



# **EQUAL Community Initiative Submission on the Discussion Paper on Immigration and Residence**



**EUROPEAN SOCIAL FUND:**  
helping develop employment by  
promoting employability, the business  
spirit and equal opportunities and  
investing in human resources

**Key EQUAL proposals in brief**

<ul style="list-style-type: none"> <li>● Place overall policy, legislative and operational responsibility in the Irish Naturalisation and Immigration Service (INIS), including responsibility for the admissions function, the co-ordinated government approach and the development of an integration strategy.</li> </ul>	Page 5
<ul style="list-style-type: none"> <li>● Adopt a collaborative partnership approach across the public, private and third sectors to delivering the whole Government response to immigration and residence.</li> </ul>	Page 6
<ul style="list-style-type: none"> <li>● Develop and implement a comprehensive integration strategy that has regard for the heterogeneity of immigrant communities.</li> </ul>	Page 7
<ul style="list-style-type: none"> <li>● Identify a core set of rights applicable to immigrants.</li> </ul>	Page 9
<ul style="list-style-type: none"> <li>● Where possible, introduce immigration schemes in primary legislation through the representative democratic process. At a minimum, provision should be made for debate on proposed schemes in the Oireachtas.</li> </ul>	Page 10
<ul style="list-style-type: none"> <li>● Clearly define the specific circumstances under which Ministerial discretion can be used.</li> </ul>	Page 10
<ul style="list-style-type: none"> <li>● Introduce an amnesty for undocumented migrants.</li> </ul>	Page 10
<ul style="list-style-type: none"> <li>● Introduce a Customer Service Charter for the application process.</li> </ul>	Page 12
<ul style="list-style-type: none"> <li>● Effectively enforce existing sanctions against employers.</li> </ul>	Page 13
<ul style="list-style-type: none"> <li>● Introduce a statutory entitlement to family reunification.</li> </ul>	Page 14
<ul style="list-style-type: none"> <li>● Provide for the independent status of migrants' spouses.</li> </ul>	Page 15

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**Key Proposals in Brief (i)**

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## 2. The EQUAL Community Initiative in Ireland

The EQUAL Community Initiative, which is part-funded through the ESF (€33.9 million<sup>1</sup>), *seeks to identify and address fundamental forms of discrimination and inequality in connection with the labour market through the development of innovative policies and practices* piloted by the EQUAL Development Partnerships (DPs), all of which have a transnational component.

DPs are collaborative partnerships of committed players that pool their efforts and resources to deliver strategic and integrated responses to multi-dimensional issues of inequality and discrimination. The constituent organisations of EQUAL DPs include the social partners, State and semi-State bodies, Government Departments and community and voluntary sector organisations all working together in pursuit of common objectives.

A total of 21 DPs were funded in Ireland under Round 1 of the EU EQUAL Community Initiative (end 2001 to Mid 2005) and a further 22 are currently being funded under Round 2 (January 2005 to end 2007). A full listing of Round 1 and Round 2 DPs, projects and partners can be found at [www.equal-ci.ie](http://www.equal-ci.ie).

It is important to note that the core identifier of EQUAL is its emphasis on combating discrimination and inequality in the labour market. In that regard, the various actions that are funded typically operate in an existing policy arena (e.g. integrated service provision, work-life balance, lifelong learning) but their particular point of engagement is with a view to ensuring that discriminatory practices are systematically addressed. That may be in the provision of education and training to those aspiring to work or in the recruitment, retention and progression policies at play for those already in work.

Collectively, DPs are pursuing a range of sectoral and/or geographic objectives that relate, *inter alia*, to the absorption of non-nationals into the workplace, education and training provision (including lifelong learning), work-life balance and other issues.

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<sup>1</sup> Total funding available to EQUAL across the member states is €2.3 billion.

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### **1.2 The Structure of EQUAL**

The Managing Authority for EQUAL in Ireland is the Department of Enterprise Trade and Employment. Day-to-day programme management is contracted to the Work Research Co-operative acting as Technical Support Structure for the programme.

### **1.2 EQUAL Principles**

Our work is governed by a set of six principles (see below). In our view, the fact that our work, and therefore our results, are built on and tested through the observance of these principles adds weight to our recommendations. The six EQUAL principles are as follows:

- Partnership
- Innovation
- Empowerment
- Thematic Approach
- Transnationality
- Mainstreaming

Additional information on the six EQUAL principles is provided in Appendix 1. Further information is also available on the EQUAL website: [www.equal-ci.ie](http://www.equal-ci.ie)

## **2. Introduction**

This submission is a Programme level response to the Discussion Paper on Immigration and Residence by the EQUAL Community Initiative as it operates in Ireland and has been co-ordinated by the Technical Support Structure for EQUAL in Ireland. The submission is informed by lessons emerging from the sophisticated and multi-faceted projects delivered by Development Partnerships (DPs) under EQUAL in relation to the participation and integration of immigrants in the labour market and broader concerns in relation to discrimination and inequality in the labour market. The response does not necessarily reflect the views of the Department of Enterprise, Trade and Employment, which is the National Authority for the European Social Fund in Ireland and Managing Authority for EQUAL.

