



# THE EMPLOYMENT TRIBUNAL

**Claimant:** Mr R. Knott  
**Respondent:** Dover Harbour Board  
**Heard at:** London South Employment Tribunal (by CVP)  
**On:** 17 – 18 December 2024  
**Before:** Employment Judge A. Beale KC

**Representation**  
**Claimant:** In Person  
**Respondent:** Ms S Ibrahim (Counsel)

## JUDGMENT ON AMENDMENT APPLICATION

1. The Claimant did not pursue his application to amend in respect of the following paragraphs of his amendment application dated 29 August 2024:
  - 1.1 The first and second paragraphs under the heading “Age”
  - 1.2 This third, eighth, sixteenth and seventeenth paragraphs under the heading “Disability”
  - 1.3 All paragraphs under the heading “Victimisation”.
2. The amendments set out in the following paragraphs of the Claimant’s application dated 29 August 2024 are allowed, to the extent explained in the Reasons below:
  - 1.1 The third and fifth paragraphs under the heading “Age”
  - 1.2 Paragraphs 1, 2, 5, 7, 9, 13, 14, 18, 19, 24, 27, 29 30, 31, 32, 33 under the heading “Disability”
  - 1.3 The amendments under the heading “Harassment”.
3. The amendments set out in the remaining paragraphs are refused.
4. The amendments set out in the following paragraphs of the Claimant’s amendment application dated 10 December 2024 are allowed, to the extent explained in the Reasons below:
  - 1.1 Paragraphs 1 – 3 under the heading “Megan Turner”
  - 1.2 Paragraphs 1 and 2 under the heading “Marisa George”
5. The amendments set out in the remaining paragraphs are refused.

# REASONS

1. The Claimant's claim relates to his employment with the Respondent as a Level 3 Safety, Health and Environment Technician Apprentice, between 5 September 2022 and 13 March 2023. The Claimant submitted his ET1 on 27 April 2023.
2. The case has been considered at two case management preliminary hearings, and was listed for a full merits hearing from 17 – 20 December 2024. The Claimant made an amendment application following the first preliminary hearing in August 2024 ("the First Amendment Application", dated 29 August 2024). Partly as a result of that application, at the second preliminary hearing on 1 November 2024, the full merits hearing was postponed and converted to an Open Preliminary Hearing to consider the issues set out in my accompanying case management order. "The Second Amendment Application" was made on 10 December 2024.
3. In this judgment I set out my conclusions on whether each of the Claimant's amendment applications should be allowed. The First Amendment Application is set out under headings "Age", "Disability", "Victimisation" and "Harassment". For ease of reference, I have numbered the paragraphs under each heading in the First Amendment Application. There are six numbered applications under the heading of age, 33 under the heading of disability, three under the heading of victimisation and one under the heading of harassment. The paragraphs in the Second Amendment Application are largely numbered.

## Withdrawal of Applications

4. We spent some time at the start of the hearing going through the Claimant's claims. Following that discussion, and having understood the different legal bases on which claims may be brought under the Equality Act 2010, the Claimant agreed that he did not want to pursue certain of his amendment applications. I have detailed the points which the Claimant decided he did not wish to pursue below.
5. **Age discrimination paragraph 1:** the Claimant agreed this was a complaint that he should have been treated more favourably as a mature student and not required to demonstrate his proficiency in English (i.e. that some kind of adjustment should have been made for him). The Claimant agreed this was not a complaint of less favourable treatment, disadvantage or detriment under the Equality Act 2010 and therefore did not pursue this amendment.
6. **Age discrimination paragraph 2:** the Claimant agreed that the complaint that his disabled student's allowance and adjusted education plan at university were not sufficient to exempt him from the requirement to provide an English GCSE certificate or alternatively undergo an English assessment (whereas an SEN plan, EHCP or learning difficulty assessment more likely to be available to younger employees would have been) was a complaint against the government which sets the rules for the apprenticeship scheme, not against the Respondent. The Claimant agreed that the heart of this complaint was the fact that the Respondent did not request an appropriate

