

Employment Equality Act, 1998

DEC - E - 2002/033

Meaney
(Represented by Mr. Kerr B.L. instructed
by O'Mara Geraghty McCourt,
Solicitors)

V

Department of Education and Science
(Represented by Mr. Mallon B.L.
instructed by the Chief State Solicitor's
Office)

File No. *EE 2001/170*

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SUMMARY¹

Meaney (complainant) Represented by O'Mara Geraghty McCourt Solicitors vs Department of Education & Science (respondent) Represented by the Chief State Solicitor's Office:

Equality Officer Decision DEC-E 2002/033 (Coyle G.) 30th July, 2002

Employment Equality Act, 1998 Sections 6 and 8 - Employment - Discriminatory treatment - Gender - Marital Status - Family Status - Admissibility of Claim - Jurisdiction

Background:

The complainant alleges that she was discriminated against by the respondent on the grounds of gender, marital status and family status in terms of Section 6(2)(a), Section 6(2)(b) and Section 6(2)(c) of the Employment Equality Act, 1998 and contrary to Sections 8 of that Act. Her complaint centres on an application for transfer and/or career break from Sligo to a post that would facilitate her studies; the redistribution of a retired colleague's workload and the manner in which travel and subsistence expenses were reimbursed.

Conclusions:

The Equality Officer found that no act of discrimination occurred on the date given as the most recent date of discriminatory act in relation to travel and subsistence expenses as stated by the complainant. The other allegations made by the complainant were outside the six months time limit imposed by Section 77(5) of the Employment Equality Act, 1998. The complainant could have made an application for exceptional circumstances in terms of Section 77(6) of the Act in respect of the redistribution of a colleague's workload but she failed to do so. The Equality Officer, therefore, held that she did not have jurisdiction to investigate these incidents.

Decision:

In conclusion the Equality Officer found that the claim was inadmissible and she had no jurisdiction to investigate allegations which were outside the six months time limit as imposed by the Employment Equality Act, 1998.

¹ This Summary is provided for convenience only and is not part of the Decision for legal purposes.

1. DISPUTE

- 1.1** This dispute concerns a claim by Ms. Mary Meaney that the Department of Education and Science discriminated against her on the basis of her gender, marital status and family status in terms of Sections 6(2)(a), 6(2)(b) and 6(2)(c) of the Employment Equality Act, 1998 and contrary to the provisions of Section 8 of that Act in terms of her application for a transfer and/or career break from Sligo to a post which would facilitate her studies, the redistribution of a retired colleague's workload and the manner in which travel and subsistence expenses were reimbursed.

2. BACKGROUND

- 2.1** The complainant joined the respondent organisation as a District Inspector in September, 1998. Set out in her detailed submissions are her main allegations which centre on the refusal by the respondent of her request for a transfer from the Sligo office to facilitate her studies and the refusal of a secondment request, the handling of her request for a career break for study purposes, the redistribution of a retired colleague's workload, the manner in which travel and subsistence expenses were reimbursed, promotion opportunities for females and the allocation of 'high profile' tasks to male colleagues.
- 2.2** Having failed to obtain satisfactory responses from the respondent to these issues the complainant decided to refer a claim to the Director of Equality Investigations on 11th July, 2001 under the Employment Equality Act, 1998. In accordance with her powers under Section 75 of that Act, the Director then delegated the claim to Gerardine Coyle, Equality Officer on 21st September, 2001 for investigation, hearing and decision and for the exercise of other relevant functions of the Director under Part VII of the Act. A joint hearing of the parties took place on 18th June, 2002 following receipt of detailed submissions from both parties to the claim. Further additional information was received from the parties and the last date of receipt of information was 29th July, 2002.

3. SUMMARY OF THE COMPLAINANT'S SUBMISSION

- 3.1** According to the complainant it has not been her experience that the Department of Education and Science is an "equal opportunities employer" as it professes. In support of this contention the complainant has cited a variety of experiences which she has had in the Department since joining in September, 1998. These experiences relate to recruitment and selection, appointment, assignment, placement/mobility, transfer, staff training and development, career progression, promotion, special leave and workload allocation and in the allocation of support services.

Placement/Mobility (including expenses)

- 3.2** It is the complainant's contention that travel and subsistence expenses are payable to staff from their office/base. Female single inspectors are frequently assigned to distant locations and must travel to and from base at their own expense. By contrast male inspectors are assigned to home locations and, therefore, have significantly less or no unrecoverable expenses. The complainant has her base in Sligo and her home is in Westport. The assignment to Sligo involves either relocation at her own expense or commuting between Westport and Sligo (a distance of some 64 miles each way) again at her own expense. The complainant last claimed expenses from her base in Sligo on 6th January, 2001.
- 3.3** According to the complainant male inspectors and female married inspectors are not required to relocate or travel long distances to base. By comparison single female inspectors are at a high risk of these assignments. Between 1992 and September, 2000 a total of 32 inspectors were appointed of which 14 were female and 18 were male. Only one male had to relocate/commute long distances whereas five female inspectors had this experience. The complainant says that overall females had a 5 in 14 chance of being assigned to a distant location, single female have a high chance of this whereas married females have no chance of this. By comparison males have a 1 in 18 chance of long distant assignment while single males have a zero chance with married males at a remote risk. The complainant notes that a single man appointed in September, 1998 was assigned to Dundalk even though he lived in Dublin. He resigned in late July/August, 1999 (not taking up the appointment in the Dundalk district) to take up a lecturing post in Limerick in September/October, 1999.

- 3.4** With respect to placement procedures the complainant submits details of placement patterns for male and female inspectors since 1992. The complainant says that those appointed in 1998 were assured on a number of occasions by the then Deputy Chief Inspector that circumstances would be considered as regards placements. In October, 1998 the complainant wrote to the Deputy Chief Inspector stating that she wished to be placed at a location convenient to a university as she intended pursuing post graduate studies. This letter was not acknowledged. The complainant also alleges that those appointed in 1998 were assured by the Deputy Chief Inspector that he would hold meetings with them. While some of the complainant's colleagues met with the Deputy Chief Inspector, no invitation was extended to her.
- 3.5** According to the complainant she was initially appointed to Galway and transferred to Sligo in May, 1999. The Deputy Chief Inspector informed her that this was a temporary transfer. The complainant says that when she pointed out to the Deputy Chief Inspector his assurance that preferences would be respected he stated that if she wanted a transfer to Dundalk or Tullamore he would consider this. It is the complainant's contention that these were locations for single inspectors. In relation to travel expenses between Westport and Sligo the Deputy Chief Inspector indicated that Sligo was the base for the purposes of expenses. According to the complainant her position in Sligo became permanent in September, 1999. She had been informed of this by the Deputy Chief Inspector in July, 1999.
- 3.6** The complainant states that the implication of her placements was that she had to defer plans for post grad studies in 1998. Because of her assignment to Sligo she had to forego a place for post grad studies in University College Galway in 1999. It was impossible for her to undertake a course of studies in 2000 and travel expenses were refused despite fulfilling relevant criteria. A career break requested from 23rd October, 2000 to 31st May, 2001 was refused and her transfer application was ignored. It is the complainant's contention that as only females are required to relocate, only females are disadvantaged in relation to study plans. A female inspector appointed in 1992/1993 deferred her studies while midway through the course. A female inspector assigned to Tullamore in 1999 had to travel to Dublin to

