



**EMPLOYMENT TRIBUNALS (SCOTLAND)**

5

**Case No: 4102236/2023 & 4103479/2023**

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**Remedy Hearing Held at Edinburgh on 14<sup>th</sup> October 2024**

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**Employment Judge McFatridge  
Members: Mr Cardownie  
Ms Watt**

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**Rosslyn Dale Adams**

**Claimant  
Represented by:  
Ms Cunningham,  
Barrister**

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**Edinburgh Rape Crisis Centre**

**Respondent  
Represented by:  
Mr Hay, Advocate**

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**JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

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The unanimous Judgment of the Tribunal was that following our earlier liability judgement in which we found that the respondent unlawfully discriminated against the claimant on the grounds of religion and belief and unfairly constructively dismissed the claimant the claimant is entitled to the following remedy:

- (1) The respondent shall pay to the claimant total compensation of £68,989.71.

- (2) The Tribunal makes the following recommendations in terms of section 124(3) of the Equality Act

That within 14 days of the Judgment the respondent publishes on its website a statement (to be retained for at least 6 months)

- (a) Apologising to the claimant for having alleged that she was transphobic and acknowledging that

(i) there was no evidence to support that allegation

(ii) its disciplinary decision that the claimant had misconducted herself was wrong

(iii) the claimant was motivated by a wish to act in the best interests of service users when she questioned how to respond to the service user

(iv) that nothing the claimant did constituted bullying or harassment; and

(v) that it accepts the Employment Tribunal's findings that it harassed and discriminated against the claimant because of her protected gender critical beliefs

- (b) A statement that Beira's Place provides an alternative source of support for female victims of sexual violence giving a link to the Beira's Place website-.

## REASONS

1. On 14<sup>th</sup> May 2024 the Tribunal issued its Liability Judgment in this case. The issue of remedy was thereafter dealt with at a Hearing which took place on 14<sup>th</sup> October 2024. Shortly before the commencement of the Hearing the parties helpfully advised the Tribunal that they had reached agreement on the financial aspects of remedy. The agreed figure is reflected in the award made. The Hearing therefore dealt solely with the issue of what recommendations (if any) the Tribunal should make in terms of section 124(3)

of the Equality Act. At the Hearing the claimant gave brief evidence and the parties lodged a Joint Bundle of Productions. The Tribunal made additional factual findings in relation to the issue of remedy as set out below. These are to be read in conjunction with the findings of fact already set out in our  
5 Judgment of 14<sup>th</sup> May.

### Findings in Fact

2. The claimant was grateful for the Judgment and relieved to receive it. In the  
10 months since however she has been upset because in her view things have not changed significantly. She hoped that women coming to the respondent's service would have an upfront choice as to whether they would be seen by some-one who was biologically female and she does not believe this has happened. She also still has concerns for her colleagues who remain  
15 working for the respondent.
  
3. Since the date of the Judgment the claimant continues to work at Beira's Place. She works around 24 hours per week which is slightly less than the number of hours she worked with the respondent. At some stage she would  
20 like to increase her hours. She is concerned that during the time she has worked for Beira's Place it has not received any referrals from Edinburgh Rape Crisis Centre nor any referrals from the hotline operated by Rape Crisis Scotland. She considers this odd since she is aware that during at least part of this time the respondent's waiting list has been closed. The claimant  
25 continues to work in the sector and as she put it is part of the same networks as the people who work for the respondents. There is a likelihood that the claimant will require to attend training events which are also attended by staff and management from Rape Crisis Scotland and/or Edinburgh Rape Crisis Centre. Just in the week prior to the Tribunal two of her colleagues at Beira's  
30 Place had attended such training. The claimant feels that her case is very well known in these networks and she is concerned that some people still see her as transphobic. She feels that despite the Judgment she has not received any full and public apology or acknowledgement. When the claimant turns up for work meetings or is in meetings with others in the sector

she is scared at how she will be seen in those situations. She is concerned that her motivation would be in question and the risk of being seen as transphobic has had an effect on her.