- needs assessment to exempt him from the above requirements, and that this was not related to his age, and fell within his disability discrimination claim. He did not pursue this amendment.
7. **Disability paragraph 3:** the Claimant agreed that this was a general statement/question and did not raise any specific new allegations. The Claimant did not pursue this amendment.
  8. **Disability paragraph 8:** I asked the Claimant to explain how enrolling him on the apprenticeship for which he had applied, as opposed to a more senior role for which he had not applied, was disability discrimination. The Claimant said that he did not think his skills were being used in the best way. The Claimant agreed this was not a complaint of disability discrimination (as it related to his initial employment not redeployment, which is dealt with in another paragraph) and did not pursue this amendment.
  9. **Disability paragraphs 16 and 17:** the Claimant agreed that these were general paragraphs and did not contain a specific allegation. He did not pursue these amendments.
  10. **Victimisation (all paragraphs):** the Claimant agreed that he was not complaining that the Respondent had subjected him to a detriment because he had made a complaint about discrimination. His allegation was that the Respondent had discriminated against him and had continued to do so despite his complaints. The Claimant did not pursue the application to amend to include a victimisation claim.
  11. Further, it was the Respondent's position that the Claimant required permission to amend the claim form to include two of the disabilities on which he relies; panic disorder and PTSD. Following discussion at the hearing, the Respondent agreed that panic attacks formed part of the Claimant's accepted disability of anxiety/depression. The Claimant did not seek to pursue panic disorder as a separate disability in these circumstances. There was initially a continued dispute as to whether PTSD constituted a disability, and in my oral judgment, I found that PTSD was pleaded as a disability in the claim form; however, the Claimant then said he no longer wished to rely on PTSD as a disability and contended only that the Respondent's alleged discriminatory treatment had exacerbated his PTSD, for which he sought compensation. I have not, therefore, included my conclusions on the amendment issue in relation to PTSD in this judgment.

### **Documents and Submissions**

12. I was provided with three bundles for the purposes of the Preliminary Hearing; a main bundle, a disability bundle and a supplementary bundle. The Respondent provided a skeleton argument and an authorities bundle and both parties made oral submissions.

### **The Law**

13. In determining these applications, I have had regard to the Presidential

Guidance Note on amendments, and the authorities to which I have been referred by the Respondent. I have applied the principles summarised in the Guidance Note which in turn refers back to the guidance given in *Selkent Bus Company v Moore*. In determining amendment applications, the Tribunal is required to have regard to all relevant factors, having regard to the interests of justice and the relative hardship to the parties. The relevant factors include the nature of the amendment; time limits and the timing and manner of the application.

14. I have also had regard to the following specific points derived from the authorities:

- 14.1 In considering whether an ET1 contains a particular claim, regard has to be had to the whole document. The mere fact that a box has been ticked stating that there is a claim of e.g. disability discrimination may not be sufficient to bring such a claim, if the particulars of claim refer only to a different type of discrimination (see *Ali v Office of National Statistics* [2005] IRLR 201 and *Baker v Commissioner of the Metropolis* UKEAT/0201/09).
- 14.2 The EAT held in *Chandhok v Turkey* [2015] ICR 527 that: "The claim, as set out in the ET1, is not something just to set the ball rolling, as an initial document necessary to comply with time limits but which is otherwise free to be augmented by whatever the parties choose to add or subtract merely upon their say so. Instead, it serves not only a useful but a necessary function. It sets out the essential case. It is that to which a Respondent is required to respond. A Respondent is not required to answer a witness statement, nor a document, but the claims made – meaning, under the Rules of Procedure 2013, the claim as set out in the ET1."
- 14.3 The EAT held in *Vaughan v Modality Partnership* [2021] ICR 531 commented that the Tribunal must have regard to the consequences of granting or refusing the application: "If the application to amend is refused how severe will the consequences be, in terms of the prospects of success of the claim or defence; if permitted what will be the practical problems in responding. This requires a focus on reality rather than assumptions. It requires representatives to take instructions, where possible, about matters such as whether witnesses remember the events and/or have records relevant to the matters raised in the proposed amendment."

