EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 8001342/2025

Held in Glasgow on 14 & 15 October 2025

Employment Judge M Robison

Miss C Condon	**Claimant** **In Person**
Inverclyde Community Development Trust	**Respondent** **Represented by:** **Mr M Ramsbottom - Litigation Consultant**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The judgment of the Employment Tribunal is that the claims for disability discrimination are not well-founded and are therefore dismissed.

REASONS

Introduction

1. The claimant lodged a claim with the Employment Tribunal on 27 May 2025 claiming unfair dismissal and disability discrimination following her resignation from her employment with the respondent on 28 February 2025. The respondent resists the claims.

2. Following a case management preliminary hearing which took place on 22 July 2025, the claimant withdrew her claim for unfair dismissal since she did not have two years' service.

3. At that hearing, the discrimination complaints were identified, the respondent having conceded that they knew that the claimant is disabled with the impairment of depression. She makes claims under section 13 of the Equality Act 2010, that is direct discrimination because of disability, in regard to allegations about the requirement to produce fit notes, increase in workload, investigation of her pattern of absence and refusal to provide a reference. The claimant also added a claim relating to her hours of work which she advised was linked to the claim relating to the increase in workload.

4. At this final hearing, I heard evidence from the claimant. For the respondent, I heard evidence from Ms Kay Wilson, employability manager and the claimant's line manager as well as Ms Fiona Macleod, her supervisor. I was referred to documents from a joint file of productions.

5. Although the respondent had indicated that they would call Ms Gemma Lapsley, they chose not to call her. The claimant said that she had prepared questions for her, and I gave her time to consider her position and advised her that she should ensure that she asked either Ms Macleod or Ms Wilson the questions she had intended to ask Ms Lapsley.

Findings in fact

6. On the basis of the evidence heard and the productions lodged, the Tribunal finds the following relevant facts admitted or proved.

7. The claimant commenced employment with the respondent as an employment support worker (ESW) on 10 October 2023.

8. The claimant is disabled by reason of the impairment of depression, which she disclosed to the respondent at the outset of her employment.

9. The claimant had previously been employed by the respondent in the same capacity from July 2016 until after maternity leave in 2019, when she resigned.

10. Although the role advertised was for 28 hours per week, the claimant was advised initially that she would be required to work a minimum of 20 hours each week.

11. The claimant worked with three other employment support workers, two of whom worked full-time. One of the full-time workers, Craig Wilson, is now her partner. The third, Kirsty Percival, also worked part-time.

12. On 25 April 2024, the claimant was issued with the current employee handbook.

13. The respondent's employee handbook includes the following:
    a. Under sickness and evidence of incapacity, it is stated that "medical certificates are not issued for short-term incapacity. In these cases of incapacity (up to and including seven calendar days) you must sign a self-certification absence form on your return from work".
    b. Upon returning to work after any period of sickness/injury absence, an employee will be required to attend a return to work interview to discuss their state of health and fitness to work. Their previous sickness record will be discussed highlighting the number of working days lost in the previous 12/15 months. Any patterns or concerns will

be raised at this time with support offered and where necessary action taken.

c. Reference to an employee assistance programme, providing a qualified counsellor.
d. Entitlement to parental leave in respect of the current statutory provisions.
e. Under capability procedures: "there may…be personal circumstances that prevent you from attending work, either for a prolonged period or for frequent short absences. Under these circumstances, we will need to know when we can expect your attendance record to reach an acceptable level. This may again mean asking your own doctor for a medical report or by making whatever investigations are appropriate in the circumstances".

14. On 27 August 2024, the claimant's was granted an increase in hours to 25 hours with effect from 19 August 2024.

15. On 4 November 2024, the claimant requested five days unpaid leave to care for her son who was unwell.

16. On 13 November 2024, the claimant was advised that her request to revert to 20 hours per week was confirmed.

17. The claimant was absent on sick leave from 12 to 15 December 2023. She was also absent on sick leave with cold/flu virus on 26 April 2024, 11 July 2024, 23-26 September 2024, and 10 -11 October 2024.

18. A return to work interview was conducted after each absence. The respondent's policy, as set out in their handbook, was that no fit note was required for absences of less than seven days.

19. On 14 November 2024, the claimant was absent for one day for the stated reason of "exhaustion". This related to concerns about her dad, who was receiving end of life care and also her own physical health, because she was getting tests for an unknown condition which meant that she was not sleeping. In the return to work form completed, Ms Macleod had, in error, omitted the absence from 12 to December 2023, which was in the preceding 12 months, but this was hand written into the form after it was submitted to HR. The form therefore indicated that the claimant only had four absences during the previous 12 months in error.

