



EMPLOYMENT TRIBUNALS

Claimant: Mrs Z Manjra

Respondent: DWP

HELD AT: Liverpool

ON: 6 May 2025

BEFORE: Employment Judge Johnson

REPRESENTATION:

Claimant: Mr David Flood (counsel)

Respondent: Mr Tim Wilkinson (counsel)

JUDGMENT

The judgment of the Tribunal is that:

- (1) At the relevant times the claimant was not a disabled person as defined by section 6 Equality Act 2010 because of Autism.
- (1) The asserted disabilities of Carpal Tunnel Syndrome, Long Covid Syndrome and Asthma are no longer relied upon by the claimant and dismissed upon withdrawal.
- (2) For the avoidance of doubt, those impairments already accepted by the respondent to be disabilities under section 6 Equality Act 2010 are unaffected by this decision and will remain to be determined as part of the claim of disability discrimination.
- (3) Consequently, the remaining conditions which are disabilities for the purpose of section 6 of the Equality Act 2010 and which have been accepted by the respondent are as follows:
 - a) Fibromyalgia

- b) PTSD
- c) Anxiety
- d) Stress

REASONS

Introduction

1. These proceedings arose from the claimant's employment as a work coach with the respondent and where she had worked since 21 September 1998.
2. The claimant presented a claim to the Tribunal on 5 June 2024 following a period of early conciliation from 16 April to 30 April 2024 and she raised a complaint of disability discrimination.
3. The respondent presented a response and grounds of resistance on 5 June 2024 and resisted the claim that had been brought as well as disputing that the claimant was disabled in relation to all the asserted conditions to which she had referred.
4. The claimant was subject to a preliminary hearing case management (PHCM) before Judge Ainscough on 24 October 2024 and in addition to listing this case for a 7 day final hearing in Manchester Employment Tribunal on 16 to 24 February 2026 and making appropriate case management orders, she also listed the case for a preliminary hearing for 6 May 2025 to determine:

The Issue

"If the claimant is a disabled person as a result of asthma, carpal tunnel syndrome, autism and long covid within the meaning of section 6 Equality Act 2010"

This is the preliminary issue that I was asked to consider in this case.

5. The claimant had identified several health issues which amounted to disabilities in relation to allegations of disability discrimination under the Equality Act 2010 (EQA). She brought complaints of:
 - a) Discrimination arising from disability (section 15 EQA)
 - b) Failure to make reasonable adjustments (sections 20 & 21 EQA)
 - c) Indirect discrimination (section 19 EQA)
 - d) Harassment (section 26 EQA)
 - e) Victimisation (section 27 EQA)
6. The health issues which the claimant says were disabilities at the time the allegations of discrimination etc' took place were as follows, (with the

respondent's position relating to whether or not disability is accepted being indicated next to each one):

- a) *Fibromyalgia (respondent accepts section 6 EQA disability)*
 - b) *Mental health/PTSD/anxiety/stress (respondent accepts section 6 EQA disability)*
 - c) Autism (respondent does not accept disability)
 - d) Carpal tunnel syndrome (respondent does not accept disability)
 - e) Asthma (respondent does not accept disability)
 - f) Long Covid (respondent does not accept disability).
7. The respondent's acceptance of the fibromyalgia and mental health conditions does of course mean that whatever my decision in this case regarding the other conditions, there remained a disability discrimination complaint which should proceed to a final hearing. This meant that the hearing today was slightly unusual in that it would not serve the purpose of reducing the complaints being taken to final hearing or indeed, preventing a disability discrimination complaint from proceeding in its entirety.
8. It is understood that other than finalising the list of issues, future case management and the final hearing date were in place.
9. However, I was informed at the beginning of the hearing by Mr Flood that the claimant no longer sought to argue disability in relation to the conditions of Asthma, Carpal Tunnel Syndrome and Long Covid.
10. This means that they can be dismissed as disabilities and therefore my focus today was the remaining condition of Autism and whether at the relevant time, it was a disability under section 6 EQA.

Evidence and Written Arguments

11. The claimant had produced a disability impact statement dealing with her conditions overall (pp178 to 183), and a revised statement focusing upon the impact of those conditions in dispute on her day to day activities, (pp284-290). These were contained within the hearing bundle alongside the claimant's medical evidence.
12. While not evidence as such, I also had detailed written skeleton arguments from both Mr Flood on behalf of the claimant and Mr Wilkinson on behalf of the respondent. These were augmented by oral closing arguments and will be considered below.

