



# EMPLOYMENT TRIBUNALS

## Claimant

## Respondent

Mr Chaudhry Iqbal

v

LHR Airports Limited

**Heard at:** Reading

**On:** 27, 28, 29 and 30 January 2025

**Before:** Employment Judge Gumbiti-Zimuto

**Members:** Ms J Stewart and Mrs C Tufts

## Appearances:

**For the Claimant:** In person

**For the Respondent:** Mr G Graham, Counsel

**JUDGMENT** having been sent to the parties and written reasons having been requested in accordance with Rule 62(3) of the Employment Tribunal Rules of Procedure 2013, the following reasons are provided:

## REASONS

### Background

1. In a Claim Form that was presented at the Employment Tribunal on 30 March 2023 the Claimant made complaints of direct disability discrimination, indirect disability discrimination, discrimination arising from disability, a failure to make reasonable adjustments and harassment related to disability.
2. The claims arise out of a recruitment exercise which was conducted in October and November 2022.
3. The Claimant gave evidence in support of his own case and the Respondent relied upon the evidence of Mrs Stopa (nee Gugnowska), Mrs Lyndsey Collins, Mr Nigel Snowball and Mr Wissam Aessa.
4. We were also provided with a trial Bundle of documents containing 198 pages and we were provided with some additional documents during the course of the Hearing. The Claimant provided us with an opening submission and a closing submission in writing. We had regard to those documents in making our decision.

## The Facts

5. The Respondent is the operator of London Heathrow Airport and the Claimant has been employed by the Respondent since 14 December 2015. Since August 2021 he has been employed in the role of Passenger Experience Manager and in March 2022 he obtained an Assessment of Dyslexia, made by a company called Lexxic from who the Claimant has been provided with a Report which contains some recommendations. The Claimant states that the condition of Dyslexia affects the way that he processes information, especially when dealing with numbers and causes him considerable anxiety.
6. Nigel Snowball is employed by the Respondent as a 'Security Operational Lead People'. In 2022, the Respondent carried out a recruitment exercise for a Security Operations Manager, otherwise known as a 'SOM'. The Claimant applied for the role on 26 October 2022 and the Respondent carried out a number of assessment centres between 31 October and 18 November 2022. They comprised of an interview and a scenario based assessment.
7. The SOM deals with the day to day operational processes of passengers through security. SOMs are front line risk assessors for LHR and are the highest point of escalation in the security operation before the Police are brought in. The role requires line management responsibilities and the role is demanding. The role has a recruitment process that is designed to test the candidate's abilities to effectively perform the duties of a SOM. The role was advertised internally and externally. The Claimant applied for the role on 26 October 2022. In his application the Claimant stated that he required adjustments. He did not specify what adjustments were required but stated,

"I would be happy to discuss the details of adjustment to be offered for application and interview stage."
8. Mrs Stopa is employed by the Respondent as a Resourcing Specialist. Her role involves recruitment for the Respondent. Mrs Stopa was responsible for the recruitment of the SOMs. She was the one who considered all the applications and prepared a long list of all those that met the requirements of the role and sent those to the Hiring Manager for review. The Hiring Manager, in this case Mr Snowball, then considers this long list and produces a short list of names of people to be invited for interview. Mrs Stopa, as part of the Recruitment Team then sends out the invitations. In this process initially the Claimant was not placed on the long list, however, on a second review of the applications the Claimant was short listed for interview because he met the minimum requirements for the role and it was noticed that he had declared that he had a disability and required adjustments. But for the fact that the Claimant had a disability, the evidence we were given was that he would not have been invited for an interview on this occasion for the role. Out of 268 applicants for the role, 26 were short listed for 8 roles.

