



EMPLOYMENT TRIBUNALS

Claimant: Melanie Tregenza Dancer

Respondent: (1) Ministry of Justice
(2) Lady Chief Justice

Heard at: Croydon

On: 20 – 24 January 2025;
(Deliberations/reserved judgment on 5, 6, 7 & 14 February 2025)

Before: Employment Judge Liz Ord
Tribunal Member Judith Clewlow
Tribunal Member Vicki Gibbs

Representation:

Claimant: Stefan Brochwicz-Lewinski (Counsel)
Respondent: Melvyn Harris (Counsel)

JUDGMENT

All the claimant's complaints of discrimination, harassment and victimisation are dismissed, save for the complaints arising from the 3 additional allegations (from March to August 2024) allowed as an amendment at the case management hearing on 21 November 2024, which remain to be heard.

REASONS

The Complaints and Issues

1. The complaints and issues were initially agreed at a preliminary hearing on 21 November 2024 and amended at the full merits hearing.
2. The claimant's complaints are:
 - 2.1. Discrimination arising from disability;
 - 2.2. Direct discrimination on grounds of disability;

- 2.3. Harassment on grounds of disability;
 - 2.4. Victimisation.
3. The respondent conceded that the claimant was disabled with fibromyalgia at all material times. Also, that she was disabled with anxiety and depression from March 2023 (not October 2022 as claimed by the claimant).
 4. The issues for the tribunal are set out in the Annex to this judgment.

Additional issues

5. At the case management hearing of 21 November 2024, it was ordered that the additional allegations allowed were to be heard at a subsequent hearing to this full merits hearing, due to time constraints. Accordingly, these matters remain outstanding. A separate order has been issued requiring the claimant to confirm whether she intends to proceed with these complaints in light of the tribunal's judgment.

Evidence

6. The tribunal had before it the following documentary evidence:
 - 6.1. documents bundle (996 pages); documents bundle index; witness statement bundle (133 pages), medical documents bundle (209 pages); chronology; cast list; a document entitled "Suggested Procedures for Attended Hearings".
 - 6.2. Paginated claimant's witness statement dated 25.9.24 from previous preliminary hearing (referenced in claimant's final witness statement)
 - 6.3. Email with references to page numbers in claimant's final witness statement
 - 6.4. Additional paragraphs statement
 - 6.5. Amended list of issues
7. On behalf of the claimant we heard evidence on oath from:
 - 7.1. Melanie Tregenza Dancer (the claimant).
8. On behalf of the respondent we heard evidence on oath from:
 - 8.1. Tina Simmens (Lay Presiding Family Justice of Southampton Magistrates Court);
 - 8.2. Georgia Swift (Former Magistrate and JP);
 - 8.3. Jill Townsend (Legal Team Manager (People) (Family) Portsmouth Magistrates Court);
 - 8.4. John Alderton (Former Chair of Family Panel, Southampton Magistrates Court);
 - 8.5. Christopher Willsher (Former Bench Chair of the West Hampshire Region);
 - 8.6. Aimee Ashby (Senior Legal Manager (People) Wiltshire, Hampshire and Isle of Wight);
 - 8.7. Alessandro Roveri (Head of Legal Operations South West);
 - 8.8. Steven Burr (Medical Professor and Former Chair of the Avon and Somerset Advisory Committee).
9. Numbered references in brackets in this judgment are to the following electronic pages:

- 9.1. Those prefixed “b” – in the documents bundle;
- 9.2. Those prefixed “ws” – in the witness statements bundle;
- 9.3. Those prefixed “mb” – in the medical records bundle.

The Law

10. The following are types of “prohibited conduct” under the Equality Act 2010:

Section 13 - Direct discrimination

(1) A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.

Section 15 – Discrimination arising from disability

- (1) A person (A) discriminates against a disabled person (B) if –
- (a) A treats B unfavourably because of something arising in consequence of B’s disability, and
 - (b) A cannot show that the treatment is a proportionate means of achieving a legitimate aim.

Section 26 – Harassment

- (1) A person (A) harasses another (B) if –
- (a) A engages in unwanted conduct related to a relevant protected characteristic, and
 - (b) The conduct has the purpose or effect of –
 - i. Violating B’s dignity, or
 - ii. Creating an intimidating, hostile, degrading, humiliating or offensive environment for B.
- (2) ...
- (3) ...
- (4) In deciding whether conduct has the effect referred to in subsection (1)(b), each of the following must be taken into account-
- (a) the perception of B;
 - (b) the other circumstances of the case;
 - (c) whether it is reasonable for the conduct to have that effect.

Section 27 – Victimisation

- (1) A person (A) victimises another person (B) if A subjects B to a detriment because –
- (a) B does a protected act, or
 - (b) A believes that B has done, or may do, a protected act
- (2) Each of the following is a protected act –
- (a) Bringing proceedings under this Act;
 - (b) Giving evidence or information in connection with proceedings under this Act;
 - (c) Doing any other thing for the purposes of or in connection with this Act;

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

11. The tribunal has taken account of the caselaw contained within the parties' closings.

Findings of Fact

12. The claimant was diagnosed with fibromyalgia in 1999, which continues to this day. She was diagnosed with anxiety and depression in October 2022 (mb144) and was disabled from then onwards for the remainder of the relevant period.

13. In January 2008 she successfully applied to become a magistrate and on the application form to the Ministry of Justice she disclosed a "hidden disability" of fibromyalgia (b160). She served as a Justice of the Peace from 2009.

14. Due to her fibromyalgia, the claimant needed to sit on the left of the Bench Chair to minimise pain and discomfort. Before her first sitting, her then Bench Chair told her to raise with future Chairs at the pre-court briefings, her need for specific seating, and it would be dealt with. There was no process in place to formally make this adjustment, and it was down to her to raise it with the relevant people when she sat.

22 March 2022 incident

15. On 22 March 2022 the claimant sat in person in Southampton Magistrates Court on the family panel. She sat as a winger with Tina Simmens, the Presiding Justice (Chair), and a new magistrate, Georgia Swift, who was a fellow winger. Jill Townsend was the legal adviser and Lois Rogers was the court usher.

16. A situation arose between the members of the bench, which led to complaints. There are conflicting accounts of what happened that day.

17. That evening Ms Simmens emailed John Alderton (Chair of the Family Panel, Southampton Magistrates Court) (b212) saying:

17.1. Melanie (the claimant) had assertively announced in court that she needed to sit on the left, and it had to happen because she had a disability. Georgia was already sitting on the left. I asked Melanie what it was, so that I could be better informed, and was told she didn't wish to discuss it. Georgia kindly vacated her seat.

17.2. Georgia told me and Jill Townsend that she felt upset by the assertion. It was the second time she had met Melanie. The first time she felt intimidated by her when Melanie questioned her as to why she had put her name on the screen when she was observing.

17.3. I don't believe this behaviour displays inclusivity and teamwork.

18. Georgia Swift e-mailed Tina Simmens on 24 March 2022 (b221-222) about her "uncomfortable experience", saying she had spoken to her mentor, who

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suggested that she write, summarizing the events. This email largely reflects the content of her later complaint (as set out below).

19. Ms Simmens responded that day (b221) saying she was shocked at the attitude they both experienced and she had emailed John Alderton with details of the event.

Georgia Swift's complaint

20. Georgia Swift made a complaint against the claimant on 5 April 2022 to Chris Willsher (Bench Chair of the West Hampshire Region) (b219-220). The relevant parts, in essence, say:

20.1. Tina Simmens and I had discussed the day's list and were heading into court when Melanie arrived in the retiring room at 09.35. Melanie entered the court very shortly after Tina and I had taken our seats (I was on the left). I became aware of Melanie standing behind me. She told Tina she always sits on the left because she has a disability.

20.2. Tina enquired about the disability and Melanie said she wasn't prepared to discuss it but reiterated that she had to sit on the left. I asked Melanie to clarify if she was expecting me to move. She said she was, and she was now stood beside me with her tablet in her hand.

20.3. She implied that Tina and I had rushed into court without her. I responded by pointing out that Tina and I had arrived at court in good time. Melanie said she had been delayed at the gate. During our case discussions Melanie called me Victoria. I corrected her, and she told me that was my name on the signing in sheet.

20.4. I found Melanie's attitude rude and her conduct unprofessional. As this was the second time I had met Melanie and had similar experiences on both occasions, I feel I must make my concerns formal.

