



EMPLOYMENT TRIBUNALS

Claimant

Ms Charlotte Smith

v

Respondent

British Airways Plc

Heard at: Watford (By CVP)

On: 12 and 13 April 2021

Before: Employment Judge Alliott

Members: Mrs G Bhatt
Ms N Duncan

Appearances

For the Claimant: In person

For the Respondent: Mr Joshua Cainer (Counsel)

COVID-19 Statement on behalf of Sir Keith Lindblom, Senior President of Tribunals

“This has been a remote hearing not objected to by the parties. The form of remote hearing was CVP. A face to face hearing was not held because it was not practicable and no-one requested the same.”

JUDGMENT

The judgment of the tribunal is that:

1. The claimant's claim that the respondent failed to make reasonable adjustments is well founded and the respondent is ordered to pay her the sum of £1,000 for injury to feelings.

REASONS

Introduction

1. On 12 February 2019 the claimant submitted an online application to the respondent for a Cabin Crew role. Following her attendance at two assessment days on 7 March and 10 April 2019, the claimant was unsuccessful in her application. By a claim form submitted on 22 April 2019, following a period of early conciliation from 19 March to 19 April 2019, the claimant brings a complaint of disability discrimination.

The issues

2. The case came before Employment Judge Jack on 8 November 2019 for a preliminary hearing. The issues were recorded as follows:-

“The tribunal discussed the issues with the parties and it became clear that the claimant’s complaint is a narrow one in that she applied for the job and explained that she had a need for reasonable adjustments because she suffers from dyslexia. It is common ground between the parties that dyslexia is a disability within the Equality Act and that the claimant suffers from dyslexia. The claimant prior to the beginning of the assessment process produced a document which set out what reasonable adjustments were needed in order to allow her to be considered fairly by the respondent. The respondent accepts that they received that document. It is also common ground that when the claimant attended the first assessment day, the respondent had unfortunately overlooked the fact that she required reasonable adjustments and in consequence she was not given any opportunity to have reasonable adjustments made in her favour. She failed at the first assessment and complained to the respondent. The respondent realised that they had made a mistake and invited her to a second assessment where they say they made the reasonable adjustments which were required by the claimant. The claimant’s case is that they did not in fact make the adjustments which they agreed needed to be made, in other words those which were in her document which she had already given British Airways. That is the narrow issue for determination at the trial of this matter.

On examining the draft list of issues prepared by the respondent it became clear that the claimant was not making any claim of discrimination under s.39(1)(c) of the Equality Act 2010, nor was she making a claim for discrimination arising from her disability. Her sole claim was for a failure to make reasonable adjustments under s.39(5) of the Equality Act 2010 and the sole issue on this claim is whether the respondent made the adjustments which were required by the document which the claimant had provided to the respondent.”

The law

3. The legal principles are taken from the respondent’s opening note, for which we are grateful.

“20. **Section 39(5)** Equality Act 2010 imposes a duty to make reasonable adjustments for disabled persons on an employer. The content of this duty is set out in s.20 as follows, insofar as relevant:

- “(1) 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.
- (2) The duty comprises the following three requirements.
- (3) The first requirement is a 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.

