



# EMPLOYMENT TRIBUNALS

## BETWEEN

**Claimant:** Dr Nora Sarabajaya Kumar

**Respondent:** University College London

**Heard at:** in public by CVP

**On:** 4, 5, 6, 7, 10, 11, 12, 13, 14 February 2025  
(18, 19, 20 February in Chambers)

**Before:** Employment Judge Adkin  
Ms N Sandler  
Mr P Alleyne

## Appearances

For the Claimant: Ms C. Casserly, Counsel  
For the Respondent: Ms R. Levene, Counsel

# JUDGMENT

(1) Complaint of failure to make reasonable adjustments pursuant to section 20 – 21 of the Equality Act 2010 (“**EqA**”) is well founded in relation to:

- a. Failure to book fully accessible venues for social events and also for away days from October 2019 onward;
- b. Failure to install a platform lift at Tavistock Square and/or Gordon Square as part of refurbishment works completed in 2020, causing the Claimant a disadvantage from January 2023 onward;
- c. Failure to take reasonable steps to put in place a Personal Emergency Evacuation Plan in January 2023;
- d. Failure to give Claimant either longer to mark papers or less papers to mark from 13 June 2023 onward;

- (2) Complaint of harassment relating to disability pursuant to section 26 of the Equality Act 2010 is well founded in relation to failure to book fully accessible venue for social venues and related communication in March 2023.
- (3) All other allegations of failure to make reasonable adjustments and harassment relating to disability are not well founded and are dismissed.
- (4) Complaints of direct disability discrimination and unfavourable treatment because of something arising from disability (s.15) are not well founded and are dismissed.

## **REASONS**

### **The Claim**

1. The Claimant brings complaints of:
  - 1.1. Direct disability discrimination (section 19 Equality Act "EA" 2010);
  - 1.2. Discrimination arising from disability (section 15 EA 2010);
  - 1.3. Failure to make reasonable adjustments (section 20-21 EA 2010);
  - 1.4. Harassment on grounds of disability (section 26 EA 2010).

### **Overview**

2. The Claimant is an academic who specialises in Voluntary Sector Policy and Management and Leadership which falls under the discipline of Political Science. She is an Associate Professor (Teaching) in the Department of Political Science ("the Department").
3. The Claimant is severely sight impaired and is a wheelchair user, whose disabilities are detailed below.
4. In summary the Claimant's complaints relate to difficulties in accessing the Respondent's physical estate, its IT systems and the effect on the progression of her career as an academic.

### **Evidence**

5. The Tribunal had the benefit of an agreed bundle of 2,317 documents and a supplementary bundle of 65 pages.
6. The Tribunal received a witness statement from the Claimant and witness statements from the following witnesses for the Respondent who each gave oral evidence:

- 6.1. Professor Jennifer Hudson, Professor and Vice-Provost (Faculties), during times material to this claim Dean of the Faculty of Social and Historical Sciences (initially interim thereafter substantively) and before that Head of Department in Political Science;
  - 6.2. Professor Benjamin Lauderdale, Head of Department in Political Science;
  - 6.3. Ajay Patel, who was at the material time Staffing and Finance Manager in the Department of Political Science;
  - 6.4. Dr Colin Provost, Associate Professor of Public Policy in the Department of Political Science and School of Public Policy and the Claimant's line manager at all times material to the present claim;
  - 6.5. Ben Webb, at the material time Departmental Manager in the Department of Political Science;
  - 6.6. Professor Lucy Barnes, Professor in Comparative Politics in the Department of Political Science (two witness statements).
7. We did not hear any witness evidence from the Respondent's Estates department.

## **Hearing**

8. At the hearing each party was represented by experienced counsel who are each employment law specialists.
9. Regular breaks, at least once an hour were provided for the Claimant's benefit. The Respondent's witness evidence was provided with a blue background in large font size. The Claimant gave evidence and participated in the hearing from home. She had the benefit of a sighted assistant in navigating the documentation.

## **Findings of fact**

### History

10. Before working for the Respondent University the Claimant historically worked at LSE (London School of Economics) and the University of Oxford.
11. The Claimant's employment as Teaching Fellow at the Respondent commenced 1 January 2010. She remains employed by the Respondent.
12. The Claimant's line manager is and was at all times material to this claim Dr Colin Provost, a fellow academic who has worked with the Claimant on academic research and is an Associate Professor of Public Policy and has been the Deputy Head of Department for Teaching Careers since Autumn 2022.

Disability

13. In 2016 the Claimant received a diagnosis of Ehlers-Danlos Syndrome ('EDS'). This is a group of inherited disorders where skin, joints and blood vessels and hollow organs can be affected as a result of underlying defects in connective tissue.
14. The Respondent's knowledge of EDS during the period material to her claim is not in dispute.
15. In 2017 the Claimant became a wheelchair user.
16. Also in 2017 the Claimant was diagnosed as severely sight impaired.

Accessibility to Political Science department

17. UCL's Political Science departmental buildings ("the Buildings") at 29 – 31 Tavistock Square ("**Tavistock Square**" also described as the "Rubin Building") and 36 – 38 Gordon Square ("**Gordon Square**") are large Georgian-period townhouses and Grade II listed buildings.
18. Gordon Square opened in 2020 after development following acquisition of the lease in December 2018.
19. During the period to which this claim relates the Buildings were not wheelchair accessible, with the result that the Claimant could not physically access the Political Science department, then housed solely in Tavistock Square, from 2017. That situation was still ongoing at the time of the hearing in February 2025.
20. In December 2017 a ramp that had been temporarily provided for wheelchair access to Tavistock Square was removed by the Respondent's Estates Team on the basis that it was a health and safety violation and an impediment to leaving the building in the event of an emergency. The ramp was steep. The Claimant described the experience of using the ramp as a wheelchair user as frightening and "like a ski jump".

Concern about management opportunities

21. On 27 February 2018 the Claimant says that she complained for the first time in a meeting to her line manager Dr Colin Provost that she had never been invited to join, or Chair, or lead any committees within the Department, which she found concerning. She was evidently thinking about her career progression.

Wheelchair dimensions

22. On 13 April 2018 the Claimant provided her wheelchair dimensions. It was a source of frustration to her that she had to provide these dimensions on a number of occasions subsequently.

36-38 Gordon Square

23. In early 2018 the Respondent was planning to expand the physical buildings of the Department by acquiring the lease and adapting the building at 36-38 Gordon Square, which adjoined the existing departmental building on Tavistock Square.
24. On 15 June 2018 a briefing note regarding Fire Safety included the following acknowledgment that the new building at 36-38 Gordon Square would not be wheelchair accessible:

2.4. Accessibility for Mobility Impaired Persons (MIP)

It should be made clear at the outset that the building is unlikely to be accessible for Mobility Impaired Persons (only) due to:

- age and design as well as Heritage listing both internally and externally that would reduce the likelihood of modification with the original design;
- steps at entrance / street level;
- internal steps / stair enclosures;
- door configuration at all levels;
- narrow width of doors;
- no lifts to access upper or basement;
- turning and circulation in many areas difficult;
- considerable number of steps in difficult and narrow locations

Political science department management

25. Ben Webb started work in August 2012 as Department Manager for the Political Science Department. He was responsible for managing operational issues within the Department, working with the Head of Department to ensure the smooth running of professional services, academic workload, overseeing the Department's finances, and anything else operational which fell outside the academic remit.
26. In August 2023 he was promoted to Direct Deputy Director of Operations for the Faculty.
27. In September 2018 Professor Jennifer Hudson became Head of Department in the Political Science Department.

Coffee with HoD

28. At around the time that Prof Hudson became head of Department in 2018, she had coffee with the Claimant. The Claimant says during that conversation she raised question about development opportunities.

Office facility for the Claimant

29. Given that the Claimant could not access Tavistock Square in October 2018 she had access to Drayton House, which house the Department of Economics, in a different street approximately 300m away.

Application for wheelchair access Tavistock Sq.

30. On 9 October 2018 the Department made an application internally to the Estates Board for works re wheelchair access to Tavistock Square (p289-92), authored by Ben Webb:

"We require wheelchair accessibility similar to those available on other terrace housing in the area. This would include a ramp to be installed to enable wheelchair users to access 29-30 Tavistock Square, and install appropriate external and internal power-assisted fire doors to enable appropriate security and accessibility. This work would be subject to heritage constraints and advice from Estates and disability services.

Ramp - Installation of a ramp leading from street level to 29-30 Tavistock Square;"

"Space: Within the Department's current estate portfolio, we are unable to provide for the needs of wheelchair users in terms of: office space (they must work from home or nearby cafes or in another department at UCL);

adequate meeting space for them to host meetings/workshops for research and teaching; or meet with students.

UCL Estates is unlikely to provide us with additional office space for these members of staff.

Reputation damage: Staff and students are unable, or find it difficult, to access the department's estate. We are unable to provide them with adequate facilities or same experience as other students, which could be perceived as discriminatory. Visitors who are not aware of our restricted access are unable to enter the building and participate in the Department's range of events and programmes."

Gordon Sq. planning

31. A planning risk document dated 18 October 2018 was prepared for refurbishment of Gordon Square. The initial plan for the refurbishment were to

create an event space for up to 150 people, respecting the Georgian heritage of the three buildings at 36-39 Gordon Sq. The planned capacity was subsequently scaled down.

32. The planning risk document did not mention matters relating to accessibility.

Board meeting

33. A project Board Meeting took place regarding acquisition of a lease and planning for works, 36-38 Gordon Square on 19 November 2018.
34. The budget was £10m, of which £5m was for acquisition of the property and a further £5m for other costs including refurbishment.
35. The Claimant highlights that there was nothing at this stage about a second phase of the project, which is how Mr Webb has characterised the more recent works 2024/25 which should lead to a working external lift sometime in Spring 2025.
36. One of the documents which appears to have prepared for that meeting or at least around that time was "Accessibility strategy" produced by Nicholas Hare Architects which contained the following:

"LIFT

- Introduction of a lift is sensitive due to heritage & conservation issues
- Area take up/loss of space across floors is significant

SAFE EGRESS

- Consultation with UCL Fire Safety indicates the buildings are "unlikely to be accessible for Mobility Impaired Persons (MIP)" because of existing physical factors and because safe egress depends on creating fire protected refuge areas adjacent to staircases at each level
- Introducing a lift does not resolve safe egress issues

Architect meeting

37. On the following day, 20 November 2018, there was a meeting with Architects re 36-38 Gordon Square (p362-5). In that meeting Prof Hudson noted that there were 3 principal concerns: first, use of the attic; second, through routes/spaces on the ground and first floors; and third, wheelchair access.
38. The record of that meeting indicates that Carol Lelliot, Partner at Nicholas Hare, Architect noted that

“..wheelchair access (and access to the building for those with impaired mobility) was unlikely to be possible for two reasons. Firstly, the alterations that would be required to facilitate an external ramp or an internal lift would be extensive if they are to meet current regulations and this is not feasible within a heritage context. Secondly, and more significantly, the UCL fire officer has advised that it would not be possible to evacuate people with mobility impairments in the event of a fire. Installing a lift does not alter this as lifts cannot be used in a fire. NHA [the Architect] will add a note to this effect within the Stage 1 report.”

#### Camden meeting

39. On 5 December 2018 there was a meeting with planning officers from the London Borough of Camden to discuss proposals. There is no evidence from that meeting that wheelchair accessibility was discussed. Simon Cooke, the Respondent's fire officer was present.

#### RNIB report

40. With regard to the Claimant and her visual impairment, Loraine Brown, an Employment Adviser at RNIB (Royal National Institute of the Blind) produced a report dated 7 December 2018. She wrote:

"Visual impairment Dr Kumar was diagnosed with Uveitis approximately ten years ago, but recently it has been found that she has Central Serous Retinopathy (CSR). In CSR the macula becomes separated from the eye tissue behind it, and fluid builds up in the space created. Unfortunately, it is not known what causes this to happen, but research shows that stress can make it worse. Dr Kumar has been registered as Severely Sight Impaired/Blind. She is able to see light and dark in her right eye, and in her left eye she can see shapes: everything is in black, white or orange and she has no definition or fine detail in her vision. Her vision is better in good natural daylight and she has a problem with glare. This affects her ability to read standard-sized print and handwritten material. Much of the content on a computer screen can also appear too small or detailed for her to discern it properly.

#### Preferred media

Dr Kumar will appreciate all written material being provided in electronic format, such as emails and Word documents. This will give her the facility to output text as speech, using screen reading technology installed on her personal computer.

#### Additional disability issues



Dr Kumar is an electric wheelchair user and was diagnosed approximately two years ago with Ehlers-Danlos Syndrome (EDS). EDS is a group of inherited disorders where skin, joints, blood vessels and hollow organs can be affected as a result of underlying defects in connective tissue. Dr Kumar's symptoms are problems with her heart, bradycardia, and blood pressure, which can result in dizziness and fainting. She also suffers from numbness in her hands and feet and digestive problems.

41. As to an Evacuation Plan the report Ms Brown wrote this:

It is imperative that Dr Kumar has her own Personal Fire Evacuation Plan in place and has her own assigned Fire Buddies – covering all the possible hours she is likely to be in the building, as I understand that sometimes she has evening meetings with her students. Also, if an emergency does occur, Dr Kumar is fully aware of the Refuge Points and the Fire Marshals inform the London Fire Brigade that she is a partially sighted wheelchair user.

42. The Respondent realistically accepts knowledge of disability in relation to severe sight impairment from the date of that report which Mr Webb received from RNIB on 7 January 2019, and he forwarded to Dr Provost the Claimant's line manager the same day.

Access to Work Assessment

43. An Access to Work Assessment dated 10 January 2019 contained the following:

"Mrs Kumar experiences Uveitis and Glaucoma across both eyes. These conditions have resulted in Mrs Kumar being registered blind. She explained that she lost all vision in her right eye in

February 2018 and then suddenly in September 2018 she lost about 95% sight in her left eye. Mrs Kumar explained that she is able to determine some colours and shapes of objects, but she cannot visually interpret detail. She is unable to read, write and recognise faces as a result.

Mrs Kumar experiences a heritable connective tissue disorder, which has been diagnosed as Ehlers Danlos Syndrome (EDS); although this remains under investigation. Mrs Kumar explained that her EDS causes many of her joints to dislocate, become unstable and painful, particularly her knees, hips, wrists and fingers. Mrs Kumar has been using a wheelchair for about 18 months to aid mobility.

Mr Webb flags up disability access

44. In an email dated 12 February 2019 Ben Webb wrote to Joanna Roberts, Project Manager, Capital Projects, UCL Estates re accessibility at 36-38 Gordon Square, plainly having the Claimant in mind:

We spoke previously in meetings about disability access, I have staff members as we discussed with accessibility requirements. They have been asking about the potential disability access to 36-38 Gordon sq, whether we have engaged the equalities team, heritage and what is the outcome etc. As I envisaged, the news that the building is unlikely to be an accessible building has not been taken very well as you can imagine. Would you be able to provide me with a report/ statement as discussed previously that we can share with staff?

45. Ms Roberts replied

Yes of course. I had a look at the side entrance, but that goes into one of your rear extensions sadly.

The main issues are fire and heritage constraints.

Let's get the design team to focus on the general arrangements in the lower ground for now and as part of the overall study they will issue a statement on accessibility for the re-design.

I can ask the architect, David cc'd to send you the original text on accessibility, which may be very similar for the redesign.

Annual appraisal Dr Colin Provost: [2259]

46. Dr Provost recorded the following in the Claimant's annual appraisal at the beginning of April 2019:

--Sarabajaya lost sight in both eyes three weeks before teaching was due to start in Term 1. She worked extremely hard to overcome this unforeseen setback, with the help of her sight and support workers.

--It has been extremely difficult for Sarabajaya to gain access to numerous facilities at UCL, most notably including the School of Public Policy. This has made it difficult to meet with colleagues, to hold office hours and to attend events and meetings.

Sarabajaya has many of the recommended pieces of equipment that she needs to do her job, but she still needs a tablet and this needs to be chased up.

--Sarabajaya needs access to our current and future buildings and we would like to remind Estates of their obligation on this front.