attend lectures. A male inspector appointed in 1992 completed a degree in 1999/2000 and was allowed to attend lectures during normal working hours. Another male inspector recently completed a degree in University College Cork.

Transfer Procedures

3.7 In terms of transfer procedures from one geographical location to another the complainant outlines the experiences of both male and female district inspectors. She states that she applied for a transfer orally on the same day that she was informed by the Deputy Chief Inspector that she was being appointed to Sligo on a permanent basis (i.e. July, 1999). The Deputy Chief Inspector told the complainant that there was no possibility of a transfer for 2-3 years. The complainant says that this comment ignores the fact that there have been 16 new appointments since and some vacancies as a result of retirements/resignations. It is the complainant's contention that the Deputy Chief Inspector must have been aware of the majority of these forthcoming vacancies.

3.8 The complainant states that she applied in writing for a transfer dated 26th May, 2000 and her application was effectively ignored. As a result she was forced to take a career break to pursue studies and protect her health. On return from her career break she had no guarantee of a transfer. However the complainant says that she was transferred on 9th July, 2001. It is the complainant's contention that males have significantly higher success rates in arranging transfers than their female counterparts. One appointed in January, 2000 has been promised a transfer for September, 2001. He was originally to have been transferred in January, 2001 but this date was changed by senior management. A male appointed in September, 2000 was working in the Dublin area and had sought a transfer to Galway in September, 2001. His request was facilitated in less than 4 months whereas the complainant's transfer was delayed for 14 months. The complainant says that, as a general practice, females have to wait to have a transfer facilitated.

3.9 In essence the complainant notes that:

- Females have a high risk of distant location;
- This disadvantage is compounded by the delay in arranging transfers;

- Males have a low risk of distant appointments;
- They have impressive success in expeditiously arranging transfers;
- Transfers operate swiftly in disproportionate favour of males;
- Transfers operate slowly in disproportionate disadvantage of females.

3.10 The complainant submits that while District Inspectors were required to be in Sligo the Assistant Chief Inspectors worked and work from Dublin and she presumes that this is the centre of their own choice. She notes that a male second level inspector was based in Sligo but worked from Dublin. He was appointed shortly after the complainant and although theoretically in Sligo he was there 3 or 4 days. It is the complainant's understanding that he is now transferred to Dublin.

3.11 The complainant says that District Inspectors posts are in effect either school based (district) posts or alternatively office based (administration) posts. According to the complainant she applied for a transfer to a post that would be convenient for post grad study in Dublin. There were several letters in this regard. The complainant received a "holding" acknowledgement some 3 months later advising that the matter had been referred to the Deputy Chief Inspector for consideration. According to the complainant she sought a meeting in September requesting that it take place between 2nd and 9th October, 2000. As these dates did not suit the Deputy Chief Inspector he proposed 13th November, 2000 but this did not suit the complainant due to her study commitments. The meeting was not rescheduled. Instead the Deputy Chief Inspector advised by letter that it would not be possible to consider the complainant's request for a transfer until district reorganisation had taken place. The complainant notes that this did not prevent the facilitation of the transfer requests of 2 male inspectors. In her application for a transfer the complainant applied for a post in a district or an administrative position with specific reference being made to vacancies in ESRU and ICDU. A male inspector has since been transferred to the ESRU but the complainant does not know if the transfer was by invitation or by application. A female inspector was also transferred to the ESRU but it is the complainant's understanding that she had been waiting for a transfer for a long period of time. According to the complainant another male inspector was transferred, by invitation, to an office position in the Office of the Chief Inspector. The complainant says that she was unaware of this vacancy.

Study Leave

- 3.12** The complainant says that a married man with a family was allowed attend a post graduate course which was scheduled over one and a half days during work hours. Given that the academic year is approximately 25 weeks this means that the male inspector was allowed to attend for 37½ days over one year. It is the complainant's contention that the minimum time allowed to him (over the two years) must have been 62½ days. The complainant presumes that travel to and from the course and fee refunds/direct payment to the College also applied. According to the complainant a female married inspector with a family was also allowed to attend a course in Trinity which was scheduled during normal work hours. A retired colleague told the complainant that another Deputy Chief Inspector had a day off per week for several years while he studied. Another female inspector with a family was given one day off per week from work to attend a course in UCD. She was also permitted a further 12 official absences (equivalent to 6 days) from the office to attend in a personal capacity regarding an aspect of education through Irish.

Travel to Courses

- 3.13** The complainant says that travel expenses to and from courses are allowed subject to certain conditions in the relevant circular. It is the complainant's view that the course she was undertaking fulfilled all the requirements. According to the complainant she did not apply for refunds nor did she give any indication that she would do so. Despite this, an Assistant Chief Inspector stated at a meeting in September that no expenses for travel would be allowed to the complainant. As the complainant considers that the course she is undertaking falls within the terms of the relevant circular she finds that this decision was designed to victimise her and make her attendance at the course more difficult. Had the career break which the complainant sought been granted this issue would not have arisen. The complainant notes that a reply to her FOI request indicates that a number of inspectors have been refunded travel expenses even where the course attended by them does not appear to strictly fulfil the criteria of the circular.

Career Break from Sligo

- 3.14** The complainant states that she applied for a career break in May, 2000. Her application was refused on the grounds that it would not be possible to find a replacement. The complainant notes that a female married inspector with a family was granted a career break without replacement for a period of 9 to 12 months having previously been on maternity leave. The complainant notes that only female inspectors are on career break and she states that location is a factor in each application. According to the complainant inspectors from other locations have not applied for career breaks.