20. The claimant was again absent for "exhaustion/lack of sleep" on 21 November 2024. In the form which was completed following the return to work interview the December 2023 absence was included, as was the absence on 21

November 2024, which therefore totalled six absences in the previous 12 months.

21. When around five absences in the twelve month period are recorded, the respondent's practice was to intervene and to have an absence management review.

22. The return to work interview following the claimant's absence on 21 November 2024 was conducted by Fiona Macleod. Fiona Macleod had been contacted by Debbie Robertson, HR, to indicate that the claimant's absences were now at a level requiring an absence management review. She spoke to Debbie Robertson and also to Gemma Lapsley and Kay Wilson. They advised that it was appropriate to set a target or goal in regard to further absences and that if there were any further absences then a medical certificate would be required. This was based on guidance which the respondent had received from Peninsula HR regarding how to deal with the accumulation of absences over the 12 month period.

23. At the absence review meeting, the claimant was advised that an "attendance" target would be set. She was advised that it was a process that was going to be rolled out to support absenteeism across staff. The target was recorded as "to attend work without absence until 31 January 2024" [although that should be 2025]. It is recorded that "if Carol is absent within this period a medical certificate will be required to cover her absence". If not provided, "a formal meeting with HR and disciplinary action could follow".

24. The claimant raised concerns about how she would get a medical certificate or sick line from her GP after one day off sick, because her GP would not issue such a certificate until after seven days. She suggested that this might result in her being off longer in order to get the certificate.

25. The claimant was told to speak to management if there were any "extenuating circumstances which could impact on her attendance". She was asked if there were any support measures that could be put in place, and she replied that there was not. She did not ask what support measures may be available for her condition.

26. During that meeting, the claimant also raised concerns about what she should do if her child was ill. Fiona Macleod asked for clarification from HR and then confirmed to the claimant that she would be required to take such an absence off using annual leave, work back TOIL, or as unpaid leave.

27. On 22 November 2024, Kerry Percival made a request to reduce her hours from 19.5 to 16.5 due to her health issues, which was granted and confirmed by letter dated 11 December 2024.

28. Towards the end of November 2024, Kay Wilson had a meeting with ESWs and the compliance team regarding a casework workload review. She was concerned about an unequal and unfair distribution among ESWs.

29. The claimant was absent on sick leave from 6 January 2025. She was signed off work initially for one week until 13 January 2025 by reason of a "chesty cough". That fit note was extended until the end of January, with the reason for absence being altered to virus and/or viral infection.

30. On 6 January 2025, Kay Wilson sent out an e-mail to advise that she had received a caseload report which had confirmed an unfair imbalance of clients among the ESWs. In particular the two full-time ESWs had 49 each, the claimant had 17 and the other part-time worker, Kerry Percival had 52. She advised that she had decided to redistribute those on a random basis with the full time ESW having a case load of 51, the claimant 32 and the other part-time worker 33.

31. She explained in the e-mail (in red bold) that the clients had been chosen randomly by her and that "if anyone has an issue with any of these changes please come and speak directly to myself". The claimant considered that to be directed at her since her caseload was increasing but she did not speak to Kay Wilson because by this time she was on sick leave.

32. On 7 January 2025, Craig Wilson took annual leave in the afternoon because he was feeling unwell. He called in sick on 8 January 2025. This was his fifth absence within a 12 month period. At that point he had used up his entitlement to paid sick leave. He took annual leave on Thursday 9 and Friday 10 January and took further days off before they had been approved.

33. This alerted Kay Wilson to his absences and she recalled that the previous November that the claimant and Craig Wilson had been absent at the same time. She was concerned that there was a pattern emerging of them being absent together. This had a significant impact on a small team of four when two were absent at the same time. Accordingly it was decided that there should be an investigation into his absences. Fiona Macleod was asked to conduct an investigatory meeting, which took place on 30 January 2025, when concerns regarding requesting annual leave and not following annual leave procedure were discussed, as well as a pattern of absences which was highlighted in a spreadsheet showing when both the claimant and Craig Wilson were off at the same time.

