



EMPLOYMENT TRIBUNALS

Claimant: Ms S Shaheen

Respondent: Home Office

Heard at: Reading (Video Hearing) On: 14, 15, 16, 17, 22, 23, 24, 25, 28 April 2025, 21, 22, 23 May 2025, (tribunal discussions on 29, 30 July 2027)

Before: Employment Judge Gumbiti-Zimuto
Members: Mr S Holford and Mrs M C Prettyman

Representation

Claimant: Mr J Horan, counsel

Respondent: Mr E Beever, counsel

RESERVED JUDGMENT

The claimants complaints are not well founded and are dismissed.

REASONS

1. In claim forms presented on 23 June 2023 and 11 December 2023 the claimant complained of disability discrimination, victimisation and harassment. The respondent defends the claims.
2. The issues to be decided in this case were set out in an agreed list of issues, agreed by the parties on 14 April 2025 and set in the appendix below.
3. The hearing in this case took place over 12 days between 14 April and 23 May 2025. Regrettably it was not possible to complete the hearing of the case in the time allocated. The effect of that is that the time for Tribunal discussions and deliberations was delayed until 29 and 30 July 2025. These were the earliest dates on which the Tribunal could meet to reach a decision on the case. Unfortunately it has not been possible for the Judgment and reasons for the decision to be completed and sent to the parties until September 2025, we apologise for this further delay which was as a result of the Judge being unable to complete this task any earlier.
4. The claimant gave evidence in support of her own case and also relied on the evidence of Atul Sikand. The respondent relied on the evidence of

Beverley Marritt, Erin Brooks, James Brereton, Kelly Tipton, Nicola Ward, Sarah Burton and Steve Lindsay. All the witnesses provided the Tribunal written statements which were presented as their evidence. The parties also provided a trial bundle containing 2353 pages of documents. From these sources we made the following findings of fact.

5. The claimant commenced employment with the respondent on 24 April 2016 as an Administrative Officer. In September 2018 she was promoted to Executive Officer grade in the role of Engagement Officer.
6. The claimant's role required her to conduct "*face to face engagements with detained persons, carrying out initial inductions, service of paperwork, recording all engagements on the Home Office IT systems, conducting immigration surgeries and providing case updates to the detained persons at their request.*"
7. The claimant worked part-time, 24 hours per week.
8. The claimant has various disabilities: depression and anxiety, chronic lower back pain, repetitive strain injury, melanocytoma pain in her right foot. The respondent accepted that the claimant is a disabled person but did not accept that the pain in the claimant's right foot amounted to disability within the meaning of section 6 of the Equality Act 2010 (EA 2010).
9. The claimant gave evidence that she is not able to "walk some distances", that she finds it "extremely difficult to walk and stand for any length of time... and short walks challenging and painful".
10. The claimant's disabilities impact on her ability to carry out her work duties and various adjustments were made to facilitate the claimant's ability to perform her role. This evidence was not contested
11. The respondent was provided with advice from Occupational Health (OH) which has resulted in the claimant being provided with various adjustments that were recorded in her 'Disability Passport'. The claimant was provided with an ergonomic chair, desk, large monitor and keyboard; adjusted trigger points for future sickness absence relating to chronic back pain and/or melanocytoma increased by 50% from 4 to 6 days; Monthly one-to-one meetings for additional support and opportunity to discuss work-related concerns; 5-minute breaks every half hour; a permanent workstation; and to monitor workload on a daily basis.
12. The respondent gave instructions to the claimant's colleagues to inform them that no-one else should use the claimant's adjusted workstation and that the claimant had a permanent workstation. Further adjustments were agreed as shown by the Area Manager instructing the Operational Manager that they must ensure that the claimant is not the only officer working on late shift and if this cannot be accommodated a shift change with another member of staff was to be considered.
13. The claimant's Disability Passport was reviewed in about February 2023 and further specialised equipment as recommended was provided.

14. The claimant made a grievance in Dec 2020 against Beverley Marritt and Harpreet Deol and brought an Employment Tribunal claim against the respondent in June 2021, Beverley Marritt and Harpreet Deol were named respondents. This was a protected act within the meaning of section 27(2) Equality Act 2010.
15. Following an incident on 14 February 2022, during which the claimant was subjected to verbal abuse and surrounded by male detainees, a risk assessment was carried out which resulted in the claimant being 'discharged' from duties on 17 February and then on 22 February 2022 being placed on disability leave. The risk assessment found that there was an increased detriment to the mental health of the claimant by virtue of working in the detained environment, that there was a substantial risk to the claimant's mental health and well-being if sufficient provisions are not put in place to support the claimant's face to face activity with detained persons. The finding on the risk assessment read:
16. *"Sajida's conditions are exacerbated by working in the detained environment Sajida to be placed on disability leave until risks can be mitigated. Local arrangements to be explored before seeking advice in the form of an OH referral."*
17. The claimant was written to by Harpreet Deol part of what was written is as follows:

"You are not suspended you are on disability leave. Disability leave is a special paid leave for disabled employees. It's a type of adjustment that can be applied when an employee is fit to work but requires special leave with pay for rehabilitation, assessment, and or treatment, directly related to their disability."
18. On 2 March 2022 the claimant submitted a grievance via her solicitor. The grievance was a protected act within the meaning of section 27 (2) EA 2010.
19. The claimant was required to stay away from work and given limited work to undertake from home. The claimant was invited to a meeting with Harpreet Deol and Erin Brooks to discuss "options to move forward with the current position of disability leave whilst pending reasonable adjustments.". This was to be a formal meeting and the claimant was told she could bring a Trade Union Representative or work colleague to the meeting.
20. A meeting under the Workplace Reasonable Adjustment policy was planned to take place on 10 March 2022 but was unable to take place on that date, a meeting did take place on 24 March 2022 with the claimant, Erin Brooks, Harpreet Deol and a note taker present. It was agreed that the claimant could return to her duties.
21. The claimant was informed that her grievance had been passed to a decision manager, Sam Campbell.
22. The grievance meeting took place on 11 July 2022. On 29 July 2022 the decision was that the grievance was not upheld. The claimant appealed the decision and on 19 November 2022 the decision made to not uphold the

grievance appeal was not upheld.

23. On 14 January 2022 Beverley Marritt asked the claimant to carry out a task. The effect of that request was that the claimant was being allocated additional work in a way that is contrary to what was agreed as a reasonable adjustment for the claimant. The claimant informed Harpreet Deol, about this and he acknowledged this and explained that to avoid it occurring again it would be necessary to share information contained in the claimant's Workplace Passport. The claimant agreed that he could share the information as he saw fit.
24. On 24 March 2022, the claimant raised her concern that her permanent desk (i.e. static desk), adapted for her use, was being used by others in her absence. The claimant considers that this was in breach of the claimant's workplace passport, however, the claimant's workplace passport stated that the claimant should have a permanent station this was not always interpreted as requiring the claimant to have exclusive use of that desk, i.e. that nobody could use it other than the claimant even when the claimant was not at work.
25. The requirement for workstations was not constant at some points there was no pressure and therefore effectively all could have exclusive workstations, at other times it was necessary to have a flexible workstations. The respondent had a policy that anticipated this situation, it was referred to in a email from Harpreet Deol to the claimant sent on 29 March 2022:

"The Flexible desk sharing | Horizon sets out the confines but specifically:

2.3.2 Static Work Styles

Individuals identified as requiring a 'static' work style are people who have to work at exactly the same desk every day owing to either: specially adapted furniture, equipment or IT packages that they need to do their job effectively. Although those who are static have use of the desk when they are in they will be expected to operate a clear desk policy and when they are not at their desk it should be made available for use by other colleagues (where it can be, bearing in mind that certain adaptations to the work station may make it unsuitable for use by others). It will be for team leaders/line managers within the local business area to identify those who have special requirements and need to be allocated a static work style. There will be an expectation that all static staff will be expected to use a personal storage unit along with all other staff. There may be situations where individuals requiring a static work style are identified after sharing ratios have been calculated. While the sharing ratios allow some flexibility for these situations, any decision to make a member of staff static will impact on the desks left available for the rest of the team to share. The final decision will lie with local management."

26. Harpreet Deol considered that the policy allowed for the claimant's desk to be used by other colleagues when she was not at work.
27. From 3 May 2022 Erin Brooks became the claimant's line manager.

28. The adjustments that had been made were not treated as hard and fast by the parties. The claimant and Harpreet Deol discussed how the claimant could fit in with a change of working practise which meant that she would have to work late shift (p511) doing so would mean that her adjustment that stated that she was not to do Admin Officer duties had to be revised (the claimant was to scan the inbox for no more than 2 minutes to see if there was anything urgent).
29. From 2022 the respondent enforced a 'Clear Desk and Screen Policy' under which no employees did not have allocated desks. While the policy may have existed, it was not previously enforced because there were more desks than staff and staff tended to be sat at the same desks each day. The claimant's permanent workstation had been set up specifically to address her special needs arising from her disability.
30. In October 2022 the claimant's line manager was Atul Sikand.
31. Atlas is a Home Office data base used by the claimant in her work. An incident occurred on 1 February 2023 when, whilst at her desk, Beverley Marritt shouted "*Sarj check on Atlas*". The claimant describes how she stopped what she was doing and looked up what Beverley Marritt wanted. Beverley Marritt version of this event is significantly different.
32. On 2 February 2023 in an email Nicola Ward and copied to Atul Sikand the claimant complained about this incident.

"I was in a middle of a task when Bev suddenly shouts in an aggressive tone "Sarj check on Atlas". This is unacceptable behaviour from HEO Bev and I felt humiliated and publicly embarrassed in front of team members. I cannot tolerate any unprofessional and aggressive behaviour and remind Bev of G7 Shafia's email sent in relation to Professionalism and Standards... I am being picked on and targeted by Bev due to a previous grievance... I will not be harassed and victimised and made a mockery of due to my disability despite Bev had constructive knowledge of my disability and workplace disability passport. You acknowledged Bev's tone was unacceptable and that you will take action. Accordingly."

33. Nicola Ward's response was to speak to Beverley Marritt about how the claimant "*perceived the way she [Beverley Marritt] spoke to [the claimant] and the subsequent impact this had on [the claimant].*" Nicola Ward stated that she would deal with it informally and hoped this "*has drawn the matters you have raised to a close.*"
34. In an email dated 6 February 2023 from Atul Sikand to Nicola Ward, Atul Sikand wrote that there had been occasions since October 2022 where some team members had made inappropriate comments or questioned the claimant's reasonable adjustments. Atul Sikand refers to an occasion when Beverley Marritt asked if the claimant was still car sharing with Atul Sikand:

"I said No, She has Access to work funding and she takes taxis to commute between work and home. Bev laughed and made a joke about Sarj saying "what is wrong with her? She only has a malignant eye tumour.... She then went on to say what a waste f tax payer's money."