--Sarabajaya would like to supervise more dissertations for students who endeavour to use qualitative methods

#### Application for planning permission

47. On 6 June 2019 an application to LB Camden for planning permission was submitted regarding 36-38 Gordon Square (p2115-22). This did not include any request to facilitate disabled access from the exterior of the building
48. On 18 June 2019 Lewis Robinson, an Assistant Project Manager at Arcadis, wrote to Pip Jackson, the Respondent's then recently appointed Access and Inclusion Manager:

"The team will prepare commentary outlining why an external or internal lift has not been included in the scheme and how C6 policy is being met. This should be included as part of the design and access statement and form part of the planning app."

#### IT equipment

49. Following on from the RNIB report produced in December 2018, in July 2019 Steve Docherty, an Access to Work advisor notified the Claimant for that government funding by AtW had been approved for apple accessibility training in relation to magnification and speech input/output, and was available for touch typing, headphones, voice recorder, visual awareness funding. Suggested that the Claimant's employer should provide access to the network and test whether JAWS reading software would work with software packages used by the Respondent. The Claimant raised this with Ajay Patel, who in turn escalated this to Mr Webb.

#### Board meeting

50. On 22 July 2019 at Project Board Meeting re 36-38 Gordon Square (p395-418) there was discussion of a document "Key Issues at Commencement of RIBA Stage 4 with Contractor Team":

Accessibility strategy requires reviewing with UCL accessibility lead, derogation may be required. **Budget does not allow for Part M compliance.**

[emphasis added]

51. Part M compliance is a reference to Part M of Government guidance which supports the Building Regulations 2010. This provides guidance for accessibility of building for disabled people and wheelchair users.

Too late for lift?

52. There was an email discussion about the possibility of a lift being included at Gordon Square.

53. On 24 July 2019 Carol Lelliott the architect wrote:

However as you know it was not possible for us to add in the discussions on lifts to the D&A [Design & Access] as the meeting with Pip happened too late - after the D&A and planning application was submitted. It is our normal practice to summarise the approach to Access in the D&A and write a full and detailed Access Statement for the client and for Building Control Approval so we can capture this narrative then.

Originally, our access strategy was very much guided by the opinion of Simon Cooke which was that the building was not suitable for persons of reduced mobility. In discussion, we understood this was largely to do with not being able to provide a safe evacuation strategy and so the inclusion of a lift - even if feasible in heritage terms - would not provide access to a person in a wheelchair. I think this still stands for an internal lift running up through the building.

However since then, the location of the seminar room has changed from first floor to basement and **so it has become feasible to consider an external lift serving LGF and GF**. We did sketch this at the time but in the absence of an appointed fire consultant, we have not been able to understand fully the implications for fire escape from these areas. It may be that the issues are still similar but we would like to add this to today's agenda with Fire Surgery and MLM so we can include the narrative in the Access Statement we will be submitted for Building Regulation approval.

After the Fire/Building Regulations meeting today, it may be helpful to meet with Pip once more.

[insertion][**emphasis added**]

Accessibility to Tavistock Square

54. On 1 August 2019 Pip Jackson made a request to the Respondent's Estates department for wheelchair access to Rubin Building, Tavistock Square using an English Heritage approved method which would require planning consent. It was noted that Fiona Ryland, the Respondent's Chief Operating Officer (a Disability Equality champion) had requested that "we speed this through".

Planning approved Gordon square

55. On 23 August 2019 L.B Camden approved the application for the refurbishment to Gordon Square. No disability access to the building had been requested or granted.

Wheelchair access – Tavistock Square

56. On 12 September 2019 Jeetender Singh, a Building Surveyor employed by the Respondent submitted to Mr Webb a proposal email and attached plan for improved wheelchair access completed re Tavistock Square and suggested a meeting with the Claimant. Mr Singh wrote:

I have now compiled a proposal where access to the building would be vastly improved for a wheelchair user accessing the building from ground floor to basement level. I recently met Pip who agrees with the proposal.

Away day not accessible

57. On 30 October 2019 the Department held a teaching away day in at Prosper Suite Ambassadors Hotel. The event was held in the basement of the hotel. Unfortunately the Claimant was required to use the goods lift to get access to the basement. She had to be "manhandled" into the goods lift, which was too small to accommodate her in a wheelchair.
58. Of relevance to her visual impairment, the Claimant complains that there was "hardly any" natural light. She complains that presenters did not read out what was on the presentation slides or describe them.
59. She says that participants went for a drink with no level access afterward and she remained in the event space.
60. We accept the Claimant's account of this event. In respect of this and other matters we found that she was careful not to overstate or exaggerate the difficulties that she faced.
61. There was a social event in the Resting Hare pub opposite the venue organised by Abi Turner. This was inaccessible to the Claimant, as the entrance of the pub had steps up to the entrance, so she was unable to enter.

Request for accessible office

62. In the Autumn of 2019 the Claimant had been meeting tutees in a café on campus, since she could not access the Department buildings.
63. This came to the attention of Mr Webb, who wrote to the Claimant on 8 November 2019 offering to escalate issue re office hours room for the Claimant.

64. On 4 December 2019 the Claimant again sent wheelchair dimensions to the Respondent.

Christmas party 2019

65. In December 2019 the Department had a Christmas end of term party in the upstairs room of a pub. The Claimant had to sit downstairs, as there was no means of getting upstairs whilst she was in her wheelchair. This meant that she was forced to be downstairs whilst most of her colleagues were upstairs in the hired space.
66. Two of the Claimant's professional services colleagues sat with her for a while but left after a short time. The Claimant says and we accept that she felt very isolated and humiliated and a burden.

Lift follow up

67. On 17 January 2020 there was an email exchange between Mr Webb and Mr Singh about the possibility of an external accessible lift. It was at this stage that the accessibility of Tavistock Square and Gordon Square were considered collectively.

Inclusive Design Strategy

68. On 21 January 2020 the Respondent produced what appears to be a first draft of an "Inclusive Design Strategy" document relating to Access & Inclusion across the UCL Estate, which explicitly cited the Equality Act 2010 and included an acknowledgement that "there is not a clear picture of the accessibility of the built environment at UCL".
69. Under the heading "Acquisitions" this document contained the following proposed guidance:
- c. Ensure all prospective building acquisitions are access audited as part of the purchasing process so that UCL has a clear picture of the work that would need to be completed once any acquisition is made. Once purchased the works will need to be undertaken.

Research away day — February 2020

70. The Department held a research awayday on 12 February 2020, held in Woburn Hall, Woburn House, which is an accessible venue.

Covid-19 Pandemic

71. From March 2020 onward teaching and activities delivered remotely due to the Covid-19 pandemic.
72. The Claimant personally began shielding in February 2020. For the first year she only left the house on five occasions, all for medical related matters.

Re-opening of Gordon Square

73. The Covid-19 pandemic and lockdowns notwithstanding, renovation work appears to have continued on the Gordon Square building during 2020. By October 2020 the Respondent was dealing with “snagging” issues and Pip Jackson the Access and Inclusion manager was focusing on accessibility issues in relation to stairs and the accessible WC.

Academic grades & the Teaching Concordat

74. Stepping back briefly in the chronology, the Respondent issued a policy “Academic Careers Framework” dated July 2018, which contained guidance in relation to four academic grades 7, 8, 9 (Associate Professor), 10 (Professor) - in support of its long-range strategy “UCL 2034”.
75. The highest grade, Grade 10 (Professor) requires
- "Making a significant and sustained personal contribution to the collegiate running and strategic direction of the university"
76. The Respondent draws a distinction between grades focused on teaching and those focused on what is described as an academic track (or “research”).
77. Moving forward to 2020-2021, under a set of agreements across the whole of UCL, “the Teaching Concordat”, various members of staff who had been on rolling contracts moved onto full-time arrangements. This included the Claimant. The idea was to replace insecure arrangements and transition those individuals on to permanent contracts based on an FTE (full-time equivalent) level which reflected the FTE level on the rolling contracts.
78. While it does not form part of her claim of discrimination, it is relevant background to her complaint about rejection of an application to increase her FTE to record that the Claimant was unhappy with the implementation of the “Teaching Concordat” in her own case. From her perspective, she had been a senior teaching fellow, however when the Teaching Concordat was introduced on 1 October 2020 she was as she sees it effectively demoted to lecturer (teaching). Her view is that she should have already have been a Grade 9. The effect of these changes as she saw it was to elongate the path to Professorship.

April 2021 appraisal

79. On 12 April 2021, the Claimant had an annual appraisal with her line manager Dr Colin Provost.
80. During the course of that appraisal the Claimant commented that the new Departmental building (i.e. Gordon Square) needed to be made wheelchair accessible. She asked about her goal of Professorship and who could advise her on this goal and how she could get a sponsor to support her application.
81. Dr Provost commented that he would be happy to discuss some of the Claimant’s requests for reasonable adjustment, particularly if the new building was not going to be wheelchair accessible.

Office

82. The Claimant's support worker Sophia Worth wrote to Mr Webb on 20 May 2021 on the Claimant's behalf to find out about accessible office space for the new academic year (i.e. Autumn 2021).

"Phase 2" accessibility

83. After completion of the works on Gordon Square, Mr Webb continued to pursue the accessibility question. He wrote on 25 May 2021 to David Young, Senior Project Manager, (Estates Department) with Prof Hudson and Katie Canada in copy to enquire as to the identify the correct person to speak to about accessibility once the project was completed now that there was a plan for people to return to campus post lockdown.
84. Mr Webb updated the Claimant as follows

"currently the new building is not wheelchair accessible, I have just followed this up with estates colleagues (again). Jennifer [i.e. Prof Hudson] and I have been very much pushing on this building to be wheelchair accessible. The necessary internal changes have been made in our newly acquired building. These external alterations were due to be a secondary phase of the project, I have been following up regarding the subsequent work for an installation of external accessible lifts and once I have had further clarity on this I will come back to you. Once I understand this, we can discuss what our options are and for office space for a return to campus.

[insertion]

Management roles advertised

85. Prof Hudson emailed the whole department of academic and teaching staff (including the Claimant) on 28 May 2021 with a list of vacated roles, specifically:
- Deputy Head of Department: Planning & Philanthropy
  - DDOE: Teaching Development (i.e. Connected Learning Lead)
  - DDOE: Teaching Equality, Diversity & Inclusion
  - DDOE: PGTA and Study Abroad Advisor
  - PhD Programme Director (Relief from personal tutoring; reduction in diss supervision)
  - Undergraduate Tutor (1 module relief)
  - PIR BSc co-Director



- Chair MSc Exam Board
- Careers & Alumni Tutor
- Dissertation Committee & Ethics co-Chair

86. There was a deadline for a response of the close of business 4 June 2021.
87. The Claimant did not apply for this until 24 August 2021 - i.e. nearly 3 months later.

Applications for accessibility

88. On 25 June 2021 a Project request was submitted by Ben Webb "New Project Request - PNR11530 Accessibility for Political Science - Reasonable Adjustment" in response to which he received an automated response from R's Estates department saying, "Due to the effects of the COVID - 19 outbreak there is currently a backlog of project requests to be processed and assigned."
89. On 28 June 2021 Mr Webb updated Pip Jackson as follows:
- As we started looking into this 29-31, in late 2019, early 2020 and then obviously covid happened and 36-38 Gordon Square was coming online and the project board told me to stop as we could look at them as a joint venture.
90. On 1 August 2021 Pip Jackson submitted a further request for access for wheelchair user and is given a project code for the Rubin Building, i.e. Tavistock Sq, Department of Political Science : PN09191. He wrote:
- "A wheelchair using member of staff needs step free access to this building. Fiona Ryland has asked that we speed this through. Discussed with David Stevens 1.8.2019. Pip has undertaken initial meeting with staff member and visited building. Access is feasible using an English Heritage approved method but would require planning consent"
91. On 17 August 2021 the Claimant again provided her wheelchair measurements.

PhD tutor

92. On 24 August 2021 the Claimant made an expression of interest in PhD tutor role. A week or so later on 1 September she was not appointed to PhD Programme Director role, instead a colleague Dr Zeynep Bulutgil was appointed to this role.
93. Prof Hudson wrote to the Claimant

"Given your fixed term contract, I am unable to extend your role to add in an additional institutional citizenship role without new funding approval from the Faculty. Given your other citizenship roles and the business need for your teaching, I need to keep your current contract (new grants aside) as is.

94. Mr Webb replied privately to Prof Hudson by email to correct her about the Claimant's status and Prof Hudson wrote to the Claimant to acknowledge the mistake, i.e. that it should say part-time not fixed term.

#### Complaint

95. On 3 September 2021 the Claimant forwarded the rejection of 1 September and complained to Maria Sibiryakova, a member of the Respondent's executive committee that she was feeling demoralised by her treatment "as a disabled woman of colour". She felt that her FTE could have been increased to allow her to be a PhD tutor.

#### Return to campus

96. In September 2021 staff began to return to buildings on campus and face-to-face teaching resumed for groups of up to 30, but lectures still had to be pre-recorded and accessed online.
97. The Claimant herself did not return until January 2023.

#### Accessibility emails

98. Mr Webb continued to chase the Estate department on 7 September 2021 on the topic of wheelchair accessibility.
99. On 16 September 2021 there was an email exchange between David Jackson (Estates) and Pip Jackson (Accessibility) about the possibility of a lift at Gordon Square given that an external lift had been provided for the benefit of the Provost (Dr Michael Spence) at 14 Taverton Street. The agreed bundle contains a photograph of this lift. To one side of the step entrance there is the gate behind which is a plastic screen and what appears to be a lift which provides a mechanism for accessing the basement from street level.
100. In her response to Mr Jackson, Ms Jackson explained that she had "future proofed" the Gordon Square building by ensuring that there were wider doors and an accessible toilet, even though because of the stepped entrance it was still not possible for a wheelchair user to access from the outside, a conundrum that she described as "a bit chicken and egg".
101. The two met on 5 October 2021 where they decided that the least disruptive proposal was to set up a suite of rooms within the basement accessed via external lift, which would require conversion of an existing breakout space into an office and the individual concerned would have direct access to an accessible WC, kitchen and seminar room. This would require widening doors.

Change of head of Department

102. In approximately October 2021 Professor Benjamin Lauderdale took over from Prof Hudson as HoD. Prof Hudson had become Deputy Dean of the Faculty of Social and Historical Sciences from August 2021.

Research seminar

103. In 11 October 2021 the Claimant again provided her wheelchair dimensions.

Respondent seeks planning

104. On 12 October 2021 David Jackson (UCL Estates Operations) began to think about the possibility of creating an accessible area within Gordon Square. He emailed Sam Neal, Senior Planning Consultant at Gerald Eve LLP (copying Pip Jackson):

You may be aware that UCL Refurbished 34-36 Gordon Square in 19/ 20 to a high internal standard which included the provision of accessible bathrooms and kitchens.

Unfortunately, that work did not include the provision of step free access and we are now in a position that we need to provide reasonable adjustment to accommodate wheel chair access into part of the building.

Having met with UCL's Accessibility Officer, we concluded that the least disruptive proposal would be to set up a suite of rooms within the Basement, accessed via an external lift, similar to that provided recently at 14 Taviton Street.

The proposals would also require the conversion of an existing Breakout Space into an office, the widening of a few internal structural door openings and modifications to the existing external basement entrance door to allow wheelchair access.

105. The following day Sam Neal replied: [522]

"As you suggest, it would seem that listed building consent and planning permission were approved back 2019 for external and internal refurbishment works to 36-38 Gordon Sq. It sounds as know the works internal works proposed below are similar to the works approved for the upper levels of the building. Therefore, subject to having no adverse harm to the listed building, we hope such works would be considered acceptable by the officers.

With regards to the external lift, we know that the Conservation Officer may not look upon this favourably due to the Site's listed status, and being located in the Bloomsbury conservation area. At present it looks as it this would be proposed at the front of the building. Has any thought been given to whether this could be located to the rear of the building?

Claimant's return to work

106. On 14 November 2021 the Claimant contacted Prof Lauderdale, Dr Provost, and Mr Webb to discuss her return to face to face working. She stated that she was keen to return to in person teaching. She explained that she was still clinically at highest risk of hospitalisation and death from Covid-19. She explained that she had had an adverse effect to her second Pfizer vaccine. She had been advised to effectively shield by medical advisers. She also reminded them of her sight loss and being a motorised wheelchair user.

