



# EMPLOYMENT TRIBUNALS

**Heard at:** Bodmin (in person) **On:** 28 September 2022

**Claimant:** Mr Grahame Barton

**Respondent:** South Western Ambulance Service NHS Foundation Trust

**Before:** Employment Judge E Fowell

Ms Rachael Hewitt-Gray

Ms Helen Scadding

**Representation:**

**Claimant** Mr Pollitt of counsel, instructed by Slater and Gordon (UK) Ltd

**Respondent** Mr Sellwood of counsel, instructed by Michelmores LLP

## JUDGMENT

The unanimous decision of the Tribunal is that the complaint of failure to make reasonable adjustments is dismissed.

## REASONS

### Introduction

1. These written reasons are provided at the request of the claimant following oral reasons given on the day of the hearing.
2. Mr Barton is a paramedic, based in Penzance. He joined the Trust in 2014 and progressed through to qualification as a paramedic in 2019. Unfortunately, he was diagnosed with PTSD following a traumatic incident in March 2020. That condition took some time to develop, and the diagnosis was made in a psychologist's report in January 2021. His attendance was affected and he found it more and more difficult to deal with uncertainty at work.

3. His job takes him all over Cornwall, as far as Derriford Hospital in Plymouth, about 77 miles away. As time went on he became concerned about being away from his home base in Penzance, and having to do “relief” shifts. These involve working anywhere in the county where there is a gap, so the working day is much less certain. The normal pattern for paramedics is to work eight weeks of planned shifts followed by two weeks of relief shifts, covering holiday and sickness absences across Cornwall.
4. The Trust accepts that Mr Barton has PTSD and that this amounts to a disability. The sole complaint here is one of failure to make reasonable adjustments. Section 20 of the Equality Act 2010 states that there is a requirement
  - (3) ... where a provision, criterion or practice [PCP] of [the 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.
5. The PCPs identified at the preliminary hearing were:
  - (a) requiring paramedics to work this shift pattern, which includes two weeks of relief shifts every ten weeks, during which they are unaware of their work schedule; and
  - (b) requiring paramedics to take breaks at any base station.
6. The Trust agrees that those are the arrangements in place, but say that they did not put Mr Barton at a substantial disadvantage, or if they did they were not aware of it.
7. Mr Barton sought two particular adjustments:
  - (a) not to have to work relief shifts, but instead to work as normal from Penzance; and
  - (b) while doing his normal, planned shifts, to be allowed to take all his breaks at the Penzance base station.
8. The only remaining questions are whether those adjustments were reasonable, or whether there were any other reasonable adjustments which would have overcome the disadvantage in question.

### **Procedure and evidence**

9. There are two claim forms here. The first was submitted on 6 October 2021, before Mr Barton got legal representation. The second was submitted afterwards, on 10 November 2021. The second one is essentially just a restatement of the first, with some more detail and they were soon consolidated. Nothing turns on the fact that his case was put forward in this way and there are no time limit issues.

10. Both claims also stated that Mr Barton had knee pain, amounting to a separate disability. The adjustment sought was that he only drive what are known as rapid response vehicles (RRVs), i.e. cars. But at the preliminary hearing in May 2022 he accepted that his knee condition was not a disability and so that adjustment has not been pursued.
11. We heard evidence from Mr Barton, and on behalf of the Trust from:
  - (a) Mr Geoff Griffin, County Commander, who is in charge of the Trust's operations in Cornwall and the Isles of Scilly.
  - (b) Mr Rhys Griffiths, the Trust's Head of Education, and who was at the time a Learning and Development manager, and who chaired Mr Barton's grievance hearing;
  - (c) Mr Jon Knight, Deputy Head of Clinical Operations and Safety, who chaired the appeal hearing.
12. We also had witness statements from two witnesses who were not able to attend, and so less weight has to be attached to their evidence. They are:
  - (a) Mr Ashley Mann, Deputy County Commander; and
  - (b) Mr Simon Taylor, Operations Officer, who reports to Mr Mann
13. In approaching this exercise, we are mindful that the question of whether a particular adjustment is reasonable is an objective test. That was confirmed by the Court of Appeal in **Smith v Churchills Stairlifts plc** 2006 ICR 524. Ultimately, it is the Employment Tribunal's view of what is reasonable that matters.
14. Similarly, in **Royal Bank of Scotland v Ashton** 2011 ICR 632, EAT, the Appeal Tribunal emphasised that when addressing the issue of reasonableness of any proposed adjustment the focus has to be on the practical result of the measures that can be taken. In the words of Mr Justice Langstaff:

'It is not — and it is an error — for the focus to be upon the process of reasoning by which a possible adjustment was considered... [I]t is irrelevant to consider the employer's thought processes or other processes leading to the making or failure to make a reasonable adjustment.'
15. Hence, we did not explore in any detail the grievance process followed by the Trust.
16. Having considered this evidence and the submissions on each side, we make the following findings of fact, which are limited to those necessary to support our conclusions.

