



# EMPLOYMENT TRIBUNALS

**Claimant**

**Respondent**

**Ms Mandie Monroe**

**v**

**Central Bedfordshire Council**

**Heard at:** Watford  
**On:** 11 to 14 September 2023

**Before:** Employment Judge Bedeau  
**Members:** Mr M Bhatti MBE  
Mrs G Bhatt MBE

**Appearances**

**For the Claimant:** In person  
**For the Respondent:** Ms S Bewley, Counsel

## RESERVED JUDGMENT

1. The claims of public interest disclosure detriment are not well-founded and are dismissed.
2. The claim of harassment related to disability is not well-founded and is dismissed.
3. The claim of harassment related to transgender is not well-founded and is dismissed.
4. The provisional remedy hearing listed on 27 February 2024 is now hereby vacated and the parties must not attend as there will be no hearing.

## REASONS

1. In a claim form presented to the tribunal on 14 August 2022, the claimant claimed against the respondent unfair dismissal, disability discrimination, gender reassignment, notice pay and other unspecified payments. She worked for the respondent as a Housing Officer from 19 April 2022 to 18 May 2022.
2. In the response presented to the tribunal on 22 September 2022, the claims are denied. The respondent averred that the claimant was not an employee but a contract worker.

3. At a case management preliminary hearing held on 22 March 2023 before Employment Judge Tuck KC, the claimant spent a long time with the Judge clarifying her claims and the issues. The Judge recorded that the claims are public interest disclosure detriments, harassment related to disability, and harassment related to transgender. Case management orders were issued, and the case was set down for a final hearing on liability only from 11 to 14 September 2023.

### The issues

#### 4. Time limits

- 4.1 Given the date the claim form was presented and the dates of early conciliation, any complaint about something that happened before 13 May 2022, may not have been brought in time.
- 4.2 Were the discrimination and victimisation complaints made within the time limit in section 123 of the Equality Act 2010? The Tribunal will decide:
  - 4.2.1 Was the claim made to the Tribunal within three months (plus early conciliation extension) of the act to which the complaint relates?
  - 4.2.2 If not, was there conduct extending over a period?
  - 4.2.3 If so, was the claim made to the Tribunal within three months (plus early conciliation extension) of the end of that period?
  - 4.2.4 If not, were the claims made within a further period that the Tribunal thinks is just and equitable? The Tribunal will decide:
    - 4.2.4.1. Why were the complaints not made to the Tribunal in time?
    - 4.2.4.2. In any event, is it just and equitable in all the circumstances to extend time?

#### 5. Protected disclosure.

- 5.1 Did the claimant make one or more qualifying disclosures as defined in section 43B of the Employment Rights Act 1996? The Tribunal will decide:
  - 5.1.1 On 18/19 May 2022, in an email exchange to Katie Voice and Katie Thurston the claimant requested a meeting to discuss safeguarding concerns about a service user.
  - 5.1.2 Did this amount to the disclosure of "information"?
  - 5.1.3 Did she believe the disclosure of information was made in the public interest?
  - 5.1.4 Was that belief reasonable?
  - 5.1.5 Did she believe it tended to show that:

5.1.5.1. a person had failed, was failing or was likely to fail to comply with any legal obligation;

5.1.6 Was that belief reasonable?

5.2 If the claimant made a qualifying disclosure, was it a protected disclosure because it was made to a responsible person under s43C.

6. Unlawful Detriments: ERA 1996, s 47B

6.1 Did the Respondent do the following acts or did the following failures to act occur:

6.1.1 Failed to hold a meeting with the claimant (The claimant's last day of service was 18 May but she says she ought to have had a meeting to explain her concerns).

6.2 Do the above acts or deliberate failures to act, if proven, amount to a detriment for the purposes of ERA 1996, s 47B?

6.3 If so, has the Respondent shown that, the protected disclosure did not have a more than trivial influence on the acts or deliberate failures to act listed above?

7. Disability

7.1 The Respondent accepts that the Claimant is disabled by reason of her autism.

8. Harassment related to disability (Equality Act 2010 section 26)

8.1 Did the respondent do the following things:

8.1.1 On 16 May 2022, Mai Brown on a Teams call asked the claimant what she did not understand about the process for placing a service user into emergency temporary accommodation.

8.1.2 On 16 May 2022, Mai Brown joined Shahela Begum onto the call to humiliate her suggesting that the claimant did not understand the process for placing a service user into temporary accommodation.

8.2 If so, was that unwanted conduct?

8.3 Did it relate to disability?

8.4 Did the conduct have the purpose of violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant?

- 8.5 If not, did it have that effect? The Tribunal will take into account the claimant's perception, the other circumstances of the case and whether it is reasonable for the conduct to have that effect.
9. Harassment related to being transgender (Equality Act 2010 section 26)
- 9.1 Did the respondent do the following things:
- 9.1.1 On or around 29 April 2022, Naomi Rodriguez telling the claimant it was confusing for people having the claimant on the rota as "Mandi" but her email address being in the name of "Andy".
- 9.1.2 On or around 29 April 2022, Naomi Rodriguez instructing Surene Hibbins to remove the claimant's name of "Mandi" and replacing it with her name "Andy".
- 9.2 If so, was that unwanted conduct?
- 9.3 Did it relate to the protected characteristic of gender reassignment?
- 9.4 Did the conduct have the purpose of violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant?
- 9.5 If not, did it have that effect? The Tribunal will take into account the claimant's perception, the other circumstances of the case and whether it is reasonable for the conduct to have that effect.
10. Remedy for discrimination
- 10.1 What financial losses has the discrimination caused the claimant?
- 10.2 Has the claimant taken reasonable steps to replace lost earnings, for example by looking for another job?
- 10.3 If not, for what period of loss should the claimant be compensated?
- 10.4 What injury to feelings has the discrimination caused the claimant and how much compensation should be awarded for that?
- 10.5 Has the discrimination caused the claimant personal injury and how much compensation should be awarded for that?
- 10.6 Should interest be awarded? How much?

**The evidence**

11. The Tribunal heard evidence from the claimant who did not call any witnesses.

12. On behalf of the respondent, evidence was given by:
  - Ms Mai Brown, Homeless Intervention Team Leader;
  - Ms Naomi Rodriguez, former Housing Options Team Leader;
  - Ms Surene Hibbins, Trainee Homeless Intervention Officer;
  - Ms Shahela Begum, Senior Housing Options Officer;
  - Ms Katy Thurston, former Housing Systems Officer; and
  - Ms Katie Voice, former Homeless Intervention Manager
13. In addition to the oral evidence, the parties produced a joint bundle of documents comprising of 466 pages. References will be made to the documents as numbered in the bundle.