5 4. She found certain parts of the Tribunal process to be extremely distressing. She was particularly concerned that shortly after she raised her proceedings in June 2023 the respondents applied for a Restricted Reporting Order on the basis that what the claimant was alleged to have done should be classed as sexual misconduct. The claimant found the idea that someone working in her  
10 sector be accused of sexual misconduct to be absolutely horrifying. The claimant is aware of the ongoing public debate since the Tribunal Judgment and is aware that Mridul Wadhwa was first of all given leave of absence and then left her role as Chief Executive.

15 5. On 13<sup>th</sup> September the Board of Edinburgh Rape Crisis Centre put out a statement confirming that Mridul Wadhwa has left. This statement was lodged (page 257). It states:

20 “Mridul Wadhwa and the Board have decided that the time is right for a change of leadership at Edinburgh Rape Crisis Centre.

Mridul has stood down from her role as CEO of ERCC. Recruitment of a new CEO will happen in due course. We are committed to delivering excellence while taking on board the recommendations  
25 from the independent review to ensure we place survivors’ voices at the heart of our strategy.

We are in daily communication with Rape Crisis Scotland and have met their urgent demands and are currently implementing the recommendations in the report. We will continue to work alongside  
30 RCS to ensure our services not only meet but exceed the national service standards.”

6. The claimant was concerned about the manner in which Mridul Wadhwa left the service. She contrasted the way that the respondent saw fit to investigate

and discipline her and then thereafter broadened the investigation and asked staff about her with the way Mridul Wadhwa was dealt with. She noted the Tribunal Judgment found that Mridul Wadhwa was the controlling hand behind her treatment. A recent report into the work of the Centre indicated that Mridul Wadhwa did not understand the limits on her role's authority, when to refer decisions to trustees and failed to set professional standards of behaviour. but there was absolutely no evidence of any investigation of this by the respondents. Her view was that Mhairi Rosko tried to override the terms of the Judgment and that Mridul Wadhwa was allowed to take leave, presumably paid and then mutually agreed she would leave. The claimant indicated that it appeared to her that Mridul Wadhwa and the respondent had failed to take responsibility for the legal injustice which the claimant had suffered.

7. The claimant was genuinely upset at this. Following the judgement she had made a freedom of information request. As a result of her Freedom of Information request the claimant had access to correspondence between the respondent and Inspiring Scotland. Inspiring Scotland is the body to which the Scottish Government delegates some funding decisions in this sector. The respondent had written to Inspiring Scotland on 16 May 2024 following the judgement. The letter was lodged (pages 238-240). The claimant noted that at the time this was written the respondent was still considering an appeal. She was concerned regarding paragraph 3 on page 239 which, in her view, improperly sought to defend the actions of Mridul Wadhwa. They refer to the event at the University of Edinburgh regarding trans inclusion and state "We are satisfied that the CEO's conduct at the event was misrepresented at the Tribunal". In paragraph 5 they sought to reassure Inspiring Scotland that they had legal protection insurance which had fully funded the costs of legal advice and representation and that the insurance would also cover the cost of any compensation awarded to the claimant. She was concerned that where this paragraph goes on to state that the disciplinary panel did not discipline the claimant following the investigation this was at best a half truth. They did uphold the allegations against the

claimant albeit no penalty was imposed. This decision was upheld on appeal and her grievance in relation to the matter was also rejected.

5 8. Since the date of the Hearing Rape Crisis Scotland commissioned a review into the respondents and the final report was lodged (page 261-353).

