



EMPLOYMENT TRIBUNALS

Claimants: Ms. Quigley (1)
Ms. Barrett (2)
Ms. Wilkinson (3)

Respondent: Bonneville Primary School (1)
London Borough of Lambeth (2)

Heard at: London South, Croydon

On: 20-24 February 2017 and the 10-12 April 2017 and in chambers 8-9 May 2017

Before: Employment Judge Sage

Members: Ms. J. Forecast
Ms. B. Brown

Representation

Claimants: In person

Respondent: Mr. Jupp of Counsel

RESERVED JUDGMENT

1. The Claimants' claims for unfair dismissal are not well founded and are dismissed
2. The First Claimant's claims for disability discrimination (direct, failure to make reasonable adjustments and discrimination because of something arising in consequence of disability) are not well founded and are dismissed

REASONS

1. The Claimants presented claims for unfair dismissal and in respect of the First Claimant discrimination because of her disability (direct, failure to

make reasonable adjustments and discrimination arising) on the 25 January 2016. Although the First Claimant's claim form referred to breaches of health and safety, this was discussed at the commencement of the hearing and it was agreed that this was not a claim that was being pursued. The Claimants were dismissed on the 30 September 2015 following a restructure and redundancy process. The Claimants maintained that the Respondent failed to carry out meaningful consultations, failed to consider alternative roles, that agency staff were appointed into roles they could have applied for and that the redundancy policy was breached. They also claimed that there were delays in providing documentation and that meetings were delayed. The Claimants stated that the decision to dismiss was based on the use of out of date job descriptions and that the outcome was predetermined.

2. The Respondents resisted the claims stating that the dismissals were fair and for a fair reason which was redundancy. They denied that there was any evidence of procedural unfairness. The Respondents accepted that the First Claimant's back injury was a disability for the purposes of the Equality Act but denied that they failed to make reasonable adjustments to assist her return to work. They also state that the First Claimant's selection for redundancy had no connection with her sickness absence or her medical condition. The Respondents denied that they discriminated against the Claimant.

The Issues

3. In relation to **unfair dismissal** for all Claimants are as follows (see pages 48-50 bundle):
 - a. Did the Respondent carry out a meaningful consultation?
 - b. Was there a lack of consultation about alternative roles which the Claimants could have applied for?
 - c. Were agency staff appointed into roles that the Claimants could have applied for?
 - d. Was there consultation by HR and if not was this in breach of the Respondent's redundancy policy?
 - e. Were the job descriptions for the new posts given too close to the date for submissions to be made for those posts?
 - f. Were there delays in meetings held to discuss the restructure and assimilation process?
 - g. Was there only one consultation meeting?
 - h. Were the job descriptions used in the selection process out of date (and did they represent the work that the Claimants actually did)?
 - i. Was the decision to dismiss for redundancy predetermined?
 - j. Was there a requirement for some of the Claimants to reach a pass in an ability test for Level 6?
4. In relation to Ms Quigley's claim for **Disability Discrimination** are as follows:
 - a. Was the decision to dismiss Ms Quigley direct discrimination because of her disability? Has the Respondent treated Ms Quigley less favourably than it treated or would have treated a comparator?

- b. Ms Quigley also claims discrimination arising from disability and the “something arising” was identified as being absent due to an injury and not being consulted in a timely manner during the redundancy process. The Claimant must show that she has been treated as alleged and that she was treated in this way because of something arising from disability
- c. Ms Quigley also claims that the Respondent has failed to make reasonable adjustments – the adjustments were identified in the Case Management Order at page 49 of the bundle at paragraph 17 of:
 - i. Not to work in a location that required stairs to reach it
 - ii. To be provided with a suitable chair
 - iii. Being located near a toilet.

Witnesses

All three Claimants gave evidence and for the Respondents we heard from:

Ms. Parker, Head Teacher

Ms. McGinlay, Former Chair of Governors of the First Respondent

Ms. Morris, Member of the Governing Body of the First Respondent

Preliminary Issues

5. The Claimants raised a concern that the Respondent had inserted 37 documents into the bundle without agreement on the Friday before the Hearing. The Tribunal ordered that these documents be removed and then dealt with by an application at the start of the hearing. A few of these documents were readmitted into the bundle.
6. The Tribunal noted that the four lever arch files appeared to be excessive for this hearing and noticed that there was a significant amount of duplication of documents. The Tribunal ordered that the duplicate documents be removed from the bundle. This exercise was carried out at the first day of the hearing with the result that over 300 pages of extraneous documents were removed from each bundle.
7. At the commencement of the hearing reasonable adjustments were made by providing the First Claimant with an ergonomically suitable chair and a footstool. The First Claimant provided her own cushion.
8. The Respondent provided a copy of the undated assimilation exercise to the Claimants and Tribunal on the 22 February 2017 at the hearing, this was added to the bundle and marked R2. The Claimants did not challenge the admission of this document or its content.
9. The Respondent also disclosed on the morning of the 22 February 2017 a copy of the note dated the 27 March 2015 addressing the points made by the GMB which had come to light when Ms McGinley carried out a search. They had become lost due to her moving house. These documents were discussed and added to the bundle marked R1 (they was

already in the bundle at page 514-5), there was no objection to this being added late.

10. **Preliminary issue that occurred on the 10 April 2017.** It came to light that after the adjournment on the 24 February 2017 some of the members' bundles had been sent to the Respondent's solicitors by mistake and had been held in their legal department until their return on the 10 April 2017. After some investigation, it came to light that someone had inadvertently put the Members' bundles (a complete set of Ms Browns' Tribunal bundles into the Respondent's suitcase and one of Ms Forecast's bundles). All the bundles were marked with the members highlights and some pages were identified by post-it notes and Ms Forecast's bundle had a post-it note containing a written comment. On learning of this the Tribunal informed the parties of what had occurred and it was agreed that it would be necessary to call the Respondent's solicitor and the paralegal to give evidence to the Tribunal. The hearing was suspended during this time for the solicitor to attend Tribunal and to prepare a statement. The Respondent's counsel informed the Tribunal that he was hoping to be transparent and was securing some emails that passed between himself and the solicitor where the bundles were discussed.
11. The Claimants' had secured some legal advice during the morning and they told the Tribunal that they felt ambushed and they were incredulous that this had happened.
12. The Tribunal heard evidence at 12.40 from Ms Burns, the Solicitor with conduct of the case and from Ms McComb, the paralegal in attendance at the hearing. The Tribunal also heard a brief submission from Counsel for the Respondent who accepted that this was an unfortunate and regrettable incident but he added that he was not responsible for taking the files and it was clear from the evidence given by the Respondent's witnesses that there had been no investigation of the files. Counsel asked for the Tribunal to accept the evidence of the Respondent's witnesses that they did not look at the files and no prejudice has been caused. However, if it was found that prejudice had been caused, this would be a different matter.
13. The Claimants submitted after hearing the Respondent's evidence that they did not agree that no prejudice had been caused and they had not seen the notes made by the Members to their bundles; they did not know the impact this had on their cases. They stated that if they were to continue there must be a level playing field as the Respondent had been in possession of the bundles for 6 weeks. They again stated that they had been unnecessarily ambushed and this had added to their stress.
14. Counsel's view was that the contents of the Members' files should not be disclosed to the parties, all that is required was a finding from the Tribunal of whether the Respondent's legal representative read the files. Their clear evidence is that no one had read them. He accepted that this

was a highly unusual circumstance and one that he had not encountered in 22 years. The Claimants' response was that the Respondent had the opportunity to see them and there was no investigation or any attempt to find out who they belonged to and whether they belonged to the Court. The Claimants indicated that they have been put in this situation and they wanted to go ahead with the case but they had been confronted by lies and they did not know what the notes are and how they have been prejudiced in their cases.

15. The Tribunal went on to make findings of fact and concluded that having heard evidence from Ms Burns she confirmed that she was in possession of Ms Forecast's bundle but was unaware that she was also in possession of the entire set of Ms Brown's bundles. She told the Tribunal that on the 27 February 2017 she did not look at the contents of Ms Forecast's bundle but was aware that that on the spine there was a different case number and name (this was because the lever arch file originally used had broken and the papers had been placed in a different bundle). On the 27 February Ms McComb a paralegal in the Respondent's legal department placed all the bundles on the shelf and they were identified by a post-it note, they were held within the Second Respondent's legal department. The Respondent's witnesses stated that they did not have cause to look and did not look at the bundles until the 6 April 2017. The Tribunal accept the evidence of the Second Respondent that they did not look at the bundles, save for looking at the spines and the front page of Ms Forecast's bundle "the white bundle", which had Ms Forecast's name on it.
16. Ms Burns noticed that one of the bundles had post it notes identifying pages that had been flagged in the white bundle and this had been escalated to Respondent's counsel who advised that the bundle should be kept until the start of the hearing as he did not think that it was his. This email exchange took place on the 27-28 February 2017. The email from the solicitor did not identify that Ms Forecast name was on the front page of the bundle; the solicitor's evidence to us was that she had not connected the name with this case. The Tribunal find as a fact that from the 28 February until the 6 April 2017, there was no evidence that the Respondent had been aware of being in possession of or read the contents of the Members' annotated bundles.
17. It was on the 6 April 2017 that Ms Burns became aware of being in possession of the Members' bundles and the Tribunal were taken to an email dated the 6 April 2017 timed at 10.43 where she indicated to Counsel that she had identified she had possession of bundles marked 'BB'. The email highlighted that this appeared to be the first time she was aware that this may belong to the Member and had noticed that the pages had been marked. Unfortunately, on becoming aware of this, she did not alert the Tribunal or the Claimants. She candidly accepted that with hindsight it would have been appropriate to do so. Ms Burns told the Tribunal that she did not read the contents of the Members' files and had no discussions with Counsel about their contents. The Tribunal accept Ms Burns' evidence as being accurate and a true reflection of the facts. We

also considered that when the bundles were taken away all of the Respondent's witnesses had completed their evidence and two of the Claimants' had taken the stand, there was only one witness remaining, the Respondent had little need at this stage of the hearing to look at the files and Counsel had the bundles on his electronic device.

