

EMPLOYMENT EQUALITY ACT, 1977

EQUALITY OFFICER'S RECOMMENDATION NO. EE 09/1999

PARTIES

Dr. Noreen Gleeson
Represented by the E.E.A. and Mr A. Kerr B.L.
instructed by O'Mara Geraghty McCourt, Solicitors}

and

1. Rotunda Hospital
{Represented by Ms E. Barry B.L. instructed
by A & L Goodbody, Solicitors}

2. Mater Misericordiae Hospital
{Represented by I.B.E.C.}

File No. EE 40/96

1 Dispute

1.1 This dispute concerns a claim by Dr. Noreen Gleeson that the Rotunda and the Mater Misericordiae Hospitals discriminated against her in terms of Section 2(a) of the Employment Equality Act, 1977 and in breach of Section 3.

2 Background

2.1 On 1 October 1995 the respondents advertised, in the national press, for applications from suitably qualified candidates for appointment to the position of Consultant Obstetrician/Gynaecologist. The post is shared between the Mater Misericordiae and the Rotunda Hospitals. Dr. Gleeson was one of the five applicants, three female and two male, who were interviewed for the post. The interview panel was up of nine members - 4 Mater, 3 Rotunda, 1 UCD and 1 agreed Extern. Dr Gleeson was unsuccessful. A male applicant was appointed to the post.

2.2 Dr Gleeson M.D., M.R.C.O.G., Dip. Stats., at the time of her application for the post of Consultant Obstetrician/Gynaecologist, was employed as a Senior Registrar/Assistant Master at the Coombe Maternity Hospital. She alleges her failure to be appointed to the post of Consultant Obstetrician/Gynaecologist amounted to unlawful discrimination against her by the Rotunda Hospital and the Mater Misericordiae Hospital.

2.3 In July, 1996, Dr. Gleeson referred the dispute to the Labour Court. The Labour Court referred the case to an Equality Officer for investigation and recommendation. In June, 1997 it was learned that the Employment Equality Agency was acting on behalf of Dr. Gleeson. In

the course of the Equality Officer's investigation he received written submissions from the parties. After receipt of the submissions a joint hearing was held on the 22nd of October, 1998. At the hearing the complainant had legal representation, together with a representative from the Employment Equality Agency. In the course of the hearing Dr Gleeson's legal representative indicated that her claim was one of direct discrimination on the ground of sex. Subsequent to that date further correspondence was received from the parties, the last of which was in March, 1999.

3. Summary of the Complainant's Case

- 3.1** The Employment Equality Agency submits that the complainant was discriminated against by the Rotunda and Mater Misericordiae Hospitals on the grounds of her sex within the meaning of Section 2(a), and in contravention of Section 3 of the Act because she was not appointed to the post of Consultant Obstetrician/Gynaecologist.

- 3.2** On 17 January, 1996 Dr Gleeson was one of the five applicants, two female and three male, interviewed for the post of Consultant Obstetrician/Gynaecologist. She was informed that day she was unsuccessful and that a male candidate had been offered the post. The complainant contends that she was discriminated by the named respondents on the grounds of her sex.

- 3.3** The complainant believes that she was treated less favourably than the male appointee because (a) she had completed the specified requirements and the male candidate had not, (b) the male candidate was allowed to re-submit his application after the closing date and she

was not, (c) she had more experience than the male candidate in the chosen sub-speciality of gynaecological oncology and (d) her academic achievements were higher than those of the male candidate for the post. She asserts that by all measurable criteria she was more qualified for the post.

3.4 In relation to her assertion that the successful candidate did not meet one of the criteria for the post the complainant points out that the description of the position, as advertised, gave one of the job qualification as "*seven years satisfactory experience in the practice of the medical profession at least five of which were devoted to obstetrics and gynaecology*". Dr Gleeson maintains that the appointee had spent seven years in the speciality of Obstetrics and Gynaecology, but had completed only four years in the practice of obstetrics. Therefore, under the given descriptions for this public appointment, he failed to meet one of the criteria for the post.

3.5 The successful candidate, the complainant asserts, was allowed or invited to resubmit his curriculum vitae, which was the only form of application for this job, in the week before the interview although the closing date for receipt of applications was 10 November 1995. Dr. Gleeson argues that the interview panel was strongly biased in favour of this applicant before the interviews and that the opportunity to re-submit his application gave the male candidate an unfair advantage over her.

