

**EQUALITY COMMISSION FOR NORTHERN IRELAND**

**STATUTORY DUTY INVESTIGATIONS COMMITTEE**

**Final Report of Commission Investigation under  
Paragraph 10 of Schedule 9 of the N. Ireland Act 1998**

**DON LEESON &**

**DEPARTMENT of FINANCE & PERSONNEL**

**FILE No: SDI/04/04**

**ALLEGED FAILURE TO COMPLY WITH SCHEME**

1. This complaint relates to the manner in which The Department of Finance & Personnel (hereafter referred to as DFP) dealt with a s. 75 complaint made by Mr Leeson (hereafter referred to as the complainant), allegedly failing to comply with two of the commitments made by it in the complaints section of its approved Equality Scheme.
2. The complainant lodged a written complaint with DFP on 05/10/01 in respect of its transfer policy/criteria relating to transfers to the Northern Ireland Civil Service from the Home Civil Service. The letter was directed to DFP's named S.75 contact for complaints, and was headed "Appeal Against Failure to Comply With Equality Scheme". The complainant was dissatisfied with DFP's response to this initial complaint and wrote to it again on 9 September 2002 to confirm that he intended pursuing a complaint to the Equality Commission concerning the manner in which it had dealt with this original complaint. The Applicant alleged that DFP failed to comply with its approved Equality Scheme in two respects;

3. DFP failure to notify complainant of the procedure for pursuing complaint with Equality Commission as required by its Approved Scheme.
4. DFP failure to respond adequately to complaint within one month as required by its Approved Equality Scheme.;
5. The complainant alleged that these matters represented a failure to comply with the commitments made by DFP at Paragraph 11.1 of its approved Equality Scheme (page 21);
6. **“The Department will respond to the complainant within one month. In responding to the complainant, the Department will inform him/her of the procedure for pursuing the complaint further with the Equality Commission as set out in paragraph 10 of Schedule 9 of the Act”.**

### **Investigation Findings**

7. DFP failed to comply with the commitment contained in Paragraph 11.1 of its approved Equality Scheme to notify this complainant of the procedure for pursuing a complaint with the Equality Commission.
8. Failure to comply with approved Equality Scheme has not been established in respect of the allegation that DFP failed to respond adequately to the complaint within one month.
9. The Statutory Duty Investigation Committee has considered the complainant’s original correspondence to DFP of 5<sup>th</sup> October 2001 in the matter. Although same is directed to DFP’s named complaint’s contact and refers generally to a failure to comply with its Equality Scheme, it does not make it clear how DFP has breached its Scheme, or what specific elements of the scheme have been breached. The Committee’s view is that the complainant’s correspondence of the 5<sup>th</sup> October 2001 reads as a request that DFP should re-

consider its original decision to deny the complainant a compassionate transfer, and DFP's reply of the 8<sup>th</sup> October 2001 would suggest that this was also its interpretation.

### **Recommendations for Action by Public Authority**

10. DFP accepts that it has failed to comply with Paragraph 11.1 of its Approved Equality Scheme in respect of failure to inform the complainant of the procedure for pursuing the complaint further with the Equality Commission, and has itself voluntarily put measures in place to ensure that there is no repetition of this breach. DFP provided the Commission with a copy of an internal e-mail which was forwarded by its Head of Central Support Division to all officers dealing with complaints on the 14<sup>th</sup> December 2001 to clarify the procedure for dealing with Section 75 complaints. The communication emphasises:
11. DFP's response to such complaints must inform the complainant of the procedure for pursuing the complaint further with the Equality Commission.
12. Even if an issue is not directly related to the approved Equality Scheme, correspondence should nevertheless be forwarded to the Equality Unit for consideration if it contains any reference to the Equality Scheme.
13. The Statutory Duty Investigation Committee has therefore decided that it is unnecessary for it to make any recommendations.

Report adopted by Statutory Duty Investigations Committee on 2 April 2004, and by the Equality Commission on 17 May 2004.