
CASE STUDIES OF COMPLAINTS

**MADE UNDER THE EQUALITY/
ANTI-DISCRIMINATION LEGISLATION**

A. CASES FROM IRELAND

CASE ONE

Edward Reilly, a Traveller, lost his job and applied Supplementary Welfare Allowance (SWA) at his local Health Centre. His claim was processed and a cheque sent to him by post. A month later he returned to his local Health Centre to find out why he hadn't received a second cheque. When he told the Community Welfare Officer (CWO) that he lived in a bungalow in front of a halting site, he was told he would have to go to a central unit in Dublin city which deals specifically with SWA payments to Travellers. It was explained that this was Health Board policy.

Mr Reilly explained to the CWO that he lived in a house and expressed his preference to have his claim handled locally. The Community Welfare Officer stated that he could not process the complainant's claim locally. Mr Reilly and his family regularly had to attend at the central unit for payment. The condition of the central unit is poor and access is difficult for him and his family, particularly given their specific circumstances.

Mr Reilly claimed that the segregation of him as a Traveller from other members of the community was unnecessary and marked him and his family out as different and was discriminatory.

Consider

- ⇒ Did anyone act against the law? If so, which law?
- ⇒ What do you think should be the outcome of the case?

CASE TWO

Karol Doherty, a wheelchair user, regularly took the bus from Derry to Dublin over a period of one year. The bus service was jointly run by bus Éireann and Translink. Passengers needing wheelchair access were asked to give 24 hours' notice before travelling. All of the Bus Éireann buses are equipped with wheelchair lifts, and Translink had the same lifts or used a low floor bus.

When Karol requested access to Bus Éireann buses, he had been told that the wheelchair lifts could not be used and he would have to be lifted onto the bus by the bus driver. He was told that the drivers had not been trained in the use of the lift. Karol described how he had to drag himself on the steps of the bus "on his bum", which was clearly unhygienic, degrading, humiliating and very embarrassing to him. At no point had Bus Éireann consulted with Karol to see if they could find a solution to the issue.

He claimed that Bus Éireann had not made reasonable efforts to provide him with an accessible service and that he had been discriminated against on the grounds of disability.

Consider

- ⇒ Did anyone act against the law? If so, which law?
- ⇒ What do you think should be the outcome of the case?

CASE THREE

Lee, a secondary school student was about to complete 5th year and had a couple of days of exams left before his summer holiday. His father got a phone call from the school at 9.05 am on 2 June 2010 informing him that his son had red hair colour in his hair, which was against the school's code of conduct. Lee could not be allowed in the classroom while he had this dye in his hair and the school was sending him home. The father asked whether the school really was going to stop Lee from sitting his examinations with just a few days to go. The school replied that Lee had brought this on himself and that he was aware of the school rules.

Lee- whose band was performing over the coming weekend - had dyed his hair for the occasion. As he had dyed his hair black for the previous two years he did not think much of it.

The father asked why the rules only applied to boys and not girls. The Principal replied that the rules had been there before he had become Principal and that the current rules had the full backing of the Board of Management. The Vice Principal gave feeble reasons why there was a difference in the treatment of boys and girls.

Lee said he would have obeyed the rule if it had also applied to girls, but as it didn't and some girls were in school with blue dye in their hair, he found the rule unfair. His father argued that the school ought to have just allowed his son to sit his exams and ignore the disputed rule, particularly as it was unfair. His son was a model student and he had not done anything seriously wrong.

Lee did not return to the school after the summer holidays. He claimed that he was blanked by teachers during the holidays and, as the rules had not changed, there was no point in returning. As a result, Lee has not completed his secondary education.