3.6 In support of her claim that she is more qualified than the male appointee, the complainant points to her twelve years in the practice of obstetrics/gynaecology of which

two years were spent as Assistant Master in the Rotunda Hospital. She also points out that she spent two years as Senior Registrar/Assistant Master at the Coombe Hospital. The successful candidate, the complainant's written submission asserts, at the time of the appointment he had a total of five years experience in the practice of obstetrics/gynaecology and had just commenced his first post as Assistant Master at the National Maternity Hospital in January 1996. The submission adds that he had only completed four years in the practice of obstetrics.

3.7 The complainant submits that she had four post graduate qualifications including a Doctor of Medicine degree and that she spent two years in the University of South Florida doing a fellowship in gynaecological oncology. She had almost one hundred publications, presentations and articles relating to obstetrics, gynaecology and oncology. She explains that thirty-five of her original papers were published in substantial peer reviewed journals and that she had acted as editorial consultant for two peer review journals. She adds that she has also lectured and carried out both clinical and laboratory research. The successful candidate, the complainant maintains, had two postgraduate qualifications and had done seventeen publications or presentations but had no original papers published in peer reviewed journals.

3.8 The interview panel, the complainant states, consisted of eight males, and one female who was a hospital Executive. She further states that much of the interview was spent on the less important aspects of her CV and that much of the time allotted was wasted on

trivia. The complainant believes that the reference, to " the years when you had your babies", would not be made a male candidate. When the complainant commented that it would not be her intention to participate in the Rotunda Hospital's Sexual Assault Treatment unit a comment was made to her "that's fine, sink the sisters."

3.9 Following the interview, Dr Gleeson submits that she learned that the interview panel had decided that the post would be filled by a candidate with a subspecialty interest in gynaecological oncology. She understands that only her and the successful candidate had trained in that sub speciality and that she had two years more experience in the sub speciality than him.

3.10 The Employment Equality Agency submits that women are underrepresented at consultant level in public appointments in the health service and in particular in the area of obstetrics and gynaecology where less than 5% were women in 1996. The Agency further submit that the Rotunda Hospital has no full-time permanent female consultant obstetrician/gynaecologist on its staff even at present as a full-time post consists of eleven sessions. Furthermore, the alleged remarks made at the interview indicates a sex bias against women.

3.11 The Agency refers to the case of Wallace -V- South Eastern Education and Library Board (1980, IRLR 193) where the Northern Ireland Court of Appeal stated that once less favourably treatment is proved:

"the fact that the successful candidate was a man but better candidate was a women is itself sufficient evidence of discrimination on the

grounds of sex"

The Agency contends that this rationale should be applied to the present case. The complainant has been treated less favourably for promotion than the successful male applicant despite her greater suitability for the post. The Agency further contends that an inference is raised therefore that the less favourable treatment was on the grounds of sex, and that this inference is supported by reference to the statistical sex imbalance in consultancy posts in the health service.

4 Summary of the Respondents' Case

- 4.1** The named respondents contend that the allegations of the complainant that she was discriminated are vague and unsubstantiated. The Hospitals submit that the complainant was not treated less favourably because of her sex.
- 4.2** The Hospitals reject the allegation that the appointee did not meet the requirement of five year experience in the practice of Obstetrics and Gynaecology. They assert that all candidates satisfied the criteria as stipulated by Comhairle Na hOspideal. The respondents maintain that Gynaecology/Obstetrics are regarded as one speciality and, consequently, it is unnecessary for the candidate to have five years experience in Obstetrics and five separate/additional years in Gynaecology.
- 4.3** It is accepted by the respondents that the successful applicant did submit a further more update Currilum Vitae after the closing date for receipt of

applications but an invitation to do so was not extended to him. The respondents point out that in the course of interviews each of the candidates, including the complainant, was allowed to expand on their CV if they so wished. They further point out that if it is being alleged that the Hospitals gave preferential treatment to the successful candidate then he was treated more favourably than males applicants. Therefore, there was no discrimination on grounds of sex.

4.4 The respondents reject Dr Gleeson's claim that the interview panel had decided that the post would be filled by a candidate with a subspecialty interest in gynaecology oncology. They explain that a Gynaecologist with a sub-specialist interest in gynaecological oncology was eventually appointed to the post, however, the candidate, a female, who was listed as the second choice, and who would have been appointed to the post if the first choice candidate had not accepted the offer of appointment, does not possess this sub speciality.

