



EMPLOYMENT TRIBUNALS

IN THE LONDON SOUTH EMPLOYMENT TRIBUNAL

BY CVP

BETWEEN

VICTORIA SWIFT Claimant

and

THE CHIEF CONSTABLE OF KENT POLICE Respondent

Before: Employment Judge Martin

Hearing dates: 28 March 2023 (for six days) and in chambers on 27 July 2023

Claimant's representative: Dr A Loutfi – Counsel

Respondent's representative: Mr A Hodge - Counsel

RESERVED JUDGMENT

The unanimous judgment of the Tribunal is that the Claimant's claims are dismissed

RESERVED REASONS

1. First, the Tribunal would like to apologise to all parties for the delay in coming to its conclusions. This was due to the ill health of Judge Martin. The Tribunal convened in chambers on the first available date once she had recovered and the judgment was prepared as soon as judicial time allowed.
2. The Claimant presented her claim to the Tribunal on 14 May 2021. Her complaint is of disability discrimination. At the time she presented her claim she was still employed. She resigned on the same day as submissions

were made by the parties. The Respondent defended the claim in a response presented on 21 June 2021.

3. In preparation for the hearing, the parties agreed a list of issues and a chronology which are set out in the appendix attached to this judgment. Rather than give a narrative of each and every meeting or event in this judgment for the sake of proportionality they are set out in the chronology and this judgment should be read in conjunction with it.
4. The Respondent accepts that the Claimant is a disabled person as defined in s 6 Equality Act 2010. The Claimant's disability is Ulcerative Colitis and she also relies on depression and PTSD caused by issues at work as disabilities.

The hearing

5. The hearing was held by CVP. The Tribunal had before it a bundle of documents comprising 1817 pages, a chronology (also attached to this judgment) a cast list, and a bundle of disputed documents comprising 25 pages.
6. At the start of the hearing was an application by the Claimant to include a transcript of a recording of a of a disability and UPP training session on 235 April 2022. This was not in the bundle of documents but was disclosed to the Respondent prior to exchange of witness statements.
7. The Respondent objected to the application on the basis that it did not know how the recording came to be made and on the basis of relevance given there was no harassment claim. It said that had there been a harassment claim it could have seen the relevance.
8. The Claimant submitted that the document was relevant "*in the spirit of enlightening the Tribunal to the general culture regarding disability matters and how it was understood, spoken about and seen to be something to be managed in an unhelpful way if you were disabled*"¹ and related to the s15 claim.
9. Having considered both parties' position the Tribunal allowed the document on the basis that if, as the Respondent said, it was irrelevant it would disregard it.
10. The Tribunal heard from the following witnesses all of whom provided awritten statement:
 - a. For the Claimant
 - i. The Claimant

¹ From EJ Martin's notes of evidence

b. For the Respondent

i. DI Carl Howsonii. DI Simon Hollingsworth iii. DI Zoe

Wilczek iv. Ms Rayner Butler – Human Resources Partner

v. DCS Patrick Holmes (statement taken as read – was not called to give evidence

vi. ACC Andrew Mariner

11. The Tribunal offered the Claimant breaks as she needed them. She was accompanied by her mother during the hearing who was permitted to be in the same room as her while the Claimant gave evidence as long as she was in view of the camera so the Tribunal could see her. This was to replicate as far as possible, an in-person hearing.

The relevant law

List of issues

12. In **Scicluna v Zippy Stitch Limited [2018] EWCA Civ 1320**, the Court of Appeal held that an Employment Tribunal was entitled to proceed on the basis that a list of issues agreed by professional advocates were the issues in the case.

13. The EAT considered Zippy Stitch in **Saha v Capita plc [2018] EAT 80**, holding that a tribunal's core duty is to hear and determine the case in accordance with the law and the evidence, and it should depart from an agreed list of issues where a failure to do so would prevent it from determining the case in accordance with that duty. Similar comments were made by the Court of Appeal in **Mervyn v BW Controls Ltd [2020] ICR 1364**.

14. **Yorke v GlaxoSmithKline Services Unlimited EAT/2019/0962** held that *“When engaged in case management it is easy to become beguiled by a list of issues that is reasonably concise and well set out. A list of issues is a tool to assist the tribunal to do its job and it is always worth considering carefully whether it actually works. Where the parties are represented, it is the representatives that bear the principle responsibility for ensuring that the list of issues is up to the job.”*

s 15 Discrimination arising in consequence of disability

15. Section 15 of the EqA provides:

“(1) A person (A) discriminates against a disabled person (B) if –

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

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

16. It therefore needs to be established whether there was a causal connection between the unfavourable treatment and the disability. If there is, the burden shifts to the employer to establish justification i.e. a proportionate means of meeting a legitimate aim. This type of discrimination occurs not because the person has a disability, but because of something connected with the disability. It can only occur if the employer knows, or could reasonably be expected to know, that the person is disabled.

s 19 Indirect discrimination

17. Section 19 of the EqA provides:

A person (A) discriminates against another (B) if A applies to B a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic of B's.

(2) For the purposes of subsection (1), a provision, criterion or practice is discriminatory in relation to a relevant protected characteristic of B's if—

(a) A applies, or would apply, it to persons with whom B does not share the characteristic,

(b) it puts, or would put, persons with whom B shares the characteristic at a particular disadvantage when compared with persons with whom B does not share it,

(c) it puts, or would put, B at that disadvantage, and

(d) A cannot show it to be a proportionate means of achieving a legitimate aim."

18. Indirect discrimination is when there's a provision criteria or practice which applies to everyone in the same way, but it has a worse effect on some people than others. i.e. it puts the employee at a particular disadvantage. The provision criteria or practice can be formal or informal. It can be a one off decision or a decision to do something in the future. A key characteristic of indirect discrimination is that it applies to everyone in the same way. Therefore, it follows that if something only applies to some people who all have the same protected characteristic, it would not be indirect discrimination. This type of discrimination can be objectively justified.

s 20 Failure to make reasonable adjustments

19. An employer is required to make reasonable adjustments under ss. 20 and 21 where a provision, criterion, or practice (PCP) applied, placed a disabled person at a substantial disadvantage in comparison with non-disabled persons. Failure to do so amounts to unlawful disability discrimination. Tribunals determining whether it would be reasonable for the employer to have to make a particular adjustment in order to comply with the duty must

take into account the extent to which taking that step would prevent the disadvantage caused by the PCP (Equality and Human Rights Commission's Code of Practice on Employment).