15. There continues to be some uncertainty as to the law regarding whether the question of whether the time limit should be extended should be determined definitively at the stage of considering the amendment, or alternatively whether only a *pf* case need be made out and the question can be left for determination at the full hearing (see *Amey Services Ltd v Aldridge* UKEATS/0007/16 and *Galilee v Commissioner of Police of the Metropolis* [2018] ICR 634). The authorities are however clear that time limits are a factor (albeit not necessarily a determinative factor) that must be taken into account in deciding whether or not to grant the amendment. I was not asked to leave the question of extension of the time limit open for determination at the full hearing. In considering the proposed amendments below, I have considered the question of time limits, and where I have allowed the

amendment, I have taken into account the fact that the amendment was raised out of time.

## The First Amendment Application

### Age Discrimination

16. I agree with the Respondent and with Employment Judge King (in the comments from the 1 August 2024 PH) that, although the “age discrimination” box is ticked in the claim form, the particulars, and the claim form as a whole, do not clearly disclose any claim of age discrimination. The content of the claim form is all directed at disability discrimination/ failure to make reasonable adjustments. An amendment application is therefore required should the Claimant wish to rely on complaints of age discrimination.
17. The Claimant’s proposed complaints of age discrimination can be divided into two parts.
  - 17.1 Complaints of indirect age discrimination which arise from the fact that, as an older employee (aged in his forties), the requirement imposed by the Respondent either (i) to produce his English GCSE certificate and/or (ii) to undertake a functional English assessment placed him at a substantial disadvantage, because of the difficulty in locating certificates as an older applicant and/or the length of time since he had had English lessons.
  - 17.2 A complaint that the Respondent’s decision to pay all apprentices at a rate less than the national minimum/living wage placed him as an apprentice in his forties (and others of the same age) at a particular disadvantage as compared with younger persons, in view of the commitments he had at that stage of his life.
18. The requirement to obtain GCSE certificates (raised at paragraphs 3 and 5 of the age amendments) is referred to in the particulars of claim, but in the context of the Claimant’s disability rather than his age as he notes that having to contact old friends and “drag up the past” triggered mental health problems and PTSD symptoms. However, the essential facts on which the Claimant is likely to rely in the age discrimination complaint are pleaded, namely the fact that he took his GCSEs in 1996 and had difficulty recalling with which exam board he had sat the exams, and thus in locating the certificates. Whilst the factual background to the claim is the same, an indirect age discrimination claim would involve a different enquiry from a claim of failure to make reasonable adjustments, requiring consideration of the impact of such a request on people from different age groups. It cannot, therefore, be said that inclusion of this claim would be a mere re-labelling exercise, although this is fairly close to a “re-labelling” amendment.
19. I take into account the other factors referred to in the authorities mentioned above. The application to amend was made in August 2024, 16 months after the claim was submitted. I note that the Claimant has suffered a number of difficulties over this period, but he was clearly sufficiently aware of an age discrimination claim to tick the box in the initial claim form, but failed to provide any clear particulars of that claim. I do not consider that those

