

Document written by the claimant and used in an English employment tribunal case on stammering, 2020. See www.stammeringlaw.org.uk/stammering-case-impact-statement-2020

Dear Sir or Madam,

Case Number []:

[]

RE: Response re disability

I refer to your letter dated [] 2020 requesting that I provide better information in relation to my **stammer**.

1. **(para 2(a)(b))** In you state that you accept that:

a. I have an impairment; a stammer.

b. that my impairment is long-term..

(para 2(c)(d)) but that you dispute

c. that at the relevant time, my stammer had a substantial negative effect.

d. the normal day-to-day activities mentioned in my impact statement; in so far as being normal day-to-day activities

and therefore, **you do not admit that, at the relevant time, I was disabled** within the meaning of the 2010 Act.

2. I have as requested in your letter provide additional information where I describe:

a. the various effects of my impairment

b. whether my impairment has adverse effects that are substantial

c. whether these substantial adverse effects are long-term

d. whether these long-term substantial adverse effects are effects on normal day-

to-day activities

3. Moreover, I have structured the document against the headings in the guidance, which, for the avoidance of doubt, are exhaustive, it is the examples which are illustrative.¹

4. **(para 2c) You list 5 points which you dispute are substantial negative effects**

a. You describe in your impact statement that you have coping strategies such as using a shorter, simpler word if you are about to "block", and that this happens almost instinctively.

- Allow me to clarify what I mean by “instinctively”. Interjections are “attempts to subvert” blocks, and that they are “automatic” in that most of the time I have little to no awareness of the interjections. In my case, most frequently interjected words are include "uh", "basically” and “actually”. It can be said that this is also a form of coping mechanism. There are also substitutions (an avoidance strategy), which is where I would consciously replace a word that I know will cause me to block, with a word that has a less chance of making me block. A real life example would be where instead of asking "do you have a sister?", I would instead ask "do you have a sibling". It is worth stating, unequivocally, that regardless of any coping or avoidance strategies, there is no guarantee that it will serve its purpose at the particular moment. In any event, it is important to consider the things that a person **cannot do, or can only do with difficulty**, and not what the person can do. (Guidance B9)
- Moreover, having to rely on coping mechanisms and/or avoidance strategies in order to maintain a degree of control of one’s fluency, essentially one’s ability to communicate, is vastly different when compared to someone without a stammer, where it would be effortless, with no need to rely on coping or avoidance strategies, and no need to control anything. Any reasonableness obtained in fluency comes with great difficulty. Unfortunately for me, there is no easy way around this, and in any event, your point again focuses on what I can do, which is not the correct approach.

b. The letter from [Ms E] suggests that therapy has been useful to you in the past (paragraph 3) and you can expect to regain good (not perfect) control of your stutter again.

- No, what [Ms E] said was that I have made very pleasing progress with the

¹ Leonard v Southern Derbyshire Chamber of Commerce [2000] UKEAT

Camperdown program "**within the context of the clinic is gaining increasing control of his fluency**". She also states that the next stage is to apply the technique to into short, easy-going real-life contexts. There is no evidence to date that therapy will help me regain good control of my stammer, however we are hopeful that it eventually will. I have provided further information on this in para 29 – 33.

c. You also managed weekly phone-calls – when you have said several times that you prefer Skype – with a reasonable degree of control; and leaving it to the other person to end the conversation is not a substantial matter. As far as we are aware, no-one at [Y Ltd] remarked on your stammer until you yourself mentioned it after you had given notice.

- I will assume by “managed” you are referring to “*reasonable degree of control*” as stated in my statement. I never said that I preferred Skype over phone calls, and this should not be taken out of context. My request was to have **the meeting** over Skype with [Mr A]; and with [Mr D], to discuss the outcome of my grievances over Skype, as this undoubtedly leans towards “a meeting” rather than a phone-call. Indeed, as my past **meetings** with [Mr C] were conducted over Skype and not over the phone. Weekly courtesy calls are exactly that, a courtesy phone call. To suggest that I prefer, or require, normal day-to-day phone-calls to be over Skype is not only impractical, but also perverse. Also see para 6, 18, 22, 23 and 25 of enclosed document.
- It appears to me that the Respondents are confused, likely due to muddling up their allegations that I “preferred” to have a meeting remotely, rather than it being a reasonable adjustment, which is what it was.

d. You say in the first version of your impact statement that you use[d] to enjoy having knowledge sharing sessions and junior members of your team; and in the second version, that you used to be able to interact with others at work to a reasonable degree without feeling embarrassed or feeling social anxiety.

- I do not see the relevance of your point. In my 1st version I described two specific activities that I use to enjoy participating in, but that I no longer do because of the severity of my stammer, as its simply too difficult. In my 2nd version I instead refer to general interaction with others at work, so as to include all interaction. Indeed, as there would be no difference in the interaction with my team vs interaction with others. I also decided to replace “knowledge sharing sessions” with “participate in activities”. They are the same thing, with the latter being more accurate for the same reason stated before.

e. Preferring to go into a fast food outlet to order food is also not a substantial matter.

- I have now provided ample information, examples and scenarios in the enclosed document where I spell out the effects of my impairment, the substantial adverse effect it has on my normal day-to-day activities which involve speech. This was arguably a bad example, but still something I have difficulty with.

5. **(para 2d)** This has now been spelled out the normal day-to-day activities in the enclosed document. Furthermore, it is not what I am able to do, but what I am not able to do, or only able to do with difficulty (**Guidance B9**).

6. **(para 4)** You will see that I addressed the question of fluctuation and treatment in enclosed document at para 6 as well as under the heading "Effects of treatment". As for points raised in reference to report from [Ms E], dated 14th April 2014, it should be noted that this report was requested back then for the purpose of whether additional therapy sessions were recommended, whether there would have been any benefit, the number of sessions and costs. The report was not written in the view of confirming that I had a stammer, and whether its effects has had a substantial adverse effect on my abilities to communicate, this is blatantly obvious, and no reasonable person has ever disputed this.

7. It seems to me that the Respondents assessment of my impact statement was flawed in that they did not refer to the guidance, as it clearly states on three occasions, at "Section B: Substantial", "Section C: Long-term" and "Section-D: Normal day-to-day activities", that:

"This section should not be read in isolation but must be considered together with sections A, C and D. Whether a person satisfies the definition of a disabled person for the purposes of the Act will depend upon the full circumstances of the case. That is, whether the adverse effect of the person's impairment on the carrying out of normal day-to-day activities is substantial and long term."

8. I reiterate that the focus should NOT be on what I can do, but on what I cannot do, or can only do with difficulty (para 21-22) I would urge the Respondents to keep this in mind when assessing the further information. They should not go on an expedition to single out what they don't like, or disagree with, but instead follow the guidance and consider Section A, B, C and D. It is well established that such a slavish approach is not recommended, nor required.²

9. The Respondents accept that I have an impairment - a stammer. This is, of course, a clinically well recognised disorder. Having accepted the impairment point - it would be unreasonable to

² Leonard v Southern Derbyshire Chamber of Commerce [2000] UKEAT 789_99_1010, [2001] IRLR 19