20. The case of *Environment Agency v Rowan* [2008] ICR 218 set out guidance on how to approach reasonable adjustment cases. It held that the Claimant must show:
 - a) There was a PCP
 - b) The PCP put the Claimant at a substantial disadvantage in comparison to persons who did not share his disability.
 - c) The adjustment would avoid that disadvantage.
 - d) The adjustment was reasonable in all the circumstances.
 - e) The failure to make the adjustment caused the losses alleged.
21. The duty to make adjustments may require the employer to treat a disabled person more favourably to remove the disadvantage which is attributable to the disability. This necessarily entails a measure of positive discrimination (*Archibald v Fife Council* [2004] IRLR 651, HL).
22. The correct approach to assessing reasonable adjustments is addressed in *Smith –v- Churchills Stairlifts plc* [2006] IRLR 41; *Environment Agency – vRowan* [2008] IRLR 20; and *Project Management Institute –v- Latif* [2007] IRLR 579.
23. In *Smith*, the comparative exercise required by s.6(1) of the DDA was considered by the Court of Appeal having regard to the speeches contained in the judgment of the House of Lords in *Archibald*. Maurice Kay LJ stated: “. . . Notwithstanding the differences of language, it would be inappropriate to discern a significant difference of approach in these speeches. . . it is apparent from each of the speeches in *Archibald* that the proper comparator is readily identified by reference to the disadvantage caused by the relevant arrangements”.

Burden of Proof

24. The burden of proof reversal provisions in the EqA are contained in section 136. Guidance is provided in the case of ***Igen Ltd –v- Wong*** [2005] IRLR, CA. In essence, the Claimant must, on a balance of probabilities, prove facts from which a Tribunal could conclude, in the absence of an explanation by the Respondent, that the Respondent has committed an act of unlawful discrimination. The Tribunal when considering this matter will raise proper inferences from its primary findings of fact. The Tribunal can take into account evidence from the Respondent on the primary findings of fact at this stage (see ***Laing –v- Manchester City Council*** [2006] IRLR 748, EAT and ***Madarassy –v- Nomura International plc*** [2007] IRLR 246,

CA). If the Claimant does establish a *prima facie* case, then the burden of proof moves to the Respondent and the Respondent must prove on a balance of probabilities that the Claimant's treatment was in 'no sense whatsoever' on racial grounds.

25. The term 'no sense whatsoever' is equated to 'an influence that is more thantrivial' (see **Nagarajan –v- London Regional Transport** [1999] IRLR 573, HL; and **Igen Ltd –v- Wong**, as above).
26. Tribunals may sometimes be able to avoid arid and confusing disputes about the identification of the appropriate comparator by concentrating on why the Claimant was treated as they were, and postponing the lessfavourable treatment issue until after they have decided why the treatment was afforded. Was it on the proscribed ground or was it for some other reason? (*per* Lord Nicholls in **Shamoon –v- Chief Constable of the Royal Ulster Constabulary** [2003] IRLR 285, HL).
27. The Supreme Court in **Hewage –v- Grampian Health Board** [2012] UKSC has confirmed:

“The points made by the Court of Appeal about the effect of the statute in these two cases [Igen and Madarassy] could not be more clearly expressed, and I see no need for any further guidance. Furthermore, as Underhill J pointed out in Martin v Devonshires Solicitors [2011] ICR 352, para 39, it is important not to make too much of the role of the burden of proof provisions. They will require careful attention where there is room for doubt as to the facts necessary to establish discrimination. But they have nothing to offer where the tribunal is in a position to make positive findings on the evidence one way or the other.”

Findings of fact

28. The Tribunal has made the following findings of fact on the balance of probabilities. There was extensive evidence given and the facts are complicated. These findings are limited to those that are relevant to the issues and necessary to explain the decision reached. In coming to conclusions, the Tribunal considered all evidence presented to it even not specifically referred to in this judgment.
29. The Claimant has two children one of whom is disabled, she has been a single mother since 2018. Her former husband is also a police officer working in another police station. When her marriage ended, there were proceedings in the Family Courts which were on going during the time the issues in this case occurred.
30. The Claimant's disability is serious, and progressive. It resulted in her having extensive surgery. The effect of the illness is that she suffered from extreme fatigue, bleeding, anemia, joint problems, and inflammatory arthritis among other symptoms. Up to the time the issues in this case, the Claimant was only occasionally absent from work through illness and worked full time covering the full range of shifts and duties. Although she did not request reasonable adjustments, in 2019, Occupational Health

advised that adjustments to her hours were appropriate when needed to avoid flare ups.

31. Whilst working the Claimant had extensive treatments including chemotherapy and immunotherapy treatment. In 2021 she had major surgery. In 2022 she again had major surgery and this time was in hospital for about a month. She returned to work in December 2022 because her pay was about to be reduced in accordance with the Respondent's sick pay policy. Since then, continued to be very unwell. This is outside the chronology the Tribunal is concerned with but indicates the ongoing nature of her medical condition.
32. The Claimant joined the police force as a Special Constable whilst also studying for a degree in Criminal Justice. She began work as a Police Constable in 2014. She had been due to start in 2013 but for different medical reasons to those described above had to delay her start.
33. She was an exceptional police officer and was offered a place to remain in CID during her probationary period which was unusual. The Claimant was awarded a Chief Constables award for Probationer of the year. She was approached to go on the High Potential Development Scheme (a fast-track scheme to potentially the rank of Inspector) but the Claimant chose to work her way up as other Constables did. She became an accredited Detective through examination and portfolio evidence and formally joined CID.
34. The Claimant received two Judges Commendations, Career Student of the Year 2016 from her university and two District Commander Awards for her "professionalism and commitment to Kent Police". On 20 April 2018 she was appraised, and the appraiser commended her hard work and dedication. It is noted that in this appraisal it said, "*Vicky's last PDR was only completed on 11 February 2018 due to a backlog of outstanding PDR's*". This will be come relevant later in the chronology.
35. On 1 April 2019 she was promoted to Temporary Police Sergeant. The Respondent has a promotion process called NFPP. As part of the promotion process there is a probationary period of 12 months to demonstrate capability in the new role before that person is confirmed in post. The Claimant achieved her stage 4 qualification Police First Line Management and was officially promoted in post to manage the Domestic Abuse team and was praised in PDR's as working to a high standard with having a good work ethos.
36. The Claimant was absent from work for two of the final months of her probationary period and when she returned, she had 88 days of her probationary period left. By the time she returned she also had to shield because of Covid and was therefore working from home.
37. The first part of her probationary period (7 months) was managed by Detective Inspector (DI) Wadey. In November 2019 DI Howson became

the Claimant's line manager. The area they worked in was the Vulnerability Investigations Team (VIT). They had not worked directly together before but knew of each other as they worked in the same division.