Secondment experiences of males and females

- 3.15** The complainant states that a male second level inspector was on secondment for 17 years. Another male second level inspector was on secondment for 9 years. A male inspector appointed in 1998 was on secondment for a six months period from January to June, 2001. The complainant says that she is unaware of any instance of a female inspector being seconded until 2001. An application for secondment by the complainant was refused on the grounds that it would not be possible to find a replacement. The complainant notes that, according to an Assistant Chief Inspector the replacement criterion has not been applied strictly in every case. According to the complainant a female inspector, who was appointed in 1998, was seconded from the Inspectorate, without replacement, to a post in Marino College in September/October, 2001. During the autumn of 2000 a male inspector was seconded to the World Bank for a 6 months posting and a male inspector was seconded to replace him.
- 3.16** The complainant states that female inspectors have significantly more schools than their male counterparts. Travel to more schools reduces the amount of time available for administrative work during office hours. This in turn increase the time necessary for office work and, in the complainant's case, meant that work was consistently being done over weekends, evenings, etc. According to the complainant journal entries verify this but as she did not always record the actual hours worked the journal is an understatement. The complainant states that her workload varied from between twice and 4½ times her male colleagues' workload. It is the complainant's contention that all female inspectors appointed in 1998 have significantly higher workloads than their male colleagues.

- 3.17** The complainant notes that in July, 2000 her workload increased due to an increase in the number of school and teachers in her district. The Divisional Inspector was to retire on age grounds in December, 1999. At the end of September, 1999 the complainant's list of scheduled inspections included 4 schools from his district (i.e. district 3a). As she had a full district the complainant informed the Divisional Inspector that she would not notify these additional schools. The Divisional Inspector was not replaced for 12 - 18 months following his retirement. In July, 2000 his 57 schools comprising 271 teachers were redistributed with the complainant being given 23 of these schools comprising 160 teachers. The remaining 34 schools were redistributed between two other neighbouring districts which are serviced by male inspectors both of whom are married and have families. The complainant notes that even following the increase their workloads were significantly lower than her workload. The complainant states that, prior to this, a number of the Dublin districts were reduced in size. The complainant was informed of the redistribution of the schools by a printout with a compliment slip attached signed by the Assistant Chief Inspector. This was posted to the complainant on the day the Assistant Chief Inspector went on annual leave. The complainant says that she had a meeting with the Assistant Chief Inspector in September, 2000 about her workload in which the Assistant Chief Inspector stated that she did not assign and did not tolerate the workload.
- 3.18** The complainant contends that female inspectors are required to travel long distances to base, increasing their working day significantly. Females have larger districts and consequently during their working day they are required to drive more than their male counterparts giving them less administrative time. Furthermore the complainant states that female inspectors regularly need to take work home which is attributable to management's inconsistent distribution of the workload as among male and female inspectors.

Inadequate inspection service in an area is used by management to reject applications from females for transfer, career break, secondment, etc.

- 3.19** According to the complainant management, having arranged an inconsistent haphazard inspection service, refuses to relocate females on the grounds that their transfer would deprive an area of an inspection service. While females have larger districts this argument will always operate to frustrate the applications made by females to transfer to other areas.

Departures from the Inspectorate (those appointed since 1992)

- 3.20** In 1992 there were 4 appointments and one female is now on career break as a result of being unsuccessful in a transfer and another female resigned for another post. In relation to the 1998 appointments one single male has resigned, one single female went on a career break having been unsuccessful in her transfer request. She subsequently returned and received her transfer. Another female appointed in 1998 is on secondment to Marino College since October, 2001. In terms of the appointments made in 2000 a male inspector and a female inspector resigned in 2001.

Career Break and promotion

- 3.21** The complainant notes that inspectors on career break may or may not be eligible for promotion and as only females are on career break this situation further disadvantages females.

Miscellaneous extras

- 3.22** Offices at home: The complainant states that payment is made to inspectors who are required to provide an office in their own homes. It is the complainant's contention that her assignment to Sligo (which is outside the original District 4a i.e. the far side of District 4a from the complainant's home) meant that she was deprived of the rental payment available to colleagues and she had to travel through the district to get to the office which was in the district following the increase.
- 3.23** List of School Inspections for 1999-2000: The complainant states that this list for District 4a was organised by some more senior inspector and it incorporated, without notice, a number of schools in District 3a. According to the complainant she informed the Divisional that as these schools were outside her District she would not undertake them.

Criteria for district size

- 3.24** In a document entitled “Staffing of the Primary Inspectorate” dated 11-12-99 and bearing the Deputy Chief Inspector’s name it was stated “To allocate all the teachers to the district inspectors would give 505 teachers per inspector. Such a number of teachers would be much too great for any one inspector.” The complainant states that the document refers to a proposal “to allocate an average of 395 teachers to each district inspector and an average of 250 to each divisional inspector”. The conclusion reads “It is felt that the above is a reasonable basis on which to deploy staff and to use the existing staffing complement most effectively”. It is the complainant’s contention that had the 590 teachers per inspector been applied equally across all field inspectors there would be a need for a complement of 37 field inspectors. When the complainant’s workload was revised there was a complement of 68 inspectors. The complainant says that this criteria was disregarded in the redistribution on District 3a. She attempted to establish the basis for redistribution but to no avail. At a meeting in July, 2001 it was said that the Deputy Chief Inspector would have taken the decision having regard to the overall needs of the service. However in November, 2001 as a result of an FOI request it was stated that no criteria existed for the redistribution of District A.3.

Transfers of Colleagues following receipt of the complainant’s application

- 3.25** According to the complainant her application for a transfer was received on 2nd June, 2000. Since then four males were transferred or assigned with effect from 1st September, 2000; three to home locations (2 in Dublin and 1 in Cork) and one to Tullamore, his home being in Limerick. The complainant says that the person in Tullamore was subsequently telephoned and told that he would be transferred to Limerick in January. The complainant notes that this did not happen. His case was discussed by management and he was informed in December, 2000 that he would be transferred in September, 2001.
- 3.26** The complainant states that a single female inspector from Dublin, who had been appointed with her, was assigned to Tullamore at the end of June, 2000. This person was transferred back to Dublin and her office was in her home. According to the

complainant this person did not seek a transfer, rather she was contacted by the Deputy Chief Inspector. At that time a male inspector who was one of the 1998 group was transferred from north city to south city where he lived. He had not made any formal transfer application and was surprised by the telephone call from the Deputy Chief Inspector. A few months later he was offered a transfer to the office of the Chief Inspector.

