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Equal Status Act 2000

EQUALITY OFFICER'S DECISION NO: DEC-S2001-010

**Robert & Mary Coffey, John & Margaret Quilligan,
Francie & Bridget McCarthy
(Represented by Lees Solicitors)**

v

**The Blasket Public House
(Represented by Gerald Baily & Co, Solicitors)**

File Nos ES/2001/61 - 66

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Summary of Decision DEC-S2001-010

**Robert & Mary Coffey, John & Margaret Quilligan,
Francie & Bridget McCarthy**

v

The Blasket Public House, Tralee

Key words

Equal Status Act 2000 - Direct discrimination, section 3(1) - Membership of the Traveller community, section 3(2)(i) - Supply of goods and services, section 5(1) - Service in pubs - Establishment of a prima facie case - Risk of disorderly conduct, section 15(1) - Vintners' Age Card scheme - Action taken in good faith under Licensing Acts, section 15(2)

Dispute

This dispute concerns complaints by Robert & Mary Coffey, John & Margaret Quilligan, Francie & Bridget McCarthy that they were discriminated against, contrary to the Equal Status Act 2000, by the management of the Blasket Public House, Tralee.

The complainants maintain that they were discriminated against on the Traveller community ground in terms of sections 3(1) and 3(2)(i) of the Equal Status Act 2000 in not being provided with a service which is generally available to the public contrary to Section 5(1) of the Act.

Background

The complainants state that, on Saturday 9 December 2001, they sought access to the Blasket Public House at 9.30 pm. They say that initially one couple were granted access but, when it was realised that they were Travellers, the whole group were refused admission.

The respondents totally reject that they operate a discriminatory policy towards Travellers and state that the complainants were refused admission because they did not have Vintners' ID Cards.

Decision

The Equality Officer found that the complainants had established a prima facie case of discrimination on the Traveller community ground. He also found that the respondents had not provided sufficient evidence to rebut the claim that they operate a discriminatory policy towards Travellers, nor had they provided proof that they apply the same rules and procedures to both settled people and Travellers alike.

The Equality Officer awarded the six complainants £1000 each for the discrimination and humiliation suffered.

**Complaint under the Equal Status Act 2000
DEC-S2001-10**

**Robert & Mary Coffey, John & Margaret Quilligan,
Francie & Bridget McCarthy**

v

The Blasket Public House

1 Dispute

1.1 This dispute concerns complaints by Robert & Mary Coffey, John & Margaret Quilligan, Francie & Bridget McCarthy that they were discriminated against, contrary to the Equal Status Act 2000, by the owner of the Blasket Public House, Tralee.

The complainants maintain that they were discriminated against on the Traveller community ground in terms of sections 3(1) and 3(2)(i) of the Equal Status Act 2000 in not being provided with a service which is generally available to the public contrary to Section 5(1) of the Act.

2. Background

2.1 The complainants state that on Saturday 9 December 2000 they sought access to the Blasket Pub in Tralee but were refused at the door. The respondents state that the complainants were refused admission because they appeared underage and did not have the required I.D. with them

3. Summary of the Complainant's Case

3.1 The complainants state that, on Saturday 9 December 2000, they arrived in two groups and sought access to the Blasket Public House around 9.30 pm. They say that initially two of the complainants were allowed into the bar, then, they say that, when one of the doormen realised that they were Travellers, that the first couple were dragged back and the whole group were refused

access. The complainants state that this happened despite the fact that they all had identification with them.

4. Summary of Respondent's Case

4.1 The respondents totally reject that they operate a discriminatory policy against Travellers and state that the sole reason the complainants were not admitted was that they did not have proper I.D. with them.

5. Matters for Consideration

5.1 Section 3(1) of the Equal Status Act 2000 states that discrimination shall be taken to occur where, on any of the grounds specified in the Act, a person is treated less favourably than another person is, has been or would be treated. Section 3(2)(i) of the Act specifies the Traveller community ground as one of the grounds covered by the Act.