35. The claimant explains how this email exchange was mistakenly sent to her when she made a data subject access request.
36. The claimant complains that on 6 March 2023 Beverley Marritt, in addition to the normal duty officer work, requested that the claimant to some additional work and that this ignored the reasonable adjustments in place for the claimant. The claimant complains that Beverley Marritt placed the additional work on her desk and stated that all Engagement Officers have been allocated 4 monthly reports and instructed the claimant to complete it the same day, making it clear there were no exceptions.
37. On 9 March 2023 in a meeting with Nicola Ward and Atul Sikand the claimant complained that her reasonable adjustments were being disregarded by Beverley Marritt in respect of the claimant's workload and that her behaviour was impacting on the claimant's wellbeing. During that meeting Nicola Ward told the claimant that her static desk could be used by other staff on the claimant's non-working days. During this meeting the claimant went through the reasonable adjustments that had been agreed and said told Nicola Ward that she wanted them adhered to.
38. Nicola Ward then proceeded to make the decision that the claimant should not work on late shifts. There had been agreement that the claimant could work late shifts with the restriction that she was to *"look at the duty inbox for 2 minutes at 18:00"*.
39. On 15 March 2023, in a management team discussion at which the claimant was not present it is alleged that Beverley Marritt said *"Sarj will not have a big desk, as it will be removed, as everyone will have the same small desks"*. Beverley Marritt denied that this was the case.
40. On 15 March 2023 the claimant says that Beverley Marritt said to her in an aggressive tone, *"Did you hear that Sarj?"*
41. The claimant met with Nicola Ward on 15 March 2023 and discussed her reasonable adjustments. The content of their meeting was recorded by the claimant in an email (p590) sent to Nicola Ward on 16 March 2023 to which Nicola Ward made annotations.
42. The claimant also says that she noted that Beverley Marritt discussed the claimant's adjustments (a confidential matter) openly in the office with Atul Sikand.
43. The claimant was on special leave (unpaid) from 17 March 2023 until 5 June 2023. During the time that the claimant was away her desk was used by Beverley Marritt and the claimant's specialised equipment was moved.
44. On 20 April 2023 the claimant sent an email to Atul Sikand and copied the email to Sarah Burton. In the email the claimant complained about Beverley Marritt using her desk and moving her specialised equipment when, in the claimant's view, it had been agreed by Nicola Ward that her desk and specialised equipment would not be moved or touched in her absence on special leave.

45. In her reply to the claimant's email Sarah Burton stated that the respondent had a 'hot desking arrangement' and that others could use the claimant's desk when she was not in the office. In the email Sarah Burton reminded the claimant to respect a settlement between the claimant and the respondent in another case and warning that *"failure to respect that could mean that the Home Office would consider taking some action."*
46. The claimant says that on 30 June 2023 Beverley Marritt placed her on morning list to start at 9:30 and that this was in breach of the claimant's reasonable adjustment to start later. The offending passage of the email that the claimant complained of reads: *"Morning list made for Sarj 9:30 as presuming travelling in with Atul. Apologies if f this is incorrect and I'm sure the list can be pushed back if necessary."*
47. The claimant works under an Annualised Hours Agreement. She complains that while the relevant Policy provides that overtime is not to be used to remunerate for extra hours worked until all the AHA target hours have been worked, a decision was taken by local management to change this provision so that any hours worked over a shift or on a non-working day would be remunerated with overtime rather than TOIL. The claimant and her team were notified of this in an email Nicola Ward on 3 May 2023.
48. The claimant requested an adjustment to the local policy so that when she worked overtime on her non - working days to be granted TOIL. The reason for this request was that if she was paid overtime it would impact on her disability benefit.
49. The claimant carried out overtime on 13 June 2023 and asked if an adjustment could be made to allow her to take this time as TOIL rather than to be paid overtime. When this was refused, she compares this with non-disabled employees who were in receipt of paid overtime for working on their non-working days and also in receipt of TOIL for working shift extensions. The claimant points to GT, an Admin Officer and a non-disabled employee, who was granted TOIL in July 2023.
50. On 23rd August 2023 Nicola Ward sent the claimant an email refusing the claimant's request. Nicola Ward explained her decision in the following way:
- "Whilst I appreciate your request/preference for TOIL. Overtime is not a contractual obligation that you are required to do and as such, this is not a reasonable adjustment that we are able to implement at this time as it does not meet our business need.*
- At the moment we have in place the option to offer overtime to staff due to the current vacant posts we have within the team. This will cease once we have sufficient staffing levels in place. A decision was made by SMT that where there is an opportunity to offer overtime to the team, the remuneration for this would be payment only. This is a decision that has been made by SMT in conjunction with the wider DET team. This is not a decision specific just to you."*
51. The claimant says that her circumstances and those of GT were similar.

Nicola ward explained the difference in treatment in the following way:

“41 On 2 August 2023, Ms Shaheen emailed me stating that she considered that the application of the Annualised Hours Policy was discriminatory. This was because she was not able to work beyond her shift time as a reasonable adjustment, and as such was not entitled to accrue TOIL (which was her preference over overtime). Ms Shaheen’s reference to the Annualised Hours Policy was incorrect. As above, this is separate to the overtime process that was in place for DET.

42 I understand that Ms Shaheen relies on a comparator, Ms Taylor, in her claim. Ms Taylor had accrued a week’s worth of TOIL under the Annualised Hour Policy. As such she took a week off. This was different to the overtime process referenced above because she had accrued additional hours at the beginning or end of her shift (rather than coming to work on her days off). As an aside, she should not have been able to accrue that extent of time as TOIL under the Annualised Hours policy. If she were to come in on her days off she would have been paid to them. I am unaware of the impact on Ms Shaheen’s and her health conditions, by being paid overtime, rather than having TOIL. As above there was no obligation for her to come in on her days off.”

52. On 23 June 2023 the claimant made a Tribunal claim about failure to make reasonable adjustments, harassment, victimisation, direct discrimination and indirect discrimination.
53. In July 2023 allegations were made against the claimant and a Professional Standards Unit (PSU) investigation was commenced in relation to those allegations made by a detainee regarding an incident on 10 July 2023. The claimant was removed from client facing duties from 13 July 2023 to 9 October 2023. On 27 July 23 the claimant received a formal Notification of a Discipline Investigation.
54. The claimant contends that there were numerous complaints received from the same detainee against Home Office Staff and Serco Officers but unlike other colleagues, only the claimant was removed from face-to-face engagements. The claimant contends that she was treated unfairly compared to white colleagues who were not removed from face to face engagements or sent a formal letter from EB and request to attend an interview as a witness.
55. Nicola Ward points out that on 13 July 2023, she was informed that that an allegation regarding claimant’s conduct had been raised by a person in detention that included allegations of physical assault. The matter was investigated by the Professional Standards Unit, the claimant was taken off face to face engagement work with residents. Nicola Ward says this was usual and a way to protect and safeguard the claimant whilst the investigation took place. In respect of two other alleged colleagues it was explained that the PSU stated that the matter was suitable for local action and no PSU investigation was conducted. After an interview the claimant heard nothing more about the investigation in her case until on 4 October 2023 she was told by Nicola Ward that the matter had been closed and that there was no case for her to answer. The claimant went back to normal

duties from 9 October 2023.

56. There was an alleged incident on 3 August 2023, during which Beverley Marritt was present. The incident involved a Serco officer and the claimant. Initially a verbal complaint was made to Beverley Marritt about the claimant and so she asked that the matter be put into writing so that it could be escalated. On the 7 August 2023 Beverley Marritt informed the claimant that she had received a formal complaint against the claimant alleging unprofessional behaviour on 3 August 2023. The claimant disputed the allegation, and also that Beverley Marritt had been a witness to the incident giving rise to the complaint. Beverley Marritt passed the matter on to Atul Sikand to take the matter forward as the claimant's line manager. The matter was investigated by Atul Sikand who decided that no action would be taken.
57. The claimant complains that this was all victimisation of her by Beverley Marritt, on the other hand Beverley Marritt says she did not victimise the claimant, the complaint could not be ignored it had to be addressed.
58. The claimant says that On 23 August 2023 Beverley Marritt allocated additional work to her disregarding the claimant's reasonable adjustments. In an email to Atul Sikand the claimant stated that *"This is another example were Bev approached my desk twice demanding I do the list. I told Bev work had already been allocated by Nicola and you to me which I was in the middle of doing."* The version of events from Beverley Marritt is different, she says that on that day one EO became unwell but still wished to continue working, and so Beverley Marritt took the decision to put temporary adjustments in place so that she could undertake tasks that she felt that she could cope with on that day. The claimant and others were compiling the worklists for the following day and Beverley Marritt had asked them not to put certain tasks on this individual's list. Beverley Marritt approached the claimant and describes the claimant as having shouted *"no ! no ! no!"*, and left the office before Beverley Marritt could say anything. The accounts of this incident are very different.
59. 5 August 2023, following a further OH report on the claimant Atul Sikand revised the claimant's disability passport and updated Nicola Ward on the position. Nicola Ward then sent an email to Atul Sikand in which she asked him to seek some additional clarification on some points, this she stated was *"so that we can fully support [the claimant] in her role"*.
60. The claimant says out that her "workstation adjustments continued to be ignored, for example on 26 September 2023, a colleague Kate Maynard (KM), Engagement Officer was given permission by Nicola Ward to sit on my assigned desk."
61. This is explained by Nicola Ward as being because there were insufficient desks within the office, and the respondent's policy was that "all desks are static desks." So she stated that the claimant's desk could be used by others when the claimant was not at work. In her email to Atul Sikand and Beverley Marritt she cautioned "Please ensure that the equipment is not adjusted in any way whilst it is being used."

62. The claimant states that she received an automated notification around 25 September 2023 saying Nicola Ward had rejected the the claimant's disability passport. Nicola Ward explained that the disability passport had not been rejected Nicola Ward required "some additional information/clarification". The disability passport was not rejected Nicola Ward asked for clarification including clarification from Occupational Health and implemented the reasonable adjustments pending Occupational Health clarification.
63. In or around November 2023, Atul Sikand was going to do some suitability chats at the job centre with potential applicants for the role of Detention Engagement Officer. The claimant asked to be able to shadow him during this process. Atul Sikand was happy for the claimant to do so and approved her request. When Nicola Ward was informed, at the last minute, she refused giving her reasons for doing so. Nicola Ward informed Atul Sikand that she was unable to authorise it. Nicola Ward pointed out some other ways that the claimant could seek development opportunities. Nicola Ward explained her reasons to the claimant in a meeting on 8 November 2023.
64. In November 2023 the claimant was the subject of a grievance submitted by GT an Administrative Officer. The claimant had submitted a formal complaint against GT after an incident took place on 19 January 2023. Nicola Ward, who was new to the team, reassured the claimant that things will improve the claimant withdrew her formal complaint against GT in February 2023. On the 9 November 2023 the claimant received an email with a formal interview invite letter from the appointed Grievance Investigation Manager, SL was the appointed Decision Manager. In respect of GT's grievance, the decision was made 1 February 2024 with the grievance not being upheld and mediation was recommended, however, GT chose not to pursue that.
65. Throughout this process the claimant the claimant considers that the respondent failed to follow its own procedures. The claimant says that she had not been told what the allegations against her were, that she was not sent a formal template, the HGR25 setting out the allegation. After the formal invite to an interview meeting, which was cancelled, the claimant heard nothing more about the grievance until 1 February 2024 when the grievance was not upheld, finding out the allegations for the first time in the letter from SL the decision manager.
66. Meanwhile the claimant's own grievance raised in June 2023, was still outstanding and would remain so until April 2024. The claimant raised her concerns about the delays in process of her grievance.
67. On 22 November 2023 the claimant was asked by Atul Sikand to go with him to the boardroom. In the boardroom waiting was Nicola Ward and Sarah Burton.
68. The claimant was told that there had been a concern raised by a Mental Health First Aider about the claimant making a threat of self-harming, the reason for the meeting was to put the claimant on disability leave with immediate effect. The claimant was handed a letter dated 22 November 2023. The letter included the following passage:

I have been made aware of some recent instances of you suggesting you may self-harm because of your poor mental health. I am concerned that you have previously cited work as a trigger for your stress and anxiety. We are mindful of the duty of care that we owe to you and your colleagues, meaning we are unable to allow you to continue to work in circumstances where you have said that doing so may be harmful to your health. For that reason, I would like you to take some time out and seek medical help. As support for you, I am placing you on disability leave with immediate effect. You will continue to be paid full pay during this period of leave (unlike if you were on sick leave as your previous instances of sickness absence means you have/will shortly exhaust your full sick pay entitlement).