18. The Tribunal concluded and gave its ruling that although extremely unfortunate and a very unusual set of circumstances it appears on the balance of probabilities that no prejudice had been caused to the Claimants. We accepted fully the Claimants' submissions of feeling ambushed however it was the Tribunal's duty to be open with the parties about this situation and to appraise all the facts as we saw them to ensure that all had an opportunity to comment and to hear evidence from the legal representatives who were instructed on the case and who had been in possession of the bundles. We concluded that in the absence of any prejudice being caused that this case should proceed.
19. We were however mindful that the Claimants may wish to take legal advice before proceeding, the Tribunal therefore adjourned for one day to allow this to happen. The Tribunal reminded itself of the overriding objective and the obligation of dealing with a case fairly and justly and to ensure that all are on an equal footing. We believe that by taking this approach this would be achieved. We also believe that this approach is proportionate and addressed the Claimants' concerns about possible prejudice and their concerns as Claimants in person must be allayed before the case can proceed.
20. On the 12 April 2017, when the parties returned to the Hearing, the Claimants indicated that they were content to proceed.

The Findings of Fact

21. The Tribunal heard from Ms. Parker, who had worked at the First Respondent School ["the School"] firstly as a Deputy Head Teacher from 2010 and then she was appointed to the role of Head teacher on the 1 September 2015. She told the Tribunal that she had been an active member of the school's leadership team and had a 'strong reputation for being proactive' and putting the needs of the children first. The first restructure was completed 2012 which introduced the three-teacher model which was described in paragraph 29 of her witness statement. This model facilitated teaching in smaller group sizes and enabled afternoon sessions to target individual groups of children, it also allowed cover for class teachers so they could have non-contact planning time and provided cover during sickness absence. This model also meant that teaching would not be interrupted and there was less reliance on supply cover.
22. The Tribunal also heard evidence from the Chair of Governors Ms. McGinley who spoke of the restructure that commenced in 2011 (see paragraph 10 of her statement) which removed a number of Teaching Assistant posts from the structure and introduced the new role of Higher Level Teaching Assistants ["HLTA"]. The restructure also introduced the

role of Learning Mentor “LM” and Ms. Barrett was appointed to one these new roles. The restructure at this time did not impact Ms. Quigley or Ms. Wilkinson.

23. Following the restructure in 2012 Ms. Brooke from the Governing Body conducted a review of the impact of the restructure and presented her findings to a full meeting of the Governing Body. The outcome of the review found that the 2012 restructure was beneficial but it “resulted in a lack of capacity for school administrators, which left gaps in support for the School’s teachers”. A national report was also considered which looked at the impact of support staff on the school (paragraph 32) which concluded that the impact had been either “neutral or negative”. Ms. Parker told the Tribunal that she and the previous Head Teacher (Ms. Hillman) had considered the lack of impact that the support staff had on the learning outcomes for the children. From their observations, a decision was made to shorten the school day by 15 minutes giving teachers time to review planning at the end of the day. It was concluded by Ms. Parker that that the school would benefit from the introduction of HLTA’s to replace the existing TA’s, the key benefit being that they could cover classes if the teacher was absent.
24. The Tribunal were taken by Ms. McGinley (paragraph 19) to a presentation given by Mr Ungar, the Vice Chair of Governors looking at the role of TA’s and the effectiveness of support staff to classroom teachers. It was evident to the Tribunal that the school as a whole, was looking critically at its structure and effectiveness in improving outcomes.
25. Prior to the restructure the school had two Learning Mentors Ms. Barrett and Ms. Wilkinson. Ms. Wilkinson commenced employment at the Respondent school as a TA in 1993; in 2005 she was promoted to the role of LM and she provided details of how she performed this role in her statement at paragraphs 4-8 of her statement. The job description of this role was at pages 1140-3 of the bundle. Her role was to take children out of class if they were disruptive and to mentor them and provide coaching either on a 1:1 basis or in small groups. This also extended to providing courses for parents. There was no reference in the job description to the national curriculum or to support for literacy and numeracy and no evidence that the job description extended to classroom teaching. However, Ms. Wilkinson’s evidence was that her role included support for children to achieve these aims which were achieved by liaising with the classroom teacher, the Tribunal noted that although Ms Wilkinson may have worked under the direction of the classroom teacher, those skills did not cover classroom teaching. Although the Tribunal did not have sight of Ms. Wilkinson’s original job description, we accept the Respondent’s evidence that this was the job description current in 2011 and was used for the restructuring and recruitment exercise, in the absence of any evidence to the contrary.
26. Ms Barrett had been in the school since 2006 and first started work as a learning Support Assistant but in 2007 was promoted to an Inclusion TA.

Her role involved working with small groups of KS1 children, coaching and dealing with behavioural issues. In 2008 Ms Barrett was then promoted to the role of LM to support children who experience barriers to learning. This involved her working with outside agencies to meet the needs of the child. The role brought Ms Barrett into regular contact with vulnerable children and included attendance at Child Protection case conferences. There was no evidence before the Tribunal that Ms Barrett's role included classroom teaching in national curriculum subjects.

27. It was concluded by Ms. Parker that the LM role was not working to full effectiveness and bad behaviour continued. The LM's were then asked to sit in class with pupils but then the role became more like a TA. Ms. Parker concluded that having a HLTA would instead focus on and evaluate the behaviour of all pupils across the school and would enable support and provide teaching and learning at a higher standard.
28. Ms. Parker informed Ms. McGinley in September 2014 that a further restructure would benefit the school and she produced a rationale for this for presentation to the Governing Body which was seen at pages 328-343 of the bundle. Under Rationale for Change at page 330 it stated that the new roles created by the restructure were to be HLTA Behaviour, Community and Outreach and Early Years Foundation stage and an Administrative Officer and Premises Officer. The roles being deleted were the three Learning Mentors (one was vacant), three TA's and the Librarian Post (see page 332). This was presented to a Governing Body meeting on the 20 November 2014 supported by documents seen in the bundle at pages 668-680 dated November 2014 which clarified the objectives of the restructure and showed the stages of implementation. The objective of the restructure was not a cost saving exercise but to make better and more effective use of resources aimed at achieving better outcomes for the children.
29. The restructure was to be rolled out in two phases and the three Claimants' posts were to be included in the second phase and three new HLTA's were created (see page 664). The minutes of the Governing Body meeting reflected that they had agreed that the **"role of the TA has evolved to include more learning support and staff need to be appropriately qualified. If current TA's have a suitable qualification, or are interested in obtaining one, they can apply for the HLTA post"**. The notes of the Governors Meeting were at pages 662-7 of the bundle. On page 678, the Tribunal saw a paper produced as part of Ms. Parker's presentation the implantation process stating that there would be **"ring fencing new HLTA post to staff groups being reduced with the requirement that HLTA status be achieved within 3 terms"**. The Tribunal noted that all the evidence reflected a consistent objective to elevate the skills and status of support staff to achieve the objectives set down by Ms. Parker and referred to above. The Tribunal find as a fact that Ms. Barrett and Ms Wilkinson's roles did not include the requirement to support literacy and numeracy in the classroom and consequently we conclude that their LM roles were significantly different to the new HLTA roles. The proposed restructure was ratified by the Governing Body in

November 2014. The minutes confirmed that all staff would be provided with a copy of the rationale for restructure.

30. Ms. Quigley held the post of Librarian at the Respondent School, she had been at the school since 2003 firstly as a TA and then in 2009 she was appointed as the school's Librarian, this was one of the posts that was to be deleted. It was concluded that the Library services needed to be remodelled so better use could be made of the facility across the school and reallocation of resources to further provide a broader and more specialist curriculum for the children in areas such as sports, languages and arts. It was noted in Ms. Parker's statement at paragraph 39 that the school needed a library "**where the children could use it and be able to read in it for most of the school day**". Ms. Quigley worked part time for 15 hours a week increasing to 17.5; the Tribunal heard that outside of her working times the Library was not accessible. Ms Parker told the Tribunal in cross examination that the Library was locked when Ms. Quigley was absent (and she only worked three and a half hours a day) and Ms Quigley gave a list with times and dates when books could be taken out.
31. Ms. Quigley had been off sick since the 29 September 2014 and the Tribunal were taken to the letter sent by Ms. Parker in her role as Acting Head teacher dated the 12 November 2014 (see page 379); the Claimant was requested to attend a Stage 1 meeting when she had been signed off sick until the 1 December with lumbago and sciatica. The outcome of that meeting was recorded on page 383 and it was noted that the Claimant was to be referred to the Respondent's OH provider. It was also agreed that Ms. Parker would consider how best the school could support her return. The OHS report was dated the 16 December (page 396), it was concluded that the Claimant was unfit for her role at present but was fit to attend meetings.
32. The Governors appointed a Staff Sub Committee of three Governors to review and take the final decision in relation to the staff and Ms McGinley was appointed as the Chair. It was agreed to wait until after Christmas to roll out the restructure to staff. The first meeting of all staff took place on 8 January 2015. Ms Wilkinson and Ms Quigley were absent on that day. Ms Barrett attended to hear the announcement. The Respondent produced the restructure timetable and a leaflet (page 1054 and 551-2) explaining the focus and likely impact of the restructure on staff and these documents were provided to those who did not attend the following day the 9 January 2015. The recognised trades unions were informed on the 9 January 2015 (see page 1359); they were informed that specific posts would be deleted because "the functions they perform will cease". It was envisaged that the dismissals would take place from the 8 March 2015. The letter invited the unions to a meeting on the 28 January 2015 and if they could not attend to send in written representations. Ms Barrett told the Tribunal that she attended an informal meeting with Ms Parker on the 9 January 2015 and she was told that she would have to apply for one of the new posts.
33. Ms. McGinley told the Tribunal (see paragraph 32 of her statement) that there was a meeting on the 9 February with the trade union

representatives and Ms. Golding of the GMB and UNISON attended. Ms. Parker wrote to Ms. Quigley (page 404-5) on the 9 January 2015 enclosing all relevant documents and letters were also sent to Ms. Wilkinson and Barrett as affected members of staff, the Tribunal therefore find as a fact that all staff received documentation relating to the review at the same time and we also conclude that they were sent to her in good time.

