EMPLOYMENT TRIBUNALS

Claimant
Miss S Tadevossian

Respondent
Chief Constable of Surrey Police

Heard at: Bury St Edmunds (CVP) **On:** 11-14 November 2025

Before: Employment Judge S Moore (sitting alone)

Appearances
For the Claimant: In person
For the Respondent: Mrs L Simpson, counsel

JUDGMENT

The complaints of indirect sex discrimination, of unfair dismissal and of failing to deal with an application to request a contract variation in a reasonable manner are dismissed.

REASONS

Introduction

1. This is a complaint of unfair dismissal pursuant to s.94 Employment Rights Act 1998 (ERA), of indirect sex discrimination pursuant to s.19 Equality Act 2010 (EqA) and of failing to deal with a contract variation request in a reasonable manner pursuant to s. 80G(1)(a) ERA. There was also a complaint of discrimination because of pregnancy and maternity which was dismissed on withdrawal in a judgment of 5 March 2025.
2. I heard evidence from the Claimant and, for the Respondent, from Ms Zoe Lock (ZL), Line Manager, Ms Bethany Yarnall (BY), Contract Centre Supervisor (at the relevant time), and Police Inspector Smith (PI Smith). I was also referred to a bundle of documents.
3. On the basis of that evidence I make the following findings of fact:

The Facts

4. The Claimant commenced employment with the Respondent on 12 November 2018 as a Contact Centre Operator. She was contracted to work 36 hrs per week. Her Job Description sets out the purpose of her job as being:

"To respond to all emergency and non-urgent communications (including telephone, mail, electronic, Social Media platforms) in order to support Surrey Police to identify risk, protect the public, detect crime, whilst ensuring excellent customer service.

Assess all contact to ensure best use of Surrey Police resources, appropriate grading of incidents and referral to other departments and agencies as required.

To compile and update crime reports from members of the public, completing a primary investigation based on details provided and managing expectations required."

5. The Job Description lists ten "key accountabilities". The first is stated as being:

   "To receive calls from members of the public in both emergency (999 calls) and non-emergency (101) situations, identifying risks and caller needs through effective questioning, assessing available options and deciding on the most appropriate action to be taken."

6. On 16 January 2023 the Claimant went on maternity leave to have her second child and was due to return to work on 17 January 2024, although her annual leave entitlement meant her actual return to the office would have been 23 February 2024.

7. In October 2023 the Claimant spoke to her first line manager, BY, and second line manager, ZL, and requested to work from home until September 2024. The reason being, the Claimant said, that this arrangement would enable her to work more hours than she could manage in the office and make her return to work financially viable. Her personal situation was that her eldest child was not entitled to any nursery funded hours until April 2024, when she became eligible for 15 hour per week, and this would increase to 30 hours per week in September. Further the Claimant was responsible for doing all the drop offs and pickups at nursery because at the time her partner worked as a firearms officer for the Royal Family, undertaking 12-hour shifts which could be night or day shifts, and could not be relied on to help with childcare. Also, they did not have any family members able to assist.

8. At the time of the Claimant's request, the Respondent was being looked at by Her Majesty's Inspectorate of Constabulary and Fire and Rescue (HMIC) which is a regulatory body that ensures quality of service and that targets are being met in public emergency services. ZL explained that the Respondent was not performing at the required levels and that higher levels of management were making it clear that the core role of the job was to take incoming calls. Accordingly, working from home was very limited other than in very specific circumstances, mainly due to health reasons. ZL told the Claimant the Respondent could consider altering her working pattern, but that working from home would be very difficult to accommodate. ZL subsequently had a conversation with Human Resources who reiterated ZL's thinking and said the Claimant would be required to come into the office to do the core role.

9. On 3 November 2023 the Claimant sent ZL and others an email stating she had sought external advice and had been advised to submit a flexible working application. Accordingly, ZL sent the Claimant the documents on which to make such a request.

10. On 14 November 2023 the Claimant submitted a formal flexible working request (FWR), which was a request for a contract variation under s.80F ERA, asking to work from home the following days and hours:

    Tuesday – 10am to 5pm (30 min break) = 6.5 hrs

    Wednesday – 6am to 4pm (30 min break) = 9.5 hrs

    Thursday – 9am to 6pm (30 min break) = 8.5 hrs

    Friday – 9am to 3pm (20 min break) = 5.7 hrs

    Total 30.2 hrs

11. The flexible working application had boxes to submit three possible options. The Claimant set out the above as her first option. She did not suggest any other options.

12. She stated that given the costs of nursery childcare, "it's not financially feasible for me to return to work on the part time hours I would be able to do in the office as we would be at a loss every month". The Claimant did not "unpack" this explanation in her FWR application (or either of the subsequent meetings). However in her witness statement she stated that the nursery hours were only from 9am-3pm and that since she was responsible for dropping and collecting her children at/from the nursery, if she had to come into the office, she would only be able to work between the hours of 9am and 3pm (and some of that time would be taken up by her ½ hr journey into work), which would not cover the costs of the nursery. What was not spelled out in the FWR but became apparent in the course of the Claimant's evidence, is that the Claimant's proposed working from home hours extended significantly beyond the hours of the nursery (at least in three out of the four days) so that during those non-nursery hours she was planning to combine working with the care of her baby and two-year old child.

