EMPLOYMENT TRIBUNALS

Claimant: Mrs T Jhuti

Respondent: Lloyds Bank Plc

Heard at: Reading **On: 21, 22, 23, 24 October 2019 and 6 March 2020**

Before: Employment Judge Gumbiti-Zimuto
Mrs A Brown and Mrs H Edwards

Appearances
For the Claimant: In Person
For the Respondent: Mr A MacMillan (Counsel)

JUDGMENT

The claimant's complaints are not well founded and are dismissed.

REASONS

1. In a claim form presented on the 19 December 2017 the claimant made complaints of disability discrimination. The respondent defended the claim. At a preliminary hearing on the 14 December 2018 before Employment Judge George the issues to be determined in this matter were agreed. The claimant has been unrepresented in these proceedings. The claimant gave evidence in support of her own case and produced a witness statement from her husband. The respondent relied on the evidence of Mr Daniel Rumsey, Mrs Laura Wall, Mr Steven Dee and Mrs Rajinder Mann. The Tribunal was provided with a trial bundle of 889 pages of documents. From these sources we made the following findings of fact.

2. The claimant commenced employment with the respondent as a mortgage advisor in April 2011. The claimant worked in the Uxbridge Branch of Halifax. In 2012 the claimant went on maternity leave. On the claimant's return form maternity leave the claimant was told by her line manager, who at the time was Sam Edmonds, that she could not return to work in Uxbridge, but she could work part-time in Beaconsfield. In 2014 the claimant was moved to Slough.

3. Following a Team meeting in August 2014 the claimant became concerned about the reasons she had been sent to work at Beaconsfield. In August 2014 the claimant sent an email to Vince Hornsby, Local Mortgage Manager, who had taken over as her line manager, about her London Weighting. In her email the claimant also stated that she would like to know why her manager told her on return from maternity leave that returning to Uxbridge was not an option and she would have to move to Beaconsfield. The claimant said that she had been physically sick with worry and considered that she had been treated unfairly in being sent to Beaconsfield.

4. In the investigation of the claimant's grievance (raised in May 2016) Vince Hornsby and Tony Coyle (Regional Mortgage Manager) were spoken to about these events in September 2014. The respondent points out that the claimant did not challenge the move to Beaconsfield at the time (i.e. in 2013). The respondent's position is that the claimant's move to Beaconsfield was a business decision, the decision was reviewed after some months and the claimant was moved to Slough. On the claimant moving to Slough the claimant was allowed to keep her London Weighting. The respondent says this was all explained to the claimant and she was told that she could raise a grievance but that she did not do so.

5. In February 2015 the claimant was diagnosed with stress and depression.

6. On 2 February 2015 the claimant sent an email with the word "grievance" in the subject line to Tony Coyle. In February 2015 the claimant's line manager was James Mark Thomas. The claimant copied the email to her line manager. In the email the claimant referred to the meeting that had taken place in September 2014 and the explanation that she had been given at that meeting, namely that it was a business decision to send her to Beaconsfield, however, the claimant was insisting that she did not understand. James Mark Thomas, commenting on this email, said that he had given the claimant a lot of extra support in building confidence but, *"she still feels upset about the past, no matter what we are discussing she brings up the past and especially being moved to Beaconsfield."*

7. The matters raised by the claimant in her email of the 2 February 2015 were not dealt with as a grievance by the respondent at the time.

8. In January 2016 the claimant states that she "*suffered a complete breakdown at work"* and her GP signed her off work.

9. It is clear from email correspondence exchanged on 4 January 2016 between Silvia Bocci and Vince Hornsby (who was once again the claimant's line manager at this time) that the claimant had lost the sympathy of some of her colleagues.

10. The respondent has a health and attendance policy under which where an absence threshold has been met line managers should initiate a wellbeing

review as part of an informal process. The threshold is met in the following instances: three occasions of sickness absence in a rolling six-month period; ten calendar days continuous sickness absence for musculoskeletal or psychological conditions such as stress, anxiety or depression; 28 calendar days continuous sickness absence. In about February 2016 the claimant had been absent in excess of 10 days for stress/depression related reason.

11. The claimant was invited to attend a wellbeing meeting. The claimant's GP had advised that she arrange a meeting with her employers to discuss the issues. The meeting took place on the 16 February 2016. The claimant was told that she could bring a family member with her to the meeting. The claimant attended alone.

12. The notes of the meeting on 16 February 2016 show that the claimant was in agreement with the action plan. The notes of the meeting show that the respondent's employees were supportive of the claimant. The notes indicate the claimant agreeing to the action plan which was to be in effect after her return to work. On the date of the meeting the claimant was not fit to return to work on the date of the meeting it was anticipated that the claimant was going to be signed off work until April 2016.

13. The notes of the 16 February 2016 record that:

SM (Sue Munro): Tandeep I'm going to be really frank with you I'm watching a colleague who is extremely emotional, crying and obviously cares about her job and her customers which is fantastic but let me ask you a question. Do you feel you could walk back into a branch tomorrow and serve customers in the way we would expect a mortgage adviser to serve their customers and interact with the branch team?
TJ (claimant): I can't
SM: Thank you for your honesty I appreciate you being honest
…
SM: I am going to propose a way forward. If you are in agreement, we act on the certificate that states return to work date 10th April 2016 to give you time to focus on you, getting better and speaking with the HML team. We will agree how often you will be in contact with Aaron who is going to be your new line manger. We will be sending you copies of three policies, the first being the bank's grievance policy, the second the bank's harassment policy and the third the bank's absence policy so in the spirit of being open and honest you have the control and feel empowered to progress the issues you have discussed earlier when you feel emotionally ready to do so. You'll be able to make informed decision having read the policies. Aaron will be there to support you.
…
SM:… So to clarify, tell me your understanding of what you will do following today's meeting.
TJ: I'll go to the doctors and explain everything and ask them to sign me off for three months. I'll speak to Aaron before, and after my holiday and

fortnightly after I came back from holiday. You're going to send me copies of the bank's grievance policy and the bank's harassment policy.
SM: And what else?
TJ: And the absence policy. …
…
SM:… So we will put an action plan into place documenting what you will do and what Aaron will do. …
SM: We are keen to ensure that there is a very clear action plan in place, regarding your absence and that you have a copy of the absence policy. So the action plan, relating to your absence, which we've yet to agree.
TJ: What will be entailed?
SM: You've told me. The HML form being sent off and you have agreed to speak with them when they contact you. The documents being sent to you in the post so you will get quite a big pack through the post so that the grievance, harassment and absence policies. We've agreed it so let's put it in writing, so we are quite clear won who is doing what. Is there anything else you wanted to ask?
TJ: No
SM: sol how long will this be in place for?
VH (Vince Hornsby): I would think past the April date on the sick note so maybe until May?
SM: Usual practise would be for a period of between one and three months, so what about six weeks, so Aaron what do you think.
AW (Aaron Ward): So Tandeep I think that if you are going back to the doctors and you've said you intend to get signed off for a period of six weeks, then six weeks for an action plan seem reasonable to me.
SM: So the action plan will be written up and reviewed regularly, and if after the six week period everything has been followed and regular contact made then this can be closed down. If, however, the plan is not being followed then we can extend the plan or progress to the formal stage of the absence policy as we would with any colleague.
TJ: This can all be settled.
….
SM: So the action plan will be for a period of time. If things improve it would get closed down. We will send you a copy of the absence policy and put measures in place. We will review and if successful then it can be closed down, however, if not then we will move to formal that way we will be treating you like anyone else in the company. Bank's policy is anywhere between one and three months for an action plan to be in place for. So we need to agree a timescale for the action plan, any thoughts?