## **Findings of Fact**

17. The Trust has about 500 staff operating across the South West of the UK, and on any given day there are up to 50 ambulances working in Cornwall. Cornwall is geographically a large, rural county, with one main hospital at Treliick in Truro and a limited and sometimes crowded road network.
18. Mr Barton qualified as a paramedic in late 2019, after which there is a two year period as Newly Qualified Practitioner (NQP). That was completed in December 2021, after these proceedings were commenced, and at that stage Mr Barton acquired a full, Band 6, paramedic position.
19. As a paramedic, Mr Barton is responsible for the assessment, care, treatment and transportation of patients. He can be called to attend incidents across the county in patients' homes and hospitals. This can involve travelling anywhere from Land's End to Plymouth during the course of a shift and, of course, these journeys cannot be predicted ahead of time. In some cases, his work could take him even further afield, since patients may need to be transported out of the county to more specialist facilities.

### *Base Stations*

20. Each paramedic has a base station, which is for administrative and management purposes. It is a place to park and store personal belongings. They do not spend much time there unless demand for their services is low, which is uncommon.
21. In fact, since June 2021, the Trust has been at the highest level of demand, known as Resource Escalation Action Plan (REAP) level 4. Level one/two is the normal state, and level four is the highest, indicating a potential for failures within the service. At level 4, patients with urgent and immediately life-threatening conditions are the priority and those with less serious conditions are advised that there may be a delayed response or, if it is safe to do so, are asked to seek alternative care. Hence, throughout the period in question, and even today, the Trust has been under extreme operational pressure and has found itself at times unable to meet the demands on it for emergency medical care.

### *Relief Shifts*

22. As Mr Griffin explained, the work of the ambulance service is "demand based" and the correct level of resource needs to be available in the county to ensure that the Trust can fulfil that demand. There are now 24 paramedics based at Penzance, 21 of which work on a rota line (or part of a rota line) and three of them work on permanent relief duties. He set out the rota pattern at paragraph 3.2 onwards of his witness statement:

- 3.2 "Rota lines have set patterns and these patterns repeat. The Claimant is on a 10-week rota pattern. Each week the person progresses through the pattern (Line 1 to 2, 3, 4 and so on). Following completion of week 10 they recommence at week 1 and the cycle continues. Within a 10-week rota 8 weeks are pre-planned and known to the staff member, and 2 back-to-back weeks are unknown. The staff member's shifts in these 2 weeks are based on shortfalls created by other team members' absence through annual leave or sickness (Relief).
  - 3.3 Relief allows the Respondent to plan for periods of leave and sickness. The Trust has around 2% of staff on leave on a constant basis and aims for sickness absence levels to be at no more than 4% at any one time. To ensure enough resources and staff are available to attend calls, the Trust plans Relief around known/anticipated leave and sickness absences 6 weeks in advance. However, the Trust is unable to plan for short notice absences.
  - 3.4 Relief planning is also used as a means of maximising blocks of shifts to minimise the impact of a working week on staff members' health and wellbeing. An example of a good pattern may be Thursday/Friday 06:00-1800, Saturday 11:00-23:00 and a Sunday 18:00-06:00. This allows for the staff member to change their natural body rhythm and return to a normal pattern ahead of the next run of shifts. When shifts are not planned in this way, it results in staff working a mixture of day and night shifts within the same week, often with days off in between and the body becomes out of flux. The Trust want staff to be able to operate at 100%, not only for the safety of the community, but also for their own mental and physical wellbeing. Prior to planning in this way, the Trust saw inflexible working patterns, which ultimately led to higher levels of sickness and stress.
  - 3.5 Relief is planned in accordance with Trust Policy at any site within 30 miles of their Base Station.
  - 3.6 The rota lines have been agreed with the individual members of staff, stations and the Trust, and they are supported by policy and unions. The Trust is unable to make changes to rota patterns without staff agreement. Any change would have an impact on those working Relief at any station site within 30 miles.
23. It follows that the relief periods are not simply to cover for staff going sick at short notice or taking holidays, they enable the Trust to manage the workload of ambulance crews generally, to ensure that for 8 weeks out of 10, in the interests of their health, safety and welfare, they have a manageable working pattern, and avoids excess hours or incompatible shifts.