34. Although Ms Quigley was still off sick, her next sick note indicated that she was not at present fit for work but she may be fit for a graduated return to work plan. The Tribunal noted that this sick note stated that the GP did not need to assess her fitness to work again. Her sickness absence was therefore due to end on the 16 February 2015.
35. There was a Stage 2 sickness absence meeting with Ms. Quigley on the 15 January 2015 (see page 415-6 of the bundle); she was warned that her sickness absence was having an adverse impact on the school and was putting pressure on existing staff. The Claimant was advised that she needed to improve her attendance and failure to do so may result in her being escalated to stage 3 of the process.
36. Ms. Quigley then received a letter dated the 16 January 2015 at page 413 of the bundle starting the formal consultation process, a meeting was scheduled for the 27 January 2015. Ms Barrett received this letter on the 20 January 2015. The Tribunal find as a fact that the Respondent informed Ms Quigley in a timely manner about the proposed restructure providing her with the same information in the same timeframe as those present at work. There was no evidence of a failure to inform Ms Quigley due to her disability.
37. The Tribunal heard evidence about a telephone conversation that took place on the 23 February 2015 between Ms. Parker and Ms. Quigley. The Claimant's note of this was at page 424 of the bundle and Ms. Parker referred to the conversation at paragraph 52 of her statement. It was agreed that a telephone call took place but it was put to Ms. Quigley in cross examination that her note of the call was inaccurate, where she stated she was told by Ms Parker that this was in place of a formal consultation. The Tribunal noted that there was a discussion about the restructuring process. Ms Parker denied in cross examination that she said that this conversation was in place of a formal consultation, she stated that she had said to Ms Quigley that she would be happy to talk to her on the telephone "if she preferred". The Tribunal find as a fact that the discussion during the telephone call was an informal discussion and was not in place of the formal discussion.
38. Although Ms. Quigley's ill health and her latest sick note was discussed during the telephone conversation on the 23 February, this was appropriate as these matters were raised by the Claimant during the conversation therefore the Tribunal conclude that this was an appropriate conversation with a staff member who was off on long term sickness absence. In any event, there was no reason why any relevant matters for discussion with Ms Quigley could not be combined in a single call,

provided the matters were clearly compartmentalised. There was no evidence that there was a connection between the sickness absence discussion and the informal redundancy consultation process. The Claimant wrote to Ms. Parker later that evening at 19.25 expressing disappointment with the OH doctor's attitude to her and that the medical report was in her view "**factually incorrect**". She went on in the email to outline the questions that had been asked of her and her answers given in relation to her health and sickness absence (see page 442). The Tribunal then noted that even later that same evening at 23.24 the Claimant emailed Ms. Parker stating that she had now realised that their telephone conversation earlier that day was "**in place of a formal meeting and not informal after all...**" (page 446).

39. Ms. Parker emailed the Ms. Quigley the following day informing her that the consultation process was to close on the 5 March 2015 (page 447) and a pro forma letter dated the 24 February confirmed the date of her formal meeting was the 3 March 2015, her meeting was subsequently then put back to the 10 March 2015 (page 453). This evidence corroborated the Tribunal's view that the telephone conversation was part of the informal consultation process and could not reasonably be perceived as "in place of a formal meeting", if that view had been formed by Ms Quigley, this email had provided clear evidence to the contrary. Ms Parker's recollection of this meeting is to be preferred to that of Ms Quigley. Ms. Parker also wrote to Ms Quigley to ensure that she had received all the documents relevant to the consultation process (page 451), which included the job descriptions for the new roles and the timetable for actions and meetings (page 468). Ms Parker was asked in cross examination why she did not send the job descriptions by email and she replied that as Ms Quigley was off sick at the time and there were no imminent deadlines therefore she was not adversely affected by them going in the post. Ms Parker accepted that the timetable was changed three times.
40. The GMB representative wrote to all members and the Claimants to remind them that they could review the job descriptions and if they felt that the duties were broadly similar they could "claim assimilation rights". They advised their members that "**during this procedure you should be asking any questions, making any observations on the new structure and Job descriptions and affording comments for management.**" (see page 1063 dated the 3 March 2015). There was no evidence before the Tribunal that the Claimants sought to argue during the consultation process that their roles could or should be assimilated with the new HLTA roles or that their roles were broadly similar.
41. Ms Quigley again wrote to Ms. Parker on the 4 March 2015 at pages 466-7 of the bundle stating that since being off sick she had "**not been included in the proposed restructuring in the correct procedural way**". She referred to Ms. Parker "**attempting to have a formal meeting with me over the phone..**". She also complained that she had not received the job descriptions and information about the process. The Tribunal find as a fact that Ms Quigley had the advantage of an informal discussion and at the date of this communication was aware of the date of

the formal meeting, which had been confirmed in the email to her dated the 24 February (see above at paragraph 39).

42. Ms. Parker told the Tribunal that she had an open-door policy and agreed to speak with any member of staff during the process and this included any informal discussions. Ms. Wilkinson accepted in answers given in cross examination that she had an informal discussion with Ms. Parker (see paragraph 64 of Ms. Parker's statement) on the 2 March 2015 where discussion took place about the available roles and her desire to work part time. Ms. Parker advised Ms. Wilkinson to make an application for flexible working which was subsequently granted on the 14 April 2015. Ms Barrett had an informal meeting on the 9 January 2015 (see above). Following this meeting Ms Parker met with Ms Wilkinson and her line manager (Mr Connelly) one further time.
43. The new and existing job descriptions had been provided to all the Claimants' at risk on or by the 6 March 2015 (see page 451), this was four months after the meeting of the Governing Body where the changes to the staffing structure had been approved. The role that Ms. Wilkinson applied for was seen at pages 1196-8.
44. Ms Barrett attended a formal one to one meeting with Ms Parker and was assisted by her union representative on the 10 March 2015. Ms Quigley also attended a formal meeting with Ms Parker on that day where the future of the Library was discussed; during this meeting Ms Parker, informed Ms Quigley that it was her desire to ring fence posts in the first instance to affected staff only (see paragraph 56 of Ms Parker's statement). The Tribunal find as a fact that all Claimants had the benefit of an informal and formal consultation meeting with Ms Parker to discuss the restructure and all received relevant documentation about the process.
45. It was also noted that Ms Quigley could provide lengthy and detailed written submissions about the restructure by the 20 March 2015 (see pages 456-9); at the end of her submission she referred to the need for reasonable adjustments. In her specific response to the HLTA role she stated **"And although I would be willing to entertain the idea of an additional qualification (of HLTA) whilst continuing as a Librarian I have been in the process of collating work and am studying towards accreditation and becoming chartered therefore my plate is already full"**. Ms. Quigley stated at the end of her submission that **"I could have made further suggestionsto incorporate my role in a new structure. I don't feel as if I have been treated fairly ahead of, nor within the process"**. It was put to Ms McGinley in cross examination that they did not have much time to provide their written submissions and she replied that she felt 11 days was "perfectly adequate. The Tribunal find as a fact that Ms Quigley had could provide a detailed response and the other Claimants made no complaint that they wished t provide submissions but were unable to. The Tribunal also considered that the Claimants had the benefit of trade union advice and assistance during this time.

