EMPLOYMENT TRIBUNALS

BETWEEN

CLAIMANT		**RESPONDENT**
MRS M MILLS	**V**	**CITY OF CARDIFF COUNCIL**

HELD AT: CARDIFF **ON: HEARING**
5 & 6 DECEMBER 2017

BEFORE: EMPLOYMENT JUDGE W BEARD
MEMBERS MRS M FARLEY
MS W E MORGAN

REPRESENTATION:
FOR THE CLAIMANT: In Person
FOR THE RESPONDENT: Mr R Vernon (Counsel)

JUDGMENT

The judgment of the tribunal is as follows:

1. The claimant's claim of discrimination pursuant to section 15 Equality Act 2010 is not well founded and is dismissed.
2. The claimant's claim of discrimination pursuant to section 19 Equality Act 2010 is not well founded and is dismissed.
3. The claimant's claim of discrimination pursuant to section 21 Equality Act 2010 is not well founded and is dismissed.

REASONS

Preliminaries

1. The claimant claims disability discrimination pursuant to sections 15, 19 and 21 Equality Act 2010. The parties set out in a written document the issues between them arising from those claims as follows.

   1.1. The claimant contends that the respondent should have made reasonable adjustments. The claimant referred to several adjustments, but on analysis they fell into two categories.

1.1.1. The first category was that the respondent should have not operated its absence policy or alternatively should have moderated its absence policy because the claimant was disabled.

1.1.2. The second category was that the respondent should carry out further investigations with occupational health, or in one case should have carried out the health and safety investigation as recommended by the respondent's occupational health advisers.

1.2. The PCPs relied upon by the claimant for her claim that there was a failure to make adjustments were that the respondent, relying on the absence policy, subjected the claimant to disciplinary/capability processes and dismissed the claimant.

1.3. The claimant contended that this would be to her disadvantage because of her disabilities and would have been to the disadvantage of any person with similar disabilities because she was likely to have periods of absence which relate to her disability.

1.4. The adjustments that she argued for were as follows:

1.4.1. In respect of the first category, the respondent should have had more flexibility in its approach to trigger points under the absence policy.

1.4.2. In respect of the second category that the respondent should have carried out further investigations and, in particular, should have obtained a further medical report from its occupational health providers prior to her dismissal.

1.5. The issues under section 19 Equality Act 2010 were identified as follows:

1.5.1. The claimant contended that the same PCPs as related to the reasonable adjustments claim were in operation.

1.5.2. The claimant contended that anyone sharing the claimant's relevant disability was put at a particular disadvantage compared to someone not sharing that disability and they put the claimant to that disadvantage?

1.5.3. The respondent contended that the PCP's were justified in that they were a proportionate means to a legitimate end.

1.5.4. The claimant accepted that the aim identified by the respondent, that of ensuring an efficient workforce, was a legitimate aim.

1.5.5. The respondent contended that having made several adjustments and having adopted a flexible approach to its absence policy it had done no more than was reasonably necessary in dismissing the claimant.

1.6. The respondent accepted that in terms of the section 15 claim all of the elements that the claimant was required to prove were made out, but contended its approach was justified as a proportionate means of achieving a legitimate aim. This was advanced on the same basis as that for section 19 of the Act.

2. The claimant represented herself, the respondent was represented by Mr Vernon of Counsel. The Tribunal was provided with a document bundle which ran to 470 pages. The tribunal heard oral evidence from the claimant. The respondent called the following to give oral evidence: Kelly Lloyd-Williams (nee Lloyd) the claimant's line manager, Helen Evans who managed the advice teams, Ellen Curtis who dismissed the claimant and Jane Thomas, who dealt with the claimant's appeal against dismissal.

The Facts

3. The respondent concedes that the claimant is disabled by virtue of Pernicious Anemia, long term migraine, osteoarthritis and Calcific Tendonitis. Albeit it is only migraine that forms the background to this claim.

4. The claimant began employment with the respondent as a casual employee in or around January 2015. On 10 August 2015 the claimant was appointed to the role of benefits trainee. This was a fixed term appointment for 18 months, the intention being that successful completion the claimant would be employed as a permanent employee.

