



EMPLOYMENT TRIBUNALS

Claimants: Mr N Strain
Respondent: Business in Focus Limited

Heard at: Cardiff; by video
On: 28th-29th April 2026
Before: Employment Judge A Williams

REPRESENTATION:

Claimant: In person
Respondent: Mr E Gribble, Counsel

JUDGMENT

1. The complaint of failure to make reasonable adjustments (sections 20-21 Equality Act 2010) is not well-founded and is dismissed.

REASONS

Introduction

1. Following a hearing on the above dates after which I gave reasons orally both parties have made a request for written reasons pursuant to Rule 60 Employment Tribunal Procedure Rules 2024.

2. The Claimant, Mr Nigel Strain, made a complaint of a failure to make reasonable adjustments (sections 20-21 Equality Act 2010) on the part of the Respondent, to whom he applied for the job of Relationship Manager on 21st January 2025.
3. ACAS early conciliation took place between 16th May 2025 and 27th June 2025 and the ET1 Claim Form was received on 15th July 2025
4. The Respondent denies all claims. It conceded disability at the beginning of the hearing but relies on the knowledge defence. Essentially, it says that it did not know and could not reasonably have been expected to know that the Claimant was put at a substantial disadvantage as a result of its practice of arranging assessment days.

The Hearing

5. The Claimant represented himself in the hearing and the Respondent was represented by Mr Gribble.
6. I had the benefit of a 181 page bundle of evidence. I made it clear I had only read the claim forms, response, witness statements and any documents I was specifically taken to either by reference in the witness statements or during the hearing. I heard evidence from the Claimant on behalf of himself and Ms Alice Briggs, Recruitment Specialist and Mrs Andrea Wallbank, Head of People, on behalf of the Respondent.

7. At each point I took care to explain the process to the Claimant. He and I discussed the hearing and the claim in Welsh, and we were assisted in doing so by a Welsh interpreter Ms Sharp.

List of Issues

8. All parties agreed at the beginning of the hearing that the issues for determination were as per the List of Issues prepared at the CMH before Employment Judge Jenkins on 17th December 2025. I explained to the Claimant the importance of the list of issues and how I need only hear evidence and submissions relevant to the list of issues.
9. I refused an application for the Claimant to amend his claim for reasons I gave orally and do not repeat here. The Claimant made written closing submissions which he supplemented orally.
10. Disability as an issue was conceded at the beginning of the hearing. Mr Strain has chronic anterior uveitis which he first developed in 2018. He requires daily treatment by way of eye drops to manage the condition. The condition is inflammatory, which means he has flare-ups but even outside of flare-ups the condition causes him difficulty reading standard-sized text for prolonged periods of time. In low light conditions, and at night, the glare material affects his ability to drive safely. He has driver support by way of an Access to Work grant which he relies upon for longer journeys. None of this was in dispute at the hearing before me.

Findings of Fact

11. The relevant facts are as follows. Where I have had to resolve a conflict in the evidence, I indicate how I have done so at the material point. I make findings on the relevant standard of proof, the balance of probabilities. That is, I am deciding what I consider is more likely than not.

Credibility

12. I say at the outset that I am satisfied that all witnesses who gave evidence before me did so to the best of their ability and with a genuine belief in the truth of their evidence.

THE PARTIES

13. The Respondent is a third sector not for profit which provides business support services to individuals and corporate entities across Wales.

14. The Claimant, Mr Strain, is a Chartered Manager with experience across a range of industries as detailed in his CV.

21ST JANUARY 2025 – THE APPLICATION

15. On 21st January 2025 the Claimant submitted an application to the Respondent for the role of Relationship Manager. The role required candidates who were effective at working under pressure, accepting of changing circumstances, and were effective in determining priorities, planning time and organising workload. The Claimant's CV described him as someone with 15 years of senior leadership with corporate and small businesses, someone who is unphased in challenging environments. I find the Respondent was entitled to take that

application and the Claimant's CV at face value as someone who met the essential requirements of the role.

