Case Number: 2303098/2023

EMPLOYMENT TRIBUNALS

Claimant: **Ms A Arizie**

Respondent: **Shaw Trust**

Heard at: **London South** **On: 17 to 25 March 2025**

Before: **Employment Judge E Fowell**
Ms H Bharadia
Ms N Beeston

Representation
Claimant: **In person**
Respondent: **Ms Daniella Gilbert of Counsel, instructed by Make UK**

JUDGMENT having been sent to the parties on 31 March 2025 and written reasons having been requested in accordance with Rule 60 of the Employment Tribunals Rules of Procedure, the following reasons are provided:

REASONS

Introduction

These written reasons are provided at the request of the claimant following oral reasons given on the final day of the hearing. As usual, some editing has taken place for clarity and to avoid repetition, also there has been some limited re-ordering of paragraphs, and these written reasons stand as the final version.

By way of background, Ms Arizie worked for the company as a careers advisor. Her employment began in April 2022 and she was dismissed in March 2023, a little under a year later. The company says that she failed her probation period, even though they extended it more than once. Ms Arizie says that they failed to make reasonable adjustments for her various disabilities and so her dismissal was an act of discrimination.

Various types of disability discrimination are relied on. As well as a failure to make reasonable adjustments she says she suffered indirect discrimination, discrimination arising from a disability, harassment and victimisation. (The claim of victimisation is based on her complaints about a lack of reasonable adjustments.)

She also brings claims based on her race or religion, as a Turkish Muslim, after an incident in which she was served ham in a wrap at a training event. Those claims are of harassment and indirect discrimination.

Finally there are claims for breach of contract in relation to notice pay and in relation to outstanding holiday pay.

The breach of contract claim concerns whether she was entitled to one week's notice as she was still in her probation period when she was dismissed, or whether she was entitled to one month's notice by then. However, she was sent a letter before her final probationary review meeting to say that she was on one month's notice and so the company has conceded that issue.

The holiday pay claim concerns the fact that she did not take all her holiday in 2022 but was only allowed to carry over five days to 2023, losing a day and a half in the process.

The issues to be decided were set out in the case management orders made at the preliminary hearing on 06 September 2024, although these were subject to some amendment at this hearing. One change concerned the ham wrap incident. It is referred to as a claim of direct discrimination but the issues are framed as allegations of harassment and on that basis it was agreed that that was the appropriate claim.

The claim of discrimination arising from disability was also amended. The list of issues was based on a draft prepared by the respondent which had become quite convoluted. Fundamentally, a claim of this sort involves unfavourable treatment because of something arising in consequence of Ms Arizie's disability. The something arising is usually the length of a person's sickness absence, or the likelihood of future absences, or poor attendance or performance generally, but there is no mention of any such knock-on effect in the agreed list.

The next question is usually what unfavourable treatment happened as a result. When someone is dismissed, the most obvious example is the dismissal itself, but that was not included in the list either. Instead there is a list of various other things which the company did to all employees, such as requiring them to work from job centre locations and meet various targets. The only item in the current list which is, arguably, an example of unfavourable treatment directed at Ms Arizie, rather than staff in general, is an allegation of excessive absence monitoring and investigation.

Ms Gilbert drew our attention to the confused nature of this claim at the outset of the hearing. She was obviously aware of the likelihood that it might have to be reformulated into something more straightforward and legally coherent. We took time overnight to consider the point, in particular whether we should add to this claim an allegation of dismissal and to correctly identify the "something arising" from disability.

The status and legal effect of a list of issues was considered by the Court of Appeal in **Parekh v London Borough of Brent** 2012 EWCA Civ 1630, CA. There, Lord Justice Mummery explained

> "31. A list of issues is a useful case management tool developed by the tribunal to bring some semblance of order, structure and clarity to proceedings in which the requirements of formal pleadings are minimal. The list is usually the agreed outcome of discussions between the parties or their representatives and the employment judge. If the list of issues is agreed, then that will as a general rule limit the issues at the substantive hearing to those in the list.

That passage was quoted with approval recently by the Court of Appeal (Lord Justice Warby) in **Moustache v Chelsea and Westminster NHS Foundation company** [2025] EWCA Civ 185. Lord Justice Warby also explained at paragraph 3:

> "The starting point is to consider what claims emerge from an objective analysis of the statements of case. A failure by the tribunal to identify and address those claims is liable to amount to a breach of its core duty and hence an error of law. A failure to identify and determine a claim that does not emerge from such an analysis can amount to an error of law but only in rare or exceptional circumstances" …

The essential point therefore is to consider whether a claim of dismissal is something arising from disability was advanced in the original claim form. It is clear that it was. Ms Arizie attached a statement to the claim form [14]. The only disability referred to in this claim form is her dyslexia. It states that she was criticised for her spelling and grammar. Then:

> "Dyslexia slowed me down. To meet my targets I had to work late into the evening. …
>
> "I was dismissed. They said I had not reached my targets."

That therefore sets out a clear statement that

she was relying on her dyslexia;

her dyslexia had an adverse effect on her spelling and grammar and hence on the speed of her work; and

she was dismissed because of the slower speed of her work.

In those circumstances we concluded that it was part of our core duty to include those elements in this claim. Clearly there is a potential for prejudice to the respondent with any last-minute amendment to the claim, but that should not be the case where the only elements being added were clear from the original claim form.

The list of issues sets out no less than six legitimate aims and includes their contractual obligations to the government and the service users, but these seem perfectly appropriate in the context of the decision to dismiss as well.

The claim of discrimination arising from disability is therefore amended to add her dismissal as an act of unfavourable treatment, arising from her dyslexia, with the 'something arising' being her the adverse effect on her spelling and grammar and hence the speed of her work. Otherwise the list of issues is serviceable.

Procedure and evidence

This hearing was changed from a hearing in person to a video hearing on the Friday before it commenced. Unfortunately that email did not reach the respondent and so the respondent's party attended the hearing centre on the first morning. The situation was explained and they departed, to log in at 2 pm.

A video hearing was not ideal from Ms Arizie's point of view either, given that she has impaired vision, but she was able to take part. She has, unfortunately, a number of health conditions and other adjustments were made for her, as set out in the previous case management orders, including more regular breaks.

We heard evidence from Ms Arizie, and on behalf of the company from:

Ms Joanne Lawrence, her line manager, who took the decision to dismiss her;

Ms Samantha Stubbs, Continuous Improvement Manager, who attended the training event at which Ms Arizie took the ham wrap;

Mr Gareth Harris, Restart Head of Service Delivery, who held a grievance hearing this incident;

Ms Michelle Jackson, Head of Diversity and Inclusion, who held the appeal from Mr Harris's conclusions; and

Mr Andrew Moore, Contracts Director, who held the appeal against dismissal.

We also had a statement from Ms Susan Dawson, a friend of Ms Arizie, who was originally her representative. Unfortunately Ms Dawson is in hospital and unable to attend. She was not a witness to any of the events in question but she describes in that statement the regular discussions she had with Ms Arizie about her difficulties at work and the effect they had on her.

A further point concerns the witness statement for Ms Arizie. She provided us with three versions, the last of which runs to 63 pages and was provided on 5 March, 2025 after the mutual exchange of statements. It does not however contain any obvious commentary on the respondent's witness statements and Ms Gilbert was content for her to rely on this full and final version.

There was also a bundle of 1,334 pages. We made clear to the parties that we had not read all of that material, only the documents referred to in the witness statements, or in cross-examination or in their closing submissions.

There were also a number of small disputes about the contents of the bundle, even at this late stage, and we spent the first afternoon considering them. Ms Arizie says that a number of documents have not been disclosed to her at all and that others have not been included in the bundle as she requested. It was difficult

to obtain a clear list of each category of document and we urged the parties to resolve those issues between them. That was largely achieved by the second morning.

One area of disagreement concerned records from Teams chats. As is often the case these days, many of the exchanges between Ms Arizie and her managers were made via Teams by typing in messages. At other times they would have brief video calls via Teams. Teams has the facility to provide an automatic transcript of those conversations but we accept that the company did not routinely record conversations or preserve transcripts in that way except occasionally for training material. Consequently there were no records of various Teams meetings which Ms Arizie was seeking, in particular her probationary review meetings.

There was a transcript of Ms Arizie's final probation review meeting, the meeting on 14 March 2023 which resulted in her dismissal. She recorded it herself, covertly, and had a transcript made. It was not included in the bundle but it was located by the respondent and forwarded to us. In the event it was not referred to.

One document of significance was added however - an earlier version of Ms Arizie probationary review form. The final version was in the bundle but an earlier version, drawn up by Ms Arizie's first line manager, Ms Yeung, was located and forwarded on the first day.

Having considered all that evidence and submissions on each side we make the following findings of fact. Not every point is dealt with, only those necessary to deal with the issues in the list of issues and to support our conclusions. Where other members of staff are mentioned, those who are not witnesses or closely involved in the case, we will generally just give their first name unless there is some particular reason to identify them further.

Findings of Fact

The nature of the role

The company is a registered charity which helps people get back into work. It employs over 3000 people on different contracts. The contract Ms Arizie worked on was for the National Careers Service (NCS), an agency of the DWP, and employed about sixty people. She was part of a team of about 12 careers advisers in south west London.

