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EMPLOYMENT TRIBUNALS

Claimant: Miss V Riviere
Respondent: Compass – Services to Tackle Problem Drug Use
Heard at: East London Hearing Centre
On: 21 September & 10 October 2018
Before: Employment Judge Hallen
Members: Mr P Quinn
Mrs S A Taylor

Representation

Claimant: In person
Respondent: Ms L Gould (Counsel)

JUDGMENT

The unanimous judgment of the Employment Tribunal is that the claim of disability discrimination contrary to section 13 of the Equality Act is unfounded and is dismissed.

REASONS

Background

1 This case was last before the Employment Tribunal on 5 April 2018 at which time the Claimant's claim for reasonable adjustments were struck out on the basis of her failure to comply with Employment Judge Hyde's order of 8 January 2018 sent to the parties on 23 January 2018.

2 At that hearing, the Tribunal set out the claims that the Claimant could pursue. The claim related to a direct discrimination claim contrary to section 13(1) of the Equality Act 2010 ('the Act'). The Claimant was disabled by way of her sickle cell

anaemia which the Respondent accepted was a disability under the Act and the Claimant compared herself to a hypothetical comparator. She argued that her conditional offer of employment with the Respondent would not have been withdrawn had she been the hypothetical comparator without the disability that she had.

3 The Tribunal had to answer a number of questions. These were as follows:-

- 3.1 Did the Respondent have knowledge of the Claimant's alleged disability at all material times and specifically did the persons making the decision to withdraw her job offer know that she was disabled as defined at the relevant time?
- 3.2 If so, was the Claimant treated less favourably in respect of her disability in relation to DBS checks that the Respondent was required to undertake?
- 3.3 Did the Respondent treat her less favourably in respect of her disability in respect of references that were sought?
- 3.4 Was the Claimant treated less favourably due to the withdrawal of the conditional job offer in respect of references that were obtained or that were being obtained?
- 3.5 Can the Claimant prove primary facts from which the Tribunal could properly and fairly conclude that the difference in treatment was because of her alleged disability? If so, can the Respondent prove a non-discriminatory reason for any proven treatment?

4 At the Tribunal hearing, the Respondent gave evidence first and called two witnesses. These were Ms Sue Firkins who was the Respondent's HR Manager and the second witness was Ms Jo O'Connor who was the Assistant Director and who took the decision to withdraw the conditional offer of employment. Both of these witnesses prepared written witness statements. The Claimant represented herself also prepared a witness statement and was subject to cross-examination. The Tribunal had in front of it an agreed bundle of documents.

Facts

5 The Respondent is a registered charity that works in communities across the UK to provide health and well-being services for children, young people and adults with the aim of tackling and preventing problem drug and alcohol use. The Respondent is committed to protecting adults at risk and children and young people from abuse or neglect. At the time the Claimant applied for a position with the Respondent it employed 150 employees throughout the country and approximately 10% of its employees are classified as disabled and the Respondent is well used to making reasonable adjustments for those staff.

6 The Respondent follows "safe recruitment" processes when recruiting new staff and follows government guidelines. The government guidance the Respondent follows in respect of recruitment is called "Keeping Children Safe in Education: Statutory

Guidance for Schools and Colleges” (“the Keeping Children Safe Guidance”). An extract of the guidance was at pages 70 to 77 of the trial bundle. Although the Respondent is not a school or college, the Respondent adopts the Keeping Children Safe Guidance because it works with children and young people and works in schools. Therefore, the guidance was appropriate to the Respondent to ensure that it obtained candidates of the highest standards.

7 Section 3 of the Keeping Children Safe Guidance set out the pre-employment checks that the Respondent carried out and carries out in respect of recruitment. In respect of employment history and references, the guidance states the following (p.75):

- “(a) Employers should always ask for written information about previous employment history and check all information is not contradictory or incomplete.
- (b) References should always be obtained and scrutinised and any concerns resolved satisfactorily, before the appointment is confirmed. They should always be requested directly from the referee and the employer should not rely on an open reference.”

8 In addition, at page 74 of the bundle the Respondent requires new employees to have an enhanced DBS check. The Claimant asserted that she had already had a DBS check from a previous employer and provided this to the Respondent. However, the Tribunal noted that the Respondent required an enhanced DBS check in respect of this appointment and was required to go through the necessary procedure to obtain such check. The Claimant’s provision of her previous DBS check was not in compliance with the Respondent’s procedures set out at page 74 of the bundle of documents.