46. At the end of the consultation period Ms. McGinley received a letter dated the 20 March 2015 from the GMB members at the school which included Ms. Wilkinson and Ms. Barrett at pages 455 of the bundle. This letter was a request for further information about the Administration post and for details of support that would be given and specifically asked why assimilation was not available for any of the posts. There was one question about the Library post (in relation to the funding for the Library).
47. Ms Parker told the Tribunal in answer to cross examination that the job descriptions of the old and new roles had been sent to HR of the Second Respondent who had compared them and concluded that the HLTA role was a teaching post, therefore assimilation was not appropriate with the LM posts. It was Ms Parker's view that the LM post was no longer fit for purpose and she had "**never seen a LM teaching a class**". She confirmed to Ms Wilkinson in cross examination that the exercise was not about capability and Ms Wilkinson had done a "great job" but the role was to be deleted.
48. On the 15 April 2015 Ms Parker wrote to the Ms Quigley to invite her to a formal stage 2 meeting under the sickness absence policy to be held on the 22 April 2015 (see page 476), this meeting was finally held on the 28 April 2015. Ms Quigley complained that that the policy had been breached because the Respondent failed to move directly to stage 3 and instead kept the matter at stage 2. When it was put to Ms. Quigley in cross examination that moving to stage 3 may result in dismissal and therefore continuing at stage 2 would not be disadvantageous, she still maintained that Ms. Parker failed to follow the policy due to her inexperience. Ms Quigley was asked by the Tribunal whether Ms Parker was acting in a discriminatory manner by doing this and she replied that she did not know. The Tribunal noted that the First and Second Respondent had worked closely together when operating the procedure in this case and nothing in the policy required a slavish adherence to escalation in the process without considering all the facts of the case. The Tribunal noted that the policy at page 914 clearly stated at paragraph 4.1.3 that the Head Teacher could decide on an appropriate course of action which "may" include allowing further time for the employee to reach a further satisfactory standard and a further referral to Occupational Health, this is exactly what Ms Parker did. We conclude that Ms Parker applied the code and operated her discretion in the way that the policy envisaged and this was in Ms Quigley's favour. To move on to Stage 3 may have resulted in Ms. Quigley's dismissal due to her lengthy sickness absence thus denying her the benefit of entering the redundancy process to compete for the available roles and if unsuccessful securing a redundancy payment.
49. After the meeting Ms Quigley wrote to Ms Parker on the 5 May 2015 (see page 484-5) to confirm her understanding of what was discussed at the meeting. Ms Quigley attended an OHS meeting on the 22 May 2015, the report dated the 2 June 2015 is in the bundle at pages 498-9. The report recommended a phased return to work and confirmed that the Claimant "**continues to suffer from occasional symptoms and allowances should therefore be made regarding the need for periods of sitting or standing as required**". It was noted in the report that Ms

Quigley could climb stairs in her home. The OH physician also said it would be **“useful if a workstation assessment could be performed in order to optimise her desk environment. She tells me that she occasionally has to climb a number of flights of steps in order to collect various classes and I have advised her to discuss with the Headmaster the best way around this”**. The report confirmed that Ms Quigley would be able to commence her phased return at the end of her current sick note, the adjustments were considered to be a temporary measure until her condition had subsided. It was the view of physician that she would not be covered by the Equality Act. This letter confirmed that the Claimant had discussed her likely return to work and reasonable adjustments and it was agreed that she would again be referred to occupational health. The Claimant was accompanied at this meeting.

50. Ms Quigley returned to work on the 8 June 2015 and the Tribunal were taken to the phased return to work plan at pages 789-790 of the bundle, which Ms Parker said was sent to Ms Quigley by email before the day of her return. The timetable showed that there was to be a steady increase in hours over a period of six weeks. The second page of the phased return to work advised Ms Quigley to stick to the timetable to aid her recovery and to ensure that she left school on time every day. She was also advised not to remain sitting for more than 60 minutes and to use a suitable chair.
51. Ms Quigley described her account of what happened the day she returned to work, she stated (see page 13 of her statement) that she arrived at 11.30 at the school and was not met by Ms Parker but by Mr Connelly the Deputy Head teacher, this was disputed by Ms Parker who told the Tribunal in answer to cross examination that she met the Claimant and later went to look for Mr Connelly to find a suitable chair. Ms Quigley said that she was “ordered” to work the timetable **“which disregarded the advice from occupational health and the weekly hospital appointments I had to attend”**, however Ms Quigley accepted in cross examination that she was permitted to attend her hospital appointments during her phased return. Ms Quigley also alleged that Ms Parker “insisted” that her first duty was to **“work on the top floor up six flights of stairs”** this was put to Ms Parker in cross examination and she denied this was the case and denied that the school had six flights of stairs. It was Ms Parker’s evidence that the plan was for Ms Quigley to work in the PPA room which was up 10 stairs (this was where she worked before she went off sick) and the children would be brought to her. Ms Parker told the Tribunal in answer to cross examination that at the time of her return to work she did not know that Ms Quigley would need a special chair to be ordered for her. The Tribunal find as a fact that the requirement for a special chair had not been mentioned in the most recent medical report nor had it been suggested that a work station assessment was a requirement that needed to take place prior to or immediately on her return, it was merely suggested that it would be useful to optimise her working environment. It was noted by the Tribunal that Ms Quigley’s symptoms were occasional at the date of her return and strategies had been identified in the report. Ms Parker stated that at no time did she ask Ms Quigley to do anything beyond her capabilities and did not ask her to return to work before she was fit to do so.

52. Ms Quigley's statement (page 14) then referred to Ms Parker going around the school to see if any of the chairs would be suitable for Ms Quigley which confirmed that Ms Parker was in attendance and was attempting to secure seating that was acceptable for Ms Quigley to use, prior to the work station assessment that had been arranged for her the following week. Ms Quigley described Ms Parker as exhibiting a "**lack of humanity**" at their meeting. Ms Quigley confirmed that after she informed Ms Parker that she needed to be near a toilet she was assigned to a room up two flights of stairs. It was put to Ms Parker by Ms Quigley that she made her time back at work "**intolerable to dissuade me from applying for the job**", Ms Parker denied the allegation and she corroborated that Ms Quigley only worked three and a half hours a day and she barely saw her (due to the demands of the role and herself being on maternity leave). The Tribunal note that this allegation had not been made before and was not in the ET1 and there was no evidence to support the allegation.
53. Ms Parker's account of the handling of the return to work meeting was different and appeared at paragraphs 19-24 of her statement. She told the Tribunal that she met with Ms Quigley on her return and she was provided with a phased return schedule which had previously been discussed on the phone. Ms Parker stated that she stationed Ms Quigley on the ground floor after she had stated that she did not want to walk up the stairs and acceded to her request to be stationed near a toilet. Ms Parker stated that she had assigned the duty to conduct the return to work meeting to Mr Ackroyd the School Business Manager, as she was working at full capacity due to the restructure and other HR matters. Ms Parker stated that prior to the workstation assessment, Ms Quigley was provided with an interim seating solution of a chair with armrests, a cushion and footstool. Ms Parker's evidence on the conduct of the return to work meeting is to be preferred to that of Ms Quigley; we concluded that Ms Parker acted in accordance with the advice provided in the OH report and adjusted the working environment in the interim, after discussion with Ms Quigley. There was no credible evidence of what was described as a lack of humanity or of an intolerable working environment we therefore prefer Ms Parker's evidence on the conduct of the return to work meeting to that of Ms Quigley.
54. Ms Quigley sent Ms Parker a detailed email on the 12 June 2015 (pages 507-9) explaining her disappointment about the state of the Library, the removal of her private effects from a drawer in the Library and the unsuitability of the chair. Ms Parker replied and informed her that Mr Ackroyd was managing her phased return. Ms Quigley then emailed again on the 23 June (page 506) asking to meet with Ms Parker to discuss her concerns.
55. Ms. Parker arranged a workplace assessment on the 16 June 2015 (8 days after her return to work) with Ms. Bulgin; as a result of the assessment a fully adjustable chair and footstool were ordered. Ms Quigley took issue with the accuracy of the report produced by Ms Bulgin (the Tribunal noted that Ms Quigley had also taken issue with the accuracy

of the previous OHS report). Ms. Quigley stated that she was not provided with either (footstool or chair) during her last weeks of work at the school and it was her belief that they were not ordered and the school had **“no intention of considering me for employment in the new structure”** (see page 16 of Ms Quigley’s statement). Ms Quigley stated that the failure to provide these items was unreasonable. The Respondent provided details of the order form and provided evidence that the chair and footstool were delivered after Ms Quigley was made redundant. Ms Parker was asked in cross examination by Ms Quigley why the invoice for the chair was dated August as she had returned to work in June; Ms Parker explained it was ordered after the assessment had taken place. The Respondent’s evidence is therefore preferred to that of Ms Quigley, that a chair was ordered after the assessment. There was no evidence that Ms Quigley’s dismissal was a forgone conclusion or that the chair was not ordered because they had already decided to dismiss.

56. A reply was provided on the 25 June 2015 to the affected staff and the GMB, to the letter sent on the 20 March 2015 (see above at paragraph 45). The letter confirmed that the restructure proposal had been accepted and following the consultation exercise, one change had been made to the person specification for the Resource Officer role to state that TA training would be marked as ‘Desirable’ rather than ‘Essential’, see page 519-520 of the bundle. The three-month delay in replying to this letter had been caused by the unexpected resignation of the former Head teacher (Ms Hilman) who had been absent on Adoption Leave. The priority for the Governing Body was to recruit a new head teacher for the next academic year. Ms. Parker was successful in securing the role, having been in the role of Interim Head.
57. Ms McGinley sent letters dated the 15 June 2015 (see page 514-5) to Ms Quigley and letters dated the 25 June 2015 to Ms Barret and Wilkinson and to all staff (pages 1069 and 1368) confirming that the assimilation exercise was conducted by the Second Respondent, not the school. It was put to Ms McGinley in cross examination that she failed in her duty to keep staff informed and she accepted that she could have done better with the timeliness her responses accepting that the three-month delay was unacceptable.
58. Although the assimilation exercise was not produced at the time, the Respondents provided to the Tribunal a document evidencing the advice they had received on assimilation, this was marked R2. The Claimants did not challenge the contents of this document.
59. Ms Quigley was informed by letter dated 1 July 2015 from Ms Parker (page 526) that the Staffing Committee, after considering all representation, had decided to proceed with the reorganisation of support staff. The job application forms for the new roles were distributed on the 1 July. The letter confirmed that the closing day for shortlisting for the available posts was noon on Tuesday 7 July 2015; the interviews were to take place on the 9 and 10 July 2015.

