



EMPLOYMENT TRIBUNALS

Claimant: Ms S Tynan

Respondent: Metropolitan Police Service

Heard at: London Central

On: 13 June 2025

Before: EJ Joyce

Representation

Claimant: In-Person

Respondent: Mr Chigwidden (Counsel)

RESERVED JUDGMENT

The Tribunal's Judgment is that the Claimant was at all relevant times, disabled by reason of anxiety within the meaning of the Equality Act 2010.

REASONS

Hearing, Procedure and Evidence

1. The public preliminary hearing ("PH") took place on 13 June 2025. There was a PH bundle of approximately 233 pages. Ms Tynan gave oral evidence. Both parties made oral closing submissions. Numbers in closed square brackets below are references to the PH bundle page numbers.

Issues

2. The Claimant, Ms Sarah Tynan has been employed by the Respondent since 11 January 1999. She is a Youth and School Sergeant. Following an early conciliation period from 23 May 2024 to 2 July 2024 [4], on 2 August 2024 she brought a claim of discrimination arising from disability.
3. As helpfully set out in the Case Management Order of 11 December 2024, the Tribunal set this matter down for PH to determine whether the Claimant was a disabled person within the meaning of the Equality Act 2010, at the relevant times.

4. The Respondent has conceded that by reason of back injury/herniated disk the Claimant was a disabled person during the relevant time period [64].
5. However, the Respondent did not concede that by reason of anxiety or PTSD, the Claimant was a disabled person during the relevant time period. This was the issue to be determined by the Tribunal at the PH.
6. It was agreed that the relevant time period is between 1 January 2024 and 31 December 2024.

Facts

7. In October 2019, the Claimant's husband sadly died of cancer [107].
8. On 18 November 2019, the Claimant was signed off from work due to anxiety and PTSD following her husband's death [70].
9. On 8 December 2019, the Claimant had a further consultation with Occupational Health ("OH") referring to her having been diagnosed with PTSD by her GP following the death of her husband [156]. The condition resulted in her seeing images of her husband in her mind repeatedly as intrusive thoughts. She was also experiencing anxiety [98]. She was having difficulties concentrating and was experiencing sleep disturbance. She was signed off work until mid 2020. Upon her return to work, the Claimant was permitted to work from home one to two days per week.
10. The Claimant had counselling for grief due to PTSD she experienced as a result of her husband's death. The counselling took place weekly from about September 2019 [128] for a period of approximately 2.5 years, until the middle of 2021. The Claimant was also taking anti-depressant medication. It is unclear when she ceased taking the medication but on the evidence before me I found on balance that she ceased taking it around the middle of 2021 when her regular counselling concluded. From mid-2021 onwards, she had counselling on an *ad-hoc* basis, including at difficult times around anniversaries and birthdays.
11. On 20 March 2023, the Claimant was assessed by OH. The section of the OH report entitled "Past Medical History" stated that the Claimant had PTSD in 2019 following a sudden bereavement [84]. It continued under the section "Mental health assessment" as follows: "no mental health related symptoms at present but has history of PTSD". Her medications were listed as Co-codamol and Omeprazole and did not include any anti-depressant medication. [85]
12. In January 2024, the Claimant was assigned a new supervisor, Inspector THS. Around the same time, the Respondent introduced a new structure to its Safe Neighbourhoods teams across the police force which in essence meant that the nature of the Claimant's role changed.
13. On 20 February 2024, the Claimant learned that a colleague, PC X, had been arrested for sexual assault of a police cadet.

14. In around early February 2024, the Claimant learned that her sister was diagnosed with cancer and needed to undergo treatment.
15. On 22 February 2024, the Claimant was working from home when a new Inspector, THS, called her and asked her to attend the office urgently. He said that the new Chief Inspector, KW, was displeased that the Claimant was working from home and insisted that the Claimant's team needed direct supervision because of what had occurred with PC X. THS further told the Claimant that she could not work from home as of that date.
16. On 27 February 2024, the Claimant's mother was rushed to hospital with a blood clot in her lung and the Claimant was, understandably, very distressed. An OH report dated 28 February 2024 [95] provides: "PS Tynan works Mon-Fri, 8am-5pm and had previously had authority to work two days from home. She is currently going through challenging times due to personal circumstances. She is a single mother to a 10 year old girl and relies on the support of her mother who lives locally. She suffers with pain daily due to a back injury in the past, which has resulted in her being permanently non-operational. She has disclosed that her sister has recently been diagnosed with cancer and due to undergo treatment. This has also brought a traumatic experience to the surface, as PS Tynan lost her husband to cancer 5 years ago. As a result of her sisters diagnosis, her mother, her main support network, is likely to be travelling up north to aid her sister during treatment/recovery. In addition to this, there have been issues at work contributing to the stresses of home life".

