



EMPLOYMENT TRIBUNALS

Claimant: Miss L Mageza

Respondent: Blaby District Council

Heard at: Leicester

On: 16-19 June 2025

Before: Employment Judge Omambala

Representation

Claimant: Mr S Muzenda, solicitor

Respondent: Ms L Barchet, solicitor

JUDGMENT

- (1) The Claimant's complaint of unlawful direct race discrimination and direct sex discrimination in relation to the recruitment and selection process and decision for the role Housing Accommodation and Enablement Officer is well-founded and succeeds;**
- (2) The Claimant's remaining complaints of direct race and direct sex discrimination are not well-founded and are dismissed;**
- (3) The Tribunal makes the following recommendation pursuant to section 124(2)(c) of the Equality Act 2010 – that within 6 months of 19 June 2025 the Respondent's managers involved in the recruitment process are provided with mandatory recruitment, interview and selection process training in accordance with paragraph 1.4 of the Respondent's recruitment procedure;**
- (4) The Respondent shall pay compensation to the Claimant in the sum of £15,000 in respect of her non-financial losses, namely, injury to feelings;**
- (5) The Respondent shall pay interest on the compensation for injury to feelings in the sum of £1,334.79, which has been calculated in accordance with the Employment Tribunal (Interest on Awards in Discrimination Cases) Regulations 1996;**
- (6) The total sum which the Respondent must pay to the Claimant is £16,334.79.**

REASONS

1. These are the written reasons for the judgment delivered orally by the Employment Tribunal on 19 June 2025.
2. Early conciliation began on 20 June 2024, and an early conciliation certificate was issued on 1 August 2024. By a claim form dated 23 August 2024, Ms Mageza lodged a complaint of alleged unlawful direct sex and direct race discrimination against the Respondent District Council.
3. It is common ground that no issues as to limitation or the tribunal's jurisdiction to hear this claim arise.
4. The Claimant is a woman and describes herself as black African for the purposes of her direct race discrimination complaint.
5. The Claimant commenced employment with the Respondent on 5 January 2015. By 30 August 2021 she was employed as a Homelessness Case Officer. The Claimant remains employed by the Respondent.
6. The Tribunal received and read an agreed bundle of documents comprising 262 pages. During the course of the hearing the Tribunal received and read further documents which were added to the back of the agreed bundle. They were (i) a copy of the application form of the successful applicant for a role which the Claimant applied for but did not get; (ii) a copy of notes of the Claimant's grievance meeting on 2 July 2024 annotated and submitted to the Respondent; (iii) an email thread of correspondence between the Respondent and the Claimant about agreement of the notes of the meeting. The Tribunal subsequently received further documents in relation to remedy they included a discharge letter from the LLR Talking Therapies dated 15 January 2025 and a letter from LLR in relation to Employment Support dated 6 January 2025.
7. The Tribunal read witness statements from the Claimant and four Respondent witnesses. It heard oral evidence from the Claimant and each of the Respondent witnesses.

The Issues

8. The parties agreed that the following factual issues should be determined by the Tribunal: -

Prior to the Claimant's Interview for the Role of HAO

- a. Did the Respondent by John Crane offer the Claimant (i) mentoring and (ii) shadowing opportunities?

- b. Did the Respondent by John Crane offer the successful candidate Mr Amliwala (i) mentoring and (ii) shadowing opportunities?

During the Claimant's interview on 30 April 2024

- c. Did the Respondent by John Crane, the Panel Chair, interrupt the Claimant during her answers saying that she had already answered the question previously?

The recruitment decision

- d. How was the decision to appoint made?

Post Interview

- e. When the Claimant received her interview scoring sheet from the Respondent were three pages missing?
 - f. Did one panel member recommend that C and the successful candidate be re-interviewed to ensure fairness?
 - g. What was the perceived unfairness it was designed to remedy?
9. The Claimant, by her solicitor, confirmed that there was no application to amend her claim to include allegations of race and/or sex discrimination arising from the grievance she raised as a result of her treatment by the Respondent and/or its outcome.

Legal Issues

10. The parties agreed that the following legal issues fell to be determined by the Employment Tribunal:
- 10.1 Was the treatment complained of by the Claimant less favourable treatment of the Claimant?
 - 10.2 If so, was it less favourable treatment because of the Claimant's race?
The Claimant describes herself as black African
And/or
 - 10.3 If so, was the treatment less favourable treatment because of the Claimant's sex?
 - 10.4 Did the treatment amount to a detriment?
 - 10.5 If so, was it just and equitable for the Employment Tribunal to make an award of compensation to the Claimant?

Facts

The Tribunal make the following findings of facts on the issues identified and agreed by the parties.

Prior to the Job Interview

Did John Crane offer the Claimant (i) mentoring and (ii) shadowing opportunities?
Did John Crane offer the successful candidate, Mr Amliwala (i) mentoring and (ii) shadowing opportunities?