The Government's intention to develop a legislative framework for an effective and comprehensive immigration and residence policy in Ireland and the production of this discussion document are welcomed.

To date, the absence of comprehensive policy has led to an *ad hoc* immigration system characterised by uncertainty and lack of clarity about the administrative requirements; criteria upon which decisions are made and reviewed; as well as the rights and entitlements of non-EEA nationals, their spouses and families, once granted access to Ireland.

There is an onus on the Government now to evaluate the various established immigration systems and ensure the development of the most appropriate immigration system, which maintains the security of the State while ensuring that the rights and entitlements, cultural and religious diversity of immigrants are protected and respected.

### **2.1 The EQUAL Community Initiative in context**

EQUAL is directly engaging with and responding to issues related to the participation and integration of immigrants in the Irish labour market and is generating considerable learning for policy and practice in this regard. Development Partnerships with a particular focus on migrant workers in the labour market under Round 1<sup>2</sup> of EQUAL include:

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<sup>2</sup> There are two funding periods in the EQUAL Programme. The first funding period which provided support to 21 DPs is from end 2001 to mid 2005. The second runs from January 2005 to the end of 2007 and is supporting a further 22 DPs.

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- The Diversity at Work Network (DAWN) ([www.equal-ci.ie/2000/proj/div.html](http://www.equal-ci.ie/2000/proj/div.html)) which supported local business communities to create an intercultural environment in the workplace;
- Westmeath EQUAL Development Partnership ([www.equal-ci.ie/2000/proj/wmeath.html](http://www.equal-ci.ie/2000/proj/wmeath.html)) which engaged with employers, public and private service and support agencies to support and promote the inclusion of migrant workers;
- Interact – Valuing Diversity in the Workplace which addressed enterprise level barriers in the context of promoting a multicultural workforce. Further information is available from [www.interact2.com/interact/about.jsp](http://www.interact2.com/interact/about.jsp)

These particular DPs featured a range of partners including, Chambers of Commerce Ireland, IBEC, ICTU, FAS, Institute's of Technology, the NCCRI, employment networks, County Enterprise Boards, VECs and Health Boards.

Additional DPs with a particular focus on immigrant related labour market issues and the integration of atypical groups are being supported under Round 2 of Equal which commenced in January 2005:

- The EMERGE Development Partnership (<http://www.equal-ci.ie/projects/partas.html>) is focusing on the development and expansion of ethnic minority businesses and assisting ethnic minority entrepreneurs overcome business obstacles and regulation constraints;
- The Equal at Work 2 Development Partnership (<http://www.equal-ci.ie/projects/dep.html>) will develop systems for the recruitment, progression and promotion of an inclusive diverse workforce in the Dublin public employment health sector which is a significant employer of migrant workers;
- The Roma Cultural Mediation project (<http://www.equal-ci.ie/projects/access.html>) is developing a cultural mediation programme which will train members of the Roma community to act as links between the Health and Social Services and their community;
- The Transition Supports Project (<http://www.equal-ci.ie/projects/ecahb.html>) is developing and implementing a system of educational, social and mentoring supports for separated children seeking asylum which will be relevant in the context of promoting integration.

### **3. Structure of the Response**

The EQUAL Community Initiative proposals consist of some more general proposals which relate to the structures required for the effective operation of the immigration system and its underpinning principles. These are followed by responses to some of the more substantive proposals outlined in particular chapters of the discussion paper.

## **4. Co-ordinated Whole Government Approach**

### **4.1 The structure and role of INIS**

The document correctly identifies that there is a need for a whole government approach to the cross cutting nature of immigration related issues. It recognises the need to streamline the admissions system, co-ordinate the legislation of Government Departments and provide an Immigration Integration Unit; however, there are a number of shortcomings in the proposals presented as a means of addressing the confusion and lack of clarity associated with the current system and delivering a whole government approach.

Firstly, the involvement of a number of State bodies in the system of admission is recognised as a complicating factor in the admission system and the need to simplify the admissions system is identified. The Irish Naturalisation and Immigration Service (INIS) has been established as an executive function of the Department of Justice, Equality and Law Reform in response to this. Other than providing an information sharing function it is difficult to see how the INIS, as it currently stands, can streamline the system of admissions.

Secondly, the need to co-ordinate the legislation of the relevant Departments is acknowledged. However, the document does not provide any discussion on the nature and level of co-ordination required nor does it present any proposals concerning possible mechanisms or structures to promote and support this co-ordination. The Bill cannot provide the intended comprehensive treatment of immigration and residence issues in the absence of a permanent mechanism or structure to facilitate the delivery of a whole government response.