9. On 31 October 2022, the Claimant emailed Mr Snowball stating,
- “I wanted to let you know that I have now applied for the SOM position recently closed. I would also like to discuss with you about myself being a Dyslexic and how it could impact myself and my application. I have a severe form of Dyslexia and faced a few challenges when making applications for other positions. With right support I am confident I can perform well and overcome these challenges. Although I have disclosed my disability in the form, but I am happy to discuss it in details if needed. I would greatly appreciate if you are able to spare some time to discuss the above at your convenience.”
10. The Claimant was advised by Mr Snowball to contact a Mr Harry Pocock and he did so. Mr Snowball replied to the Claimant on 4 November 2022 stating that he too was dyslexic and would be happy to catch up and discuss any challenges the Claimant felt he may have during the process. Mr Snowball invited the Claimant to, as he recorded,
- “Please feel free to check my diary and book some time in. It may have to be via Teams.”
11. The Claimant sent a further email to Mr Snowball in which he said,
- “I want to discuss reasonable adjustments that can be offered to accommodate my Dyslexia.”
12. The Claimant offered to send his Dyslexia Assessment Report to Mr Snowball so that he could,
- “... see how it would impact my performance.”
13. Mr Snowball responded to the Claimant by stating that he had contacted Mrs Stopa who was the recruitment specialist and he stated,
- “I will discuss with Kazia who is more the subject matter expert and come back to you with a defined plan. What adjustments have we made in the past with reference to assessment processes?”
14. The same day, 4 November 2022, Mrs Stopa telephoned the Claimant and left a voice mail message for him stating that she would attempt to contact him on Monday 7 November 2022. The Claimant responded with an email in which he stated,
- “I look forward to speaking to you on Monday to discuss the matter in detail. Meanwhile if you wish I can forward you the Report which was provided by Lexxic to highlight the scale and understanding of my dyslexia.”
15. On Sunday 6 November 2022, Mrs Stopa emails a response to the Claimant and said,
- “No report is required, we will have a chat in regards adjustments for an interview. Have a great Sunday and we will speak tomorrow.”

16. The Claimant and Mrs Stopa did not speak on the Monday. However, the Claimant did email Mrs Stopa on 10 November 2022. The email from the Claimant stated,

“Thanks for your voice message the other day.”

17. He then went on to ask if Mrs Stopa could confirm the format of the interview,

“... so I can get back to you with request for reasonable adjustments.”

18. Mrs Stopa did not reply to this email and is now unable to recall whether she acted on this email or not. Mrs Stopa was to later write to Mr Snowball after the assessment to say that she had made about five telephone calls to the Claimant with a view to discuss the matters with him.

19. The Claimant says that he has no recollection of calls from Mrs Stopa and he points to the fact that he did not send her any emails in this period. However, we are satisfied that the Claimant did receive telephone calls from Mrs Stopa after 4 November 2022, in particular the wording of his email on 10 November 2022, in our view suggests that the Claimant had received a voice message from Mrs Stopa since 4 November 2022 because he writes on 10 November 2022 thanking her for her voice message the other day.

20. If this was a reference to the voice message on 4 November 2022, it would be an odd way of communicating bearing in mind there had been email communication between them which had moved the topic of discussion on and so when he refers to thanking her for her message the other day we are satisfied on the balance of probabilities it is more likely than not she had made a further call to the Claimant and that is what he was responding to.

21. The Claimant was sent the standard invite to interview email by the Recruitment Team on 11 November 2022. The Claimant says that he was provided with a pre-booked slot for the SOM interview and the interview was scheduled to take place on 18 November 2022 at 10am.

22. It is important to bear in mind that the Claimant does not say that this caused him any difficulty.

23. The Claimant attended the interview on 18 November 2022, Mr Snowball was the interviewer, together with Wissam Aessa. Before starting the interview Mr Snowball asked the Claimant what adjustments he would like. This is agreed by the Claimant and the Respondent. The Claimant's response is, however, disputed although the dispute is not as significant as it might have been. The Claimant says that he responded by saying that he wished to have extra time to answer the questions of the interviewer. This, the Claimant goes on to say, was provided to him. In his Witness Statement the Claimant says,

“I had no idea what adjustments I would benefit from as I had not been referred to Occupational Health for this to be confirmed.”

24. The recollection of Mr Snowball and Mr Aessa is different. They state that the Claimant said that what he needed was that from time to time, when responding to questions he sometimes goes off track and if that happened then to support him they should get him back on track by probing. Mr Snowball's Witness Statement says,

“At the outset of the interview I recall that I asked Chaudhry very clearly whether he needed additional support or additional time for the interview process. I cannot recall whether I said to him that I was aware that he had any need for this because of his Dyslexia, but I definitely did ask him whether he needed anything.”

25. Mr Snowball also then goes on to say that the claimant made the request of probing him to get him back on track. After the interview the Claimant went through a scenario based assessment exercise.

26. The Claimant was not successful in securing one of the eight SOM roles. The Claimant requested a meeting to discuss feedback from the interview and the Claimant was provided with a scoring table showing his performance.