"A recent serious incident relating to another officer has led to management directing that PS Tynan no longer works from home two days a week as she had been, in order to ensure there is a daily presence of a supervisor and regular direct supervision. PS Tyan feels like this is unfair as the working from home was helpful to her personal circumstances. Yesterday, her mother was rushed to hospital due to a suspected heart attack. It has since been confirmed that she has a blood clot on the lung. No doubt this has added further stress onto PS Tynan". [94]
17. On 29 February 2024, the Claimant emailed Insp THS and told him about her diagnoses of PTSD and anxiety after her husband died. She confirmed she had been on anti-depressants in the past and had received counselling for two and a half years.
18. Following on from the above events, the Claimant's mental health deteriorated. She was experiencing increased anxiety which was due, at least in part, to the above changes at work in addition to learning of both her mother's and sister's serious health conditions.
19. An OH report of 7 March 2024 states as follows in relation to the Claimant: "symptoms of her stress include disturbed sleep pattern, tiredness, low motivation, being emotional and more recently anxiety due to management changes" [98].
20. A mental health assessment in the same report provides in relevant parts: "sleep – managing about 4-5 hours of disturbed sleep pattern; During the last month have you often been bothered by feeling down, depressed or

hopeless – Yes; Have you often been bothered by having little interest or pleasure in doing things? – Yes, low motivation; (...) Overwhelming emotional state – Yes; Persistent anxiety – Yes (...) Outlook-Prognosis: In terms of a prognosis, due to her mental wellbeing, PS Tynan remains vulnerable to future episodes however with appropriate support the risks can be minimised.” [99].

21. On 8 March 2024, the Claimant went on sick leave and by email of 9 March 2024, the Claimant informed OH that she had gone on sick leave due to stress “mainly due to poor treatment by [her] Line Manager” [152]. At around the same time, in light of experiencing the above referenced issues at work, the Claimant attended more frequent counselling.
22. On 22 April 2024, the Claimant returned to work [107].
23. By email of 24 April 2024, the Claimant informed OH that she had returned from sick leave and that she had “started weekly counselling again”[149].
24. On 26 April 2024, the Claimant received an email from her superiors informing her that she was being transferred to Croydon police station with immediate effect. She went on sick leave again as of that date.
25. On 7 May 2024, the Claimant was served with a disciplinary notice which included allegations that (i) she had attended an external meeting on 24 April 2024 despite being told she could not do so on 7 March 2024; (ii) on 24 April, she refused to have a meeting with THS and KW; and (iii) she had acted disrespectfully when she stated she would not have a one-to-one meeting with THS and also during a phone call with KW.
26. On 18 May 2024, the Claimant recommenced taking the anti-depressant Sertraline at a dose of 50mg per day [107, 113].
27. On 10 June 2024 a ‘review of work capability’ was carried out in relation to the Claimant. It was noted that the Claimant had previously been diagnosed with Generalised Anxiety Disorder (“GAD”). The notes further provided that the Claimant had been diagnosed previously with PTSD and had engaged in counselling for 2.5 years which had restarted weekly in February 2024 and was ongoing. The notes also referred to her having restarted taking anti-depressant medication. The notes further referred to the Claimant going to the gym 2-3 times weekly and provided that she was “Day to day overall better (...) sleep pattern okay, appetite-mixed, wt – stable but has lost wt. daily structure – in place; keeps active” [107].
28. On 10 July 2024, the Claimant submitted her response to the disciplinary notice of 7 May 2024.
29. On 2 August 2024, the Claimant filed her claim before the Tribunal. In her particulars of claim she wrote, *inter alia*, “*Post-Traumatic Stress Disorder*. After the death of my husband I experienced this and no longer experience it. The symptoms were visualising my husband’s death over and over again. I had counselling at the time, and was also prescribed antidepressants”.
30. She continued: “*Anxiety*. I experienced this after my husband’s death but it