38. DI Howson said that there was not much of a handover with nodocumentation because he had been given only three days notice that he would be taking over the team. He said he recalled DI Wadey saying that the Claimant was defensive, did not take feedback well and did not work well with others. DI Wadey did not attend the Tribunal to give evidence and there is no documentation to corroborate this. The PDR's that the Tribunal have seen up to this point do not raise these matters as issues and are all positive.
39. The Claimant was a vocal advocate for disabled people in the workplace. She believes that she was treated badly because of this. During the Claimant's employment there were issues which she raised about people using the disabled toilets when they were not disabled which restricted the use of them for those that were. The Claimant says that despite posters being put up about this this continued, and the Claimant was accused of discriminating against non-disabled people who wanted to use the disabled toilet and generally ridiculed. She also alleges that sexist comments were made to her throughout her employment. This is mentioned to acknowledge her evidence but is not directly related to the issues in this case. It is the Claimant's case that DI Howson's view of her changed following a confidential disability support group meeting.
40. DI Howson acknowledged that he had only supervised the Claimant for a short time before she had a period of absence for ulcerative colitis. There is no documentary evidence of any concerns he had with the Claimant's performance in this time. Indeed, on 18 November 2019 he sent an email to DCI Cumberland praising the Claimant for her hard work. He said he was impressed by her thorough, professional approach. A PDR completed in November 2019 was complimentary, with DI Howson saying he viewed her as being '*Ready for promotion to Inspector within 1 -2 years*'. In this PDR he also said that the Claimant challenged others about performance issues which had sometimes led to conflict which caused her distress.
41. DI Howson says that the Claimant did not want to have difficult conversations with her officers despite him saying in her PDR that she challenged others about performance issues. The Claimant says DI Howson is referring to one incident only. The incident he refers to involved her being asked by Ms. Butler from the Performance Improvement Unit, to take the phone off a disabled employee and bring it to her so that she and DI Howson could look through the messages. She says that both had expressed their dislike of this officer and that this officer had told the Claimant that she had suffered years of bullying from management because of her disabilities. The Claimant says she refused to do this as she considered that she had no lawful power to take this officer's phone. DI Howson saw this officer and obtained her phone.

42. DI Howson concedes that when he arrived in the November his first impressions of the Claimant were favourable and that his concerns fed in over the following months in relation to overdue PDR's, quality of PDR's and lack of contact with an officer who was on sick leave. He says there were complaints about the Claimant in January and February although there was

no documentary or other oral evidence to substantiate this. DI Howson accepted that his assessment of the Claimant's competence and performance for promotion was based largely on a period for which he was not supervising her. He also accepted that the NPPF framework was based on an assessment over a full 12-month period.

43. DI Howson says he was not aware of what issues may have been raised with the Claimant prior to him becoming her line manager. However, there are clearly documented PDR's which the Tribunal were taken to which do not raise any issues or concerns.

44. It was put to DI Howson that there was no documentation from him before 1 April 2022 setting out issues with her performance. DI Howson said that he had received documents and there were matters recorded on the police systems such that he could not say she had been successful in completing her competencies. His explanation for not raising this with the Claimant earlier was that she was on sick leave from January 2022 to March 2022 and it would not have been appropriate to raise them during this time.

45. At this time DI Howson said that the performance issues resulted in objectives which the Claimant needed to work towards before he could sign her off being given to her. At that time, he said he was not satisfied and that she needed more time to demonstrate that competence. As the Claimant had been off work, he said he could not say she had not met the deadline, so agreed to further time to work towards those objectives. DI Howson maintained he did consider the PDR's from when DI Wadey was the Claimant's line manager.

46. The extended period of absence was between 8 January and 7 March 2020. An occupational health referral was made by DI Howson on 13 January 2020. He also made enquiries with the Professional Assessment Team (PAT). His evidence was his enquiry was about how the Claimant's disability related absences could affect any extensions to the probationary period that could be offered. His evidence is that he was trying to be supportive towards the Claimant. The Claimant disputes this.

47. DI Howson's evidence is that he began to build up a picture of performance that was below the level he would expect of a Sergeant. He said this was both before and after the Claimant's period of absence. He said the picture came from feedback from others. There is no documentation that the Tribunal was taken to about this.

48. DI Howson did not raise any performance issues with the Claimant before she went on sick leave. He says this was to give her time to get used to him as a manager. The Claimant's case is that there were no performance issues raised before DI Howson became her line manager. DI Howson says this is surprising given the oral feedback that he received on handover. Given that she had been on probation under the supervision of DI Wadey for about 7 months by the time DI Howson took over, the Tribunal assumes that if there were any performance issues of any significance, there would have been some documentation. The Tribunal therefore concludes on the balance of probabilities that any performance issues that there may have been, were minor and finds that during a probationary period it would not be surprising that some performance issues arose, as the probationer was getting used to and learning a new job.
49. The performance issues that DI Howson identified included overdue PDR's for her team. He said in isolation this was not a problem and could have been worked on. It seems that overdue PDR's were not uncommon, this is referred to above, when the Claimant's own PDR had been delayed due to a backlog.
50. There was a PDR done by the Claimant on for a Police Constable which Mr Howson rejected as being misjudged, not balanced, accurate or objective. He believed that the Claimant was avoiding having a difficult conversation with this member of staff. His evidence is that he had to speak to this PC about the rejection of the PDR because the Claimant felt uncomfortable doing this which he would have expected her to do as a Sergeant.
51. A member of staff on long term sick leave had not been visited by the Claimant as a welfare visit for over three months. DI Howson did however accept this was not just the Claimant's issue but was also an issue with DI Wadey previously. He said in isolation that this would not cause concern.
52. DI Howson also cited another officer who the Claimant supervised who had accessed the police computer system in relation to issues with his neighbor and the investigation into this said that supervisory interventions were missed by the Claimant. The Claimant says she was unaware this officer was doing this even though she had a good rapport with her. She acknowledges that DI Howson added this to her PDR but denies missing opportunities to intervene.
53. DI Howson said he received emails from two other officers who were chasing information from the Claimant which have not been supplied.
54. There were apparently issues in relation to use of the BAIL App which tracks the bail status and conditions of suspects. He said that several update requests had not been responded to leaving officers without guidance and delays.

55. Another issue cited was that another DI who was undertaking quality reviews across the division apparently contacted him to say that the Claimant's reviews were inadequate, that she was not very effective, cut corners and described her as one of the poorer supervisors. There was no documentary evidence to support this. The Claimant denies this is the case.
56. These issues, although not given a date in DI Howson's witness statement appear to have arisen before the Claimant went on sick leave as he refers in paragraph 22 of his statement that whilst being aware that he needed to raise these issues with the Claimant so she could address them, he did not want his first contact with her when she was off sick to be to tell her that her performance was poor. As far as the Claimant was concerned, there were no significant issues with her performance, and she expected to be confirmed in post in April 2022. The Tribunal find it surprising that nothing was said to her about any of these issues if they had any significance.
57. The Claimant says that DI Howson visited her when she was on sick leave as a welfare visit and told her that there was no reason that she would not be promoted in April 2020 and that there were no issues going on that she was unaware of. She says there is a text message in the bundle confirming this conversation however, her statement does not give a page number, and despite extensive looking the Tribunal could not find it.
58. A further occupational health report was asked for when the Claimant said during a conversation with Mr Howson on 8 March 2020 that she wanted to return to work on a phased basis working from home initially. Until the referral had been made and the report received, it was agreed that the Claimant would work for 2 hours a day clearing emails and NPPF work. The Claimant returned to work on 11 March 2020 on this basis. This was just before the national Covid lockdown. There was a dispute between the parties about the hours the Claimant was working in this period. The Claimant says that from 23 March she was working full hours and overtime. DI Howson disputes this. The Claimant then had to shield due to the Covid pandemic.
59. Due to the Claimant's absence and to give her time to show the competencies, her probationary period was extended to 5 June 2020 which represented a 66-day extension. It was during this extended period that other unrelated issues arose which are discussed further below. The Claimant became aware of these matters on 13 March 2020 and says that at that time she was still unaware of any performance issues and worked as she always had. She was asked by DCI Cumberland to take over all of the domestic abuse cases file on her team because of her competence in this area.
60. The Claimant says she had conversations with DI Howson about her medical condition which she found annoying and offensive and said that they showed he had no understanding of her disability. She perceived him as

