



EMPLOYMENT TRIBUNALS

Claimant: Roberta Ghiotto
Respondent: Hawkwell House Hotel Limited

Heard at: Reading
On: 17—19 December 2025
22 December 2025 (in chambers)

Before: Employment Judge Reindorf KC
Ms L Farrell
Mr A Morgan

Appearances

Claimant: Mr G Stanbury (legal representative)
Respondents: Mr W Cowley (legal consultant)

RESERVED JUDGMENT

1. The claim for direct disability discrimination succeeds.
2. The claim for discrimination arising from disability succeeds.
3. The claim for failure to make reasonable adjustments succeeds.

WRITTEN REASONS

INTRODUCTION	2
THE HEARING	3
THE ISSUES	3
FINDINGS OF FACT	4
The Claimant's recruitment and role	4
The extension of the Claimant's probation	6
The payroll task 12—13 February 2024	8
The Claimant's dismissal	9
RELEVANT LAW	11
Amendment.....	11
Failure to make reasonable adjustments: s.21 EqA.....	12
Direct disability discrimination: s.13 EqA	14
Discrimination arising from disability: s.15 EqA.....	15
CONCLUSIONS	16
Amendment.....	16
Failure to make reasonable adjustments	18
Direct disability discrimination	21
Discrimination arising from disability	23

INTRODUCTION

4. The Claimant was employed by the Respondent as a Talent and Culture Coordinator from 19 October 2023 until her dismissal with effect from 23 March 2024. She has Attention Deficit Attention Disorder (**ADHD**), which the Respondent concedes amounted to a disability at the relevant times, though she did not have a formal diagnosis. She also has OCD, but does not rely on it as a discrete disability.
5. The Respondent is the proprietor of a hotel in Oxford managed by the Accor Group, which operates approximately 6,000 hotels worldwide by way of either management contracts or franchise agreements.
6. Following a period of ACAS Early Conciliation from 24 June to 24 July 2024, the Claimant presented her ET1 on 22 August 2024 complaining of unfair dismissal and disability discrimination. She indicated that there was a whistleblowing aspect to her claim.
7. In the course of two Preliminary Hearings, on 31 January 2025 and 9 April 2025, the claim was identified as one for discrimination arising from disability contrary to s.15 of the Equality Act (**EqA**) and failure to make reasonable adjustments contrary to s.21 EqA. The Claimant provided Amended Particulars

of Claim on 28 February 2025 and the Respondent provided Amended Grounds of Resistance on 13 March 2025. The unfair dismissal claim and any claim relating to public interest disclosure were dismissed on withdrawal by judgment dated 9 April 2025.

8. On the final day of the present hearing, Mr Stanbury made an application to amend the claim to add a claim of direct disability discrimination contrary to s.13 EqA in relation to the Claimant's dismissal. We allowed the application for the reasons stated at paragraphs 70—76 below.

THE HEARING

9. The case came before us for a three day Final Hearing. We had a bundle of 585 . A further document (minutes of a meeting held on 21 March 2024) was disclosed by the Respondent on the final day of the hearing and added to the bundle. The Claimant provided a witness statement on her own behalf. We had witness statements from Anuj Sagar (General Manager), Aleksandra Zygadlo (Housekeeping Manager), Julia Pissareva (Accountant), Malcolm Hood (Front of House Manager) and Patricia Summa (Talent and Culture Operations Manager UK&I for Accor) for the Respondent. All the witnesses other than Ms Summa gave oral evidence and were cross-examined.

THE ISSUES

10. Following discussion with Mr Stanbury for the Claimant and Mr Cowley for the Respondent, and having regard to the Case Management Orders previously made, we identified the issues as follows.

Discrimination arising from disability: section 15 EqA

- (1) *It is agreed that the Claimant was a disabled person by reason of ADHD at the relevant times.*
- (2) *It is agreed that the Claimant was dismissed.*
- (3) *Was the Claimant's dismissal because of "something arising" from her disability, namely:*
 - (a) *aspects of her behaviour including manifestation of anxiety and upset; and/or*
 - (b) *issues of communication; and/or*
 - (c) *difficulty concentrating; and/or*
 - (d) *lack of focus.*
- (4) *Did the Respondent know, or could it reasonably have been expected to know, that the Claimant was disabled by reason of ADHD at the relevant time?*

- (5) *If so, has the Respondent shown that the Claimant's dismissal was a proportionate means of achieving a legitimate aim? The legitimate aim relied upon is "payroll had to be performed accurately".*

Failure to make reasonable adjustments: section 21 EqA

- (6) *It is agreed that the Claimant was a disabled person by reason of ADHD at the relevant times.*
- (7) *Did the Respondent apply a requirement to undertake payroll tasks without adjustments such as additional training, support and specialist software?*
- (8) *If so, was that requirement a provision, criterion or practice (PCP) for the purposes of s.20(3) EqA?*
- (9) *If so, did the Respondent apply that PCP to the Claimant:*
- (a) *between 12 and 15 February 2024; and*
 - (b) *on other occasions during her employment?*
- (10) *If so, did the PCP place the Claimant at a substantial disadvantage by comparison to persons who are not disabled?*
- (11) *If so, did the Respondent know or could reasonably have been expected to know at the relevant time that the Claimant was a disabled person by reason of ADHD and was likely to be at the substantial disadvantage?*
- (12) *If so, did the Respondent fail to take such steps as it would be reasonable to have to take to avoid the disadvantage? The steps suggested by the Claimant are:*
- (a) *training, support and specialist software;*
 - (b) *removal of payroll duties from the Claimant's role;*
 - (c) *the opportunity to work from home;*
 - (d) *a private place to work;*
 - (e) *additional time to work on payroll duties;*

FINDINGS OF FACT

The Claimant's recruitment and role

11. The Claimant was employed by the Respondent as temporary maternity cover for another employee, Hylan Htat Hsu. Her employment was subject to a three month probationary period. Her role included employee wellness and more

traditional Human Resources tasks such as assisting with the hiring and onboarding processes for new employees. There was no job description for her role. Although her job title was Talent and Culture Coordinator, within the hotel she was referred to as “HR” (human resources). She was the only in-house employee assigned to HR matters, though she had access to external advice from Croner, a consultancy service. She had no formal HR qualification or substantial HR experience.

