



EMPLOYMENT TRIBUNALS

Claimant**AND****Respondent**

Ms Bahar Khorram

Capgemini UK Plc

Heard at: In public**On:** 2, 6, 7, 8 May 2025
(in chambers 9 May, 14 July 2025)**Before:** Employment Judge Adkin
Members: Mr I Allwright
Ms L Jones**Appearances**For the Claimant: Ms C Urquhart of Counsel
For the Respondent: Ms H Gardiner, of Counsel

JUDGMENT

1. The complaint of failure to make reasonable adjustments pursuant to s.20 and s.21 of the Equality Act 2010 is well founded in relation to the following allegations:
 - 1.1.adjustment 1.3.4(b) setting achievable and realistic tasks;
 - 1.2.adjustment 1.3.4(d) neuro-diversity awareness training;
 - 1.3.adjustment 1.3.4 (e) ADHD awareness training;
 - 1.4.adjustment 1.3.4 (f) Six x 2 hour workplace coaching sessions focussed on ADHD improvement time management and coping strategies; and
 - 1.5.adjustment 1.3.4 (g) coaching sessions with a line manager.
2. The remainder of the reasonable adjustments complaint is not well founded and is dismissed.
3. The complaint brought under s.15 of the Equality Act 2010 is not well founded and is dismissed.

4. The complaint of harassment relating to disability brought under s.15 of the Equality Act 2010 is not well founded and is dismissed.

REASONS

Evidence

5. The Tribunal received an agreed bundle of 879 pages and witness statements from the Claimant and from the Respondent's witnesses:
 - 5.1. Mr Steve Baldwin the Claimant's initial line manager;
 - 5.2. Neil Davis her subsequent line manager who took the decision to dismiss her; and
 - 5.3. Ms Robyn Wright.

Hearing

6. This was an in person hearing at which all witnesses were cross examined and asked questions by the Tribunal.

Findings of Fact

7. The Claimant is a Cloud Technologist with over 25 years' experience of solution architecture and presales roles across varying levels of seniority. She studied and worked in the US before moving to London and working for a variety of well-known technology companies.

Claimant's disability

8. In the year before the Claimant began working for the Respondent in a report dated 23 September 2022 a consultant psychiatrist Dr Vishal Agrawal provided an assessment based on various tests and witness statements provided by friends and family members.
9. In the course of that report Dr Agrawal identified that the Claimant can be easily distracted but if she is interested in something she can become too involved in it as well. He found that the Claimant reported that time management could be a problem and that she was always missing deadlines at school. She reported that she had too many things to deal with and got stressed. Under the "impression & recommendation" Dr Agrawal said as follows:

"Bahar has presented with mixed anxiety and depressive disorder

I advised Bahar that based on history and presentation, as well as the ADHD assessment, including collateral information, the diagnosis would be that of attention deficit hyperactivity disorder, predominately in attentive presentation type.

He suggested CBT/ADH coaching and also that her GP could start medication and recommended a particular drug”.

10. In her witness statement, which was not challenged, the Claimant reported that she was diagnosed in November 2022 after medical professionals concluded that her anxiety was largely a result of undiagnosed and unsupported ADHD.
11. She reported that this condition significantly impact her executive functioning, particularly in managing unstructured tasks, coping with ambiguity, and handling excessive multitasking. She says that those challenges often increase her anxiety and reduce her ability to produce outcomes in a timely and consistent matter without appropriate support.
12. She says

“I am easily distracted and struggle to maintain focus in environments that lack structure, clarity or routine.”

“When tasks or objectives are ambiguous, I tend to over complicate them or approach them through creative problem solving that may not align with the intended goals. Conversely, when clear guidance and expectations are provided from the outset, I am able to focus, high quality results, and apply the same structured approach to similar tasks in the future”.

Recruitment by the Respondent

13. The Claimant was interviewed by seven senior people employed by the Respondent including Simon Bradbury the Head of Presales.
14. The Tribunal is told that the Claimant initially applied for a slightly different role to the one that she ultimately ended up doing which was Lead Presales in the Cloud Infrastructure Services (CIS) Business Unit.
15. This was a senior role with an annual salary of £120,000 plus various benefits.
16. The Claimant started work on 5 June 2023.
17. Her job title was Presales Market Lead. Within the Respondent’s grading classification was an “19” which is one level below a director level.
18. Her line manager was Steve Baldwin, at that time Head of Private Sector, Cloud Infrastructure Services UK.

19. The Claimant complains that originally she had been led to believe that Simon Bradbury was going to be her line manager. That was a theme which then ran throughout her employment. The Claimant evidently felt a better rapport with Mr Bradbury than she developed with Mr Baldwin.

Skill set

20. In a job description at page 124 of the bundle there is a one and a half page job description which includes the following:

“the typical technical skill sets will include EUS, Cloud, Enterprise Service Management and Engineering, whilst these are wide ranging the role is expected with breadth across the portfolio rather than absolutely expertise in one part.”

21. The Claimant struggled with that breadth rather than depth.

Probation Process

22. The Claimant underwent a six month probation. The probation review manager for the Claimant was her line manager Mr Steve Baldwin.
23. There are somewhat conflicting documents on the structure of that probation. In a document entitled “probation process” dated February 2021 the process was said at week two to include a Probation Review Meeting to be carried out by the probation review manager.
24. Somewhat confusingly a customised document called the “Capgemini Onboarding Pack”, which was obviously devised specifically for the Claimant, based on a template suggested that at week four she would agree probation expectations and KPI (key performance indicators) with Neil Davis, Simon Bradbury and Steve Baldwin.

Delays

25. The first probation meeting did not take place until 28 July 2023. That was approximately seven weeks into her probation.
26. The Claimant is critical of that delay, and we understand that criticism. The reality is that she did not receive her objectives until the end of July and then had a difficulty in trying to achieve some of them in the slow down period in August for her first deliverable which was the first week of September.
27. It seems to the Tribunal that this did unnecessarily add pressure to the Claimant at the outset of her employment with the Respondent.

Initial Meeting

28. The Claimant had an initial meeting with her manager Mr Baldwin on the second week of her employment. She says it was on 12 June 2023. He says it was on 14 June. Nothing material to the claim turns on that dispute.

29. The Claimant says that in that meeting she told him that she needed to focus on mastering one pillar of the Respondent's five "pillars" at a time before moving on to others. The pillars are groupings of the Respondent's products or services offered to clients.
30. The Claimant emphasised that that a structured approach enabled her to deliver optimal results. Mr Baldwin does not accept that that was said. Rather he says that she said that she wanted to get involved in everything and he advised her to be careful with that approach and not take on too much at once. He says that he does not recall her ever asking if she could focus on only one area. He emphasises that the presales lead role was not a deep subject matter expert. He says that there was an expectation that she would be able to work on multiple situations. We have noted this dispute, although it is not essential for us to resolve it.