### Findings of fact

14. The respondent is a local authority with statutory responsibilities for providing accommodation to those who are unintentionally homeless.
15. The claimant came out in April 2018 as transgender, transitioning from male to female. She had been working in social care and healthcare in excess of 35 years. For the previous 10 years, she worked as a contractor for local authorities and County councils; also worked as an Accommodation Officer; a Hospital Discharge and Homeless Specialist Advisor, and a Housing Officer working with families and individuals with housing needs.
16. She was referred to the respondent by an agency, Nexere Recruitment, and was interviewed on 28 March 2022, by Ms Naomi Rodriguez, Housing Options Team Leader, and by Ms Mai Brown, Homeless Intervention Team Leader, for the position of Housing Officer.
17. Notes were taken during the interview by Ms Brown on her laptop and produced in the joint bundle of documents. (pages B457 to B459)
18. The claimant did not take any notes during the interview. On her application form she used the name Andy Mason, and throughout the interview she was referred to by her first name of Andy. Near the end of the interview she disclosed that she was transgender. At that point she was thanked Ms Brown and Ms Rodriguez for informing them and was asked by Ms Brown which were her preferred pronouns moving forward. According to Ms Brown the claimant's response was:

“I am old school, I don't really focus on those pronouns. I am a cross-dresser sometimes you might see me in a dress but you can call me Andy”.
19. She was thanked by Ms Brown for her honesty and, as instructed by her, Ms Brown addressed her by the name of Andy. Ms Brown's account of the interview was supported and corroborated by Ms Rodriguez.
20. In the notes taken by Ms Brown, it is recorded that the claimant was asked about her work experience; her approach to customers in dealing with homeless application; strategy used to prevent homelessness; and the skills

she would employ to manage her caseload and time. She gave detailed answers to those questions which impressed Ms Brown and Ms Rodriguez. At the end of Ms Brown's note she has recorded that the claimant was available to start the following week. She then wrote:

“Notes: Andy advised that they identified as trans, I asked how they would like to be addressed and what pronouns to use in the workplace and throughout the remainder of interview and they advised that they are happy to be called Andy He/Him said “I’m old school, I just like to dress up sometimes.”

(B457 to B458)

21. The claimant's case is that in the interview, when asked about her preferred pronouns she replied that she identified with “She/Her” or “They/Them”.
22. We find that she did say to both Ms Rodriguez and Ms Brown that her preferred pronouns were He/Him and was content to be called Andy. She did not say that addressing her in the masculine was unacceptable. Indeed, the application form is in the name of Andy Mason.
23. We further find that she did not disclose that she is autistic to Ms Rodriguez and to Ms Brown during the interview. They were clear that that disclosure was not made and is not recorded in the notes.
24. We further find that Ms Surene Hibbins, Trainee Homeless Intervention Officer, was first introduced to the claimant on 20 April 2022, as she was in her office while the claimant was being inducted after having commenced work with the respondent on 11 April 2022. She provides administrative support to the team and training on the respondent's IT systems. The claimant mentioned to her that she was transitioning and was in the early stages. At that point Ms Hibbins asked her what pronouns she preferred to go by. The claimant explained that she was happy to go by Andy or Mandi and that she would not take offence if either was used. Ms Hibbins also recalled the claimant stating, in passing, that she was autistic, and was having ongoing issues with her family due to her transitioning.
25. The claimant often corresponded with Ms Hibbins by email, signing off as Mandi or M. When Ms Hibbins organised the office and phone cover rota for the duty weeks, she called the claimant via Teams on 26 April 2022, and asked her what she would like as her name on the rota. The claimant did not answer her directly but instead stood up on camera and showed Ms Hibbins her long skirt and top. She then proceeded to say that it did not matter what name Ms Hibbins put down on the rota as she would not take offence. As the claimant had stood up to show her long skirt and top, Ms Hibbins interpreted that behaviour as the claimant's preference was to be named as Mandi on the rota.
26. One of the issues in this case is whether or not the claimant was discriminated against because of transgender status.
27. On 29 April 2022, Ms Rodriguez had a conversation via a Teams video call to explain to the claimant that although she was free to use whatever name

she wished, for other staff and customers there would be the need for consistency, and that she should consider whether she should be referred to as either Mandi or Andy. She replied stating that she would be content to be referred to as Andy in the workplace, however, her friends and acquaintances outside of work call her Mandi and would accept the pronouns “he/him”. Ms Rodriguez took the claimant’s response to mean that Mandi would be used by the claimant’s friends and acquaintances outside of work, but in the workplace, she preferred to be addressed by the name of Andy.

28. Ms Hibbins had prepared the rota for week commencing 2 May 2022 and put the claimant’s name down as Mandi. A few days later, after the rota had been sent out, Ms Rodriguez called Ms Hibbins via Teams and asked that in future rotas, the claimant should be referred to by the name of Andy to avoid confusion with customers. Ms Hibbins agreed to put the claimant down as Andy on future rotas.
29. We find that the claimant’s work email was [Andy.Mason@CentralBedfordshire.Gov.UK](mailto:Andy.Mason@CentralBedfordshire.Gov.UK), and would sign off her emails either as Mandi Mason, Mandi or M. Her personal email account was [AndyMasonBlue@hotmail.com](mailto:AndyMasonBlue@hotmail.com). (B395 to B396). In correspondence with the tribunal she used [AndyMasonBlue@hotmail.com](mailto:AndyMasonBlue@hotmail.com) until it was changed in August 2023 to [MandiEMonroe22@outlook.com](mailto:MandiEMonroe22@outlook.com).
30. We considered the evidence given by the respondent’s witnesses in relation to how the claimant wished to be addressed and the use of appropriate pronouns in describing her. We accepted the evidence given by the respondent’s witnesses. We could not find any reason or motive why they would refuse to accept the name of Mandi if the claimant had expressed her wish to be called by that name. She had a good working relationship with Ms Rodriguez, her line manager, and there was nothing to suggest that there was any animosity between the two of them. She did not instruct the claimant to use the name of Andy at work. It was the claimant’s choice. It is clear that the claimant continued to use her personal email in the name of Andy Mason. We are satisfied on the evidence, that the claimant was content for the respondent to have her down as Andy.

#### Microsoft Teams discussion on 16 May 2022

31. Ms Rodriguez was on leave week commencing 16 May 2022. Her absence was covered by Ms Mai Brown, Homeless Intervention Team Leader.
32. A Universal Risk Assessment, URA, is completed for every application for temporary accommodation made by the Homeless Intervention Team, formerly House Options. It contains highly sensitive information and is completed by the assessor in order to ensure that information is properly collated to make a suitable placement. The document contains links to the department’s central system called Box. These links can include police checks, medical evidence, and other important information. The information on the URA is then used by Accommodation Services to determine a suitable placement. Cases are assessed under the Housing Act 1996,

amended by the Homelessness Act 2002, and under the Homelessness Reduction Act 2007.