16. The Claimant said that in his application submitted on 21st January 2025 he included details of his chronic eye condition and stated that he required size 14 font and that the Respondent therefore were aware of his disability from this date.

17. The Respondent said that the Claimant made no mention of his disability in the application on 21st January 2025. The Respondent said that the Claimant submitted a second application – a speculative application – on 21st February in which the Claimant stated for the first time in correspondence with the Respondent *'Due to a chronic eye condition I am unable to read documents any smaller than 14 size font'*

18. I accept the Respondent's evidence and find that the Claimant did not mention his disability to the Respondent in writing or orally until he submitted a second application on 21st February 2025. I was taken to a spreadsheet populated by the Respondent's automated system where two applications from the Claimant are clearly set out. In the first, there is no mention of any chronic eye condition. In the second column, relating to the application submitted on 21st February, there is mention of a chronic eye condition.

19. I was also taken to the Claimant's late disclosure in which he had provided screen shots of the Respondent's recruitment portal when he logs in. [176] clearly shows that on 21st February 2025 the Claimant uploaded a CV to the portal. It is within those screenshots a box can be seen which asks 'do you

require reasonable adjustments' and the Claimant has replied giving details about his chronic eye condition. I am satisfied this is the 21st Feb application because on the same page where he is asked for the 'Media Source' he has selected 'Business in Focus Website', consistent with the spreadsheet (as opposed to 21st January where Indeed was selected).

20. I was shown an email confirmation – again provided by the Claimant – on 21st February confirming the Respondent had received the Claimant's application for Speculative Applications.

21. The contemporaneous documents before me therefore support what I find is what is more likely than not to have happened, which is that the Claimant submitted a CV for the second time as a speculative application with the Respondent on 21st February 2025 and it is in this application that the Claimant made the first mention of a chronic eye condition or the need for reasonable adjustments. That application was submitted at 2.47pm.

22. At this stage, the Claimant's notification of his disability went no further than to describe a chronic eye condition and a need for size 14 font.

14TH FEBRUARY 2025 – PHONE CALL WITH MS BRIGGS

23. On 14th February 2025, the Claimant received an email in response to his application of 21st January stating that he had been unsuccessful. Ms Briggs, the recruitment officer in charge of the Relationship Manager recruitment drive called the Claimant to say that was a mistake, and in fact the Respondent would like to invite the Claimant to an assessment.

24. Ms Briggs followed up with an email which stated:

[105] – the Panel would like to shortlist yourself and move forward to an assessment, the details of which are still being confirmed. However, it is likely to be conducted in Newtown. We will also be conducting interviews the same day.

25. There is a dispute as to what was said during the phone call. Ms Briggs gave detailed oral evidence as to what was discussed on that phone call and I find that during the phone call Ms Briggs outlined to the Claimant that the assessment day would include an assessment and potentially an interview on the same day. I find that she explained to the Claimant in broad terms what the assessment would entail – including a financial task, an individual task, a group task and discussion, presentation to the Panel and then an interview which also required an individual presentation.

26. I make this finding because Ms Briggs was clearly well versed in the recruitment process and the detail of the assessment day in her evidence. It was the second time she had run this particular recruitment drive. She was clear in her evidence that she prefers to communicate with prospective candidates on the phone, and I find on the balance of probabilities having called the Claimant to inform him the panel would like to proceed with the application she would have described in broad terms what the next steps would look like.

27. Her description of that phone call is also consistent with the email she sent the Claimant afterwards, in which she describes both an ‘assessment’ and an ‘interview’, implying at least two stages to the assessment day. I find that any candidate reading that email in conjunction with the phone call will have understood – or should have understood – that the assessment day was going to last a full day, or close to a full day.