In many ways, the Shaw Trust was an ideal employer for Ms Arizie. Their business is to help people overcome barriers to employment, and they pride themselves on being inclusive, particularly, in dealing with employees or customers with disabilities. Ms Arizie had been out of work for some time and was on universal credit at the time of her application.

When the post came up she was in fact a participant on a programme called JETS – Job Entry Targeted Support – which was being run by part of the Shaw Trust. The programme was designed to help individuals with special needs and health

conditions find suitable disability-friendly employment. She was then put forward for the post as a Trainee Careers Advisor for the Shaw Trust itself and was successful. She started on 11 April 2022.

There was an initial 3-week training period, which she completed from home. The role involves trying to get the long-term unemployed back to work. There are targets to meet in order for the company to be paid on their contract. The two main metrics are whether there was a 'job outcome' (JO) or a 'learning outcome' (LO) – often abbreviated to JOLO. A learning outcome might be to enrol a customer on an English language course. Ms Arizie explained to us that the customers would often be disengaged or disinterested. They were forced to come in for consultations by the DWP but even so, on average only 62% of those sent an appointment turned up. The consultation would often involve reviewing or drawing up a CV for them, making a record of the discussion and then putting it on the CRM system (Client Relationship Management). It might also involve a discussion about job or training opportunities. The customer would then sign to say that they were happy with the session and that they would carry out the agreed outcomes, and sometimes all that was difficult to complete within the hour.

The process also involved a six-week follow-up call to check that they had done what was agreed. A good deal of the training given to the careers advisers was about the evidence needed to claim a JO or an LO.

In addition to providing that service, the advisers also have to complete a level four qualification in Careers Information, Advice, and Guidance (CIAG). They have a year to do so and time is set aside during the week for the necessary study.

The contract issued to Ms Arizie specified a probation period of six months, with an option to extend at that point; also one month's notice period on completion of the probationary period, with just one week until then; and SSP only in the first six months, increasing to five days per year in the next six months.

Ms Arizie's first line manager was a Ms Wendy Yeung. They had a good relationship and Ms Arizie was full of praise for her and the support that she gave.

Initial difficulties

In May 2022 Ms Arizie started doing her own face to face career advice sessions, working each day from one of a number of job centres in her area. She found the role quite demanding and there was some discussion with Ms Yeung about the possibility of reducing her hours. At that time an employee had to have six months' service to make a flexible working request but the company's approach was that this could be done earlier, as a reasonable adjustment, if it was recommended by Occupational Health.

According to the minutes of Ms Arizie's final probationary review meeting on 14 March 23 [702]

> "… the conversation was I was wondering whether I should do 3 days per week to see how I get on as I found it overwhelming. She [Ms

> Yeung] said shall we apply for it, and I said as we are short staffed and the position I took was full time let's see how I get on."

On that basis we conclude that no flexible working request was made, but Ms Arizie maintained at this hearing that the company refused to allow her to work part-time. It is a revealing episode because it shows something of Ms Arizie's attitude to reasonable adjustments. Her expectation was that the respondent would put in place suitable measures, and even to anticipate what might have been helpful for her.

This inconclusive exchange with Ms Yeung is also relied on as a protected act for the purposes of her claim of victimisation.

Occupational Health report

Over the summer months Ms Arizie was struggling to manage all the requirements of the new role. She was having to travel to different job centres, which was tiring, and she was having to catch up on admin in her own time. She had also recently been diagnosed with various health conditions which she shared with Ms Yeung. Ms Yeung then made a referral to Occupational Health.

The form was completed on 18 August 2022 [236]. Ms Yeung set out the position as follows:

> Asuman currently works 5 days a week but suffers from a number of conditions including:
>
> • Fibromyalgia
>
> • Vertigo
>
> • Osteoporosis
>
> • Polymyalgia rheumatica
>
> • Hyperaesthesia
>
> She previously stopped working in 2019 due to the effect on her body but was only recently diagnosed with the above [i.e. all these conditions] this year. She has to attend medical appointments, dental appointments and physiotherapy. She can complete tasks and travel as normal, but when overdone, it can affect her body immensely – there have been instances where she had to spend a few days recovering, she mentioned it feels like "being run over and not being able to get up."
>
> We have already put in a request for the following:
>
> **Working from home**
>
> - Foot stand for support
>
> - Chair - to support spine (most of Osteoporosis is on the spine)
>
> - slightly bigger bag with push handle to transport equipment to work
>
> - screenblocker (yellow or red for dyslexia)

Working in venue

Asuman is currently working from home 3 [in fact it was 2] days a week where she conducts telephone appointments. On Tuesdays, Wednesdays and Thursdays she delivers face to face appointments from 2 different venues. For these venues, she walks or takes public transport to work (up to 40 minutes in total depending on traffic). I have put her in venues which are closest to home to reduce travel.

I have suggested Access to Work as a form of transport for Asuman and also introduced her to our Employee Assistance Programme

Asuman hasn't taken any sick days off and has recently travelled to Twickenham to cover a venue for a colleague in their absence."

We note that this only contains a passing reference to dyslexia, in the context of the screenblocker being provided. Ms Arizie then had a telephone consultation with an Occupational Health adviser on 2 September [270]. The report stated:

"She reports she works as part of the Southwest team based at Clapham Park Place. Stockwell and Kennington sites are also close by and she is able to walk to some or take the bus to these sites without issue. However, she reports she has been asked to cover sites that are further afield which tire her out and reports one in particular that took her 3.5 hours which wiped her out due to her health conditions.

She has several ongoing chronic health conditions mostly diagnosed in the last few years but reports several years of feeling unwell. Her conditions cause her constant pain, mobility issues, chronic fatigue and can have urgency to void requiring easy access to toilets to avoid accidents.

She has Fibromyalgia (with Polymyalgia rheumatica and hyperaesthesia), Vertigo, and Osteoporosis with narrowing of her spine which makes her prone to falls.

She reports she is always in constant pain and has had fractures in elbows but has been unable to start medication for osteoporosis as she has dental issues that she has been advised to sort out first.

She has sleep disturbances due to pain and wakes up with stiffness and takes time to be able to manoeuvre off her bed and walks really slowly and taking time for her body to adjust.

She is unable to run for the bus and sometimes unable to get a seat on the bus which affects her energy reserves.

She reports at some centres there is no provision of access to kitchen or toilets which has happened causing her accidents and stress. She has had interventions for her bladder issues with little effect and management of this is a major concern for her when working at different sites.

She also disclosed she has dyslexia which slows her down when writing reports and completing paperwork which is part of her role requirement. [Emphasis added]

She takes various medications to manage her condition with some effect but continues to have active symptoms daily and she paces herself to manage her health.

This was followed by five recommendations, based on what the adviser had been told. We have numbered them for convenience but the text is unaltered:

1. I would recommend an external DSE (Display Screen Equipment) risk assessment from an ergonomist for her home and for when she attends sites. BHSF can source this for you, please contact our administration team.
2. She would also benefit from having a bag to carry her equipment such as her laptop.
3. ***Her dyslexia affect her speed on completing paperwork and she disclosed that work has set targets and usually sees up to 6 people daily with other referrals to complete within certain timeframes which she struggles to do within office hours due to her dyslexia. If operationally possible, it would be beneficial for symptom management to allow her more time to complete paperwork due to her dyslexia.*** [Emphasis added]
4. It would also be helpful for sites to have provision for easy access to amenities when she visits to avoid situations that cause her discomfort or embarrassment.
5. It would also be helpful to limit her site visits to nearby sites until her Access to work scheme is in place which hopefully will be able to provide transport for her to access work."

The adjustment for her dyslexia is the main one for our purposes, although we note that it is not in fact correct to say that the careers advisers were seeing six people daily. Given the level of absenteeism, it was more likely to be four in practice, with two empty slots.

Action taken on Occupational Health report

This report arrived at about the time that Ms Arizie's line management changed from Ms Yeung to Ms Joanne Lawrence. However, Ms Yeung put in place the recommendations. Firstly, she arranged the DSE assessment for Ms Arizie at her home. It was not carried out by an outside ergonomist, but by one of the company's own specialists. Secondly, the bag was obtained, and indeed a replacement was provided later on when it was broken. The third recommendation about more time for completing paperwork did not lead to any specific measure, a point we will return to. The fourth point about limiting site visits was already being done by Ms Yeung and the recommendation was

simply to continue this, with her working at the three sites nearest to her home. The final point concerned easy access to toilet facilities and more time for paperwork. Clearly everyone should have easy access to toilet facilities. The problem was that she only had a visitors' pass when she was working at Clapham, and this only allowed her access to some parts of the building. She then had to get the security guards to let her in to the rest of the building. That needed to be addressed by the site manager. Ms Arizie spoke to Ms Yeung about it and it was, as far as we are aware, then resolved.

That final recommendation also mentions the Access to Work scheme. Ms Arizie never made the application because, she stated, it was a complex and time-consuming process and she did not have the time. As far as we can see she did not ask for help with this either. Nevertheless, she describes this lack of help in her witness statement [§58] as something that demonstrates the respondent's "complete disregard for my needs".

First probationary review

According to her contract, Ms Arizie should have had a probationary review meeting after 3 months. That would have fallen in July. For some reason, it did not happen. The 6 month probationary review meeting would then have been due in October. Perhaps aware of this, Ms Yeung took steps to complete the 3 month probationary review meeting on 5 September. It was however a review of her performance over the first 3 months post-training, i.e. in May, June and July. As mentioned already, we now have the draft probationary review form which Ms Yeung completed.