33. On 16 May 2022, Ms Shahela Begum, Senior Housing Options Officer, and Ms Niasia Blair, Team Leader, advised in an email that all URAs should be sent to the senior officer to be reviewed in the first instance. Once reviewed and the information provided was correct, they would send the risk assessment to the Team Leader for a final sign off. (B313)
34. The claimant had completed a URA on a young female requesting that temporary accommodation be provided to her. The URA was dated 16 May 2022 and stated that it was an emergency as the person was immediately homeless. The family were no longer willing or able to accommodate her. Her priority need reason was that she was a vulnerable person as a result of mental health and/or other learning disabilities. Her doctor's letter stated that she ought not to be sharing accommodation due to social anxiety and depression. She was on medication. The claimant wrote in relation to support needs within the household:

“History of mental health problems. At risk of/has experienced sexual abuse/exploitation. At risk of/has experienced domestic abuse.”
35. The claimant also stated that the young woman's brother had temporarily accommodated her and that her grandmother may be able to provide support. Although a member of the household had experienced domestic abuse or harassment, the risk level was low. There was no incidence of violence.
36. In relation to additional comments and recommendations, the claimant wrote:

“X was initially asked to leave by her nan and went to stay at her brothers. He has mental health too and has also asked X to leave today and it is difficult. She has been staying there for three weeks and needs emergency temporary accommodation. She is in PN due to mental health conditions.”
37. The URA was signed by the claimant. (B330 to 342)
38. Ms Shahela Begum's working pattern was two days per week and worked predominantly from home. She first met the claimant face to face in the office on 4 May 2022, when the claimant introduced herself to her as Andy and they had a general chat about the distance that the claimant travelled to work. Ms Begum recalled the claimant as saying that she lived in Rugby and stayed in a hotel called Redwings. Contrary to what the claimant recalled, Ms Begum could not remember being offered Hobnob biscuits by her.
39. On 16 May 2022, at approximately 11.28am, along with Ms Niasia Blair, Ms Begum was sent the URA completed by the claimant on behalf of the young female, to check and authorise for her to be provided with temporary accommodation. In her email, the claimant stated that she was not sure who she was supposed to send the email to for authorisation. Ms Begum



responded shortly thereafter stating that the URAs needed to be sent to her and to Ms Blair. Ms Begum would then check it over and respond back to the claimant. (B320, B322)

40. Ms Rodriguez had instructed that while she was on annual leave, URAs were to be sent to Ms Begum and to another Team Leader, Ms Rachel Parker, to be authorised. This was a temporary arrangement during her annual leave.
41. At 11.42am, Ms Begum emailed the claimant stating that she had highlighted issues in red which the claimant needed to make amendments to and send back the amended URA to her. These included but were limited to, completion of Check list 10, police check, confirmation of duty owed, and confirmation of income. (B294)
42. To follow up her email, Ms Begum sent an email to all team members including the claimant, stating that all requests for placements needed to be sent to her or to her job-share partner, Ms Parker, as instructed by Ms Rodriguez. (B303)
43. At 12.47, the claimant emailed Ms Begum and three others, as well as copying Ms Parker and Ms Rodriguez. She wrote:

“Hi Shahela

Thanks for your email.

Can you show me how we do this after lunch please, as this is a HOTD.

I have amended the URA and requested the PNC and included the links.

I would really appreciate getting to understand this process.

Many thanks,

Andy”

(B302 to 303)

44. We believe that “HOTD” meant that the person was homeless and in need of accommodation “today”. PNC is a Police National Computer check. It was clear from the claimant’s email that she was not fully conversant with the respondent’s procedure in dealing with homeless people and in completing the URA.
45. The claimant then sent, at 12.25pm, a further email to Ms Begum and the team leaders, with a link to the URA she had amended asking whether she had done it correctly. (B317)
46. 11 minutes later, at 13/46, Ms Begum responded to the claimant’s email and explained what needed to be done in order to complete the form correctly, and where the Checklist 10 could be found. She also asked the claimant whether the case had moved from a “Triggered status” to a different status.

Triggered status is where an application has been received from someone seeking homeless assistance. The claimant was proposing interim accommodation and Ms Begum expected her to reclassify the case as Prevention Duty or Relief Duty which would have demonstrated that a legal duty was owed. (301)

47. There then followed several emails in comparatively quick succession between the claimant and Ms Begum. The claimant stated that she was doing an assessment in another case and could not complete Checklist 10 in the correct way. Ms Begum sent her the proforma to complete and for a police check on the young woman. Ms Begum had also asked the claimant whether she had contacted the young woman's excluders, meaning those who had served on her the eviction notices, and advised the claimant that all conversations needed to be documented. The claimant stated that she had spoken to the brother of the young woman who wanted her to leave his property that very day. Ms Begum asked whether she had documented the conversation with the brother as it was not on the computer system called Jigsaw. The claimant replied stating that she had submitted the PNC check but had not sent it via the correct procedure and had emailed the police directly. Ms Begum's response was that police checks needed to be monitored and tracked, and that all requests should go to Housing Assistance for the department, namely Ms Hibbins. The claimant later acknowledged that Ms Parker, Ms Begum's job sharer, had probably made her aware of the correct procedure to follow which she had forgotten. She stated that she had used the correct proforma and would send it to Ms Hibbins shortly.
48. At 3.01pm, Ms Begum emailed the claimant stating the following:

"... Also please document that you have spoken to brother and nan and spoken with them. Add this in as notes on Jigsaw.

The case needs to move on from application triggered into relief. Not sure why there was no prevention duty established in this case either – looks like it was Marina's case before it was yours doesn't it?"
49. Ms Begum also instructed the claimant to add the police check onto Box and to add links to the police check onto the URA. (B30, B308, B299, B298, B297, B305 and B342.1)
50. On 16 May 2022, Ms Mai Brown, Homeless Intervention Team Leader, was covering for Ms Rodriguez to sign off any temporary accommodation requests. The claimant sent her an email on that day for her to sign off the risk assessment and asked whether she had followed the correct procedure. She stated that it was always good to find out if the correct procedure was being followed and, if not, she would learn to do it the correct way. (B318)
51. Ms Brown emailed the claimant and Ms Begum thanking the claimant for her email. She asked Ms Begum to confirm that she had reviewed the information supplied by the claimant. (B317)

52. Ms Begum replied that the case was still on application triggered status. Checklist 10 had not been completed the correct way and she could not see any calls having been made to the excluders. She had already sent an email to the claimant requesting this information. (B315)
53. Ms Brown then wrote to the claimant following Ms Begum's email advising her to send the risk assessment after it had been agreed by Ms Begum. (B314)
54. The claimant emailed Ms Brown on 16 May 2022 at 15.02 stating:
- “...So for future reference I only need to send once the URA has been approved by whoever, does the approving in my team or whoever, this may be when I am part of the duty team.”
- (314)
55. After the client's email to Ms Brown, Ms Brown called her via MS Teams and said that there had been several emails going backwards and forwards between her and Ms Begum and thought it would be helpful, in order to avoid confusion, if there was a discussion on the way forward with the risk assessment. In evidence Ms Brown said that she advised the claimant that she was inviting Ms Begum to join the call to address the points the claimant had raised, and what additional enquiries were required to satisfy the obligation to provide temporary accommodation to the young woman. The claimant stated that she was unaware that Ms Brown was going to invite Ms Begum into the discussion. We accepted Ms Brown's evidence that she explained to the claimant that she was going to invite Ms Begum as a senior team member dealing with homeless cases, as she was someone who was familiar with the procedure. It made sense for Ms Brown to explain to the claimant that she would be inviting someone who was familiar with the process as the claimant was a comparatively new worker unfamiliar with the procedure.
56. At approximately 15.13pm, Ms Begum joined the conversation via Microsoft Teams and noticed that the claimant was also present. She was asked by Ms Brown about the young female applicant. Ms Begum said that she was still waiting for certain actions to be done by the claimant as she had stipulated in her emails during the day. She observed that the conversation between the claimant and Ms Brown became quite heated, both raised their voices. Ms Brown thanked her and said that she was glad that they were able to clear things up. She then said to the claimant:
- “Moving forward I want to make the process abundantly clear....”
57. At that point the claimant interrupted her and began to shout, saying:
- “I do not want to work for a local authority that does not take people's abilities to understand things into account! I have autism and it takes me longer to understand something, I do not think it is fair.”
58. At that point Ms Brown interrupted the claimant and said:

