

Appendix 1

Private and Confidential
21st February 2020

Mr. Gerald O'driscoll
Dundalk Institute of Technology
Dublin Road
Dundalk
Co. Louth
A91 K584



Re: Complaint(s)/Dispute(s) – Mr. John Hamill / Dundalk Institute of Technology under

Specific Complaint Reference	Complaint Area	Act
CA-00034750-001	Discrimination/ Equality/Equal Status	Complaint seeking adjudication by the Workplace Relations Commission under Section 21 Equal Status Act, 2000

Dear Mr. O'Driscoll,

I refer to the above complaint received by the Workplace Relations Commission on 20/02/2020 and enclose a copy of same for your information. The complaint has been allocated the reference numbers shown above and these should be quoted on all correspondence and in any enquiries.

Any communications which may be received from you or the Complainant will be copied to the other party. In due course you will receive a communication advising of the date and venue for the adjudication hearing.

The complaint will now be considered for adjudication. An Adjudication Officer will in due course be assigned to this case. However, adjudication will not be required where the complaints have been resolved by mediation.

Mediation

The Complainant may have indicated in his/her Complaint Application that he/she would be willing to avail of mediation services should the Commission be in a position to offer such services in this case.

Mediation seeks to arrive at a solution through an agreement between the parties, rather than through an investigation or hearing or formal decision. The Mediation Officer facilitates the parties to negotiate their own agreement on a clear and informed basis, should each party wish to do so. The process is voluntary and either party may terminate it at any stage.

Mediation can take the form of telephone conferences with the parties, face-to-face mediation conferences/meetings or such other means as the Mediation Officer considers appropriate.

Mediation is conducted in private and the terms of any settlement are not published and remain confidential to the parties. All communications by a Mediation Officer with the parties, all

records and notes held for the purposes of resolving any matter and all information furnished at mediation are confidential. No information obtained at mediation may be disclosed to any third party including the Adjudication Officer or Labour Court. Any person who discloses information may be guilty of an offence, other than in proceedings or enforcement of the terms of the agreement.

Where a complaint/dispute is resolved, whether by mediation or otherwise, the Mediation Officer will record in writing the terms of the resolution, the parties will be asked to sign that record and the record of resolution will be given to the Director General of the Workplace Relations Commission. A copy will also be given to each party.

The terms of a resolution are binding on the parties and if either party contravenes these terms, the contravention will be actionable in any court of competent jurisdiction.

Where a complaint/dispute is not resolved, the Mediation Officer will notify in writing the parties to the complaint/dispute and the Director General of the Workplace Relation Commission.

Complaints/disputes may only be referred for mediation with the agreement of both parties to the complaint/dispute. **If the Complainant in this case has indicated a willingness to engage in mediation, the Commission's Mediation Services may be in contact with you shortly by telephone to enquire if you have any objection to participating in this process.**

If your complaint is not selected for Mediation or Mediation is not successful, an Adjudication Officer will inquire into the complaint, give both parties an opportunity to be heard and to present any evidence relevant to the complaint, make a decision in relation to the complaint in accordance with the relevant redress provision and give the parties a copy of that decision. It should be noted, however, that an Adjudication Officer may, at any time, dismiss a complaint or dispute if he/she is of the opinion that it is without substance or foundation. The Director General of the Commission may also decide that a complaint or dispute may be dealt with by written submissions only.

Documentation

Any documentation or submissions which you may wish to make should be forwarded to

The Workplace Relations Commission
Information and Customer Services
O'Brien Road
Carlow

The Commission operates an email facility for the purposes of the electronic submission of documentation at submissions@workplacerelements.ie.

You may also contact the Commission Information and Customer Services on our Lo-call number 1890 80 80 90 or 059 9178990.

Any documentation should quote the above reference numbers and should be with the Commission by, at the latest, 21 days following the date of this letter, or within 10 days of the conclusion of a mediation process where relevant.

Queries and Further Information

Your attention is drawn to the Commission's "Procedures in the Investigation and Adjudication of Employment and Equality Complaints" which may be accessed and/or downloaded at www.workplacerelements.ie under Publications and Forms.

For general queries in relation to your complaint/dispute please contact the Commission's Information and Customer Services on our Lo-call number 1890 80 80 90 (please note that charges to this lo-call number may vary among service providers) or to 059 9178990.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Kirsty Brownrigg', is written over a horizontal line. The signature is somewhat stylized and loops around the line.