12. The Claimant’s duties included a once-monthly collation of data for payroll, which she estimates initially amounted to around 25% of her role. This included liaising with an external payroll company, ADP. She had limited previous experience of payroll duties.
13. It is clear to us that the Claimant found the employee wellness element of the job very rewarding. She described it as “building a positive culture” amongst staff at all levels across the hotel. This element of the role suited her skill set and she performed well in it.
14. However the administrative side of the role was more challenging for the Claimant, in large part because her ADHD made concentration, focus and time management difficult for her. This was a particular problem when she had to work in busy or noisy environments, such as the shared office in which her desk was situated. Other symptoms of the Claimant’s ADHD included difficulty with emotional regulation and a tendency to experience heightened anxiety. These caused difficulty for her when working under pressure of time. She adopted a variety of strategies to try to cope with these problems, such as compiling “to do” lists, keeping her work area carefully organised, seeking out quiet work areas and working long hours. We accept her evidence on these matters and we find that she was sincere in her commitment to her job. She tried hard to overcome the difficulties posed to her by her disability in order to succeed in all aspects of the role.
15. The Claimant was not asked to complete a health questionnaire at the outset of her employment. She says that in the first week of her employment she told Ms Hsu about her ADHD, and that she understood that Ms Hsu told Nick Jefford, who was at that time the General Manager and the Claimant’s line manager. Both were supportive and encouraging in their communications with her, and on occasion made inoffensive humorous references to her ADHD. We find that both Ms Hsu and Mr Jefford were aware that the Claimant had ADHD and that it negatively affected her focus, attention to detail and time management.
16. In the first month of her employment the Claimant had a handover period with Ms Hsu. Ms Hsu did not give the Claimant detailed training on the role, and only limited training opportunities were offered to her. The only training she received on the payroll elements of the job at that time was a basic introduction given to her by Ms Hsu. We find that the handover period involved ad hoc, on-the-job familiarisation with whatever issues happened to come up that month. This included one round of payroll duties.

17. After Ms Hsu went on maternity leave on around 24 November 2023, the Claimant worked with Julia Pissareva, Accountant. The Claimant understood that Mr Jefford had made Ms Pissareva aware of her additional needs arising from her disability, and in particular that payroll duties would be challenging for her as a result of these. We find that Ms Pissareva was aware of the Claimant's ADHD and that the Claimant was likely to find administrative tasks more challenging than others would find them. We make the latter finding in part because Ms Pissareva worked in the same office as the Claimant and spoke to her frequently about both work and personal matters. In our observation, the Claimant's difficulties with focus and concentration are clearly discernible in her manner of speaking and demeanour.
18. The Claimant says that Mr Jefford, Ms Hsu and Ms Pissareva all praised her performance in the role. We accept that evidence. In an email of 16 January 2024 to Patricia Summa the Claimant reported that Ms Hsu had told her that Mr Jefford would approve her probationary period.

The extension of the Claimant's probation

19. In January 2024 Mr Jefford left the Respondent and was replaced by Mr Sagar. The Claimant's email to Ms Summa of 16 January 2024—the day after Mr Sagar started—raised concerns that Mr Sagar was “prejudiced” against her and was showing signs of frustration with her.
20. The Claimant's probationary period was due to end on 16 January 2024. Mr Sagar did not deal with it on that day because he had only just commenced in role.
21. The Claimant's evidence was that in about the second week after Mr Sagar's appointment, she spoke to him about her ADHD. She did not tell him the name of the condition. She says that she told him that she had difficulties with noise, concentration, focus, time management and organisation, and that she could find it easier than most people to get distracted, to go off on tangents, or to lose her train of thought. She described this conversation as “opening up” to Mr Sagar. She said that she told him she wanted to “train and grow”. We accept that evidence and we find that Mr Sagar was aware in substance of the Claimant's symptoms of ADHD and their significant effect on her performance in aspects of her job.
22. The probationary review was held on 2 February 2024. During the meeting the Claimant told Mr Sagar that she sometimes found it difficult to concentrate but she could manage if she found a quiet place to work. In the meeting Mr Sagar raised a series of concerns about a number of incidents in which he considered the Claimant to have made mistakes. These all related to administrative aspects of her role—including the payroll work—and not the employee wellbeing side of it. At the end he asked how they could “move forward after all this”. The Claimant said she would like to learn from it, continue studying and move forward, and she then became tearful and locked herself in the toilet for an hour. The meeting was adjourned and the Claimant went home.

23. We find that Mr Sagar's approach to this meeting was unduly hostile and aggressive. He did not refer to any positive aspects of the Claimant's performance, but instead focused exclusively on criticisms. He said that he had been a manager for 18 or 19 years, and that this was not an approach that he usually took. He agreed that by this time he had "taken against" the Claimant. He was frustrated that "the job was not being done" and thought that her tendency not to do the tasks that had been agreed with her but instead to "go and do something else completely" was a matter of deliberate insubordination. He said in evidence that it never crossed his mind that this might have been a sign of underlying difficulties or special needs. He did not seek to identify any training or other support needs, and nor did he make any constructive suggestions for the future. We do not think it surprising that the Claimant became upset to the extent that she did.
24. After the 2 February 2024 meeting the Claimant went off sick for two days. At her return to work meeting on 7 February, she told Mr Sagar that she had a medical condition which she was "a bit shy about". She said that her doctor had suggested two weeks off and then working from home, but she was adamant that she wanted to come back to work and would find it lonely working from home. Mr Sagar said that she could cut down her hours, but the Claimant said that she could not afford to do this. We accept the Claimant's evidence that she went against her doctor's advice because she was trying not to show Mr Sagar her weaknesses. She thought that it would be his expectation that someone in her role "must relate to people and be bubbly and happy and present". She was trying to present a positive and capable image to him.
25. At a "health and wellbeing meeting" on 9 February 2024 Mr Sagar's attitude to the Claimant was more constructive than it had been at the 2 February meeting. He said that he would make "any required adjustments", suggesting that he could help her prioritise her work, make an action plan and assign somebody to support her for "a short duration of time". He again offered her reduced hours, but she said that she could not afford to do this. He told her that he didn't want to lose her. At the conclusion of the meeting it was agreed that the Claimant would take the rest of the week off and that they would make an action plan on her return.
26. We heard evidence from Mr Hood, who took the notes of the meetings between the Claimant and Mr Sagar, that after each meeting the notes would be sent to Croner and advice taken from them about how to proceed with the management of the Claimant's probation. This advice was not subject to privilege, but neither its existence nor its content was referred to in the Respondent's witness statements.
27. We think it likely that after the 2 February meeting Croner had advised Mr Sagar to be more constructive and conciliatory at the 9 February meeting and to offer to make adjustments for the Claimant. We do not think that Mr Sagar's attitude reflected a genuine change of heart about the Claimant or that he was sincere in his offers to assist her or make adjustments for her. We think it more likely that he was simply going through the motions of what he had been advised to do. He was frustrated and annoyed by her lack of focus and organisational

skills and her difficulties with attention to detail. He regarded the administrative side of her job to be the more important element of it, and did not value her work on employee wellbeing.