9 The Keeping Children Safe Guidance required by the government is implemented in two of the Respondent’s policies; the recruitment and selection policy (“the recruitment policy”) (pgs.62-69) and the policy statement on disclosure and barring services (DBS) (“the DBS policy”) (pgs.52-61).

10 The recruitment policy set out the procedure that the Respondent followed in relation to all the internal and external recruitment. The policy stated that all applications for employment were subject to two satisfactory references and a DBS disclosure enquiry and that all references must come current and/or previous employers (p.65). In addition, the Respondent’s application form specifically states the following in relation to references (p.94):

“Please give the names and contact details of two referees who can comment on your suitability for the post and whom we may contact for references at their business address or email address. They should not be related to and must include your present employer and previous employer if applicable (two references from the same employer will not be acceptable).”

11 The DBS policy stated that the pre-employment DBS check consists of the following steps:

- “(a) A self-declaration and consent form was sent to the applicant to complete and return. This consisted of questions about the applicant’s previous spent and unspent convictions;
- (b) Once the form was returned, the Respondent would then send the employee a link to the DBS online portal, with instructions on how to complete the online application for a DBS check on condition that the Respondent has all the DBS documentation to verify its use in the application.”

12 At page 95 of the bundle of documents which was the final page of the Claimant’s application form for employment, it can be noted that the Claimant did not include details of her previous employer which was a housing association called M Housing, nor did it make any reference to her very recent voluntary work at H School. The Tribunal noted that this was the most relevant and recent employment history that was applicable to the Claimant but she failed at page 95 to declare this to the Respondent as she was required to do as part of the Respondent’s recruitment procedures and as was made clear to the Claimant at page 94 of the bundle where the Respondent in its application form gave guidance as to the information that the Claimant was required to provide with regard to references.

13 In June 2017, the Respondent received funding to recruit for a new role, which was a Drug Dealing Prevention Worker based in Harrow. It was a “short time” role and on a fixed term for two years. The role involved working with children and young people in order to prevent involvement in drug dealing.

14 A copy of the Claimant’s application form for the role was at pages 82 to 95 of the trial bundle. In her application form, the Claimant stated that her most recent employer was an organisation called Business Education Events, where she held a voluntary post as a mentor from September 2014 to April 2015 (pgs.82 to 83). She also provided the details of two referees; Lisa Quinn, a Director/Manager from B E Events and an individual called NB, who was described as a Manager (p.95). The application form was submitted by email on 22 May 2017 to the recruitment address email which the Respondent provided to the job applicants (p.96).

15 The application for the role was processed by MW, Business Administration Apprentice. After the closing date Ms Whitworth sent all applications received for the role to DE, Service Manager, who was the line manager for the role and was responsible for short-listing. DE arranged the panel and interview dates for the short-listed candidates and MW sent out interview invites for all those selected.

16 At the same time as submitting her application form, the Claimant completed a diversity monitoring form (p.97) and the form specifically referenced the Claimant as having a disability which she described as sickle cell anaemia. There was some dispute at the hearing over whether the responsible officers who made the conditional offer of employment were aware of the Claimant’s disability. Both Ms Firkins, the Human Resources Manager and Jo O’Connor the Assistant Director who took the decision to withdraw the offer, stated that they were not aware of the Claimant’s disability and have not seen the diversity monitoring form or any other forms that referenced her disability. The Claimant was in no position to confirm one way or the

other whether these two officers had seen the forms or were aware of her disability. The Tribunal on the balance of probability accepted the evidence of both Ms Firkins and Ms O'Connor and accepted that these two officers did not know of the Claimant's disability at the time they withdrew her conditional offer of employment. However, the Tribunal accepted that either MW or AW, HR Assistant at head office who later dealt with the Claimant were probably aware that the Claimant had this condition. However, neither of these two officers were involved in the decision making process that led to the withdrawing the offer of conditional employment to the Claimant.

17 The Claimant was interviewed for the role on 9 June 2017 but did not bring along all of the documentation that she was requested to bring at the interview. Following the interview, a decision was taken by DE and LS (Service Manager) to conditionally offer the position to the Claimant subject to pre-employment checks and satisfactory references. AW, HR Assistant at head office, was tasked with administering the necessary paperwork that the Respondent required for the position to be verified and all necessary documentation obtained. For example, on 14 June 2017, DE emailed AW attaching interview notes and requesting that the Claimant be set up to access the Respondent's DBS system (p.108). AW confirmed that the new starter process would be commenced at once and all pre-employment checks would be carried out.