#### *Meal Break Policy*

24. Paramedics work long shifts and are entitled to rest periods. There is a written policy in place across the Trust dealing with when and where they can take their break and have some food. By long-standing arrangement, crews are entitled to return to their base station at some point during the shift, to have a meal and a break. This might not always be particularly convenient from the Trust's point of view, since it involves

the ambulance driving all the way back to base rather than heading to the nearest station, but there are recognised advantages in that staff find it easier to relax, they are in more familiar surroundings and more likely to see their normal work colleagues.

25. In August 2021, in response to the serious demands on the service, the policy was changed so that crews had a one-hour break at their base station during the day and two half-hour breaks on a night shift, only one of which could be taken back at base. They were expected to return to base for the day shift break and *first* night shift break, unless they opted in advance to take their break elsewhere, in which case they would receive a payment of £20 each. This continues to apply, given the continuing high demand on the service.
26. Fewer ambulances work at night, and the Trust found that if every ambulance took a one-hour break between the third and sixth hour, as the policy provides, then there was a period when several were out of use at the same time. Demand for their services, on the other hand, remains high throughout the night, so this change helped them to meet that pressure.

#### *Background to Mr Barton's grievance*

27. Following his traumatic incident, Mr Barton was diagnosed with PTSD by a clinical psychologist, Mr Robbins, in January 2021. Mr Robbins noted that he had had five sessions of a therapy, described as a "rewind" technique, and recommended further ten sessions of CBT, which were in due course provided by the Trust. In all, Mr Barton has now had 26 such sessions.
28. As a result of that report, and at his request, Mr Barton was referred back to Occupational Health in April 2021. He was working as normal, and the report advised further sessions of therapy. It stated:

"In relation to Grahame's PTSD he is describing being anxious at times, more emotional, less tolerant and less resilient psychologically. He told me he has low self-confidence now. Grahame stated that he has seen a psychologist who is of the opinion his PTSD is attributable to one particular job at work and he has not fully processed due to not having the appropriate amount of treatment to address these residual symptoms."

29. No other adjustments were sought or discussed at that stage. Then on 30 June, he emailed his line manager, Mr Taylor, as follows (page 201):

"Hope all is good with you. With regards to the meeting tomorrow, I'm not sure what is on the table but these are some of my thoughts:

Removing relief: The uncertainty and instability that relief runs cause contributes to my stress and anxiety hugely. It creates confrontation and affects my sleep patterns due to quick turnarounds. Also, at PZ station I have a good support network from colleagues

that I know well and have known for years. Paul Sanders is also based at PZ, who I am having ongoing support from.

RRV: The alternative to this is being on RRV shifts at PZ for my relief periods, as recommended by Occupational Health (due to knee injury). This would also address the above issues, by providing stable shift patterns in a supportive environment.

Meal breaks: Another thing that I request is that I can guarantee my breaks will be on station. When I am made to break at other stations I cannot relax. I feel my anxiety is heightened and therefore I do not have the opportunity to reset mid shift. Due to my PTSD this is a trigger point for confrontation, which has been previously documented.

Thanks in advance,

30. So, the request to work on RRVs was an alternative position, if relief shifts had to be worked, and given that the main reason for that alternative was his knee pain, that has not been pursued. Hence the two main requests were to avoid relief shifts and to be able to take all breaks at Penzance.
31. No time period was specified in this request, but in subsequent discussions with Mr Taylor, he confirmed that he was prepared for these changes to be made on a temporary basis, perhaps six months, while he was having CBT.
32. There was a meeting between Mr Barton and Mr Taylor on 1 July 2021, when Mr Barton provided him with a copy of the psychologist report confirming the diagnosis with PTSD. They were in frequent contact via WhatsApp message at this time, with Mr Taylor telling him that he would see what he could do about relief shifts and meal breaks. The issue was then passed on to Mr Griffin the next day, and on 6 July 2021 Mr Griffin sought HR advice about the need to make reasonable adjustments. There was then a telephone discussion between Mr Barton and Mr Griffin on 27 July when, among other things, Mr Barton explained that meal breaks and relief planning were a trigger for his PTSD (page 219).
33. Having considered all this, Mr Griffin was not prepared to meet these requests in full, and that led in due course to a grievance hearing on 10 August 2021. Mindful of the guidance set out above in **Ashton** about the importance of not focussing on the employer's thought processes or the procedure followed, we will simply move forward to the outcome of that hearing, which is set out in a letter from Rhys Griffiths dated 18 August 2021. (A version of that letter is at page 256 but it emerged that this is just a draft and the final version was circulated during the hearing.)

