

# Appendix 4

Regarding your question about prayer services - during the term, generally, if I am on campus, I usually celebrate Mass myself, and anyone is welcome to attend. I know a number of staff/students sometimes organise a prayer time. Some meet for meditation, and there is an active Christian Union Society and Islamic Society who organise talks and events, and the Islamic Society lead prayers on a Friday, whereas other students pray in the Quiet Room (2nd Floor of the Faulkner Building, above the shop, and adjacent to the Doctor), which is available to all students and staff as a place - when free - to be used for their own reflection.

I don't know if any of that information is useful? Is there something in particular you were looking for?

Paddy

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**From:** [REDACTED]  
**Sent:** 07 June 2018 20:57:54  
**To:** Chaplaincy  
**Subject:** Prayer Services

Hi,

I've just enrolled in a part-time course at the Dundalk IT Lifelong Learning Centre. May I ask if there are any prayer services in the chaplaincy at specific times that I can attend?

Kind Regards,  
Kelvin.

From: [REDACTED]  
Subject: This is what I was thinking of ... what do you think?  
Date: 22 October 2018 at 08:46  
To: [REDACTED]



Hi Fr Paddy, Bernie,

I hope you are both well. I haven't heard back from you since you promised to follow up on my original request, which was overlooked. I was hoping that it might be possible to arrange services for some less mainstream religious traditions, such as a Full Moon Ceremony, which may well have taken place in this part of the world before Christianity arrived. I've included some contact details below for the religious organisations that I'm interested in:

Celtic Druid Temple  
Congregationalist **Pastafarians**  
Pagan Federation of Ireland



John McCormack  
**John Hamill**  
Raymond Sweeney

Do you think it would be possible to arrange such ceremonies in your Chaplaincy? I'd be happy to make the arrangements if that would be helpful and I've copied those mentioned above for your convenience.

Kind Regards,  
Kelvin

Begin forwarded message:

**From:** Chaplaincy <[chaplaincy@dkit.ie](mailto:chaplaincy@dkit.ie)>  
**Date:** 11 September 2018 at 10:52:59 IST  
**To:** [REDACTED]  
**Subject:** RE: Prayer Services

Hi Kelvin,

Thanks for your email.

My name is Bernie and I am a new member of the chaplaincy team. Paddy must have overlooked your email during the summer – apologies! I will be having a meeting with him over the coming days and I will draw his attention to this.

All the best to you as you begin your studies at DkIT.

Regards  
Bernie

P.S Could you reply to us with your student id when you get a chance, thank you.

**Mrs Bernie O'Hara**  
Seirbhísí Séiplíneachta /Chaplaincy Services

Telephone / Fón : [:\(00353\) 42 93 70200](tel:(00353)429370200) extn 2246  
Facebook - [facebook.com/dkitchaplaincy](https://facebook.com/dkitchaplaincy)  
Twitter - @chaplaincvdkit

**From:** Chaplaincy <[chaplaincy@dkit.ie](mailto:chaplaincy@dkit.ie)>

**Date:** 26 October 2018 at 12:56:16 IST

**To:** [REDACTED]

**Subject:** Response

Dear Kelvin,

Thanks for your email, and apologies to you if you were expecting a reply, as you had said in your last email (12<sup>th</sup> September) that you would be popping into see us in the Chaplaincy with your Student ID. We had been waiting for your call.

Regarding your request, you stated in your email (12<sup>th</sup> September) that you were enrolled in a photography lifelong learning course. Admissions Office have advised us that similar to all other uncertified programmes, access to Student Services for such courses is not available.

We are sorry that we cannot be of assistance to you.

Wishing you well in your course.



**Mrs Bernie O'Hara**

**Rev. Patrick J. Rushe, CC**

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On 27 Oct 2018, [REDACTED] wrote:

Dear Bernie and Fr Paddy,

Thank you for responding to me, although I don't think you are correct to say that I promised to call in to the Chaplaincy with a student card. I have a few quick questions on what you have told me and I have copied back in the same distribution list as our previous thread, as a courtesy.

1.

On 7th June 2018, I wrote to you making it clear that I was enrolled in a Lifelong Learning Course and was interested in religious services at the Chaplaincy. You replied to say that you celebrate Mass yourself and that "anyone is welcome to attend". **Am I now to understand that those on Lifelong Learning Courses are prohibited from attending the Mass that you celebrate? If so, why did you invite me to attend Mass even after I told you that I was enrolled in a Lifelong Learning Course? If not, why can students on Lifelong Learning Courses attend your Mass services but not services from other denominations?**

2.

Have you prohibited anyone else from attending the Chaplaincy or am I the first person you have treated in this way? Your web site states that the Chaplaincy provides a safe and welcome space, with an open door policy for students. How is the email you have sent me below consistent with this?

3.