21. In this case: a disabled person means an “*interested disabled person*”, namely an applicant for employment by R (**Schedule 8, paras 2(2)(c), 4 and 5(1)**); and a ‘*relevant matter*’ means a matter relating to deciding to whom to offer employment (**Schedule 8, para 5(1)**).
22. S.21(1)-(2) makes clear that failing to comply with the first requirement is a failure to comply with a duty to make reasonable adjustments, which in turn is discrimination.
23. In short, the Tribunal must consider: (1) the provision, criterion or practice (‘PCP’) applied by or on behalf of the employer; (2) the identity of a non-disabled comparators; (3) the nature and extent of the substantial disadvantage suffered by the claimant compared with those comparators; and (4) whether the employer took such steps as it is reasonable to have to take to avoid the disadvantage (Newham Sixth Form College v Sanders [2014] EWCA Civ 734 at [8]-[9]).
24. The Tribunal should consider the s.20 duty in accordance with the following principles.
25. First, the meaning of PCP “should be construed widely so as to include, for example, any formal or informal policies, arrangements or qualifications including one-off decisions and actions” (EHRC Equality Act 2010 Code of Practice at para 6/10). However, “it does not apply to every act of unfair treatment of a particular employee” and, instead, it carries “the connotation of a state of affairs...indicating how similar cases are generally treated or how a similar case would be treated if it occurred again” (*Ishola v Transport for London* [2020] EWCA Civ 112, [2020] ICR 1204 at [34]-[39]).
26. Secondly, for a disadvantage to be “substantial”, it must be “more than minor or trivial” (s.212(1)). Further, in undertaking the comparative exercise between the disabled claimant and non-disabled persons, “the proper comparator is readily identified by reference to the disadvantage caused by the relevant arrangements” (*Griffiths v Secretary of State for Work and Pensions* [2015] EWCA Civ 1265, [2017] ICR 160 at [21]).
27. Thirdly, “it is critical to identify the relevant PCP concerned and the precise nature of the disadvantage which it creates by comparison with its effect on the non-disabled. The importance of this is that until the disadvantage is properly identified, it is not possible to determine what steps might eliminate it” (*Griffiths* at [440]; see also *Sanders* at [8]-[9]).
28. Fourthly, under Schedule 8, para 20(1) an employer must have relevant knowledge:
 - “(1) A is not subject to a duty to make reasonable adjustments if A does not know, and could not reasonably be expected to know-
 - (a) In the case of an applicant or potential applicant, that an interested disabled person is or may be an applicant for the work in question;
 - (b) In any case referred to in Part 2 of this Schedule, that an interested disabled person has a disability and is likely to be placed at the disadvantage referred to in the first, second or third requirement.”

29. For clarity, an employer is under no duty unless it knows (actually or constructively) both

(1) That the claimant is disabled and (2) the nature and extent of the disadvantage (Wilcox v Birmingham Cab Services Ltd [2011] UKEAT/0293/10/DM at [37]).

30. Fifthly, reasonableness of an adjustment is an objective test for the Tribunal to determine for itself in all the circumstances of the case and is concerned with the outcome and not with the process by which the outcome is reached (Sanders at [8]-[9]; Griffiths at [73]).

31. Sixthly, in Sanders at [14], Laws LJ summarised how to approach reasonable adjustment cases, particularly in relation to the requirement that the employer have knowledge:

“In my judgment these three aspects of the case -- nature and extent of the disadvantage, the employer’s knowledge of it and the reasonableness of the proposed adjustments – necessarily run together. An employer cannot, as it seems to me, make an objective assessment of the reasonableness of proposed adjustments unless he appreciates the nature of the extent of the substantial disadvantage imposed upon the employee by the PCP. Thus an adjustment to a working practice can only be categorised as reasonable or unreasonable in the light of a clear understanding as to the nature and extent of the disadvantage. Implicit in this is the proposition, perhaps obvious, that an adjustment will only be reasonable if it is, so to speak, tailored to the disadvantage in question; and the extent of the disadvantage is important since an adjustment which is either excessive or inadequate will not be reasonable.”

32. In that light, “It is important when undertaking the required analysis to consider the nature and extent of the substantial disadvantage relied on, to make positive findings as to the state of the respondent’s knowledge of the nature and extent of the substantial disadvantage, and to assess the reasonableness of the adjustment claimed in that context”

(Lamb v The Business Academy Bexley [2016] UKEAT/0226/15/JOJ at [33]).

The evidence

4. We have been provided with a hearing bundle running to 243 pages.
5. We have been provided with three witness statements and heard oral evidence from the following:-
- 5.1 The claimant
- 5.2 Ms Samita Bhamra, employed by the respondent as a Senior Assessment Delivery Executive
- 5.3 Mr Nigel Partridge, employed by the respondent as In-flight Business Manager and Flying Start Champion.

- 5.4 Mr Cainer has provided us with an opening note, a draft list of issues, an outline chronology and a typed transcript of some of the handwritten documents in the bundle. There is also 159 pages of the respondent's authorities, although we were not taken to them in any detail.

The facts

6. The claimant has the disability of dyslexia. She was diagnosed with dyslexia in 2018. It is accepted by the respondent that at all material times the respondent knew of the claimant's disability.
7. Notwithstanding the comparatively recent diagnosis of dyslexia, the claimant has lived most of her adult life without that diagnosis. She is clearly a high achieving individual. Her CV reveals that she has taken a BA in Law with Business Studies, and prior to the events that we are dealing with, had taken an MSC in International Tourism, Hospitality and Event Management.
8. The respondent subscribes to the Government Disability Confidence Scheme. We have been provided with a print out of guidance provided and the relevant part dealing with conducting interviews contains the following:-

- “• Find out whether they need any reasonable adjustments during the recruitment process.
- Ask applicants if they need an adjustment to the interview process to allow them to be considered for the job. Make any adjustments if they are reasonable, for example:
...
- Offer an alternative to a standard interview, for example a working interview or allow extra time.
...
- When interviewing a disabled applicant, help them to perform to the best of their ability...”

