



EMPLOYMENT TRIBUNALS

Claimant: X

Respondent: Manchester University NHS Foundation Trust

Heard at: Manchester (in private (Rule 49); by CVP)

On: 24th September 2025
and 9th October 2025

Before: Employment Judge Anderson (sitting alone)

Representatives

For the claimant: In Person

For the respondent: Ms L Amartey (Counsel)

JUDGMENT having been given on 9th October 2025 and written reasons having been requested in accordance with Rule 60(4)(a) of the Employment Tribunal Procedure Rules 2024, the following reasons are provided.

REASONS

Introduction

1. These are my written reasons following a Preliminary Hearing on the question of whether the Claimant is a disabled person for the purposes of s.6 Equality Act 2010.
2. These reasons also contain my reasons for the making of an order under Rule 49. Whilst neither party requested written reasons for this decision, I considered that it was appropriate to provide reasons given the need to give effect to open justice in so far as it is possible.

3. The issues to be determined were as follows:

Did the Claimant have a disability as defined in section 6 of the Equality Act 2010 at the time of the events the claim is about (June 2023 – March 2024)?

- (i) Did she have a physical or mental impairment: Stress and anxiety?
- (ii) Did it have a substantial adverse effect on her ability to carry out day-to-day activities?
- (iii) If not, did the Claimant have medical treatment, including medication, or take other measures to treat or correct the impairment?
- (iv) If so. would the impairment have had a substantial adverse effect on her ability to carry out day-to-day activities without the treatment or other measures?
- (v) Were the effects of the impairment long-term? The Tribunal will decide:
 - (a) did they last at least 12 months, or were they likely to last at least 12 months?
 - (b) if not, were they likely to recur?

Procedural Matters

- 4. A hearing to determine whether or not a person was disabled for the purposes of s.6 Equality Act 2010 would normally be held in public as it determining rights and may be determinative of the claim. However, at a previous case management hearing an order was made by EJ Batten that the hearing to determine disability status shall be in private as provided for by Rule 49 of the Employment Tribunal Procedure Rules 2024. We therefore proceeded on this basis.
- 5. The hearing took place by way of video. The Respondent was represented by Counsel. The Claimant represented herself, though she had her daughter in the room with her for support.

6. I had an agreed bundle of documents before me consisting of 156 pages.
7. The Claimant gave evidence using her disability impact statement as her witness statement. She was cross examined.
8. When the Claimant gave evidence, I asked that her daughter was on screen at the same time so that we were able to observe that the Claimant's evidence was her own.
9. The Respondent did not call any witnesses.
10. At the start of the hearing, I explained the purpose of the hearing and the basic procedure that would be followed through the day.
11. The hearing was initially listed for one day. Having concluded the evidence and submissions, there was insufficient time in which to consider the evidence and deliver a Judgment. Additional time (three hours) was found on a subsequent day in order to deliver an oral Judgment. It was following oral Judgment that the Rule 49 decision was taken that is set out below.
12. When producing these written reasons, because I was aware that they would go online, I have modified my normal style and at times have referred to some points more broadly than I otherwise would so as to avoid giving a level of detail from which identification could be inferred.

Facts

13. I made the following findings of fact on the balance of probabilities.
14. The evidence before me is in the form of the Claimant's disability impact statement and medical records.
15. I find that I was able to broadly rely upon the Claimant's evidence as articulated in her disability impact statement and in her oral evidence before me. The evidence was plausible, the Claimant was able to explain herself and where

relevant, generally survived reasonable challenge. I do not suggest the evidence was perfect. It is right to acknowledge that the Claimant is representing herself and she does not set matters out in as methodical a way as a represented party would. That is to be expected. I find that she was a truthful witness.