- 3.27** The complainant says that a male colleague appointed in September, 1998 was seconded in the autumn of 2000 and a teacher was seconded to replace him. Another male colleague was assigned to ESRU, a post for which the complainant made a formal application. The complainant does not know if her male colleague applied for the position. On 9th July, 2001 the complainant received a transfer to Dublin and her post is 50% district work and 50% administrative work with ESRU/Central Services. According to the complainant a single female inspector was transferred in 2000. She had waited on the transfer since 1992/1993. Another female inspector had not applied for a transfer but was transferred anyway.

Recruitment to the Inspectorate

- 3.28** According to the complainant there have been three competitions for primary District Inspector advertised since 1990. The 1997 competition is the one from which the complainant was appointed. One in six males and one in 5.8 females were shortlisted in this competition. In terms of appointment one in 10.5 males (i.e. twelve males) and one in 29 females (i.e. five females) were appointed. Males interviewed had a 11 in 20 chance of appointment whereas females interviewed had a 5 in 24 chance of appointment. As 16 were appointed out of a possible 44 interviewed this would give a 1 in 2.75 chance of appointment overall. In effect the complainant states that the odds were doubled for females and halved for males. The complainant notes that the interview board comprised four males and one female. There was also a male secretary to the board who did not participate in the interview process. The male members of the board comprised the Deputy Chief Inspector; the Assistant Chief Inspector; a Professor from Trinity and a lecturer from the Mary Immaculate College, Limerick. The female member of the board represented the Commission. The complainant states that inspectors are appointed from among the ranks of practising

teachers or teachers involved in non teaching aspects of education e.g. curriculum development. The profession is predominately female at about 75%. In 1997 there were a total of 21,053 teachers and given a 75% female composition this means that there were a total of 15,776 female and 5,258 male teachers. The complainant states that out of the total male teacher population (5,258) 11 were appointed to the post of inspector from the 1997 competition i.e. one male inspector from every 478 teachers. By contrast 5 female teachers were appointed to the post of inspector out of a total female teacher population of 15,776. This represented one female inspector from every 3,155 female teachers. The complainant says that in absolute terms males are 6.6 times as likely to be appointed as females.

High Profile Tasks

- 3.29** The complainant states that the inspector presenters at the summer seminar for primary inspectors in 2001 were all male. The pattern at the Annual Conferences is that inspector presenters are disproportionately male. The complainant says that the conference documentation for 1998, 1999 and 2000 and induction documentation give objective evidence of the almost exclusive involvement of males in any type of seminar. The induction of new colleagues is delivered predominately by males and where females had an input this was generally a shared session. It should be noted that the 2001 Annual Conference had a number of female inspector presenters including one district inspector.

Promotion Practices

- 3.30** To the best of the complainant's knowledge over 20 people applied for promotion to the Divisional grade this year. This included 4 females. A total of 4 were unsuccessful (i.e. 2 males and 2 females). The complainant states that males candidates had about a 90% chance of promotion while female candidates had a 50% chance of promotion.

Deployment/assignment within the Inspectorate

- 3.31** According to the complainant males are more likely to be deployed in "high profile" areas than females. This is likely to offer opportunities which may be important as regards one's record of experience when promotional posts arise. By contrast females

are deployed to the more operational areas and therefore have less varied experience. The complainant notes that all promoted posts are held by males. Recently one female was appointed to the post of Assistant Chief Inspector. There are four female Divisional Inspectors (two of whom were appointed recently) out of a total of approximately 80 inspectors. The complainant notes that there are 5 promoted females out of a total of 80 inspectors whereas there are 35 promoted males out of the same total. There are 8 male inspectors assigned to other Divisions as compared with only one female (second level) inspector assigned to PMDS. The complainant states that a number of male inspectors are listed as seconded to or attached to the Inspectorate whereas no females are seconded/attached to the Inspectorate.

Participation on working groups/committees/editorial boards

- 3.32** The complainant submitted a request under the Freedom of Information Act for details in this regard since 1995. The response to this request stated that no records in the Office of the Chief Inspector existed on inspectorate involvement in working groups, committees and editorial boards. However letters and e-mails for 2001 were made available. The complainant states that from the incomplete data provided it appears that male inspectors are more likely to have an involvement in this aspect of work. A statement of travel to conferences, in a representative capacity, was provided for 2001. The complainant says that the same trend is evident here i.e. males are more likely to attend conferences abroad than their female colleagues. From the information provided the complainant contends that males are more likely to serve on national committees.

Discrimination against female inspectors

- 3.33** According to the complainant discrimination against female inspectors exists at the recruitment stage, the shortlisting stage, the appointment stage, the placement stage, the professional development/continuing education stage, career progression stage, promotion, promotion progress and career options. In relation to promotion progress the complainant states that female inspector progress on promotion via each grade. However she says that there is evidence of male inspectors “skipping” a grade and others spending a period of only months in a promoted grade before progressing to a higher grade. The requirement for promotion is “3 years” and there is nothing to

require incremental progress through grades for any individual inspector. However the complainant states that the practice is for males to benefit from this flexibility while females must progress strictly through grades. The complainant says that inspectors are among those eligible for appointment to the positions of Principal Officer and Assistant Secretary. She notes that males have been successful in their appointment to these positions but female inspectors have never been successful.

Career Progression

- 3.34** According to the complainant male inspectors can look forward to secondment, study leave, almost guaranteed promotion and transfer into senior administrative grades in the Department. By contrast females were likely to remain at district grade and a small number progressed to the next step. The complainant says that the cut off point for females in the primary sector was Divisional Inspector (one grade above recruitment) until 2001 when a female primary inspector was appointed Assistant Chief Inspector (two grades above recruitment) and a second level Assistant Chief Inspector had been appointed sometime before 1998.

SUMMARY OF THE DEPARTMENT'S SUBMISSION

- 4.1** The Department emphatically refutes the allegations made by the complainant. It states that not only has it a strong commitment to compliance with the terms of the Employment Equality Act, 1998; but it has a positive and proactive approach to the development of policies and practices to address gender imbalances and to promote equality of opportunity as an integral element of the Department's human resource management policies.
- 4.2** In relation to the offers of appointment in 1998 the Department states that as a result of the 1998 competition 24 candidates were placed on a panel, 14 male and 10 female. Sixteen appointments were made from this panel in the period from September, 1998 to January, 2000 in accordance with the Notice of Selection received from the Civil Service Commission - 12 in the Autumn of 1998 and 4 in January,

2000. The Department states that candidates were offered appointments in accordance with the Rules and Conditions of Service relating to the competition including:

- a probationary period of two years;
- a statement that the officer would be required to carry out “any duties assigned from time to time as appropriate to the position” and
- a statement that the officer’s headquarters “will be such as may be designated from time to time by the Head of the Department”.

