

## **SUMMARY OF DECISION DEC-S2001-003**

**Mr Michael Connors and Mrs Bridget Connors  
(represented by Tallaght Travellers CDP)**

**V**

**Mr John Crowe, (Owner) Molly Heffernan's Public House**

### **Headnotes**

Equal Status Act, 2000 - direct discrimination - section 3(1)(a) - membership of the Traveller community - refusal of service in a pub - section 5(1) - statutory deadlines - issue of Traveller identity - failure to give a reason for refusal - inference under section 26

### **Background**

On 18th November, 2000, Mr Michael Connors was refused service in Molly Heffernan's Public House. His wife, Mrs Bridget Connors, was refused service there on 21st November 2000. Both complainants claimed that they were refused because of their membership of the Traveller community under section 3(1)(a) of the Act because they were not provided with a service which is available to the public, contrary to section 5(1) of the Act.

The respondent claimed that he does not have any discriminatory policies. He claimed that the complainants were not known to his staff as members of the Traveller community and that Mr Michael Connors is not a Traveller. He also claimed that the complainants had not adhered to the statutory deadlines prescribed in the Act. The respondent did not provide a specific reason why the complainants were refused service.

### **Conclusions of Equality Officer**

The Equality Officer found that the complainants were both Travellers within the scope of the definition in the Act, that they had complied with the statutory deadlines and that they had established a prima facie case of discrimination. The Equality Officer also found that the respondent did not succeed in rebutting the inference of discrimination and took an inference under section 26 of the Act that the reason the claimants were refused service was because they were members of the Traveller community.

### **Decision**

The Equality Officer decided that both of the complainants had been discriminated against on the basis of their membership of the Traveller community and ordered that the respondent pay each of them £2,200 (2793 Euros). The Equality Officer also ordered that the respondent place a sign in his pub stating his commitment to equality and that he also bring this decision to the attention of all the staff of Molly Heffernan's public house.

**Equality Officer Decision DEC-S2001-003**

**Complaint under the Equal Status Act, 2000**

**Mr Michael Connors and Mrs Bridget Connors  
(represented by Tallaght Travellers CDP)**

**-V-**

**Mr John Crowe, (Owner) Molly Heffernan's Public House**

**1. Dispute**

This dispute concerns two separate complaints under the Equal Status Act, 2000. The first complaint is from Mr Michael Connors. He claims that on 18th November, 2000, he was discriminated against by Mr John Crowe, the owner of Molly Heffernan's pub, on the grounds that he is a member of the Traveller community when he was refused service in Molly Heffernan's. The second complaint is from Mrs Bridget Connors, the wife of Mr Michael Connors. She claims that on 21st November, 2000, she was discriminated against by Mr John Crowe, the owner of Molly Heffernan's pub, on the grounds that she is a member of the Traveller community when she was refused service in Molly Heffernan's.

**2. Background**

On 18th November, 2000, Mr Michael Connors entered Molly Heffernan's pub and ordered a drink. The general manager of the pub, Mr Robert Kane, refused him service. On 21st November, 2000, Mrs Bridget Connors entered Molly Heffernan's pub and ordered a drink. Mr Kane refused her service also. Mr and Mrs Connors claim that they were both told that they were refused because of their membership of the Traveller community.

According to the complainants they were in Molly Heffernan's pub on 11th November, 2000, when a row took place between some Travellers and some members of the settled community. They claim that they were not involved in the row. They claim that they were refused service subsequently because Mr Crowe instructed Mr Kane to stop serving all Travellers after the row and not just the Travellers who were involved. The complainants consider that they have been treated less favourably than members of the settled community in this regard.

Any correspondence received from either party was copied to the other side. This included three Affidavits which were received from the complainants and one Affidavit which was received from the respondent. Written statements were also received from both parties and an oral hearing took place on 12th April, 2001. Both complainants attended the oral hearing accompanied by their representative, Ms Orla McCaffrey of Tallaght Travellers CDP. The respondent did not attend the oral hearing but sent a representative in his place.

His representative was Mr James Reid, who is employed by a management company owned by the respondent called Puresafe Ltd. The reason the two complaints were heard together was because they both appeared to be related to the incident on 11th November, 2000.