Findings of fact

13. The parties should note that the Tribunal's findings of fact do not seek to deal with every point where the parties disagree, simply what is relevant to the issues which the Tribunal is being asked to consider. If the discussion of an incident or point is not referred to within these findings, it does not mean that it has not been considered by the Tribunal, simply that it is not relevant to the issues and the findings that we are required to make.

14. In terms of the findings that we make, the Tribunal has reached its decision on what it considers to be on balance of probabilities the most likely way/reason in which an incident arose.

The belief that autism may be an impairment

15. The claimant had originally worked at the respondent's Blackhorse Street Job Centre in Bolton and described having access to a wellbeing room which she says was a quiet space and which was not also used as a multi faith room.
16. She described having had been provided from 2018 with dimmer switches, blinds, a sofa bed and she was permitted to take breaks when her work was up to date, so she could have respite.
17. More recently, the respondent moved the workplace to Great Moor Street in Bolton and the claimant said her manager reassured her by saying that a similar quiet space would be provided. However, when she returned to work following a period on 16 January 2024, she discovered that the designated space had been allocated to 4 staff who were relocated to Great Moor Street and she was expected to use the multi faith space on the ground floor which she had to access by lift which would usually be shared with others.
18. The claimant first raised autism as a disability in paragraph 3 of her grounds of complaint and was relevant to her need for reasonable adjustments in relation to requiring communication in writing.
19. On 12 December 2023, she was provided with a letter from Deborah Haydock of Counselling Care UK and who was involved in providing a course of psychotherapy because of ongoing mental health issues, (p203). They recommended that the claimant be assessed for Autism. They believed that their discussions with the claimant '*...which point towards [the claimant] being on the spectrum...which have caused her distress, confusion and negative consequences.*'
20. A number of issues were identified and which the claimant had described during these appointments. These included '*relationship dynamics, communication and social nuances, interacting with other adults, injustice and change to routine...an intense aversion to stronger odours, lights and sounds as they distract her from her ability to function, and on occasion will lead to melt down.*'

Sleep Issues and fatigue

21. Reference was also made to '*stimming...when agitated*', a need to seek time alone, in a quiet place and in particular sleep '*...has become something of a battle, as she has vivid dreams, potentially, as a symptom of PTSD, because of traumatic event, exacerbated by these issues.*' Moreover, the claimant is described as falling asleep at her desk, sleep for exceptionally lengthy periods following burn out. Although described as being a report, this document

simply described what the claimant had told Ms Haydock, and she was seeking an assessment to see whether a diagnosis of autism could be made.

22. The claimant confirmed that the issue of sleep might be attributable to PTSD and that in her disability impact statement, described sleep patterns not being regular, with Dr Haydock's description being repeated in this statement, (p286). She also acknowledged that in Dr Haydock's other letter dated 12 December 2023, her sleep is described as being impaired and that this related to the previous traumatic events connected with PTSD, (p205).
23. The claimant also acknowledged that sleep was reported as a problem when she attended the NHS Post Covid Syndrome Service on 8 August 2022, in a letter written by Psychological Wellbeing Practitioner, Veronica Pirez Porras, (p221). The OH letter from Iain Dunkley of 6 April 2022 recommended the review by the Post Covid Service and considered that this syndrome may have related to the fatigue described by the claimant, (p258).
24. The OH letter from Gillian Christie dated 23 November 2023 observed that Ms Haydock had considered the possibility of autism and wanted her to be referred for assessment by her GP. Although sleep issues were mentioned by Ms Christie, the cause was attributed to fibromyalgia and stress. However, the claimant asserted that the symptoms overlapped with several conditions. She also confirmed that due to unfortunate personal issues, she had had trouble sleeping since 2007. Nonetheless, she believed that her sleep issues were affected by the alleged autism. She believed that she tended to 'mask' her autistic symptoms, and this added to her fatigue.
25. There is no doubt that the claimant has suffered for many years with difficulties in sleeping, whether getting to sleep, troubled sleep, or overly lengthy sleep due to fatigue. The claimant understandably wonders whether these difficulties are a feature of autism, which she is currently in the process of being assessed for. However, having reviewed the available evidence before me, on balance, I concluded that there was insufficient evidence to attribute these issues to neurodiversity and autism in particular. The problem is considered by the medical experts who have reviewed the claimant to be caused and exacerbated by the historic PTSD and fibromyalgia. Dr Haydock in her report is not able to diagnose autism and simply records what the claimant has reported to her concerning this issue.