The Department states that very little recruitment to the Inspectorate took place between 1981 and 1998. This resulted in weaknesses in the provision of national inspection coverage. Hence inspectors appointed in 1998 were assigned to districts having regard to the requirement to provide for a national inspection service.

4.3 *Recruitment, Selection and Appointment*

4.3.1 According to the Department there is no basis for the complainant’s allegations. Recruitment to the Inspectorate is carried out on behalf of the Department by the Civil Service Commission, an independent statutory body. The gender profile of primary inspectors recruited from the 1998 competition was 5 female and 11 male. The Department notes that the panel established in 1998 (from which the complainant was appointed) comprised 14 males and 10 females. According to the Department the complainant’s assumptions do not take account of the choices exercised by candidates (male and female) not to proceed with their application for a position in the Inspectorate, following placement on a panel. The Department states that it is satisfied that there is no discrimination on gender grounds in recruitment to the Inspectorate.

4.4 *Placement, Mobility and Assignment*

4.4.1 The Department states that the Inspectorate has a duty to maintain an inspection service for all recognised primary schools throughout the country. Placement of newly recruited inspectors is dictated by the work requirements of the organisation. Each primary inspector is assigned a

number of schools for which s/he has responsibility. According to the respondent it has always been difficult to provide for a continuous district inspector service in particular parts of the country, most notably the West of Ireland because competitions (until the most recent ones) for the appointment of district inspectors were not location specific. The effect of this was that appointees from rural areas and provincial towns sought assignment or early transfer to city locations.

4.4.2 Following an initial induction/training newly appointed primary inspectors commonly work independently with schools in an unassigned capacity (*cigire gan ceantar*) under the direction of more senior inspectors for a number of months. The Department states that, following the 1998 recruitment competition, 16 inspectors were recruited (12 in Autumn 1998 and 4 in January, 2000). Most inspectors recruited in the Autumn 1998 (including the complainant) had completed their initial training by late March/ early April, 1998 and worked in unassigned capacities from then until 1 September, 1999. According to the Department the inspectors in this group worked in various locations throughout the country during this time until they became responsible for a specific district in September, 1999. Those recruited in January, 2000 were assigned to districts in September, 2000.

4.4.3 The Department states that the places of residence of the 16 inspectors appointed from the 1998 competition and the districts to which they were assigned was uninfluenced by considerations of gender or single/family status. When the complainant was appointed to the Inspectorate all appointments, according to the Department, were made on the basis that inspectors could be assigned to any part of the country. The letters of appointment to new inspectors gave no indication of the district to which inspectors might be assigned. The Department states that the management of the Inspectorate operated a policy of accommodating individual preferences in terms of assignments where practicable and with due regard to the provision of a national inspection service.

- 4.4.4** The Department says that the complainant resided in Westport, Co. Mayo at the time of her appointment to the Inspectorate. Following her induction and initial training she was based in Galway and with effect from 1st September, 1999 she was assigned to the Sligo district. The Department states that vacancies existed in both Sligo and Donegal and had to be filled by two of the twelve inspectors appointed in the Autumn of 1998. An inspector resident in Co. Donegal was assigned to that county and, of the remaining inspectors, the complainant's residence was closest to the Sligo office. The Department states that it is satisfied that there is no basis to the complainant's allegation that the allocation of the Sligo district to her in 1999 was discriminatory.
- 4.4.5** The complainant's allegation that her assignment to the Sligo office disregarded her need to attend university courses ignores the fact, according to the Department, that staff are recruited to provide a service. The Department states that while the management of the Inspectorate operates a policy of accommodating individual preferences insofar as is practicable, the personal study choices of existing and newly recruited staff can only be facilitated provided such choices do not impinge on the delivery of a national inspection service.
- 4.4.6** The complainant's reference to 'rental payment' is erroneous according to the Department. The policy of the Inspectorate is that all inspectors work from officially provided offices where such are available. Currently additional offices are being sourced, in conjunction with the Office of Public Works, but at present accommodation shortages dictate that some inspectors are required to work from home, pending the provision of official offices. In these case the Department says that an allowance of approximately €14 (£11) per week is paid to these inspectors to cover lighting, heating and other costs. The complainant's base was in the Sligo office of the Inspectorate and hence the issue of a home allowance did not arise.

4.4.7 The Department states that the complainant's observations on the assignment of tasks and responsibilities to individual inspectors are fundamentally flawed. They show no awareness that it is a function of the management to routinely assign inspectors and other staff to duties in accordance with considerations of competence, knowledge, experience, suitability and the requirements of the work. The deployment of inspectors at their grade level is a matter for management and is not the subject of negotiation or entitlement. Having said that, the Department notes that for historical reasons the majority of the more senior and experienced inspectors are male and it is inevitable that male inspectors will therefore carry out a greater number of representational tasks. If it were otherwise the Department states that a disproportionate amount of such work would fall on the serving female inspectors at Senior/Divisional and Assistant Chief level. The Department says that the complainant's insinuations imply that female inspectors in senior and management grades are deliberately excluded from participation on National Committees/Working Groups and other representational fora. The Department describes this as patently untrue and an affront to the reputation and professionalism of the female members of the Senior Management Group of the Inspectorate and female inspectors in the Senior/Divisional grades.

4.5 *Transfers within the Inspectorate*

4.5.1 The matter of the complainant's career break application is dealt with under the heading of *Special Leave - Career Break* below. The Department notes that the complainant states that she 'applied for a transfer orally' when she was informed of her assignment to Sligo district in July, 1999 and that the then Deputy Chief Inspector informed her at the time that 'there would be no possibility for a transfer for 2 - 3 years. The Department states that there is no record of a formal written application from the complainant in 1999 for a transfer from Sligo to Dublin. In May,

2000 (in an application form for a career break) the complainant added the note 'I wish to be placed on a transfer list for Dublin Districts'.

4.5.2 In a letter dated 10th August, 2000 to the Personnel Officer the complainant clarified her request for a transfer to a Dublin district stating 'This should be interpreted as including such non-district posts as may arise in offices including the ICDU, ESRU and/or similar assignments within the Inspectorate'. The Department says that this request was referred to the management of the Inspectorate and the then Deputy Chief Inspector responded to the complainant on 29th September, 2000. According to the Department the then Deputy Chief Inspector arranged a meeting with the complainant for 5.00p.m. on Monday, 13th November, 2000. The complainant wrote on 12th November to cancel this meeting and also requested a transfer to the ICDU (Dublin). On 14th November the then Deputy Chief Inspector acknowledged the notice of the cancelled meeting and also informed the complainant that posts in the ICDU were at Divisional/Senior or Senior Psychologist level.