It sets out the various measures used, the job outcomes and learning outcomes or JOLOs. It also refers to CMOs, which are 'career management outcomes'. These involve providing information, advice, and guidance. To claim a CMO the adviser has to complete, or get the customer to complete at least two 'career management activities', such as getting the person to update their CV or doing it with them or making an application for training or for a job or getting them to use online resources. So it was evidence of activities which might ultimately lead to a job or learning outcome.

There is also mention of CSOs or 'customer satisfaction outcomes'. We were not addressed on the intricacies of each type of target, but this seems to relate to getting a customer satisfaction action plan (CSAP) signed by the customer. Again, there are specific requirements about recording the information on the CRM system in order to evidence completion of those steps so that the respondent can claim payment. These preliminary steps, CSOs and CMOs, seem to be grouped together for the targets so we will refer to them simply as CMOs.

The form records that in May, having just finished her training, Ms Arizie had a target of 26 CMOs and had completed 17. No learning outcomes or job outcomes had been achieved at that time, which is unsurprising given the 6 week lead time for evidence. In June, she achieved 100% of her target for CMOs, 46 out

of 46. But again, there were no learning outcomes or job outcomes. In July, she achieved 92% percent of her CMOs, 56 out of 61. There was one learning opportunity, against a target of 15, and one job opportunity, against a target of 7. So, we see that the targets were increasing from 26 CMOs in May to 46 in June, then 61 in July.

The comments from Ms Yeung were all quite positive. Under the heading Attendance she stated

> "05/09/2022 No concerns, however Asuman has been working even when she hasn't been feeling too well. It is important that she is mindful of her condition and to take breaks and time off when necessary to avoid burnout or have her condition deteriorate."

That seems to be a reference to Fibromyalgia, which causes fatigue. It goes on:

> "Asuman is confident in delivering full BAU sessions, completing both CSO and CMO in one appointment. She feels she is a bit limited in terms of the activities she can do with some customers but has utilised the existing resources well.
>
> She has previously completed 6 appointments in one day and generally needs 4 appointments per day to hit target.
>
> She is also working live more, receiving acceptances soon after the session. In August, she ended the month with outstanding claims, she managed to claim them for September but she fell short for August. She has experienced the difficulties in chasing for acceptances and will spend a few extra minutes at the end of face to face delivery to gain them.
>
> Going forward I would like to see Asuman work fully live and receive acceptances whilst the customer is still there with her."

This shows that everything seemed to be going reasonably well and that Ms Arizie was on track. She was able to cope with up to six consultations a day and was keeping up with the targets, or nearly doing so, as they grew. There is some mention here of needing extra time to complete the paperwork, but nothing significant. Again, no specific steps were taken to address this but neither do they seem to have been requested.

Ham Wrap Incident

On 21 September Ms Arizie attended a staff training event for the launch of a new NCS contract. The lead speaker was Ms Jenny Woodrow (Contract Director and Mobilisation for NCS). Andrew Moore, Senior Operations Manager, also spoke briefly and another attendee was Ms Stubbs, from whom we also heard evidence.

The presentation outlined the new contractual and working arrangements. One of the changes was to the training. As well as completing the level 4 CIAG qualification in a year, advisers also had to have done the level 3 qualification

which itself was about 62 hours work. There were also new, detailed rules about evidencing all of CMOs and other measures. Ms Arizie may have been unsettled by all this, since she was not coping very well at the time. She also felt it was unfair that as a trainee she was paid less than the qualified advisers, but had all this training to do, so she raised questions from the floor about her own salary and situation.

They broke for lunch and Ms Arizie says that she and a friend then removed the cling film from a plate of wraps which was marked halal, took a bite, and found that it had pork in it. We accept that she did eat some pork and that this was very upsetting for her. It is not clear whether the mistake was on her part or on the part of the caterers, but she complained immediately to one of the catering staff.

Ms Stubbs gave evidence that she could hear Ms Arizie's voice raised from across the room, despite 50 or 60 people chatting over lunch. She looked over and could see Ms Arizie accosting the member of staff. She described it as shouting although she accepted that she could not hear any of the words spoken. She also noticed that the catering manager seemed upset when she walked away past Ms Stubbs.

This incident was later investigated by Mr Harris and we will describe that investigation shortly. It does however appear to be very confrontational behaviour on the part of Ms Arizie. She accepts that she was upset at the time. In fact, in her first witness statement, she said [§48]:

> "Following the deeply distressing and demoralising training day, I experienced a significant decline in my mental, physical, and emotional well-being. I was left feeling deeply depressed and utterly let down. I felt completely unsupported during the event."

It does indeed seem to be the case that from then on Ms Arizie's morale and performance deteriorated, and she became significantly more negative about the company.

Six month probationary review meeting

This became apparent at the six month probationary review stage. That meeting was on 3 October, by Teams – in fact all of the meetings appear to have been held by Teams – and was conducted by Ms Yeung, with Ms Lawrence in attendance. Ms Lawrence was taking over as Ms Arizie's line manager.

The process involved using and extending the same form to include figures from August and September. For these months, Ms Arizie now had a full target of 76 CMOs, 10 LOs and 5 JOs. In August she completed 82% of this CMO target, reducing to 74% in September. There was one learning outcome in August and two in September, but no job outcomes in either month, so in fact the one job outcome in July was the only one ever achieved.

The form also noted that Ms Arizie had made no progress on her level 4 qualification, which required regular submissions of work or units. It stated:

> "Asuman has made no progress with her Level 4. In the last meeting with her assessor, they went through how to upload her work onto the system, she also showed us written notes she had made, but had not typed them up yet. We spoke about the importance of having digital notes and submitting work on time, even if it's not fully finished to ensure her assessor can give her pointers. For the new contract, Asuman will need to complete the Level 3 IAG qualification by the given deadline in order to deliver."

Then on Conduct / Behaviour:

> "At the National Careers Service Launch (Weds 21/09/2022), Asuman received a number of complaints from senior management due to her conduct and behaviour. …"

Some of these seem to relate to her earlier behaviour including raising questions from the floor during the presentation. The form continued:

> "In addition, we also addressed the catering incident where a ham sandwich/wrap was placed (and consumed) on the halal tray. The catering assistant explained her side of the story and apologised, but Asuman felt the apology wasn't sincere as she kept emphasising that she prepared the tray herself. …
>
> We highlighted to Asuman that she did have valid points and questions, but needed to take more care when making statements or asking questions as they can come across "aggressive". This is particularly important at events/launch days as senior management were present and colleagues meeting her for the first time would have this as their first impression, whereas people who know her better i.e. South West team, know that that's her way of communicating."

They did not have time to complete the probationary review meeting that day and resumed a few days later on 7 October. The draft form is signed by Ms Yeung on 10 October, indicating that she completed it afterwards, but it still has some comments in red indicating that it needed further work. On the form, the relevant box was ticked for *extending* her probation period rather than passing it. It is accepted by the respondent that the form itself was not sent to Ms Arizie at the time and there is an issue about whether she was even told the outcome at the time. Ms Arizie was firmly of the view that she was not told, and we think it is likely that she would have remembered. Ms Lawrence was just an observer of the meeting and from her account the position was unclear, so we accept that Ms Arizie was not told. The outcome of the meeting would therefore have been inconclusive from Ms Arizie's point of view, but she was concerned to hear that complaints had been made about her following the training event.

Fall at home

On 24 October, Ms Arizie was working from home and fell on the stairs. (The occupational health report had noted that she was prone to falls.) It is not clear how serious it was but she left a message with a colleague about it. That prompted an email from Ms Lawrence to her at 14.08 [398]

> "Afternoon Asuman,
>
> I hope you are feeling better as you have previously mentioned you have had a fall due to your vertigo and hurt your arm, which the doctor has stated that they are not sure if it's broken. I hope you have managed to get to the hospital to get this x-rayed as you mentioned you had to leave it a few days.
>
> Just to reiterate our call this morning, you called me at 10:30am, this morning to inform me that you were off sick. I informed that you needed to call by 8:30 am on each day that you are off sick and that you were told this by Lisa on Friday 21st October.
>
> I have requested that you make me aware if you are going to be off sick tomorrow 25th October by 4pm today 24th October as you are meant to be in a venue, and I will need to arrange cover.
>
> I have sent you a text message responding to your question wanting to know how many days off sick you can have without a fit note. The answer to this is 1 week (7 days including weekends) so you would need to return to the business Friday 28th October or provide a fit note. I have also advised you in the text message that as you are still on probation you only qualify for SSP (statutory sick pay) and will not be paid for your working days off sick during probation."

We have set that out to show that the sickness absence reporting arrangements and sick pay arrangements were made clear to Ms Arizie at that stage, if not earlier. The request that Ms Arizie let Ms Lawrence know by 4 pm if she was going to be in the following day seems to us a reasonable one, but she did not follow it. At 1734 Ms Lawrence emailed again [400]:

> "Afternoon Asuman,
>
> I hope you are feeling better.
>
> I have not heard from you concerning whether you are going to be off sick tomorrow 25th October. I did request this morning on your call at 10:30 that you let me know by 4pm as if you are not in, I would need to arrange cover.
>
> As I have not heard from you, I have decided to change the appointments to telephone just in case as I cannot let the venue down last minute."