9. The respondent has a Reasonable Adjustment Fact Sheet. This deals with dyslexia in the following way:-

“Dyslexia is a hidden disability thought to affect about 10% of the population, 4% severely. It is the most common of the SpLDs. Dyslexia is usually hereditary. A student with dyslexia may mix up letters within words and words within sentences while reading. They may also have difficulty with spelling words correctly while writing; letter reversals are common. However, dyslexia is not only about literacy, although weaknesses in literacy are often the most visible sign. Dyslexia affects the way information is processed, stored and retrieved, with problems of memory, speed of processing, time perception, organisation and sequencing. Some may also have difficulty navigating a route, left and right and compass directions.”

10. Obviously enough, dyslexia has a significant range of severity and symptoms.
11. As part of the respondent's recruitment process the claimant submitted her CV and answered some pre-application questions. As regards her CV, it is noted that the claimant had spent some time volunteering for the Citizen's Advice Call Centre. As such, we take it that the claimant had the ability to seek advice if required.
12. It would appear that the claimant began her application for the Cabin Crew role on 7 February 2019. On 10 February 2019 it would appear that she was prompted that she had not completed her application. The completed application was submitted on 12 February 2019. Her CV sets out that the claimant has been diagnosed with dyslexia. The main details section of the application records as follows:-

"Special Requirements

Please flag to Samita Dyslexic perhaps more time in any reading or writing assessment – requires assistive technology (laptop equipment)."

13. Consequently, not doubt based on on that disclosure, the claimant was telephoned at 09:39am on 13 February and we have a scripted document. The claimant was asked what adjustments had been made before and the answer, "extra time, assistive technology on laptop" is recorded. In addition, it was indicated that yellow paper would be appropriate for her.
14. Later, on 13 February 2019, the claimant was contacted and offered congratulations and invited to take an online assessment. That email includes the following:-

"If you experience any problems or require any adjustments or facilities to assist you during the assessment please reply to this message and write Assessment Adjustment in the title."

15. On 15 February the claimant was invited to send in reports concerning her disability. The claimant sent in two documents. The first is a Full Confidential Diagnostic Assessment Report from February 2018 prepared for the purposes of her master's degree. This document is some 20 pages long. The second document is a Disabled Student's Allowances Needs Assessment Report.
16. The relevant parts of the report that the claimant has stressed to us are as follows:-

"Summary of needs

Although she has very good conversational skills, her scores for verbal ability were lower than expected, highlighting some difficulties with word finding difficulties, especially when she is under pressure."

17. In addition, in the conclusions section:-

“It was therefore not considered to be helpful or meaningful to calculate a score for general underlying ability as this would under-estimate her true potential.
...

Although Charlotte’s results for auditory short term and phonological memory indicated some areas of relative strength, her working memory is prone to become easily overloaded. In addition, a significantly slow speed of information processing indicates that it takes her a long time to retrieve information from her long-term (permanent) memory, which can cause hesitancy and frustration when she is “put on the spot”. A system of visual prompts such as symbols, diagrams or pictures might help her to aid her memory and remind her about routine tasks that she has to complete on a daily basis.”

18. Perhaps of most significance are the recommendations at the end of the report which are as follows:-

- “• 25 % extra time in examinations to re-read text, to organise for written expression and to proof read for accuracy.
- The option of using text-to-speech software to communicate examination papers correctly and aid understanding. However, she would have to learn how to use this software to the extent that it becomes her “normal way of working”.
- The provision of a computer during examinations to produce written work as this is already Charlotte’s “normal way of working”.

19. The remainder of the recommendations are towards academic staff study skills and suggested sources of information to assist the claimant’s study.
20. We find that the recommendations that were being made in order to facilitate the claimant during her master’s degree were essentially extra time and the use of assistive technology.
21. We found the needs assessment report of no real use as it is restricted to assessing the claimant’s needs for equipment. She did have assistive technology software on her laptop.
22. On 20 February 2019, the claimant was contacted and invited to attend an assessment day. The email contains the following:-

“I would now like to invite you to the next stage of the process – an assessment day. Please return to your online account and make your booking as soon as possible:

The website address is then given

“We strongly advise you to attend as soon as possible. However, if you are unable to make any of the times on offer, please check back regularly because we add new slots regularly.