Claimant's application for promotion

107. In November 2021 the Claimant applied for a promotion to Grade 10 Prof (Teaching), i.e. the highest grade. She submitted the application on 25 November. On 2 December 2021 that application was supported by the Department, with a one page reference provided by Prof Lauderdale on 10 January 2022.

OH

108. A referral of the Claimant's case was made by the Department to Occupational Health on 3 December 2021. This led to a report dated 5 January 2022 written by Lucy Chikuni, RGN, a Specialist Practitioner in Occupational Health. Ms Chikuni confirmed that the Claimant was extremely vulnerable because of Covid-19. She recommended the following adjustments:
- 108.1. Ongoing flexibility to work from home for the foreseeable future as per specialist's advice.
- 108.2. Ongoing management support.
- 108.3. Adhering to advice from her treating clinicians, UCL and government guidance:

Update to Dean

109. In an email 22 March 2022 Ben Webb provided Professor Sasha Roseneil, Dean of the Faculty with a timeline of events in relation to accessibility difficulties in the Department of political science. He was candid in acknowledging that there had been a delay of some six months when he should have been following up with David Jackson in Estates.

Wheelchair accessibility options

110. On 23 March 2022 David Jackson in the Estates department emailed Ben Webb with Pip Jackson in copy. He flagged that it was a listed building and that it would require Listed Building Approval. He stated that neither this approval more approval from funds were guaranteed. He mentioned three options look to utilise the basement of the recently refurbished 36-38, which by then already had a well-appointed accessible WC and also a staff kitchen.

Each option had been worked up informally with a diagram and arrows showing what areas might be accessed.

111. On 8 April 2022 Mr Webb request that the Claimant's provide her wheelchair dimensions and turning circles, which he chased up on 28 April.

Office request

112. On 8 April 2022 Mr Webb requested IoE (Institute of Education) provide accessible office for the Claimant when she returns to campus.

Claimant applies for Vice Dean EDI

113. On 2 May 2022 the Claimant applied for role of Vice Dean EDI (Equality, Diversity and Inclusion).

Away Days – May 2022

114. On 3 May 2022 the Departmental held a Research “Away Day”. The morning session was wheelchair accessible whereas the afternoon was not. The Claimant says in her witness statement that she could not attend the lunch, afternoon sessions (workshops) and end of day drinks which were in the basement of Gordon Square. She says in her witness statement was conscious that this was the opportunity for staff to mingle and network after the day’s events but that she was excluded from this. The Claimant accepted however that she was still shielding due to Covid-19 at this stage and so would not have attended in any event.
115. There was a teaching away day held on 23 May 2022 which was held online. The Claimant did not attend this as it was a non-working day and she had other commitments.

Vice Dean EDI interview

116. On 13 June 2022 the Claimant was interviewed for Vice Dean EDI role. The interview panel was comprised of Prof Hudson (then HoD and Interim Dean), Katie Canada SHS Director of Operations, Martin Holbraad Head of Dept, Anthropology, Bob Mills Head of Dept, History of Art, Natasha Catnott, SHS EDI Director, Aloma Onyemah, Director UCL EDI and Ben Webb.
117. The Claimant was the only applicant. Prof Hudson’s evidence was that the Claimant did not have an awareness of EDI issues within the Faculty (i.e. wider than just the Department) and that she felt that the Claimant’s approach to problems was to take them to the Dean, rather than being an “agent of change” herself. She explained to the Tribunal that she would have expected desk research, e.g. by reading the websites of the departments within the faculty.
118. She was notified 10 days later on 23 June that she was not successful in her application for the Vice Dean EDI role with feedback. In the email sent by Prof Hudson at the time which in other ways positive about the Claimant’s passion and experience by way of explanation said:

“we wanted to see more in terms of awareness of the wide range of the Faculty’s priorities, as well as a clear vision and implementation plans.”

Alternative role offer

119. The Claimant was made an offer of an alternative role Disability Lead for Faculty which had a narrower remit. Prof Hudson wrote indicating that the Claimant had passion and experience working on disability inclusion and therefore offered her role as SHS Disability and LGBTQ+ lead with a 0.10 FTE for 2 years, which would be reviewed after 2 years by the Dean.
120. Prof Hudson provided the Claimant with a draft job description for this role on 25 August 2022. The Claimant accepted the offer of this narrower role 29 September 2022.
121. Ultimately at a later stage the Vice-Dean role was given to Rebecca Jennings.

Claimant achieves Association Professor promotion

122. On 1 July 2022 the Claimant was informed that she had been successful in her application for Associate Professor (Teaching) (grade 9). This promotion took effect from 1 October 2022.

Time for providing undergraduate dissertations

123. Mr Webb notified the Claimant on 10 August 2022 that she would be granted 5% increase FTE on a fixed term basis to supervise undergraduate dissertations.

Welcome drinks

124. By September 2022 all Covid restrictions were lifted.
125. On 28 September 2022 the Department held a Welcome Drinks for all new undergraduate and postgraduate students in an accessible venue. The Claimant attended.

New Dean of Faculty

126. In October 2022 Prof Hudson was promoted to the substantive post of Dean of the Faculty of Social and Historical Sciences, with 8 Heads of Department reporting to her, including Prof Lauderdale (Political Science). She had been “Interim Dean” since June 2022.
127. On 13 October 2022 Prof Hudson emailed the Faculty with a reminder inviting applications for Vice-Dean (Education, Diversity & Inclusion) and Vice-Dean (Postgraduate Research/Faculty Graduate Tutor roles) (p630) with a deadline of 17 October 2022.

Appraisal October 2022 & request for reasonable adjustments

128. In October 2022 the Claimant had her annual appraisal with Dr Provost. As part of that process she recorded a request for three reasonable adjustments. Firstly for the Department to be wheelchair and for her to have an accessible office. She said that this was important because she was unable to have informal conversations with colleagues and as a consequence, felt very isolated.
129. Secondly, in relation to marking, she raised that she had multiple additional processes before she could mark essays or dissertations, which truncated the time available for the actual marking process. She raised that she had found the dissertation marking process particularly difficult for the previous two years because papers are submitted at different times of the month and yet the exam board deadline remains the same. She requested that in addition to marking her own she could be allocated as second marker to dissertations that are handed in on time.
130. Thirdly, she requested a telepresence robot which she saw as being a solution to shielding, vaccine issues, and lack of access to the Department, which would enable her to be a part of the Department. She felt it would also facilitate my research into the relationship between disability and technology in educational settings.

Application for promotion

131. On 1 November 2022 the Claimant was told that her application for Professor (Teaching) [i.e. to advance from Grade 9 to Grade 10] was supported by the Department.
132. The Claimant met with Prof Lauderdale, HoD, to discuss her proposed application for a promotion. In an email exchange which followed this up she asked for his advice on internal and external references. He also offered comments on her Personal Statement.
133. 3 November 2022 Meeting the Claimant & Prof Lauderdale - [659] [638]  
- made comments -

Sick absence

134. In late November 2022 the Claimant was unwell. On 21 November 2022 she was signed off with anterior uveitis i.e. inflammation of the front part of the eye. She was signed off on 29 November 2022 for two weeks to 14 December 2022.

Alternative office space

135. In November 2022 Ben Webb was liaising with the IoE Department at around this time with the goal of finding some accessible office space. This matter was complicated by the fact that IoE were relocating staff to allow refurbishment of the office space. In December 2022 IoE pushed back because of power and heating failures, major noise disruptions, drinking water failure where none is

available until new year, "big accessibility issues" and major health and safety failures.

Support for Professor promotion

136. Prof Lauderdale wrote a reference on 12 December 2022 (one page of close type) in support of the Claimant's application Associate Professor (Teaching) (grade 10). This included the following:

"The departmental professoriate agreed that Dr Kumar meets the role profile of Professor (Teaching) when that role profile is appropriately interpreted for someone holding a part-time position."

"She also has limited mobility, and has been unable to enter our department physically for the past five years, due to UCL's inability to make the listed Georgian terrace in which the department is located accessible to individuals who cannot navigate stairs. Despite this, she has continued to teach effectively and make the contributions that I have briefly described above and which she describes in much more detail in her application. Overall, Dr Kumar makes unique and valuable contributions to the department, particularly in the areas of teaching and institutional citizenship, but also external engagement. Given her seniority and wealth of experience in both her academic and non-academic roles, she meets the standards of what we should expect from a part-time, teaching track colleague at the rank of Professor (Teaching)."

Dr Provost's guidance to the Claimant

137. The Respondent's case is that although they were supportive of the Claimant she was given indications that seeking further promotion so soon after being promoted to grade 9 less than a year previously might prove challenging.
138. The Claimant agreed that Dr Provost her line manager told her that a promotion from grade 9 to grade 10 at this stage "wouldn't be a slam dunk". We find that he was supportive but sounded a note of caution.

Mr Webb sickness absence

139. From 28 December 2022 Ben Webb was off sick for two weeks.

Claimant returned to work

140. In January 2023 the Claimant returned to face to face teaching "unshielding" after Covid-19.
141. On 6 January 2023 Katy Hamilton the Deputy Director of Operations of the faculty provided the Claimant and Mr Webb with three options for an accessible



office: Barlett on Gordon Street, Laws (Bentham house) and Greek and Latin (Gordon Square).

Fire alarm evacuation incident - 19 January 2023

142. On 19 January 2023 the Claimant was working in the Institute of Education (IoE) when a fire alarm went off. She was supported by her sighted support worker Kristian Saetre, but nevertheless experienced significant difficulties in getting out of the building. She asked a member of IoE staff whether it was a drill or real. They told her either way she had to evacuate, as they could not say. She tried to evacuate and the first fire door was not wide enough for my wheelchair. The second route was blocked and the IoE staff member and Kristian Saetre had to clear the tables and chairs for her to be able to get through. The Claimant expresses the concern that without Ms Saetre and the IoE staff member she would not have been able to do this.
143. The Claimant then found that the next set of doors would not open with her pass with the result that she and Mr Saetre were trapped between two buildings. There was no intercom or phone. A staff member from the other building heard us and let them through.
144. They could not locate the assembly point and went back to the accessible entrance at IoE where they met a couple of the Claimant's students who were not allowed in the building due to the fire.

Email complaint 29 January

145. The Claimant raised her concerns with Prof Lauderdale and Mr Webb in an email on 29 January that whole episode did not give her confidence that she would be safely evacuated. She felt that this had contributed to the stress of returning to campus.
146. She also raised difficulty with toilet access and office availability (p691-92)

Wheelchair specifications

147. On 1 February 2023 the Claimant (by a support worker) provided technical specification for her wheelchair in response to a query dated 27 January 2023. (p705)
148. In an email dated 1 February 2023 to Ben Webb, copying Prof Lauderdale and Dr Provost the Claimant wrote thanking them for their consideration of various issues:

Whilst it's probably obvious and goes without saying, I'd like to reiterate that I'd really like to be able to access our Department. I miss being part of the community. As you are aware, but maybe others are not, I've been on the outside looking in since 2017. Often, I feel very excluded and upset that I cannot meet colleagues or students or join in meetings.

It's really lonely and I feel isolated

149. Given that it had been in the region of six years since the Claimant had access to the Department, this expression of feeling excluded, lonely and isolated seems to the Tribunal to be understandable and not overstated.
150. On 10 February 2023 the Claimant expressed a preference to teach and hold office space in the Geography. A few days later she was told of room bookings in Geography and a PEEP was planned.

Invite for applications to increase FTE

151. Professor Lauderdale wrote to the members of the Department on 3 March 2023 inviting staff to apply for increase in permanent FTE by CV and covering letter. That invitation included the following:

Main purpose of the job

The teaching-track role is appropriate for scholars looking to make a career at UCL specialising in Education, including pedagogical research, course and module design, and teaching innovation including the use of new technologies. The role will also make a significant contribution to the Department through institutional citizenship.

Feasibility report

152. Timothy Cochrane MRICS at Barker Associates (Essex) Ltd feasibility report in March 2023 on making Tavistock Square/Gordon Square wheelchair accessible.
153. The report contains the following, useful description of 36-38 Gordon Square as it was in March 2023:

Unlike the previous two properties [29-30 & 31 Tavistock Sq], 36-38 Gordon Square is Grade II listed and is situated within the Bloomsbury Conservation Area. All refurbishments and amendments to this building will be subject to statutory approvals from Camden Borough Council.

The main access to the building is via stepped access off Endsleigh Place. There is secondary access to the building provided off Gordon Square via steps. Access is provided to the lower ground floor in both these locations via external stairs within the lightwells. The primary and secondary access bring users into lobbies in both locations, providing access to the ground floor. There is no passenger lift within this building, unlike 29-30 Tavistock Square.

The internal areas of this building have recently been refurbished, allowing for the building to become more open plan to encourage collaborative working. The refurbishment has also involved the

installation of new accessible toilets to both the ground and lower ground floor. The refurbishment involved the installation of low-level kitchen counters to the lower ground floor. In conjunction with the accessibility adaptations, the clear door widths throughout the lower ground and ground floor exceed 900mm, which meets Doc M requirements and the requirements for the end user.

154. In that report five different options for accessibility were suggested. Of those five options, option 4 was the one taken forward, which was:

focus on the ground floor of 36-38 Gordon Square in lieu of an open vertical platform, Barker proposed the installation of a Sesame Lift. The sesame lift are widely accepted in listed buildings across the UK

The sesame lift will provide level access from the pavement up the steps of the Gordon Square entrance onto the ground floor, the sesame lift would fit seamlessly into the building's façade. The installation would involve the submission of a listed building application, this would also cover the internal adaptations.

No kitchen facilities or breakout space on ground floor and would therefore require refreshment facilities being installed on the ground floor at an agreed location.

Sanitary (i.e. bathroom) facilities already in place from previous refurbishment

155. The Claimant says that this option was only taken forward after she complained to the Provost and President Michael Spence. Mr Webb disagrees says that this was already in train. It is not necessary for us to resolve that dispute.

#### Party 24 March 2023

156. There was an end of term Department Spring party on 24 March 2023.
157. The Claimant queried the venue, which was not accessible.
158. Sweeney Pascale who was organising the party wrote to her on 15 March as follows:

“I wanted to contact you regarding the Department end of term party on the 24th of March. I am extremely sorry to report that there is no accessible access to the upstairs venue, but it would be really great to see you there and we would very much like you to come. If you are planning on attending, we can arrange for a table to be reserved downstairs and please do not worry as people from the department will be in and out of that room too.

There is also going to be another department party in September, and we will ensure that this accessible to everyone in the department.”

159. The Claimant raised this with Ajay Patel, Staffing and Finance Manager, which led to Ben Webb making contact by email with the following explanation on 20 March:

"If I am allowed, I wanted to explain about the event, the pub layout, and the number of people we have booked for. These factors have led to us needing to book a large area to accommodate the size of dept we now are (100+), which has led us needing a large space for social occasions, which has led to booking multiple areas due to pub layout, unfortunately in the local area there is a lack of big open plan space within pubs/ bars that are fully accessible to all the spaces within their venues, which is why we had to book a multi area space. This was an attempt to be able could accommodate everyone, which has led to both being provided with accessible and inaccessible areas on the evening. We also recognise this is also not ideal situation either and not an ideal solution either."

Faculty senior promotions report

160. Sometime in Spring 2023 the Claimant's application for promotion to Professor (grade 10) was considered. As part of that process, applications for promotion were assessed and placed on a scale A, B or C:

"An "A" application is where the panel considers that all criteria are met and there are no reservations.

A "B" application is where the panel thinks that an application is good, but there are some concerns about criteria that we want to discuss and/or there are reservations from external referees.

A "C" application is where the panel thinks the application doesn't meet one or more of key criteria and there are reservations by external referees.

161. In the case of the Claimant her application was graded "B" and the report narrative read as follows:

"...