18 On 27 June 2017, the Claimant returned her pre-employment documentation to AW by email which was at page 122 of the bundle of documents. Again, the document at page 123 confirmed that the Claimant suffered from sickle cell anaemia. As stated above, it was likely that AW saw this document at the relevant time and as specified earlier, she was not the officer responsible for withdrawing the conditional offer of employment to the Claimant at a later stage so the fact that she was aware the Claimant suffered from sickle cell anaemia was not relevant to the issue of discrimination.

19 On 28 June 2017, AW sent the Claimant an email informing her that before a DBS application could be processed, the Respondent needed her to complete and send back the self-declaration and consent form. A blank copy of the form was attached to the email along with a copy of the DBS policy for the Claimant's information (p.130).

20 On 5 July 2017, AW telephoned Ms Firkins to inform her that the Claimant had not filled her application form in correctly because she had not put the details of her last employer in the "present or most recent employment" section of the application form and she had not given the correct referees. AW's concerns stemmed from the fact that B E Events (whose details had been given as the most recent employer) were not the Claimant's most recent employer. According to the "present or most recent employment" section of the application form, the Claimant's period of employment with B E Events ended in April 2015 and this was a voluntary role (pgs.82 to 83). According to the "previous employment" section her role as Senior Support Worker with M Housing ended in May 2015, a month after her role with B E Events.

21 Furthermore, that role was employment, rather than voluntary. In addition, AW was concerned about the referees given by the Claimant. Despite specifically stating that the most recent employer must be used, the Claimant had not provided the recent

employer as a referee. AW sought Ms Firkins' guidance on this and Ms Firkins advised AW that the policy required the Respondent to obtain two employment references. Accordingly, Ms Firkins confirmed that the Respondent needed to get a reference from M Housing, the most recent employer of the Claimant. Ms Firkins also asked AW to query with the Claimant what she had been doing since May 2015 as there was quite a significant gap in her employment history.

22 After the discussion between AW and Ms Firkins, AW contacted the Claimant by email. She explained to her that in line with the Respondent's safer recruitment procedures, the Respondent needed to have fully employment history and noting that she had only provided details up to 2015. AW asked the Claimant to confirm what she had been doing in the period subsequent to that (p.132).

23 In her response on 5 July 2017, the Claimant said that she became unemployed in May 2015 after being made redundant from her role with M Housing. She then became pregnant, giving birth in March 2016, and took a break from her career to be a stay at home mother. However, the Claimant confirmed that in February 2017, she volunteered for a few months at H School and provided the contact details of the person who organised this voluntary work (p.133).

24 AW sought advice from Ms Firkins who confirmed that references should be obtained from M Housing and from her most recent voluntary role and H School (p.135). Accordingly, AW contacted the Claimant on the same day to obtain her consent to contact both the organisations (p.137) and AW also emailed the Claimant noting that the Respondent had not received the completed self-declaration and consent form with regard to the DBS check (p.139).

25 The Claimant returned the self-declaration and consent form and returned it by email later the same day (pgs.140 to 149). In response, also, on 10 July 2017, AW sent the Claimant the link to the DBS online form by email and attached the guidance for completing the form (pgs.154 to 158).

26 After receiving the link, the Claimant contacted AW by email stating that she had not previously received the self-declaration and consent form, despite this having been sent to her by email on 28 June 2017 and asking for confirmation that her other documents had been received (p.150).

27 On 11 July 2017, AW confirmed receipt of the other documents and noted that the form had been sent to the Claimant earlier in a separate email but noted that as the form had now been received everything should be processed as soon as possible (p.159). The Claimant confirmed that she had completed the DBS online application and expressed a hope that her starting date could be confirmed soon (p.162). AW emailed the Claimant to thank her for completing the online form but noting to her that the DBS process could take up to 60 days to process. AW informed the Claimant that once all the other pre-employment checks had been completed, the Respondent would be in a position to confirm her start date (p.163).

28 On 12 July, the Claimant provided her consent for the Respondent to contact M Housing and H School. However, she noted that in respect of M Housing she did not have any contact details. She reiterated that, in her view, B E Events were her most

recent employer, despite that being a period of voluntary work and it ended before her employment with M Housing (p.169). AW requested a reference from H School (pgs.181 to 182) and M Housing (p.186) on 12 July.

29 Later on the 12 July 2017, the Claimant sent a further email to AW maintaining that B E Events was her most recent employer because she had started her voluntary work with them after she had started her employment with M Housing. The Claimant asked for clarification as to why these references were not sufficient (p.168).