3. **Summary of the Complainants' Case**

Mr Michael Connors and Mrs Bridget Connors claim that they were regular customers in Molly Heffernan's for 14 months prior to 18th November, 2000.

Mr Connors claims that on 18th November, 2000, he entered the pub and sought service but that he was refused by the general manager of the pub, Mr Robert Kane. Mrs Connors claims that on 21st November, 2000, she also entered the pub but that she too was refused by Mr Kane. Both Mr and Mrs Connors claim that the reason given to them by Mr Kane for their refusals was that the pub no longer served Travellers. They claim that Mr Kane told them that the owner of the pub, Mr Crowe, had issued the instruction that Travellers were no longer to be served.

Mr and Mrs Connors claim that the reason for the pub having a policy not to serve any Travellers is based on an incident which occurred in the pub on 11th November, 2000, when some Travellers and some settled people were in a row. Mr and Mrs Connors claim that although they were in the pub that night they were not involved in the row and that the reason they have been barred from the pub is because some other Travellers were involved in it. They claim that they were treated less favourably by the respondent than members of the settled community and that the respondent discriminated against them because of their membership of the Traveller community. Mr and Mrs Connors do not think that members of the settled community are treated the same in this regard i.e. although some members of the settled community were involved in the row not all settled people have been barred.

4. **Summary of Respondent's Case**

Mr Crowe claims that he has been in business for the last 25 years in both the cleaning industry and the bar trade. He claims that during that period he never discriminated against anyone on the grounds of race, creed or religion and that he has employed people from all backgrounds, including Travellers and non-nationals.

With particular reference to the bar trade Mr Crowe claims that the clientele at Molly Heffernan's is drawn from the entire spectrum of society and that he has not nor would not discriminate against any person on the grounds of race, creed or religion. He claims that nobody has been refused service on the grounds that they are Travellers. He claims that from time to time he has to exercise his right to refuse persons service but that any instance of same is based on fact and for good reason on his manager's recommendation.

The respondent claims that he instructed the general manager of Molly Heffernan's not to serve people involved in the row on 11th November, 2000, and their associates. He claims that all persons involved in the row have been refused service on the grounds that his staff recognised and witnessed their involvement.

Mr Crowe claims that neither Mr or Mrs Connors were known to his staff as members of the Traveller community and he does not accept that Mr Connors is a member of the Traveller community.

Mr Crowe disputes that the claimants have made valid complaints within the time frames specified in the Equal Status Act, 2000.

5. **Issues for Consideration**

The issue for consideration in these complaints is whether or not Mr John Crowe discriminated against Mr Michael Connors and Ms Bridget Connors on the basis of their membership of the Traveller community in terms of section 3(1)(a) of the Equal Status Act, 2000, when they were refused service in Molly Heffernan's pub contrary to section 5(1) of the Act.

6 **Admissible Evidence**

In reaching my decisions in relation to these complaints I have taken account of the written submissions received from both parties and the verbal statements made at the oral hearing.

However, I want to put on record some information which I am not taking into account. The respondent contacted me by telephone on a number of occasions during the course of my investigation. I informed him both verbally and in writing from the very outset that I could not discuss anything with him related to the events complained of. I informed him that in the interests of natural justice that any comments he wished to make should either be put in writing, so that they could be copied to the claimants for comment, or else made at the oral hearing where both parties would have the opportunity to make any statements, to ask questions and to call witnesses. However, despite my making this point to him on a number of occasions he continued to tell me things which were related to the events complained of. Although I stopped taking telephone calls from him Mr Crowe left a large number of messages for me on my telephone answering machine. In reaching my decision I have not taken any of his verbal or recorded comments into account. The only information from the respondent which I am taking into account is his Affidavit dated 11th April, 2001, his undated letter which I received on 26th April, 2001, and the statement dated 25th April, 2001, from Mr Kane.

7. **Statutory Deadlines**

The first issue which I want to address in my decision is the point made by Mr Crowe about the inadmissibility of the complaints due to the statutory deadlines not being adhered to. It is important that this is clarified because if the deadlines were not met by Mr and Mrs Connors the complaints would have to be dismissed.