In this particular instance, the complainants claim that they were discriminated against on the grounds of their membership of the Traveller community contrary to Sections 3(1) and 3(2)(i) of the Equal Status Act, 2000 in not being allowed access to the Blasket Pub, Tralee on the night of Saturday 9 December 2000. The burden of proof initially lies with the complainants who are required to demonstrate that a prima facie case of discrimination exists. If a prima facie case is established, the burden of proof then shifts to the respondents.

6 Evidence Provided by the Parties

6.1 At the Hearing on 12 June 2001, the General Manager of the Blasket, Mr John O' Farrell explained how he had taken over the running of the pub in October 1999. He explained how the pub catered for a middle-aged crowd during lunchtimes and a younger crowd at night.

Mr O'Farrell stated that there were music sessions at night, from Thursday to Sunday, and that the pub employed its own doormen on Friday, Saturday and Sunday nights. The doormen were specifically employed to check proof of age, to watch for any illegal drug activities and general public order matters.

Mr O' Farrell explained how he had taken a decision in early 2000 to improve the image of the Blasket. He said that he had a long-term plan to run a good house and that he was particularly concerned about underage drinking. He described how fake identification was widely available in Tralee and, particularly how easy it was to forge student I.D. cards from the various third level colleges. He said that he wanted a system in place which would guarantee that only people with proper I.D. would be admitted to the Blasket. For this reason, he said that he was particularly interested in the recent I.D. card scheme introduced by the Vintners Federation and the Gardai. Under this scheme, he said young people were encouraged to bring proof of identification to their local Garda Station and for a fee of £5 would be issued with a Vintners ID Card.

6.2 In October 2000, Mr O'Farrell said that he recruited Mr Michael Horan as Bar Manager to lead this crackdown on underage drinking and other possible illegal activities in the pub. Mr Horan was given full responsibility for all admissions to the pub. Mr O'Farrell described how there was a noticeable decrease in takings when this crackdown was first implemented at the end of 2000 and that the initial customer refusal rate was in the region of 30%.

Mr O'Farrell denied that his pub operated any discriminatory policies towards Travellers. As confirmation of this, Mr Michael Horan stated that one Traveller couple, in the 30 age bracket, drank in the Blasket regularly. In response, the complainants' solicitor, remarked on the large population of young Travellers in Tralee, and wondered why no Travellers under 30 chose to drink in the Blasket. The complainant's suggested that it was very strange that a pub like the Blasket, which provided regular music entertainment at weekends, did not seem to attract any custom from younger Travellers, to whom this form of entertainment would undoubtedly prove attractive.

6.3 At the Hearing, the complainants provided some details about themselves. They explained that they were three married couples, all of whom were settled Travellers living in Tralee. They said that their ages ranged from 20 to 26 and that several of them were employed. They said that this was the reason that Robert Coffey was not at the Hearing - he was working in Dublin on 12 June 2001. However, they said that their solicitor, was there to represent him.

The complainants then explained how difficult it was to get served in the pubs in Tralee. Despite the fact that they were settled Travellers, they said that there were only two places in Tralee where they could rely on the proprietors serving them.

The complainants then proceeded to describe how they had chosen to visit the Blasket on the night of Saturday 9 December. Margaret Quilligan first described how she, her sister Bridget McCarthy and Mary Coffey had been served in the Blasket some months previously. They claim that they had no problem gaining access that night and that they had not been asked for identification at the door.

Having been served previously, Margaret Quilligan described how she arranged with Mary Coffey to visit the Blasket on Saturday 2 December 2000 with their husbands. She then described how the four of them were stopped at the door by a doorman (who shall be referred to as "Mr X" from now on) who asked them for some proof of age. Margaret Quilligan states that Robert and Mary Coffey produced their driving licences as evidence that they were over 18, and were told to go ahead by Mr X. Ms Quilligan then explained to Mr X that neither herself nor her husband had valid ID on them, to which Mr X replied that he could not let them in. She says that, on hearing this, she decided not to pursue the matter and that all four of them decided to leave.