5. Prior to her permanent appointment the claimant had already been ill on occasions during her casual appointment; she had told Ms Lloyd on 27 July 2015 that she suffered from migraines. Ms Lloyd, agreed at a return to work meeting on that date, that the claimant could take breaks to cope with the migraines and the darkened area would be provided for her to work in. Further periods of absence due to migraine followed.

6. Very shortly after the fixed appointment the claimant became ill with migraine and was absent from work. A return to work meeting was held on 24 August 2015 where the claimant told Ms Lloyd that a dark, quiet room might alleviate the symptoms of migraine when it began developing. Ms Lloyd suggested that a dark area would be provided if possible. In addition, Ms Lloyd referred the claimant to occupational health.

7. On 9 September 2015 the claimant met with the occupational health physician; a report was prepared which set out that the claimant had long-term difficulties with recurrent migraine headaches. The report went on to explain that investigations had been undertaken but that there was no obvious cause for the migraines. The report suggested that the health and safety officer should review the office environment to seek to remove elements that might influence the onset of migraines. This report was prepared during a further absence again due to migraine.

8. Because of the further period of absence the informal stage of the respondent's absence process was invoked. Ms Lloyd met with the claimant on her return to work on 15 September 2015.

9. On 16 September 2015 a supplementary occupational health report was provided to the respondent. This report indicated that the claimant's recurrent migraines probably amounted to a disability within the meaning of the Equality Act 2010. There was a specific mention that this might mean that consideration should be given to relaxation of trigger points and the sickness absence policy.

10. In response to the report, Ms Lloyd took a number of steps.

10.1. Ms Lloyd contacted the respondent's health and safety Department and asked for a health and safety officer to attend. She was advised that the building in which the claimant worked was new and it complied with health and safety regulations and, therefore, there was no reason for an officer to attend.

10.2. Instead, Ms Lloyd, who was trained in health and safety insofar as it related to display screen risk assessments, undertook an assessment on 18 September 2015.

10.3. As a result, the following steps were taken to adjust the claimant's working conditions:

10.3.1. The claimant was to use desks in a darker area of the office where possible;

10.3.2. A screen cover would be ordered for the claimant's use;

10.3.3. The claimant would work earlier shifts where possible (this was agreed because when the claimant worked until 6:00pm this caused her stress which might induce a migraine);

10.3.4. It was also accepted that the claimant had to receive B12 injections and that these may well impact on the claimant suffering migraines. The respondent suggested that the claimant could take time off to attend for injections on a Friday afternoon as the best means of avoiding sickness absence.

11. The claimant was absent on several occasions throughout 2015 and the early part of 2016. These absences triggered various further stages in the respondent's processes as follows:

11.1. A stage one meeting on 29 October 2015 dealing with an absence of 15 days. The claimant was given a formal caution following this meeting.

11.2. A stage two meeting on 18 February 2016.

11.3. A stage three meeting on 19 May 2016.

11.4. A further stage three meeting on 5 October 2016 when the claimant was dismissed.

12. In applying the policy to the claimant, the respondent consciously discounted four trigger points. There were two other trigger points which were discounted: the respondent did not generally enforce on staff trigger points which occurred between a trigger point and an employee being called to a meeting. In addition to this the respondent made the following adjustments to assist the claimant in work:

12.1. Provided a screen guard for the claimant's computer.

12.2. Allocated desks in darker areas of the offices.

12.3. Provided a dark room which the claimant could use when her migraines developed.

12.4. Allowed the claimant to work only one late shift a week (other staff being required to work 2 or 3).

12.5. Allowed the claimant to take breaks as and when she needed to.

12.6. Transferred the claimant to work in a quieter workplace with fewer customers to deal with.

12.7. Conducted six display screen assessments.

12.8. Allowed the claimant special leave.

12.9. Adjusted the claimant's line management, so that despite the claimant's transfer they ensured continuity and further support.

12.10. Provided the claimant with a footrest.

12.11. Required the claimant to work only one Saturday in six where other staff were required to work one Saturday in three or four.

13. During the course of the claimant's employment from the end of August 2015 and her dismissal in October 2016 the claimant was absent from work for 106 days, albeit one of those was a part day. The claimant accepted that on that basis she had been absent for in excess of one third of the time she was employed.

