



EMPLOYMENT TRIBUNALS

Claimant: Mr Samuel Scragg

Respondent: Maritime and Coastguard Agency

Heard at: Bristol (in public, by video)

On: 22 October 2025

Before: Employment Judge C H O'Rourke

Appearances

For the Claimant: Mr L Gregory - counsel

For the Respondent: Mr R Goodwin - counsel

RESERVED PRELIMINARY HEARING JUDGMENT

The Claimant was disabled at the relevant time, under the terms of s.6 of the Equality Act 2010.

REASONS

Background and Issues

1. Following a case management hearing of 17 April 2025, this claim was listed for a public preliminary hearing, to deal with the following matters:
 - 1.1 To determine whether, subject to s.6 of the Equality Act 2010 ('the Act'), the Claimant was a disabled person at the material time, by reason of the impairment of anxiety disorder.
 - 1.2 To consider proposed amendments to the claim. (As not disputed by the Respondent, leave to amend was granted and this issue is not considered further.)
 - 1.3 To confirm case management orders for the final hearing.
2. The Respondent does not accept that any impairment was long-term, or that it had a substantial adverse effect on the Claimant's ability to carry out normal day-to-day activities.

The Law

3. I was referred to s.6 and Schedule 1 of the Act, as to the statutory test in such matters and also to the 'Guidance on Matters to be Taken into Account in determining questions relating to Disability (2011)' ('the Guidance').
4. Section 212(1) of the Act defines 'substantial' as meaning '*more than minor of trivial*'.
5. Paragraph 2(2) of Schedule 1 states that '*if an impairment ceases to have a substantial 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.*'
6. I was referred to the following authorities:
 - 6.1 When determining whether a person meets the definition of disability, it is important to focus on what an individual cannot do, or can only do with difficulty, rather than on the things that he or she can do (confirmed by the EAT in **Goodwin v Patent Office [1999] ICR 302, EAT**). The same judgment also advocated a sequential four-stage approach to such consideration, as follows:
 - did the claimant have a mental and/or physical impairment? (the 'impairment condition')
 - did the impairment affect the claimant's ability to carry out normal day-to-day activities? (the 'adverse effect condition')
 - was the adverse condition substantial? (the 'substantial condition'), and
 - was the adverse condition long term? (the 'long-term condition').
 - 6.2 **Royal Borough of Greenwich v Syed EAT 0244/14**, which reiterated the importance of expert medical evidence where an alleged disability takes the form of 'depression or a cognate medical impairment'. It stated that, in such cases, the issues will often be too subtle to allow a tribunal to make proper findings without expert assistance. It further stated that the question which the Tribunal has to ask itself is not whether the mental health impairment was likely to last at least 12 months but whether the substantial adverse effect of the impairment was likely to last more than 12 months.

Facts

7. I heard evidence from the Claimant and both parties made submissions.
8. **General Background**. The Claimant has been employed by the Respondent as a Senior Maritime Operations Officer, since January 2020. It was agreed by the parties that the 'relevant period' for disability was September 2023 to February 2025. The bulk of the Claimant's claims of various forms of disability

discrimination relate to the Respondent's conduct of a professional examination he was obliged to take and his treatment thereafter.

9. Claimant's Evidence. I summarise the Claimant's evidence as follows:

9.1 The Claimant's disability impact statement [65] sets out (in summary) the following:

9.1.1 He has suffered from anxiety (subsequently referred to as 'anxiety disorder' in subsequent 'Fit Notes'), since 2012, first seeking medical treatment at that time.

9.1.2 He described the effects of the condition on his ability to carry out normal day-to-day activities, as follows:

9.1.2.1 Memory loss and loss of concentration, affecting him both at work and while food shopping, or watching TV;

9.1.2.2 Being home-bound for several days at a time.

9.1.2.3 Loss of social interaction with his family and girlfriend;

9.1.2.4 Anger (directed at himself);

9.1.2.5 Anxiety-induced diarrhoea and vomiting, ten to twenty times a day, obliging him to carry around a camping toilet and restricting his movement away from his home;

9.1.2.6 Reduction in personal grooming (beard and hair);

9.1.2.7 Ceasing the taking of exercise, which he had previously engaged in 4 to 6 days a week;

9.1.2.8 Reduction in preparing and eating meals from 3/4 times a day, to once a day, resulting in weight loss and ill-health;

9.1.2.9 Cessation of housekeeping;

9.1.2.10 Reduced dog-walking;

9.1.2.11 Cessation of the use of public transport (due to fear of needing a toilet at short notice).

9.1.3 The Claimant said that he has had the impairment since 2012, but that it substantially worsened following an accident in 2017, which resulted in post-concussion syndrome and retrograde amnesia.