- difficulties really explain why the Claimant did not develop his age discrimination claim in the original claim form, but I do note that he is a litigant in person, and he may have considered it sufficient to refer to the fact that he did his GCSEs in 1996 as demonstrating an age-related disadvantage.
20. The application was made very late and the application as a whole (albeit not this specific point) has already resulted in the postponement of a final hearing date. The delay is, however, unlikely to cause difficulties from the perspective of witnesses in relation to this claim, as the factual matters relied upon already form part of the claim; additional evidence will be limited to e.g. statistics around the impact of the requirement on older employees. I also note that the Respondent has already responded to this claim in the existing Grounds of Resistance, and acknowledged in its response to the amendment application at paragraph 3(d) that the claim form included a claim of discrimination on the basis of age by requiring the Claimant to produce evidence of his GCSE qualifications (which appears counter to the position taken earlier by EJ King). The Respondent will not be prejudiced by inclusion of a claim it already considered to be included. The Respondent's position is also that this was a requirement imposed upon them by the funding rules for the apprenticeship scheme, in which case it may be reasonably straightforward to provide justification for the requirement.
  21. Overall, I consider that this claim is sufficiently closely connected to the matters in the claim form to mean that the balance of hardship favours the claimant and I allow this amendment.
  22. The same is not, however, true of the other two amendments the Claimant seeks to make (paragraphs 4 and 6 of the age amendments).
  23. There is no indication in the claim form that the alleged requirement to do an English assessment placed the Claimant or others of his age at a disadvantage. Nor is there any indication of an argument that the wage paid by the Respondent placed people of the Claimant's age at a disadvantage. These are entirely new claims that would require a whole new factual inquiry. They are very significantly out of time as set out above, and there is no full or clear explanation as to why they were not raised before. Further, the Claimant does already have a claim relating to the requirement to do an English assessment, which forms part of his claims for disability discrimination, and thus is not deprived of advancing a discrimination claim in relation to that issue if the amendment is refused.
  24. Taking all the circumstances into account, I refuse the application in relation to paragraphs 4 and 6 of the age amendments.

### **Disability**

25. There are 28 remaining allegations of disability discrimination in the Claimant's application. I have dealt with these in groups as set out below.
26. As noted above, I ran through the claims made with the Claimant in some detail during the hearing. The following claims either, on exploration, raised

a legal issue that was not justiciable in the Employment Tribunal, or the Claimant was unable to explain to me what the legal basis for the complaint was. I have therefore not allowed these amendments.

27. **Disability paragraph 4:** this consists of some general commentary about the Respondent's disability policy, and the extent to which individual employees need to put forward the reasonable adjustments they want. It is entirely open to the Claimant to argue that there were adjustments that could have been made that he did not think of at the time, and that his managers should have considered, but this is not a distinct complaint of disability discrimination. The amendment is not allowed.
28. **Disability paragraph 11:** the complaint is of ignoring a request for a phased return to work in an email dated 2 July 2023. The Claimant said this was a request for a reasonable adjustment, but it was made over 3 months after the Claimant's employment had ended. Whilst a claim may be brought for failure to make reasonable adjustments after employment has ended under s. 108 EqA 2010, that would be in situations which are closely connected to the employment relationship (e.g. an appeal against dismissal). The Claimant accepts that his employment with the Respondent had ended (at his own instigation) at this point, and there was thus no basis on which a phased return to work could occur. There is no legal basis for the claim, and the amendment is not allowed. Alternatively, I would not have permitted the Claimant to amend the claim in this way for the reasons given at paragraph 49 below.
29. **Disability paragraph 12:** the complaint is that Doug Bannister did not open an investigation when requested in September 2023. The Claimant could not explain what type of discrimination (if any) this action/omission was said to be. I cannot see any legal basis for the amendment, and it is not, therefore, allowed.
30. **Disability paragraph 15:** the Claimant makes a claim that he was a victim of forced labour under the Modern Slavery Act. The Tribunal has no jurisdiction to hear this claim, so the amendment is not allowed.
31. **Disability paragraphs 20 – 21:** these are general assertions that employees should have a reasonable adjusted workplace plan and that the Respondent should employ a disability specialist. The Claimant has not explained which PCPs or substantial disadvantage these points relate to. The latter in particular seems to be a suggestion of work the Claimant feels he could do for the Respondent, rather than a complaint of disability discrimination. He has not explained how they are free-standing claims of disability discrimination, as opposed to (at most) suggestions as to how the workplace might generally function better in future. These amendments are not allowed.
32. **Disability paragraph 22:** this raises a question as to whether ignoring the Claimant's requests to return to work is legal given the "Autism Act". I am not sure which of the Autism Acts is being referred to; however, the Tribunal does not have jurisdiction to deal with claims under any of them. Further the Claimant explained that this was really a complaint that the Respondent had