27. The Claimant and Mr Snowball met on 17 December 2022. The meeting lasted about an hour and a half. That, Mr Snowball tells us is much longer than one of these meetings would typically last. During the meeting Mr Snowball told the Claimant that he too has Dyslexia. The Claimant states that Mr Snowball, at this meeting, refused to look at his Dyslexia Assessment Report stating that,

“... He got to where he is without any reasonable adjustment having never been offered to him.”

28. Mr Snowball denies that this comment was made. The Claimant also says that Mr Snowball stated that the Claimant would be a risk to the operation were he to be offered the position of SOM. This is also denied by Mr Snowball. Mr Snowball's summary of the meeting on 17 November 2022 is set out in his Witness Statement in the following way,

“I recall that we talked through the scores that he had been given. How the scores had been done and what the expectations are for a successful candidate. Chaudhry talked about how he felt that the process wasn't fair and just and that people involved in the recruitment are not trained in disability. It was his belief, as he stated to me as much that because he had declared a disability he should be able to automatically progress in the role and that adjustments should be made for him in his training. I tried to explain to Chaudhry that it simply wasn't possible for somebody who declared disabilities to automatically be given roles and that there was a risk that if the correct process is not followed then there could be catastrophic consequences. i.e. if someone who didn't pass the required level to undertake the extremely security critical role of SOM were to make a critical error or misjudgement, potentially the safety of the airport and in extreme situations the UK would be at risk. Chaudhry didn't accept

this but I felt that I had explained the position to him as clearly as I could.”

29. On 30 March 2022, the Claimant presented his complaint to the Employment Tribunal.

### **The Law**

30. The Law that the Tribunal is concerned with in this case is contained in the Equality Act 2010. Section 136 of that act provides that,

136. Burden of proof

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

31. We reminded ourselves of the guidance contained in the cases of Igen Limited v Wong [2005] IRLR 258 CA and Madarassy v Nomura International Plc [2007] EWCA Civ.33 in relation to the application of this provision.

32. Section 13 of the Equality Act 2010 provides,

13. Direct discrimination

- (1) A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.

33. We are also required on the comparison of cases for the purposes of s.13 to ensure that there is no material difference between the circumstances relating to each of the cases compared.

34. Section 19 of the Equality Act 2010 provides,

19. Indirect discrimination

- (1) A person (A) discriminates against another (B) if A applies to B a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic of B's.
- (2) For the purposes of subsection (1), a provision, criterion or practice is discriminatory in relation to a relevant protected characteristic of B's if-
  - (a) A applies, or would apply, it to persons with whom

B does not share the characteristic,

- (b) it puts, or would put, persons with whom B shares the characteristic at a particular disadvantage when compared with persons with whom B does not share it,
- (c) it puts, or would put, B at that disadvantage, and
- (d) A cannot show it to be a proportionate means of achieving a legitimate aim.

35. It is for the Claimant to show that there has been a group disadvantage. This may be done from statistical or other tangible evidence, or it may be inferred from the fact that there is a particular disadvantage in the individual case.

36. We reminded ourselves that the case of Aesop and Ors. v Home Office is one which advises on the correct pool for consideration when determining whether there is a group disadvantage.

37. It is for the employer to prove that any PCP is justified.

38. Discrimination arising from disability is dealt with in s.15 of the Equality Act 2010 which provides,

15. Discrimination arising from disability

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

39. Section 20 and 21 are concerned with the duty to make reasonable adjustments and provide,

20. Duty to make adjustments

- (1) ...
- (2) The duty comprises the following three requirements.
- (3) The first requirement is a requirement, where a provision, criterion or practice of A's [an employer] 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.

- (4) ...
- (5) The third requirement is a requirement, where a disabled person would, but for the provision of an auxiliary aid, be put at a substantial disadvantage in relation to a relevant matter in comparison with person who are not disabled, to take such steps as it is reasonable to have to take to provide the auxiliary aid.

40. Finally, we have had regard to the provisions relating to harassment which are contained in s.26 of the Equality Act 2010, they provide,

26. Harassment

- (1) A person (A) harasses another (B) if-
  - (a) A engages in unwanted conduct related to a relevant protected characteristic, and
  - (b) the conduct has the purpose of effect of-
    - (i) violating B's dignity, or
    - (ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for B.
- (2) ...
- (3) ...
- (4) In deciding whether conduct has the effect referred to in subsection (1)(b), each of the following must be taken into account-
  - (a) the perception of B [the Claimant];
  - (b) the other circumstances of the case; and
  - (c) whether it is reasonable for the conduct to have that effect.

