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PRESS RELEASE

Tribunal Awards £10,734 for Political Opinion Discrimination in Recruitment Completion for Community Development Officer

A Fair Employment Tribunal has held that, in failing to appoint a community worker to the post of Community Development Officer, the Waterside Neighbourhood Partnership Ltd. in Londonderry unlawfully discriminated against him on grounds of his political opinion. The Tribunal has awarded Gary McClean £10,734 in compensation. Mr. McClean was supported by the Equality Commission in taking the case.

Gary McClean had complained to the Tribunal when he was not appointed to the post, despite scoring highest at an interview. The Waterside Neighbourhood Partnership (WNP) then re-ran the competition. Mr. McClean did not re-apply, and the post was awarded to another person.

The Tribunal decision states, in reference to the outcome of the first interview process, *“This is a highly unusual case where the highest marked candidate in an interview process, who had exceeded the threshold marking, and who had been identified as the person to be appointed, was not appointed.”*

A score sheet considered by the Tribunal recorded the individual marks of each panel member and this showed that Mr. McClean was scored highest by all three. In a line on the sheet which commenced “person appointed”, the claimant’s name was written and this was followed by the three signatures of the panel members.

The Tribunal found that *“two members of the interview panel believed he should not have been appointed to the post. The chairman of the interview panel believed he should have been appointed.”* The Tribunal also stated that, given the nature of the evidence, *“it seems highly unlikely there can be any innocent explanation of the extraordinary result of this interview process. If there had been such an innocent explanation, it would have been put forward from the start and maintained consistently thereafter.”*

Gary McClean stated to the Tribunal that he identified himself as having a “socialist world view”; that he was known to be critical of Sinn Fein; and of what he regarded as a “carve-up” of segregated and disadvantaged communities between Sinn Fein and the DUP. He also stated that he believed the control and funding of community activities should be a matter for the communities themselves and not for main political parties.

Although it had been argued that Mr. McClean's political opinion was not known to WNP, and to two members of the interview panel, the Tribunal concluded that they "*knew of the claimant's political opinion as defined above at the time of the decision not to appoint him as the highest marked candidate.*" The Tribunal says that, "*in the absence of any single convincing reason for the decision not to appoint the complainant*", the respondent had failed to discharge the burden of proof. "*The tribunal therefore concludes that the claimant has been unlawfully discriminated against on grounds of his political opinion.*"

Gary McClean said "I have always believed that that the only reason I was considered unacceptable for this post was because my political stance did not fit in with the approach of Sinn Fein and the DUP towards community services and funding. The Tribunal decision has clearly shown that the Waterside Community Partnership cannot give any credible explanation for refusing to appoint me after I had come top in the interview and met the threshold they had set as the standard. I didn't take this case for financial reward, but because I hope that, by successfully challenging this process, I can shine a light on the need for greater transparency and accountability in appointments within the community sector."

Dr. Michael Wardlow, Chief Commissioner of the Equality Commission, said that the case was a reminder that Fair Employment legislation and good equality practices can protect people against discrimination on grounds of their political opinion. All appointments, including those in the community sector, must be made without reference to a person's political beliefs, or to any other protected ground," he said.

"It is also important that the procedures for such appointments meet basic standards of fairness and transparency and that they are accountable to scrutiny," Dr. Wardlow said. "Procedures which put a particular focus on the need for systematic and objective recruitment were the building blocks of the first equality measures in Northern Ireland law."

"Practices have improved enormously over the decades, but we cannot be complacent. Complaints about recruitment and selection still make up around 10% of all complaints to the Equality Commission," Dr. Wardlow concluded. "The Tribunal has tracked, through the paperwork and evidence available, the procedures used in this exercise. The decision shows how important clear, accurate and contemporaneous records can be in establishing what happened in any recruitment process."

- [Link to decision](#) (pdf, 674kb)