

**OFFICE OF THE DIRECTOR OF
EQUALITY INVESTIGATIONS**

EMPLOYMENT EQUALITY ACT, 1977

EQUALITY OFFICER'S RECOMMENDATION NO: EE 15/2000

PARTIES

**Ms Ann Gough
(Represented by S.I.P.T.U.)**

AND

St. Mary's Navan Credit Union

File No: EE 23/1998

1. DISPUTE

- 1.1 The dispute concerns a claim by Ms Ann Gough that in July, 1997 her employer St. Mary's Navan Credit Union discriminated against her within the meaning of Section 2(a) of the Employment Equality Act, 1977 and in contravention of Section 3 of that Act when she was turned down for the position of General Manager.

2. BACKGROUND

- 2.1 The Claimant is employed as Assistant Manager in St. Mary's Navan Credit Union. The dispute concerns her failure to be shortlisted for final interview in a competition to fill the post of General Manager while the three shortlisted candidates were all male. It is the claimant's contention that she was better qualified for the position than the shortlisted candidates and that the reason why she was not shortlisted for final interview was that she was a woman.
- 2.2 The Claimant referred a claim to the Labour Court in January, 1998. The claim was subsequently referred by the Labour Court to an Equality Officer for investigation and recommendation. Submissions were received from both parties and a joint hearing of the complaint was held on 30th August, 1999. Further correspondence in the case between the Equality Officer and the parties took place subsequent to the hearing and the Union submitted a supplementary submission on behalf of the Claimant.

3. SUMMARY OF THE CLAIMANT'S CASE

3.1 It is the Claimant's case that St. Mary's Navan Credit Union discriminated against her in terms of Section 2(a) of the Employment Equality Act, 1977. In the Claimant's original referral of her complaint to the Labour Court, discrimination in terms of Section 2(b) and 2(c) was also alleged. However the Union confirmed at the hearing that those grounds were not relevant to the complaint and withdrew the complaints on those grounds.

Section 2(a) states that discrimination shall be taken to occur

'where by because of his sex a person is treated less favourably than a person of the other sex'

3.2 The Claimant took up full time employment with St Mary's Navan Credit Union in February 1979 as an Office Assistant. Following a number of intermediate promotions she was appointed Assistant Manager in August, 1987 and placed on the Assistant Staff Officer salary scale. Her salary scale was revised upwards on two subsequent occasions and her present salary scale is that of Administrative Officer. The scales referred to are local authority pay scales. Since her appointment as Assistant Manager the Claimant has attained a number of educational qualifications relevant to her work in the credit union i.e. the Insurance Correspondence Course for Credit Unions with ILCU, the ACCA Certified Diploma in Accounting and Finance (for which she was awarded a double increment in 1994) and an Honours Diploma in Credit Union Studies

from UCC. The Claimant was awarded a double increment in 1996 following a review of operations and the acceptance of additional responsibilities.

- 3.3 In June of 1997 the Credit Union publicly advertised a competition to appoint a new General Manager on the imminent retirement of the serving General Manager, Mr Michael Woods. A copy of the newspaper advertisement is included at Appendix 1. A preliminary round of interviews was held from which three candidates were shortlisted for final interview. The Claimant was not among the three candidates shortlisted who were all male. The preliminary round of interviews was conducted by Mark Mitchell Recruitment and the two person interview board comprised Mr Mitchell and Mr Woods.
- 3.4 The Union in their submission referred to discussions which the Claimant had with the outgoing General Manager, Mr Woods, in the months prior to the position being advertised. According to the Union these discussions concerned structural changes which Mr Woods intended to put to the Board of Directors of the Credit Union which would involve the phasing out of the General Manager position with an elected Treasurer taking over the functions of the General Manager. The Union states that Mr Woods saw himself as being the elected Treasurer and that he would continue to manage the Credit Union after his retirement. The Union claim that when discussing Board opposition to Mr Woods' proposals with the Claimant, Mr Woods expressed

the view that a 'financial person' was needed at the helm of the Credit Union and that Board would have difficulty if the manager was not a male. He subsequently spoke to the Claimant about the difficulties associated with the position of General Manager e.g. 'if the alarm went off in the middle of the night' or 'if the computer system blew up' and he said to her that 'you don't need that hassle'.

3.5 In anticipation of a competition to fill the General Manager position the Claimant privately received advice from personnel consultants as regards interview techniques and preparing a C.V.. She also underwent psychometric tests with the consultants. The Claimant states that the results of these tests were at odds with the results of the personality profile conducted by the respondent's recruitment consultants. She was satisfied that she was a serious contender for the position and when the position was advertised in June, 1997 she submitted her application to Mark Mitchell Recruitment. The Claimant was called to a preliminary interview and was interviewed by Mr Mitchell and the outgoing General Manager, Mr Woods on 24th July, 1997.

3.6 The Union states that the interview was largely conducted by Mr Mitchell with occasional interventions by Mr Woods. She was initially complimented on the quality of her C.V. but she became concerned when she was asked about the likely impact of the position on her family, her husband and how she would balance domestic and working life. She was also asked how she would feel about the alarm going off in the middle of

the night. The Claimant was informed by letter on 27th August, 1997 that she had been unsuccessful in her application.

