EMPLOYMENT TRIBUNALS

Claimant: Ms M Bari

Respondent: The Commissioner of the Police of the Metropolis

Heard at: Croydon **On:** 11/12/2019 - 17/12/2019
In chambers 18/12/2019 – 19/12/2019

Before: Employment Judge Wright
Mrs T Bryant
Ms M Foster-Norman

Representation
Claimant: Mr P Livingston - counsel
Respondent: Mr T Cordrey - counsel

RESERVED JUDGMENT
ON LIABILTY ONLY

It is the unanimous Judgment of the Tribunal that the claimant:

was in part subjected to unlawful harassment;

was in part subjected to unlawful treatment as a result of something arising from her disability;

did not have a reasonable adjustment made for her;

did suffer from an unlawful deduction from wages; and

did not suffer from victimisation.

The Tribunal also made some recommendations.

REASONS

Introduction

1. By a claim form presented on 11/7/2016 the claimant presented claims of disability discrimination under the Equality Act 2010 (EQA) and of unlawful deduction from wages under the Employment Rights Act 1996, following a period of Acas early conciliation between 11/5/2016 and 11/6/2016. The claimant is employed by the respondent as a Communications Officer from 31/7/2005. She remains employed by the respondent.

2. On 2/8/2016 a telephone preliminary hearing was listed for 27/9/2016. The response was due to be received by 30/8/2016 however the claim was re-served on the 11/8/2016 as it may not have come to the respondent's attention due to the address provided in the claim form.

3. The claimant raised internal proceedings that covered the same subject matter as her claims of disability discrimination. As such, an application for a six-month stay was made by the respondent on 30/8/2016, with the respondent stating it believed the internal proceedings would be concluded within that time.

4. The application for a stay was granted for two months and the preliminary hearing listed for 27/9/2016 was postponed. A further telephone hearing was listed for 12/12/2016.

5. At that hearing, the parties were directed to update the Tribunal by 8/2/2017. The parties did so and a further preliminary hearing was listed for 11/5/2017. That preliminary hearing was postponed on 10/5/2017 (it would appear due to lack of judicial resources). On 18/5/2017 it was relisted for 16/6/2017. The day before the hearing it appears the Tribunal attempted to reschedule the time of the hearing, was unable to do so and so it was again postponed.

6. It should be noted that Employment Tribunal fees were declared unlawful by the Supreme Court in July 2017 and this led to a rise in the Tribunal's workload, when its resources had not been increased.

7. The respondent presented replacement grounds of resistance on 7/8/2017. A preliminary hearing was listed for 30/10/217 on 5/10/2017. At that hearing, by consent, the case was stayed until the 21/1/2018.

8. The respondent then applied for the stay to be extended to the 31/3/2018 in order to allow it to complete the internal process. The claimant agreed, upon the proviso that the internal process be completed within that timeframe.

9. The respondent wrote to the Tribunal on 13/4/2018 and said that the internal process had not concluded and to ask for a further extension to the stay. The stay was extended to 12/7/2018.

10. On 9/7/2018 the claimant requested that a preliminary hearing be listed, that application was successful and (despite the instruction that the preliminary hearing be listed 'urgently') on 17/10/2018 the case was listed for 15/11/2018.

11. That hearing took place and the case was listed for a seven day hearing to commence on 10/12/2019 on the basis that it was to determine liability and remedy, five days would be given to hear the evidence and submissions and the remaining time for the Tribunal's deliberation.

12. Unfortunately, the Tribunal was unable to compile a panel to hear the case over seven days. The Acting Regional Employment Judge conducted a telephone hearing on the 10/12/2019 and explained that he was able to compile a panel who could hear the case over five days. The proposal was that the hearing would deal with liability only, would conclude within the five-days and the panel would reserve judgment. A separate provisional remedy hearing would be listed.

13. In accordance with that modification, the hearing commenced on the 11/12/2019. After an introduction at which some preliminary matters were clarified, the Tribunal adjourned to commence reading the witness statements and documents. The evidence commenced at 2pm on the first day and good progress was made. Then, unfortunately, one member of the panel was delayed due to being held up by an accident and rather than resuming at 10am on the second day, the evidence resumed at 11.15am. Following that however, the conduct of the case was such that the evidence and oral submissions were concluded on day four and the Tribunal was able to deliberate on day five.

14. The representatives were also able to provide the Tribunal with written submissions in advance of the deliberations commencing on day five, which were extremely helpful. The Tribunal is grateful for that assistance.

Claims and issues

15. The legal and factual issues had been agreed between the parties and the Tribunal addressed the claims as set out therein.

16. The claimant lost the vision in her right eye due to Optic Neuritis and on 23/10/2015 she was diagnosed with Multiple Sclerosis (MS).

17. The respondent accepts the claimant is a disabled person for the purposes of s.6 of the Equality Act 2010 (EQA).

18. The complaint is of a detriment under s. 39(2)(d) EQA.

19. The prohibited conduct is discrimination arising from a disability s.15 EQA, a failure of the duty to make reasonable adjustments under s.20 EQA, harassment under s.26 EQA and victimisation under s.27 EQA.

20. The claimant also complains of an unlawful deduction from wages under s.13 Employment Rights Act 1996 (ERA).

Procedure

21. The Tribunal heard evidence from the claimant and from her Trade Union Representative Ms J Buttar. It then heard from the respondent's witnesses: Mr M Burke (Mr Floyd's line manager), Ms D Webster (the claimant's line manager), Ms A Scott (the claimant's temporary line manager) and Mr S Floyd (Ms Webster's line manager).

22. The Tribunal had before it two bundles running to approximately 550-pages. Having read the parties' witness statements, the Tribunal considered the documents (by no means nearly all of the documents) to which it was taken in the bundle.

23. The Tribunal was alert to any adjustment the claimant or indeed any other participant required and breaks, etc., were offered.

Chronology

24. Following the diagnosis of MS, the claimant says that between 29/12/2015 and 21/6/2016 she was subjected to 16 acts of: discrimination arising from disability; harassment; and/or victimisation; and one failure in respect of the duty to make reasonable adjustments.

25. The allegations relate to events which it is alleged took place between three-and-a half to four years ago. It was not relevant to the matters which this Tribunal had to decide why the internal process took so long. It was however to the detriment of the evidence which was heard as the witnesses said on many occasions, words to the effect of: 'it is so long ago I now can't remember'. These are serious allegations of discrimination and they should have been heard more promptly.