60. Ms Parker was asked in cross examination by Ms Wilkinson why she did not get HR involved in the process and she replied that HR contacted all staff about the redeployment process and they sent out details of vacancies across the borough. She stated that all those involved in the restructure process had the details of HR and that redeployment was a “two-way thing”. Ms Parker stated that the redeployment process could not begin until employees had been made redundant. Ms Parker confirmed that a circular is distributed each month with a list of vacancies across the Local Authority.
61. Ms Parker was asked in cross examination about agency staff and she told the Tribunal that they were not employed by the school and agency staff working at the school had been taken on a considerable time before the restructure and had formed close working relationship and trust with those they supported. She also made the point that if a child needed individual support for a short while they would go to an agency and stated that the school was not “an employment agency”. Ms Parker confirmed that she had taken on an agency worker to support her as a PA at Easter 2015 because at the time she had no Deputy Head and was managing two long term sickness absences and one maternity leave. The Governing Body approved the appointment of an agency worker in the role of PA until September 2015. The Bursar then resigned in 2016 and in the Spring Term 2016 the agency PA was made permanent. Ms Parker confirmed that the restructure was not about cutting costs, it was when the Bursar resigned that a report was commissioned into the restructure of the administration at the school and someone was recruited who had the right skills to use the SIMS computer system. Ms Parker confirmed that it would not have been appropriate for her to ask the LM’s to be her PA and said it was not about training them **“it was about getting the work done”** and none of the Claimants had the necessary skills to perform the role. It was not suggested by the Claimants that they possessed the necessary skills to perform the role of PA.
62. Ms Parker denied in cross examination that she allowed knowledge of the Claimant’s disability to influence her in the restructure or in the subsequent process that followed.
63. The staff (including all three Claimants) presented a collective grievance on the 6 July 2015 (see page 532-2 of the bundle). This was responded to by Ms McGinley the following day (see pages 534-5 of the bundle). A revised timetable of the restructure was issued on the 2 July 2015 (see page 528 of the bundle), the Tribunal noted that the various time slippages now showed the new structure being implemented by the 1 September 2015 (from the original date of the 8 March 2015 see above at paragraph 32) extending the employment for all those affected.
64. Ms Quigley’s application for the post of HLTA Outreach position was submitted late on the 7 July 2015, the reason she gave for this was that there was a problem with her Uber Taxi and then she forgot to submit it on time. She told the Tribunal that when she arrived at school that it **“slipped her mind”**. The Tribunal saw her application at pages 794-5 of the bundle. The Tribunal noted that on the second page of the application form dealing

with the candidate's proficiency in IT; there was a paragraph that had been cut out and glued on to the form, Ms. Quigley said that one of her reasons for doing this was because her printer had run out of ink. There were also other sections that had obviously been cut and paste (electronically) without any due care or attention to detail as the typefaces were different and the formatting had not been standardised throughout the document.

65. Ms Quigley accepted that she had not addressed the essential elements required to be shortlisted for the role, including a requirement that she had the necessary qualifications and training. She told the Tribunal she was **"applying under protest, I felt my treatment was tantamount to constructive unfair dismissal. I could not envisage working under Ms. Parker in the new structure"**. Ms. Quigley stated that she was **"applying on union advice"**. When it was put to her that her form was not well presented with bits stuck down she replied **"I obviously did not apply with enthusiasm because of the way I was treated. The GMB said I could not voluntarily make myself redundant, that is what I was advised"**. The Tribunal conclude on having looked at the presentation and contents of the application form, the Respondent was justified in rejecting this candidate for interview. The form signalled a lack of enthusiasm for the role and a lack of professionalism in her approach.
66. Ms Quigley was informed by Ms. Parker on the telephone the following day out of school hours, that she had been unsuccessful. Ms. Parker deals with the reason why it was relayed in this way in her statement at paragraph 73. Ms. Parker's evidence was that she had obtained confirmation that she was free to speak before informing her of the outcome but Ms. Quigley's version was that she had been phoned while shopping in Sainsbury's and she was not asked if she was available to speak. The written feedback was sent to Ms. Quigley on the 10 July 2015. Ms Quigley put to Ms Parker in cross examination that she was only **"2 points below"** someone who had been interviewed and she had been disadvantaged and not given the opportunities that had been afforded to others. Ms Parker denied this saying that she maximised the opportunities for Ms Quigley by ring fencing and allowing her late application to be considered. The Tribunal find as a fact that the only reason Ms Quigley was not interviewed was because her application form was of a very poor standard and she had failed to demonstrate she met the criteria required of the role.
67. Ms Wilkinson presented her application for the role of HLTA Outreach and she was successful in going through to the interview and assessment stage. Part of the assessment process was to be observed in a lesson and those assessments were at pages 1415-22, she was observed by Ms Parker and Mr. Connelly. She was not successful in her application and the feedback was at page 1426 dated the 13 July. In outline, the reason Ms Wilkinson was not successful was because she had failed the mathematics and the writing test (which contained spelling and punctuation errors). Ms Wilkinson had also failed to achieve the necessary grades at interview (of 6 "good or better" answers). Ms Wilkinson made no complaint to the Governing Body or to the Tribunal about the objectivity of the marking or the appropriateness of the test.

68. Ms Barrett told the Tribunal that she was also successful in securing an interview for the role of HLTA (Behaviour) role which took place on the 9 July 2015 and for the HLTA (Outreach) position which took place on the 10 July 2015. She was unsuccessful in both and was informed of the outcome on the 13 July 2015 (see pages 1084-5). Ms Barrett also made no complaint about the objectivity of the marking or of the appropriateness of the test.
69. Ms Wilkinson attended the Staff Committee on the 13 July 2015 to make oral representations, she was accompanied by Ms Quigley and the minutes of those submissions were at pages 1427-1432. The hearing lasted for 50 minutes. Ms Wilkinson was formally identified for redundancy by a letter dated the 17 July 2015 (see page 1433 of the bundle), she was advised of her right to appeal the decision. The appeal was at pages 1436-8 and the appeal minutes were at pages 1452-1458. Ms McGinley was asked by Ms Wilkinson why the oral hearings were held on the same day as the interviews and she replied that it had been agreed by the Staff Committee to hear the oral representations on the Friday afternoon but when they learned that Ms Wilkinson was distressed and Ms Barrett was unwell the hearings were rescheduled. Ms McGinley told the Tribunal that she checked with HR as to when the oral hearings should be timetabled and she was told that they had to take place after the interviews so she followed their advice.
70. Ms McGinley wrote to the parents and carers on the 10 July 2015 (see page 548) to inform them that Ms Parker had been appointed as Head Teacher of the school. In this letter, there was a reference to the Library and a reassurance that there would be no plans to reduce the Library facility or the opening hours and they were “reviewing the best way forward”. Ms McGinley was asked about this letter in cross examination and specifically about who conducted the review and she confirmed that it was Ms Parker.
71. Ms Quigley attended a meeting of the Staffing Committee to make oral representations on the 10 July 2015 (see pages 548/1 to 548/5) accompanied by Ms. Millward. In these representations, Ms. Quigley stated that it was **“not reasonable to change the timetable”** and stated that doing so **“resulted in a failure to consult”** (see page 548/1). She also stated that she had **“missed out on the option for an informal discussion with the Acting Head Teacher on the restructure, which other staff members had. She asked for an informal telephone chat and this was agreed”**. The representation went on to state that she had **“requested a formal 1:1 meeting and was told that the telephone conversation was in place of that meeting”**.
72. Ms. Quigley also referred in her oral representations to the Staffing Committee to the handling of her sickness absence meeting, even though this was irrelevant to the redundancy consultation process. The Claimant again stated that the sickness policy was “not understood” because she had been required to attend a second stage 2 meeting, she submitted that Ms. Parker and the HR person present from the Second Respondent had

“a poor understanding of and adherence to published policies by school management”.

73. Ms. Quigley provided a detailed description of her view of the quality of the return to work meeting after her sickness absence, even though this was irrelevant to the issues before the Staffing Committee. Ms Quigley described it as an **“exercise in futility, as the decision had been made”**. Ms. Quigley stated that she had not received any job description or timetable **“until she had asked for them”** and had no opportunity to discuss the new posts. She also maintained that the consultation was not **“meaningful or undertaken properly”** (page 548/3) and that the procedure was **“morally and procedurally wrong”** (page 548/4). At the end of the representations she stated that it was constructive dismissal as her desk was cleared while absent and maintained that her post had been **“effectively deleted”**. It was noted in Ms Quigley’s closing submissions that she maintained that the clearing of her desk amounted to an act of discrimination, the Tribunal note that she was absent from work for six months and there was no evidence that clearing a desk of (personal) papers (if that had been the case) was an act of direct disability discrimination. Ms. Quigley’s meeting lasted one and quarter hours.
74. Ms Quigley put to Ms Parker in cross examination that the restructure was “a mess” and she disagreed saying that the timetable was followed but some meetings had to be cancelled but they all happened. Ms Parker stated that the timetable did not change to Ms Quigley’s detriment because she was “in employment for longer”.
75. Following this meeting Ms. Quigley was informed that she had been formally identified for redundancy by a letter dated the 17 July 2015 (see page 570), the letter confirmed that there was a right to appeal which had to be in by the 8 September 2015. The Respondent also announced the redundancies in the school’s newsletter. The appeal hearings for all those identified for redundancy were firstly scheduled for the 25 September 2015 (see page 624, 1095 and 1439 of the bundle) by a letter dated the 17 September 2015. Any new papers that were to form part of the appeal were to be provided to the Appeal Committee 3 working days before the hearing. The letter stated that the full bundle was to be circulated by the 22 September 2015, Ms McGinley could not be sure if the bundle was circulated as the date of the hearing then moved to October.
76. Ms Quigley was unable to attend this hearing therefore it was postponed. The next scheduled date for the appeal was the 7 October 2015 (see page 626 of the bundle), this letter was sent out on the 1 October. Ms Quigley again asked for a postponement of this meeting by an email dated the 2 October 2015 (see pages 628-9) stating that she had only seen the email “in the early hours of the morning” and was waiting to hear from her representative. She asked to be given an alternative date and hoped that she may be given the “requisite notice”. Ms. McGinley replied stating that they would have to proceed with the hearing in her absence if she could not attend (page 628). Ms. Quigley confirmed that she would attend and asked that she be allowed to attend from 4.00pm

due to the availability of her representative Mr Vincent from CILIP. Ms. Quigley sent 20 email attachments in the afternoon and evening of the 5 October for the appeal being heard on the 7 October (see pages 631, 653, 654 and 655 containing 14 attachments). It was noted by the Tribunal that Ms Quigley failed to provide these documents within the timescale set down in the above letter (three days prior).