was not until these incidents at work did I start to feel anxiety again. I feel overwhelmed and easily upset. I experience outbursts of crying. I star[t]ed taking antidepressants and seeing a counsellor again in March 2024 as a direct result of the incidents that have occurred at work. In terms of the impact on my day to day activities, there is uncertainty around my role being changed, I find it difficult to have meetings with my line manager and find myself crying, feeling overwhelmed and getting easily upset while at work”.

31. The next review of work capability took place on 20 August 2024. It was noted that she had been off work for several weeks due to stress and that she had been receiving therapy privately. It was noted that on a day-to-day basis she was “coping outside work, good structure, exercise gym 3 x weekly (...)” [119]. It was noted that she was still taking anti-depressant medication. She was also noted to be having counselling “now more than 2 monthly”. It was further stated that she“(...) is fit to work on limited hours from the 16 sept 2024 (...)”.
32. A further consultation on 9 October 2024 discloses that the Claimant had been experiencing anxiety from February 2024 as a result of alleged workplace bullying. The Claimant was still receiving counselling at this time and she had counselling on and off for the past 5 years [133]. For activities of daily living it was stated that the Claimant was “sleeping and eating fairly well”, she had good concentration, she had sufficient energy for the day, she was going to the gym and that her emotional state was “OK”.
33. On 31 January 2025, Ms Davidson, the Claimant’s counsellor, provided a witness statement including her professional opinion of the Claimant’s condition. In Ms Davidson’s view the Claimant’s emotional health is still fragile due to her past experiences and her work situation had made it difficult for her to cope. The Claimant had told her that she had been having trouble concentrating at work and that she was finding it difficult to manage interpersonal interactions at work.
34. On 22 April 2025, the Claimant’s father died unexpectedly [65].
35. I found the Claimant to be a straight-forward and credible witness and I accept her evidence in its entirety. She explained that she had been quite resilient (in her own words “a tough cookie”) before her husband’s death but that after he died she changed completely. She has felt heightened emotion and increased anxiety which have led to her feeling that “something bad” is at risk of happening all the time. She explained that she has to manage the symptoms of her anxiety as best as she can.
36. Under cross-examination, the Claimant acknowledged that for some of the consultations she attended with OH, there were references to her not having mental health related symptoms at the time of those consultations but that she had a ‘history of PTSD’ [84-86]. The Claimant highlighted that her back condition was also listed under ‘past medical history’ [99] but that it was accepted by all that it was current.
37. I concluded that the ‘location’ of a condition in the OH notes as being in ‘past history’ was not determinative of whether the condition was still ongoing. I reached this conclusion on the basis that, although it was accepted by both parties that the Claimant’s back condition was a disability within the

meaning of the Equality Act, and was ongoing, it was listed under past medical history, which was incorrect.

38. The Claimant stated that those consultations with OH were to discuss adjusted duties due to her back injury and not her mental health. However, she said that she agreed that she had improved in terms of her mental health and that she is “a functioning member of society” but this did not mean she was “cured” of her mental health related difficulties. She further stated that alleged poor treatment from her line manager in addition to her anxiety and PTSD led her to going on sick leave as she did not have any “emotional reserves” to cope with the stress caused by her work situation. I accept her evidence fully.