30 AW replied on the same date clarifying why references given by the Claimant were not in line with the guidance of the Respondent on the application form and explaining why M Housing and H School were the organisations from whom the Respondent needed a reference. She also noted that the form also stated that the Respondent reserved the right to request further reference details where the Respondent considered it appropriate (p.171). AW forwarded a copy of this email exchange to Ms Firkins (p.175).

31 On 12 July, H School provided a reference the same day as it was requested. The reference was not satisfactory. It confirmed that the Claimant's voluntary work at the school was short lived and inconsistent, roughly one day a week for a month and a half. Furthermore, and of greater concern to the Respondent, the school also commented that it would not "re-employ" the Claimant. The Tribunal noted that the reference confirmed that the Claimant's overall performance was average, that her reliability was poor, that in response to the question of personal integrity the H School responded: "don't know" and as stated above, the school confirmed it would not re-employ the Claimant.

32 At the hearing, the Claimant asked the Respondent's witnesses whether further investigation should have been conducted as a consequence of this reference response from H School. The Respondent's witnesses confirmed that the reference was poor and that no further investigation was needed. The Tribunal noted the answers given by the Respondent's witnesses and accepted that given the content of this reference from H School, no further investigation was needed. The reference was self-evidently unsatisfactory.

33 By 12/13 July 2017, the Respondent was growing concerned in respect of the Claimant's appointment for several reasons. Firstly, there were discrepancies on her application form regarding her most recent employers and her choice of referees. Secondly, it appeared to the Respondent that the Claimant have not been entirely honest about the length of her work experience with H School, and thirdly, the tone expressed by the Claimant in some of her correspondence with AW was not entirely acceptable. As a result of these concerns, Ms Firkins spoke to Ms Jo O'Connor, Assistant Director, about the Claimant's application and whether the Respondent wished to continue with her application given the nature of the conditional offer made to her which was at page 111 of the bundle of documents. The offer letter was dated 20 June 2017 and specifically stated:

"The offer is conditional on the following ... receipt of two references that are satisfactory to Compass (these should be from your two most recent employers where possible)."

34 As a consequence of the discussion between Ms Firkins and Ms O'Connor, Ms Firkins emailed DE on 13 July 2017 to confirm that she had spoken to Ms O'Connor about the Claimant's appointment and whether the Respondent wanted to proceed with it. Ms Firkins explained to DE that Ms O'Connor and she had agreed that the situation would be discussed again on the following Wednesday by which time the other reference (from M Housing) should be available (p.198). DE indicated that he considered that the Respondent's concerns could be managed during the Claimant's probationary period (p.201). Ms Firkins did not agree with DE. First of all, there were issues that related to safer recruitment and the Respondent's policy that it would not employ someone until all satisfactory checks were made which DE's response seemed to have overlooked. It was in Ms Firkin's view not a case of managing the Claimant through the probationary period. Accordingly, she suggested that DE should speak to Ms O'Connor as his line manager on this issue (p.201).

35 By 17 July 2017, the Respondent had not received any response from M Housing so AW sent out another email chasing a response (p.205). AW also sent a further chaser on 19 July 2017 and the latter prompted a response, albeit merely an acknowledgment rather than a reference (p.207). Despite the acknowledgement from M Housing, no reference was received from M Housing so on 26 July 2017, AW sent a further email asking for a response as a matter of urgency (p.214).

36 On 27 July 2017, AW forwarded to Ms Firkins an email from DE that he is sent to ML, Young People Substance Misuse Worker, to which AW and the Claimant had been copied. The email informed ML that DE had spoken to the Claimant earlier in the day and that she was waiting for the original copies of some documents to bring into the office. Ms Firkins understood that these were documents concerning her DBS check. AW was concerned because she was aware that the Respondent, specifically Ms O'Connor, was contemplating withdrawing the Claimant's offer of employment and enquired how Ms O'Connor and Ms Firkins wished to proceed (p.218).

37 Following AW's email, Ms Firkins contacted Ms O'Connor about the situation. It was agreed that due to the lack of a second reference from M Housing, the concerns about the reference received from H School and the other concerns about the Claimant's application form as highlighted earlier, her conditional offer of employment would be withdrawn. Ms. Firkins spoke to Ms O'Connor and it was agreed that Ms O'Connor would speak to DE that day and ask him to inform the Claimant that the conditional offer of employment was withdrawn for the above reasons. Ms Firkins and Ms O'Connor wished to avoid the Claimant coming into the office with her documents the following week, particularly as DE had given the impression that her application was proceeding. Ms Firkins and Ms O'Connor agreed that once DE had spoken to the Claimant Ms Firkins would write to the Claimant confirming the offer had been withdrawn.

