



# EMPLOYMENT TRIBUNALS

**Claimant:** Joanne Neill  
**Respondent:** Dermalogica UK Ltd  
**Heard at:** Croydon  
**On:** 9-13 & 16-17 December 2024  
**Before:** Employment Judge Liz Ord  
Tribunal Member Alison Boyce  
Tribunal Member Nicola Beeston

**Representation:**

Claimant: In person  
Respondent: Sarah Hornblower (Counsel)

**JUDGMENT** having been given orally on 17 December 2024 and the written record having been sent to the parties on 13 February 2025, subsequent to a request for written reasons in accordance with Rule 62(3) of the Employment Tribunals Rules of Procedure, the following reasons are provided:

## REASONS

### The Complaints and Issues

1. The claimant complains of:
  - 1.1. Failure to make reasonable adjustments
  - 1.2. Indirect sex discrimination
  - 1.3. Breach of the Part Time Workers (Prevention of Less Favourable Treatment) Regulations 2000
2. The issues for the tribunal are set out in the attached Annex.

### Evidence

3. The tribunal had before it the following documentary evidence: a documents bundle (344 pages), witness statements, chronology, cast list, skeleton

arguments from claimant and respondent, closing submissions from claimant and respondent.

4. On behalf of the claimant we heard evidence on oath from the claimant, Bethanie Fanning, Lucy Fuller and Ian White.
5. On behalf of the respondent we heard evidence on oath from Kerry Nicholson-Melville, Sarah Beardsworth and Shaun Parkes.
6. Number references in brackets are to the documents bundle. References with the pre-fix WS are to witness statements.
7. Only findings of fact relevant to the issues, and those necessary for the tribunal to determine, have been referred to in this judgment. It has not been necessary, and neither would it be proportionate, to determine each and every fact in dispute. The tribunal has not referred to every document it read and/or was taken to in the findings below, but that does not mean it was not considered if the tribunal was taken to the document in evidence or as part of a reading list. The tribunal notified the parties at the outset of the hearing that they would only read documents that they were specifically referred to and would only read documents referred to in witness statements insofar as they were identified as being relevant to an issue in the case.

## **The Law**

### **8. Disability**

The meaning of disability is found in the Equality Act 2010 (EqA)

Section 6 (1) of the EqA provides that 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.

Schedule 1 Part 1 of the EqA sets out supplementary provisions. It provides:

1. ...
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
- (c) It is likely to last for the rest of the life of the person affected.

(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.

3. ...

4. ...

5. Effect of medical treatment

(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.

The standard of proof is the balance of probabilities. In determining whether a person is disabled, the court should apply the appropriate test to the claimant's condition at the date of the alleged discriminatory act, not at the date of the hearing.

## **9. Duty to make adjustments**

Sections 20 and 21 EqA

In summary, where a provision, criterion or practice of the respondent or a physical feature puts a disabled person at a substantial disadvantage in comparison with persons who are not disabled, the respondent has a duty to take such steps as it is reasonable to have to take to avoid the disadvantage.

The statute's purpose is to eliminate discrimination against those who suffer disadvantage from a disability.

## **10. Indirect discrimination**

Section 19 EqA

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

## **11. Equality and Human Rights Commission (EHRC) Equality Act 2010 Code of Practice**

The EHRC Code advises that the term "PCP" should be construed widely so as to include formal and informal policies, rules, practices, arrangements, criteria, conditions, prerequisites, qualifications or provisions. A PCP may also include a decision to do something in the future – such as a policy or criterion that has not yet been applied – as well as a "one-off" or discretionary decision.

## **12. Part Time Workers (Prevention of Less Favourable Treatment) Regulations 2000**

5. Less favourable treatment of part-time workers

- (1) A part-time worker has the right not to be treated by his employer less favourably than the employer treats a comparable full-time worker-
  - (a) as regards the terms of his contract; or
  - (b) by being subjected to any other detriment by any act, or deliberate failure to act, of his employer.
- (2) The right conferred by paragraph (1) applies only if-
  - (a) the treatment is on the ground that the worker is a part-time worker, and
  - (b) the treatment is not justified on objective grounds

### **13. Other law**

All other law/caselaw as raised by the parties was considered.

## **Findings of Fact**

### **Work structure**

14. The claimant has worked for the respondent since 1995 and at the date of the hearing was still employed by them. At all material times she worked for the Facilities Department. She worked part time two days a week. The rest of her team worked full time.
15. Her team consisted of four people headed by Ian White, who was the Facilities Manager and her line manager, responsible for overall compliance, health and safety, maintenance and locations. The claimant was responsible for expansion and managing refurbishment projects. The other team members were Beth Fanning (helpdesk lead and general administrator) and Lukasz Wozniak (who handled driving and post).
16. Kerry Nicholson-Melvill joined the team in about April 2022 as Location and Expansion Project Manager and became Ian White's line manager, taking on the lead for expansion. From this point onwards the claimant reported to Ms Nicholson-Melvill on expansion matters and to Mr White for all other matters.
17. Sarah Beardsworth was Head of Human Resources at the time.
18. The team worked in an open-plan office. Ms Beardsworth's office was adjacent to and opened out onto this area. Consequently, they all worked together in close proximity to each other.