Law

39. The 2010 Act s6 materially provides:

A person (P) has a disability if –

**P has a physical or mental impairment, and
the impairment has a substantial and long-term adverse effect on P’s ability to carry out
normal day-to-day activities.**

40. “Substantial” means more than minor or trivial (s212(1)).
41. Schedule 1 to the 2010 Act contains further provisions supplementing the s6 definition of disability. By para 2(1), the effect of an impairment is “long-term” if (a) it has lasted for at least 12 months, (b) it is likely to last for at least 12 months, or (c) it is likely to last for the rest of the life of the person affected.
42. Para 5 enacts the important ‘deduced effects’ principle, requiring the Tribunal to disregard the effect of treatment being applied to the relevant impairment where, but for it, the impairment would be likely to have an effect satisfying s6(1)(b).
43. By para 2(2), if an impairment ceases to have a substantial adverse effect on a person's ability to carry out normal day-to-day activities, it is to be treated as continuing to have that effect if the effect is likely to recur.
44. In these contexts, something is “likely” if it “could well happen” (see the statutory Guidance on the Meaning of Disability 2011, para C3).
45. As to recurrence and fluctuating effects, there is additional guidance at C5 and C7 as follows:

C.5 The Act states that, if an impairment has had a substantial adverse effect on a person’s ability to carry out normal day-to-day activities but that effect ceases, the substantial effect is treated as continuing if it is likely to recur. (In deciding whether a person has had a disability in the past, the question is whether a substantial adverse effect has in fact occurred.) Conditions with effects which recur only sporadically or for short periods can still qualify as impairments for the purposes of the Act, in respect of the meaning of ‘long-term’ (Sch1, Para 2(2), see also paragraphs C3 to C4 (meaning of likely).)

C. 7 It is not necessary for the effect to be the same throughout the period which is being considered in relation to determining whether the ‘long-term’ element of the definition is met.

A person may still satisfy the long-term element of the definition even if the effect is not the same throughout the period. It may change: for example activities which are initially very difficult may become possible to a much greater extent. The effect might even disappear temporarily. Or other effects on the ability to carry out normal day-to-day activities may develop and the initial effect may disappear altogether.

46. The Equality Act 2010 (Disability) Regulations 2010 provide that certain conditions are not to be treated as impairments for the purposes of the 2010 Act. These include addiction to, or dependency upon, alcohol (reg3(1)).
47. The burden of proving disability is on the claimant: see *Tesco Stores Ltd v Tennant* [2020] IRLR 363 EAT, at para 11. Whether or not a person has a disability must be judged as at the date of the alleged discriminatory act.
48. As to recurrence, from *Swift v Chief Constable of Wiltshire Constabulary* 2004 ICR 909, EAT I derive the principle that the issue for the tribunal is not whether the impairment itself is likely to recur but whether the substantial adverse effect of the impairment is likely to recur. It is incumbent upon the tribunal to identify the effect of the impairment precisely.
49. *Sussex Partnership NHS Foundation Trust v Norris* EAT 0031/12 provides that any decision as to likelihood of recurrence must be supported by sufficient evidence. In that case, the tribunal's decision that the substantial adverse effect caused by the impairment was likely to recur was overturned by the EAT on the basis of insufficient evidence – there had only been one short period of substantial adverse effect and the claimant's medical expert had not taken into account the absence of evidence of adverse effects before that period, or after that period.
50. In *J v DLA Piper UK LLP* [2010] ICR 1052, the EAT stated:

41 The facts of the present case make it necessary to make two general points about depression as an impairment. ...

42 The first point concerns the legitimacy in principle of the kind of distinction made by the tribunal, as summarised at para 33(3) above, between two states of affairs which can produce broadly similar symptoms: those symptoms can be described in various ways, but we will be sufficiently understood if we refer to them as symptoms of low mood and anxiety. The first state of affairs is a mental illness or, if you prefer, a mental condition, which is conveniently referred to as clinical depression and is unquestionably an impairment within the meaning of the Act. The second is not characterised as a mental condition at all but simply as a reaction to adverse circumstances (such as problems at work) or, if the jargon may be forgiven, adverse life events. ... We accept that it may be a difficult distinction to apply in a particular case ... Fortunately, however, we would not expect those difficulties often to cause a real problem in the context of a claim under the Act. This is because of the long-term effect requirement. If, as we recommend at para 40(2) above, a tribunal starts by considering the adverse effect issue and finds that the claimant's ability to carry out normal day-to-day activities has been substantially impaired by symptoms characteristic of depression for 12 months or more, it would in most cases be likely to conclude that he or she was indeed suffering "clinical depression" rather than simply a reaction to adverse circumstances: it is a common sense observation that such reactions are not normally long-lived.