Under the Equal Status Act, 2000, before a complaint can be accepted as admissible there are two separate deadlines which must be adhered. Firstly, under section 21(2)(a) of the Act the service provider must be notified by the complainant within two months of alleged discriminatory act taking place. Secondly under section 21(6) of the Act the complainant must refer a complaint to the Director of Equality Investigations within six months of alleged discriminatory act taking place.

The respondent has claimed that the reports had to be made within two months of the acts of discrimination. The respondent did not make it clear which reports he was referring to when he stated this. Mr Connors was refused service on 18th November, 2000, and Mrs Connors was refused on 21st November, 2000. Section 21(2)(a) of the Act requires complainants to notify respondents in writing within two months after the prohibited conduct is alleged to have occurred of :

- “(i) the nature of their allegation,*
- (ii) the complainants intention, if not satisfied with the respondent’s response to the allegation, to seek redress by referring the case to the Director.”*

The complainants notified the respondent about their allegations of discrimination, on 12th December, 2000, and supplied me with copies of the certificates of posting as evidence of having sent them. This action clearly took place within the two month deadline set out in Section 21(2)(a). The complainants used the standard form which was issued by the Office of the Director of Equality Investigations for this purpose and I am satisfied that they have met the requirements of Section 21(2)(a) in full.

Section 21(6) of the Act states:

- “... A claim for redress in respect of prohibited conduct may not be referred under this section after the end of the period of six months from the date of the occurrence of the prohibited conduct to which the case relates or, as the case may be, the date of its most recent occurrence.”*

The complainants in this case sent their complaints to the Director of Equality Investigations on 29th January, 2001, again using the standard form issued by the Office of the Director of Equality investigations for this purpose. This was clearly within the six month deadline specified in Section 21(6).

I am, therefore, satisfied that the complainants have met the all of the statutory deadlines specified in the Act and that the complaints are admissible on this basis.

#### 8. **Issue of Traveller Identity**

Mr Crowe has also raised an issue as to whether Mr Michael Connors is a Traveller and I think it is also important that this issue be clarified. This is because it is on this ground that Mr Connors, and indeed Mrs Connors, are claiming discrimination.

The definition in section 2 of the Act states that:

- “Traveller community” means the community of people who are commonly called Travellers and who are identified (both by themselves and others) as people with a shared history, culture and traditions, including historically, a nomadic way of life on the island of Ireland”.*

From this definition I consider that for someone to be considered as a Traveller within the meaning defined in the Act they must identify themselves as a Traveller and must also be identified by others as a Traveller.

From this definition it is clear that for someone to be considered as a member of the Traveller community that they do not have to be actively leading a nomadic way of life. This is because the definition states that Travellers are people with a shared history, culture and traditions “*including historically, a nomadic way of life*”. In my view the reference to the word historically in this context is important and that it was put in the definition to include people who were nomadic in the past but who are now settled and the settled descendants of people who led a nomadic way of life in the past.

Mrs Connors stated at the oral hearing that she considers herself to be a Traveller because she has a different culture than settled people. She said that before she got married she lived in a caravan with her parents and led a nomadic life. Since then she has lived in a house as a settled Traveller and for the last ten years this has been in a house in Tallaght.

Mrs Connors said that she knew all of the staff in Molly Heffernan’s and that they knew her as Mick Connor’s wife. She said that she thought they were aware that she was a Traveller although she never told them that she was. She said that the reason she thought it was known to the staff was because when she was refused service on 21st November, 2000, Mr Kane told her “*all Travellers are barred*” - the inference being that he knew she was a Traveller and that this was the reason why she was refused service. The question of Mrs Connor’s Traveller identity was not disputed by the respondent in the admissible evidence which was provided and there is no doubt in my mind that Mrs Connors is a Traveller within the meaning defined in the Act.

Mr Connors said that he has never led a nomadic life and the he has been settled all of his life, the last 10 years in his current home in Tallaght. He said that his parents were Travellers and that although they were also settled for a long time, when they were young they led a nomadic life with their parents (Mr Connor’s grandparents). It is clear to me that Mr Connors has always identified himself as a Traveller.