Probation Review Meeting

31. On 28 July 2023 there was a probation review meeting. Present at that meeting were Simon Bradbury and Neil Davis who was one of the Claimant's "buddies".
32. They discussed the Claimant's objectives.
33. That was followed up by an email on 31 July with probation objectives given under four headings. The probation objectives is a single page document which set out four tasks that the Claimant was to work on each of them a different objective with a different deadline.
34. The first was entitled "building internal network" which required her to speak to key people, have a meeting and document "take-aways" from that meeting. She was tasked with carrying out ten of those calls by the end of July and then a further ten by the end of August 2023.
35. The second objective was entitled "Portfolio (1) understanding and articulating and (2) training and certification". This required the Claimant to build her awareness of the CIS portfolio using training tools available to reach out to the CIS portfolio team members to support knowledge as required and select either AWS or Azure (which are cloud computing platforms) and obtain appropriate certification or training in relation to those. She was required to validate that with Simon Bradbury, one of her two buddies, and another colleague called Alex Nicholas. She was required to provide written feedback from the presentation and demonstrate by a certificate the completion of a training course, which had a deadline of 4 September 2023.
36. The third objective was entitled "Business Development – NU Collaboration & Client Value Proposition". That required her to become familiar with an assigned account, for a particular client, and understand the CIS value proposition for that client. For another named client she was to produce an account intelligence growth pack based on a template to be shared her bringing together stakeholder analysis alliances etc. This required her to work with the relevant account teams who already had a relationship with those clients. The idea was to produce a presentation which could then be shared with the client. The Claimant was to deliver a presentation to be evaluated with written feedback to be provided by Alex

Nicholas, Simon Bradbury, Neil Davis and Steve Baldwin plus the relevant client account leads. The deadline for that exercise was 18 September 2023.

37. Finally, the fourth requirement was “business development pipeline generation”, which required the Claimant to try to identify a new engagement working with Google, whom she had some previous experience of working with, to identify a new potential client. That required working directly with the google alliance team. The idea was that this would lead to a sales prospect that would be entered into the Respondent’s sales system THOR. The deadline for that objective was 30 September 2023.
38. The Tribunal formed the view that these objectives were perhaps somewhat stretching but they were clearly identified on that sheet.

Tracker

39. Following up from that meeting and sent to the Claimant by email on 31 July by Mr Baldwin was what is called the Probation Period Review Record which everyone colloquially in this case called the “**Tracker**”. That is a chart which documents things discussed at various review meetings. It had key points of the discussion being captured and action points and the date of the next meeting agreed.
40. The tracker document was expanded and went through a number of additions each time being sent to the Claimant after a review meeting.
41. As documented by the tracker, the Claimant at the meeting on 28 July noted that she was seven weeks into the business, said she had a good introduction and onboarding that she had had a positive call out to Neil Davis and Simon Bradbury. She was starting to get involved with National Gas as an account.
42. Mr Bradbury by way of feedback said that there was a risk of trying to focus on everything all at once and said to the Claimant she needed to focus to ensure success. Mr Baldwin gave feedback building on points that had been made in the meeting that he said he could see a potential challenge of not focusing on a specific account and client objectives and the challenges of getting involved with teams. He drew a distinction between understanding what was “in flight” versus where to add support.
43. No issues were raised in terms of achieving objectives at that stage.
44. There was a discussion about success criteria and clarifying points in relation to the probation objectives.
45. The next meeting was set for 1 September 2023.

Claimant queried deadlines

46. In an email dated 1 August, the Claimant commented “overall, everything sounds good and achievable” but she did raise that meeting the deadline for certifications might prove challenging given the complexity of the process and other responsibilities related to accounts. She suggested in that email that they extend the deadline of the certification closer to the end of the six month probation period.

She suggested bringing that deadline to the end of November making it more realistic to achieve.

47. Mr Baldwin responded to that email that evening saying,
- “thanks for raising clearly this needs to be achieved ... so please speak to Nick, and if any issues let us know”.
48. It was suggested that they pick this up at the next probation review.

Change of line management request

49. On 4 August 2023 there was an email exchange between Mr Baldwin and Mr Bradbury in which Mr Bradbury suggested that it had been agreed that the Claimant was going to transfer to his team.
50. Mr Baldwin responded saying “lets put this on hold, will chat when we are back from leave”.
51. In his evidence to the Tribunal Mr Baldwin explained that this was part of a much wider exercise of moving team members around. That is supported by the heading of the email which is “Transfer of team memberss” (emphasis added). The plural suggests that this was indeed a wider exercise.
52. It seems that this was put on hold until after people returned from annual leave.
53. During August 2023 the Claimant complains that she was spending up to 80% of her time working with the pre-sales team under Karthik Krishnamurthy for a large national client in the energy sector. That team fell under Steve Baldwin’s responsibility. In his oral evidence to the Tribunal Mr Baldwin seemed a little unclear on the extent to which the Claimant was working on this, although he did not dispute that she was doing some work on it.
54. We formed the impression that 80% may have been a somewhat impressionistic estimate by the Claimant but that she was certainly busy and involved with that client work, which was taking up a lot of her time.
55. We also formed the impression that the remote/office hybrid working arrangements meant that Mr Baldwin and then her later manager Mr Davis were not frequently in the same place at the same time as the Claimant and may not have been clear about the detail and the mix of work that she was doing day to day. They plainly had an expectation of her as a senior hire that she would be able to work with minimal supervision.

First Presentation

56. The Claimant was due to make her first presentation as part of the probation process on 5 September 2023.
57. She was evidently working on this in the early hours and sent an email at 01:57 which said this

“considering the time constraint of 30-45 minutes I believe I can effectively cover only one of the pillars while maintaining the quality of the presentation However, this is not exactly what you asked me, I and want to ensure that I meet your expectations”.

58. She went on

“I propose two options:

I can present one pillar tomorrow (either Cloud or Cyber Security) and address any questions related to the remaining offerings. Covering them all in depth might require more time to ensure a smooth presentation.

Alternatively, if it is possible to postpone the meeting until Thursday or Friday, this would allow me more time to familiarise myself with the presentation flow and ensure that I comprehensively cover all aspects of the offerings.

59. The email said she had attached the presentation that she had prepared so far. She mentioned in the remainder of the email that each “pillar” took 30 minutes to present.

60. Mr Baldwin responded at 07:28 with Mr Bradbury in copy

“given that we have the time blocked today and our planning to be f2f [i.e. face to face] I suggest that we still use the time and can follow up if need be. The purpose of the presentation is to demonstrate an understanding of Capgemini’s portfolio, which is something that is regularly expected from team members within Business Development, especially pre-sales – to be able to articulate the portfolio at varying levels depending on the conversation.

I would suggest that aim to do an overview today then happy if you want to deep dive into an individual pillar today with follow up”.

61. Unfortunately, the Claimant decided that she should cancel this meeting outright so did not attend which was evidently disappointing for Mr Baldwin.

ADHD discussion timing dispute

62. The Claimant says that she told him that day (5 September) that she had a diagnosis of ADHD. Mr Baldwin denies this and says that in fact that conversation had happened three days later on 8 September 2023.

63. The Tribunal accepts Mr Baldwin’s evidence on that point. That is principally because the Claimant’s own version of events which was provided the following month in an email on 13 October at the top of page 198 states that on

“September 8 as her anxiety increased she spoke with Steve about experiencing anxiety which she attributed to ADHD diagnosed the previous September.”

64. She says that she explained that she was taking medication for ADHD for the first time and the importance of it to prevent anxiety. We accept that this was what was said but we find that that conversation took place on 8 September not 5 September. The document written by the Claimant in October was at a time when the dispute about timing would not have been known.
65. Mr Baldwin sent an email at the end of the day on 6 September which he apologised had been stuck in his outbox from the previous day. He wrote this:

“I understand the want to be fully prepared, but to honest this is disappointing. This has been known about for sometime and we had planned to be in London today to accommodate this f2f – to have this cancelled on the day gives the impression that it has not been treated seriously and/or managed properly, especially when put into the context of if this were a client conversation or presentation, then how would this have been managed”.

This was meant to be a “CIS portfolio overview” presentation – not a detailed walk through of everything. A few of us have previously given feedback about “listening and understanding the brief” and applying focus to achieve what needs to be done, this gives a view that extra support may be needed on not trying to boil the ocean and focusing on what is going to add value – vital for our Business Development team.

From my perspective this was a clear objective discussed and agreed as part of the probation, and so this is marked as missed, please can you put another session in the diary – feel free to ask Sara to help with diary.”