Findings of fact

26. The clamant worked at the respondent's Garage Desk (GD). GD deals with vehicle removal requests, liaising with contractors and dealing with theft of vehicles outside of the UK. This is a 24 hour, 7-day a week operation and the staff work a shift system to cover those hours.

27. Other issues were raised by the claimant (for example working a shift on a bank holiday on 28/12/2015), however only the allegations which featured in the list of factual issues were considered and determined. Furthermore, only the prohibited conduct as pleaded by the claimant was considered.

29/12/2015

28. A specialist chair had been ordered for the claimant. Following the diagnosis of MS, the claimant was referred to Occupational Health (OH). OH recommended that the claimant no longer work night shifts and that her 12-hour shift be reduced to four hours. This was to be increased to six hours once a suitable chair was provided for the claimant. It was also recommended that she be assessed by the Access to Work scheme. That assessment resulted in a recommendation that a different chair be ordered.

29. The claimant's evidence is that on 29/12/2015 Ms Webster demanded the claimant contact the supplier to cancel the first chair order.

30. Ms Webster agreed she asked the client to call the supplier to cancel the chair.

19/1/2016

31. The next incident was on the 19/1/2016. The claimant alleges Ms Webster aggressively confronted her in front of colleagues regarding her arriving early for her shift. The claimant was returning to work after a period of leave and as the specialist chair had arrived during this period, the length of her shift was increased to six hours. The claimant did not know her start time and so she arrived between 10.30/11.30am. Her previous shifts had started at midday.

32. The claimant arrived and as she was there, Mr Frost in Ms Webster's absence, said she could start her shift.

33. Ms Webster arrived and she thought she had sent the claimant an email stating her shift times and that the claimant had ignored that. It transpired the email had not been sent. Ms Webster was also of the view that if the

claimant was unsure of her start time, she should have checked it and that is certainly correct, rather than to just turn up. In the referral to OH, some time after the event, dated 17/2/2016 Ms Webster misrepresented the events on that day and gave an unfair summary. She also referred to giving 'words of advice' (page 150). Even after the event and once Ms Webster was aware that her email had not been sent to the claimant, she referred to 'expecting an apology' from the claimant and that she was 'disappointed' in the claimant (page 490).

34. Two of the claimant's colleagues corroborated the claimant's version of events (pages 349-350). In the Conduct Matter Investigator's Outcome Report dated 3/6/2018 PC Woolley found that the claimant's version of events was corroborated by Mr Panesar (page 496) and he seems to have accepted that statement on face value.

35. The respondent submitted these statements should be given little or no weight as they were not supported by a statement of truth. It also said the witnesses were friends of the claimant. The claimant submitted the statements or the respondent's issues with them were not put to her in cross-examination.

36. The statements are dated May 2016 and appear to have been produced in support of the claimant's grievance which she raised on 22/2/2016. They are more proximate in time to the events in question. There are no statements which support Ms Webster's version of events or which contradict the claimant's. Ms Webster did say the office was shared with another department and that department's manager was in the office. She also said that department had moved on and she was unable to call upon any witness. It is not clear to the Tribunal why that was the case and why Ms Webster was unable to contact her colleague(s).

37. The claimant also contacted HR on 21/1/2016 to say that she was in total shock at the way Ms Webster had spoken to her (page 133a).

38. Ms Webster would not have continued to be aggrieved by this situation if her version of events was correct, she was surprised to see the claimant in so early. On her own account she gave words of advice. Yet she would not have referred to the situation in the referral to OH on 17/2/2016 in the terms in which she did and she would not have referred to, some time later, expecting an apology from the claimant, unless there had been some sort of confrontation.

20/1/2016

39. In a meeting, Ms Webster referred to a member of staff with MS she had previously managed. She did this in order to be supportive and encouraging.

40. The claimant's evidence was that Ms Webster said this employee had managed to work night shifts and she could not understand why the claimant could not do so.

41. The most contemporaneous record of this conversation are the claimant's emails to OH on 21/1/2106 and 4/2/2016 (pages 133a and 133c) in which the claimant said:

> 'I am feeling so stressed out. I am in total shock at the way [Ms Webster] spoke to me and the things she said.
> I don't really know what to do and I feel so upset.'
>
> '[Ms Webster] also stated she could not understand why I was unable to work nights as she previously managed an MS sufferer who was in a wheelchair and also had a walking stick; who still managed to work night shifts. She also advised that I may not have a job in 12 months' time. Comments like this have left me feeling extremely stressed out.'

42. There is also the statement of Mr Panesar who corroborated the claimant's version of events. Mr Panesar was also so concerned about what he had witnessed that he approached Mr Mullett (a Manager and a Trade Union representative).

43. Besides speaking to Mr Mullett, the claimant also approached Mr Burke about her concerns. Mr Burke referred the claimant back to Ms Webster.

44. In addition, the claimant met with Mr Floyd. Mr Floyd cannot recall the content of the meeting, but he recalled the claimant was upset.

45. The claimant also alleges that in the same meeting, Ms Webster said that it was good that she had lost the vision in one eye as that led to the MS being diagnosed.

46. This statement attributed to Ms Webster is not referred to in the contemporaneous emails referred to above. The Tribunal finds that a statement was not made in the manner referred to by the claimant. It may have been that Ms Webster said something referencing the loss of sight and that leading to the MS diagnosis, but not in the crude manner referred to by the claimant.

17/2/2016

47. Ms Webster did inform the claimant on 17/2/2016 that she could not, as scheduled, work the weekend of 20/2/2016-21/2/2016. Ms Webster's rational was that she needed to conduct a return to work meeting, in person with the claimant. When informed of this on the 17/2/2016 the claimant offered to come into the office that day in order that the meeting could take place. The claimant was concerned that not working the weekend shift would mean that she would lose the premium payment it attracted.

48. Ms Webster could not conduct the return to work meeting then as she had been at work since 6am that morning and intended to leave the office shortly (although in the event, she did not do so).

49. The claimant then offered to come into the office on the 18/2/2016 or 19/2/2016 so the return to work meeting could take place. Ms Webster was unable to agree to this as she was on annual leave then until the 22/2/2016.

50. When asked why this meeting needed to take place prior to the claimant returning to work (and why the claimant could not work on the weekend and then have the return to work meeting on the 22/2/2016) Ms Webster citied her duty of care to the claimant. The claimant had been off work for a couple of weeks, the claimant had raised concerns about how she was being managed and there had been an unscheduled referral to OH (the claimant's email to OH of 21/1/2016 prompted a further review (page 133c)).

