



SHERIFF APPEAL COURT

**[2025] SAC (Civ) 41
EDI-A998-24**

Sheriff Principal N A Ross

OPINION OF THE COURT

delivered by SHERIFF PRINCIPAL N A ROSS

in the appeal in the cause

MARK JENNINGS

Pursuer and Appellant

against

NATWEST GROUP PLC

Defender and Respondent

21 November 2025

[1] The appellant avers that he is a regular user of banking premises provided by the respondent through their branch located in Herne Bay, Kent. He avers that he suffers from Autism Spectrum Disorder, Borderline Personality Disorder, Generalised Anxiety Disorder and Post-Traumatic Stress Disorder, all recognised disabilities under the Equality Act 2010. The conditions are said to be compounded by his Catholic faith.

[2] On 16 August 2025 he was using the Herne Bay bank branch. While he was there, he viewed some material which promoted Pride, a movement which promotes social values which he views as contrary to his religious beliefs. He describes himself as having a phobia of Pride-related paraphernalia, which exacerbates his mental health conditions. On that date

he made a request of the respondent to make reasonable adjustments for his condition.

These required that the respondent refrain from promoting the Pride movement within the branch premises. He informed them of the adverse effect this material had on his mental health. He does not give detail of how that request was conveyed. The result was, however, that the respondent refused to remove the material.

[3] The appellant claimed that the respondent's refusal to meet his request represented a violation of obligations under the Equality Act 2010. He averred that he has since been unable to visit those branch premises without suffering severe psychological distress, causing increased social isolation and poor mental health.

[4] He raised the present action in Edinburgh Sheriff Court, on the grounds that the respondent is domiciled in Edinburgh. He sought decree requiring the respondent to make reasonable adjustments by removing the Pride-related paraphernalia in the Herne Bay branch, and seeking £35,000 for distress, anxiety and inconvenience.

[5] The action was defended on a number of bases, and the matter went to debate on questions of relevancy. Following debate, the sheriff dismissed the action as raising no relevant or sufficiently specific claim in law.

Minute of amendment

[6] At a late stage in the appeal process, the appellant lodged a motion to amend the pleadings. It was opposed. The proposed amendment was lodged more than 2 months after the grounds of appeal were lodged, and after both parties had lodged written submissions. It responds to the respondent's points.

[7] The amendment seeks to change the case in substantial ways. Article 3(i), which sets out the appellant's disabilities, is deleted, and replaced with an explanation of his use of the

branch, a full description of how he is affected by visual stimuli, and the consequences. For the first time, the appellant alleges: “Exposure to certain visual stimuli associated with Pride branding triggers sensory overload, anxiety spikes, and shutdown/avoidance behaviours, causing him distress”. A new Article 3(iA) is introduced, which describes the physical display, reference to practices, and avers: “his difficulty is a sensory and trauma-linked response to the iconography/branding itself (bright, high contrast, identity-assertive symbolism)”. Article 3(ii) is deleted, and replaced with fuller details. Articles 3(iii) and 3(iv) are deleted, and replaced with full details of his alleged disadvantage and precautions which ought to have been taken. A new Article 3(v) is inserted which states, for the first time, why the respondent is liable for the bank branch, which is operated by a different company. Article 4 is deleted and replaced with new grounds of liability. New pleas-in-law are introduced.

[8] This minute of amendment represents a substantial expansion of the existing pleadings, at a late stage in the appeal. It was opposed, on the basis that a motion to amend had already been refused by the sheriff, and that the new pleadings did not cure fundamental flaws. While it is competent for this court to consider a fresh minute of amendment, and lateness does not remove the discretion of the court (Sheriff Appeal Court Rules 2021 rule 17.1), those points are factors to be weighed in assessing disposal.

[9] The respondent maintained that the amendment does not address basic flaws, particularly about the case having been raised against the wrong party. I determined that, the challenge to the merits having been made, the question of amendment (and consequent motion to remit to the sheriff to proceed with hearing evidence) could not be determined separately from the merits of the appeal. I have therefore considered both together, below.

The appellant's appeal submissions

[10] These require caution, the appellant having made submissions using ChatGPT, an artificial-intelligence database (see appellant's supplementary submission). That may explain the generality of the submissions, which largely comprise free-form legal propositions with only limited link to the facts. It has served to complicate and obscure the true analysis of the issues. At least three of the cases cited appear to be non-existent.