Initial Investigation

21. On 11 April 2022 Chris Willsher emailed the claimant telling her there was a complaint against her (b226). On 12 April he sent her Ms Swift's complaint and informed her he would take statements from others who were in court (b225). He also sent her the Judicial Grievance Policy – October 2013.
22. On 26 April Mr Willsher emailed the claimant again (b236) saying the grievance procedure he had provided had been updated and he attached the new version (Judicial Grievance Policy for Judicial Office Holders - February 2022) for reference.
23. During April 2022 Jill Townsend and Lois Rogers provided statements to Mr Willsher. Tina Simmens sent an email.

Jill Townsend

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24. Jill Townsend ran her draft statement past Aimee Ashby, Senior Legal Manager (People), on 20 April (email 20.4.22 b231) before submitting it to Chris Willsher. Ms Ashby endorsed it that day without amendment (b234).
25. In this undated statement (b213) most relevantly, and in essence she wrote:
- 25.1. I became aware that the claimant had entered the courtroom and was standing over Miss Swift telling her that she (Mrs Tregenza-Dancer) was to sit in that seat because she always sits on the left of the Presiding Justice. Miss Swift seemed taken aback (as was I) and questioned why she should move. I did not hear Mrs Tregenza-Dancer's reply, but she insisted she should sit on the left. Miss Swift got up and moved.
- 25.2. The incident was brief but difficult. Mrs Tregenza-Dancer was standing over Miss Swift, holding her tablet, in what I felt was an oppressive manner; and the way she spoke to Miss Swift came across as rude. I was shocked.
- 25.3. At the end of one of the sessions, Mrs Tregenza-Dancer just got up and walked out. I would have expected the magistrates to file out together; instead she walked past her colleagues and left.
26. In her witness statement for the tribunal, Ms Townsend referred to a television screen in the courtroom used for CVP. She said that she did not believe anyone was on the CVP as they were waiting for the claimant (ws p54 paragraph 11). She said she did not hear Ms Simmens talking to the claimant about her disability (ws page 55 paragraph 12).

Lois Rogers

27. Lois Rogers' undated statement (b214) broadly said:
- 27.1. Mrs Tregenza-Dancer asked to sit on the left. Miss Swift asked why and Mrs Tregenza-Dancer replied she had a disability that she was unwilling to discuss or disclose that meant she had to sit on the left. Miss Swift moved seats.
- 27.2. I did not fully observe the behaviours of the bench as I had to concentrate on other matters. However, the court seemed awkward and I sensed that there was an atmosphere.
- 27.3. At the end of the morning session, Mrs Tregenza-Dancer left the court room as soon as possible.

Tina Simmens

28. Tina Simmens sent an email to Chris Willsher on 12 April (b229) setting out her recollection of events. Most relevantly, the thrust of what she said was:
- 28.1. I arrived at 9am and Georgia was already there. We discussed the day's work and were just about to go into court when Melanie arrived. I

told Melanie about the code for the new cabinet and then went into court with Georgia. Georgia sat to my left.

28.2. Melanie came into court and stated "I have to sit on the left, I always sit there as I have a disability". Both Georgia and I were surprised by the way Melanie said this. I asked Melanie what her disability was, to try and understand if we needed to make any alterations to the bench layout. Melanie answered curtly that she had no wish to discuss it. Georgia kindly moved.

28.3. Another issue arose when Melanie called Georgia "Victoria" and didn't apologise when corrected.

28.4. At lunchtime Melanie left court the moment we had finished and came back into court before we started the afternoon work. At the end of the day, Melanie left immediately after the last matter.

29. In cross-examination Ms Simmens said that she (Ms Simmons) had a soft voice and doubted whether Ms Townsend or Ms Rogers would have heard her. It was also at the time of Covid, and they had only just gone back into court. Social distancing still applied.

Melanie Tregenzer-Dancer

30. The claimant's statement in response came after the others. On 6 May Chris Willsher gave her additional time to 31 May to send it in (b245).

31. On 24 May the claimant emailed Alessandro (Sandy) Roveri, Head of Legal Operations South West (b246-7) telling him she was the subject of a complaint. She went on to say "This appears primarily tied to the fact on the 22nd March, when I sought my usual reasonable adaption, I was unwilling to submit to intrusive questioning on the details of my disability". She asked him to review the complaint and her draft response and referenced the matter as unpleasant discrimination.

32. On 25 May Mr Roveri emailed back (b246) declining to intervene in the complaint process.

33. On 31 May the claimant sent in her statement (b239) (b251-257). Most relevantly, the thrust of what she said was:

33.1. I arrived early to collect my new security pass but there was a queue and I was delayed.

33.2. Just after 9.30am I went to the family panel retiring room and met Tina Simmens and Georgia Swift. Tina Simmens asked if I knew the new code for the computer cabinet in the room and I replied I did not. Tina Simmons said "let's go" to Georgia Swift and they left. There was no briefing.

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- 33.3. After a moment or two I went into court where Tina Simmens and Georgia Swift were already standing by the bench. Jill Townsend and Lois Rogers were also present. I was ignored by all of them.
- 33.4. Tina Simmens was standing next to the presiding chair and Georgia Swift was sat on the left hand side of the bench reading/writing. I asked Tina Simmens if I could sit on the left hand side and reminded her that when we had sat together in the past, I had always asked to sit on the left.
- 33.5. Tina Simmens' reaction was negative and so I said that I had a disability and it would help me greatly if I could sit on the left hand side. Tina Simmens quizzed me publicly on what my disability was. I replied that I did not want to share it in open court and that my request was a reasonable adjustment for my disability.
- 33.6. I went to the end of the bench, stood a couple of feet away, and asked Georgia Swift politely if she would mind changing places. Georgia Swift looked up and asked me if I wanted/expected her to move. I calmly replied "Yes please, if it is not too much trouble I'd be very grateful". Georgia Swift then criticised me along the lines of "pity you hadn't bothered to turn up on time".
- 33.7. Georgia Swift reluctantly got up to move, for which I thanked her. I then introduced myself as Melanie. Georgia Swift's curt reply was "Yes. I know who you are from when I did my court observation."
- 33.8. Later on Tina Simmens asked my opinion on something and I signalled towards the other winger and said "Perhaps Victoria would like to go next". The winger looked at me in a demanding fashion and said "Victoria? My name has always been Georgia". I then said sorry.
- 33.9. There was no attempt by Tina Simmens, as chair, to discuss any issues that had occurred during the morning.
- 33.10. Typically once the court has been adjourned for lunch, magistrates leave the court room together. When I stood up to leave, Tina Simmens and Georgia Swift remained seated. I left the court alone.
34. The claimant went on in the statement to allege that Ms Swift had a pre-existing grudge against her, and that the treatment she received due to her request for a reasonable adjustment for her hidden disability was negative and demeaning. She referenced the Equal Treatment Bench Book and suggested that being quizzed in the courtroom, with the expectation of going into personal details about her disability, was offensive and dismissive.
35. In her witness statement for the tribunal hearing the claimant said (ws 11 paragraph 47d) "Tina Simmens quizzed me as to the detailed medical nature of my disability, and why it meant I needed to sit in a particular seat. This was in public, including with CVP active, as opposed to the privacy of the retiring room."

36. With respect to Georgia Swift, the claimant recounted her saying (ws 12 paragraph 47g) “ if I wanted a reasonable adjustment I needed to turn up earlier”.

Tribunal’s findings on 22 March events as relevant to the issues

37. When the claimant came into court Tina Simmens and Georgia Swift were already seated, with Ms Swift being on the left of the Chair. The claimant said she needed to sit on the left because she had a disability. Ms Simmens asked what it was. The claimant declined to say. The claimant’s manner was perceived by Ms Simmens, Ms Swift and Ms Townend to be rude and assertive.

38. Nobody heard the comments the claimant attributes to Ms Swift.

39. Neither Ms Townsend nor Ms Rogers heard what Ms Simmens said. Nobody heard Ms Simmens quizzing the claimant about her disability.

40. The incident caused an atmosphere in court. Ms Simmens intended to discuss the problem during a break but had no opportunity to do so because the claimant left the court immediately and did not return until the next session was about to start.

41. There was a CVP facility in the courtroom, but the CVP room was not open to participants at the time of the incident.