#### *Grievance Outcome*

34. This letter noted that the next relief shifts were not until October (and then the following January) and that Mr Griffin had promised to speak to the Resource Operations Centre (ROC) – the group that plans shift patterns - as the planning

window approached, to see if it could be arranged for Mr Barton to be based exclusively in Penzance over this period. The letter committed to arranging this.

35. The request that Mr Barton take *both* night time meal breaks back at Penzance was refused however, given the heavy demand on the service, the size of the county and the amount of driving this would entail, which would itself be tiring and would affect both him and his colleagues.
36. Efforts were also made to enable Mr Barton to continue to use RRVs, although these were being phased out. The therapy was continuing and a suggestion was made of a temporary redeployment while this was underway.
37. In a short response, Mr Barton felt that redeployment would not address his concern and would extend his NQP period, so on 19 August he appealed that decision. The next day he went off sick and commenced early conciliation.
38. That appeal (Stage 3) was dealt with by Mr Knight, and his outcome letter is at page 276. He offered that:

“the appeal panel will contact ROC and request that where possible, your relief is planned first and you are given priority shifts on relief out of Penzance station. We will ask ROC to facilitate this for the next six months. Should there not be shifts available at Penzance, you may need to work shifts at an alternate station however we will endeavour for this to be as supportive as possible.”

39. In relation to the meals his response was:

“The appeal panel feels that the current guidance in place is supportive of you having your meal break at your base station and therefore do not feel that any further changes or adjustments are required.”

40. As to the RRVs, by then Mr Barton was also requesting to do this on mental health grounds as well. He recognised that they were no longer operated from Penzance but was happy to pick one up from Falmouth or Redruth, as long as he could return it to Penzance at the end of a shift. However, Mr Knight's enquiries showed that they were only now operated from Redruth and as part of the main rota, not for relief shifts, so it was unlikely to be viable. However, he agreed as part of the appeal outcome that it should be explored.
41. No medical evidence was available to show that these particular adjustments would be beneficial for Mr Barton, and the Trust did not request any. They accepted his statements that he would benefit from greater certainty and were willing to accommodate that request to the extent described.
42. Mr Barton carried on at work after his grievance outcome, although he remained unhappy that he could not take his second night-time meal break at Penzance. He

submitted his claim for failure to make reasonable adjustments on 6 October 2021, so we will deal with further events briefly.

43. He was due to work his relief shifts for the weeks commencing 25 October and 1 November, using an RRV, but in the event he was signed off sick for most of that period, returning to work on 4 November 2021. It is not clear how many days or hours of relief shifts he completed.
44. He did however complete all his relief shifts in January 2022 without incident. According to a record from Simon Taylor on 4 February that year, following a welfare check:

“The RRV shifts are continuing to be very beneficial and he said the Hub despatchers have been supportive with sending him back to Penzance for breaks. They do sometimes have to send him to the nearest station but when Grahame has requested to go back to Penzance they have been in agreement. He is aware that the RRV agreement was for 6 months and would be reviewed but wasn't sure when the 6 months end.”

45. Later however, in May 2022 he began a period of long-term sickness absence which ended about two weeks ago. He was last referred to Occupational Health in June 2022 (page 362) who advised that he should not have to do relief shifts at all (“if possible”) the adjustments he was seeking should be made, together with adjustments to the sickness absence policy to ignore any PTSD related absences.
46. We also heard that the Trust was happy to continue supporting Mr Barton with further counselling and the current arrangements whereby relief shifts are planned from Penzance, although that cannot be guaranteed.

### **Applicable Law**

47. Guidance on the approach to be taken in reasonable adjustment claims was given by the Employment Appeal Tribunal in **Environment Agency v Rowan** 2008 ICR 218, which stated that a tribunal must consider:
  - (a) the PCP applied by or on behalf of the employer,
  - (b) the identity of non-disabled comparators (where appropriate), and
  - (c) the nature and extent of the substantial disadvantage suffered by the claimant.
48. The only other aspect which calls for consideration here concerns the burden of proof. Section 136 of the Act provides that:
  - (2) If there are facts from which the court could decide, in the absence of any other explanation, that a person (A) contravened the provision concerned, the court must hold that the contravention occurred.