9. The report and investigation carried out by Ms Ling essentially sought to review the service provided by the respondents in relation to Rape Crisis Scotland's national service standards, consider gaps and make  
10 recommendations for the respondent and Rape Crisis Scotland going forward. The claimant was concerned that the investigation was solely about whether the respondents were meeting the service standards and there was no investigation into misconduct. She noted that on page 271 it is noted that Mridul Wadhwa, the CEO, did not cooperate with the investigation but instead  
15 went on leave. The report referred to what is described as the core standard, namely:

20 *“the primary or major purpose to deliver services to women and girls who have experienced any form of sexual violence and also requires organisations to provide and protect women only spaces”*

The report –found that the respondents were failing to meet this core standard. The report notes on page 271 of the productions:

25 “The review had asked for clarification of what women only services are available from ERCC ... a document was provided which would set out the iterations of ERCC's women only services. However this still did not set out the definition of women/female being used by ERCC.”

30 The review had asked for the Centre's working definition. The following responses were received. There is then a box which notes the answer to the question what definition of women/female is used by ERCC as being:

5 “ERCC supports survivors of all genders from 12 years of age. We accept self ID for referrals and if the referral is appropriate for one of our services we offer the initial meeting. During the initial meeting we create a safe environment to explore further information about the survivor to ascertain how best we can support them. The IM (Information Meeting) form has the questions that are asked. If we cannot support someone perhaps due to age or they are outwith our local authority area we signpost them.”

10 The report goes on to find that on 1<sup>st</sup> October 22 until at least February 2024 there were no protected women only spaces available through ERCC unless they were specifically requested. The report goes on to note (page 272 of the productions paragraph 5) “Putting women in the position of having to discuss whether the service they receive will be provided by  
15 someone who is born and continues to identify as female has caused damage and does not amount to the provision of protected women only spaces therefore requiring women to specify that they want a service delivered by a biological woman/female amounts to a core failure to deliver services to NSS standards and are both the 2019 and 2024 versions. The  
20 report went on to find that the decision to accept self ID as a matter of policy did not appear to have been approved by the Board and this was a serious failure of governance. The report was also critical on other matters. The claimant is aware of the ongoing service issues as she works at Beira’s Place which serves the same community. Beira’s Place does not have an  
25 advocacy service so there are some service users of Beira’s Place who utilise counselling services there who are also service users of ERCC and utilise advocacy services there. The report also found at page 277 of the productions in relation to staff issues that sickness levels at ERCC were acknowledged to be higher than average and that this was often an  
30 indicator of problems with the working environment. The report goes on to state:

“It appeared to the reviewer that while some members of staff at ERCC would feel comfortable with the culture generated by the

CEO's gender identity/gender affirmative activist approach it was likely that any other members of staff with more gender critical views would not be and would be unlikely to speak up after the treatment received by RA."

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The report also highlights ongoing governance difficulties in that two of the Trustees who were in place when the claimant was employed have since resigned (Ms Horsburgh and Ms Sanges). The claimant continues to have concerns about the respondents' practice in that despite the terms of their report they have still not provided a proper unambiguous definition of what they mean by the words "woman" and "female" for the purposes of its policies in relation to honouring service users' request for a female support worker and women only times or spaces. She notes from the report that the respondent's current practice appears to be set out in a document lodged at 366-368. This states that this *"survivor's initial meeting" will be held by "a woman who has always lived as a woman and will include explanation of the type of support a survivor wishes and would benefit from. This conversation will also explore any concerns or preferences a survivor has around the support and who they receive it from"*. The claimant has concerns that a service user who is in an extremely vulnerable position will potentially not feel empowered to insist that they are seen by someone who is biologically female.

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10. In preparation for the Hearing the claimant and her advisors had produced a list of proposed recommendations. These are set out in the Appendix attached. With regard to the first proposed recommendation the claimant had concerns about staff still working in ERCC and believes that they feel constrained by the respondent seeking to suppress or punish gender critical views. In addition to this the claimant feels that she has still not received the apology that she asked for during the disciplinary process. She has not received any acknowledgement from the respondent that they do not consider her to be transphobic. On 12<sup>th</sup> September 2024 the respondents did send the claimant a letter of apology in the following terms:

*“Dear Roz*

*I send this letter on behalf of the Board of ERCC.*

5 *We owe you an apology.*

10 *We are sorry for the discrimination you faced while working at ERCC and for the stressful process you have been through. We all recognise the toll this has taken and want to acknowledge how challenging the last 3 years have been for you. In particular we want to apologise for the language used within the investigation; this was unwarranted and unhelpful. We recognise that gender critical beliefs are protected under the Equality Act and that there are survivors who hold gender critical beliefs. We respect their right to do so.*

15 *We are committed to ensuring that ERCC is a safe, accessible and inclusive service for all survivors, and have learnt from the evidence and the Judgment. There is now more we need to do.*

20 *We hope you can heal from this and wish you well for the future.”*

11. Whilst the claimant appreciated receiving this as the first apology she had received from them she did not feel the terms reflected what she actually needed them to apologise for. She also noted that this apology was not public and appears to diminish the apology by stating they apologise for the language used. It does not clear her name which is what she is looking for. She has real concerns due to the fact that she continues to work in this sector. She has been labelled as transphobic and feels that she requires a clear statement from ERCC along the lines set out in her draft making it clear that she is not transphobic and that the disciplinary process was wrong. She also wishes to make it clear that she is not to be labelled as someone who has bullied and harassed others and she wants the respondent to acknowledge that she was discriminated against because of her gender critical beliefs.

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12. With regard to point 2 it was her view that during her time at ERCC the terms of the Equality Act were misrepresented to her and others by the respondent. The claimant felt that the Equality Act was misquoted and abused to stop staff raising issues around single sex spaces and single sex exemptions. She would wish the Board to themselves attend training and arrange for senior staff to be trained properly. She felt that this would assist staff to not be scared to raise issues. She would wish to nominate the trainer so as to enable her sense of mistrust to be ameliorated.
13. She noted that in the independent review published at the end of August 2024 staff were still saying they could not speak up. (p277) With regard to point 3 she felt that it was important for either OSCR or the Scottish Government to put someone on the Board simply to make sure that they behaved properly for the next 3 years.
14. The recommendation at point 4 was said by the claimant to be a key point. It is her view that the respondents are still trying to obfuscate on this issue and use forms of words which do not clearly state what they mean by a woman or what they mean by female. She is not seeking to have the Tribunal insist on the specific definition which is used but considers it to be important that the respondents are forced to say exactly what they mean when they use these terms. She points out that this was something recommended in the report by Ms Ling and that no progress has yet been made. She felt it is essential to allow service users to give informed consent that they know exactly what the respondents mean when they say that the service user will be seen by a woman. The national service standards talk about women only spaces and women only services but it is meaningless if the respondents obfuscate on what they mean by a woman. She noted that Rape Crisis Scotland had released –a statement after the Judgment was issued saying that service users ought to be able to make an informed choice in these circumstances but this had not been implemented.

15. She also considered that it was important that the respondents signpost Beira's Place as an alternative source of assistance. Beira's Place makes it clear that they favour a biological interpretation of what is a woman. She was aware that the respondents signpost a large number of other organisations on their website and considers the only reason for not signposting Beira's Place to be ideological. She works at Beira's Place and has a direct interest in referrals being made to Beira's Place. In the claimant's view it would fit in with the aim of providing service users with an informed choice if the respondents clearly set out what they meant by the term "woman" and "female" and also at the same time signposted Beira's Place as an alternative source of assistance for those who perhaps had issues with the respondents' definition.
16. The recommendation at 5 essentially carries on from this process of informed consent.
17. Paragraph 6 dealt with the resignation of Mridul Wadwha and was no longer necessary given that she had already resigned.
18. Paragraphs 7 and 8 were essentially to do with corporate governance. The claimant noted what it says in the Tribunal's Judgment regarding the respondents' various failures and also the Ling Report highlights these. The respondent should appoint more Directors to the Board and in her view they should at least publish a statement of intent to provide an annual statement detailing the steps taken in the previous calendar year to ensure that the Board has the appropriate level of experience and diversity of background.