You’ll also find information about your assessment there, including how to find us, what to bring and what to expect.”

23. We have not been provided with any information or a screen shot of what was told to candidates about what they could expect. However, we would be astounded if it did not contain information concerning the group assessment, the role play assessment and the interview. The claimant told us that she did not appreciate that it may involve an interview either on the day or later. We do not accept her evidence on this point. The claimant is clearly an intelligent individual who researched this job and we would expect her to have visited the website and understood that there was an interview. We are supported in this conclusion by the fact that the claimant told us that in preparation she attended a charity which provided interview technique training. Further, we note that in one of her letters of complaint following the first assessment day, the claimant stated as follows:-

“I did make an effort to research the company before applying and make travel arrangements and feel I have been sent there to make one less confident and not worthy of a fair chance at the assessment or the interview.” (our underlining)

24. The claimant booked an assessment day for 7 March 2019. The confirmation of appointment contains the following:-

“Should you require any adjustments or facilities to assist you during the appointment please email Recruitment.”

25. On 6 March 2019, Mr Anil Mistry, who was conducting the assessment day, was emailed notifying him that the claimant had ticked for special requirements with dyslexia. Further, that appears on the Excel spreadsheet of the cohort of candidates being assessed on 7 March 2019. The witness statement of Ms Samita Bhamra details what went wrong. She states:-

“As on this occasion the specific details of the claimant’s requirements had been recorded in the internal notes section rather than the main details page by mistake, they were not copied over to this email. Any such information regarding printing of the assessment on yellow paper and the use of assistive technology was unfortunately not communicated to the co-ordinator. The claimant did however receive 25 per cent extra time to complete the role play exercise.”

26. On 7 March 2019, the claimant attended for the assessment day. She brought her assistive technology, namely her laptop, but was instructed to leave her personal effects in the cloakroom. The PCP identified by the respondent, with which we agree, relates firstly to the requirement that as part of the assessment process the claimant had to participate in a group exercise and then an individual role play exercise. As part of this exercise the claimant was required to read and engage with written documents. The respondent accepts that by failing to facilitate the claimant to use her assistive technology in reading the documentary material for both assessments, it placed the claimant at a substantial disadvantage. The claimant was successful in passing the group assessment stage. However, the claimant failed the role play exercise. Having failed the role play exercise the claimant did not proceed to the interview stage and left the assessment.

27. On 7 March 2019, the claimant complained about the assessment day in the following terms:-

“Following my assessment day I would like to thank all staff.

I very much appreciate the experience although understandable unsuccessful.

I’m sorry I do not think the recruitment team was made aware of my disability and the need for reasonable adjustments.

I do feel this has put one at an unfair disadvantage and would like to inform you of the misunderstanding.”

28. We have a further document setting out the claimant’s complaint which may have been sent later. The claimant told us that she made a number of approaches over the following week to complain about the assessment day. The one we have on page 183 of our bundle complains, in essence, about her inability to use her assistive technology. As noted before, it refers to not having a fair chance at the assessment or the interview.

29. On 13 March 2019, the respondent replied to the claimant as follows:-

“Thanks for contacting us regarding your recent career application with British Airways. I sincerely apologise that you feel we have discriminated against you due to your disability. While I am happy to assist you, I kindly ask you to click on the following link to our careers page for further assistance,

30. The claimant replied on 14 March 2019 as follows:-

“Following the telephone conversation yesterday I look forward to hearing from you regarding assessment day.”

31. The claimant refers in that last email to a telephone conversation on 13 March. That conversation was with Ms Bhamra. Ms Bhamra told us and we accept, that during the course of that conversation the respondent sincerely apologised for the misunderstanding and any inconvenience caused. The claimant in her witness statement disputes that but we prefer the evidence of Ms Bhamra.

32. Thus, we find that the respondent commendably dealt with the claimant’s complaint within a week, apologised to her and did everything in its power to rectify the situation by arranging for the claimant to attend a further assessment day.

33. On 15 March 2019, the claimant wrote to the respondent once again asserting discrimination arising from disability and a failure to make reasonable adjustments. We note that at the conclusion of that letter the claimant dealt with the issue of what adjustments she was expecting as follows:-

“The adjustment which I consider that you have failed to make is more time in the assessments and to be able to use my assistive technology during the reading assessments.”