Consider

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CASE FOUR

Julie O'Brien was employed by O'Callaghan Hotels as Director of Sales and Marketing in May 2003. Under her direction, accommodation sales increased by 39% in four years and O'Callaghan Hotels won a number of prestigious hospitality awards. Julie was aware of a sexist attitude in the company. She became pregnant in 2004 and went on maternity leave in early 2005. During this maternity leave and after the birth of her second child in 2008, she was not replaced and she was put under pressure to work during her maternity leave. She estimated she worked between 4-5 hours every day during both these periods. Before returning to work after her second child's maternity leave, she made a request to work a 4 day week. The reaction of the General Manager was so excessively negative that she intended to resign after her return. She also asked him at this meeting would her employment continue if she had a third child. He said he would prefer her not to be on the staff if she had a third child.

On her return, the General Manager apologised and she wrote to him stating her commitment to the job. At this time, the recession began to affect business and she was concerned she might be made redundant.

When she became pregnant again on 2009 and said that she did not want to work during this maternity leave, it was suggested that she take paid 'early maternity leave'. She was sent an agreement to sign which said she would finish working for the company after her baby was born. She refused to agree to this, but was put under such intolerable pressure to sign this agreement during eleven meetings in two weeks that she had to take sick leave due to stress. While on sick leave, she was informed that her salary would terminate shortly after her baby was due. Access to her mobile phone was blocked and her staff fuel card revoked.

Shortly after this she wrote to the company to state that she would be resigning at the end of her maternity leave. Her baby was stillborn at 28 weeks and she suffered an acute grief reaction which was compounded by the work-related stress.

Consider

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CASE FIVE

Irene Feore made a complaint to the Equality Tribunal in relation to her employment by the Alzheimer society of Ireland. She held the position of Nurse Manager in Drimnagh Care Centre which she set up and managed. In October, 2002 she got sick and was absent from work for a period of one year. When she received a certificate of fitness to return to work from her GP she informed the Alzheimer Society and asked for a return to work date. The society failed to confirm a return to work date and told her that her position as Nurse Manager in the Drimnagh Care Centre no longer existed. They offered her a part time nursing position at a lower salary. Ms Feore argued that it was only because of her absence on sick leave that the Society got rid of the Nurse Manager position in the Drimnagh Care Centre. She also argued that the society failed to provide reasonable accommodation in relation to her request for part-time work initially. The Society denied the allegations.

Consider

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- ⇒ What do you think should be the outcome of the case?

DECISIONS

CASE ONE DECISION

The Tribunal found that there had been discrimination on the Traveller ground. The man was awarded €6,350 in compensation. The Tribunal ordered that the HSE make arrangements for the SWA payment to be made at his local Health Centre. It also ordered that the HSE arrange that SWA be paid to Travellers at all centres where non-Travellers can be paid.

See <http://www.equalitytribunal.ie/Database-of-Decisions/2007/Equal-Status-Decisions/DEC-S2007-059-Full-Case-Report.html> for the full report.

CASE TWO DECISION

The Tribunal found that Karol Doherty had been discriminated against on the grounds of disability and he was awarded €1,000 in compensation. Bus Éireann guaranteed to have a fully accessible service in operation within a few months.

See <http://www.equalitytribunal.ie/Database-of-Decisions/2011/Equal-Status-Decisions/DEC-S2011-052-Full-Case-Report.html> for the full report.

CASE THREE DECISION

The Equality Officer found that the school had unfairly discriminated against Lee and awarded him €150 compensation for the discrimination arising from outdated policy.

See <http://www.equalitytribunal.ie/Database-of-Decisions/2012/Equal-Status-Decisions/DEC-S2012-009-Full-Case-Report.html> for the full report.

CASE FOUR DECISION

The Equality Officer found that the company (O'Callaghan Hotels)

- ⇒ Harassed Julie O'Brien on the ground of gender and family status and that this was discrimination regarding her conditions of employment
- ⇒ Discriminatorily dismissed her on the grounds of gender and family status
- ⇒ Victimised her

The Equality Officer ordered O'Callaghan Hotels to pay Julie O'Brien €220,500 (the equivalent of 21 months' salary) in compensation for the harassment and discriminatory dismissal and €94,500 (the equivalent of 9 months' salary) in compensation for the distress caused by victimisation.