28. It is also consistent with a Teams message Miss Briggs sent a colleague on 24th February – a date I will return to – where she states that the Claimant was informed of the process for the assessment day about two weeks before the prospective assessment day. [142]

29. The structure and format of the assessment day was usual practice for the Respondent in recruiting for roles. Its general practice was to conduct an assessment first, and those who were successful in the assessment would be invited to an interview on the same day. This was intended to limit the time off work for prospective candidates. Decisions on where assessment days were to be held were made on an operational and commercial basis. Candidates for assessment days were to be given at least 7 days notice of the date, time and location of the assessment day. In making these findings I accept the evidence of Ms Briggs and Mrs Wallbank as to the Respondent’s recruitment practices.

30. I find it was made clear to the Claimant that the next stage of the recruitment process involved more than just a single panel interview and reject his contention that he thought it would be a far shorter day.

31. The Claimant did not mention his disability or that he required reasonable adjustments during this phone call. He has never contended that he did.

32. Ms Briggs told the Claimant at that stage that the assessment day was likely to be in Newtown but she stated the details were still being confirmed.

33. The Claimant replied to Ms Briggs' email on 14th February, confirming he was 'definitely interested' and providing a list of unavailable dates which were 26 February – due to a Board meeting – 10-18 March and 21-28 March. He also requested whether the Respondent would contribute towards travel costs for the assessment day. I find on 14th February the Claimant raised no concerns about any difficulty in attending an assessment day due to a disability.

20TH FEBRUARY 2025 – PHONE CALL WITH MS BRIGGS

34. Over the following days, Ms Briggs proceeded to finalise the details of the assessment day. On 18th February, in a Teams conversation with the hiring manager for the role, Sonia Evans, Ms Briggs and Ms Evans discussed holding the assessment day in Abercynon on 27th February. This was due to the other two shortlisted candidates being based in South Wales and the two panel members being based in South Wales. I find it was reasonable for the Respondent to make this decision based on operational and commercial reasons, and based on the information they had at the time – namely, that the

Claimant did not have a disability to be taken into account in making the arrangements.

35. On 20th February Ms Briggs and the Claimant had another phone call. Ms Briggs informed the Claimant that the assessment day would be held on 27th February in Abercynon. The Claimant said he had a board meeting the evening before but did not say he could not attend. He did not mention his disability.

21ST FEBRUARY 2025 EMAIL INVITATION

36. On 21st February the Claimant emailed Ms Briggs chasing the details of the assessment day. Ms Briggs was on leave. She had sent the details of the assessment day to one of the two candidates before going on leave on 20th February, but the other two had not left the Recruitment sent box. She arranged for a colleague to send the other two invites on 21st February.

37. At 3.22pm the Claimant received details of the assessment day taking place in Abercynon on 27th February and starting at 9.45am. The e-mail stated the Respondent could make arrangements for a bed and breakfast for the Claimant, recognising that he was travelling from North Wales. There has been some suggestion in the hearing that this offer did not make it sufficiently clear that it was at the Respondent's cost, which I reject. Any ordinary reading of that email makes clear the Respondent intended to arrange bed and breakfast accommodation for the Claimant in recognition of his location and would not be charging the Claimant for this.

38. The Claimant replied at 4.17pm stating as follows:

'As mentioned to Alice in our telecom yesterday, I have a Board meeting on Wednesday evening which won't finish until at least 8pm. This would mean a 4.5 hour drive (all being well) down to South Wales straight after the meeting, which just isn't sensible after working an 11 hour shift.

Equally, I have a chronic eye condition which can be badly affected by glare from car lights when driving in the dark.

I need to ask if you can consider other alternatives, such as a different venue on the day such as Menter Mon which isn't too far away, or a different time/date for the assessment in Cardiff?

He goes on to state:

I also would require reasonable adjustments under the Equality Act due to my chronic eye condition. At work, I receive help of a reader through Access to Work, which would not be available to me for the assessment day. I am limited on the amount of screenwork and documentation reading I can do, and size of font needs to be at least 14 for me to be able to read documents.

