



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms Suzanne Parkus  
**Respondent:** London Borough of Barnet

## RECORD OF PUBLIC PRELIMINARY HEARING

**Heard at:** Watford Employment Tribunal  
**On:** 11 and 12 February 2025  
**Before:** Employment Judge Alliott

### Appearances

**For the Claimant:** Ms Lillian Caller (solicitor)  
**For the Respondent:** Mr Theo Lester (counsel)

## JUDGMENT

1. The judgment of the tribunal is that:
2. The claimant was disabled at all material times between 31 May 2022 and 3 May 2024 by reason of:
  - (i) Ehlers-Danloss syndrome/hypermobility
  - (ii) Intervertebral disc bulge/degenerative spondylitis/back pain
  - (iii) Head trauma/neurological overstimulation causing light/noise sensitivity
  - (iv) Chronic fatigue syndrome
  - (v) Low blood pressure/anaemia
  - (vi) A mental impairment of stress caused, at least in part, by (iii), (iv) and (v) above.

## REASONS

## Introduction

1. This public preliminary hearing was directed by Employment Judge Bedeau on 20 November 2024 to determine:

“ ...

- 3.1 whether the claimant’s medical conditions have substantial adverse effects on her ability to carry out normal day-to-day activities?
  - 3.2 Did the claimant have medical treatment to treat or correct the impairments?
  - 3.3 Would the impairments have had substantial adverse effects on her ability to carry out normal day-to-day activities without the treatment?
  - 3.4 Were the effects long-term, that is, did they last or were they likely to last 12 months?
  - 3.5 If not, were they likely to recur?
4. At the conclusion of the hearing the Judge will issue further case management orders, including listing the case for a final hearing.”

## The law

2. Section 6 of the Equality Act 2010 provides as follows:-

“6 Disability

- (1) A person (P) has a disability if—
  - (a) P has a physical or mental impairment, and
  - (b) the impairment has a substantial and long-term adverse effect on P's ability to carry out normal day-to-day activities.”

3. Schedule 1 to the Equality Act 2010 provides as follows:-

“2 Long-term effects

- (1) The effect of an impairment is long-term if—
    - (a) it has lasted for at least 12 months,
    - (b) it is likely to last for at least 12 months, or
- ...
- (2) If an impairment ceases to have a substantial adverse effect on a person's ability to carry out normal day-to-day activities, it is to be treated as continuing to have that effect if that effect is likely to recur.”

And

“Effect of medical treatment

5(1) An impairment is to be treated as having a substantial adverse effect on the ability of the person concerned to carry out normal day-to-day activities if—

- (a) measures are being taken to treat or correct it, and
- (b) but for that, it would be likely to have that effect.”

4. The Equality and Human Rights Commission: Code of Practice on Employment (2011) at Appendix 1 provides as follows:-

“What if a person has no medical diagnosis?

7. There is no need for a person to establish a medically diagnosed cause for their impairment. What it is important to consider is the effect of the impairment, not the cause.

5. Further, as per the guidance on matters to be taken into account in determining questions relating to the definition of disability (2011)

At A3:

“Meaning of “Impairment”

A3 The definition requires that the effects which a person may experience must arise from a physical or mental impairment. The term mental or physical impairment should be given its ordinary meaning. It is not necessary for the cause of the impairment to be established, nor does the impairment have to be the result of an illness. In many cases, there will be no dispute whether a person has an impairment. Any disagreement is more likely to be about whether the effects of the impairment are sufficient to fall within the definition and in particular whether they are long term. Even so, it may sometimes be necessary to decide whether a person has an impairment so as to be able to deal with the issues about its effects.”

And

At A5

“A5 A disability can arise from a wide range of impairments which can be:

- Sensory impairments, such as those affecting sight or hearing;
- Impairments with fluctuating or recurring effects such as rheumatoid arthritis, myalgic encephalitis (ME), Chronic Fatigue Syndrome (CFS), fibromyalgia, depression and epilepsy;
- ...
- Produced by injury to the body, including to the brain.”

And

At B9:

“Account should also be taken of where a person avoids doing things which, for example, cause pain, fatigue or substantial social embarrassment, or avoids doing things because of a loss of energy and of motivation. It would not be reasonable to conclude that a person who employed an avoidance strategy was not a disabled person. In determining a question as to whether a person meets the definition of disability it is important to consider the things that a person cannot do, or can only do with difficulty.”

### **The evidence**

6. I had a hearing bundle of 715 pages. The bundle included the claimant’s 24 page “impact statement”.
7. I had a further 37 page disability witness statement from the claimant and a witness statement from Mr Mihalīs Koumi, Head of Safety Health and Wellbeing in the respondent’s Public Health Directorate.
8. I heard oral evidence from the claimant and Mr Koumi.