Probation meeting 8 September

66. A probation meeting then took place on 8 September 2023.
67. At that meeting Mr Baldwin says that there was an initial private conversation between himself and the Claimant. She told him about the diagnosis of ADHD. He asked whether she had mentioned it as she had gone through the interview process. He says that from his perspective it was important to know whether there were reasonable adjustments or things that needed to be got in place and wanted to make sure that nothing had been missed in relation to that.
68. That meeting ended up going over two dates and it carried on, on 15 September 2023. The Claimant asked in an email sent the day before i.e. 14 September 2023 whether timelines could be extended. In the meeting on 15 Mr Baldwin said that the Claimant would be offered additional support as needed, he said that after liaising with the HR team the Claimant should speak to OH to properly discuss

aspects of her medical condition and any support required and expected he said that they would review objectives and timescales although he clarified that objectives and timescales were discussed and agreed at the beginning of the probation process, he made the point that this should have been an iterative conversation rather than at the point that objectives became due.

69. It was put forward on behalf of the Claimant that Mr Baldwin was very resistant to changing the deadlines. We find that in this meeting Mr Baldwin expressed disappointment that he found out that the Claimant was going to miss the deadline at the last minute when that should have been raised with him before, but he was open to varying deadlines once they had medical input. For her part the Claimant accepted that cancelling the portfolio session was “not okay”, but raised the diagnosis of ADHD and the fact that she had received this diagnosis earlier in life but had had a recent re-diagnosis and was now on medication which was impacting her ability to “learn and deliver” and which was causing her anxiety and challenges with probation objectives. She raised that she felt the probation objectives were too much to handle although other than that she was making good progress.
70. In the second part of this meeting on 15 September it was agreed that the Claimant should speak to occupational health to properly discuss the impact of the medical condition and any support required/objectives. It was agreed that the objectives and timescales would be reviewed. Mr Baldwin made the point that these objectives and timescales had been discussed and agreed at the beginning of the probation process. He overlooked the fact that it had taken nearly seven weeks before the first probation meeting.

Presentation delivered

71. The Claimant gave the presentation on 19 September 2023 page reference 166.
72. The Claimant received feedback on that presentation which would be best described as mixed but with some quite negative messages in it. It was evident that Mr Baldwin did not think that the Claimant had sufficiently led the conversation, nor was she confident or engaging with the presentation delivery. He said that she tried to cover everything and rushed it, reading through the slides with no clear story or “flow”. He acknowledged that cyber as a topic was “okay” but said that none of the other areas were particularly strong. It was suggested that the session be rerun in 2 – 3 weeks’ time.

OH referral

73. A referral to occupational health was made for a workplace needs assessment.
74. Initially an email was sent on 25 September. There was then something of a delay in the correct form being provided which was a workplace assessment form on 6 October 2023.

Probation review 11 October 2023

75. On 11 October 2023 the Claimant sent an email to Mr Baldwin with a voucher for an exam to demonstrate progress toward the second element of the second objective.
76. A probation review took place on this day with Steve Baldwin. In relation to objective number 1 (network) the Claimant had emailed over screenshots of her calendar but had not produced evidence matching the output required as part of the original objective settings.
77. As to objective 2 the rescheduled presentation was set to be rescheduled. The Claimant had undergone hyperscalar training but not yet scheduled an exam.
78. As to objective 3, Mr Baldwin requested that the claimant “own” the collation of the pack.
79. As to objective 4 (pipeline) the Claimant stated that she did not believe that this was an achievable objective.
80. She flagged up that Mr Baldwin and Mr Bradbury were giving her different views on how to be successful with this objective. Mr Baldwin provided some guidance about what he was seeking in terms of qualifying potential opportunities.

Email follow up

81. On 12 October 2023 the Claimant followed up with an email to Mr Baldwin giving some more detail on the work which she had been doing. He asked in two separate emails on 11 and 12 October for some feedback on how she was getting on following on from the probation review meeting on 11 October 2023.
82. In her email of 12 October 2023, the Claimant makes the comment that booking £500,000 within two months especially one of those months being August would have been impossible. She seems to have misunderstood that she was expected to have facilitated a sale whereas it was clear from the Probation Objective that she just needed to identify a prospective client opportunity for the Respondent and its commercial partner to target (i.e. pre-sales rather than a concluded sale).
83. In his response of 15 October 2023 Mr Baldwin responds with a number of bullet points although he has not yet completed the tracker from the meeting. In those bullet points he says this “from my perspective, on this basis none of the objectives below have been “completed” yet as this needs time to be looked at”. In a bullet point further down he says “generally we have been extremely flexible regarding dates of the originally agreed probation objectives as:
 - 83.1. some of them were not originally met due to particular circumstances.
 - 83.2. you raised some challenges to complete activities by the timescales highlighted.
 - 83.3. feedback raised through the process is that the team continue to offer as much time and support as required, and for some activities you need to listen

and take guidance that is given, whilst also using your own judgment to move things forward, and reaching out to wider team members if things are not clear or you need support. As you should know from the pre-sales role while there is support around you the role requires a level of self-start/drive, and working through complex items, sometimes with a level of ambiguity.

CWC complaint

84. On 26 October 2023 the Claimant escalated concerns to the “CWC” which is described as the “works council”.
85. In that email the Claimant complains about Mr Baldwin and expresses her desire to change her line management to Simon Bradbury. Unfortunately, for the Claimant the works council is a body for negotiating at a group level and not designed to deal with individual grievances at all.

OH Assessment

86. On 27 October 2023 the Claimant attended a workplace needs assessment, which led to a report being created on that date by Carly Bridge, a workplace needs assessor.

Workplace needs assessment

87. On 7 November 2023 Robyn Wright sent the workplace needs assessment to the Claimant.
88. It was now two months from the date that the Claimant had raised that she had ADHD. It was now only one month before the end of the Claimant’s six month probation period. That report contained little by way of analysis of the Claimant’s condition other than reporting several things that she had difficulties with, namely: understanding other business areas; learning about company as whole; prioritising work; time management; reflecting on information she needed to know all information before she could speak about it.
89. The report had a long list of potential adjustments:
 - 89.1. MindView, a visual mind mapping software;
 - 89.2. The Pomodoro Technique – a time management strategy for breaking tasks up into 25 minutes bursts. This would be easy to implement since it did not require the Respondent to provide equipment or take any particular action other than make the suggestion;
 - 89.3. Providing meeting agendas in advance;
 - 89.4. Following up meetings with concise bullet points to denote action;
 - 89.5. Allowing the Claimant to ask questions;

- 89.6. Allocating a work buddy/mentor;
- 89.7. Redefining job responsibilities;
- 89.8. Spending time with other areas of the business;
- 89.9. Probation goals made realistic and achievable;
- 89.10. Regular breaks;
- 89.11. Assistive Technology training (2 x 2 hours assistive technology training for MindView);
- 89.12. Neuro diversity Awareness Training 3-hour Online Webinar, “up to 15 people which can include s colleagues and managers. This 3-hour session is available online and covers a range of topics related to neurodiversity. The training is designed to promote understanding and awareness of different learning styles, including dyslexia, ADHD, autism, and other neurodivergent conditions. By the end of the session, participants will have gained practical knowledge and skills to create an inclusive and supportive workplace environment for individuals with neurodivergent conditions.”;
- 89.13. ADHD Awareness Training 1-hour Online Webinar – up to 15 people, “up to 15 people. This online session is designed to provide participants with a comprehensive understanding of ADHD, including its causes, symptoms, and impact on learning. The 1-hour webinar will equip attendees with practical tools and strategies to support individuals with ADHD in the workplace and beyond. By the end of the session, participants will be able to recognise and respond to the needs of individuals with ADHD, creating a more inclusive and supportive environment for all.”;
- 89.14. 6 x 2 hours Workplace Coaching (ADHD) “comprehensive coping strategy training specifically designed to support individuals with neurodivergent conditions in the workplace. Through this program, we aim to empower individuals by equipping them with effective strategies that minimise the impact of their disability and maximise their skills and potential. ... During the coaching sessions, we focus on key areas such as time management, concentration, stress and overwhelm management, reading comprehension, note-taking improvement, productivity enhancement, memory enhancement, and workload management techniques. By strengthening existing coping strategies and developing new ones, we provide individuals with the tools they need to thrive in the workplace. Ultimately, the goal is to enhance Bahar confidence in navigating the demands of a modern working environment while reducing the stress and challenges they may encounter. By improving their coping skills, workplace coaching strives to boost overall productivity, wellbeing, and success in the workplace;
- 89.15. Workplace Co-Coaching - a coaching approach with one session with the employee, one session with the line manager followed by a joint session “co-coaching supports personal and professional development, empowering

employees to set goals, address areas for improvement, and enhance performance and career progression”.