...

45 The second general point that we need to make about depression as a disability concerns the question of recurrence. ... We proceed by considering two extreme examples. Take first the case of a woman who suffers a depressive illness in her early twenties. The illness lasts for over a year and has a serious impact on her ability to carry out normal day-to-day activities. But she makes a complete recovery and is thereafter symptom-free for 30 years, at which point she suffers a second depressive illness. It appears to be the case that statistically the fact of the earlier illness means that she was more likely than a person without such a history to suffer a further episode of depression. Nevertheless it does not seem to us that for that reason alone she can be said during the intervening 30 years to be suffering from

a mental impairment (presumably to be characterised as “vulnerability to depression” or something of that kind): rather the model is of someone who has suffered two distinct illnesses, or impairments, at different points in her life. Our second example is of a woman who over, say, a five-year period suffers several short episodes of depression which have a substantial adverse impact on her ability to carry out normal day-to-day activities but who between those episodes is symptom-free and does not require treatment. In such a case it may be appropriate, though the question is one on which medical evidence would be required, to regard her as suffering from a mental impairment throughout the period in question, ie even between episodes: the model would be not of a number of discrete illnesses but of a single condition producing recurrent symptomatic episodes. In the former case, the issue of whether the second illness amounted to a disability would fall to be answered simply by reference to the degree and duration of the adverse effects of that illness. But in the latter, the woman could, if the medical evidence supported the diagnosis of a condition producing recurrent symptomatic episodes, properly claim to be disabled throughout the period: even if each individual episode were too short for its adverse effects (including “deduced effects”) to be regarded as “long-term” she could invoke paragraph 2(2) of Schedule 1 (provided she could show that the effects were “likely to recur”): see para 8(2) above.

Summary of the parties’ principal arguments

51. The Claimant’s position is that she has had ongoing symptoms of her mental health conditions since 2019 and that these have a substantial adverse effect on her day-to-day activities. She states that the fact that she was allowed to work from home shows that her impairments were ongoing and that she needed adjustments due to her mental health.
52. The Respondent’s position is that while the Claimant had disabling PTSD and anxiety during 2019 and 2020, she did not have disabling PTSD or anxiety after 2021 and in particular not during 2023 or 2024. The Respondent maintains that when one considers whether the Claimant had substantial impairment of her ability to carry out day to day activities due to anxiety or PTSD from January to May 2024, the answer is that she did not.
53. On recurrence, the Respondent submits that that this is not a case to which the above referenced second scenario in *J v DLA Piper* applies. This is because in the words of Mr Chigwidden it is not a “roller coaster” case where the Claimant had disabling mental health conditions which went away and then returned. His position is that the Claimant never had disabling anxiety after 2021 and so I do not need to consider whether it is “likely to recur”.

Conclusions

54. I begin with the issue of whether there was an impairment. It is undoubtedly the case that there was. The Respondent has accepted that the Claimant had PTSD and anxiety. The issue, as noted above, is that the Respondent denies that the Claimant had disabling anxiety and PTSD after 2021.
55. What was the impairment? Again, it is evident that it was a mental impairment in the form of both PTSD and anxiety.
56. I move now to adverse effect. Having regard to my findings of fact, I conclude that between December 2019 and mid 2021, the Claimant experienced a substantial adverse effect on her ability to undertake normal day-to-day activities as a result of her symptoms of both anxiety and PTSD. In this regard, I refer to my findings on her cognitive functions including her thinking, her ability to concentrate, and also her mood. I consider that

through a combination of regular counselling, medication and other coping strategies the Claimant managed to function relatively well.