Chris Willsher’s attempts at resolution

42. Chris Willsher sought advice. He sent the claimant’s response to Aimee Ashby and Jill Townsend on 1 June 2022 and asked for it to be put on the agenda for the next week’s meeting (b250).

43. On 23 June Ms Ashby emailed Mr Willsher (b270-1) referencing the Judicial Grievance Policy and saying it seemed to encourage an informal approach where possible. She suggested this was where Georgia’s complaint fell. She said she had spoken with Sean Murgatroyd (Legal Team Manager and Deputy Secretary to the South West Region Conduct Advisory Committee) and he had suggested speaking to Judicial HR for advice.

44. She went on to query whether Mrs Tregenza-Dancer was making a grievance herself about the way the situation was dealt with. If this was so, she advised that it be dealt with via the Judicial Conduct Investigations Office (JCIO) formal complaints procedure, as this would relate to discrimination. At that moment however, she thought Mrs Tregenza-Dancer was simply responding to the complaint made against her.

45. In accordance with Mr Murgatroyd’s suggestion, Mr Willsher sought advice from Judicial HR. Christine Dye (Senior HR Adviser to Courts and Tribunal Leadership Judges South West) responded on 4 July 2022 (b274-5). Amongst other things, she advised (point 2) that the Bench Chair meet with the complainant to explore routes to resolve, including whether grievance was

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the most appropriate route, and possible mediation (if not already done during the informal procedure).

46. Mr Willsher followed the advice and emailed the claimant on 6 July asking her to give him a call to discuss options (b279-80). The claimant replied on 14 July asking for the options to be put into an email (b279).
47. Mr Willsher replied to the claimant on 22 July (b279). He wrote
 - 47.1. "It would be very helpful if we could chat. I know it might be an uncomfortable conversation but emails cannot communicate nuances in the same way as face-to-face or telephone conversations."
48. The claimant did not respond.
49. On 9 August Mr Willsher emailed the claimant (b283) attaching the LCJ's Guidance to Bench Chairs on Dealing with Pastoral Matters (November 2019). He suggested Ms Swift's complaint be resolved quickly and informally and invited the claimant to a meeting, providing potential dates.
50. The claimant responded on 12 August saying none of the dates were convenient and she would email with alternatives (b311).
51. She wrote again on 18 August (b310-11) saying she was waiting for a hospital date. Therefore she did not provide alternative dates to meet. She said she felt unable to sit until this was resolved and re-iterated her preference to communicate via email.
52. The claimant attached a "Final Complaint Reply", which she summarised in the body of the letter. In the second bullet point she criticized Tina Simmens for failing to hold the pre-court discussion in the privacy of the retiring room, where she could discretely discuss her reasonable adjustments. In the fourth bullet point she referred to Ms Simmens quizzing her about her disability in public, with other people present, including possibly CAFCASS via CVP.
53. She added that she hoped these issues (seemingly referring to all her bullet points) would be the main focus of the proposed informal discussion and "The obvious goal would be to make sure all understood what went wrong, and how to prevent myself and other magistrates with disabilities being subjected to discriminatory practice in future."
54. On 22 August Mr Willsher wrote back (b319) sending her details of the Judicial Assistant Programme, which provided support and advice, and confirmed that the meeting would include any discussion she wished to have about the behaviour of other people. He provided more potential dates for a meeting.
55. The claimant did not respond.
56. Mr Willsher wrote to the claimant again on 14 September (b320-321) offering more dates for an informal meeting. He advised that, if he did not hear back from her by 22 September, or if she was unable to meet with him without

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good reason, he would have to refer the matter to the Advisory Committee as a failure to respond to a reasonable request. With respect to the claimant's complaint, he said he would meet with Tina Simmens and Georgia Swift and would let her know how the meetings went.

57. The claimant did not respond.

58. On 15 September Mr Willsher met with Ms Simmens to discuss the complaints made against her. As he had not met with the claimant to discuss exactly what the complaint was, he used the content of her email of 22 August as the basis for the agenda.

59. On 22 September he wrote to Ms Simmens recording in the email what she had told him (b328-9). Ms Simmens made the following concessions:

59.1. With respect to the first point, namely the claimant being denied an opportunity to have a pre-court discussion in the retiring room, Ms Simmens agreed that, in hindsight, it would have been better to delay the first case in court to enable the pre-sitting conversation to take place.

59.2. With respect to the second point, namely Ms Simmens publicly questioning her about her disability, Ms Simmens agreed, on reflection, that if a similar issue were to arise in the future, she would not question that individual.

60. Mr Willsher recorded that the outcome was to take no action based on Ms Simmens' reflection and how she would deal with a similar situation in the future.

Chris Willsher – other acts

61. On 2 October Mr Willsher sent two emails to the claimant.

62. In the first (b328) he told the claimant that he had met with Tina Simmens to discuss the complaints against her and reassured the claimant that there would be no repeat of the events about which she was concerned.

63. In the second (b330), he noted that the claimant had not responded to his email of 14 September. He thought he had exhausted his attempts to resolve the matter informally and would step back. He was referring it to the Advisory Committee.

64. Mr Willsher's evidence (ws p65 paragraph 33) was that he was relying on the Lord Chief Justice's Guidance to Bench Chairs on Dealing with Pastoral Matters which says:

64.1. "If the magistrate fails, without good reason, to meet you or your nominee within the requested timescale, the matter should be referred to the advisory committee as soon as possible as a failure to respond to a reasonable request by their senior judicial office holder."

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65. Mr Willsher submitted a report on the matter to the Advisory Committee on 2 October (b331-333). His concluding remarks were that, in his view, the matter came down to a lack of communication between the magistrates and was low level and could have been resolved informally. However, it had been escalated by Mrs Tregenza-Dancer's refusal to engage with him.
66. On 3 October Mr Willsher discussed the claimant's complaint with Georgia Swift (ws p66 paragraph 38). On the basis of the oral and written accounts of Ms Swift and Ms Simmens he concluded that it was not appropriate to take any further action (ws p66 paragraph 39).
67. Mr Willsher wrote to Ms Swift on 5 October (b348) recording her (Ms Swift's) response to the claimant's allegation that she had acted in a manner suggesting bias against the claimant. He confirmed the outcome not to take any action.
68. On 9 October Mr Willsher emailed the claimant with the outcome (b347-8) attaching his 5 October email to Ms Swift. He asked the claimant to come back to him by 14 October if she thought there was anything he had failed to do in relation to Georgia Swift or Tina Simmens. He said that, if he did not hear from her, he would consider these matters closed.
69. On 14 October the claimant emailed Mr Willsher in response (b346-7). She said his email provided some reassurance that Tina Simmens had shown insight. The claimant added that she could see that she should have requested that they stay in the retiring room for the pre-court briefing.
70. With respect to her willingness to engage, she said she had requested reasonable adjustments to utilise email or CVP instead of meeting in person and she was willing to resolve the matter directly with him.
71. She indicated that her primary concern was that Georgia Swift's actions and motivation had not been satisfactorily addressed. She referenced the grievance guidance and asked for Mr Willsher's views on whether
a) Georgia's actions were consistent with this guidance and b) whether he agreed with her suggestion that she (the claimant) should turn up earlier if she needed a reasonable adjustment.
72. On the basis of this communication, Mr Willsher withdrew his referral to the Advisory Committee.
73. Mr Willsher replied to the claimant on 9 November (b365). He said that, with respect to her willingness to meet via CVP, he could not trace her having mentioned this before and could not find any reference to her disability being the reason why she could not meet face-to-face. He confirmed he was willing to go back to Georgia but he would want this to be the final time. He suggested he meet with the claimant via video to explore support/reasonable adjustments and that she agree what points he needed to raise with Georgia.
74. On 28 November, the claimant replied (b374-5) suggesting she had previously asked him for clarification and guidance on whether the March

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events were in accordance with good bench practice. She then went on to say she was re-stating her questions and set them out in a list.