It's unfortunate that it is very short notice for me to be able to make arrangements for next week. As I organise, host and present at the Board meeting, I can not miss it and it is too late notice to ask the Board to move the meeting date.

39. The email did not refer to his access to driving support through Access to Work.

I find the primary objection the Claimant took to the location, date and time of the assessment day was the fact that he had a pre-arranged personal commitment which he could not move. He requested a change of date, time or venue because of those personal and professional commitments. I find his disability was an additional – but not paramount – factor. The reason he had to travel late at night was because of a Board meeting. The specific adjustments the Claimant requested related to his disability were screen breaks, a reader, and large font.

40. The Respondent did not reply on 21st February, a Friday afternoon.

24TH FEBRUARY 2025

41. Ms Briggs was still on leave the following Monday, 24th February. A colleague, Rachel John, replied to the Claimant at 9.25 stating:

'We totally understand the situation and wouldn't want to put you under any extra stress.

Alice will be in touch to inform you of what our next steps would be, given the assessment will be going ahead as planned this Thursday with other candidates.

We will keep you updated'

42. The Claimant replied at 10.05am, expressing his frustration at the recruitment process. He states that expecting candidates to make themselves available with less than a week's notice is unrealistic and unfair to those who work full

time. He complains the venue favours candidates based in South Wales. He refers to reasonable adjustments, but states only that the Respondent's refusal to offer them – without specifying what precisely – places him at a disadvantage. He stated *'I realise this email will affect any slim chance I had of securing the role but it is very important to highlight such issues'*

43. There followed a phone call between Rachel and the Claimant. The Claimant followed that phone call with an email at 12.05pm stating:

'When I received your email on Friday afternoon containing details of the venue and assessment day process, I informed you that I have a disability that restricts my ability for night-time driving. Such short notice has made it impossible for me to arrange a driver, especially given that an overnight stay will be necessary. You have offered me no alternative which has resulted in me being unable to attend the assessment day on Thursday.'

44. I find that during the phone call with Rachel John the Claimant made it clear he did not intend to continue with his application for the role. I make this finding because the tone of the emails he sent on that morning of 24th Feb are somewhat defeated – he refers to having no alternative, and to affecting any slim chance he had of securing the role. In addition, in a Teams conversation after the phone call Rachel John wrote:

'I've just spoken to Nigel he will not be attending the assessment and has no intentions [sic] of re-applying to us'

And later, in discussion with a colleague Seren Lewis, Ms Lewis in referring to the email said:

I think he has made up that we have offered no alternative which was not mentioned once in the email correspondence. You also then called to reassure him this wasn't the case but his mind was made up.

45. I find Ms John's email of 9.25 could have been worded more clearly but it does, I find, indicate that the Respondent's mind was closed off to exploring alternative options with the Claimant. She clearly states that Ms Briggs would be in touch to discuss next steps – indicating an intention, I find, to explore and act upon alternative options.

46. Whilst the phrasing that the assessment would go ahead with other candidates led to the Claimant's frustrated response, I find Ms John did try to reassure the Claimant on the follow up phone call, by which point the Claimant made it clear he would not be attending the assessment day and did not intend to re-apply to the Respondent. I find it was the Claimant's mind that was closed off by lunchtime on the Monday, not the Respondent's.

47. I find the Respondent was aware of the full extent of the Claimant's disability as of 4.17pm on Friday afternoon but by lunchtime on Monday the Claimant had withdrawn from the process, giving the Respondent limited time to consider or put in place any adjustments given the proximity of the assessment day.

COMPLAINT AND RESPONSE

48. The Claimant submitted a complaint to Nicola Partridge on 27th February 2025.

I accept and find that her response to the complaint did not reach the Claimant because of a typo in the email address she used to send the response letter.

The Law

49. Section 20 of the Equality Act 2010 requires employers to take positive action make reasonable adjustments to alleviate disadvantages suffered by employees with disabilities. The duty itself is in section 20. It is triggered when, insofar as relevant to this claim, there is a provision, criterion or practice applied by the employer which puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled. Section 21 provides that a failure to comply with section 20 is a failure to comply with the duty to make reasonable adjustments.

