

**AN CHÚIRT CHUARDA  
THE CIRCUIT COURT**

**DUBLIN CIRCUIT**

**COUNTY OF THE CITY OF DUBLIN**

**RECORD NO: 2023/03748**

**NEUTRAL CITATION: [2023] IECC 8**

**IN THE MATTER OF SECTION 28 OF EQUAL STATUS ACT, 2000**

**BETWEEN: -**

**EMMA BARRY**

**APPELLANT**

**-AND-**

**DR. LEENA NAUGHTON, HIGHFIELD HEALTHCARE AND THE MEDICAL  
COUNCIL**

**RESPONDENTS**

**DECISION OF HER HONOUR JUDGE NÍ CHÚLACHÁIN delivered on the 7th day of  
December 2023**

**Background**

1. The Appellant instituted a complaint under the Equal Status Acts 2000 to 2018 (the “Equal Status Acts”) against the Medical Council (hereafter referred to as the “Third Named Respondent”), which was the subject of a decision from the Workplace Relations Commission (“WRC”) on 29 June 2023. The Appellant looks to appeal the decision of the WRC in these proceedings. The Appellant was not present for the hearing of the appeal and the matter proceeded by way of an uncontested hearing.
2. In 2021, the Appellant made a complaint to the Third Named Respondent regarding the professional practice of the First Named Defendant. The Third Named Respondent

initiated and conducted a statutory investigation in accordance with section 59 of the Medical Practitioners Act 2007. In June 2021, the Respondent confirmed that pursuant to section 61(1)(a) of the 2007 Act that there was not sufficient cause to warrant further action in relation to the complaint. At a meeting on 7 July 2021, the Medical Council considered the Preliminary Proceedings Committee's (hereafter referred to as PPC) opinion and decided no further action should be taken.

3. The Appellant referred a complaint to the WRC on 6 January 2022 in which she complained that the way the Third Named Respondent regulator conducted a statutory investigation in accordance with the 2007 Act amounted to discrimination and harassment on grounds of gender, race and disability contrary to the Equal Status Acts. This complaint was heard on 7 February 2023 and the decision of the WRC was furnished on the 29 June 2023. The WRC concluded the Respondent Regulator was entitled to avail of section 14(1) and that its actions did not discriminate against the complainant. Insofar as the Appellant complained that the submission of the First Named Respondent to the Third Named Respondent constituted harassment, the claim would be against the author of the document and not the statutory body who received it and this aspect of the claim also came with section 14(1).
4. The Appellant appealed the decision of the WRC to the Circuit Court. This appeal was heard on 7 December 2023.

## **Decision**

5. Having considered the Third Named Respondent's submissions, I am satisfied that the Third Named Respondent has a statutory duty to investigate and make decisions under section 59 of the Medical Practitioners Act 2007. That is the taking of an action required by an enactment as provided for in section 14(1) of the Equal Status Act and is therefore exempt from the definition of '*service*' provided in Section 2 of the Equal Status Acts.
6. I am further satisfied that the Third Named Respondent was exercising a quasi-judicial decision-making function in conducting a statutory investigation and that

performing its quasi-judicial decision-making function does not come within the definition of “*service*” as provided in section 2 of the Equal Status Acts.

7. That is sufficient to dispose of the appeal herein. However, if I were required to go further, I am also satisfied having regard to the decision of the Supreme Court in *Beatty v The Rent Tribunal & Another* [2005] IESC 66, [2006] 2 IR 191 that a statutory adjudicative body exercising statutory adjudicative duties in the public interest such as the Third Named Defendant in considering complaints about professional misconduct, enjoys immunity from suit on the basis of judicial immunity unless there is an express countervailing provision in the statutory process which does not apply in this case.
8. In this case, it therefore follows that the Third Named Respondent in exercising its PPC functions and in making decisions in relation to professional conduct is exercising a function as a statutory adjudicative body which enjoys immunity from suit on the basis of the principle of judicial immunity and that is absolute immunity and it is therefore not amenable to a complaint under the Equal Status Acts.
9. Accordingly, I affirm the decision of the Workplace Relations Commission Adjudication Officer and dismiss the appeal.