57. I infer that but for the medication and counselling, she would have experienced ongoing symptoms which would have been sufficiently grave to meet the requirement of a “substantial” (i.e. more than minor or trivial) adverse effect on her ability to undertake normal day-to-day activities.
58. I further conclude that the adverse effects were “long-term” since they are to be regarded as having lasted for a continuous period of two and a half years.
59. From mid-2021, when the Claimant ceased taking anti-depressant medication and reduced her counselling to *ad-hoc* sessions, I consider that the Claimant had improved significantly and was not experiencing substantial adverse effects on her day-to-day activities due to PTSD or anxiety. I consider that between mid 2021 and the end of 2023, her residual symptoms of PTSD and anxiety were broadly manageable without medication and with *ad-hoc* counselling sessions. In reaching this conclusion, I also rely on the OH assessment from March 2023 which noted in relation to her mental health “no mental health related symptoms at present but has history of PTSD”.
60. I also have regard to the Claimant’s own pleadings, specifically her particulars of claim where she said that she had PTSD after the death of her husband but “no longer experience[s] it” and, in relation to her anxiety “it was not until these incidents at work did I start to feel anxiety again”. Based on all of the evidence, I am unable to conclude that from the period of mid 2021 to the end of 2023 that it was likely that she would have a recurrence of her conditions such that there would have been a substantial adverse effect on her ability to carry out day-to-day activities. The effect of this is that her disability is not treated as continuous from 2019 onwards.
61. However, the matter does not end there. Based on the findings of fact, I consider that the Claimant was experiencing anxiety from February 2024 onwards such that the symptoms of her anxiety had a substantial adverse effect on her ability to carry out normal day to day activities. There were a combination of ‘triggering’ events which included: restructuring at work, the requirement for her to cease working from home, her sister’s illness and her mother’s illness. The effects on the Claimant were significant as evidenced in the medical records including the PH assessment from 7 March 2024 which remarked on her sleep being disturbed, her having persistent anxiety and concluded that she “remains vulnerable to future episodes however with appropriate support the risks can be minimised.”
62. It is further noted that the Claimant went on sick leave in March, returned briefly in April and again went on sick leave just a few days later. She then recommenced taking anti-depressant medication in May 2024. I consider that the observation that she was managing better day-to-day is attributable to her own coping strategies including taking exercise, and her anti-depressant medication.

63. I do not accept the Respondent's submissions to the effect that the Claimant's symptoms from the beginning of 2024 onwards should be regarded merely as 'stress' reactions to difficulties at work and other stressful life events. Nor do I accept that she did not experience any 'disabling anxiety' after 2021.
64. It is axiomatic that concerns about work (including job restructuring and disciplinary action) and family illness are common stressors. However, the fact that particular stressors provoked particular symptoms of anxiety is consistent with the Claimant's case, which was that her symptoms of anxiety returned in 2024. As she said herself, she had no emotional reserves left to deal with the stressful events that arose at the beginning of 2024.
65. The Claimant does not contend, nor do I find, that her PTSD recurred. Again, in her own words, while she had PTSD after the death of her husband, "she no longer experience[s] it". Nor do I consider that it was 'likely' to recur given that it was in essence specifically related to the death of her husband. My conclusions are also supported by the available medical evidence.
66. In my view it was "likely" that, by the time when the Claimant's symptoms of anxiety became severe (at the latest by February 2024), the impairment would last at least a year (the 2010 Act, sch1, para 2(1)(b)). The prospect, in February 2024, that the condition "might well" last a year would have been clear then, given the Claimant's history of anxiety, the fact that medication had been prescribed to her in the past, was prescribed again in May 2024 and could be expected to be prescribed for a period into the future. The conclusion is all the more cogent when one considers the 'deduced effect' principle: the assessment of 'likelihood' does not take account of the presumed effects of the medication that would have been prescribed.
67. I would also conclude, if required to, that, even if it was not open to me to conclude as to the likelihood of the substantial adverse effect lasting for a year or more, the Claimant would in my view succeed on the basis that the effects were "likely" to recur (sch1, para 2(2)). Again, the deduced effects principle is in operation: I consider that there was at least a good chance that, (without considering the effects of the medication), symptoms causing a substantial adverse effect on the Claimant's ability to perform normal day-to-day activities would indeed have recurred.
68. For these reasons, I have concluded that the Claimant was disabled due to anxiety (but not PTSD) from January 2024 onwards. As such, the Claimant succeeds on the preliminary issue of disability. Her claims may proceed to final hearing on the basis of disability both due to her back condition and anxiety.

Date 15 September 2025

JUDGMENT & REASONS SENT TO THE PARTIES ON

22 September 2025

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FOR THE TRIBUNAL OFFICE