Mr Connors said that he knew all of the staff in Molly Heffernan’s by name and that they knew him. He said that he thought they were aware that he was a Traveller although he never told them that he was. He said that the reason he thought it was known to the staff was because when he was refused service on 18th November, 2000, Mr Kane told him “*Sorry Mick, I can’t serve you. All travellers are barred*” - the inference being the same as with Mrs Connors in that Mr Kane also knew that Mr Connors was a Traveller and that this was the reason why he was refused service.

Mr Connors said at the oral hearing that Mr Francis Brooks, who is not a Traveller, was with him when he was refused service and that Mr Brooks was served. Mr Connor’s refusal and the thrust of Mr Kane’s words to the effect that all Travellers were barred was corroborated by a statement which I received after the oral hearing from Mr Brooks.

After the hearing I also received a statement from Mr Kane dated 25th April, 2001, which states that “*I (meaning Mr Kane) have no knowledge of either a Michael Connors or Brigid Connors and I have never refused to serve any person because they were members of the travelling community*”.

Mr Kane’s statement obviously contradicts the statements made by Mr and Mrs Connors. Mr Kane claims not to know the claimants and that he never refused to serve people because they were Travellers. The complainants claim that Mr Kane does know them and that he refused to serve them because they are Travellers.

Having considered this matter fully I am satisfied that Mr Kane did know the claimants and that he knew them to be members of the Traveller community. I am more inclined to accept the statements of the complainants on this point because they were made both in writing before the oral hearing and at the oral hearing itself where both of the claimants came across as being very credible. In addition, the statement of Mr Brooks supports the evidence provided by Mr Connors. I also think it is worth noting that Mr Kane did not attend the oral hearing and did not see Mr and Mrs Connors there. I think it is probable that Mr Kane may not have known the claimants by their full names but that he would have known them and been able to identify them if he saw them.

I have also taken into account the fact that Mr James Furey, a witness at the oral hearing, supplied an Affidavit after the hearing stating “*it is sad to see these two innocent people (meaning Mr and Mrs Connors) being refused access to the Licensed Premises because they are members of the Traveller Community*”. This clearly shows to me that Mr Furey identified Mr Connors as a member of the Traveller community.

What is particularly relevant and interesting about Mr Furey’s statement is that he was employed as the manager in Molly Heffernan’s from January, 2000, and when he was on duty on the 11th November, 2000, he was stabbed and seriously injured in the row which occurred that night.

Finally I have also taken into account the fact that the respondent only raised the issue of Mr Connor’s Traveller identity after the hearing took place and when he had the benefit of hearing Mr Connor’s evidence on this point. However, as I said earlier I do not think that actively living a nomadic life is an essential prerequisite to establishing a Traveller identity within the meaning defined in the Act. In any event in my mind the claimant clearly satisfies the link to nomadism required by the definition because his parents led a nomadic lifestyle in the past.

I have fully considered the question raised by the respondent as to whether Mr Connors is a Traveller within the meaning defined in the Act and I am satisfied that he is. It is clear to me that Mr Connors has always identified himself as a Traveller and that others, and in particular Mr Kane, also recognised him as such e.g. when he refused him service from the pub.