[11] The grounds of appeal are reduced to four headings of submission. The appellant submitted that the sheriff erred in finding that the defender, not being the operator of the bank branch, was incorrectly called. He also submitted that reasonable adjustments should have been made, and therefore the duty was breached. Further, the sheriff ought not to have refused the motion to amend, made during the debate. The last point is about expenses.

The respondent's appeal submissions

[12] The respondent's submissions (lodged prior to the appellant's minute of amendment) noted that the pleadings made no link between the operator of the bank branch and the respondent. The sheriff had correctly identified a lack of specification, and therefore explanation, of how the facts led to liability. The motion to amend at debate had been correctly refused, as it was vague, late and fundamentally changed the case. Expenses are always a matter for the court's discretion.

Decision

[13] The appellant's submissions identified four headings for his claim. The first is whether the appellant has pled an adequate case to show the respondent is liable under the Equality Act 2010. The sheriff found that the pleadings did not provide a basis for such a

claim. In that he was correct, as the appellant appeared to recognise by moving to amend. The claim now refers to sections 111 and 112 of the 2010 Act. These impose liability on a person instructing, causing, inducing or aiding, a contravention of the 2010 Act.

[14] The new case is, however, unspecific as to what form these directions took, when they were imposed, and what the content was. There is no fair notice of what directions or instructions would be put to witnesses in evidence. More fundamentally the complaint, as now focused, relates to the layout of the Pride material in the Herne Bay branch, which is said to be unavoidable on the mandatory public queue route. The complaint is specific to the branch layout. The breach of duty is, however, said to relate to an overall, nationwide policy. It is not explained whether, and how, the specific layout was controlled by the respondent. There is no fair notice of how these two elements are to be reconciled.

[15] The appellant relied on the respondent being the parent company of a group of companies, which by inference includes the company (unspecified) which operates the branch banking services in Herne Bay. That by itself does not satisfy the requirement to show the respondent did “instruct”, “cause” or “induce” (s111) the layout. It is no longer averred that the general policy is to blame – rather it is the positioning of the gaudy material. As the case now hinges on the layout of the branch, it is critical that the appellant identifies what act, by this respondent, caused that layout, and lack of reasonable adjustment. He has failed to do so. It is not obvious how a head office in Edinburgh would know of, or control, the layout of a branch in Kent, including traffic routes and signs. Section 112, if it is to be relied upon, requires knowledge. The appellant does not explain how the respondent knew of this issue and aided any breach of the Act. The averments do not set out the essential elements for the case to succeed. They fail to give fair notice to the respondent of the case it requires to met. The proposed amendment will not cure the appellant’s case. That fact,

taken together with lateness, fairness and earlier failed attempt, indicate the motion to amend must be refused. The unamended averments do not, as the sheriff found, amount to a relevant case in law.

[16] Separately, the second ground related to relevancy, specification and reasonable adjustments. It muddles two concepts. The first two issues relate to how a case is set out and explained (the pleadings). The third relates to what the 2010 Act requires (the law, by which the evidence is assessed). The appellant submitted that the amended averments set out the conditions within the bank branch; who is affected; and reasonable adjustments. These matters were not before the sheriff, who again correctly identified that the case did not mention these matters. It is relevant only if the amendment is allowed on appeal.

[17] The problem is that these factors are only part of the necessary evidence. A central part is causation – how the positioning, or content, or colour (these factors are presently intermingled) caused the appellant’s alleged condition. That is not easy, to the point of impossibility, to understand. The appellant avers that:

“his difficulty is a sensory and trauma-linked response to the iconography/branding itself (bright, high-contrast, identity-assertive symbolism) which, in the branch environment, causes substantial disadvantage relative to non-disabled customers by (i) acute anxiety; (ii) sensory overload; (iii) consequential avoidance/exclusion from branch”

[18] The appellant’s proposed reasonable adjustment is the removal of Pride paraphernalia from the branch, due to the “autism-related sensory impact and the compounding effect of his religious belief”.