For you to return to work we will need an assessment from the Occupational Health team to confirm that you are well enough to undertake the role. I would also ask that you see your own GP and please share any documents/medical reports from them in order that we can ensure that we are supporting you fully.

69. The claimant stated that she did not want to go on disability leave because she was fit to work and denied the alleged contact with the Mental Health First Aider. The claimant was told that if she did not leave the work place the police and ambulance would be called to remove her.
70. The claimant left the room and called the Mental Health First Aider who confirmed that she had raised concerns to management about the claimant's mental health. Then after again being told that if she did not leave the workplace the police and an ambulance would be called, the claimant left.
71. The claimant was asked to agree to a referral to OH, she initially refused stating that she was fit to work but eventually relented and agreed. A report was prepared and received by the claimant on 24 January 2024. The report confirmed that the claimant was fit to work.
72. The claimant seeks to compare the way she was treated with the way that her colleagues KM, NM and NMo were treated. They were all affected by mental health issues at work. There is a material difference between these colleagues who were affected by mental health issues at work and the claimant. They did not seek to continue to work so it was not necessary to impose any disability leave on them.
73. Whilst the claimant was on disability leave she became aware of an HEO role being advertised on around 6 or 8 December 2023. An email was sent to the claimant's team but because she was away from the office, the claimant did not see this. Had she seen it she would have applied.
74. The claimant says that the medical suspension should have been lifted as soon as they had the medical evidence from her doctor to say she was fit but she remained on enforced disability leave and a condition was imposed that she needed an OHS assessment before she could return.
75. Despite the medical advice, Occupational Health advice and the claimant's wish to return to my work duties, the respondent kept her on disability leave. The claimant contacted several people in her line management chain around

27 November 2023.

76. The claimant submitted a second Tribunal claim, received by the Tribunal office on 11 Dec 23.
77. The claimant's Occupational Health report dated 23 January 2024 was received by Atul Sikan who reviewed the report and suggested a return to work date for the claimant on 29 January 2024. The OH report confirmed the claimant was medically fit and confirmed that the claimant could return to work immediately.
78. Atul Sikand however contacted the claimant and informed her that James Brereton, Director in Immigration Enforcement, had instructed him to inform her that she was not to return to work on 29 January 2023.
79. On 12 Feb 24 James Brereton wrote to the claimant setting out his review of the position in which he stated that he was recommending that the claimant return to work once a further report from Occupational Health has been received and a work stress risk assessment has been completed. He stated that this *"will ensure we have a clear picture of what needs to be done and at what point."* James Brereton also acknowledged that the claimant was yet to receive the outcome to the grievance she raised in the summer of 2023.
80. The claimant states that she received an automated notification around 25 September 2023 saying Nicola Ward had rejected the passport. Nicola Ward explained that the disability passport had not been rejected Nicola Ward required "some additional information/ clarification". Further clarification was provided to Nicola Ward in an email from Occupational Health forwarded to Nicola Ward around 16 November 2023.
81. There was an office refurbishment that took place around February 2024 and the claimant states that she was forced to move her desk from its original location into a corner of the room.
82. During the time the claimant was on disability leave she was informed that Beverly Marritt had informed a colleague (DH) that the claimant had been suspended from work.
83. On 13 March 2024 the claimant received a letter from James Brereton confirming that the disability leave was to be ended and the claimant was to be placed on 'special leave'. James Brereton explained the reasons for his actions in an email of 11 March 2024 (p1312).
84. James Brereton wrote that:

"Based on the detailed feedback Sarah Burton recorded in her conversation with Nicola Ward and Erin Brooks, I am extremely concerned about the current working environment in that team which is appearing to be negatively impacting a number of staff. There are on-going grievances within the team and active Employment Tribunal Claims. There may be a real risk to the operational effectiveness of the unit here, as well as a serious risk to staff health and wellbeing, and I need to find a way to address this."

I have therefore commissioned (with the help of my HRBP Grace Richards) an individual from Strategic & Transformation Services to conduct an investigation into the Detention Engagement Team at Yarl's Wood. The investigation Terms of Reference are focused on investigating the working environment in the DET to help understand the impact on the staff and operations.

...

Whilst [the claimant] has been on disability leave and away from the office, a number of reports to and from managers have been made about the impact this individual has had on them and the wider team. Based on the detailed accounts from Nicola Ward and Erin Brooks describing the impact Ms Shaheen's presence in the office and behaviour has had on them and the team, I am very concerned about having Ms Shaheen back in the office environment until the investigation has been completed and we can fully understand what has happened & who has been involved. My assessment based on the information I have available (including accounts from Nicola Ward, Erin Brookes and Sarah Burton) is that if she returns, it is likely that one or both of the DET Unit managers will go off on sick leave given the stress they have described to Sarah Burton. I have assessed all options that I feel are available before making my assessment on what action I need to take.

...

My assessment of the current situation within the team, is that given the given the nature of the current breakdown in relationship within that unit and particularly between Ms Shaheen and her line management chain (above her line manager) it will assist management parties (and Ms Shaheen) for her to not attend work while the investigation is on-going. I will put Ms Shaheen on special leave so she will suffer no financial or HR trigger detriment. I have discussed the type of leave with my HRBP, Grace Richard. She advises the use of special leave is within my authority for short term, specific situations."

85. On 13 March 24 the claimant was informed that James Brereton had commissioned an investigation into 'the culture and workplace environment' at the Yarl's Wood DET team and that it was to be carried out by James Clarke who would be in touch with the claimant to interview her and relevant staff.
86. The claimant considers that James Clarke was not impartial and acted in conflict with the Civil Service Code, she refers to data breaches including a spreadsheet circulated that contained her historical grievances and complaints.
87. In September 2024 James Clarke produced a report in which the claimant was criticised as being one of the reasons for the poor workplace culture at Yarl's Wood DET.
88. On 19 March 2024 the claimant asked to be allowed to return to work.
89. James Brereton had stated that he would review the special leave every two weeks the claimant complains that he did not adhere to this on a few occasions and this resulted in the claimant having to chase him via email.

90. On 13 May 2024 the claimant sent an email to the management team contending that they were in breach of the Home Office's Special Leave policy and pointing out the timescales under the policy to have someone on Special Leave had reached their limit. The claimant stated that she wanted to attend the team meeting the following day as she wished to distribute *"small gifts to the team to celebrate my granddaughter's birth."*
91. James Brereton replied to the claimant and informed her that she was not to attend the office. The claimant was told that James Brereton had reviewed the decision to place her on special leave and *"confirm that it is still the most appropriate course of action"*. The claimant was instructed that she must not attend Yarl's Wood Immigration Removal centre and that failing to adhere to the instruction might result in disciplinary action.
92. The claimant had submitted her third formal grievance on 12 June 2023. Sharon Oldfield was appointed as Decision Manager and Rachel Albery the Investigation Manager. On 22 August 2023 the claimant was told that Rachel Albery was finishing the grievance investigation report. The claimant wrote to Rachel Albery asking when the report had been completed and sent to the Decision Manager. On 30 November 2023 Rachel Albery informed the claimant that she had sent her completed report to the decision manager on 12 October 2023 but that she had now been informed that Sharon Oldfield had been replaced as Decision Manager on the grievance by Kelly Tipton.
93. On 25 October 2023 Sharon Oldfield wrote to the claimant stating that she had moved to a role whereby she is working with people the claimant had named in the grievance and so she did not think it is appropriate to continue as Decision Manager.
94. On 5 December 2023 the claimant wrote to Kelly Tipton stating that she had been on disability leave since 22/11 asking her to consult HR *"and confirm whether during my disability leave is this appropriate to hold a Grievance Hearing"*, Kelly Tipton responded stating that *"I think it is best we conduct the Grievance hearing in the New year"*. Kelly Tipton received advice that she could not complete the formal hearing as the claimant was on disability leave. The grievance meeting eventually took place on 28 March 2024 after the claimant was placed on special leave.
95. On 26 April 2024 the claimant was provided with the outcome of the grievance that she had been submitted in June 2023.
96. Kelly Tipton found that Beverly Marritt on two separate occasions had failed to implement agreed Reasonable Adjustments in place for the claimant.

"I find this as evidence of discrimination (protected characteristic disability) whilst arguably unintentional, HEO MARRITT did not follow the reasonable adjustments in place and has stated she was unaware the potential impact of her actions and decisions towards EO SHAHEEN."

"On the balance of probabilities, it is because of the significant breakdown of the professional relationship between EO Shaheen and HEO Marritt which has led to disrespect and ambivalence from HEO Marritt for the reasonable"

adjustments in place and her failure to adhere to them.”

97. The claimant submitted an appeal against the grievance outcome. The claimant then attended a grievance appeal hearing on 9 October 2024. On 25 October 2024 the claimant received the grievance appeal outcome, the claimant's appeal was largely upheld. The Appeal Manager recommended that an independent review of the claimant's case is conducted to identify any lessons learned, identify any further evidence of misconduct, and consider measures to prevent a re-occurrence.
98. James Clarke's review report was distributed to James Brereton on 6 November 2024 and then sent to the claimant. The claimant comments that the report is tainted by the fact that there were breaches of GDPR that render the outcomes unsafe.
99. James Brereton sent the claimant a letter putting the claimant on disability leave from 7 November 2024. The claimant says that she *“had a mental breakdown on 7 November 2024”* and she was signed off sick from work on 8 November 2024.

