



IER Case Law Update

Discrimination

Carl Rix

Equality Act 2010 – Multiple Cause of Action

- Section 4 – Protected characteristics
- Section 13 – Direct discrimination
- Section 15 – Discrimination arising from disability
- Section 18 - Pregnancy and maternity discrimination
- Section 19 – Indirect discrimination
- Sections 20 & 21 – Failure to make reasonable adjustments
- Section 26 – Harassment
- Section 27 - Victimisation

Cases we will cover

1. *Stedman v Haven Leisure Ltd* [2025] IRLR 738
2. *Leicester City Council v Parmar* [2025] IRLR 782
3. *South Gloucestershire Council v Hundal* [2024] EAT 140
4. *Hindmarch v North-East Ambulance NHS Foundation Trust* [2025] IRLR 672
5. *Carozzi v University of Hertfordshire and another* [2025] IRLR 179
6. *Windsor Clive Primary School v Forsbrook* [2025] IRLR 186
7. *Jones v Secretary of State for Health and Social Care* [2025] IRLR 282

Stedman v Haven Leisure Ltd [2025] IRLR 738

- Appeal on the issue of disability
- Disabilities relied upon were Attention Deficit Hyperactivity Disorder ('ADHD') and Autism Spectrum Disorder ('ASD')
- Section 6(1) EqA - A person (P) has a disability if— (a) P has a physical or mental impairment, and (b) the impairment has a substantial and long-term adverse effect on P's ability to carry out normal day-to-day activities.
- Schedule 1, paragraph 2 –
 - (1) The effect of an impairment is long-term if—(a) it has lasted for at least 12 months, (b) it is likely to last for at least 12 months, or (c) it is likely to last for the rest of the life of the person affected.
 - (2) If an impairment ceases to have a substantial adverse effect on a person's ability to carry out normal day-to-day activities, it is to be treated as continuing to have that effect if that effect is likely to recur.

Stedman v Haven Leisure Ltd [2025] IRLR 738

Just because someone has a diagnosis of autism or ADHD, it does not mean that they are automatically disabled within the meaning of EqA.

“Where a Tribunal has before it evidence of a clinical diagnosis of autism or ADHD, accordingly, then (unless there is some reason to doubt the reliability of that clinical judgment), the Tribunal must take that diagnosis into account not just as evidence that someone has a condition or impairment, but as evidence as to the impact of that impairment. The diagnosis means they have been judged by a clinician to have significant (i.e. clinically ‘more than minor or trivial’) difficulties with the areas of functioning covered by the diagnosis. [60]

It does not, of course, follow that the Tribunal must accept the clinician’s view as answering the disability question under the Act. The Tribunal still needs to consider what it was that led the clinician to make the diagnosis in the claimant’s case, and to make findings about the claimant’s ability to carry out day-to-day activities. If the claimant is not a reliable narrator, that may undermine any clinical opinion that is based on the claimant’s account. However, as regards something like social interaction and communication, if a clinician has judged a claimant’s difficulties in that respect to be significant enough to merit a diagnosis of autism, a Tribunal will need to engage with that view in its reasons when dealing with the question of ‘substantial adverse effect.’ [61]

Stedman v Haven Leisure Ltd [2025] IRLR 738

- The focus should be on what an individual cannot do, or can do only with difficulty, rather than on the things that he or she can do
- Government's *"Guidance on matters to be taken into account in determining questions relating to the definition of disability"* (2011)
- Equality and Human Rights Commission's Employment Statutory Code of Practice
- The correct comparison when considering whether an impairment has the required substantial impact is between the Claimant with the impairment and as they hypothetically would be without the impairment.

Leicester City Council v Parmar [2025] IRLR 782

- Section 136 EqA - shifting burden of proof – *“If there are facts from which the court could decide, in the absence of any other explanation, that a person (A) contravened the provision concerned, the court must hold that the contravention occurred”*
- Claimant was British National of Indian origin – she managed various staff included those who were White British
- Incidents between them led to a disciplinary process against the Claimant – but was subsequently dropped
- Claimant identified comparators at the outset
- Court of Appeal held that the Tribunal were entitled to decide that the comparators were sufficiently similar and were entitled to draw adverse inferences from disclosure failures

South Gloucestershire Council v Hundal [2024] EAT 140

- Section 15 EqA Claim
- Unfavorable treatment – was it because of ‘something arising’ from the disability?
- Proportionate means of achieving a legitimate aim.
- Claimant had endometriosis which caused repeated absences from work.
- She was an agency social worker on a fixed-term contract but there was a common expectation she would become directly employed by the Respondent.
- Prior to this the temporary contract was terminated.
- The Tribunal found that was due to her disability-related absences (i.e. the something arising).
- The legitimate aims defence failed