### **The facts**

9. The claimant began work for the respondent on 31 May 2022. Her claim form was presented on 3 May 2024. Hence, the relevant period for my consideration is between 31 May 2022 and 3 May 2024.
10. It is fair to say that the claimant has a long and complex medical history. The bundle has 529 pages of medical documents. It includes two sets of GP notes covering March 1991 to April 2016 (121 pages) and April 2016 to September 2024 (149 pages). It also includes two sets of physiotherapy notes (one set private, one NHS). The private notes cover May 2011 to June 2024 (86 pages) and the NHS notes cover May 2017 to August 2023 (21 pages).
11. Over the years the claimant has been examined by a large number of consultant medical specialists including those from neurology, orthopaedics, rheumatology, haematology, maxilla facial surgery and gastroenterology.
12. The medical documents that I have begin in 2000, although the claimant references having had the first of 10 road traffic accidents in 1996 at the age of 14.
13. In 2000 there is a letter referencing glandular fever/lethargy and fibromyalgia.
14. In 2001 there is a letter referencing another road traffic accident with significant whiplash.
15. In 2004 there is a letter referencing symptoms in the claimant’s neck, general tiredness, visual problems and nystagmus to the left with a possible diagnosis of demyelinating disease.
16. In 2007 there is a letter referencing ME like illness and a reduction in energy levels.
17. In 2008 there is a letter referencing stress, hair loss and irritable bowel syndrome.

Ehlers-Danloss syndrome/hypermobility

18. The first reference there is to hypermobility is in a letter dated 10 February 2014. A consultant orthopaedic and trauma surgeon recites:

“She is working hard at physiotherapy, both upper and lower limb. She has a great deal of hypermobility with clunking hips, hyper extending knees and clunking and crunching shoulders.”

19. There is a letter dated 3 July 2019 from a consultant rheumatologist which states:-

“Diagnosis: Benign hyper/mobility syndrome”

The letter goes on to reference:-

“MRI scan in July 2018 showed degenerative spondylosis and moderate right sided foraminal narrowing at C4/5 with potential right C5 nerve root impingement.

It also states:-

“MRI right shoulder also done at Princess Grace on 10 July 2018 showed sub-acromial bursitis...”

The letter concludes:-

“I think that she clearly has some hyper-mobility syndrome. Her joint pains are most likely related to this.”

20. There is a further letter dated 15 August 2019 from a physiotherapist which states:-

“Chronic knee pain-hypermobility.”

21. There is a letter dated 4 October 2019 from another consultant rheumatologist which states:-

“Diagnosis;

1. Hypermobility EDS
2. Chronic fatigue
3. POTS like symptoms”.

The letter references a history of chronic generalised dull ache. It goes on to state:-

“Besides physical fatigue, she also gives a history of mental fatigue and struggles with full day’s work.”

22. I understand that the nature of hypermobility is that it is a congenital condition that is incurable.
23. I find that the claimant has the physical impairment of hypermobility with a probable diagnosis of Ehlers-Danloss syndrome. I find that that did last more than 12 months.

Intervertebral disc bulge/degenerative spondylitis/back pain

24. There is a letter dated 10 July 2018 wherein a consultant radiologist reports on an MRI cervical spine and right shoulder. The comment is:-

- “1. Degenerative spondylosis, notably at C4/C5 and C5/C6
2. Moderate right-sided foraminal narrowing C4/C5 with potential right C5 nerve root impingement.”

29. I have already quoted from the September 2019 letter that records ongoing problems in so far as her joints are concerned.

30. I find that the claimant did have the physical impairment of intervertebral disc bulge/degenerative spondylitis/back pain. I find that that lasted more than 12 months.

Head trauma/neurological overstimulation causing light/noise sensitivity

31. The claimant had another road traffic accident on 8 May 2015. On 4 June 2015 a consultant neurologist reported as follows:-

“Her main problems since then have been ongoing nausea and sensitivity to light and noise, a bi-frontal headache and a feeling of intermittent dizziness, affecting her both when she is standing... or when trying to get up from a seated position.”

And

“We talked a little about the post-concussion syndrome, which neurologists these days should probably try to call more accurately mild traumatic brain injury (TBI)”.

32. Hence, it appears that whilst there was no actual trauma to the claimant’s head during the road traffic accident, mild traumatic brain injury was found.

33. It is fair to say that the medical records disclose no further reference to this problem until the first Occupational Health report on 28 June 2022 when the claimant was employed by the respondent. This records:-

“Since the car accident she tells me that she is affected by loud and sudden noises, moving from dark to light environments and too much sensory stimulation for instance she can find it difficult if too many people are speaking at the same time, she prefers phone calls over video conferences and ear phones help her to focus.”

34. The claimant’s GP records repeatedly reference headaches/dizziness/nausea. In addition the claimant had a CT scan on 26 December 2019 and an MRI scan in May 2023. I find that the claimant had the physical impairment of head trauma/neurological overstimulation causing light/noise sensitivity. Further, I find that that lasted more than 12 months.