9. **Prima Facie Case**

- 9.1 Having established that both complaints are admissible and that both complainants are covered by the membership of the Traveller community ground, the next issue to be established is whether the complainants have established prima facie evidence of discrimination on the basis of their membership of the Traveller community when they were both refused service in Molly Heffernan's.
- 9.2 The definition of what constitutes discrimination is set out in Section 3(1) of the Equal Status Act, 2000. It states that:  
*“For the purposes of this Act, discrimination shall be taken to occur where-  
(a) on any of the grounds specified in subsection (2) (in this Act referred to as “the discriminatory grounds) ..... a person is treated less favourably than another person is, has been or would be treated.”*
- In Section 3(2) the “Traveller Community ground” is included among the discriminatory grounds.
- 9.3 For the claimants to establish a prima facie case they, as members of the Traveller community, have to show that they were treated less favourably than members of the settled community. Mr and Mrs Connors gave evidence in writing and at the oral hearing that they sought service in Molly Heffernan's pub on 18th November, 2000, and 21st November, 2000, respectively and that the reasons given to both of them for their refusals were that all Travellers were barred on the orders of Mr Crowe.
- 9.4 Mrs Connors stated at the oral hearing that she was alone when she was refused and had no witnesses to confirm her story. Mr Connors stated at the oral hearing that when he was refused service on 18th November, 2000, that he was accompanied by Mr Francis Brooks. Mr Brooks provided a statement after the oral hearing to the effect that he witnessed Mr Connors being refused and that the reason given to Mr Connors was that all Travellers are barred.
- 9.5 At the oral hearing, Ms Orla McCaffrey of Tallaght Travellers CDP, who was representing the complainants, stated that she was aware that another Traveller, Mr Joe Donoghue, had also been refused from Molly Heffernan's. Ms McCaffrey stated that Mr Donoghue had also been told by Mr Kane that all Travellers were barred on the instructions of the owner. Mr Donoghue was not at the oral hearing but subsequently provided an Affidavit to this effect. In Mr Donoghue's Affidavit he stated that he was not in the pub on the night of the row on 11th November, 2000, and that when he was refused service on 18th November, 2000, Mr Kane also told him that he *“may as well tell my (meaning Mr Donoghue's) friends (i.e. other Travellers) not to come to the Licensed Premises as they would not be served and it would save embarrassment”*.
- 9.6 The complainants said at the oral hearing that on 11th November, 2000, when they were in Molly Heffernan's that they were in the company of some of their neighbours, who are all members of the settled community. They said that their neighbours have not been barred



from the pub since the incident and that they are still served in Molly Heffernan's. They said that they know this from speaking to their neighbours.

- 9.7 Mr Furey said at the oral hearing that during the time he was the manager of Molly Heffernan's the claimants never caused any trouble. He also said that when he was in hospital after he was stabbed in the row on 11th November, 2000, that Mr Crowe and Mr Kane came to visit him. He said that Mr Kane told him that Mr Crowe had decided that all Travellers were to be barred from the pub following the incident.
- 9.8 I am satisfied that there is prima facie evidence that Mr and Mrs Connors were discriminated against by Mr John Crowe on the basis of their membership of the Traveller community. I am satisfied that they are Travellers within the meaning defined in the Act and that they were refused access to Molly Heffernan's while members of the settled community were not so refused.
10. **Evidence Provided by the Respondent and Equality Officer's Conclusions**
- 10.1 As the claimants have established prima facie evidence of discrimination on the basis of their membership of the Traveller community it now falls to the respondent to rebut the inference of discrimination.
- 10.2 The respondent did not attend the oral hearing but sent his representative, Mr James Reid, to attend in his place. Mr Reid said that he is employed by a company called Puresafe Ltd. He said that this is a management company which Mr Crowe owns. Mr Reid said that the reason he was at the hearing was simply to observe proceedings and report back to Mr Crowe. He said that he was not in a position to answer any questions but that he might make some comments.
- 10.3 A lot of the other admissible information provided by the respondent is of a general nature to the effect that he does not, has not or would not discriminate against anyone. I have noted that the admissible information supplied by the respondent, or on his behalf, does not provide a definitive reason as to why either of the claimants were refused service from Molly Heffernan's. Indeed the respondent has failed to address in the admissible information provided whether he accepts that Mr Michael Connors and Mrs Bridget Connors were refused service at all on 18th November, 2000, and 21st November, 2000, respectively.
- 10.4 In my opinion much of the information provided by the respondent simply attempts to infer that the claimants were either involved in the row which took place on 11th November, 2000, or that they are associated with people who were involved in the row. Any such inferences are denied by the claimants and the respondent has not provided any hard evidence such as witnesses or witness statements to support his view.

For example, at the oral hearing Mr Reid stated that he was not in the pub on 11th November, 2000, but that he was told that the complainants were involved in the row which occurred that night. He would not say who told him this and no witness statements were provided to this effect. The claimants deny that they were involved in the row. They said that they were dancing on the dance floor of the pub and saw a fight in a different part of the

pub. Mr Reid said that he understood that the fight started on the dance floor but again no witness statements to this effect were provided.

Also Mr Reid also said at the oral hearing that the claimants were associated with members of the Traveller community who were involved in the row. Again he had no witness statements to this to this effect. The claimants said that were not associated with the members of the Traveller community who were involved in the row. They said that some of the people involved in the row were settled people and some of them were Travellers. They said that they did not know any of them personally but recognised the faces of some of them.