Irritability

26. The claimant conceded that this asserted impairment was not referred to in the OH reports from a variety of OH physicians dated 6 April 2022, (Iain Dunkley pp258-9), 9 August 2022, (Marie Murray pp260-1), 13 March 2023 (Pam Clare pp265-6), 13 September 2023 (Marie Murray pp187-188), 23 November 2023, (Gillian Christie pp189-190) and 23 May 2024, (Iain Dunkley pp194-6).
27. The term irritability was used in the letter of 5 December 2023 from the Post-Covid Syndrome Service, Cognitive Behavioural Therapist Sally Hinchcliffe,

(pp213-4). However, this was with reference to mental health issues and PTSD.

28. There was some reference to the claimant describing a struggle with relationships and meltdown being a consequence in Dr Haydock's letter/report dated 12 December 2023, but no specific reference to irritability as an impairment, (pp203-4). Once again, the claimant asserted that there was an overlap in the conditions that affected the impairments identified.

Injustice

29. The claimant referred to feeling very strongly about 'injustice' in her disability impact statement, (p285). However, she had not expanded upon what this meant and its impact upon her. Karen Reissmann who is a Mental Health Practitioner wrote to the claimant's GP, Dr Atcha on 27 October 2015 reporting that she had a '*...habit of ruminating for long periods on injustices done to her...*' and goes on to refer to historic personal trauma, (pp216-217). However, it does not identify neurodiversity as a factor and focuses upon mental health issues.
30. Ms Haydock does refer to constantly reliving experiences in her letter, (p205), but neurodiversity is not considered to be the cause and that it appears to be more connected with levels of fatigue and sleep and PTSD being a real problem.
31. On balance, I was unable to conclude from the evidence available that this was something which related to neurodiversity, and it appeared to be more closely connected with the mental health issues and particularly the claimant's PTSD.

Difficulty in social situations

32. The claimant also described in her impact statement that she found social situations and interactions to be a challenge, (p285 – point 6e and p288 – point 8d). The claimant confirmed that these difficulties were not addressed in the OH reports, but her argument was that she was not asked about them. She also argued that what was relevant was Ms Haydock's record of these matters in her report dated 12 December 2023. Her second report found at pages 205-6 noted the difficulties with social situations and connections are identified with the sleep difficulties and anxiety issues.
33. I found on balance, however, that had the claimant been troubled by these matters, she would have raised them with the respondent or their experts at the time. This would have been recorded within the reports. It may be that over time she had been considering these difficulties, but the Haydock letter/report seeking an autism assessment, is simply a recommendation for assessment. Ms Haydock's other letter at pp205-6 did consider workplace issues and the impact of PTSD and there simply was insufficient evidence to support difficulty in social situations being connected with neurodiversity based upon the evidence available.

Sensitivity/sensory issues

34. The claimant described being sensitive to sounds, noise and lights and having to take time out in a dimly lit room so that she could rest. This includes visiting places which have bright lights such as supermarkets, (Impact statement at pp287 and 288). She confirmed that this was a long standing issue but confirmed that it became an issue in the workplace when her place of work moved from Black House Street. It was not however, a feature of the OH reports that were available in the bundle. Once again, the claimant confirmed that she has a multiple of conditions and that there was an overlap between autism, anxiety and fibromyalgia.
35. This was another situation where while the claimant did appear to find certain external stimuli aggravating to the claimant's senses, However, the medical evidence did not support these matters being attributable to autism and the claimant accepted that the agreed conditions of PTSD, anxiety, stress and fibromyalgia could be connected with the sensitivity issues.

The difficulty in being able to write

36. The claimant did refer to this being a concern within the list of issues. However, while the claimant was recorded within the amended grounds of resistance, (paragraph 17), that she generally preferred written communications, there was insufficient evidence available at the hearing to persuade me that this was an ongoing and significant issues given that it was not a feature of the numerous medical reports.

Summary

37. The claimant did provide a great deal of medical evidence and also evidence within her impact statement. However, while a number of references were made to things which might be associated with neurodiversity, apart from the first letter/report from Ms Haydock, there was insufficient evidence before me to show on balance the difficulties being identified were connected with autism.