16. In evidence, there was reference to an abusive childhood, which I will deliberately not detail further. The Claimant describes having anxiety since early childhood with it being first formally diagnosed in 2002. The letter referencing anxiety and depression from an occupational health Doctor corroborates this.
17. In the years following 2002, the document references are largely to depression. The Claimant takes a range of antidepressant medication in that period. There are multiple entries and references to depression over the years.
18. In 2017, the Claimant is referred to occupational health for work related stress.
19. In the bundle there are a series of fit notes dating back a number of years from 2017. Some of these notes reference depression in isolation. Some reference stress, some reference anxiety. Some reference a combination.
20. In August 2017, through to December 2017, the Claimant was not fit for work by the cited reason of stress. An occupational health report is produced in that period. That report cites and refers to ongoing workplace issues.
21. In February 2018, it was necessary for Paramedics to attend at the Claimants house. The contemporaneous hospital note references the Claimant expressing suicidal thoughts.
22. In September 2022, the Claimant attempted to take her own life by way of an overdose. The cause of this was attributed to family problems, which I will not be more specific about.

23. In September 2022, through to April 2023, there is a fit note referencing anxiety and depression.
24. The Claimant refers to feeling 'deep shame' from September 2022 onwards regarding her suicide attempt. She refers to becoming more forgetful and missing important appointments. She also refers to neglecting herself, referencing not washing daily, not taking care of her appearance, not brushing her teeth unless she leaves the house.
25. The Claimant also refers to her house being unclean and in disrepair, describing it as becoming worse since September 2022.
26. From September 2022, the Claimant attended MIND for a period of 16 weeks. From May 2023, the Claimant had Cognitive Behavioral Therapy (CBT) sessions with NHS Talking therapies. I note from the records in the bundle that by November 2023, the Claimant had completed 20 sessions of CBT, referencing 'survivors of childhood abuse'. From October 2024, the NHS treatment was provided by a psychologist.
27. In her disability impact statement, the Claimant seeks to describe the effect of this psychological intervention on her. The headline point is that this lengthy treatment assisted the Claimant in understanding the root cause of her problems. The Claimant describes this as a real turning point in her healing.
28. The effect of this treatment cannot neatly be compartmentalised to a particular week. It is self-evidently occurring over a period. However, I do exclude from my consideration the psychological treatment as it occurs after the relevant period that I am considering today.
29. The GP records also provide further information as to the situation in the relevant period. In October 2023, there is an entry related to anxiety and depression and 'anxiety ongoing'. It references 'work have giving her job away case started, tribunal?' (sic)

30. The GP records record the Claimant continuing to have anxiety and depression at the end of December 2023 through to Jan 2024. In the same entry there is also a reference to stress at work and anxiety. The 5th January 2024 entry refers to a number of specific problems, including the Claimant struggling to manage her emotions. Issues referenced include 'historical financial abuse, child abuse and current issues with her employment'.
31. The 13th February 2024 entry references the Claimant awaiting trauma therapy with a psychologist. I take this to mean that as of this date, there was a clinical need for the Claimant to have further treatment. The entry refers to 'work stressors on top of this'. The Claimant is recorded as being clear that she did not wish to waste the psychology appointments by talking about work stressors, which I take to mean that the intention was for the appointments to discuss and treat the underlying trauma. "Emotional dysregulation due to childhood trauma" is referred to.
32. I have a treatment summary from March 2025 issued by NHS Oldham Talking Therapies. It is relevant in that it records a number of historical matters including the fact of the Claimant completing a recovery from childhood trauma group in 2023, symptoms of reflection, low self-esteem and loneliness which relate to long standing childhood family issues. This summary also corroborates the effect of the treatment on the Claimant. It then goes on to expressly note that mid way through the therapy which commenced in 2023 the Claimant had less depressive and anxiety symptoms. It is plain that this is not restricted solely to depression. I do not go beyond that point in the chronology in this correspondence as I consider that to be outside the relevant period.
33. I accept the Claimants evidence that if she had not undertaken this treatment that the symptoms of her stress and anxiety would have been increased. This remains correct notwithstanding the need to consider treatment up to the end of the relevant period.

34. In terms of medication, I do not take this into account. It does not appear to be relevant to the period in this case. The Claimants method of treatment was through MIND and CBT.

The Law

35. The Claimant bears the burden of proof in proving that she is a disabled person within the meaning of s.6 Equality Act 2010.

