

# Compensation against one respondent can be demanded from any

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In discrimination cases, employees can sue both their employer and anyone they think has helped their employer to act in a

discriminatory manner. In *London Borough of Hackney v Sivanandan*, the Court of Appeal confirmed that where employees claim money from multiple parties, compensation must be awarded on a joint and several basis (i.e. the employee can claim the full amount from any of the parties and the unsuccessful respondents then have to sort out who ought to pay which proportion of the damages between themselves).

In 1999, Ms Sivanandan, a race equality adviser applied for two positions at a race relations body, which was funded by the local authority. After failing to be shortlisted for either position, she successfully brought claims for race and sex discrimination against: (1) the race relations body; and (2) the local authority; and (3) its employee, Ms White.

In terms of a remedy, the Tribunal ruled that although liability should be apportioned between Ms White and the other respondents, it limited Ms White's award to £1,250 in respect of injury to feelings only. The other respondents were jointly and severally liable for the £400,000 compensation awarded to Ms Sivanandan.

The Employment Appeal Tribunal overturned this decision on the basis that in cases where the damage suffered by the employee was caused by the collective action of the respondents, a tribunal cannot limit the liability of one respondent. Whilst the question of who must pay effectively comes down to the whim of the claimant, who will likely 'cherry pick' the respondent with the largest financial assets, as stated above the Respondents can then bring proceedings against each other in order to achieve a fairer apportionment of the costs of losing.

This decision should and will make individuals who are made a party to discrimination claims more anxious about the impact and more likely to seek and need independent advice.

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