On 17th June 2018, I asked about non-traditional services but you did not reply to my email. On 11th September 2018, I asked again about non-traditional services and you promised to deal with the issue within days. You did not do so. Instead you contacted the Admissions Office to ask about what Student Services may be accessed by students enrolled in Lifelong Learning Courses. Why did you contact the Admissions Office when you thought I was interested in non-traditional service, while you did not contact the Admissions Office when you thought I was interested in Mass?

4.

I have attached an extract from the Procedures For Collection Of Student Fees and another extract from the Part Time Course Prospectus 2018-19. In these documents, there is a clear expectation set that Part Time Students who fully pay their fees, are provided with full access to Student Services. Can you please indicate on what basis you have determined that I should not have access to Student Services even after my fees were paid in full? I have also copied in your Student Services Office and your Admissions Office since you have indicated that this office has communicated the policy to you.

Since the Institute was happy to accept my cash without delay, I would be grateful if you could also respond to to these urgent questions without delay.

Yours Sincerely,  
Kelvin O'Connor.

<Part-Time Course Prospectus.png><Procedures For Collection Of Student Fees.png>

From: [REDACTED]  
Subject: Re: Response  
Date: 13 November 2018 at 20:43  
To: Chaplaincy chaplaincy@dkit.ie  
Cc: linda.murphy@dkit.ie [REDACTED]

Hi Bernie, Paddy (and all interested parties)  
I have been asked direct questions below and yet told further communication is not possible.  
Nevertheless see below for my responses to your points:

From: Chaplaincy <chaplaincy@dkit.ie>  
Date: 8 November 2018 at 14:41:55 GMT  
To: [REDACTED]  
Subject: Response

Dear Kelvin,

We'll try and answer your queries as best we can.

1. Fr. Paddy celebrates a Mass at 8.30am, if he is on campus, and as he mentioned, everyone is welcome. At certain times, retired staff, and people from the locality may attend. Fr. Paddy did not invite you, specifically, to attend. As his email to you on 15<sup>th</sup> June stated, everyone is welcome to attend a Mass.

This answer is both factually incorrect and also describes a formal policy being operated at the DkIT Chaplaincy, which seems to be overtly illegal. It is false to state that Fr Paddy did not invite me to attend Mass. On 15th June 2018, Fr Paddy wrote to me as follows:

*"Regarding your question about prayer services - during the term, generally, if I am on campus, I usually celebrate Mass myself, and anyone is welcome to attend."*

That is, in response to my personal request to Fr Paddy in relation to prayer services, he wrote back to me personally and volunteered information about Mass that I could attend. Furthermore, this confirmation from Fr Paddy on 8th November 2018 that I can still attend Mass at the DkIT Chaplaincy (but not access services of other denominations) seems to be the text book definition of religious discrimination. If I was baptised as a Roman Catholic tomorrow morning there would be a religious service for me at DkIT Chaplaincy, but because I am a non-Catholic student there is no service for me. This policy treats me less favourably because of my religious beliefs, contrary to the Equal Status Act.

2. There is no exclusion – we are sorry if you feel this way. We have been trying to clarify what you were looking for and when we realised that we could not provide it, we merely communicated that to you. Do you feel our communication has not been safe or welcoming? If so, please indicate in what way.

I'm not sure why Fr Paddy asks me a specific question here, when below he insists that he cannot have any further communication with me. In answer to his question though, I would like to point out that the web site of the DkIT Chaplaincy indicates that it is for those of "all faiths and none". In contrast to this, Fr Paddy is confirming in this email of 8th November 2018 that he cannot facilitate a service in the DkIT Chaplaincy according to the denominations that I prefer (despite the fact that I provided contact details for the relevant Churches and offered to organise the services myself). The DkIT Chaplaincy is not for "all faiths and none". It is for "only the faiths that Fr Paddy approves". This policy treats me less favourably due to my religious beliefs, contrary to the Equal Status Act.

3. We communicated with you on the 11<sup>th</sup> September with our apologies, as Fr. Paddy hadn't replied. We asked for your 'D' Number, which is a student identification that all enrolled students have. If we are contacted by students using their private emails, we usually try and connect with them using their 'D' number, as all official college business is carried out in this way. There was no link between the content of your inquiry and our verifying your status. Queries about the enrolment status of students are often made. Again we apologise if you felt our responses to you were unduly delayed.

In my very first email to Fr Paddy, I made it clear that I was enrolled in a Lifelong Learning Course. At that point, he explicitly invited me to participate in a wide variety of Chaplaincy activities. Only when it became clear that I was interested in minority denominations did Fr Paddy contact the Admissions Office to determine what services students from Lifelong Learning Courses may be excluded from. It is clear that if I was a Roman Catholic there would have been no problem whatsoever with me attending Chaplaincy services. Fr Paddy only sought to exclude me when he realised that I wished to attend the services of minority faiths. My question related to why Fr Paddy contacted the Admissions Office when he realised that I wished to attend minority denomination services, but didn't contact the Admissions Office when I told him that I was enrolled in a Lifelong Learning Course. It is noticeable that Fr Paddy hasn't answered this question but it is obvious that it could have nothing to do with my status as a part-time student.