38 On 1 August, Ms Firkins received an email from AW which was an email to AW from ST, PA, asking her to contact the Claimant. The email said that the Claimant had spoken with ML and had been told that her offer had been withdrawn but this was the first she had heard of it (p.231). It appeared that DE had not informed the Claimant as he had been instructed to do by Ms O'Connor that the offer had been withdrawn. At the hearing, Ms O'Connor confirmed that subsequent disciplinary action was taken

against DE for this failure to inform the Claimant as instructed that the conditional offer was withdrawn. This failure had compromised the Respondent and therefore DE was disciplined. It was clear to the Tribunal that the Respondent took the matter seriously in respect of DE's failure to abide by a legitimate management instruction to inform the Claimant personally that her offer had been withdrawn. As it happened, as cited above, the Claimant found out by accident when ML had told her the offer had been withdrawn when she had turned up to the Respondent's premises with her documentation. This was not an acceptable situation from the Respondent's point of view and therefore DE was disciplined.

39 As a consequence of DE's failure to speak personally to the Claimant, Ms Firkins spoke to the Claimant on 1 August apologising to her in respect of her finding out about the withdrawal of the offer when she attended the Respondent's premises with her documents and was told by ML that the offer had been withdrawn. The Claimant confirmed to Ms Firkins that she had not received any calls from DE or any unknown numbers on the previous Friday when DE had been instructed to inform her by Ms O'Connor that the offer had been withdrawn. Ms Firkins confirmed to the Claimant that because the Respondent could not obtain a reference from M Housing and because her failure to declare appropriate references on her application form and the fact that the reference from H School was unsatisfactory the Respondent had decided to withdraw the offer of employment.

40 On 2 June 2017, Ms O'Connor contacted the Claimant by telephone. She explained to her the reason why the Respondent decided to withdraw her offer of employment and apologised to her about how she found out about the withdrawal and the lack of communication from DE. Ms O'Connor also confirmed that the matter would be investigated and she also invited the Claimant to make a formal complaint if she wished to do so. She informed her that taking aside how she had been informed about the decision to withdraw the offer, the decision to withdraw the conditional offer of employment still stood.

41 Shortly after Ms O'Connor had the conversation with the Claimant, the Respondent received a reference from M Housing. This was at page 246 of the bundle of documents and was a standard reference confirming the Claimant's dates of employment, the reason for her leaving which was stated to be redundancy, her job title and confirming that M Housing had no reason to doubt the Claimant's honesty and integrity. The reference was received on 2 August which was after the Respondent had decided to withdraw the Claimant's conditional job offer as stated earlier.

42 At the Tribunal hearing, Ms O'Connor confirmed that had the job offer not been withdrawn, this reference was also not satisfactory and that the Respondent would have had to undertake further investigations with regard to it. The Tribunal accepted this evidence. It was Ms O'Connor's view that having reviewed all of the relevant matters she decided to withdraw the offer of conditional employment to the Claimant. The rationale was more than just the fact that the Respondent had been unable to obtain a reference from M Housing, the Claimant's most recent employer. The other reference received from H School was not satisfactory and there were inconsistencies and gaps in the information provided by the Claimant in her application form, specifically in relation to previous employment. It was Ms O'Connor's view as the decision-maker that there were gaps in the Claimant's employment history that she had

avoided disclosing to the Respondent.

43 The Claimant on 4 August 2017 sent two emails of complaint to the Respondent about the withdrawal of the job offer. These were investigated by the Respondent and a response was sent to the Claimant on 13 September 2017. A response was sent to the Claimant on 23 August 2017 which was at pages 276 to 278 of the bundle of documents. As a consequence of the Respondent's failure to deal with the matter to the satisfaction of the Claimant, she issued these proceedings.

Law

44 Section 13 of the Equality Act 2010 applies where one person treats another person less favourably "because of a protected characteristic". In this case the protected characteristic was disability.

45 Section 23 of that Act provides:

- "(1) On a comparison of cases for the purposes of section 13 ... there must be no material difference between the circumstances relating to each case.
- (2) The circumstances relating to a case include a person's abilities if –
 - (a) on a comparison for the purposes of section 13, the protected characteristic is disability".