14. In her witness statement the claimant says: *"I thought no one was interested in what I had to say. The meeting seemed to concentrate on my absence rather than the root cause. I wanted to come to work to stop me thinking about all this however I felt that they did not want me back".* The Tribunal's view is that the record of the meeting does not support the proposition that no one was interested or that the respondent did not want the claimant back. This is not evidenced by the record of the meeting.

15. On 23 February 2016 the claimant wrote to Aaron Ward stating that the meeting was not as she expected it. She made suggestions of possible changes to her diary and requested a mentor. In the same letter the claimant confirmed that she had been signed off until 1 March 2016 and was on holiday after this date.

16. Aaron Ward replied on 24 February 2016, in his response he stated: *"With regard to your request to return to work I have submitted the referral to our occupational health consultants HML. They will be in touch with you shortly to either arrange to meet you, or to complete an assessment over the phone. I have asked for their advice on your proposals to return and so we will wait for their report before agreeing any adjustments to your working pattern. I will ensure that they are aware of your holiday date sand are given your contact details."*

17. The claimant saw occupational health and a report was prepared. The report stated the claimant "*is likely to return to work upon fulsome exploration and resolution of the work related issues/ concerns, hopefully within the next 2-4 weeks".* The report also suggested a 3-4 week phased return to work plan; that the respondent undertake a stress risk assessment and discuss this with the claimant; that 1-1 weekly meeting to assess how the claimant is progressing take place. The HML report was forwarded to the claimant's line manager. The claimant gave permission for this to take place. The claimant did not get a physical copy of the report until it was provided to her by the respondent at around 29 April 2016. When asked about this in her evidence the claimant said she recalled being asked for her consent; *"I wanted my employer to see my report. I was not aware I could get report."*

18. The claimant returned to work on the 21 March 2016 and a return to work interview took place that day. At the return to work interview the claimant's line manager agreed a phased return to work in line with the recommendations in the HML report.

19. On 18 April 2016 the claimant attended an informal wellbeing review meeting with her new line manager Steve Dee, her former line manager Aaron Ward, and the HR Case Consultant Sue Munro. The meeting reviewed the action plan agreed on 16 February 2016. It was agreed that the claimant had done everything that she was asked on the action plan and the respondent had done everything it agreed on the action plan. The claimant and her managers agreed the action plan had been completed and could be closed.

20. The claimant asked what would happen if she was sick again. Steve Dee's response was: *"We will need to look at things sensibly. If you're off again in a few weeks' time then I may think it appropriate to move to the formal stage, if you have a day off with a cold in six months' time then that wouldn't necessary mean formal reviews. We will need to manage that when and if it arises."*

21. During the meeting the claimant said that the grievance was still an issue for her and that "*being off sick does all come back to the Beaconsfield decision."* The claimant had been given a copy of the harassment and grievance policy, and again told that she could raise a grievance about the move to Beaconsfield. Explaining why she had not raised a grievance the claimant said that "*each time I think about starting the letter I never know exactly what to say".* The claimant was told it could be a really short letter saying, *"a grievance about your move to Beaconsfield".* In her witness statement the claimant criticises the respondent for not considering her grievance before she returned to work as suggested in the HML report. Such a criticism is unjustified as the claimant had not raised a grievance despite being informed how to do so.

22. At the meeting the claimant's report from HML was reviewed. The claimant said she had not "*had a copy of the review completed."* The claimant did not complain or express surprise about this. The claimant's meeting with occupational health had taken place a day before the claimant went on holiday.

23. In her witness statement the claimant states that in the meeting she felt she was being threatened that she could be moved and placed anywhere up to 25 miles from her home. The record of the meeting shows that there was no threat. If the claimant felt threatened by what was said this was not an objectively reasonable reaction and not a matter for which the respondent can be criticised.

24. On 2 May 2016 the claimant raised *"a grievance regarding the treatment I received when I returned from maternity leave in September 2013 and the ongoing associated issues I have had since then."* The claimant continues by saying: *"I have tried on numerous occasions to resolve this matter with my employers without success instead my employers have chosen to concentrate on my absence rather than the root cause of my absence."* The claimant then proceeds to set out a series of complaints about the respondent concentrating on the claimant's absence and not addressing her issues. In the pre-penultimate paragraph, the claimant finally says: *"this one decision to put me in the branch that was universally known not to provide enough business … has resulted in the last three years being a living nightmare for me …"*

25. The claimant's grievance was acknowledged by the respondent on the 6 May 2016 and a grievance meeting took place with the claimant on the 20 May 2020. The claimant in her witness statement says: "*The hearing took place on the 20th May 2016 at Staines branch. It was very distressing. I was unable to sleep for days and was vomiting on my arrival."* The view of the Tribunal is that the way that the respondent conducted the grievance meeting was reasonable and appropriate.

26. After discussing her grievance, the claimant agreed with the way that her grievance was summarised by Daniel Rumsey as follows:

"Your grievance complaint relates to the fact you have never had an answer as to why you were put in Beaconsfield when you returned from maternity leave, by not receiving this answer, you believe it has had a knock on effect to your performance and health and wellbeing since 2013.
You have also stated that you had an informal Grievance in September 2014 with Vince Hornsby and Tony Coyle that answered and resolved the issues you raised around holiday and pay but never answered and resolved the question you raised with regards to why you were put in Beaconsfield.
You have stated that the HML report shows as a company we need to address the root cause in order to move forward with improving your absence as you have said you are working through this process with your current line manager Steve Dee, by me investigating the root cause in your grievance, this would enable you and Steve to look forward with regards to improving your overall health and wellbeing."

27. Daniel Rumsey then interviewed Tony Coyle and Vince Hornsby about their involvement with the claimant and the issue she raised. Daniel Rumsey was unable to speak to Sue Edmonds whose decision it was to send the claimant to Beaconsfield because she was on long term sick at the time (she was to eventually leave the respondent's employment).