90. It struck the Tribunal that this report might have been more useful for management had the list of suggestions be a little shorter, or at least the suggestions prioritised. Nevertheless, the various recommendations were clear and were plainly directed towards trying to assist the Claimant with the disadvantages that she was suffering.

Discussion November 2023

91. On 10 November 2023 Ms Wright, HR Engagement Manager, met with the Claimant to discuss the Workplace Assessment report. She documented that follow up email. She recorded that the Claimant had suggested that she was not struggling now but that there had been a couple of months where she felt quite disorientated balancing objectives, external education deadlines and medication changes. It was suggested that the Claimant had spoken to Steve more recently and she felt more comfortable now.
92. Regarding the specific recommendations of the report, Ms Wright recorded as follows. In relation to MindView, the Claimant thought that this might be helpful, and Ms Wright requested a quote.
93. As to training she recorded:
- “You were happy to be enrolled in any webinars where you are one of many attendees but didn’t feel comfortable doing this if it was to be delivered to the other team members to you directly. The training PAM listed is private which you said you **wouldn’t** be comfortable with.”
- [emphasis in bold added]
94. The Claimant says that “wouldn’t” in bold above misrepresented her situation and it should have said “would”. On the balance of probabilities this was a genuine misunderstanding by Ms Wright of the Claimant’s attitude to this proposal. The Claimant’s position was that she would have been comfortable with private training. Ms Wright appears to have misunderstood that the Claimant “wouldn’t” have been comfortable with private training. The Claimant did not write back to Ms Wright to say that this was a misunderstanding, so the email written by Ms Wright on the day (page 227) stood as a record of what had been discussed which was inaccurate on this specific point regarding the Claimant’s views.
95. As to coaching, Ms Wright recorded that the Claimant was keen to try the ADHD workplace coaching (sessions). A quote was requested. As to the reviewer/review coaching that was not thought to be necessary any more as the Claimant and her line manager had caught up she was feeling better.
96. As to buddy/mentor, the Claimant confirmed she already had this in place.

97. Other recommendations such as Pomodoro technique regular breaks and exercise the Claimant agreed that these were things that she could progress and would find helpful.
98. Finally the Claimant said that she would like a week off and was not aware of other support that was required.

OH report

99. On 13 November 2023 the Claimant sent a detailed email to both Mr Baldwin and Ms Wright following on from the review of the OH report. In that email she said:

“I have come to realise a misalignment in our understanding.

The conversations during the meeting left me feeling unable to function effectively under the current circumstances. It appears that, regardless of my efforts and achievements in meeting probation objectives, I continue to receive obstacles and negative feedback. It seems that according to Steve, the approach I have taken is deemed unacceptable, and an alternative method was expected, though it was never clearly communicated. While the expected approach was not conveyed to me, the results achieved were consistent. Unfortunately, I have noticed a lack of acknowledgment for these accomplishments. The OH report highlighted the importance of providing clear direction in managing my tasks, a key element that, regrettably, was not consistently communicated to me from the beginning.

I have never sought assistance in performing my job tasks but have consistently requested clarity on how to demonstrate progress in each area of the objectives. The absence of this discussion has led to a situation where, regardless of my efforts, I am criticised for not following an unspecified approach that was never clearly articulated as an expectation.

Following the Friday call and throughout the weekend, I felt overwhelmed by the negativity of our conversation and recognised the potential challenges it possess to completing my probation objectives. I believe a supportive environment is crucial, where objective are not merely explored for possible failures.

After discussing my situation with PAM and understanding the significance of clarity and focus for optimal results, I propose both Steve and I attend, “how to manage ADHD training”. Following the training I would appreciate a comprehensive review of the objective to clarify expectations and discuss how best to approach them. I am open to addressing any confusion and concerns I have experienced, and we can review evidence with the inconsistencies together.

I would like to clarify again that my struggle is not with the work itself but with the alignment between myself and the reviews of the work.

Given the current situation, I believe it would be beneficial for me to take the rest of this week off and resume next week when we have had the opportunity to review the objectives, reach an agreement, and align on the progression of the objectives. Until then, I find it futile to present any further progress on my objectives, considering the current negative perception of my work.

100. The substance of that email was not responded to, however Mr Baldwin responded at 9:34pm the same evening to say that he was disappointed that the Claimant had felt the need to take the rest of the week off without discussing it with him or OH.
101. A presentation due to take place on 15 November 2023 was cancelled.

GP letter

102. The Claimant attended her GP who provided a letter typed on the 16 November which said diagnosis:
- Mixed anxiety and depressive disorder
- ADHD
- Menopause
103. It said that the Claimant was experiencing increased anxiety after increasing her Sertraline to 150mg daily. It also said she was struggling to function at work.
104. In an email dated 20 November 2023 the Claimant wrote to Ms Wright and said please do not change my probation manager to Neil Davis as that will not solve the problem.

Sick leave

105. The Claimant then took two weeks' of sick leave and then took a week off on annual leave into early December.
106. Ms Wright flagged up various resources to support the Claimant with anxiety in an email on 21 November.
107. On 24 November 2023 the Claimant and Ms Wright had a telephone call which covered a variety of topics, as confirmed by a follow-up email. The Claimant complained about Mr Baldwin and his influence over others in the team. She was considering raising a formal grievance. The grievance process was discussed.
108. The Claimant said that she had struggled for three of the previous five months with anxiety. She did not want to continue working in that business unit and asked that alternative roles which were technology and client facing be considered. She was directed to the internal job board.
109. As to adjustments for disability, Ms Wright confirmed that Mindview had been progressed so that this could be deployed on the Claimant's laptop. The private

medical insurer would cover support for anxiety and ADHD support. One session of ADHD coaching was approved. This was to ensure that the coaching was meaningful and provide the right support.

Probation extension

- 110. On 27 November 2023 the Claimant's probation was extended to 19 January 2024 i.e. some six weeks after it had been due to expire in early December 2023.
- 111. The Claimant had a further conversation with Ms Wright on 29 November 2023 and that was followed up with an email about mediation on pages 265-266. It seemed that the Claimant was saying that she felt bullied by Mr Baldwin and Neil Davis and that her preferred outcome was no longer to work or engage with them in future.