46 Section 136 of the Equality Act 2010 applies to "any proceedings relating to a contravention of this act." Subsections (2) and (3) provides:

- "(2) If there are facts from which the court could decide, in the absence of any other explanation, that a person (A) contravened the provision concerned, the court must hold that the contravention occurred.
- (3) But subsection (2) does not apply if A shows that A did not contravene the provision."

Tribunal's conclusions

47 As set out in the facts section of this judgment, the Tribunal was of the view that AW HR Assistant who oversaw the handling of the Claimant's application form after she had been made the conditional offer of employment was probably aware that the Claimant was disabled. However, the Tribunal saw no evidence in respect of the contemporaneous email correspondence between the two that indicated that AW was affected in any way with the knowledge of the Claimant's disability. Furthermore, AW was not the decision-maker who decided to withdraw the conditional offer of employment. As a matter of fact, the Tribunal concluded that the decision-maker was Ms Jo O'Connor who was the Assistant Director of the Respondent who took the decision on 1 August to withdraw the offer of conditional employment with advice from the Human Resources Manager Ms Sue Firkins. As can be seen from the facts section of the judgment, the Tribunal was of the conclusion that neither Ms Firkins nor Ms

O'Connor knew that the Claimant was disabled at the time the decision to withdraw the conditional offer of employment was taken on 1 August 2017.

48 It was clear to the Tribunal that the conditional offer of employment made to the Claimant by letter dated 20 June 2017 required two references that were satisfactory to Compass and that these should be from the Claimant's two most recent employers wherever possible. This was a reflection of the requirements of the Respondent's procedures. The Claimant when completing her application for the position with the Respondent should have been well aware of the requirements in respect of references as these were clearly set out at page 94 of the bundle of documents which was the penultimate page of her application form. The section stated that:

“they should not be related to you and must include your present employer and previous employer if applicable (two references from the same employer will not be accepted).”

49 However, the Claimant provided details of two referees (page 95) which did not include references from her two recent employers. This only became apparent to the Respondent after the Claimant was offered her conditional offer of employment and after the Respondent did further investigations which caused it to be concerned that the information that the Claimant provided did not comply with the requirements of its policies and procedures.

50 After making further investigations with the Claimant, she agreed to the Respondent obtaining a reference from H School which was the most recent relevant voluntary work experience that she undertook as a learning support assistant. When this reference was returned to the Respondent on 12 July 2017, it was an unsatisfactory reference. As stated in the facts section of the judgment, the Claimant's overall performance was described as “average”; her reliability was described as “poor”; her personal integrity was described as “don't know” and on answering the question would you employ the Claimant the answer was “No”. This was not a satisfactory reference and the Respondent was quite entitled after reviewing it to withdraw the conditional offer of employment as was made clear to the Claimant when she was offered that conditional employment (p.111).

51 In addition, the Respondent made reasonable efforts on 12, 17, 19, and 26 July to obtain a reference from M Housing on behalf of the Claimant. It should be noted that the Claimant did not provide these details of her most recent employment with M Housing and only did so after prompting from the Respondent after the conditional offer of employment was made. When such reference from M Housing was not obtained, it was reasonable for the employer on 1 August via Ms Jo O'Connor to make a decision as to whether the Claimant should have her conditional offer of employment withdrawn. Ms O'Connor came, in the Tribunal's view, to a reasonable conclusion that such conditional offer should be withdrawn. This decision was based upon the failure to obtain a reference from M Housing, the negative reference received from H School and the inconsistencies and gaps in information provided by the Claimant in her application form in respect to her previous employment history and specifically the failure to disclose that M Housing were her recent employer and the failure to disclose that H School was the most recent example of her voluntary work.

52 The decision made by Ms O'Connor to withdraw the conditional offer of employment had nothing to do with the Claimant's disability and indeed neither Ms O'Connor nor Ms Firkins were aware that the Claimant was disabled at the relevant time.

53 The Claimant was asked questions about the veracity and truth of the email correspondence that was in the bundle of documents and that evidenced the decision-making process reached by the Respondent at the relevant time and the Claimant could not offer any contradiction to that contemporaneous evidence nor suggest that it was untrue. It was plain to the Tribunal that the reasons for the withdrawal of the conditional offer of employment were reasonable and rational and indeed had nothing to do with the Claimant's disability. Accordingly, the claim for disability discrimination under section 13 of the Equality Act was dismissed by the Tribunal.

Employment Judge Hallen

26 October 2018