4. Your extracts merely summarise the collection of Fees. The services provided to the different levels of registration are a matter for the college authorities. I'll provide further clarification with our admissions office, all part time

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English Gaeilge



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**WRC**  
An Coimisiún um Chaidreamh san Áit Oibre  
Workplace Relations Commission



**The Labour  
Court**

This website contains decisions and determinations of both the Labour Court and the WRC. It also contains decisions and recommendations of the Equality Tribunal since 1996 and post 2007 determinations of the Employment Appeals Tribunal. For more information [click here](#)

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**ADJ-00016879**

## ADJUDICATION OFFICER DECISION

**Adjudication Reference:** ADJ-00016879

**Parties:**

	<b>Complainant</b>	<b>Respondent</b>
<b>Parties</b>	John Hamill	Dundalk IT

<b>Representatives</b>	In person	Ibec
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**Complaint:**

<b>Act</b>	<b>Complaint/Dispute Reference No.</b>	<b>Date of Receipt</b>



Institute seeking that religious ceremonies outside of the mainstream be arranged. To this end the complainant and others sought a full moon ceremony involving the Ard Druí of the Celtic Druid Temple. The complainant outlined that the Chaplain failed to respond to his repeated correspondence and continued to discriminate against non-mainstream religions by conducting only Roman Catholic Mass at the Institute. The complainant contends that the Chaplain's actions amount to discrimination on the religious ground contrary to the Irish constitution, the Equal Status legislation, the recommendations of the HEA for third level institutions and also contravene the Institutes own policy in relation to the provisions of chaplaincy services.

### **The Applicable Law**

#### **Discrimination**

Section 3(1)(a) of the Equal Status Act 2000 provides, inter alia, that discrimination shall be taken to occur where:

*(a) where a person is treated less favourably than another person is, has been or would be treated in a comparable situation on any of the grounds specified in subsection (2) (in this Act referred to as the "discriminatory grounds")*

Section 3 (2)(e) refers to the religion ground:

*(e) "where one has a different religious belief from the other, or that one has a religious belief and the other has not."*

According to section 2, 'religious belief' includes 'religious background or outlook'.

#### **Burden of proof**

Section 38A of the Equal Status Acts, 2000-2015 provides as follows in relation to the Burden of Proof:

*1. Where in any proceeding's facts are established by or on behalf of a person from which it may be presumed that prohibited conduct has occurred in relation to him or her, it is for the respondent to prove the contrary.*

The Burden of Proof in cases of discrimination rests initially with the complainant. If the Complainant raises facts from which an inference of discrimination can be drawn, the burden of proof then shifts to the Respondent.

The Burden of Proof is dealt with by the Labour Court in the decision of *Southern Health Board v Mitchell* [2001] ELR 201 where it determined that:

*"The first requirement is that the claimant must establish facts from which it may be presumed that the principle of equal treatment has not been applied to them. This indicates that a claimant must prove, on the balance of probabilities, the primary facts on which they rely in seeking to raise a presumption of unlawful discrimination.*

*"It is only if those primary facts are established to the satisfaction of the Court, and they are regarded by the Court as being of sufficient significance to raise a presumption of discrimination, that the onus shifts to the respondent to prove that there is no infringement of the principle of equal treatment"*

#### **Adjudication Hearing**

At the adjudication hearing the complainant outlined that he was seeking the use of "the prayer room" at the Institute in order to meet with his group which currently has approximately three members. The complainant stated that he should have the freedom to advertise the meeting with a view to facilitating the attendance of other interested parties who may not be aware of the existence of the group.

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. In his correspondence to the WRC and to the respondent the complainant speaks of his request to conduct "religious ceremonies" which are outside of the mainstream yet at the adjudication hearing the complainant spoke of his request to simply use the facilities to arrange a meeting of his group (currently three people) who have no religious beliefs/faith, for the purpose of holding discussions and allowing other interested parties to attend. **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 respondent confirmed that the use of the Prayer Room itself is a matter for the Chaplaincy Service to allocate.

I also note the complainant's assertions that non-Catholics were discriminated against as the complainant himself was not permitted to use the Prayer Room, however the complainant also outlined that other non-Catholics were permitted to use the Prayer Room as outlined. On that basis I am not satisfied that the complainant has established facts which infer a discriminatory disposition on the part of the respondent towards non- Catholics.

## Decision:

Section 25 of the Equal Status Acts, 2000 – 2015 requires that I make a decision in relation to the complaint in accordance with the relevant redress provisions under section 27 of that Act.

Having considered the submissions of both parties and for the reasons stated, I find that the complainant has not established facts from which an inference of discrimination can be drawn. Accordingly, I find that the complaint is not well founded.

**Dated:** 12-12-2019

**Workplace Relations Commission Adjudication Officer:** Andrew Heavey

### Key Words:

Discrimination, Religious Beliefs.

# WRC

An Coimisiún um Chaidreamh san Áit Oibre  
Workplace Relations Commission



# The Labour Court

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