11. By email on 26 January 2024 [p.76] at 11.30 Mr Crane wrote to the Claimant. He said *"I know you expressed an interest in Jeevan's position, and it might look like I am training him up for it, basically Jitesh has asked to shadow me for a bit. He did this before I knew Jeevan was leaving and I agreed just as a learning thing. I checked with HR to see if this is ok as I don't want it to look like I'm favouring anybody over anyone else who might apply. They told me it is policy that as long as Vijay [Jitesh's line manager] agrees then I should go ahead with the shadowing stuff with Jitesh."*
12. The Claimant's had asked to shadow Mr Crane in his Team Leader role once she realised that Jitesh had been given that opportunity. The Claimant had previously applied for a Team Leader role but had been unsuccessful. She wanted to shadow him as a learning and development opportunity. She had obtained the agreement of her team leader, Ms Curtis and Mr Crane had agreed that she could shadow him.
13. Later that day Mr Crane sent the Claimant an email which said *"Hiya Hi Mate – this was Jeaven's job description- there is likely to be an aspect of property management added in to this – but this is just a general idea of tasks and role etc."* Attached to it was the job description for the upcoming vacant role. The Tribunal find that it is more likely than not that Mr Crane had sent the same information to Mr Amliwala earlier that day.
14. On Monday 29 January 2024, [p.76] the Claimant and Mr Amliwala received an email from Mr Crane attaching a job shadowing guidance document and request form. Mr Crane's email said that he and his line manager, Mr Jones felt that shadowing the postholder might be better because the work he was doing was work that would not really be part of the roles going forward.
15. The explanations given for that difference in treatment by Mr Crane were that Mr Amliwala had approached him proactively for a shadowing opportunity, he agreed before he knew there would be a vacancy and in his view the Claimant shadowing the postholder Mr Jeevan would be more beneficial to her. There is no suggestion that he discussed her request to shadow him with the Claimant to understand why she thought it would be of benefit to her.
16. The Tribunal heard no evidence of any mentoring opportunities given to the Claimant or Mr Amliwala, the successful candidate.

The Recruitment Procedure

17. The Respondent's recruitment procedure was effective from December 2023 and is owned by the Strategic HR Manager. It set out the Respondent's approach to the recruitment and retention of employees, potential employees and casual workers. The procedure expressly provided that it superseded all other policies or procedures that may have applied previously.
18. The two stated aims of the procedure were to ensure that (1) the Respondent has a workforce that reflects the population it serves by seeking to address areas of under representation through positive action measures, compliance with legislation and visibly promoting best practice at all levels of the workforce; and (2) it consistently provides high standards in recruitment by ensuring best practice, fairness and professionalism at all stages of the recruitment process: §1.2 [p.63].
19. The procedure specified that training in recruitment, selection and interviewing skills was a mandatory requirement for managers involved in the recruitment process to maintain high standards and to ensure a consistent approach: §1.4 [p.63].
20. The recruitment procedure required interviews to be conducted by "at least two people" one of whom should be the Recruiting Manager. S/he was required to take into account any areas of expertise that may be required for the role and who would be an appropriate panel member to help assess the candidate's suitability. §2.9 [p.66].
21. §2.10 of the procedure identified the objective of the decision-making process as, *"to reach, wherever possible, a unanimous decision on the overall assessment of each candidate against each requirement."* The procedure directs the Recruiting Manager to accurately note any disagreement, requires a copy of the record to be retained in the recruitment file and the full interview notes to be returned to HR along with a 'Recommendation to Appoint Form.'

The Recruitment Process for the HAEO role

22. The Claimant was one of a number of applicants for the role of *Housing Accommodation and Enabling Officer* at the Respondent.
23. The Respondent received 22 applications for the role. Of those applications the Claimant was the only candidate whose ethnic origin was described as Black British African. One candidate's ethnic origin was described as Black British Caribbean, one candidate was described as Black British, and one candidate was described as White and Black Caribbean. Five candidates were described as Asian or Asian British. In all there were eight non-white British candidates.
24. There were ten female applicants with one applicant who preferred not to disclose their gender.

25. Eight candidates were shortlisted. The Respondent did not adduce evidence as to the identity of the short listers. However, its recruitment procedure required at list two people to undertake the shortlisting, one of whom should be the Recruiting Manager.
26. Of the shortlisted candidates four were men and four were women. Four candidates were invited to interview. Two Asian/Asian British candidates were shortlisted. Three white British candidates were shortlisted. One black African, one white and black Caribbean and one black British candidate were shortlisted.
27. Of the eight shortlisted candidates four were invited to interview. Three female candidates and one male candidate were interviewed. Two white British candidates, one black British African, and one black British candidate were interviewed.
28. Ms Margeza was one of the four candidates who was invited to attend a job interview for the role of *Housing Accommodation and Enabling Officer* at Blaby District Council offices on 30 April 2024 at 10.30am.