South Gloucestershire Council v Hundal

“While justification was a matter of outcome rather than process, if an employer had not properly considered the matter at the time of the asserted discriminatory treatment it might be more difficult for it to provide evidence to establish justification; and the scrutiny could legitimately be a little more critical”. [24]

Whilst a finding that a failure to make reasonable adjustments will generally mean that justification will not be made out, it is not necessary for there to be a complaint of failure to make reasonable adjustments for an alleged potential adjustment to be relevant to the question of whether the relevant action was justified.

Hindmarch v North-East Ambulance NHS Foundation Trust

[2025] IRLR 672

- Claim of failure to make reasonable adjustments
- Did the PCPs / lack of auxiliary aid put the claimant at a substantial disadvantage compared to someone without the claimant's disability
- Did the employer know or could it reasonably have been expected to know that the claimant was likely to be placed at the disadvantage?
- What steps could have been taken to avoid the disadvantage? Were the reasonable steps to take?
- Ambulance care assistant acting as a scheduled ambulance driver
- Claimant alleged employer should have provided an FFP3 mask as opposed to FFP2 face mask

Hindmarch v North-East Ambulance NHS Foundation Trust

- The Tribunal found that there was no prospect that the provision of such masks to the Claimant would alleviate his anxiety and thus remove the disadvantage which it was said the Claimant suffered from.
- EAT upheld decision and confirmed the legal proposition that if there was no chance of an adjustment helping to ameliorate the disadvantage, then it was not reasonable to expect the employer to make the adjustment.

Carozzi v University of Hertfordshire and another [2025] IRLR 179

- Section 26 EqA – A person (A) harasses another (B) if— (a) A engages in unwanted conduct related to a relevant protected characteristic, and (b) the conduct has the purpose or effect of— (i) violating B's dignity, or (ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for B.
- The Tribunal had found that references made by the Claimant's employer to her accent had not been motivated by her race or religion.
- Consequently, the conduct was not “related to” either of the protected characteristics.

Carozzi v University of Hertfordshire and another

- The EAT held that the Tribunal had erred in law in its approach to the concept of treatment “related to” a protected characteristic.
- The Tribunal had required that there should be a mental element, which was an incorrect analysis.
- The EAT made clear that there is no requirement for a mental element equivalent to that in a claim of direct discrimination.
- There may be circumstances in which harassment occurs where the protected characteristic did not motivate the harasser.

Windsor Clive Primary School v Forsbrook

- At first instance the Tribunal concluded that the claimant had been harassed.
- However, the EAT allowed the appeal.
- The EAT held that that the Tribunal had provided insufficient reasons for concluding that the Claimant had been subjected to harassment.
- When considering whether conduct was “related to” disability, the Tribunal was required to describe the conduct and spell out the relationship between it and the disability.
- The EAT emphasised that whilst the test for “related to” was a broader concept than causation is generally considered to be, there is still a requirement for a connection to be established.

Jones v Secretary of State for Health and Social Care [2025] IRLR 28

- Claimant was unsuccessful job applicant
- Claimant requested a description of the successful candidate – the Respondent declined to provide this
- Race discrimination claim was presented out of time
- Respondent only confirmed the race of the successful candidate at the preliminary hearing
- Tribunal said not just and equitable to extend time
- Section 123 EqA - proceedings on a complaint within section 120 may not be brought after the end of—
 - (a) the period of 3 months starting with the date of the act to which the complaint relates, or
 - (b) such other period as the employment tribunal thinks just and equitable.

Jones v Secretary of State for Health and Social Care [2025] IRLR 28

- Court of Appeal overturned the decision
- The Respondent not disclosing the ethnicity of the successful candidate was a highly relevant factor.
- The Tribunal had erroneously attached importance to the fact that the Claimant was “already suspicious” (within the limitation period) that he had been discriminated against.
- Courts should not encourage cases to be brought on mere suspicion.
- The issue of prejudice is key!

Thank you

Contact

London

10 - 11 Bedford Row
London WC1R 4BU
DX 1046 London / Chancery Lane
T 020 7269 0300

Bristol

5th Floor
One Temple Quay
Temple Back East
Bristol BS1 6DZ

E clerks@oldsquare.co.uk

W oldsquare.co.uk

 [Old Square Chambers](#)

 [@oldsquarechambers.bsky.social](#)