9.1.4 In respect of the effect of treatment on the impairment, he has spoken to 'Mind' (the mental health charity), in 2023 and in 2024 attended a two-month course, with weekly group sessions, discussing anxiety.

9.1.5 He said that without medical treatment (the above engagement and at times medication) he would have a '*complete breakdown*'.

9.1.6 He referred to being '*broken by the Maritime and Coastguard Agency*' and that he '*was so angry most of the time because I let my employer destroy who I once was*'.

9.2 I summarise the medical evidence as follows:

- 9.2.1 An undated learning support plan from the Claimant's university (he said that he attended university between 2015 and 2018) which refers to '*reasonable adjustments*' in relation to a '*disability*', which is recorded to be '*dyslexia and anxiety*' [84]. It also refers to the possibility that lecturers who have taught him in previous years should not expect him to remember them, or events from previous years. The Claimant said this situation arose because of an accident he'd had in 2017.
- 9.2.2 25 September 2017 – a letter from a consultant neurologist referring to that accident, in June of that year [91]. While it records that CT scans '*showed nothing remarkable*', it went to detail '*problems since the accident*', to include memory disturbance, with '*significant retrograde amnesia from about two years prior to the accident*', but that that condition seemed to be improving. It also referred to his '*pre-existing problems with anxiety*' which had '*substantially increased following the accident. He feels particularly stressed when he has to make decisions. His sleep has been quite erratic. Due to increased liquid intake, he was passing urine on a regular basis and is also frequently opening his bowels.*' Cognitive Behavioural Therapy (CBT) was suggested.
- 9.2.3 2 September 2021 – a Fit Note, provided to the Respondent, stating that the Claimant was not fit for work, for approximately two weeks, due to '*bereavement*' [94].
- 9.2.4 20 March 2022 – a record of an on-line consultation with his GP '*for anxiety*', in which he said that he had '*always suffered with some anxiety but in the past year it has got unbearable. Whenever I go to leave the house even for work, I feel like I need to vomit. But now it happens when I have left the house and am socialising. If I go out for a meal now, I cannot eat due to the feeling of being sick. My mood has extremely decreased recently. I lack motivation, have low energy. Constantly want to sleep. I just feel numb to everything.*' [95]. He answered '*nearly every day*' to questions related to problems with day-to-day activities, such as sleeping, socialising, concentration and eating.
- 9.2.5 27 June 2022 – a Fit Note recording '*depressed mood*', in respect of which he was not fit to work, for a fortnight [97].
- 9.2.6 4 July 2023 – a 'management referral questionnaire' (prior to referral to Occupational Health (OH)), completed following a sickness absence, because he was '*currently suffering with mental health*' [100]. He answered 'no' to a question as to whether he had an underlying medical condition that could impact on his ability to do his job. He sought no work-related adjustments.
- 9.2.7 12 July 2023 – an OH medical report [102]. It referred to his sick leave in 2022 and the support the Claimant had received from his GP.

He said that recently, work-related issues *'had made him re-live last year's stressful events.'* It was recorded that he suffered from poor sleep and energy levels and low mood, but that he ate healthily and exercised. A psychological assessment recorded scores indicating moderate anxiety and moderately severe depression. He was advised to seek further help from his GP. He was considered fit for work, as he was *'making positive efforts to maintain his mental health.'*

9.2.8 4 June 2024 – a further management referral questionnaire which related to the Claimant having been on sick leave since 2 June 2024, due to anxiety, which had *'brought on diarrhoea and sickness'* [105]. It stated that his role was *'mentally demanding ... with incidents involving deceased persons etc.'* On this occasion, the Claimant stated that he did have an *'underlying medical condition ...'*