4.5.3 The complainant accepted a six-month career break with effect from 1st January, 2001 and she resumed duty in the Inspectorate on 1st July, 2001. During the period from December, 2000 to July, 2001 a major reorganisation of the Inspectorate took place in consultation with all members of the Inspectorate and IMPACT trade union. From the summer of 2001 the Department says that an arrangement was put in place by management to facilitate requests for transfers in the context of the reorganisation. The complainant and a number of other colleagues who joined the Inspectorate from 1998 were beneficiaries of this arrangement. The Department notes that the arrangement was put in place notwithstanding that gaps remained in the level of service provided by inspectors in certain districts and divisions. The Department states that the complainant's application for a transfer was not ignored as she claims. Rather she was granted a transfer 14 months after her first intimation in writing that she 'wished to be placed on a transfer list' and within the

broad time scale intimated to her by the former Deputy Chief Inspector in his response to her initial oral request.

4.5.4 The assignment of staff within the Department is a function of the Secretary General. For staff up to and including the grade of Higher Executive Officer this function is delegated to the Personnel Officer. For higher grades, assignment decisions are agreed by Top Management and within the Inspectorate this function is delegated to the Chief Inspector and Deputy Chief Inspectors.

4.5.5 The Department notes that the complainant, in her submission, cites specific cases where the Department allegedly accorded more favourable treatment to males. A reference is made about a male inspector who was allowed to work from Dublin while based in Sligo. The Department says that the inspector in question was assigned to Galway for his induction year and was relocated to the Sligo office in 1999 at his request and remained there until September, 2001 when he was transferred to Dublin as part of the reorganisation of the Inspectorate. The Department states that the transfer to Dublin was facilitated because a Dublin based inspector (female) wished to transfer to Sligo. Contrary to the complainant's assertion the male inspector did not work from Dublin while based in Sligo.

4.5.6 The complainant was offered an immediate transfer to Dublin on her return from career break as part of the reorganisation. The complainant's requested that the effective date of transfer be deferred until September, 2001.

4.5.7 According to the Department it was not in a position to transfer the complainant or to grant her a career break until such time as there was an inspector available for assignment to the Sligo district to replace her. This position was made clear to the complainant when her application for secondment was refused in January, 2000 but the complainant has

persistently failed to accept management's decision in this matter. The Department notes that the complainant ignores entirely the fact that a single female inspector was assigned to Tullamore to fill a vacancy resulting from the transfer of a then single Tullamore-based female inspector, to Dublin at the latter's request.

4.6 Special Leave - Study Leave

4.6.1 The Department states that the complainant makes comparisons in her submission between named colleagues and herself with regard to the facilities extended to carry out courses of study and it says that these comparisons are invalid. The colleagues named by the complainant were sponsored by the Department to carry out a course of study in the context of the Department's Staff Training and Development Programme. According to the Department the complainant provides no evidence that she sought prior approval of management to have her course of study recognised under the Staff Development Programme nor is there any evidence that the complainant secured the prior agreement of the management of the Inspectorate to pursue a course of study which would result in absence from duty for examination and study leave. The Department says that absence from duty for any purpose must be authorised by an officer's manager and in no circumstances do the study requirements of an officer take precedence over his/her professional duties.

4.6.2 The Department states that the complainant did not fulfil the criteria for payment of travel expenses in respect of attendance at a study course. Travel expenses are payable only in respect of attendance at a course of study recognised under the Department's Staff Training and Development programme.

4.7 Special Leave - Secondment

4.7.1 The Department says that while the complainant applied for a secondment to work with the National Reading Initiative in late 1999 it was not

possible to accede to this request on the basis that the primary Inspectorate was very short-staffed at the time and that no satisfactory arrangements could be put in place to provide cover for her district. The complainant appealed the decision unsuccessfully regarding her application for a secondment to the Secretary General of the Department. The Department notes that the appeal was unsuccessful and the complainant sought a Judicial Review of this decision and the Department is unaware of the position with regard to the Review. The reference in the complainant's submission to the long-term secondment of two male inspectors is totally misleading. The Department says that these secondments as teachers to European schools in respect of which all suitably qualified male/female teachers or male/female inspectors were eligible to apply.

- 4.7.2** The Department notes the reference in the complainant's submission to the secondment of a male inspector for a period of six months in 2001. This secondment was facilitated at the request of the World Bank and was of special importance to the work of the Inspectorate. The examination work of this inspector was carried out by a teacher in his absence and other support duties as feasible were reallocated to other inspectors for the period of the inspector's secondment. The Department states that it has never been the practice of the Inspectorate to second teachers into the service to discharge an evaluative role in schools.

4.8 *Special Leave - Career Break*

- 4.8.1** The complainant applied for special leave for a career break in May, 2000 for a period from 23rd October, 2000 to 31st May, 2001. The Department says that she was informed on 22nd September, 2000 that her request could not be approved as it would not be possible to replace her in her post with effect from that date. The complainant was, however, advised that following the deployment of new inspectors (who had been recruited in September, 2000 and were undergoing induction training) the situation would change. In those circumstances the Department was prepared to offer her special leave without pay for six months from 1st January, 2001

subject to the usual conditions. The complainant signed the form of undertaking on 28th December, 2000 and commenced her career break on 1st January, 2001.

4.8.2 According to the Department there is no basis for the claim of gender discrimination with regard to the manner in which applications for transfers and career breaks are processed. The Department accepts that there was a long delay in responding to the complainant's request for a career break and the Department apologised to the complainant for this delay which was due to an overwhelming increase in the volume of work in the Personnel Unit combined with the loss of staff through retirement and promotion. However the complainant was not the only member of staff to have experienced delays in receiving correspondence from Personnel at that time.

4.9 *Workload and Support*

4.9.1 The Department says that primary inspectors assigned to schools are responsible for a range of duties. The most significant components of the workload of inspectors during the period under discussion were the monitoring and inspection of probationary teachers, work related to the allocation of special needs supports for pupils, inspection of schools and the writing of school reports, the investigation of unsatisfactory teachers and complaints against teachers and schools. It is the Department's contention that three of the six males and one of the female inspectors appointed in 1998 had larger numbers of teachers in their districts than the complainant.