Statutory provisions

100. The provisions of the Equality Act 2010 that we have been primarily asked to consider are as following.
101. Direct discrimination: Section 13 Equality Act 2010 (as relevant) provides that: (1) A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.
102. Indirect discrimination: Section 19 Equality Act 2010 (as relevant) provides that: (1) A person (A) discriminates against another (B) if A applies to B a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic of B's. (2) For the purposes of subsection (1), a provision, criterion or practice is discriminatory in relation to a relevant protected characteristic of B's if— (a) A applies, or would apply, it to persons with whom B does not share the characteristic, (b) it puts, or would put, persons with whom B shares the characteristic at a particular disadvantage when compared with persons with whom B does not share it, (c) it puts, or would put, B at that disadvantage, and (d) A cannot show it to be a proportionate means of achieving a legitimate aim.
103. Reasonable adjustments: Section 20 Equality Act 2010 (as relevant) provides that: (1) Where this Act imposes a duty to make reasonable adjustments on a person, this section, sections 21 and 22 and the applicable Schedule apply; and for those purposes, a person on whom the duty is imposed is referred to as A. (2) The duty comprises the following three requirements. (3) The first requirement is a requirement, where a provision, criterion or practice of A's puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to

avoid the disadvantage. (4) The second requirement is a requirement, where a physical feature puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage. (5) The third requirement is a requirement, where a disabled person would, but for the provision of an auxiliary aid, be put at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to provide the auxiliary aid.

104. Harassment: Section 26 Equality Act 2010 (as relevant) provides that: (1) A person (A) harasses another (B) if — (a) A engages in unwanted conduct related to a relevant protected characteristic, and (b) the conduct has the purpose or effect of— (i) violating B's dignity, or (ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for B. ... (4) In deciding whether conduct has the effect referred to in subsection (1)(b), each of the following must be taken into account— (a) the perception of B; (b) the other circumstances of the case; (c) whether it is reasonable for the conduct to have that effect.
105. Victimisation: Section 27 Equality Act 2010 (as relevant) provides that: (1) A person (A) victimises another person (B) if A subjects B to a detriment because— (a) B does a protected act, or (b) A believes that B has done, or may do, a protected act. (2) Each of the following is a protected act— (a) bringing proceedings under this Act; (b) giving evidence or information in connection with proceedings under this Act; (c) doing any other thing for the purposes of or in connection with this Act; (d) making an allegation (whether or not express) that A or another person has contravened this Act.
106. Section 136 of the Equality Act 2010 provides that in proceedings relating to a contravention of this Act. If there are facts from which a Tribunal could decide, in the absence of any other explanation, that a person (A) contravened the provision concerned, the Tribunal must hold that the contravention occurred. This does not apply if (A) shows that A did not contravene the provision. We have been referred to the Annexe to Igen Ltd v Wong [2005] IRLR 258 that gives guidance on the application of the burden of proof in discrimination cases. Additionally we note that: *"The bare facts of a difference in status and a difference in treatment only indicate a possibility of discrimination. They are not, without more, sufficient material from which a tribunal "could conclude" that, on the balance of probabilities, the respondent had committed an unlawful act of discrimination. "Could conclude" must mean that "a reasonable tribunal could properly conclude" from all the evidence before it. This would include evidence adduced by the complainant in support of the allegations of ... discrimination, such as evidence of a difference in status, a difference in treatment and the reason for the differential treatment. It would also include evidence adduced by the respondent contesting the complaint."*¹

¹ Madarassy v Nomura International [2007] ICR 867

107. On a comparison of cases for the purposes of section 13, or 19 there must be no material difference between the circumstances relating to each case.²
108. The parties have been professionally represented and counsel for the parties have both prepared written submissions on the law which we have taken into account and found helpful in considering this case.

Conclusions

Indirect discrimination

109. The respondent accepts that it applied a clear desks and screen policy. This is also referred to as a hot desk policy at times. For the purposes of this judgment they mean the same thing.
110. The respondent admits that it operated the Annualised Hours Working Policy in respect of hours worked and subject to the authorisation of the manager at the time.
111. The respondent accepts that it has a practice of Engagement Officers being required to engage with detainees in interview rooms at the far side of the respondent's offices (the Bunting Safeguarding Unit (sex offenders only) and female unit named Nightingale Unit).
112. The claimant's evidence did not address the question whether the PCP's puts, or would put, persons with whom the claimant shares the characteristic at a particular disadvantage when compared with persons with whom the claimant does not share it. However, the Tribunal accept that the evidence of the claimant has shown that the claimant would be put at a disadvantage in respect of the clear desks and screen policy, because the claimant suffered pain and discomfort whilst working at desk or with equipment that is not adapted to her needs, that the claimant had heightened fatigue impacting her ability to concentrate, that the claimant finds it challenging to navigate her way around the office when experiencing a flare up and that she had increased stress, anxiety, fear and worry due to her anxiety disorder.
113. The claimant's evidence did not show that the Annualised Hours Working Policy put those with whom the claimant shares the characteristic at a particular disadvantage. The claimant's evidence did not show that the claimant suffered a disadvantage arising from the operation of the Annualised Hours Working Policy that arose from the claimant's disability. Any disadvantage the claimant had arose from the way the claimant's benefits operated. It was the claimant's benefits status not her disability that created a disadvantage in respect of the policy.
114. The respondent does not accept that the claimant has been able to establish a disability in relation to her foot. We note that the claimant gave evidence that she is not able to "walk some distances", that she finds it "extremely difficult to walk and stand for any length of time... and short walks challenging and painful". The impairment has to be long term before it is a disability. The impairment appears to arise in August 2023 and it is not clear

² Section 23 (1) Equality Act 2010

that it met the long term test until it has either lasted 12 months (July 2024) or when it is likely to last 12 months.

115. The Tribunal is satisfied that the respondent has shown that the Clear Desks and Screen policy was a proportionate means of achieving a legitimate aim. The evidence showed that the policy was legitimate and proportionate because it assisted in respect of utilising desk space. The policy was applied in way that was flexible to fit the prevailing conditions, when there was a surfeit of desks it was not applied in the same as when there were fewer desks available in relation to staff. The policy as operated by the respondent permitted of an exception for the claimant.

116. The Annualised Hours Working policy is proportionate and legitimate. It does not operate to create any disadvantage to the claimant as she complained. The claimant's issue related to the decisions taken in respect of time off in lieu (TOIL).

117. Initially staff had been able to work overtime (i.e. coming in to work on their rest days), and the time could be accrued as payment or TOIL. The respondent found that some were staff coming in repeatedly on their days off and this had the effect that they were accruing time off and some people would accrue so much time off they could have about a week off. This had an adverse effect on the business and defeated the object of implementing overtime. To address this the respondent decided that if an individual wanted to come in on their day off, that it would be for payment only. The overtime payment was an incentive to address the resourcing issue that was being faced in the team at the time. The policy made sense because if TOIL was given in lieu of payment the workload issue would not be addressed as the respondent would not in fact get anymore work out of employees coming on their days off. They would in reality just be swapping them around.

118. The Annualised Hours Policy, was a different policy, that is where an individual works an agreed number of hours over a 12 month period, rather than working a set number of hours each week, they can claim back time when they work more hours on their shift.

119. In respect of the Practice of Engagement Officers being required to engage with detainees in the interview rooms at the far side of the respondent's offices (Issue 6c). When the respondent was aware of the issue of the claimant's foot Nicola Ward investigated and in the interim implemented adjustments. Nicola Ward sought further clarification from Occupational Health meanwhile Nicola Ward informed the claimant that the reasonable adjustments requested would be "implemented until we hear back from OH". There was no response from Occupational Health before the claimant was away from work on disability/special leave.

Reasonable adjustments

120. Issue 12 asks *"Did the respondent fail in its duty to make reasonable adjustments by removing adjustments previously in place thus, removing the disadvantage caused by PCP 13a..."* The adjustment referred to is: "The respondent's hot desk policy or, as the respondent notes in its grounds of resistance, the Clear Desk and Screen policy."

121. The conclusion of the Tribunal is that the answer is no, the respondent did not fail in its duty because it did not remove adjustments previously in place. The evidence shows that the claimant's desk was available for her to use whenever she was at work. There was nothing inconsistent with the claimant's recommended adjustments and the way that the respondent operated with the claimant's desk being used by others when she was not at work and exclusively used by her when she was at work. Initially such an approach was consistent with the occupational recommendations.
122. There came a time when the recommendations changed and the position was that the claimant's desk was to be for her exclusive use, i.e. that others were not to use her desk at all even when she was not at work. The claimant's evidence references only one occasion after the change in the recommendation to the position that the claimant's desk was not to be used by anyone else when she was not at work. The Tribunal conclude that the respondent did not remove adjustments that had been agreed. In any event if this single occasion can be seen as "removing adjustments previously in place", it did not amount to a breach of the duty to make a reasonable adjustment. The claimant had been away from the work place for an extended period and on the occasion of her return matters were replaced as they were so that the claimant could resume work with the adjustments in place.
123. The list of issues asks whether the application of the PCP's about the clear desk policy and "allocating the same workload to all Engagement Officers" put the claimant at a substantial disadvantage in relation to a matter relevant for comparison with persons who are not disabled and then lists four matters;
- a. Increased stress, anxiety, fear and worry of uncertainty due to her anxiety disorder;
 - b. Being unable to carry out her role without a specific monitor due to her melanocytoma;
 - c. Chronic back pain;
 - d. All of which have a huge detrimental impact on the claimant physical and mental health.
- The Tribunal recognises that the claimant is, due to her disability, likely to be more susceptible to the four matters set out and therefore disadvantaged.
124. In issues 15 the question is whether the annualised hours working policy subjects the claimant to a substantial disadvantage in relation to a relevant matter in comparison with person who are not disabled because the claimant cannot take TOIL as compared to her non-disabled colleagues. The Tribunal's conclusion on this is issue is that it does not. As stated above the disadvantage that the claimant suffers is due to her benefit status and not due to disability.
125. In issue 16 the question is whether the practice of interviewing detainees in the interview rooms on the far side of the respondent's offices put the claimant at a substantial detriment in comparison to persons who are not disabled because the claimant is unable to walk longer distances due to her impaired mobility. The conclusion of the Tribunal is that there was no breach of the duty to make adjustments.

126. Following an Occupational Health assessment on 25 August 2023, due to her back and foot pain, the report stated that the claimant “should not be asked to work in those new areas, but continue to carry out engagements in the main area only”. This was when Nicola Ward first became aware of the claimant’s foot pain. There is a general requirement that Engagement Officers are able to work in all parts of Yarl’s Wood. An Engagement Officer is required to go to a different area of the building, in order to carry out their role (namely, to attend engagements with detainees). Nicola Ward took HR advice, it was not clear to her what a “*short distance*” meant within the context of the Occupational Health report.
127. At a meeting on 25 September 2023, Nicola Ward sought clarification from the claimant and then she asked for further clarification from Occupational Health. Nicola Ward measured the distance between the claimant’s desk and the legal corridor, where detainee interviews took place and found that it was further to walk from the car park to the claimant’s desk than it to walk to the legal corridor. Pending the reply from Occupational Health the adjustments sought were implemented.
128. In issue 17 there are a list of adjustments sought, the evidence the Tribunal heard showed that all the adjustments listed from a to h and at j were implemented. The Tribunal accept that evidence.
129. In respect of the matters listed at i, allowing the claimant to take TOIL, rather than paid overtime on her working days, to ensure the claimant had suitable rest. This was a not a reasonable adjustment from a disability point of view it was a matter which related to the claimant’s benefit status.