6.4 In the belief that they would be allowed access to the Blasket in the future, on production of their driving licences, Ms Quilligan stated that the two couples made arrangements to visit the Blasket the following Saturday, 9 December. She says that she also invited their friends Francie and Bridget McCarthy to come with them. She says that she told them to bring

their driving licences and arranged that they all meet in another pub before proceeding to the Blasket.

The events of Saturday 9 December 2000, the night of the alleged incident, were then explored at the Hearing. Firstly, Ms Quilligan described how herself, her husband and Mary and Robert Coffey went to the other pub at 8.30pm where they were served. However, she says that when Francie and Bridget McCarthy arrived at 9.00pm, they were refused service. The group then decided to proceed together to the Blasket.

The complainants explained how it was raining heavily that evening and how they only had two umbrellas between them. They say that Mary and Robert Coffey shared one umbrella and the other four shared the other umbrella. They say that Mary and Robert Coffey walked a few yards ahead of the others on the way to the Blasket.

6.5 Mary Coffey described how her husband and herself arrived at the Blasket a few seconds before the others. She recognised the doorman, Mr X, from the week before. She says that he was alone at the outside door and that he let her husband and herself through without seeking ID. Mary Coffey then described how she had just passed through the second door when Mr X came up behind them, grabbed them unexpectedly by the shoulders and hauled them back to the outside door. Mary Coffey states that the force of Mr X's actions threw her off balance and that she stumbled and fell.

She explained that she was nine months pregnant at the time and that this incident had a very upsetting effect on her. She recalled how, later that evening, she developed stomach pains which led to her being admitted to Tralee General Hospital later that night where she remained until the following morning. She said that, thankfully, her baby was born in good health a week later.

On being brought back to the front door, Ms Coffey states that Mr X asked her for ID. Because of Mr X's aggressive behaviour towards her, she says that she responded by asking for his name but she says he refused to give it to her.

Ms Coffey says that it was at this point that she first encountered Mr Michael Horan who identified himself as the Manager. Ms Coffey said she could not explain where Mr Horan had come from as he was nowhere to be seen when she and her husband arrived at the Blasket.

6.6 Ms Quilligan then described how she and the other three complainants arrived at the Blasket several seconds after Mary and Robert Coffey. She says that it was raining heavily at the time. She recalls seeing Mr Michael Horan emerging from a car parked in front of the pub at the very moment that Mary and Robert Coffey were entering the Blasket. This claim was supported by other members of the second group. Ms Quilligan described how Mr Horan immediately ran in ahead of her group and sent Mr X after Mary and Robert Coffey. She says that Mr Horan then stopped her group from proceeding beyond the Lobby area.

Margaret Quilligan and Francie McCarthy both described how they saw Mr X physically grabbing and pulling Mary and Robert Coffey back to the Lobby Area. Neither recall seeing Mary Coffey fall to the ground as claimed by Ms Coffey.

6.7 Evidence was also heard from Mr Alan Horan who was on bar duties that night. He says that he recalls Mary and Robert Coffey entering the lounge area, followed closely by Mr X. He states that Mr X stopped the couple and asked for ID. Mr Horan states that Mary and Robert Coffey replied that they didn't need ID as they were overage and that "this was discrimination". He states that the couple were then escorted back to the others in the Lobby area. He says that he recalls the group being informed that driving licences were not acceptable, at which point he says, one of the ladies got very abusive. Because of the distance between the bar and the group he says that he found it difficult to hear what took place after that.

6.8 The complainants then described how an argument broke out as to why driving licences, which were acceptable the previous Saturday, were now not acceptable as ID. In response, they say that Mr Michael Horan showed them a notice on the wall stating that only the Vintners' ID cards were acceptable in the Blasket. The complainants maintain that Mr Horan did, however, inspect their driving licences but still refused them admission.