### **Disability**

19. The claimant relies on the mental impairment of severe depressive disorder, including anxiety and panic attacks.
20. The claimant started to have mental health problems in January 2022 when she started struggling with day to day tasks. Prior to that, there had been no issues. Over the next few months her mental health declined and she would stay in bed, unable to focus, eat or function.
21. She told Ian White about her issues in January 2022. He said she was visibly upset and he tried to support her with managing her workload. She also emailed Sarah Beardsworth on 31.1.2022 (50) requesting details of the

company's counselling services, to which Ms Beardsworth replied that day with the details.

22. Other members of the team noticed a decline in the claimant's mental health. Lucy Fuller was concerned for her and enquired about what support she was seeking (WS & XX). She also discussed medication with her. Beth Fanning noticed that she was upset at work, was struggling with her mental health and had lost a considerable amount of weight (WS).
23. The claimant was not eating properly, not keeping on top of housework and laundry, not able to support her children and had regular emotional and tearful outbursts. Her focus and concentration was reduced and she found it difficult to sleep. She began counselling sessions to help her manage her symptoms.
24. In around January or February Kerry Nicholson-Melvill accompanied the claimant on a trip regarding a new store set up. During this time Ms Nicholson-Melvill was made aware of the claimant going through a personal relationship break up, but she understood the claimant was getting support and was in better place.
25. On 09.02.22 the claimant contacted her GP (267) and was prescribed low dose Diazepam. On 18.5.2022 she attended the Cobham Health Centre (286) and the consultation summary says she presented with depression. Sertraline medication was prescribed.
26. Ian White was aware of her continuing mental health issues. On 26.5.2022 he emailed Sarah Beardsworth for advice (342) as follows:

I need to flag up to you in regards to Jo and concerns I have for her right now due to her mental health.

She is struggling to work and come into the office on her 2 days.

I am aware she is seeking professional help via counselling and her GP. She has turned down the option to speak to a Mental First Aider at work.

I am currently recording her time out from work and Kerry is aware of the situation.

Is there anything further I need to be doing or providing to her?

27. Ms Beardsworth replied the same day (441) saying relevantly:

I did wonder if something was going on as she emailed me at the end of Jan about getting some counselling via our private health so sent her all the details

...

I appreciate you want to support her by noting it all down but at some point you need to manage it in line with company policy just as we would with anyone else struggling with their mental health

28. Mr White responded as relevant (341):

Certainly don't want her exploiting any time off and when she was in on Monday she just couldn't focus on anything.

29. Ms Beardsworth replied as relevant (340-341)

Nothing else we can really do, by sounds of it she is doing the right thing by getting help and I sent her all the details back in Jan on how to get help through our health care which she can also utilise

30. Ian White's evidence was that he also discussed the claimant's mental health with Kerry Nicholson-Melville. We accept this.
31. Nothing was put in place by HR or management to assist the claimant. The claimant's symptoms worsened and she began to feel suicidal. On 3.6.2022 she stood on a bridge overlooking the A3 and contemplated ending her life (Impact statement 299). According to a paramedic report (292) there was a 999 call on 3.6.2022. The claimant was having a panic attack and medical attention was provided by ambulance staff. She was advised to continue with her medication.
32. On 4.6.2022 she visited a doctor at Bridgewater surgeries near to where she was staying with her sister. This was confirmed in a letter dated 23.03.24 from the Bridgewater Surgeries (252) which said that on 4.6.2022 the claimant was extremely unwell with acute anxiety and was staying with her sister as it was unsafe for her to be on her own. On that day she had physical symptoms of anxiety including palpitations, and was tearful and shaky. The letter makes reference to her continuing to take Sertraline.
33. In June 2022 the claimant went on a work trip to Glasgow. Lucy Fuller and Beth Fanning were there. Ms Fanning spoke about the claimant still being in a bad place mentally, so she made sure she was on the flight and supported her. She said the claimant was unable to sleep alone and so Ms Fuller shared a room with her. We accept this evidence.
34. Ms Fuller spoke about the claimant being unwell with mental health issues and her not wanting to be alone at any time. Ms Fuller said she kept checking in on her and made sure she was on the flight back home. We accept this evidence.
35. On 15.06.2022 text messages were written between the claimant and Mr White (182 & 238 & WS IW). They show that the claimant told him that mornings were not great and she asked whether she could work from home. Mr White's reply was that he had been put under pressure from HR and Kerry Nicholson-Melville for the claimant to be seen in the office and he felt he was not able to offer her this "reasonable adjustment".
36. On 22.06.2022 the claimant's GP reported (264) that Sertraline had helped and she had now turned a corner after initial panic attacks and anxiety.
37. In July the claimant was due to go to Vienna but had a panic attack at the airport and was unable to travel (WS JN).
38. On 11.7.2022 there were further text exchanges between the claimant and Ian White whereby Mr White was asking whether her medication was ok for her to be back to full days in the office (238). The claimant asked for mornings working from home but Ian White pushed back on that.
39. Over the next few months the medication started to help. The claimant was taking Phenergan to sleep, Sertraline for depression and Propranolol for panic attacks. The GP medical records on 08/08/2022 record:– on Sertraline – feeling good, no issues.