Victimisation

130. The claimant has shown that she did the following protected acts: Email dated 2 February 2023 to Atul Sikand regarding Beverley Marritts’ behaviour; Email dated 17 March 2023 to Nicola Ward regarding reasonable adjustments being removed and her adjustments being mocked by Beverley Marritt; Email dated 6 June 2023 to Sarah Burton regarding the claimant’s reasonable adjustments and treatment Beverley Marritt subjected the claimant to; The claimant’s Employment Tribunal claim dated June 2021; The claimant’s grievance dated 2 March 2022 and; The claimant’s grievance dated 12 June 2023; The claimant’s Tribunal claim dated 23 June 2023; and The claimant’s Second Tribunal claim dated 11 December 2024.
131. At the heart of this case is the question whether the respondent’s actions were because of the claimant having done protected acts. The complexities of the situation are illustrated in the claimant’s grievances which show that the claimant was genuinely distressed by events that occurred, the claimant’s witness statement is peppered with references to the claimant feeling that she had been humiliated, was distressed, tearful and similar expressions of upset and hurt by the actions done to her. An illustration is found at paragraph 43 of the claimant’s witness statement.
132. The respondent’s submission is that the claimant has been “*unable to see perspective*” and points to the impact on the claimant’s colleagues of the

claimant's behaviour. In its submissions the respondent points to the James Clark report and asks, *"Is James Clark report proof of a desire from managers to get rid of the claimant or rather a genuine appraisal of a very challenging situation?"*

133. It was plain to the Tribunal that the impact of these events on everyone involved had been significant. We found all the witnesses on their face credible, we consider that errors in the evidence or areas where we do not accept the account given by a witness was not because of a desire to mislead us but more likely because these were events that created stressful situations for the people involved and individual perceptions of the same things may be very different in particular where the situation is stressful. We reject the invitation of both sides to, where there is conflict, accept their version of the evidence over the other side and we have attempted to assess matters for ourselves.
134. The claimant alleges that she was subjected to Beverley Marritt's continual harassing behaviour toward her since raising complaints to the Tribunal in June 2021. Beverley Marritt and the claimant attended mediation in 2021 and then Beverley Marritt was aware that the claimant brought a claim in the Employment Tribunal in 2021, but she says that she was not aware of the details or the outcome of the case.
135. Throughout her evidence Beverley Marritt states that it was not her intention to harass the claimant. There are denials made by Beverley Marritt about all the incidents referred to by the claimant where it is suggested that there was harassing behaviour. In respect of the occasion when Beverley Marritt is alleged to have shouted "Sarj check on Atlas", Beverley Marritt gives an explanation of why she shouted across the room and then says *"I did not intend to be aggressive, or harass Ms Shaheen as she has alleged in her claim. I acknowledge that I have a loud voice but I do consider Ms Shaheen had misinterpreted the situation as I was simply trying to help."*
136. We accept the explanation that was given by Beverley Marritt in respect of this specific incident and we consider that it illustrates that the claimant was capable of misunderstanding and misinterpreting actions which are innocent. As such when considering the claimant's contention that Beverley Marritt was continually harassing the claimant we do not find that has been proved.
137. The claimant alleges that there was a removal of her reasonable adjustments on 5 June 2023. This allegation is not made out. The respondent operates a "clean desk" policy. This means that no one has a permanent, allocated desk and the expectation is that individuals remove their belongings at the end of each working day and put them in their locker. There is an exception for those, like the claimant, who have specialised desk equipment because of their reasonable adjustments. A colleague of the claimant also has what is referred to as a static desk that was height adjustable when he was out of the office others could use his desk.
138. The claimant went on a period of special leave from March 2023 and returned to work on 5 June 2023. Beverley Marritt used the claimant's desk while the claimant was on special leave. The claimant's specialized

equipment had already been removed and was not unplugged by Beverley Marritt. Beverley Marritt sat at the claimant's desk in order to assist the Engagement Officers with their workload by picking up the telephones to answer queries. Beverley Marritt used the claimant's desk because it was located near a phone line. When the claimant returned to work Beverley Marritt moved away and left the claimant's desk clear. Nicola Ward and Atul Sikand restored the claimant equipment on the desk when the claimant returned to work.

139. The use of the claimant's desk during her period of special leave was not done because the claimant had done a protected act.
140. The claimant alleges that being removed from late shifts and second AO duties on 15 March 2023 was because she did a protected act. There were clear operational reasons why Nicola Ward took the decision to take the claimant off late shifts, these are explained in her statement. The decision was discussed with the claimant and the claimant appeared to be content with the decision at the time. Nicola Ward did not decide to take the claimant off late shifts because she made a protected act.
141. The claimant alleges that there was a continual refusal to implement and comply with reasonable adjustments, namely managing workload, later start times, ensuring the claimant's permanent desk is not used and allowing the claimant to remain in the main area of the building (due to her mobility) by the respondent. The view of the Tribunal is that the evidence does not support such a conclusion.
142. There was no continual refusal to implement and comply with the reasonable adjustments. The nature of one adjustment changed from being one which allowed for the claimant's desk to be used when she was not present to one where it could not be used even when the claimant was not there. The Tribunal find it difficult to understand how in the circumstances of this case the fact that the claimant's desk was used when she was not at work was in any sense a breach of a reasonable adjustment. The use of the claimant's desk while she was away from work did not keep the claimant away from work or mean that she could not return to work. When the claimant returned to work the desk was there for her sole use. On the 5 June it took about 10 minutes for Atul Sikand to restore the claimant's equipment so that she could use her desk, it is in our view understandable that where the claimant was away for an extended period that use is made of the desk.
143. The refusal to allow the claimant to take TOIL, instead of being paid overtime when the claimant worked overtime was for a valid business reason which was explained to the claimant by the respondent. It applied to everyone it was not targeted at the claimant. The fact that the claimant did a protected act was not any part of the reason for the decision on TOIL.
144. The claimant contends that on/around 7 August 2023 Beverley Marritt involved herself in the investigation into the claimant's alleged conduct on 3 August 2023, despite the conflict of interest and a making an untrue statement. On 7 August 2023 the claimant attended a meeting at which Beverley Marritt stated that she had received a formal complaint against the claimant alleging unprofessional behaviour on 3 August 2023. Beverley

Marritt was informed that a member of Serco had complained about the way the claimant had spoken to him and so she asked that he put it in writing, and stated that it would be escalated appropriately. The matter was investigated by Atul Sikand who then decided that no action would be taken. The Tribunal do not consider that the actions of Beverley Marritt were because the claimant had done a protected act, she acted appropriately.

145. In July 2023 a Professional Standards Unit (PSU) investigation was commenced in relation to allegations made against the claimant by a detainee. The claimant was removed from service and front-facing duties from 13 July to 9 Oct 2023. The claimant attended a formal meeting with PSU on 24 August 2023. The claimant heard nothing further and on 4 October 2023 was told by Nicola Ward that the investigation had been closed, there was no case to answer for the claimant. On 9 October 2023 the claimant was allowed to return to front-facing duties. There were complaints received from the same detainee against Home Office Staff and Serco Officers only the claimant was removed from face-to-face engagements. Nicola Ward states that the claimant was taken off her engagement work "in the usual way to protect and safeguard [her] whilst the investigation took place." In her email to Atul Sikand Erin Brooks stated that removing the claimant from face to face engagement was "consistent and in line with other similar recent investigations related to different members of staff in DET's".
146. The evidence shows that the commencement of the PSU investigation was not related to the claimant having done a protected act, it is was a decision of the PSU to investigate the complaint made against the claimant. Further the removal of the claimant from duties was in line with what happened in other cases. The claimant refers to numerous complaints received from the same detainee against Home Office Staff and Serco Officers and states that only she was removed from face-to-face engagements. The claimant gives no evidence to show that someone other than her was in the same position as her and treated different beyond this mere assertion that cannot be substantiated. The claimant also gives no examples to refute the position of the respondent that her case was in line with the what happened in other cases. Similarly there is a no specific examples provided by the respondent to show other cases merely the assertion of the position. The evidence does not allow us to conclude that the claimant was treated in this way because she did a protected act.
147. The claimant says that Nicola Ward denied the claimant a development opportunity on 3 November 2023. In or around November 2023, Atul Sikand was going to do some suitability chats with potential applicants for the role of Detention Engagement Officer the claimant asked to be able to shadow him during this process. Atul Sikand was happy for the claimant to do so and approved her request. However, Nicola Ward stepped in and informed Atul Sikand that she was unable to authorise it. Nicola Ward suggested some other ways that the claimant could seek development opportunities. Nicola Ward explained her reasons to the claimant in a meeting on 8 November 2023.
148. Nicola Ward was informed very late that the claimant would be attending the job centre with the Atul Sikand on the following Monday and Tuesday. Nicola

ward's response was that to say *"due to only being informed of this now I am unable to authorise the release of Sarj for 2 day next week."* The operative reason for refusal appearing to be the late notification. In a later email she expands with a further response to Atul Sikand in the following terms:

"With regards to the below I was not aware nor have I agreed to this. I was not aware that Sarj had requested any development opportunities. If Sarj does require any recruitment development, she could contact IMA as er (sic) the email sent to assist with sifting and interviews, once she has completed the training. We can also offer Sarj the opportunity as we have with others to take on additional responsibilities in the absence of a HEO to help me.

We can discuss this further when you are next in the office.

My expectation will be Sarj will be in the office as planned on Monday to cover her shift".

Nicola Ward also wrote, copying to the claimant, in the following terms:

"I would agree that a better and more fulfilling development opportunity related to recruitment that has just come up would be to join the sifting and interviewing volunteers (attached). This way you can get hands on experience of the civil service recruitment process and meaningfully contribute to what will be a large piece of work, particularly as the jobs centre interviews/chats are a bit of an anomaly, whereby IMA recruitment will be ongoing."

149. The reason for refusal was not because the claimant has done a protected act.
150. The claimant contends that because of having done a protected act she was subjected to a grievance investigation which the claimant was informed of on 9 November 2023 and being required to attend an investigation meeting on 16 November 2023, and the respondent subsequently failing to follow due process.
151. In November 2023 the claimant was the subject of a grievance, submitted by GT an Administrative Officer, alleging bullying and harassment. On 1 February 2024 the decision was taken that GT's grievance was not upheld and mediation was recommended which GT chose not to pursue. The claimant contends that the respondent in pursuing grievance against her there was a failure to follow the procedures. She had not been told what the allegations against her were. The claimant should have been sent a formal template, the HGR25, that sets out the allegation. The grievance decision manager did not send this to the claimant or the formal grievance letter laying out what the allegations was.
152. The claimant says that she was subjected to a detriment by the grievance Manager, Steve Lindsay. Steve Lindsay did not know that the claimant had done any protected acts. In dealing with the grievance Steve Lindsay took HR advice. Steve Lindsay agreed that he had failed to serve the claimant with the HGR25 but he stated that this was an oversight.
153. Steve Lindsay was clearly independent of the claimant's line management and he made the decisions in the grievance including not upholding the

grievance. He was unaware of the claimant's protected acts, they could not have been reason that he acted as he did.