75. Mr Willsher replied to the claimant on 4 December (b384-5). He offered again to meet her by video and asked her to tell him by 12 December if she was willing to. He explained that it was difficult to give a yes/no answer to many of her questions as there was context to them, which relied on a better understanding of her complaints, amongst other things.
76. On 11 December the claimant replied (b384) saying she was just out of hospital and recuperating and unable to reply by the deadline.
77. On 2 January 2023 Mr Willsher emailed the claimant inviting her to a Teams meeting to resolve the complaints made against her and to discuss her disability and what adjustments could be made. He re-iterated that it was his intention to resolve the complaints informally following the Lord Chief Justice's advice to Bench Chairs on dealing with pastoral matters. He suggested several dates, and asked her to provide alternative dates if they were not suitable for her. He requested a reply by 9 January and stated that, if he did not hear from her by then, he would step back and re-refer the matter to the Advisory Committee.
78. The claimant replied on 9 January (b383) saying she was still waiting for Aimee Ashby to provide a copy of the MoJ's disability policies as they applied to magistrates and without this, they were lacking the required context for key elements of their discussion. She asked that her husband be allowed to accompany her to the meeting. She did not suggest any dates for the meeting.
79. Mr Willsher replied on 10 January (b395). He said he was not sure what the position was in relation to MoJ policies and would raise it with Aimee. He did not think that it should delay the meeting to discuss the complaints made against her. With respect to her disability, he and Aimee would seek to understand her disability and then refer it on to more senior judicial office holders for action. With regard to being accompanied by her husband, He stated that the Lord Chief Justice's guidance was specific about being accompanied by a fellow magistrate and her husband would not be able to attend. The meeting would not be part of any disciplinary or investigative process and she would be given the opportunity to respond before any decisions were taken.
80. On 20 January the claimant wrote to Mr Willsher, copying in Ms Ashby (b403- 4). She complained that proper consideration had not been given to her reasonable adjustment request to have her spouse present as support at the meeting. This was specifically to help her with issues arising from the depression and anxiety she had been diagnosed with.
81. Ms Ashby replied on 25 January (b414-15). She said she was keen to have a discussion about the claimant's needs and support moving forward. She noted that the claimant wanted her spouse to accompany her to the meeting. Ms Ashby referred to the Lord Chief Justice's guidance, which specified that she could be accompanied by a magistrate with respect to the complaint

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meeting. It was acceptable for her spouse to accompany her to a reasonable adjustment meeting.

82. The claimant replied on 1 February (b413-14), quoting from the MoJ's Reasonable Adjustment Policy for Disabled Judicial Office Holders, and repeating her request.
83. On 8 February Ms Ashby emailed Mr Willsher to see if there was a way of allowing the claimant's husband to be present at the meeting (b426). They thought they had found a solution, and Ms Ashby put this in an email to the claimant on 8 February (b431-2). In it she explained that Judicial HR had confirmed that it would not be possible for her partner to accompany her during discussion about the complaint. This was due to the confidential nature of the conversation and the need to maintain the confidentiality of other magistrates. However, she and Mr Willsher thought it would be possible to allow her partner to attend, provided the names of the other magistrates were not mentioned (b426-7).
84. A video meeting had been arranged for 9 February. However, the claimant did not attend. Ms Ashby wrote to her on 21 February offering more dates for a meeting (b429-30).
85. The claimant responded on 23 February (b429). She said she was pleased that Ms Ashby had reconsidered and now granted her request for a reasonable adjustment during the meeting. Nonetheless, she pointed out that Ms Ashby had not confirmed that they could use the MoJ disability policy as the reference for her complaint of disability harassment, nor provided a relevant alternative. She suggested a date be set once this was confirmed.
86. Ms Ashby replied on 28 February (b443-4). She told the claimant that, as confirmed with Judicial HR, the relevant policy was the Reasonable Adjustment Policy for Disabled Judicial Office Holders and that the MoJ Disability Policy was not relevant. She provided dates for when she and Mr Willsher could meet the claimant.
87. On 3 March Mr Alessandro Roveri emailed the claimant (b459) attaching documents that were available on the Judicial Intranet setting out the means by which those with protected characteristics should be supported. He went on to say that he understood it had been difficult to arrange a meeting with her and, where a magistrate is asked to meet with a bench chairman but progress is not made in securing that conversation, they run the risk of being referred to the Advisory Committee. He indicated that he was hopeful the claimant would now arrange to meet Aimee and Chris so that she could answer the matter that had been raised and also air her concerns so that these, too, could be explored.
88. The claimant did not respond to Mr Roveri.
89. On 13 March the claimant emailed Mr Willsher (b467) and complained that she could not see how he could reach a conclusion on the acceptability of Tina Simmens' or Georgia Swift's behaviour in the absence of clear policies

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on what constitutes disability discrimination between judicial office holders. She objected to Mr Willsher trying to prematurely close these matters.

90. Mr Willsher responded on 21 March (b478). He said the role of the Bench Chair was pastoral and supportive and in cases such as this, to call a meeting to discuss matters informally in the hope that formal policies and procedures need not be invoked. Bench Chairs were not responsible for policy enforcement. Whilst she had not definitively refused to meet with him, she had insisted on preconditions to her attendance and required him to comment on matters falling well outside his remit. Her preconditions could also undermine the approach of seeking an informal resolution. For that reason, he confirmed his decision to step back from trying to resolve the matter informally and was referring it to the Advisory Committee as a potential conduct issue. He also confirmed that he was closing her complaints against her colleagues unless he was advised that new information had come to light or that he had not followed the appropriate procedures properly.
91. On 27 March Mr Willsher submitted a Supplementary Report to the Advisory Committee (b489-495) setting out a chronological history of events. He said he believed that issues he wished to discuss with Mrs Tregenza-Dancer were low level and could easily have been resolved informally at a meeting with Ms Ashby and himself. He went on to state that the matter had now escalated because of Mrs Tregenza-Dancer's repeated refusal to engage with the informal process, her unreasonable demands of him and her imposition of preconditions.
92. By now, the claimant had stopped sitting for some time.
93. On 11 September Mr Willsher wrote to the claimant (b564). He explained that, as she had not sat for around 17 months and she had vacated her September sittings, she would be required to undertake some refresher training before returning to court. He referred her to the Lord Chancellor's Directions, which required the Bench Chair to meet with the magistrate in the first instance to discuss whether they were likely to return imminently and, if not, whether they would be willing to resign from office in accordance with the declaration and undertaking they signed on appointment. He asked to meet with the claimant.
94. Sean Murgatroyd (Senior Legal Advisor) and Professor Steven Burr (Chair) of the Conduct Advisory Committee considered Mr Willsher's complaint against the claimant about her failure to engage with the Bench Chair. They also considered a later complaint brought by the claimant against Chris Willsher of discrimination, together with her complaint about the behaviour of Georgia Swift and Tina Simmens.
95. The decision was made that Mr Willsher's complaint against the claimant needed to be reviewed and there was a case to answer. With respect to the claimant's complaint against Mr Willsher, the decision was made that there was no case to answer on the evidence provided. As regards the claimant's complaint against Ms Swift and Ms Simmens, she was out of time with her complaint to the Committee, there was no corroboration of the claimant's version of events and she had failed to engage, so that it was not possible to make a determination (ws SB paragraphs 7-14, 19).

96. On 2 January 2024 Sean Murgatroyd emailed the claimant on behalf of the Committee (b573-576). He told her she was outside the 3 months' time limit with respect to her complaint against Georgia Swift and Tina Simmens, and the Chair had found it was not appropriate or fair to hear it out of time. As for the complaint against Mr Willsher, the Chair had found that the matters raised were outside the remit of the Conduct Advisory Committee and did not raise matters of personal misconduct. The issue for the panel to consider would be the complaint of Chris Willsher that she had repeatedly failed to effectively engage and meet with him and other court officials to discuss a complaint about her behaviour.

Discussion and Conclusions

97. This case has arisen out of a minor incident in March 2022 between the bench members, which has been turned around and escalated out of all proportion by the claimant. It was not until she was asked to respond to the complaint about her attitude, that she made allegations of discrimination against the other bench members, which then expanded to include the Bench Chair, who was simply trying to resolve matters informally in a reasonable manner.

98. There is no hint of anyone being discriminatory towards the claimant. In fact, there were many attempts to try and support her and meet with her to understand her needs and reasonable adjustments. All along, she put obstacles in the way to avoid any meetings taking place to discuss the complaints against her or her requirements. This was despite being given chance after chance by those who were trying to help and resolve the situation.

99. We have commented on each of the claims/allegations below. The references are to the list of issues in the annex to this judgment.