suggesting she was assessing herself as unwell and in need of hospitalisation rather than this being done by qualified medical practitioners. She said he suggested for example, that Ulcerative Colitis was caused by bad eating when it is an auto-immune condition.

61. The occupational health report advised that the Claimant could work up to four hours a day. DI Howson said he communicated regularly with the Claimant during this time.
62. The Claimant says she was contacted by another female disabled DI saying that DI Howson had put her forward to work in another team and that this would have meant that the four female disabled females were moved out of the team one way or another within a few months of DI Howson arriving.
63. DI Howson says he undertook an Attendance Support Management (ASM) process at about this time. The Claimant's position is that no such process took place. DI Howson admits in his statement that he was probably rather relaxed about it, and the Tribunal assumes that it was done without any formality. This was meant to be an informal record of the supportive actions taken by him. In his statement he says, "*I was not overly concerned with her sickness at that point and any focus on the Claimant's attendance was supportive*". His evidence was that it was only with subsequent absences that her attendance became an issue.
64. The Claimant was not sent any paperwork with any action points, and she was not asked to sign anything. DI Howson accepts that he should have engaged with the process more formally. The Claimant says she was not aware of any process and that the paperwork DI Howson prepared was designed to set her up. The first she knew of this happening was in January 2021 after she had filed a grievance against DI Howson and other linked parties. The Tribunal finds it surprising that there was no documentation provided to the Claimant by DI Howson if such a process was initiated, however informal that process may have been.
65. The Claimant has a daybook in which she records conversations and from this it would appear that there was no conversation about her attendance, an absence document or a process being started. The Claimant said the timing of the process, if it took place, was not in accordance with the Force's policy which says this process is for use when a person is in their sixth week off-sick. By this time, she had already returned to work over a month previously. She also alleges that the document he prepared had been altered by him after this document was located by the grievance investigator. Her evidence is that despite reporting these anomalies to the Respondent no action was taken.
66. As part of the probationary period, the Claimant had to complete a portfolio with City & Guilds. This was completed on 6 April 2020, and she asked DI Howson to sign off on her probationary period. Her evidence is that he suddenly and entirely unexpectedly stated that there were historical

issues with her performance. She said he had not mentioned them to her before, had allowed her to return to her role as normal once she had returned to full hours and confirmed just weeks earlier that there were no issues with her promotion being confirmed.

67. DI Howson said he would not sign the Claimant off until she was officebased telling her that the work she did while shielding would not count towards her portfolio. Her evidence is that there were other officers of Detective Sergeant rank working from home whilst shielding.
68. The Claimant said that DI Howson referred to a disabled officer's PDR being too positive, and when the Claimant asked for evidence was told she did not need to see the evidence and was being emotional and defensive. The Claimant offered to show him the reviews she had done but he refused saying only work done in the office going forward would count towards her portfolio.
69. Other officers the Claimant spoke to said they were surprised and did not know of any issues with the Claimant's employment. The Claimant spoke to the Police Federation and was advised that if there were problems with her performance then she should be put on an auditable Development Plan. She was also advised that the fact she was shielding should not be used against her. She spoke to DI Howson who did not put her on a Development Plan saying that she was putting pressure on him by speaking to the Police Federation and also speaking to the Disability Support Group. The Claimant was not put on a Development Plan at any time.
70. The Claimant also spoke to an officer in the National Police Promotion Framework (NPPF) who stated that he had no knowledge of any performance issues concerning the Claimant. The Claimant's evidence is that she was told later by this officer that DI Howson had raised the issue of her sickness absence with the NPPF in January 2020 and had been told that any disability related absence did not count and that only performance issues were to be considered and that he at that time told NPPF that there were performance concerns but did not provide any evidence.
71. When the Claimant spoke to DI Howson about this, she says he mentioned historical matters which he had not mentioned to her before. She was referred to occupational health again. An email was sent from DS Cumberland to three other officers including the Chief Superintendent saying there were performance concerns but without any evidence or detail about them.
72. Around this time (April/May 2020) DI Howson became concerned that the Claimant was not coping emotionally and made a further referral to occupational Health. He thought the Claimant may have some mental health issues as she had made some unspecified errors. The Claimant was at that time working up to 10 hours a day and said she suffered no stress

from that, and that the Occupational Health review advised DI Howson to be supportive as a manager.

73. In order to sign the Claimant off as being competent as a Sergeant, there were four areas that needed to be satisfied.
- i. She had demonstrated ability to operate in current rank through her PDR.
 - ii. She had no live written improvement notices on the performance regulations at the time of writing the document.
 - iii. She had not received any live final written warning or extended final written warning.
 - iv. She had adhered to the Force Attendance Management Policy.
74. As of 1 April 2020, when the Claimant's workplace assessment was due to end, DI Howson says he was not satisfied that she had met the first criteria.

He wrote a PDR providing six objectives for the Claimant to achieve which would give him the evidence required to confirm her in rank. His evidence is that he had the PDR peer reviewed and checked in with the force's disability support group that the objectives were reasonable. The following objectives were set:

- i. Improving emotional resilience and considering obtaining 360-degree feedback.
 - ii. Completion and the quality of PDRs.
 - iii. Supporting staff via one to ones.
 - iv. Working with internal/external partners.
 - v. Crime and case file reviews.
 - vi. Bail App reviews.
75. DI Howson said that in response to the objectives and the PDR the Claimant argued against the objectives and challenged the extension decision to her probationary period. DI Howson's evidence is that he would have expected the Claimant to acknowledge the issues and work towards providing fresh evidence towards her objectives rather than arguing against them.
76. The reason for the extension to the probationary period was that the Claimant had been off work for a substantial period due to her disability which is one of the extenuating reasons in the promotion framework to

enable probationary periods to be extended. In all the Claimant had four extensions to her work-based assessment period. This was not just DI Howson's decision but was a decision he made in conjunction with others.