4.5 The Interview Board rejects the complainant's allegation that much of the time allotted to her interview was wasted on trivia. The respondents explain that the reason one of the Board members did not ask Dr Gleeson any question was because the Chairman of the Interview Board had suggested, in advance of interviews, that not every Panel member should ask a question of each candidate. The respondents add that this would have applied to all interviews.

4.6 The complainant, the respondents point out, states in her initial submission that there were no direct or family related questions asked yet she comments that a reference was made by the board to "years when you had babies". The Hospitals state that the comment made was a compliment to the complainant as it referred to the vast quantity of research work she was able to undertake at the time. They submit that the "sisters" remark, in relation to the complainant's refusal to participate in the Rotunda Hospital Sexual Assault Unit, was used in a humorous context and perhaps mildly exasperated in tone but in no way could it be described as sexist.

(Rotunda Hospital)

4.7 The Rotunda Hospital submits that both hospitals would have different priorities in relation to the post. In the Rotunda the position involved the provision of mostly, but not exclusively, obstetrics care and cover and therefore the Rotunda wanted a generally trained obstetrician and gynaecologist who could take part in the cover of the hospital. In addition the Rotunda Hospital was specifically looking for a candidate who could develop the amniocentesis service in the Hospital. One of the candidates, the Rotunda points out, had been involved in the establishment and development of the service and this candidate, who was eventually listed as second choice for the post, was acting as locum in the position advertised at the time both of the advertisement and interview.

4.8 The first named respondent points out that its three nominees on the interview panel wanted another named candidate to be appointed to the post. The respondent

here further points out that the nominees of the Mater Hospital wanted the ultimately successful candidate for the post and the majority of votes decided the matter. The requirements of the Rotunda Hospital, the Rotunda adds, are reflected in the fact that its choice, a named female, was listed as the second choice of the panel.

(Mater Misericordiae Hospital)

- 4.9 The Mater Hospital rejects that qualifications and experience were the only criteria used to evaluate those interviewed. If these were the criteria used then there would have been no need to interview any applicants. The Mater explains that general suitability and potential were also some of the criteria used to evaluate candidates.
- 4.10 The second named respondent asserts that taking all factors into consideration the Interview Panel concluded that the successful candidate had the greatest potential to meet the requirements of both Hospitals. The Hospital adds that the second choice candidate is a female and that if the first choice candidate had turned down the job it would have been offered to her. The respondent points out if this had happened the complainant would have had no case under the Act.

5 Conclusions of the equality officer

- 5.1 The complainant alleges that both named respondents discriminated against her on the grounds of her sex in terms of Section 2(a) of the Employment Equality Act, 1977 and in breach of Section 3 in relation to her failure to be appointed to the post of

Obstetrician/Gynaecologist.

Dr Gleeson's case in essence is that by all measurable criteria she was more qualified for the post than the successful male candidate.

- 5.2** The two named respondents reject the allegation that there was any discrimination against Dr Gleeson. They maintain that the allegations by the complainant in support of her claim of unlawful discrimination are vague and unsubstantiated.

The first named respondent, the Rotunda Hospital, points out the selection decision was decided by the majority votes of the nine member interview panel and as its three nominees on it favoured the reserve candidate i.e. a female, a case of unlawful discrimination against it is not sustainable.

The second named respondent, the Mater Misericordiae Hospital, argues that if qualifications and experience were the only criteria used to evaluate those interviewed there would have been no need to interview any applicants.

- 5.3** In the investigation of cases of alleged discrimination in relation to the filling of posts, it is my opinion, that it is incumbent on an Equality officer to have regard to all candidates not merely the successful candidate(s) and the complainant(s). In the present case I consider that it is particularly important to have regard to the fact that a female was selected as a reserve candidate. I note that six applicants were invited to interview but only five candidates, two male

and three female, attended for interview.

5.4 It is well recognised that in making an allegation of discrimination it is difficult for the person making the allegation to produce direct evidence to support his/her contention that discrimination was practised against him/her. Consequently, as direct evidence will seldom be available to a complainant, it is often necessary, in investigating a dispute of alleged discrimination under the Act, to examine the totality of the evidence and to consider whether or not on the balance of probability that the evidence infers that there has been unlawful discrimination.

5.5 I note that the complainant, in her initial written statement in support of her claim of unlawful discrimination, alleges (a) she had completed the specified requirements and the male candidate had not (b) the male appointee was allowed to re-submit his application after the closing date, (c) she had more experience than the male candidate in the chosen sub-speciality of gynaecological oncology and (d) her academic achievements were higher those of the male candidate. I propose now to examine and to consider the evidence available to me on these allegations as to whether or not they establish or infer unlawful discrimination.