Probation Review Meeting

- 112. A further probation review took place on 8 December 2023.
- 113. The content of that discussion was captured in a tracker document which appears at page 302 of the bundle.
- 114. The Claimant complains that these notes, entered by Mr Baldwin, were inadequate. We find in fact that these notes are very similar to the notes provided by Ms Wright to Mr Baldwin which appear at page 290 of the bundle. That email was never forwarded to the Claimant but evidently was used as a basis for Mr Baldwin's note in the tracker since some of language is identical. Some of the language in the tracker is slightly truncated but we do not consider that it reduces the clarity. This clearly demonstrates that the Claimant had such a negative view of Mr Baldwin that even very similar language provided by him was unacceptable or unclear whereas according to her when the same language was provided by Ms Wright it was clear.
- 115. This together with various other aspects of the case left the Tribunal with the impression that the Claimant had personally identified all of her difficulties with Mr Baldwin.
- 116. One of the things captured in the notes is that there was a new element added to the objective relating to a prospective client, specifically creating an intelligence pack for submission. The Claimant raised a concern that she felt it was unachievable and given the timeframes she would not be familiar enough with the [prospective] client to confidently answer questions.

Probation Review Meeting

- 117. There was a further probation review meeting on 21 December 2023.
- 118. In that meeting the Claimant raised that the new objectives (plural) were unachievable within the timeframe. When pressed to say which ones were unachievable, she said that all of them were unrealistic. There was an exchange between the Claimant and Mr Baldwin where he suggested that the claimant had been comfortable with all but one objective at the previous meeting. The Claimant explained that she had not read all of them at that meeting.

Grievance

- 119. On 3 January 2024 the Claimant notified Ms Wright of her intention to pursue a grievance.
- 120. The Claimant had previously mentioned on more than one occasion that she would be bringing a grievance but did not initiate one until right at the end of her employment.

Further extension of probation & change of line management

- 121. On 8 January 2024 the Claimant's probation was further extended to the end of January 2024.
- 122. Mr Neil Davis took over as her probation manager, notwithstanding her earlier concern that she did not want to report to Mr Davis.

Single ADHD counselling session

- 123. On 9 January 2024 the Claimant attended one ADHD counselling session which had been arranged for her following the recommendation of the workplace needs assessment.
- 124. The remainder of the six sessions were then cancelled before the Claimant had undergone them.

Probation Review Meeting

- 125. On 10 January 2024 there was a further probation review meeting.
- 126. Progress against the objectives was reviewed. The Claimant was far from completing the objectives, now several months after various deadlines.
- 127. In that meeting the Claimant said that she was unable to cope with the extended objectives. Those objectives that had been provided in December.

OH meeting cancelled

- 128. On 11 January at 20:24 an OH meeting was cancelled.

Rearranged presentation

- 129. On 16 January 2024 the Claimant made a rearranged presentation. Present at that were Neil Davis, Alex Nicholas, Cheryl and John.
- 130. The Claimant received very largely negative feedback from three colleagues, Cheryl, John and Alex. Some of the points that came back were that it came across as a stream of consciousness rather than being well structured or having a coherent story. Too much content was being presented, and the Claimant was getting bogged down in the detail of each offer. She did not come across as at the level of seniority of her grade. The presentation lacked context. The benefits to a potential client were not clear. The Claimant did not appear to be comfortable with

the portfolio. The technology was not working, and the Claimant was flustered before she was started. There were some inconsistencies.

131. On the other side it was suggested that she would benefit from shadowing coaching of others who were experienced at presenting the slides.

Further presentation 23 January 2024

132. On 23 January 2024 the claimant did another presentation this time to Mr Baldwin, Mr Davis, Kathir [surname redacted] and Nick [surname redacted].
133. Feedback was provided on 23 January 2024 by Kathir with some more positive comments. The Claimant had done some research. There was a good use of headline numbers and some good parallels with other industries. However there were some similar concerns about the storyline not being clear what the actual proposition was and a lack of concrete examples of insights and reasons why the client should buy from the Respondent.
134. Mr Baldwin provided feedback on this presentation. There were some positive messages. He acknowledged that thought and energy had gone into the presentation and relevant topic was chosen. On the negative side the Claimant was extremely nervous, and Mr Baldwin felt that it was difficult to understand what was being proposed as part of the value proposition. The topic was relevant generally to the industry but not so much to the specific client. The content wasn't ready for a client conversation. There was too much content on the slides, which were rushed through. Overall he felt that he would have expected a higher quality piece of work given that the objective had been "in-flight" for multiple months. He was concerned that the Claimant had not used the resources that she had.
135. Mr Davies also provided some positive points. Again he acknowledged that there was some thought and energy and some good headline numbers. He saw that there were improvements from previous session. He still felt however that the storyline was unclear and the list of criticisms was significantly longer than the list of positives.

Final probation review & grievance

136. On 29 January 2024, the Claimant was invited to a probation review meeting on 31 January.
137. On the following day 30 January 2024, the Claimant raised a "formal grievance" in which she stated that there was a palpable tension between herself and Mr Baldwin right from the beginning, characterised by his intimidating demeanour and evident lack of confidence in her capability. She said that she had disclosed her diagnosis of ADHD in September to be met by an initial response that this information had not been divulged during the interview process. She felt that she had been misled or at least presented with unattainable tasks within eight weeks which should have been over the whole of the six-month period. She criticised Mr Baldwin for requesting proof of the diagnosis. She felt that the probation period had been more like an interview process. She felt that she had been dissuaded from raising a

grievance and that she had been treated unfairly and bullied and discriminated against.

138. There was an email exchange in which Ms Wright acknowledged the Claimant's email and tried to provide some reassurance about the meeting scheduled for 31 January, such as that there would be breaks and she could have someone there to support her. She wrote "I recognise that you have shared you are struggling with your mental health".
139. The Claimant responded negatively to the reference to mental health. She suggested that the "adjustments" proposed for the meeting on 31 January were "dismissive", since they suggested that Ms Wright was attributing issues to her mental stability, by implication undermining the Claimant's concern that her treatment by the Respondent had been unfair.

Probation review outcome

140. The probation review meeting took place in the Claimant's absence on 31 January 2024.
141. A follow-up letter dated 2 February 2024 from Neil Davis (by now the Claimant's line manager) confirmed that her employment would be terminated with immediate effect, with a payment in lieu of notice.
142. He raised that there had been ongoing concerns about her performance and that the Claimant had waited to raise a grievance at 10:47pm the night before the probation review meeting.

Grievance outcome

143. The Claimant's grievance was dealt with by Amit Ghosh, Vice President, who provided an outcome letter dated 26 March 2024 in which he rejected the various points raised in the grievance.
144. He assessed the various deliverables that the claimant had been given as either being 1 to 2 on a three point scale or difficulty where 1 was easy and 3 was difficult. The Claimant did not dispute in the Tribunal hearing that assessment.
145. Areas of potential improvement were identified, specifically that communication about reporting hierarchy during the recruitment process could have been clearer. Support could be given to managers on feedback style and content and finally it was suggested that employees should get more direct and transparent feedback from a wider range of stakeholders.
146. The Claimant was given a right to appeal the grievance outcome, which she exercised.

Law

147. The relevant provisions are **section 15, s.20-21 and s.26 of the Equality Act 2010.**

148. There were no disputes between Counsel as to the applicable law which was addressed lightly by Counsel during the hearing. We were very grateful for the Counsel's submissions on the facts. We have not sought to set out every legal principle, but some headline principles are identified below.

Reasonable adjustments

149. In considering reasonable adjustments claims, tribunals are required to have an analytical approach (**Environment Agency v Rowan** [2008] ICR 218). The correct approach is to identify (i) the PCP; (ii) non-disabled comparators, where appropriate, (iii) the nature & extent of substantial disadvantage. This is in order to consider the extent to which taking the step would prevent the effect in relation to which a duty was imposed.
150. Regarding PCPs, in **Ishola v Transport for London** [2020] EWCA Civ 112, the Court of Appeal confirmed that one off events are not necessarily provisions criteria nor practices (i.e. PCPs) and must be examined carefully to see whether it could be said that they are likely to be continuing.