77. The advice from OH was that the Claimant's perception of issues in the workplace were causing her stress and having a detrimental impact on her. A recommendation was made for the Claimant to work up to 8 – hour shifts with frequent management contact to ensure that she was coping. At about this time, the Claimant was being investigated for gross misconduct. DI Howson denied he had any involvement in the complaint that led to the disciplinary process being resurrected. This is deal with separately below.
78. The effect of the disciplinary investigations was that the Claimant was precluded from undertaking certain types of work. She was restricted from being involved in the evidential chain from 27 May 2020, which in turn impacted on her ability to meet her objectives fully. The Claimant was on sick leave between 19 June 2020 and 30 September 2020.
79. There was some dispute during the hearing as to what being outside the evidential chain meant. DI Howson said that he sought clarification on this from Detective Superintendent Cumberland who said that the Claimant should not be put in a position where she could be called upon to answer for a decision she had made with the case. It was discussed whether the Claimant could be moved to a different department as this restriction meant that the Claimant was very restricted in what she could do. His evidence was that in this way the Claimant could continue to work toward her objectives.
80. The Respondent has a Force Support Forum. DI Howson says he referred the Claimant twice to this forum to see if any additional welfare support measure, workplace adjustments, advice for line management and any further advise on a phased return to work could be given.
81. DI Howson also created a response plan. This plan is held with the force control room and sets out risks, actions, and points of contact if there were to be any concern for welfare reports relating to the Claimant being raised. This is something done for example, for domestic abuse issues. The Claimant did not understand why such a plan was put in place for her.
82. The Claimant's probationary period was further extended from 5 June 2020 to 5 September 2020 due to her on going illness and then again to 5 December 2020. The Claimant was signed off work with stress on 20 June 2020 and submitted further fit notes which signed her off work until 4 September. 2020. The Claimant's entitlement to pay whilst off work due to illness fell to half pay after six months absence.
83. On 17 August 2020 the Claimant attended a meeting (also referred to as a case conference) with DI Howson. At this meeting various matters were discussed including what adjustments were required for the Claimant to

work. DI Howson said that the Respondent could accommodate home working on reduced hours with recuperative duties. DI Howson says that the Claimant told him that the biggest issue for her to return to work at that time was the other investigation which is being dealt with separately in this judgment.

84. The letter dated 19 August 2020 following the meeting says:

“Dear Vicki

I am writing to detail the outcome of the case conference, held yesterday, at which we discussed your current health and wellbeing and the feasibility of you returning to work in the near future. Rayner Butler, HR Partner, was also present.

You provided an update on how you were feeling, the current situation with the PSD investigation, the Family Court case you have in October and the Colitis you are still badly suffering from. You have a Fit Note for stress to the 4th September 2020.

You advised that you had your family around to support you.

During our discussion you were reminded that we can accommodate you working from home, on reduced hours, in recuperative duties. However, at the present time you advised that you are currently too poorly to return to work in any capacity. Indeed it would be difficult for me to find you work, given the requirement from PSD that you are not to be in the evidential chain until their investigation is complete. You advised that the PSD investigation/allegations were the biggest blocker for you to return to work and, although MCET DS has been offered to you, this being outside of the evidential chain, you stated you were not in a good place at the present time to start with a new team. You advised you were anxious about other’s perceptions of you and felt like you had a black cloud over your head. Up until gross misconduct papers were served on you, you had been working your full hours at home, despite having been very unwell in hospital with Colitis and had a desire to return to the workplace at the earliest opportunity.

We discussed completion of NPPF in that when you are back in the workplace you will be able to complete this. The sign-off has been delayed to the conclusion of the PSD investigation”.

85. By any standards the Claimant was in a very stressful situation with numerous issues including her health, promotion issues, misconduct proceedings, and family related issues.
86. A further occupational health referral was made and undertaken on 26 August. The Claimant returned to work on 30 September 2020 and DI Howson says he was committed to undertaking a further PDR when she had settled in after returning to work. In the meantime, he allowed the Claimant flexibility in addition to the other adjustments mentioned above and kept tabs on the work that she was doing. A further OH assessment on 21 October 2020 recommended continuing working from home for up to 4 hours a day. The Claimant’s probationary period was extended on 26 November 2020 to 5 March 2021.

87. Following a telephone conversation with the Claimant on 4 January 2021, DI Howson made another referral to occupational health. The report following the telephone assessment on 28 January recommended that the Claimant, having resumed full hours working from home, should continue with her current work regime. Due to the restrictions imposed on what the Claimant could do, DI Howson said it was still difficult to find meaningful work for the Claimant to do. He said that was why the Claimant was moved to the Local Victims' Justice Unit working with DI Wilczek with DI Howson remaining as the Claimant's direct line manager. The Claimant says the reason for this move was because she raised a grievance against him on 2 December 2021. This was disputed by DI Howson.

The Misconduct Proceedings

88. The second sequence of events relevant to this claim is the misconduct investigation, which was started in May 2020, although the Claimant first became aware of this on 1 June 2020 when she was served a Regulation 16 Notice from the Professional Standards Department under the Police (Complaints and Misconduct) Regs 2012. This related to matters occurring in June 2018. They had previously been investigated and no action was taken. The complainant appealed and it was following the investigation into the appeal that misconduct issues were identified.

89. Whilst the investigation and the misconduct processes were happening, the Claimant, rather than be suspended, was put on restricted duties. This involved her not being involved in the evidential chain and to remove her from situations where she could become too emotionally involved. It is not necessary to go into the details of the allegations themselves given that the Claimant accepts that the events leading to this, and the misconduct process was not related to her disability or her absence from work.

90. The outcome of this investigation was given on 17 June 2022 following a misconduct meeting in April 2022. The outcome was that the Claimant was issued a written warning. The conclusion was that:

"Having considered the case, including that put forwarded by your representative, the person conducting the meeting found some of the allegations against you proven to be misconduct. As this case was held under the 2012 Police Conduct Regulations, misconduct simply means 'a breach of the Standards of Professional Behaviour.'

It was considered that your conduct had breached the Standards of Professional Behaviour relating to Duties and Responsibilities and Authority, Respect and Courtesy."

91. The effect of the written warning is that the Claimant was removed from the promotion framework. As she had not been confirmed as a Sergeant she reverted to her previous rank. Had she been confirmed as Sergeant earlier she would have remained in this rank. The Claimant's case is that the consequence of DI Howson not confirming her probationary period (which

she says was for discriminatory reasons) meant that she was unable to obtain the rank of Sergeant.