In his undated letter Mr Crowe stated that “*all persons involved in the fracas have been refused service on the grounds that my staff recognised and witnessed their involvement ....*”. Although the inference of this statement is that this is why the claimants were barred it is not explicitly stated that this is the reason and Mr Crowe did not repeat the claims made by Mr Reid that the claimants were involved in the row or that they were associated with anyone who was involved in it. Neither did Mr Crowe provide any evidence from his bar staff that the claimants were involved in the fracas.

The claimants said that on the night of the row they were in the company of a number of their settled neighbours. After the hearing I received an Affidavit from Mr Bernard Redmond who is a neighbour of the claimants stating that the claimants joined him and his wife Dolores on the night of the row and that “*at no time did Bridget or Michael Connors have any association with anyone involved in the subsequent fighting that took place on the night of the 11th November in the Licenced Premises*”.

As stated previously Mr James Furey was the manager of Molly Heffernan’s. At the oral hearing he stated that he was on duty on the night of 11th November, 2000, and that he was stabbed in the course of the row which occurred. He said that neither of the claimants were involved in the row and that they were not associated with anyone involved in it either. Mr Furey also provided an Affidavit to this effect after the hearing.

- 10.5 I am satisfied on the basis of the evidence presented that the claimants were neither involved in the row or associated with anyone who was involved in it that night. They themselves have denied any involvement and their versions have been corroborated by Mr Redmond and Mr Furey. The respondent has only provided hearsay evidence that the claimants were either involved in the row or associated with anyone who was involved in it. No witnesses or witness statements from people who were there on the night were provided by the respondent to link either of the claimants with the row.
- 10.6 After the hearing the respondent also mentioned in the undated letter which I received on 26th April, 2001, the fact that the claimants were dancing in the pub on the night of the row. This was also mentioned in Mr Kane’s statement when he stated that “*Mr James Furey was told on a number of occasions by myself and Mr Crowe not to allow people to dance in the pub ....*”. As I stated earlier the respondent has not given any reason as to why the claimants were refused service and so I do not know whether he is claiming that Mr

and Mrs Connors were barred because they were dancing. The claimants accepted that they were dancing but stated at the hearing that a lot of other people were also dancing.

- 10.7 After the hearing Mr Crowe also stated in his undated letter that none of his staff knew the claimants were members of the Traveller community. However, Mr Furey stated that he knew the claimants were members of the Traveller community so there is a clear contradiction there which does not help the respondent's case. As I mentioned in 5.4 earlier I am also satisfied that Mr Kane knew the claimants to be members of the Traveller community. As it was Mr Kane who refused service to the claimants it is his perception which is most important in this case.
- 10.8 In Mr Crowe's undated letter he also stated that he dismissed Mr Furey because he was not able to manage the pub properly. At the oral hearing Mr Furey said that he left the pub by mutual consent with Mr Crowe because he was no longer able to pull pints due to the injuries he received when he was stabbed. Mr Crowe has not explained why the circumstances surrounding Mr Furey's leaving his employment should be a factor in relation to these complaints and on the basis of the evidence presented I do not consider that it has any relevance to Mr Kane's decision to refuse service to the complainants.
- 10.9 At the oral hearing Mr Reid said that although he was not present in the hospital when Mr Kane allegedly made the statement to Mr Furey that all Travellers were to be barred on Mr Crowe's orders, he understood that it was not what Mr Kane actually said. Mr Furey's account was also disputed in the statement which I received from Mr Kane dated 25th April, 2001. Mr Kane's statement says "*we (meaning himself and Mr Crowe) told him to bar all the people who were involved in the row settled or not*". Mr Crowe also disputes that he said all Travellers were to be barred from the pub. In the undated letter which I received from him on 26th April, 2001, he stated "*my instruction to Mr Robert Kane and in the presence of Mr James Furey during our visit to him in hospital was that all persons and associates involved in the fracas were no longer to be served on the premises*".