### **Observations on the Evidence**

19. The claimant's evidence was not subject to cross examination by the respondents' representative. The Tribunal were in no doubt that the claimant was giving honest evidence about the effect on her feelings. We have no doubt she has ongoing concerns about what is going on at Edinburgh Rape Crisis Centre. Her concerns appear to be reflected in the report from Ms

Ling which was commissioned by Rape Crisis Scotland and was lodged. [We](#) have no doubt as to the strength of her view that it would be appropriate for the respondent to provide a crystal clear definition of what they mean by “woman” and “female” and provide service users with an informed choice.

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## Discussion and Decision

20. Both parties made full submissions. Rather than attempt to repeat these and doubtless do them less than justice these submissions will be referred to where appropriate in the discussion below.

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21. The jurisdiction of a Tribunal to make recommendations is part of the remedy in a discrimination case rests on section 124 of the Equality Act 2010. It states:

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“(2) The Tribunal may ...

(c) make an appropriate recommendation.

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(3) An appropriate recommendation is a recommendation within a specified period the respondent takes specified steps for the purpose of obviating or reducing the adverse effect on the complainant of any matter to which the proceedings relate.”

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22. Both parties referred in their submissions to the history of this provision. The power to make recommendations appeared in the Sex Discrimination Act 1975 at section 65(1)(c) and the Race Relations Act 1976 at section 56(1)(c). It was also contained in the Employment Equality (Religion or Belief) Regulations 2003 at Regulation 30(1)(a) and the Employment Equality Age Regulations 2006. The wording in these previous enactments was *“a recommendation that the respondent take within a specified period action appearing to the Tribunal to be practicable for the purpose of obviating or reducing the adverse effect on the complainant of any act of discrimination or harassment to which the complaint relates.”*

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When the Equality Act first came in in 2010 the wording of section 124(3) was as follows:

5 “(3) An appropriate recommendation is a recommendation that within a specified period the respondent takes specified steps for the purpose of obviating or reducing the adverse effect of any matter to which the proceedings relate –

10 (a) on the complainant  
(b) on any other person.”

23. The definition within the Equality Act was however changed in 2015 by the Deregulation Act 2015 so as to effectively remove the reference to the adverse effect on any person other than the claimant. Both sides remarked  
15 on the fact that there are comparatively few decisions of the Upper Courts on the issue of recommendations. We were referred by the parties to the case of ***Bayoomi v The British Railways Board [1981] IRLR 431*** which was a case under the Race Relations Act using the then wording. We were also referred to the case of ***Fasuyi v London Borough of Greenwich***  
20 **UKEAT/1078/99** which was also a case under the Race Relations Act. We were referred to the case of ***Lycee Francaise Charles de Gaulle v Miss Delambre*** UKEAT0563/10 which was brought under the Employment Equality Age Regulations 2006 which had the same wording as the Race Relations Act and Sex Discrimination Act at the time. We were also referred  
25 to the case of ***Governing Body of St Andrew’s Catholic Primary School and others v Blundell*** **UKEAT/0330/09** which was a case decided on the Sex Discrimination Act 1975.

24. It can therefore be seen that the Tribunal were not referred to and are  
30 unaware of any direct authority relating to either the original power set out in the Equality Act or more importantly to the power currently set out in the Equality Act which we require to exercise. The Tribunal’s view therefore was that we require to look carefully at the actual current wording of the statute

and that whilst the earlier cases were of some assistance our start and end point required to be the wording of the statute itself.

5 25. At the outset of her oral submission the claimant's representative cautioned us against what she described as the received wisdom that following the changes contained in the Deregulation Act 2015 it was no longer possible for a Tribunal to make recommendations where, as in this case, the claimant had left the employment of the respondent. She referred to both parts of the change of wording from the earlier cases. The power since 2015 was more  
10 widely drawn than in earlier cases in that it referred to "any matter to which the proceedings relate" rather than "any act of discrimination to which the complaint relates". In her view, despite the fact that the claimant had left the respondent's employment the matters to which the proceedings related were still ongoing and the claimant's evidence was that they were causing her  
15 upset.