Specific allegations

Tina Simmens

Claims/Allegations:

Disability discrimination: 19a) 22.3.22 (i) quizzing; (ii) not intervening; (iii) no attempt to resolve.

Direct discrimination on grounds of disability: 21a) same as 19a).

Harassment on grounds of disability: 23a) same as 19a).

Victimisation detriment: 28a) same as 19a).

Quizzing

100. We do not accept that Tina Simmens quizzed the claimant about her disability. She asked one question. The term "quiz" is more akin to a series of questions. Ms Simmens simply asked her what her disability was in response to the claimant telling her she had a disability and needed to sit on the left. Ms Simmens was only trying to understand what might be required by way of reasonable adjustments, nothing else. There was no compulsion on the claimant to respond and she did not so do.

101. There is no evidence that the CPV was connected and the evidence suggests that the only other person who heard the question, besides the claimant, was Georgia Swift.

102. We do not find that the claimant was put to any disadvantage/detriment or treated less favourably than someone without a disability. Ms Simmens' actions did not have an harassing purpose. Taking account of the claimant's perceptions, in the circumstances of the case, it was not reasonable for Ms Simmens' actions to have had an harassing effect.

Not intervening

103. Tina Simmens did not hear Ms Swift make any sarcastic comment. Therefore, there was no reason to intervene. Consequently, Ms Simmens did not discriminate against the claimant in this regard.

No attempt to resolve

104. Whilst Ms Simmens failed to resolve the hostile environment, she intended to try and do so but had no opportunity. The claimant left the courtroom immediately the sessions finished and did not return until they were about to start. It was the claimant who prevented Ms Simmens from doing anything to help.

105. We do not find that the claimant was put to any disadvantage/detriment or treated less favourably than someone without a disability. Ms Simmens' actions/inactions did not have an harassing purpose. Taking account of the claimant's perceptions, in the circumstances of the case, it was not reasonable for them to have had that effect.

Georgia Swift

Claims/Allegations:

Disability discrimination: 19 b) 22.3.22 sarcastic response; c) 5.4.22 complaining against claimant.

Direct discrimination on grounds of disability: 21b) & c) same as 19b) & c)

Harassment on grounds of disability: 23b) & c) same as 19b) & c)

Victimisation detriment: 28b) & c) same as 19b) & c)

Sarcastic response

106. There is no evidence that Georgia Swift responded sarcastically, and we find that she did not. Therefore, this allegation is not made out.

Complaining

107. Ms Swift made a complaint against the claimant because of the perceived manner in which the claimant spoke to her and treated her. It had nothing to do with the claimant's disability or anything arising from it, including requesting to sit on the left. Nor was it to do with any protected act.

108. Ms Swift would have done the same with respect to a non-disabled person. Ms Swift's actions did not have an harassing purpose. Taking account of the claimant's perceptions, in the circumstances of the case, it was not reasonable for them to have had that effect.

109. Therefore, none of these claims succeed.

Chris Willsher

Claims/Allegations:

Disability discrimination: 19d) 2.10.22 referral to CAC; e) from Dec 22 to April 23 threat to and referral to CAC; f) April 23 complaint to CAC; g) 11.9.23 steps to return.

Direct discrimination on grounds of disability: 21e) same as 19d); 21h) same as 19e); 21i) same as 19f); 21m) same as 19g); plus 21d) consideration of response; 21f) condoning Swift; 21g) Dec 22 no response to questions; 21i) 10.1.23 meet no policies without husband.

Harassment on grounds of discrimination: 23d) same as 21d); 23e) same as 19d); 23f) same as 21f); 23g) same as 19e); 23h) same as 21i); 23k) same as 19f); 23l) same as 19g).

Victimisation detriment: 28d) same as 21d); 28e) same as 19d); 28f) same as 21g); 28g) same as 19e); 28i) same as 19f); plus 28k) 22.7.22 no written options.

All above claims/allegations

110. Mr Willsher was asked to consider a complaint against the claimant related to her alleged rude and unprofessional behaviour during the March incident. This was the basis of his communications with her, albeit it evolved to include the claimant's allegations of discrimination towards her, which she appears to have made to deflect the accusations against her. Mr Willsher properly considered the complaints against the claimant and also the claimant's response and her own complaints against others.

111. Mr Willsher tried to resolve the issues between the magistrates, which he believed he could do informally. He felt dutybound to attempt the informal approach. His correspondence was considerate towards the claimant, whilst encouraging her to meet with him informally to discuss matters. He acted professionally at all times.

112. In response to an email the claimant wrote to him asking for options to be put into an email, he replied in July 2022 saying that emails could not communicate nuances in the same way as face-to-face conversations. He did not insist on a telephone call or a face to face meeting, as alleged. He did not write the email because of the claimant doing a protected act.

113. He took advice on how to deal with the claimant's complaints and followed that advice together with, what he believed to be, the correct written guidance. He wanted to do the right thing and tried his best to resolve matters. There is no evidence that he condoned any alleged harassment by Ms Swift, and we

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find that he did not do so. Nor is there evidence that he refused to respond to the claimant's questions, and we find he did not do so. He just wanted a meeting first.

114. The claimant constantly and unreasonably put obstacles in Mr Willsher's way and made it difficult for him to deal with the complaints against her. She caused significant delays in the process to avoid answering the allegations against her. Mr Willsher eventually felt that he had exhausted all efforts and informed the claimant he would be making a referral to the Conduct and Advisory Committee. He then did so, believing this was in accordance with the rules. He did not threaten. He was simply following due process.
115. Whilst Mr Willsher tried to proceed informally without the policies, this was nothing to do with the claimant's disability, but rather his desire to follow what he believed to be the required, informal, first steps. Although he initially declined to allow the claimant's husband to be present, this was for proper reasons of confidentiality and was not connected to the claimant's disability.
116. Similarly, after the claimant had not sat for nearly 18 months, he wrote to the claimant to forewarn her of her options. He wanted to give her this information in good time, to ensure she understood the rules and what was required of her. This was not a detriment, but a helpful act.
117. There is no evidence at all to suggest that any of Mr Willsher's actions towards the claimant were discriminatory under any of the claims pleaded.
118. With respect to discrimination arising from disability, there is nothing in the evidence to suggest that she experienced unfavourable treatment because of something arising in consequence of her disability.
119. With regards to the direct disability claims, Mr Willsher would not have treated a non-disabled person any differently.
120. Whilst the claimant might have considered Mr Willsher's actions unwanted conduct, they were not done with the purpose of harassing the claimant. Taking account of her perceptions, in the circumstances of the case, it was not reasonable for his conduct to have had that effect.
121. As for victimisation, there is no evidence of detriment because of a protected act.
122. All these claims fail.

Aimee Ashby

Claims/Allegations:

Direct discrimination on ground of disability: 21j) 25.1.23 meeting without husband; 21k) 28.2.23 not using MoJ disability policy.

Harassment on ground of disability: 23i) same as 21j); 23j) same as 21k).

Victimisation detriment: 28h) same as 21k).

Meeting without husband

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123. In the email of 25 January Ms Ashby referred to Mr Willsher's advice about her husband and told her this was in accordance with the Lord Chancellor's Guidance. She indicated that the claimant could be accompanied by a magistrate at the complaints meeting, and her husband could accompany her to a reasonable adjustments meeting.

124. Ms Ashby was following the rules and not doing this because of the claimant's disability. She was not being discriminatory and would not have treated a non-disabled person any differently. She did not do it because of a protected act. Ms Ashby did not do it with the purpose of harassing the claimant. Taking account of the claimant's perceptions, in the circumstances of the case, it was not reasonable for Ms Ashby's conduct to have had a harassing effect.

Not using MoJ disability policy

125. The email of 28 February from Ms Ashby said that this was not the correct policy. This was advice and not a refusal.

126. It was not detrimental and not discriminatory. Ms Ashby did not do it because of a protected act. Nor did she do it with the purpose of harassing the claimant. Taking account of the claimant's perceptions, in the circumstances of the case, it was not reasonable for Ms Ashby's conduct to have had a harassing effect.

Sean Murgatroyd

Claims/Allegations:

Disability discrimination 19h) 2.1.24 determining complaints.

Direct discrimination on ground of disability: 21n) same as 19h).

Harassment on ground of disability: 23m) same as 19h).