Law

The Equality Act 2010 – section 6

38. Section 6 of the EQA provides that a person has a disability if (1)(a) they have a physical or mental impairment and, (b) the impairment has a substantial and long-term effect upon their day to day activities.
39. Section 212 explains that the definition of 'substantial' is 'more than minor or trivial'.

The Guidance concerning disability

40. Section 6(5) permits a government minister to issue guidance about matters to be taken into account in deciding questions of disability under section 6(1). This can be found in the Guidance on Matters to be taken into Account in Determining Questions Relating to the Definition of Disability (2011), ('The Guidance').
41. Section A5 of the Guidance confirms that disability can arise from development impairments such as autistic spectrum disorders (ASD).
42. Section B of the Guidance deals with the meaning of substantial adverse effect and advises that consideration should be given to, (where relevant):
 - B2 – The time taken to carry out an activity.
 - B3 – The way in which the activity is carried out.
 - B4-B6 – Cumulative effects of an impairment.
 - B7-B10 – Effects of behaviour, (i.e. how far a person can reasonably be expected to modify their behaviour to prevent or reduce the impairment's effects).
 - B11 – Effects of environment, (i.e. how they may exacerbate or lessen the effects of the impairment).
 - B12-B17 – Effects of treatment
43. Section C of the Guidance deals with the question of when an impairment is long term.
44. Section D of the Guidance describes the meaning of normal day to day activities.
45. The Guidance helpfully provides examples covering a range of conditions with the purpose of providing illustrations to assist with the interpretation of section 6 EQA when applying it to a variety of impairments.

Caselaw

From Mr Flood

46. *Aderemi v London and South Eastern Railway Ltd* UKEAT/0316/12, Langstaff P's summary of the enquiry a Tribunal should make when considering disability and which he describes being whether the impairment has an adverse effect on day to day activities, then whether it is substantial or not applying section 212 EQA. Here he cautions that unless the impairment can be considered 'trivial' or 'insubstantial', it must be treated as substantial, (paragraph 14).
47. European Framework Directive (2000/78/EC) held by ECJ in *Chacon Navas v Eurest Colectividades SA*: C-13/05 [2006] IRLR 706. Here the definition of disability covers '*limitation which results in particular from physical, mental or psychological impairments and which hinders the participation of the person in professional life.*' This is in contrast to the domestic consideration of domestic rather than professional life.

48. Z v A Department: C-363/12 [2014] IRLR 563. As the European Union approved the United Nations Convention on the Rights with Disabilities and it is an international agreement, the Framework Directive must be interpreted in a manner consistent with the convention.
49. The Equality Act 2010 (Amendment) Regulations 2023 SI 2023/1425 inserts a new paragraph into Schedule 1 of the EQA and provides that in work related discrimination cases, reference to a person's ability to carry out normal day-to-day activities include their ability to be taken to include a person's ability to participate fully and effectively in working life on an equal basis. This confirms that the EU approach to the definition of disability is part of UK law.
50. Igweike v TSB Bank Plc [2020] IRLR 267 EAT. Here HHJ Auerbach explored the question of normal day to day activities and that this may be established even if there is no effect on activities outside work or the particular job. However, he did say that *'...in many, perhaps the most successful cases, disabled status is established because the requisite effects are found on normal day to day activities outside work, or both outside and in work.'*
51. Walker v Sita Information Networking Computing Ltd UKEAT/0097/12. In considering what amounts to an impairment, Langstaff P confirmed that it was the effect not the cause of the impairment that was important and that *'...an impairment may be caused as a consequence of a condition which is itself excluded from the scope of the definition of disability'*.
52. Patel v Metropolitan Borough Council [2010] IRLR 280. The issue of whether an impairment can be considered long term, may be determined retrospectively.
53. (in oral submissions): Matthew Goodwin v Patent Office [1998] UKEAT 57/98/2110. Where disability status is in dispute the Tribunal should consider separately, and where appropriate sequentially, whether there is a physical or mental impairment, whether there is an adverse effect, whether there that effect is substantial and whether it is long term.
54. (in oral submissions): J v DLA Piper UK LLP [2010] IRLR 936. It remains good practice for a Tribunal to state conclusions separately when considering the questions of impairment and of adverse effect/substantiality and long term effect. However, the Tribunal should not adopt a rigid approach and the impairment might be considered after findings have been made about the ability to carry out day to day activities.