6.9 Mr Horan then gave his own evidence of what had happened that night. He said that he and Mr X were standing outside the Blasket that night, one on each side of the front door. He says that it was not raining. He recalls Mary and Robert Coffey approaching the Blasket. He says that their arrival stuck in his mind as they seemed initially to be passing the Blasket and then suddenly "veered in". He says that they entered the hallway and Mr X let them through into the lounge. Mr Horan then states that he then asked Mr X whether he had checked the couple for ID as he himself thought Robert Coffey "looked young". He says that, when Mr X replied in the negative, he sent him in after them. Mr Horan states that he saw Mr X "brush pass" the couple and heard him say to them "Sorry, you need ID" He says that Mr X then escorted the couple back to the Lobby area.

Mr Horan claims that the second group of 4 complainants arrived at the Blasket 30 to 40 seconds after the Coffeys. When all six complainants were together in the Lobby area, he says that he made the point to all of them that only the Vintners' ID card was acceptable and that he showed them the notice about the scheme on the wall.

6.10 The complainant's solicitor then asked Mr Horan how a different door policy appeared to operate in the Blasket from week to week. Firstly, he referred to the time, some months previous, when the three female complainants state that they were allowed in without being asked for ID. However, on 2 December 2000, the solicitor said that ID was sought and an indication given by Mr X that driving licences were acceptable. Finally, on 9 December 2000, the complainants were told that only Vintners' ID cards were acceptable.

Mr Horan replied by saying that it was his policy as Bar Manager only to accept Vintners ID Cards as proof of identification and age. He remarked that he himself had not been on the door on the previous two occasions and that he can only assume that the doormen were somewhat lax on those occasions.

Mr Horan claims that some of the complainants then became abusive and accused him of discrimination although he admits that no threats were made against him. He also states that he

did eventually examine the complainants' driving licences, which confirmed that they were all over age, but states that by that time he had already decided not to admit them because of their abusive behaviour.

6.11 On being questioned by the complainants' solicitor, Mr Horan admitted that he recognised the Quilligans and McCarthys to be Travellers but that the Coffeys were not known to him prior to that night.

As evidence that they were being discriminated against, Margaret Quilligan referred at the Hearing to two young settled women, one of whom she used to work with, who sought access to the Blasket when her group were being detained in the Lobby. She says that these young women were turned away at the door because they had no ID. However, a few minutes later, when she was in the Lobby area, she says that she could see the two women inside the Blasket at the bar.

The only conclusion she says she could draw from that episode was that the young women were refused "for show" and were then let in through a back door. While the management stated that there was only one entrance to the pub, they did confirm that there were emergency exits which could be opened when required.

6.12 When asked why Mr X had not been brought as a witness to the Hearing, Mr Horan explained that he had been let go in January 2001. Mr Horan stated that he had found Mr X unreliable as a doorman as sometimes people had to be checked for ID at the bar because Mr X had not carried out his functions properly. Mr Horan said that he had tried to trace Mr X but with no success. He doubted, however, whether he would have agreed to attend the Hearing because of "sour grapes".

6.13 In summing up, Mr Joseph Revington, Counsel for the respondents, stated that the Blasket did not operate a policy of discrimination against Travellers. He stated that the pub did, however, have a strict ID policy in place to counteract underage drinking.

Mr Revington stated that he had dealt with some of the complainants previously in relation to other legal matters and that he had found them to be "very decent people". He believed them to be law-abiding citizens and accepted that it was unlikely that they would have engaged in any form of threatening behaviour on 9 December 2000.

He made the point, however, that publicans were entitled to refuse entry to people who become abusive. He said that, on 9 December 2000, some of the complainants immediately became abusive as soon as they were asked for ID and this reaction was the primary cause of them being refused admission - not the fact that they did not have the required Vintners' ID.