28. Daniel Rumsey sent the claimant a grievance outcome on 31 May 2016. He concluded that the claimant was sent to Beaconsfield because of the business view that Beaconsfield had a high net worth client base and that it would be able to accommodate a mortgage advisor for those clients; that it would have been better if the claimant's concerns had been dealt with at the time as a grievance; that Tony Coyle and Vince Hornsby should have treated the meeting with the claimant in September 2014 as a grievance.

29. Daniel Rumsey wrote in his grievance outcome that Tony Coyle and Vince Hornsby were under the impression that the meeting in September 2014 was not an informal grievance. While giving evidence Daniel Rumsey stated that he had intended to write "formal" but mistakenly wrote "informal". He clarified that in his view Vince Hornsby, who had stated that it was an informal grievance, had not dealt with the matter correctly.

30. The claimant did not agree with the conclusions that Daniel Rumsey had reached on the grievance and she appealed. The timescales for carrying out the appeal process are: the employee must submit their appeal in writing to the hearing manager within 14 calendar days of receipt of the decision letter; the hearing manager will acknowledge the notice of appeal in writing within 7 calendar days of receipt of the appeal letter; the employee will be given no less that 7 calendar days advance written notice of the appeal meeting, unless otherwise agreed; the appeal meeting will normally be within 21 calendar days of the written notification that the employee is exercising the right of appeal; the decision will normally be

communicated to the employee in writing within 14 calendar days of the appeal meeting.

31. The claimant's appeal meeting was arranged to take place on the 18 July 2016. The timescales set out in the grievance policy had not been adhered to by the respondent.

32. In her email of the 4 June 2016 to Daniel Rumsey the claimant had said that she was asking him for "*further clarity on a few points before I make a decision on whether to appeal your decision"*. The claimant continued that "*I accept that I agreed to the move to Beaconsfield however it was with apprehension"*. The claimant states that she *"accepted the only choice given to me"*. The claimant then said her *"question still remains, why did Halifax feel that there was a high net worth client base in Beaconsfield that experience MA could not tap int to but a new, just returned from maternity leave MA could? What changed in the couple of weeks between Lakhwinder leaving the branch and me joining?*" This email led Daniel Rumsey to say to the claimant that she should appeal his decision. The claimant subsequently forwarded this email to Michelle Southan to assist her with the consideration of her appeal. The claimant informed Michelle Southan that "*when I was given the outcome it did not answer the main question I had it didn't even refer to it, therefore I asked for further clarity intitially*." The claimant then later asks *"why was I put in Beaconsfield when Lakhwinder had just been removed from there as she complained there was not enough business there by the same manager?"*

33. Michelle Southan concluded that the grievance outcome had explained the reason the claimant was placed at Beaconsfield; it was ultimately a business decision to send the claimant to that branch, at the time the claimant had not raised any objection.

34. The claimant subsequently wrote to Michelle Southan stating that the grievance appeal did not address the question why Lakhwinder Bratch was removed due to a lack of business from the same branch a few weeks earlier. Michelle Southan decided to interview Lakhwinder Bratch after receiving the claimant's letter but this did not result in any change to her decision.

35. The HML report (March 2016) had made reference to a risk assessment. Steve Dee overlooked this and did not take any action on this until July 2016 when he completed a list of questions with the claimant. The questions assessed pressure points and causes of stress for the claimant. In September 2016 the risk assessment was reviewed. The claimant stated that the risk assessment did not take place until September 2016, however, this is not correct as it is evident from the documentation that the September 2016 action was a review of a risk assessment that had taken place in July 2016.

36. Steve Dee explained that the delay in carrying out the stress risk assessment was because he and the claimant *"sat down regularly and*

instantly understood the root cause of the stress- the historical issues". Steve Dee said that the delay was not because he wanted to hurt or harm the claimant. Steve Dee stated that the email he received from the claimant on the 2 October 2016 marked a change in his relationship with her. Steve Dee stated that the claimant's absences would have triggered going to the formal process by September 2016 but that he recognised that the claimant was suffering mental health issues with anxiety and depression.

37. The claimant's relationship with her line manager had begun to deteriorate by about September and October 2016. The claimant describes her relationship with Steve Dee as difficult and says that he withdrew support, alleged that she had sworn and been aggressive in a meeting with him. The claimant had a wellbeing meeting with Steve Dee on the 30 September 2016 the claimant describes how at many points during the meeting she *"was unable to truthfully answer SD's questions… I just started to agree with them even though I knew it was not true."* The claimant's line manager describes the meeting as difficult.

38. In the notes produced by the respondent relating to the claimant's wellbeing meeting on the 30 September 2016, it is recorded that the claimant was *"extremely angry"*, "*swearing and aggressive in her hatred for her employer*" but also records that the claimant said "*she loved her job*". The notes record the claimant's performance was discussed; that the claimant was told that she was underperforming; there was agreement that the claimant was capable of good performance; the claimant explained that her disability caused her poor performance; the claimant pointed out the connection between her lack of confidence, preventing her from addressing her performance shortfall, and "*her mistreatment by her employer".*

39. There was an exchange of emails between the claimant and Steve Dee on and around 3 October 2016. The claimant disagreed with the way that Steve Dee had recorded the matters that they had discussed at the wellbeing meeting on 30 September 2016. Steve Dee considered that the claimant's account of events was wrong, and he was concerned that the claimant was not accurately relating things that had transpired between him and the claimant. He sought advice from HR and was advised not to have any further 1-2-1 meetings with the claimant unless someone else was present. Steve Dee arranged a further wellbeing meeting with the claimant.

40. By about September/October 2016 the claimant was raising the fact that she was working long hours, that she was coming in to work before hours and coming in on her days off to do admin. In her 3 October 2016 email the claimant asked Steve Dee what the respondent has done to help her and what the respondent can do to help her. At about this time the claimant was working full time to cover for Lakhwinder Bratch. Steve Dee was meeting regularly with the claimant at this time he discussed with the claimant what could be adjusted and what could not be adjusted. Steve

Dee states that it was pointed out that the expectations of customers could not be adjusted but the time off and action to address stress could be adjusted. The claimant had meetings with a coach where they discussed how to manage stress and depression. How the claimant was feeling was discussed. Steve Dee stated that he did his best to be helpful and that he genuinely felt that they were doing things together to support the claimant.