34. On 1 February 2025, the claimant tendered her resignation, in an e-mail which stated as follows:

"I am writing to inform you of my resignation from Inverclyde Community Development Trust. My last day of work will be 1st March 2025 however due

to my current health issues, I will not be returning to work and plan to provide sick lines to cover my notice period. I am forever grateful for the opportunity I was given to return to my Employment Support Worker role, a job that I thoroughly enjoyed and truly loved. After careful consideration I have decided to resign from my post due to a number of factors, mainly my ongoing health issues. The Senior Management Team are well aware of my ongoing mental health problems, specifically Anxiety and Depression. I have been very open and honest about my condition and informed them of the fact that I am on a high dose of antidepressants, have taken part in Cognitive Behavioural Therapy and have attended Counselling. I have discussed, with my Supervisor, on several occasions, that even very minor physical illnesses or lack of sleep, can lower my mood and lead to a bout of depression. As you know, I have been suffering from a chest infection since Christmas time, which has subsequently led to a decline in my mental health. I also feel my current work environment, has further exacerbated my mental health problems and had adversely affected my overall health and wellbeing. If you require any further information from me on this matter please do not hesitate to contact me. If you wish to speak to me in person, I'd be happy to do so. Once again, I want to thank you for the opportunities I have had at Inverclyde Community Development Trust, and I wish the company continued success in the future".

35. Kay Wilson wrote to the claimant on 5 February 2025, asking her to reconsider and expressing concern about a potential underlying issue and suggesting that the claimant may wish to raise a formal grievance.

36. On 12 February 2025, the claimant confirmed that she intended to resign and that there were underlying issues, including ever-increasing workload, lack of communication between departments and the behaviour and attitude of several colleagues, but that there was "no-one in particular that [she wished] to raise a formal grievance against". She also expressed concern about the treatment of Craig Wilson and believed that the conclusions of the investigation indicated a lack of trust in her. She believed that when she returned to work she would be subjected to the same investigation. She declined the opportunity to discuss these concerns further.

37. On 12 February 2025, a disciplinary hearing took place following the investigation into Craig Wilson's absences. Craig Wilson was issued with a verbal warning.

38. On 18 March 2025, Ms Wilson received a request from Barnardos for a reference for the claimant. She forwarded that request to Debbie Robertson in accordance with the respondent's policy in regard to the requirement to forward any requests for references to HR. Debbie Robertson advised that it was their policy to provide only factual information on previous employees and

she confirmed that the claimant had worked there, her job title and the dates of her employment.

39. Following a request on 12 May 2025 from Marie Curie, the respondent provided a reference in the same terms.

Relevant law

40. This is a claim solely for direct disability discrimination. The relevant provision of the Equality Act 2010 is section 13. Section 13 of the Equality Act 2010 states that "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". This means that an employer will discriminate if they treat, or would treat, their employee less favourably than others because of a protected characteristic, here disability.

41. Disability by reason of depression was conceded, and the respondent accepted that they had knowledge of the claimant's disability.

42. Section 23 of the Equality Act 2010 states that for the purposes of the comparison in section 13, there must be no material difference between the circumstances relating to each case. Whether the comparison is sufficiently similar is a question of fact and degree (*Hewage v Grampian Health Board* 2012 IRLR 870).

43. The fact that a claimant believes they have been less favourably treated is not sufficient, because the test is an objective one (*Burrett v West Birmingham Health Authority* 1994 IRLR 7).

44. Section 136 of the Equality Act 2010 states that, "if there are facts from which the court could decide, in the absence of any other explanation, that a person (A) contravened the provision concerned, the court must hold that the contravention occurred". This is widely known as the shifting burden of proof and is a two-stage test. The first stage requires the claimant to prove facts from which discrimination could be inferred (often referred to as the need to show a "prima facie case of discrimination"). If so, the burden of proof will "shift" and the respondent will be required to prove that the treatment in question was "in no sense whatsoever" on the grounds of disability (*Igen v Wong* 2005 ICR 931).

45. It is not sufficient for a claimant to show simply less favourable treatment and a different protected characteristic. "Something more" than a mere finding of less favourable treatment compared with someone without the claimant's protected characteristic is required before the burden of proof will shift (*Madarassy v Nomura International plc* 2007 ICR 867 CA). The "more" required need not be a great deal (*Denman v EHRC* 2010 EWCA Civ 1279).

46. However, a Tribunal will not always require to have resort to the burden of proof provisions. The Supreme Court in *Hewage v Grampian Health Board* [2012] UKSC 37 held that there is no need to consider the burden of proof provisions when the Tribunal can make positive findings on the evidence one way or the other.