5.6 The claimant asserts that **she meet the criteria for the post as advertised and the male appointee did not** on the basis that the male appointee had completed only four years in the practice of obstetrics instead of the advertisement requirement of "*at least five years of which were devoted to obstetrics and gynaecology.*" The

respondents maintain that Dr Gleeson is incorrect in this assertion because gynaecology/obstetrics are regarded as one speciality.

5.7 In the course of the joint hearing the complainant in response to the Equality Officer stated that as she understands all the other candidates satisfied the terms of the advertisement as interpreted by her. In my opinion, as the other candidates, a male and two females, met the complainant's definition of the advertised requirements for the post, I could not hold or take an inference here that the claimant was treated less favourably than the male appointee because of her sex.

5.8 I note, from a written statement by the complainant presented at the hearing, that she states that "*whether Comhairle's stipulated five years minimum training refers to obstetrics and gynaecology as a joint Speciality or at least five years training (not necessarily exclusively) in each of obstetrics and gynaecology is a moot point. Four years in obstetrics appears to fall short of the expected requirement.*" Even allowing for the complainant's argument here the respondents' acceptance of the successful candidate's level of training in obstetrics equally impacted on all the other candidates.

5.9 In support of her case Dr Gleeson points to the fact that **the male appointee was allowed to re-submit his application after the closing date.** While the complainant may feel that she treated less favourably than the male appointee because of her sex the reality is that the effects of the acceptance of a further more

up to date Curriculum Vitae from the successful candidate applied to the other female and male candidates. I note that in the course of the joint hearing I was informed by the first named respondent's representative that it is the recollection of the interview board member Dr McKenna that one of the other female applicants submitted material after the closing date for applications.

5.10 The respondents reject Dr Gleeson's claim that the interview panel had decided to select a gynaecologist with a sub-speciality interest in gynaecological oncology. The first named respondent alleges that it is not possible to stipulate a speciality unless Comhairle Na hOspideal has stipulated it and in the present case the Comhairle had not done so.

Even if the complainant is correct when she states this decision narrowed the field to the male appointee and herself the consequences of such a decision was to treat the other male and female candidates less favourably than them.

The fact that the complainant, in the circumstances pertaining here, had or had not **more experience than the male candidate (successful) in the sub-speciality of gynaecological oncology** does not give rise, in my opinion, to an inference of sex discrimination.

5.11 Dr Gleeson in support of her case of unlawful discrimination maintains that she had **higher academic achievements**, than the applicant appointed to the post.

I note that the second named respondent, in a

submission received after the hearing, contends that the other male candidate had higher academic achievement than both the complainant and the successful candidate. I further note that the first named respondent argues that the female reserve candidate "*had an equivalent amount of publications as the complainant.*"

It seems to me that the complainant's argument here to have any real value I would have to be satisfied that her academic achievements were equal or higher than all the candidates. Having regard to the C.V.s of all the candidates it seems to me that they all had significant levels of academic achievement. Furthermore, having regard to achievements of the two aforementioned unsuccessful candidates I could not hold that their achievements are less significant than those of the complainant.

5.12 Notwithstanding the views expressed in the preceding paragraphs I will now give my opinion on the complainant's achievements vis a vis those of the appointee.

I note that the respondents do not dispute the complainant's impressive qualifications and achievements. I further note that Dr Gleeson had significantly more publications, presentations and articles relating to obstetrics, gynaecology and oncology compared to the appointee.

The second named respondent, however, maintains that the successful candidate had achieved more than the complainant had when one equates post-qualifications

experience. I note that no issue was taken on behalf of the complainant in regard to this assertion. The Mater submits that:

the appointee had a fellowship in surgery which the claimant does not have

the appointee "*obtained his fellowship by winning the Glaxo/Ivo Drury award in open competition*", unlike the complainant "*who appears*" to have obtained her fellowship in gynaecological oncology "*through a medical contact*".

the award gave him the option to train in many centres around the world "*he chose the Princess Margaret Hospital Toronto because of its international reputation*".

the successful candidate, after less than twelve months service as a Registrar in the Sir John Radcliffe Hospital, Oxford, was appointed from approximately fifty applicants as a Senior Registrar in that hospital.

he was the youngest applicant for the Senior Registrar post at Sir John Radcliffe Hospital.