28. The Claimant returned to work on 12 February 2024. At a reconvened probation review meeting on that day Mr Sagar told her that he was extending her probationary period until 12 April. He also said that between 12 and 15 February she should focus exclusively on her payroll duties, that he would cover all other aspects of her role, that other members of staff would be told not to contact her about any HR issues in that period and that he would meet with her again on the morning of 15 February to go through the work she had done on the payroll. He agreed that she could work on this task in a separate room. This was a former cupboard on a different floor to the main office, without a telephone line or a window (it was necessary to keep the door open for ventilation). The Claimant told Mr Sagar that she had little experience and no qualifications or training in payroll, and that she found that aspect of the role particularly difficult because of her additional needs.

The payroll task 12—13 February 2024

29. We agree with the Claimant that in restricting her duties to payroll only during this three day period, Mr Sagar was setting her up to fail. We reject his evidence that he was trying to support her. Rather, we think that he was attempting to build evidence to substantiate his view that she was not capable of the job. He stripped away from her all the aspects of the job that she enjoyed and was successful at, and made her work only on the task that she struggled with the most. He did not arrange additional training or support other than to place the Claimant in an isolated, windowless small room on her own, purportedly to assist her with concentration. Against the background of the meeting of 2 February and the probation extension decision, we consider that Mr Sagar was placing the Claimant under very considerable pressure with inadequate support.
30. In an email on 13 February 2024 the Claimant said that she appreciated having a quiet space to work because “I do have concentration issues as I mentioned when we first met”. We find that this was a reference to the conversation referred to in paragraph 21 above.
31. On 15 February 2024 Mr Sagar confirmed the extension of the Claimant’s probation in a letter setting out the specific criticisms of her employment that he had made at the 2 February meeting. The letter said that a further probation review meeting was planned for 17 February and that if the Claimant’s “performance / conduct” did not improve a possible outcome could be termination of her employment.
32. We heard evidence from Ms Pissareva that there were two parts to the payroll task: first the data entry, which she said was something that an eleven year old could manage, and second transferring the data to ADP, which she said was more complex. Whilst we accept that phase 1 would have been straightforward

for Ms Pissareva, a qualified accountant who had worked at the hotel for seven years, we did not accept that it would have been straightforward for an inexperienced, unqualified and largely untrained person with ADHD such as the Claimant. Having observed the Claimant under cross-examination, it seemed to us that phase 1 would require the sort of focus, concentration and attention to detail which would present a very considerable challenge to her. We also accept the Claimant's evidence that there were missing and incomplete data and confusion about processes which made the job more complicated than Ms Pissareva suggested.

33. We also find that the Claimant was distracted from the task by the pressure under which Mr Sagar had placed her. Ms Pissareva told us that on the second day she had gone up to see the Claimant in the small office and the Claimant had been crying and upset and had told her that she had worked long hours already and was really worried about her probation. Ms Pissareva told her to get some lunch and then they would work on it together, which they did.
34. In the event, and predictably, the Claimant struggled with the task. Even with Ms Pissareva's assistance on the Tuesday, she worked for 39 hours to complete phase 1 over four days, having asked Mr Sagar for a one day extension. In our judgment the problems she experienced during this period were due to a combination of her difficulties with this sort of work because of her ADHD, the pressure under which she had been placed by Mr Sagar, her lack of training and experience and the fact that the task was not particularly straightforward due to missing and incomplete data and confusion over processes.
35. In the second phase of the job, which took place on the Friday, the Claimant was assisted by Ms Pissareva, Mr Sagar and Mr Hood.

The Claimant's dismissal

36. On 21 February 2024 the Claimant attended training in London conducted by Accor. This had been prearranged, possibly by Mr Jefford. It was general training on several aspects of the role. Payroll was barely covered.
37. We heard from Mr Sagar that he arranged to have daily catch-ups with the Claimant and to set out her priorities for her on a "to do" list. However, the Claimant said in evidence that this did not happen regularly or frequently, and that she almost invariably had to chase Mr Sagar. He accepted in his witness statement that these meetings were "not always possible due to other constraints", and under cross-examination that they did not happen daily. We accept the Claimant's evidence that they happened rarely.
38. On 27 February 2024 the Claimant was again asked to meet Mr Sagar to discuss her probationary period. At this meeting the Claimant told Mr Sagar that her medical condition was affecting her workflow. She acknowledged that she had had difficulty with the payroll data and that Ms Pissareva had assisted her in phase 1 of the payroll task in the week of 12 February. A discussion took place about the details of what happened that week, during which the Claimant

said “[d]ue to my medical condition I can’t keep on with pressure. You have done so many good things. I understand that time management but I have an important medical condition”.