51. What in fact the claimant had related to OH was that she found weekend working to be less stressful (as it was not as busy). The claimant had been off work following a lumber puncture on 4/2/2016 for four days and had then been on rest days and annual leave. Ms Webster had emailed the claimant on 5/2/2016 to say that if she resumed work over that weekend to contact Mr Floyd (page 138). It is not clear why Ms Webster's view of the claimant working on weekends changed.

52. Although Ms Webster said at the time (although she could not accurately remember) OH reports were uploaded to a HR system within a couple of days, the Tribunal finds that Ms Webster saw the OH report of 4/2/2016 (page 134) on the 4/2/2016 as she acknowledged she had seen it on that date in a later referral (page 159). Ms Webster incorrectly said that the claimant had said to OH that she did not feel supported by management. That was not the case and that was Ms Webster's incorrect interpretation.

53. Ms Webster therefore had from 4/2/2016 to arrange an in-person return to work interview, well before the 17/2/2016 (her last day in the office) and before the claimant was due to return to work on the 20/2/2016.

54. Even if Ms Webster was genuinely concerned about the health and safety or wellbeing of the claimant, she had an OH report which said the claimant was well enough to return to work, albeit her shifts were again reduced from six hours to four.

55. Ms Webster could have taken other steps in order that the claimant could have worked on the weekend in question. She could have notified the claimant and held the return to work meeting well before the 17/2/2016. She could have conducted the meeting over the telephone. She could have arranged (as she accepted was a possibility) for Mr Floyd to conduct the meeting in her absence. The claimant was willing to attend the office during her absence.

56. As a result of not working the weekend, the claimant did lose out on the premium payment.

57. On the same date (17/2/2016) Ms Webster completed a referral to OH. She sent it to Mr Rahman (Mr Burke's line manager). He added some comments to the report that were of a more pejorative nature than those of Ms Webster. Although Ms Webster had referred to 'as no end date was known around her recuperative duties to full/shift duties that if this was going to be protracted then we may have to consider the role in which she is performing'. It appears Mr Rahman added in the words – 'Given GD staff perform a safety critical role where continuity on CADs handled by operator needs to be maintained, thus regular breaks cannot always be accommodated – can re-deployment be considered?'

58. The claimant saw this report on 3/3/2016 and she was upset by the comments and the reference to re-deployment.

59. The respondent's case it that the claimant had been on restricted duties (four-hour shifts) for almost three months and it was not unreasonable to make this enquiry if in an acceptable timeframe, the claimant was not going to be able to return to full-time hours.

60. It would seem the recommendation that the claimant did not work night shifts, was a permanent adjustment for her disability. Clearly then, the claimant was never going to be able to return to her full former shift pattern and some form of permanent adjustment was required.

61. The facts were the claimant had been diagnosed with MS in October 2015. She had attended work, albeit on recuperative duties. She had had

four days sickness absence following a lumber puncture on 4/2/2016. Prior to that, the clamant was absent for 21 days due to an abscess on 27/6/2015. At this stage, she had maintained attendance at work following her diagnosis, apart from one absence.

62. Furthermore, the claimant had not yet been referred to the Medical Officer (MO) for a consultation.

63. The adjustments suggested by OH had not yet been fully implemented or given time to bed in. Ms Webster in her referral acknowledged that the claimant was at an early stage in her diagnosis (page 161).

64. Generally, the manner of the referral and in particular Mr Raham's additions were particularly unsympathetic. The 'setting of the scene' for OH was a misrepresentation and negative towards the claimant.

22/2/2016

65. Ms Webster held a return to work meeting with the claimant on 22/2/2016. The claimant did not want to attend this meeting with Ms Webster, to the extent that she called HR and asked whether she needed to attend. She was told she should attend, but that she did not need to say anything if she did not wish to do so. Her Trade Union representative also called Mr Floyd and informed him the claimant did not wish to attend, but he said the meeting would go ahead (page 167).

66. As a result, the claimant attended the meeting, but did not engage with Ms Webster. By this stage, Ms Webster had for some reason taken the view that the claimant needed more management support and therefore, she could no longer work weekends as managers did not work on weekends.

67. The OH report states that the claimant preferred to work on weekends as it was less busy and therefore less stressful for her. It also referred to the claimant feeling very stressed about the way she perceived she was being treated by management (page 134). OH advised:

> '[The claimant] explains that she finds weekend working on the garage desk to be the least stressful time as the desk is quieter. I would advise that this is taken into consideration by management when undertaking the stress risk assessment and considering which days [the claimant] works. I have explained to [the claimant] that this is a management decision.'

68. On the 4/2/2016 the claimant had emailed OH and stated that Ms Webster had stated she wanted the claimant to work Monday to Friday whilst on recuperative duties. The claimant referred in that email to the disruption

diverting from her current shift pattern would cause and said there is no Monday to Friday position on the GD (page 133a).

69. The Tribunal therefore finds that Ms Webster had mentioned the claimant no longer working weekends to her before the 4/2/2016 and that she did say to the claimant in the meeting on 22/2/2016 that the claimant would no longer be working on weekends.

70. It is not accepted as Ms Webster contends, that this was a proposal. Ms Webster emailed HR on 19/2/2016 to say at the meeting on the 22/2/2016 the claimant was 'going to be told she's off operational duties and working weekdays.'

    23/2/2016

71. There was a follow-up meeting the next day. After the meeting on the 22/2/2016, the claimant asked her colleague Mr Panesar to accompany her to the meeting. At this meeting, Ms Webster again confirmed she was taking the claimant off her four-days-on and four-days-off working pattern. Ms Webster's explanation was that the four/four pattern would mean weekend working.

72. Mr Panesar's statement confirms that Ms Webster proposed a four/three working pattern.

73. It is not clear what prompted Ms Webster to decide to remove the claimant from weekend working and this decision pre-dated the OH report of 4/2/2016 as the claimant referred to it in her email to OH of 4/2/2016 before the consultation (page 133a). There is also Ms Webster's rather odd email of 5/2/2016 in which she says she was aware the claimant was 'rostered to work this weekend' and that if she did resume work, to contact Mr Floyd as the on-call SMT.

74. The claimant also alleges that at the same meeting, Ms Webster referred to her adjusted working pattern putting pressure on other members of the team.

75. Mr Panesar referred in his statement to the comment that the claimant's working pattern resulted in having to turn down her colleagues' annual leave requests.