14. The claimant had been employed in the central hub where twelve advisers worked at the time. Discussions at the first stage three meeting (which could lead to dismissal under the respondent's policy) the claimant was moved, with her agreement, to the Grangetown hub which had fewer staff but also fewer customers. This move took place after the meeting in May 2016. The claimant had two absences between May and September 2016. The later of these absences was due to migraine the earlier absence was unconnected to the claimant's disabilities.

15. A further occupational health report had been obtained in June 2016. The report set out that the claimant had been recently diagnosed with osteoarthritis. It indicated that this may have some connection with the claimant's migraines. The report also made it clear that there was a likelihood of recurrence of migraines in future, and that whilst medication might reduce the frequency, they would not prevent them from occurring.

16. In deciding to dismiss the claimant Ms Curtis took account of the entire period of the claimant's absence, its impact on service users and its impact on other staff. Staff were having to cover for the claimant and this was more pronounced in her new office because there were fewer staff.

17. The claimant appealed her dismissal. At the appeal she produced a letter from her general practitioner, which indicated that the claimant's condition remained difficult to treat and hard to predict, also pointing out that it can be incapacitating.

18. Mr Thomas, who conducted the appeal once again took an overview of all the claimant's absence and consider that it was not reasonable to make any further adjustments. She considered that this was the case because of the impact that the claimant's absence was having on both staff and customers. Whilst she accepted that the claimant's frequency of absence had improved after the transfer to Grangetown, she considered that it was not sufficiently improved in all the circumstances of the case. She dismissed the claimant's appeal.

The Law

19. The statutory provisions relied upon by the claimant begin with Section 15 of the Equality Act 2010 which provides:

> *(1)A person (A) discriminates against a disabled person (B) if—*
>
> *(a)A treats B unfavourably because of something arising in consequence of B's disability, and*
>
> *(b)A cannot show that the treatment is a proportionate means of achieving a legitimate aim.*
>
> *(2) Subsection (1) does not apply if A shows that A did not know, and could not reasonably have been expected to know, that B had the disability.*

20. Section 19 of the Equality Act 2010 provides:

> *(1) A person (A) discriminates against another (B) if A applies to B a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic of B's.*
>
> *(2) For the purposes of subsection (1), a provision, criterion or practice is discriminatory in relation to a relevant protected characteristic of B's if—(a)A applies, or would apply, it to persons with whom B does not share the characteristic,*
>
> *(b)it puts, or would put, persons with whom B shares the characteristic at a particular disadvantage when compared with persons with whom B does not share it,*
>
> *(c)it puts, or would put, B at that disadvantage, and*
>
> *(d)A cannot show it to be a proportionate means of achieving a legitimate aim.*

21. Section 20 of the Act covers the duty to make adjustments and provides:

> *"Where this Act imposes a duty to make reasonable adjustments on a person, this section, sections 21 and 22 and the applicable Schedule apply; and for those purposes, a person on whom the duty is imposed is referred to as A.*
>
> *The duty comprises the following ---- requirement.*
>
> *------- where a provision, criterion or practice of A's puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage."*

22. The respondent having conceded that the claimant has established unfavourable treatment and causation for the purposes of section 15 we must consider the defence of justification and we deal with the law in relation to that below.

23. In dealing with the section 19 claim for indirect discrimination, four requirements must be met: firstly the employer applies (or would apply) a provision, criterion or practice equally to everyone within the relevant group including the particular worker; secondly the provision, criterion or practice puts, or would put, people who share the worker's protected characteristic at a particular disadvantage when compared with people who do not have that characteristic; thirdly, the provision, criterion or practice puts, or would put, the worker at that disadvantage; and finally the employer cannot show that the provision, criterion or practice is a proportionate means of achieving a legitimate aim. It is important therefore, in order to make a proper comparison between the claimant and others, to identify the correct group for comparison which will generally relate to the PCP and would be likely to be all the workers that the particular PCP impacts upon. The employer has a defence if it can justify the PCP: The legitimate aim of the PCP should not be itself discriminatory and must be real issue for the employer, although it cannot be a solely economic one. The aim must also be proportionate, if there is a way to achieve the aim without discrimination it is not proportionate.