- not allowed him to be reinstated after he resigned, which he thought would be a sensible way to resolve his tribunal claim. The legal basis on which the Claimant advances this claim was not explained (and I consider unlikely that there is any legal basis for the claim), and I have not allowed the amendment.
33. Next, I considered whether any of the complaints made under the heading of disability constituted either a re-labelling of existing claims, or providing additional factual detail about existing claims, which the Respondent accepted would be minor amendments of the type that the Guidance Note states should be allowed. I concluded that the following amendments fit that description.
34. **Disability discrimination paragraph 1:** the Claimant agreed that the comment allegedly made by Maria Churchill "*when you are sick you are sick*" was background evidence in relation to his claim of failure to make reasonable adjustments by providing a laptop. The Claimant said this comment was made in the context of his request to work from home using a laptop, and that the situation had been misunderstood or mischaracterised by Ms Churchill, as he was not able to work from the office at all times, but would have been able to work from home. This was not relied upon as a separate claim, but as evidence supporting the reasonable adjustments complaint in relation to working from home/the laptop and the amendment is allowed on that basis.
35. **Disability paragraph 2** (Vicky Beatty allegedly ignoring the Claimant after she had attempted to make him do the English assessment again) was said by the Claimant to be a further factual instance of the Respondent failing to make reasonable adjustments to the requirement that he do the English assessment. This was not relied upon as a separate claim, rather as evidence supporting the reasonable adjustments complaint relating to the English assessment, and the amendment is allowed on that basis.
36. **Disability paragraph 7** (Sarah Douglas said that EDI does not apply as everyone is treated the same, and Liam Jordan and Vikki Beatty agreed with her). The Claimant clarified that this email dated 2/1/23 was in connection with the requirement to do the English assessment. Effectively, this is an example of the PCP (to do the English assessment) being applied to the Claimant. It is not relied upon as a separate claim. The amendment is allowed to that extent.
37. **Disability paragraph 13:** (Liam Jordan classified the Claimant's inability to do the English assessment as a refusal to do it, despite the Claimant's explanation of his disability). This is clearly connected to the Claimant's pleaded complaint that he was unable to do the English assessment on 30/1/23, and that Liam Jordan subsequently called a meeting and threatened his employment. It is a further particular of the Claimant's claim under s. 15 Equality Act 2010. The amendment is allowed, to the extent that the Claimant complains that Liam Jordan treated him unfavourably by classifying his inability to do the English assessment as a refusal to do it. The Claimant's inability to do the English assessment is said to arise as a consequence of his disability.