This lack of response from Ms Arizie was already noticeable. It seems that they did speak however as Ms Lawrence emailed again on 27 October [402] as follows:

> "Afternoon Asuman,
>
> Thankyou for your time this morning. I hope you are feeling better.
>
> In our discussion, you mentioned that you may need 3 weeks annual leave in November to visit your mum."

She then set out the sets out the company policy on such leave requests, which involves the request being submitted in writing, that as much notice as possible should be given, and that for annual leave of more than a week at least twenty one days notice was required. For leave of more than two weeks' duration, at least twelve weeks' notice should be given and needed approval from the Head of Service, i.e. someone more senior than Ms Lawrence. But the key requirement was that it be made in writing. The email also went on:

> "After speaking with you this week you mentioned that you were feeling very overwhelmed. I have below put the contact details of our wellbeing team who are available to support you."

All this seems perfectly appropriate and helpful, but Ms Arizie did not put her holiday request in writing. She told us that she was too busy and that it was an unreasonable demand given her dyslexia. We do not find that plausible given the amount of paperwork she has produced in the course of this hearing and on other occasions at the time.

1 November meetings

Ms Arizie returned to work on 1 November. She had a return to work meeting with Ms Lawrence, again by Teams, and Ms Lawrence completed the required form. Ms Arizie told her that the cause of the fall had been her vertigo, which in turn was caused or exacerbated by her stress. She had consulted a doctor and been told to rest.

The meeting then moved into a discussion of performance. At some point the meeting was joined by Ms Lawrence's manager, Ms Shilpa Vaghela, as part of some supervision that Ms Lawrence needed for a further management qualification.

Ms Arizie was not given any warning about this. We conclude that by this time Ms Lawrence was aware that the outcome of the probationary review meeting had not been properly communicated to Ms Arizie and that this needed to be resolved. That is in fact clear because she used the existing probationary review form, and expanded on it in various ways [250]. It stated:

> "**Are there any problems/concerns?**
>
> Asuman has not achieved her targets since starting, she has not been able to obtain live acceptances during her sessions due to overrunning appointments. Even after setting an action to clear outstanding claims, Asuman did not action October claims by the 31st Oct. 10 still outstanding

Asuman has had several 1-1s meetings with her to go through her outstanding claims, helped her prioritise CSAPs and checked voice recording confirmations.

Jessica Tang has also provided 1-1 support to Asuman for JOLO tracking, they covered JOLO tracking notes, 90 days JLO tracking dashboard and an example JOLO tracking call. Jessica also provided guides resources. In addition to this, I have also talked Asuman through the JOLO resource on my OneNote which she has access to.

Since Asuman starting with the South team she has received support from LA – Lisa White and Joanne Lawrence AM in October following a concern on performance numbers.

Asuman still is not following process."

The tone of all this is generally negative, and contrasts with the position at the three month stage. It also set out the figures for October, which were very poor. She achieved only 12% of her CMO target, for example. One favourable point was that Ms Lawrence had decided not to include the figures for October as part of her probationary assessment because it was not a representative month, as she had been off sick for part of it. However, she noted that there had still not been any progress with the level 4 qualification and set some surprisingly stiff objectives for Ms Arizie to pass her probation period. The main ones were:

"Expectations and objectives for probation:

Achieve 100% CMO targets (72 per month: 65PG, 9NPG)

Achieve 100% JOLO targets (22 per month: 16LO, 6JO)

Achieve 60% of Level 4 CIAG qualification by 31/12/2022

Complete the Level 3 IAG qualification by 2/11/2022

No further complaints to be received"

Hence, the deadline for the level 3 work was the next day, but Ms Arizie said she had done it and it was ready to send over. The requirement to meet 100% of her target for JOs and LOs does seem to us unrealistic however. In fact, if applied strictly, it doomed Ms Arizie to failure. She had not been close to achieving it, and in fact that is true of the team as a whole. In October they collectively achieved 21 JOs against a target of 84 - 25%. No one achieved 100%. The team also achieved on 29 learning outcomes, against a cumulative target of 185. So, it must also have been obvious to Ms Lawrence, and to Ms Arizie, that these new targets were not achievable. This time the form was sent to Ms Arizie. The covering email [413] also told her that her probation period would end on 31 December.

November

Over the next few weeks there were further exchanges about equipment and modifications for Ms Arizie. A special chair arrived and was sent to her home

address. Her computer had a fault and was sorted out. She had IT support to get dictation working in Word. And she was given the details of a one-day additional training course in CRM, CSAP and Compliance, although it does not appear that she attended. [435]

On 11 November a letter arrived [439] informing Ms Arizie of a variation of her contract. It seems to have been sent in error, on the assumption that she had passed her probation period, because her role changed to Careers Advisor and her notice period increased to one month. It is on the basis of this letter that the respondent, properly, conceded the breach of contract claim.

The team as a whole continued to have an underwhelming performance. On 18 November Ms Lawrence sent out a routine email to all of the advisers to advise them of heir progress [450]. They had achieved 59% of their CMO target for the month, which seems about right for that stage of the month. Ms Arizie was at 39%, with zero LOs or JOs. Most of the team were in the same position. Of the 16 job outcomes achieved, 11 had been done by Esther and Claire and only two others had any at all, out of a team of 15.

The weekly meetings with Ms Arizie continued. On 23rd Ms Lawrence emailed her [453] to say:

> "Hi Asuman,
>
> I have been informed that you have still not submitted your Unit 3 for level 4. The original deadline for this to be submitted was 07/11/2022, after our discussion on 11/11/22 we set a new deadline to submit unit 3 by end of the day on 11/11/2022 which has still not been completed. …
>
> Please can you respond to this email by 12pm 24/11/2022."

Then again, after a meeting on 24 November [455].

> "Level 4 – You advised me that you have completed unit 3 and it is now ready for submission and that you have also done 2 other units but will need to request Rachel Lucas you assessor to set these as task so you can submit. I have advised you to contact her."

That email also records the ongoing discussions about her leave request, which she had still not put it in writing:

> "You advised again that you are hoping to take all your annual leave in December, which is 18 days. I have requested again that you send me email regarding the annual leave you are requesting in December as this will need to be approved by senior management as over 10 days and will be a special request. We did discuss the leave procedures that was sent to you by email on 27/10/2022 (please see below)"

Again, she reiterated the policy, which in fact was a local or London arrangement. The national Sickness Absence Procedure does not specify that a written request is needed but it does refer to forwarding the request, and the mechanism was to submit the requests on the HR Platform, Business World.

Ms Arizie had not done so at any point and even after this email did not make such a request. Her explanation to us was essentially, "why should she?" as the policy did not say so, but that does not explain why she ignored such a reasonable request.

Also that day Ms Lawrence sent out a new model diary template to the team [457]. It was to apply from 3 January and showed that appointments would start at 10 am, with Tuesday mornings given over to CPD or level four qualification work. Otherwise each morning had three hourly appointments and there would be two in the afternoon, apart from Monday which had three. On the other days the last half hour was for JLO tracking. There was a half an hour for lunch at 1 pm each day and a further half an hour for next day reminder calls, i.e. calling people to make sure that they came in.

Ms Lawrence emailed Ms Arizie on 30 November [462] after a weekly meeting the previous week. She noted that Ms Arizie had still not completed her unit 3 work for level 4 and gave her a further reminder about the holiday process.

December

There is a similar email the next day, 1 December, [470] after a discussion they had on 29th, which notes:

> Responding to emails – we spoke about setting up your emails so that you are prioritising emails sent as you said you are feeling overwhelmed by the number of emails you are receiving. I have explained the importance of reading the emails and that important updates/deadlines are being missed.

One of the allegations of harassment is as follows:

> 6.1.4 On 29 November 2022 Joanne Lawrence criticise the claimant by saying "why bother applying for such a job knowing what the job is involved and if you are not able to read, respond and prioritise the emails as arrives";

This allegation relates to that discussion. It is difficult to resolve since it is one person's word against another, although in fact, it was not put to Ms Lawrence in her evidence and we take the view that this is an indication of the very negative mindset that Ms Arizie had fallen into at that time. There was clearly some discussion about emails, but it is a very unlikely and unsympathetic remark for an otherwise conscientious manager to make. We are not satisfied on balance that any such statement was made, or made in that way.

The email goes on:

> "Colour screen for laptop. Received the chair, footrest, ink, and paper. You are still waiting for a new bag and the old faulty bag to be collected. And laminated documents. Annual leave still not requested."

That does seem to have prompted a written holiday request. It was made on 2 December [472]. Ms Vaghela, who needed to approve such a request, emailed her back to say:

> "Thank you for your time today
>
> Just to clarify what was discussed on our call this evening You have requested leave from the 7th Dec and return to work on the 16th January which will mean the following –
>
> You can only carry 5 days forward and you have 6.5 days outstanding – which will mean you will lose 1.5 days of this years entitlement.

So, this was a request for about five weeks' leave, to start almost immediately. Because it was made so late, there was not time to take all of her outstanding leave in that holiday year, so Ms Vaghela was warning her in this email that she would be losing some. She asked her to confirm by 4pm that day that she wanted to go ahead with the request. Again, this was perfectly reasonable on her part.