Kirsty Brownrigg
Information and Customer Services

Workplace Relations Complaint Form CA-00034750
Receipt Date: 20/02/2020 11:15:13

Complainant Details

Title	Mr	
Firstname	John	
Surname	Hamill	
If Complainant is a Company or Representative Body		
House Name or Number	X	
Street / Road:		
Town:		
County:		
Country:		
Postcode:		
Contact Number:		
E-mail:		
Nationality:		Irish
Position Held:		Not Applicable
PPS Number :		
Employer (PAYE) Number :		
Is the employer/respondent aware you are making this complaint?:	Yes	

Employment Details

Date of Commencement:	
Date of Notice received (if applicable):	
Date Employment ended (if applicable):	
My Work Address: Building Name or Number	
My Work Address: Street / Road:	
My Work Address: Town:	
My Work Address: County	Monaghan
My Work Address: Postcode:	

Pay Details

Pay Period	
Gross Pay	
Net Pay	
Weekly Hours Worked	

Respondent Details

Name/Company:	Dundalk Institute Of Technology
Trading as (if applicable):	
Building Name or Number	
Street / Road:	Dublin Road
Town:	Dundalk
County	Louth
Country	Ireland
Postcode:	A91 K584
Title:	Mr
Firstname:	Gerald
Surname:	O'driscoll
Position Held:	HR Manager
Contact Number:	
Email:	Gerald.odriscoll@dkit.ie
Employer (PAYE) Number :	
Is the head office address different from above?:	No
Main business activity/sector:	Education

Is this a Limited Company?:	Don't Know
Is this company in Receivership / Liquidation	Neither
Do one or more of your complaint(s) relate to a contravention of the Transfer of Undertakings Regulations?	No

Representative Details

Will you have representation?	No
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Special Facilities

Should your complaint fall to be considered by an Adjudication Officer, will you require any special facilities when attending a hearing?	No
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Specific Complaint CA-00034750-001

My complaint falls under (Please select from the drop down list below): *	Discrimination/Equality/Equal Status
Discrimination / Equality / Equal Status Type	I have been discriminated against by a person, organisation/company who provides goods, services or facilities
What date did you notify the person/service provider using the ES1 Form?	28/01/2020
Have you received a reply from the person/service provider on the ES2 Form?	Yes
If yes, what date was it received? (You must attach a copy of the reply if received)	18/02/2020
I say that I have been discriminated against by reason of my Gender	Not Selected
I say that I have been discriminated against by reason of my Civil Status	Not Selected
I say that I have been discriminated against by reason of my Family Status	Not Selected
I say that I have been discriminated against by reason of my Sexual Orientation	Not Selected
I say that I have been discriminated against by reason of my Religion	Selected
I say that I have been discriminated against by reason of my Age	Not Selected
I say that I have been discriminated against by reason of my Disability	Not Selected
I say that I have been discriminated against by reason of my Race	Not Selected
I say that I have been discriminated against by reason of my Membership of the Travelling Community	Not Selected
I say that I have been discriminated against by reason of my Housing Assistance	Not Selected
What is the date of the first incident of discrimination *	28/01/2020
What is the most recent date of discrimination *	03/02/2020
I say the respondent treated me unlawfully by discriminating against me in the Failing to give me 'reasonable accommodation' for a disability	Not Selected
I say the respondent treated me unlawfully by discriminating against me in Education	Not Selected
I say the respondent treated me unlawfully by discriminating against me in Provision of goods/services	Selected
I say the respondent treated me unlawfully by discriminating against me in Accommodation	Not Selected

I say the respondent treated me unlawfully by discriminating against me in Other	Not Selected
Selected Redress Option	Complaint seeking adjudication by the Workplace Relations Commission under Section 21 Equal Status Act, 2000
Redress Type	Adjudicator

Complaint Specific Details or Statement

Complaint Specific Details or in the case of a complaint relating to Constructive Dismissal, Employment Equality or Pensions Discrimination, a Formal Statement.