36. Section 6 Equality Act 2010 provides:

Disability

(1) A person (P) has a disability if—

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

(2) A reference to a disabled person is a reference to a person who has a disability.

(3) In relation to the protected characteristic of disability—

- (a) a reference to a person who has a particular protected characteristic is a reference to a person who has a particular disability;
- (b) a reference to persons who share a protected characteristic is a reference to persons who have the same disability.

(4) This Act (except Part 12 and section 190) applies in relation to a person who has had a disability as it applies in relation to a person who has the disability; accordingly (except in that Part and that section)—

- (a) a reference (however expressed) to a person who has a disability includes a reference to a person who has had the disability, and
- (b) a reference (however expressed) to a person who does not have a disability includes a reference to a person who has not had the disability.

- (5) A Minister of the Crown may issue guidance about matters to be taken into account in deciding any question for the purposes of subsection (1).
- (6) Schedule 1 (disability: supplementary provision) has effect.

Regarding long term effects, Schedule 1 Part 1, para 2 provides:

Long-term effects

2(1) The effect of an impairment is long-term if—

- (a) it has lasted for at least 12 months,
- (b) it is likely to last for at least 12 months, or
- (c) it is likely to last for the rest of the life of the person affected.

(2) If an impairment ceases to have a substantial adverse effect on a person's ability to carry out normal day-to-day activities, it is to be treated as continuing to have that effect if that effect is likely to recur.

(3) For the purposes of sub-paragraph (2), the likelihood of an effect recurring is to be disregarded in such circumstances as may be prescribed.

(4) Regulations may prescribe circumstances in which, despite sub-paragraph (1), an effect is to be treated as being, or as not being, long-term.

In respect of deduced effect, Schedule 1, Part 1, paragraph 5 provides:

Effect of medical treatment

5(1) An impairment is to be treated as having a substantial adverse effect on the ability of the person concerned to carry out normal day-to-day activities if—

- (a) measures are being taken to treat or correct it, and
- (b) but for that, it would be likely to have that effect.

(2) “Measures” includes, in particular, medical treatment and the use of a prosthesis or other aid.

(3) Sub-paragraph (1) does not apply—

(a) in relation to the impairment of a person's sight, to the extent that the impairment is, in the person's case, correctable by spectacles or contact lenses or in such other ways as may be prescribed;

(b) in relation to such other impairments as may be prescribed, in such circumstances as are prescribed.

37. Some basic points clearly emerge from case law:

- a. Substantial means ‘more than minor or trivial’.
- b. I must focus on what the Claimant cannot do rather than what she can do.
- c. I must only consider evidence as to what the position was in the relevant period. Evidence as to the Claimant’s level of impairment post that period should not form part of my consideration.

38. As to what is meant by ‘likely to recur’ the leading authority is that of the House of Lords in SCA Packaging v Boyle [2009] UKHL 37 in which ‘likely’ was defined as ‘could well happen’.

39. The Respondent relied upon the Judgment of Underhill P in J v DLA Piper UK LLP [2010] IRLR 936. This is a frequently cited authority where disability is in dispute.

40. In the present case, the Claimant relies upon stress and anxiety as her impairments. As the Respondent has pointed out, she does not rely upon depression.

41. Nonetheless, notwithstanding the reference to depression in J v DLA Piper, I accept it is a potentially relevant authority in this case and falls to be considered. The language used in para 42 of the EAT’s Judgment is clearly supportive of that.

42. Para 42 clearly refers to 'adverse life events' plural. Nothing in the reasoning confines the rationale to a single life event.

43. In *J v DLA Piper*, the EAT still emphasised the need to refer to the relevant disability test as a whole.

Conclusions

44. The relevant period is June 2023 to March 2024. This is agreed between the parties in the list of issues and was also not contentious before me today. I should note and record because the Claimant is representing herself, that this is the relevant period because these are the dates to which the Claimant's case relates. The Claimant is not suggesting that she was only disabled between these dates.