From Mr Wilkinson

55. Royal Bank of Scotland plc v Mr M Morris [2011] UKEAT/0436/10/MAA paragraph 63. While medical notes may provide enough evidence for a Tribunal to consider disability, impairments such as depression or cognate mental impairments may involve issues that are too subtle to be considered without expert assistance.

56. J v DLA Piper UK LLP [2010] UKEAT/0263/09/RN (see Flood oral submissions above also), paragraphs 39 and 40. It can make sense for a Tribunal to begin by making findings of fact about whether the claimant's day to day activities are adversely affected and then to consider the impairment in light of those findings.
57. Igweike v TSB Bank Plc UKEAT/0119/19/BA paragraphs 46, 50, 78). There is flexibility in the order in which impairment is considered when addressing disability, contemporary medical notes may establish an impairment even when a condition has not been clinically identified, and adverse effect is the a person's ability without the impairment compared with someone who has the impairment.
58. JC v Gordonstoun Schools Limited [2016] CSIH 32 (paragraphs 55 and 63), reminding Tribunals that not everyone with an impairment is disabled within the meaning of section 6 EQA.

Submissions

Respondent's submissions

59. Mr Wilkinson provided oral submissions in addition to his written skeleton argument once the claimant's evidence had been heard.
60. He acknowledged that normally it would assist the Tribunal to start with the effects of the asserted disability rather than the actual 'diagnosis' of the condition relied upon. However, he explained that what was unusual in this case was that the respondent had already conceded that the claimant was disabled in relation to some of the asserted conditions which she were alleged were protected by section 6 EQA.
61. He believed that what the claimant was seeking to do in this case was for the Tribunal to find that she was disabled by reason of autistic spectrum disorder (ASD) and therefore the identification of the impairment was especially important today.
62. He reminded me that I was not being asked to consider '*something*' under section 15 EQA or '*substantial disadvantage*' under sections 20 & 21 EQA as these related to the substantive complaints and not the question of disability itself.
63. He added that there was no formal diagnosis of ASD to assist me when determining the application of section 6 in this preliminary hearing. Instead, I was referred to Ms Haydock's consideration of autism and that it might apply to the claimant, while she had no qualification to make formal diagnosis. Mr Wilkinson said that this placed the Tribunal in a difficult position.
64. He then invited me to consider the claimant's amended disability impact statement and in particular, her summary of the effects of her impairment upon day to day activities.

65. He noted that sleeping difficulties could actually be attributed to any number of the asserted impairments including those already admitted, such as anxiety, depression and/or PTSD. He also added that while the claimant mentioned that she needed to break down tasks into its component parts, no evidence had been provided in support of this problem. The same argument was made in relation to the claimant's need to receive management instructions by email when she had in fact worked for the respondent without difficulty for more than 20 years.
66. Mr Wilkinson also argued that limited evidence was provided in relation to the claimant's aversion to meeting new people, that some of this could equally relate to anxiety and this could similarly be applied to sensory overload when insufficient evidence was provided in support.
67. In conclusion he submitted that it was necessary to determine the disability and not whether the feature such as a separate room was required. The case had been run on the basis that the claimant had ASD and this was what I had to be able to determine for the preliminary issue to be determined in the claimant's favour.

Claimant's submissions

68. Mr Flood began by reminding me that section 6 EQA required me to focus upon the impairment and not the condition attributed to those impairments.
69. In support of this argument, he referred me to Goodwin v Patent Office (see above), and the need to break down the question of disability into its essential components, namely:
- a) Mental or physical
 - b) Day to day
 - c) Substantial
 - d) Long term
70. He then went on to refer to the case of J v DLA Piper (see above), which advised Tribunal's that they need not address each of these components in the order in which they appear in section 6 EQA.
71. The 'cornerstone' of this case according to Mr Flood, were the asserted impairments .
72. He added that a number of conditions had been accepted by the respondent and some not accepted, with the remaining condition in dispute being ASD. Using the impairment of 'sleep difficulties' as an illustration, Mr Flood observed that Mr Wilkinson's initial cross examination of the claimant had revealed that this difficulty, could arise from a number of things.
73. He went on to refer to Ms Haydock's letter sent to her GP identifying possible signs for neuro-diversity, but also referring to a number of previous traumatic

events which had been considered by her employer and which had developed into PTSD. Counselling had then taken place which explored the symptoms which when considered together, appeared to suggest neurodiversity.