3.7 According to the Union, the Claimant spoke to Mr Woods after she received notification of her unsuccessful application and was told that she had not done a good interview and that 'the best man had got the job'. She also spoke to Mr Mitchell who told her that she had done a good interview but that she was beaten by the competition on the day. The Claimant requested and received a copy of the results of a psychometric test which she underwent as part of the selection process and states that the results are at total variance with those which she received when she underwent tests privately some months earlier.

3.8 In conclusion the Union states that the Claimant not only meets but significantly exceeds the advertised requirements for the position of General Manager and adds that a detailed comparison between the successful candidate and the Claimant would show that she was the better qualified candidate.

4. SUMMARY OF RESPONDENT'S CASE

4.1 I.B.E.C. state that in January, 1997 the Board of the Credit Union retained the services of financial consultants to assist with a review of its operations. At the time the Credit Union had assets of £30 million and 19,000 members. The Board decided that a new

General Manager would be appointed to replace the outgoing General Manager who was due to retire on 5 April, 1998. It was envisaged that the new General Manager would be in place by 1 January, 1998. The financial consultants recommended three recruitment consultants who could assist the Board in carrying out the task of appointing the new General Manager and the Board selected one of those consultants i.e. Mark Mitchell Recruitment. A job description was drawn up by the consultant and the Board and this is included at Appendix 2. The post was advertised in two national and one local paper in June, 1997.

- 4.2 Arising from the advertisement there were 44 applications for the post, 3 of which were from females. Based on the applicants' C.V.'s, a shortlist for interview was drawn up by Mr Mitchell and Mr Woods comprising eight candidates i.e. 7 males and the Claimant. A first round interview was conducted by Mr Mitchell and Mr Woods as a result of which 3 male candidates were selected for a second interview.
- 4.3 I.B.E.C. states that all of the candidates who were called to the first interview were first of all requested to undergo a personality profile exercise. I.B.E.C. argue that this was not the same test which the Claimant had privately undergone and that the results were not directly comparable. The interview then progressed and the candidate's working career was discussed. Candidates were asked for ideas on developing the Credit Union, and according to I.B.E.C., this was a crucial question as the appointee would be

required to make recommendations to the Board on the future strategic direction of the Credit Union. I.B.E.C. state that the Claimant had no real ideas in this area and state that her only suggestions were for the opening of a crèche for members and the display of the Credit Union's annual results in the public area of the Credit Union.

- 4.4 I.B.E.C. state that the questions about family were asked of all the candidates in order to emphasise the unsociable nature of the working hours. They point out that the Claimant works a 4½ day week while the General Manager job would entail a 5 day working week and in addition, would involve Board meetings which always take place after normal working hours. I.B.E.C. state that all candidates were asked about the alarm going off at night. I.B.E.C. states that the questions in relation to family impact were in any event asked by the consultant and not a Credit Union employee and therefore no liability can attach to the Credit Union in relation to those questions.
- 4.5 I.B.E.C. argue that the Claimant would not compare favourably with any of the three shortlisted candidates on the basis of their qualifications and experience. The C.V.'s of these three candidates along with those of two other male candidates who were not shortlisted were furnished to the Equality Officer. I will refer to these in my conclusions below. In conclusion I.B.E.C. reject the allegation that unlawful discrimination took place in relation to the appointment of the General Manager.

5. CONCLUSIONS OF THE EQUALITY OFFICER

5.1 The matter for consideration is whether or not St. Mary's Navan Credit Union discriminated against the Claimant on the basis of her sex in terms of Section 2(a) of the Employment Equality Act, 1977 and contrary to the provisions of Section 3 of that Act.

In making my recommendation in this case I have taken into account all of the evidence, both written and oral, made to me by the parties to the case.

5.2 The principal question to be addressed is whether or not the Credit Union conducted the competition in a manner which was fair and objective and free from any form of gender based bias. The Union contend that when the Claimant was not shortlisted for a second interview she was directly discriminated against because she was a woman.

5.3 It is suggested by the Union that the outgoing General Manager, Mr Woods, who was one of the two interview board members on the first round interviews, was of the view that the post of General Manager was not suitable for a woman, particularly a woman with family commitments. I.B.E.C. reject this suggestion. At paragraph 3.4 above I outlined the Union's comments in relation to Mr Woods' views about the suitability of the post for a woman. At the hearing Mr Woods accepted that he would have spoken to the Claimant about the filling of his post on his retirement and the demands it would place on the individual but did not accept that he was against a woman appointee. There is clearly disagreement between the parties as to whether or not Mr Woods'

views on the future appointee were against a female appointment. As the recruitment process had not yet commenced and as Mr Woods was not to know that he would be involved in the selection process I do not consider that these conversations which Mr Woods had with the Claimant in the run up to the competition constituted discrimination.

