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PRESS RELEASE

Religious discrimination claim upheld in appointment to NI Water

The Fair Employment Tribunal has ruled on a challenge by Dr Alan Lennon OBE to the public appointment process for the post of Chair at NI Water conducted by the Department for Regional Development in March 2011.

The Tribunal ruled that Dr Lennon had been the subject of unlawful discrimination on grounds of religious belief. It was 'satisfied ...that Sean Hogan, a Catholic, was appointed as Chair of NIW because he was not from a Protestant background and because he was known to the Minister and his ministerial colleagues'.

It concluded that the Department had not provided an adequate non-discriminatory explanation for the less favourable treatment of Dr Lennon in the appointment process. It found that that there had been a breach of the Commissioner for Public Appointment for NI's Code for ministerial public appointments by the Minister for Regional Development at the time, Conor Murphy MP MLA, in adding further essential criteria to the established criteria for the post. It further found that there were credibility issues relating to the evidence of the Minister and the successful candidate.

The Equality Commission assisted Dr Lennon in his case against the Department for Regional Development, in which he claimed that he had been subjected to unlawful discrimination contrary to the Fair Employment and Treatment (Northern Ireland) Order 1998 in the failure to appoint him to the post of Chairman of Northern Ireland Water and in the arrangements made for that appointment.



Dr Lennon, a Protestant, was interviewed for the post and was deemed appointable by the selection panel, along with three other Protestant candidates and one Roman Catholic candidate. The Minister for Regional Development, who had the final decision in the appointment process, had confirmed that his preference was to receive an unranked list of candidates deemed suitable for appointment after the selection panel had undertaken the interview process and he appointed the Catholic candidate from that list of candidates.

Dr Lennon made the case that he believed that he had greater relevant experience than the successful candidate. He also argued that the Minister added new criteria to the essential criteria established at the beginning of the process, in breach of the Public Appointments Commissioner's Code. The Tribunal was satisfied that three factors were introduced by the Minister as additional essential criteria and that 'the provisions of the Code do not, in the Tribunal's view, permit the use of additional criteria'.

Commenting on the decision, Dr Lennon said, "I brought this case to shine a light on what I feel is a selection system that is not fit for purpose. I am very pleased that it appears that this case will put in train changes and improvements to the processes around public appointments. I'm very grateful to the Equality Commission for their support both to me personally and to those who are now tasked with making those changes happen."

Evelyn Collins CBE, Chief Executive of the Equality Commission, said "The Commission welcomes this important confirmation that public appointments, including those which involve the exercise of a Minister's discretion, are fully and clearly within the protection of the anti-discrimination legislation. We supported this case because it is our view that the standards of fairness and non-discrimination that we expect in employment situations should apply equally to all public appointments. A key part of this is the requirement for a sufficient degree of transparency and accountability in the process to assure people that selection is based on merit and that, if unlawful discrimination occurs, it can be challenged.

“We were also pleased to note the commitment made to the Fair Employment Tribunal that DRD would look at issues arising out of the Tribunal hearing and discuss these with the Equality Commission and the Commissioner for Public Appointments in Northern Ireland. We look forward to working together with all the bodies involved to ensure that the recruitment process for public appointments is fair to all applicants.”

The Tribunal will reconvene at a later date to decide on the nature and amount of compensation.

ENDS