20 26. The respondents' representative referred to the change of wording in 2015 as indicating the clear intention of Parliament was to limit the ability to make recommendations to those recommendations which could obviate or reduce the adverse effect on the complainant. He did accept the claimant's argument that the current definition is different from and slightly broader than the definition contained in the earlier legislation such as the Race Relations Act and Sex Discrimination Act. Instead of referring to obviating or reducing the adverse effect on the complainant of any act of discrimination or  
25 harassment to which the complaint relates the new wording refers to "any matter to which the proceedings relate". His view however was that bearing this difference in mind when reading the earlier cases did not really advance the claimant's case at all. The important point was that whilst between 2010 and 2015 the Tribunal had the power to make recommendations with a view  
30 to obviating or reducing the adverse effect on any other person the Tribunal no longer had that power. This clearly places a severe limitation on the tribunal's power to make recommendations in a case where (as here) the claimant is no longer employed by the respondent. This was precisely the change intended by parliament when they changed the rules in 2015.

27. The Tribunal's view is that had we still had the power to make recommendations to benefit any other person we would have been in the position to make the recommendations sought by the claimant in respect of the impact the respondents' apparent refusal to publish their working definition of "woman" and "female" may have on potential service users and indeed make recommendations in respect of further training and make recommendations that ERCC not seek to suppress or punish reasonable expression of gender critical views amongst its staff or Board. The Tribunal's view however was that given the current terms of the legislation we were not in a position to do this.

28. We did consider the argument put forward by the claimant's representative that given the claimant's unchallenged evidence that she was upset by the way the respondents have continued to act since the Tribunal case, that making these and other recommendations would obviate or reduce the claimant's feelings. We rejected this argument. The Tribunal's view was that there were essentially three reasons for doing this. The first is, that as referred to by the respondent in its submission, the Tribunal would find itself making recommendations in relation to future provision of services by the respondents. The matter of ensuring that there is no discrimination in the provision of services is not something which is within the Tribunal's jurisdiction. It is within the jurisdiction of the Sheriff Court.

29. We also accepted, again as pointed out by the respondents' representative, that there is a practical difficulty. If the Tribunal has jurisdiction to make recommendations on the basis that the claimant has strong feelings about the matter and wishes to ensure that matters are dealt with by the respondent in a certain way going forward then essentially the Tribunal requires to grant whatever recommendations the claimant wishes on any subject. As the respondents' representative pointed out there is no real possibility of cross examining the claimant on whether she is genuinely upset by the respondents' practice in a certain area or not.

30. Thirdly, and more fundamentally this is a case involving discrimination on grounds of religion or belief. It is clear from the Tribunal Judgment and indeed from the evidence of the claimant and the respondents' witnesses on the subject that this is an area where people hold strong beliefs and individuals on both sides of the argument hold strong views that the other side are wrong or misguided or indeed that these opposing beliefs are dangerous. As indicated in the Tribunal's earlier Judgment it is not part of the Tribunal's role to come down on one side of the argument or another. The tribunals role is to police a pluralistic society. Our role is to ensure that employers do not discriminate against their employees on the basis of legitimate beliefs held by them. It would be invidious if an employee, having been discriminated against by their employer on the grounds of belief was then able to effectively impose her beliefs on the employer on the basis that she considers their beliefs to be wrong and misguided or indeed dangerous. It may well be that the employee is genuinely upset that her employers persist in espousing beliefs which she finds unacceptable or even that the behaviours they exhibit based on these beliefs cause her genuine concern or anxiety but in the view of the Tribunal we would be going considerably beyond our current role were we to make recommendations based on this. Having set out our general approach as above it was appropriate to consider each of the individual recommendations in the light of this.

31. **Paragraph 1** with regard to paragraph 1(a) the Tribunal's view was that this recommendation would assist those members of staff who hold gender critical views who continue to work for the respondent. Our view was that whilst the claimant may feel that she is upset by this, such a recommendation would not meet the criteria of obviating or reducing the adverse effect on the claimant of any matter to which the proceedings relate. As noted above we reject the argument that just because the claimant is angry, annoyed or upset by the matter does not mean in these circumstances that she has the right to have the Tribunal make a recommendation as to what the respondents should do going forward.