41. A wellbeing meeting took place on the 18 October 2016. Steve Dee was accompanied by Sue Munro and a note taker. The claimant describes the meeting as "*awful*". Steve Dee had seen a copy of the OH report that made reference to his interactions with the claimant. Steve Dee describes being "*shocked by some of the things that she has told OH about me … These comments were absolutely untrue and I felt very concerned about how I was supposed to work with her going forwards if she was making these kinds of unfounded allegations."*

42. During the meeting Steve Dee and the claimant revisited comments that the claimant had made to him at their previous meeting and asked the claimant about things that she had said to occupational health that appeared in the report. The claimant was being put on the spot about things that she had previously said. Also during this meeting it was emphasised that Steve Dee and Sue Munro could not do anything about the grievance, the matter had been concluded a final outcome had been given. The claimant was told that in future meetings with Steve Dee there would be a third party to make a note of what was said.

43. In March 2017 Steve Dee ceased to be the claimant's line manager. The role was taken over by Rajinder Mann. On 3 March 2017 Steve Dee and Rajinder Mann attended a meeting with the claimant. The meeting was in order to discuss a file error and the claimant's improvement plan. In the course of the meeting the claimant's wellbeing was discussed.

44. On 7 March 2017 the claimant wrote to Steve Dee and Rajinder Mann asking for a "*wellness and recovery meeting*" to take place. The claimant says that she had received no reply to this email and so after a month she sent a further email on 21 April 2017. The respondent's position is very different.

45. Rajinder Mann states that she prepared an informal action plan which she reviewed with the claimant. As a result of the matters discussed with the claimant it is the respondent's case that the informal action plan was amended. An informal wellness review meeting took place on 24 March 2017, this was an opportunity to follow up on the claimant's email of 7 March 2017. Jon Alabaster was also at the meeting. It was agreed that there would be further occupational health referral of the claimant.

46. During this meeting the claimant stated that she had been in touch with a Rethink (a mental health charity) who were sending the claimant information regarding support tools. The respondent says that the claimant was encouraged to discuss her situation with Rethink and further to

discuss the proposals that Rethink had with occupational health so that they could advise the respondent on the sensible support that it could provide the claimant. In replying to the claimant's email of 21 April 2017 Jon Alabaster pointed out that the claimant had failed to mention this in her email.

47. The claimant complains that she attempted to get the respondent to follow WRAP but they did not. Rajinder Mann explained in evidence that when the claimant mentioned WRAP she contacted HR for advice and was told that she should follow the bank's procedures and use the wellbeing review meetings, she states that HR was clear in their advice to her that she was not a counsellor.

48. The claimant's email of the 21 April 2017 asked that the respondent treat the email as a formal grievance.

49. The respondent's grievance procedure provides that on receipt of a formal grievance, the line manager should acknowledge the complaint by sending a letter to the employee within 7 calendar days of receipt.

50. On 28 April 2017 Rajinder Mann wrote to the claimant that she had registered the claimant's grievance. On 2 May 2017 Rajinder Mann sent the claimant a grievance acknowledgement letter enclosing a copy of the grievance policy.

51. The claimant was signed off work from 9 May 2017. The claimant was to remain off work until 31 January 2018.

52. On 12 May 2017 the respondent wrote to the claimant asking that he supply a detailed list of the issues. The claimant was also informed that the respondent would not review any of the issues that have already been heard through the grievance process a second time. The claimant sent an email to Rajinder Mann on 24 May setting out the matters that she would like to discuss at the grievance. The email began with the following passage:

"I have been thinking about what I would like to discuss in my grievance. Although I may have missed certain things I have tried my best to list what I believe to be unfair or still requires further discussion. I understand my grievance will not be heard until I provide this email. Therefore I have done my best I may wish to add to this during our investigation meeting. Although a grievance has been heard there are many questions I still have, I understand you will not hear anything you deem to have been heard before. As I still do not understand this I hope you will still address my concerns.
I would like to discuss the unfair treatment I received by Sam Edmonds."

53. The grievance procedure provides that a meeting to consider any formal grievance will normally be held within 21 calendar days of the respondent receiving notification in writing of a formal grievance. Employees will be

given no less than 7 calendar days advance written notice of a formal grievance meeting. The claimant was invited to a grievance meeting on the 27 June 2017. This was outside the standard timescales set out in the grievance policy.

54. The claimant requested that she be accompanied by a family member to the grievance meeting. The respondent's policy is that at the grievance meeting the claimant could be accompanied by a union representative or a work colleague. The claimant was not permitted to be accompanied by a family member.

55. The grievance meeting took place on the 27 June 2017. The claimant was unaccompanied but wanted to proceed with the meeting. The meeting was led by Laura Wall who was accompanied by Jason Barnes. There was also a note taker present. The meeting lasted two and half hours. The claimant says that during the meeting Jason Barnes *"challenged me so much, he wasn't prepared to listen to what I was saying and I was reduced to tears."* The claimant says that she was not given the opportunity to fully set out her complaint.

56. Laura Wall states that initially the claimant was clear and purposeful reading though her prepared notes. At various points the claimant was interrupted, and questions asked by Laura Wall. The claimant became very upset during the meeting and there were several adjournments so that she could compose herself. The claimant became aggressive and the view was taken by Laura Wall that it was not appropriate to continue.

57. The respondent's policy provides that the outcome of the grievance will be confirmed in writing by the hearing manager to the employee within 14 calendar days of the meeting. The claimant's grievance took about three months to conclude. This is outside the expectation of the grievance policy.

58. Following the meeting Laura Wall interviewed Vince Hornsby, Aaron Ward and Rajinder Mann. The grievance outcome meeting was on the 18 July 2017. The claimant says that she asked to be accompanied by a family member, for the meeting to be recorded, for a note taker from HR and to be permitted to take away a copy of the notes but all these requests were refused.

59. Laura Wall gave the claimant her grievance outcome. The claimant's grievance was not upheld. Laura Wall found that overall appropriate processes had been followed and appropriate support given to the claimant. The claimant was unhappy with the outcome.

60. The claimant appealed the grievance outcome. The claimant's appeal was considered by Chris Groves. The appeal meeting took place on the 6 November 2018. The claimant was given the appeal outcome on 8 December 2017. In his appeal outcome letter Chris Groves concluded

that the claimant was placed in and kept at Beaconsfield purely as a result of business need and that there was no evidence of anything untoward.

61. In her closing submissions the claimant stated that she was not legally represented, that she had received no legal advice and that *"the lack of legal input has impacted my ability to present a case to the same standard that a legally trained mind would've been capable of".* The respondent's representative in his closing submissions made the following comment which is on this point: *"there have been errors in the claimant's case, errors of law or a misunderstanding of the law."* The respondent made the point that the matter before the Tribunal is a case limited to the matters set out in the case management order made by Employment Judge George on the 26 January 2019 concerning sections 15 and 20 of the Equality Act 2010. The Tribunal note that in her submissions and through her evidence the claimant made numerous references to a duty of care owed to her by the respondent. The Tribunal recognises that there is a common law duty of care owed by the employer to an employee: an employer has a duty to take reasonable care to provide a safe workplace, an employer must not cause harm to the employee by overloading them with work. We bear this in mind when considering the claimant's complaints but emphasise that we have considered this claim as a claim made pursuant to sections 15, 20 and 21 read together with section 39 of the Equality Act 2010.