92. One of the Claimant's complaints is that she was excluded from working unsociable hours and overtime. The Respondent's position is that if she was only able to work four hours a day, then she would not qualify for overtime which only applies if the working week is over 40 hours. The Claimant accepted this but also said that there were times when she was working full hours but still was not given overtime. There was a further recommendation from occupational health in May 2020 which recommended her working hours to be increased to eight hours per day.
93. During the Claimant's cross-examination, it was put to her that it was the restrictions from the misconduct investigation that hindered the type of work she could do, and which in turn hindered her opportunity to work overtime. The Claimant in answer said, "yes and no". When asked further about this she said "*Other people also under investigation by professional standards in the same department who were allowed to do role doing same role as DS and working same shift pattern, so able to work unsociable hours and overtime. They affected me not solely because of the investigation as it's the same circumstance and not true of everyone.*"² The Tribunal notes however that there was no information about the nature of the other people's misconduct investigations or what restrictions had been placed on their work.

² From EJ Martin's notes of evidence

The Tribunal's conclusions

94. The following conclusions were made on the balance of probabilities having found the factual matrix as set out above and having considered the submissions made by both parties. The Tribunal has taken the issues in turn as they appear in the list of issues and then considered the case in the round. The Tribunal has set out some case law surrounding lists of issues. It has considered the list, which in this case was agreed by Counsel for both parties. The Tribunal can see no reason to interfere with the list of issues as agreed. The parties have both been represented throughout the proceedings and the list of issues was agreed by professional representatives. This is something raised by the Respondent in submissions, and something the Tribunal agrees with.

SECTION 15 – DISCRIMINATION ARISING IN CONSEQUENCE OF DISABILITY

Did the Respondent treat the Claimant unfavourably by reason of the following:

(a) Denying her access to promotion opportunities on 12th July 2022

(b) Removing the Claimant from the National Police Promotions Framework on 12th July 2022

(c) Issuing her with a Written Warning on 9 June 2022

95. The Tribunal has taken these three issues together. The Tribunal has found that the misconduct proceedings were not instituted because of the Claimant's disability, her absence from work or any other disability related reason. The Claimant accepted this in her evidence. The Tribunal accepts that being given a written warning is unfavourable treatment. The reason, as the Claimant accepts, is because of the complaint made about her relating to issues arising in 2018, which were found to relate to her conduct. This is not related to her absence on sick leave. The result of the written warning was to remove her from the NPPF, which in turn denied her access to promotion. Whilst absence was taken into account, this was not the primary reason that she was removed from the promotion framework.

96. It is noteworthy that the Claimant chose not to cross examine Mr Holmes. Mr Holmes was the person who made the decision to issue the written warning. He was the head of Investigative Powers Department. Mr Holmes's witness statement, which was not challenged, addressed the allegations that the Claimant is now making as follows:

"I understand that the Claimant considers the imposition of this written warning to be an act of discrimination arising from her disability. I was aware of the Claimant's medical issues, and they had been explained to me. The Claimant however had not at any point during the process, suggested to me that her behaviour, which was under investigation, was related to either her colitis or stress/PTSD in any way.

There was also nothing in the evidence presented to me that would have led me to reasonable consider (sic) that the Claimant's conditions could have impacted upon her behaviour."

The Tribunal accepts this evidence.

97. In the Claimant's submissions this issue was expressed in this way:

"It is claimed that the decision not to sign off the Claimant's probationary period as complete on 6th April 2020 was a significant factor in determining her suitability for promotion on 12th July 2022, since it resulted in 'fixing' the Claimant's rank at Detective Constable level at the crucial moment where a Written Warning ['WW'] for Misconduct was issued on 9th June 2022. The WW subsequently informed Andy Mariner's decision to remove the Claimant from the NPPF promotional framework on 12 July 2022. Had the Claimant been promoted to Detective Sergeant in April 2020, the WW for Misconduct would not have had the effect of demoting the Claimant in a rank already held".

98. Whilst the Tribunal understands the point being made, it considered the case in the way that it is set out in the agreed list of issues. The 'something arising' is said to be the Claimant's absence from work on sick leave. The Claimant's absence from work on sick leave does not in the Tribunal's opinion form part of the decision to issue the written warning. The fact that she had received a written warning has the effect as described by Mr Mariner in his witness statement:

a. *"Further, the matter of the written warning, which would ordinarily in itself prevent a promotion now existed. Therefore, taking everything into consideration, I decided that the Claimant should be removed from the NPPF programme and returned to her substantive rank of Constable."*

99. The Respondent submitted that **McQueen v. General Optical Council [2023] EAT 36** (at paragraph 52), directs Employment Tribunals to ask the following questions in a section 15 claim:

- (a) What are the disabilities?
- (b) What are their effects?
- (c) What unfavourable treatment is alleged in time and proved?
- (d) Was that unfavourable treatment "because of" an effect or effects of the disabilities?

100. The Tribunal has set out the Claimant's disabilities and the effect of them earlier in this judgment. It was accepted by the Respondent that the written warning was unfavourable treatment. The question remaining therefore, is was this unfavourable treatment because of an effect or effects of the disabilities?

101. The evidence presented, which the Tribunal accepts is that even if the Claimant had managed to evidence the competencies required for promotion (it was said that she failed to meet four of the five competencies),

the existence of the written warning would have ordinarily removed her from the promotion process. Therefore, even though Mr Mariner did take account of the UPP and WIN, this was not the reason that the Claimant was removed

from the promotion process. The determining factor was the written warning which was issued in relation to the Claimant's conduct.

102. Given the pleadings and the agreed list of issues, the Tribunal can not find that this is unfavourable treatment because of something arising in consequence of disability given there is no causal connection between the complaints made that led to the investigation which resulted in a written warning being given. It is part of the NPPF rules that an individual is removed from the promotion process if a written warning is given. It is not part of the Claimant's case that she was discriminated for something arising from disability when she was not promoted at the end of the twelve month probationary period.

(d) Issuing her with a Written Improvement Notice on 6 May 2021

103. The written improvement notice was issued by DI Howson. There is a difference between the Claimant and the Respondent about whether this is unfavourable treatment. The Respondent's position is set out in its written submissions:

"16. The Employment Tribunal is reminded that the UPP is designed to be supportive, not punitive. It is also important to note that the C was only at Stage One of that UPP process.

17. Further, having been issued with the Written Improvement Notice & Action Plan, C's attendance improved, and she completed her objectives.

18. Therefore, in relation to issuing a Written Improvement Notice to C:

(i) The Employment Tribunal is entitled to conclude that issuing a Written Improvement Notice is not unfavourable treatment.

(ii) In the event that (i) above is found to amount to unfavourable treatment, it is accepted that the reason therefor was the Claimant's sickness absence record (though not disability-related absence).

(iii) The pleaded effect of C's disability is absence from work on sick leave.

(iv) The reason for the unfavourable treatment has no link to C's absence from work by reason of her disability.

19. In any event, the issuing of the Written Improvement Notice is clearly a proportionate means of achieving a legitimate aim, namely improving C's attendance at work – an objective which was achieved.