7 Evidence provided by the Gardai

7.1 Margaret Quilligan then described how infuriating she found the situation that night. She says that she was very annoyed that she was being refused service, having been told by Mr X the previous week that driving licences were acceptable. She denies, however, that she was abusive to Mr Horan or Mr X. At the Hearing, she explained how earlier in the week she had

discussed the events of the previous Saturday with Detective Sergeant John Brennan who had advised her to ring the Gardai if she encountered further problems entering pubs. She said that it was for this reason that she insisted on the Gardai being called to the Blasket on 9 December 2000.

7.2 Garda Martin Riordan appeared as a witness for the respondents at the Hearing on 9 December. He described how he was on plain clothes duty on 9 December 2000 when Garda Collins asked him to accompany him to the Blasket where a breach of the peace had been reported.

The complainant's solicitor firstly asked Garda Riordan about the ID scheme which the respondents stated had recently been introduced in Tralee by the Vintners in conjunction with the Gardai. Garda Riordan stated that he had only recently learned of it and was unsure as to how many ID cards had been issued by the Gardai in Tralee under the scheme. When asked whether he was aware of any incidents where the Blasket has been convicted for underage drinking, Garda Riordan said that he was not.

7.3 When asked by the complainant's solicitor what the Gardai's role is in a situation such as that of 9 December, Garda Riordan explained that, in situations where a Garda is called to a premises where there is a possible risk of a breach of the peace, the Garda would normally advise the party or parties involved to leave the premises quietly.

With regard to the incident on 9 December 2000, Garda Riordan said that he remembers the female complainants insisting on their rights as Travellers and referring to the new equality legislation. Garda Riordan stated that he also recalled Garda Collins taking statements from the complainants and the door staff. When asked what impression he got of the complainants that night, Garda Riordan stated that he thought some may have had drink taken but that their general demeanour was fine and that they left peacefully when asked to do so.

7.4 During the Hearing, a number of points were raised regarding the non-provision of information by the Gardai to the complainants. As no case is before me on these issues and evidence has been produced to indicate that the matter has already been referred to the Gardai, I do not propose to address these issues in my deliberations.

8 Conclusions of the Equality Officer

8.1 From the evidence presented to me at the Hearing, I am satisfied that three of the complainants were served in the Blasket some months prior to the incident on 9 December 2000. On that date, they say that no ID was sought.

8.2 In the absence of Mr X, who I would regard as a key witness to the events of both 2 December and 9 December, I have been forced to draw my own conclusions as to Mr X's motives and actions on the nights in question.

Having considered the evidence of the complainants, I am satisfied that four of the complainants sought to gain access to the Blasket on 2 December 2000. On that occasion, the complainants were refused admission, as two of them had no ID with them. I am satisfied, however, from the

testimony provided, that the doorman on the night, Mr X, was happy to accept driving licences as ID and would have allowed access to the four complainants if all four had produced valid driving licences indicating that they were over eighteen.

8.3 With regard to 9 December 2000, I believe that the reason Mr X allowed Mr and Mrs Coffey to enter the premises was because he recognised them from the previous week and remembered that they had produced valid driving licences as ID.

The complainants maintain that it was raining heavily as they walked towards the Blasket on 9 December 2000. They say that, because they had to share two umbrellas, they were unable to walk as a group. This, they say, explains why Mary and Robert Coffey reached the Blasket slightly ahead of the others.

8.4 Mr Michael Horan, for his part, states that he recalls that it was not raining on the night of 9 December 2000. He states that he was standing at one side of the entrance to the Blasket and Mr X was standing at the other side. He states that he recalls the Coffeys coming up the street and suddenly "veering" towards the entrance of the Blasket before going in.

Mr Horan also states that that it was only after Mr X had let them pass, that he asked him whether he had checked their ID. The complainants reject this and insist that Mr Horan was sitting in a parked car, sheltering from the rain. They say that he only got out of the car after the Coffeys had entered the Blasket.

