprint to achieve a better and more sustainable future and they include specific focus on reducing gender inequality, reducing inequalities, supporting good health and well-being, reducing poverty, increasing decent work and economic growth, increasing responsible consumption and production, encouraging positive climate action, and supporting human rights. The Roadmap encapsulates these goals and set guidance for the broadcasting sector to achieve them. Please find the Roadmap [here](#).

Irish Language Scheme

In accordance with its statutory obligation under the Official Languages Act 2003 ("2003 Act") the BAI published its Third Irish Language Scheme in September 2020. The Scheme is for a three- year period and informs the public, stakeholders and staff of the BAI's Irish Language commitments, level of Irish-language services currently provided by the BAI, and training provided to staff. As well as fulfilling the BAI's duties under the 2003 to ensure the improved provision of public services through the Irish Language, the Scheme supports the BAI's Public Sector Duty to promote equality, diversity and inclusion, with a specific focus on the promotion of the Irish language and rights of Irish language speakers to access public services through the medium of Irish.

Organisational Policies and Initiatives

BAI staff are the cornerstone of the effective working of the organisation. The BAI and all members of its staff work together to promote important rights and values like dignity, fairness, respect and equality.

The BAI ensures compliance with human rights, equality, employment and health and safety legislation through a range of Human Resource (HR) policies, training and other HR initiatives. All internal policies and practices are kept under review to ensure compliance with employment law and best practice. The BAI has a long-standing tradition of internal consultation on policy development, organisational change and other internal matters. The BAI operates a consultative and collaborative working approach with employees, including with Fórsa Trade Union.

The BAI maintains a workplace environment that encourages and supports the right to dignity at work, equitable treatment and respect for our individuality and diversity. The **BAI's Dignity at Work Policy** sets out the BAI's commitment to creating a work environment which is positive, inclusive and free from any form of bullying, harassment or sexual harassment. This policy:



- expresses an expectation that each member of staff (including contractors and agency staff) within the BAI will uphold the ethos of respect and dignity, and will not engage in any form of behaviour that undermines the individual's rights or the organisation's values in this regard;
- outlines the steps that an individual can take in dealing with any situation where they believe that their dignity is not being respected and the steps they can take to ensure that any form of bullying, harassment and sexual harassment stops; and
- details the steps that the organisation is required to take to both create a positive work environment and to meet with its statutory and legal obligations.

The BAI supports a culture of good communications, openness and a willingness to cooperate and listen. Nonetheless, it is understood that, when people work together, there will inevitably be situations when misunderstandings or problems arise. It is very important to the BAI that any issues that arise are resolved in a timely manner to the satisfaction of all parties involved. The BAI **Grievance Procedure** commits the BAI to providing the resources and time to resolve grievances. The procedure provides for a fair, open and responsive attitude to all grievances or complaints and provides staff with a clear procedure for addressing unresolved problems they may have at work.

The BAI values all of its staff and their ability to deliver the best possible standards of service. The BAI recognises the contribution made by staff and wishes to support and enhance that contribution. The BAI's **Performance Management and Development Policy** aims to foster a culture within the organisation that encourages the full potential of each individual as they work to achieve the organisation's goals. In this context, the Authority aims to provide staff with a working environment that is challenging, dynamic and development oriented.

The **Staff Training and Development Policy** is another key element in this process as it provides the framework within which the Authority can use available resources to ensure that staff have the skills required for their current roles and functions, and to support staff to develop their career potential. Training is also an opportunity to raise awareness of human rights and equality issues.

In November 2020, the majority of BAI staff attended 'Disability Awareness Training' in conjunction with 'Ability Focus'. The course informed staff of the definition and categories of disability, disability legislation, reasonable accommodation and communication and creating an inclusive society.

While the BAI policies ensure a supportive working environment, a diverse range of the **Staff Wellbeing** initiatives strive to improve the health and wellbeing of our staff by enhancing positive social conditions, building on both personal and organisational resilience skills, and promoting healthy lifestyles and an improved work life balance.

Public Sector Duty: These activities protect and promote a range of rights including: Employment rights, Freedom of Expression, Environmental Protection, Consumer Protection, Right to Good Administration, Right to Education, Right to Free Assembly and Association Right of Access to Documents, Elimination of Discrimination amongst others.



4 Next Steps – Publication of Report and Development of an Action Plan

In March 2020, the BAI commenced its consultation and work on the development of its next strategy statement for 2021-2023. The new Strategy Statement, strategic themes, objectives, outcomes and related key performance indicators (KPIs) was published in January 2021. The Strategy addresses the BAI's commitment to its public sector duty and includes in its KPIs for 2021 the publication of this report and the development of a new Action Plan to ensure effective implementation of the duty. The organisational review and assessment set out in Section 3 of this report informed the development of an Action Plan 2021-2022. The Plan aims to ensure that human rights and right to equal treatment for the members of the public whom we serve, and audiences of media, remain integral to the work of the BAI over the life of the Strategy Statement.