9.2.9 13 June 2024 – an NHS letter from a psychological wellbeing practitioner, recording his referral to the 'Steps to Wellbeing' team [108]. It records him reporting *'episodes of intense anxiety, feeling nauseous and needing to use the toilet, uncontrollable worry and withdrawal, indicating a presenting problem of Adjustment Disorder with comorbid Panic disorder'* which he related to leaving his house, meeting people and worry about locating a toilet. His scores for depression were recorded as 'moderate' and for anxiety and worry as 'mild'. Medication was discussed and he was referred for CBT.

9.2.10 24 June 2024 – another OH report [110], which recorded that the Claimant did not consider that there was *'any link to this episode'* with that of 2023. He discussed the recent exam he had sat and that he *'felt this was around the start of his symptoms'* which were diarrhoea and feeling sick, which he experienced both at home and at work, leading to poor sleep and appetite, weight loss, loss of concentration and confusion. The author recorded the Claimant's anxiety score as 'severe'. He also recorded the Claimant stating that he hoped to *'power through these symptoms'*. He was considered temporarily unfit for work, for two or three weeks, with a suggested staggered return to work.

9.2.11 27 June and 26 July 2024 – Fit Notes recording unfitness for work, for two months, due to anxiety and then 'anxiety disorder' [112].

9.2.12 17 October, 14 November and 12 December 2024 – Fit Notes recording unfitness for work, for a further three months, due to anxiety disorder [114].

9.3 In both examination in chief and cross-examination, the Claimant said, in summary, the following:

9.3.1 He'd had problems with concentration *'for some time'*, but most *'arose since the actions of the Respondent in 2023'*.

9.3.2 His 'toilet problems' had existed before 2023, restricting his routine and ability to travel, necessitating prior planning. He also confirmed he'd had them before his 2017 accident.

9.3.3 He'd suffered similar symptoms during his university exams.

9.3.4 He did not consider that any medication he'd ever been prescribed has been of much assistance. He said that it was a '*family belief*' only to take medication as a last resort and that one should '*power through*'. He said that if his symptoms got too bad, he simply stayed at home.

9.3.5 He said that his problems pre-dated the 2017 accident, but that he has difficulty remembering events from that time, due to the accident.

9.3.6 It was pointed out to him that there was no formal diagnosis in the medical documents as to 'anxiety disorder' (apart from reference in the Fit Notes and the June 2024 NHS letter) and he was asked if he'd considered obtaining a medical report, for this Hearing and he said that he didn't '*know how to*'.

9.3.7 He agreed that he was attributing the cause of the symptoms he described in paragraph 5.2 of his statement, to the Respondent's actions.

9.3.8 He was challenged that he had not experienced the symptoms he now describes before September 2023, and he said that they '*had started when I had issues in my employment*'. He agreed that he'd not had the symptom of diarrhoea and vomiting to the '*severity*' of ten to twenty times a day, at a point pre-dating the alleged discrimination by the Respondent, but that '*it did exist before*'. He said that he'd '*always had diarrhoea and sickness in stressful situations*', which he described as including going to unfamiliar places or travelling to see family. He agreed that he had managed his condition without much medication or treatment and referred again to '*powering through*'.

9.3.9 He disputed that the condition was not a long-term one, but which just occurred in stressful situations and said it was '*constant*'.

10. Closing Submissions. I heard closing submissions from both parties which I will deal with, as I consider relevant, in my conclusions below.

11. Conclusions. I find that the Claimant was disabled at the relevant time by reason of anxiety disorder, for the following reasons:

11.1 I found him to be a credible witness. I reached that conclusion because he gave his evidence in a straightforward and direct fashion, without any attempt at embellishment. Where he was obliged to make admissions, he did so readily, without any attempt at obfuscation. His oral evidence was generally consistent with the documentary evidence he provided.