39. On 14 March 2024 the Claimant emailed Mr Sagar asking for a working from home arrangement for two days per week. It was her evidence that, having previously tried to present a positive image to Mr Sagar by declining to work from home despite her doctor’s advice to do so, she had by now realised that an arrangement like this would be better for her. In his reply of the same date, Mr Sagar said “[w]e have discussed this in the past” and that the Respondent would “struggle to put [it] in place in current circumstances as we are supporting you in your day to day work balance & have raised performance issues with yourself”.
40. On 20 March 2024 the Claimant attended another meeting with Mr Sagar. This was said to be reconvened from 27 February. Again the focus was on the length of time it had taken the Claimant to complete the payroll duties in the week of 12 February and on some mistakes she had allegedly made during that week. After some discussion on these issues, the Claimant said that she sometimes found the noise in the office very disruptive, and commented that “perhaps it’s my ADHD / OCD”. She also said she would think about the issues raised and come back to Mr Sagar. The meeting then ended.
41. Mr Sagar gave evidence that following the 20 March 2024 meeting he phoned Croner for advice. He said that he relayed what the Claimant had said about her ADHD / OCD to the person he spoke to (who, it seems, was not Mr Cowley but somebody in a different team). The advice he was given was to dismiss the Claimant. He asked three times whether the person was sure that he should take this course of action, and was assured that he should. We accept this evidence.
42. We were told by Mr Hood—who was the last witness to give evidence—that Mr Sagar had cut the 20 March 2024 meeting short specifically in order to get “further clarification” about the Claimant’s ADHD / OCD. This was not reflected in the notes of the meeting. Mr Hood also told us that the meeting had reconvened the following day, 21 March. Mr Sagar had not told us either of these pieces of information in his evidence. Furthermore, the bundle did not contain any notes of the reconvened meeting on 21 March, and Mr Stanbury said that they had not been disclosed. Mr Hood said that he had given the notes to Mr Cowley. Mr Cowley confirmed that he had the notes and had not disclosed them, saying, in an apparent attempt to justify this, that he had only had them “for a few days”.
43. Once the notes were disclosed and provided to the Tribunal, it became clear that the only matter discussed at the 21 March 2024 meeting was the Claimant’s ADHD. Mr Sagar asked whether the Claimant had a formal diagnosis. When she said she did not, he asked whether the condition had been entered on her “charts” and if so whether it was “clear”. In light of this line of questioning, we think it more likely than not that in his telephone call to Croner the previous day, Mr Sagar had been advised to find out whether the

Claimant had a diagnosis, and told that if she did not he could dismiss her. We consider it likely that this advice was given on the mistaken basis that a diagnosis is necessary before a condition can be classified as a disability under the EqA. The intention, therefore, was to dismiss the Claimant because she had ADHD in the belief that she was not protected by the EqA. Moreover Mr Sagar was aware that the advice was given for these reasons.

44. We have made these findings by inference from the evidence before us, which did not support any other reasonable interpretation. Mr Sagar was not recalled to give evidence after the notes of the 21 March meeting were disclosed, nobody from Croner was called to give evidence and no disclosure was made of relevant documents other than the meeting notes. The multiple serious failures of disclosure and honest explanation on the part of the Respondent were strong factors in favour of drawing the inference.
45. The notes of the 21 March 2024 meeting show that the Claimant spoke openly about her symptoms and medical investigations, and said at the end of the meeting that she would ask for more information from her doctor on Monday. No indication was made to her that she faced the possibility of dismissal.
46. The following day, 22 March 2024, Mr Sagar sent the Claimant a letter of dismissal with one week's pay in lieu of notice. The purported reasons for the dismissal were that the Claimant had failed to perform to the required standards during her probationary period and therefore had not completed it. The only details given were that when she had been required to work only on the payroll in the week of 12 February she had taken too long to complete the task and had made mistakes. The dismissal letter contained no reference to her ADHD.

RELEVANT LAW

Amendment

47. The principles relevant to the amendment of claims are described in *Selkent Bus Co v Moore* [1996] IRLR 661. The Tribunal should consider:
 - 47.1. The nature of the amendment: amendments may range from the correction of clerical and typing errors, the addition of factual details to existing allegations and the addition or substitution of other labels for facts already pleaded to, on the other hand, the making of entirely new factual allegations which change the basis of the existing claim. The Tribunal must decide whether the amendment sought is one of the minor matters or is a substantial alteration pleading a new cause of action.
 - 47.2. The applicability of statutory time limits: if a new complaint or cause of action is proposed to be added by way of amendment, it is essential for the Tribunal to consider whether that complaint is out of time and, if so, whether the time limit should be extended under the applicable statutory provisions.

- 47.3. The timing and manner of the application: an amendment may be made at any time and an application should not be refused solely because there has been a delay in making it. However, it is relevant to consider why the application was not made earlier and why it is now being made: for example, the discovery of new facts or new information appearing from documents disclosed on discovery.
48. The Tribunal should take into account all the circumstances and balance the hardship and prejudice of allowing the amendment against the injustice and hardship of refusing it.

Failure to make reasonable adjustments: s.21 EqA

49. By ss.20 and 21 EqA an employer is obliged to take such steps as it is reasonable in the circumstances to take to avoid placing a disabled employee under a substantial disadvantage by reason of a provision, criterion or practice ("PCP") that it applies.
50. The duty does not arise if the employer does not know and could not reasonably be expected to know that the employee has a disability and is likely to be at the substantial disadvantage (Sch 8, Pt 3, §20 EqA). The Tribunal should ask:
- 50.1. Did the employer know both that the employee was disabled and that his disability was liable to affect him in the manner set out in s.20(2)–(4) EqA?
- 50.2. If not, ought the employer to have known both that the employee was disabled and that his disability was liable to affect him in that manner? (*Secretary of State for the Department of Work and Pensions v Alam* [2010] ICR 665 EAT).
51. In deciding a s.20 EqA complaint the Tribunal should firstly identify the PCP and then go on to consider the nature and extent of the substantial disadvantage suffered by the employee (*Rakova v London North West Healthcare NHS Trust* [2020] IRLR 503 EAT).
52. As to the PCP:
- 52.1. The concept of a "PCP" is a wide one, but the cause of action should not be used to convert a failed direct discrimination or disability related discrimination claim into the application of a discriminatory PCP (*Ishola v Transport for London* [2020] ICR 1204 EAT).
- 52.2. A PCP is unlikely to be a one-off event; rather, it connotes something which has an element of repetition to it or some form of continuum (*Nottingham City Transport Ltd v Harvey* [2013] EqLR 4, [2013] All ER (D) 267 (Feb) EAT; *Ishola*).
53. As to "substantial disadvantage":
- 53.1. A disadvantage is substantial when it is more than minor or trivial (s.212(1) EqA).