38. **Disability paragraph 18:** (failure to look to redeploy the Claimant and offer three alternate positions). This wording appears to be taken from a capability or redundancy policy so the policy itself may not be applicable in the Claimant's circumstances, however the Claimant explained that what he meant by this was that he should have been offered redeployment as a reasonable adjustment as an alternative to taking the English assessment. There is no requirement to plead reasonable adjustments as there is no requirement that the employee put forward adjustments; the duty is on the employer (see e.g. *Cosgrove v Caesar & Howie* EAT 6 June 2001). I therefore allow the inclusion of this as an adjustment the Claimant says the Respondent could have made to alleviate the substantial disadvantage the Claimant says arose from the requirement to do the English assessment.
39. **Disability paragraph 19:** this consists of an explanation of why the Claimant considers the English assessment disadvantaged him as a person with autism. This is an additional factual detail as to the substantial disadvantage relied upon in the reasonable adjustments claim about the English assessment, and the amendment is allowed to that extent.
40. **Disability paragraph 24:** this paragraph states that the Claimant was in receipt of disabled students' allowance at university and asks whether this was a factor that could/should have been used to exempt the Claimant from taking the English assessment. It appears that this may in part be a complaint about the funding guidelines set out by the government, but the Claimant also asks whether the Respondent was complicit. I understand this to be an example of a reasonable adjustment that could have been made, or a factor the Claimant says should have been taken into account in making a reasonable adjustment, in relation to the English assessment, and I allow the amendment to that extent.
41. **Disability paragraph 27:** this is an explanation of why the Claimant considers it would have been reasonable to provide him with a laptop. It is factual information to be added to the reasonable adjustments claim relating to provision of a laptop/working from home, and the amendment is allowed to that extent.
42. **Disability paragraph 30:** the Claimant says he asked to be considered for employment in a different role as a reasonable adjustment whilst still employed. The Claimant refers specifically to a graduate position that he says would have been more suitable for his level of education; however, he explained in the hearing that he also felt such a position would not have required him to take the English assessment. As set out above, claimants are not required to plead all reasonable adjustments relied upon and I allow this amendment to the extent that it is proposed as a reasonable adjustment in connection with the requirement to take the English assessment. To be clear, this amendment is not permitted as a free-standing claim that the Claimant should have been redeployed to a role which he considered more commensurate with his educational level; that would not be a complaint of disability discrimination.

43. **Disability paragraph 31:** this appears to be a crystallisation of the s. 15 complaint that the Claimant's attendance was criticised/he was given a warning because of his attendance and/or the failure to make reasonable adjustments claim relating to working from home/provision of a laptop. The Claimant says it was discriminatory to criticise him for his attendance when he had not been given a laptop and thus could have worked from home, which would have improved his sickness record. It is not clear to me that it adds anything to the pleaded claim, but if and to the extent it does, it is allowed as set out above.
44. **Disability paragraph 32:** the Claimant complains about the attendance targets in the letter sent to him on 6 February 2023. The same points apply to this amendment as to the amendment at paragraph 43 above.
45. **Disability paragraph 33:** the Claimant here refers to a clause in his contract which contains an exception to the normal rules for incapacity. I understand this simply to be further detail of why it would have been reasonable to make adjustments to the requirement to do the English assessment, and the amendment is allowed to that extent.
46. The remaining 10 disability complaints in my view raised new matters to a greater or lesser extent, and I have considered each paragraph in accordance with the principles set out above.
47. **Disability paragraphs 5 and 14.** These paragraphs relate to an alleged failure to make reasonable adjustments by assisting the Claimant with his travel to work and/or making an access to work application. Whilst it is right to say that travel is not included in the particulars at the end of the ET1, that section does refer to requiring an adjustment allowing work from home. When I considered the claim form as a whole, I noted that in his remedy section, the Claimant referred to requiring help with travel to work if Lanisha Joseph could not take him home, and ideally obtaining his own car. Read as a whole, I therefore consider that the factual basis for this claim (if not the claim itself) was contained in the original claim form. The claim is therefore based on facts already pleaded. Although the amendment application was made very late, and the lateness is not fully explained, given the Claimant's lack of legal representation and the lack of prejudice to the Respondent (in view of the fact that the factual point was raised in a timely manner), I allow an amendment to include a claim of failure to make reasonable adjustments in relation to the requirement to travel to work. In the hearing, the Claimant mentioned that as well as working from home, a different adjustment would have been to permit flexible working. As there is no duty to plead all adjustments, I allow this to be included too.
48. **Disability paragraphs 9 and 29:** the Claimant explained that these paragraphs are about being told not to contact RHG, the provider of the English assessment he was required to do. The factual basis for this claim is included in the claim form (in the paragraph relating to 3 January 2023). Following elucidation from the Claimant, I understand this to be a claim for s. 15 disability discrimination, in that the reason for refusing to allow him to contact RHG was the manner of the Claimant's communication, which in turn

arose from his autism. I consider this amendment to be closely connected to the matters already raised in the claim form, and it is based on factual information already pleaded. For the reasons given at paragraph 47 above, I allow these amendments.