40. However, during the office refurbishment from September to November 2022 Beth Fanning witnessed the claimant breaking down crying on a number of occasions in front of Ian White and the team. Beth's view was that she was still struggling with her mental health (WS BF). Ian White's evidence was that she became visibly upset and was overwhelmed by workload and responsibilities during this time. He recognised that she was under significant stress.
41. The GP notes record on 7.11.22 (262) – doing well on antidepressants and wants to stay on this dose over winter with view to reducing/stopping in spring.
42. Whilst the claimant was working throughout this time, this was because she was only entitled to two days' sick pay per annum and, being a single parent, she could not afford not to work.

### **Knowledge of mental health issues**

43. Ian White was aware of the claimant's mental health issues from January 2022. He admitted that. He said he spoke to Sarah Beardsworth about the claimant's mental health on several occasions. We believe this was likely, given the close proximity of their working areas and the emails supporting his communication with Ms Beardsworth. We therefore accept Mr White's evidence on this.
44. Ms Beardsworth's evidence was that she had no knowledge of the claimant's mental health conditions. We are not so persuaded. The emails of January and May 2022 suggest otherwise. We find that, if Ms Beardsworth did not know already, certainly by May 2022 she was fully aware of the claimant's mental health issues.
45. With respect to Kerry Nicholson-Melvill, she claimed in evidence that she was unaware of the claimant's mental health problems. She said no one raised it with her from the department and she did not observe anything to give cause for concern in the office. We are not persuaded by her evidence. The documents suggest otherwise.
46. In the meeting notes of an interview with Ms Nicholson-Melvill taken on 7.3.2023 regarding the claimant's grievance appeal investigation (188), Ms Nicholson-Melvill was asked, in the context of the meeting with HR, whether she was aware of the claimant's mental health. Her reply was she was aware of Joanne Neill's mental health but it was not considered at the meeting with HR.
47. Ian White's evidence was that he told Ms Nicholson-Melvill about the claimant's mental health issues verbally. Given that Ms Nicholson-Melvill was managing the claimant with Ian White, we would expect there to be communication between them about the claimant's issues. We accept Mr White's evidence on this.
48. Ms Nicholson-Melvill was already aware that the claimant had issues due to her contact with the claimant on the trip in January/February 2022, and from her own observations and the discussions with Ian White. We accordingly

find that Ms Nicholson-Melvill had knowledge of the claimant's mental health issues from the time she joined the team in April 2022.

49. Therefore, in summary, we find that all the key management personnel knew about the claimant's mental health issues; Ian White from January 2022, Sarah Beardsworth from May 2022 (at the latest) and Kerry Nicholson-Melvill from April 2022.