76. Ms Webster was quoted as saying in the Conduct Matter Investigator's Outcome Report (page 491):

> '5.13.24 Ms Webster denied discussing the impact that [the claimant's] recuperative duties [were] having on the team's annual

> leave. Ms Webster states she did tell [the claimant] that she had to balance her needs while juggling the other members of staff to ensure that there was sufficient cover on Garage Desk, and did so in the context of trying to explain to [the claimant] how she was trying to be fair to everyone. Ms Webster denies mentioning it to make [the claimant] feel bad.
>
> 5.13.25 Ms Webster noted that she was also responsible for the welfare of other staff, including another that could not work nights. Ms Webster described the impact that [the claimant's] recuperative duties were having on other members of staff. Ms Webster explained that when [the claimant] was absent then more likely than not the gap … was not filled, causing an increased workload for other members of staff.'

77. In view of Ms Webster having that point of view, the Tribunal finds that Ms Webster did make comments in the meeting referring to the impact which the claimant's recuperative duties was having on the Garage Desk team.

78. During the same meeting, the claimant also alleges that Ms Webster again referred not being able to understand why the claimant could not do night shifts when another person with MS had been able to do so.

79. Ms Webster agrees that she referenced someone she had previously managed who had MS, but says that it was done so in a supportive manner.

80. The Tribunal has already found Ms Webster did make a similar reference on the 20/1/2016.

81. Mr Panesar refers to this comment in his statement (page 349). In addition, Mr Mullett made reference to this comment in an email dated 27/4/2017 to the FAW advisor and he confirmed Mr Panesar had raised this with him. Mr Mullett referred this onto Mr Floyd (page 468).

18/3/2016

82. Ms Webster proposed a rota to the claimant which was supposed to replicate a phased return to work pattern as suggested by the MO. Instead of that, Ms Webster transposed 4 x 5-hour days, with 5 x 4-hour days (page 241). That in itself did not make sense as the pattern proposed by the MO was (page 229):

> '… increase her hours from 4 hrs x 4 days and 3 days off after 2 weeks and then to 5 hrs x 4 days and 3 days off for 2 weeks and after this to revert to her 5 hrs x 4 days with 4 days off for 2 weeks.

> Then to increase to 6 hrs x 4 with 4 days off for 2 weeks. After this she could move up to 8 hrs x 4 days with 4 days off for 2 weeks. Then increase to 10 hrs x 4 days and 4 days off for 2 weeks and after this return to her normal shift pattern without night duties.'

83. Ms Webster's shift pattern faithfully replicated the MO's suggestion, apart from the one error. Ms Webster says this was a clerical mistake and the Tribunal accepts it was such.

25/5/2016

84. Although Ms Scott was appointed as the claimant's temporary line manager on 26/4/2016 this was only a cosmetic change (page 320). In reality, Ms Scott's role was as a buffer between the claimant and Ms Webster or her role was to pass on information in respect of decisions Ms Webster had taken. Ms Scott dealt with complaints from the public and said she had no knowledge of how the Garage Desk operated. She did not manage any staff herself. Ms Webster continued to arrange the rota and approve annual leave. The Tribunal was told that this arrangement of Ms Scott being a buffer, was ongoing, pending the outcome of this hearing.

85. As a result of that situation, Ms Scott passed to the claimant on the 25/5/2016 a second rota containing the same error as the one sent to the claimant on the 18/3/2016. The claimant again alleges this was an act of harassment or victimisation.

86. Ms Webster says that instead of updating the amended rota showing the claimant working 4 x 5-hour days, she must had inadvertently used rota which showed the error of 5 x 4-hour days.

87. The Tribunal accepts Ms Webster's explanation that this was a clerical error.

3/6/2016

88. When Ms Scott took over from Ms Webster, Ms Webster sent her an email containing a list of actions in respect of the claimant on 19/5/2016 (page 344).

89. One step was to issue an IMA letter (Informal Management Action) during the return to work meeting and there was an instruction was that the letter needed to be updated by Ms Scott. Ms Scott subsequently issued the letter to the claimant on 3/6/2016. The letter stated:

> 'I am writing to confirm the outcome of your return to work interview on Friday 3rd June 2016 where we also discussed your attendance.
>
> I informed you that Informal Management Action was being instigated as your attendance over the last year has been unsatisfactory, in that you have incurred 102 days sickness in the past 12 months.
>
> Your sickness will be monitored over the next 12 months and if your level of attendance does not improve and continues to give cause for concern then more formal management action may be taken, which could ultimately result is dismissal.'

90. The respondent's Attendance Management Policy Standard Operating Procedure states (page 80f):

> 'There is no requirement under the Equality Act 2010 to discount period of disability-related sickness absence providing all workplace adjustments have been agreed to be reasonable have been put in place. First line managers must make prompt decisions regarding requests for workplace adjustments, and ensure that any adjustments are made as soon as practicable. It may be reasonable to allow some leeway (up to 20-25%) when considering disability related sickness absence and in such cases advice should be sought from HR … .'

91. It is the respondent's case that the trigger point for the IMA was the 22/2/2016 and that Ms Webster had decided to relax the policy in the claimant's favour at that point. The reason at that time was that it would be unhelpfully stressful for the claimant to apply the policy at that time.

92. What that stance ignores (and bearing in mind the requirement under the policy is only that 'consideration' to issuing an IMA should be given by the line manager, not that an IMA should be issued) that it was equally stressful for Ms Scott to issue the IMA to the claimant on 3/6/2016, her first day back.

93. The claimant had been off ill since 25/3/2016 following a relapse of the MS for which she was hospitalised. This was the first period of sickness absence due to her MS that the claimant had had, after being diagnosed; save for the four days in February following the lumber puncture. That procedure was carried out to provide a further diagnosis and OH noted on 4/2/2016 that the prognosis was to await results of the further medical test and an update from the Consultant (page 135). On the 22/2/2016 the claimant informed OH that her Specialist had told her to start reading up

on the different types of medication she wished to go on, in readiness for a follow up meeting on 17/5/2016.

94. It was clearly, as had been acknowledged, still an early stage in the claimant's diagnosis. If she was prescribed medication at the follow up meeting, then she would only have been taking this for just over two weeks before she returned to work.

95. The letter handed to the claimant makes a very blunt statement and it does not address ways in which attendance can be improved.