Tribunal's deliberations and decision

47. Although the claimant represented herself, she did so with some ability. It was apparent however that the claimant did not fully understand or address the requirements of the legal claims that she was making, in particular the need for her to prove that the reason for any less favourable treatment was because of her disability.

48. The claimant stressed that she had mental health issues and believed that she had made these clear to her employer, and said that her mental health had deteriorated during 2024. However, it is not sufficient for her to prove that she had mental health issues, and that they deteriorated, but rather she has to show that the reason for any less favourable treatment was her disability, that is that she was treated the way she was because she suffered from depression.

49. The claimant clearly believed that she was treated unfairly, but even if she was that is not sufficient to establish a claim for discrimination. I tended to agree with Mr Ramsbottom that any belief that the claimant formed about being treated less favourably because of her disability was based on supposition and hearsay. In any event, any beliefs to that effect appear to have crystallised after she resigned.

50. While there were a number of disputes about the evidence, there were few material facts which were in dispute. I have dealt with any disputes, where they are relevant, in the context of my discussion below about each of the incidents relied on by the claimant.

51. In this case, the claimant made the respondent aware of her disability, the respondent accepted that she had a disability and they accepted that they had knowledge of her disability. Ms Macleod confirmed that she had discussed informally but in some detail the claimant's condition. Ms Macleod clearly had considerable sympathy for the claimant and an understanding of her condition because she had suffered in a similar way.

52. It is however important to note that none of the claimant's absences were stated to be related to depression. Although there was no evidence which confirmed the reason for the absences in December 2023, the subsequent absences were related to cold/flu or flu-like virus, and then to "exhaustion". The respondent's witnesses apparently accepted that there would be a

decline in mental health when suffering physical illnesses, and when the claimant had other personal worries, including an undiagnosed physical condition and dealing with her father's end of life care. However, the claimant did not at any time highlight formally in any of the return to work meetings that her condition was worsened or deteriorating. Indeed she appears not to have made any specific reference to her mental health until after her resignation.

53. Further, when the claimant resigned she made no reference to any suggestion that any of her treatment was *because* of her disability. While the need to be professional in resignation letters is clearly a factor, it is relevant that the claimant did not mention that in her resignation letter and indeed spoke very positively about her experience of working with the respondent. Notwithstanding that she was pressed to discuss underlying concerns, she said that she did not have a grievance against any individual and the concerns which she did express related to workload. Mr Ramsbottom also noted the co-incidence of timing which is at least suggestive of an alternative reason for resigning and not one that was related to the claimant's disability.

54. Further, while the claimant suggested that she should have been offered counselling or the respondent should have asked permission to obtain a full medical report, there was no reference to mental health issues in any documentary evidence produced by the respondent, so the respondent could not be criticised for not proposing such a suggestion when the claimant did not ask. Nor did she mention in any of the return to work interviews that her mental health had deteriorated or that she was suffering depression or even the fact that her physical illnesses were exacerbating her mental health issues.

55. These matters tend to suggest that the reason for any treatment was not the claimant's depression. Ms Macleod was extremely candid is describing her own health issues and stressed how supportive the respondent has been to her. This is a further indicator that the reason for any less favourable treatment was not because of the claimant's depression, as discussed more fully below. I considered each of the allegations in turn.

Medical certificates

56. The claimant alleged that the requirement for her to provide a medical certificate, preventing her from taking sick days when needed, requested at the meeting on 28 November 2024, amounted to direct discrimination because of disability. She relied on the fact that there was no reference to such a practice in the employee handbook.

57. The respondent accepts that the claimant was required to provide a medical certificate for absences after November 2024 but submits that this was a

reasonable request to manage absence. Further, relying on the evidence of Ms Macleod, the respondent submitted that this was not a "hard and fast rule" because the claimant was advised that there was flexibility if there were "extenuating circumstances" and was invited to raise any concerns with management.

58. It was the claimant's position that she was the only person of whom this request was made, and she relied on the reference to this process being "rolled out" and understood that she was the first person of whom such a request was made. While Ms Macleod had said that this request had been made of others, the claimant said they were work experience staff who were in different circumstances.

59. I found Ms Macleod to be an extremely candid, thoughtful and genuine witness and I accepted her evidence as credible and reliable. I have noted Ms Macleod as having referenced others who were required to provide a medical certificate in such circumstances, and she made reference to one person "years ago" who similarly had "sporadic absences". She also mentioned that she had previously worked with a number of individuals on the future jobs project (primarily work experience staff) where their absences got to the point that they would be required to provide a medical certificate for each.