Finally, the document briefly refers to a proposal to create an Immigrant Integration Unit to promote and co-ordinate the social and organisational measures across the spectrum of government for the acceptance of immigrants into Irish society. The proposal to establish the Unit is welcomed. However, there is no elaboration on the status of the Unit, where it would be

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placed within Government, the nature of the integration strategy to be developed and implemented by the Unit or what the focus of that strategy would be.

Our proposal is to place overall policy, legislative and operational responsibility for immigration and residence in Ireland in INIS. INIS would then have responsibility for the immigration admissions system and for promoting and supporting co-ordination across Government Departments, including the development and implementation of the integration strategy.

Placing operational responsibility for the admissions system in this centralised body, similar to the Australian system, will reduce the administrative burden of operating the current cross departmental system and should improve the levels of customer service.

INIS should be established as an independent statutory body based upon the model of the Equality Authority, with an independent board representative of the broad range of actors affected by immigration policies. To support the effectiveness of INIS in addressing the range of issues involved it will require complete independence and a command of the full policy remit in relation to the cross-cutting range of immigration and residence related issues.

### **4.2 Adopting a collaborative approach**

The experience of Equal projects employing a collaborative partnership approach has proved extremely successful in effectively addressing complex and cross-cutting labour market issues. The concept of partnership in EQUAL goes beyond the traditional co-ordination or co-operation approaches where the pursuit of individual goals is paramount and co-operative arrangements which facilitate the achievement of these are engaged in. An EQUAL partnership is one where organisations work together to pursue a meta-mission while also pursuing their individual goals.

Factors contributing to the effectiveness of this approach include, ensuring the equal participation of all relevant actors across public, private and third sectors who are committed to pursuing a common purpose and collaboratively developing and delivering strategic responses that address the multi-faceted concerns of partners. The processes engaged in to collectively address the issues and achieve sustainable outcomes are key to the success of this approach and its capacity to deliver upon the meta-mission while having due regard to individual interests.

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The collaborative partnership approach as understood in EQUAL is key to the ability of INIS to effectively address the range of cross cutting immigration issues. It is important that this type of collaborative partnership approach is fostered and promoted within this body and that the effective participation of the social partners and the third sector is provided for.

At a minimum, the following should participate in this structure: the Departments of Justice, Equality & Law Reform; Enterprise, Trade & Employment; Foreign Affairs; Education & Science; Health & Children; Community Rural & Gaeltacht Affairs; and Social & Family Affairs in addition to the Immigrant Council of Ireland, The National Consultative Committee on Racism and Interculturalism, FAS, Comhairle, ICTU, and IBEC.

In this regard, the model of interagency protocols developed under the Blanchardstown Equal Initiative ([www.equal-blanchardstown.ie/](http://www.equal-blanchardstown.ie/)) to facilitate and support effective inter-agency working of statutory and voluntary groups to deliver quality services and supports has particular relevance. Here, partners collaborated to establish clear inter-agency protocols and seamless working relationships with a view to enhancing the outcomes for the client group. (Further details of this Initiative are provided in Appendix 2)

### **4.3 Development and implementation of an integration policy**

In addition to housing the proposed Immigration Integration Unit within INIS, there are a number of particular lessons from the EQUAL programme that can inform the development and implementation of a comprehensive integration strategy. The experience of EQUAL projects engaging with migrant workers has pointed to a clear need for a comprehensive integration strategy that has regard to the heterogeneity of the migrant community and targets all of Irish society as a central aspect of an immigration system

The learning from the Interact EQUAL Project ([www.interact2.com/interact/about.jsp](http://www.interact2.com/interact/about.jsp)) is particularly relevant in the context of developing and implementing an integration strategy, particularly as it relates to migrant workers. One of the key findings from this project pointed to the need for informed discussion on, and the development of, an Irish integration policy.

The Interact partnership comprised IBEC, ICTU, Integrate Ireland Language and Training, and FAS and it focused on addressing the challenges presented in developing a multicultural workforce and addressing some of the enterprise level barriers experienced. In this regard the

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project engaged with employers, trade unions, and Irish and migrant workers in workplaces. The partnership worked with three sectors where migrant workers are well represented: medical/health services sector; catering/hospitality sector; and the food processing/horticulture sector.

The project researched the issues of concern for both migrant and Irish workers in an intercultural workplace. The findings include the following:

- The need for thorough induction or orientation programmes for migrant workers coming to live and work in Ireland;
- The need for interventions to inform and support Irish workers, including information and awareness raising programmes;
- The need for English language interventions and supports;
- The need for access to clear and accurate information on the immigration policy, operational aspects of the system, the obligations, rights and entitlements of both migrant workers and employers; and
- The need for training and other interventions early in the integration process.