49. The further paragraphs listed below appear to me to be new matters, which, on a careful reading of the claim form, are not based on facts already pleaded. They were raised 16 months after the claim form was submitted and, as set out above, there is no full explanation as to why they were not included, given the matters the Claimant has managed to refer to. The claims are very significantly out of time. As these are now being raised for the first time in my view, there will be considerable prejudice to the Respondent, given that the witnesses could not have been asked about these points earlier, and in at least one case (Liam Jordan) they are no longer employed by the Respondent. By contrast, the Claimant has a number of other claims which arise out of similar factual circumstances to the additional claims listed below, and I do not consider that he will be significantly prejudiced by not being permitted to advance these points. I therefore refuse permission to amend.
50. **Disability paragraph 6:** Vicky Beatty (on a date unknown) said the Claimant needed counselling to change the way he thought when he couldn't do the English assessment. Although this is connected to the English assessment, it is an entirely new allegation which was not raised together with numerous other points around the assessment; it is also a verbal comment memory of which will have been significantly affected by the passage of time.
51. **Disability paragraph 10:** the Respondent accepted the Claimant's resignation on 13/3/23 and did not ask more about why the Claimant had resigned. This is not raised in the claim form and the legal basis for the complaint is in any case unclear.
52. **Disability paragraph 23:** being required to discuss mental health and personal issues with Tim Potter in an open plan office with no privacy.
53. **Disability paragraph 25:** Liam Jordan allegedly saying "I don't agree" when the Claimant told him the Equality Act required him to make reasonable adjustments and protect the Claimant from discrimination outside the business.
54. **Disability paragraph 26:** applying pressure to the Claimant because he mentioned he was thinking about applying for another job with a disability-friendly employer.
55. **Disability paragraph 28:** Liam Jordan telling the Claimant to tell his GP that the Respondent was making reasonable adjustments and instructing the Claimant not to seek medical advice.

## **Harassment**

56. The Claimant complains that the repeated attempts by the Respondent to

require him to undertake an English assessment constituted harassment related to disability. I have reviewed the claim form and in my view, the Claimant does refer to the attempts to require him to undertake the assessment in terms that could potentially constitute harassment; he refers to pressure being placed on him to do the assessment; being in a panic and “under duress”, and the requirement causing “extreme stress and anxiety”. In my view, therefore, the factual basis for this claim is pleaded in the claim form (i.e. the pressure to take the English assessment and the effect this had on the Claimant). It was also clear that the Claimant had struggled to frame this part of his claim, and when I explained the constituent parts of a harassment claim to him, he immediately confirmed that this was the claim he had been seeking to bring. On that basis, and taking into account all the factors above, despite the delay in making the application, I consider that the balance of hardship in this case favours the Claimant and I allow this amendment.

### **The Second Amendment Application**

57. Having carefully reviewed the Second Amendment Application with the Claimant, I consider that this application is not intended to raise any new claims as such. Rather, it is intended to add further detail to the Claimant’s claims for failure to make reasonable adjustments and the s. 15 claim in relation to the English assessment/GCSE certificates (Megan Turner paragraphs 1 - 3 and Marisa George paragraph 1) and the Powerpoint presentation (Marisa George paragraph 2). The amendments are allowed to the extent of including that additional factual detail in those claims.
58. Regarding paragraph 4 under the heading “Megan Turner”, I cannot see that any claim is raised by this paragraph. There is no PCP or substantial disadvantage; this appears to be a general complaint that the Claimant was not given a needs assessment or referred to occupational health. Those are not in themselves (as I discussed with the Claimant during the hearing) reasonable adjustments; the authorities from *Tarbuck v Sainsburys Supermarkets Ltd* [2006] IRLR 664 onwards state that they are only a means of informing the employer about adjustments that may be made. I therefore do not allow this amendment.

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Employment Judge A Beale KC  
Date: 19 December 2024

Sent to the parties on  
Date: 24 December 2024