154. The claimant complains of victimisation in the respondent decision that the claimant was to leave the workplace, against her own wishes, on 22 November 2023 and placing on her disability leave, despite the claimant being fit to work and providing a GP letter to confirm there was no risk of self-harm.
155. The respondent's position on this issue is that a Mental Health First Aider who was outside of the business area had taken the unusual step of raising her concerns with an experienced HRBP. The evidence of James Brereton was that claimant was expressing self-harm and that it was attributable to work. The respondent contends that James Brereton was motivated out of a "primary focus for the welfare of the claimant". James Brereton reached the conclusion that there should be advice from Occupational Health.
156. James Brereton was provided with a GP report that said that the claimant was fit to work however he wanted occupational health advice to define reasonable adjustments to ensure that the claimant was "*fine*" to "*engage with all types of residents in a risky environment*". The respondent states that when James Brereton applied the disability leave on the claimant he did so believing, based on HR advice, that it was within management discretion to do so. "*It is not credible to allege that – when faced with the evidence around the claimant's self harm risk, and work-related risk – he acted in retaliation for the claimant's prior grievance or employment tribunal claim.*"
157. The claimant's position is that she denied making any threats of self harm to the MHFA. She states that she was fit to work and that when she obtained a GP confirmation that she was fit to work and not suffering from thoughts of self the respondent should have allowed her to return to work. The claimant does not accept that the respondent acted in good faith.
158. The Tribunal find that the actions of James Brereton were done in good faith and as a result of a genuine concern about the claimant's welfare. It was a radical decision to make to place the claimant on disability leave but he believed that, (i) it was within his discretion to do so and (ii) that it was justified and in the claimant's interests. The respondent in placing the claimant on disability leave was not acting out of spite or in retaliation for the claimant having brought proceedings or made grievances or otherwise done protected acts.
159. The claimant contends that the respondent's ongoing failure to follow its own procedures and failing to provide any outcome of the claimant's grievance submitted in June 2023 was because she had done a protected act.
160. The claimant submitted a formal grievance on 12 June 2023 alleging ongoing bullying and harassment from Beverley Marritt and Nicola Ward. The Grievance Investigation Report was dated 12 October 2023, the claimant did not get the outcome until April 2024. The delay in concluding the grievance was inordinate.

161. The decision manager transferred from Sharon Oldfield to Kelly Tipton. Kelly Tipton was independent of the claimant's line management.
162. There is however no evidence that Kelly Tipton was influenced or impacted by the fact that the claimant had made done a protected act in making her decision or acting as she did. There is no evidence that she acted as she did because the claimant had brought proceedings against the respondent. We heard the evidence of Kelly Tipton and considered her a credible and fair witness, most fundamentally we accepted her evidence denying that the delay in dealing with the claimant's grievance was because she had done any protected act.

Harassment

163. The claimant alleges that Beverley Marritt shouted in an aggressive tone "Sarj check on Atlas" when the claimant was in the middle of a task on 1 February 2023. There is an acceptance that something occurred as between the claimant and Beverley Marritt, however what actually transpired is relayed very differently by the claimant and by Beverley Marritt.
164. The claimant's account is at paragraph 43 of her witness statement: "*On 1 February 2023, whilst I was at my desk typing on my keyboard in a middle of a task, BM who was sitting at her desk in the middle of our shared office whilst on the phone to someone, shouted at me in a loud and aggressive tone, "Sarj check on Atlas". Atlas is a Home Office data base used for our work to which everyone has access, including BM. Others looked up and seemed shocked by what was going on – it was unusual for BM to shout like that. I felt immediately scared by her aggression and humiliated as this was done in front of the wider team – I had to stop what I was doing and look up what she wanted. It was not uncommon for BM to regularly single me out in this way for additional tasks, such that I felt unfairly targeted.*" There is no explanation of what it was that the claimant was being directed to look on Atlas for. In the way relayed by the claimant in her evidence this event is totally without context. The claimant's description of the effect and impact on her is surprising: the claimant was left "*scared by her aggression and humiliated*" however appears to have gone on to "*stop what I was doing and look up what she wanted*" which is unexplained. The claimant complained about this incident to Nicola Ward at the time and wrote, "*I was in a middle of a task when Bev suddenly shouts in an aggressive tone "Sarj check on Atlas". This is unacceptable behaviour from HEO Bev and I felt humiliated and publicly embarrassed in front of team members. I cannot tolerate any unprofessional and aggressive behaviour.*"
165. The account given by Beverley Marritt of this incident is recalled differently. Beverley Marritt says that: "*There was an open discussion happening in the morning on the other side of the office amongst the EOs (in which I was not really involved) and I could hear some questions being asked about a piece of work, I cannot recall now what the issue was. I do recall that I called over from my side of the office and suggested that Ms Shaheen should look on the Home Office's casework database for immigration, Atlas. This is what I would normally suggest if any EO was had a query on their work, it was not because Ms Shaheen had a disability as she has alleged in her claim. I did not intend to be aggressive, or harass Ms Shaheen as she has alleged in*

her claim. I acknowledge that I have a loud voice but I do consider Ms Shaheen had misinterpreted the situation as I was simply trying to help. I was aware of her subsequent complaint to Ms Ward and Ms Sikand (page 954-955). Ms Ward took the decision to deal with the matter informally. I believe Ms Ward spoke to witnesses unknown to me who confirmed I did not shout aggressively or behave in anyway inappropriately.” This account gives a context and explanation of what was going on in away that the claimant’s account does not.

166. This issue is referred to in an email from Nicola Ward to the claimant. The email includes the following passage which appears to relate to this incident: “I have stated that I will be speaking to Bev with regards to how you perceived the way she spoke to you and the subsequent impact this has had on you.” The Tribunal is unaware what the outcome of the discussion between Nicola Ward and the claimant was.
167. The Tribunal is unsure whether the claimant’s and Beverley Marritt’s recollections are in fact of the same incident. We consider that the demeanor of Beverley Marritt, when giving evidence, left us with the impression that she was very direct. The agreed comment was not explained by either Beverley Marritt or the claimant so as to put it into a context that allows us to understand why the words used caused the claimant to be “*scared by her aggression and humiliated*”. On the basis of either version, and accepting that the comments were made and the claimant did complain about them we consider that it reflects the sorry state of the relationship of the claimant and Beverley Marritt. We do not consider that there is a basis for us to conclude that the comment was made with the purpose of violating the claimant’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant.
168. We do not consider that the incident whichever version is correct had the effect of violating the claimant’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant. In arriving at this conclusion we have considered section 26(4) of the Equality Act 2010 which provides that in deciding whether conduct has that effect we must be take into account (a) the perception of the claimant; the other circumstances of the case; and whether it is reasonable for the conduct to have that effect. In the absence of any context from the way that the matter is described either by the claimant or Beverley Marritt we do not find that the comments amount to harassment.
169. Beverley Marritt demanding the claimant complete additional work on 6 March 2023, despite Beverley being informed on 19 January 2022 that as a reasonable adjustment the claimant’s workload would be managed to ensure against excessive allocation.
170. The claimant says that on 6 March 2023 Beverley Marritt disregarded the adjustments the claimant had in place regarding workload. When in addition to the normal Duty Officer work, Beverley Marritt made additional requests of the claimant to do extra work.
171. In contrast Beverley Marrit says that all Engagement Officers should have the same workload, subject to reasonable adjustments that may be in place.

However in practice, identical workloads amongst Engagement Officers is difficult to achieve and monitor given the nature of the work. Beverley Marritt states that the claimant could not undertake certain work in the morning. On 6 March 2023, there was a backlog of work some of which was time sensitive and takes priority. Beverley Marritt explains that she allocated work to each of the Engagement Officers on duty but denies that she demanded that the claimant complete additional work. Beverley Marritt says that the claimant did not raise it as an issue at the time. Beverley Marritt denied that this was a breach of the claimant's reasonable adjustments.

172. The claimant's reasonable adjustments required that the claimant's line manager monitor her work load and the claimant raise concerns. We accept the evidence that was given by Beverley Marritt and do not consider that there is in this one incident evidence of disregarding the claimant's reasonable adjustments or harassing behaviour.
173. The claimant contends that she was told that Beverley Marritt had stated on 15 March 2023 "*Sarj will not have a big desk, as it will be removed, as everyone will have the same small desks*", despite this being a requirement for the claimant's equipment.
174. The claimant was not present when the alleged comment was said to be made. The comment is denied by Beverley Marritt who states that she was assigned to redesign the office, and it was discussed that the office would be open plan with hotdesking, save for those with reasonable adjustments which had a static desk and that a large desk was always going to be retained by the claimant.
175. If the comment as reported to the claimant was made by Beverley Marritt in our view taking into account section 26(4) of the Equality Act 2010 it was not harassment. The conclusion of the Tribunal however is that the comment was not made as alleged by the claimant.
176. The claimant contends that Beverley Marritt and Atul Sikand were openly discussing her reasonable adjustments in an open office environment which was a confidential matter on 15 March 2023. This denied by Beverley Marritt. The Tribunal accept her evidence. In any event such a discussion between people managing the claimant may well have been appropriate if it had taken place
177. The claimant contends that Beverley Marritt shouted to her aggressively across the room "*Did you hear that Sarj?*" on 15 March 2023. Beverley Marritt denied that this occurred.
178. There is no context to this alleged incident in the evidence that has been given by the parties. The Tribunal is unable to conclude that if this incident happened it was harassment in any event.
179. The claimant complains that around 15 March 2023 she was removed and excluded from doing late shifts and second AO duties, with no justifiable reason.

180. The evidence of Nicola Ward explained why she took the decision. There were clear and genuine operational reasons for her decision to remove the claimant from doing late shifts. There was no harassment in making this decision.
181. The claimant complains of Beverley Marritt making jokes about her disability in February 2023, making comments such as, *“What is wrong with her?” She only has a malignant eye tumour*, and the claimant’s adjustments were a *waste of tax payer’s money*. The claimant became aware of these comments on 31 March 2023. The claimant was not present at the meeting when these comments were alleged to have been made. She came to know of them because they were reported to her by Atul Sikand.
182. Atul Sikand states that: *“In this meeting BM asked me if SS was still car sharing with me? I said No, she has Access To Work funding and she takes Taxis to commute between work and home. I recall BM laughed and made a joke about SS saying “What is wrong with her? She only has a malignant eye tumour. That is nothing compared to my medical conditions.” She then went on to say what a waste of tax payer’s money. This account matches the email that was sent by Atul Sikand to Nicola Ward on 6 February 2023.*
183. Beverley Marritt gives a fuller account of what happened on 19 January 2023, in which she accepts making some of the comments attributed to her by Atul Sikand but does not accept his account. However she goes on to explain: *“Given my own physical conditions, my instinct was to be shocked. I was aware of Ms Shaheen’s eye tumour and knew she was seeing her GP regarding lower back pain and was being referred for treatment for stress and anxiety. No formal diagnosis had been shared with me prior to me going on secondment in 2020.... I was unaware of any other physical conditions, so it was unclear to me as to why this would necessitate free taxis. I stated that I only thought she had a non malignant eye tumour which was my human reaction to receiving this news. Mr Sikand stated “don’t worry we’re not paying for it” . Ms Ward stated that I could not compare my own disabilities to others’ situations, which I acknowledged, and that was the end of the matter. I did not say that it was a waste of tax payers’ money as Ms Shaheen has alleged in her claim. I did not intend to harass Ms Shaheen as she has alleged in her claim.”*
184. Whatever the comments made by Beverley Marritt were, they were not made to the claimant. They were reported to the claimant at a later date. The purpose of the comments was not to violate the claimant’s dignity or to create an intimidating, hostile, degrading, humiliating or offensive environment for the claimant. The comments were made in a reaction to the information that was given to Beverley Marritt, who was not fully aware of the claimant’s disabilities, when she compared them to her own disabilities. Once the comments were reported to the claimant they had an upsetting effect on her which she describes in her statement.
185. To determine whether the comments amount to harassment we take into account the factors set out in section 26(4) Equality 2010. When we do that we do not consider that the comments amount to harassment. Beverley Marritt describes how *“my instinct was to be shocked”*, she then goes on to say *“I was unaware of any other physical conditions, so it was unclear to me*

as to why this would necessitate free taxis". While this may be considered an uncharitable reaction and while it may have "offended" Atul Sikand because he has disabled children we do not consider that it was harassment, we note also that his version of events appears to miss out comments further comments that are attributed to him during the exchange. The intervention of and reprimand of Nicola Ward brought the exchange to a close. Considered in the light of all the circumstances this was not harassment.