[19] The trouble is that it is not stated what condition the appellant offers to prove. He relies on the interrelationship of two protected characteristics, namely disability and beliefs, but only in combination. These are separate characteristics for the purposes of the 2010 Act. How sensory stimulation is related to religious belief is not explained. No medical diagnosis

is offered, or explanation how religious belief is affected by gaudy colours. The 2010 Act provides for different types of disability (section 6, Schedule 1) but the appellant does not identify whether, or which of, those reflect his condition. There is no explanation of why the respondent therefore ought to have recognised his condition as protected under the 2010 Act. His new averments amount to a change of position on protected characteristic, from belief, to disability (section 19 of the 2010 Act) without any explanation of how they interrelate. The effect is that there is no fair notice of why it is said the respondent wrongfully refused to make any adjustment. The defender would require to understand this complex interrelation of protected characteristics (which are founded upon in conjunction, not separately) before considering adjustments. None of this provides a case which can be identified, prepared and presented by the defence. That is a further reason for refusing amendment, because even the proposed new case is too vague to give fair notice of the basis for liability.

[20] The third ground related to the sheriff's refusal to allow amendment. The sheriff explained why he refused amendment, on the basis that the matter had been raised prior to the debate and not acted upon, and that the appellant was unable to explain what his complaint actually was. These points were supported by the sparse pleadings. The sheriff, in exercising his discretion, required to reflect the interests of both parties. The respondent is entitled to be released from a claim if it cannot succeed. The sheriff was justified in taking that view, and refusing amendment. That was a substantive decision and not, as the appellant states, a procedural block to access to justice. The appellant did not, apparently, reduce the proposed amendment to writing, so the content cannot be assessed. In any event, he has presented a new minute of amendment. As indicated above, the proposed amendment does not set out a specified basis for instruction, causation or inducement, for

how this was knowingly done, and in any event how the defender controlled the layout of the bank branch, and was able to understand and reflect the appellant's protected characteristic(s). The case, even as amended, is bound to fail. There is no basis for this court to allow the proposed amendment.

[21] The fourth ground relates to expenses. This is not normally a ground of appeal, as expenses normally follow success. It is sufficient to note that the sheriff applied this rule.

[22] Although that exhausts the submissions on appeal, it might be noted that the averments which seek specified adjustments such as temporary relocation of Pride materials do not support the crave, which seeks prohibition. Further, the appellant's pleadings do not deny the respondent's position that they do not provide banking services, but the case is still based on provision of such services.

[23] There is also a procedural reason for refusing the minute of amendment. The minute of amendment was lodged only on 29 September 2025, long after the appeal commenced (23 July 2025) and long after the respondent had prepared and lodged answers and submissions. The respondent has had to address two cases, due to the appellant's late decision-making. Further, the appellant has a history of poor preparation and adherence to time limits. The appellant knew the debate points prior to the debate (see sheriff's note at para [37]) but failed to react until the debate commenced. The appellant thereafter missed the time limit for appeal, and was granted permission for late lodging. The appellant did not use the time prior to appeal to amend his pleadings. The present application to amend is very late, for unexplained reasons. The appellant has introduced delay at every stage. He relies on his disability as a reason, but that does not explain the repeated delays. While the court will make some allowance for unrepresented litigants, and for disability, it must

always balance the rights of both parties (*Barton v Wright Hassall LLP* [2018] UKSC 12; [2018] 1 WLR 1119).

[24] For the foregoing reasons, I will refuse the appellant's motion to amend in terms of the minute of amendment. The minute, even if allowed, does not present a coherent and legally relevant case which could be sent for a hearing on evidence. It does not give fair notice of critical parts of the case, to allow the respondent to prepare and present any defence. It is inexcusably late, both in time and in relation to the stage of proceedings at which it is introduced, with lateness not being either vouched or adequately explained by disability or any other cause.

[25] The unamended original case remains, for the reasons set out by the sheriff, irrelevant and so lacking in specification as to fail to give fair notice. This appeal must fail.

Disposal

[26] The appellant's motion to amend the pleadings in terms of the minute of amendment is refused. The appeal itself is thereafter refused for lack of a relevant case. In relation to expenses, the normal rule is that the successful party is entitled to an award of expenses. The respondent has been successful, so I will find the appellant liable to the respondent in the expenses of the appeal, as taxed.