**Events leading up to and including 17 November 2022 meeting**

50. In around November 2022 Mark Hermann, the General Manager, told Kerry Nicholson-Melvill that there was a requirement to reduce head-count and they identified that the role of Location Consultant was not needed going forward (WS KN para 3). A global directive was sent out for the Facilities Department to lose 0.5 head count. Ms Nicholson-Melvill briefed Ian White on the conversation.
51. From the evidence it is clear that the claimant's name was identified as the person to be made redundant, although no-one from management/HR, who gave evidence to this hearing, was prepared to take responsibility for it.
52. Kerry Nicholson-Melvill seemed to be suggesting that the identification came from the General Manager.
53. Mr White's evidence was that HR and the General Manager identified the claimant and her name had previously been mentioned at Senior Leadership discussions. He said Sarah Beardsworth told him in a call that the claimant's name had come up for redundancy as she was part-time and that she would fulfil the 0.5 of a head. This was the only reason he recalled for her selection. He stated he did not select the claimant himself.
54. Sarah Beardsworth said it was Ian White and Kerry Nicholson-Melvill who told her that the team had to be reduced by 0.5 of a head and there was a part-time role that the claimant occupied, which fulfilled the requirement.
55. Whoever was responsible, it is clear that management named the claimant, and only the claimant, for redundancy.
56. Neither Ms Nicholson-Melvill nor Mr White were experienced in redundancy matters and they asked for support from HR. They met with Sarah Beardsworth on 10.11.2022 (see email KN 7.3.23 – 186).
57. Mr White asked Sarah Beardsworth for HR to be present at the redundancy meeting with the claimant. Ms Beardsworth's response was that "there's no need for me or HR to be involved in this meeting". Mr White said he was uncomfortable with this as the claimant had worked for the company for 27 years and had just completed a large head office refurbishment to a very high standard.
58. The advice from Sarah Beardsworth was to keep the meeting short. An email on 7.3.2023 from Nicholson-Melvill (186) says 30 minutes, and the investigation meeting notes (188) of an interview with Nicholson-Melvill says 10-15 minutes. Mr White said there was no mention of consultation and no scoring process. The simple directive was to select the claimant.



59. Following Ms Beardsworth's advice, Mr White and Ms Nicholson-Melvill prepared a draft statement to read out to the claimant at the redundancy meeting. They sent it to Ms Beardsworth for approval on 15.11.2022 @ 11.12. (186). The pertinent parts read:

"Within the facilities team the global directive is to reduce our headcount by 0.5, and so it is with regret we share that your role has been selected for redundancy."

60. Ms Beardsworth replied that day @ 11.15 (186):

"Yeh all good with me! Nice and clear!"

61. The meeting with the claimant was arranged via Teams for 17 November, which was a non-working day for her. The invite was sent to the claimant in the evening of 16 November, after she had been working in the office all day until late. The title was simply "Catch Up". The claimant thought it was strange that nothing had been mentioned to her about it that day and she texted Ian White to ask him what it was about (185 16.11. @ 9.58). She did not get an answer.

62. She attended the meeting the following day with Mr White, and Ms Nicholson-Melvill.

63. The evidence from Ian White and Kerry Nicholson-Melvill was that the approved statement was read out by Ian White. The claimant's recollection is that Ian White told her "no easy way to say this ... global directive to reduce headcount, our department has been selected for half a head and unfortunately that is you".

64. Given the importance of the announcement to the claimant, it is likely that she correctly remembered the wording of the most pertinent part of the message. She was very clear and consistent in her evidence that this is what was said. We accept her evidence and find that these words were also said to her by Ian White. In any event, the claimant understood the message as meaning that she had lost her job.

65. There had been no prior warning and there was no opportunity to question the decision. She was in shock and alone at home, isolated from her work colleagues. This significantly worsened her already fragile mental health and plunged her into a state of despair.

66. In XX, when Ian White was asked whether he told the claimant there would be a consultation period, his answer was that he told her he would be in touch regarding next steps.

67. Subsequent to this meeting the claimant was sent a letter dated 22.11.22 (56), which said that the claimant's role was at risk. At this stage she was still the only one at risk. Nobody else was at risk.

68. A 1<sup>st</sup> consultation meeting followed on 28.11.22 when the claimant was told again that she had been selected because she was half a head. She thought

the process was a sham redundancy and therefore refused to participate any further.

69. On 6.12.2022 she raised a formal grievance with Sarah Beardsworth (70-72) regarding part-time and disability discrimination. On 7.12.2022 she was told the redundancy consultation was on hold whilst her grievance was investigated (76).
70. The grievance outcome letter of 30.1.2023 (114-115) upheld the grievance in part, stating that she had been unfairly selected for redundancy due to her part-time status. However, the part concerning disability discrimination (mental health) was not upheld.
71. Ian White and Kerry Nicholson-Melvill were interviewed as part of the grievance investigation. They were asked whether they had explained the redundancy process to the claimant (137 qu.32).
72. Ian White said: "No... HR asked me and Kerry to conduct the initial meeting and that they would follow up with a meeting on the consultation period."
73. Kerry Nicholson-Melvill answered "Not in as much detail, we reassured Jo that we are there to support her through the process ...".
74. In light of the shortness of the meeting and the content of the redundancy statement, we accept that there was no mention of any consultation at this meeting.
75. Following the meeting Ian White told Beth Fanning and Lukasz Wozniac that the claimant had lost her job. Other people then found out about it.
76. In actual fact, the claimant's redundancy was paused and a second redundancy process was restarted some time later. However, before it concluded, another employee left the facilities department and consequently the claimant was not selected for redundancy (See Remedy - further fact finding, for additional details).