41. We have sought to apply that Law to the circumstances of this case and we have come to the following conclusions.

**Conclusions**

***Direct disability discrimination***

- 42. Firstly in relation to the claim for direct disability discrimination.
- 43. The Respondent accepts the Claimant has a mental impairment of Dyslexia. The Claimant makes complaints about the recruitment process for the SOM role in a number of ways.
- 44. Firstly, he says allowing the candidates to book in interview dates



convenient to them while assigning the Claimant an interview date without choice, this matter which has been proven by the Claimant. The explanation for the way that was introduced can be found in the statement of Mrs Stopa. In point 26.1, she states that,

“26.1 On this occasion there was only one day available for the interview due to the resource and logistical reasons. However, there were multiple slots available on this day. The only time that we would assign candidates interviews or assessments without them being able to choose and if they had previously said that they needed extra time. In that situation we would allocate a specific slot to ensure the smooth running of the day and to ensure that the candidate received the extra time they needed. This would usually be either the first slot or the last.”

45. There is a clear explanation for why the Claimant would have been allocated a specific slot. The reason for it is to ensure that a candidate that needed extra time would have the extra time allocated by allotting him to the first or the last slot of the session, to allow for the smooth running of the day.
46. In allotting the Claimant the slot on 18 November 2022, the Respondent was not treating the Claimant less favourably. If the mere lack of a choice is said to be less favourable treatment, we are satisfied that it was not a detriment. We come to this conclusion because beyond the mere choice the Claimant has not explained why he was subjected to a detriment in being allocated to a specific slot on 18 November 2022.
47. The Claimant complains that before 18 November 2022, Mrs Stopa refused to look at the Lexxic Assessment Report.
48. The conclusion of the Tribunal is that this complaint is not made out. Mrs Stopa did not refuse to look at the Lexxic Assessment Report. What she said to the Claimant was that she would speak to him on the Monday, in the event that discussion never took place. However, it appears to us that Mrs Stopa is not to blame for that. She made a number of attempts to contact the Claimant. It is not in those circumstances possible to infer that she refused to consider the Report.
49. The Claimant complains that Mrs Stopa refused a request made by the Claimant in an email on or around 2 November 2022, for reasonable adjustments as recommended in the April 2022 Lexxic Assessment to be made at his interview on 18 November 2022. There is no email sent by the Claimant to Mrs Stopa in which he requests any specific adjustments.
50. What the Claimant does is refer to the need to discuss the reasonable adjustments. However, such discussion never takes place before the interview because the Claimant and Mrs Stopa did not have any direct contact. The Claimant could have sent Mrs Stopa an email setting out the adjustments that he required. He did not do so. The Claimant could have sent Mrs Stopa his Report, or at least an abstract of his Report, setting out the sections which he would rely on for the purposes of adjustments at the Assessment Centre. He did not do that.

51. During the course of his evidence, the Claimant sought to rely on the analogy of the patient going to see a Doctor and telling the Doctor the treatment that he needed. We do not consider that is an analogy that works in the context of this case. The circumstances here are very different from that between a Doctor and patient. A patient may well not know what treatment is required, but they would be describing to the Doctor their symptoms. That is not the same as here because what the Claimant would be expected to do is not so much to describe the nature of his disability, but to explain to the Respondent the nature of the adjustments that he needs. This is something that uniquely would be in the knowledge of the Claimant and to the extent that it ought to be in the knowledge of the Respondent, we consider that would probably arise in an obvious case and in such a case it would be unlikely that there would be dispute between employer and employee.
52. Such a situation does not apply here. This was not an obvious case.
53. Before 18 November 2022, in conversation with Mr Snowball, he refused the Claimant's request to receive interview questions in advance of the interview. That is another complaint that the Claimant makes, but it is not a good complaint because in his evidence he accepted that he never made any such request.
54. The Claimant then complains about the meeting on 17 December 2022 when the Claimant asked for feedback. He complains that Mr Snowball told him that he would be a risk to the operation were he to be offered the SOM role.
55. During the course of the discussion about feedback on 17 December 2022, the Claimant was told by Mr Snowball something along the lines which the Claimant refers to. However, the comment was not made in any sense that is derogatory. What was being told to the Claimant was that a person who did not meet the relevant criteria of being appointed to the SOM role would present a risk to the operation. This was not a statement directed at the Claimant specifically, but more in the nature of a general observation.
56. The Tribunal are satisfied that this statement was not said in the way that the Claimant asserts and to the extent that comment is along the lines the Claimant complains about were made, the Claimant was not subjected to a detriment. The Claimant, in any event, was not treated less favourably because the same comments would have been made to a non-disabled person in the same circumstances but for disability.
57. The Claimant complains that on the same occasion he was told that he lacks leadership skills without Mr Snowball providing any justification for his opinion.
58. The Tribunal are satisfied that the comment made by Mr Snowball was not a detriment to the Claimant. It was not a statement that the Claimant lacked leadership skills, but rather providing to the Claimant an explanation during the feedback discussion of an area where the Claimant had not been able to demonstrate in the interview leadership skills. We consider that that is a subtle but important difference. As such the