The project produced useful supports and resources that have assisted in promoting an intercultural workplace and the integration of migrant workers within the workplace including,

- Guidelines for induction programmes for migrant workers incorporating issues such as statutory rights and entitlements, organisational payment procedures, the pay and tax systems, training and qualification opportunities, organisational equality policies, information about trade unions, and the operation of the work permits system;
- Workplace language courses;
- Diversity management training for trainers, managers, union officials and shop stewards;
- A self assessment diagnostic package to enable businesses review their compliance with good practice in relation to the employment of non Irish nationals in their workforce; and
- The development of comprehensive information on migration related issues.

Further issues that need to be addressed in a national integration policy were identified through the work of Westmeath EQUAL Development Partnership ([www.equal-ci.ie/2000/proj/wmeath.html](http://www.equal-ci.ie/2000/proj/wmeath.html)), which researched the needs of migrant workers and their families in Co Westmeath. Members of this Development Partnership have undertaken further work on a regional basis with three neighbouring counties to address the issues highlighted below.

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The project found that migrant workers tend to remain 'invisible' and marginalised, are not linked into any community structures and only engaged with existing organisations when problems arose. The project concluded that service and support organisations need to proactively target migrant workers in the area of information provision about their rights and entitlements. All frontline service providers need to receive awareness raising training, including anti-racism training.

The project also concluded that organisations that work with migrant workers have typically developed their supports and services in an *ad hoc* way. In this regard organisations are looking for guidance in terms of developing their work in a systematic and strategic way. The project recommends that sustainable resources must be made available in order to support the development of welfare rights work and community development work with migrant communities.

## **5 Legal certainty, transparency and accountability**

### **5.1 Underpinning principles**

The principle of legal certainty needs to underpin this legislation. There are a number of proposals that do not respect this principle, do not ensure accountability of the Minister and, if implemented, will seriously compromise the integrity of the immigration system.

### **5.2 Identify a set of core rights**

There needs to be clarity and certainty around the obligations, rights and entitlements of immigrants from their application through to their acceptance and participation in Irish society. It is not proposed to identify in the Bill any substantive rights to which individuals entering the State under the immigration system are entitled. Rather, the Bill will provide a definition of legal residence upon which other Departments will determine rights and entitlements.

At a minimum, the Bill should identify a core set of rights and entitlements to which immigrants are entitled in line with the principle of legal certainty and in order to develop an immigration system that is clear and transparent. In the absence of identifying a core set of rights and

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entitlements the Bill will not be an adequate response to the need for a comprehensive Irish immigration policy

### **5.3 Ministerial discretion**

It is welcomed that the Bill will outline the circumstances under which Ministerial discretion can be exercised. To ensure clarity and transparency of the system and the accountability of the Minister, there needs to be clear and unambiguous statements of the specific circumstances under which the Minister can exercise this discretion.

### **5.4 Extensive scope for the introduction of secondary legislation**

Provision is made for the introduction of an extensive range of immigration schemes under secondary legislation in the proposals, for example, in relation to family reunification, economic migration, admission of researchers and schemes for the purposes of self employment. Given the fundamental importance of maintaining the security and safety of the State and the primacy of this concern in the current context, the proposal to grant such extensive ministerial power to prescribe various immigration schemes in secondary legislation or other form is problematic.

Where possible, these schemes should be introduced in primary legislation through the representative democratic process. This will ensure that there is an opportunity for elected representatives to debate the schemes before they are introduced thereby respecting the principle of democracy. Where it is not proposed to introduce schemes through primary legislation, at a minimum, provision should be made for the debate and discussion of proposed schemes in the Oireachtas.

## **6 Response to undocumented or irregular migrants in Ireland**

The United States is now considering granting an amnesty to those migrants in the country without the necessary documentation which should benefit large numbers of undocumented Irish nationals. The Irish Government has supported the introduction of this measure by the US Government.

It would be disingenuous in the circumstances if Ireland were not to propose a similar amnesty to the proportionately fewer undocumented immigrants in Ireland. The Government should take the opportunity with this Bill to grant an amnesty to those in the state without appropriate

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documentation. Once regularised and included within the new administrative system the State will then be in a position to monitor the status of these individuals in future.

### **7 Overall Objectives and Basic Principles (Chapter 2)**

The discussion document names the objectives and principles upon which the immigration system will be based; these are focused on maintaining the security of the state and the states international relations, the management and administration of the system and the protection of human rights and ensuring fair treatment of persons.

#### **7.1 Due regard to rights of immigrants**

While recognising the imperative of maintaining the safety and security of the State and the sovereign right of the State to control the entry of non nationals into the country, the Government must ensure that due regard is paid to the rights and entitlements of those using the system when exercising this imperative. Having due regard to the rights and entitlements of immigrants will facilitate the State's efforts in establishing Ireland as an attractive option for those eligible under the permanent migration system proposed.