Another allegation of harassment concerns this exchange. It states

> 6.1.5 On 02 December 2022 … Shilpa Vaghela ridicule her disabilities by saying "Ohw!.. what's that about? are you a baby? stop crying! you know how it goes "no email means no response and no records"; if you want something done you need to write an e-mail with deadlines".

Again this is one person's word against the others, and again we are not satisfied on balance that any such thing was said, for the reasons previously given. It is perhaps another example of Ms Arizie misrepresenting what was said given her negative mindset or mental health at the time.

Second sickness absence

The upshot was that nothing had been agreed about the holiday request, which was to start the following Monday, 5 December. Over the weekend however, Ms Arizie fell ill. She had severe stomach pain and called her GP. He or she advised her that if the pain becomes very severe, she should visit A&E. The pain did get worse and on Saturday she visited A&E and then on Sunday she was admitted to hospital.

That is where she was on the Monday morning. As before, she did not contact Ms Lawrence to explain her situation, instead she contacted a colleague to pass the message on. Ms Lawrence then rang her to see how she was. She also texted that evening [786] to ask how she was. The next text from her was on Wednesday morning to say that she would give her a call later that day and hoped she was ok. Ms Arizie did not reply.

Ms Lawrence then tried to call her several times that day but each time it went through to voicemail. By the evening she was getting concerned and began to call her family members. She had Ms Arizie's next of kin details on file. Ms Arizie had listed her two adult sons and her estranged husband. It is not clear

whether they were estranged when the employment began but he was still on the list. Ms Lawrence called each of them in turn. Each time, the call went through to voicemail, though one of the sons called back, and Ms Lawrence then emailed Ms Arizie that evening [478] as follows:

> Hi Asuman
>
> I hope you are well and have received this email, I was concerned as I have not heard from you today, and have tried to call a few times, left voicemails, and sent you a text message on your personal phone, I hope you have received these. As I have not heard back from you, I was still concerned so called your next of kins as listed on Business World. I spoke to your Son Jesse who explained that you are still in hospital having tests. Have they been able to diagnose the cause of the pain was it the gall bladder or acid reflux that you mentioned on Monday? I have asked your son to let you know I had called to check you are ok and have asked him to pass a message onto you to contact me if possible. In the event you are not able to contact me please can you ask someone to contact me to let me know that you are ok on 07901271331 or email me on Joanne.lawrence@prospects.co.uk.
>
> Don't forget our wellbeing team is available if you require further support. wellbeing@shaw-trust.org.uk
>
> I hope to hear from you tomorrow, if not I will give you a call in the morning. Please take care of yourself and let me know if there is anything I can do to help.

Ms Arizie replied the following day [477] at 1226:

> Dear Joanne
>
> Thank you for trying to call me yesterday (07/12/22 and today (08/12/22) . I am in pain and having to sleep a lot. I am not fit enough to talk to you or anyone at present. When I am well enough I will return your call. please note that this period of absence should be counted as sickness (in hospital).
>
> I appreciate your concerns that you're trying to contact me but be assured that I am in the right place to get all the professional help and support I need. In the meantime I find your persistent phone calls, text messages, voicemails and emails very intrusive while I am sick in hospital and I need to be left to recover quietly. Please stop contacting me as I will contact you when I am well enough to talk.

That was the first indication that Ms Arizie felt that the contact was intrusive and in fact the first communication that she initiated. Ms Lawrence replied [477] to say:

> Afternoon Asuman,

> Thankyou for your email. I was contacting you as I was concerned, thank you for letting me know you are still in hospital and getting the treatment you need.
>
> From your email I will take that you are self-certifying for the 7 days which will end on Sunday 11th December 2022 and will not contact you in this time, please give me a call on Monday 12th December 2022 to discuss your next steps.
>
> Please take care of yourself and let me know if there is anything I can do to help."

All that seems perfectly reasonable contact from a concerned line manager. Ms Arizie must have been discharged later that day as she also saw her GP, who gave her a fit note [1035] referring to:

> "Epigastric pain – ongoing management and investigation at King's College Hospital. Stress"

Despite being at home from then on, Ms Arizie did not keep Ms Lawrence informed about her situation, or even tell her that she was out of hospital. Nor did she call the following Monday as requested. She emailed later that day [476] to say

> Hi Joanne,
>
> Thank you for your email on 07th December 22 and today 12th December 22. Further to your emails, I am writing to letting you know that currently I am not be able to call or be able to pick up your calls. and as I said my earlier emails/ phone calls, I am in pain and having to sleep a lot.
>
> Furthermore, I have also found myself very occupied and overwhelmed with the preparations for my upcoming hospital procedures..

The message was clear that she did not want to be contacted. Her next message was the following Sunday, to say that she had consultants appointments coming up for serious gastric issues and thyroid disease. She remained signed off sick until 20 February 2023. Throughout this time she was in receipt of SSP only. Her various fit notes during that period record her absences as follows:

[1036] 3 January, Abdominal pain / gastritis

[1037] 12 January, Abdominal pain

[1038] 25 January, Stress and anxiety.

Grievances

Fairly early on in her sickness absence, on 22 December 2022, Ms Arizie submitted a grievance about the ham wrap incident [508]:

> "On 05th October [in fact 7 October] I had a continuation of a probation review meeting with my managers, Wendy and Joanne, together. I was surprised to be told that Senior Management had complained about my conduct and causing an incident at the venue and that they were not

> happy with my attitude or the way I spoke to the catering staff. I was described as being aggressive. Senior management accused me of starting the incident. Apparently, they had witnessed it, but their names were not revealed to me. I questioned Joanne and Wendy about the details of the complaint about my behaviour and was told that the catering company had contacted Shaw Trust and said that they did not want to provide catering for Shaw Trust again due to my behaviour regarding [the] incident. I was not asked to explain what had happened on the day nor offered any empathy or support with what I regarded as racial harassment.
>
> I have taken the advice of a very experienced anti racism worker. I will now assert that these two women probably conspired to put pork on the Halal tray and were motivated by racism."

This too is revealing about Ms Arizie's state of mind at the time. She was ready and willing to make accusations of hostile behaviour against others without any objective basis for that view. Anyone might accept that the caterers were at fault in allowing this situation to arise, although even that is not clear, but there is no real basis to conclude that they would attempt to make her eat pork in this way. They would not know who she was, it would be very damaging for their business and it would be an extremely remote chance that by inserting pork into some items that Ms Arizie, or another Muslim, would be the one to taste them. The allegation strikes us as extreme and her willingness to make such an extreme allegation supports our conclusions about whether the other allegation of harassment, such as calling her a baby, were untrue.

On the same day she raised a separate grievance about what she regarded as excessive contact by Ms Lawrence during her absence. Both complaints were passed to Mr Gareth Harris to resolve. Since she was off sick, and complaining about being contacted, he did not contact her until 20 January 23 to offer her a meeting if she felt able. Nothing then happened till she returned from work, on 20 February.

Return to work

She had a return to work meeting that day with Ms Lawrence [582]. Despite the grievance against Ms Lawrence it seems to have been perfectly cordial. Ms Arizie emphasised the effects of her dyslexia, particularly given the new contract arrangements. Ms Lawrence noted that her GP had recommended on a recent fit note that she would benefit from extra time to complete the consultations, with proportionally reduced daily targets. As a result, Ms Lawrence agreed that for March should would have 1 hour 30 mins for each appointment, also reduced targets, and could spend two mornings a week on her level 4 qualification work. Ms Lawrence also agreed that she could work from home three days a week. All these steps were temporary adjustments to help her back to work and up to speed.

Steps were then taken to give Ms Arizie longer appointment times. We were shown some daily diaries for the subsequent period, showing that she was allowed 1 hour 15 minutes [e.g. 805] so it does not seem that the 1 hour 30 minute proposal was followed through. Ms Arizie herself accepted that an hour and a half was more than enough so it may be that it was agreed that an hour and a quarter would do. This was not explored in the evidence.

A further allegation of harassment is that on 23 February 2023 Ms Lawrence ridiculed Ms Arizie by saying "now you can print everything in your house with yellow paper, laminate it and hang around now that I have ordered some laminating pouches and yellow paper for you".

Once again, this was not put to Ms Lawrence and although there may well have been some discussion about the laminated documents and yellow paper, we do not accept that any such sarcasm was used.

Grievance process

The grievance process then got underway and Mr Harris arranged a grievance investigation meeting with Ms Arizie on 24 February. He obtained her side of the story with regards to the ham wrap incident and in the contact while off sick. After that he interviewed Ms Lawrence about the contact. Ms Lawrence had also been involved with Ms Yeung in raising the ham wrap incident in her probationary review meeting, so Ms Yeung was also interviewed. Finally, to find out what happened at the training day, he interviewed two of Ms Arizie colleagues, Sonia and Malachi.

His grievance investigation report is at pages 653. Summarising his conclusions::

There was no evidence to support the allegation that non-Halal food was inserted onto a tray marked Vegetarian (or Halal) as a deliberate attempt to harass or upset particular individuals of Muslim faith, including Ms Arizie. It was not clear what label was on the relevant food tray. (Malachi had stated to the best of his knowledge the tray did not have a label or was labelled incorrectly, Sonia stated the tray was labelled vegetarian and Asuman stated the tray was labelled Halal.)

The tray of sandwiches were fully wrapped in clingfilm when Ms Arizie opened it.

On balance, the ham wrap was put on the wrong food tray in error.