- 53.2. Whether there is a substantial disadvantage is a question of fact “assessed on an objective basis and measured by comparison with what the position would be if the disabled person in question did not have a disability” (*Sheikholeslami v University of Edinburgh* [2018] IRLR 1090 EAT). The disadvantage must be “viewed in comparison with persons who are not disabled” (*Royal Bank of Scotland v Ashton* [2011] ICR 632 EAT per Langstaff J; see also *Carranza v General Dynamics Information Technology Ltd* [2015] ICR 169 EAT).
54. The duty to make adjustments does not arise if the substantial disadvantage is not because of the employee’s disability but for some other reason (*Newcastle upon Tyne Hospitals NHS Foundation Trust v Bagley* [2012] EqLR 634 EAT).
55. As to the reasonableness of the adjustments:
- 55.1. Reasonableness is an objective test (*Smith v Churchills Stairlifts plc* [2006] ICR 524 CA).
- 55.2. The EHRC Code of Practice suggests that the following considerations should be taken into account:
- i. whether taking any particular steps would be effective in preventing the substantial disadvantage;
 - ii. the practicability of the step;
 - iii. the financial and other costs of making the adjustment and the extent of any disruption caused;
 - iv. the extent of the employer's financial or other resources;
 - v. the availability to the employer of financial or other assistance to help make an adjustment (such as advice through Access to Work); and
 - vi. the type and size of the employer.
56. Slotting a disabled employee into an existing vacancy may be a reasonable adjustment to reduce the risk of dismissal (*Archibald v Fife Council* [2004] ICR 954 HL), but this will depend on the circumstances (*Hilaire v Luton Borough Council* [2023] IRLR 122 EAT). Similarly, a job might be created (*Aylott v Stockton-on-Tees Borough Council* [2010] IRLR 994 CA) or an alternative job might be offered on a trial basis if it is in principle suitable for the employee (see *Wade v Sheffield Hallam University* UKEAT/0194/12; *Rentokil Initial UK Ltd v Miller* [2024] ICR 873 EAT).
57. The question of whether taking any particular step would be effective in avoiding the substantial disadvantage is an objective one (*Royal Bank of Scotland v Ashton* [2011] ICR 632 EAT). There should be “a prospect” of the adjustment removing the disadvantage (*Romec v Rudham* [2007] All ER (D) 206 (Jul) EAT; *Leeds Teaching Hospital NHS Trust v Foster* [2011] EqLR 1075 EAT).

Direct disability discrimination: s.13 EqA

58. By s.13(1) EqA an employer directly discriminates against an employee if in subjecting him to a detriment it treats him less favourably because of a protected characteristic than it treats or would treat others. By s.6 EqA the protected characteristics include disability.
59. The Claimant must prove on the balance of probabilities facts from which the Tribunal “could conclude”, in the absence of an adequate explanation, that the Respondent has committed an act of unlawful discrimination (“the first stage”). This means that the Claimant must show facts from which the Tribunal could conclude that:
 - 59.1. the Claimant has been subjected to a detriment (s.39(2)(d) EqA). A detriment is something which a reasonable employee would consider to be to his detriment (*MOD v Jeremiah* [1980] ICR 13 CA). An unjustified sense of grievance cannot amount to a detriment (*St Helens Metropolitan Borough Council v Derbyshire* [2007] ICR 841 HL);
 - 59.2. in being subjected to the detriment the Claimant has been treated less favourably than a real or hypothetical comparator was or would have been treated (s.13(1) EqA). There must be no material difference between the circumstances of the claimant and the comparator (other than the protected characteristic) (s.23 EqA); and
 - 59.3. an effective cause of the difference in treatment was the protected characteristic (*O'Neill v Governors of St Thomas More Roman Catholic Voluntary Aided Upper School and anor* [1997] ICR 33 EAT).
60. At the first stage the Tribunal should consider all the primary facts, not just those advanced by the Claimant. The Tribunal should assume that there is no adequate explanation (*Hewage v Grampian Health Board* [2012] ICR 1054 §31, Guideline 6 in *Igen*). “Could conclude” means “a reasonable tribunal could properly conclude” from all the evidence before it (*Madarassy v Nomura International plc* [2007] ICR 867 CA).
61. There does not have to be positive evidence that the difference in treatment is the prohibited ground in order to establish a prima facie case (*Network Rail Infrastructure Ltd v Griffiths-Henry* UKEAT/0642/05/CK at §18).
62. The decision that the Tribunal “could conclude” that there was discrimination may rely on the drawing of inferences from primary facts: guideline 5 in *Igen v Wong* [2005] IRLR 258 CA.
63. If the burden of proof shifts, the Respondent must show that it did not commit the acts or that the treatment was not on the prohibited ground: guidelines 9 and 10 in *Igen* (“the second stage”).
64. At the second stage the Tribunal must assess not merely whether the Respondent has proved an explanation for the facts from which such inferences can be drawn, but further that it is adequate to discharge the burden of proof on the balance of probabilities that the prohibited ground was not a ground for the treatment in question: guideline 12 in *Igen*.

65. Tribunals should be careful not to approach the *Igen* guidelines in too mechanistic a fashion (*Hewage* §32, *London Borough of Ealing v Rihal* [2004] EWCA Civ 623 §26). The question is a fundamentally simple one of asking why the employer acted as he did (*Laing v Manchester City Council* [2006] ICR 1519 at §63), which calls for “some consideration of the mental processes of the alleged discriminator” (*Nagarajan v London Regional Transport* [1999] ICR 877 per Lord Nicholls at 884). In some cases it is appropriate to focus primarily on the question of what was the reason why the Respondent acted as it did (*Shamoon v Chief Constable of the Royal Ulster Constabulary* [2003] ICR 337 SC per Lord Nicholls at §§8—13), and it is permissible to dispense altogether with the identification of a comparator or the construction of a hypothetical comparator (*Stockton on Tees Borough Council v Aylott* [2010] ICR 128 at §45; *D’Silva v NATFHE* [2008] IRLR 412 at §30; *Page v NHS Development Authority* UKEAT/0183/18/DA (unreported, 19 June 2019) at §§34—35).
66. In every case the Tribunal should consider the totality of the primary facts and examine indicators from the surrounding circumstances and the previous history (*King v Great Britain China Centre* [1992] ICR 516 CA).

Discrimination arising from disability: s.15 EqA

67. By s.15 EqA an employer discriminates against a disabled employee if it treats him unfavourably because of something arising in consequence of his disability and cannot show that the treatment is a proportionate means of achieving a legitimate aim. This cause of action does not apply if the employer shows that it did not know and could not reasonably have been expected to know that the employee had the disability, in the sense that it knew or should have known that the employee suffered an impediment to his physical or mental health or that that impairment had a substantial and long-term effect (s.15(2) EqA; *Pnaiser v NHS England* [2016] IRLR 170 EAT).
68. The Tribunal should approach complaints of discrimination arising from disability as follows:
- 68.1. Identify whether there was unfavourable treatment and by whom. No comparator is required. “Unfavourable treatment” is not the same as detriment (*Williams v Trustees of Swansea University Pension and Assurance Scheme* [2018] ICR 233 SC).
- 68.2. Determine what was the “something” which, consciously or unconsciously, was the reason or an effective cause of the unfavourable treatment. This is not a question of motive.
- 68.3. Decide whether the “something” arose in consequence of the employee’s disability. This is a question of objective fact. “Arising in consequence of” may describe a series of causal links. The employer need not have been aware that the “something” arises in consequence of the disability.