statement is neither a detriment nor in any event would it be less favourable treatment as the same thing would be said to a non-disabled person in the same circumstances but for disability.

59. In the same meeting the Claimant complains that when he provided a copy of his Lexxic Assessment, Mr Snowball said he did not see any reason for such a lengthy Report and he did not see why the Claimant had to rely on Dyslexia in his job application.
60. The Tribunal note the evidence, which is given by Mr Snowball in this respect, at Section 35.2.3 of his Statement where he says the following,

“In respect of the first point, I do not believe that I would ever say anything like this. The reason for this is because my daughter was diagnosed with severe Dyslexia some years ago and I remember in great detail how we went through a very lengthy and painful process to obtain a Report for her in order for her to be provided with assistance and adjustments needed at school. I therefore categorically refute that I said to Chaudhry, I know first hand the importance of such a Report. In relation to the second point, again I do not believe that I said this, not least because Chaudhry’s application itself was actually very good. What I recall I said to him was that I didn’t see Dyslexia as a problem for him in his application as his written application was very good.”

61. We accept this evidence, we consider it compelling and in the circumstances are unable to accept that the Claimant’s evidence that these comments were made in the way that he suggests is correct.
62. On the basis of our conclusions that we have set out, the Claimant’s complaints of direct discrimination therefore fail.

***Harassment Related to Disability***

63. In respect of the Claimant’s complaints of harassment related to disability, for the same reasons that we have set out, we also conclude that those complaints about harassment fail. They relate to exactly the same matters which we have referred to and for the same reasons the Tribunal does not consider the complaints are made out.

***Discrimination Arising from Disability***

64. For the reasons that we have explained, we have come to the conclusion that the Claimant has not shown that the alleged unfavourable treatment set out in Section 2.1 of the List of Issues has occurred.
65. Further, the Tribunal has considered the matters as set out in 2.2 of the List of Issues and considers that the matters set out in 2.2.2 of the List of Issues is not a matter which is relevant to the scope of matters in this case.
66. Whether the Claimant struggled initially in his current role is not something that resulted in any unfavourable treatment complained of in this case at Section 2.1.

67. In respect of the contention that the Claimant was not able to perform as well as other applicants during the interview process, we note firstly that such is the nature of interview selection exercises involving a number of people competing for a limited number of roles, in itself that is not a surprise or necessarily an indicator of the Claimant's disability being an issue.
68. Secondly, in any event, the Claimant has not shown how in respect of his performance it was that he was affected by his disability. Even if we were to assume that was the case by virtue of the nature of his disability, we could infer some unfavourable treatment arising, the Claimant has not shown that the use of the interview process and the scenario assessment which in at least two respects took matters into account in his interest, i.e. because of his disability by providing him with extra time allocation and prompting him where necessary, the Claimant has not shown that it is not legitimate and proportionate to carry out a recruitment exercise as it did in order to recruit for the senior role of SOM.
69. The Claimant's complaint of discrimination arising from disability therefore fails because we are satisfied that the Respondent has been able to show that it acted proportionately and legitimately in setting up the interview process for the SOM role in the way that it did.

***Indirect Discrimination due to Disability***

70. In respect of indirect discrimination due to disability, the Respondent accepts that the following PCP was applied,
- 70.1. to assess all applicants for the SOM position in accordance with the requirements of the interview process comprising scenario and interview questions.
71. It is also accepted that the PCP was applied to the Claimant. It is accepted that the PCP was applied to persons who do not have Dyslexia. There is, however, no evidence of the PCP putting people who have Dyslexia at a particular disadvantage when compared with people who do not have Dyslexia and being unable to process the information that the interview time allowed. However, if we assume that that is the case and that such group disadvantage does exist, we have not been shown that it was a disadvantage that the Claimant suffered from.
72. However, even if all these things were accepted, in the Claimant's own evidence he accepted that the Respondent's justification was made out. The justification for the PCP is said by the Respondent to be that the role of an SOM is a fast paced role which required the job holder to make instant decisions on a daily basis in determining when to investigate the airport instances of terror or other threats, the role requires the daily management of Security Managers within the Respondent and the decisions that need to be made on a daily basis can be a matter of life and death. It is therefore crucial that the SOM job holder is able to make decisions very quickly and that the recruitment process reflects the requirements of this demanding role.
73. In circumstances where this justification is made out, the Claimant's

complaint that indirect discrimination in our view cannot succeed.