Dr Kumar is also a disabled member of staff, she is a wheelchair user and has sight impairment, its relevant to mention the personal circumstances as she is a staff member who has been unable to access her own department for a very long time. The work that she does do is almost entirely remote, when she is able to access the estate it's not without significant number of issues. Dr Kumar working from the challenges from her disability and UCL

estate issues which **poses difficulties to do her job role effectively**. Complex case given the promotion trajectory. Last year Dr Kumar proposed to go for a direct grade 10 promotion, the department was not comfortable with that primarily about the limited timescale on the application preparation and that she relies on her sight and support worker. This year there was a potential for grade 10 as the department felt there was much more evidence to prepare the application for promotion. Clearly good on innovation in teaching which is good at grade 9 but grade 10 the Academic Careers Framework is looking for leadership, evidence of doing activities within the department is required. As Dr Kumar teaches across multiple institutions it's probably been a reason not to take on too much leadership on the education side in the department.

She has led on inclusive teaching practices where you identify the movement from innovation to leadership. Referees raised the question it's a difficult case to evaluate against the criteria especially around the evidence of leadership. Specific publications about education which highlights pedagogy this does show some elements of leadership as you do not often see people publishing in the field like Dr Kumar does. There is more leadership in education at LSE rather than UCL, there are research development programs where hundreds of doctoral students going through training programs that Dr Kumar built. The application was written as if it was for LSE rather than just UCL.

The work Dr Kumar undertakes outside UCL questions to what extent is that work being rewarded. The panel were really looking at the amplification of her work at UCL around education and external engagement and were not rewarding works that is outside of a UCL contract. Difficult as this is blurred, and Dr Kumar does a good job at bringing everything together. If you do not consider the work that is not required at UCL then the application is difficult to discern. "

[emphasis added]

162. The Claimant's critiques of this summary are that the comment (seen above in bold, emphasis added by Tribunal) about difficulties to do her job role effectively suggests that she was not doing her job role effectively and also the reference to her teaching across multiple institutions was factually incorrect. She had not been teaching anywhere else since 2018.

#### Bentham Building

163. On 9 May 2023 there was a Teaching "Away Day" at Bentham Building (described internally within the Respondent as "Laws"). This was ordinarily an accessible venue. On arrival at the Bentham Building, the Claimant could not access the building for approximately 30 minutes as a cycle was blocking the wheelchair access ramp. The security staff told her that they were unable to

assist for health and safety reasons. Eventually a member of the public lifted the cycle up in the air so that the Claimant could pass in her wheelchair.

Application for increase FTE

164. On 30 March 2023 the Claimant applied for an uplift on to her FTE contract.
165. The selection process was based on a CV and a two page letter describing the additional contributions applicants would make to the Department if they had a full-time role. This was then followed by an interview by a panel. There were 9 applicants. Of those 9, only 4 were offered an increase in FTE.
166. There were four members of the interview panel. Prof Lauderdale, Julie Norman, JP Salter and Prof Lucy Barnes. Prof Lauderdale provided guidance (unseen by the applicants) to the members on the panel who were to make the decision about the FTE uplift

"You will note that the job description puts relatively little emphasis on departmental teaching and administrative needs in particular areas relative to others. The focus of the JD is on general attributes of the candidates, however the fit of what each candidate can offer to the department is relevant to judging the second and sixth criteria. I am not expecting any of you to be in a particularly strong position to consider relative departmental prioritisation of different kinds of existing / new teaching capacity or administrative roles, so I would recommend that you adopt a neutral view on this and focus on the strength of candidates setting aside the question of where we have gaps. Since I spend a lot of time with the departmental workload spreadsheets, I will do a separate ranking specifically on this point, and then we can have a conversation later in the process about how to weight these considerations in making a final ranking (to the extent they conflict).

...

I think we should all have done our own private rankings \*before\* the interviews, but not share them until after the interviews. Obviously we should be open to amending these at the interviews, but it would be a mistake to try to come up with a ranking of 10 candidates on the spot immediately after the interview, without having summarised what we thought based on the paper applications.

167. The Claimant's ranking based on her paper application only would have been high, in particular from the three other panellists supporting Prof Lauderdale, before taking into account his "departmental need" criterion. Of the 9 applicants she received a ranking of "1.5" (joint first) from one panellist and "2" from two others. Prof Lauderdale made clear in his evidence however that there was no "interim" ranking, he had simply asked panellists to record a ranking basis on the paper applications before the interview took place.

FTE interview

168. As to the interview, panellists were given standard questions to ask each applicant in the course of an interview which would last approximately 20 minutes.
169. There was a dispute between the parties as to whether notes taken by Prof Lauderdale (1569 in the bundle) were notes of what the Claimant said during the interview or were alternatively comments made by him which revealed a negative view of the Claimant and in particular his view of her disability. The Claimant's case is that "More recently, have become disabled in a way that she was not before" and "towards the latter stage of her career" were words not said by her and are comment.
170. Prof Lauderdale's evidence is that he used a laptop to type in things said by candidates in the interview. While he is not suggesting that this is a perfectly verbatim note, he does contend that these were notes made by him at the time reflecting was being said in the interview.
171. The Tribunal concludes that these notes were not verbatim. These are notes which are not complete sentences. On balance however Prof Lauderdale find that he was recording the sense of what was being said. The reference to the Claimant being disabled in a way that she was not before we find on the balance of probabilities was an attempt to capture comments that she made in this interview, rather than a value judgment being made by Prof Lauderdale.

FTE application outcome

172. On 18 May 2023 the Claimant's application for increase in permanent FTE was refused.
173. Following on from the interview and applying Prof Lauderdale's "departmental need" criterion, which he alone assessed, the Claimant was ranked 5 out of the 9 applicants. The top 4 applicants were offered FTE increases. The result was that she missed out on an FTE uplift by one place.
174. The successful applications were Kalina Zhekova (increased from 0.66 to 1), John Wilesmith (0.692 to 1), Maki Kimura (increase from 0.4 to 0.8) and Kayleigh Heard (who was already temporarily on 1, stayed at 1). These individuals are relied upon by the Claimant as comparators.
175. The Tribunal understands the Claimant's submission that this process was not transparent and was unfair, which we comment on further in our conclusions on the section 15 complaint.
176. Nevertheless, we accepted Prof Lauderdale's evidence that in his view the selected candidates demonstrated competencies and interests in delivering core departmental teaching to a greater degree and also that he had a concern that the Claimant would be bringing some of the work that she does externally (on a not-for-profit basis) within the scope of her UCL contract (page 1569 refers):

“The panel felt that Sarabajaya was proposing with respect to external work would not be compatible for the FTE uplift that she was applying for because the role profile would necessarily focus her additional employed time primarily on teaching and administration, crowding out the external engagement work that she emphasized in her interview.”

177. Prof Lauderdale offered a detailed justification for why for the candidates succeeded. In relation to Kalina Zhekova, he assessed that she could make a greater teaching contribution to the core module of the International Public Policy program (with 100 students per year), Qualitative Methods modules (required by 400 postgraduate students). She had been working on the graduate tutoring team and was developing a new module on Russian foreign policy, which was relevant given world events at that time.
178. In relation to John Wilesmith, he could teach a range of Political Theory modules and also to deliver modules for MSc Legal and Political Theory. He had already taught on eight different modules for the Department over the years, and increasing his FTE would enable him to teach on more of these in a given year. He had served as a programme director and deputy exam board chair multiple times previously on an interim basis, and his application materials indicated he was closely engaged with these essential roles.
179. Kaleigh Heard offered the ability to teach across all of the core modules of the MA Human Rights programme, for which she had previously been contributing. The Department had no other teaching-track staff with capacity to support that programme, and were relying on academic staff who were frequently bought out of teaching due to large grants. She had experience as Deputy Programme Director for the MA programme also, which was an essential role to fill. She proposed new elective modules that would appeal to students on both the MA Human Rights and also MSc Security Studies.
180. Maki Kimura was in Prof Lauderdale’s view the closest comparison to the Claimant in terms of past role in the Department and proposed contributions, and was ranked immediately above the Claimant. He acknowledged that there were a number of relevant similarities. Both had been in part-time roles teaching successfully with the Department for a decade on two modules each. Both of them had a permanent FTE of 0.4. Both proposed to co-deliver an inequalities module with one another as a potential additional activity. Both had experience supporting EDI efforts in the Department, and both offered the potential to take on a graduate/undergraduate tutor role supporting students facing difficult circumstances. Prof Lauderdale concluded that Ms Kimura had relative strengths compared to the Claimant because (1) she could teach on the required qualitative methods modules described above for which the Department needed greater capacity and (2) she taught undergraduate and postgraduate modules on gender and politics which were regularly over-subscribed beyond what her contract currently supported (demand from approximately 60 students). He felt that expanding her contract would allow her to take on more students on these popular modules. By comparison, Prof Lauderdale explained that the Claimant’s modules were generally smaller demand for these fit within her existing contract.



181. The Claimant argued at the Tribunal that she had experience of quantitative Methods and could teach core modules. Prof Lauderdale in response drew a distinction between experience of and being able to teach quantitative methods, which was a distinction in his mind between Ms Kimura and the Claimant.

OH report

182. On 5 May 2023 the Claimant was referred to Occupational Health. In the report dated 30 May 2023 Dr. Kirsti Eraneva, Consultant Occupational Physician wrote as follows:

Wheelchair access problems have created a barrier to Sarabajaya entering her own department. This means that she is unable to have her own office or suitable private space in which to meet with colleagues and students. This is not conducive to a sense of belonging in the department or to working effectively when on site, and therefore I recommend that options for overcoming those barriers are identified.

183. As to the marking of exam scripts Dr Eraneva gave the following advice:

As Sarabajaya is legally blind, she requires her sighted support worker to download and record papers for marking. As a result marking takes her longer than it does for sighted colleagues. Extra time to complete marking or an adjusted marking load would assist with his activity.

Research Away Day (Goodenough Club)

184. A research away day was held at the Goodenough Club on 8 June 2023.
185. This venue had apparently been described to the Respondent as accessible, however the Claimant experienced significant accessibility problems. She found that the toilet was in a different building to the main room. Access to both the dining room and toilet required the navigation of steps. The result was that the Claimant required four people with her to access them as a result. The toilet door was too narrow to allow wheelchair through. The delay to entering the building due to issues with the lift and stairs resulted in the Claimant being late for the awayday and the prepared lunch. By the time the Claimant arrived in the lunch hall, most people were finishing and leaving. The Claimant complains that she was manhandled by venue staff which caused her pain.

Lucy Barnes comment

186. At the away day on 8 June, there was a discussions about the departmental research strategy. During that discussion the Claimant challenged a claim made at that event that it was an inclusive department, citing the fact that she

could not enter the department buildings. Dr (now Professor) Lucy Barnes, responded

“yet you are here at the research away day aren’t you Sarabajaya”.

187. Professor Barnes does not dispute that she made this comment, but explains that she felt “some frustration at the lack of progress made by UCL on these issues, limiting our power to deliver an inclusive environment at the departmental level”, which she says “may have inflected her tone”. She denies frustration or negativity toward the Claimant.

Accessible office

188. For the period 24 April 2023 to 9 June 2023 an accessible ground floor office was provided for the use of the Claimant at Institute of Advanced Studies (IAS).
189. From 10 June 2023 onward the Claimant taught from the Geography Department.

Outcome to Professor promotion application

190. As to the outcome of the Claimant’s application for a promotion to Professor, according to the documented note, the Academic Promotions Committee could not identify much evidence of work at UCL in regards to the education and external engagement criteria. Leadership was also brought into the discussion about being minimal evidence present in the application. The panel decided the application was not to go forward for promotion. It was noted that more evidence of leadership if there is to be a next application.
191. On 15 June 2023 the Claimant’s application was rejected. Prof Hudson (Dean of Faculty) gave the following feedback:

"I am very sorry to say that your application for Professor - Teaching was not supported by the Academic Promotions Committee. I know this is disappointing news and I am sorry to bring it to you. In brief, the panel acknowledged the Stephen Wall inspiring role model award in 2021; faculty teaching awards on assessment and feedback; and good institutional citizenship was demonstrated. However, the panel felt there was not sufficient evidence of educational leadership required for Grade 10; the work around PhD training is good as were the case studies for APSA, however panel was looking for more evidence of sustained and significant leadership (e.g. innovative teaching pedagogy/practice, publications in the area of pedagogical development, etc.) following on from promotion to Associate Professor in 2022. There were also reservations from one or more referees on educational leadership as required by the Academic Careers Framework at G10.

192. She offered to meet:

I would be very happy to set aside time to relay to you the feedback in more detail should you wish so that you understand the decision and have information about what is required for the next application to be successful. I have also shared the feedback with your Head of Department."

193. The Respondent accepts that in most cases individuals recommended by their department are successful in achieving a promotion, a point made by Dr Provost. Prof Hudson did not disagree, she suggested that in the region of 10% of promotion applications were not granted. That was her rough estimate across all grade levels not specific to the top grade.

FTE complaint

194. On 22 June 2023 the Claimant requested a meeting in relation to the FTE refusal and made an informal complaint (p871). She wrote

As a follow up, I would like to request a meeting with you, my line manager Dr. Colin Provost and Dr. Amanda McCrory (a Dignity at Work Adviser), both in copy, to discuss: (a) the FTE uplift decision; and (b) a number of other concerns I have with specific reference to my accessibility to, and inclusion in, the Department.

Unfortunately, this meeting is the start of an informal complaint.

BBQ

195. On 23 June 2023 the Department held a Summer BBQ with step free access. Unfortunately the Claimant was unable to attend because of being in hospital undergoing testing.

Meeting 3 July 2023

196. On 3 July 2023 the Claimant met Amanda McCrory, Ben Lauderdale, Colin Provost. There is a transcript of that meeting which includes the following:

[899] Prof Lauderdale "the challenge is that our building is accessed by stairs and on the exterior, and we have limited legal ability to modify the exterior of the building. But there was a plan that involved direct access to the lower ground level, which was being explored. I need to check up on where that is in terms of UCLH's estates."

197. Prof Lauderdale commented that there had been issues, but that since 2020 the Claimant's interactions students have moved to online (zoom) or outside the building.

198. Dr Provost made the following comments during that meeting:

There is and ought to be more transparency around, you know, departmental, like hiring and, you know, things like graduate tutor, undergraduate, tutor and these other positions, because sometimes it's just kind of been who wants this? I'll give it to this person first come, first served, right. Which is not an inclusive approach to giving out departmental roles. Right. So having as as transparent and inclusive as approach impossible is is is, you know, obviously something to strive for on that front. I mean, one other thing.

199. It was to Dr Provost's credit that he was to some extent acting as an advocate for the Claimant's situation in this meeting. They had been colleagues of long standing and he had been her line manager for a long time.

Feedback on

200. On 10 July 2023 Prof Lauderdale provided feedback re Professor (Teaching) (grade 10) role not being successful:

"Overall, you presented an application with many strengths. You have a wide range of experience, both inside and outside academia, and a record of good teaching practice and student satisfaction within our department as well as beyond. You have substantial experience in academic administration, both at UCL and LSE. This includes experience in supporting students through personal tutoring and programme directorship roles, which is a relative strength. However selected candidates also had relevant experience in these areas, and were able to identify specific roles that they were well-suited to take on with the additional FTE, as you did also. So while this is an area of strength for you, it was also for a number of other candidates.

The selected candidates had stronger accounts of how they could contribute to delivering the core, required modules that must be delivered for our degree programmes every year, while also having the expertise to offer distinctive specialist modules that give our teaching offer breadth. You currently deliver teaching for us on two small elective modules and your application focused on further elective offerings, but did not speak much to how you could make a proportionately larger contribution to our existing/core delivery. As a consequence, compared to other candidates, you had a weaker case related to education delivery overall, even though you have some distinct strengths in this area. Since education delivery is 65% of the teaching track role, versus 20% for administration and 15% for research, development and external engagement, and module delivery is a large part of typical staff teaching activities, this area was the key relative weakness in the application.

Your extensive external work in the non-profit sector is a unique strength of your application. This work strengthens what you are able to offer the department in your existing teaching, and it would also strengthen what you would be able to offer additionally to your current contract (eg the Inequalities module you proposed). However, there is relatively limited time available in a teaching contract for external work, at most 15%. So this received lower weight in the overall decision than education delivery, given that the assessment was with respect to “Undertaking a standard mix of teaching, administration, and other activities in line with the departmental workload model for staff with teaching-track positions” as noted above.”