The Interview

29. Four candidates were interviewed for the role. The interview panel comprised: John Crane, Housing Strategy Team Leader, a white male
Vijay Jethwa, Housing Assessment & Private Rented Sector Team Leader, an Asian male
Janine Curtis, Homelessness and Housing Systems Team Leader, a white female.
30. Mr Crane was the Recruiting Manager for the purposes of this recruitment exercise and chaired the Panel. He had worked for the Respondent since 2013 and in his present role since 2017. In that time, he had not received any recruitment training although he had taken part in a number of recruitment exercises.
31. Ms Curtis had worked for the Respondent for two years before that she had worked for Nuneaton and Bedworth Borough Council as a Homelessness Team Leader for 7 years. Her recruitment and selection training with the Respondent was limited to reading the policies in place at the time of her induction in March 2023.
32. Mr Jethwa had worked for the Respondent for around twenty years in various roles. He had been a trade union representative and had 18 years' experience of interviewing internal and external candidates which included being on interview panels.
33. The interview panel was allocated about an hour to interview each candidate. Although the panel did not record the start and end time of the interviews, the tribunal is satisfied from the oral evidence it heard that all interviews were completed within 25 minutes.

Interruptions

34. The Claimant complained that on three occasions in the interview Mr Crane prevented her from answering questions fully by interrupting her and saying that she already given the answer in response to a previous question. She identified those questions as questions 3, 5 and 6.
35. Mr Crane conceded that on one occasion in relation to question 3 he told the Claimant that she had already answered the question but otherwise denied that he had interrupted her or prevented her from answering questions fully. He characterised his interventions as seeking to move the interview on.
36. Ms Curtis recalled that Mr Crane told the Claimant on one occasion that she had already answered the question. She thought that was in relation to the first part of the first question but said that she could not remember.
37. Mr Jethwa recorded the occasions on which Mr Crane intervened to tell the Claimant that she had already answered the question on his interview question and score sheet [p.141-143]. In the further comments section on the form Mr Jethwa suggested that to avoid any unfairness to the Claimant and Mr Amliwala be re-interviewed and permitted to answer questions without comments from the interview panel so that they could fully answer the questions. The Tribunal find that Mr Jethwa's notes were made during the course of the Claimant's interview and shortly thereafter.
38. The Tribunal do not accept Mr Crane's evidence that he did not interrupt the Claimant and intervened only once, to move the interview along. The Tribunal prefer the Claimant's evidence as to the manner and effect of Mr Crane's intervention. That evidence is supported by observations made by a member of the interview panel during the course of the interview. The Tribunal find that by telling the Claimant that she had already answered a question in a previous answer Mr Crane did prevent the Claimant from building on or adding to that previous answer. The Tribunal finds that the effect of such an intervention would and did have had an impact on the information that the Claimant was able to place before the interview panel. The Tribunal also find that there was no pressure of time such that the interview needed to be hurried or moved along.
39. There is no evidence that Mr Crane behaved in the same or materially similar way during the course of Mr Amliwala's interview. The Tribunal find that Mr Amliwala was not subject to the same disadvantage.

Use of Notes

40. The Claimant complained that Mr Amliwala's use of notes during the course of his interview provided him with an unfair advantage and that the interview panel failed to mitigate the effect of that advantage. She relied on Mr Jethwa's observations recorded on his interview question and scoresheet for Mr Amliwala [p.119-121] that for 7 of 9 questions the candidate was unable to answer without looking at his notes.

41. The Tribunal find that before the interview; candidates were given no guidance by the Respondent about whether and the extent to which notes could be used in an interview.
42. Ms Curtis and Mr Crane did not consider that Mr Amliwala's use of notes was excessive. They said that they regarded it as a positive sign that a candidate had done research and prepared for the interview. The Tribunal find that Mr Amliwala was reliant on his notes in order to answer questions asked in the interview. Mr Jethwa distinguished between candidates who bring notes into interviews but do not look at them at all, candidates who glance at notes as a prompt and candidates who are dependent on their notes to answer the question asked of them. Mr Jethwa said that the shortlisted candidates included examples of all three and that Mr Amliwala fell into the latter category. The Tribunal is satisfied that Mr Amliwala's use of notes went beyond using them as prompts such that he was on occasion reading from his notes. The Tribunal find that as a result Mr Amliwala had an advantage particularly when referring to legislation, policy and technical matters.
43. Finally, the Claimant complained that Mr Amliwala was advantaged in his interview because at the end he was prompted and asked leading questions by Mr Crane so that he was able to ensure he provided further information that answered all questions fully.
44. The Tribunal finds that Mr Amliwala asked Mr Crane if he had fully answered all questions. Mr Crane went through his notes and asked Mr Amliwala questions to elicit missing information. Mr Jethwa noted this apparent irregularity, and the additional information gleaned in response to what he described as "leading questions" on his interview question and scoresheet at the time. Mr Crane did not offer an explanation for this conduct at the time of the interviews, during the internal grievance process or during the course of his evidence at the hearing.