Mr Crowe himself, Mr Kane and Mr Reid are all claiming that Mr Crowe said the only people to be barred were those involved in the fracas and their associates. When Mr Furey was challenged on this point at the oral hearing by Mr Reid he replied that he was certain that Mr Kane said that Mr Crowe had decided that all Travellers were to be barred. Mr and Mrs Connors, Mr Brooks, and Mr Donoghue have also provided evidence which supports the argument that Mr Crowe decided all Travellers were to be barred because they stated that this was the reason given by Mr Kane when service was refused. Having considered this matter fully I am satisfied on the balance of probabilities that Mr Crowe did say that all Travellers were to be barred.

- 10.10 As I stated earlier the respondent has not explicitly stated the reason why either of the complainants were refused service and I am satisfied that he has failed to rebut the inference of discrimination.
- 10.11 Section 26 of the Act states:

*“If in the course of an investigation under Section 25, it appears to the Director-*

*(a) that the respondent did not reply to a notification under section 21(2)(a) or to any question asked by a complainant under section 21(2)(b),*

*(b) that the information supplied by the respondent in response to the notification or any such question was false or misleading, or*

*(c) that the information supplied in response to any such question was not such as would assist the complainant in deciding whether to refer the case to the Director,*

*the Director may draw such inferences, if any, as seem appropriate from the failure to reply or, as the case may be, the supply of information as mentioned in paragraph (b) or (c).”*

The Director’s functions under this section of the Act have been delegated to me as an Equality Officer appointed by the Director in accordance with section 75(4)(a) of the Employment Equality Act, 1998.

As the respondent in this case did not reply to the notifications which the complainants sent to him under section 21(2)(a) I have decided to draw an inference as I am entitled to do under section 26 of the Act. The inference which I think it is appropriate to draw in the light of all of the evidence presented is that the reason for the refusal of service to both complainants was based on their membership of the Traveller community and for no other reason.

## 11. **Decision**

11.1 I find that Mr Michael Connors was discriminated against on the basis of his membership of the Traveller community when he was refused service from Molly Heffernan’s pub on 18th November, 2000.

I also find that Ms Bridget Connors was discriminated against on the basis of her membership of the Traveller community when she was refused service from Molly Heffernan’s pub on 18th November, 2000.

11.2 Under section 27(1) of the Act the types of redress which may be ordered following a decision in favour of a complainant are:

*“(a) an order for compensation for the effects of the discrimination;*

*or*

*(b) an order that a person or persons specified in the order take a course of action which is so specified”.*

11.3 Under section 27(1)(a) the maximum amount I can award is £5,000 I but I do not think that this amount would be appropriate in this case. The Equal Status Act, 2000, only came into operation on 25th October, 2000, and at the time of writing this decision there has only been one decision published under the Act to date. Therefore, despite their clear legal duty to comply fully with the Equal Status Act, 2000, I consider that publicans may not yet have

properly assessed and realised the full range of new obligations placed on them by the Act. Nevertheless, in my opinion the discrimination suffered by Mr and Mrs Connors should not be tolerated and is unacceptable in a civilised society. I order that Mr John Crowe, owner of Molly Heffernan's public house pay £2,200 (2793 Euros) to each of the claimants, Mr Michael Connors and Mrs Bridget Connors. This is to compensate them for the stress, embarrassment and loss of amenity which they suffered.

11.4 The first decision made under the Employment Equality Act, 1998, was the Equality Authority v Ryanair (DEC - E/2000/14). The Equality Officer in that case considered that in addition to monetary compensation the respondent take a specific course of action under section 82(1)(e) of the Employment Equality Act, 1998. I consider that a similar approach is appropriate in this case.

11.5 Under section 27(1)(b) I order that:

- (1) Mr John Crowe, owner of Molly Heffernan's public house place a sign in a prominent place behind the bar of Molly Heffernan's public house stating that "The owner of this pub is committed to treating people equally in accordance with the terms of the Equal Status Act, 2000". The sign should be displayed no later than 42 days after the issue of this decision and should be left on display for at least one month thereafter. The letters of the words on the sign should be no less than 1 inch in height. The sign should be easily visible to anyone who seeks service there.
- (2) Mr John Crowe, owner of Molly Heffernan's public house should bring this decision to the attention of all the staff of Molly Heffernan's public house.

Anthony Cummins  
Equality Officer  
1 June 2001