Discrimination arising from disability (section 15 Equality Act 2010 (EQA))

62. Section 15 EQA provides that a person (A) discriminates against a disabled person (B) if A treats B unfavourably because of something arising in consequence of B's disability, and A cannot show that the treatment is a proportionate means of achieving a legitimate aim. This 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.

63. The Equality and Human Rights Commission's Code of Practice (2011) states:

> "5.7 For discrimination arising from disability to occur, a disabled person must have been treated 'unfavourably'. This means that he or she must have been put at a disadvantage. Often, the disadvantage will be obvious and it will be clear that the treatment has been unfavourable; for example, a person may have been refused a job, denied a work opportunity or dismissed from their employment. But sometimes unfavourable treatment may be less obvious. Even if an employer thinks that they are acting in the best interests of a disabled person, they may still treat that person unfavourably."

Was the claimant's sickness absence from January 2016 something arising in consequence of disability?

64. The claimant describes how she had a "*complete breakdown*" at work which resulted in her being signed off work. The claimant was signed off work due to stress and depression. The nature of the claimant's disability is depression stress/anxiety. The Tribunal are satisfied that the claimant's sickness absence from January 2016 was something arising in consequence of disability.

    Did the respondent treat the claimant unfavourably as follows: (a) Impose on the claimant an absence management plan on about 16 February 2016? (b) Tell the claimant on her return to work that if she had any further days off they would reopen the plan and (c) Tell the claimant that they would not take account of the likelihood that the claimant would have further absences or her personal circumstances when deciding whether or not to reopen the plan if she had further absences.

65. The notes of the meeting on the 16 February 2016 show that the claimant was in agreement with the action plan. The notes of the meeting show that the respondent's employees were supportive of the claimant. The notes indicate the claimant agreeing to the action plan which was to be in effect after her return to work. It was made clear to the claimant by Sue Munro in the meeting on the 16 February 2016 that she was proposing a way forward, that the claimant's agreement was being sought was made clear, the claimant did not express any demur even when the claimant was asked if she understood what was expected of her. The claimant's version of the meeting is not supported by the note that record the meeting.

66. The Tribunal concluded that the action plan agreed at the meeting on the 16 February 2016 was not imposed on the claimant, it was proposed, and the claimant agreed to it. The purpose of the wellbeing review is to take positive action to ensure that the respondent provides the support that the employee needs to improve their attendance. The outcome of the wellbeing review of 16 February 2016 was not unfavourable treatment. While the action plan did not resolve matters for the claimant it did not make matters worse.

67. The respondent has an attendance policy and that involves an informal stage and a formal stage. The Tribunal accept that the claimant was told that on her return to work if she had further days off the plan would be reopened. This was not a threat. The claimant was being told what the possible outcomes could be in the event that her attendance did not improve. The manner in which this was explained to the claimant at the wellbeing review of 18 April 2016 was in our view benign. The claimant had asked what would happen if she was sick again. Steve Dee explained that the respondent "*will need to look at things sensibly".* If the claimant was off again in a few weeks' time Steve Dee said he might think it appropriate to move to the formal stage but if she had a day off with a cold in six months' time that wouldn't necessarily lead on to the formal stage. It was being clearly expressed that the circumstances would have to be considered.

68. The conclusion of the Tribunal is that the claimant has not been able to establish that she was treated unfavourably as set out in paragraph 4.5 of the list of issues.

69. The matters about which the claimant has complained concerning the respondent's management of the claimant's absence from work are in the view of the Tribunal all proportionate actions which have been shown to be so by the respondent. The holding of wellbeing meetings as a forum in which to discuss the claimant's position is in our view appropriate and proportionate. They offer the opportunity to discuss possible adjustments, they led to occupational health referrals, the claimant's agreement was sought before any action plan was set out, the possible process in the event of the claimant's attendance not improving was discussed with the claimant in clear terms, this was proportionate and appropriate in the circumstances. The nature and purpose of the meetings is signalled by the fact that the respondent in these meetings was willing to allow the claimant to be accompanied by a family member in contrast to the respondent's policy on grievance procedures which limited the claimant to being accompanied by a union representative or work colleague. At the time the claimant's conduct did not suggest that she objected to the respondent's actions.

70. The claimant states in her written closing submissions that "*there have been occasions when adjustments were reasonable, had no significant financial cost and there was little or no adverse effect on any of my colleagues."* She then goes on to provide the example, "*adapting the way the sickness monitoring procedures were implemented. I understand the absence management plan and performance improvement plan are designed be a supportive tool, however as I have stated in my evidence …, the way that Halifax went about introducing this performance measure only served have a negative effect on my mental health. I also believe that Halifax failed to consider reasonable* [adjustments,] *they could've made amendments to their policies which would've not had the same impact on me*". The Tribunal note that the claimant has not specified what complaints she makes about the implementation of the plan, she has not set out what could have been done or should have been done by the respondent. The view of the Tribunal is that the gravamen of the claimant's complaint is that the action taken by the respondent did not work and in the claimant's view it made her worse. The claimant has not said why the respondent's actions were not reasonable or proportionate to the claimant's circumstances. The Tribunal also points out that the claimant's complaint's in this case, as set out in the list of issues, did not include a complaint about the performance improvement plan -her complaints concerned the absence management plan.

71. The claimant's complaint that she subjected to unfavourable treatment because of something arising in consequence of the claimant's disability is not well founded and is dismissed.

<u>Reasonable adjustments: Sections 20 and 21 EQA</u>

72. The duty to make reasonable adjustments arises where a provision, criterion or practice of an employer'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. An employer discriminates against a disabled person if he fails to comply with the duty in relation to that employee.

    Did the respondent not know and could it not reasonably have been expected to know the claimant was a disabled person?

73. In February 2015 the claimant was diagnosed as having stress and depression by her GP. The claimant provided a fit note to the respondent in respect of her absence form which at that time was certified for a period of 21 days.

74. The claimant describes how in January 2016 she "*suffered a complete breakdown at work"* and was signed off work by her GP. The claimant was referred to occupational health who were informed that the claimant has been off sick from work due to work related depression. Occupational health were asked to assess her fitness to work, *"alongside any related issues, in respect of her current health status".* The occupational health report stated the opinion that the claimant was disabled by reason of depression, referred the manager to a link and gave further guidance including that "*you are advised to manage adjustments in relation to disability related sickness absence in line with your organizational disability related sickness absence policy."*

75. The Tribunal is satisfied that at least by around the 3 March 2016 the respondent was aware that the claimant was a disabled person within the meaning of the Equality Act 2010.