Victimisation detriment: 28j) same as 19h)

Determining complaints

127. The determinations of which complaints would proceed and which would not, had nothing to do with the claimant's disability. They were proper decisions made on the evidence. With respect to the complaint brought by Mr Willsher, it was determined that there was a case to answer and so it would proceed. With respect to the claimant's complaint against Mr Willsher, it was determined there was no case to answer. As for the claimant's complaints against Ms Simmens and Ms Swift, these were out of time and so they would not proceed.

128. There was no discrimination. This was not done because of something arising from the claimant's disability. A non-disabled person would have been treated in the same way. It was not done because of a protected act. Nor did Mr Murgatroyd do this with the purpose of harassing the claimant. Taking account of the claimant's perceptions, in the circumstances of the case, it was not reasonable for Mr Murgatroyd's conduct to have had a harassing effect.

129. These claims fail.

Alessandro Roveri

Complaint/allegation:

Victimisation detriment: 28i) 3.3.23 meet or refer to CAC.

130. Mr Roveri's email of 3 March advised the claimant that where a magistrate is asked to meet with a bench chairman but progress is not made in securing that conversation, they run the risk of being referred to the Advisory Committee. This is not a detriment. It is useful information to assist the claimant.

131. Therefore, this claim fails.

Summary conclusion

132. None of the claimant's complaints are well founded and therefore they are all dismissed.

Knowledge of disability

133. As we have not found any discrimination, we have not considered it necessary to determine knowledge of disability.

Time limits

134. Any acts before 11 September 2023 are out of time as there was no discriminatory conduct extending over a period.

Employment Judge Liz Ord

Dated: 18 February 2025

Notes

Public access to employment tribunal decisions

Judgements and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

ANNEX

List of Issues

The claims

1. Without repeating the background circumstances set out above, Mrs Tregenza Dancer brings the following claims:
 - a) harassment on grounds of her disability
 - b) direct discrimination on grounds of her disability
 - c) discrimination arising from a disability
 - d) victimisation

2. Having discussed matters with the parties, the issues to be decided are as follows.

Time limits

3. Such claims have to be brought *within* three months of dismissal (i.e. three months less one day) plus any time spent in early conciliation. And if the time limit would otherwise have run out during early conciliation, a further month is added on to allow time for the claim to be submitted.

4. Here, the relevant dates are as follows:
 - a) Early conciliation began on 10 December 2023

 - b) Early conciliation ended on 21 January 2024

c) The claim was submitted on 16 February 2024

5. Since ACAS was first contacted on 10 December 2023, any acts or failures which took place before **11 September 2023** are potentially out of time.
6. To pursue any earlier acts of discrimination, Mrs Tregenza Dancer must either prove that:
 - a) the discrimination was in fact conduct extending over a period of time and ending after this last act, or
 - b) it would be just and equitable to extend the normal time limit.

Disability

7. The respondents have conceded that Mrs Tregenza Dancer was disabled with fibromyalgia at all material times. They also concede that she was disabled with anxiety and depression from March 2023 onwards.
8. Was Mrs Tregenza Dancer disabled with anxiety and depression at any earlier time, and if so when? In addressing that question, the Tribunal will consider whether there was a point in time when the effects of the condition were (a) long term and (b) had a substantial adverse effect on normal day to day activities. Substantial means more than minor or trivial.
9. In assessing whether the effects were long term, the tribunal will consider when they started and whether, at the material time,
 - a) it had lasted for at least 12 months, or
 - b) it was likely to last at least 12 months?
10. In assessing the likelihood of an effect lasting 12 months, account should only be taken of the circumstances at the time the alleged

discrimination took place, not afterwards.

11. Were any measures taken to treat or correct the impairment? But for those measures would the impairment have been likely to have had a substantial adverse effect on Mrs Tregenza Dancer's ability to carry out normal day-to-day activities?
12. NB. There is statutory guidance entitled *Guidance on Matters to be Taken Into Account in Determining Questions relating to the Definition of Disability (2011)*, which the tribunal is required to take account. (It can be found by searching online for the title.)

Discrimination arising from disability

13. This involves unfavourable treatment because of something arising in consequence of Mrs Tregenza Dancer's fibromyalgia and / or anxiety and depression.
14. Firstly, can the respondents show that it did not know that Mrs Tregenza Dancer had a disability, and could not reasonably have been expected to know?
15. In relation to her fibromyalgia, the claimant's position is that:
 - a) On 5 January 2008 she completed her application form to become a Magistrate [R1 and R2] [C WS – para 6, 85 (a), 94] [TB 160, 165; other docs: TB 172, 176]
 - b) On 24 May 2022 she wrote to Mr Roveri to inform him that she had a "type of arthritis which requires reasonable adaption" which she referred to as a disability [R1] [C WS – para 54] [TB 246]
 - c) On 22 March 2022, she informed Ms Simmens and Ms Swift that she had a disability. [R2] [C WS para 46, 47 (c), 47 (d), 47 (g), 48]
 - d) On 30 May 2022, she referred in a response to Mr Willsher dated

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30 May 2022 to her disability, being a “chronic condition” and an “auto-immune” condition [R2] [C WS 46] [TB 251, 257]

- e) On 18 August 2022 she informed Mr Willsher of a hospital admission date for ongoing treatment for the symptoms of a disability [R2] [C WS para 80] [TB 310]
 - f) On 22 August 2022, Mr Willsher stated that the respondents were aware of her disability [R1 and R2]. [C WS para 84 – 85] [TB 319]
 - g) On 2 October 2022 Mr Willsher provided Mr Murgatroyd with his report to the Advisory Committee [R1]; [C WS para 100] [TB 332 §11]
 - h) On 27 March 2023, Mr Christoher Willsher provided to Mr Murgatroyd his Supplemental Report [R1]; [TB 489, §19]
 - i) On 25 May 2023 she referred to her disability in the document entitled “Melanie Tregenza Dancer – Response to Referral to Advisory Committee” which was sent to Mr Murgatroyd [R1]; [C WS para 159] [TB 503]
 - j) On 17 August 2023, when she wrote to Mr Murgatroyd with a statement from her husband outlining the details of her disability [R1]. [C WS para 169] [TB 549]
16. The respondent’s position is that the Advisory Committee had knowledge that she was disabled by reason of fibromyalgia from January 2008 when they received her application form but knowledge has to be shown by the individuals in question. In particular, they accept that:
- a) Ms Simmens and Ms Swift knew that she had a disability on 22 March 2022, when she informed them of this in the courtroom; [229, 219],

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- b) Mr Willsher knew from her email of 31 May 2022 referring to what was said in p250, that she had been off with ill health due to a chronic long-term health condition; [250],
- c) Ms Ashby knew from around 1 June 2022 when Mr Willsher discussed this email of 31 May 2022 with her; [250],
- d) Professor Steven Burr knew on 25 May 2023 when the Claimant sent her response to the Advisory Committee [501]

17. In relation to her anxiety and depression, the claimant's position is that:

- a) On 18 August 2022 she informed Mr Willsher of the effect of the process on her mental wellbeing [R1 and R2] [C WS para 80 (b)] [TB 310]
- b) On 22 August 2022 Mr Willsher signposted her to R1's "Assistant (sic) Programme" [R1 and R2] [C WS para 83] [TB 319]
- c) On 9 January 2023 she informed Mr Willsher of the need for a reasonable adjustment because of the effects of the process on her mental wellbeing [R2]. [C WS para 124] [TB 383]
- d) On 20 January 2023 she informed R1 and/or R2 of a diagnosis of anxiety and depression]. [C WS para 128] [TB 403]

18. In relation to anxiety and depression, the respondent's position is that:

- a) Mr Willsher and Ms Ashby were informed by Mrs Tregenza Dancer, in her email of 20 January 2023, that she had been diagnosed with depression and anxiety, but not that this amounted to a disability; [416]
- b) On 27 March 2023 Mr Willsher sent his report to the Advisory Committee, Professor Steven Burr and included this email from Mrs Tregenza Dancer; [491, para 34]

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- c) On 25 May 2023 Mrs Tregenza Dancer sent her response to the Advisory Committee but she claimed only that her fibromyalgia was a disability, not her anxiety or depression; [502 para 6].
- d) Requests by the Advisory Committee for her to undergo an occupational health assessment were unsuccessful [529- 530, 532, 535, 545, 562-563,574, 579, 637, 946. 974]

Unfavourable Treatment

19. If knowledge is shown, can the Claimant show unfavourable treatment because of something arising in consequence of her disability? She relies on the following treatment arising because of the matters specified [paragraph references below are to the Claimant's ET1 amended Grounds of Complaint]:

- a) On 22 March 2022, (i) Tina Simmens quizzed Mrs Tregenza Dancer about her disability in a public setting; (ii) did not intervene when Georgia Swift responded sarcastically to her; and (iii) failed to attempt to resolve the resulting hostile environment for C (paragraphs 46-47, 54). [R2].