I note that the complainant obtained the required qualification some five years before the appointee. It therefore follows that she had a greater opportunity to add to her qualifications and achievements than the appointee. However, I am reluctant, having regard to the the period of time it took the appointee to attain the level of achievement he reached, to hold that his

achievements are less impressive than those of the complainant.

5.13 The complainant maintains that the Mater Hospital plays down the importance of academic achievement and accuses it of being "*dishonest..... to describe the post of Gynaecology at that hospital as a service post*".

I note that the respondents acknowledge that both hospitals are teaching hospitals. I further note that the descriptions of the duties (Appendix 1), as outlined in document entitled, "**Mater Misericordiae Hospital/Rotunda Hospital, Consultant Obstetrician/Gynaecologist**", makes reference to "*service*" in connection with five of the eight duties mentioned. The remaining three headings refer to teaching, training and research. It seems to me, having regard to the description of the duties as outlined in the aforementioned document, that the emphasis is greater on "*service*" than on any other duty. Even if there are differences in the type of "*service*" provided in district and county hospitals compared to the respondent hospitals, as claimed by Dr Gleeson, I am satisfied on the evidence before me that "*service*", however, it is defined, was an important requirement for the post here.

5.14 Having regard to the views that I have expressed in paragraphs 5.6 to 5.13, on the complainant's main allegations, I cannot hold that a prima facie case of unlawful discrimination has been established by the complainant.

5.15 A feature of Dr Gleeson's case as presented, is that it

focuses on her suitability for the position vis a vis the successful candidate. However, as already stated, it is my opinion it is incumbent on me to have regard to the panel's selection of a female as the reserve candidate.

It was my intention at the joint hearing held with the parties to raise with the complainant her views on her suitability for the position vis a vis the other unsuccessful candidates, in particular the female selected as the reserve candidate. In response to my initial questions on the reserve candidate the complainant stated that they had different sub-specialities and while their experience was similar her (complainant) level of experience was greater. When Dr Gleeson pointed out that she had difficulty on commenting on the unsuccessful candidates, as she was not in possession of their C.Vs, I did not question her further in this area.

At the hearing I sought the outstanding C.Vs. I note in a submission on behalf of the complainant, received after the C.Vs had been copied to the complainant's representative, that it is silent on the C.Vs.

5.16 In the submission, referred to in the preceding paragraph, Dr Coughlan is accurately quoted as stating in the course of his evidence at the hearing that the reserve candidate's gynaecological cancer training was "*coming along nicely*" while she filled the locum consultant post at the Mater in 1995/96. My notes of Dr Coughlan's evidence, who was also on the interview panel, inter alia, state that "*she developed well into the job*" and that in his opinion "*she was fit for the*

Mater".

5.17 The first named respondent, maintains that the selection decision was by majority vote of the nine member interview panel and its three nominees on it wanted another candidate, a female candidate. The complainant's representative argues, in the aforementioned submission, that the placing of this particular female as a reserve candidate "*was merely a courtesy to the Rotunda Hospital*".

Having given careful consideration to the evidence available to me in relation to the "reserve" candidate, who I note held the position on a locum basis prior to and at the time of the interviews, the evidence is not such that I could hold that there was anything untoward in regard to her selection as the reserve candidate.

5.18 I note that Dr Gleeson in further support of her claim of unlawful discrimination, makes a number of points in relation to the conduct/performance of the interview board. I will now consider whether or not the actual process adopted by the Board in its selection of the successful candidate establishes or infers discrimination on the grounds of sex.

5.19 On the make up of the interview panel I recognise that it consisted of eight males and one female. While additional female members, instead of male members, may have made for a more balanced board and be seen to be a safeguard against sex discrimination, a board made up with a majority of members of one sex does not of itself constitute an inference of sex discrimination.

5.20 In order for the claimant's allegation that much of her interview was perfunctory in nature and that time was wasted on trivia to have any value here I would have to be satisfied that the interview was conducted in such a way as to indicate that she was treated less favourably than the male candidates. The mere fact that the interview panel did or did not waste valuable time at her interview of itself does not infer sex discrimination. I am not satisfied, on the evidence available to me, that her interview was conducted any differently than the interviews of the male candidates.

I should add here that the fact that a member of the board did not ask any questions of the complainant does not give rise to an inference of a sex bias, particularly, having regard to the fact that there were nine members on the interview board and the duration of her interview was some 45 minutes.