There was a letter of complaint from the catering company about her conduct that day, although he had not seen it.

The contact during her sickness absence could have been adjusted so that she did not have to contact Ms Lawrence every day, but Ms Lawrence had not acted inappropriately.

Suffice to say that we have no reason to disagree with any of those conclusions. That outcome letter was sent to her on 13 March 23, the day before her final meeting, and so we come to that final meeting.

Final probationary review meeting

Clearly, the question of Ms Arizie's probation still had to be resolved and her employment had continued long after the probation period ended on 31 December 2022. Ms Lawrence invited her on 27 February 2023 [587] to a probation review meeting scheduled for 6 March 2023. The email attached a letter that set out the reasons for the probation review, these included concerns about her overall performance, conduct, and her pre-employment and recruitment documents. The letter warned her that one outcome to the meeting could be dismissal. The meeting was then put back until the grievance was resolved and then rearranged for 14 March 2023.

The concern about her recruitment documents was about her CV [1187] which gave her most recent experience as follows:

> "DWP Job Centre Plus Stockwell May 2018 to January 2020
>
> Freelance Customer Service and Community engagement officer"

That version of her CV appears to have been updated. The company's position, as stated by Ms Lawrence in that meeting [704], is that her CV showed that she was in that position from May 2018 to the present or at least until she started work for them. However, it emerged that that was not correct. In her application form she explained that she was on the JETS programme. As such, she was unemployed and claiming benefits at the time, so the two statements were inconsistent.

There was also now a separate conduct concern. It was raised by a colleague, Bibiana, and concerned an incident a few days earlier on 10 March. The email arrived on 14 March, the day of the probationary review meeting but it appears to be entirely genuine so the timing is coincidental.

The email complaint is a long one, but essentially, Bibiana was working in Kennington that day and Ms Arizie was annoyed to find her there, apparently covering her work. Bibiana describes her as bad-mouthing the management, interrupting her consultation with a customer, saying she wanted to observe it, then quizzed her about where she was going to be working. She went on [712]:

> Asuman made it very clear to me and others on the 2nd floor because she was talking very loud and the room was very quiet, that she found the targets ridiculous and it keeps going up. … She informed me that Management has treated her very unfairly, she has not even has been signed off properly with her probation and her return to work was not done properly either! She said plenty in relations to that, which was very uncomfortable to hear and at the end she asked when my end of probation was due. I said end of April. I gathered that she was trying to make me feel intimidated and make me nervous, so I kept calm and let it go over my head.

She describes Ms Arizie as ranting and that the ranting went on into the afternoon. In her evidence at this hearing Ms Arizie accepted that she had been frustrated to find that Bibiana had been given her diary that day.

The performance figures and the previous targets were also discussed in that meeting and the figures were updated to include her performance in November [695]. That month she achieved only 57% of her CMOs (41 / 72) and no LOs or JOs. She had still not submitted any level 4 work although she had, belatedly, completed level 3.

All these points were discussed at the meeting. The outcome was that she did not pass her probation period and was dismissed. The reasons were set out in a letter dated 15 March 2023 [716]. It recorded the concerns over her CV and recent conduct and reviewed the reasonable adjustments that had been made. On the subject of extra time, it stated:

> Your GP also recommended a reduction of your targets which was agreed and implemented for you. Prior to your sickness absence a reduction in targets was not recommended or requested, only for more time to be allotted for completion of admin paperwork. … Therefore, it is my understanding that Shaw Trust has fulfilled our obligation to provide any reasonable adjustments required, to the best of our ability.

The implication is that Ms Lawrence felt that more time had been allowed, but that is not clear to us.

Ms Arizie raised an appeal against this decision, which was considered by Mr Moore at a meeting on 12 April 2023. Mr Moore provided his outcome letter on 25 May, rejecting the appeal. It was a review of the decision taken by Ms Lawrence and his view was that no evidence had been presented to undermine that decision.

There was also an appeal against the grievance outcome. As Ms Arizie had left the company by then, this was referred to Ms Jackson, Head of Diversity and Inclusion, who sent her written outcome on 17 May 2023. Again, she did not uphold the appeal.

Applicable Law and Conclusions

Discrimination Burden of Proof

For each type of discrimination, the key question is the reason *why* the employer acted as it did. Was it *because of* Ms Arizie's disability and/or race and/or religion? Or was the harassment *related* to it?

That does not have to be the only reason, or even the main reason, it just needs to have been a significant influence. That influence can even be the result of subconscious bias. Having heard the evidence from each side and made our findings of fact, we now have to decide whether the proper inference to draw is that there was such bias at work; in other words, whether it was tainted by discrimination.

The Equality Act gives us a structure to follow in carrying out that exercise. Section 136 deals with the burden of proof. It provides that:

> (2) If there are facts from which the [tribunal] could decide, in the absence of any other explanation, that a person (A) contravened the provision concerned, the [tribunal] must hold that the contravention occurred.
>
> (3) But subsection (2) does not apply if A shows that A did not contravene the provision.

So we first have to decide from all the evidence whether there might have been discrimination involved. If so, it is then for the respondent to satisfy us that there was not. If that happens, cogent evidence is required to show that the treatment in question was 'in no sense whatsoever' tainted by discrimination.

A mere difference in treatment is not enough by itself: something more is required. That may be some other feature of the case – the timing of the decision perhaps, or that it was out of the ordinary for some other reason. If a pregnant employee is made redundant, that is just a difference in treatment between her and her colleagues, but if the redundancy follows shortly after she announces her pregnancy that will be a strong indicator of discrimination. Or again, if a manager takes a decision to discipline a member of staff of a different race or sex or age group over a dispute at work, that will not by itself call for an explanation, but if the manager's normal approach is to opt for mediation, it may well do so.

We will deal with the most significant claims first, rather than use the order in the list of issues.

Failure to make reasonable adjustments

Section 20 of the Equality Act sets out three requirements for employers, and by section 21:

> (1) A failure to comply with the first, second or third requirement is a failure to comply with the duty to make reasonable adjustments.
>
> (2) A discriminates against a disabled person if A fails to comply with that duty in relation to that person.

Those requirements in section 20 are as follows:

> (3) The first requirement is a requirement, where a provision, criterion or practice of A's puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage. …
>
> (4) [concerns physical features of premises]
>
> (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 persons who are not disabled, to take such steps as it is reasonable to have to take to provide the auxiliary aid.

As already mentioned, there were numerous auxiliary aids provided for Ms Arizie, and there is no need to identify a provision, criterion or practice (PCP) in each case. All that is required for to trigger this third requirement is that Ms Arizie would be at a substantial disadvantage without one.

One of the proposed reasonable adjustments is a "specialised assistive computer programme". That is a type of auxiliary aid. No particular programme has been mentioned. Nor was there any mention of any such a specific programme during her employment. It seems to be an example of wishful thinking – a programme that would help her complete the various admin tasks on the CRM system perhaps. Like many of the items in the list of issues, this may have been included by the respondent in an excess of caution, but there was plenty of IT help given to Ms Arizie, including with voice recognition software. On the basis that nothing more specific was requested, and there is no evidence to suggest that there is such a viable programme available, we reject this complaint.

Otherwise, the suggested PCPs are, for the most part, routine aspects of the working arrangements at the company. Summarising them, they comprise:

Requiring all employees to work from job centre locations;

Booking back-to-back consultation appointments with no breaks between them;

Requiring employees to take a lunch break at the same time every day;

Requiring employees to adhere to a standard daily target and timetable of 3 one-hour appointments in the morning and 3 one-hour appointments in the afternoon;

Requiring employees to complete administrative task within 15 minutes at the end of the day;

Requiring employees to reach NVQ level 4 qualification within 12 months using the respondent's live online training and computer based training system on Business world;

Applying a common approach to monitoring and investigating absences;

Applying a common approach to recording and sanctioning absences;

Dismissing employees for failure to achieve standard targets or minimum absence from work;

Requiring employees to adhere to a standard daily target of minimum 3 learning and or 3 work referrals;

Requiring employees to deliver career advice session and produce individual CV and other career related activities and find a learning or job referral within 1 hour and get acceptance of satisfaction.

In the main, those PCPs were indeed applied and are not unusual for such a role. The more specific requirement of 3 learning and 3 work referrals is not in fact correct. The JOLO requirement was for 18 LO and 8 JO per month, which is very different. That corresponds with less than one LO per day and about two JO per week.

The next question is whether they, or any of them, put Ms Arizie at a substantial disadvantage (i.e. a more than minor or trivial disadvantage) compared with others with those condition(s). Ms Arizie's claim is that they did because:

travel on public transport was arduous and painful;

her joint and stomach pain made the fixed lunch break difficult, as was the lack of regular or flexible breaks;

daily targets and administrative tasks needed more time and effort;

so did the NVQ level 3 and 4 qualifications;

hospital or medical treatment appointments occurred more frequently or without warning;

a standard table and chair (work station was painful);

Taking these in turn:

The difficulties that Ms Arizie had in getting to work were fully addressed. Changes were made by Ms Yeung at the outset and recorded in the Occupational Health report, which stated that "she is able to walk to some or take the bus to these sites without issue". On that basis we conclude that there was no remaining substantial disadvantage and she did not suggest that working from home was a viable alternative.

We accept that fixed lunch breaks and the lack of flexibility in the timetable were difficult. But some appointment time had to be given to the customers. Comfort breaks are a fact of life and there was no evidence that she could not take a break as required. That would be the case whenever a consultation was arranged.