### Grievance

201. The Claimant submitted a grievance via her union on 14 July 2023.
202. That grievance, raised concerns about events going back to 2017 including exclusion from social events and problems with physical facilities and lack of career progression, which are the subject of the present claim.
203. The Claimant was contacted by Employee Relations regarding the grievance and received a letter acknowledging grievance from Prof Lauderdale.
204. On 24 July 2023 the Claimant raised that she felt that her grievance was being re-framed in simplistic terms. She made clear that the grievance against the whole of UCL not just the Department.

### Discussion of promotion outcome

205. On 31 July 2023 the Claimant met Amanda McCrory (Dignity Advisor and Associate Professor in Science Education) and Professor Hudson the Dean to talk about the promotion outcome. This meeting was recorded at the Claimant's request with the agreement of those present. The Tribunal had the benefit of a transcript of this meeting.
206. During that meeting Professor Hudson explained the A, B, C grading outlined above. She acknowledged that there were very positive aspects of the application in particular PhD studentships and case studies, which were some of the strengths of the application. She specifically stated that there was sufficient evidence at grade 10 in relation to the Claimant's collaboration with the third sector and how that was brought into the classroom.
207. She explained that there were reservations in two places however. First was an external referee (Dilly Fung), who said that there needed to be more leadership to fit the grade 10 criteria. The second was the requirement for “sustained contribution”, in the context of the Claimant's promotion to grade 9 in 2022 only the year before.
208. In the discussion the Claimant raised that she was particularly disadvantaged by not been able to physically access the estate. She acknowledged the point about the need for sustained and significant leadership and said “I think you're

right” in the context of the discussion about having been promoted the previous year, although the way that she saw it she was relying on evidence of sustained and significant leadership for the previous 4-5 years rather than simply the previous year.

Promotion appeal

209. On 7 August 2023 the Claimant submitted an appeal relating to the refusal of her application for a promotion on the basis that this was inconsistent with the Academic Career Framework and the restriction of the time period considered for her application.

Grievance investigation

210. During a grievance investigation Helen Crane interviewed the following: Ben Webb, Ajay Patel, the Claimant, Kristian Saetre, George Briley, Nick Ash, Edd Rowe.
211. Both Prof Lauderdale and Prof Hudson provided written responses.
212. On 30 August 2023 during a grievance investigation meeting the Claimant’s line manager Dr Provost admitted that "Estates" told him that Gordon Square would be made accessible, but it was not. He said he'd heard second-hand that Estates did not prioritise disability access. He clarified during the Tribunal hearing that by “second-hand” he was referring to the Claimant having told him.
213. During that meeting Dr Provost mentioned a recent incident when the Claimant was very upset because she did not have a space to do her office hours and was given an office in an accessible place but when she went there, someone had put a lot of boxes in her room. She asked someone about it, and they were cavalier and rude and said, 'We need to put these things somewhere.' He commented that people are not always understanding of the needs of disabled people. He felt that there could be better communication on this topic. Regarding his own involvement he said:

It happened fairly recently as the school year was coming to a close. At that point it was an informal conversation, and I was listening to her. When she told me about it, it was as part of a litany of things. That's how a lot of our recent conversations have been - there is usually more than one thing upsetting her. I didn't take specific action regarding that.

214. He went on

There aren't a lot of disabled people in the department, so SK is in a minority and sometimes people forget. Professional Services are better at remembering disabilities in regard to students because a lot of students have special needs and it's part of their job to remember that but in regard to staff, people need to be reminded because we don't have a lot of disabled staff.

Claimant emails President & Provost

215. On 25 August 2023 the Claimant emailed the President and Provost (Michael Spence) regarding the appeal regarding promotion and accessibility/discrimination issues. She wrote as follows

"As a wheelchair user, I cannot access most buildings on UCL's estate, as only 7% of the estate is accessible. I have not been able to access my Department (Political Science) since 2017. Even when a new building was purchased, it was not made accessible during the refurbishment, despite assurances that it would be. Worse still, earlier this year, I was unable to exit promptly and safely during a fire evacuation at IoE, as the wheelchair exits were blocked.

As a result of my physical exclusion, I am also socially excluded from the scholarly community, as I am unable to attend seminars, professional development workshops and work-related social events, for instance.

Even when meetings are organised outside Departmental buildings, they are rarely organised in accessible venues. This exclusion also makes it difficult for me to meet my students (as I have no access to an accessible office), and/or to collaborate with colleagues. Consequently, I have become invisible at UCL. I am, effectively, 'out of sight and out of mind'.

I also feel that I am seen as both difficult and a problem for taking up precious financial resources and management time because I need to constantly request reasonable adjustments, and to repeatedly state that I need to be included. However, in reality, I am simply asking to be included in the life of the institution, just as my non disabled colleagues are. As a consequence of these experiences of exclusion, I have filed a formal grievance on the grounds of disability discrimination.

As you will be aware, discrimination is, for the most part, not overt. Rather, it is a picture built up from numerous inferences of less favourable treatment. It is clear that over the years the University has simply not taken steps to include me in the institution. A number of these relate to physical exclusion, and a number to social exclusion. I am clearly at a substantial disadvantage in these circumstances because of my disability, and the University has not taken appropriate steps to remove this disadvantage.

More recently, this discrimination and exclusion has led to my application for promotion to Professor (Teaching) being rejected. I have a number of concerns in relation to this. In the interests of brevity, two of the key ones are as follows. Firstly, there were irregularities in relation to one of my external references. The reference was misinterpreted, and following this, it was used as justification for the decision. Secondly, I was told that I met all but

one of the criteria; however, according to UCL policy, applicants are not required to meet all criteria. I believe the latter in particular, clearly illustrates that I have been held to both a different and higher standard than non disabled applicants.

216. Dr Spence replied on 20 September asking if the Claimant was happy for him to show home States team and also Rebecca Jennings, Vice-Dean (EDI) for Social and Historical Sciences. Finally in relation to the academic promotion question, he requested permission to refer the Claimant's case to Professor Anthony Smith, Vice-Provost (Faculties), and Mark Rice, Director of Reward.
217. The Claimant says this complaint was required to make the action in relation to an external lift happen. Mr Webb disputes this and says that this was in train in any event.

#### Book launch inaccessible

218. At a book launch by Professor Michael J Reiss on 13-14. September 2023 the Claimant complained to the President and Provost that she had been assured that the venue was accessible but she was unable to enter the room and had to remain in the corridor. The Claimant reported that nearby toilets were also inaccessible.

#### Wheelchair accessibility

219. On 10 October 2023 a paper from the Estates department requested budget approval for creating wheelchair accessibility at Tavistock Square/Gordon Square. This was given a priority of "medium".

#### Promotion review

220. On 14 November 2023 Dr Spence wrote to the Claimant to explain that there was no appeal process in relation to promotions since the panels involved all of the Deans. However he did offer a review for fairness to be carried out by Professor Armour and Anthony Smith.

#### Claim

221. On 5 December 2023 the ET1 claim form was presented to the Employment Tribunal. This followed on from an ACAS conciliation period 25 September 2023 to 6 November 2023.

#### Meeting with planning at LB Camden

222. On 6 December 2023 Megan Putt of the Respondent together with three planning consultants from Gerald Eve attended a month meeting with the planning team at LB Camden. It was clear from remarks made at that meeting that the local authority supported inclusivity and access for disabled people. Rose Todd, one of Camden's conservation officers noted need to ensure inclusivity. There was a discussion in which it was confirmed that the solution to access would be either a ramp or platform lift but not both. Planning



consultant Sam Neal alluded to a wider strategy being pulled together and appeared most likely to refer to the Claimant's case:

Accessibility issues more extensive and employee can't gain access and raised grievances.

223. That Camden was supportive of accessibility is clear from follow-up correspondence. Email from Paige Ireland, Senior Planning Consultant at Gerald Eve to David Jackson, Kathryn Aedy:

As discussed, Rose [Camden] thinks it would be beneficial to secure further accessibility improvements throughout the building, rather than simply the ground floor area. The platform lift should therefore serve both the lower ground floor and ground floor levels to enable greater access to the building.

At ground floor level, whilst Rose was accepting of the need to widen the doors, she did highlight that these elements are likely to be the most sensitive, given the original door frames will need to be altered. Nevertheless, given that Camden place a lot of weight on inclusivity, these should be able to be justified.

224. David Jackson in Estates updated Benn Webb on 15 December as follows:

"The Camden officer was also keen to see that we maximise the accommodation available to disabled users and we will also investigate with her blessing taking the platform lift to basement level and providing, via B83 access to that floor and possibly at a later stage to the rear garden of 38, which links with 31 Tavistock. Much of the LGF of 36-38 is accessible in accordance with Part M Accessibility regulations, which allow for clear openings less than 900mm, although will not accommodate your colleague's wider chair.

#### Office space

225. In December 2023 the Department arranged for the Claimant to share an accessible office in the department of anthropology, specifically the office of Professor of Anthropology and Music Georgina Born. Initially Professor Born was amenable and cooperative in email correspondence. Later it was suggested that the Claimant might be in on Thursdays, Tuesdays and Fridays, and Professor Born pushed back on the basis that it will be difficult to work around the days that were mentioned. Presumably seen from her point of view, that was potentially three days out of a five day working week.

#### Grievance investigation report

226. On 19 December 2023 Helen Crane provided a report following her investigation into the Claimant's grievance. Her conclusions were as follows.

- 227. First, in relation to adjustments to allow access to infrastructure and services leading to exclusion, it was concluded that there was sufficient evidence that the Respondent was taking appropriate steps to ensure adequate workplace adjustments are being implemented to support SK to access physical and virtual resources on campus and there is a lack of evidence to support this allegation.
- 228. Second, in relation to lack of wheelchair access to workplace away days (teaching/research) and work-related social events, there was partial evidence to support this allegation, but it was suggested that there was a lack of availability of space venues.
- 229. Third, out of it was accepted that there was no risk assessment/PEEP, although there were said to be unforeseen circumstances due to sick absence.
- 230. Fourth, it was accepted that the Claimant could not evacuate the IOE building on 19 January 2023 and that there was no risk assessment/PEEP.
- 231. Fifth, there was a lack of evidence to support that the Claimant had been denied opportunities for departmental roles or that she had missed out on uplift and research funding.
- 232. Sixth, while the had been “shortfalls” solve from the full spectrum of workplace adjustments that would be required, they found that there was evidence that every effort in relation to adjustments had been actioned at the earliest opportunity. While the investigating manager understood that these faults had been at the expense of the Claimant’s respect, dignity and professionalism, but the Respondent was moving forward with actions in a procedural manner and the investigating manager could not see evidence that supports the Claimant’s claim of exclusion and less favourable treatment as a result of her disabilities.

#### Sepsis

- 233. On 28 January 2024 the Claimant was hospitalised for sepsis. This was she says because she could not get access to a toilet on the Respondent's premises and held her urine all day.
- 234. The result of this ill-health was that she was unable to attend a grievance hearing. The Claimant was signed off by her GP for “urosepsis requiring hospital admission” by a sick certificate on 8 March 2024 for the period 20 February 2024 – 22 March 2024.
- 235. By an email dated 8 April 2024 Professor Lauderdale confirmed with the Claimant wheelchair dimensions for a planning permission application (p1346)

#### May accessible awayday

- 236. There was an awayday on 13 May 2024 at an accessible venue with the Claimant did not attend.

Japan

237. On 20 May 2024 the Claimant went to Japan for a month as a visiting Professor.

Planning permission granted

238. On 21 May 2024 planning and consent was granted by LB Camden for works at Gordon Square, with the following wording:

Also having due regard to the Public Sector Equality Duty, the proposal would also have a clear and positive impact on those experiencing barriers to accessibility, including disabled people, those with young children, and older people.

Grievance hearing

239. After attempts to hold a grievance hearing in January and June 2024, which the Claimant was unable to attend, the grievance hearing took place via MS Teams on 15 August 2024. The grievance was chaired by Prof. Vivek Mudera, Director, Faculty of Medical Sciences who sat together with two panel members: Jacqueline Kennard, Unison Trade Union Representative and: Claire Tranter, Head of Business Operations Services, Professional Services Hub. Also present at the hearing were Amanda McCrory who supported the Claimant and Prof Benjamin Lauderdale on behalf of the Department. There were also ER support and a notetaker was present.
240. Subsequent to that hearing, on 21 August 2024 further information was provided for grievance regarding building works, specifically the project which completed in January 2021 and further activity which commenced with the appointment of a building surveyor in December 2023 and moved to the contractor procurement stage by May/June 2024.

Grievance outcome

241. An outcome to the grievance was provided by letter on 11 October 2024.
242. The grievance was partially upheld in respect of lack of physical access and lack of an accessible office. The panel took account of the fact that it is a listed building with little to no control over approval processes of major works. They acknowledge that she had to escalate the matter to the Provost
243. The grievance was upheld in relation to:
- 243.1. workplace away days and work-related social events treating her less favourably. This was said to be down to communication rather than a systemic exclusion;
- 243.2. lack of fire risk assessment;

- 244. The grievance was partially upheld in relation to lack of up-to-date risk assessment post Covid.
- 245. In two respects the grievance was not upheld:
  - 245.1. promotion opportunities;
  - 245.2. “systemic exclusion”.

Grievance appeal

- 246. On 30 October 2024 the Claimant appealed against Grievance Outcome (p2236-50).
- 247. The grievance appeal was heard by Professor Andrew Fisher, Professor of Physics.
- 248. An outcome to the grievance appeal was provided on 14 January 2025, which was approximately three weeks before the Employment Tribunal hearing.
- 249. The grievance appeal outcome was that the appeal was partly upheld, partly not upheld. Concessions were made about reasonable adjustments.
- 250. This grievance appeal outcome, went further in upholding the Claimant’s complaints than at the grievance outcome stage. This included the following:
  - “... insufficient consideration was given to UCL as an institution falling short of its responsibilities to make reasonable adjustments to its physical space, especially considering the length of time it took to seek approval for the required work (approximately 6 years from 2018 to 2024).”
- 251. In summary the grievance appeal concluded:
  - 251.1. The ground of appeal relating to procedural irregularities in grievance was not upheld;
  - 251.2. Allegation 1 - department failed to put in place adequate reasonable adjustments - amended to fully upheld;
  - 251.3. Allegation 2 - failed to take into consideration appropriate adjustments to accommodate claimant as a wheelchair user when arranging workplace away days (teaching/research) and work-related social events, treating less favourably because of disability – upheld;
  - 251.4. Allegation 3: The department has failed to carry out an up-to date risk assessment in light of SK's disability following her return to campus when in-person teaching duties assumed post-Covid. Decision: amended to upheld;

- 251.5. Allegation 4: That following a fire evacuation incident that took place on 19th January 2023 at the IoE building, SK being a wheelchair user was unable to safely and quickly evacuate from the 9th floor of Institute of Education (IoE) due to an inaccessible evacuation route designated for wheelchair users, leaving SK visibly distressed and raising concerns around health and safety. It is therefore alleged UCL and the department specifically failed to ensure a full and clear risk assessment in relation to its evacuation routes and procedures of its IoE building, specifically related to the safe evacuation of those with a disability/reasonable adjustment requirement. Decision: upheld;
- 251.6. Allegation 5: That SK has been denied opportunities for departmental roles, specifically that SK's application for promotions, uplift and research funding has been repeatedly sidelined as a result of her disability or matters arising from her disability. Decision: not upheld;
- 251.7. Allegation 6: That the above behaviours demonstrate systematic exclusion by UCL and less favourable treatment as a result of SK's disability and intersectionality. Decision: amended to partially upheld;
252. The conclusion of the grievance appeal was that no formal action required against individuals. Informal action required including confidential sharing of issues raised.