“Sorry Andy, You did not allow me to finish my sentence before you interrupted me, I was speaking. I was trying to say that I want to make it abundantly clear moving forward not only to you but to the team, that the process in Naomi’s absence which was cascaded to the team, is that all risk assessments must be reviewed by the senior first and then sent to the team leader thereafter. I was calling you because I could see there was some confusion around that. I was not aware that you had any additional needs and if you had any difficulties in understanding things however, it is your responsibility to inform me of that so we can support you.”

59. According to Ms Brown the claimant replied:

“I do not feel comfortable having this conversation in a group.”

60. It was at that stage that Ms Brown asked Ms Begum to leave the call. At the time of her leaving, Ms Begum recalled that the claimant and Ms Brown were both talking over each other. She stated that she participated in the discussion for about one minute before leaving.

61. Ms Brown then went on to explain to the claimant that there had been several emails and different team members dealing with the case. She said that she understood that if the claimant was focussing on her daily tasks during work and one of her customers became homeless unexpectedly that this could cause some stress with re-prioritising her work. The claimant said that she was getting confused as the senior team members were changing each day and she was not sure who to go to. Ms Brown explained the working pattern of the seniors and that in Ms Rodriguez’s absence, she would be acting as Team Leader responsible for signing off any risk assessments once reviewed by a senior. She apologised for sending her email asking the claimant to send the link to the risk assessment as it may have caused confusion with the original instructions, but she repeated the process to the claimant. She then went on to explain that she was sorry that things had been confusing for the claimant and that the build-up of things on the day had probably led to her feeling very frustrated, but they were there to support her and that she should not suffer in silence if she was struggling to understand process. Ms Brown went on to say that she could not read her mind, therefore, she needed to raise matters in order to get the support in place to help her. The claimant agreed to raise any issues in the future and said she understood the process moving forward.

62. After their discussion, Ms Brown followed up the advice in an email to the claimant advising her on the process and the working patterns of the seniors. She also advised that the claimant could seek guidance from either her or a senior member of the team. She wrote:

“.....As per our conversation, please complete all the requested adaptations within the form and send the completed URA to Shahela.

If you require any guidance on this, please contact Shahela or myself.

Once Shahela agrees with the URA she will send it straight to me.

Shahela works on the following days:

Monday and Wednesday

Rachel works on the following days:

Tuesday/Thursday/Friday

Until Naomi returns, I will be acting as your TL signing off any requests once reviewed by the senior.....”

(B313)

63. There then followed further correspondence between Ms Begum and the claimant from 16.20pm to 16.33. During that time Ms Begum had received a letter from the young woman’s brother. She requested the claimant obtain the contact telephone numbers for the young woman’s excluders, namely her brother and her grandmother, and that she, Ms Begum, was content to call them. The claimant shortly thereafter sent Ms Begum the telephone number of the young female’s brother. At 16.33, the claimant informed team members on Microsoft Teams that she was leaving for the day. Some seven minutes later Ms Begum made contact with the brother who provided her with the telephone number of the grandmother. Ms Begum spoke to both of them separately. The brother agreed to accommodate the young woman for a further two nights. (B328, B326)
64. At approximately 17.19, Ms Begum made notes on the system and informed the claimant and Ms Brown by email about the conversations she had and left further instructions for the claimant to follow up on her return to work the next day. (B324)
65. We find as fact that at no point did either the claimant, the young woman, nor the brother, stated that she was fleeing domestic abuse. Ms Begum understood the reason for homelessness was a relationship breakdown. None of the records on the respondent’s internal systems made reference to domestic abuse.
66. Ms Begum was unaware that the claimant suffers from autism. The allegation that she had bullied the claimant because of her disability is something that she has denied and feels “sad” about. She has close family members and children of friends who are autistic both verbal and non-verbal. She further denied that she had bullied the claimant because she is transgender as it too was unknown to her at the material time. She had only met the claimant once face to face in the office and the conversation was friendly in nature. The claimant had offered her some herbal tea bags which she agreed to try at home. After trying one teabag she later purchased a box of the same tea from her local supermarket shop.
67. The claimant worked on 17 May but not on 18 May 2022.
68. Ms Brown was unaware of any diagnosis of autism other than during the conversation she had with the claimant on 16 May 2022, when the claimant mentioned it as a reason for her lack of understanding of the processes.

69. On 16 May 2022 at 15.30pm, Ms Katie Voice, at the time Head of Homeless Intervention Manager, was sent a chat message on MS Teams from Ms Brown, who informed her of the challenging conversation she had with the claimant on 16 May 2022.
70. After her discussion with the claimant, Ms Brown contacted her manager, Ms Katie Voice, Homeless Intervention Manager, to inform her about what had occurred.

Ms Rodriguez return to work

71. When Ms Rodriguez returned from leave on 19 May 2022, she received an email from the claimant to advise that she would not be in work and that she would be making a formal complaint against Ms Brown and Ms Begum, as well as raising a safeguarding complaint about the way in which the young woman's case was handled by the respondent. The claimant wrote at 08.55 in the morning, the following:

“Hi Naomi,

I hope you have had the most wonderful time in Italy.

I am sorry to report that I do not feel well again today, so I will not be working due to feeling highly distressed, which impacts upon my autistic traits.

Please accept my apologies because you are having to come back to an issue which occurred on Monday.

I am going to make a formal complaint against Mia and Shahela due to the nature of it. I am also going to say that there is a safeguarding complaint too due to the way the case was handled by Shahela by contacting [the name of the young woman is given but blanked out], when it is specifically stated in the case assessment that the customer reported [the rest of the sentence is blanked out]. This placed unnecessary and undue pressure and she is not happy about it either.

I felt bullied and victimised by Mia and Shahela, It was completely inappropriate to bring in Shahela over a team meeting and had to request that the meeting ended. I was spoken to in a discourteous manner and felt undermined by the time of both. It was as if they were looking for the problem which left me feeling unsupportive and reduced my confidence levels to zero should [I] need advice from them in the future. I think this treatment is because I am Trans. I would like to thank you, sincerely, for your support towards me as a Trans woman coming into the Council, I have been very encouraged and warmed by your approach. Now, I just feel that I have been targeted., I feel so disappointed by the bullying and poor practice.