The Scoring and Assessment of Candidates

45. The Tribunal finds that each panel member scored each candidate separately during the course of the interview and shortly thereafter.
46. On 7 May 2024 Mr Crane asked Mr Jethwa for his scores for Mr Amliwala and the Claimant [p.150]. Mr Jethwa replied that he would send them over a bit later with comments on both applicants. Mr Crane gave his total scores to Mr Jethwa. He scored Mr Amliwala 25 and the Claimant 22. Mr Crane said that he had not included any scoring from the questions that came from his questions at the end. This was a reference to the 'leading questions' posed by Mr Crane at the end of Mr Amliwala's interview.
47. Mr Jethwa sent his total scores for the Claimant and Mr Amliwala to Mr Crane and Ms Curtis by email at 16:52 [p.148]. He had scored the Claimant at 26 and Mr Amliwala at 19. In his email Mr Jethwa suggested that "*in the interests of fairness and transparency*" both candidates should be re-interviewed. He noted that he had already said that the Claimant "*was told that she had*

answered the question in a previous question and therefore was denied the opportunity to answer fully.” He commented that he would be interested to see if she had scored less on the questions that the panel said she had already answered. He also commented that Mr Amliwala was *“looking at his notes for more or less every question and then giving answers after some long pauses.”* He pointed out that in what was supposed to be a fair and equal competitive interview this gave him an unfair advantage that others did not have. He said that he had never interviewed anyone doing it this way in all the time that he had been interviewing with the Council and noted the stark contrast between a candidate that morning who had made notes but was able to answer the questions without looking through her notes.

48. Mr Crane emailed Ms Curtis a few minutes after Mr Jethwa’s email [p.149]. He did not include Mr Jethwa on the thread. He wrote, *“Okaaaay – followed by an emoji which is unclear, “this isn’t going away anytime soon.”* Ms Curtis replied, *“Oh shucks- how did he score so low?”*
49. Mr Crane then replied to Mr Jethwa’s email, including Ms Crane on the thread and suggested that they all catch up *“at some point the next day to go through it.”* Mr Jethwa replied, *“Yes no probs...I just want to ensure we are being fair to both.”*
50. Ms Curtis provided her total scores for all four candidates to Mr Crane and Mr Jethwa in an email on the morning of 8 May 2024.
51. The Tribunal find that following Ms Curtis’ email each Panel member was aware of the scores given to the Claimant and Mr Amliwala by each of their colleagues. Each panel member was also aware of the cumulative scores of the Claimant and Mr Amliwala. It was therefore obvious to all in advance of the interview panel meeting that the Claimant had a higher points tally than Mr Amliwala.
52. The Tribunal find that in the Teams meeting the panel members discussed the scores they had given to the two highest scoring candidates and the reason for them. The Tribunal find that the panel did not complete the exercise of going through the scores for each question because Mr Jethwa had to leave the meeting to attend to work. Neither the scores for the Claimant nor Mr Amliwala were adjusted in or following the meeting.
53. Mr Jethwa emailed Ms Curtis and Mr Crane at about 1:15 on 8 May. He said he thought they should keep the scores *“as they were scored naturally.”* He said, *“it was good to discuss and from the meeting it would be fair to say that our scores reflect our individual understanding of the answers given. We all scored some the same, some were higher and some lower and I think that is a healthy reflective assessment from each of us.”*
54. The Tribunal find that Mr Jethwa was happy to meet his interview panel colleagues later that day. It rejects the suggestion made in oral evidence by Ms Curtis and Mr Crane that Mr Jethwa had left the meeting abruptly and was unhappy.

55. Mr Jethwa emailed the Respondent's HR team at 14:20 that day. He said, *"Just a quick question – interviews – do we recruit on the final scores for each candidate and whoever scored the highest?"* Ms McDermott an HR advisor replied at 14:22, *"In 9/10 cases yes – i.e. if super close we may consider team fit/carry out further assessment – but as I say usually it's dependent on the candidates performance on the day and we would appoint the top scorer"* Mr Jethwa answered at 14:23, *"Thought so...thanks."*
56. Mr Jethwa then spoke to Mr Jones and informed him that he had concerns about the interview process. He told Mr Jones that he thought both candidates should be interviewed again. Mr Jones told Mr Jethwa that the appointment decision was going to be a majority decision since two panel members had scored Mr Amliwala more highly than the Claimant.
57. Later that day the interview panel attended a further Teams meeting where Mr Crane informed them that he had spoken to Mr Jones and that he was going to appoint Mr Amliwala.
58. The Tribunal therefore find that the decision to appoint Mr Amliwala was not made by the interview panel that met the candidates. It was made by Mr Jones in discussion with Mr Crane, and it was made without reference to the Respondent's recruitment procedure. Mr Crane stated that he spoke to an HR advisor who told him that the recruitment decision should be based on a majority view of the interview panel and not on the basis of the highest score. There is no written record of the particular query or scenario that Mr Crane posed to the HR advisor nor is there a record of the advice that was given.