60. Accordingly I did not accept that in this regard the claimant was "less favourably treated" than others in the same or similar positions, and I did not accept that the work experience staff were in any material way in a different position from the claimant.

61. Even if I were to have accepted that the claimant was less favourably treated, I did not accept that the reason that she was asked to provide medical certificates was because of her depression. It was clear that the reason she was asked to provide medical certificates was because of the level of absences and not because of her disability.

62. Further, Ms Macleod believes that it is possible to get a medical certificate from a doctor from the first day of illness and had the claimant advised that she had difficulty in obtaining such a certificate, then those circumstances would have been looked at. She said it was "not definite but an aim". She believed that after a number of absences there required to be some sort of measure in place to address concerns. She thought it was fair because of the impact on a small team and she believed there requires to be accountability given the respondent is dependent on government funding.

63. Accordingly, I accepted that there was an entirely fair and appropriate rationale for the request, and that the reason for the treatment was not because of disability.

Hours of work

64. The claimant's evidence was that when she was offered the job initially, she asked Ms Wilson if she could work 16 hours per week. Ms Wilson did not recall that, but even if Ms Wilson was wrong, she did accept that she advised that the claimant would require to work a minimum of 20 hours per week to meet job targets and satisfy funders. So Ms Wilson did in effect refuse to allow the claimant to work 16 hours per week.

65. The claimant argues that she was less favourably treated than other members of staff, and in particular she argues that she was less favourably treated than her colleague Ms Percival. The undisputed evidence is that Ms Percival was permitted to work 16.5 hours per week, so that on the face of it, the claimant was treated less favourably than her.

66. It is apparent from the evidence however that Ms Percival was not in the same material circumstances as the claimant. In particular, Ms Wilson gave evidence that Ms Percival had requested reduced hours to help with her "serious health condition" and that they supported the change for that reason. In contrast, the claimant did not (at least at that time) make any request to reduce her hours to 16.

67. Even if it could be said that the claimant was less favourably treated than Ms Percival, there was no evidence to support any inference that the reason for the treatment was because of the claimant's depression. Ms Wilson gave evidence about the reason why the claimant was not permitted to work less than 20 hours per week. In August 2024, the claimant requested an increase in hours, which was agreed, then in November 2024 she requested to reduce her hours back to 20 hours per week. She did not request less than 20 hours per week, and she made no request for that as a reasonable adjustment because of her disability. Indeed, although the respondent accepts that they were aware of the claimant's mental health issues, none of the claimant's absences were stated to be related to that.

68. Accordingly, even if it could be said that the claimant had been refused a request to reduce her hours and that was less favourable treatment, it was not because of disability.

Workload

69. The claimant alleges that her workload increased. She again relies on Ms Percival as a comparator whose caseload decreased in January 2024, after her hours decreased.

70. The respondent argued that the claimant was not less favourably treated when the circumstances are considered objectively and in context. That

context was that Ms Percival's caseload was high relative to her hours, that she had decreased her hours and that there was an imbalance of caseload across the ESWs which Ms Wilson was seeking to redress. The respondent also relied on the fact that the claimant did not make any complaint about the proposal either in the November meeting or after the e-mail of 6 January 2025.

71. Although there was (understandably) no detailed evidence about Ms Percival's health issues, the claimant sought to suggest in submissions that while she had mental health issues, Ms Percival's were physical. She argued that she had been treated less favourably because of her mental health issues and that Ms Percival's illness was taken more seriously than hers.

72. I accept that objectively and in context the claimant was not less favourably treated. But even if the claimant was less favourably treated, there was no evidence to support the contention that the reason for that was because of the claimant's disability.

73. The reason why the claimant's caseload was to increase was explained by Ms Wilson. The claimant's view was that although it appeared that changes to the caseload were fair, she suggested that the reason Ms Percival had a high caseload was because she did not close client files efficiently. However, Ms Wilson gave evidence about the standard practice for closing files and there was no other evidence to support any suggestion that Ms Percival's work load was in fact much lower than the numbers indicated. While it was accepted that some clients were more challenging that others, Ms Wilson recognised that and that was why she suggested that if there were any concerns about the redistribution which she said she had done on a random basis then they should raise these with her.

74. I accepted that the reason why there was a rebalancing of workloads was in no way linked to the claimant's disability and that the claimant has therefore failed to establish any causal link between them.