77. The minutes of the appeal hearings were at pages 701-713 (and at pages 1452-1464). The appeal panel was chaired by Ms Morris who told the Tribunal that she was a senior Civil Servant; the panel also comprised an employment lawyer and a specialist. The hearing commenced with the Chair Ms. Morris checking that everyone had the same documents. Ms McGinley then presented the management case from notes she had prepared and these were appended to the minutes (see page 1442 of the bundle). It was put to Ms Morris in cross examination that she did not seem clear of the process to follow in the appeal hearing but she could not recall this. It was put to Ms Morris that the Claimants were not provided with the document at page 1442 prior to the hearing (Ms McGinley's submission) and she replied that she did not recall seeing the notes as this was Ms McGinley's oral submission. It was put to her that everybody had the notes but again Ms Morris could not recall. She also could not recall if Ms Quigley was provided with a chair and foot stool.
78. Ms Morris was asked in cross examination about her statement at paragraph 11 where she stated that she felt that the **"assimilation process was adequate"** and she clarified that she did not ask for any information from HR as they felt that the process was adequate and she accepted the school's explanation that the posts of LM and HLTA were different and **"they sounded at the time to be significantly different"**. Ms Morris was taken to pages 1454 and her letter at 1466 and she conceded that there was no reference to this in her letter. In answers to cross examination she stated that she **"could not comment on what [the Claimants] did not do"** or **"what the school decided to do"**. It was put to Ms Morris in cross examination that they were not informed that they could have input into their job descriptions or that they could be revised and she denied this saying that the key failure was **"on the underlying skills"**.
79. The appeals of Ms Wilkinson and Barrett (and one other) were dealt with together and they were represented by the GMB Convenor Ms Golding. The meeting started at 14.50 on the 7 October 2015 and ended at 16.55. At the appeal Ms Wilkinson confirmed that she had one meeting with Ms Parker for just over an hour and she had a meeting with Mr Connolly. Ms Wilkinson told the panel that **"the maths test was setting us up to fail"** and that they were not given the opportunity to comment on the new job descriptions and that their job descriptions were different to the roles they carried out and they should have been consulted. The Tribunal accepted the Respondents' evidence that the maths test was progressive up to Level 6 (from level 4) which was the appropriate range for Year 6 pupils and was necessary considering the reason for the restructure which was to appoint HLTA's who could also teach when required (to the range of skills and abilities in the class). Ms Parker told the appeal hearing that the job descriptions were handed to staff on the 6

March and those who were off sick (or not at work) had them posted. Ms Parker confirmed at the hearing that all applicants had to take the literacy and numeracy test. Ms McGinley confirmed in answer to a question posed by Ms Wilkinson that the procedures were followed. At the end of her representations, Ms Wilkinson stated that she felt that the restructure was **“not done in the interests of the school but was to get rid of specific staff”** and was unfair.

80. Ms Barrett put to the appeals committee that someone had not been required to take a maths test and Ms Parker replied that Ms Barrett had been the only employee who had applied for both the Outreach and the Behaviour post, it was only the Outreach post that had the maths test (page 1456). Ms Barrett also said that she believed that her dismissal was unfair and that she believed that the LM's had been doing the HLTA role.
81. Ms Quigley's appeal commenced at 17.15, after that of Ms Wilkinson and Ms Barrett. Ms Quigley complained to the Tribunal that she was kept waiting for hours but accepted when taken in cross examination to the above emails that she requested her hearing to start after 4.00pm due to the availability of her representative. She also conceded that a delay may have occurred due to her providing a considerable number of documents just prior to the hearing; which had to be considered by the panel. Ms Quigley told the hearing that she wanted to add to the documents provided but had been unable to do so because she had been **“busy over the weekend”**.
82. Ms. Quigley's representations were at pages 709-713 of the bundle. She stated that an informal telephone conversation was turned into a formal one to one by Ms Parker, however she went on to state that she received the job descriptions **“one day before the formal 1:1. The date of the formal 1:1 meeting was changed a number of times at very short notice”**. She stated that she **“did not know how [the Library] could be run without her”**. Ms. Quigley confirmed in the appeal hearing when asked by Ms. Parker that she had an informal meeting with her and she confirmed to Ms. McGinley that she had received the job descriptions in March. It was put to Ms. Quigley by Ms Parker that her application for the HLTA did not meet the requirements and it was submitted after the deadline and Ms. Quigley replied **“it was only two hours late”**. Ms Quigley also told the appeals committee that she was not given the job description in time to do justice to her application. The evidence given by Ms Quigley in the appeal hearing did not appear to be consistent with her evidence to the Tribunal, where she accepted that her application was submitted in protest and was only applying on union advice; she also stated that she could not envisage working for Ms Parker. The appeal hearing lasted one and three quarter hours.
83. All the appeals were unsuccessful.
84. Ms McGinley confirmed in cross examination that the three HLTA posts and the Sports Coach were filled in September. The Claimants' last day of service was the 30 September 2015.

The Law

Equality Act 2010

Section 13(1)

A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats others.

Section 15 (1)

“A person (A) discriminates against a disabled person (B) if

- (a) A treats B unfavourably because of something arising in consequence of B’s disability, and
- (b) A cannot show that the treatment is a proportionate means of achieving a legitimate aim”

Section 20(2)

“the duty comprises of the following three requirements.

(3) “the First requirement is a requirement, where a provision requirement or practice of A’s puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage”

Section 21(1)

“A failure to comply with the first requirement is a failure to comply with a duty to make reasonable adjustments.

Section 20(2)

“A discriminates against a disabled person if A fails to comply with that duty in relation to that person”

Employment Rights Act 1996

Section 98(1) “In determining for the purposes of the Part whether the dismissal is fair or unfair, it is for the employer to show –

- (a) The reason (or, if more than one the principal reason) for the dismissal, and
 - (b) That it is a kind falling within Subsection (2) or some other substantial reason of a kind such as to justify the dismissal of an employee holding the position which the employee held.
- (2)(c) A reason falls within this section if it is that the employee was redundant

Section 98(4) “Whether the employer has fulfilled the requirements of Subsection (1), the determination of the question whether the dismissal is fair or unfair (having regard to the reason shown by the employer) (a) depends on whether in the circumstances (including the size and administrative resources of the employer’s undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee, and (b) shall be determined in accordance with equity and the substantial merits of the case”.

The Respondent’s submissions.

These were in writing and they will not be replicated in this decision but the following oral submissions were made:

85. This is a school in an inner-city area, run by the Head teacher and the Governing Body are all volunteers and all have full time jobs, the restructure is a major undertaking. It is the Head who carries the can, they are responsible for performance of the school, in OFSTED, if the ratings are poor they get it in the neck from parents and the press. If the Head decides she wants the school organised in a certain way in the best interests of the school, it is not for the Tribunal to second guess that role, the Head stands or falls by the performance of the school.
86. One point from the Claimant's written submissions, the Head is accused of lying by Ms Quigley, the Tribunal are invited to find she gave honest evidence. Ms Quigley attempted to suggest otherwise, which is an allegation that is misconceived. She gave evidence clearly and robustly in why she wanted the restructure of the school and introduce the HLTA roles.
87. The next issue is whether the Claimants have been unfairly dismissed? The reason is redundancy and there is no evidence to show that the reason is not genuine (paragraph 2). With regard to the assimilation exercise (paragraph 4), the Learning Mentor role is about barriers to learning, both permanent and temporary, taking small groups out of the class so they can go back to the class and overcome barriers. There is a fundamental difference in the two roles, they are not the same. It is interesting the divide between the evidence given between the Claimants, Ms Wilkinson gave more accurate evidence, she said she would have done the role if she had been asked. Ms Barrett said she was doing the role; the Tribunal are asked to reject her evidence, Ms Barrett didn't give an inch, she said there wasn't anything in the HLTA role that she wasn't doing. The Tribunal are asked to reject Ms Barrett's evidence because it was inconsistent with the role and what the Head said about the role. If this had been the case, there would have been no reason why Ms Barrett would not be appointed and if she had been doing the role she would have sailed through the interview but all her grades were satisfactory or poor.
88. The Respondents ask you to reject that the Learning Mentor job description was out of date, the objective evidence was at page 1048 of the bundle, about Ms Barrett's appointment is a key, and lack of clarity from her, is a key milestone. It is clear from that document when the school felt she was doing the LM role. It is inconceivable if the job description did not contain fundamental parts of the role it is inconceivable that she would not have raised it.
89. The Respondents state that the reason is redundancy. Was the procedure fair? Ms Quigley feels strongly that the school should have a Librarian but that is not for her.
90. The consultation was at paragraphs 14 (a)-(d), although they had uncertainty for longer they had ample opportunity to consult. He also referred to Ms Quigley's statement at paragraph 16 about the phone call.
91. In reply to the Claimants' submissions he stated that he must remind the Tribunal that it was easy to "slip in" additional evidence but it has not

been put to the Head. There has been no evidence that the school hired Agency workers, they were working on the three-teacher model for classes and the third teacher covered absences. There was no evidence that issues of assimilation were raised at any point, it is not enough to raise this in closing submissions. Ms Barrett makes the point that parts of the job description were not raised but it was not put to Ms Parker at any time that they did part of the role. There is an obligation to put the case to the other side and it was not put to Ms Parker that they were doing part of the role.