Reluctance to provide the Claimant with the interview scoresheets

59. On 13 May 2024 the Claimant wrote to the Respondent's HR Team and requested a copy of her interview score sheet. She wrote again on 15 May this time seeking disclosure of the documents as a subject access request. On 17 May the HR team replied informing the Claimant that someone from its data protection team would contact her shortly. The HR team also sent the Claimant guidance on how to make a subject access request on same day. The Claimant submitted her subject access request on 20 May 2024. She received an incomplete copy of the score sheet on 28 May and on 13 June 2024 she received the missing pages but with the interviewer details redacted along with some other information. The Claimant received unredacted copies of her own and the successful candidate's scoresheet as part of the disclosure of documents in these proceedings.

The Law

60. The relevant provisions are in sections 13 and 39(2) (b) and (d) of the Equality Act 2010.

Detriment

61. The term 'detriment' is not defined in the Act. In *Shamoon v CC of the RUC* [2003] HL held that a worker suffers a detriment if a reasonable worker would

or might take the view that they had been disadvantaged in the circumstances in which they had to work. The individual's belief that they have been disadvantaged must be objectively reasonable in all the circumstances. An unjustified sense of grievance is not enough.

62. The CA observed in *Deer v University of Oxford* [2015] EWCA Civ 52; "there will be very few, if any, cases where less favourable treatment will be meted out and yet it will not result in a detriment. This is because being subject to an act of discrimination which causes or is reasonably likely to cause distress or upset will reasonably be perceived as a detriment by the person subject to the discrimination even if there are no other adverse consequences.
63. A Claimant must show that they have been treated less favourably than a real or hypothetical comparator in the same or materially the same circumstances. The analysis of the treatment of a Claimant and her comparator is highly context specific.
64. The less favourable treatment must be because of a protected characteristic. This requires the Tribunal to consider the reason why the Claimant was treated less favourably. This has been described as "the crucial question." In most cases this will call for some consideration of the mental processes of the alleged discriminator.
65. The Tribunal must be alive to the possibility of subconscious or unconscious discrimination and consider the conscious or subconscious mental processes which led the discriminator to take a particular course of action and to ask whether a protected characteristic played an operative part in the treatment. It is possible for an employer to discriminate unconsciously, perhaps because of some stereotypical assumption about people possessing the protected characteristic in question.
66. If the tribunal is satisfied that the protected characteristic is one of the reasons for the treatment, that is sufficient to establish discrimination. It need not be the only or even the main reason. It is enough that it is a more than minor or trivial reason.
67. Motive is irrelevant to whether discrimination has, in fact, occurred. It may be relevant to questions of compensation.
68. Direct evidence of discrimination is rare and on occasions tribunals have to infer discrimination from all the material facts. Inconsistent accounts can be a basis from which inferences can be drawn by tribunals of first instance.
69. The explanation for the less favourable treatment does not have to be a reasonable one. It may be that the Respondent has treated the Claimant unreasonably. The mere fact that the Claimant has been treated unreasonably is not sufficient to justify an inference that there has been unlawful discrimination.

The Comparison required

70. Section 23(1) EqA sets out the statutory comparison required.
71. The closer of the circumstances of the Claimant and her comparator, the weightier the significance of their treatment and any differences in treatment will be. Ultimately, whether the comparison is sufficiently similar is a question of fact and degree.

Burden of proof and drawing of inferences.

72. It is for the Claimant to show that the comparator has been treated more favourably than she was. She may invite the Tribunal to draw inferences from all the relevant circumstances, but she must first ensure that the Tribunal has the primary evidence from which the necessary inferences may be drawn.
73. Even once it has been shown that the comparator has been treated more favourably than the Claimant, it must be shown that the reason for that treatment was due to the relevant protected characteristic.
74. In deciding why the Claimant was treated as she was the Tribunal must take into account all potentially non-discriminatory factors which might explain the conduct of the alleged discriminator as well those factors which are indicative of discrimination.
75. Section 136 of the Equality Act 2010 deals with the burden of proof in discrimination claims. If the Respondent fails to show that the relevant protected characteristic played no part in its motivation for doing the act complained of, a tribunal is not obliged to make a positive finding as to whether or how it did so: *Base Childrenswear Ltd v Otshudi* [2020] IRLR 118.
76. The core of the approved analysis for the drawing of inferences in a direct discrimination case as approved by the SC in *Hewage v Grampian Health Board* [2012] UKSC 37 and *Efobi v Royal Mail Group Ltd* [2021] UKSC 33 is that there is a two stage process. First, the Claimant must prove facts from which the Tribunal could conclude in the absence of any other explanation, that the Respondent had committed unlawful discrimination against her. This does not mean that C is required to show that the *only* inference which can be drawn from the primary facts is a discriminatory one. That would be erecting too high a hurdle before the burden shifted.
77. If unreasonable conduct occurs alongside other indications such as the failure of the Respondent to comply with internal procedures designed to ensure non-discriminatory conduct, the Tribunal may find that is sufficient to shift the burden on to the Respondent to show that its treatment of the Claimant had nothing to do with race or sex.
78. If the Claimant does show this, then the Tribunal must consider whether the Respondent has proved that it did not commit discrimination. The employer is required to adduce evidence which advances a convincing and cogent explanation of the treatment complained of. Where there is no adequate explanation, the Tribunal *must* infer discrimination. The focus of this Tribunal's