Something arising: the Claimant raising her disability and requesting to sit on the left of the bench chair to ameliorate the pain the condition causes on 22/03/22.

- b) On 22 March 2022, Georgia Swift responding sarcastically that if Mrs Tregenza Dancer wanted a reasonable adjustment she ought to have turned up on time (paragraphs 49). [R2].

Something arising: the Claimant raising her disability and requesting to sit on the left of the bench chair to ameliorate the pain the condition causes on 22/03/22.

- c) On 5 April 2022, Georgia Swift raised a complaint against Mrs Tregenza Dancer alleging that she had acted in a rude and

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unprofessional manner by requesting Ms Swift move seats to accommodate her disability (paragraph 56). [R1 and/or R2].

Something arising: the Claimant raising her disability and requesting to sit on the left of the bench chair to ameliorate the pain the condition causes on 22/03/22.

- d) On or around 2 October 2022, Mr Willsher indicating that discussions with Mrs Tregenza Dancer had been exhausted and he was referring her to the Conduct Advisory Committee (paragraph 90). [R1 and/or R2].

Something arising: the Respondent's requirement to hold a meeting about the Claimant's request for a reasonable adjustment on 22/03/22; the delay in holding that meeting caused by the Claimant's ill health [310] and her attempts to obtain information necessary and relevant for determining her complaint about her disability discrimination [327].

- e) Between December 2022 and April 2023, Mr Willsher threatening to and then referring Mrs Tregenza Dancer to the Conduct Advisory Committee (paragraphs 107, 109, 126 and 128). [R1 and R2].

Something arising: the Respondent's requirement to hold a meeting about the Claimant's request for a reasonable adjustment on 22/03/22; the delay in holding that meeting caused by the Claimant's request for information necessary and relevant for determining her complaint about her disability discrimination and the Respondent's failure to provide that information.

- f) On or around April 2023, Mr Willsher complaining to the Advisory Committee that Mrs Tregenza Dancer had failed to effectively engage to discuss the complaints made against her and had been unreasonable in her demands of him and conditions placed upon him. (128).[R1 and/or R2].

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Something arising: the Respondent's requirement to hold a meeting about the Claimant's request for a reasonable adjustment on 22/03/22; the delay in holding that meeting caused by the Claimant's request for information necessary and relevant for determining her complaint about her disability discrimination and the Respondent's failure to provide that information.

- g) On 11 September 2023, Mr Willsher subjecting Mrs Tregenza Dancer to steps to discuss whether or not she was likely to return imminently, and if not resign (paragraph143).[R2].

Something arising: the Claimant's absence from working as a magistrate. This arose because of her anxiety caused by her disability of anxiety and depression and the Respondents' failure to engage properly with or resolve her disability discrimination complaint.

- h) On or around 2 January 2024, as set out in Mr Murgatroyd's email (paragraph 146 and 147), determining that the complaint against Mrs Tregenza Dancer would proceed and that her counter complaint against GS would not. [R1 and R2].

Something arising: the Respondent's requirement to hold a meeting about the Claimant's request for a reasonable adjustment on 22/03/22; the delay in holding that meeting caused by the Claimant's request for information necessary and relevant for determining her complaint about her disability discrimination and the Respondent's failure to provide that information.

20. Can the respondents show that this treatment was a proportionate means of achieving a legitimate aim? The Respondents says that the aims were

- (a) to enable Tina Simmens to understand why the Claimant needed to sit on the left in the courtroom (para 19(a)(i));

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- (b) to enable a judicial office holder who considered another judicial office holder had acted in a rude and unprofessional manner to have her allegations investigated by the Bench Chair and, if upheld, for the Bench Chair to take appropriate action (para 19(c));
- (c) to ensure compliance with paragraph 1.14 of the Lord Chief Justice's Guidance to Bench Chairs on dealing with pastoral matter (para 19(d), p702);
- (d) to ensure compliance with paragraph 1.14 of the Lord Chief Justice's Guidance to Bench Chairs on dealing with pastoral matter (para 19(e), p702);
- (e) to ensure compliance with paragraph 1.14 of the Lord Chief Justice's Guidance to Bench Chairs on dealing with pastoral matter (para 19(f), p702);
- (f) ensuring compliance with paragraphs 5.52 and 5.53 of the Lord Chancellor's Directions for Advisory Committees on Justices of the Peace (para 19(g), p985);
- (g) to allow the complaint made by Chris Willsher to the Conduct Advisory Committee to be determined by a Conduct Panel, and to ensure compliance with the Judicial Conduct (Magistrates') Rules 2014.

Direct discrimination on grounds of disability

21. Did the respondent(s), in subjecting Mrs Tregenza Dancer to [paragraph references to the Claimant's amended Grounds of Claim]:
 - a) On 22 March 2022, (i) Tina Simmens quizzed Mrs Tregenza Dancer about her disability in a public setting; (ii) did not intervene when Georgia Swift responded sarcastically to her; and (iii) failed to attempt to resolve the resulting hostile environment for C

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(paragraphs 46-47, 54). [R2].

- b) On 22 March 2022, Georgia Swift responding sarcastically that if Mrs Tregenza Dancer wanted a reasonable adjustment she ought to have turned up on time (paragraphs 49). [R2].
- c) On 5 April 2022, Georgia Swift raised a complaint against Mrs Tregenza Dancer alleging that she had acted in a rude and unprofessional manner by requesting Ms Swift move seats to accommodate her disability (paragraph 56). [R1 and/or R2].
- d) Mr Willsher failing to properly consider Mrs Tregenza Dancer's response to the allegations raised against her and investigate her allegations of discrimination and/or harassment (paragraphs 80-83, 89, 131). [R1 and/or R2].
- e) On or around 2 October 2022, Mr Willsher indicating that discussions with Mrs Tregenza Dancer had been exhausted and he was referring her to the Conduct Advisory Committee (paragraph 90). [R1 and/or R2].
- f) In October 2022, Mr Willsher condoning Ms Swift's alleged harassment (paragraphs 91, 93 and 94). [R1 and/or R2].
- g) in December 2022, Mr Willsher refusing to respond to Mrs Tregenza Dancer's list of questions (paragraph 105). [R1 and/or R2].
- h) Between December 2022 and April 2023, Mr Willsher threatening to and then referring Mrs Tregenza Dancer to the Conduct Advisory Committee (paragraphs 107, 109, 126 and 128). [R1 and R2].
- i) On 10 January 2023, Mr Willsher suggesting that Mrs Tregenza Dancer meet without having regard to the relevant policies and refusing to allow her husband to attend a meeting as a support

(paragraph 111). [R1 and/or R2].

- j) On 25 January 2023, Ms Ashby stating that a meeting would take place and Mrs Tregenza Dancer's husband would not be able to attend (paragraph 116). [R1].
- k) On 28 February 2023, Ms Ashby refusing to agree the use of the MOJ's disability policy (paragraph 122). [R1].
- l) On or around April 2023, Mr Willsher complaining to the Advisory Committee that Mrs Tregenza Dancer had failed to effectively engage to discuss the complaints made against her and had been unreasonable in her demands of him and conditions placed upon him. (128).[R1 and/or R2].
- m) On 11 September 2023, Mr Willsher subjecting Mrs Tregenza Dancer ~~to undergo refresher training and being subjected to~~ steps to discuss whether or not she was likely to return imminently, and if not resign (paragraph143).[R2].
- n) On or around 2 January 2024, as set out in Mr Murgatroyd's email (paragraph 146 and 147), determining that the complaint against Mrs Tregenza Dancer would proceed and that her counter complaint against GS would not. [R1 and R2].

treat her *less favourably* than they treated or would have treated someone else in the same circumstances apart from her disability.

- 22. Mrs Tregenza Dancer relies on a hypothetical comparator, i.e. a person who requests to move chairs but does not have a disability.