Harassment

151. In **Richmond Pharmacology v Dhaliwal** [2009] ICR 724 the EAT (Underhill, P) emphasised both the subjective and objective elements of a claim of harassment under section 26. There is a minimum threshold and following guidance was given at paragraph 22:

“it is also important not to encourage a culture of hypersensitivity or the imposition of legal liability in respect of every unfortunate phrase”

Unfavourable treatment because of “something arising” from disability (section 15)

152. In **Pnaiser v NHS England** 2016 IRLR 170, EAT, Mrs Justice Simler summarised a number of key points that govern the correct approach to a complaint brought under section. The tribunal must first identify whether there was unfavourable treatment and by whom. It must then determine what caused the impugned treatment, or what was the reason for it, focusing on the conscious or unconscious thought processes of the alleged discriminator. There may be more than one reason or cause for the impugned treatment and, as in a direct discrimination case, the ‘something’ need not be the main or sole reason for the unfavourable treatment but must have at least a significant (or more than trivial) influence so as to amount to an effective reason for or cause of it. The tribunal will then have to determine whether the reason or cause is ‘something arising in consequence of’ the claimant’s disability.

CONCLUSIONS

153. The parties had very largely agreed a list of issues, which we have used as a structure for our decision below.

[1] DISCRIMINATION - DISABILITY

1.1 Jurisdiction

Was the claim form submitted more than 3 months after some of the conduct complained of?

154. Yes, the Tribunal finds that the claim form was submitted more than 3 months after some of the conduct complained of.

1.1.2 If so, did that conduct form part of a chain of continuous conduct which ended within 3 months of the claim form being submitted?

155. The Tribunal finds that the claim form was presented in time in relation to the dismissal itself.
156. We find that the objectives which the Claimant had been set in December 2023 were still live in January 2024. We find that that represented a continuing act of discrimination. We have found that act was part of a continuing act of a discriminatory failure to make reasonable adjustments.

1.1.3 What was the effect of ACAS Early Conciliation?

157. The ACAS Early Conciliation period was 15 April 2024 to 27 May 2024.
158. That had the effect of “stopping the clock” in relation to primary limitation. The Claim form was presented exactly one month after the date of issue of the ACAS conciliation.
159. It follows that the claim was presented in time in relation to events from 16 January 2024 onwards, which included the dismissal.

1.1.4 To the extent that any of the conduct is out of time, would it be just and equitable for the Tribunal to hear that part of the claim which relates to the conduct which occurred more than 3 months before the claim was submitted?

160. If the Tribunal is wrong about our finding in relation to continuous conduct, we find that it would be just and equitable to extend, considering all of the circumstances generally but in particular, first, that the claim has a meritorious claim of failure to make reasonable adjustments and second that all of the relevant period has been well documented by the Respondent. There is a clear document trail. There was a grievance and a grievance appeal.
161. We find that the Respondent was not prejudiced to any meaningful extent by the delay in their ability to deal with these matters. The questions relating to December and January 2024 we find are within the recollection of the Respondent’s witnesses and also within the scope of the period during which there is very good and clear documentation.
162. For all those reasons we find that it would be just and equitable to extend time.

[1.2] DISCRIMINATION ARISING FROM DISABILITY [SECTION 15]

1.2.1 Did the Respondent know/could the Respondent reasonably have been expected to know that the Claimant had a disability? If not, when ought the Respondent to have been aware of the Claimant's disability?

163. The Tribunal finds that from the 8 September 2023, when she discussed having ADHD with Mr Baldwin, the Respondent was aware of the Claimant's disability.

1.2.2 Was the Claimant treated unfavourably because of something arising as a consequence of their disability? The "something arising" is as follows:

164. In relation to 1.2.2 (a), (b), (c), (d) – the Claimant's ADHD symptoms caused her difficulty in understanding what was required of her in role unless it was presented with clarity and defined objectives.

165. There was a misunderstanding about needing to get to a point of making a client sale rather than simply identifying a prospect client. Looking at the matter overall however, we find that the Claimant did substantially understand the role.

166. The difficulty we find was in the Claimant implementing what she had to do given the multiple elements. We do not find that a difficulty in understanding was something arising from ADHD.

167. In respect to the second part of 1.2.2 (c) "which meant that she required clearly defined objectives and feedback on progress" we find that that was not something arising from ADHD, but rather a conclusion.

168. We do not find that the Claimant has established the "something arising" from disability in this case.

1.2.3 The Claimant relies on the following alleged unfavourable treatment:

169. It follows from our conclusion above that the section 15 complaint cannot succeed.

170. Nevertheless we have gone on to deal in the alternative with the alleged unfavourable treatment, in case we are wrong in our conclusion about something arising.

171. Starting with allegations 1.2.3 (a) and (b), these events on 5 and 6 September 2023 predated the Respondent's knowledge of the Claimant's disability.

172. Given this, we find that those allegations do not succeed.

1.2.3 (c) on the 14 September 2023 SB did not respond or did not respond appropriately to the Claimant's requests for clarity or provide an extension of time to complete her objectives.

173. The Tribunal finds that the delay between 14 September and the workplace needs assessment being provided on 7 November 2023 was unhelpful. It was also unfortunate that there was a further delay until the 8 December 2023 at which point the deadlines were extended. We did consider whether during this period of time the Claimant may have felt somewhat "in limbo". We do note however, that in his comments on 15 September 2023 Mr Baldwin had clearly stated that objectives and timescales would be reviewed in the light of OH input. We accept the Respondent's position that awaiting OH input was not unfavourable treatment. He also in his email of 15 October 2023 said that the Respondent had been "extremely flexible regarding dates".
174. Given those communications and also the fact that the Respondent in fact had not suggested beyond the original meeting of 5 September that the Claimant had missed deadlines leads us to the conclusion that the Claimant was not placed in a situation where she did not know what the situation was regarding an extension of time. That decision was taken once the OH input was received. Again, to reiterate the delay was unfortunate but we do not find that the Claimant was subject to unfavourable treatment.
175. As to requests for clarity, we find that the Claimant was told that her objectives had not been completed and was provided with updates to the various trackers which made clear where she was.
176. Generally, we found that the probation review structure provided at the outset and the tracker documentation together with various emails provided along the route from Mr Baldwin did make clear to the Claimant what she was supposed to be doing.

1.2.3 (d) the Respondent failed to implement the recommended adjustments in the OH report.

177. The Respondent submitted that this was in reality a failure to make reasonable adjustments a point which Ms Urquhart, Counsel for the Claimant rightly in our view agreed with. We agree with both Counsel. This allegation as framed is not a s.15 claim.
178. We have dealt with and found failures to implement the OH report as part of the claim of failure to make reasonable adjustments. At this part of the s.15 complaint fails.

1.2.3 (e) SB failed to respond or respond appropriately to the Claimant's emails on 11 & 28 October 2023 requesting clarity on her probation objectives.

179. The Tribunal finds that Mr Baldwin's email of 15 October did provide a clear response to the Claimant's emails of 11 & 12 October. We note that that email

was followed up with a tracker on 29 October 2023. We find that that did provide appropriate clarity on probation objectives.

1.2.3 (f) On the 26 October 2023 SB refused to approve the change in manager which would have provided a change in approach to managing the Claimant.

180. The Tribunal has struggled to identify evidence of a particular refusal of a request from the Claimant by Mr Baldwin on 26 October 2023. The Claimant's email in October 2023 sent to the CWC included a suggestion that the previous week (which must be the first week of October 2023) Mr Baldwin had told Mr Bradbury that the Claimant could change her line management at the end of probation in the New Year. That does not in our view represent an outright refusal. In any event we accepted that the reason for not progressing a change in manager to Simon Bradbury was operational. Mr. Baldwin said "it would not have made sense from a business perspective." We did not find that there were matters arising from the Claimant's disability which influenced this decision.
181. The burden was on the Claimant to establish the factual basis for this allegation. We find that the burden has not been discharged.