(Pnaiser v NHS England [2016] IRLR 170 EAT; Basildon & Thurrock NHS Foundation Trust v Weerasinghe [2016] ICR 305 EAT; City of York Council v Grosset [2018] IRLR 746 CA; Sheikholeslami v University of Edinburgh [2018] IRLR 1090 EAT)

69. The employer's justification defence requires it to show that it had a legitimate aim in subjecting the employee to unfavourable treatment, and that it used means to achieve that aim which were proportionate in the sense that they were appropriate and reasonably necessary to do so. The aim must correspond to the facts and should be legitimate in the particular circumstances (*Seldon v Clarkson Wright & Jakes* [2012] ICR 716 SC). The Tribunal's assessment of the justification defence requires a fact-sensitive exercise, balancing the discriminatory effect of the measure or decision in question against the reasonable needs of the employer (See for example *Rosenbladt v Oellerking GmbH* (C-45/09) [2011] 1 CMLR 32; *Fuchs v Land Hessen* (C-159/10) [2012] ICR 93). Both appropriateness and necessity are matters of balance.

CONCLUSIONS

Amendment

70. Mr Stanbury applied to amend the claim to add a complaint of direct disability discrimination in relation to the Claimant's dismissal. He made the application on the final day of the hearing during the cross-examination of the final witness, Mr Hood.
71. The circumstances in which the application was made were that Mr Hood had given new evidence; namely, that the meeting of 20 March 2024 had been reconvened on 21 March after the Claimant told Mr Sagar that she had ADHD. Mr Hood had also explained during his evidence that notes had been taken of the reconvened meeting on 21 March which he had given to the Respondent's representative, Mr Cowley, but which Mr Cowley had not disclosed to the Claimant. Those notes were then disclosed, and showed that at the 21 March meeting the only topic of discussion had been the Claimant's ADHD. The following day Mr Sagar dismissed the Claimant, several weeks before the conclusion of her extended probation period. Mr Sagar had already given evidence that after the meeting of 20 March he had taken advice from Croner, who had told him he should dismiss the Claimant.
72. Mr Stanbury submitted, by reference to the factors in *Selkent*, that:
- 72.1. The amendment involved the addition of a new cause of action, though it relied on facts already pleaded.
- 72.2. The claim was strictly speaking out of time.
- 72.3. However delay was not an automatic reason for denying an amendment. The material question was whether new information had come to light, for example by way of late disclosure. The current situation fell squarely within that exception, meaning that whilst it was an eleventh hour

application it was nevertheless made as swiftly as possible after the new information had come to light.

- 72.4. As to prejudice, to deny the application would be to deny the Claimant a proper understanding of the circumstances of her dismissal. It was her position that she was a victim, and understanding that she was dismissed as a direct result of her disability had significant implications for her mental health. It would give her the opportunity to fully understand the circumstances of her dismissal. Furthermore it was possible in light of the new disclosure that the Claimant would not succeed on her s.15 EqA claim, because the reason for the dismissal was arguably the Claimant's disability in itself and not the "something arising" from it.
73. Mr Cowley did not oppose the application. He considered it to amount to the relabeling of facts already pleaded. In his view the only question was who would be the comparator.
74. The Tribunal allowed the amendment for the following reasons:
- 74.1. Whilst the amendment involved the addition of a new cause of action to the Amended Particulars of Claim, it fell within the original ET1 and was only based on previously unpleaded facts insofar as it turned on the notes of the 21 March 2024 meeting, which the Respondent had withheld. We were satisfied that in substance it amounted to the relabelling of facts already pleaded.
- 74.2. Since this was a relabelling amendment, it was not necessary to consider the applicability of statutory time limits. If we were wrong about that, we would have extended time for the presentation of the claim on the just and equitable basis, given the very late disclosure, without any explanation, of the notes of the 21 March 2024 meeting.
- 74.3. The application was made at the earliest opportunity after the disclosure of the notes of the 21 March 2024 meeting. It was highly unsatisfactory that those notes had only come to light during the evidence of the final witness, but the fault for that lay entirely with the Respondent and/or its representative.
- 74.4. It was abundantly clear that the circumstances described in paragraph 71 above were such as to give rise to an arguable complaint of direct disability discrimination. Moreover, they might result in the Claimant losing her complaint of discrimination arising from disability under s.15 EqA. That would leave her without justice or a remedy for a potentially unlawful dismissal. In that light, there was clear and potentially substantial prejudice to the Claimant if the application were refused. The prejudice to the Respondent in allowing it would be to reduce the possibility of it succeeding in defending the claim as a whole. That prejudice did not weigh heavy in the balance. The Respondent had withheld disclosure of a document which could fairly be described as pivotal. Had it disclosed that document at the proper time, it was inevitable that an amendment application would have been made then, and that it would have had strong prospects of success.

75. We therefore concluded that the balance of prejudice lay in favour of granting the application.
76. As to Mr Cowley's question about who the comparator would be, we did not consider it necessary to explore this further. It is rare to rely upon a named comparator and Mr Stanbury had not identified one. The Tribunal was content to proceed on the basis that if a comparator were necessary, it would be a hypothetical comparator.

Failure to make reasonable adjustments

Did the Respondent apply a requirement to undertake payroll tasks without adjustments such as additional training, support and specialist software?

77. We are satisfied that the Respondent applied a requirement on the Claimant to undertake payroll tasks without adjustments. It would have applied the same requirement to anybody in the Claimant's role. The only adjustment that was made in the Claimant's case was that she was permitted to work in a different office (as to which see below).

If so, was that requirement a provision, criterion or practice (PCP) for the purposes of s.20(3) EqA?

78. The Tribunal finds that the requirement to undertake payroll duties without adjustments was a PCP within s.20(3) EqA.

If so, did the PCP place the Claimant at a substantial disadvantage by comparison to persons who are not disabled?