(3) But subsection (2) does not apply if A shows that A did not contravene the provision.

49. In **Project Management Institute v Latif** 2007 IRLR 579, the Employment Appeal Tribunal gave guidance on the application of this section to claims for reasonable adjustments, and held that where it is alleged that the employer has failed to make reasonable adjustments, the burden of proof only shifts once the claimant has established not only that the duty to make reasonable adjustments has arisen but also that there are facts from which it could reasonably be inferred — absent an explanation — that the duty has been breached. i.e. there must be evidence of some apparently reasonable adjustment that could have been made.

## Conclusions

50. The final stage is to apply that guidance and our findings to the issues set out in the case management order on 23 May 2022. As noted there, the Trust concedes that Mr Barton was a disabled person at the material time, which is stated to be 6 July 2021. That was the date on which his grievance was formalised.
51. The allegation of failure to make reasonable adjustments in fact covers a broader period, from 30 June 2021 to 6 October 2021, when the claim form was submitted. Prior to 30 June 2021 there is no suggestion from Mr Barton that stability and certainty in his working arrangements was a particular issue and so no duty to make such adjustments arose.

### *Knowledge of disability*

52. The first contested issue is whether the Trust knew or could reasonably have been expected to know that Mr Barton had PTSD. But it seems to us clear from the fact that Mr Barton provided Mr Taylor with a copy of the medical report diagnosing him with this condition as early as 1 July 2021 that the Trust was aware of his disability from then on.

### *Substantial disadvantage caused by the PCP*

53. The two PCPs in question are admitted, i.e. the need for relief shifts and the arrangements for rest breaks. The next issue is whether they placed him at a substantial disadvantage. Substantial in this context means simply “more than minor or trivial.”
54. The effect of those PCPs was raised for the first time by Mr Barton in his email to Mr Taylor on 30 June 2021 (page 201). He followed this up with a number of WhatsApp messages, and without going through each of them, we note that on 28 August 2021 (page 152) he was complaining of anxiety about going to Redruth. There was also the meeting with Mr Griffin on 27 July when he explained that the relief shifts and rest breaks were a trigger for his PTSD. Mr Barton was not doing any relief shifts at

that stage, but we accept that the prospect of having to do them was causing him some real anxiety, and that seems to us sufficient to meet the relevant test. That was not questioned at the time by any of Mr Barton's managers, who then went to some lengths to accommodate his concerns. Overall therefore we see no reason to doubt that these PCPs did place him at a substantial disadvantage compared with others, i.e. a hypothetical paramedic without PTSD.

55. The extent of that disadvantage is not easy to assess, since we have no medical evidence about the degree of anxiety in question. All we can say, based on Mr Barton's evidence, is that it had a real or appreciable effect.
56. A subsidiary point is whether the Trust knew of this substantial disadvantage at the material time. Since all the evidence supporting our conclusion on the point was before the respondent at the time, we conclude they must have realised the potential effect on him of these arrangements, at the latest by 6 July 2021 when HR advice was taken about reasonable adjustments.

#### *Reasonableness*

57. This brings us to what is perhaps the main issue in the case, which is to consider whether the adjustments sought are reasonable. As set out above, the duty is "to take such steps as it is reasonable to have to take to avoid the disadvantage." Once again, Mr Barton relies on two steps in particular:
  - (a) not to have to work relief shifts, but instead to work as normal from Penzance; and
  - (b) while doing his normal, planned shifts, allowing him to take all his breaks at the Penzance base station.
58. Although as a general rule there is no duty on an employee to specify the reasonable adjustments in question, here Mr Barton has made clear that those are the only adjustments he considers will mitigate the effects of his condition. While the duty remains one for the employer, we note that the Trust has taken a number of steps and proposed others, including the various types of counselling Mr Barton has had, the possibility of a temporary redeployment, allowing him to use RRVs for relief duties and at other times, and during the grievance process he was asked for any further suggestions (page 210).
59. Since then, he has had the advantage of legal representation and time to reflect, and no alternatives have been proposed. His position remains that only these two will do, and that he needs 100% certainty about these arrangements.
60. Applying the guidance in **Latif** about the burden of proof, we accept that Mr Barton has identified, in these two respects, an allegedly reasonable adjustment which could

have, but was not made, and so the burden shifts to the respondent to show that they were not reasonable.

