

Paula Clarke and Robert Skelly v Department for Social Development

Disability discrimination proceedings brought in the County Court which settled on 11 February 2016.

Summary

Paula Clarke and Robert Skelly are both profoundly deaf and communicate using British Sign Language. English is their *second* language.

On 21 April 2015 Paula Clarke visited a Jobs and Benefits Office to make a claim for benefits. She alleged that she had earlier tried to seek advice by telephone on three occasions to get the necessary forms sent out to her to no avail. Robert Skelly accompanied her to the Jobs and Benefits Office.

Ms Clarke wanted to make an application for Employment Support Allowance (“ESA”). To claim ESA a person is required to complete an ESA1 Claim form. This form covers 57 pages of questions that an applicant must answer. Ms Clarke finds written English very difficult to understand.

Ms Clarke and Mr Skelly met a benefits officer. They informed the officer that they were both deaf and said they were having difficulty completing the form. They asked for help to complete four questions on the ESA1 form. Ms Clarke alleged that the staff member who was dealing with them replied in a way that they found nasty and unhelpful. Ms Clarke alleged that the staff member enquired sarcastically “*Did you not go to school? Did you not get an education?*” and told them that she was not there to help them to complete the form. Mr Skelly alleged that he told the staff member that if only she knew the barriers that they faced when they were at school.

Ms Clarke wrote a letter of complaint to the Defendant. By letter dated 29 April 2015 the Defendant apologised for the level of service she received. The Defendant stated that they had investigated the complaint and discussed the visit with the relevant member of staff. The Defendant stated:-

“the line of questioning used should have been more thoughtful especially when trying to establish someone’s form filling capabilities and the facts of your enquiry.”

The Defendant agreed to pay Paula Clarke £1,350 and Robert Skelly £1,000. The above payments were made without admission of liability. The Defendant reaffirmed its commitment to the principle of equality of opportunity. The Defendant where appropriate undertook to seek advice from the Equality Commission to ensure that customer-facing operational policies, practices and procedures in local offices provide equality in terms of service provision to those who have a hearing impairment.