

## **Gary McClean v Waterside Neighbourhood Partnership Ltd**

Decision of the Fair Employment Tribunal finding that the Claimant had been unlawfully discriminated against by the Respondent on grounds of political opinion contrary to the Fair Employment and Treatment (Northern Ireland) Order 1998. The Tribunal awarded the Claimant £10,734.87 compensation.

The Claimant applied for the post of Community Development Officer (“CDO”) with the Respondent. He was not appointed to this post and alleged that the failure to appoint him was an act of direct discrimination on the ground of political opinion contrary to the Fair Employment and Treatment (Northern Ireland) Order 1998.

The Claimant described himself as a socialist with a “socialist world view”. He is critical and known to be critical of Sinn Fein. He is also critical and known to be critical of what he regarded as a “carve up” of segregated and disadvantaged communities between Sinn Fein and the Democratic Unionist Party. The Tribunal found that the Claimant held a particular political opinion in relation to a matter of public policy, i.e. in relation to the control and funding of community activities. He believed that such control and funding should be a matter for the communities themselves and not for the main political parties.

The Respondent is a limited company involved in community development in the North West. It was created to deal with contractual, funding and employment issues on behalf of the Waterside Neighbourhood Partnership which is an unincorporated body comprising of representatives from various community organisations, DSD and political parties.

The Claimant was a community worker who had previously worked in the Curryneirin area which is an interface area where there had been tensions between it and the neighbouring area of Tullyally. The CDO post was to work in the Curryneirin area and was to be funded by the Department for Social Development.

The Claimant and two other persons were shortlisted for interview for the CDO position. The interview panel comprised of three persons. Mr Lamrock was chairperson of the panel and he was director and co-chair of the Respondent organisation. Ms Doherty was director and co-chair of the Respondent organisation. Ms Wallace was the strategy manager and director of the Respondent organisation. A Department for Social Development observer attended the interviews of all three candidates. She had taken notes at the interviews but had destroyed them immediately afterwards.

The interview process consisted of questions and a presentation. A threshold mark was set of 59 marks out of 90 total potential marks. The Claimant exceeded the threshold and the two other candidates did not meet the threshold mark. At the end of the interview process the interview panel signed a document recording each person’s marks and that the Claimant was the person to be appointed. The DSD observer said that she was unaware when she left the room on the day of the interviews that the Claimant was appointed. The Tribunal described her evidence as simply not credible.

Two of the interview panel members, Ms Doherty and Ms Wallace, decided that the Claimant was not to be appointed. The chairperson of the panel, Mr Lamrock believed that the Claimant should be appointed. The Claimant was not appointed to the post and was advised that the competition was to be re-run and he was welcome to reapply. The Claimant did not take part in the second competition and another person was appointed to the post.

The Claimant sought feedback from the interview and a copy of the interview notes. He was sent the interview notes with a significant part of those notes, including the threshold mark, having been removed without any indication that that part had been removed.

The Tribunal rejected the assertions by Ms Wallace and Ms Doherty that they knew little about the Claimant and nothing of his political views. The Tribunal described their evidence as evasive.

The Tribunal concluded that the Respondent had not produced any single convincing reason for the decision not to appoint the Claimant. Ms Doherty and Ms Wallace had argued that Mr Lamrock had pressurised and bullied them into marking higher than they wished to mark. The Tribunal rejected this allegation as without evidence. The Tribunal stated that it is incredible and insulting to expect the Tribunal to believe that such a serious allegation against Mr Lamrock would not have been raised at an earlier stage by Ms Doherty and Ms Wallace and the DSD observer. Ms Doherty and Ms Wallace had alleged that two interview questions had not been properly answered by the Claimant. The Tribunal concluded that the concerns expressed by Ms Doherty and Ms Wallace were not credible. Ms Doherty and Ms Wallace had also given evidence that they had concerns about the nature of the Claimant's experience which they argued related primarily to youth work. The Tribunal found that this was not reflected in the evidence and no concerns had been raised in relation to this at short listing or at the interview. Ms Doherty and Ms Wallace had stated that following the interview they had concerns that Curryneirin Community Association would not have been willing to work with the Claimant and he would have been difficult to manage. The Tribunal found that it was unclear how they had these concerns when their evidence was that they knew very little about him. Mr Lamrock had suggested that references should be taken up but this was not done. The Tribunal noted that there was no evidence at any stage that the Respondent had contacted Curryneirin Community Association to establish their willingness to work with the Claimant.

The Tribunal concluded that it was highly unlikely that there could be any innocent explanation for the extraordinary result of the interview process. If there had been an innocent explanation it would have been put forward at the start and maintained consistently. Instead the Tribunal found that there had been seven examples of rationalisation after the decision not to appoint the Claimant had been made.

The Tribunal awarded the Claimant £10,734.87 compensation which included £6,000 injury to feelings.

Full details of the Fair Employment Tribunal decision can be found [here](#).