96. There was no attempt made to lessen the impact of handing such a letter to the claimant on her first day back at work at a return to work meeting. If there was such a necessity to hand an IMA to the claimant (there does not appear to be one), then there is no reason why it cannot have been given to the claimant at a later stage. She was now back at work and as long as that remained the case, the IMA could have been given to her at any stage, for example in the weeks following her return.

97. Furthermore, this was a case where a disabled employee was returning to work. HR advised Ms Webster when she raised a query about the IMA that (page 304):

> 'Although [the claimant] has a condition will falls under the DDA, which means that there should be allowances made for apts and proportion of sickness, it is not reasonable for her to have open ended sickness.'

98. This somewhat misses the point that the claimant was not on *open-ended sickness*, but was returning to work after a sickness absence on recuperative duties.

6/6/2016

99. At a meeting on 6/6/2016 attended by the claimant, Mr Floyd, Ms Webster and Ms Scott, Mr Floyd it is recorded (by Ms Webster) asked the claimant to draft a rota or a business plan.

100. Ms Webster's note records (page 536):

> '[Mr Floyd] also reminded [the claimant] that she will still need to put a business plan together regarding her remaining in GD on the restricted/recoup hours after her completion of the recup plan. [The claimant] seemed unsure what she was being asked to for and what was required – [Ms Scott] reminded [the claimant] that this was something

> what was discussed during the Case Conference whereby she was asked to put a plan forward as to how her not working night duties would fit in with the operation running of GD and ways in which it could work. [Mr Floyd] suggested that [the claimant] may wish to speak first before putting the paperwork in to check what was required – [the claimant] was advised that options such as responsibility to tell us how her not working the shift pattern change etc could be an option and [Mr Floyd] advised that this is [the claimant's] responsibility to tell us how her not working the shift pattern and how it will work for both her and the rest of the staff in GD.'

101. During the conduct investigation Mr Floyd agreed that it would not be for the claimant to justify the reasonable adjustments proposed for her (page 493).

102. When asked about this at this hearing, Mr Floyd could not remember what was requested of the claimant at the meeting. He also appeared to be confused between a flexible working request where the employee does need to propose a plan as to how the flexible working can be accommodated and reasonable adjustments.

103. Despite all of the confusion and lack of recall, the Tribunal finds, as recorded in Ms Webster's note, that reference was made in this meeting to the claimant producing a business plan and how not working nights would fit in with the operation of the GD.

14/6/2016 and 21/6/2016

104. The remaining three allegations are allegations of victimisation, the claimant having done protected acts on 22/2/2016. The protected acts are the email to OH (page 198) and the FAW grievance (page 200).

105. The claimant alleges that on 14/6/2016 Ms Webster threatened to cut off her shift allowance and requested to see her hospital appointment letter.

106. The Tribunal accepts Ms Webster's reason for requesting sight of the appointment letter and finds the request predated and is therefore unconnected to any protected act. Ms Webster says the reason she asked to see the hospital appointment letters was due to the claimant asking for time off at short notice. She also said that she had asked to see appointment letters before the protected act. This is accepted.

107. Ms Webster denies threatening to cut off the shift allowance.

108. The only evidence in respect of the shift allowance was from the claimant. It was not clear how Ms Webster could make such a 'threat' as the claimant's pay was determined by the shifts she worked.

109. The other allegation was that Ms Webster declined the claimant's holiday request. This is factually incorrect as Ms Webster allowed the claimant to take some holiday as requested and declined part of the request. The reason for declining the request was there was not enough cover at that time. The claimant's request for holiday was on 21/6/2016 and the time off was for 23-24/7/2016 and 29-30/7/2016 (page 399). Ms Webster agreed the claimant could have 23-24/7/2016 and 30/7/2016. The claimant then asked for the 31/7/2016 as well and Ms Webster responded that she could not approve that date 'at that time' due to other members of the team being on annual leave.

The Law

110. The claims fall under the Equality Act 2010 (EQA) and the relevant sections are:

15 Discrimination arising from disability

(1) A person (A) discriminates against a disabled person (B) if—

(a) A treats B unfavourably because of something arising in consequence of B's disability, and

(b) A cannot show that the treatment is a proportionate means of achieving a legitimate aim.

(2) Subsection (1) does not apply if A shows that A did not know, and could not reasonably have been expected to know, that B had the disability.

20 Duty to make adjustments

(1) Where this Act imposes a duty to make reasonable adjustments on a person, this section, sections 21 and 22 and the applicable Schedule apply; and for those purposes, a person on whom the duty is imposed is referred to as A.

(2) The duty comprises the following three requirements.

(3) The first requirement is a requirement, where a provision, criterion or practice of A's puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with

persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage.

(4) The second requirement is a requirement, where a physical feature puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage.

(5) The third requirement is a requirement, where a disabled person would, but for the provision of an auxiliary aid, be put at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to provide the auxiliary aid.

26 Harassment

(1) A person (A) harasses another (B) if—

(a) A engages in unwanted conduct related to a relevant protected characteristic, and

(b) the conduct has the purpose or effect of—

(i) violating B's dignity, or

(ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for B.

(2) A also harasses B if—

(a) A engages in unwanted conduct of a sexual nature, and

(b) the conduct has the purpose or effect referred to in subsection (1)(b).

(3) A also harasses B if—

(a) A or another person engages in unwanted conduct of a sexual nature or that is related to gender reassignment or sex,

(b) the conduct has the purpose or effect referred to in subsection (1)(b), and

(c) because of B's rejection of or submission to the conduct, A treats B less favourably than A would treat B if B had not rejected or submitted to the conduct.

(4) In deciding whether conduct has the effect referred to in subsection (1)(b), each of the following must be taken into account—

(a) the perception of B;

(b) the other circumstances of the case;

(c) whether it is reasonable for the conduct to have that effect.

(5) The relevant protected characteristics are—

age;

disability;

gender reassignment;

race;

religion or belief;

sex;

sexual orientation.

27 Victimisation

(1) A person (A) victimises another person (B) if A subjects B to a detriment because—

(a) B does a protected act, or

(b) A believes that B has done, or may do, a protected act.

(2) Each of the following is a protected act—

(a) bringing proceedings under this Act;

(b) giving evidence or information in connection with proceedings under this Act;

(c) doing any other thing for the purposes of or in connection with this Act;

(d) making an allegation (whether or not express) that A or another person has contravened this Act.

(3) Giving false evidence or information, or making a false allegation, is not a protected act if the evidence or information is given, or the allegation is made, in bad faith.

(4) This section applies only where the person subjected to a detriment is an individual.