## **Discussion and Conclusions**

77. We have dealt with each matter in the order it arises in the list of issues (see attached Annex).

### **1. Disability**

78. It is clear from the evidence that, at the relevant time, being the time of the meeting on 17.11.2022, the claimant had a mental impairment characterised as severe depressive disorder, including anxiety and panic attacks. It had a substantial (ie more than minor or trivial) adverse effect on her ability to carry out day-to-day activities.
79. In terms of long-term effect, by the 17 November meeting, the claimant had already been suffering with significant mental health issues for 10 months. At this stage, given the severity of her condition, there was a real possibility that the effects would last more than 12 months in the sense that it could well happen that they would continue for this length of time.

80. We refer to the GP record 07.11.2022 (262) which records: - wants to stay on this dose over winter with view to reducing/stopping in spring.

81. Therefore, we find that the effects were long term.

82. We conclude that the claimant was disabled at the material time.

## **2. Failure to make reasonable adjustments**

### **2.1 - Knowledge**

83. The respondent had knowledge of the claimant's disability from January 2022.

### **2.2 - Provisions, criteria, practices (PCPs)**

2.2.1 Providing the Claimant with little notice to attend the initial meeting;

2.2.2 Providing the Claimant with no context prior to the initial meeting taking place;

2.2.3 Arranging the meeting to take place via Microsoft Teams when she was office based;

2.2.4 Arranging the meeting to take place on the Claimant's non-working day;

2.2.5 Not giving any thought that the Claimant may be on her own or giving her the right to be accompanied during the meeting;

2.2.6 Informing the Claimant that, as a result of a headcount reduction target, she was being made redundant.

84. We note that the EHRC Code advises that the term "PCP" should be construed widely so as to include formal and informal policies, rules, practices, arrangements, criteria, conditions, prerequisites, qualifications or provisions. A PCP may also include a decision to do something in the future – such as a policy or criterion that has not yet been applied – as well as a "one-off" or discretionary decision.

85. We have construed the term broadly, having considered the statute's purpose of eliminating discrimination against those who suffer disadvantage from a disability. Having done so, we find that all these pleaded actions are PCPs, which were applied to the claimant.

### **2.3 - Substantial disadvantage**

Did the PCPs put the Claimant at a substantial disadvantage compared to someone without the Claimant's disability, in that she suffered a significant mental health impact as a result of being at home and unsupported following the Teams call on 17th November 2022?

86. The wording of the statement read out to the claimant did not use the word "risk" and, as there was no context given to the announcement and no mention of consultation, she felt singled out and alone, reasonably believing she had just lost her job.

87. The short notice period she was given of the meeting and the misleading title of the invite "catch up", meant she was unprepared and blindsided. The

announcement encroached into her own time, which ought to have been recovery time away from work, but instead plunged her into a state of shock and despair, significantly setting back her state of mental health. Conducting the meeting via Teams exacerbated the situation as it meant there was no support from colleagues and no opportunity to ask questions of HR. She was isolated and left reeling from the ordeal, feeling discriminated against and having to cope on her own at home.

88. For these reasons we find that the claimant was put at a substantial disadvantage compared to someone without her mental health issues.

#### **2.4- Knowledge of disadvantage**

Did the Respondent know or could it reasonably have been expected to know that the Claimant was likely to be placed at the disadvantage?

89. The Respondent ought reasonably to have known that the claimant would be placed at a disadvantage, given management's and HR's knowledge of her mental health impairment.

#### **2.5 – Adjustments**

What steps could have been taken to avoid the disadvantage? The Claimant suggests:

2.5.1 Having the meeting on a working day in the office.

90. We agree. This would have provided her with support and access to HR to ask questions and would not have encroached on her recovery time away from work.

2.5.2 Giving the claimant more notice of the meeting and verbal context for it in advance.

91. We agree. This would have given the claimant time to prepare and would have afforded her an understanding of what was happening.

2.5.3 Providing opportunity for the Claimant to be accompanied at the meeting.

92. We agree. This would have given her support at a difficult time.

2.5.4 The Respondent following correct procedure.

93. We agree. If a proper redundancy procedure had been carried out, she would not have felt so isolated and discriminated against and the impact on her mental health would not have been so great.

#### **Conclusion**

94. In conclusion, it would have been reasonable for the respondent to take all of the above steps, yet they failed to do so. Therefore, the claimant's complaint of failure to provide reasonable adjustments is well-founded and succeeds.

**3. Indirect Sex Discrimination (Equality Act 2010 section 19)**

3.1 Did the Respondent have the following PCPs:

3.1.1 Selecting a part time employee for redundancy where a 0.5 FTE reduction in staff is required.

95. Yes; the respondent operated this PCP.

3.2 Did the Respondent apply the PCP to the Claimant?

3.2.1 The Respondent accepts that the Claimant was put at risk of redundancy in the first round but that the Claimant was not dismissed because the first round was not completed.