24. In terms of a failure to make reasonable adjustments the tribunal has to have in mind the decision in the Employment Appeal Tribunal in the ***Environment Agency v Rowan UKEAT 0060/07***. There it is indicated that a tribunal must identify the provision criterion or practice applied by or on behalf of the employer, the identity of the non-disabled comparators where appropriate and the nature and extent of the substantial disadvantage suffered by the claimant. The guidance indicates that the entire circumstances must be looked at including the cumulative effect of the provision, criterion or practice before going on to judge whether an adjustment was reasonable. The tribunal are aware that in light of the decision in **Rowan**, it is for the tribunal to identify the actual provision, criterion or practice. This must be identified on the basis of the facts found which may or may not coincide with those PCP's that are suggested by a party. ***Tarbuck v Sainsbury's Supermarkets Ltd [2006] IRLR 664***, the relevant element of the judgment is set out in paragraph 71 following an analysis by counsel of a previous case and Elias J as he then was said:

> *"The only question is, objectively, whether the employer has complied with his obligations or not. ---------- If he does what is required of him, then the fact that he failed to consult about it or did not know that the obligation existed is irrelevant. ---------- Conversely, if he fails to do what is reasonably required, it avails him nothing that he has consulted the employee. ---------- Accordingly whilst, as we have emphasised, it will always be good practice for the employer to consult and it will potentially jeopardise the employer's legal position if he does*

> *not do so- because the employer cannot use the lack of knowledge that would have resulted from consultation as a shield to defend a complaint that he has not made reasonable adjustments- there is no separate and distinct duty of this kind"*

25. The tribunal has in addition sought to remind itself of the statutory reversal of the burden of proof in discrimination cases, we need to consider the reasoning in the cases of ***Igen Ltd v Wong 2005 IRLR***, ***Barton v Investec Henderson Crosthwaite Securities Ltd 2003 IRLR*** *and* ***Madarassy v Nomura International Plc 2007 IRLR***. These cases demonstrate that the tribunal needs to consider (unless the reason why the treatment has occurred is clear) a two-stage process.

    25.1. The first stage of which requires the claimant to prove facts which could establish that the respondent has committed an act of discrimination.

    25.2. The word "could" on the basis of ***Johnson v South Wales Police [2014] EWCA Civ 73[2014] All ER (D) 79*** does not mean simply raising a possibility of establishing the fact but a *prima facie* case that fact was established.

    25.3. It is only after a claimant has proved such facts that the respondent is required to establish, again on the balance of probabilities, that it did not commit the unlawful act of discrimination.

    25.4. The ***Madarassy*** case makes it clear that the conclusion, once a *prima facie* case is established, requires an examination of all the evidence both from the respondent and the claimant, to decide whether there is a non-discriminatory explanation for the treatment.

    25.5. We therefore must examine the evidence as a whole for both stages of the test.

26. We need to consider the issue of justification. Unfavourable treatment under section 15, less favourable treatment under section 19 or a failure to make a reasonable adjustment will not amount to discrimination if the employer can show that the treatment is a 'proportionate means of achieving a legitimate aim.

    26.1. When determining whether a discriminatory practice was objectively justified, we are required to make our own judgment as to whether, on a fair and detailed analysis of the working practices, and the business considerations involved, the practice (or the less or unfavourable treatment) was reasonably necessary; not whether it comes within a range of reasonable responses.

    26.2. "The approach to the justification of what would otherwise be indirect discrimination is well settled. A provision, criterion or practice (or unfavourable treatment) is justified if the employer can show that it is a proportionate means of achieving a legitimate aim. The range of aims which can justify discrimination on any ground is not limited to social policy or other objectives derived from the Directive, but can encompass a real need on the part of the employer's business.

26.3. It is not enough that a reasonable employer might think the criterion justified. The tribunal itself must weigh the real needs of the undertaking, against the discriminatory effects of measure.

26.4. Although the statutory material refers only to a "proportionate means of achieving a legitimate aim", this should be read in the light of the Directive which it implements. To be proportionate, a measure has to be both an appropriate means of achieving the legitimate aim and (reasonably) necessary in order to do so".