92. **The Claimant's submission** – these were in writing and in outline Ms Quigley stated that Ms Parker selected her for redundancy and exploited her absence due to her disability. She also alleged that Ms Parker mishandled her return to work and discriminated against her. She stated that her appraisals and job description were not passed on to HR and they were not passed on to the Governing Body when the restructure was considered.
93. Ms Quigley stated that Ms McGinley failed to provide accurate minutes of her oral representations and was 'flippant' about the effects of the slippage of time and the adverse impact that this had on staff. She claimed that failing to put her job on the current structure during the restructure process was discrimination. She stated that failing to include her return to work and absence for hospital appointments on the 'What's On' isolated her and was an act of discrimination. She stated that Ms Parker had no intention of considering her for a role as she considered her 'physically defective' for some time and she hoped to make her 'unwilling to work'. She stated that Ms Parker considered that she was a pest because she was disabled and she challenged her because of the treatment she received.
94. Ms Quigley stated that Ms Parker disregarded recommendations from HR; disregarded OHS reports and work station assessments; delayed reports reaching Mr Ackroyd; showed a flippant attitude towards Ms Bulgin's concerns and "defamed" her in an email response. She also claimed that Ms Parker failed to provide reasonable adjustments.
95. Ms Quigley alleged that Ms Parker tried to subvert the procedure by using a phone call instead of a formal meeting (a formal meeting was held after she 'insisted' on having a formal meeting) and then used the phone call to talk about her sickness absence. She alleged Ms Parker tried to isolate her from staff and parents and failed to respond to her concerns about her desk being cleared out. She maintained this was an act of discrimination.
96. Ms Quigley stated that a distorted view was painted of her by Ms Parker and by the Respondents when it was said she had a tendency to 'hang around' after school, she stated that she had to wait for her taxi to arrive.
97. Ms Quigley stated that the Respondents did not maximise their opportunity to retain her as a high-quality member of staff.

98. Ms Quigley stated that Ms Parker failed to provide information of the restructure or job applications at the same time as others.
99. Ms Quigley stated that Ms Parker lied under oath for the reason she called her on her mobile to tell her she would not be interviewed for the role.
100. Ms Quigley maintained that Ms Parker showed no compassion towards her in respect of her disability; she stated that failing to move to stage 3 was not an act of compassion it was a “pattern of failure to follow procedures and lack of consideration and compassion originating January 2015”. She stated that Ms Parker “gave little notice of meetings, cancelled at the last moment without reasonable cause..”
101. She also stated that Ms Parker lied under oath about a number of matters including being emailed the phased return to work timetable; that she met with her on her return (Ms Quigley stated it was Mr Connelly); that a foot stool and chair was provided and about the number of stairs to the PPA room (she stated there was not one flight of stairs but 2 but she conceded there were not 6 flights of stairs to the Rose room, only 4).
102. Ms Quigley claimed that in respect of reasonable adjustments, her normal place of work was on the ground floor near a toilet but she was moved to the first floor and in “various parts of the school”. She stated that this was contrary to recommendations (to provide a chair and foot stool and not to be working in a location that required stairs to reach it and to be near a toilet).
103. Ms Quigley stated that she was not informed in a timely manner about the appeal and was informed later than her colleagues. She stated that she submitted supporting evidence late because she was informed of the appeal date late. She stated that no reasonable adjustments were made to the appeal hearing, she stated she was given a chair but no foot stool (a rolled up carpet was given which unravelled). She stated that Ms McGinley’s statement was read out and she was not allowed to interrupt.
104. Ms Quigley stated that during the Tribunal proceedings documents were not provided.
105. With regard to whether her claims for disability discrimination were out of time, Ms Quigley stated that the discrimination was ongoing and it would be just and equitable to extend.
106. The submissions by Ms Barrett and Ms Wilkinson will be dealt with together and in outline they are as follows:
107. They stated that the dismissal was unfair because of breaches of the redundancy and redeployment policy. They both stated that they should have been assimilated into the new posts and the reason this did not take place was because their job descriptions were at least 10 years old and did not reflect their current roles. They both stated that they had

undertaken teaching in classroom settings and had covered classes. They both challenged whether the rationale provided by HR on assimilation was correct.

108. They both stated that they should not have gone through the interview process and Ms Parker made it impossible for them to be appointed. Ms Wilkinson stated in her submission that the maths paper they were required to take was a Level 6 paper, which was a level not taught in the school and most teachers would have found it difficult. It was argued that the interview process was unduly excessive and Ms Barrett said that having four people on the panel was also excessive and Ms Wilkinson stated that it was intimidating as there was a Head Teacher from another school on the panel. Both said it was very stressful and both complained about the lack of communication and Ms Barrett specifically complained about the short notice given to the candidates for the interview.
109. Both complained that agency staff were used to fill vacancies.

The Unanimous decision of the Tribunal is as follows:

110. We will start with the issue of unfair dismissal; we accept the consistent evidence from the Respondents that the dismissal was on the grounds of redundancy in each of the three cases and resulted from a genuine restructure resulting from a clear rationale which we have referred to in our findings above at paragraph 29. It was noted that the Claimants did not challenge the reason for the restructure, it was the process followed that they challenged in this case. We conclude that this was a potentially fair reason and this was the reason for dismissal in each case.
111. It has been put to us in closing submissions by Ms Quigley that Ms Parker was lying under oath and she was defamed by Ms Bulgin in an email, we have found as a fact that Ms Parker's evidence to the Tribunal was consistent and measured and truthful and the reports submitted by occupational health were measured. This can be compared to the evidence given by Ms Quigley who put to Ms Parker that she worked up six flights of stair but the reply from Ms Parker that there were not six flights of stairs in the school, although Ms Quigley conceded in her closing submission that there were not six flights of stairs in the school, only four, she then accused Ms Parker of lying about the number of flights of stairs to her room (see page three of her closing submissions). It appeared to the Tribunal from this evidence alone that Ms Quigley's evidence lacked consistency and credibility and the case she presented to the Tribunal was at times contradictory. The Tribunal conclude on the balance of probabilities that where it is appropriate to do so in the event of a conflict of evidence, the testimony of Ms Parker is to be preferred to that of Ms Quigley.
112. The Tribunal have found as a fact that Ms Barrett and Ms Wilkinson's existing roles were significantly different to the new roles after the restructure and they were informed that their roles would cease to exist. The same was also true of the post of Librarian which was being deleted.

Although it was Ms Wilkinson and Ms Barrett's cases that they should have been assimilated into the new roles, the Tribunal saw evidence that HR had concluded that assimilation was not appropriate after looking at the existing roles following a comparative exercise conducted at the time. We also noted that the GMB advised their members and Ms Quigley (and this letter is referred to above at paragraph 40) on the 3 March 2015 to review their job descriptions to see if they could claim assimilation right but they failed to do so. They also failed to claim that they should have been assimilated during their representations to the staffing committee and during the appeal process. The Tribunal therefore conclude that the LM roles and the new HLTA roles were significantly different and were not appropriate for assimilation and at no stage did Ms Wilkinson or Ms Barrett indicate that they felt that their roles should be assimilated.

113. We now turn to the process followed by the Respondents. We have found as a fact that the Respondent followed a lengthy process (over 7 months), the original timetable was extended because of the unforeseen resignation of the Head teacher. Ms Quigley was also allowed various extensions of time and the process extended to ensure that all matters were dealt with fairly and reasonably. There were meaningful formal and informal consultations individually and collectively in all cases. The Claimants also had the benefit of their choice of representative (GMB UNISON and CILIP) in meetings and unions exercised their collective rights to challenge the process and to raise collective grievances on behalf of their members. Even though there was a lengthy delay in responding to a letter from the GMB (dated the 20 March, which did not receive a reply until the 25 June) this was one isolated occasion, and the Tribunal conclude that a substantive response was provided prior to the process proceeding therefore no disadvantage was caused to the Claimants.