186. The claimant's equipment being removed from her desk whilst she was on special leave, and being dumped back on her desk with all equipment unconnected on her return on 5 June 2023 is a further allegation of harassment.
187. The conclusion of the Tribunal is that the claimant's equipment was placed in storage by herself and Atul Sikand before she went on special leave. During her absence her desk was used by Beverley Marritt. The desk was clear for her use on her return to work. On her return to work the claimant spoke to Nicola Ward who said that she and Atul Sikan would restore the claimant's equipment and they did this while the claimant waited in the board room. The claimant was then able to resume work with her desk and equipment in place. There is no harassment in this respect.
188. Sarah Burton's email of 6 June 2023 stating "*I am also glad to note that you do not have any outstanding reasonable adjustments following your access to work assessment.*" This was despite the lack of support and the removal of all equipment from the claimant's allocated desk, is a further complaint of harassment. The claimant addresses this in her witness statement in paragraph 69. There is no evidence that the comment was harassment.
189. The claimant says that Beverly Marritt ignored her reasonable adjustments on/around 1 July 2023 and 23 August 2023 relating to workload and her start time. The incident on 6 June was a one off incident and it was not related to the claimant's disability.
190. The incident on the 1 July related to start time of the claimant's shift. This was an error by Beverley Marritt who corrected it when it was brought to her attention. The error is explained by Beverley Marritt in her witness statement and the explanation she gives is not contradicted by other evidence. This one off incident was not harassment.
191. The incident on the 23 August 2023 is not harassment. Beverley Marritt describes how she approached the claimant to ask that she did not include certain tasks on an individual's work lists and the claimant shouted "*no ! no ! no !*", and left the office before Beverley Marritt could say anything further. On the claimant's account, as set out the email of 23 August 2023 to Atul Sikand, Beverley Marritt "*approached my desk twice demanding I do the list*". On either version there is no harassment.
192. The claimant complains that the commencement of the PSU investigation from 13 July 2023, the removal of the claimant's duties and interview held on 24 August 2023. The circumstances around this have been dealt with above and for those reasons we do not consider that there was any harassment in this incident.

193. The claimant alleges that Nicola Ward rejected her reasonable adjustment relating to her mobility impairment on or around 25 September 2023, despite these adjustments being in place formally since 13 September 2023. This did not happen. Nicola Ward implemented the adjustments pending further information coming from Occupational Health.
194. The claimant complains that Nicola Ward declining a development opportunity for her on 3 November 2023 was an act of harassment. For the reasons set out above we do not consider that there was any harassment in this incident. The reason why Nicola Ward refused was explained by her and was a judgment she was in our view entitled to make.
195. The respondent forcing the claimant to leave the workplace on 22 November 2023 and placing her on disability leave, despite the claimant being fit to work and providing a GP letter to confirm there was no risk of self-harm. For the reason set out above we do not consider that this was harassment. The purpose of the disability leave was to address genuine concerns and involved the exercise of a judgment by James Brereton. In making this judgement and then implementing it there was no conduct that had purpose or effect of violating the claimant's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant.
196. In respect of the respondent's failure to follow its own procedures and failing to provide any outcome of the claimant's grievance submitted in June 2023. There was an inordinate delay in dealing with the claimant's grievance however the respondent's failure did not in our view amount to harassment. The failure to deal with the grievance in timely manner, for the reasons set out above, was not related to the claimant's disability.

Direct Discrimination (Disability)

197. The claimant says that she was informed from January 2023 and on an ongoing basis, that she is no longer allowed to be assigned to her specific desk. On the evidence that has been presented this did not happen. The claimant always had her desk. There is no evidence that she was ever informed that she would not have her desk.
198. In respect of the allegation that Beverley Marritt ignored the claimant's reasonable adjustments, allocating workload that was unrealistic and requesting that she start earlier than her agreed start time on 1 July and 23 August 2023.
199. The evidence does not support a conclusion Beverley Marritt allocated the claimant a work load that was unrealistic.
200. On 30 June 2023, Beverley Marritt while creating a work list for all those working the following day the claimant was allocated an earlier start time. The reason for this was explained by Beverley Marritt as being that she thought that the claimant was car sharing with Atul Sikand, and therefore arriving earlier. In an email copied to the people concerned Beverley Marritt said that: *"Morning list made for Sarj from 9.30 as presuming travelling in with Atul. Apologies if this incorrect and I'm sure the list can be pushed back if necessary."*

201. The Tribunal noted that the claimant does not identify any comparator and actually asserts that she was treated the same as others. The claim for direct discrimination would fail on this basis. In any event the Tribunal do not consider that the claimant has shown that she was subjected to a detriment. To be subject to a detriment the claimant has to show that she has been subject to some disadvantage, the claimant must show that a reasonable worker would or might take the view that the treatment accorded to the claimant had in all the circumstances been to her detriment. We do not consider that was the case here.
202. The claimant says that the respondent and Nicola Ward's refused to allow TOIL instead of payment of overtime between 13 June and 5 September 2023, despite GT (who does not have disability) being authorised to take TOIL instead of overtime in similar circumstances.
203. GT worked in a different role to the claimant and was at a different grade (AO) to the claimant. The case of GT is explained by Erin Brooks. She says that it is not the case that GT was permitted to take TOIL rather than payment for rest days that she worked overtime. GT also worked a different role and grade to the claimant and from December 2022 until June 2023 GT was the only AO grade person working part time that should have been staffed by four AO members of staff. The circumstances of the claimant and those of GT are materially different.
204. The claimant complains about the commencement of the PSU investigation from 13 July 2023, the removal of her duties and the interview held on 24 August 2023, despite other employees in the same role and circumstances not being invited to investigation interviews and not being removed from their duties. The claimant relied on the treatment of TA as a comparator. TA is an employee of Serco and therefore their case is materially different to the claimant. The claimant also relied on Eleanor and Kate. In the case of Eleanor and Kate PSU recommended that they are "*suitable for local handling*". The position of Eleanor and Kate are materially different they are not appropriate comparators.
205. The decision to investigate the claimant was made by PSU and not by Nicola Ward or Beverley Marritt. The decision was made after a complaint that needed to be investigated had been made. There is no evidence of less favourable treatment of the claimant and in any event the treatment of the claimant was not because of her protected characteristic.
206. The claimant's allegation that Nicola Ward rejected her reasonable adjustment relating to her mobility impairment on or around 25 September 2023, despite these adjustments being in place formally since 13 September 2023, is not made out for the reasons explained above.
207. In respect of Nicola Ward's refusal on 3 November 2023 for the claimant to attend a development opportunity arranged with the Job Centre an explanation for Nicola Ward's actions is set out above. There is no evidence that the claimant was treated less favourably in this decision. There is no evidence that the treatment of the claimant was on the grounds of the claimant's protected characteristics.

208. The claimant being placed on disability leave on 22 November 2023, being asked to leave the premises without any investigation or proper cause is matter which has caused the claimant considerable upset.

209. The question for the Tribunal in respect of this matter is whether or not the matter is one which was tainted by consideration related to the claimant's protected characteristics. The Tribunal are satisfied that the reason that the claimant was treated in this was because James Brereton formed the view that taking account of the claimant's well-being and welfare that she should be placed on disability leave. The Tribunal consider that the explanation given by James Breton was true. In the circumstances he would have done the same to anyone else whose circumstances were the same as the claimant regardless of protected characteristic. The decision to place the claimant on disability leave was initially motivated by a desire to ensure that the claimant did not suffer and loss by being required to stay away from work, as would have been the case had she been on sick leave.

210. The conclusion of the Tribunal is that the claimant's claims are not well founded and are dismissed.

Appendix

List of issues

Jurisdiction

1. The claimant's first claim (3307239/2023) was presented on 23 June 2023 following a period of ACAS Early Conciliation between 26 April 2023 and 24 May 2023. Any alleged acts of discrimination occurring prior to 5th March 2024 are therefore principally out of time.
2. The claimant's second claim (3314377/2023) was presented on 11 December 2023 following a period of ACAS Early Conciliation between 8 December 2023 and 11 December 2023. Any alleged acts of discrimination occurring prior to 5th March 2024 are therefore principally out of time.
3. Pursuant to s.123 EqA 2010, the following issues therefore arise for determination in respect of any alleged acts of discrimination that occurred prior to the limitation dates:
 - a. Do any proven acts of discrimination collectively amount to 'conduct extending over a period'?
 - b. If so, was the claim made to the Tribunal within three months (plus early conciliation extension) of the end of that period?
 - c. If not, was the claim made within a further period that the Tribunal considers is just and equitable? The Tribunal will decide:
 - i. Why were the complaints not made to the Tribunal in time?

- ii. Is it just and equitable in all the circumstances to extend time?

Disability (section 6 of EqA 2010)

4. The claimant relies on the following medical conditions amounting to disabilities:
 - a. Melanocytoma;
 - b. Depression and anxiety;
 - c. Chronic lower back pain;
 - d. Repetitive strain injury; and
 - e. Right foot pain.
5. The respondent does not currently concede that the claimant's right foot pain amounts to a disability and invites the claimant to clearly identify the material time for the purpose of her claim.