34. At no time was the claimant suggesting that she would have difficulties in an interview and that she needed any form of adjustment such as being given the questions in advance, being given time to prepare her answers or being allowed to take prompt notes into her interview. The claimant tried to explain this by suggesting she did not know that there would be an interview on the day. We have rejected her evidence on this point.
35. On 10 April the claimant attended for the second assessment day. Due to the fact that the claimant had already passed the group assessment she was not required to take that assessment again. Further, a decision was made that the claimant would be interviewed irrespective of whether she had passed the individual role play assessment.
36. The claimant was assessed in the individual role play assessment by a Mr Huggins. We have not heard from Mr Huggins although we have his handwritten notes and scores on the assessment. Due to the fact that the claimant had already undertaken the assessment then being used (which related to hire cars and a garage) the claimant was assessed using a previously used assessment relating to a London to New York flight and the absence of a vegetarian meal option. The claimant was permitted to use her assistive technology. Ms Bhamra told us that she had the two documents required to be read by the candidate on a flash drive and that she assisted the claimant to load them on to her laptop. The claimant told us that she did not see the second document which was the catering inventory relating to meal options for various classes of travel. On this issue we prefer the evidence of Ms Bhamra in conjunction with the contemporaneous record of Mr Huggins evidencing the use of assistive technology throughout. It may be that the document was loaded onto the claimant's laptop but she did not see it for some reason. Nevertheless, we find it was uploaded onto her laptop in all probability. When working from her laptop the claimant had an overlay on her computer to change the document colour.
37. There is a management script for the conduct of the role play assessment and we find that in all probability Mr Huggins would have followed it closely. The first part of the exercise is to read out an in-cabin announcement concerning the meal options available. The claimant's witness statement suggests that she did not have to do this, but we find that in all probability, she did do it as in the assessment and comments document Mr Huggins scored her on her delivery of the reading exercise which would be unlikely if she had not undertaken the reading exercise. The notes of Mr Huggins repeatedly make clear that the claimant was afforded 25 per cent more time and given assistive technology.
38. Accordingly, we do not find that there was any failure to make reasonable adjustments as regards the individual role play on 10 April 2019. In any event, the claimant passed that assessment.
39. We now turn to consider the interview. The interview was conducted by Mr Partridge in conjunction with Ms Chloe Crossman.

40. For the purposes of the interview we have taken the PCP to be the requirement to be interviewed in an interview without time limit.
41. Again, there is effectively a script for management conducting the interview. Mr Partridge told us that he followed that script and the opening remarks include the following:-

- “• Tell them to take their time; if they need a minute to think of their best answer.
- Encourage candidates to respond honestly and to take their time. They will be asked for examples so please be specific, and where possible, draw on any customer service examples.”

42. Mr Partridge told us and we accept, that the interview was conducted at a leisurely pace and took approximately 30 minutes in total. He told us and we accept, that he and Chloe:

“Frequently rephrased questions or asked follow-up questions to help the claimant to fully understand what was being asked of her. We also gave her plenty of time to answer the questions and opportunity to expand upon her answers to demonstrate her full capabilities.”

43. There were no documents that were required to be read or absorbed by the claimant for the purposes of the interview. As such, we find that the reasonable adjustments already arranged, namely as much time as the claimant needed and assistive technology were provided.
44. Consequently, as far as the sole issue as defined is concerned, we find that the respondent made the adjustments which were required by the document which the claimant had provided to the respondent for both the individual role play assessment and the interview.
45. Nevertheless, we have gone on to consider whether the PCP of having an interview without time limit put the claimant at a substantial disadvantage in comparison with persons who are not disabled.
46. The claimant's position on the disadvantage is to assert that the respondent had her full diagnostic assessment report and that therefore they should have made adjustments to avoid disabling her during the interview stage. She asserts that she has difficulty being asked questions and being put on the spot and highlights the part of the diagnostic report that refers to hesitancy and frustration when 'on the spot'. She argues that, notwithstanding that she did not request breaks, questions in advance, time to prepare answers or being allowed prompt notes, it was the respondent's responsibility to work it out and make adjustments.
47. The interview notes are quite extensive and record that the claimant answered poorly throughout. She failed the interview. The interview was in 6 parts. The first section was 'motivation'. The claimant was applying for a cabin crew role. The script begins with the question, "why would you like to be cabin crew with British Airways?". That has to be the most obvious and easily predictable question in a job interview. The notes record "Candidate

failed to demonstrate any real understanding of the role. She had no passion or understanding of BA at all...". As regards that type of question, we find that being interviewed did not place the claimant at a substantial disadvantage – all candidates could be expected to anticipate that sort of question and prepare answers.