We accept that Ms Arizie had extra difficulties dealing with training and admin tasks.

Equally, she had more difficulty in completing the training requirements.

Hospital or medical appointments, however, made little difference in practice. Their relevance is unclear. They were not mentioned as part of the performance concerns, and ignoring them from the absence records would not have made any difference.

Ms Arizie's table and chair were an issue, but they were sorted so, so there was ultimately no failure there on the company's part.

That leaves us with the substantial disadvantages of needing longer for admin and training tasks, both of which are features of her dyslexia. The issues under this heading therefore resolve into the original complaint set out in the claim form.

We then have to assess whether the company took such steps as were reasonable to avoid that disadvantage, which depends in part on how severe it was. The extent of the disadvantage is not easy to assess. Again, it was not mentioned to Ms Yeung, or only mentioned in passing. It was not one of the conditions she was referred to Occupational Health for. Ms Yeung noted that she had seen six customers in a day. Her CV also shows that she has two degrees; one in Criminology and one in Business Studies and Management. And certainly when Ms Yeung was managing her, all was well.

In practice, extra time was allowed for her to complete the training. She was not expected or required to have obtained the level 4 qualification by the end of her probation period, which should have lasted only 6 months, and no sanctions were imposed simply because of the delays. On that basis we accept that the respondent did make reasonable adjustments for the training. That appears to be what Ms Lawrence was driving at in her dismissal letter.

The remaining adjustment is in relation to the length of the appointments and/or a resulting reduction in targets. This was addressed in January, but that was not part of the period over which she was assessed, so no specific adjustment was made then, i.e. in the period to the end of November 2022, excluding October. Reviewing the evidence on this point, the OH report stated clearly:

> She also disclosed she has dyslexia which slows her down when writing reports and completing paperwork which is part of her role requirement. [271]

That was in September, when Ms Arizie also set out her own letter, already quoted, setting out the fact that her dyslexia meant that she needed more time. It seems to us that longer appointment times were a viable reasonable adjustment and had been identified at that stage.

In **Project Management Institute v Latif** 2007 IRLR 579, EAT, the Employment Appeal Tribunal gave guidance as to how tribunals should approach the burden of proof in such reasonable adjustment cases. They held that the burden of proof only shifts once the claimant has established not only that the duty to make reasonable adjustments had arisen but also that there are facts from which it could reasonably be inferred — absent an explanation — that the duty has been breached, i.e. that a viable reasonable adjustment had been identified. That seems to us to the be the case here.

Consequently, the burden shifts to the respondent to show that it was not reasonable to have done this. That needs cogent evidence, as set out above. The fact is that it could have been done, in the same way that it was done on her return to work, and so there is little room for argument. The burden is not discharged on those facts. It follows that in this one respect, not extending her appointments to 1 hour and 15 minutes at an earlier stage, there was a failure to make reasonable adjustments.

However, for the reasons set out below, we have also had to conclude that that complaint is out of time.

Indirect discrimination on grounds of race and / or religion

This is a similar type of claim, in that it also involves PCPs. The test under section 19 Equality Act is as follows:

> (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.

Ms Arizie relies on very much the same PCPs. Again, these may well have been drawn up by the respondent, and there are some minor differences in the wording, but the only material difference from the previous set of PCPS is the last one, that the company did not allow any flexible working. We are satisfied that that is not the case. Reviewing them in turn, they are as follows:

The nature of the role is that it involves helping members of the public who are unemployed. They may well not have the IT facilities for remote meetings, so face to face meetings in a job centre is the obvious, tried and tested, way of delivering the service.

Appointments also have to be booked in advance so it makes sense to have them one hour apart and, usually, back to back, otherwise they would be starting at irregular times.

For the same reason, a fixed, regular lunch time is easier to timetable.

The requirement for 3 morning and three afternoon appointments only applied on Mondays, certainly from January, but there was a requirement for a certain number of appointments.

Targets for careers advisors are part of the contract they operate and the time available for administrative tasks follows directly from the amount of time spent with customers. There may be limited time left at the beginning and end of the day.

The Level 4 requirement is another stipulation in the contract, made for good reason, to ensure that staff are trained to the required standard.

A standard policy on absence management applies in almost every workplace.

The same is true of sanctions for poor performance.

Dismissing employees for failing to meet those targets is also an obvious possibility.

As already mentioned, the JOLO requirement was less than stated, but it is undoubtedly appropriate to have some target.

The aim was indeed for the adviser to ensure that each consultation was completed in the hour assigned to it.

The next question is whether any of these requirements or expectations put those with the same disabilities at a particular disadvantage. In cases of indirect discrimination, the burden of proof does not shift until the claimant has established a number of elements: that there was the claimed PCP, that it disadvantaged those with these disabilities generally, and thirdly, that what was a disadvantage to those people in general created a particular disadvantage to the individual claimant. That was confirmed by Baroness Hale in **Essop and ors v Home Office (UK Border Agency)** 2017 ICR 640, SC

Some of these PCPs relate to Ms Arizie's dyslexia, others, such as the transport issue, to her symptoms of fatigue from other conditions. Without repeating our earlier conclusions, we accept that using public transport could be more tiring for those with fibromyalgia and other physical health issues, that flexibility with timings is advantageous and that it would be more difficult to complete training and admin tasks on time.

However, the PCPs relied on here are usual and common features of the workplace so it may be simpler to move on to the question of justification. If any of these measures did have a disproportionate impact, were they nevertheless justified? In other words, can the company show that the PCP was a proportionate means of achieving a legitimate aim?

The legitimate aims relied on here are clear. They include the need to comply with their contractual obligations, to support the needs of job seekers, to provide structure for employees, a consistent approach to managing them, to ensure an adequate level of staff.

Very briefly, we cannot see any dispute that using job centre locations for customers was a proportionate measure. There was no viable alternative. Equally, the timetabling arrangements are all made for the benefit of service users. It has to be remembered that the respondent remains under a duty to make reasonable adjustments in a case where any individual measure causes difficulties. So, while there may be cases, for example, where an individual with dyslexia needs extra time, that does not mean that the general provision is not justified. Overall we cannot see that this adds anything to the reasonable adjustments claim. In each case the PCP was, in our view, appropriate to a legitimate aim and proportionate in scope, bearing in mind that duty to make such adjustments in an appropriate case.

Discrimination arising from disability

The test under section 15 Equality Act is as follows:

> (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."

Hence, this involves unfavourable treatment as a result of something arising in consequence of Ms Arizie's disability. As we have explained at the outset, no 'something arising' was identified in the list of issues, which is a major defect.

The examples of unfavourable treatment include some of the normal working arrangements set out above as PCPs. We discount those on the basis that this was not unfavourable treatment and in any event had been standard practice across the board before Ms Arizie joined the company, so cannot have been introduced because of her disability or its effects.

The only additional points are the alleged excessive contact during her absence – which we have rejected – and her dismissal. The remaining question then is whether she was dismissed because of her spelling and grammar, with the result that she took longer to complete her work?

Again, this only has to be a significant influence, and we have to consider whether she has done enough to shift the burden on this issue. In other words, is there anything here that is unexpected, or which calls for an explanation from the respondent?

There are some unsatisfactory features. There was the handling of her probationary review meeting, including not telling her or sending her the outcome, then surprising her with a further meeting on her return to work in November. That was, no doubt designed to rectify the situation. Then there were the unrealistic targets she was set at that meeting. But none of that has any obvious connection with her disabilities or their effects. The targets were, ultimately, the same for everyone, and it does not follow that she would have been dismissed for failing to meet them. In fact, it seems to us likely that she would have passed her probation period if she had showed a reasonable improvement in her performance, but if anything it was getting worse.

On the other hand, there are strong reasons as to why she was dismissed. The only realistic alternative, having extended her probation period once, was to confirm that she had passed. That would clearly have been wrong given that her performance was tailing off. There were also the serious problems with her behaviour, as shown by the Bibiana complaint. (One of her targets had been

that there were no further complaints against her.) The issue over her CV was also a real concern. There was no progress on her Level 4 qualification. There was also her general disengagement, failing to respond to reasonable requests from Ms Lawrence such as to report her absences, or to put the holiday request in writing. In those circumstances, dismissal was, in our view, the only realistic outcome. In those circumstances, the burden does not shift and no further explanation from the respondent is required.

Harassment

The test under section 26 Equality Act is as follows:

(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 or effect of—

(i) violating B's dignity, or

(ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for B.

The first question therefore is whether the conduct in question was unwanted, then whether it related to a protected characteristic – disability and/or race and/or religion – and then whether it met the threshold for violating Ms Arizie's dignity or creating an intimidating et cetera environment for her. And whereas direct discrimination must be *because of* a protected characteristic, harassment need only be *related to* a protected characteristic. Without setting out the list of issues again in full, there are 12 allegations of harassment which, briefly involve:

Extending her probation period;

Dismissing her;

Criticising her spelling and grammar in a report in September 2022;

Criticise her for discussing her personal salary and terms with trainers at the NCS event;

The alleged comment by Ms Lawrence - "why bother applying for such a job…"

The alleged comment by Ms Vaghela about being a baby;

The alleged comment by Ms Lawrence about printing and laminating everything;

Ms Lawrence failing to implement the reasonable adjustment from the Occupational Health report;

The alleged excessive contact while she was off sick;

Rejecting her grievance about that contact;

Reject her request to use verbal communication for responding to requests.