There will continue to be an internal dimension to this duty, that is, how we interact with each other in the BAI. We will promote a culture of respect, engagement, openness and dignity in the workplace with a particular focus on training and awareness of our staff on human rights and equality. A key component of this Action Plan is the implementation of an organisational Training and Development Plan which commenced in Quarter 4, 2020 and aims to deliver training on the five main strategic themes, including the BAI's public sector duty, with a particular focus on staff wellbeing.

The BAI Strategy Statement 2021-2023 also takes account of legislative and regulatory changes expected during the three-year period, including the transposition of the AVMSD and the enactment of the Online Safety and Media Regulation Bill. As noted in Section 2, the enactment of new Online Safety and Media Regulation Bill is expected over the next 2-3 years which aims to protect and promote a wide range of fundamental rights and freedoms. In accordance with the recommended process set out by IHREC for the development of and implementation of the public sector duty, the BAI's Action Plan will be updated to reflect the new legislative provisions.



Appendix 1

An overview of the key human rights and equality obligations on public bodies

Section 29 of the Irish Human Rights and Equality Act 2014 defines human rights, for the purposes of the Duty, as meaning those rights and freedoms of individuals which are protected by the Irish Constitution; by the European Convention on Human Rights Act 2003; and by provisions in other international treaties which have been given “the force of law” in Ireland.

Equality rights arise under the Constitution and international law, and many of the State’s equality and anti-discrimination protections are derived from EU law, including the EU charter on Fundamental Rights and the EU Equality Directives which underpin Ireland’s equality legislation.

In order to process the requirements of the Duty it is important that an organisation has a shared understanding of the key human rights and equality obligations on public bodies and as such a high-level overview of these obligations is outlined below.

Human Rights

Human rights are the basic rights and freedoms that belong to every person. They are based on important values like dignity, fairness, respect and equality.

The Constitution of Ireland

The Constitution is the fundamental legal document that sets out how Ireland should be governed and the rights of Irish citizens. The Constitution identifies a number of fundamental rights in Articles 38-44. These include:

- Right to a fair trial (Article 38.1);
- Equality before the law (Article 40.1);
- Right to Life (Article 40.3);
- Right to liberty (Article 40.4);
- Right to freedom of expression, assembly and association (Article 40.6.); and
- Protection of the family (Article 41).

In addition, the Courts have interpreted the Constitution as including certain other implied human rights. These are referred to as unenumerated rights (not explicitly set out in the Constitution but recognised by the Courts), and include:

- Rights to bodily integrity;
- Right to freedom from torture, inhuman or degrading treatment or punishment;
- Right to work and earn a livelihood; and
- Right to privacy.

European Convention on Human Rights Act 2003

Ireland is a signatory to the European Convention of Human Rights and Fundamental Freedoms (“the Convention”). The Convention was incorporated into Irish domestic law via the European Convention on Human Rights Act 2003 (ECHR Act) which was introduced ‘to enable further effect to be given, subject to the Constitution, to certain provisions of the Convention’. The ECHR Act provides that Irish courts must interpret the law in accordance with the provisions of the Convention. The Convention guarantees specific rights and freedoms, including:



Article 2	Right to life
Article 3	Prohibition of torture and ill treatment
Article 4	Prohibition of slavery, servitude or forced or compulsory labour
Article 5	Right to liberty and security
Article 6	Right to a fair trial
Article 7	No punishment without law
Article 8	Right to respect for private and family life
Article 9	Freedom of thought, conscience and religion
Article 10	Freedom of expression
Article 11	Freedom of assembly and association
Article 12	Right to marry
Article 13	Right to an effective remedy
Article 14	Prohibition of discrimination in the enjoyment of Convention rights
Protocol 1, Article 1	Protection of private property
Protocol 1, Article 2	Right to education
Protocol 1, Article 3	Right to free election.

The Charter of Fundamental Rights of the EU

The Charter of Fundamental Rights of the EU contains 54 Articles on a range of civil, political, and social rights and freedoms under six titles: Dignity, Freedoms, Equality, Solidarity, Citizens' Rights, and Justice.

International Human Rights Treaties

Ireland has ratified a number of international human rights treaties or conventions. It is obliged under international law to ensure – through its law and policies – that the rights set out in these treaties are respected in the State.



Ireland has ratified the following 'core' UN human rights treaties:

- International Covenant on Civil and Political Rights (ICCPR);
- International Covenant on Economic, Social and Cultural Rights (ICESCR);
- Convention on the Elimination of All Forms of Racial Discrimination (CERD);
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW);
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT);
- Convention on the Rights of the Child (CRC);
- Convention on the Rights of Persons with Disabilities (CRPD).