8.5 Having considered the above descriptions of the events of 9 December 2000, I believe that the complainants' version of events is by far the more credible. The evidence which I have found most persuasive is as follows:

- The front entrance to the Blasket is rather narrow and, in my opinion, customers would have difficulty in getting through if two doormen were standing in this area. In bad weather, this is likely to be the case and the obvious thing to do would be for one doorman to stand in the doorway while the other stayed nearby (either inside the pub or, perhaps, in a parked car). In good weather, however, this would not create a problem as the two doormen could stand outside on the street, which Mr Horan states was the situation on 9 December 2000.
- Mr Horan states that the Coffeys had already been let in by Mr X before he questioned Mr X as to whether he had asked for ID. If, as Mr Horan says, he was standing with Mr X at the door of the Blasket, I believe that it would have been immediately obvious to him whether Mr X had asked for ID or not.

Instead, according to Mr Horan, the Coffeys were already inside the Blasket when he asked Mr X about their identification. This, to me, would seem to indicate that Mr Horan was not as close to the front door as he says he was.

- If, as Mr Horan states, he was standing outside the door when he saw the Coffeys "veer" towards the entrance, no explanation has been given as to why he himself did not challenge the couple when they sought admission to the pub.

Other evidence which has influenced my judgement is as follows:

- The complainants state that it was raining on 9 December 2000 and that Mr Horan was seen getting out of a parked car immediately after the Coffeys had been admitted. This would support Mary Coffey's statement that Mr Horan was nowhere to be seen when she arrived with her husband.
- Both sides agree that the Coffeys arrived ahead of the other four complainants. In my view, the most logical reason for this happening was that it was raining and the two groups were sharing umbrellas.

If it had been a dry night, I believe that the complainants would have arrived as a group because, based on the previous Saturdays events, they were entitled to think that they had nothing to fear and they would all be admitted on producing their driving licences

8.6 As stated earlier, in cases such as this, the burden of proof initially lies with the complainants who are required to demonstrate that a prima facie case of discrimination exists. If a prima facie case is established, the burden of proof then shifts to the respondents. From the evidence provided by the complainants regarding the events surrounding their arrival at the Blasket, I am satisfied that a prima facie case of discrimination has been established and that the burden of proof rests with the respondents.

8.7 Having considered all the evidence provided, I believe that the following facts are particularly relevant to this case:

- The Management of the Blasket decided to employ Mr Michael Horan in late 2000 as part of its long-term plan to improve the image of the pub. One of Mr Horan's principal functions was to oversee door security and to put in place a scheme to combat underage drinking. Mr Horan did not take up his position until October 2000, and, therefore, it is likely that this was after the night, some months previously, on which the three female complainants say they were served in the Blasket without being asked for ID.
- On his own admission, Mr Michael Horan recognised four of the six complainants as Travellers on seeing them on 9 December 2000. He admitted, however, that he did not recognise Mary and Robert Coffey as Travellers.
- Mr Horan has also provided evidence that no Travellers under 30 years of age drink in the Blasket. Considering that the Blasket provides entertainment aimed at younger customers and that Tralee has a large population of young Travellers, it seems difficult to believe that younger Travellers would, by choice, decide not to frequent a pub where musical entertainment was freely available to the public.

8.8 In evidence, the complainants referred to two women they recognised, who they say were refused entrance to the Blasket when the complainants were there, but who were later

seen inside the pub. I have noted this evidence, however, as this alleged incident has not been corroborated, I do not propose to consider it as a part of my deliberations.

8.9 Having fully considered these facts and the evidence already referred to above, I find that the respondents have failed to rebut the complainants' evidence to my satisfaction. As a result, the only logical conclusion I can reach is that there must be another reason why the complainants were refused admission on 9 December 2000 and why young Travellers in general do not avail of the entertainment facilities provided by the Blasket, and that this reason is a discriminatory one.