### **8. Structure of the Bill (Chapter 3)**

#### **8.1 Principles to guide the Minister**

The proposal to include principles to guide the Minister in formulating immigration policies and the provision of a process for making statements on immigration policy public is welcomed as is the statutory obligation on immigration decision-makers to have regard to the principles and statements on immigration policy in the performance of their duties.

## **9. Visas and Pre-entry clearance (Chapter 4)**

### **9.1 Provision of reasons for refusal**

As pointed out earlier, transparency of the system must be ensured. The current practice of only providing unsuccessful applicants with the reasons for refusal upon request is inadequate. We welcome proposals to include provision within the Bill to provide unsuccessful applicants with reasons for refusal and details of the review or appeals procedures applicable as a matter of course.

### **9.2 A timeframe for responses to applications**

The discussion paper states that there will be a commitment to respond to applications as quickly as possible and asserts that it would not be possible to guarantee a response within a particular timeframe as individual applications may be complex. The discussion paper proposes that the Minister set customer service standards for the operation of the visa service but that these should not be a matter for legislation. At a minimum, it should be possible under the legislation to commit to providing a response within a defined timeframe for those who have complied with all administrative and procedural requirements. In addition, there should be a statutory obligation on the Minister to develop a Customer Service Charter that includes clear and defined timeframes for making a final determination on applications received.

## **10. Admission for the purposes of work, self-employment and research (Chapter 7)**

### **10.1 Permanent migration system**

The current policy of the Department of Enterprise, Trade & Employment is to encourage employers to meet their low skilled needs from within the expanded EU and it is anticipated that in future the demand for labour from outside the EEA will be mainly in relation to high skilled employment either through the work permit system or the work visa/authorisation system which currently covers health professionals, construction and engineering professionals or IT professionals only.

## **10.2 High level of rights guaranteed**

In this context, the paper proposes that a more permanent migration option should be made available to attract high skilled workers and that this could be used as a system to select potential future citizens and not just workers. The introduction of a permanent migration system is to be welcomed if it provides a level of rights similar to those enjoyed by Irish citizens as it moves away from the treatment of individuals as temporary units of labour to satisfy the needs of the market and acknowledges the contribution these individuals can make to Irish economy and broader society. Being assured of the permanence of their status and the guarantee of a high level of rights should also support the integration of these immigrants into Irish society.

A permanent migration system granting a high level of rights should act as an alternative to seeking citizenship as a means of ensuring the protection of their rights and the security of their status. Acquisition of citizenship may not be desired by an individual nor would an application for citizenship be appropriate if the country of origin does not permit dual citizenship and the immigrant does not want to rescind citizenship of the country of origin. Clearly, the option to acquire citizenship through naturalisation should be available if that is the preferred option.

## **10.3 Employer Sanctions**

The discussion paper states that there may be a need to introduce further sanctions against employers; however, consideration should first be given to providing for the rigorous enforcement of existing sanctions as an effective deterrent for employers employing undocumented migrants.

Ruhs points to the failure to punish employers who illegally employ migrant workers as one of the key factors leading to illegal immigration and undocumented working and he highlights the importance of employer sanctions as a means of addressing the demand for illegal immigration<sup>3</sup>

The Employment Permits Act 2003 provides for employer sanctions of up to €250,000 and/or up to 10 years imprisonment for employers who employ non-nationals other than in accordance with the employment permits system. There are three recorded convictions against employers under the Employment Permits Act 2003<sup>4</sup>. In the course of preparing this submission we were unable to obtain information on the level of sanctions imposed in these particular cases; it is difficult, therefore, to comment on the deterrent effect of sanctions when enforced.

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<sup>3</sup> Managing the Immigration and Employment of Non-EU Nationals in Ireland. Martin Ruhs 2005

<sup>4</sup> Ruhs p24

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The current lack of effective enforcement of existing sanctions is supported by the findings of the DAWN EQUAL project (Appendix 3) that there is a need to address the exploitation of migrant workers by employers by providing for active and effective monitoring for exploitative employment practices, the imposition of sanctions when abuses are established and the publication of names of offending employers.

Effective enforcement of existing sanctions requires the allocation of sufficient human and financial resources. The announcement by Minister for Enterprise, Trade and Employment in May 2005 that the Labour Market Inspectorate is to be increased to 31, a 50% increase to the existing complement of the Inspectorate, is welcomed. However, there is a commitment in the National Action Plan Against Racism to increase this number to 70 which will further improve the capacity of the State to pursue offending employers. The Government must now ensure that this level is achieved as a matter of priority.

In the context of combating exploitative employment practices, the proposal in the Employment Permits Bill 2005 to grant the employment permit to the non-national applicant and not the employer is positive.