4.9.2 The Department states that, in comparing districts, a distinction has to be made between rural and urban districts. In urban districts (where schools are generally larger) higher numbers of teachers are employed and therefore less schools are assigned to an inspector than would be the case in a more rural district. Furthermore inspectors in mainly urban districts tend to have a much larger number of probationary teachers than

inspectors in mainly rural districts and have also to deal with the higher volume of applications for special needs support that arise from areas of concentrated disadvantage in large urban areas. Taking account of these factors the Department contends that simply stating the overall number of schools does not constitute a defensible barometer of the workload of any district. Also the Department says that a theoretical quotient derived from the multiplication of schools by the number of teachers in a district as delineated in the complainant's submission is not a valid basis for determining the extent of the workload.

4.9.3 According to the Department the complainant's Assistant Chief Inspector was aware of workload difficulties following the retirement of the Divisional Inspector in the North-West and arranged that a Dublin based inspector carried out some of the duties to alleviate the burden. The Department accepts that the number of schools in the complainant's district did increase from July, 2000 and that for the period from September to December, 2000 her workload was higher than any of the colleagues that she names. The Department notes that this was unconnected to the complainant's gender or her marital status. The complainant was made aware in September, 2000 that the situation was temporary pending the assignment of recently recruited staff to the Sligo area.

4.9.4 At the time referred to by the complainant (i.e. December, 1999) there was a substantial delay in the filling of vacancies at Divisional Inspector level due to an industrial dispute with the Primary Inspectors' Branch of IMPACT regarding aspects of the job description for Divisional Inspectors. The Department states that the complainant's Assistant Chief Inspector continued to provide advice and guidance through regular telephone contact and responses to a very large volume of correspondence received from the complainant on a regular basis. The Department notes that a District Inspector has independent responsibility for his/her district.

- 4.10** The Department, in conclusion, strongly rejects the allegation that it is not an equal opportunities employer and it has a strong commitment to equality of opportunity. Furthermore the Department rejects the allegation that, in her employment with the Department, the complainant was discriminated against on the grounds of gender, marital status and family status.

5. SUMMARY OF THE COMPLAINANT'S SECOND SUBMISSION

In this second submission the complainant addressed many of the issues already referred to in her original submission. The summary below relates to some of the issues raised.

- 5.1** In terms of refund of fees to officers attending certain third level courses pursued in their own time the complainant says that the Department applies the criteria most generously in the case of certain officers by allowing inspectors to attend courses during normal working hours over the course of one or more academic years. Furthermore in certain cases the Department has substituted the 'refund' feature of the scheme with advance or direct payment to colleges on behalf of certain inspectors. The complainant says that the Department also exercises its power in an arbitrary and abusive manner and in her case informed her that travelling expenses would not apply for the course she was undertaking in her own time and which complied with all aspects of the relevant circulars.
- 5.2** The complainant states that the induction experiences of certain male and female inspectors differ as regards expenses. According to the complainant she was based in Galway from end October, 1998 to mid May, 1999 she was not in receipt of travel expenses to and from base (a distance of 104 miles round trip). By contrast a male colleague based in Tullamore for a similar period had his expenses paid to and from his home to base in Dublin (a distance of 100 miles round trip). In May, 1999 the

complainant was assigned to Sligo (which was to be her base) and she was informed that expenses were not allowable for travelling to or from base.

- 5.3** The complainant states that family friendly policies are clearly evident in regard to the treatment of family status colleagues in the Inspectorate but they operate to the disadvantage of non-family single inspectors who have been required to relocate often to unsuitable locations while family status colleagues either remain in their home location or are assigned to another location of their choice. The complainant states that a male inspector chose one of two locations and had his relocation expenses paid and this occurred in the mid 1980s.
- 5.4** According to the complainant she informed the Department that she would welcome an assignment to the West of Ireland or any other university location to enable her to pursue her studies. By assigning her to Sligo the Department chose to disregard her stated preferences. The complainant notes that male inspectors based in Galway have given long service in the West of Ireland and have retired from the Galway office whereas in Sligo assignments were of much shorter duration for male inspector and of a longer duration (six years) for two single female inspectors. According to the complainant male inspectors, in comparison to female inspectors, were extremely fortunate to have their transfers accommodated so swiftly.
- 5.5** It is the complainant's contention that the reality of the outcome of competitions for promotion is that female inspectors are significantly less likely than their male colleagues to be promoted. Of all inspectors with the required service for promotion at the time of the most recent competition held in May, 2001 two males and two females were unsuccessful. There were 21 male and 4 female applicants of who 19 and 2 were successful respectively.
- 5.6** In relation to special leave the complainant states that she applied for a career break and/or transfer for study purposes on 26th May, 2000. Following her application four male inspectors were assigned to locations at the end of June to take effect from September. Furthermore a female inspector was advised that she was being transferred to Dublin. The complainant states that these other transfers took priority

over her career break/transfer request. According to the complainant a career break was granted to another female inspector who was married without replacement and yet she could not get a career break because the Department would be unable to replace her. The complainant is critical of the Department's attitude to post graduate studies. She states that she applied for leave for study purposes from 8th April to 31st May, 2002 and was informed that leave would be granted from 22nd April, 2002. However a married female colleague, studying at the same College, had her leave approved from 25th March to 31st May, 2002.

- 5.7** The complainant states that inspectors have been seconded without replacement and she mentions that a female inspector is on leave (either career break or secondment) to work as a lecturer in Marino College with the work of her district being distributed among three inspectors. In relation to the complainant's application for a career break the complainant states that the Department failed to follow the procedures suggested in paragraph 6 of the Career Break Circular. The complainant states that the Department failed to inform her of its decision on her request for a career break immediately.
- 5.8** The complainant states that there was a significance difference of treatment of some male and female inspectors as regards expenses arising during the induction period. She also states that she appears to have been the only officer who had the experience of having travel expenses to an approved course refused in advance of any application for such expenses.
- 5.9** According to the complainant two male colleagues received preferential treatment as regards placement. The complainant notes that in order to provide a 'national inspection service' only single inspectors were assigned to districts which would require relocation. The complainant says that in the assignments for 1992/1993 three single female inspectors were assigned to distant locations while the married male inspector with a family was assigned to an area near his home and had his office at home.