#### Research seminars

253. The Respondent fairly accepts that the Claimant has been restricted in her ability to participate in the intellectual life of the Department
254. The Claimant says that she was unable to attend research seminars on the following dates:
- 6/10/21; 13/10/21; 20/10/21; 27/10/21; 03/11/21; 17/11/21;  
24/11/21; 08/12/21; 30/03/22; 27/04/22; 11/05/22; 18/05/22;  
25/05/22; 05/10/22; 12/10/22; 19/10/22; 26/10/22; 02/11/22;  
16/11/22; 23/11/22; 07/12/22; 14/12/22; 18/01/23; 25/01/23;  
01/02/23; 08/02/23; 22/01/23; 01/03/23; 08/03/23; 24/03/23;  
03/03/23; 10/05/23; 17/05/23; 31/05/23; 07/06/23; 04/10/23;  
11/10/23; 11/10/23; 25/10/23; 01/11/23; 15/11/23.
255. In practical terms however the Claimant was shielding due to Covid-19 being clinically vulnerable for the period February 2020 to January 2023. We did not find that the Claimant would have attended each and every one of these research seminars, although plainly she would have valued the opportunity to attend personally and participate as time allowed.

#### Academic Careers Framework

256. The Respondent's Academic Careers Framework policy contains the following guidance:
- "Academic Careers Framework.

11. **HoDs and other senior academic managers must be aware of equality and diversity issues. Promotion is a key mechanism by which staff progress through UCL and outcomes have a significant impact on UCL's equalities objective to increase diversity at its highest grades. HoDs should ensure that institutional citizenship roles are allocated openly, fairly and transparently.** Consideration should be given to enable all staff (including staff with caring responsibilities, disabled staff and part time staff) to undertake these roles, so that they are not disadvantaged in developing their careers. It is particularly important that attention is paid to the career progression of BAME, disabled, female staff or any other groups that are underrepresented at senior levels. More information is contained in the personal circumstances section later in this guide.

....

13. To ensure consistency, it is recommended that each **HoD should convene a yearly review panel consisting of senior members of the department to ensure that all staff are considered and assessed as to whether or not they should be encouraged to apply for promotion that year.** EDI should be a core consideration and it is important to ensure that panel membership includes staff with protected characteristics. The expertise of the panel members should cover the broad spectrum of academic life including education, research, enterprise, external engagement and institutional citizenship. This is very important to ensure that staff have confidence that all cases will be considered fairly and equitably. Reasonable adjustments should be considered and made as part of any departmental application process where required.

[emphasis added]

## Law

### DISCRIMINATION – EQUALITY ACT

257. Relevant provisions of the Equality Act 2010 to which the Tribunal has had regard are sections 13, 15, 20-21, 26, 39, 40, 123 and 136.

### Harassment

258. In **Richmond Pharmacology v Dhaliwal** [2009] ICR 724 the EAT (Underhill, P) emphasised both the subjective and objective elements of a claim of harassment under section 26. There is a minimum threshold and following guidance was given at paragraph 22:

“it is also important not to encourage a culture of hypersensitivity or the imposition of legal liability in respect of every unfortunate phrase”

Failure to make reasonable adjustments

259. The duty to make reasonable adjustments is defined in sections 20 and 21 of the Equality Act 2010.
260. In considering reasonable adjustments claims, tribunals are required to have an analytical approach, following a leading case (**Environment Agency v Rowan** [2008] ICR 218). The correct approach is to identify (i) the Provision Criterion or Practice (“PCP”) said to cause disadvantage; (ii) non-disabled comparators, where appropriate, (iii) the nature & extent of substantial disadvantage. This is in order to consider the extent to which taking the step would prevent the effect in relation to which a duty was imposed. A Tribunal should consider whether the respondent had knowledge of disability and knowledge of the substantial disadvantage.
261. Unusually, there was a dispute of the appropriate legal approach reasonable adjustments. It has been contended for by Ms Casserly that we should additionally identify “detriments”. Ms Levene argued that this was not necessary, and suggested that what had been identified as “detriments” in the list of issues were in reality examples of or evidence of substantial disadvantage. We consider that is the right approach. Section 20 is drafted in terms of “disadvantage” rather than detriment. Section 39 contains a list of prohibited discrimination in relation to employees. Section 39(5) simply states “a duty to make reasonable adjustments applies to an employer”. There is no reference a detriment in that subsection, whereas there is in subsections 39(2) and (4).
262. Regarding PCPs, in **Ishola v Transport for London** [2020] EWCA Civ 112, the Court of Appeal confirmed that one off events are not necessarily provisions criteria nor practices (i.e. PCPs) and must be examined carefully to see whether it could be said that they are likely to be continuing.

Unfavourable treatment because of “something arising” from disability (section 15)

263. Summary from IDS – maybe find a quote from Pnaiser.
264. In **Pnaiser v NHS England** 2016 IRLR 170, EAT, Mrs Justice Simler summarised a number of key points that govern the correct approach to a complaint brought under section. The tribunal must first identify whether there was unfavourable treatment and by whom. It must then determine what caused the impugned treatment, or what was the reason for it, focusing on the conscious or unconscious thought processes of the alleged discriminator. There may be more than one reason or cause for the impugned treatment and, as in a direct discrimination case, the ‘something’ need not be the main or sole reason for the unfavourable treatment but must have at least a significant (or more than trivial) influence so as to amount to an effective reason for or cause

of it. The tribunal will then have to determine whether the reason or cause is 'something arising in consequence of' the claimant's disability.

265. Something arising in consequence of a claimant's disability might describe a number of *causal links*.

## **Submissions**

266. We were very grateful to both Counsel for their helpful written submissions on the law and application of the law to the facts of this case and for succinct oral submissions in closing.

## **Conclusions**

### Jurisdiction

267. The Respondent submits that any allegations that occurred before 26 June 2023 are time barred, based on the claim had been presented on 5 December 2023, and an extension during the ACAS conciliation period.
268. The Tribunal will decide:
269. Were the discrimination complaints brought within the time limit in section 123 of the Equality Act 2010? The Tribunal will decide:
270. Was the claim made to the Tribunal within three months (plus any early conciliation extension) of the act to which the complaint relates?

### [2.2.2] If not, was there conduct extending over a period?

271. We find that there was discriminatory state of affairs extending over a period.
272. The Claimant's exclusion from Tavistock Square for the period 2017 to (at least) February 2025 and Gordon Square from its first opening in 2020 to February 2025 amounted to a continuing discriminatory state of affairs.
273. Similarly in relation to failure to make events held in other venues, for both social and away days fully accessible, we find that this was a continuing discriminatory state of affairs in the period 2019 to 2023. The evidence is not sufficient to make clear findings of fact in relation to this part of the claim before 2019.
274. If so, was the claim made to the Tribunal within three months (plus early conciliation extension) of the end of that period?

### [2.2.4] In any event, is it just and equitable in all the circumstances to extend time?

275. We find that there was a continuing discriminatory state of affairs and that the claim was presented in time. If we are wrong about that we would however have found that it was just and equitable to extend time, for the following reasons.



276. At an earlier stage the Claimant had been given to believe that the refurbishment to Gordon Square was going to lead to an accessible building. In the event it did not.
277. It is understandable that the Claimant did not seek to deal with matters during the Covid-19 period between March 2020 and January 2023 when she returned to the workplace. At this point all of the problems of accessibility came back sharply into focus. She reasonably pursued an internal grievance process by submitting a grievance on 14 July 2023. That grievance process unfortunately did not reach a conclusion until October 2024 (the grievance appeal was only concluded on February 2025).
278. The Claimant was plainly trying to seek resolution of matters in the second half of 2023 using the grievance process. She should not be criticised for doing so. It is to her credit that she attempted resolution through that process. Furthermore it meant that the Respondent was on notice of the matters of which she later complained in her tribunal claim and evidence was gathered in relation to those matters.
279. Secondly we also note that there is documentary evidence of matters going back at least as far as 2017 in relation to the Tavistock Square and 2019 in relation to events hosted out of the Department. This is not a situation in which the Respondent is significantly prejudiced by the passage of time during those periods. There is a document trail and it means that the Respondent and its witnesses are able to comment on what occurred. The decisions in relation to accessibility to Gordon Square and Tavistock Square in particular are well documented.
280. For these reasons we would have extended time on a just and equitable basis in relation to the exclusion from the Department building(s) as far back as 2017 and in relation to events as far back as 2019.
281. Insofar as the Claimant's case was modified by amendment of issue **6.16.3** in relation to installation of a platform lift at the hearing on February 2025 we consider that it was just and equitable to extend time principally because the option of a lift has evidently been discussed since at least 2019 and in fact is the solution to access that the Respondent has belatedly decided upon. In other words there is a paper trail such that the Respondent can refer to its decision making process. Our view that 6.16.3 (platform lift) is in reality provision of a specific detail which would or should in any event be covered by 6.16.2 (ensuring refurbishment built in access).

### DISABILITY

282. The Claimant relies on the following conditions in relation to her claims, which are not in dispute:
- 282.1. Severe sight impairment under the Equality Act (Disability) Regulations 2010. The Claimant received a certificate of sight impairment on 18 December 2018 however was sight impaired prior to his point.

- 282.2. Ehlers-Danlos Syndrome ("EDS"). The Claimant alleges she has been disabled by way of this condition since 2016.
283. Whilst the Claimant has a number of other medical conditions (including an autoimmune condition which has led to her visual impairment) she does not rely upon these for the purposes of her claims.
284. The Respondent admits that the Claimant is deemed to be disabled by way of a severe sight impairment under the Equality Act 2010 (Disability) Regulations 2010 from 2017. The Respondent admits that it knew or could be reasonably expected to know that the Claimant was disabled due to severe sight impairment from 7 December 2018.
285. The Respondent admits that the Claimant was disabled by reason of Ehlers-Danlos Syndrome ("EDS") under the Equality Act 2010 at the time of the alleged discrimination. The Respondent admits that it knew or could be reasonably expected to know that the Claimant was disabled by way of Ehlers-Danlos Syndrome ("EDS") at the time of the alleged discrimination.

#### DIRECT DISABILITY DISCRIMINATION (section 13)

##### Less favourable treatment

286. As to the alleged less favourable treatment, it is not disputed that the Claimant was unsuccessful in three applications.

[4.1.1] unsuccessful in her application, made in May 2022, for the role of Vice Dean of Equality, Diversity and Inclusion in or around 23 June 2022;

287. This allegation was withdrawn by the Claimant during the course of the hearing.

[4.1.2] unsuccessful in her application for a promotion to the role of Professor on 15 June 2023; and graded B/B+ then B.

288. This allegation was withdrawn by the Claimant during the course of the hearing.

289. The Tribunal is grateful for those realistic concessions.

[4.1.3] unsuccessful in her application for her 0.4 FTE contract to be uplifted on 18 May 2023.

290. The internal recruitment process in relation to applications to increase FTE was less than satisfactory for a variety of reasons, which are explored more fully in the section 15 complaint below.
291. In short this process fell short of being open, fair and transparent as per the Academic Promotions Guidance. It is not clear to the Tribunal that particular attention was paid to BAME, disabled and female groups as required by that guidance. There does not appear to be a panel for the Department to focus on these matters.

292. Prof Lauderdale, having involved a panel of various people to grade the paper applications, then provided a criterion of “departmental need” which he alone assessed. This had the effect of changing the positions of the candidates from what they would otherwise have been, to the Claimant’s detriment, since she fell out of the top four candidates. Furthermore this “departmental need” criterion was not something that had been explicitly explained in the Job Description documentation which had been provided to candidates. There is an oblique reference on page 754.
293. This departmental need criterion was significant. This was not simply a “casting vote” or a tiebreaker. This was a criterion which Prof Lauderdale unilaterally and decisively applied.
294. We conclude however that the criticisms that can be made of this process were not “because of” the Claimant’s disability. We ultimately accept that Prof Lauderdale did apply criteria such as looking for candidates with competencies and interest in delivering core departmental teaching, which he felt other candidates demonstrated to a greater degree. Although this was subjective and gave Prof Lauderdale more influence than the other members of the panel, we did not find that this criterion was irrelevant or capricious and we find that Prof Lauderdale did genuinely apply it. He rightly acknowledged that the result was closely run between the Claimant and Maki Kimura.
295. Additionally Prof Lauderdale explained that the panel had a concern about external engagement work being done within her UCL contract which would have the effect of crowding out teaching and administration. Whether or not that concern was adequately discussed with her is a different question. Based on the high rankings given by other members of the panel, it might be inferred that this was Prof Lauderdale’s concern more than the other panel members. Again, it might be said that there is a question here about transparency and fairness. Ultimately however we find that this was a genuine concern, and this was not because of her disability.
296. In conclusion, our concerns about the process notwithstanding the ultimate decision we find was not because of the Claimant’s disability.

[4.3] If so, was that less favourable treatment because of disability, EDS and sight loss.

297. The Tribunal has dealt with individuals who were successful in applying to increase their FTE in our findings of fact above. These individuals are relied upon as comparators by the Claimant. Ultimately we accepted that there were differences between their circumstances and that of the Claimant. We paid particular attention to the circumstances of Ms Kimura given that these were closest to the Claimant’s. We accepted the distinctions drawn by Prof Lauderdale and that there were non-discriminatory reasons for his decision.

Conclusion on direct disability complaint

298. [4.3.3] Was the Claimant discriminated against in breach of s.39(2)(b) and or (d) EA 2010?

299. For the reasons given we find that this complaint is not founded and is dismissed.

DISCRIMINATION ARISING FROM DISABILITY (SECTION 15)

300. The Claimant alleges that the Respondent treated her unfavourably by rejecting the applications listed at 4.1 above. The Respondent admits that the Claimant was unsuccessful in the applications referred to at 4.1 above.

[4.2] UNFAVOURABLE TREATMENT

301. For any conduct that is admitted or proven, did this amount to unfavourable treatment?
302. The Respondent realistically and sensibly concedes that being unsuccessful in any application is potentially unfavourable treatment.

[5.4] SOMETHING ARISING (s.15)

303. The Claimant says the "something arising in consequence" of her disabilities was:
- [5.4.1] "the absence of leadership and / or other opportunities that the Claimant would have acquired had she been able to access the department's buildings and systems as the buildings are inaccessible to her; and /or the virtual systems are inaccessible"
304. There are two causal links to this "something arising" contended for by the Claimant (per **Pnaiser**). The first link is connected to the second.
305. The first stage, the "link" is about accessibility. The second stage looked at broadly is about the impact on her career opportunities.
306. The burden is on the Claimant to show the something arising.

Accessibility

307. We dealt with the first stage, accessibility. As to access to the department's buildings, we accept that these were inaccessible. This arose from her disability.
308. The Tribunal finds that describing the virtual systems as "inaccessible" is overstating the matter. She had the benefit of sighted support workers to assist her. Documents could be loaded onto her iPad or printed in large font. We find that there were barriers to accessibility. We accept that because of the Claimant's sight condition it was slower for her to access content on the Respondent IT system and other virtual systems. There was here some degree of disadvantage. This arose from her disability.

Impact on career opportunities

309. Turning to the second stage, the impact on the Claimant in terms of absence of leadership or other opportunities has been more challenging for the Tribunal to evaluate. The Covid-19 lockdown, periods of lockdown and increased remote working generally have complicated the picture, since these periods represented a situation closer to a level playing field between the Claimant and non-disabled colleagues.
310. The Tribunal accepts in general terms that the lack of access to the buildings did represent disadvantage to the Claimant from the period 2017 when she became a wheelchair user to March 2020 when there was a lockdown due to Covid-19. During the period of remote working the Claimant herself rightly acknowledged that there was a “level playing field” as a result of Covid-19 in the sense that everyone was working electronically and remotely and so the informal interaction that would ordinarily have taken place within the building did not exist. Even after people began to return to office working from September 2021 onward there was a greater degree of remoteness working. For example departmental meetings were now held by video.
311. The Tribunal noted that when Prof Hudson sent out an email in May 2021 inviting interest in a variety of roles, with a deadline of 6 June 2021, the Claimant did not respond until 24 August 2021. In other words when there was a job opportunity provided to all members of the department equally by electronic means, she responded months after the suggested deadline.
312. Although she attended an event in September 2022, the Claimant was for work purposes shielding due to significant vulnerability to Covid-19 until January 2023. This was not as a result of accessibility to the building but for other reasons. Thereafter the disadvantage as a result of lack of physical access to the building re-emerged.
313. Based on the evidence that we received we can see that the Claimant may have suffered a disadvantage was the graduate tutor role. This role was given to Kalina Zhekova apparently on the recommendation of the outgoing incumbent in that role Dr Cathy Elliott. It has been difficult for us to make clear findings about this, including when the baton passed from Dr Elliott to her successor (probably in the period 2021 – 2022). What happened is opaque. It seems to us likely that being out of the building since 2017 may have disadvantaged the Claimant in relation to this role. It would be difficult to say that but for her absence from the building she would on the balance of probabilities have got this role. Taking account however of the fact that the authorities suggest that only a loose connection is required to be the disability something arising, we find that the fact that the Claimant did not appear to have been considered for this role despite having historically expressed an interest in it to her direct line manager is something arising from disability.