76. The respondent accepts that it applied the following provision, criterion or practice: (a) That the claimant should carry out the full range of the duties and responsibility of her role from her return to work in April 2016 onwards; (b) That the claimant should sustain a reasonable level of attendance; (c) The absence management plan; and (d) That employees should not be able to be accompanied to grievance hearings by family members.

    Did any such PCP put the claimant at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled at any relevant time, in that: (a) That the claimant should carry out the full range of her duties and responsibilities on her role from her return to work in April 2016 onwards, increased stress which made her symptoms worse and put her at increased risk of future absences from work.

77. The claimant argues that there were a number of steps which, had they been taken, would have avoided her subsequent sickness absences. In

particular, on the claimant's return to work in April 2016 she had a backlog of work with the consequence that she worked 5 days a week rather than the 3 days a week she was contracted to do to address it.

78. The list of issues sets out the claimant's complaint about returning to a back log of work in April 2016. The claimant in her witness statement does not make clear when she had the backlog. She mentions returning to work and finding "*none of my cases had been worked on"* in paragraph 22 of her witness statement, this appears to be around or after February 2015. When the claimant refers to her absence starting in January 2016 the claimant does not make any mention of a backlog when referring to her return to work in April 2016. The claimant did not complain of a backlog of work at the wellbeing meeting on the 18 April 2016, which was almost a month after her return to work. The respondent denies there was a back log of work at any time in particular in April 2016.

79. In his witness statement Steve Dee says this about the claimant's alleged backlog of work: *"I do not recall there being any backlog at all. Mrs Jhuti's role does not involve a great deal of admin and as such there would not have been a great amount that would have required to be picked up on her return. Indeed, I believe that she returned to a clean slate, as would be the case for any mortgage advisor returning to work after a period of absence. Mortgage advisors generally carry out work following an appointment with a customer in order to resolve their issues or meet their needs. As Mrs Jhuti began to see customers she would inevitably have ended meetings with actions to take away, for example maybe the need to establish some facts and call customers back."* This passage was put to the claimant in the course of giving evidence. The response we noted was as follows: "*The way my job is – deal with product transfers. I had all of those of the branch you need to physically put it on. Because no one worked on my cases not gone through – lots and lots of complaints I did not have ability to deal with. When I was at work, I was getting those complaints."* The claimant's response was not clear as to whether there was a true back log of work or an increase in admin as the claimant's work progressed on her return. The conclusion of the Tribunal is that it has not been established that there was a true backlog however we accept that there was an increase in the admin that the claimant was required to do as she continued to work after her return to work.

80. The claimant had a phased return to work. This involved the claimant working three days a week. The claimant did not work five days a week on her return. The claimant gave evidence that there came a point when the claimant came in to work on her days off in order to keep up with her work. We note however that this occurred later on an not in the wake of her return to work in March 2016.

81. The substance of what the claimant complains of as set out in the list of issues at 4.11a is not established, there was no backlog and the claimant did not have to work five days a week. However, it is clear that the

claimant feels that she was at a disadvantage arising from the arrangements which were made for her on her return to work.

Did any such PCP put the claimant at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled at any relevant time, in that: (b)That the claimant should sustain a reasonable level of attendance, as a person disabled by reason of depression (work-related), stress/anxiety the claimant was unable to sustain a reasonable level of attendance and was at an increased risk of being subjected to an absence management plan?

82. At the April 2016 informal wellbeing review meeting, line manager Steve Dee agreed the action plan could be closed. The claimant agreed that the phased return to work had worked well for her and she did not express objection to the proposed action or what had taken place during the period of the action plan. When the claimant asked what would happen if she was sick again she was told that it will be necessary to look at things sensibly, so if the claimant has a day off with a cold that wouldn't necessarily mean a formal review, things will be managed as they arise. The claimant was being told that the action taken will depend on the circumstances, the respondent would not necessarily take action because the claimant was absent. The wellbeing review was an informal review process which properly used allowed the claimant and the respondent a space in which to work to find a way forward. The respondent in our view properly utilised this facility in the claimant's case. The Tribunal notes that the respondent could have gone to a formal procedure did not do so recognising that the claimant's attendance problems arose from her depression and anxiety. We note Steve Dee who gave evidence that by September 2016 the position had been reached where the respondent could have gone to the formal procedure.

83. While the claimant may well have been more susceptible to absence from work by reason of her disability. The operation of the informal wellbeing review process was intended as a way to prevent disadvantage to the claimant. The Tribunal is satisfied that in the main this occurred. The heart of the claimant's problems at work arose not from the management of her absence but from the respondent's failure to address her concerns which went back to her move to Beaconsfield.

Did any such PCP put the claimant at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled at any relevant time, in that: (c) The absence management plan, that as a person disabled by reason of depression (work-related), stress/anxiety the claimant was at an increased risk of hitting the trigger points for action under the absence management plan?

84. As previously stated, the respondent has a health and attendance policy under which where an absence threshold has been met line managers should initiate a wellbeing review as part of an informal process. The threshold is met in the following instances: three occasions of sickness

absence in a rolling six-month period; ten calendar days continuous sickness absence for musculoskeletal or psychological conditions such as stress, anxiety or depression; 28 calendar days continuous sickness absence. In about February 2016 the claimant had been absent in excess of 10 days for stress/depression related reason.

85. The respondent's attendance policy has an informal stage and a formal stage. While the claimant was told that if she had further days off the plan would be reopened. The claimant was accurately informed of possible outcomes if her attendance did not improve. This was appropriately done at a wellbeing review on 18 April 2016.

86. The Tribunal do not consider that it has been shown that there was a substantial disadvantage to the claimant in the way that the absence management plan in the claimant's case was conducted.

    Did any such PCP put the claimant at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled at any relevant time, in that: (d) That employees should not be able to be accompanied to grievance hearings by family members, as a person disabled by reason of depression (work-related), stress/anxiety the claimant suffered increased stress without the support of a family member which inhibited her ability to explain her complaints.