8.10 Having carefully considered all the evidence put before me, I have formed the opinion that, on the balance of probabilities, the following is what occurred on 9 December 2000:

Shortly after 9.00 pm, the six complainants left the other pub to walk to the Blasket, a few minutes away. I believe that it was raining that night and that the three couples only had two umbrellas between them. The Coffeys walked ahead of the other four and arrived at the Blasket a little ahead of the others. I believe that it is likely that Mr Michael Horan was indeed sheltering in a parked car outside the Blasket and that the arrival of the Coffeys, who he did not recognise, did not give him any cause for concern.

Some seconds later, I believe that he spotted the second group and recognised them as Travellers. I believe that this sparked a realisation within him that the first couple may also be Travellers which led to him emerging from the car and instructing Mr X to go after the first couple and to seek ID.

8.11 Section 3(1) of the Equal Status Act 2000 states that discrimination shall be taken to occur where, on any of the grounds specified in the Act, a person is treated less favourably than another person is, has been or would be treated. Section 3(2)(i) of the Act specifies the Traveller community ground as one of the grounds covered by the Act.

It is my opinion that the actions which I have attributed to Mr Horan above, clearly constitute unlawful discrimination on the Traveller community ground, contrary to Section 3(1) and Section 3(2)(i) of the Equal Status Act 2000. I believe that, on recognising the second group as Travellers, Mr Horan decided that he did not want them in the pub. I also believe that, if the Coffeys had been on their own, that Mr Horan would not have paid any attention to them as, firstly, he did not recognise them as Travellers and, secondly, Mr X had no problem in granting them access.

8.12 Under the Equal Status Act 2000, discrimination is deemed to have occurred where a person is treated less favourably than another on any of the stated grounds. In this particular incident, I believe that Mr Horan would not have acted in such a forceful manner if those entering the pub were people he recognised as members of the settled community.

I believe that because Mr Horan recognised the second group as Travellers, that he then associated the first couple with them and took action against them that he would not normally have taken if people from the settled community had been involved.

I, therefore, find that Mr Horan's treated the complainants less favourably than he would have treated people from the settled community in a similar situation, and that his actions constitute discrimination on the Traveller community ground, as defined under the Equal Status Act 2000.

8.13 I find, therefore that Mr Horan unlawfully discriminated against the complainants on the Traveller community ground at the point where he made his decision to stop the group of four from entering the pub and when he instructed Mr X to bring the Coffeys back to the front door.

8.14 Section 15(2) of the Equal Status Act states that action taken in good faith by a publican for the sole purpose of ensuring compliance with the Licensing Acts, shall not constitute discrimination.

If the Vintners Age Card is, in fact, the only valid defence a publican, who serves drink in error to an underage person, has under the Licensing Acts, then it might be perfectly reasonable under section 15(2) for a publican to insist on the presentation of these age cards, *provided* that this policy is applied equally to all customers. It would *not* be reasonable, on the other hand, for a pub to insist on Travellers producing age cards, where no such condition was imposed on non-Travellers in similar circumstances, with the intention of making it more difficult for Travellers to gain access.

8.15 In this particular case, it would appear from the Garda's evidence that the Vintners' ID Scheme had not been widely implemented in Tralee by December 2000. I have also not been satisfied by the respondents that all their younger patrons possessed valid Vintners' Age Cards in December 2000. I can, therefore, only assume that the non-possession of an Age Card was a convenient excuse used at the time by the Blaskett to refuse admission to people, who for other reasons, the respondents didn't want on the premises.

8.16 Having made the above point, it must also be said that I do not consider whether the complainants possessed Vintners ID, to be particularly relevant to my decision as, in my opinion, the question of identification only arose after Mr Horan's act of discrimination occurred, when he instructed Mr X to pursue Mr and Mrs Coffey. In any event, Mr Horan has admitted that he examined the complainants' driving licences which confirmed that they were all overage. If a strict policy about Vintners' ID had been in place, then I can see no reason why Mr Horan would have wanted to check the complainants' driving licences.

I believe, therefore, that Mr Horan's subsequent insistence on Vintner's ID was simply a ploy to hide the fact that discrimination against Travellers was the real reason for his actions.