114. All Claimants applied for positions in the new structure and we have found as a fact that they failed to demonstrate that they met the criteria for the new roles. Ms Quigley's evidence about the quality of her application is above at paragraph 64-5; she accepted that she had not addressed in her application the basic elements of the role and that she was "applying under protest". Ms Quigley's evidence on her approach to the new role and application process was disingenuous. She failed to put the form in time because it "**slipped her mind**" (see above at paragraph 63) and yet made several complaints specifically against Ms Parker for failing to comply with procedures. She cut and glued a section on her application form (dealing with proficiency in IT skills) and she accepted she did not apply with enthusiasm and only applied on the advice of GMB (see above at paragraph 64). The Tribunal conclude that her application was part of a strategy to protect her redundancy payment rather than an application submitted for a post she had a genuine interest in securing. Ms Quigley was not interviewed for the role because her application form was of such poor quality. The Tribunal conclude that the Respondent's decision not to take her application forward was reasonable and consistent with the poor standard of the form in front of them.

115. Ms Quigley made lengthy submissions to the Staffing Committee (see above 70-72) including making detailed reference to the sickness absence

policy and the handling of her sick leave, which was irrelevant to the issues before the Committee. It was noted that Ms Quigley was highly critical of Ms Parker personally and professionally and of the process followed but provided no details of any alleged breaches (see above at paragraph 71-3). Ms Quigley did not dispute the fairness or accuracy of the scores she received on the assessment of her application form and made no credible challenge to the accuracy of the written feedback that she received.

116. In respect of the process followed for Ms Wilkinson and Ms Barrett, they applied for positions in the new structure (see paragraph 67-8 above) and failed the interview and assessment process. It was not disputed that their grades in the maths test were poor and they both failed to pass the interview criteria. The Tribunal conclude that the process followed was fair and it was not suggested to us that the marking process followed was unfair. Although Ms Barrett suggested to the Tribunal that she found the process to be stressful and “unduly excessive” (see her submission above), it was a process that applied to all and was fair. Ms Barrett also stated that she was unable to reschedule her oral submissions to the staffing committee as she was heavily pregnant and was off sick, she stated that her treatment was shocking. The Tribunal were not taken to any doctor’s note or medical evidence to support this and none was provided at the time to the Respondent. Although her sickness absence was unfortunate, the Tribunal did not conclude that this made the process followed unfair procedurally or substantively as all Claimants could attend the appeal process and to make oral and written submissions, which they all did and we are satisfied that they were given appropriate consideration. The Tribunal also took into consideration that Ms Barrett had the benefit of union representation throughout.
117. The Claimants complained that HR had not played an active role during the process however it was accepted by the Tribunal that they had been involved on the issue of assimilation and became involved in sending vacancy lists out to those who had been made redundant. To that extent they played an active role.
118. The Claimants appealed their dismissal and we have again made detailed findings of fact and it was noted that the appeal was postponed at the request of Ms Quigley (see above at paragraph 76). We noted that Ms Barrett and Ms Wilkinson took issue with the need to make the changes to the structure (above at paragraph 79-80) but this was irrelevant to the decision to dismiss. Although both said that the maths test was setting them up to fail, there was no evidence that this was the case; the requirement for the candidates to pass a numeracy and literacy test for the HLTA role was consistent with focus of the restructure which was to set a higher standard of skills and knowledge than those presently in the LM role. The higher educational standard expected was consistent with Ms Parker’s evidence that this restructure was to improve standards and learning outcomes of the children in literacy and numeracy and to provide better value for money. The Tribunal conclude that the processes applied in respect of Ms Wilkinson and Barrett were fair and within the band of reasonable responses.

119. Ms Quigley's appeal was also heard on the same day, it was noted that Ms Quigley provided many documents after the deadline, in breach of the procedures and thus the start time of the appeal was delayed (see paragraph 76 and 81). It was noted that her submission to the Appeals Committee was that she was not given sufficient time to do justice to her application form however this was inconsistent with her evidence to the Tribunal. Ms Quigley accepted in Tribunal that her application form was deficient and the reason for this was that she applying on the advice of the union and that she was not applying with any enthusiasm and the quality of her form reflected this lack of enthusiasm. There was no consistent evidence before the Tribunal that Ms Quigley had insufficient time. The Tribunal concluded that had she wanted to succeed in her application for the role, she had ample time to prepare her application. The Tribunal considered that facts of the case that all staff were aware of restructure from the 8 January 2015 and all received the job descriptions by early March, all had considerable notice that if the restructure were approved, those who had been ring fenced would have to apply for the new roles. The application form was provided to Ms Quigley by the 1 July and her application was submitted on the 7 July 2015, after the deadline had expired. The Respondent extended the time limit to allow her application to be considered. The Tribunal conclude that the procedure followed was fair and consistent and had been communicated to all those affected by the restructure both individually and collectively.
120. The appeals panel considered all representations and upheld the dismissals. The Tribunal conclude that the process followed at the appeal stage was fair and was consistent with the evidence before them. The Tribunal conclude on all the evidence that the process followed was fair and the dismissals were fair and within the band of reasonable responses. The Claimants' claims for unfair dismissal are not well founded and are dismissed.
121. Ms Quigley also claims that her dismissal is an act of direct discrimination, however there has been no evidence produced capable of shifting the burden of proof. The Tribunal noted that the restructure process applied to three roles and was independent of any consideration of performance or attendance or of any requests for reasonable adjustments.
122. The evidence before the Tribunal was that Ms Parker applied the sickness absence procedure in Ms Quigley's favour by not escalating to stage three when she was entitled to do so. This was not consistent with the actions of an employer who wished to dismiss or to disadvantage a person with a disability who had been off sick with a disability related absence. Although Ms Quigley criticised Ms Parker for failing to comply or understand the sickness absence policies, we found as a fact that there was no lack of understanding as flexibility was built into the policy and this flexibility was applied to Ms Quigley's advantage. We conclude that she was treated more favourably and conclude that this cannot be discriminatory. Her allegation that Ms Parker mishandled her sickness absence and her return to work was not borne out by the facts before us.

123. There was no evidence to support the allegation made in Ms Quigley's closing submission that Ms Parker had no intention of considering her for the role because she was "physically defective" we conclude that this allegation had no merit and was unsupported by any facts. The Tribunal has found as a fact that Ms Quigley was not considered for the role because her application form was unprofessional and had not met the basic criteria for the role. This was the sole reason that Ms Quigley was not considered for the role, there was no credible evidence that her disability played any part in the reason to dismissal. The consistent evidence before the Tribunal was that Ms Quigley was dismissed on the grounds of redundancy as part of the restructure of the support roles in the schools, her role having been deleted and her application for the new role being rejected. The claim for direct dismissal is not well founded and is dismissed.
124. Ms Quigley also claimed discrimination arising from disability however again there was no evidence that her disability related absences played a part in the selection of her post of Librarian for redundancy or in the ultimate decision to dismiss for that reason. The decision to restructure was taken in early September 2014 and there was no causal link between the decision to include the role of Librarian and Ms Quigley's disability related absences. The Tribunal note that in the agreed list of issues above, Ms Quigley claimed that there was a failure to consult in a timely manner during the redundancy process and this was unfavourable treatment. The Tribunal have found as a fact that she was informed and consulted in a timely manner and her sickness absence was accommodated by agreement. The informal telephone consultation was consensual and kept Ms Quigley informed of the process and Ms Parker kept her in the loop by sending her emails and where appropriate, documents were put in the post. Ms Quigley was also given extra time at various points in the process and her application for the role was accepted even though it was presented out of time. On a few occasions the Claimant was granted postponements of meetings where she was unable to attend. There was no evidence before the Tribunal that Ms Quigley was treated unfavourably because of something arising from her disability. This head of claim is not well founded and is dismissed.
125. The Claimant also claims that the Respondent failed to make reasonable adjustments and three specific adjustments are referred to above in the agreed issues at paragraph 4c. It was noted by the Tribunal that the Respondent put in place a phased return to work and considered the recommendations made in the OHS report. The OHS report made no specific mention of any adjustments that needed to be made; it advised Ms Quigley to discuss with the Respondent the best way to avoid having to climb flights of stairs, this had also been discussed and the Respondent had sought to overcome the problem by putting arrangements in place for classes to attend her room. It was also noted that Ms Quigley accepted in closing submissions that her room was up only two short flights of stairs and her room was near a toilet. The Tribunal conclude that Ms Quigley's work location was adjusted to ensure that she was near a toilet therefore the necessary adjustment was made. There was no evidence before the

Tribunal that the OH report or Ms Quigley had identified that she was placed at a substantial disadvantage by having to climb any stairs. The Tribunal having heard no evidence of any substantial disadvantage conclude that this head of claim is not well founded.

126. The Tribunal considered that Ms Quigley was absent from the 29 September 2014 to the 8 June 2015; her phased return was agreed before the date of her return and was to take place over a period of six weeks, which took her close to the end of term. This phased return also accommodated her hospital appointments and advised her that she should avoid sitting or standing for more than 60 minutes. The Tribunal conclude that the adjustments to facilitate her return to work were put in place, including accommodating Ms Quigley's specific requests.

127. The issue of the chair and foot stool was not a matter that was specifically referred to in the OHS report produced prior to her return to work and there was no reason why Ms Parker would have been put on notice that a special chair was required. The Tribunal also conclude that this was not a matter that could be assessed until Ms Quigley's return to work. A chair that Ms Quigley felt to be suitable for her needs was identified on the day of her return as we have found as a fact above at paragraph 53. A formal work station assessment was carried out on the 16 June 2015 and we conclude that this took place in a timely manner (8 days after her return) and after this assessment a special chair was ordered for her. The Tribunal conclude from this evidence that the Respondent made reasonable adjustments in a timely manner and where they were identified as being appropriate to overcome a substantial disadvantage. Ms Quigley's claim for failing to make reasonable adjustments is not well founded and is dismissed.

Employment Judge Sage

Date: 22 May 2017