87. The claimant asked that she be accompanied by a family member to her grievance meeting in June 2017. The request was made to Laura Wall who after receiving advice from HR refused the request. The basis for refusal appears to be that this is not allowed under the bank's grievance policy. The claimant did not pursue the matter after the decision was made. At the grievance meeting the claimant was not accompanied by any person, she was not a member of a union and did not wish to get a work colleague involved for fear of reprisals (despite the reassurance that there would be no reprisals). In her evidence the claimant does not explain why she suffers a substantial disadvantage by the application of the policy in her case. It is noted by the Tribunal that in respect of the wellbeing meeting the respondent was willing to allow the claimant to be accompanied by a member of her family and the claimant chose not to take up the offer in that context. In her witness statement the claimant refers to it in the following way: *"on the invite letter* (i.e. to attend the wellbeing meeting on 16 February 2016) *it states I may bring a family member. In other subsequent meetings I have requested to bring a family member but it has been denied."* The claimant does not expand in her witness statement or in her evidence while being questioned. It is not clear to the Tribunal that the claimant suffered a substantial disadvantage in that she was not permitted to bring a family member to the grievance meeting in June 2017.

88. In her written submissions the claimant says this: "*I also draw to everyone's attention that I made my numerous requests for assistance, guidance and support and have explained during this hearing how*

devastated I felt upon learning that there were countless tools available to Halifax that would've have provided me with the assistance, guidance and support I was seeking. Halifax failed in their duty under the relevant acts to provide me with any of the examples of support I have given. For example, the simple act of allowing a family member to attend meetings with me for support." The claimant does not specify in the submissions or the evidence the "countless tools available" referred to and fails to explain why in respect of the request to be accompanied by a family member she refused the offer when made in the context of the wellbeing meeting or what if anything prevented her from having the support of a family member when travelling to attend a grievance and e.g. waiting outside the meeting room.

89. The Tribunal have not been able to conclude that the claimant has shown that there was a provision, criterion or practice of the respondent that put the claimant, a disabled person, at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled. We have gone to consider, if we a wrong in that conclusion, whether the respondent failed in the obligation to take such steps as it is reasonable to have to take to avoid the disadvantage.

90. In the list of issues, the claimant relies on a number of matters we deal with them in the order they are set out at paragraph 4.13 of the list of issues.

91. The claimant contends that at the time of her return to work in April 2016, there should have been a fulsome exploration of work perceived issues prior to her return to work as recommended by their occupational health adviser. This is perhaps at the heart of the problems in this case. The claimant had a grievance about the decision to move her to Beaconsfield in 2013. From about August 2014 the claimant had a desire to know what the reasons for the move were. The claimant does not consider that it was an objectively sensible decision: the Beaconsfield branch did not have sufficient work for a mortgage advisor; the claimant believed that the respondent had moved her immediate predecessor in the role at Beaconsfield because it was acknowledged the work was not there to justify a mortgage advisor; the claimant believed that she was moved to Beaconsfield because of some animus towards her from Sam Edmonds (the relevant manager at the time) perhaps arising from the fact that the claimant had fallen pregnant.

92. The claimant had raised her concerns about the move to Beaconsfield with Tony Coyle and Vince Hornsby in about September 2014 and despite meeting with them she did not get an answer to her concerns. They addressed other issues that the claimant raised but did not deal with her complaint about the move to Beaconsfield. The claimant had raised the issue in a manner which should have given rise to the matter being dealt with a grievance however no action was taken under the respondent's grievance policy.

93. In the occupational health report produced following the referral made after the 16 February 2016 wellbeing meeting it was stated under the heading "Recommendations / Opinion", *"The prognosis is good going forward with fulsome exploration and resolution of the work related issues".* At the wellbeing meeting that took place on the 18 April 2016 it was made clear that the claimant could raise a grievance as a way of seeking an exploration of these issues. The claimant was given the policy and told it was up to her to raise the grievance. The claimant eventually did raise a grievance it was considered, and an outcome provided to the claimant. The claimant did not accept the decision and appealed. The claimant did not accept the appeal and continued to voice her discontent. It is the claimant's view that her questions have never been answered by the respondent about the Beaconsfield move in 2013.

94. The way that the claimant deals with issue in her written closing submissions is instructive. *"I also acknowledge that may have placed far too much focus on the outcomes of the grievances I submitted. I felt that I had been treated unfairly and that my employers went out of their way to refuse to acknowledge the poor treatment. Considering so many employees who played a role in treating me unfairly have since left the company. I felt that the situation could've been looked at anew by my employers and could've led to an improvement in my medical condition. Alternatively, I feel it was reasonable to explore alternative outcomes such as mediation provided by a third party which is a reasonable adjustment that I have seen no evidence was ever considered."* In our view what the claimant really wanted was a new or different answer to the one given to her in the grievance processes of 2016 and 2017. What she wanted was an acknowledgment that she had been treated unfairly.

95. The conclusion of the Tribunal is that the claimant had been given an answer. The claimant does not accept the answer as satisfactory but in our view the reason for the move was answered. The claimant's suggestions that there was an improper motivation in transferring to Beaconsfield has not been substantiated, the claimant also does not accept this.

96. The conclusion of the Tribunal is that the respondent acted reasonably in the way that it dealt with the claimant on her return to work in March 2016. The respondent did address the issue of the claimant's perceived issues when she raised them. On the claimant's return to work in about March 2016 there was no failure to follow the occupational health report in the way that respondent dealt with the claimant's concerns arising from the move to Beaconsfield.

97. The Tribunal did not find that there was any back log when the claimant returned to work which resulted in the claimant working a 5-day week instead of a 3-day week.

98. The claimant complains that she was not assigned a mentor from 23 February 2016 onwards. Following the meeting on 16 February 2016 the

claimant wrote to Aaron Ward. In her email she included the following: *"I also thought another possible adaptation could be if you could provide me with a mentor that could help and support me. I am happy to listen to any other suggestions as I am really eager to continue to do my job."* Aaron Ward told the claimant in reply that he had asked for advice from occupational health on her proposals and that he would await their report. This is a reasonable way of proceeding as long as the advice is heeded.

99. At her return to work meeting (21 March 2016) the claimant and Aaron Ward discussed the support that the claimant would have. There was no specific reference to a mentor. It was agreed that Hardeep Mann a mortgage advisor from Slough would provide the claimant with support. Hardeep Mann agreed to support the claimant ensuring that she is able "*to observe some appointments with customers to get back into the MSP system".* The claimant discussed her progress at the wellbeing meeting on the 18 April at this meeting the claimant was not asking for mentor. It was suggested that since the claimant had got back "*things had been going really well*". The claimant's response was that all the training had been done, the claimant had observed Hardeep Mann and spent two days with another colleague, "*seeing them has made a massive difference and I'm not afraid to pick up the phone to Steve and call him."* In the meeting the claimant did express the reservation that she had not observed enough appointments and her "*nerves about the appointments tomorrow"* was noted by Steve Dee, but the claimant was reassured by the fact that Steve Dee was going to be present observing the claimant.