“Other opportunities”

314. “Other opportunities” is something of an open-ended catchall.

315. Attending research seminars is a clear example of something that Claimant might easily be able to do if she was in the building which was very much harder when she was not, outside of the Covid-19 lockdown. The Respondent it seems generally acknowledges that was an example of the Claimant missing out on what both parties called the “scholarly life of the Department”. We accept that the ability of the Claimant to participate in the scholarly life of the Department was hampered by her lack of physical access to the building. This something arising is established.
316. A list of dates of seminars not attended in the Claimant’s particulars of claim and witness statement is not the same as a definite interest in particular seminar or being unable to attend. In practical terms she would not have attended every seminar nor even most seminars, but she would have attended some. We have not seen a single request to join e.g. by Teams or post-2023 a request to relocate a particular seminar to an accessible room. We conclude therefore that this missed opportunity was real but that it was a minority of research seminars that the Claimant might actually attended had she been physically able to.
317. During the lockdown there was a “level playing field”, during which the Claimant was not particularly disadvantaged in that respect.

CAUSATION (s.15)

318. [5.3] Did the Respondent treat the Claimant unfavourably because of something arising as a consequence of her disability?
319. It is convenient to address this question out of the order in which it appears in the list of issues.
320. We have found that the “something arising” has been established in part.
321. We deal here with the three unsuccessful applications made by the Claimant.

Vice-Dean (EDI)

322. [5.1.1] In June 2022 the Claimant was not offered the role of Vice Dean (Equality, Diversity & Inclusion) but was offered a more limited disability lead role which increased her FTE by 0.1 for two years then subject to review.
323. The Claimant’s absence from the physical buildings at Gordon Square had been because of the Covid-19 pandemic rather than because of something arising from her disability in the period March 2020 – May 2022 when she applied for this role.
324. We have borne in mind that the ‘something arising’ need not be the main or sole reason for the unfavourable treatment but must have at least a significant (or more than trivial) influence so as to amount to an effective reason for or cause of it.
325. On behalf of the Claimant it is submitted that Prof Hudson mistakenly assumed that the Claimant was on a fixed term contract and had to be corrected, that

she was unaware of the 100 in 10 race initiative and that she admitted that the Claimant did not know much about the faculty's challenges around EDI or have experience of working with senior levels.

326. We did not conclude that the something arising for contended by the Claimant had a significant influence on the decision not to offer the Claimant Vice-Dean role in sense of being more than trivial.
327. While we did accept the Claimant's case that she had been excluded from the scholarly life of the Politics department, the requirements for the role of Vice-Dean were significantly wider than and different to this.
328. At the time that this occurred the Claimant had been absent from the Department for over two years due to Covid-19 shielding, which is not "something arising" contended for as part of the section 15 complaint.
329. We accepted the evidence of Prof Hudson that she felt that the Claimant did not have an adequate awareness of what was going on with EDI at a *faculty* level, not simply departmental level. She said that this could have come through desk research. She that felt that the Claimant was not an "agent of change". The email sent on 23 June did refer to awareness and the reference to "clear vision and implementation plans" we find, albeit in slightly different language, referred to a concern about being an "agent for change". It seemed likely at that that Prof Hudson herself was going to become the Dean of the Faculty. She became Interim Dean of the Faculty of Social and Historical Sciences in June 2022. We note that the Claimant was offered (and accepted) the Disability Lead role, with an FTE uplift which Prof Hudson felt was tailored to the Claimant's strengths.
330. By contrast, Prof Hudson genuinely felt that the successful candidate Dr Rebecca Jennings had an understanding of the Faculty's business with respect to the wide range of EDI issues and clarity on responsibility and accountability. Prof Hudson noted that Dr Jennings spoke in terms of 'delivering' as Vice Dean, EDI, whereas the Claimant spoke in terms of collating information and presenting it to the Dean.
331. We do not find that the decision not to offer the Vice-Dean (EDI) role was substantially because of something arising from disability.

Justification defence Vice-Dean (EDI)

332. [5.5.1] Had the Claimant successfully made out the elements of the section 15 claim in relation to Vice-Dean (EDI), we would nevertheless have found that the Respondent's justification defence was made out.
333. Selecting the most suitable candidate for the role of Vice Dean of Equality, Diversity and Inclusion we find was a legitimate aim.
334. As to proportionate means, we find that readvertising the role and offering a role to the Claimant tailored to her strengths represented proportionate means.

Professor (teaching) Grade 10

335. [5.1.2] The decision not to promote the Claimant to Prof (Teaching) grade 10 was communicated to her on 15 June 2023.
336. Two aspects of this process caused us to scrutinise it with particular care.
337. First, the Claimant's application was characterised as "complex". Prof Lauderdale thought "complexity" included the Claimant's disability. Prof Hudson did not consider that the Claimant's disability was a reason for the complexity. Complexity included part-time (fractional) working and the extend of the Claimant's work outside of her employment by the Respondent.
338. Second, Prof Hudson's loose estimate that 10% of applications supported by a department were unsuccessful. We accept that was not more than an estimate the actual figure and that may be slightly different but as a matter of impression a relatively low proportion of applications supported by an applicant's academic department did not succeed, which was also confirmed by Dr Provost's impression that this was not the typical outcome.
339. On the other side of the argument, there are a number of factors suggesting a non-discriminatory explanation for the rejection of the application.
340. First, the Claimant had been promoted the previous year to Grade 9 (Associate Professor). The Respondent submits that the application was premature. The Claimant was evidently impatient to progress, having been disgruntled due to implementation of the "Teaching Concordat" which had the effect of stretching out the promotion path to Professor. We find it would have been unusual to be immediately promoted a further step to the top grade.
341. Although the Department formally supported the application, we find that Dr Provost and others had cautioned the Claimant that this might not be straightforward. We find that Dr Provost advice that this application "wouldn't be a slam dunk" was advice appropriately offered by him as her line manager. With the benefit of hindsight this comment underplayed the hurdle ahead facing the Claimant less than a year after her previous promotion. The Prof (Teaching) Grade and the grading structure were both new. There was no other Professor (Teaching) in the department. In other words the Department had little practical experience of how this was going to be assessed.
342. Second, the Claimant had received an equivocal reference from Dilly Fung.
343. Third, both Prof Hudson and Prof Lauderdale agreed that the "Institutional Citizenship" requirement which the Claimant felt had been hampered by her physical absence from the Department was not as significant as the Claimant believed it was. Prof Hudson's view was that it was the evidence of educational leadership element that was still not at the required level.
344. Fourth, there was complexity aside from the Claimant's disability. She was seeking to rely on evidence of external activity (e.g. at LSE) when the Grade 10 narrative requires "an individual on this grade will demonstrate active



engagement with the intersection of research and education **within the department**". This and the Claimant's fractional working evidently raised a difficulty within the process, since it limited the amount of evidence she could bring of research and educational leadership within the Department.

345. Looking at the matter very broadly, we accept the submission that this was a rigorous process. The context was an application to the highest academic grade within the Respondent, which is a high ranking University with an international reputation. Out of a department of 75 people only 10 were professors in the year 2021/2, i.e. 13% of the Department. That included Dr Provost who was deputy head of Department and the Claimant's line manager and not yet not a Professor.
346. We accept the Respondent's submission that notwithstanding an unfortunately worded phrase in a summary document, the Claimant's disability was taken account of in an appropriate and sympathetic way.
347. In conclusion, for the reasons set out above we did not conclude that the something arising for contended by the Claimant had a significant influence on the decision not to promote the Claimant to Professor (Teaching) Grade 10

#### Justification defence

348. If we are wrong that the Claimant has not made out this allegation, would find that the Respondent would have made out a defence of justification. There was a legitimate aim of ensuring that employees are only selected for promotion to Professor when they have met the relevant requirements for the role to ensure Professors have the appropriate knowledge, skills, experience and research capabilities.
349. We find that a process in which the Claimant was recommended and supported by her Department but independently reviewed at faculty level was reasonably necessary and proportionate.

#### 0.4 FTE uplift

350. We did not conclude that the something arising for contended by the Claimant had a significant influence on the decision not to offer the Claimant an increase in FTE for the following reasons.
351. First the same process applied to all candidates. That this was a less than transparent process in which Prof Lauderdale had a greater influence than other panellists and Departmental need was not made explicitly clear to applicants. That is not the same as discriminatory process.
352. Second, we accepted the explanation put forward by Prof Lauderdale in respect of the Claimant and the comparators and Departmental need, as outlined in our findings of fact above and in our reasoning in relation to the section 13 direct discrimination claim above, which included the concern about bringing external engagement word within the scope of her hours working for the Respondent. Similar reasoning applies to the section 15 claim.

353. Each of the successful comparators was in a somewhat different situation to the Claimant, albeit we accept that Maki Kimura's circumstances were quite similar to the Claimant's. We accepted Prof Lauderdale's evidence that Departmental need was an important criterion and he had made a genuine assessment of it.
354. Finally, although we found that missing out on the graduate tutor role in 2021-2022 was on balance something arising from disability and this appeared to have counted positively in the case of Kalina Zhekova, Prof Lauderdale found that both Maki Kimura and the Claimant had potential to take on a graduate/undergraduate tutor role. In other words this does not appear to have counted against the Claimant by comparison with Ms Kimura. While we note that not becoming a graduate tutor was a long standing source of frustration to the Claimant, which appeared to predate Prof Hudson's tenure as Head of Department, we did not find that it influenced the decision on FTE uplift to more than a trivial extent.

Justification defence

355. [5.5.3] The Respondent contends that the legitimate aim was "Ensuring that uplifts to fractional contracts were applied where there was a clear demonstration that the candidate would be able to teach on core, required modules to meet the needs of the Respondent's students". This blends together aims and means.
356. In general terms the Tribunal would have accepted that uplifts to fractional contracts should have been applied where this matched needs of students.
357. We did not however find that the Respondent established the justification defence in this case.
358. Focusing in particular on whether the means were proportionate (i.e. appropriate and reasonably necessary), we found that this was an opaque process which Prof Lauderdale effectively overrode what would otherwise have been the majority decision by reference to "departmental need", a criterion not explicitly set out in the advertisement and not assessed by the other panellists. It was not a transparent process which would seem to be a breach of Academic Promotions Guidance. We did not find that this was appropriate or reasonably necessary and the justification defence would not have succeeded.

FAILURE TO MAKE REASONABLE ADJUSTMENTS (s 20-21 EqA)

359. Claimant relies on one or both of her disabilities as specified below for the relevant points.

PCPs & substantial disadvantage

360. [6.2, 6.3, 6.4] The Claimant relies on the following as a provision, criteria or practice (PCP) applied by the Respondent. It is convenient to consider the substantial disadvantage of each PCP.

PCP1 Social events with stairs

- 361. [6.2.1] holding departmental social events in places with stairs and / or that are without level access (EDS);
- 362. The Respondent rightly conceded that this PCP was in operation “sometimes” and when it was in operation it caused a substantial disadvantage.
- 363. Specific examples included the December 2019 Christmas end of term party and the Spring end of term party on 23 March 2023 (Marquis of Cornwall pub).

PCP2 Away days with stairs/without level access

- 364. [6.2.2] holding research and teaching away days in places with stairs and / or that are otherwise without level access and holding research seminars in places with stairs and / or that are otherwise without level access (EDS);
- 365. The Respondent we find did hold research and teaching away days in places with stairs or that were otherwise without level access. Research seminars were held in places that could only be reached with stairs.
- 366. Examples of away days with stairs include the 30 October 2019 event at the Prospect Suite Ambassadors Hotel.
- 367. At the event at the Bentham Building in May 2023, although there was a ramp it was blocked by a bicycle; there was no sign prohibiting bicycles being locked there and the attitude of the security staff was that it was not something they could move for health and safety reasons.
- 368. The event on 8 June 2023 in Goodenough Club was not accessible.

Moodle/digital platforms

- 369. [6.2.3] putting all its information on Moodle and various other digital platforms and requiring staff and students to use those in order to do their job / studies (sight impairment)
- 370. The Respondent accepts that the use of Moodle and digital platforms was a PCP that put the Claimant at a substantial disadvantage.
- 371. The Claimant cannot access these systems independently and this results in her employment tasks taking much longer than they would if she were sighted including the marking of papers places her at a substantial disadvantage.

Use of PowerPoint

- 372. [6.2.4] its staff using PowerPoint presentations during awaydays (sight impairment).
- 373. The Respondent accepts that the use of PowerPoint was a PCP that put the Claimant at a substantial disadvantage. It seems however that the practice was to upload slides in advance which meant that the Claimant could access

them through her support workers. Occasionally in some cases this did not happen until the last minute.

374. The Claimant cannot see what is on the screen and thus in the presentation.

Substantial disadvantage

375. [6.4] Did each PCP put the Claimant at a substantial disadvantage in relation to the relevant matter when compared to a person without her disability?

376. This is dealt with above as part of each PCP above.

Knowledge of disabilities

377. [6.5][6.6] The Respondent admits that it that it knew or could reasonably be expected to know that the Claimant was disabled by way of severe sight impairment from 7 December 2018.

378. The Respondent admits that it knew or could reasonably be expected to know that the Claimant was disabled by way of EDS within the meaning of the Equality Act 2010 at the time of the alleged PCPs referred to at 6.2.1 and 6.2.2.

Knowledge of substantial disadvantage

379. [6.7] Can the respondent show that it did not know or ought not reasonably to have known that the Claimant was likely to be placed at the substantial disadvantages set out at 6.4 above?

380. We find that exclusion from the Department building and from events which were not accessible was an obvious substantial disadvantage and the Respondent knew this.

381. The Respondent contends that on occasions they acted reasonably in booking venues which held themselves out as accessible (e.g. Goodenough Club) and did not have knowledge of substantial disadvantage until the accessibility problems became clear on the day.

382. The Tribunal finds that the Respondent ought reasonably to have known that the using the Goodenough Club as a venue would have caused the Claimant a substantial disadvantage. It was known that she was a wheelchair user and that she had experienced accessibility problems before. We find that there was an onus on the Respondent to go further than simply relying on the venue to check adequate wheelchair accessibility in relation to the teaching/meeting area, catering and toilet facilities. This cannot have been done or at least adequately done. We find it ought to have been properly done.

383. Given the Claimant's deteriorating eyesight, we find that the Respondent knew that substantial disadvantage was caused by the digital systems, which is part of the reason why she needed sighted assistants. Similar reasons apply for PowerPoint presentations.