26.5. ***Bilka-Kaufhaus GmbH v Weber Von Hartz [1986] IRLR 317*** relates to a claim for equal pay and therefore makes reference to article 119, however it is instructive on the approach to be taken to justification generally. The head-note it reads:

> *"Under article 119 an employer may justify the adoption of a policy excluding part time workers irrespective of their sex from its occupational pension scheme on the ground that it seeks to employ as few part time workers as possible where it is found that the means chosen for achieving that objective serve a real need on the part of the undertaking, are appropriate with a view to achieving that objective in question and are necessary to that end. It is for the National Court to determine whether and to what extent the grounds put forward by an employer explain the adoption of a pay practice which applies independently of a workers sex but in fact effects more women than men, it may be regarded as objectively justified on economic grounds".*

27. In respect of reasonable adjustments there is a close connection with section 15 for the purposes of the justification defence. ***Griffiths v Secretary of State for Work and Pensions [2015] EWCA Civ 1265, [2016] IRLR 216*** as explained in ***Buchanan v Commissioner of Police of the Metropolis [2016] IRLR 918***, emphasised that the context of assessment of whether a particular step was a proportionate means of achieving a legitimate aim was not met simply by looking at the PCP itself; there is a requirement to ask whether the treatment was justified by considering how the policy was applied to the individual in question. In addition, the very close connection between not only the duty to make reasonable adjustments and discrimination arising from disability, but also with indirect discrimination because of disability was also remarked upon in ***Griffiths*** and ***Buchanan.*** The case of ***Dominique v Toll Global Forwarding Ltd [2014] UKEAT 0308/13/0705*** also indicates that there is a link between a factual failure to make a reasonable adjustment under S.20 and a decision in respect of justification under S.15. Paragraph 55 of that judgment reads as follows:

> *"The originating application in this case complained of detriment or disadvantage more generally and of hurt feelings as a result of disadvantageous or detrimental treatment in addition to questions of dismissal. The duty to make reasonable adjustments*

> *therefore extended to avoiding unlawful discrimination by subjecting the Claimant to a non-adjusted criterion that placed him at a substantial disadvantage because of his disability and was therefore detrimental in addition to a duty to avoid dismissal. Had the Employment Tribunal recognised this, its findings indicate that it would have found a failure to comply with the reasonable adjustments duty on this basis. When it came to consider questions of justification of discriminatory treatment falling short of dismissal, that failure to comply with the reasonable adjustments duty ought to have been factored into the justification question but was not.*

Analysis

28. The claimant's argument is that the respondent should have made reasonable adjustments. The PCPs was the respondent applying the absence policy. The claimant contended that this was to her disadvantage and would have been to the disadvantage of any person with similar disabilities because she was likely to have periods of absence which relate to her disability. The claimant referred to two categories of adjustment:

    28.1. The first category was that the respondent should have not operated its absence policy or alternatively should have moderated its absence policy because the claimant was disabled.

        28.1.1. On our findings of fact the respondent made several adjustments. In our judgment the claimant must demonstrate that it must be reasonable for the respondent to have to make any further adjustments she relies upon in that context.

        28.1.2. This is amply demonstrated by the question of trigger points. Whether it is reasonable for a respondent to ignore a trigger point must relate to how often it has not implemented earlier trigger points.

        28.1.3. Of course, the tribunal is also required to consider any other adjustments that are in place as part of that context. For instance, if a reasonable physical adjustment had not been made and this prevented an employee from working then the application of any trigger points might be considered unreasonable.

        28.1.4. However, in this case the claimant has not identified any adjustments in the workplace which the respondent should have made, what she complains of is that the respondent jumped the gun because her attendance had improved.

        28.1.5. We are aware that the respondent has adjusted its policy by not implementing the procedure on four occasions when it was triggered in the claimant's case.

        28.1.6. We are also aware that the respondent has done this in circumstances where it has provided a number of adjustments in

the workplace which were designed to alleviate the disadvantages arising from the claimant's disability.

28.1.7. Added to this the medical evidence that the respondent had obtained about migraine, which was the disability which led to absence, was that it was unpredictable and difficult to treat. It was reasonable for the respondent to consider that the risk of further absences with consequent disruption to service were significant.

28.1.8. In those circumstances the claimant can establish that a PCP of applying the policy was in place, and that this caused her disadvantage because of her disability, and that disapplying the policy by not implementing the trigger point would have alleviated that disadvantage.

28.1.9. However, the claimant has not established that it was reasonable for the respondent to have to make that adjustment. This is because of the adjustments already made and the continuing risk of absence in the future.