(5) The reference to contravening this Act includes a reference to committing a breach of an equality clause or rule.

123 Time limits

(1) Subject to sections 140A and 140B proceedings on a complaint within section 120 may not be brought after the end of—

(a) the period of 3 months starting with the date of the act to which the complaint relates, or

(b) such other period as the employment tribunal thinks just and equitable.

(2) Proceedings may not be brought in reliance on section 121(1) after the end of—

(a) the period of 6 months starting with the date of the act to which the proceedings relate, or

(b) such other period as the employment tribunal thinks just and equitable.

(3) For the purposes of this section—

(a) conduct extending over a period is to be treated as done at the end of the period;

(b) failure to do something is to be treated as occurring when the person in question decided on it.

(4) In the absence of evidence to the contrary, a person (P) is to be taken to decide on failure to do something—

(a) when P does an act inconsistent with doing it, or

(b) if P does no inconsistent act, on the expiry of the period in which P might reasonably have been expected to do it.

111. The unlawful deduction from wages claim is under the ERA:

13 Right not to suffer unauthorised deductions.

(1) An employer shall not make a deduction from wages of a worker employed by him unless—

(a) the deduction is required or authorised to be made by virtue of a statutory provision or a relevant provision of the worker's contract, or

(b) the worker has previously signified in writing his agreement or consent to the making of the deduction.

(2) In this section "relevant provision", in relation to a worker's contract, means a provision of the contract comprised—

(a) in one or more written terms of the contract of which the employer has given the worker a copy on an occasion prior to the employer making the deduction in question, or

(b) in one or more terms of the contract (whether express or implied and, if express, whether oral or in writing) the existence and effect, or combined effect, of which in relation to the worker the employer has notified to the worker in writing on such an occasion.

(3) Where the total amount of wages paid on any occasion by an employer to a worker employed by him is less than the total amount of the wages properly payable by him to the worker on that occasion (after deductions), the amount of the deficiency shall be treated for the purposes of this Part as a deduction made by the employer from the worker's wages on that occasion.

(4) Subsection (3) does not apply in so far as the deficiency is attributable to an error of any description on the part of the employer affecting the computation by him of the gross amount of the wages properly payable by him to the worker on that occasion.

(5) For the purposes of this section a relevant provision of a worker's contract having effect by virtue of a variation of the contract does not operate to authorise the making of a deduction on account of any conduct of the worker, or any other event occurring, before the variation took effect.

(6) For the purposes of this section an agreement or consent signified by a worker does not operate to authorise the making of a deduction on account of any conduct of the worker, or any other event occurring, before the agreement or consent was signified.

(7) This section does not affect any other statutory provision by virtue of which a sum payable to a worker by his employer but not constituting "wages" within the meaning of this Part is not to be subject to a deduction at the instance of the employer.

112. The Tribunal was referred to various authorities including that of Pemberton v Bishop of Southwell [2018] EWCA Civ 564, Grant v Land Registry [2011] EWCA Civ 769 and Richmond Pharmacology Ltd v Dhaliwal [2009] IRLR 336.

Conclusions

1 29/12/2015 The claimant alleges Ms Webster demanded the claimant contact the supplier to cancel a chair order. s.15 & s.26 EQA

113. The Tribunal finds this to be no more than a reasonable management request. Even if the even took place as the claimant describes (it was demanded that she contact the supplier), it is not unfavourable treatment arising in consequence of her disability. The cancellation arose as a more suitable chair had been identified and ordered. Even if it is related to the disability (rather than being a practical matter of cancelling an item which is no longer required) it is not conduct

which has the purpose of effect of violating the claimant's dignity. Nor does it create an intimidating, hostile, degrading, humiliating or offensive environment for the claimant.

114. These claims do not succeed.

2 19/1/2016 The claimant alleges Ms Webster aggressively confronted her in front of colleagues regarding her arriving early for her shift. s.26 EQA

115. The Tribunal finds that the conduct of Ms Webster towards the claimant was unwanted. The claimant was upset and offended by it. She said she felt belittled and humiliated. The claimant was accused of lying and Ms Webster certainly admitted that as she thought the email had been sent, (which had not); she thought the claimant had deliberately ignored the email.

116. The conduct related to the claimant's disability as the issue over the start time related to the recuperative duties. The claimant's perception was this was harassment as it created a hostile environment. In the circumstances of the case, namely the claimant's reduced hours causing the issue over the start time, it was reasonable for the claimant to find Ms Webster's actions created a hostile environment for her.

117. This claim succeeds.

3i 20/1/2016 The claimant alleges during a meeting Ms Webster said she could not understand why the claimant was unable to work night shifts as another person she had managed with MS had been able to do so. s.15 & s.26 EQA

3ii During the same meeting, the claimant alleges Ms Webster said that it was good the claimant had lost vision in one eye because it led to the MS being diagnosed. s.26 EQA

118. The finding is that Ms Webster did refer to the claimant's inability to work night shifts. The claimant referred to the comment made by Ms Webster in her emails to OH. The claimant was upset by this. The claimant was distraught, shaken-up and humiliated. The claimant could no longer work night shifts due to her disability and therefore this conduct was related to her condition.

119. Again, it was the claimant's disability which caused her to be unable to work night shifts and the circumstances were that Ms Webster did question the claimant about this. Overall, the Tribunal finds that a hostile

environment was created and that it was reasonable for the claimant to take that view.

120. The claim of harassment succeeds.

121. In respect of discrimination arising from disability, it is accepted Ms Webster's actions were unfavourable treatment. The 'something arising' was the claimant's inability to work night shifts. Even if the legitimate aim was the effective running of the GD, making these comments to the claimant was not a proportionate means of achieving that aim.

122. The claim under s.15 succeeds.

123. In respect of the comment that it was 'good' the claimant had lost the vision on one eye, the Tribunal finds that the comment was not made as per the claimant's allegation. It accepts Ms Webster may have made a comment referring to the loss of sight leading to the MS diagnosis, but it finds the comment was not made in the way the claimant alleges.

124. That claim for harassment fails.

4 17/2/2016 The claimant alleges Ms Webster told her not to work on the weekend (20-21/2/2016) and this caused her to lose premium payments and supplements. s.15 EQA & s.13 ERA (the unlawful deduction from wages claim)

125. Ms Webster did tell the claimant not to work on the weekend of 20/2/2016. The claimant wanted to work the shift and she was prepared to meet with Ms Webster during time off work, in order that Ms Webster could conduct the return to work meeting she insisted on holding. As a result, the claimant suffered a financial detriment.