Pattern of absences

75. The claimant alleged that her absences were investigated, the respondent believing that there was a "pattern of absences" whereas other employee's absences were not. She says this was less favourable treatment because of disability.

76. The respondent submits that the facts do not support this assertion, because there was no evidence that the claimant's absences were investigated. The evidence of the respondents' witnesses was that they were not contemplating an investigation into the claimant's absences. Ms Macleod said that the focus was on the investigation into the circumstances of Mr Wilson.

77. The claimant argues that it is “basic common sense” to conclude that she was being investigated given that a “pattern of absences” between her and Mr Wilson was being investigated. Ms Macleod accepted that it did mean that her absences were being considered.

78. Further the claimant had heard that Mr Wilson had been told that she would be investigated when she returned. Ms Macleod denied that but candidly said she did not know whether she would have been investigated on her return, because it would depend on the circumstances.

79. What was clear was that there was no investigation into the claimant. To the extent that it might be argued that the claimant was de facto being investigated, given that a “pattern of absences” was being investigated, and that this might be said to be less favourable treatment, the claimant would then have to show that the reason for any “investigation” into the pattern of absences was because of her disability.

80. There was however no evidence from which to infer that the reason for any investigation, into Mr Wilson or the claimant’s absences, was because of disability. While the respondent was aware that the claimant suffered mental health issues, and Ms Macleod at least informally was aware that her mental health was in decline, the claimant did not at any time suggest that any absences had anything to do with her mental health. All of her absences were stated to be related to cold/flu or exhaustion. Although she did discuss personal factors, which was contributing to her exhaustion, she did not refer to any decline in her mental health and appeared to rely on the fact that was self-evident that her mental health would deteriorate in such circumstances.

81. The reason why the respondent investigated the absences was because of indications that the claimant and Mr Wilson were absent at the same time, and the impact that had on the small team. There is no evidence to link any concerns about the pattern of absence with the claimant’s mental health.

References

82. The claimant argues that she was directly discriminated against because of disability by being refused a reference. The respondent argues that this is not supported by the facts, because the claimant was not refused a reference, a reference was issued, but it was a “factual” reference which is the respondent’s policy. There was no evidence that either Ms Wilson or Ms Macleod were involved in preventing or refusing to issue a reference, because their evidence was that any e-mail that came in making such a request would be passed to HR.

83. The claimant also relied on the fact that the respondent had stated in their defence that the reason she did not get a reference was because she had not

worked for the respondent for two years. Although there was little reference to this in evidence, I noted that in the ET3 the respondent stated that meant that one could not be supplied through their automated system, but that the respondent did issue a factual reference. While the claimant accepts that a factual reference was issued, her argument is in fact that she was not issued with a character reference.

84. Here there was a dispute about the facts. The claimant believed very strongly that the respondent would issue what she called character references, especially since they were an organisation which helped people into work and the lack of a reference may be a barrier to employment. She believed that names of people who had left were missing from the list of factual references which the respondent relied on, and that they must have got a character reference. She believed that Ms Macleod had issued character references recently.

85. The evidence however suggests otherwise. The documentary evidence indicates that only factual references are issued. That was also the evidence of Ms Wilson, who said that it was company policy for as long as she had worked there. Ms Macleod, who had worked there longer, recalled an e-mail, perhaps 10 to 12 years before, when they were advised that the policy would be changed to issue only factual references. I accepted their evidence too that they did get requests for references but they would forward them to HR in line with the policy. Ms Macleod said that she had given character references, but those were personal and not related to work. I did not consider that the fact that there may have been people missing from the list provided by the respondent of factual references issued supported the claimant's contention that this meant that there were some not on the list who got "character" references instead.

86. Further, notwithstanding the claimant's belief, it is within judicial knowledge that it is very common indeed for employers only to issue factual references.

87. Accordingly, while it is not disputed that a factual reference was issued (despite the claimant's original claim that the respondent had "refused" to give a reference) even if there was a "refusal" to give a character reference, that had nothing to do with the claimant's disability. Rather the reason why was quite clear, and that is because it was the respondent's policy only to issue factual references for all who requested them.

88. The claimant has therefore failed to establish that she was less favourably treated because of disability in regard to references.

Conclusion

89. There was no evidence from which it could be inferred that any treatment which the claimant received was because of disability. On the contrary, this Tribunal was able to make positive findings about the reason for any treatment relied on which was not the claimant's disability. Accordingly, the claims under the Equality Act 2010 are not well-founded and must be dismissed.

Date sent to parties **22 October 2025**