50. First, it is necessary to identify the 'provision, criterion or practice'. The phrase is broadly interpreted 'having regard to the statute's purpose of eliminating discrimination against those who suffer disadvantage from a disability' **Lamb v The Business Academy Bexley EAT 0226/15.** There does, however, need to be an element of repetition and a genuine one-off decision is unlikely to be a practice **Nottingham City Transport Lt v Harvey [2013] All ER(D) 267 (Feb) EAT**

51. Next, the Tribunal should identify the 'substantial disadvantage'. It is described in the Act as something which is 'more than minor or trivial' (s.212). It is a

relatively low threshold but it needs to be specifically identified in relation to the PCP and linked to the disability.

52. The employer has a defence (schedule 8 paragraph 20 Equality Act 2010) if it can show it did not know, and could not reasonably be expected to know that the Claimant has a disability **and** is likely to be placed at the disadvantage. Knowledge can be actual or constructive. Knowledge of disability includes knowledge of impairment, long term, and impact on day to day activities. Knowledge of a medical condition is not sufficient.

53. The burden is on the Respondent to prove it did not have knowledge, and both actual and constructive knowledge must be disproved.

54. When it comes to the adjustments themselves, what is reasonable is determined objectively. The Tribunal should consider the extent to which the step will prevent the disadvantage **Griffiths v Secretary of State for Work and Pensions [2017] ICR 160.** The more effective the adjustment is. Likely to be the more likely it is to be a reasonable adjustment.

Analysis and Conclusions

2.1 Did the Respondent know or could it reasonably have been expected to know that the Claimant had the disability?

55. Applying my findings of fact above, I find that the Respondent knew about the Claimant's disability on 21st February 2025 after the email the Claimant sent at 4.17pm explaining that his chronic eye condition affected his ability to drive at

night. That is when the Respondent knew or reasonably could have been expected to know that the medical condition he had raised in his speculative application – also only submitted on 21st February - was an impairment that was long term and had a substantial adverse effect on the Claimant's ability to carry out day to day activities.

56. Prior to that, the Respondent knew only about the fact of a medical condition – a chronic eye condition – and its relatively limited impact, namely to read font smaller than size 14. There has been some suggestion the Respondent should have made enquiries. I find it did so, in allowing the Claimant to declare any disability or adjustments required on his application form. He stated only that he had an eye condition which required size 14 font. This, without more, was not enough to establish the Respondent knew or ought to have known that the Claimant had a disability prior to his email in the afternoon of 21st February 2025. It should be noted that the Claimant had a number of opportunities in phone calls with Ms Briggs, when he was made aware of the format and structure of the assessment day, to raise his disability.

2.2. Did the Respondent have the following PCP:

Requiring candidates for employment to attend an assessment centre, on a particular day at a particular location and with limited notice

57. I find, in accepting the evidence of Ms Briggs, that the Respondent had a PCP of requiring candidates to attend an assessment centre on a particular day at a particular location with at least 7 days notice.

58. Applying that to the findings of fact I have made, the Claimant was given 7 days notice of the location of the assessment day on 20th February by telephone by Ms Briggs, consistently with the other non-disabled candidates. This is sufficient, I find, to establish a practice on the part of the Respondent.

2.3 Did the PCP put the Claimant at a substantial disadvantage compared to someone without the Claimant's disability, in that, due to difficulty driving in non-daylight hours, and also due to a need for sufficient time to arrange the assistance of a driver, he was less able to attend the assessment centre?

59. I accept that the PCP put the Claimant at a substantial disadvantage compared to someone without his disability, in that in requiring him to attend a particular location at a particular time with 7 days notice, he was required to make practical arrangements to avoid night-time driving which non-disabled applicants did not need to consider and, if those arrangements could not be made within that timeframe, he was less likely to be able to attend the assessment centre.