126. The something arising from the claimant's disability was her absence from work, following the lumber puncture, which necessitated the need (in Ms Webster's view) for a return to work meeting. The unfavourable treatment was the financial consequences and the loss of the shift premium.

127. The respondent relies upon the legitimate aim of the health and safety or wellbeing of the claimant. The Tribunal accepts that is a legitimate aim. It does not however accept the respondent's actions were a proportionate means of achieving that aim. It is not clear in view of the medical advice, that a meeting was necessary. Ms Webster could have conducted the return to work meeting via the telephone, could have contacted the claimant regarding the need for the meeting earlier than she did. Or, she could have allowed Mr Floyd to conduct the meeting.

128. The claim under s.15 EQA succeeds.

129. It is accepted the claimant therefore suffered a deduction from her wages as she was not able to work the shift and therefore, she did not earn the shift premium. The deduction from wages claim has never been particularised and therefore, the claimant will need to address this at the remedy hearing.

5 17/2/2016 The manner of the referral to OH, in particular regarding redeployment. S.15 & s.27 EQA

130. Ms Webster did raised the issue of redeployment with OH on 17/2/2016. It may have been Mr Rahman who added in the more offensive comments, however the referral was signed off and it was attributed to Ms Webster.

131. The claimant clearly wished to remain working on the GD, which was an environment with which she was familiar and where she knew her colleagues well. She also had an established shift pattern which mean that she could accommodate her childcare commitments.

132. It is accepted the respondent's question about redeployment was something arising from the claimant's disability. The question and the referral would not have occurred had she not been diagnosed with MS.

133. The question arose due to the claimant being on recuperative duties, and this was unfavourable treatment.

134. Again, the respondent may have had a legitimate aim, which was full staffing of the GD. This was not however a proportionate means of achieving that legitimate aim. The adjustments suggested by OH had not at that stage been fully implemented and the adjustments which had been made, had not 'bedded-in' (pages 95-99 and 134-137). The claimant had not even had her diagnosis for four months by this stage and was on recuperative duties. The adjustments recommended by OH had not fully assisted; the claimant had been on reduced four-hour shifts, they had increased to six-hours and then been reduced back to four-hours again. It was too early in the claimant's recuperative phase to be asking questions of OH regarding redeployment and therefore this was not a proportionate means of achieving a legitimate aim.

135. The claim under s.15 succeeds.

136. The claimant also claims this is an action of victimisation under s. 27 EQA. She relies upon the protected acts being:

the email sent to HR on 22/2/2016 (page 198); and

the grievance raised on 22/2/3026 (page 200-200a).

137. The first observation is that the protected acts post-date the allegation of victimisation.

138. In general, in respect of the claims for victimisation, the Tribunal concludes that Ms Webster did not subject the claimant to a detriment *because she had done a protected act*. It is not clear when Ms Webster became aware of the protected acts. As per the findings above, there were other acts of unlawful discrimination which pre-dated the protected acts. The Tribunal finds that Ms Webster was not motivated by the protected acts and she did not subject the claimant to a detriment because of those protected acts. The Tribunal finds that Ms Webster's poor management of the claimant continued, rather than her being motivated by the protected acts.

139. In written submissions, the claimant has also suggested this allegation amounts to harassment. According to the list of issues, it was never claimed this was a s.26 EQA claim and it has not been put or defended as such (page 76). It has not therefore been considered as the prohibited conduct of harassment.

6 22/2/2016 The claimant alleges that at a return to work meeting, Ms Webster informed her she could no longer work weekends and would therefore be working four days on and three days off, not four days on and four days off s.15 EQA

140. Neither the claimant nor OH said that the claimant needed more support. In fact, the claimant said she found weekend working less stressful as the GD was quieter at weekends. For some reason, Ms Webster interpreted the OH report to read that the claimant needed more support.

141. It is clear the claimant was unresponsive in the meeting on 22/2/2016, however she and her Trade Union Representative had set out her reasons for wanting to avoid the meeting. No action had been taken by either Ms Webster or HR in respect of the outstanding OH recommendation on 4/2/2016 that a meeting be arranged to explore any management issues. Certainly, OH had not recommended weekday working for the claimant.

142. The unfavourable treatment was stating that the claimant would be removed from weekend working, despite it being her express preference

to work on weekends. The something arising, was that as a result of the claimant's disability, the respondent perceived that she needed management support.

143. If the legitimate aim was the efficient running of the GD, then it is not clear how removing weekend work was a proportionate means of achieving that aim. The claimant was on recuperative duties and was unable to work night shifts. That was causing the GD a problem. Yet when the claimant wished to continue working weekends as per her current working pattern, Ms Webster unilaterally proposed to take that away from her.

144. This claim under s.15 EQA succeeds.

7i 23/2/2016 The claimant alleges that at a meeting to discuss her duties, Ms Webster took her off the four days on four days off pattern s.15 EQA and s.27 EQA

7ii Ms Webster said the claimant's adjusted working pattern was putting pressure on other members of the team s.26 EQA

7iii Ms Webster said she could not understand why the claimant was unable to work night shifts when another person with MS had been able to do so s.15 EQA and s.26 EQA

145. Ms Webster did state that she was going to remove the claimant from her four/four working pattern. This was unfavourable treatment and it arose in consequence of the claimant's disability as she was unable to work the same shift pattern she worked before the diagnosis or in the alternative, she was unable to work nights of her full shift pattern.

146. If the legitimate aim was effective staffing of the GD, this was not a proportionate means of achieving that aim.

147. The Tribunal finds Ms Webster was not motivated by any protected act and therefore, this conduct does not amount to victimisation.

148. This claim succeeds under s.15 and fails under s.27.

149. Ms Webster did say that the claimant's adjusted working pattern was putting other members of the team under pressure. This comment was unwanted conduct related to the claimant's disability and did create a hostile or offensive environment for the claimant. Objectively, it was reasonable for this conduct to have this effect.

150. This claim succeeds as harassment under s.26.

151. This comment about being unable to work night shifts amounts to unfavourable treatment and it caused distress to the claimant. She was unable to work night shifts due to her disability and that was the something arising. If the legitimate aim was the effective staffing of the GD, then this was not a proportionate means of achieving that aim.

152. Ms Webster did make the comments about the claimant being unable to work night shifts. This was unwanted conduct relating to the claimant's disability. It did create a hostile or offensive environment for the claimant. It was objectively reasonable for this conduct to have this effect.