Indirect Discrimination (section 19 of EqA 2010)

6. Did the respondent apply the following provision, criterion and/or practice ('the PCP'), namely:
 - a. The respondent's hot desk policy or, as the respondent notes in the grounds of resistance, it's Clear Desk and Screen policy.
 - b. The respondent's Annualised Hours Working Policy.
 - i. The respondent admits that it operated the Annualised Hours Working Policy in respect of hours worked and subject to the authorisation of the manager at the time.
 - c. The practice of Engagement Officers being required to engage with detainees in interview rooms at the far side of the respondent's offices (the Bunting Safeguarding Unit (sex offenders only) and female unit named Nightingale Unit).
7. Did the application of the PCP put others with the same disability as the claimant at a particular disadvantage when compared with persons who do not have this protected characteristic?
8. Did the application of the PCP noted in paragraph 6a put the claimant at a disadvantage in that:
 - a. The claimant suffered pain and discomfort whilst working at a desk or with equipment that is not adapted to her needs;
 - b. Heightened fatigue impacting her ability to concentrate;
 - c. Without a dedicated desk, the claimant finds it challenging to navigate her way around the office when experiencing a flare up; and

- d. Increased stress, anxiety, fear and worry of uncertainty due to her anxiety disorder.
9. Did the application of the PCP noted in paragraph 6b put the claimant at a disadvantage in that:
- f. The claimant cannot take time off as TOIL compared to her non-disabled colleagues.
10. Did the application of the PCP noted in paragraph 6c put the claimant at a disadvantage in that:
- g. The claimant is unable to walk longer distances due to her impaired mobility.
11. Can the respondent show that the treatment was a proportionate means of achieving a legitimate aim? The respondent relies upon the following:
- h. In respect of 6a, ensuring sufficient desk allocation for staff accommodation and making effective use of space and equipment
 - i. In respect of 6b, managing staff shortages and ensuring the quality of its services to service users.
 - j. In respect of 6c, managing detainees appropriately.

Reasonable Adjustments (section 20 of EqA 2010)

12. Did the respondent fail in its duty to make reasonable adjustments by removing adjustments previously in place thus, removing the disadvantage caused by PCP 13a below?
13. Did the respondent apply the following provision, criteria and/or practice ('the PCP') generally, namely:
- a. The respondent's hot desk policy or, as the respondent notes in its grounds of resistance, the Clear Desk and Screen policy.
 - b. The respondent's practice of allocating the same workload to all Engagement Officers.
 - c. The respondent's Annualised Hours Working Policy.
 - d. The practice of Engagement Officers being required to engage with detainees in interview rooms at the far side of the respondent's offices (Bunting Safeguarding Unit (sex offenders only) and female unit named Nightingale Unit).
14. Did the application of any such provision at paragraphs 13a & b put the claimant at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled in that:
- e. Increased stress, anxiety, fear and worry of uncertainty due to her anxiety disorder;

- f. Being unable to carry out her role without a specific monitor due to her melanocytoma;
- g. Chronic back pain;
- h. All of which have a huge detrimental impact on the claimant physical and mental health.

15. For paragraph 13c:

- i. The claimant cannot take time off as TOIL compared to her non-disabled colleagues.

16. For paragraph 13d:

- k. The claimant is unable to walk longer distances due to her impaired mobility.

17. Did the respondent take such steps as were reasonable to avoid the disadvantage? The claimant asserts that keeping and/or putting in place the following adjustments was reasonable:

For the PCP at paragraph 13a & b:

- a. Ergonomic chair, desk, large monitor and keyboard due to her physical conditions, then desk heighteners ordered in March 2023;
- b. Trigger points for any future sickness absence relating to chronic back pain and/or melanocytoma by 50%, from 4 days to 6 days;
- c. Monthly one-to-one meetings for additional support and to discuss work related concerns due to her anxiety;
- d. 5 minute breaks every half an hour due to cognitive dysfunction;
- e. Permanent workstation due to anxiety disorder;
- f. Daily monitoring of the claimant's workload due to her anxiety;
- g. The claimant starting her shifts later between 10 and 11am due to the effects of her medication;
- h. Less time being spent on DSE work to accommodate her visual needs;

For the PCP at paragraph 13 c:

- i. Allowing the claimant to take TOIL, rather than be paid overtime on her non-working days, to ensure the claimant had suitable rest; and

For the PCP at paragraph 13 d:

- j. Keeping the originally agreed adjustment in place by allowing the claimant to engage with detainees in the main building (i.e. main legal corridor, designated interview rooms within the detention centre inline with SSOWs).

Victimisation (section 27 of EqA 2010)

18. Did the claimant carry out a protected act? The claimant relies upon the following:

- a. Email dated 2 February 2023 to Atul Sikand regarding Beverley Marritts' behaviour;
- b. Email dated 17 March 2023 to Nicola Ward regarding reasonable adjustments being removed and her adjustments being mocked by Beverley Marritt;
- c. Email dated 6 June 2023 to Sarah Burton regarding the claimant's reasonable adjustments and treatment Beverley Marritt subjected the claimant to;
- d. The claimant's Employment Tribunal claim dated June 2021;
- e. The claimant's grievance dated 2 March 2022 and;
- f. The claimant's grievance dated 12 June 2023;
- g. The claimant's Tribunal claim dated 23 June 2023; and
- h. The claimant's Second Tribunal claim dated 11 December 2024.

19. If there was a protected act, did the respondent carry out any of the treatment set out below because of the act?

- l. Beverley Marritts' continual harassing behaviour toward the claimant since her raising complaints to the Tribunal in June 2021;
- m. The removal of the claimant's reasonable adjustments on 5 June 2023;
- n. Being removed from late shifts and second AO duties on 15 March 2023;
- o. The respondent's continual refusal to implement and comply with reasonable adjustments, namely managing workload, later start times, ensuring the claimant's permanent desk is not used and allowing the claimant to remain in the main area of the building (due to her mobility);
- p. The refusal to allow the claimant to take TOIL, instead of being paid overtime when the claimant worked overtime;

- q. On/around 7 August 2023 Beverley Marritt (respondent 3) involving herself in the investigation into the claimant's alleged conduct on 3 August 2023, despite the conflict of interest and a making an untrue statement;
- r. Commencement of the PSU investigation from 13 July 2023, the removal of the claimant's duties and interview held on 24 August 2023;
- s. Nicola Ward declining a development opportunity for the claimant on 3 November 2023;
- t. Being subject of a grievance investigation which the claimant was informed of on 9 November 2023 and being required to attend an investigation meeting on 16 November 2023, and the respondent subsequently failing to follow due process;
- u. The respondent forcing the claimant to leave the workplace on 22 November 2023 and placing on her disability leave, despite the claimant being fit to work and providing a GP letter to confirm there was no risk of self-harm;
- v. The respondent's ongoing failure to follow its own procedures and failing to provide any outcome of the claimant's grievance submitted in June 2023;

Harassment (section 26 of EqA 2010)

20. Did the respondent engage in unwanted conduct as follows:

- a. Beverley Marritt shouting in an aggressive tone "*Sarj check on Atlas*" when the claimant was in the middle of a task on 1 February 2023;
- b. Beverley Marritt demanding the claimant complete additional work on 6 March 2023, despite Bev being informed on 19 January 2022 that as a reasonable adjustment the claimant's workload would be managed to ensure against excessive allocation;
- c. Beverley Marritt had stated on 15 March 2023 "*Sarj will not have a big desk, as it will be removed, as everyone will have the same small desks*", despite this being a requirement for the claimant's equipment;
- d. Beverley Marritt and Atul Sikand openly discussing her reasonable adjustments in an open office environment which was a confidential matter on 15 March 2023;
- e. Beverley Marritt shouting at the claimant aggressively across the room "*Did you hear that Sarj?*" on 15 March 2023;
- f. On or around 15 March 2023 the claimant had been removed and excluded from doing late shifts and second AO duties, with no

justifiable reason. The respondent noted this was due to staffing levels however staffing levels had not changed for three years.

- g. Beverley Marritt making jokes about the claimant's disability in February 2023, making comments such as, "*What is wrong with her?*" *She only has a malignant eye tumour*", and the claimant's adjustments were a *waste of tax payer's money*. The claimant became aware of these comments on 31 March 2023.
 - h. The claimant's equipment being removed from her desk whilst she was on special leave, and being dumped back on her desk with all equipment unconnected on her return on 5 June 2023;
 - i. Sarah Burton's email of 6 June 2023 stating "*I am also glad to note that you do not have any outstanding reasonable adjustments following your access to work assessment.*" This was despite the lack of support and the removal of all equipment from the claimant's allocated desk;
 - j. Beverley Marritt ignoring the claimant's reasonable adjustments on/around 1 July 2023 and 23 August 2023 relating to workload and her start time;
 - k. Commencement of the PSU investigation from 13 July 2023, the removal of the claimant's duties and interview held on 24 August 2023;
 - l. Nicola Ward's rejection of the claimant's reasonable adjustment relating to her mobility impairment on or around 25 September 2023, despite these adjustments being in place formally since 13 September 2023
 - m. Nicola Ward declining a development opportunity for the claimant on 3 November 2023;
 - n. The respondent forcing the claimant to leave the workplace on 22 November 2023 and placing on her disability leave, despite the claimant being fit to work and providing a GP letter to confirm there was no risk of self-harm;
 - o. The respondent's ongoing failure to follow its own procedures and failing to provide any outcome of the claimant's grievance submitted in June 2023; and
21. Was the conduct related to the claimant's protected characteristic, namely disability?
22. Did the conduct have the purpose or effect of violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for her?
23. Was it reasonable for such conduct to have had the effect on the claimant in all of the circumstances?

Direct Discrimination (Disability) (section 13 of EqA 2010)

24. Did the respondent subject the claimant to the following treatment:

- a. The claimant being informed from January 2023 and on an ongoing basis, that she is no longer allowed to be assigned to her specific desk.
- b. Beverley Marritt ignoring the claimant's reasonable adjustments, allocating workload that was unrealistic and requesting that she start earlier than her agreed start time on 1 July and 23 August 2023;
- c. The respondent and Nicola Ward's refusal to allow TOIL instead of payment of overtime between 13 June and 5 September 2023, despite Gillian Taylor (who does not have disability) being authorised to take TOIL instead of overtime in similar circumstances;
- d. Commencement of the PSU investigation from 13 July 2023, the removal of the claimant's duties and the interview held on 24 August 2023, despite other employees in the same role and circumstances not being invited to investigation interviews and not being removed from their duties;
- e. Nicola Ward's rejection of the claimant's reasonable adjustment relating to her mobility impairment on or around 25 September 2023, despite these adjustments being in place formally since 13 September 2023;
- f. Nicola Ward's refusal on 3 November 2023 for the claimant to attend a development opportunity arranged with the Job Centre; and The claimant being placed on disability leave on 22 November 2023, being asked to leave the premises without any investigation or proper cause; and

25. Did the respondent treat the claimant as alleged less favourably than it treated or would have treated the comparators? The claimant relies upon the following actual comparators:

- w. Gillian Taylor
- x. Sharun Nessa
- y. Nicola Ward
- z. Atul Sikand

26. The claimant further relies upon a hypothetical comparator namely an employee in who does not have the claimant's disability.

27. Can the claimant prove primary facts from which the Tribunal could properly and fairly conclude that the difference in treatment was because of the protected characteristic, namely disability?

28. If so, what is the respondent's explanation? Can it prove a non-discriminatory reason for any proven treatment?

Approved by:
Employment Judge Gumbiti-Zimuto

23 September 2025

JUDGMENT SENT TO THE PARTIES ON
24 September 2025

FOR THE TRIBUNAL OFFICE

Notes

All judgments (apart from judgments under Rule 51) and any written reasons for the judgments are published, in full, online at <https://www.gov.uk/employment-tribunal-decisions> shortly after a copy has been sent to the claimants and respondents.

If a Tribunal hearing has been recorded, you may request a transcript of the recording. Unless there are exceptional circumstances, you will have to pay for it. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings and accompanying Guidance, which can be found here:

www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/