74. I was then referred to the two letters sent by Ms Haydock to the claimant's GP on 12 December 2023 and which referred to neurodiversity (pages 292-3) and PTSD (pages 294-5). She was unable to identify a single condition which was behind these symptoms and requested a referral to test for ASD.

75. It was unfortunate that this diagnosis had not yet taken place he said, but argued that the claimant had identified a group of impairments which were substantial in their impact on day to day activities and long term in nature. The absence of a diagnosis of ASD did not help either party, but he asked that I should consider a straightforward analysis of what I have heard, namely that all of the impairments overlap with several conditions and while the OH reports were largely silent as to signs of neurodiversity, I should agree with the claimant's evidence that these physicians had been tasked by management to answer specific questions and carry out a review of symptoms and possible causes.

Discussion

76. As a preliminary hearing where the question of disability was being considered, this hearing was unusual. As I have already explained, the respondent has accepted several significant and long-standing conditions to be disabilities under section 6 EQA. This hearing has been restricted to the question of whether the claimant was disabled by reason of autism, and she had identified a number of impairments which she believes are derived from this form of neurodiversity and which she believes to have a substantial adverse impact upon her day to day activities.

77. It was clear from the medical evidence before me, that the claimant has had several significant health issues for many years and there is no dispute that she is disabled by reason of fibromyalgia, PTSD, stress and anxiety. The medical evidence supports ongoing impairments including fatigue and difficulties with social situations.

78. A person has a disability if they have a physical or mental impairment that has a substantial adverse effect and a long term adverse effect on their ability to carry out normal day to day activities. Often, the identification of a condition and a diagnosis from an appropriately qualified medical expert is enough for there to be no dispute that a claimant is disabled. In this case, that has already happened in relation to the claimant's asserted conditions of fibromyalgia, PTSD, anxiety and stress.

79. The claimant no longer relies upon the conditions of carpal tunnel syndrome or asthma as being disabilities and presumably it is accepted that these conditions, even if diagnosed do not have substantial adverse effects on day to day activities and/or are long term in nature.

80. This leaves the condition of ASD which unfortunately remains without a diagnosis, but which the claimant believes has caused several diverse symptoms over many years of her life and which are substantial and long term in nature.
81. Given the claimant's acknowledgement of the overlap between the various conditions, I was concerned that I look at the impairments first before considering whether this relates to the asserted autism. Nonetheless, I have considered all the relevant features of section 6 EQA when considering the question of disability.
82. In terms of sleep issues, there is clear medical evidence that this is an impairment which has a substantial impact upon the claimant's day to day activities. It is a problem that she has had for many years and its initial trigger seemed to be caused by the trauma following personal difficulties in or around 2007. This has continued as a problem and the fact that the claimant has reported it to the various medical experts with whom she has engaged, and they have in turn recorded it in their reports, confirms that this is long terms in nature and has not improved to any real degree during a period of some 17 or more years.
83. A failure to sleep over a prolonged period in the way described by the claimant is something that is much more than a minor or trivial issue, but while there is an exploration of its relationship with a possible autism diagnosis, on balance the evidence supported its being connected with the claimant's mental health problems and fibromyalgia.
84. The sleep difficulties would on balance impact upon the claimant's mood and the irritability that she has identified. It is not clear that the irritability was something which caused a substantial impact upon the claimant's day to day activities. The evidence was insufficient, and it was also unclear that it was a long term problem or something which happened from time to time. Unfortunately, I could not accept that there was sufficient evidence available to support an impairment of irritability which had a substantial impact upon day to day activities and which could be attributable to autism.
85. In terms of the question of injustice, this actually appeared to be something which was derived from the claimant's tendency to 'ruminate' about the undoubtable misfortune that she had encountered in her personal life and that this would be connected with the PTSD, which has been accepted by the respondent. This was more a case of the claimant dwelling upon the sense of unfairness in relation to the events in her life rather than a wider sense of injustice within society as a whole. Nonetheless, it is on balance an impairment being an intrusive problem which would have a substantial impact upon the claimant's day to day activities. Even though seemingly intermittent, it is an ongoing problem which is long term in nature as it has been an issue for many years. But I was unable to conclude from the evidence available, that this was connected with the claimant's alleged autism.
86. In considering the broad category of difficulties in social situations, I acknowledged that this was a potential impairment that many would attribute

to a possible diagnosis of autism, this is only considered in the letter/report of Ms Haydock dated 12 December 2023 and even then, in terms of a recommendation for an assessment. But on balance, the medical evidence supported a conclusion that social situations and the broad difficulties that the claimant identified related to anxiety and could well arise from poor sleep contributed to by fibromyalgia and PTSD.