See <http://www.equalitytribunal.ie/Database-of-Decisions/2012/Employment-Equality-Decisions/DEC-E2012-010-Full-Case-Report.html> for the full report.

CASE FIVE DECISION

The Equality Officer found that Ms Feore was discriminated against on the grounds of disability in two ways:

- ⇒ When she was not given a return to work date to the position of Nurse Manager in Drimnagh Care Centre
- ⇒ When it failed to provide her with reasonable accommodation and allow her return to work on a phased basis.

The Equality Officer ordered the Alzheimer Society to offer Ms Feore her full-time position of Nurse Manager and awarded her €20,000 compensation for stress suffered as a result of the discrimination.

See <http://www.equalitytribunal.ie/Database-of-Decisions/2006/Employment-Equality-Decisions/DEC-E2006-010-Full-Case-Report.html> for the full report.

CASES TAKEN IN NORTHERN IRELAND¹

CASE ONE

A gay man contacted the Equality Commission and alleged that he was subjected to homophobic harassment at work. In February 2009 he alleged that whilst he was taking his lunch break in the office, his line manager asked him to “tone down his gayness.” He had been chatting with two other employees when he alleges that this comment was made. The man describes feeling very belittled and uncomfortable and replied “Well I am what I am.”

The man raised a grievance with his employer and alleged that he was moved to another team. He describes feeling that he was being punished for raising the grievance and unhappy that he, as the victim, was moved.

Consider

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CASE TWO

A Catholic woman aged 27 was employed in a car business. In 2008 she contacted the Equality Commission because she felt she had suffered sexual and religious harassment and less favourable treatment in relation to getting a company car. At the time she was the only female working at the site and said there was constant harassment by an older man working there who repeatedly hugged, grabbed, kissed her and had also shown her pornographic video on his mobile phone. She said for 18 months, the man made offensive religious and sexual remarks, used foul language and was aggressive to her. Eventually the woman had to take sick leave due to the stress.

When the female employee had complained to management she said no action was taken. Instead she said she was told to get used to it, it was an industrial environment and that it was just the man’s ‘Manner.’

Consider

- ⇒ Did anyone act against the law? If so, which law?
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¹These case studies are reproduced from *No Offence But... a Short Magazine Exploring Prejudice and Equality Locally* published by Derry City Council Good Relations Programme, and are used with permission. The full magazine can be accessed at <http://www.derrycity.gov.uk/DerryCitySite/files/a1/a19c1df7-3f12-4549-bf85-e6df351477ca.pdf>

CASE THREE

A man who is a black African, and had lived in Northern Ireland for 13 years, went to a bar with a friend. They bought a beer and a soft drink which they took out to the beer garden. After buying more drinks the man was accused of drinking 'a carryout'. He felt shocked and embarrassed. He denied the accusation and complained to the manager but received no satisfaction. He had also offered to let the staff look in his rucksack to show he wasn't hiding alcohol. He believed that this treatment was because he and his friend were the only black people there and he was so offended he left the bar. In an attempt to sort out the matter he wrote a letter of complaint to the owners saying that his treatment was racist. Instead of getting an apology, he got a solicitor's letter back threatening court if he repeated his allegations of racial abuse to anyone else.

Consider

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CASE FOUR

A 17 year old girl with Spinal Muscular Atrophy and her parents contacted the Equality Commission in 2007. The young woman is a wheelchair user and has moderate hearing loss. She sat GCSE's at a secondary school in Northern Ireland. Three months before her GCSE results her parents checked out the sixth-form options for her at a number of schools but were told to wait until the results were out and to attend open days – which they did.

The young woman got 9 GCSE grades (A to C's) and double A in Double Award Science. She decided to take 3 A-levels including Biology and Chemistry and found a school with suitable wheelchair and disability access which offered these subjects. It turned out however that a lot of paperwork was required by the Education and Library Board before she could start. Because of her disability, a formal request to attend the school had to be written and then an Occupational Therapist's report on the school would have to be completed. No-one in the board could advise on how long this would take – and by this stage the school term was to start on Monday. Neither she nor her parents had been given any prior advice about these procedures.