1.2.3 (g) On 13 November 2023 SB refused the OH recommendation of ADHD training by the Claimant and SB.

182. The Tribunal finds that this allegation falls into the complaint of failure to make reasonable adjustments, which we find is well founded as detailed below.
183. We do not find that a separate complaint in relation to the same allegation under s.15 is well founded.

1.2.3 (h) Between November 2023 and January 2024 SB cancelled the ADHD coaching sessions.

184. The Tribunal finds that this allegation falls into the complaint of failure to make reasonable adjustments, which we find is well founded as detailed below. We do not find that a separate complaint in relation to the same allegation under s.15 is well founded.

1.2.3 (i) Between September 2023 and January 2024 at the probation review meetings the Respondent failed to provide clarity on the Claimant's objectives and did not change her objectives and failed to give more time to meet her objectives.

185. We have had to break this down in to several parts.
186. The Tribunal accepts that the Respondent was entitled to stick to objectives which were designed to assist the Claimant through the probation process. We consider if the objectives had simply been changed that would diminish the value of that probation process to the Claimant. Ultimately, in respect of that allegation we do not find that the decision not to change the objectives was because of something arising from ADHD. Rather the Respondent simply decided that it was going to

stick to the objectives, albeit that it did change the deadlines. We remind ourselves that the purpose of probation is to ensure that the employee is suited to the role. Changing the objectives we find was not a requirement.

187. As to the final element that the Respondent failed to give more time to meet her objectives we find that the Respondent did extend time in two respects. First on 15 September 2023 Mr Baldwin said that OH input would be sought and the deadlines would be reviewed. Following on from that, and in line with his email of 15 October the reality was that the deadlines had been relaxed and that was confirmed on 10 December 2023 when the deadlines were pushed out and documented.
188. It follows that we do not accept that the Respondent failed to give more time to the Claimant such as to amount to unfavourable treatment.

1.2.3 (j) On 8 December 2023 Mr Baldwin and Robyn Wright failed to respond or respond appropriately to the Claimant's email to request feedback.

189. We find that the tracker document which was sent to the Claimant did provide feedback and captured what had been discussed during the meeting.
190. We have compared the email sent by Robyn Wright to Mr Baldwin on 11 December 2023 with that contained within the tracker, where it can be seen that the language is somewhat truncated within the tracker we find that some of the language is the same and the messages are the same.
191. We do not find that this was a failure to respond or a failure to respond appropriately to the Claimant's email.

1.2.3 (j) The Claimant's dismissal on 23 January 2024.

192. Dismissal is unfavourable treatment.
193. As to the reason for this treatment we accept the Respondent's submission that this was because the Claimant had failed the probation objectives. As to the reason for this given our finding that the Claimant did understand the role, we have not found that the "something arising" proposed by the Claimant was established.
194. Accordingly, this element of the claim fails.

Summary of section 15 complaint

195. It follows that all elements of the s.15 complaint are not well founded and fail.

[1.3] REASONABLE ADJUSTMENTS

KNOWLEDGE

1.3.1 Did the Respondent know/could the Respondent reasonably been expected to know that the Claimant had a disability if not, when ought the Respondent to have been aware of the Claimant's disability?

196. We find that the Respondent was aware of the disability from 8 September 2023.

PCPs

1.3.2 Did the Respondent apply a provision, criterion or practice ("PCP")?

197. The **EHRC Employment Code** confirms that the term 'provision, criterion or practice' is capable of covering a wide range of conduct, noting: 'The phrase... is not defined by the Act but it should be construed widely so as to include, for example, any formal or informal policies, rules, practices, arrangements, criteria, conditions, prerequisites, qualifications or provisions' - para 4.5.

198. In **Ishola v Transport for London** [2020] ICR 1204, CA, Lady Justice Simler emphasised that the words 'provision, criterion or practice' are not terms of art but ordinary English words which are broad and overlapping. However, Simler LJ also noted that it was significant that Parliament chose these words rather than 'act' or 'decision'. In her view, the function of a PCP 'is to identify what it is about the employer's management of the employee or its operation' that causes the particular disadvantage. Therefore, to test whether the PCP is discriminatory or not, it must be capable of being applied to others

[1.3.2 (a)] Not providing clarity about the tasks to be done. The Claimant identified this as the main PCP.

199. We did not find that there was a lack of clarity in this case. We accept the Respondent's submissions from paragraph 19 onward in relation to this. The objectives were set out clearly and repeatedly in the tracker documentation.

200. In any event if we were wrong about that as to whether there was clarity, we do not find that this amounted to a PCP. These were specific communications which were specific to the Claimant in the specific context of her probation review.

201. The Claimant is criticising the communication style of Mr Baldwin. We do not find that his communication style is a PCP. This is a criticism of him and his communication style not a policy, criterion or practice that applied or potentially applied to multiple people.

[1.3.2 (b)] Required multitasking

202. The Tribunal accepts that the Claimant was required to multitask. We do not find the Respondent's submission that the Claimant could choose to do things sequentially to be an answer to the point that the Claimant was being given various tasks which she needed to progress in parallel. Although there were sequential deadlines, the practical reality was that she did need to commence work on multiple

objectives to be running simultaneously to have chance of completing them by the quite tight deadlines.

203. Paragraph 12 of Mr Baldwin's statement refers to multiple situations. We find that there was an expectation that the Claimant would be pursuing multiple workstreams simultaneously. While she did have control to do those things in the order that she wished to do it on a day by day basis these tasks needed to be progressed in parallel.

204. We find that this PCP is established.

[1.3.2 (c)] Requiring deadlines to be observed.

205. Although Mr Baldwin has tried to suggest that the deadlines were little more than indicative, we do not accept this. It is clear that he was disappointed when the Claimant did not meet the 5 September 2023 deadline. The Claimant was required to work to these deadlines. It counted against her when she did not comply with one of them.

206. We find therefore that this PCP is established.

SUBSTANTIAL DISADVANTAGE

[1.3.3] If so did that PCP place the Claimant at a substantial disadvantage in comparison to employees who were not disabled?

207. The substantial disadvantage to the Claimant is her difficulty dealing with those situations or requirements.

Multitasking

208. We do find that multitasking caused the Claimant as someone with ADHD a substantial disadvantage. We accept her evidence to that effect in her witness statement. The workplace needs assessment report noted that she struggled with prioritising work and time management, which we find is integral to multitasking

209. We accept Miss Urquhart's submission that identifying a comparator is not the same strict approach as is followed in a claim of direct discrimination for example. In any event, we find that a hypothetical comparator being asked to carry out this kind of multitasking would have in the case of someone who was not suffering with ADHD been able to cope with it better, at least to more than a trivial extent. In other words the Claimant was at a substantial disadvantage.

Deadlines

210. Similarly, for the Claimant we find we accept her evidence that deadlines posed a difficulty for her. The medical evidence suggests that deadlines have always historically caused her problems. We find this can be seen in clearly the events of 5 September 2023.

- 211. We find that working to deadlines was something that she found at least to more than a trivial extent more difficult than a person without ADHD.
- 212. We find that this substantial disadvantage is made out.

[1.3] ADJUSTMENTS

1.3.4 The Claimant says the Respondent should have provided the following adjustments

Adjustment (a) clear and structured guidance in bullet points to ensure comprehension of instructions and procedures

- 213. We find that the Respondent did provide clear and structured guidance to the Claimant. We do not find that there was a failure to make reasonable adjustments respect.