More information can be found [here](#).

Equality

The Equal Status Acts 2000-2018

The Equal Status Acts promote equality and ban discrimination across nine different grounds (categories). These Acts aim to protect individuals from certain kinds of discrimination, harassment, and sexual harassment that can happen in everyday living. The Equal Status Acts do not cover discrimination in the workplace - there are separate Employment Equality Acts in place for that.

The Equal Status Acts 2000-2012 aims to:

- Promote equality;
- Ban certain kinds of discrimination across nine grounds;
- Ban sexual harassment and harassment;
- Ban victimisation;
- Promote 'reasonable' accommodation of people with disabilities; and
- Allow a broad range of positive action measures.

The nine grounds that the Equal Status Acts 2000-2012 ban discrimination are:

- **Gender:** you are entitled to equal treatment whether you are a man, a woman or a transgender person
- **Civil Status:** you are entitled to equal treatment whether you are single, married, separated, divorced or widowed, in a civil partnership or previously in a civil partnership.
- **Family Status:** you are entitled to equal treatment if you are pregnant or the parent or the person responsible for a child under 18 years. This ground also protects those who are the main carers or the parent of a person with a disability who is 18 years or over where their disability requires care on an ongoing basis.
- **Sexual Orientation:** you are entitled to equal treatment whether you are gay, lesbian, bisexual or heterosexual.
- **Religion:** you are entitled to equal treatment no matter what your religious beliefs are or if you don't hold any religious beliefs.
- **Age:** you are entitled to equal treatment if you are any age, so long as you are over 18.
- **Race:** you are entitled to equal treatment no matter what your race, skin colour, nationality or ethnic origin is.



- **Traveller community:** you are entitled to equal treatment if you are a member of the Traveller community.
- **Disability:** you are entitled to equal treatment if you have a disability.

More information can be found [here](#):

The Employment Equality Acts 1998-2015

The Employment Equality Acts aims to protect workers against certain types of discrimination, harassment and sexual harassment that could occur in the workplace and bans discrimination across nine different grounds. The Employment Equality Acts do not cover discrimination in everyday living outside employment – the Equal Status Acts (above) covers this.

The Employment Equality Acts 1998-2016 aims to:

- Promote equality;
- Ban discrimination across nine grounds;
- Ban sexual and other harassment;
- Ban victimisation;
- Make sure suitable facilities for people with disabilities are available in relation to access to employment, advancing in employment and taking part in training; and
- Allow positive action to ensure everyone gets full equality across the nine grounds.

The nine grounds that the Employment Equality Acts 1998-2011 ban discrimination are:

- **Gender:** you are entitled to equal treatment at work whether you are a man, a woman or a transgender person. Special protection is provided for pregnant employees and in relation to maternity leave.
- **Civil Status:** you are entitled to equal treatment at work whether you are single, married, separated, divorced or widowed, in a civil partnership or previously in a civil partnership.
- **Family Status:** you are entitled to equal treatment at work if you are the parent or the person responsible for a child under 18 years. This ground also protects those who are the main carers or the parent of a person with a disability who is 18 years or over where their disability requires care on an ongoing basis.
- **Sexual Orientation:** you are entitled to equal treatment at work whether or not you are gay, lesbian, bisexual or heterosexual.
- **Religion:** you are entitled to equal treatment at work no matter what your religious beliefs are or if you don't hold any religious beliefs.
- **Age:** you are entitled to equal treatment at work if you are any age, so long as you are over the legal school-leaving age.
- **Race:** you are entitled to equal treatment at work no matter what your race, skin colour, nationality or ethnic origin is.
- **Traveller community:** you are entitled to equal treatment at work if you are a member of the Traveller community.
- **Disability:** you are entitled to equal treatment at work if you have a disability. There are different types of disability such as a physical disability, intellectual disability or learning disability. Certain mental health issues may also be a form of disability.

More information can be found [here](#):



EU Equality Directives

The main EU equality Directives are:

- **The Recast Gender Equality Directive (2006)**, which covers equal treatment of men and women in employment;
- **The Gender Goods and Services Equality Directive (2004)**, which deals with equal treatment of men and women in the provision of goods, services and facilities;
- **The Racial Equality Directive (2000)**, which outlaws discrimination on the basis of a person's racial or ethnic origin in the areas of employment, education, social security, health care and access to goods and services; and
- **The Employment Equality Directive (2000)**, which prohibits discrimination in employment on the grounds of religious belief, age, disability and sexual orientation.

The wider EU equality framework includes a range of other directives such as the Maternity and Parental Leave Directive and the Pregnancy Directive.