61. We note that the most recent Occupational Health advice, which post-dates this claim, recommends that these adjustments be made “if possible”, but that recommendation alone carries relatively little weight. The Trust’s position is not that they would be unwilling to make these adjustments, simply that the demand on their resources is too great, which is something they are in a better position to assess.
62. There is guidance on how to approach the question of reasonableness in the ECHR Code of Practice, and we have applied the suggested factors here.
63. The first of these is the effectiveness of the proposed adjustment. As to this, we have only Mr Barton’s evidence. There is no medical evidence to show that either adjustment would have been altogether effective in removing his anxiety or alleviating his other symptoms of PTSD, but we accept that it might well have been beneficial. The Trust seem to have accepted that he needed more certainty and stability in his relief shifts, and endeavoured to achieve this with the use of RRVs and by instructing the ROC to try to arrange for each such shift that it was based in Penzance. Those efforts reinforce our view that this adjustment (of removing the obligation to undertake relief shifts) may well have been effective, but that is as far as we can go.
64. As to the meal breaks, there was a concern by the Trust, which we share, that returning twice during night shifts all the way back to Penzance would cause a good deal of extra driving, with resulting tiredness, both for him and his colleagues. That might also have affected his condition. He points to the fact that driving would be shared, but nevertheless, it is a significant extra burden on him and others.
65. The next factor mentioned in the Code is practicability. Our starting point here is that the service has been at the highest state of demand since August 2021, about the time when these adjustments were being requested. That is a major consideration. It is not disputed by the Trust that, for example, Mr Barton *could* have been excused relief shifts altogether. As Mr Griffin stated, everything is possible. However, the Trust has to balance its overstretched resources with the number of emergency calls it has to respond to, as well as ensuring the continued welfare of its staff, without whom the service cannot continue. Hence, anything that detracts from those resources has to be considered with particular care.
66. Relief shifts are a key component in the Trust’s ability to cover planned and unplanned absences, and to ensure that staff have a manageable routine during their planned shifts. Altering Mr Barton’s base station to ensure he was always at Penzance inevitably imposed a restraint on the Trust’s ability to do that. They were willing to accommodate that where possible, but a guarantee would mean, inevitably, that there would be occasions when they did not need a relief shift from Penzance,

when they were in fact short-handed elsewhere and were unable to meet that demand. The consequences of being unable to meet requests for emergency help are obvious.

67. We take the view that this is not a fanciful risk. The Trust have limited resources. We heard that at most, there would be 50 ambulances at work, but that is at the busiest time of the day. At night, the position is different. It might well be half that figure. Over such a large geographical area, with long travelling times, a single misplaced crew might have a significant knock-on effect.
68. The same considerations apply, perhaps with even more force, to the second meal break provision during the night shift. A long drive back to Penzance, from, say, Derriford hospital in Plymouth, might take two hours. The ambulance is out of operation during that time. That would significantly affect the Trust's ability to respond to calls during that time. Hence, the Trust were happy for him to ask to return to Penzance a second time, and to approve that if practicable, based on the operational situation on the shift in question, but not to guarantee it in advance. And again, the practicability of this measure includes a consideration of the welfare of other crew members, who are driving or simply out of action for this period.
69. Other factors mentioned in the Code of Practice, such as the cost of the proposed measures, or the Trust's size and resources, add little to the points just made. It is clearly a large organisation but their resources are at full stretch.
70. The final factor in the Code is "the nature of the activities". Once again, it is an emergency response service. Hence, it is not a service that can be completely planned in advance. Secondly, at the risk of labouring the point, lives are at stake if there are not enough ambulances and paramedics to meet demand. That is the particular context for the Trust's reluctance to provide 100% guarantees about the location of meal breaks or about relief shifts for Mr Barton.
71. Drawing those threads together, we take the same view. The major factors here are the practicability of the proposed adjustments, given their stretched resources, and the nature of the valuable work in question, which is demand led and critical. In those circumstances we cannot find that there has been a failure to make reasonable adjustments for Mr Barton.
72. All this was in the context of changes sought during a period of time in which Mr Barton was having treatment for his PTSD. We are now over a year on. Mr Barton remains employed by the Trust and we very much hope that he is able to make a full recovery, so that these issues are, or will shortly be, resolved.

Employment Judge Fowell

Date 18 October 2022

JUDGMENT & REASONS SENT TO THE PARTIES ON

24 October 2022 By Mr J McCormick

FOR THE TRIBUNAL OFFICE