analysis must at all times be whether it can properly and fairly infer unlawful race or sex discrimination.

Conclusions

79. In this case the Claimant relies on an actual comparator, a fellow employee Jitesh Amliwala, who also applied for the role of Housing Accommodation and Enabling Officer and who was interviewed by the same interview panel for the role.
80. The Tribunal is satisfied that JA is an appropriate comparator for all of her allegations save her allegation of discrimination in the provision of her interview score sheet. If the Tribunal is wrong about that, then it is satisfied that the relevant circumstances of the Claimant and Mr Amliwala are sufficiently similar that his treatment can be considered as evidence from which it can infer how a statutory hypothetical comparator would have been treated.
81. For the last allegation JA is not the correct comparator, and the Claimant must rely on an hypothetical comparator.

Less Favourable Treatment

Job Shadowing

82. The Tribunal is satisfied that there was a difference in the treatment of the Claimant's request to shadow Mr Crane and Mr Amliwala's request to shadow Mr Crane and that the material circumstances of the request to shadow Mr Crane were the same. Both individuals sought to shadow him as an individual learning and development experience.

Conduct of the Interview

83. The Tribunal is satisfied that there was a difference in the treatment of the Claimant and Mr Amliwala at interview in the circumstances that were the same or materially similar. The Claimant was interrupted on three occasions and prevented from giving a full response to each of the questions posed in the interview. Conversely, Mr Amliwala was prompted in his interview, had omissions in his responses pointed out by the Chair of the panel at the end of the interview and offered the opportunity to add to his answers.

The Scoring

84. The Claimant was treated less favourably in relation to the assessment of her performance at interview. Mr Crane did not give the Claimant the highest possible mark for those questions where her response was interrupted and she was told that she had already answered the question in a previous answer, contrary to the convention that all panel members agreed in their oral evidence should apply and contrary to the understanding of at least two panel members at the time of the interviews.

The Appointment Decision

85. The Claimant was treated less favourably because the appointment decision was removed from the three panel members and was taken by Mr Crane and Mr Jones. Had Mr Amliwala been the highest scoring candidate the Tribunal is satisfied on a balance of probabilities that the Respondent would not have disappplied its recruitment procedure. Further, the Claimant was treated less favourably because, despite being the highest scoring candidate she was not appointed to the role. Instead, Mr Amliwala who achieved a lower score than the Claimant was appointed.

The Response to the request for the interview score sheet

86. The Claimant was not treated less favourably than an employee in the same or materially similar circumstances as she was, in the time taken to provide her with a complete copy of the interview score sheet. The Tribunal finds that the Claimant has not established that an employee of a different race or sex would have been treated more favourably in respect of the timely and complete provision of information.
87. The Tribunal has considered whether the Claimant has established facts from which, if they were unexplained, the Tribunal could conclude that the less favourable treatment it has found was because she is a Black African and/or because she is a woman. We find that in respect of all her allegations save the allegation in relation to shadowing Mr Crane and the delay in the provision of an interview score sheet, she has done so.
88. In relation to the latter two matters and its findings, the Tribunal do not consider that any inference can be drawn from the primary facts that race or sex was an operative cause of the treatment complained of. Mr Crane had originally agreed to allow the Claimant to shadow him before he decided that to do so at that time would be of limited value to her. In relation to the reluctance and/or delay in providing the Claimant with the interview score sheets the Tribunal note that public authority employers have processes which can take some time before responding to requests for information that may concern or touch on other employees. They must also be mindful of the possibility that other employees may be identified as a result of information disclosed. Had the Claimant framed her allegation as a complaint of unlawful victimisation, the Tribunal may have had longer pause for thought but there was no evidence to indicate that matters of her sex or her race influenced the nature and timeliness of her employer's response.
89. Our reasons for finding that in relation to the other matters the Claimant has established a prima facie case and so has shifted the burden of proof to the Respondent, include:
- The Respondent's failure to appoint the candidate who scored the highest points score in the assessment process who was (i) a woman (ii) Black African
 - Internal inconsistencies in the oral and written evidence adduced by the Respondent witnesses and inconsistencies between the evidence given by individual Respondent witnesses - such as two panel members claiming that

they did not know what scores a third panel member had given to the two highest scoring candidates