96. The relevant wording of the notice read out at the meeting of 17.11.22 was:

“Within the facilities team the global directive is to reduce our headcount by 0.5, and so it is with regret we share that your role has been selected for redundancy.”

97. With respect to the wording: “...reduce our headcount by 0.5, and so ... your role has been selected for redundancy”, we read this as meaning that the claimant’s role was selected because it was part time.

98. Only the claimant’s name was identified as she fulfilled the half a head requirement. The PCP was applied to her and she was selected for redundancy because she was part time.

3.2.2 The Respondent denies the PCP was applied to the Claimant in the second round because both full time and part time staff were included in the round, and that the redundancies were made voluntarily so the Claimant was not dismissed.

99. Due to an employee leaving the Facilities Department, ultimately there was no need to select anyone for redundancy from this department in the second redundancy process. Consequently, the claimant was not selected and the PCP was not applied to her.

3.3 Did the Respondent apply the PCP to men or would it have done so?

100. The PCP was applied to men as well as women.

3.4 Did the PCP put women at a particular disadvantage when compared to men, in that women are more likely to work less than full time in the workplace and so would be at greater risk of redundancy?

101. We take judicial notice of the fact that in general more women work part time than men. Consequently, this PCP would put women at greater risk of redundancy than men. Therefore, the PCP put women at a particular disadvantage when compared to men.

3.5 Did the PCP put the Claimant at that disadvantage?

102. Yes, it did. The claimant was put at risk of redundancy.

3.6 The Respondent does not say the PCP was a proportionate means of pursuing a legitimate aim.

103. We agree that it was not.

### **Conclusion**

104. The complaint of indirect sex discrimination is well founded and succeeds with respect to the first redundancy process. It does not succeed with respect to the second process.

### **4. Breach of the Part Time Workers Regulations**

4.1 Was the Claimant treated less favourably than a full-time employee when she was told that she would be made redundant because she was a part-time worker?

105. Yes; for the reasons given above, the claimant was treated less favourably when she was told she was to be made redundant because she was half a head, or in other words because she was part time. The treatment was not justified on objective grounds.

### **Conclusion**

106. Accordingly, her claim for part-time worker discrimination is well founded and succeeds.

### **Remedy**

#### **Further findings of fact**

107. Whilst a second redundancy process commenced on 13.2.2023 (148), it did not rectify the mischief of the first. Again the invite was entitled "catch up" (146) and the two roles available were essentially those of Lukasz Wozniac and Beth Fanning (147). There was no mention of the claimant's role.

108. Only three of the team were put at risk. Ian White and Kerry Nicholson-Melvill were not. Previously the claimant had been offered the role that Kerry Nicholson-Melvill took up, but had turned it down due to it being full-time.

109. On 16.2.23 the claimant wrote to Sarah Beardsworth saying she was shocked that the company was running a second sham process (153).

110. She had appealed against the grievance outcome on 6.2.23, and in her appeal letter (143 - above redacted bit) she said that her position was untenable. She had been told she had lost her job and colleagues were told before any consultation. Ian White had discussed a generous redundancy package with her and she queried why this had happened if she had not been made redundant.

111. At the grievance appeal interview on 23.2.23 the claimant said that they were already setting her up to fail. There was nothing for her to apply for (168).
112. On 27.2.23 she was told that the consultation was on hold pending the grievance appeal process (170). She never received an outcome to the appeal.
113. On 19.5.2023 Justine Dyson (from Unilever) emailed Sarah Beardsworth (226) saying she thought Ms Beardsworth was going to pull together a selection matrix for the role impacted. She commented: "Sounds like we still treated the employee differently by asking her to apply for a full time role that was not hers".
114. On 5.9.2023 the claimant received an email from Justine Dyson (from Unilever) informing her that there had been a resignation in her team and so her role was no longer at risk and she should return to work. (WS JN). She had not been in work for 10 months at this point.
115. Until this stage the claimant was under the impressions that she was going to lose her job and the second process was a sham as she was already earmarked for redundancy. The second process did not assuage her of her belief that she had in reality lost her job and it was just a matter of time before she had to leave the company.
116. Sarah Beardsworth and Kerry Nicholson-Melvill had been told not to contact the claimant and consequently she was left in limbo. She had no closure and felt as though she was in a constant no-man's land about her future.
117. Even after the September letter from Justine Dyson, there was no provision for an occupational health interview and no indication about how she would manage her mental health. There was just the bare request for her to return to work.
118. The claimant responded on 11.9.2023 saying she was still waiting for a response to her grievance appeal. A response never came.
119. The claimant heard nothing more from the respondent for many months after January 2023. She heard no more from Unilever after September 2023. The respondent eventually contacted the claimant in 2024 asking her to return to work. By this time the claimant had lost trust and confidence in the respondent.