Clearly the probation period was extended and she was in fact dismissed. It is not clear what report is being referred to in relation to spelling and grammar. It was not referred to in Ms Arizie's witness statement and the only time we heard mention of spelling was in relation to an email address of a customer, which she had accidentally misspelled. That does not seem to be an act of harassment.

As to discussing her personal salary and terms with trainers at the NCS event, this was only referred to in passing by Ms Yeung at a probationary review meeting. We have already found against Ms Arizie in relation to the alleged comments by Ms Lawrence and Ms Vaghela and about the excessive contact. It follows that her grievance against that same conclusion was also the proper response and in those circumstances it was not reasonable for Ms Arizie to feel that her dignity had been violated etc.

The Occupational Health recommendations were, once again, implemented, save for the extra time for appointments, but that is out of time. As to asking to respond verbally to management requests, we are not satisfied that that request was made, but it was certainly perfectly reasonable to expect holiday requests to be made in writing.

Of those steps which did take place – such as dismissal and extending her probation period, this was in our view not conduct with the *purpose* of causing offence. The other alternative is that it had the effect of violating dignity etc. Both sides referred us to the case of **Richmond Pharmacology v Dhaliwal** 2009 ICR 724, EAT, which held that the claimant must actually have felt, or perceived, her dignity to have been violated or an adverse environment to have been created. If so, the tribunal should then consider whether it was reasonable for the claimant to feel that way.

We cannot see that it was objectively reasonable for Ms Arizie to feel that her dismissal or the extension of her probation period violated her dignity in any way. (The dismissal cannot have created a hostile etc. working environment as it brought the working environment to an end.) A violation of dignity suggests some degree of shock or affront, but in each case the act must have been expected. Extending her probation period was, if anything, a concession, and by the time of her dismissal it is difficult to know what alternative there was, or whether Ms Arizie even wished to remain with the company. The same observations apply to the other allegations, such as raising her conduct at the training event, and rejecting her grievances. In short, all allegations of harassment are dismissed. In any event, we cannot see that either decision was in any way related to her dyslexia or other conditions, for the reasons already given.

Victimisation

Victimisation is a term often used to mean being picked on or unfairly treated but it has a narrower meaning in the Equality Act 2010. It applies where someone

has made a *complaint* about discrimination and is singled out as a result. The test under section 27 Equality Act is as follows:

The test under section 27 Equality Act is as follows:

> (1) A person (A) victimises another person (B) if A subjects B to a detriment because—
>
> (a) B does a protected act, or
>
> (b) A believes that B has done, or may do, a protected act.
>
> (2) Each of the following is a protected act—
>
> …
>
> (d) making an allegation (whether or not express) that A or another person has contravened this Act.

An allegation of discrimination is an allegation that someone has contravened the Equality Act. In this case the 'protected acts' relied on are:

Her request for reasonable adjustments in May or June 2022;

requests for reasonable adjustments on 1 November and 24 January (which are accepted by the respondent);

the grievance for excessive absence monitoring.

The first was the inconclusive discussion with Ms Yeung about flexible working, which was not in our view an allegation that the Act had been contravened. The third is a written grievance [511] and it contains no mention of discrimination or disability, so that is not a protected act either. The second, valid, protected act was on 1 November, and so only detriments after that date are viable. The remaining ones are:

Extending her probation period;

Rejecting her grievance and appeal; and

Dismissing her.

In reality, the decision to extend her probation period was made by Ms Yeung in early October, but only communicated in November, so that too is premature. For the reasons already given, the decision to reject the grievance and dismiss Ms Arizie were the obvious steps to take in the circumstances. It was not put to any of the witnesses that her requests for reasonable adjustment had influenced the decision makers against her in any way, and in practice the company was willing at every stage to make whatever adjustments were requested. It seems to have been a point of pride for them. Hence, there is no question of the burden shifting on this issue either.

Harassment on grounds of race and / or religion

There are also allegations in relation to the ham wrap incident and generally of harassment on grounds of race or religion. We have already set out the legal test, but the acts alleged here are:

Exposing her to the risk of eating pork products;

The accusation that she had been aggressive on 21 September 2022;

Rejecting her grievance and appeal; and

Dismissing her.

It is well established that employers have no liability for acts of harassment by a third party, so they are not responsible for any failure by the catering company. And the respondent is not a catering business, so any such lunch event would have to be outsourced. That does not, in any way, of itself expose the claimant to such a risk or increase it.

On the second point, the fact is that some of those present did feel that Ms Arizie had been aggressive on 21 September. She says she was just assertive, but reasonable people might differ on the appropriate term. These concerns were not therefore invented, and they were raised with her as a point to reflect on. There was, for example, no hint of any disciplinary action as a result or in case of repetition. In those circumstances it does not seem to us that it was objectively reasonable for her to regard this as violating her dignity etc.

We have already given our view of the grievance and dismissal, but once again, no racial motive was put to Ms Lawrence and there is nothing to call for any further explanation from the company.

Indirect discrimination on grounds of race and / or religion

Some of these points are also raised as acts of indirect discrimination, the test for which is set out above. This time the PCP relied on is that the company delegated the catering at events. Again, that seems to us the only option and there is nothing to show that doing so had or has a disparate impact on those of a different race or religion.

Holiday pay claim

The last disputed claim relates to the 1.5 days holiday which Ms Arizie could not carry over to 2023. The key question here is whether she had a reasonable opportunity to take it. There may be cases were someone goes on long-term sickness absence that lasts to the end of the year, and they are unable to take their leave. Here, the problem was not that Ms Arizie went off sick on 5 December 2023. That timing was purely coincidental. The problem was that by then she had already left her holiday request till too late, and it could not all be accommodated. As a result, this claim too must be dismissed.

Time Limits

As indicated already, some claims are out of time. Claims of discrimination have to be brought *within* three months of dismissal or the act of discrimination in question (i.e. three months less one day) plus any time spent in early conciliation.

Here, the relevant dates are as follows:

The dismissal took place on	14 March 2023
Early conciliation began on	3 May 2023
Early conciliation ended on	14 June 2023
The claim was submitted on	1 July 2023

Since ACAS was first contacted on 3 May 2023, any acts or failures which took place before **4 February 2023** are potentially out of time.

To pursue any earlier acts of discrimination, Ms Arizie must either prove that:

the discrimination was in fact conduct extending over a period of time and ending after this last act, or

it would be just and equitable to extend the normal time limit.

We have not found that there was any conduct capable of extending over a period of time. There is just the one failure, to give Ms Arizie a timetable with 1 hour and 15 minute appointments. So the only option is the just and equitable extension.

in **Abertawe Bro Morgannwg University Local Health Board v Morgan** 2018 ICR 1194, CA Lord Justice Leggatt said that 'factors which are almost always relevant to consider when exercising any discretion whether to extend time are

the length of, and reasons for, the delay and

whether the delay has prejudiced the respondent (for example, by preventing or inhibiting it from investigating the claim while matters were fresh).

No particular prejudice was identified by the respondent, but no reason was given by Ms Arizie either. It is often the case in practice that employees only decide to bring a claim once they have been dismissed and, having decided to bring the claim they then raise events going back a considerable period of time. But that does not mean it is just and equitable to allow those claims, even if they are shown to be valid. Valid claims may also be out of time. It is for the claimant to show a reason, and on that simple basis we conclude that any complaints relating to the training event in September 2022 are out of time.

There are more involved rules in relation to a failure by an employer to act, including failing to make reasonable adjustments. The rules are at section 123 Equality Act 2010. By subsection 3(b),

> "failure to do something is to be treated as occurring when the person in question decided on it."

Hence, if there had been a request for longer appointments and a letter refusing that request, time would run from the date of the letter. Subsection (4) deals with the more common case in which there is no such letter:

> "In the absence of evidence to the contrary, a person (P) is to be taken to decide on failure to do something –
>
> when P does an act inconsistent with doing it or

if P does no inconsistent act, on the expiry of the period in which P might reasonably have been expected to do it.

Timetables were regularly provided to the careers advisers and Ms Arizie would be told from week to week what her appointments were. She knew each week that she would be doing one hour appointments. Certainly she knew as at 24 November that this was continuing, as she was then sent the model timetable to be applied in the New Year [457]. Each time Ms Lawrence circulated such a timetable that was an act inconsistent with extending the time for the appointments. This may all seem hypothetical given that there was no such request at the time but that is how the time limit rules have to be applied. Having identified this failure, it is necessary to consider *when* the company failed to act, which was long before Ms Arizie's long absence, and long before the cut-off date of 4 February 2023. Accordingly, that complaint of failure to make reasonable adjustments is out of time. We emphasise that even if we are wrong on that aspect, it would not affect our conclusions in relation to the dismissal.

Remedy

The final element is to calculate the loss in connection with the breach of contract claim. The relevant weekly pay due was £439.11. Adding the 3% pension contribution takes this to £452.28. On that basis, the net monthly figure is £1,959.88. The amount due is the difference between those two figures, i.e. £1,507.60. For the avoidance of doubt, we found no breach of an ACAS Code of Practice.

Approved by:
Employment Judge Fowell
Date:7 April 2025

Sent to the parties on
Date: 10 April 2025