- 5.10** The complainant states that a number of other inspectors had meetings in relation to placement but she was not afforded this opportunity. The complainant notes that other male inspectors had their preferences accommodated whereas her request to be placed in the Galway office was not granted. According to the complainant one male inspector indicated that he would not accept the position unless he was given a guarantee of being placed in a particular location, another male inspector stated that it would be impractical for him to relocate his family and he was placed close to home and a third male inspector was placed in a particular location to accommodate his special needs given his poor sight. The complainant does not accept that geography was a criterion in the placement of inspectors.
- 5.11** The complainant states that there are 72 primary inspectors of which all but two of the males eligible for promotion are in promoted positions i.e. a total of 35 males whereas there are only 7 females in promoted positions. According to the complainant in a recent competition for Divisional positions 19 of the 21 male candidates were successful while 2 of the 4 female were successful.
- 5.12** The complainant states that the course of studies she was pursuing was recognised as an approved course and she fulfilled the criteria relating to recoupment of travel fees. However she was not given her travel expenses. The complainant notes that, in relation to the group of inspectors appointed in 1998, single females had to travel long distances to and from base at their own expense while male inspectors if travelling to a distant base during induction had their expenses paid. Furthermore, following induction, no male had to travel any distance to the base whereas single females did and had to do so at their own expense.
- 5.13** The complainant says that she applied for and was refused secondment to work with the National Reading Initiative. The post was advertised by the Department and the complainant was invited for interview. She was offered a position but secondment was refused. The matter is now the subject of a Judicial Review in the High Court. The complainant questions what is the special importance to the Inspectorate of a request of the World Bank. She also notes that an inspector was seconded to take up

a lecturing position. According to the complainant there is no criteria for the granting of secondments.

5.14 The complainant states that, in relation to transfer applications, males are transferred after a much shorter period than female inspectors. In relation to the complainant's application for a career break the complainant states that she finds it extraordinary that her application was treated so contemptuously while other transfers were given priority even where no applications had been made. The complainant says that the Department failed to advise her, for some time, that a decision had been made in relation to her application. According to the complainant a Section 7 order was made by the Office of the Ombudsman to reply to her many letters seeking information. The Department suggested a meeting with the complainant to 'arrive at a mutual understanding of unanswered correspondence'. It is the complainant's contention that this meeting attended by three senior staff of the Department was an exercise in victimisation. According to the complainant the meeting did not resolve the outstanding issues but the Department wrote to the Office of the Ombudsman alleging that the matters had been resolved. The complainant states that, contrary to what the Department allege in its submission that she was informed of the reasons why a transfer could not be facilitated until 2001, she has still not received any reply to her request for information under the Freedom of Information Act.

5.15 It is the complainant's contention that the actions of senior colleagues in the Inspectorate and in administrative positions are evidence of the systematic and co-ordinated indifference to and disregard for the alleged 'strong commitment to compliance with the terms of the Employment Equality Act, 1998' and 'a positive and proactive approach to the development of policies and practices to address gender imbalance and to promote equality of opportunity as an integral element of the Department's human resource management policies'.

6. CONCLUSIONS OF THE EQUALITY OFFICER

6.1 In her referral the complainant states that she is a Primary District Inspector with the respondent organisation. According to the details given in her referral form her

complaint centres on an application for transfer and/or career break from Sligo to a post that would facilitate her studies; the redistribution of a retired colleagues' workload; and the manner in which travel and subsistence expenses are reimbursed. The complainant considers that she has suffered discrimination based on the grounds of gender, marital and family status. In making my decision in this claim I have taken into account all of the submissions, both written and oral, made by the parties. A huge volume of information was submitted in this claim and it was impossible to reproduce it all in this decision. However, this information is available to the Labour Court should it require access to it.

6.2 The complainant states that the date of the most recent occurrence of a discriminatory act was 31st January, 2001 and that the date of the first occurrence of a discriminatory act was 1992. At the hearing of this claim the complainant stated that the discriminatory act which took place on 31st January, 2001 was the date of payment of travel expenses. According to the complainant the respondent would not pay her travel and subsistence expenses from her home (Westport) to her work (office base Sligo). She stated that this was not sought by male colleagues and married female colleagues because they were placed close to their work and did not incur expenditure in travelling to work from home. It is the complainant's contention that the respondent, in placing District Inspectors, gave preferential treatment to males, married and with a family status and also to married females. In its defence the Department stated that it attempted to accommodate District Inspectors in placing them close to home having regard to vacancies. The complainant's home was in Westport and she was placed in Sligo where a vacancy existed. According to the Department no vacancy existed in Galway at the time.

6.3 The complainant submitted the details of her travel claim which was in respect of travel expenses for the period from 11th November to 31st December, 2000 and, according to the complainant, payment for the amount claimed was received on 2nd February, 2001 not 31st January, 2001 as stated in the referral form. I note from the travel claim form submitted (see Appendix A) that the complainant did not make a claim for travel and subsistence from her home (Westport) to her place of work (Sligo). The complainant made claims for travel to and from work to schools and

also return trips from Sligo to Dublin and from Sligo to Galway. As the complainant did not make a claim for travel and subsistence from home to work the respondent could not and did not refuse to pay such a claim.

6.4 Consequently I am satisfied that no act of discriminatory treatment occurred on the 2nd February, 2001 the date now cited as the date of receipt of payment for travel and subsistence. In terms of travel and subsistence I find that I have no valid claim before me for investigation.

6.5 The complainant has also alleged that she was discriminated against on the grounds of her gender, marital and family status in relation to an application for transfer/career break from Sligo and the redistribution of a retired colleague's workload. I note that the application for a transfer/career break was made on 26th May, 2000 and for this claim to be investigated it should have been submitted by 26th November, 2000. In relation to the redistribution of a retired colleague's workload this happened on 27th July, 2000 and a claim of discrimination in this instance should have been lodged by 27th January, 2001. In relation to this latter incident I note that the complainant could have made an application of exceptional circumstances for having lodged this claim after six months in accordance with the provisions of Section 77(6) of the Employment Equality Act, 1998 but she failed to do so.

6.6 At the hearing of this claim the complainant argued that once she had one allegation submitted in time in accordance with the time limit provision of the Employment Equality Act, 1998 I was obliged to investigate all allegations made by her given that the Act provided for the investigation of continuing discrimination. As I have found that no act of alleged discrimination occurred on the date given by the complainant I have not the jurisdiction to investigate allegations prior to that date which are outside the time limit specified in Section 77(5) of the Employment Equality Act, 1998.

7. DECISION OF THE EQUALITY OFFICER

- 7.1** In view of the foregoing I find that I do not have a valid claim of alleged discrimination before me to investigate. As I do not have a valid claim to investigate I find that I do not have jurisdiction to investigate alleged acts of discrimination which occurred outside the time limit set in the Employment Equality Act, 1998.

Gerardine Coyle
Equality Officer

30th July, 2002

APPENDIX A

Copy of Travel & Subsistence Form
submitted to respondent by
complainant