### **Exacerbation of mental health**

120. The claimant's medical notes record the following:

05 & 6/12/22 the GP notes record (261) – was doing well but been made redundant and has set 'her' back. Struggling with mental health. Not fit for work.

FIT Note 280 6.12.2022 sickness absence 5.12.0 15.12.22 (stress related problem)

Med notes 28.3.2024 (255) top – reports anxiety longstanding. Panic attack in December. Will self-refer to talking therapies.  
Psychiatric Report August 2024– para 307 – few assessments for talking therapy. Paras 32, 33, 34, 43 - Sertraline 50mg per day 44 – 28.3.24 – taking Sertraline 50mg since June 2022 45 – Propranolol 10mg – one or two tablets as required for anxiety. 47 - Sertraline 50 mg per day Propranolol and Diazepam.

### **Other evidence of mental health issues**

121. At the grievance meeting on 12/01/23, the claimant was emotional and upset. Shaun Parkes noted (WS SP): “Thought process jumping around and difficult to follow consistent path.”
122. The claimant in her witness statement (WS JN) stated that at the time of writing her statement, she was still taking Sertraline daily and Propranolol and Diazepam as required.

### **Discussion and conclusion**

#### **Full time salary claim**

123. There is no evidence that the claimant would have been employed full time.

#### **Medical care**

124. This is speculative and so we make no award.

#### **ACAS uplift**

125. This is not appropriate in the circumstances of this case.

#### **Injury to feelings**

126. We have considered the extent to which claimant’s existing condition was exacerbated by the event.
127. Whilst it was a one-off event, we do not accept it was limited to the short time period between 17.11.22 and letter of 22.11.22, as suggested by the respondent. The impact was much more far reaching due to claimant’s fragile mental health, the fact she believed she was losing her job of 27 years, and the way she was subsequently treated by the respondent.
128. Beth Fanning and Lukasz Wozniac were told that the claimant had lost her job. This gossip was passed on to other employees and contractors and reinforced the effect on the claimant.
129. The second redundancy process did not stop the harm that was caused by the meeting on 17.11.2022. None of the events since 17.11.2022 alleviated the exacerbation of the claimant’s mental health issues caused by the respondent.



130. The impact on the claimant's mental health was substantial and still apparent late into 2024. Accordingly, we have assessed the injury to feelings award on the basis of the impact from the date of the redundancy announcement (17.11.22) to the date of the remedy hearing (17.12.24).

**131. Injury to feelings Award**

Middle Vento band - £20,000

Interest 8% to run from 17/11/22- 17/12/24

Number of days:

2 years = 730 days

1 month = 30 days

Total = 760 days

Calculation Interest:

$£20,000 \times 8\% \times 760/365 = £3,331.51$

Total payment - £23,331.51

**Bonus**

132. The claimant was still on the company's books at the time of the hearing. She had received a bonus for 27 years.

133. Accordingly, we award that part of the bonus based on the company's performance.

£688.55 - March 2024.

134. We do not award that part which is based on personal performance targets as the claimant had not been working.

135. We award interest of 8% taken from the mid-point of the date of loss to the remedy hearing:

Date of loss 01/03/24 (date bonus would be paid) to 17/12/24 (date of remedy hearing)

Total number of days divided by 2 =  $292 \times 0.5 = 146$

Calculation:

$£688.55 \times 8\% \times 146/365 = £22.02$

Total Payment = £710.57 (gross subject to tax and NI)

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Employment Judge Liz Ord  
Date **24 April 2025**

JUDGMENT SENT TO THE PARTIES ON  
Date **25 April 2025**

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FOR THE TRIBUNAL OFFICE

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](https://www.gov.uk/employment-tribunal-decisions) shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

**Annex**

**IN THE LONDON SOUTH EMPLOYMENT TRIBUNAL**

**CASE NO. 2302572/2023**

**BETWEEN:**

**JOANNE NEILL**

**Claimant**

**AND**

**DERMALOGICA UK LTD**

**Respondent**

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**FINAL LOI**

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*As per the order of EJ Ord at the start of the final hearing on 9<sup>th</sup> December 2024, this version of the LOI is taken from that contained within the CMO of Employment Judge Fredericks-Bowyer dated 6<sup>th</sup> November 2024, adding into it the agreed relevant part of the Claimant's email dated 1<sup>st</sup> December 2024 at 23:11 in relation to PCPs relied upon in her claim for failure to make reasonable adjustments. It is the understanding of both parties that this LOI is to be treated as final. This LOI has been further amended to incorporate the additional steps C suggested R could have taken to avoid the disadvantage at para 2.5 at the hearing on 10<sup>th</sup> December.*

The issues the Tribunal will decide are set out below on liability

**1. Disability**

1.1 Did the Claimant have a disability as defined in section 6 of the Equality Act 2010 at the time of the events the disability claim is about? The time the claim is about is 17<sup>th</sup> November 2022 (when the Claimant says she was told over Teams that she was losing her job).