79. We are quite sure that the PCP placed the Claimant at a substantial disadvantage compared to persons who are not disabled. Her symptoms included difficulty with focussing, concentrating and managing time. The payroll task, which was essentially data entry, required a methodical, detail-oriented, well-organised approach. This was a much greater challenge for the Claimant than it would be for a person without ADHD.

If so, did the Respondent know or could it reasonably have been expected to know at the relevant time that the Claimant was a disabled person by reason of ADHD and was likely to be at the substantial disadvantage?

80. The Tribunal finds that the Respondent knew or ought to have known at the relevant times that the Claimant was a disabled person by reason of her ADHD and was likely to be at the substantial disadvantage, for the following reasons:
- 80.1. Both Ms Hsu and Mr Jefford know that the Claimant had ADHD. She told Ms Hsu, and she knew that Ms Hsu had told Mr Jefford because he made reference to it.
- 80.2. Mr Jefford was her line manager at the outset of her employment. It should not have been for her to have to make a fresh disclosure when her line manager changed to Mr Sagar. The Respondent should have

had systems in place which ensured that important information about employees was imparted to new managers.

80.3. She mentioned her symptoms and the fact that she had a “medical condition” to Mr Sagar on several occasions. Those symptoms were in any event readily observable. We do not accept Mr Sagar’s evidence to the effect that he did not perceive the Claimant’s demeanour to be outside the ordinary range in terms of her ability to focus, stay on track and concentrate. Indeed, the difficulties that this posed for her in her work were the reason that he extended her probation. We find that in the period to 20 March 2024, Mr Sagar closed his eyes to the obvious.

80.4. The Claimant identified her disability to Mr Sagar by name on 20 March 2024.

If so, did the Respondent fail to take such steps as it would be reasonable to have to take to avoid the disadvantage?

81. The Respondent failed to take reasonable steps to avoid the substantial disadvantage caused to the Claimant by the PCP. The steps we were told about were as follows:

81.1. The Claimant was allowed to use the small single-occupancy room during the week of 12 February. We were not satisfied that the room was a suitable work space. The Respondent’s witnesses were not able to assure us that it even met basic health and safety standards in terms of ventilation and size. Furthermore, it had no telephone line and was isolated. When combined with the pressure under which she was required to work in that week, this isolation exacerbated the Claimant’s anxiety. In any event, she was only permitted to use the room in that particular week.

81.2. An action plan was mentioned in the 9 February 2024 meeting, but we were not shown any action plan and saw no evidence that it had ever transpired.

81.3. Mr Sagar offered the Claimant daily “catch-up” meetings and assistance with prioritisation through a daily “to do” list, but in the event these were inconsistent and infrequent.

82. Taken together, we consider these to have been wholly inadequate steps to take.

83. As to the steps suggested by the Claimant:

83.1. Training, support and specialist software:

- i. In our judgment the Respondent could and should have done a great deal more in terms of training the Claimant to undertake the payroll duties. The training with which she was provided was inadequate for any employee expected to undertake the duties of the job. Once the Claimant’s additional difficulties had been

observed or identified, we see no reason at all why she could not have been immediately provided with focused and intensive training from the wider Accor Group on those specific aspects of her role which were affected, especially the payroll duties. We are sure that this would have made a real difference.

- ii. Similarly we consider that a great deal more could and should have been done in order to support the Claimant. The probationary review process was far from supportive; indeed, its purpose seemed to be to undermine the Claimant's confidence and set her up to fail. A genuinely supportive approach from her line manager would have been a reasonable step to take and would have avoided a significant part of the disadvantage.
- iii. We heard no evidence about specialist software that might have been provided to assist the Claimant with her administrative tasks. Accordingly we are unable to reach any findings about whether this would have been a reasonable step or would have avoided the disadvantage.

83.2. Removal of payroll duties from the Claimant's role:

- i. We find that this would certainly have avoided the vast bulk of the disadvantage.
- ii. As to whether it would have been a reasonable step for the Respondent to take, it was suggested that the duties could have been assigned to Ms Pissareva, who had shown herself able to do the work in a much shorter time than the Claimant. However we were not able to conclude that Ms Pissareva could readily absorb this into her role on a monthly basis, and nobody else within the workforce who could have taken the job on was identified to us. Accordingly we were not able to conclude that this would have been a reasonable step to take.

83.3. The opportunity to work from home:

- i. We are satisfied that if the Claimant had been permitted to work from home for two days per week after she asked to do so (and on medical advice), the disadvantage would have been somewhat avoided. Working in a familiar, comfortable and quiet environment would have been appropriate for her administrative tasks.
- ii. We see no reason why this should not have been permitted, and we do not think that the reasons given by Mr Sagar on 14 March were compelling. In our judgment it would have been a reasonable step to take.

83.4. A private place to work:

- i. We find that a suitable quieter place to work would have avoided the disadvantage, in part.

- ii. We were told by Mr Sagar that there was no other quiet and private space in the hotel in which the Claimant could work apart from the converted cupboard. However, we also heard evidence from Ms Zygadlo that she found quiet places for meetings when needed. We therefore reject Mr Sagar's evidence on this point and we conclude that it would have been reasonable for the Respondent to find a suitable space in which the Claimant could work.

83.5. Additional time to work on payroll duties:

- i. We have concluded that additional time to work on the payroll duties would have assisted the Claimant in combination with other measures identified above. We do not think that it would have been an effective standalone solution.
- ii. We were not given any reasons why it would not have been a reasonable step for the Respondent to take, and we therefore conclude that it would have been reasonable.

Direct disability discrimination

The reason why the Claimant was dismissed

84. The Tribunal considers that this is a case in which it is appropriate to go directly to the "reason why" the Claimant was dismissed. In our view, the minutes of the 21 March 2024 meeting demonstrate beyond doubt that the fact of the Claimant's disability was foremost in Mr Sagar's mind when he decided to dismiss her, and that it was a very significant part of the reason why he did so. The evidence showed that:

- 84.1. At the time of her dismissal the Claimant still had several weeks of her extended probation to run. There had been no indication that she faced the possibility of dismissal before that time or that the probation might be cut short. It was a period during which she might have shown significant improvement, particularly if reasonable adjustments had been made.
- 84.2. The meeting of 20 March 2024 was a probation review meeting. Mr Sagar cut the meeting short as soon as the Claimant disclosed her ADHD to him, specifically in order to take advice about it.
- 84.3. He then took advice from Croner. He was advised to find out whether the Claimant had a diagnosis, and if not to dismiss her. This advice was given because the Claimant had disclosed that she had ADHD, and it was mistakenly thought that she was not protected by the EqA without a formal diagnosis. The intention was to dismiss her before the Respondent accrued liability for any disability discrimination against her. This was based on a misunderstanding of the law, since a formal diagnosis is not required for a condition to amount to a disability under the EqA.
- 84.4. Mr Sagar knew that those were the reasons why the advice was given. The Claimant's disclosure of her ADHD was the purpose of him taking

the advice in the first place. Furthermore he proceeded to put into practice the advice that he had been given. He questioned the advice, but ultimately followed it, knowing and intending it to be a direct response to the fact of the Claimant's disability.