I will update you on a return to work and let you know that I am happy to speak to you if you want to discuss this prior to me raising the complaint and safeguard. I need to submit the formal complaint asap and aim to have that with you by tomorrow.”

(B367)

72. Mr Rodriguez responded on 20 May 2022, when she asked the claimant to keep her updated, but also to discuss the matter with her employer, Nexere Recruitment. She also wrote that she had not been contacted by Nexere Recruitment to discuss any complaints and was not aware of any formal complaints being made. She did not believe that the claimant's email was a formal complaint as she had stated that she would be making a formal complaint in due course. (B393)
73. On 23 May 2022, Ms Rodriguez had a messaging conversation with Ms Begum via Teams. Ms Begum asked, now that the claimant was back, whether there was anything she needed to know given that the issue was quite contentious. Ms Rodriguez replied that the claimant only logged in to send her an email to say that she was not returning to work as she had been signed off for five weeks and was going to give her equipment back. She, Ms Rodriguez, was going to update her team. Ms Rodriguez stated that she was not expecting the claimant to return to work, and:
- “Yeah neither really and it makes it easier for us rather than making a decision on what do we do just a little harder with staffing but we will manage.”
74. Ms Begum replied that “Definitely worked in our favour. Has he stopped the allegations then?” Ms Rodriguez responded by stating that the claimant said her agency would be in touch regarding a plan moving forward but had not sent in a formal complaint and did not provide further details. Ms Rodriguez and Ms Price advised her to speak to her employer, Nexere. (B386 to 387)
75. In evidence Ms Rodriguez explained her messages, in particular her words “What do we do”, meant how she would manage staffing and whether it would be better to move to a different team within Housing Options to allow for other seniors to be there to assist the claimant. There were three teams in a much wider team. During that time the team had been stretched and staff were working to reduce the backlog. This led to the comment from Ms Rodriguez, “We will manage”. We find that it was her attempt to reassure her team.
76. On 18 May 2022, Ms Voice was copied into an email from the claimant to Ms Katy Thurston, Housing Systems Officer. In it the claimant stated that she intended to make a formal complaint in relation to how she had been treated on Monday, 16 May 2022. She had been left feeling humiliated and bullied and such treatment was not acceptable. She was not able to return to work until she spoke to either Ms Rodriguez or another manager to discuss a better way of working and understanding. She was not going into work because she was going to make a formal complaint about her treatment on 16 May. (B348)
77. The claimant said in reply to questions put to her by the tribunal, that her email did not disclose information about any safeguarding concerns, nor of any qualifying disclosures.
78. Ms Voice replied to the email of 18 May 2022 informing the claimant that she was able to speak to her that day but was unavailable for the rest of the

week as she would be out of the office. At that point Ms Voice was unaware of the safeguarding concern and the accusations of bullying and harassment. (B350)

79. The claimant's recruitment agency, Nexere Recruitment, was informed by Ms Voice of the issue and the email she had received from the claimant. She also, on the same day, requested advice from the respondent's Human Resources Department on how best to proceed. (B398)
80. Ms Voice spoke to Ms Begum and Ms Brown to establish what happened during their conversation with the claimant on 16 May 2023. As Ms Voice was going to be out of the office when Ms Rodriguez was due to return to work, she emailed Ms Rodriguez to ask that she provide her with a summary of events as she understood them, and to update her generally. After giving some background, Ms Voice wrote to Ms Rodriguez stating that it appeared to her that the claimant had a "run-in with Mai and Shahela around URA" which she sent to Ms Begum, but Ms Begum refused to agree it as she, the claimant, had not completed the necessary enquiries, such as, contacting the excluder. Ms Brown got involved but the claimant had an argument with her as she did not do what Ms Begum asked her to do. Ms Voice then went on to write:

"He then had a bit of a strop at Mai stating that he was autistic, and that she wasn't considering it. Mai advised that if he was confused he should have asked and is now accusing Mai and Shahela of harassment etc(see the email he sent this morning around 8-ish) and he hasn't come into work so essentially gone on strike.

I have called Shai his recruiter to advised. I am waiting for Shai to come back to me but I'm not sure we should be expecting Andy back. I have contacted Human Resources for advice but they are working out which teams as he's an agency worker not an employee. It's weird because he came in on Tuesday and as far as I'm aware he was fine.

Mai and Ni are aware of the situation and if I'm honest I'm not happy about the way he has handled this, he seems to have forgotten that we are buying a service from him and we are his customer. Never mind that he's emailed a complaint to random member of staff rather than you or myself.

I just wanted to make you aware."

(B353)

81. As the claimant's absence was unplanned and it was unclear if or when she would be returning to work, placing further strain on the existing team members at a difficult time, and impacting on the respondent's ability to deliver a statutory service to vulnerable members of the public, Ms Voice informed her Head of Service of the issue in an MS Teams message and stated that she may take action to end the claimant's placement as there was no expected return to work date. Her communication was private with her line manager.



82. On 19 May 2022 at 09.12, the claimant emailed Ms Voice stating the following:

“I had spoken to Katy T and explained some of the situation on Monday with her about how I felt I was being treat[ed] and copied you because I thought the matter warranted your attention, particularly because I feel that there is a safeguarding issue here.

I have emailed Naomi this morning and hope to submit a complaint by tomorrow morning. I am sorry I could not get back to you yesterday and you are off duty today. I am happily being managed by Naomi and have confidence in her abilities.

Obviously, things need to progress asap.”

(B383)

83. Upon Ms Rodriguez return to work accommodation was offered to the young woman on 23 May 2022.
84. On 23 May 2022, the claimant requested contact details of the Safeguarding Lead within the Council and asked for the housing portfolio contact information. She did not elaborate on why this information was required. Ms Voice did not see it as necessary to involve the council’s Portfolio Holder as this is a political role and operational responsibilities and staff management were with operational management. The matter would have, in any event, been referred back to her. She responded and directed the claimant to make her complaint to Nexere Recruitment, as her employer, following the advice she had received. She provided information to the claimant on how to access the safeguarding policies via the respondent’s website as this is public information. At this time Ms Voice believed that the safeguarding issue related to the claimant personally in respect of her allegations of bullying and that she had been advised to direct the claimant to her recruitment agency. She was unaware that the claimant’s safeguarding concerns related to a young female customer and the respondent’s duty to her. She stated that had she been made aware from the claimant that the safeguarding concern related to the young woman, steps would have been taken to investigate the matter. She became aware that staff members progressed the homelessness application of the young woman which was resolved on 23 May 2022. (B388)

Termination of the claimant’s assignment

85. After seeking further advice from the respondent’s Recruitment Team within Human Resources and from Matrix, the respondent’s agency supply chain, Ms Voice took the decision to terminate the claimant’s assignment because she, the claimant, was unavailable for several weeks of her placement and was unable to complete the work she had been contracted to do. Further, she had not returned her laptop, iPhone, and iPad to the respondent.
86. The claimant made a Subject Access Request in the course of these proceedings. When the documents were disclosed to her she became

aware that on 18 May Ms Voice had messaged the Head of Housing Services, Ms Charlotte Guerny, saying that the claimant had “Gone on strike” and acknowledged that the claimant’s complaint was one of ableism and transphobia, and that she was:

“refusing to come back until its dealt with – which I’ve discovered through being copied into an email from another member of staff, honestly I’m going to terminate his placement, I think too much drama.”