2.4. Did the Respondent know or could it reasonably have been expected to know that the Claimant was likely to be placed at the disadvantage?

60. I find the Respondent did not know – and could not reasonably have been expected to know – that the Claimant was likely to be placed at the disadvantage until the arrangements for the assessment day had already been

confirmed and the Claimant emailed his response at 4.17pm on Friday 21st February.

61. Until then, the Respondent had no knowledge of any disability nor its effect on the Claimant and his ability to travel to an assessment day. The Respondent was entitled, I find, to consider the Claimant as someone who was capable of meeting the requirements of a demanding role which included adaptability.

62. Applying my findings of fact above, the Claimant was made aware of the structure, format and requirements of the assessment day as early as 14th February. He did not at that stage raise any difficulty with his ability to attend. He knew the location as of 20th February. Again, the only difficulty he raised about his ability to attend was the clash with the Board meeting the evening before. The Claimant has placed a significant emphasis on the invitation email of 3.22pm on 21st February in this claim. In reality, applying my findings of fact, that email only confirmed details the Claimant already knew. It was only after all of those arrangements had been made and confirmed that the Claimant raised his disability and its impact on his ability to attend the assessment day. Even then, his primary concern was his other professional and personal commitments. It was those commitments that meant the Claimant would have to drive after dark, not the arrangements made by the Respondent.

63. I am not satisfied that the Respondent could reasonably have been expected to know the Claimant was likely to be placed at the disadvantage. The Claimant had ample opportunity to raise these issues, particularly given that at best the

assessment day was likely to be in Newtown – still some considerable distance from the Claimant's home – and he did not. His only concern was that he would be reimbursed for travel costs.

64. The Respondent, on receiving the application on 21st February which stated the Claimant had a chronic eye condition, in reality had no time in which to make appropriate enquiries. The assessment day had already been arranged based on the information the Claimant had previously given and invites sent to at least one candidate.

65. The Respondent therefore only knew or reasonably could have been expected to know the Claimant was likely to be placed at the disadvantage at 4.17pm on 21st February, and after all of the arrangements for the assessment day had been made.

2.5 What steps could have been taken to avoid the disadvantage? The Claimant suggests:

2.5.1 Carrying out the assessment at a location nearer to his home, which would have enabled him to drive to it:

66. By the time the Respondent was aware of the Claimant's disability, I find this was not a reasonable step for the Respondent to take. The arrangements for the assessment day were significant and had already been confirmed, venues booked and candidates and panel members informed. I find that changing the

venue was not a reasonable step because it would have been too costly, impractical and inconvenient for other candidates in the timeframe remaining.

67. In any event, and applying my findings of fact above the Claimant had withdrawn from the process before the Respondent had a reasonable opportunity to consider this step.

2.5.2 Giving greater notice of the assessment day, which would have given sufficient time for the Claimant to arrange a driver:

68. Whilst this might have been a reasonable step for the Respondent to take had it been aware of the disability and substantial disadvantage sooner, the Respondent could not have taken this step with the knowledge it had at the time it made arrangements for the assessment day and notified the candidates of those arrangements. The Respondent had already finalised the arrangements for the assessment day and notified the Claimant by the time it became aware of the substantial disadvantage.

2.5.3 Holding the assessment later in the day which would have allowed the Claimant to attend by train

69. Applying my findings of fact above, between the Respondent's date of knowledge and the Claimant's withdrawal from the process, the Respondent did not have adequate time to consider taking this step and as such I cannot find it was a reasonable step the Respondent failed to take, because it was never given the opportunity to consider taking that step.

68. For these reasons, the claim for failure to make reasonable adjustments is not well-founded and is dismissed.

Employment Judge Williams

Authorised for issue on:

19th May 2026

Judgment sent to the parties on:
04 June 2026
For the Tribunal:
Katie Dickson

Note

Public access to employment tribunal decisions

Judgments (apart from judgments under rule 52) 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.