- 84.5. Even if Mr Sagar did not know that the advice to dismiss the Claimant was a direct response to her disclosure that she had ADHD, the reason he acted as he did in following the advice and dismissing her was the fact of her ADHD. He had not shown any sign previously of intending to dismiss the Claimant prior to the end of her extended probation period. The only thing that had changed was that the Claimant had disclosed that she had ADHD.
85. In that light we are entirely satisfied that the Claimant has shifted the burden of proof to the Respondent on the "reason why" question.
86. We were equally of the view that the Respondent has failed to satisfy its burden of proof on that question. We took into account the fact that the Respondent withheld disclosure of the notes of the 21 March 2024 meeting, which were inculpatory in the extreme. This conduct was inexplicable to the Tribunal and amounted to a serious breach of the overriding objective and the parties' duties to the Tribunal. In our view, this conduct along with the lack of a proper explanation for it goes to the question of whether we can draw an inference of discrimination. We have concluded without hesitation that we can.
87. In our experience, the Tribunal rarely sees such a clear causal link between a protected characteristic and a detriment or dismissal, nor such an unsatisfactory explanation from a Respondent. We have no doubt at all that the reason why the Claimant was dismissed was her disability.

Less favourable treatment & the reason for the dismissal

88. If we are wrong that this is an appropriate case for going directly to the "reason why", we are persuaded in any event that the Claimant has shown facts from which we could conclude that her dismissal was less favourable treatment than that to which a person without her disability would have been subjected, and that she was subjected to that treatment because of her disability.
89. The Claimant did not have a direct comparator. That is unsurprising, since she was the only person undertaking her role within the business. In constructing a hypothetical comparator we had regard to the fact that the reason for the Claimant's probation extension and ultimate dismissal arose directly from the symptoms of her disability: difficulty focussing, concentrating and managing time, etc. We conclude that:
- 89.1. The Claimant's difficulties with administrative work were not minor challenges of the sort that might be experienced by a person without ADHD. It is therefore artificial to construct a hypothetical comparator who had the same difficulties, in the same way that it would be artificial to construct a hypothetical comparator for a wheelchair user who could not use their legs for some other reason and therefore without those symptoms—would not have been dismissed.

- 89.2. If the comparator is, instead, a person without ADHD but with the same difficulty undertaking administrative work, then it is nonetheless clear to us from the matters discussed at paragraphs 84—85 above that it was the mere fact of the Claimant's ADHD that operated on the Respondent's mind in deciding to dismiss her. Given those events we do not think that a person without ADHD would have been dismissed when the Claimant was dismissed, whether they exhibited the same symptoms as the Claimant or not.
- 89.3. For the same reasons, we conclude that the Claimant has shown facts from which we could conclude that the reason for her dismissal was her disability.
90. The burden having shifted to the Respondent, we were not shown a non-discriminatory reason for the Claimant's dismissal. We reminded ourselves that the Respondent must show that there was no discrimination whatsoever. The Respondent failed entirely to do so.

Discrimination arising from disability

Reason for dismissal

91. Until the existence of and notes of the meeting on 21 March 2024 came to light, the Claimant put her case on her dismissal as a claim for discrimination arising from disability. She argued that the "something arising" from her disability was, in summary, the symptoms which led to the difficulty she experienced in undertaking administrative work.
92. For the reasons given in paragraphs 84—85 above, the Tribunal considers the fact of the Claimant's ADHD to be the factor that made the difference between the Claimant continuing to complete her probation and being dismissed at that point in time. We considered whether she would have been dismissed on 22 March 2024 were it not for the fact that Mr Sagar learned on that date that she had ADHD. We concluded that she would not have been dismissed on that date, although it is very likely that she would have been dismissed on the conclusion of her probation, particularly if the Respondent continued to fail to make reasonable adjustments.
93. Nonetheless, in our view it is not possible to say that the "something arising" was no part of the reason for the dismissal. The Claimant's difficulty with administrative work was clearly part of what operated on Mr Sagar's mind when he took Croner's advice to dismiss her. We therefore conclude that the Claimant has established facts from which we could conclude that she was dismissed because of something arising from her disability.
94. As to the Respondent's justification, we accept that it is a legitimate aim to ensure that payroll is performed adequately. We do not accept that the Respondent acted proportionately in its efforts to achieve that aim. In particular:
- 94.1. The Respondent had chosen to recruit the Claimant into a role with no job description, a misleading job title which did not in any way convey

that it carried a heavy workload of administrative tasks, no training beyond an ad hoc, albeit quite long, handover and no medical questionnaire at the outset of employment. The Tribunal was surprised to see these practices adopted by a hotel in the Accor Group, a large, global business which we would expect to have processes in place for the proper recruitment and training of staff. The Respondent also chose to recruit the Claimant into the only HR role in the hotel, notwithstanding that she was not formally qualified and nor did she have substantial relevant experience. We think it unsurprising that she ended up struggling with some aspects of her role, and we conclude that these factors go directly to the question of whether the Respondent could reasonably expect her quickly and efficiently to be able to undertake the payroll work.

- 94.2. The Respondent failed to make the reasonable adjustments identified above.
- 94.3. Having set a probationary period which indicated that it was prepared to wait until 12 April 2024 to see an improvement, it cut the probation short by several weeks.
- 95. The Respondent has fallen far short of demonstrating that the decision to dismiss the Claimant was justified.
- 96. The claims are upheld. The parties will be sent notice of the remedy hearing.

Approved by

Employment Judge Reindorf KC

Date: 23 December 2025

Sent to the parties on:

31 December 2025

For the Tribunal Office

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.