***Reasonable Adjustments***

74. In respect of the Claimant's complaint about reasonable adjustments, the Claimant relies on the PCP as previously stated to assess all applicants for the SOM position in accordance with the requirements of the interview process, comprising scenario and interview questions, he says that the Respondent failed to make adjustments.
75. The PCP must put the Claimant to a substantial disadvantage compared to somebody who did not have a disability. The evidence that the Claimant relied on to support this is the Lexxic Assessment which refers to verbal reasoning skills which the Respondent says are average (page 106 Conclusion and Opinion), reasoning ability generally are average (page 114). The Respondent says that shows there is no substantial disadvantage. The Claimant on the other hand refers to another section of the Report, referring to working memory and processing speed and says that it in fact does show that he has a substantial disadvantage.
76. If we conclude that the Claimant has shown substantial disadvantage, we then have to go on to consider what steps have been taken to address that disadvantage. The Claimant refers to receiving the questions in advance, however, this is not a matter which is referenced as an adjustment in the Report. The Claimant additionally never asked for this adjustment. The Respondent, even if it had read the Report before the interviews on 18 November 2022, could not have concluded that the Claimant would benefit from being given the interview questions in advance.
77. The Claimant in the Hearing sought to rely on the Occupational Health Report that was prepared in June 2022. However, he did not bring it to the attention of Mr Snowball or Mrs Stopa in November 2022. He did not mention it in his Witness Statement. Indeed, in his Witness Statement his complaint appears to be about the lack of an Occupational Health Report.
78. We note, however, that the Occupational Health Report appears to have been prepared as a result directly from the recommendations made in the Lexxic Assessment Report that is suggesting that the Respondent was willing and able to take into account the recommendations made in that Report.
79. The Occupational Health Report was not surprisingly prepared in respect of the Claimant's performance in his role as a PEM. Not for the interview situation. To allow the Claimant to focus on the content of meetings was what the recommendation relating to the disclosure of written documents before meetings, was concerned with. There was no evidence that there were written materials to read at the interview or scenario assessment. Written material would not have alleviated the disadvantages to the Claimant if, as the assessment session appears to have been one which was conducted orally.
80. The Lexxic Assessment Report suggests that the Claimant might have required extra time. However, the Respondent was willing to give the

Claimant this adjustment and as far as the Claimant's evidence was, it was an adjustment that was given. The Respondent says that the Claimant did not, in any event, need the extra time as he answered the questions in the time allowed. Whichever way you look at it there was no failure to provide the Claimant that adjustment.

- 81. The conclusion of the Tribunal is that the assessors were aware of the Claimant's disability. We come to that conclusion because in the ordinary course of things they would have been given a briefing from the Recruitment Team to give them that information. We attach no significance to the fact that it is now difficult for the Witnesses to remember exactly what happened by way of the briefing in 2022.
- 82. In respect of that specific recruitment exercise there is no obvious reason for us to conclude that what is likely to have happened in the ordinary course of events it did not happen simply because people now have no recollection.
- 83. We are able, however, to also rely on the fact that at least two of the Assessors did know that the Claimant had a disability, that is Mr Snowball and Mr Aessa. It is in our view more likely than not that all four Assessors would have known that the Claimant had a disability.
- 84. The Claimant complains about the recommendations in the Lexxic Assessment Report not being considered. To the extent that the Lexxic Report contained recommendations that would have been relevant and applicable at the interview and scenario assessment, they were followed. That is the Claimant was given more time, or at least it was available to him if he needed it.
- 85. The Claimant's claims are therefore not well founded and we dismiss all the complaints.

**Approved by:**

Employment Judge Gumbiti-Zimuto

Date: 24 February 2025

sent to the parties on  
27 February 2025

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For the Tribunal office

**Public access to Employment Tribunal decisions**

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the Recording and Transcription of Hearings, and accompanying Guidance, which can be found here:

<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>