Reasonable adjustments to avoid disadvantage

384. [6.8] If not, were there steps that were not taken that could have been taken by the Respondent, to avoid any such disadvantage?
385. In relation to **6.2.1** social events we find it was reasonable to expect the Respondent to book a venue that was accessible to the Claimant for social events. The fact that some events have been held in accessible venues is evidence that such venues are available. This adjustment we find was not done and should have been in place from **October 2019** onward.
386. In relation to **6.2.2** (holding research and teaching away days in places with stairs and / or that are otherwise without level access):
- 386.1. As to away days we find it was reasonable to expect the Respondent to book a venue that was accessible to the Claimant. The fact that some such events have been held in accessible venues is evidence that such venues are available. This adjustment we find was not done and should have been in place from **October 2019** onward.
- 386.2. Regarding research seminars, the principal adjustment necessary was to enable the Claimant access to the Department Building (see below).
- (By way of a comment rather than a finding, we have taken account of the fact that there are roughly speaking 100 such events over the course of the academic year. We do not consider that it would be reasonable, given the physical estate that the Respondent has, comprising large multi-level Georgian buildings in central London, for all of these events to be wheelchair accessible. On the other hand if at least part of the Department buildings were accessible this would provide a venue for some research seminars to be held in and for other seminars to be switched to to allow wheelchair access at reasonable notice.)
387. In relation to **6.2.4**, giving the Claimant longer to mark papers (e.g. by giving her only papers that had been submitted on time) or alternatively giving her fewer papers to mark we find that these were two reasonable steps that could be taken but were not which would have the effect of ameliorating the substantial disadvantage experienced by her. Any practical difficulties which followed from those adjustments Dr Provost fairly acknowledged were "not insurmountable". An occupational health highlighted this problem on 30 May 2023 (the Claimant had mentioned it as early as October 2022). We find that in response to the Occupational Health report the adjustment could have been made from **13 June 2023** but was not.
388. In relation to **6.2.5**, ensuring staff have comprehensive and adequate visual awareness training so that they provide PowerPoint presentations to her in advance and that they read out what is on the slides and audio describe them where appropriate.
389. Our conclusion on this point is that although the Claimant was disadvantaged by the use of PowerPoint, a combination of early uploading of PowerPoint

presentations and presentations being read or described to the Claimant meant that the disadvantage had been largely ameliorated albeit there had been an occasional aberrations. Our conclusion is there was not a failure to make reasonable adjustments.

390. Visual awareness training is a sort of measure which the Department ought to integrate into other training rather than it being required as a separate exercise. Our impression was that the Department was moving in the right direction on this topic but that the making available of slides in advance or failing that audio describing them needs to be a discipline that is strictly followed.

#### Failure

391. [6.10] Did the Respondent fail to take those steps? These are dealt with above.

#### Physical features

392. [6.12] The Claimant relies on the following physical features:

392.1. [6.12.1] the stairs, doors, doorways in and / or leading up to the Respondent's premises at, but not limited to, Tavistock Square and/or Gordon Square and any other building utilised by the department;

392.2. [6.12.2] the doors and / or physical space and / or fixtures, fitting and features of the toilets in Tavistock Square and/or Gordon Square.

393. [6.13] Do the above physical features put the Claimant at a substantial disadvantage compared to a non-disabled person?

394. The Tribunal accepts the Claimant's case that she cannot navigate stairs, narrow doorways or push doors open or shut or use standard toilets. We find that **from the time that she became a wheelchair user in 2017 to the date of the Tribunal hearing in February 2025 she could not access the department's two buildings at all** at Tavistock Square (from 2017 onward) and Gordon Square (from its opening in 2020).

395. We accept the Ms Levene's submission that there is no evidence specifically about the toilets, internal doors, fixtures and fittings etc causing disadvantage since the Claimant could not access the building at all. Section 20(4) of the EqA does not deal with hypothetical disadvantage caused by physical feature. It does not contain the words "or would put". Ms Casserly for the Claimant submits that it would be "crazy to have to bring another claim". While the Tribunal agrees with the sentiment we find that this does not answer the legal point that the Claimant has not evidenced that she has suffered disadvantage in relation to internal fittings within the building. We do not have a basis to say that these matters caused her disadvantage. The disadvantage that she has suffered is absolute exclusion from the buildings.

396. [6.15] Can the Respondent show that it did not know or ought not reasonably to have known that the Claimant was likely to be placed at the substantial disadvantage by the above physical features?

397. The Tribunal find that the disadvantage to the Claimant caused by physical exclusion was at all times obvious to the Respondent.

Reasonable steps

398. [6.16] If not, were there reasonable steps that the respondent could take to avoid the disadvantage? The Claimant will allege that the Respondent should have taken the following steps:

Ramp

399. [6.16.1] Facilitating ramped access.
400. We are not satisfied that facilitating ramped access was a reasonable step, given in particular the Claimant's comment on a temporary ramp being "terrifying like a ski slope". Photographs show that the steps were steep which helps the Tribunal to understand that comment.

Disability access internally

401. [6.16.2] Ensuring that refurbishment built in disability access to offices, lecture seminar rooms / theatres and / or toilets.
402. We accept that the Respondent has built in disability access within the ground floor and lower ground floor, as evidenced by the feasibility report dated March 2023.
403. It did not however built in disability access from the exterior. As to gaining access to the Building from the exterior we have considered that under the next issue in relation to the platform lift.

Lift

404. [6.16.3] Installing a platform lift at Tavistock Square and/or Gordon Square] (the Claimant's application to amend this allegation was granted by the Tribunal for reasons given orally on 5 February 2025).
405. We are not bound to follow the conclusion of Professor Fisher in the grievance appeal. Nevertheless, we agree with his conclusion that insufficient consideration was given to reasonable adjustments to the physical space, especially considering the length of time it took to seek approval for the required work.
406. We find that installation of a lift was a reasonable step for the Respondent to take. As at the time of the Tribunal hearing in February 2025 this was still a work-in-progress.
407. The Tribunal accepts that both Buildings which comprise the Department were Georgian buildings and there were some constraints. Realistically it was not possible to facilitate wheelchair access immediately that the Claimant became a wheelchair user in 2017. It required building work and planning approval from the London Borough of Camden. We find that it would and should have been

possible to install such a lift as **part of the refurbishment that was carried out in 2020.**

Reliance on advice

408. We reject the Respondent's argument that it acted reasonably in reliance on advice at the time (i) that installation of any lift represented a fire risk and on (ii) the assumption that the London Borough of Camden would not approve such the necessary modifications.
409. It is evident from communication with Camden that the local council was extremely supportive of disability accessibility. Part M of the Building Regulations governing accessibility came into force in October 2010. In other words it was not at the material time a very recent development.
410. We do not accept the argument that the Respondent reasonably relied on external advisors. The source of the advice in relation to fire risk is the Respondent's own fire officer. The Respondent has not called as a witness their fire officer nor anyone from their Estates department. From June 2018 onward the approach of the Estates department was that the Building would be unlikely to be made accessible for Mobility Impaired Persons and therefore this was not investigated further. It has not been demonstrated that the physical building changed, nor that nature of the fire risk changed over time.
411. As to the question of the Grade II listed building and conservation area, the Respondent simply proceeded on an assumption that Camden would not give approval, without actually checking this with the council until December 2023. There were other precedents for external lifts from street level within the Respondent's physical estate e.g. 14 Taviton Street.
412. On 24 July 2019 Carol Lelliott the architect wrote that it **was** feasible to consider an external lift serving the lower ground floor and ground floor. This was not pursued at that time.

Delay

413. The Respondent has advanced various explanations for delay. We can only return to the fact that the Claimant could not enter the Department which was her place of work between 2017 and 2025. The absence of wheelchair access was a physical feature of the Buildings which caused the Claimant disadvantage. There was a requirement to take reasonable steps to avoid that disadvantage. We do not criticise the Respondent for the decision to prioritise wheelchair access to Gordon Square rather than Tavistock Square.
414. In relation to Gordon Square, we do not find that there was an immediate failure in 2018 when the lease was acquired. We accept that it would have taken until 2020 to obtain planning and install a lift as part of the general refurbishment.
415. In practical terms it seems that the Covid-19 pandemic did not cause a significant delay. Modification building works were carrying on in 2020.



416. We are not satisfied that there is a compelling practical reason why planning permission could not have been obtained and the lift installed as part of refurbishment which took place in 2020.
417. **From 2020 onward we find that the Respondent had failed to take reasonable steps avoid the disadvantage.**

Not pursued

418. The Claimant did not pursue the following points [6.16.4-6.16.6]:
- 418.1. Relocating the claimant to another building;
- 418.2. Giving the claimant priority access to accessible office space;
- 418.3. providing a radar key to accessible toilets so that there limited accessible toilets that were there were not ill used.

Detriment / disadvantage

419. [6.17] Was the Claimant subject to a detriment as a result of the failure to make reasonable adjustments (s.39(2)(d) EA 2010)?
420. The Claimant relies upon various detriments, which the Tribunal treated, accepting the Respondent's submission on this point, that these should be treated as examples of substantial disadvantage.
421. Difficulty in evacuating from the Institute of Education on 19 January 2023. This is dealt with at issues 6.18-6.22.
422. Having to be allocated different office space and sometimes not having office space. The Tribunal found that this was a consequence of the failure to install a platform lift at Tavistock Square and/or Gordon Square dealt with elsewhere.
423. Being unable to enter the room for a book launch on 13 September 2023. We find that this felt outside of the scope of the claim as defined in the list of issues.
424. Being unable to mix with departmental colleagues, experience collegiality and opportunities arising. This was in effect conceded. This was a consequence of the failure to install a platform lift at Tavistock Square and/or Gordon Square dealt with elsewhere.
425. Being unable to attend research seminars. The qualified concession set out at paragraph 203 of Respondent's counsel submission is realistic and we adopt it.
426. Being asked by her students why she is teaching in other departments and corridors. This was a consequence of the failure to install a platform lift at Tavistock Square and/or Gordon Square dealt with elsewhere.

427. Having to see students in public places (para 35 GoC) This was a consequence of the failure to install a platform lift at Tavistock Square and/or Gordon Square dealt with elsewhere.

Auxiliary aid: PEEP

428. [6.18] The Claimant alleges that the Respondent failed to take reasonable steps to put in place a Personal Emergency Evacuation Plan ("PEEP") which amounts to an auxiliary aid and/or service.
429. [6.19] Does the PEEP amount to the provision of an auxiliary aid and/or service?
430. We found that PEEP did amount to an auxiliary aid or service.
431. [6.20] Would the Claimant, but for the provision of the PEEP, be put at a substantial disadvantage in comparison with those who are not disabled?
432. We found that the Claimant did suffer substantial disadvantage. She was unable to evacuate safely from the building which she was in on 19 January 2023.
433. [6.21] The Respondent admits that it knew or could reasonably be expected to know that the Claimant was disabled within the meaning of the Equality Act 2010 at the relevant times.
434. [6.22] Did the Respondent know or ought reasonably to have known that the Claimant was likely to be placed at the substantial disadvantage without the provision of the PEP? The Respondent ought to have known that this would place the Claimant at a substantial disadvantage.
435. We find that the Claimant did experience difficulty in evacuating on 19 January 2023 and being traumatic for the claimant and leaving her with little confidence that she would be safely evacuated in the event of a fire. Whether this is characterised as a detriment or as a substantial disadvantage, we accept that there was difficulty suffered on 19 January 2023.
436. The Tribunal found that the difficulty suffered in respect of the missing PEEP was a consequence of two factors: first, administrative oversight in part due to Mr Webb being off sick; and second, the Claimant not being able to get access to the Department's Building, which is an ongoing failure or state of affairs. She would not have been in the position of needing to evacuate from the IoE had she not been there. In other words this was a consequence of that failure.
437. There was a failure to take steps as were reasonable to provide PEEP which was an auxiliary service.

## Harassment

### Unwanted conduct

438. [7.1] Did the Respondent engage in unwanted conduct related to the Claimant's disability? The Claimant will rely on:
439. All the matters set out above, being the allegations of s.13/15 discrimination (paragraphs 4.1 and 5.1 of the list of issues) and s. 20/21 - the failures to make reasonable adjustments (paragraphs 6.4, 6.11, 6.13, 6.16, 6.17, 6.20, and 6.24 of the list of issues).
440. The Tribunal has reminded ourselves of the guidance of the EAT in **Dhaliwal**. Not every unfortunate phrase should lead to legal liability. By analogy we find that not every misstep by an organisation amounts to harassment.

### Not accessible venue March 2023

441. **[6.11 viewed as harassment]** - failure to book fully accessible venue for social venues March 2023. We find that there was a failure to book an accessible venue on that occasion. That failure and the communication in relation to it on 15 and 20 March 2023 was unwanted conduct viewed from the Claimant's perspective.
442. The communication related to the Claimant's disability. It did have the effect of humiliating her. In relation to the suggestion that the Claimant could be in an accessible part of a venue and that people could in essence come and visit her, she was evidently extremely upset by this and commented "I'm not an exhibit". That was expression of humiliation and distress which we found was genuine and understandable.
443. Looking at the matter objectively, we did take account of the fact that Mr Webb's tone in the communication of 20 March was more "professional" than Sweeney Pascale's communication of the 15 March and he was attempting to provide an explanation by reference to available spaces. It was evidently not his purpose to upset the Claimant. On the contrary, he was trying to provide an explanation. Looking at the surrounding circumstances, we have also borne in mind that Mr Webb's role generally had been seeking accessibility for the Claimant, albeit that he faced other constraints within the Respondent.
444. We have come to the conclusion, however, that in whatever way the arrangements at the chosen venue in March 2023 were communicated to the Claimant they would have had the effect of humiliating her. Given the choice of venue this was bound to have that effect. This allegation of harassment is well founded.
445. [7.1.2] The Claimant also relies upon the following matters specifically:

Away days

446. (i) The Claimant's experience of the organising of and attendance at the departmental awaydays - including repeated invitations to seminars which the Claimant cannot attend due to their being held in inaccessible venues.
447. The Tribunal has found this to amount to a failure to make reasonable adjustments. We have not, additionally, found that this amounted to harassment.
448. (ii) The Claimant's experience of and attendance at the teaching awaydays on the following dates:
449. (A) 30 October 2019 (paragraphs 43 - 46 of GoC);
450. The Tribunal has found this to amount to a failure to make reasonable adjustments. We have not, additionally, found that this amounted to harassment, particularly in circumstances in which the Respondent (albeit wrongly) understood that this was a wheelchair accessible venue.
451. (B) 23 May 2023 (paragraph 47 of GoC);
452. The Tribunal has found the incident at the Bentham Building in May 2023 to amount to a failure to make reasonable adjustments. We have not, additionally, found that this amounted to harassment.

Lucy Barnes' comment 8 June 2023

453. (C) 8 June 2023 (paragraphs 48 - 50 of GoC) -
454. Lucy Barnes did not deny making the comment, but says that it was not hostile or directed at the Claimant, but rather reflecting a context of a discussion about the direction of travel. The Tribunal formed the impression that there was an edge to the way that this comment came across. It was we find in reality a tart rejoinder to the valid complaint made by the Claimant about being excluded from the department.
455. We find that this was unwanted conduct and it did relate to the Claimant's disability. We find that the Claimant understandably felt that this was hostile.
456. We found that this comment demonstrated a lack of empathy with the Claimant's situation and failure to appreciate her physical exclusion from the department. It would have been better had this comment not been made.
457. Ultimately, although this was finely balanced, we found that this was the kind of unfortunate comment which was just below the threshold where liability legal should be imposed under section 26 per **Dhaliwal**. For that reason we did not find that it amounted to harassment.
458. [7.2] Did the conduct above take place? It has been convenient to deal with this issue together with issue 7.1 in each allegation above.

Effect of harassment

459. [7.3] Did the conduct have the purpose or effect of violating the Claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the Claimant?
460. [7.3] If the complaint is 'effect only', taking into account the Claimant's perception and the other circumstances of the case, was it reasonable for the conduct complained of to have the required effect?
461. It has been convenient to deal with this issue together with issue 7.1 in each allegation above.

**Remedy Hearing**

462. A two day remedy hearing has been listed on **30-31 July 2025**.
463. Parties are reminded of the desirability of settlement given the ongoing employment relationship. Failing settlement, narrowing of the remedy issues by agreeing some elements would be desirable.
464. The parties are ordered:
- 464.1. By **4 June 2025** the Claimant should provide to the Respondent an updated schedule of loss.
- 464.2. By **16 June 2025** the Respondent should provide a counter-schedule of loss to the Claimant.
- 464.3. By **2 July 2025** the Claimant shall produce a PDF electronic bundle of any documents relevant to remedy that are not already in the liability documentation.
- 464.4. By **16 July 2025** (if so advised) any updating witness statements dealing with remedy should be exchanged.

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Employment Judge Adkin

Date 1 May 2025

SENT TO THE PARTIES ON

7 May 2025

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FOR THE TRIBUNAL OFFICE