87. This is a mental impairment which has a substantial impact upon the claimant's day to day activities both in her personal and professional life. It is something which she has found difficult for a number of years and is long term in nature, but I was not persuaded that there was sufficient evidence to attribute these problems to autism, even if Ms Haydock questioned this in her letter seeking a referral for assessment on 12 December 2023.

88. I would also make the same observations for the sensory 'overload' identified by the claimant in relation to bright lights and intrusive sounds. Again, it is something which on balance the claimant has experienced for many years, and it has a substantial adverse impact upon her day to day activities given that it appears to affect how and where she goes and how long she can spend with the overstimulation caused by the external environment. However, the available medical evidence would support these difficulties being attributed to the pre-existing conditions of PTSD, stress and anxiety.

Conclusion

89. Consequently, I am persuaded that the claimant as part of her evidence in relation to this preliminary issue, did identify a number of impairments that had a substantial and long term effect upon her day to day activities. This involved the difficulties relating to sleep, the sense of injustice (intrusive thoughts of personal unfairness), social difficulties and sensory issues.

90. I am unable to accept however, that these impairments arose from autism.

91. In considering this matter, I have taken judicial notice of the Equal Treatment Bench Book and its explanation autistic spectrum conditions which is lifelong developmental disability which can affect how people communicate with others and sense the world around them.

92. It is estimated that 1.1% of people in the UK are on the autistic spectrum, but while each will share certain characteristics, everyone will be different. I suspect that the Tribunal encounters far greater numbers of claimants with this condition as a percentage of the claims that have crossed my desk in recent years, regardless of whether they are disability discrimination or involve other complaints.

93. The Equal Treatment Bench Book is primarily aimed at supporting people with particular characteristics within the court and tribunal system, but it provides useful background information concerning autism and of course, many other conditions.

94. A diagnosis of autism will require an assessment of the extent to which they have difficulties in a range of areas, typically literal interpretation of language, unclear, vague and ambiguous instructions, unwritten rules, unexpected changes, hypothetical thinking and hypersensitivity to light and noise.
95. Given the way in which a range of areas are considered, it is not surprising that many people are diagnosed with autism in later life, often because of difficulties being triggered by stressful events. I also accepted that women have often been misdiagnosed or not diagnosed in relation to neurodiversity because they can often 'mask' their difficulties and to mimic neurotypical behaviour.
96. While I accepted that a diagnosis of autism might not necessarily be required for a claimant to argue that this condition is a disability, the fact that consideration must be given to a range of areas and impairments which may well be attributable to other health issues. A person may self identify personal characteristics which point them in the direction of neurodiversity and more specifically autism. However, a much broader consideration must be given to the various areas where 'neuro non typical' reactions can be identified and collectively cross a 'point' on the autistic spectrum where autism can be diagnosed.
97. In this case, there are some matters which might suggest neurodiversity or more specifically autism, but my consideration of the medical evidence persuades me that at the relevant time to which the claim relates, those impairments which could satisfy the description of disability under section 6 EQA, are most likely attributable to those conditions accepted by the respondent as disabilities, namely fibromyalgia, PTSD, stress and anxiety.
98. This is a case where the interplay between various matters identified by the claimant and their identity are too subtle to enable me to conclude that they relate to disability without a formal diagnosis, especially considering the absence/vague reference to these impairments from earlier medical reports and the impact that the other disabilities are likely to have upon them

Conclusion

99. For these reasons, I cannot accept that the claimant was disabled by reason of autism and the disability discrimination complaint will proceed in relation to those conditions accepted as disabilities by the respondent.

Employment Judge Johnson

Date: 16 May 2025

JUDGMENT SENT TO THE PARTIES ON

11 July 2025

FOR THE TRIBUNAL OFFICE

Notes

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<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>