Because it was likely the young woman would be disadvantaged by missing time at the start of term she decided she would go back to her old school. Unfortunately this meant she couldn't study Chemistry because her former school didn't offer this subject. Her parents felt that their daughter was treated in a discriminatory manner because of her disability – if she had been able bodied she would have been at the school she had chosen. They asked the education board to provide home tuition in chemistry, but the board refused.

Consider

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CASE FIVE

A young Protestant man, aged 17, secured a work placement with a firm doing renovation and building work as part of his NVQ Level 2 in joinery. He got on well until one day he brought a Linfield mug to work. The joiner he was working with allegedly made the young man aware he was not happy about this. The next day the young man brought a Winnie the Pooh mug instead, however the joiner allegedly commented that there was too much red, white and blue in that mug. The young man felt that after this incident the joiner treated him very badly and swore at him constantly.

A month into the job, the young man felt that a new employee was following the joiner's example in treating him badly, making fun of him, calling him stupid and not training him. The young man alleged that when he returned to work after the July holiday the joiner told him he saw him drumming in a band. (The young man had never been a member of a band and felt very uncomfortable at this comment.) He alleges he was then asked whether he knew any Orangemen; what the Apprentice Boys were about; why Protestants used the term 'Londonderry'; whether he could sing the 'Sash'; and he was referred to as a 'wee Orangeman'. The young man said he complained to the managers and met with them in September. In October however he was dismissed. He alleged the firm told him other workers did not want to work with him because he was lazy, however the young man denied this and said no one had ever spoken to him about being lazy before he was dismissed.

Consider

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DECISIONS

CASE ONE DECISION

The Equality Commission took the case on the grounds of Sexual Orientation Discrimination. It went to the Industrial Tribunal and was settled in 2009 when the employer agreed to pay the man £6,000. The Employer regretted any perceived hurt or distress which the man had suffered but did not admit any liability. The employer continued to affirm its commitment to the principle of equality of opportunity in the workplace including ensuring that its practices and procedures are effective and conform to the requirements of the Employment Equality (Sexual Orientation) Regulations (NI) 2003 and the relevant Codes of Practice.

CASE TWO DECISION

Religious belief/political opinion and sex discrimination proceedings were brought in the Fair Employment Tribunal which settled in July 2009. The car company and the man paid the woman a total of £15,000 without admission of liability. The car company agreed to work with the Equality Commission to review its policies, practices and procedures in relation to equality and would consider any changes or staff training needed.

CASE THREE DECISION

The case went to the County Court in 2009. The man was awarded £4,000 compensation plus his costs and the court ordered the bar not to subject the man to unlawful discrimination or victimization in the future. The judge said the solicitor's letter the man had received 'launched into a stentorian tirade of bald denial and threats' which was prompted by the man's racial grouping. He said that letter was a further act of unlawful discrimination and victimization.

CASE FOUR DECISION

The case went to tribunal under SENDO (Special Educational Needs Disability Order) law and was settled in 2008. The Education Board agreed to provide Chemistry teaching. They apologized for what had happened. They restated commitment to equality under the disability laws and agreed to make sure their procedures reflected this. They agreed to meet with the Equality Commission to check this and to provide disability awareness training to all staff.

CASE FIVE DECISION

Religious/political discrimination proceedings were brought in the Fair Employment Tribunal which settled in 2008. The firm paid the young man £7000 and apologised for any hurt caused as a result of the alleged incidents. The firm accepted its procedures weren't good enough in terms of the Fair Employment Code of Practice (which include keeping a good and harmonious working environment free from sectarian harassment). It agreed to work with the Equality Commission on equality policies, procedures and staff training.

Three further case studies can be found at www.derrycity.gov.uk/DerryCitySite/files/a1/a19c1df7-3f12-4549-bf85-e6df351477ca.pdf