- 5.4 The Union has stated that certain questions were put to the Claimant at interview which implied a bias against her as a woman. These questions are referred to at paragraph 3.6 above. The Claimant elaborated at the hearing and stated that she was asked what her husband worked at, did he support her career move, how many children did she have and had she help at home. There was also she said, a discussion about the number of women managers in the credit union movement in Ireland. I.B.E.C. argue that these questions were put to all of the candidates and were necessary to emphasise the unsociable nature of the working hours. The Claimant stated at the hearing that she spoke to a male candidate who said that he was not questioned along these lines. At the hearing I asked the respondents if any interview notes were available and I was advised that any notes would have been kept at the offices of Mark Mitchell Recruitment. I requested that copies be made available to me for consideration. Subsequent to the hearing and after some considerable delay I was advised that Mark Mitchell Recruitment were forced to move offices as a result of a fire at their offices and that the relevant file and interview notes were accidentally destroyed. I consider that the absence of interview notes has led to a lack of transparency in the interview process.

On balance, I must conclude that the Claimant was asked questions which were based solely on her gender and which were not asked of the male candidates. In this respect I consider that she was treated less favourably than the male candidates because of her sex. I am satisfied that the Claimant suffered distress as a result.

5.5 The Union has claimed that the Claimant not only meets but significantly exceeds the advertised requirements for the position and that she excels over the appointee in this respect. In addition to the final appointee, two other male candidates were shortlisted for final interview whereas the Claimant was not. I will refer to the appointee as Candidate A and to the other two shortlisted candidates as Candidates B and C. I.B.E.C. also furnished the C.V.'s of two male candidates who were not shortlisted and I will refer to them as Candidates D and E. The requirements for the position as set out in the advertisement (Appendix 1) were as follows:

- (a) excellent interpersonal and communication skills
- (b) proven management, financial, systems and administration skills
- (c) a relevant third level degree and / or professional qualification
- (d) at least 5 years experience working in a financial services environment
- (e) a thorough knowledge and understanding of the Credit Union Movement.

I have examined the C.V.'s in question and note the following:

The Claimant holds an ACCA Certified Diploma in Accounting & Finance and a Diploma in Credit Union Studies and had 12 years experience at Assistant Manager level at the Credit Union.

Candidate A (appointed) is a Chartered Accountant and had worked as a financial controller in two industrial companies for 27 years and has been auditor of the respondent Credit Union and previously a member of its supervisory committee.

Candidate B (shortlisted) is a Chartered Accountant who holds a Diploma in Credit Union Studies, currently a manager of a credit union with 6 years experience in the post, 13 years previous experience as a Regional Manager in a rental company and 8 years experience between auditing and accounting.

Candidate C (shortlisted) is a manager of a branch of a financial institution with 4 years experience in the post who holds a Diploma in Business Studies, an Institute of Bankers Trustee Diploma and a Bachelor of Financial Services Degree. He has three years experience at Assistant Manager level.

Candidate D (not shortlisted) has been a manager of a branch of a building society for 13 years and holds the IAVI Diploma Certificate and the Chartered Building Societies Institute Diploma.

Candidate E (not shortlisted) is a Chartered Accountant who has been a manager of a credit union for 2 years.

I am satisfied from the above that each of the shortlisted male candidates had superior third level qualifications and management experience compared to that of the Claimant.

I note also that male candidates with relevant third level qualifications and managerial experience were not shortlisted for a second interview. I.B.E.C. have stated that the Claimant's answers to questions at interview in relation to the strategic direction of the Credit Union were lacking in ideas however the Union have countered this argument and at the hearing listed a number of areas which the Claimant discussed. I must however conclude that the interview board had objectively verifiable grounds for short listing the three male candidates ahead of the Claimant.

- 5.6 In conclusion therefore, I consider that the Claimant was asked discriminatory questions at the interview which were not asked of the male candidates and that she suffered distress as a result. I.B.E.C. in their submission state that the offending questions were asked by the recruitment consultant and not by a Credit Union employee and that the Credit Union cannot be held liable should I find that the questions were discriminatory. I find no validity in this argument as the recruitment consultant acted for the Credit Union at all times and the Credit Union was directly involved in the selection and interview process throughout. I find that the Claimant's placing in the competition was not adversely affected by the discriminatory questions and that the respondents have demonstrated that there were objective grounds for the shortlisting of the three male candidates ahead of the Claimant.

6. RECOMMENDATION

6.1 On the basis of the foregoing, I find that St. Mary's Navan Credit Union did discriminate against Ms Ann Gough on the basis of her sex in terms of Section 2(a) and in contravention of the provisions of Section 3 of the Employment Equality Act, 1977. I have stated at paragraph 5.6 above that I found that the Claimant's placing in the competition was not adversely affected by the discriminatory line of questioning. I recommend therefore that St. Mary's Navan Credit Union pay the Claimant £1,500 compensation for the distress she has suffered as a result of the discrimination and in referring the complaint for investigation.

Raymund Walsh

Equality Officer

8 May, 2000

APPENDIX 1

ADVERTISEMENT FOR THE POSITION OF GENERAL MANAGER

APPENDIX 2

JOB DESCRIPTION FOR THE POSITION OF GENERAL MANAGER