153. These claims succeed under s.15 and s.26.

8 18/3/2016 Ms Webster propose a rota which included the claimant working five days on and three days off s.26 EQA and s.27 EQA

154. Webster did propose a rota which contained a five day on three day off working pattern. The Tribunal however accepts this was no more than an error on her part. It was not harassment as it was not conduct related to the claimant's disability and it did not have the purpose or effect violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant. It was a clerical error.

155. Similarly, and for the reasons set out above, this was not an act of victimisation.

156. This claim fails.

9 25/5/2016 The claimant was sent an email from Ms Scott with an incorrect rota, including the five days on three days off pattern s.26 EQA and s. 27 EQA

157. Ms Scott inadvertently repeated the previous error of Ms Webster. For those same reasons, it is accepted this was a clerical error and a simple transposition of two digits when setting out a complicated shift pattern.

158. For those reasons, these claims fail.

10 3/6/2016 The claimant was handed an informal management action letter at a return to work meeting s.15 EQA, s. 20 EQA and s.27 EQA

159. The conclusion is that issuing the letter was unfavourable treatment and the decision to issue it arose as a result of the claimant's sickness absence (the something arising). Being told that if her absence did not improve, then dismissal could result was detrimental to the claimant.

160. The letter was a bald and unsympathetic statement. It did not address any issue or suggest how attendance could be improved. There was no 'need' to issue the letter when Ms Scott did so. The way it was done, the timing and the content of the letter were all unfavourable.

161. The claim under s.15 EQA therefore succeeds.

162. Under s.20, the PCP was maintaining reasonable levels of attendance. This did put the claimant at a disadvantage when compared with a non-disabled person as her sickness absence was caused by her disability.

163. The respondent failed to make reasonable adjustments. This was not an open-ended absence, the claimant had returned to work after a period of absence and she had attempted (albeit on recuperative duties) to remain at work after her diagnosis. The reasonable adjustment would have been not to issue the letter, having considered doing so under the policy, which was the only obligation. Alternatively, the respondent could have simply discussed its concerns and not issued the IMA.

164. The claim under s.20 EQA succeeds.

165. The claim of victimisation under s.27 EQA fails as the Tribunal finds the decision to issue the letter did not arise as a result of the protected acts.

11 6/6/2016 The claimant was asked at a meeting to draft a rota for all staff to accommodate her working days s.26 EQA and s.27 EQA

166. According to Ms Webster's note, the claimant was asked to draft such a rota. It seems Mr Floyd now accepts this would be unacceptable.

167. The Tribunal accepts this was unwanted conduct related to the claimant's disability. Furthermore, that it did create a hostile or offensive environment for the claimant. It was reasonable for such a request to have this effect on the claimant.

168. The claim under s.26 EQA succeeds.

169. For the reasons set out above, the claim under s.27 EQA fails as the Tribunal does not find this request was motivated by the protected acts.

12 14/6/2016 The claimant alleges Ms Webster threatened to cut off her shift allowances and requested to see her hospital appointment letter s.27 EQA

170. The Tribunal concludes that these acts are unconnected to the protected act. For that reason and those set out above, this claim of victimisation fails.

13 21/6/2016 Ms Webster declined the claimant's holiday request s. 27 EQA

171. Ms Webster did not decline the claimant's holiday request. The email exchange clearly shows that. This claim of victimisation fails.

Recommendations

172. Overall, there was a lack of training, education and understanding.

173. This was highlighted in the outcome of the FAW/grievance (dated 8/6/2017) (page 472):

> 'It is important for the MPS to deal with concerns raised by their staff and train and support managers about what constitutes bullying, harassment, victimisation, and discrimination, and I would therefore recommend that the OCU invest in equality and diversity training programme for all their staff. The SLT could contact […], Diversity & Inclusion Manager for advice and recommendation on how to deliver the training.'

174. The Tribunal was told this had not been actioned and no training had been provided.

175. There was a lack of input from HR, little proactivity and a dearth of support for both Ms Webster and the claimant. One example is OH's recommendation on 4/2/2016 that there was a meeting between both parties to explore any management issues at that stage (page134). HR was on notice of that recommendation and there is no evidence that a meeting took place (other than the meeting on 18/3/2016). Had an effective meeting been promptly arranged, it may have been that the situation did not escalate.

176. The Tribunal was advised Ms Webster took advice from HR throughout. The advice, for example that it was up to Ms Webster whether or not to issue the IMA letter to the claimant (via Ms Scott) on the day the claimant returned from a period of sickness absence, at the return to work meeting, lacked any empathy at all.

177. The was an absence of more senior management support for both the claimant and for Ms Webster. The claimant's Trade Union Representative emailed Mr Floyd on 19/2/2016 putting him on notice that the claimant did not want to attend a return to work meeting with Ms Webster. Mr Floyd replied that meeting needed to go ahead as planned (page 167). Also, Mr Burke and Mr Floyd were both on notice that the claimant had issues with Ms Webster's management style and neither took any steps to take any action, other than to refer the claimant to Mr Floyd (by Mr Burke) or to Mr Raham. This issue was also referenced in the outcome of the FAW/grievance (page 472).

178. Ms Webster said she had never completed a risk assessment and was clearly inexperienced in managing an employee in this scenario. Ms Webster would clearly have benefitted from a more experienced manager coaching or mentoring her in this situation.

179. The Tribunal was alarmed to be told that when staff were promoted into a management role, no training was provided to them. It would expect there to be a programme of management training. In addition, as institutions can become insular, it would expect external as well as internal training to be offered.

180. There was a lack of equality and diversity training and the Tribunal was told there was one on-line module following the enactment of the Equality Act 2010 and nothing since then. It was surprised to hear that there was no mandatory and up-to-date equality training.

181. The recommendation would be regular (at least bi-annually) equality and diversity training for all staff and certainly for managers. A further recommendation is that the respondent reviews the position in respect of training generally for those appointed to management roles and for regular and ongoing (including external) training to be provided. A final recommendation is that the role of HR should be reviewed in respect of how effective it is in respect of supporting both staff and managers.

Remedy

182. A provisional remedy hearing was listed for 3/7/2020 and that hearing will now be effective, unless the parties inform the Tribunal they

have reached an agreement. If that is the case, the parties are to inform the Tribunal and the remedy hearing will be vacated.

183. Directions for the remedy hearing will follow.

Employment Judge Wright
Dated: 21 January 2020