

# GRA ordered to appoint assistant following victimisation claim

## ANDY PRENDERGAST

**The Garda Representative Association (GRA) has been ordered to appoint a member to the position of assistant to the general secretary after a WRC adjudicator found she was victimised by a member of the GRA's central executive committee (CEC).**

While a gender discrimination claim by Garda Tara McManus was deemed not well founded, WRC adjudicator (AO) Jim Dolan did find the garda was victimised by a member of the GRA, due to a comment made about her at the Association's annual delegate conference (ADC) in November 2021.

Her discrimination claim failed as she did not produce facts of sufficient significance to raise a presumption of gender discrimination. She did not use a named comparator.

Garda McManus had applied for the position of assistant to the general secretary in 2019. The process, involving two interviews and a psychometric test, was run by an external agency. The three-member interview board of the CEC then voted unanimously for Ms McManus to be appointed to the position.

However, such an appointment, according to GRA rules, has to be ratified by two-thirds of the 31-member CEC (representatives of the 10 largest divisional committees have two votes on the CEC). The ratification vote, via secret ballot, was 22 in favour, 19 against the appointment of Garda McManus, meaning she could not be appointed to the position.

Two of the 31-member CEC involved in the vote had unsuccessfully applied for the position of assistant to the general secretary. No one declared a conflict of interest.

As a result of the vote the complainant was then nominated to fill the position on an interim basis but this was also rejected. A male member who had not applied for the position was then selected to fill the role on an interim basis.

Anger with this outcome was relayed to the general secretary of the GRA in July 2020, where a request was made to hold the ratification vote in public. That same month, Garda McManus made her first discrimination claim to the WRC.

## VOTE RETAKEN

A second competition for the position of assistant to the general secretary was held in October 2021. Again, Ms McManus was selected unanimously by the CEC interview board and an external recruitment agency.

At the ratification vote at a GRA meeting on November 11, 2021, someone mentioned the fact that Garda McManus had made a complaint to the WRC. This prompted the interim general secretary of the GRA to explain to others what the definition of “victimisation” is.

The secret ballot vote then resulted in 22 for, 13 against, which meant she was four percentage points below the required 66.6% to be appointed.

Following legal advice, the vote was retaken at the GRA ADC on November 23, 2021. This was an open vote, expressed by a show of hands.

Just before the vote, a member of the CEC stated: “This is a sh\*tshow. We have to move forward. This vote will bury this Association. I voted on the sole reason she’s suing the Association ... and you can tell her that.”

The result of this vote was 56% in favour of Ms McManus being appointed. Two of the votes against her were from members who had unsuccessfully applied for the post, and another vote against her was by a member of the interview board who had, before, been part of the interview board’s unanimous proposal to appoint Ms McManus to the role.

## **‘BOY’S CLUB’**

A 2017 Ampersand report into the leadership structure of the GRA addressed the perception of the Association as a “boy’s club.”

The report stated that the ‘boy’s club’ metaphor “reflects the reality of the 30:1 ratio of male to female membership of the CEC when the Association’s membership is 27% female... The fact that no action has been taken already to address the issues that contribute to this, is unusual in our experience in a representative body.”

The Ampersand Report, the AO said, “unequivocally found the GRA’s Rules were ‘no longer fit for purpose’ and recommended the adoption of a proposed new set of rules.”

However only some recommendations were implemented, despite the Ampersand report suggesting its recommendations were designed as an “integrated package” and should not be “cherry-picked”.

The complainant’s representative submitted that the cumulative effect of the issues in this case “such as the irrational failure to ratify the complainant after being selected as the successful candidate; the lack of transparency in the ratification process; the gender composition of the CEC; the blatant conflict of interest permitted in the voting process and the fact no female has ever held a role in the leadership” raised an inference of gender discrimination.

## **‘LEGAL STRAIGHT JACKET’**

The GRA, in its defence, argued that it has mandatory procedures to follow and that it cannot depart from same – that it was in a “legal straight jacket as far as the process for selecting the assistant to the secretary general is concerned.”

Nonetheless, it argued that the “uncontroversial facts” of the case “are absolutely incompatible with any claim for discrimination” and there was “no basis whatsoever for asserting that discrimination took place.”

AO Dolan noted that the complainant did not use a named comparator for her gender discrimination claim. He noted it is necessary to ground such a claim “by pointing to how another person, not having the protected characteristic relied upon, was, is or would be treated in a comparable situation.”

## **NO NEGATIVITY**

However, the AO found in favour of her victimisation complaint. He noted that Garda McManus was victimised prior to the ratification process by at least one member of the CEC who made the aforementioned comment at the GRA ADC.

“It is impossible to say what effect his statement [...] may have had on other members prior to the vote”, the adjudicator said, but noted as well that the General Secretary felt it necessary to explain to the CEC members what victimisation is, and in WRC evidence he accepted the complainant may have been penalised.

The AO ordered the GRA to appoint Garda McManus to the position of assistant to the general secretary. Should it be the case that the vacancy has already been filled, the AO said the complainant “should be appointed as a supernumerary” and such appointment should be made within six weeks from October 5, 2022.

He also made an order to for the General Secretary, on behalf of the entire CEC, “to provide an assurance to the complainant that there will be no negativity shown to the Complainant on her appointment.”

The complainant did not seek financial compensation.

Garda McManus was represented by Kiwana Ennis BL, instructed by Áine Breathnach, IHREC. The GRA was represented by James Kane BL, instructed by Elizabeth Hughes, Hughes Murphy Solicitors. (ADJ-00028686, AO: *Jim Dolan*)