Chronic fatigue syndrome

35. I have already quoted the letter dated 4 October 2019 wherein a consultant rheumatologist diagnosed chronic fatigue syndrome. As recited from the history from 2000 onwards it is quite clear that the claimant has been complaining of these symptoms for a very long time. As will be seen when I turn to the

claimant's impact statement, the claimant states that every simple tasks can exhaust her. There are numerous references in the GP notes to the claimant being tired.

36. I find that the claimant had the physical impairment of chronic fatigue syndrome. Further, I find that that had lasted more than 12 months.

Low blood pressure/anaemia

37. The GP notes indicate that the claimant is recorded with low blood pressure from time to time. I accept that that is a physical impairment. In my judgment, it is a condition that is likely to recur and, on the evidence, did recur.
38. Again, the GP notes make clear that the claimant suffered from anaemia from time to time and took iron supplements to deal with that. Again, I find that that is a recurrent issue.
39. Consequently, I find that the claimant did have the physical impairment of low blood pressure/anaemia and that those lasted longer than 12 months

Stress

40. Stress of itself is not a disability. I have taken into account that the GP notes, especially during the period when the claimant was employed by the respondent, reference stress at work. That may well reference issues other than the claimant's physical impairments. However, it is clear to me that the claimant's stress was also caused or contributed to by her other disabilities.
41. Consequently, I have concluded that the claimant had a mental impairment of stress caused at least in part by the neurological overstimulation, chronic fatigue syndrome and low blood pressure/anaemia. I have come to this conclusion based the claimant's impact statement.
42. I now turn to consider the effects that the disabilities I have found had on the claimant's ability to undertake day to day activities. In assessing this I have taken a somewhat holistic approach as it appears to me that it is somewhat contrived to attempt to attribute specific consequences to each of the disabilities singularly.
43. I have the claimant's impact statement . The claimant was quite clear to me that the effects that she describes on her ability to undertake day to day activities in that statement were relevant during the course of the whole of her employment with the respondent. Further, the claimant was clear that she had not exaggerated the effects she said her conditions had on her ability to undertake day to day activities.
44. I am aware that Mr Koumi gave evidence that suggested the claimant's limitations were not as great as she suggested to me. However, the extent to which the respondent had or should have had knowledge of the claimant's disabilities is going to be a central issue in the full merits hearing. Consequently, I make plain that I make no findings as to whether, how and to what extent the

claimant's limitation were manifested whilst at work. That is plainly a matter for the full merits hearing.

45. Having assessed the claimant's impact statement as a whole, it seems to me, and I find, that her various medical issues had very significant effects on her ability to undertake normal day to day activities.
46. There was considerable overlap between her hypermobility issues and her degenerative back problems. The claimant stated that she struggled to lift or carry heavy objects for long periods of time. This caused pain and discomfort. On further examination the claimant told me that she struggled to carry a work laptop or a file of papers.
47. The claimant had difficulties sitting or standing for long periods of time. The claimant told me that after about half an hour she started experiencing discomfort.
48. The claimant stated that she could not write for long periods. On further examination the claimant told me that she could write for five or ten minutes but then would need a break.
49. The claimant stated that she could not type for lengthy periods. On further examination this was put at ten to fifteen minutes before, again, needing a break.
50. The claimant stated that she experienced symptoms every single day with pain across her body which affected her sleep and her ability to recover.
51. The claimant experienced difficulty cooking and preparing food. She cannot cut hard vegetables, open packets or undo lids. She struggles to carry heavy pans or crockery and to screw on a blender lid.
52. The effects on her daily activities resulting from her back pain are broadly similar but the claimant adds that she cannot drive for long periods. On further examination she explained that that would be half an hour or longer.
53. When describing her back pain the claimant states that it affects her on a day to day basis and is present most of the time. Again, she experienced discomfort sitting and standing and the extent of that would depend on what she was doing. She states that she could not do any rapid movements or repetitive motion and could not walk for long periods of time.
54. As far as the chronic fatigue was concerned, the claimant states that every single task can exhaust her. She states that her concentration and sleep are adversely affected.
55. As far as the neurological overstimulation is concerned, the claimant could not work in bright lights and a noisy environment with more than one person talking posed her problems. She experienced migraines.
56. As far as her low blood pressure/anaemia was concerned, she stated that this caused her dizziness/nausea/muscle weakness and fatigue.



57. Taking into account all the above, I find that all the claimant's disabilities had a significant adverse effect on the claimant's ability to undertake normal day to day activities.
58. Consequently, in my judgment, the claimant was disabled at all relevant times between 31 May 2022 and 3 May 2024 by reason of the six disabilities identified in the judgment.
59. The disability impact statement and disability statement are there to be read. It seems to me that the claimant's disabilities have a very severe impact on her ability to function. It seems to me that the nature and extent of the physical and cognitive impairments are such that they may well call into question whether the claimant would ever be able to work even with reasonable adjustments. I stress that is an observation and not a finding as it is a matter for the full merits hearing.

Approved by:

**Employment Judge Alliott**

**6 / 3 / 2025**

JUDGMENT SENT TO THE PARTIES ON  
15 March 2025

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FOR THE TRIBUNAL OFFICE