Harassment on grounds of disability

- 23. Did the respondents or any of its employees or agents engage in unwanted conduct in respect of any of the following allegations of harassment [paragraph numbers relate to the Claimant's amended

Grounds of Claim]:

- a) On 22 March 2022, (i) Tina Simmens quizzed Mrs Tregenza Dancer about her disability in a public setting; (ii) did not intervene when Georgia Swift responded sarcastically to her; and (iii) failed to attempt to resolve the resulting hostile environment for C (paragraphs 46-47, 54). [R2].
- b) On 22 March 2022, Georgia Swift responding sarcastically that if Mrs Tregenza Dancer wanted a reasonable adjustment she ought to have turned up on time (paragraphs 49). [R2].
- c) On 5 April 2022, Georgia Swift raised a complaint against Mrs Tregenza Dancer alleging that she had acted in a rude and unprofessional manner by requesting Ms Swift move seats to accommodate her disability (paragraph 56). [R1 and/or R2].
- d) Mr Willsher failing to properly consider Mrs Tregenza Dancer's response to the allegations raised against her and investigate her allegations of discrimination and/or harassment (paragraphs 80-83, 89, 131). [R1 and/or R2].
- e) On or around 2 October 2022, Mr Willsher indicating that discussions with Mrs Tregenza Dancer had been exhausted and he was referring her to the Conduct Advisory Committee (paragraph 90). [R1 and/or R2].
- f) In October 2022, Mr Willsher condoning Ms Swift's alleged harassment (paragraphs 91, 93 and 94). [R1 and/or R2].
- g) Between December 2022 and April 2023, Mr Willsher threatening to and then referring Mrs Tregenza Dancer to the Conduct Advisory Committee (paragraphs 107, 109, 126 and 128). [R1 and R2].
- h) On 10 January 2023, Mr Willsher suggesting that Mrs Tregenza

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Dancer meet without having regard to the relevant policies and refusing to allow her husband to attend a meeting as a support (paragraph 111). [R1 and/or R2].

- i) On 25 January 2023, Ms Ashby stating that a meeting would take place and Mrs Tregenza Dancer's husband would not be able to attend (paragraph 116). [R1].
- j) On 28 February 2023, Ms Ashby refusing to agree the use of the MOJ's disability policy (paragraph 122). [R1].
- k) On or around April 2023, Mr Willsher complaining to the Advisory Committee that Mrs Tregenza Dancer had failed to effectively engage to discuss the complaints made against her and had been unreasonable in her demands of him and conditions placed upon him. (128).[R1 and/or R2].
- l) On 11 September 2023, Mr Willsher subjecting Mrs Tregenza Dancer to steps to discuss whether or not she was likely to return imminently, and if not resign (paragraph143).[R2].
- m) On or around 2 January 2024, as set out in Mr Murgatroyd's email (paragraph 146 and 147), determining that the complaint against Mrs Tregenza Dancer would proceed and that her counter complaint against GS would not. [R1 and R2].

- 24. In each case, was the conduct related to her disability?
- 25. Did it have either (a) the purpose or (b) the effect of violating Mrs Tregenza Dancer's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for her?
- 26. If it had that it effect, was that reasonable taking into account the Claimant's perception and the other circumstances of the case?

Victimisation

27. Did Mrs Tregenza Dancer make a complaint at work about discrimination, or about a breach of the Equality Act? This is known as carrying out a “protected act”? She relies upon the following:
- a) informing Ms Swift on 22 March 2022 that she had a disability.
 - b) an email to Mr Roveri on 24 May 2022. [246]
 - c) her written response dated 30 May 2022 to the complaint Ms Swift had made against her on 5 April 2022. [251]
 - d) an email to Mr Willsher dated 18 August 2022. [310]
 - e) an email to Mr Willsher dated 14 October 2022. [346]
 - f) an email to Mr Willsher dated 28 November 2022. [374]
 - g) an email to Mr Willsher dated 20 January 2023. [403]
 - h) an email to Mr Roveri dated 1 March 2023 [443]
 - i) an email to Ms Ashby dated 3 March 2023 [457]
 - j) a submission to the Conduct Advisory committee dated 25 May 2023. [500]
 - k) a letter to Mr Sean Murgatroyd, Legal Advisor of the First Respondent dated 17 August 2023. [545]
 - l) a letter dated 14 February 2024 to Professor Burr. [578]
28. If there was a protected act, was Mrs Tregenza Dancer subjected to any of the following detriments:

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- a) On 22 March 2022, (i) Tina Simmens quizzed Mrs Tregenza Dancer about her disability in a public setting; (ii) did not intervene when Georgia Swift responded sarcastically to her; and (iii) failed to attempt to resolve the resulting hostile environment for C (paragraphs 46-47, 54). [R2]. [protected act (a)]
- b) On 22 March 2022, Georgia Swift responding sarcastically that if Mrs Tregenza Dancer wanted a reasonable adjustment she ought to have turned up on time (paragraphs 49). [R2]. [protected act (a)]
- c) On 5 April 2022, Georgia Swift raised a complaint against Mrs Tregenza Dancer alleging that she had acted in a rude and unprofessional manner by requesting Ms Swift move seats to accommodate her disability (paragraph 56). [R1 and/or R2]. [protected act (a)]
- d) Mr Willsher failing to properly consider Mrs Tregenza Dancer's response to the allegations raised against her and investigate her allegations of discrimination and/or harassment (paragraphs 80-83, 89, 131). [R1 and/or R2]. [protected act (c)]
- e) On or around 2 October 2022, Mr Willsher indicating that discussions with Mrs Tregenza Dancer had been exhausted and he was referring her to the Conduct Advisory Committee (paragraph 90). [R1 and/or R2]. [protected acts (c) & (d)]
- f) in December 2022, Mr Willsher refusing to respond to Mrs Tregenza Dancer's list of questions (paragraph 105). [R1 and/or R2]. [protected act (f)]
- g) Between December 2022 and April 2023, Mr Willsher threatening to and then referring Mrs Tregenza Dancer to the Conduct Advisory Committee (paragraphs 107, 109, 126 and 128). [R1 and R2]. [protected acts (c) – (f) (up to December 2022) and protected acts (g) – (i) the period between January 2023 and April

2023]

- h) On 28 February 2023, Ms Ashby refusing to agree the use of the MOJ's disability policy (paragraph 122). [R1]. [protected act (g)]
 - i) On or around April 2023, Mr Willsher complaining to the Advisory Committee that Mrs Tregenza Dancer had failed to effectively engage to discuss the complaints made against her and had been unreasonable in her demands of him and conditions placed upon him. (128).[R1 and/or R2]. [protected acts (d) – (i)]
 - j) On or around 2 January 2024, as set out in Mr Murgatroyd's email (paragraph 146 and 147), determining that the complaint against Mrs Tregenza Dancer would proceed and that her counter complaint against GS would not. [R1 and R2]. [protected acts (c) – (k)]
 - k) Mr Willsher, on 22 July 2022, declining to outline the options for how to proceed in writing and insisting on a telephone call or face to face meeting; [protected act (c)]
 - l) Mr Roveri, on 3 March 2023, stating that unless Mrs Tregenza Dancer met with Mr Willsher (despite her first wishing to understand the appropriate policy) she risked being referred to the Advisory Committee (paragraph 124). [protected act (b) – (h)]
29. If so, was this because of any of the protected acts and/or because R1 and/or R2 believed the Claimant had done or may do a protected act?

Remedies

30. If Mrs Tregenza Dancer wins her claim for discrimination she may be entitled to:
- a) compensation for injury to feelings and/or any financial loss

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- b) an uplift in respect of any failure to follow the ACAS Code in relation to her complaint
- c) interest and/or a declaration or recommendation.

Addendum (for information only) – Further issues “hived off” for later hearing

- (o) Professor Burr’s refusal in or around March 2024 to accept the Claimant’s allegations of discrimination and his decision not to investigate the alleged discriminatory events of 22 March 2022. [R1].
- (p) The decision by the Conduct Advisory Panel on or around 20 May 2024 to ignore the discrimination alleged to have taken place on 22 March 2022, and subsequent alleged treatment by Mr Willsher and others. [R1 and/or R2].
- (q) The decision communicated to the Claimant by the Conduct Advisory Panel again on 23 August 2024, recommending a referral to the Judicial Conduct Investigations Office for a formal warning.