87. The claimant is of the view that the respondent had no intention of taking the complaint seriously and did not have regard to the safeguarding concerns raised. (B452)
88. Following her termination she obtained work with a different Council from January to March 2023, and had reverted to being called Andy because, as she stated in evidence, for fear of being discriminated again.
89. On 23 May 2022, at 08.29, the claimant emailed Nexere stating that she could not and will not work at the respondent any longer and proposed a financial settlement citing breaches of her employment rights.
90. On 23 May 2022 at 09.13, she emailed Ms Rodriguez, copying Ms Voice, stating that she was disappointed to have raised significant safeguarding concerns and that she had been bullied and discriminated against. Being an agency member, she wrote, did not affect her statutory rights. She continued:

“I have written a proposal to my agency regarding a solution to this matter and hopefully he will be in touch with you this morning to discuss. All being well I can return equipment tomorrow or Wednesday.”

(B393)

91. The respondent’s laptop was only returned by the claimant on the first day of the tribunal hearing.

## **Submissions**

92. The tribunal heard submissions from the claimant and from Ms Bewley, Counsel on behalf of the respondent. They provided written submissions and spoke to those when they addressed us. We do not propose to repeat their submissions herein having regard to Rule 62(5) Employment Tribunal (Constitution and Rules of Procedure) Regulations 2013, as amended. We have, however, also taken into account the authorities they have referred to.

## **The law**

### Public interest disclosure

93. In relation to public interest disclosure, we have taken into account sections 103A and 47B Employment Rights Act 1996 on dismissal and detriment.

94. Section 47B(1), Employment Rights Act 1996 provides,

“A worker has the right not to be subjected to any detriment by any, or any deliberate failure to act, by his employer done on the ground that the worker has made a protected disclosure.”

95. A protected disclosure means a qualifying disclosure as defined under section 43B made by a worker in accordance with sections 43C to 43H, ERA 1996, section 43A.

96. Section 43B defines what is a qualifying disclosure. It provides,

“(1) In this Part a ‘qualifying disclosure’ means any disclosure of information which, in the reasonable belief of the worker making the disclosure, is made in the public interest and tends to show one or more of the following --

- (a) that a criminal offence has been committed, is being committed or is likely to be committed,
- (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject,
- (c) that a miscarriage of justice has occurred, is occurring or is likely to occur,
- (d) that the health or safety of any individual has been, is being or is likely to be endangered,
- (e) that the environment has been, is being or is likely to be damaged, or
- (f) that information tending to show any matter falling within any one of the preceding paragraphs has been, or is likely to be deliberately concealed.”

97. What is a detriment under section 47B is not defined in the legislation? In this regard the judgments of their Lordships in the case of Shamoon-v-Chief Constable of the Royal Ulster Constabulary [2003] IRLR 285, will apply. It is whether or not the worker was put at a particular disadvantage having made a protected disclosure? The disadvantage could be either physical, such as being instructed to engage in degrading work; or denying them benefits such as a company car, medical cover or membership of a sports or social club; being denied the opportunity of promotion, or a delay in addressing an issue. It may also be psychological, financial, or not being offered employment, amongst other things.

98. The qualifying disclosure must be a disclosure of information, that is conveying facts, Cavendish Munro Professional Risks Management Ltd v Geduld [2010] IRLR 38, a judgment of the Employment Appeal Tribunal. In the case of Kilraine v Wandsworth London Borough Council [2018] EWCA Civ 1438, Sales LJ, held that information is capable of covering statements which might be characterised as allegations. Not every statement involving an allegation would constitute information amounting to a qualifying disclosure. In order for a statement to be a qualifying disclosure for the

purposes of section 43B(1), it had to have sufficient factual content and specificity capable of tending to show one of the matters listed in paragraphs (a)-(f) of the subsection. Whether any particular statement met that standard would be a matter for evaluative judgment by the tribunal in the light of all the facts and the particular context in which it was made., paragraphs 31-34. See also Williams v Michelle Brown Am UKEAT/0044/19/00. Disclosures can be considered in aggregate, but whether they do is a question of fact, Simpson v Cantor Fitzgerald Europe [2020] EWCA Civ 1601.

99. A reasonable belief is assessed objectively taking into account the particular characteristics of the worker in determining whether it was reasonable for him/her to hold that belief, Korashi v Abertwe Bro Morgannwg University Local Health Board [2012] IRLR 4, EAT.
100. In the case of Fecitt and Others and Public Concern at Work-v-NHS Manchester [2011] EWCA Civ 1190, the Court of Appeal held that the causal link between the protected disclosure and suffering a detriment under section 47B, is whether the protected disclosure “materially influenced”, in the sense of being more than a trivial influence, the employer’s treatment of the whistleblower.
101. In section 48(2), the statutory test is whether the worker was subjected to the detriment by the employer “on the ground that” they had made a protected disclosure. It is for the worker to prove, on the balance of probabilities, that there was a protected disclosure, that there was a detriment, and the employer subjected the claimant to the detriment. If established, the burden shifts to the employer to show the ground on which the detrimental act was done. If the tribunal rejects the reason advanced by the employer, it is not bound to accept the reason given by the worker and may find, on the facts, that there was another reason for the detrimental treatment.
102. Causation will be established unless the employer can show that the protected disclosure played no part whatsoever in its acts or omissions, Fecitt.
103. In a breach of a legal obligation case, the tribunal should identify the source of the legal obligation and how the employer failed to comply with it. Actions could be considered wrong because they were immoral, undesirable or in breach of guidance without being a breach of a legal obligation, Eiger Securities LLP v Korshunova [2017] IRLR 115, EAT.
104. Section 103A ERA provides that, “An employee who is dismissed shall be regarded for the purposes of the Part as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that the employee made a protected disclosure.”
105. It is for the employer to prove the reason for the dismissal. Where the employee lacks the relevant qualifying period of service the burden will be on the employee to prove the reason for the dismissal was by reason of making a protected disclosure, Kuzel v Roche Products Ltd [2008] ICR 799.