Dundalk IT provides educational services to students, and it also provides cultural service across the catchment area of the institute. These cultural services include facilitating religious groups in arranging ceremonies for staff and students. During 2018, I sought to arrange such a service with the Chaplaincy at Dundalk IT and I was refused. I made an Equal Status complaint relating to this refusal, which was decided in favour of the institute in adjudication ADJ-00016879. The Adjudicator determined that because some other minority religions were involved in the initial dispute, I had not been sufficiently clear that I was claiming discrimination due to the lack of religious beliefs, as opposed to claiming discrimination due to having minority religious beliefs. In particular, the Adjudicator concluded as follows: "In my view the approach taken by the complainant at the adjudication hearing that he was discriminated against because he has no religious beliefs is inconsistent with the ES1 form and the WRC complaint form where he claims to have been discriminated on the grounds of his non-mainstream religious beliefs." On 16th December 2019 I remedied this issue by writing to the Chaplaincy at Dundalk IT, requesting that a non-religious service should be arranged according to the beliefs of my local non-religious group. I proposed that the event should take place on 28th January 2020. Even allowing for the closure of the college from 24th December 2019 until 2nd January 2020, this is a notice period of well over 4 weeks. I outlined the theological issues that would be mentioned during the proposed service, and the non-religious perspectives that would be articulated. These perspectives related to theodicy and the efficacy of intercessory prayer in dealing with addiction issues, which is an issue that the Dundalk IT Chaplaincy had already been actively engaged in. The Chaplaincy declined to facilitate my non-religious service. In contrast, religious services promoting religious perspectives have been welcomed when they were sought by religious votaries from the catchment area of the institute. I believe that this represents unlawful discrimination on the religious ground. Specifically, I believe that the Chaplaincy has treated me less favourably than they treated religious votaries when similar requests were made for religious services, because the religious votaries have religious beliefs whereas I wish to arrange a service around my non-religious beliefs. I submitted a ES1 Form to Dundalk IT on 28th January 2020. The institute responded to me on 3rd February 2020, confirming that my request would be dealt with by the institute "as outlined at the WRC Adjudication Hearing on 25/06/2019". Based on the same policies that had been outlined during the previous adjudication ADJ-00016879, the institute refused my application to arrange a service in the Chaplaincy at no cost. On 6th February 2020, I responded to contrast the welcoming approach to religious services, with the barriers that the institute had created for non-religious services, such as the non-religious service that I had sought. That is, the institute had facilitated hundreds of religious services in the Chaplaincy (including for external religious votaries from across their catchment area) at no cost to those religious groups. In contrast, the institute insisted that the Chaplaincy would have no involvement whatsoever with a non-religious group seeking to arrange the kind of non-religious service that I was seeking. Instead, non-religious groups deal with another branch of the institute entirely and must pay the institute in order to arrange such an event. I explained that this represented less favourable treatment of the non-religious. For example, in ADJ-00016879 the adjudicator stated as follows: "The respondent, for its part, confirmed that if it received a request from the complainant for the use of a room for this purpose it would provide a room to him. In that regard, the process for seeking to use a room in the Institute is the same for the complainant as it is for all other groups." The new process now being outlined to me by the institute was absolutely not the same as the process that the institute provided for religious groups. In the case of religious groups, the Chaplaincy made arrangements for religious services at no cost to the relevant religious group and also undertook to advertise and promote those services towards students. In the case of my non-religious group, the Chaplaincy was refusing to be involved in any way and was instead insisting that I must deal with a different part of the institute and that I must pay the institute in order to arrange a service. There is no objective reason why the process implemented by the institute should involve facilitating external religious groups at no cost, while introducing charges for non-religious groups. Such a process represents less favourable treatment based on the lack of religious belief. On 18th February 2020, the institute provided a ES2 Form. This form repeatedly stated that my request to be treated in the same way as religious votaries was being rejected, for exactly the same reasons that were outlined during the previous hearing (ADJ-00016879). This is despite the fact that I had explicitly remedied the inconsistency that the adjudicator had referred to in that decision. Moreover, the reasons given by the institute in the previous hearing for the differing treatment of religious as compared to non-religious groups, were all demonstrably bogus. For example, when I previously made a request for a service with the

Chaplaincy, the following purported policy was offered as a reason to exclude me: "The institute will not facilitate religious and non-religious bodies attempting to use its facilities in the recruitment of students and staff." It is indeed true that my intention is to use a non-religious service in the Chaplaincy as part of efforts to recruit students and staff. However, this purported policy is clearly bogus. It is demonstrably the case that Dundalk IT is perfectly willing to facilitate religious bodies in attempting to use its facilities for the recruitment of students. For example, one such event was aimed at the promotion of Islam towards students, and Roman Catholic Mass has also been regularly provided on campus. It is not open to Dundalk IT to facilitate such events arranged by those with religious beliefs at no cost, while applying commercial charges for events proposed by those with non-religious beliefs. When I previously made a request for a service in the Chaplaincy, the following purported policy was also offered as a reason to exclude me: "Requests for a religious or non-religious service must come from student or staff bodies ..." This purported policy is clearly bogus. It can easily be demonstrated that no such policy exists, since Dundalk IT has previously received a request from a Dundalk IT student for a service on campus to be provided by my group. In that instance, Dundalk IT differentiated between various students enrolled in the same part-time course, based explicitly on their beliefs about religion. For the students in the class who had Roman Catholic beliefs, Dundalk IT offered them access to Roman Catholic services in the Dundalk IT Chaplaincy. In contrast, other students in exactly the same class who had paid exactly the same fees to enrol in exactly the same course, could have access to no services in the Chaplaincy, even when they explicitly requested a non-religious service based on their non-religious beliefs. As part of the services provided by Dundalk IT, which are aimed at promoting cultural development across their catchment area, Dundalk IT has previously invited representatives of religious bodies in the region to provide services on the campus at no cost to those religious bodies. For example, Dundalk IT arranged a visit to the campus for Archbishop Eamon Martin, after His Excellency reported to the Chaplain that he was "doing a tour of the area". Notwithstanding this, when I previously made an almost identical request for a service in the Chaplaincy, the following purported policy was offered as a reason to exclude me: "... the institute does not deal with requests from any outside bodies or individuals for use of these facilities." This purported policy is clearly bogus. It is not open to Dundalk IT to facilitate events for outside bodies at no cost because they are religious, while introducing commercial cost barriers to equivalent events for other outside bodies because they are non-religious. This represents less favourable treatment of me as compared to the treatment of religious groups, because I have no religious beliefs.

Submission Page

Please indicate if you would be willing to avail of mediation services to facilitate the resolution of your complaint/dispute should the Workplace Relations Commission be in a position to offer these services in this case.	No
I declare that, to the best of my knowledge, the information provided in relation to the complaint(s) above is accurate.	Selected
Version Number	13
Version Date	