48. On the other hand, for example, the final section was 'Faster' and deals with working under pressure. Her answers were deemed general, with a failure to provide a specific example and she was rated 'panics under pressure'. The claimant told us that if given time to prepare she could have given better answers. That is possibly the response of everybody who has ever been interviewed. The claimant told us that she had job interviews in the past, pre dyslexia diagnosis, without any adjustments and that she had always been successful. That suggests to us that being interviewed and 'put on the spot' did not place her at a substantial disadvantage. However, given the evidence based responses the interview was seeking and the word finding and slow speed of information processing difficulties her dyslexia caused, we find that parts of the interview did place the claimant at a substantial disadvantage compared with non dyslexic comparators in that she could not provide an optimum reply.
49. We have gone on to consider whether the respondent knew or could be reasonably expected to know that the interview was likely to place the claimant at a substantial disadvantage. The respondent obviously knew that the claimant was disabled with dyslexia. The respondent proactively asked the claimant if she needed adjustments and she responded. The adjustment regarding extra time was accommodated within the interview process. Assistive technology and coloured paper were not required. We have found that the claimant knew she was to be interviewed. She prepared for an interview. She could have asked for the adjustments she now contends for. She didn't. We find that the respondent did not know that the claimant would be put at a substantial disadvantage in the interview stage.
50. We have considered whether the respondent had constructive knowledge. The claimant relies on selective extracts from the 20-page Diagnostic Assessment Report prepared for her MSc course. We find that it would not be reasonable to expect a prospective employer to trawl through a 20-page report and anticipate every potential disadvantage posed by a mental impairment as complex and variable as dyslexia and devise adjustments to cater for every eventuality. The report itself only recommends extra time and assistive technology. Any academic examination would put the claimant 'on the spot' and 'under pressure' yet no other recommendations were made to accommodate her needs. We find that the respondent could not reasonably have been expected to know that she would be placed at a substantial disadvantage during the interview stage.
51. Accordingly, in our judgment, there was no failure to make reasonable adjustments as the requirement was not engaged.

52. Given our finding as to the whether or not the duty to provide reasonable adjustments for this particular PCP was engaged, we have not gone on to consider or make findings as to whether the adjustments being contended for, namely being provided the questions one hour in advance with an opportunity to prepare answers and/or have prompt notes in the interview, would be reasonable.

Remedy

53. Although the claimant's schedule of loss refers to compensation and/or wasted expenses, no details are given in the schedule or in the claimant's witness statement. The claimant has put no evidence before us whatsoever relating to such heads of claim and, consequently, we have no evidential basis of assessing the same. This was pointed out to the claimant on the first day of this hearing and she did not take advantage of the break to put such information in front of us. In any event, any compensation, in our judgment, would cease at the latest on 10 April 2019 by which time the respondent had rectified its error.
54. As far as injury to feelings is concerned, we find that the claimant did suffer injury to feelings as a result of the failure to make reasonable adjustments on 7 March 2019. She failed in the individual role play assessment and did not progress to the interview stage. The claimant complained on a number of occasions over the course of the next week.
55. When considering what the appropriate sum is, we have taken account of the Vento guidelines and, in particular, that the relevant guidelines at the date of issue of her claim form were that the lower band was £900-£8,800 (less serious cases). An award for injury to feelings is designed to compensate the injured party fully but not to punish the guilty party. Further, we should bear in mind the need for public respect for the level of the awards made. We have taken into account in particular the following:-
- 55.1 In our judgment this is a one-off unintentional administrative error.
- 55.2 The duration of the injury to feelings is up to one week as the respondent apologised and rectified the situation by 14 March.
- 55.3 The claimant suffered no prejudice as regards the group exercise as she passed this.
56. In our judgment, most of the upset referred to by the claimant relates to events on 10 April 2019. This aspect of her claim has not been successful.
57. Consequently, in our judgment, the appropriate figure is £1,000.

Employment Judge Alliot

30 June 2021

Date:

19 July 2021

Sent to the parties on:

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For the Tribunal Office