20. In the circumstances, this allegation should be dismissed".

104. The Tribunal has considered the Claimant's submissions both oral and written. The Claimant's submissions do not address this point directly.

The submissions make much of the fact that DI Howson did not sign off the Claimant's probationary period to confirm her in post as sergeant. However, this is not in the list of issues. The Tribunal has already found that there were apparently no issues with the Claimant's performance prior to DI Howson taking over line management responsibility which coincided with a deterioration in the Claimant's health and subsequent absence for hospital treatment. The Tribunal is inhibited from exploring this further given the ambit of the list of issues. It was up to the Claimant to have included this as something arising from disability if she had so wished.

105. The Tribunal finds that the issuing of the written improvement notice was unfavourable treatment as it indicates that something is wrong and needs to be improved. It is difficult to ascertain from the evidence exactly what absences were considered. Therefore, the Tribunal has taken the Claimant's case at its highest. Namely that all absences including disability related absences, were considered. Having found this the Tribunal looked to see if the issuing of this notice was a proportionate means of achieving a legitimate aim. The legitimate aim is ensuring that officers attend work. The notice appears to have been effective as the Claimant's attendance improved as she accepts. The Tribunal finds that the issuing of the notice is a proportionate means of achieving a legitimate aim.

(e) Denying her access to both overtime and unsocial hours shifts from June 2020 when she was placed on restricted duties (a continuing act of discrimination).

106. The Tribunal considered the submissions of both parties when evaluating the evidence. The Tribunal finds that the issues speak for themselves. The reason that overtime and unsocial hours were restricted for the Claimant was because of the disciplinary action being taken and the restrictions on the work she could do was because of this, and were put in place as an alternative to being suspended pending the investigations. This is not related to any period the Claimant had on sick leave for disability or non disability related reasons. In any event as submitted by the Respondent, the Claimant conceded in cross examination that she did work unsocial hours when her team were working late. The Tribunal notes that at varying times the Claimant was working restricted hours as a reasonable adjustment, which would have precluded overtime which is paid after 40 hours work.

SECTION 19 – INDIRECT DISCRIMINATION

Did the Respondent apply a provision, criterion or practice of assessing promotion prospects in part on attendance management records?

If so, did the Respondent apply or would have applied the said PCP to persons with whom the Claimant does not share the protected characteristic of disability?

If so, did the said PCP put, or would have put, persons with whom the Claimant shared the protected characteristic of disability at a particular disadvantage when compared with persons with whom she did not share it?

If so, did the said PCP put, or would have put, the Claimant at that particular disadvantage?

107. It is for the Claimant to prove these three elements of indirect discrimination. It is for the Claimant to formulate the provision, criterion, or practice which she relies on. The Claimant has formulated this as assessing promotion prospects in part on attendance management records.

108. There is no doubt that the Respondent did assess promotion prospects in part on attendance management records. This is part of its policy. The Tribunal is satisfied that this policy applies to both disabled and nondisabled officers. Therefore, the question is whether the Claimant was put to a particular disadvantage by the application of the policy. Mr Mariner's evidence was clear, that whilst absence was a factor (but not necessarily the deciding factor) for promotion, the principal factor was the written warning issued in relation to the disciplinary matter. It can not therefore be said that the Claimant was put to a particular disadvantage by the application of this provision, criteria or practice.

If so, was the said PCP nonetheless proportionate means of achieving a legitimate aim?

109. This would be for the Respondent to prove had the Claimant succeeded in the first three parts of the definition. Given that the Claimant has not succeeded in the third part, the Tribunal has not considered this further.

SECTION 20 – FAILURE TO MAKE REASONABLE ADJUSTMENTS

Did the Respondent apply the following PCPs:

(a) Assessing promotion prospects in part on attendance management records.

(b) The terms of the Unsatisfactory Performance and Attendance Procedure.

(c) If so, did the said PCPs place the Claimant at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled?

110. The Tribunal finds that assessing promotion prospects in part on attendance management records amounts to a provision, criterion, or practice. Similarly, the Tribunal finds that the terms of the unsatisfactory

performance an attendance procedure is also a provision, criterion or practice. These are matters that are applied to everyone.

111. The Respondent adjusted the probationary promotion procedure in that the normal 12-month period to complete the probationary period was extended multiple times in order to allow the Claimant time to achieve the required competencies.
112. It is not clear what adjustments the Claimant says the Respondent should have made. This was not clear from the evidence or set out in the Claimant's submissions. It is assumed that the adjustments are that attendance is not considered at all, and that the UPP was not undertaken. The UPP as already found achieved the desired effect of improving the Claimant's attendance. Whilst the UPP was distressing for the Claimant, and for some reason it was done on a very informal basis, the Tribunal finds that the reason for it was to put in a plan for the Claimant to be able to achieve her objectives to obtain promotion.

If so, did the said PCPs place the Claimant at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled?

113. The Tribunal finds that even though the Claimant may have been disadvantaged in that her disabilities mean she had higher absences than most, the reality is that it is not only those with disabilities who may have high absence levels. Therefore, the Tribunal can not say that the provision criteria or practice put the Claimant at a substantial disadvantage compared with people who were not disabled. Therefore the duty to make adjustments did not arise.

If so, and the duty to make reasonable adjustments arose, did the Respondent take such steps as were reasonable to have to take to avoid the said substantial disadvantage,

114. Given that the Tribunal has found that the duty to make adjustments did not arise in these circumstances, the Tribunal has not considered this further. The Claimant has not set out what adjustment she would have considered to be reasonable and the Tribunal has therefore not been able to consider them. The Respondent did make adjustments to its probationary procedure by extending the period of probation because the Claimant had been absent and in order for her to be able to complete the objectives.

Final thoughts

115. The Tribunal has great sympathy for the Claimant. She has undoubtedly had much to contend with given her medical, personal and work issues. Throughout the hearing the Tribunal asked itself why the Claimant went from

someone who was high flying with excellent promotion prospects to be someone who failed her probationary period. The Claimant's submissions eloquently explain this echoing the Tribunal's thoughts during the hearing. The Tribunal accepts that discrimination cases are nuanced and inferences can be made however, it also accept the Respondent's submission that the list of issues does not support the claim which the Claimant appears now to be putting before the Tribunal.

116. As set out above, the Tribunal does not consider it necessary or appropriate to interfere with the list of issues which was agreed between two experienced counsel. When analysing the list of issues, the Tribunal had no option but to make the conclusions which are set out above.

Employment Judge Martin

Date: 1 November 2023

JUDGMENT SENT TO THE PARTIES ON
14 November 2023
FOR EMPLOYMENT TRIBUNALS

Appendix 1

AGREED LIST OF ISSUES

DISABILITY

1. For the sake of completeness and clarity, the Respondent accepts that the Claimant was a disabled person within the meaning of section 6 of the Equality Act 2010 at the material times.

