

Case Study 1 – Ms. White

Ms. White worked for a public authority in a position that required her to carry out manual labour. In early 2010, she suffered a non-work-related injury which resulted in an infection. This required surgery and, due to complications, Ms. White was left with reduced mobility rendering her unable to carry out the functions of her job. This injury and the subsequent complications meant that Ms. White missed some 18 months of work continuously. She received “sick pay” for six months, in accordance with the employer’s policy.

Once Ms. White’s condition had stabilised, she was placed on a list of re-deployees within the public authority and she interviewed for administrative positions that would have required her to carry out general clerical work. These positions would have amounted to a promotion given that the pay and benefits on offer were preferential. However, Ms. White was not successful in her application and better qualified candidates were chosen.

In March 2012, Ms. White was dismissed from her position. The authority reasoned that there was no realistic prospect of her making a return to work. Ms. White intends to bring a claim in the labour court.

1. Would the employer have been justified if it had terminated her employment any earlier as Ms. White was incapable of performing the main functions of her job? If yes, at what point would it be justified?

2. Was her employer under an obligation to make a reasonable accommodation even if nothing could be done to enable Ms. White to perform her job.

3. Could Ms. White be required to go through a competitive interview process for the alternative administrative roles or should she have simply been put into one of those jobs, even though there were better qualified candidates?

4. Was the employer under an obligation to provide Ms. White with additional training so that she might be better suited to carry out an administrative role?

Case Study 2 – Mr. Green

Mr. Green suffers from a spastic paralysis and he is unable to walk long distances or stand for long periods of time. He generally does not use a wheelchair unless he will be travelling significant distances and he does not own a wheelchair of his own.

Mr. Green is a keen amateur historian and he is particularly interested in the study of Roman monuments. To satisfy his hunger for knowledge, he regularly takes trips to various destinations across the EU, travelling from a state-owned airport near his home with a commercial airline.

The airport near Mr. Green's home is housed in an older building. After check-in, there is a long walk to the departure gate. Mr. Green requires the use of a wheelchair to overcome this distance. Wheelchair users are permitted by the airport authority to use their own personal wheelchair to get from check-in to the door of the aircraft. For passengers travelling without their own wheelchair, the airport authority makes a small number of wheelchairs available, but it charges 20€ for the use of the chair. The airport authority indicates that there are many seats and benches along the way as well as a large selection of bars and cafes where weary passengers might take a rest. There is no need to make one's way to the gate in a single go.

Mr. Green has, however, often discovered that there are insufficient chairs available and, even when one is available, he resents having to pay the airport's fee. He argues that passengers without a disability are not charged to move around the airport and neither should he be charged for that same privilege.

Mr. Green's friendly airline does not provide assistance. It deems the airport authority responsible for ensuring Mr. Green's mobility in the airport concourse.

The airline has a provision allowing for four wheelchair users at a time to travel on an aircraft. Mr. Green, on his latest trip, was not seated next to his wife, who usually provides him assistance if he is having mobility problems.

Fed up, Mr. Green decides to sue both the airport authority and the airline

1. Can the airport authority require passengers in need of the use of wheelchair to negotiate around the airport to provide their own?
2. Where a wheelchair should be provided, who should be responsible for doing so; the airport, the airline, both?
3. How should the number of wheelchairs to be provided be determined?
4. Is the provision of a series of seats and benches along the route to the gate sufficient so that it is not necessary for Mr. White to have to use a wheelchair?
5. Is the airport entitled to charge for the use of the chair?
6. Is the airline under a duty to provide a seat for Mr. Green's wife next to him?

Case Study 3 – Mr. Grey

Mr. Grey is employed by the local authority as a park-keeper. He resides with his son Jack in a house within the park grounds. Jack has a medical condition resulting in severely restricted mobility and the house is adapted to cater for this fact. Following an incident involving a group of teenagers in the park, Mr. Grey's contract of employment was terminated. The park authority seeks to obtain possession of the house for the new park-keeper. At first instance, the park authority is granted possession and Mr. Grey appeals.

1. Is Jack's disability relevant to Mr. Grey's case?
2. How, if at all, could the UNCRPD or EU disability law be relied upon to undermine the authority's decision?
3. What could the authority do to demonstrate compliance with any obligations under the UNCRPD/EU law?
4. How might a judge deal with this case given that s/he must have regard to both the need of the park to fill the vacant position and Jack's needs as a person with a disability.