32. With regard to 1(b) the Tribunal's view was that this was something which would directly ameliorate the effect of the discrimination on the claimant. We accepted the claimant's evidence that she worked in the same sector and that it is a source of concern to her that because of the way she was treated by the respondent she may be labelled as transphobic. We consider that everything stated in the proposed apology is true and that the claimant is entitled to have the respondent publicly acknowledge this on their website. We were directed to the limitations set out in the case of **Governing Body of St Andrew's Catholic Primary School** to the effect that a recommendation that the employer sending a letter of apology should not require a person to make a statement with which they disagree. Our view is that in this case we are not seeking an apology from a specific individual as in that case. The apology is on the behalf of the respondent. The matters to which the apology relates are matters where the Tribunal has made factual findings and in our view it is not a matter of personal opinion to state, for example, that nothing the claimant did constituted bullying or harassment or that the claimant was not transphobic. This is a fact. We consider that the apology previously tendered by the respondent on 12<sup>th</sup> September was defective for the various reasons given by the claimant. In the circumstances the Tribunal considered that we could properly make a recommendation in terms of 1(b) and that it was appropriate to do so.

33. Paragraphs 2, 3, 7, 8. With regard to these proposed recommendations we considered that these were all directed at the governance and behaviour of the respondent going forward. These were not matters which would affect the claimant directly since she has left their employment. We accept that the claimant would undoubtedly prefer it if the respondent behaved in ways commensurate with these recommendations but in all the circumstances we did not consider that we had jurisdiction to make them. In addition we had concerns as to the practicality of making the recommendations at 3 and 4. Whilst the recommendations do require the respondent to do things which are within its power the recommendations would only be effective if the respondents' attempts to recruit more Directors and/or Board observers from OSCR or the Scottish Government were successful.

34. With regard to paragraph 4(a) the Tribunal's view was that we could entirely see why the claimant considers it is important that the respondents proceed in this way. This concern is not something which is personal to the claimant and we note that in fact the Ling Report specifically sees this as a requirement. At the end of the day however we feel that to say that this is something which will obviate or reduce the effect on the claimant is pushing matters too far. If we were to accept this we would have to accept that any claimant can insist on any recommendations that they consider sensible on the basis that it will cause injury to their feelings if the respondent does not behave in the way they want it to. As noted above we consider this is going beyond the Tribunal's jurisdiction. We were not prepared to make any recommendation in respect of 4(a).

35. With regard to 4(b) however the situation was different. The claimant has a direct involvement in that she works for Beira's Place and has an interest in that organisation's success. Indeed she said in evidence that she would like at some point to increase her hours. It does seem extraordinary that the respondents are not prepared to send referrals to Beira's Place and this decision appears to be linked inextricably with the matters which led to the discrimination against the claimant. It would appear that the respondents' management consider the gender critical views espoused by Beira's Place to be intrinsically hateful and transphobic just as they considered the claimant's gender critical views in the same way. Given the claimant works at Beira's Place they are effectively stating that she is working for a transphobic organisation. The Tribunal considered that given the effect on the claimant of this recommendation which is much more than simply avoiding hurt to her feelings and given that linkage to the matters to which the proceedings related we had jurisdiction to make this recommendation and we considered it was entirely appropriate to do so.

36. Having considered all of the proposed recommendations in turn it was our view that the appropriate recommendations to be made were those as set out above. Accordingly in terms of section 124 we will make a declaration that

the respondent did discriminate against the claimant as set out in our Liability Judgment. We will order the respondent to pay compensation to the complainant in the agreed sum £68,989.71 and we shall make the recommendations set out above in terms of section 124(3).

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**Employment Judge: I McFatridge**  
**Date of Judgment: 29 October 2024**

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**Date sent to parties**05 November 2024