28.2. The second category referred to further investigations with occupational health and the health and safety investigation.

28.2.1. We consider that both these fall into the category referred to by Elias J in ***Tarbuck***, this is for two reasons. Firstly, we consider that the respondent has complied with the obligations to make adjustments. Secondly, conducting an investigation or ordering a report is not an adjustment which alleviates a disadvantage, it might lead to the discovery of something which would alleviate that disadvantage but it does not do so of itself.

28.2.2. The respondent had made physical adjustments to the workplace, had moved the claimant to a less stressful work environment and had adjusted its absence policy by not enforcing four trigger points. In our judgment it has complied with the duty to make adjustments by so doing.

28.2.3. The health and safety recommendation was not ignored by the respondent, it was followed, and the experts relied upon by the respondent stated it was unnecessary. There was a health safety investigation with regard to screens and the claimant's use of them which led to adjustments. Even if this did amount to an adjustment it was complied with.

29. Under section 19 Equality Act 2010 the claimant relied on the same PCPs as set out above. The claimant relied on group disadvantage and that the claimant suffered that disadvantage?

29.1. Given our decision on justification (below) it is not strictly necessary for us to deal with the respondent's arguments on group disadvantage. However, in deference to the careful arguments advanced by Mr Vernon we shall consider them.

29.1.1. Group disadvantage in disability claims perhaps differs to those found in other categories of discrimination. In a sex

discrimination case it may be possible to obtain statistics about a gender such as the average height. It would then be possible to note that a height requirement impacts disproportionately on that group. However, as a particular type of disability will differ widely in its impact on individuals with that disability because of the environment in which they live or work and their personal approach to the disability in question, it can be seen that statistical information might not reveal disproportionate impact. It might be questioned on that basis whether a person with that disability belonged to a "group" at all.

29.1.2. However, the medical evidence which deals with the specifics of an individual's disability will inevitably, particularly in dealing with impact and prognosis, draw on the practitioner's expertise arising from their own experience and the general accumulation of medical knowledge which underpins their expertise. Therefore, although referring to the specifics of the claimant's conditions the practitioner does so with reference to impacts observed on others with similar disabilities.

29.1.3. In our judgment, when referring to the claimant's absences being related to her disability, that is clear evidence that the group with that type of disability would be similarly disadvantaged.

29.2. The respondent argues that the absence polices and their application were a proportionate means to a legitimate aim. The claimant having accepted that the respondents aim in applying the policy generally was legitimate it remains for the tribunal to consider whether the respondent has established that application of the policy was an appropriate and reasonably necessary means of achieving that aim.

29.2.1. The aim was to provide a service to the public by having its employees regularly attend work.

29.2.2. The policy takes the following approach: (a) to discover the reasons for failures to attend work (b) to alleviate any obstacles where the respondent can (c) to provide sanctions as a means of discouraging unnecessary absence and (d) to draw to an end the employment who is not capable of providing the service.

29.2.3. The objectives at (a) and (b) are clearly appropriate, discovering reasons for absence and removing obstacles will have the effect of meeting the legitimate aim. Further they are clearly necessary in order to understand and combat absence. The provision of sanctions is also clearly appropriate, where a person deliberately fails to attend work there must be a means of discouraging this.

29.2.4. The final objective is, in our judgment, also appropriate. The business need is to provide a service to the public, having a workforce capable of doing this is essential to that need. Having a process which seeks to find reasons behind that lack of capability,

make adjustments where necessary and finally to dismiss an individual who cannot provide the necessary attendance is appropriate.

29.2.5. The question of whether it was reasonably necessary to apply the process to the claimant must take account of the context. We have already said this was done in a context where considerable adjustments had been put in place and where the prognosis pointed to a significant risk of the claimant not being able to provide service without problematic sickness absence in the future.

29.3. In our judgment, in those circumstances dismissal was a reasonably necessary step and the respondent has established the defence of justification.

30. The respondent accepting that the claimant could prove all of the necessary elements of a section 15 claim we are only required to consider the justification defence. The same principles apply as those we have dealt with in the section 19 claim, and on that basis we consider that the respondent has proved the defence of justification respect of this claim also.

Judgment posted to the parties on

2 February 2018

EMPLOYMENT JUDGE W BEARD

Dated: 1 February 2018

For the staff of the tribunal office