106. A claim under section 47B must be presented within three months beginning with the date of the act or the failure to act, section 48(3).
107. This time is extended under section 207B where there has been conciliation before the presentation of the claim, section 48(4A).
108. If a detriment claim is well-founded the tribunal can make a declaration to that effect and award compensation, section 49(1) Employment Rights Act 1996. The claimant is under a duty to mitigate, section 49(4), and the tribunal can consider whether the claimant either caused or contributed to the act complained of, section 49(5). Compensation is assessed on the same basis as a discrimination claim and can include an injury to feelings award, Virgo Fidelis Senior School v Boyle [200] IRLR 268.
109. In addition, we have considered the case of Royal Mail Group Ltd v Jhuti [2019] UKSC 55, on the issue of the real reason for a section 103A ERA dismissal.
110. In Norbrook Laboratories (GB) Ltd v Shaw [2014] ICR 540, disclosures can be aggregated.
111. Where there are multiple protected disclosures, the tribunal is required to ask itself whether, taken as a whole, the disclosures were the principal reason for the dismissal, El-Megrissi v Azad University (IR) in Oxford, UKEAT0448/08.
112. When considering the employer's potential liability, the tribunal must focus on the mental processes of the individual decision-maker, in asking whether the employer was materially influenced by protected disclosures. However, that the general rule may be displaced in circumstances where a manipulator with an unlawful motivation who is in the hierarchy of responsibility above the worker, procures the detriment via the innocent decision-maker, Jhuti.

#### Harassment related to disability and transgender

113. Harassment is defined in section 26 EqA as,

“26 Harassment

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

- (a) A engages in unwanted conduct related to a relevant protected characteristic, and
- (b) the conduct has the purpose or effect of-
  - (i) violating B's dignity, or
  - (ii) creating and intimidating, hostile, degrading, humiliating or offensive environment for B”

114. In deciding whether the conduct has the particular effect, regard must be had to the perception of B; other circumstances of the case; and whether it is reasonable for the conduct to have that effect, section 26(4).
115. Protected characteristics include disability and gender reassignment, sections 4, 6 and 7.
117. In this regard guidance has been given by Underhill P, as he then was, in case of Richmond Pharmacology v Dhaliwal [2009] ICR 724, set out the approach to adopt when considering a harassment claim although it was with reference to section 3A(1) Race Relations Act 1976. The EAT held that the claimant had to show that,
- (1) the respondent had engaged in unwanted conduct;
  - (2) the conduct had the purpose or effect of violating his or her dignity or of creating an adverse environment;
  - (3) the conduct was on one of the prohibited grounds;
  - (4) a respondent might be liable on the basis that the effect of his conduct had produced the proscribed consequences even if that was not his purpose, however, the respondent should not be held liable merely because his conduct had the effect of producing a proscribed consequence, unless it was also reasonable, adopting an objective test, for that consequence to have occurred; and
  - (5) it was for the tribunal to make a factual assessment, having regard to all the relevant circumstances, including the context of the conduct in question, as to whether it was reasonable for the claimant to have felt that their dignity had been violated, or an adverse environment created.
111. Whether the conduct relates to disability “will require consideration of the mental processes of the putative harasser”, Underhill LJ, GMB v Henderson [2016] EWCA Civ 1049. The same applies to gender reassignment cases.
112. In a case in which the claimant was outed after having disclosed his sexual orientation, being gay, to his work colleagues at a different office, Lord Justice Elias, delivering the lead judgment, held, in the case of Grant v HM Land Registry and Others [2011] EWCA Civ 769, paragraph 47:
- “..In my view there can be no detriment because having made his sexual orientation generally public, any grievance the claimant has about the information being disseminated to others is unreasonable and unjustified. Furthermore, even if in fact the disclosure was unwanted, and the claimant was upset by it, the effect cannot amount to a violation of dignity, nor can it properly be described as creating an intimidating, hostile, degrading, humiliating or offensive environment. Tribunals must not cheapen the significance of these words. They are important control to prevent trivial acts causing minor upsets being caught by the concept of harassment. The claimant was in no doubt upset that he could not release the information in his

own way, but that is far from attracting the epithets required to constitute harassment.”,

## Conclusion

### Credibility

116. On the issue of credibility, having heard the respondent’s witnesses, we are satisfied that they gave reliable and consistent accounts of what they observed, what was said, and what they did. They also had relevant documents to support their accounts. They were credible and truthful witnesses. Where the claimant’s evidence came into conflict with the evidence given by the respondent’s witnesses, we preferred their accounts of events.

### Public interest disclosure

117. The claimant relies on an email exchange to Ms Voice and Ms Thurston on 18 May 2022, in which she requested a meeting to discuss safeguarding concerns about a service user. In fact, the email, at page B348, discloses no information with regard to a safeguarding concern of a young woman. This the claimant accepted in her oral evidence before the tribunal. She admitted that the email was about her being allegedly humiliated and bullied, and that having considered her position she did not feel confident nor able to return to work until she had either spoken to Ms Rodriguez or to another manager to seek a better way of working and understanding.

118. The email does not give details of the young woman’s circumstances and why it was a safeguarding issue. Further, no details were given alleging any health and safety breaches, or the failure to comply with a legal obligation, or indeed, a disclosure in respect of a criminal offence.

119. The same applies in relation to the second email relied on by the claimant sent on 19 May 2022, to Ms Voice, who was on annual leave. Ms Voice returned to work on 23 May 2022. The email to her, at B383, raised information regarding a safeguarding concern about a service user, but could not give specifics about breaches of any qualifying disclosures. In it there is no request for a meeting to discuss the safeguarding concern. The claimant stated that she intended to submit a complaint the following morning. She simply stated, “I feel there is a safeguarding issue here”, and not much more. Furthermore, requesting a meeting to discuss a safeguarding concern is not a qualifying disclosure. The email does not disclose information and does not satisfy the requirements of being a qualifying disclosure, as held by Sales LJ in Kilraine.

120. Even if the email sent to Ms Rodriguez on 19 May at 08.55 is considered, again, it does not raise a safeguarding issue but raises concerns about the claimant’s treatment and how it impacted on her autism. Again, she repeated that she was going to make a formal complaint against Ms Brown and Ms Begum and that she was going to say that there was a safeguarding complaint due to the way the case was handled by Ms Begum. (B367). It is

not disclosure of information and does not satisfy the requirements of being a qualifying disclosure, Kilraine.

121. As there are no qualifying disclosures, this public interest disclosure claim fails.
122. Further and or alternatively, even if there was a qualifying disclosure or disclosures on 18 and 19 May 2022, were they made in the public interest? We are of the view that a qualifying disclosure citing a Council's unfair treatment of a vulnerable young woman, who was homeless, would be in the wider public interest.
123. Was that belief reasonable? Here, the claimant was locked in a dispute over at what stage does the duty to provide temporary accommodation to a homeless person becomes triggered? She relied on her past experience in dealing with homeless cases to argue with the more senior members of staff that, based on the stage at which she had reached in dealing with the young woman's homelessness application, the duty on the Council to provide temporary accommodation for her had been triggered. According to the respondent, namely Mrs Begum and Ms Brown, there were further enquiries the claimant had to make to comply with the respondent's procedures and its legal obligations. In correspondence the claimant acknowledged that she had been advised on the procedures and that she would follow the advice given in the future. We have come to the conclusion that in rigidly adhering to her own particular view when there were clearly established procedures to follow in dealing with a homeless application, her belief was not reasonable.
124. Contrary to the above, even if there was a qualifying disclosure or disclosures , it was in the public interest, and her belief was reasonable, did she suffer a detriment in that the respondent failed to hold a meeting with her? She did not request a meeting but stated that she would lodge a formal complaint. Her last day of service was 18 May 2022.
125. It is difficult to see how an alleged failure to offer a meeting was on the grounds of any qualifying disclosure or disclosures. It is not clear who should have offered that meeting. She was also signed off sick for five weeks and the respondent's view was that her complaint, as understood, should first to her agency and then back to the respondent, but the claimant then stated that she was bringing legal proceedings and started the process almost immediately.
126. We have come to the conclusion that the claimant's claims of having suffered a detriment because of a protected disclosure is not well-founded and is dismissed.