## **11. Admission for the purposes of family reunification (Chapter 9)**

### **11.1 Family reunification is key**

There is currently no Irish legislative provision covering family reunification for non-EU nationals. The Immigrant Council of Ireland's annual figures indicate that family reunification is the issue of most pressing concern to immigrants in Ireland.

Family reunification rights are key to the implementation of an immigration system which values the migrant worker as an individual and not solely as a unit of labour. Reunification rights are also important in promoting and facilitating the integration of migrants into Irish society. This is supported by the research findings of the Interact EQUAL Project<sup>5</sup> that show that long term integration can be hampered by limited possibilities for family reunification and limited entitlements to work for family members where reunited.

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<sup>5</sup> Promoting an Intercultural Workplace: Building on Diversity. Report on the Experience of Irish and Migrant Workers. (2003) Copy enclosed with submission.

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It is welcomed that the discussion paper recognises the need to develop family reunification within the framework of an overall immigration policy. However, the paper proposes to introduce an entitlement to apply for family reunification in secondary legislation (long term or permanent migrants) or in ministerial schemes (admission of family members in other cases).

Given the significance of family reunification, the Government should introduce a statutory entitlement to family reunification in primary legislation similar to that provided in section 18 of the Refugee Act 1996 for recognised refugees.

### **11.2 Independent status of spouses**

In the context of family reunification, the issue of the status of migrants' spouses needs to be addressed. Currently not all spouses are necessarily entitled to work or assured of independent status in their own right. This has the potential to leave spouses in an invidious position if they cannot avail of public services or are denied the protection of Irish law because of an anomaly in their status. For example, the spouse of a migrant worker experiencing domestic violence may feel constrained by her dependent status to seek appropriate sanctions or supports. There is an onus on the Government to ensure that the independent status of migrants' spouses is guaranteed in the proposed legislation.

## **12. Residence permits (Chapter 11)**

### **12.1 Single administrative process for residence work permits and visas**

We are in favour of having a single administrative process resulting in a person securing residence and work permits and visas. We envisage that this would be an aspect of the work of our proposed centralised operational function of the admissions system under INIS. This will reduce the administrative burden associated with the operation of the system, introduce greater clarity and certainty for users of the system and should improve the level of customer service provided.

### **12.2 Long term residence status**

As acknowledged in the document, there is currently no secure status of 'long term residence' or 'permanent residence'. The two current options available to secure permanence in Ireland are problematic.

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An application to acquire citizenship through naturalisation can be made after five years residence in Ireland. Citizenship through naturalisation is granted at the absolute discretion of the Minister Justice, Equality & Law Reform. The current processing time for such applications is approximately 24 months. It may not be possible for the individual to retain dual citizenship and they may not want to give up citizenship of their country of origin.

An individual can apply for permission to remain without condition as to time once they have been legally resident in the country for eight years. This permission is also granted on a discretionary basis and exempts the worker from the work permit requirements. It does not grant the migrant worker any rights greater than those of a non-EEA national on a temporary work permit.

Providing a legislative basis for acquiring long term residence status is welcomed. It is proposed that this status be granted subject to the applicant satisfying certain conditions. It is reasonable that the grant of long term residence not be an automatic entitlement but that it be subject to conditions. However, the document does not indicate what these conditions are nor does it indicate whether the conditions will be included in the Bill or provided for in secondary legislation. The general conditions an applicant has to satisfy should be laid down in the legislation. Similarly, the general grounds upon which a refusal can be based should be indicated in the Bill. This will ensure the transparency and clarity concerning the entitlement to long term residence.

As stated earlier in relation to the permanent migration system, the option of securing long term residence status should be an alternative to the acquisition of citizenship, allowing the individual to choose the most appropriate option for their circumstances.

September 2005

## **Appendix 1**

### **Summary of EQUAL Proposals**

The EQUAL Community Initiative proposals consist of some general proposals which relate to the structures required for the effective operation of the immigration system and principles which should underpin that system. These are followed by responses to some of the more substantive proposals outlined in particular chapters of the discussion paper.

Firstly, in relation to the structures required for the effective operation of an immigration system the EQUAL Programme makes the following comments and proposals:

- Place overall policy, legislative and operational responsibility in the Irish Naturalisation and Immigration Service (INIS), including responsibility for the admissions function, the co-ordinated government approach and the development of an integration strategy. INIS should be set up as an independent statutory body similar to the Equality Authority with complete command of the policy remit in relation to the cross-cutting range of immigration and residence related issues;
- Adopt a collaborative partnership approach to delivering the whole government response to immigration and residence ensuring the equal participation of relevant actors from the public, private and third sectors. The model of inter-agency protocols developed by the Blanchardstown Equal Initiative (<http://www.equal-blanchardstown.ie/>) could facilitate effectively addressing the range of cross-cutting issues; and
- The Immigrant Integration Unit, under the remit of INIS, should develop and implement a comprehensive integration strategy. The strategy should have regard to the heterogeneity of immigrant communities and should target the full spectrum of members in Irish society.