- That notwithstanding the panel chair's evidence that he did not know what the Claimant's score was, he asserted that the other candidate scored higher
- Preferential treatment afforded to the successful candidate who was an Asian man
- Inaccurate and incorrect evidence given by Respondent witnesses,
- Evidence from a member of the interview panel Ms Curtis that she was not involved in making the decision to appoint Mr Amliwala and that her involvement ended after the interviews
- The unchallenged evidence from the Claimant that the team in which the vacant role had a 'male culture' and had historically consisted only of men. The team comprised only two roles: the vacant officer role and Mr Crane
- The Respondent's complete failure to have regard to the requirements and obligations contained within its recruitment procedure
- The Respondent's failure to ensure that those making its recruitment and selection decision received appropriate and timely training before undertaking recruitment decisions despite its procedure specifying that such training was mandatory
- The contemporaneous documents completed by interview panel members which indicated irregularities in the interview process
- The involvement of individuals who were not members of the interview panel in the decision making process
- The exclusion of the views and assessment of a member of the interview panel who happened to be of an ethnic minority background and who happened to be very experienced in recruitment and selection decision making, from the final selection decision.
- The disregarding by the Chair and a member of the panel of the Claimant's professional knowledge, skills and experience and the making assumptions of about where her skills and knowledge lay. An approach which can be unconsciously adopted by white individuals dealing with members of ethnic minority groups and by men when dealing with women.
- The over-valuing of the experiences of the successful male candidate as a private landlord even though they, like the Claimant's degree in Housing, were not an essential requirement for the role
- The Respondent's own evidence that the role was a niche one where no previous experience beyond general experience of housing prepared an individual to carry it out
- The suggestion that the only other non-white participant in the interview panel had an agenda and was not acting in good faith in making his assessment of the appointed candidate.
- The failure to consider a further assessment task or interview in the light of identified procedural irregularities
- The Respondent's failure to acknowledge the fact of procedural irregularities and their potential impact on the process and its outcome

90. The Tribunal next considered whether the Respondent had provided cogent evidence that the less favourable treatment the Tribunal has identified was in no sense whatsoever because the Claimant is a Black African and in no

sense whatsoever because she is a woman. The Tribunal has concluded that the Respondent has not discharged the evidential burden it bears in this regard.

91. No credible or cogent evidence has been produced of the HR advice given to supposedly justify a departure from the Respondent's adopted recruitment procedure nor of the questions posed to elicit the HR advice.
92. The Respondent's witnesses have not given an explanation as to why they failed to have regard to the provisions of the recruitment procedure or why they failed to follow it at all. No explanation has been provided for the departure from the clear and unambiguous provisions which call for the panel to, wherever possible, make an overall assessment of each candidate against each requirement. Ms Dennis, the Monitoring Officer agreed in her evidence that what that required was a comparison of total scores.
93. There was no attempt to reach a unanimous panel member view in this case and that has not been explained.
94. There was an exclusion of the views of one panel member without explanation or discussion with him by the other members of the panel. There was an imposition of a majority panel member selection decision, apparently at the direction of Mr Ian Jones, an individual who had no direct involvement in the recruitment process and had not accessed any of the relevant material.
95. The recruiting manager did not record the disagreement between the panel members at all. No record was placed on the recruitment file and if there was a 'recommendation to appoint' form completed in this case, the Tribunal has not been shown it.
96. Submissions from the Respondent's solicitors referred to confusion and miscommunication as possible explanations for the clear and obvious deficiencies in the process. However, she acknowledged that her submission was not based on evidence which the Tribunal had heard. Ms Curtis and Ms Dennis did not say that they were confused or had made a mistake or were incompetent. Mr Crane accepted he made a mistake in telling the Claimant in interview she had already answered a question whilst she had been answering a previous one but maintained that it had only happened once and that the Claimant could have insisted on giving an answer to that question if she had wanted to.
97. In general, the Respondent witnesses doubled down on the process and the outcome notwithstanding that all of them said that they had never encountered a selection decision in a recruitment process where the highest scoring candidate was not appointed. They maintained that they had made the right decision. Mr Crane and Ms Curtis in the face of basic arithmetic, maintained on oath that they had appointed the highest scoring candidate, when they plainly had not done so.