Adjustment (b) Setting achievable and realistic tasks to prevent overwhelming workloads

- 214. We accept the submission that the original tasks and the probation programme was set for the Claimant before any knowledge of her disability, or indeed substantial disadvantage. Knowledge did not begin until 8 September 2023, by which stage the probation programme was already up and running.
- 215. We find however by 10 December 2023 the Respondent had knowledge of disability and also the disadvantage that was being caused to the Claimant by the multitasking and the deadlines.
- 216. Despite the Claimant's mixture of messages about how she was progressing with the tasks, it was, we find, clear to the Respondent that the Claimant was struggling to complete these tasks. She was way behind the original schedule. She was still failing to deliver on tasks which had been originally requested of her in July to be completed by deadlines in August and September 2023. It was now December.
- 217. We find that there was a duty to make reasonable adjustments that was engaged here. It was a duty to set achievable and realistic tasks. In that context we find that providing **additional** objectives for the Claimant to complete in December 2023 and January 2024 represented a failure to set achievable and realistic tasks. These additional tasks were setting her up to fail.
- 218. There is a comparatively low threshold for the likelihood of adjustments being successful. We find that there was some prospect of setting achievable and realistic goals at this stage ameliorating the disadvantage suffered by the Claimant in relation to multitasking and deadlines.
- 219. We find that this was not done and represented a failure to make reasonable adjustments.

Allegation (c) was withdrawn.

Adjustment (d) Neuro diversity awareness training (3 hour webinar) for colleagues to enhance their understanding of neuro diversity.

Adjustment (e) ADHD awareness training (1 hour online webinar) for up to 15 attendees to better understand ADHD and its impact on the work place.

220. It is convenient to deal with both of these adjustments together.
221. Neither the Neuro-diversity awareness training (3 hour webinar) nor the ADHD awareness training (1 hour online webinar) were taken up by the Respondent.
222. The Respondent relies upon Ms Wright's communication of 10 November 2023 and submits that it is not a failure not to implement something that the Claimant actively did not want. We see the force of that submission in principle.
223. Based on the situation as Ms Wright understood it, however, what the Claimant did not want was private delivery of a session delivered to team members including her directly. Ms Wright had recorded that the Claimant was happy to be one of many attendees. In other words it was not the training *per se*, but a specific situation in which the Claimant was receiving the training as part of a small team. As Ms Wright understood it, the Claimant did not want to be placed in a situation where it was obviously being delivered because of her with her team members.
224. This was training to aid the understanding of her colleagues so that they could understand how to work with her. We find that it would have been possible to arrange this training so that it did not put the Claimant in an awkward situation. The Claimant herself did not need to attend the training, given that the point of training was to educate the team. Both courses were directed creating a support and inclusive environment for all, including the needs of individuals with ADHD.
225. The cost of the training was not an prohibitive difficulty as was realistically conceded by the Respondent's witnesses.
226. We noted that the Respondent "only" provided neuro-diversity training an "optional extra". It was therefore available to the Respondent. This underlines our conclusion that this was something that could have been provided to the team.
227. We find that there was some prospect of such training helping the Claimant's colleagues to understand how better to work with her and ameliorating the disadvantage suffered by her because of multitasking and deadlines.
228. These were reasonable adjustments and were not made by the Respondent.

Adjustment (f) Six x 2 hour workplace coaching sessions focussed on ADHD improving time management and coping strategies. The Claimant's case is only one session was provided, after which a manager did not approve the remainder.

- 229. It was accepted by the Respondent that HR was taking responsibility for this matter. Ms Wright accepted that she was supposed to follow up with the Claimant following on from the first session to see whether further sessions were going to be useful. She did not do this. This was recommendation of the OH report.
- 230. It seems to us precisely the sort of input and support that might have helped the Claimant and again would have some prospect of ameliorating the substantial disadvantage suffered by her due to multitasking and deadlines.
- 231. It did not happen. We find this was a failure to make reasonable adjustments.
- 232. We do not accept the attempts to try and push the blame on to the Claimant on the basis that she herself did not follow up to find out if further sessions were going to be booked. This was a failure of HR and a failure of the Respondent to make an adjustment that had some prospect of ameliorating the disadvantage being suffered by the Claimant.

Adjustment (g) Coaching sessions with a line manager to enhance communication and collaboration.

- 233. These coaching sessions were something that the Claimant positively indicated in her email of 13 November 2023 that she wanted to carry out with her manager Steve Baldwin, as she communicated in an email sent both to him and Robyn Wright in HR.
- 234. This was never implemented.
- 235. We find the suggestion that there was a possibility of a change in line management was not a good reason for this not to happen. If there was going to be a new line manager then that manager could attend the training. In reality there was not a change in line management until January 2024.
- 236. The failure to pursue this recommended course of action without good reason in our view means that this was a clear failure to make reasonable adjustments. We find again that this was a step would have had some prospect of ameliorating the disadvantage suffered by the Claimant because of multitasking and deadlines.
- 237. This was failure to make reasonable adjustments.

[1.4] HARASSMENT

1.4.1 Has there been any unwanted conduct relating to disability?

"Mental issues"

238. The allegation of unwanted conduct is that on several occasions in December 2023 and January 2024 (specifically on 8 December, 21 December and 10 January), when the Claimant raised concerns about the lack of clarity in her probation objectives or challenged the addition of further objectives Steve Baldwin dismissed her concerns by referring to her ADHD as "mental issues".
239. We have found the Claimant's version of events in relation to this complaint to be unsatisfactory for several reasons. She suggested in her witness statement that this comment about mental issues had been made in conjunction with a gesture which was to point at the side of the head indicating mental health problem. She suggested in her oral evidence that this happened more than once, which represented an escalation from singular to plural.
240. The Claimant also said that this gesture had been mentioned in the grievance. We have not found references to this in the grievance. The allegation that the comment was made in conjunction with a gesture was not contained in the Grounds of Complaint at paragraph 20, where this allegation is first set out in the Tribunal proceedings. It appears to be new in the witness evidence. We find this lack of consistency to cause us to have some doubt about the Claimant's reliability in relation to this particular allegation.
241. We note that the Claimant suggests that her robust response to Ms Wright in an email on 31 January 2024 (at page 386) was because Ms Wright had used the expression "I recognise that you have shared you are struggling with your mental health". She says that she responded to this robustly because she had been concerned about the way that Mr Baldwin had used a similar expression.
242. In the context in which the Claimant had shared that she was suffering from anxiety, which in ordinary parlance we find most people would regard as a mental health issue, we struggle to see what would be wrong with Ms Wright using the terminology "mental health". It seems from the context of the email on 31 January 2024 that the Claimant felt that a reference to her mental health was in some way undermining what she had been saying when she complained about the way she had been managed. We understand and accept that that is the way that the Claimant may have felt, nevertheless it leads us to the conclusion that the Claimant was being particularly sensitive to references to mental health. Nothing about the way that Ms Wright had referred to mental health strikes us to be inappropriate. Indeed we find it was appropriate for her to acknowledge those matters. That fell well within the remit of someone within HR.
243. Mr Baldwin strongly denied this allegation. While the Tribunal has (by implication) been critical of some of his decisions, we have not found a reason to find him unreliable as a witness generally or in relation to this particular allegation. We accept his evidence.

244. Ultimately our conclusion is that we do not find that the Claimant has proven facts that lead us to the conclusion that Mr Baldwin had said or done anything inappropriate that was capable of amounting to harassment.
245. The complaint of harassment therefore fails.

Employment Judge Adkin

14 July 2025

Sent to the parties on:

16 July 2025

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For the Tribunal:

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