1.2 The Tribunal will decide:

1.2.1 Did she have a mental impairment characterised as severe depressive disorder, including anxiety and panic attacks?

1.2.2 Did it have a substantial adverse effect on her ability to carry out day-to-day activities?

1.2.3 If not, did the claimant have medical treatment, including medication, or take other measures to treat or correct the impairment?

1.2.4 Would the impairment have had a substantial adverse effect on her ability to carry out day-to-day activities without the treatment or other measures?

1.2.5 Were the effects of the impairment long-term? The Tribunal will decide:

1.2.5.1 did they last at least 12 months, or were they likely to last at least 12 months?

1.2.5.2 if not, were they likely to recur?

**2. Reasonable Adjustments (Equality Act 2010 sections 20 & 21)**

2.1 Did the Respondent know or could it reasonably have been expected to know that the Claimant had the disability? From what date?

2.2 A "PCP" is a provision, criterion or practice. Did the Respondent have the following PCPs in relation to the initial meeting on 17<sup>th</sup> November 2022 with Ian White and Kerry Nicholson:

2.2.1 Providing the Claimant with little notice to attend the initial meeting;

- 2.2.2 Providing the Claimant with no context prior to the initial meeting taking place;
- 2.2.3 Arranging the meeting to take place via Microsoft Teams when she was office based;
- 2.2.4 Arranging the meeting to take place on the Claimant's non-working day;
- 2.2.5 Not giving any thought that the Claimant may be on her own or giving her the right to be accompanied during the meeting;
- 2.2.6 Informing the Claimant that, as a result of a headcount reduction target, she was being made redundant.
- 2.3 Did the PCPs put the Claimant at a substantial disadvantage compared to someone without the Claimant's disability, in that she suffered a significant mental health impact as a result of being at home and unsupported following the Teams call on 17<sup>th</sup> November 2022?
- 2.4 Did the Respondent know or could it reasonably have been expected to know that the Claimant was likely to be placed at the disadvantage?
- 2.5 What steps could have been taken to avoid the disadvantage? The Claimant suggests:
  - 2.5.1 Having the meeting on a working day in the office;
  - 2.5.2 Giving the Claimant more notice of the meeting and verbal context for it in advance;
  - 2.5.3 Providing opportunity for the Claimant to be accompanied at the meeting;
  - 2.5.4 The Respondent following correct procedure.
- 2.6 Was it reasonable for the Respondent to have to take those steps?
- 2.7 Did the Respondent fail to take those steps?

### **3. Indirect Sex Discrimination (Equality Act 2010 section 19)**

- 3.1 A "PCP" is a provision, criterion or practice. Did the Respondent have the following PCPs:
  - 3.1.1 Selecting a part time employee for redundancy where a 0.5 FTE reduction in staff is required.
- 3.2 Did the Respondent apply the PCP to the Claimant?
  - 3.2.1 *The Respondent accepts that the Claimant was put at risk of redundancy in the first round but that the Claimant was not dismissed because the first round was not completed.*
  - 3.2.2 *The Respondent denies the PCP was applied to the Claimant in the second round because both full time and part time staff were included in the round, and that the redundancies were made voluntarily so the Claimant was not dismissed.*
- 3.3 Did the Respondent apply the PCP to men or would it have done so?
- 3.4 Did the PCP put women at a particular disadvantage when compared men, in that women are more likely to work less than full time in the workplace and so would be at greater risk of redundancy?
- 3.5 Did the PCP put the Claimant at that disadvantage?
- 3.6 The Respondent does not say the PCP was a proportionate means of pursuing a legitimate aim.

### **4. Breach of the Part Time (Protection of Employment) Regulations**

- 4.1 Was the Claimant treated less favourably than a full-time employee when she was told that she would be made redundant because she was a part-time worker?

The issues the Tribunal will decide are set out below on remedy (if appropriate)

### **5. Remedy for discrimination**

- 5.1 Should the Tribunal make a recommendation that the Respondent take steps to reduce any adverse effect on the Claimant? What should it recommend?

5.2 What injury to feelings has the discrimination caused the Claimant and how much compensation should be awarded for that?

5.3 Should interest be awarded? How much?

**6. Remedy for part time worker claim**

6.1 How much should the Claimant be awarded?

Agreed FINAL LOI- 11/12/24