100. The claimant was not appointed a mentor, however the Tribunal note that the claimant never raised the issue of the mentor at the return to work meeting when support for her from Hardeep was discussed or at the wellbeing meeting when the claimant agreed that things had gone well. The conclusion of the Tribunal is that the respondent has acted reasonably in dealing with matters in the way that they did which was in line with the occupational health's advice.

101. The contention from the claimant is that the claimant's manager should have responded to the claimant's requests for assistance. It is not specified in the list of issues where the failure to heed the claimant's request for assistance arise. The claimant was given support in relation to her work. The claimant did make complaints about Beaconsfield which were not addressed by her various mangers however this was because there was nothing they could do about that issue which was to be considered under the grievance procedure.

102. The claimant states that she should have been given time to undertake Mortgage Market Review training within normal working time. It is clear from the claimant's own evidence that the claimant was provided with time to attend training in work time.

103. In relation to the application of the absence management plan, the claimant contends that the respondent should have adjusted the trigger

points for further action under the policy and followed occupational health advice.

104. The Tribunal considers that the respondent behaved reasonably in the application of the absence management policy. The respondent operated it in a way that was supportive and not in any sense punitive. The view of the Tribunal is that the respondent did act on the advice from occupational health and followed the advice when making management decisions relating to the claimant.

105. In relation to the claimant's 2016 grievance, the claimant says that the respondent failed to expedite or keeping to their own time limits for the investigation and determination of the grievance which would have enabled the claimant to return to work and failed to investigate the claimant's grievance thoroughly.

106. The claimant is justified in complaining about the failure to comply with time limits. The claimant's grievance was not straight forward as it required exploration of historical matters. However, none of that justifies or properly explains the delay in dealing with the grievance.

107. The Tribunal do not consider that the application of any provision, criterion or practice as alleged in this matter put the claimant at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled. There was a delay in dealing with the claimant's grievance however there was no connection between that delay and a provision, criterion or practice.

108. The Tribunal are satisfied that the claimant's 2016 grievance was thoroughly investigated. We note that the claimant was questioned about what she considered to be a "fulsome exploration" of the issues she stated as follows: "*it was not a fulsome exploration of my problems. I wanted my employer to listen to me explore why I felt that Sam Edmunds treated me unfairly. I wanted then to address my issues of the past, that is on going issues since my return from maternity".* This happened in the grievance and the grievance appeal the claimant was told why she was sent to Beaconsfield and she was told in the 2017 grievance that there were no improper factors found in the decision to send the claimant to Beaconsfield. The claimant did not accept this believing that she had been set up to fail by being sent to Beaconsfield by Sue Edmonds after falling pregnant.

109. In relation to the claimant's 2017 grievance, the claimant says that there was a failure to expedite or keeping to their own time limits for the investigation and determination of the grievance which would have enabled the claimant to return to work. In respect of the 2017 grievance the Tribunal is also of the view that the application of any provision, criterion or practice as alleged in this matter put the claimant at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled. There was a delay in dealing with the claimant's grievance however there was no connection between that delay

and a provision, criterion or practice. There was a delay in dealing with the claimant's 2017 grievance. The delay in dealing with that grievance in part arises from the way that the claimant made the grievance and her failing to act, however that does not explain the bulk of the delay which was squarely due to the respondent's failure to act. In the matter of delay we are of the view that there is no explanation put forward that satisfactorily explains it.

110. We do not however accept the claimant's contention that the investigation of the grievance was not thorough, it was, the claimant simply did not agree with the outcome. The respondent having carried out a thorough investigation of the claimant's grievance concluded that the claimant's grievance was not made out.

111. The respondent's policy is that employees are accompanied by union representatives or a work colleague. This is a reasonable policy; it is standard among a lot of employers. Allowing the claimant's husband to attend the grievance hearing would have been acting outside the respondent's policy. The claimant did not raise the issue with Laura Wall at the grievance hearing she made no mention of it when the question of proceeding without being accompanied was mentioned. Laura Wall was acting reasonably in proceedings with the meeting. The claimant was not prevented from being accompanied by anyone to attend the grievance meeting. There was nothing that prevented this. It was a matter entirely in the claimant's own control.

112. While the claimant could have been allowed the facility of tape recording the meeting and so as to provide the claimant with notes of the meeting to take away so that she could check the accuracy of them. The fact that she was not allowed this facility is not an unreasonable way of proceeding. The claimant could have been accompanied by a notetaker (so long as they were a union representative or a colleague). This was in her own gift. Further the claimant did not raise the matter at the hearing itself, and attended the hearing knowing how the hearing was to proceed (i.e. that there would be no recording permitted).

113. The claimant was provided two non-identical outcomes for grievance hearing however the differences are not significant and caused the claimant no prejudice. There is no link between any alleged provision, criterion or practice and the failure alleged.

114. The claimant has made several complaints as set out in the list of issues at 4.14 e. (i)-(v). These matters have not been clearly addressed in the evidence presented to the Tribunal. There has been no real attempt to show how these matters relate to the provision, criterion or practice.

115. In her written closing submissions that claimant states: *"During the trial have heard that Halifax believes that they did offer me various support tools, such as wellbeing meetings and occupational health referrals, however none of the tools I was offered were what I considered to be*

reasonable adjustments. The WRAP plan which was created and circulated by a mental health charity was a reasonable adjustment which could've been considered by my employers. There is a clear emphasis within the WRAP plan on employees mental well-being, but I have seen no evidence that it's use was ever even considered. You have heard from my manager, Steven Dee that he was not even aware of the existence of this very simple adjustment." The claimant says that none of the tools she was offered she considered to be reasonable adjustments. The claimant accepts that she was offered "tools" but she fails to acknowledge that they were action designed to address the issues arising from the claimant which affected her ability to work well. This was a reasonable course of action. The respondent applied the wellbeing procedure in the claimant's case this was aimed at achieving the same thing as the WRAP. The claimant's criticism of Steve Dee in respect of the WRAP are no justified. The issue of the WRAP arose after he had ceased to be the claimant's manager, his knowledge of it is not relevant.

116. The claimant's complaints are not well founded and are dismissed.

117. The claimant's complaints relating to matters prior to 18 July 2017 have been presented outside the time limit for the presentation of complaints. Had we found in the claimant's favour we would have concluded that it is just and equitable to consider the claimants complaints because they relate to a series of connected events which cannot properly be considered without looking at the whole; the nature of the complaints made by the claimant are such that they would not necessarily crystallise in an instant moment but would have developed over time as the claimant comes to understand and reflect on her circumstances; the respondent is a large well-resourced organisation which by the nature of the complaint is in a position to give a full and proper response notwithstanding the passage of time.

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Employment Judge Gumbiti-Zimuto

Date: 2 April 2020

Sent to the parties on: .....

.....17.04.2020.....
For the Tribunals Office