In line with the principles of legal certainty and Ministerial accountability, the following comments and proposals are made:

- At a minimum, the Bill should identify a core set of rights and entitlements applicable to immigrants;

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- The discussion paper proposes that the Bill include the circumstances under which Ministerial discretion can be exercised. The Bill must include clear and unambiguous statements of the specific circumstances under which this discretion can be exercised; and
- Provision is made for introduction of an extensive range of immigration schemes in secondary legislation. Where possible, these schemes should be introduced in primary legislation through the representative democratic process. At a minimum, provision should be made for debate of the proposed schemes in the Oireachtas.

On the substantive points raised in the discussion document the EQUAL Programme makes the following comments and proposals:

- The Government must ensure that due regard is paid to the rights and entitlements of those using the immigration system when exercising its imperative to maintain the security of the State;
- At a minimum, it should be possible under the legislation to commit to providing a response to applicants within a defined timeframe, especially for those who have complied with all administrative and procedural requirements. In addition, there should be a statutory obligation on the Minister to develop a Customer Service Charter that includes clear and defined timeframes for the full determination of applications received;
- The introduction of a permanent migration system is to be welcomed if it provides a level of rights similar to those enjoyed by Irish citizens;
- Consideration should first be given to providing for the rigorous enforcement of existing sanctions as an effective deterrent to employers employing undocumented migrants before additional sanctions are introduced. This requires the allocation of a sufficient level of human and financial resources;
- The Bill should introduce a statutory entitlement to family reunification in primary legislation similar to that provided in section 18 of the Refugee Act 1996 for recognised refugees;

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- There is an onus on the Government to ensure that the independent status of migrants' spouses is guaranteed in the proposed legislation; and
- The general conditions an applicant has to satisfy to be granted permanent residence status should be laid down in the Bill. Similarly, the general grounds upon which a refusal can be based should be indicated in the Bill.

## **Appendix 2**

### **The EQUAL Community Initiative**

EQUAL is one of four Community Initiatives co-financed by the European Union (2000 – 2008). The Programme is co-funded through the European Social Fund (ESF) and will operate between 2001 and end 2007, with a total ESF budget for Ireland of 34million euro.

EQUAL seeks to identify and address fundamental forms of discrimination and inequality in the labour market through the development of new and innovative policies and practices initiated by EQUAL Development Partnerships.

EQUAL forms part of the overall strategy to ensure that the European Social Funds reflect the policy objectives of the European Employment Strategy with the ultimate aim of developing learning for policy and practice at national and EU level.

The Managing Authority (MA) for EQUAL is located at the Department of Enterprise Trade and Employment. The MA has overall responsibility for the management of the programme. WRCsec provides technical support to the MA. In that capacity, WRCsec is what is known as the National Support Structure (NSS) for EQUAL in Ireland. The NSS acts as a direct interface between the MA and selected projects.

### **The six EQUAL Principles**

The EQUAL Programme is underpinned by six key principles: partnership, innovation, empowerment, thematic approach, transnational co-operation and dissemination and mainstreaming.

### **Partnership**

EQUAL funds activities implemented by strategic partnerships. These are called Development Partnerships. Development Partnerships bring together interested actors, with relevant competence, to co-operate in the development of integrated approaches to multi-dimensional problems. The partners work together to identify the factors leading to inequality and discrimination in the labour market. They pool their efforts and resources in pursuit of innovative solutions to jointly defined problems and common goals.

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Development Partnerships are either geographical partnerships or sectoral partnerships. Geographical partnerships bring together relevant actors in a given geographical area, for example a city, a defined rural area, a local authority area or a travel-to-work area. Sectoral partnerships cover particular economic sectors or industries. If justified, they may relate to one or more specific group amongst those subject to discrimination or inequality.

### **Innovation**

EQUAL tests innovative approaches to policy delivery. These may be completely new approaches or the transfer of elements from elsewhere, that increase the effectiveness of policy delivery.

The definition of innovation in EQUAL is based on the typology that emerged from the evaluation of EMPLOYMENT and ADAPT, which differentiated between three types of innovation:

- process-oriented innovations that cover the development of new methods, tools or approaches as well as the improvement of existing methods
- goal-oriented innovations that centre around the formulation of new objectives and may include approaches to identify new and promising qualifications and opening up new areas of employment
- context-oriented innovations that relate to political and institutional structures and are concerned with system development in relation to the labour market.

### **Empowerment**

The principle of empowerment is central to each Development Partnership. This means that those involved in the implementation of activities also take part in the decision making. A partnership will be much more effective when all the partners participate fully in decision-making. Experience has also shown that the involvement of those targeted for support can ensure that the activities undertaken are relevant and client centred.