Harassment related to disability.

127. There is no dispute that the claimant suffers from a disability, namely autism. This has been admitted by the respondent. We find that with her autism it takes her longer than a non-disabled person to read and learn



things. Although not a failure to make reasonable adjustments claim, this puts her at a substantial disadvantage. She alleges that on 16 May 2022, Ms Brown, in a Microsoft Teams call, engaged in unwanted conduct, in that, she was asked by Ms Brown what she did not understand about the process in placing a service user in emergency temporary accommodation. This was not with reference to her autism either expressly or implication but was an attempt at trying to understand and to clarify her understanding of the URA processes. The meeting was called because a number of emails had been sent to Ms Brown regarding the claimant's URA when Ms Brown was not supposed to receive them until a URA had been approved by one of the senior staff members. The claimant had been told that in the absence of Ms Rodriguez, that URAs must be forwarded to Ms Begum for advice. The claimant had sent an email to Ms Brown chasing the application when she knew it had not been signed off and that she had emailed Ms Begum and others asking how to complete the URA as she wanted to understand the process, B302 to B303. The claimant later contacted Ms Brown to ask for feedback on whether she had followed the process correctly. Having stated that she wanted to understand the process, it was not unreasonable for Ms Brown to ask what the claimant did not understand about the process in placing a service user in emergency temporary accommodation. The question was unrelated to the claimant's disability and was not unwanted conduct.

128. The claimant next asserts that on 16 May 2022, Ms Brown was joined by Ms Begum on the call to humiliate her suggesting that she did not understand the process of placing a service user in temporary accommodation. We disagree. The claimant had a particular view about the correct process to follow in triggering the duty to provide temporary accommodation to a homeless person. She was not prepared to accept that the respondent had its own processes which she was required to follow along with other staff members working with homeless people, which was legislatively compliant. Ms Begum was called to advise the claimant on the outstanding actions required in order to progress the risk assessment. She had only been in the meeting for a short while, in her case, about a minute. We accepted her account. She stated that the claimant's view of when the safeguarding obligation was triggered towards the homeless young woman, led to her talk over Ms Brown and to voices being raised between them. Having failed to appreciate the Council's processes and in talking over Ms Brown, a senior member of staff, the claimant cannot then assert it was unwanted conduct to call Ms Begum to humiliate her by suggesting that she did not understand the process for placing a service user in temporary accommodation. The claimant was reluctant to accept that following the completion of the respondent's procedure, it is then that the duty to provide temporary accommodation is triggered. This led to a heated exchange between her and Ms Brown. While Ms Brown, as a senior member of staff ought not to have engaged in a shouting match with the claimant, it was the claimant who started shouting and talked over her. It was neither the intention nor the motive of either Ms Begum or Ms Brown, to humiliate the claimant by asking or suggesting that she did not understand the process of placing a service user into temporary accommodation, or by asking Ms Begum to join

the call. They were anxious that the claimant understood the procedure involved in placing a homeless person in temporary accommodation. Their conduct was not unwanted related to the claimant's disability or to disability. The purpose of the meeting was to get the claimant to follow the correct internal procedures. This led to her arguing with Ms Brown. Ms Brown sent a follow up email to her in relation to their discussion in order to support her. The claimant, by her conduct, has failed to establish that she had suffered a detriment, see the case of Grant v HM Land registry and others, Elias LJ.

129. We further find that the discussion did not relate to the claimant's autism. There was no reference to her autism either expressly or impliedly.
130. This claim of harassment related to disability is not well-founded and is dismissed.

#### Harassment related to transgender

131. As regards harassment related to transgender, here the attack is against Ms Rodriguez. The claimant claims that around 29 April 2022, Ms Rodriguez said to her that it was confusing for people to have on the rota Mandi when her email address gave the name of Andy. Further, that Ms Rodriguez instructed Ms Hibbins to remove Mandi and replace it with Andy. This implies that she did it without cause.
132. The claimant acknowledged in writing and in evidence, that she had a good working relationship with Ms Rodriguez. Was it unwanted conduct to have spoken to the claimant stating that it was confusing, in that her name on the rota was Mandi, but her email address referred to her as Andy? It was confusing as it was a situation created by the claimant. In order to have consistency, it was important for the claimant to be addressed either by Mandi or by Andy. All Ms Rodriguez was doing was to seek clarification from the claimant as to how she should be addressed. It was not an instruction given by her to the claimant that she should be referred to as Andy. The claimant decided to be called Andy at work but outside of work, among her friends and colleagues, she was called Mandi. Ms Rodriguez's discussion with the claimant though related to transgender, was not unwanted conduct. All she was seeking from the claimant was consistency at work on how she should be referred to on the rota as she wanted to avoid confusion to those reading the rota.
133. It is noteworthy that the claimant elected to be called Andy during her interview, and "he/him" in terms of the correct pronouns during her discussion with Ms Thurston. In her discussion with Ms Hibbins, she stated that she did not mind being called Andy or Mandi, and it was Ms Hibbins' decision to put down Mandi on the rota. The claimant wrote to Ms Rodriguez in an email dated 19 May 2022, that she would like to thank her for her "support as a Trans woman coming into the Council.", and that she had been "Very encouraged and warmed by your approach", B367. The claimant did not complain at the time, or thereafter, about Andy being on the rota.

134. Having clarified how she should be addressed the conduct did not have neither the purpose nor the effect of creating an intimidating, hostile, degrading, humiliating or offensive environment for her. We apply the judgment of Elias LJ in the case of Grant.
135. We apply the same reasoning in respect of the second alleged unwanted conduct, namely Ms Rodriguez instructing Ms Hibbins to remove the claimant's name of Mandi and to replace it with the name of Andy. This was at the claimant's election to be referred to and called by the name of Andy. It was not unwanted conduct, nor did it have the purpose of creating an intimidating, hostile, degrading, humiliating or offensive environment for her. Accordingly, the claimant's claim related to transgender, is not well-funded and is dismissed.
136. The provisional remedy hearing listed on 27 February 2024, is now hereby vacated. The parties will not be required to attend.

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Employment Judge Bedeau

9 November 2023

Date:.....

Sent to the parties on:

20 November 2023

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For the Tribunal Office