SECTION 15 – DISCRIMINATION ARISING IN CONSEQUENCE OF DISABILITY

2. Did the Respondent treat the Claimant unfavourably by reason of the following:
 - (a) Denying her access to promotion opportunities on 12th July 2022.

- (b) Removing the Claimant from the National Police Promotions Framework on 12th July 2022.
 - (c) Issuing her with a Written Improvement Notice on 6th May 2021.
 - (d) Issuing her with a Written Warning on 9th June 2022.
 - (e) Denying her access to both overtime and unsocial hours shifts from June 2020 when she was placed on restricted duties (a continuing act of discrimination).
3. If so, was the reason for the said unfavourable treatment because of something arising in consequence of disability, namely the Claimant's absence from work on sick leave?
4. If so, was the said unfavourable treatment nonetheless a proportionate means of achieving a legitimate aim?

SECTION 19 – INDIRECT DISCRIMINATION

5. Did the Respondent apply a provision, criterion or practice of assessing promotion prospects in part on attendance management records?
6. If so, did the Respondent apply or would have applied the said PCP to persons with whom the Claimant does not share the protected characteristic of disability?
7. If so, did the said PCP put, or would have put, persons with whom the Claimant shared the protected characteristic of disability at a particular disadvantage when compared with persons with whom she did not share it?
8. If so, did the said PCP put, or would have put, the Claimant at that particular disadvantage?
9. If so, was the said PCP nonetheless proportionate means of achieving a legitimate aim?

SECTION 20 – FAILURE TO MAKE REASONABLE ADJUSTMENTS

10. Did the Respondent apply the following PCPs:
- (d) Assessing promotion prospects in part on attendance management records.
 - (e) The terms of the Unsatisfactory Performance and Attendance Procedure.
11. If so, did the said PCPs place the Claimant at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled?

12. If so, and the duty to make reasonable adjustments arose, did the Respondent take such steps as were reasonable to have to take to avoid the said substantial disadvantage?

Appendix 2

AGREED CHRONOLOGY

13/6/06	Claimant commences service with Respondent (5)
1/4/19	Claimant promoted to Temporary Police Sergeant
18/4/19	Occupational Health Report (72)
23/7/19	Claimant off sick (Colitis) (84)
24/7/19	Claimant returns to work
30/9/19	Claimant off sick (Chest infection) (87)
1/10/19	Claimant returns to work
14/12/19	Claimant off sick (Sickness bug) (89)
17/12/19	Claimant returns to work
8/1/20	Claimant off sick (Colitis) (91, 102)
13/1/20	Occupational Health Referral (93)
7/3/20	Claimant returns to work
13/3/20	Claimant's probationary period as Temporary Police Sergeant extended to 5 th June 2020 (104)
19/3/20	Occupational Health Report (107)
30/3/20	Claimant commences period of recuperative & restrictive duties (115)
1/4/20	NHS informs Claimant to shield (120)
22/4/20	Attendance Support Meeting (124)
9/5/20	Occupational Health Referral (129)
13/5/20	Occupational Health Report (133)
27/5/20	PSD Consideration of Decision to Suspend (137)
1/6/20	Claimant served with Regulation 16 Notice (159)
12/6/20	Force Support Forum Referral (176)
16/6/20	Claimant's probationary period as Temporary Police Sergeant extended to 5 th September 2020 (181)
19/6/20	Claimant off sick (Stress at work) (184, 244)
2/7/20	Force Support Forum Monthly Update (187)

11/8/20	Letter from CH to Claimant inviting her to attend welfare meeting on 17 th August 2020 (200)
17/8/20	Claimant's probationary period as Temporary Police Sergeant extended to 5 th December 2020 (207)
19/8/20	Letter from CH to Claimant detailing outcome of welfare meeting (208)
26/8/20	Occupational Health Report (212)
10/9/20	Claimant's response to Caution (221)
16/9/20	Letter from Respondent to Claimant regarding potential reduction to pay (239)
1/10/20	Claimant returns to work
3/10/20	Occupational Health Referral (246)
21/10/20	Occupational Health Report (254)
26/11/20	Claimant's probationary period as Temporary Police Sergeant extended to 5 th March 2021 (260)
21/12/20	Claimant submits formal grievance (263)
4/1/21	Occupational Health Referral (273)
28/1/21	Occupational Health Report (289)
1/3/21	Force Support Forum Referral (296)
2/4/20	Claimant off sick (Stress at work) (324)
8/4/21	Occupational Health Referral (313)
13/4/20	Claimant returns to work
15/4/21	Letter from ZW to Claimant inviting her to attend UPP Stage One Meeting (320)
19/4/21	Claimant's Response to invitation to Stage One Meeting (325)
26/4/21	Letter from ZW to Claimant confirming UPP Stage One Meeting for 6 th May 2021 (340)
6.5.21	UPP Stage One Meeting (355)
	UPP Stage One Meeting Outcome (342)
	Written Improvement Notice (380)
10/5/21	Letter from ZW to Claimant confirming outcome of UPP Stage One Meeting (384)
12/5/21	Occupational Health Report (388)

14/5/21 Claim Form (2301769/2021) presented to ET (2)
21/5/21 Claimant submits 47 page document to Superintendent Kinzett (536)
26/5/21 Claimant appeals against UPP Stage One outcome (592)
27/5/21 NPPF Pre-Case Conference via Teams (594)
10/6/21 Letter from Gary Woodward to Claimant regarding her UPP Stage One appeal (616)
NPPF Case Conference via Teams (618)
21/6/21 ET3 Response (2301769/2021) received by ET (20)
29/6/21 UPP Stage One Appeal Meeting (650)
30/6/21 Letter from Gary Woodward to Claimant detailing outcome of UPP Stage One appeal (659)
22/7/21 Claimant's complaint regarding CH (661)
5/8/21 Occupational Health Report (672)
16/8/21 NPPF Case Conference via Teams (753)
11/9/21 Claimant off sick (Colitis) (843)
5/11/21 Claimant signed off on UPP Action Plan (352)
9/11/21 Letter from ZW to Claimant confirming completion of UPP Action Plan (834)
7/1/22 Occupational Health Report (840)
17/1/22 Claimant returns to work
10/2/22 Occupational Health Report (870)
11/3/22 Occupational Health Report (893)
28/4/22 Misconduct Meeting (927)
10/5/22 NPPF Second Pre-Case Conference (957)
31/5/22 Reconvened Misconduct Meeting (1218)
Outcome of Misconduct Meeting (1224)
17/6/22 Claimant confirms receipt of Written Warning (1229)
23/6/22 Occupational Health Report (1231)
1/7/22 Rationale for AM's decision regarding NPPF (1248)
7/9/22 Date of receipt of ACAS notification (1)

23/9/22	EC Certificate (1)
7/10/22	Claimant off sick (1263, 1276)
20/10/22	Claimant Form 2303961/22) presented to ET (32)
10/11/22	Occupational Health Report (1266)