45. In reaching my conclusions, I have deliberately excluded from my consideration any evidence on the Claimant's situation post March 2024. The findings that I make relate to what was happening in the relevant period. They were also plainly occurring prior to the relevant period.

46. The relevant impairment relied upon is stress and anxiety. I find that the Claimant has proven the existence of his impairment. There are clear references in the medical records, supplemented by the Claimant's own evidence. I also find that the Claimant has an underlying susceptibility to stress and anxiety that is distinct from simply a reaction to a life event or events. Deliberately and without going into detail, it is more likely than not that childhood trauma is the root cause of the Claimant's ill health in the relevant period. The nature of the treatment and the references in the correspondence regarding such treatment support this finding.

47. The stress and anxiety impacts upon the Claimant's ability to carry out normal day to day activities. The Claimant struggles and has difficulty with day to day matters such as personal hygiene, cleaning and keeping her home in a

reasonable state. I also accept her evidence that mental health impairments impact upon cognitive functions such as memory.

48. The nature and length of the treatment that the Claimant needed from September 2022 is supportive of there being a) a causal link with childhood trauma b) the link to historical matters being indicative of there being an underlying impairment rather than an adverse reaction to life events c) the impact upon the Claimant's day to day activities. If the effect was minor, this would not sit well with the level of sustained treatment provided.
49. The impact on the Claimant is more than minor or trivial. It is plainly a significant part of her regular life, particularly from 2022 onwards when treatment begins. This is occurring within the relevant period.
50. I find that this effect is long term. The Claimant has had this impairment for a number of years. In the relevant period, it had lasted for more than 12 months and was likely to last for more than 12 months going forward. Alternatively, if this were to be seen as a recurring condition rather than an underlying impairment, then it is correct to say that a recurrence 'could well happen'. Indeed, it is a feature of the Claimant's medical history that there have been repeated instances of stress and anxiety. These are plainly not isolated incidents.
51. The medical history goes back decades. The fact that there are gaps in that history as can be seen in the chronology of my findings of fact above does not preclude a finding that the Claimant was disabled person at the relevant time.
52. Furthermore, in the period leading up to the relevant period for the purposes of this case, the Claimant had been receiving treatment via MIND and then talking therapies. I have already indicated that I have accepted this evidence relating to deduced effect above. Had the Claimant not received this then her symptoms would have been even worse.

53. Furthermore, it is a reasonable conclusion given the chronology, the number of periods of ill health and the effect on the Claimant that the Claimant has an underlying susceptibility to stress and anxiety which has been ongoing for a number of years. This is further supported by the references to ongoing trauma. It is more difficult to adversely apply J v DLA Piper to the Claimant in circumstances whereby there is effectively a need to deal with ongoing childhood trauma due to abuse. That isn't neatly classified as an adverse reaction to a life event, rather it is an underlying cause. To hold otherwise would take J v DLA Piper to be excluding those dealing with childhood trauma to be outside the definition of disability. That plainly is not what the EAT was suggesting.
54. Having made these findings, it is essential that I take a step back and consider the test as a whole. Having done so, I conclude that the necessary elements of section 6 of the Equality Act 2010 are met.
55. I find that the Claimant has proven that she has a mental impairment that has a long term and substantial adverse effect on her ability to carry out normal day to day activities.
56. I have considered J v DLA Piper carefully. This is not a case in which the Claimant is simply reacting to adverse life events. The mere existence of adverse life events does not preclude disability and J v DLA Piper is not authority for that proposition. In this case, the history is clear in establishing the existence of an underlying impairment that when matters are taken together meet the threshold of s.6. On a proper application of J v DLA Piper which explicitly references the need to consider the test for disability as a whole, then the Claimant is a disabled person.
57. The Respondent also referred me to Herry v Dudley Metropolitan Council [2017] ICR 610 as to the relationship between 'work related stress' and the section 6 test for disability. At para 70 HHJ Richardson interprets para 42 of J v DLA as 'drawing a distinction between a mental impairment and an a reaction to life events'. I direct myself in accordance with this. In the present case, I have

found that there is an impairment or underlying impairment which is distinct from simply a reaction to life events.