98. The person who was apparently central to decisions taken in this case, Mr Ian Jones, was not called to give evidence by the Respondent. It is a matter for the Respondent which witnesses it chooses to call but the absence of evidence from Mr Jones, who attended the hearing each day, left a lacuna in the narrative of events that was notable and significant.
99. Ms Dennis, who the Tribunal observe, is the Respondent's Monitoring Officer gave evidence in which she said that it was clear there had been a lack of understanding about how [you] are supposed to score during the interviews, that she believed the Panel were incorrect not to appoint the person who scored the highest, but said that she had not seen anything to suggest that it was anything to do with the Claimant's race or gender and criticised the Claimant for not being able to explain to her why she thought it was.
100. With the exception of Mr Jethwa, the evidence given by the Respondent witnesses demonstrated an ignorance of the equality legislation to which the Respondent is subject, and of what discrimination in practice looks like and how it can be identified.
101. As well as the particular failings identified in these reasons the Tribunal has stepped back and looked at the whole picture. It has concluded that the Respondent unlawfully discriminated against the Claimant because of her race and sex in the application of its selection process to her and in the decision to deny her appointment to the role for which she demonstrated, by achieving the highest score, that she was the most suitable candidate.
102. The Tribunal is satisfied that the less favourable treatment suffered by the Claimant amounts to a detriment in law and that it is just and equitable that she receives compensation in respect of the unlawful discriminatory treatment found proved.

Remedy

103. The impact of the Respondent's discriminatory treatment on the Claimant was clear from the oral evidence she gave. The Tribunal has no hesitation in accepting that the Claimant's articulation of the mental distress, grief and humiliation the selection process and its outcome caused her, was genuine.
104. The Claimant had a period of sickness absence from 17 September 2024 to 13 October 2024. Seven months after the instances of discrimination occurred the Claimant was continuing to experience significant distress. The Claimant attended six sessions of low intensity cognitive behavioural therapy between October 2024 and January 2025. Her symptoms at the outset of her treatment were of moderately severe depression and severe anxiety. By the time she was discharged from the service on 13 January 2025 her symptoms of depression and anxiety were characterised as mild. There has been no suggestion from the Respondent that the Claimant's symptoms were not caused by its discriminatory treatment of her. The Claimant also attended six sessions of employment support designed to provide her with tools to deal with issues with her manager.

105. The Respondent's solicitor submitted that this case concerned a single isolated incident that was insufficiently serious to warrant an award beyond the lower Vento band. The Claimant's solicitor emphasised treatment the Claimant had experienced since she returned to work which she considered was designed to intimidate and discourage her from pursuing her claim. He urged the Tribunal to mark its displeasure by making an award of £25,000.
106. The Tribunal reminded itself that the Claimant was entitled to recover only those losses which flowed from the discriminatory acts and omissions found proved.
107. The Claimant remains employed, and it is agreed that she would not have received an increase in her pay or benefits if she had been appointed. It was a sideways move rather than a promotion.
108. The Claimant is entitled to recover compensation for non-financial losses. Awards for injury to feelings are intended to compensate for the anger, distress, upset, grief and humiliation that discriminatory treatment may cause. Awards are intended to be compensatory and not punitive. The Tribunal has a broad discretion as to the level of the award to make but its focus should always be on the actual injury suffered by the Claimant.
109. The Tribunal has had regard to the Presidential Guidance on the Vento bands. The Tribunal determined that because the discrimination found arose from the same facts and the grounds of the treatment overlapped it was not necessary or appropriate to make two separate injury to feelings awards and attribute each to a particular protected characteristic. The Tribunal has also had regard to the proportionality of its overall injury to feelings award.
110. The Tribunal has determined that the sum of £15,000 is an appropriate award in respect of the injury to feelings suffered by the Claimant. It reflects the serious of the harm suffered by the Claimant including the impact on her health.
111. The Tribunal declined to make an award of aggravated damages. It had not made findings that the Respondent acted with malice and from a conscious desire to discriminate. On balance the Tribunal considered that the threshold for an aggravated damages award had not been met, notwithstanding that the Respondent's conduct of the grievance process and its outcome was woeful and suggested the absence of a genuine desire to enquire, whilst the subsequent conduct of Mr Jones and Ms Curtis towards the Claimant in the workplace which she described in her evidence was certainly insensitive, whether deliberately targeted at her or not.
112. The Tribunal have calculated the interest due on the sum awarded to the Claimant from 9 May 2024 to 19 June 2025 as follows: 406 days x 0.08 x 1/365 x £15,000 giving a total of £1,334.79.

**Approved by:
Employment Judge Omambala
20 June 2025**

Sent to the parties on

...01 July 2025.....

For the Employment Tribunal

.....

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision. If written reasons are provided, they will be placed online.

All judgments (apart from judgments under Rule 51) and any written reasons for the judgments are published, in full, online at <https://www.gov.uk/employment-tribunal-decisions> shortly after a copy has been sent to the claimants and respondents.

If a Tribunal hearing has been recorded, you may request a transcript of the recording. Unless there are exceptional circumstances, you will have to pay for it. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings and accompanying Guidance, which can be found here:

www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/