11.2 It was effectively accepted by the Respondent that in the timeframe of May/June 2024 to January 2025, due, the Claimant said, to the alleged discriminatory acts of the Respondent, his impairment was such that, during that specific period, it had a substantial adverse effect on his ability to carry out normal day-to-day activities (thus answering, positively, the first three questions suggested in Goodwin). However, it was not accepted that prior to that period that such effect existed, or if it did that it was episodic and that there was no evidence that it was likely to reoccur. It was further contended that in that prior period, the Claimant had developed and adopted coping mechanisms to deal with such effects as his impairment caused him. As a consequence, therefore, it was submitted that the Claimant's impairment did not meet the 'long term' condition.

11.3 Paragraphs C5 and C7 of the Guidance state that:

'C5. The Act states that, if an impairment has had a substantial adverse effect on a person's ability to carry out normal day-to-day activities but that effect ceases, the substantial effect is treated as continuing if it is likely to recur. (In deciding whether a person has had a disability in the past, the question is whether a substantial adverse effect has in fact recurred.) Conditions with effects which recur only sporadically or for short periods can still qualify as impairments for the purposes of the Act, in respect of the meaning of 'long-term' (Sch1, Para 2(2), see also paragraphs C3 to C4 (meaning of likely).)'

'C7. It is not necessary for the effect to be the same throughout the period which is being considered in relation to determining whether the 'long-term' element of the definition is met. A person may still satisfy the long-term element of the definition even if the effect is not the same throughout the period. It may change: for example, activities which are initially very difficult may become possible to a much greater extent. The effect might even disappear temporarily. Or other effects on the ability to carry out normal day-to-day activities may develop and the initial effect may disappear altogether.'

11.4 These are, I consider, the apposite points in this case. There is ample evidence that the Claimant has had an impairment of anxiety for fifteen years now. There is also ample evidence that its effect on his ability to carry out normal day-to-day activities has been 'sporadic', but, as the Guidance points out, 'sporadic' and 'long-term' are not mutually exclusive. Nor is it necessary for the effect to be the same throughout the period. In any event, however, it is clear from the evidence that over that fifteen years there have been episodes where the effects of the impairment were not dissimilar to those experienced in 2024, as follows:

11.4.1 The Claimant's 2017 accident clearly substantially worsened the impairment, adding amnesia to his difficulties. Those difficulties are reflected in his university's learning support plan from that period and the Claimant's consultant's reference to his '*pre-existing problems with anxiety*' which had '*substantially increased following*

the accident. He feels particularly stressed when he has to make decisions. His sleep has been quite erratic'. (I comment that 'making decisions' and having a regular sleep pattern are entirely routine normal day-to-day activities.)

11.4.2 The medical record of March 2022, where the Claimant states that while he had "*always suffered with some anxiety but in the past year it has got unbearable (so, also covering much of 2021). Whenever I go to leave the house even for work, I feel like I need to vomit. But now it happens when I have left the house and am socialising. If I go out for a meal now, I cannot eat due to the feeling of being sick. My mood has extremely decreased recently. I lack motivation, have low energy. Constantly want to sleep. I just feel numb to everything.*" [95]. He answered '*nearly every day*' to questions related to problems with day- to-day activities, such as sleeping, socialising, concentration and eating. This indicates a not dissimilar set of symptoms and accompanying adverse effects to those he experienced in 2024.

11.5 Further, all the evidence indicates, (sadly, for the Claimant) that his impairment is likely to recur in the future, meeting the test in paragraph 2(2) of Schedule 1. I accept that there is no formal diagnosis of the Claimant's condition and that, reliant on **Syed**, it may have been advisable for him to have obtained such a diagnosis and prognosis, to produce at this Hearing, but that is, I consider, a counsel of perfection. He has provided, as well as his own witness evidence (which, as I've indicated, I found entirely credible), quite detailed and historical medical evidence that indicates the nature and effect of his impairment and that such medical treatment as he has had to date has been largely ineffective, indicating to me the likelihood that it will recur. The previous pattern, periods of time when the Claimant 'managed', by 'powering through', but interspersed with periods where the symptoms became unmanageable seems likely to continue.

12. Judgment. For these reasons, therefore, I find that the Claimant was disabled at the material time by reason of anxiety disorder.

Employment Judge O'Rourke

23 October 2025

Reserved Preliminary Hearing
Judgment sent to the parties on:
2 December 2025

For the Tribunal Office