8.17 Mr Horan has also claimed that another reason for the complainants not being admitted on 9 December 2000, was the fact that they became abusive when pressed for ID. In this regard, it would appear that Mr Horan is relying on section 15(1) of the Equal Status Act 2000 as a defence.

Section 15(1) of the Equal Status Act 2000 provides that nothing in the Act prohibiting discrimination, shall be construed as requiring a person to provide services to another person in

circumstances which would lead a reasonable individual, having the responsibility, knowledge and experience of the person, to the belief, on grounds other than discriminatory grounds, that the provision of services to the customer **would produce a substantial risk of criminal or disorderly conduct or behaviour or damage to property** at or in the vicinity of the place in which the services are sought.

In this case, however, the complainants deny using abusive behaviour and no independent evidence has been produced to prove otherwise. I also note that no evidence has been produced to show that any of the complainants had previously been involved in an incident that would lead one to believe that there existed a substantial risk of criminal or disorderly behaviour. Indeed, the respondents' own barrister admitted to knowing some of the complainants and stated that he regarded them as "very decent people".

I cannot, therefore, accept that the alleged abusive behaviour which is attributed to the complainants, was sufficient grounds to refuse admission on the night.

8.18 I have also considered the evidence provided by the Garda witness at the Hearing. However, as this evidence relates only to developments after the act of discrimination which I have attributed to Mr Horan, I have found no need to take it into account in reaching my decision.

9 Decision

9.1 Having fully considered all aspects of this case, I find that the complainants have established a prima facie case of discrimination on the Traveller community ground. I also find that the respondents have not provided sufficient evidence to rebut the claim that they operate a discriminatory policy towards Travellers, nor have they provided proof that they apply the same rules and procedures to both settled people and Travellers alike.

9.2 The act of discrimination in this case was against a group of young settled Travellers who were simply seeking to be allowed enjoy the same facilities as people from the settled community enjoy in Tralee. No evidence was produced, nor was it even suggested by the respondents, that any of the six had ever been even remotely involved in any unsavoury incident in the past. By all accounts all six complainants were good law-abiding citizens yet they were refused access to a service generally available to the public.

These people were as happy as anyone else to abide by the Blaskett's rules with regard to the production of valid identification. In good faith, they went to the Blasket on 9 December 2000 with their driving licences, having been told the previous week that driving licences were acceptable to the establishment. However, I believe that on 9 December 2000, Mr Horan attempted to enforce different rules regarding ID in an effort to cover-up the real reason for his actions which, I believe, was discrimination against members of the Traveller community.

I also regard Mr Horan's own admission that no young Travellers drink in the Blaskett, as further evidence that a discriminatory policy against Travellers was in operation in the Blasket in December 2000.

9.3 The decision of the Blasket Pub to implement an identification scheme to combat underage drinking is to be commended. However, for this scheme to work, it is essential that both staff and customers are fully aware of how the scheme operates and what the exact requirements of the scheme are. It would appear that this was not the case on 9 December 2000 when both Mr X and the complainants appear to have had a different understanding of the scheme to Mr Horan.

9.4 I would recommend, therefore, that publicans seriously consider drawing up a universal Code of Practice, emphasising their commitment to non-discriminatory practices and setting out clearly the rules which they apply to all customers with regard to proof of age and to the behaviour expected from customers when on their premises. The Code should also make it clear that these rules will be applied to all customers, irrespective of their background.

9.5 In relation to the events of 9 December 2000, I am satisfied that the complainants suffered unlawful discrimination at the hands of Mr Michael Horan within the meaning of the Equal Status Act 2000. In particular, I find that the complainants were discriminated against on the grounds of their membership of the Traveller community contrary to sections 3(1) and 3(2)(i) of the Act.

I, therefore, find in favour of the complainants and order that the management of the Blasket pay the six complainants the sum of £1000 (Euro 1270) each for the humiliation and embarrassment suffered by them.

Brian O'Byrne
Equality Officer
12 October 2001