### **Transnational Co-operation**

EQUAL is based on the principle of transnational co-operation. The experience gained under the Community Initiatives EMPLOYMENT and ADAPT shows that transnationality can bring significant added value and policy innovation.

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All Development Partnerships must have at least one formal partner in another Member State. In most cases this will be another EQUAL funded partnership, preferably one working in the same thematic field.

### **Mainstreaming**

Mainstreaming refers to the potential for the Development Partnership to inform or influence policy and practice. They may do so in a number of ways, for example, by contributing to knowledge about the needs of the target group, by identifying ways to make existing policy more responsive to the needs of the target group, by demonstrating the effectiveness of new forms of delivery and so on. Mainstreaming is the key strategic purpose of EQUAL with particular reference to the European Employment Strategy and, in turn, the National Employment Action Plan process.

### **Thematic Approach**

EQUAL is broadly structured and designed in line with the four-pillar approach of the European Employment Strategy (employability, adaptability, equal opportunities and entrepreneurship) with an additional pillar focusing on Asylum Seekers

#### **Employability**

*Theme A:* Facilitating access and return to the labour market for those who have difficulty in being integrated or reintegrated into a labour market that must be open to all.

- Entrepreneurship

*Theme C:* Opening up the business creation process to all by providing the tools required for setting up in business and for the identification and exploitation of new possibilities for creating employment in urban and rural areas.

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#### **Adaptability**

*Theme E:* Promoting lifelong learning and inclusive work practices which encourage the recruitment and retention of those suffering discrimination and inequality in connection with the labour market.

*Theme F:* Supporting the adaptability of firms and employees to structural economic change and the use of information technologies and other technologies.

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**Equal Opportunities**

*Theme G:* Reconciling family and professional life, as well as the reintegration of men and women who have left the labour market, by developing more flexible and effective forms of work organisation and support services.

**Asylum Seekers**

Supporting the social and vocational integration of Asylum Seeker.

**Further information on the EQUAL Community Initiative Programme in Ireland is available from [www.equal-ci.ie](http://www.equal-ci.ie)**

## Appendix 3

### Blanchardstown EQUAL Initiative

#### Blanchardstown Equal Inter-agency Initiative

The Initiative recognised the need to establish a collaborative approach to providing quality supports and services to its client group by bringing together eight statutory and voluntary agencies working with the client group to establish clear inter-agency protocols and seamless working relationships with a view to enhancing the outcomes for the client group. The Initiative demonstrated significant increases in co-ordinated activities across the eight agencies involved, reduced duplication of effort, and improved levels of satisfaction among the client group.

The model which informed the Initiative identified **five steps for inter-agency work**:

1. Creating a Common understanding and a Way of Working Together  
An inter-agency steering group comprising senior people from all participating agencies who were committed, had a high level of ownership and prior experience of interagency working, and were willing to participate was the foundation for the success of the Initiative.
2. Information and Resources  
The allocation of appropriate level of resources to support the establishment and effective operation of inter-agency protocols, including information sharing and clear communication flows.
3. Strategy and Work Plan  
Developing and agreeing a high level aim, clear and practical objectives and associated actions along with identification of desired outcomes will facilitate the work of agreeing protocols
4. Putting Plans into Action  
This involves the practical work of drawing up necessary protocols and should include a pilot period after which protocols are amended or refined as required to reflect the practicality of their implementation.
5. Evaluating the Process and Outcomes  
An internal or external evaluation of the effectiveness of the protocols should inform the future development of the inter-agency co-ordination.

The process involved in creating the seamless working relationships and developing and agreeing

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the protocols in this initiative is acknowledged as one of the key success factors, for example, the use of an independent facilitator to broker agreement, participative working methods, building collaborative approaches and common understandings and interpersonal relationships through workshops.

**Further information is available at [www.equal-blanchardstown.ie/](http://www.equal-blanchardstown.ie/)**

## **Appendix 4**

### **DAWN EQUAL Project**

The Diversity at Work Network (DAWN) was a partnership between the Chambers of Commerce Ireland, the National Consultative Committee on Racism in Ireland and the Institute of Technology Blanchardstown

The Diversity At Work Network created a range of supports for local businesses to create an intercultural environment within their organisation. The project has a particular focus on companies employing migrant workers.

DAWN Project Initiatives have included:

- Development of local diversity networks in Cork, Monaghan and South County Dublin to support local business communities to develop diversity strategies
- Action based research and labour market surveys
- **Diversity at Work**, an accredited third level diversity training module
- Diversity at Work Training Program

The project produced 'Managing Diversity in the Workplace' a handbook providing practical guidance for those recruiting and employing migrant workers in Ireland and covers issues related to recruitment, employment permits and employment rights; managing a diverse workforce; and developing an intercultural workplace policy.

**Further information is available at [www.equal-ci.ie/2000/proj/div.html](http://www.equal-ci.ie/2000/proj/div.html)**