58. Whilst the Claimant does adversely react to events at work, there is more to this case than that simple statement. The Claimant has a history of mental health problems, which can be traced back to childhood trauma. The effect of that meets the s.6 test.

59. Throughout my thought process, I have been alive to the submission made by the Respondent that the Claimant is not relying on depression as a disability and that on this basis, it is separate to stress and anxiety and the impairments must not be conflated. As a bold proposition that makes sense, however, it must not be overly stated to be a shield so as to prevent the Claimant from relying on any symptoms. In the present case, I have reached my view that the existence of depression in the Claimant's medical history does not and should not detract from the clear evidence of stress and anxiety that is before me. It is also possible for a symptom to have more than one cause and I must consider the position on the balance of probabilities. My conclusions above relate to findings that I have made as to the effect of the impairments relied upon.

60. Having considered all of the above matters, I conclude that the Claimant was a disabled person for the purposes of s.6 Equality Act 2010 in the relevant period.

61. Having reached the above conclusion, I would emphasise to all parties that this is simply a conclusion on the question that was placed before me. It is not a finding or comment upon the merits of the wider case advanced.

Rule 49

62. A previous Rule 49 order was in place ordering that the Preliminary Hearing determining disability be held in private. No other order was sought or made.

63. At the Preliminary Hearing where I gave oral Judgment, following the Respondent requesting written reasons which in turn are published online, the Claimant made an application for her name to be anonymised in this specific Judgment.

64. The Respondent was neutral on this application provided the application was restricted to the anonymisation of this Judgment only.

65. Rule 49 is clearly engaged. The Claimant's convention rights and in particular Article 8 and the right to a private and family life is engaged, though that is not the only gateway to such an order. As to the relevant factual basis, I would note the following:

- a. The Claimant considered it necessary to refer to events from her childhood, which included referencing allegations of abuse. Such allegations would not normally involve the identification of the person making the allegations.
- b. The evidence contains references to a previous attempt at suicide. This is an intensely private matter to which societal stigma may exist.
- c. The overall medical evidence tends towards matters of a sensitive and confidential nature.
- d. That during the course of the first hearing, the Claimant was being assisted by her daughter. She asked her daughter to leave the room so that she could discuss some of the more sensitive matters.

66. Rule 49 having been engaged, it is then for me to determine whether or not to make an order. Such an order is not granted as a matter of course or by consent. An important guardrail of open justice is that the Judge must carry out a wider balancing exercise.

67. I have determined that it is appropriate to make such an order.

68. In making this order, I have had regard to and placed weight on the principles of open justice and freedom of expression. I have balanced those principles against the rights of the Claimant. The publication of the Claimant's identity would pose a significant risk to her wellbeing having such matters publicised. The nature of the matters referred to readily fall within Article 8 and no specific harm is identified in the making of an order beyond the principle of open justice,

albeit an important consideration. Having done so, it is appropriate to make an order.

69. In terms of the wording of the order, the Claimant has not sought a wide order and I agree that it has been restricted to the minimum necessary to protect her position as the facts currently stand.

70. Going forward therefore, the position is:

- a. An order is made anonymising this specific Judgment in respect of the identity of the Claimant. That order shall remain in place indefinitely.
- b. No wider application has yet been made in relation to Rule 49 and the future conduct of the proceedings, including the final proceedings.
- c. It is not yet fully known the extent to which it will be necessary to refer to the contents of this Judgment in order for the Claimant's overall claims to be determined.
- d. It is therefore open to the parties to make any future applications they see fit. This is not to encourage or discourage such an application, it is simply to record the position.
- e. If any such application is made, it would assist if the parties could discuss the matter amongst themselves so that if an application is made, both parties are then able to set out their respective positions.
- f. Orders under Rule 49 are not made by consent and it would still be for the Tribunal to approve or refuse any such application.

Employment Judge Anderson

4th November 2025

JUDGMENT SENT TO THE PARTIES ON

20 November 2025

FOR THE TRIBUNAL OFFICE

Notes

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