5.21 I note that the respondents state that the interview set no specific criteria in regard to the post and that notes taken by members of the Board in the course of the interviews are no longer available. I further note that contact was made with others outside the Board regarding the candidates. It seems to me that an interview board that does not set assessment criteria leaves itself open to the charge of lacking objectivity. However, while the selection method adopted by the Board here, in my opinion, was unsatisfactory, I cannot hold that its shortcomings impacted only on the complainant or the other females applicants.

5.22 Dr Gleeson submits that references by the interview

panel to "*the years when you had you babies*" was discriminatory in that it would not have been directed a male. I note that both respondents maintain that this remark was intended to be a compliment to the complainant because of the vast quantity of research work undertaken at that time.

I note that the complainant in the quite detailed outline of her case, in her referral to the Labour Court, which it is understand was completed by or with the assistance of the Employment Equality Agency, makes no reference of discriminatory remarks directed at her. I further note that the complainant makes reference to the aforementioned remark in her initial submission and that she puts it thus "*Although there were no direct personal or family-related question, reference was made to the 'years when you had your babies' during the interview.*" This submission makes no further comment on the remark.

It is clear that this remark could not have been made to a male. The fact that a remark could only be directed at a person of the opposite sex of itself does not infer sex bias. I am satisfied, however, that the remark identified a particular period in the complainant's career. Having regard to the context in which the remark was made I am of the view that it was not discriminatory or that it infers a sex bias against women.

5.23 In addition to the aforementioned remark Dr Gleeson complains about another comment by Dr McKenna, in relation to her refusal to participate in the Rotunda Hospital's Sexual Assault Treatment Unit, "*that's fine,*

sink the sisters". I note that the complainant makes reference, in her initial submission, to being reprimanded for her refusal not to participate in the Unit but makes no reference to the remark itself. I further note that the first named respondent refers to the phrase as "*humorous and perhaps mildly exasperated in tone*". It seems to me that the complainant's initial reaction of being reprimanded because of her refusal to participate in the work of the Unit is a more reasonable interpretation of the board member's remark than to interpret the comment as a sex bias remark. It is appropriate here to add that participation in the work of the Unit was not part of the post in question.

5.24 I note the two remarks that Dr Gleeson complains about were made by a member of the interview board nominated by the Rotunda and that that Hospital maintains that its preference for the post was another female who was also unwilling to work in the Unit. I further note that this female was selected as the reserve candidate and that I have found there was nothing untoward about her selection. Having regard to the evidence available on the issue of the "remarks" I am reluctant to hold that it establishes or indicates a bias against the complainant because of her sex.

5.25 In the preceding paragraphs I have considered Dr Gleeson's claim having regard to the different aspects of the case. I now propose to examine the totality of the evidence and to consider whether or not on the balance of probability that the evidence infers that there has been unlawful discrimination.

I consider that most of the arguments made by the complainant could have been equally made by any of the other unsuccessful candidates. It seems to me as the candidates are of both sexes the totality of the evidence on the issues considered by me does not infer sex discrimination.

5.26 I have considered the case of Wallace -V- South Eastern Education and Library Board (1980, IRLR 193), which the Employment Equality Agency submits is relevant in the present case. In that case the Industrial Tribunal stated a case on three points to the Northern Ireland Court of Appeal and I note that the Tribunal had found that Ms Wallace was the superior candidate to the male appointee. I consider that the case cited would only have any relevance here if I found that the complainant was better or equal to the successful candidate for the post in question. On the evidence available to me I am not in a position to so find.

5.27 The case before me, as presented by the complainant, is essentially that the named respondents jointly discriminated against her. I note that the respondents here are separate entities and that they have in certain areas drawn distinctions between their respective cases. I have given all the evidence available to me careful consideration and it is not such that I can hold that either respondent, as a separate entity, directly discriminated on grounds of sex against Dr Gleeson.

5.28 In reaching my conclusions in this case I have taken into account all the submissions both oral and written made by the parties. Having regard to the views that I

have expressed in the preceding paragraphs I am satisfied that there was no unlawful discrimination against the complainant. Accordingly, I find that the respondents did not discriminate either jointly or exclusively against Dr Gleeson in contravention of Section 3 in terms of Section 2 of the Employment Equality Act, 1977.

6 Recommendation

- 6.1** In view of my conclusions in the preceding paragraphs, I find that the Rotunda Hospital and/or the Mater Misericordiae Hospital did not discriminate against Dr Noreen Gleeson contrary to the provisions of the Employment Equality Act, 1977.

Jim Clerkin,
Equality Officer,

23rd June, 1999