13. A Flexible Working Review meeting was held on 13 December 2023, with the Claimant BY, ZL and the Claimant's union representative. At the meeting the Claimant was told her request was being refused. She was told this was because of the extra costs, namely the business would have to purchase a new laptop for her to use and that although she would continue to be paid as a call handler she would only complete a fraction of the role. Further that following the recent HMICFRS report the Respondent's priority must be on answering 999 and 101 calls rather than other work, that answering those calls was the core of the Appellant's role which could not be done at home. Following the HMIC report, the Respondent had been given 3 months to make an improvement as regards answering 999 and 101 calls and it was therefore not appropriate to authorize long-term working from home. In addition, flexible working was likely to affect the quality and performance of the Claimant's work and although there was surplus work that wasn't answering the phone there were times when there wasn't any such administrative work or crime reports to be completed due to the Respondent being supported by third party agents.

14. On 14 December 2023 the Claimant was sent a letter refusing her request to work from home. However, the letter said the Respondent was happy to discuss any other options of office based working patterns.

15. On 19 December 2023 the Claimant appealed that decision.

16. On 12 January 2024 an appeal hearing took place with the Claimant and PI Smith, Cathryn Goddard, HR Business Partner, and the Claimant's union representative. During the hearing PI Smith asked for clarification as regards what childcare the Claimant had in place when she was working. The Claimant told PI Smith her plan was for nursery cover on Tuesdays, Thursdays and Fridays and that her partner would cover Wednesdays (although the Claimant said in evidence that in fact she could not rely on her partner to cover any of the childcare given his hours, including his requirement to work nightshifts). The Claimant said that driving to and from the CTC would reduce the number of hours she could work.

17. Notably, PI Smith then explored if the inhibitor to the Claimant returning to work from the control centre was that this would mean time away from the children and the Claimant simply said that the commute time would mean she could not complete enough hours per week to make a return to working in the control centre financially viable.

18. Although the Claimant stated that she believed she had told PI Smith that the nursery hours were only from 9am to 3pm I do not accept her evidence on this point. That is not reflected in the notes of the meeting. Further PI Smith's evidence was that he was quite sure the Claimant did not tell him the nursery hours, that it was a very pertinent point, and that if she had done it would have resulted in a discussion about the issue because the Respondent's policies were very clear that working from home could not be used as a substitute for childcare. To the contrary PI Smith said he had been under the impression that the Claimant would not be looking after her children while working from home and that the benefit she would gain from working from home would be avoiding her commute time.

19. By letter dated 14 January 2024 the Claimant was informed that her appeal had been rejected. She was informed that a key focus of the Surrey Police was to ensure they always had sufficient staff to meet the demand from the public when contacting the police and this had recently been highlighted as an area of concern following the HMIC inspection. PI Smith also stated that he had spoken to Performance Managers and other Senior Managers within the Contact Centre and had been told that the demand for staff to undertake secondary functions other than call-taking would reduce over the next six months. Further a number of staff currently in training would soon be able to work independently, following the conclusion of their mentoring phase of training, which would increase the staff available to undertake secondary functions. Accordingly, the appeal was refused because of the detrimental effect on delivering customer service, the prediction of insufficient secondary work being available, and the force being unable to recruit additional staff due to having reached a 100% staffing level and budgetary constraints.

20. On 17 January 2024 the appeal outcome was sent to the Claimant.

21. On 25 January 2024 BY sent an email to the Claimant asking her to discuss what shift pattern she would be returning to work on.

22. By return email the Claimant stated that she had got another job at the Occurrence Management Unit (OMU) (within Surrey Police), namely as a Compliance and Investigating Officer, which she could do from home.

Conclusions

Indirect Discrimination

23. Section 19 of the EqA provides:

    (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 protected characteristic of B's.

    (2) For the purpose 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 to 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 to 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.

24. Section 136 EqA, which applies to any proceedings brought under the Act, requires a claimant to show 'prima facie evidence' from which the Tribunal could conclude, in the absence of any other explanation, that an employer has committed an act of discrimination. It then provides that once a claimant has shown a prima facie case, the tribunal is obliged to uphold the claim of discrimination unless the respondent can show that no discrimination occurred.

25. Accordingly, the burden lies with a claimant to establish the first, second and third elements of the statutory definition of indirect discrimination. Only then does it fall to a respondent to justify the PCP as a proportionate means of achieving a legitimate aim (see *Dziedziak v Future Electonics Ltd EAT* [2012] UKEAT/0270/11).

26. At the Preliminary Hearing on 5 March 2025 the provision, criterion or practice (PCP) identified was that call centre staff work from the office (or call centre).

27. This PCP is not disputed by the Respondent.

28. The next question is whether the PCP placed women at a particular disadvantage when compared to men.

29. The Claimant says that the PCP puts women at a particular disadvantage because, since they are normally the primary care giver and responsible for taking children to and picking them up from paid-for childcare, they are less likely than men to be able to work in the call centre for enough number of hours to make working financially viable, and that the PCP put her at that disadvantage.

30. In order to test the proposition that the PCP puts (or would put) women in general at a particular disadvantage, it is first necessary to consider the relevant pool for comparison, that is those individuals who are potentially affected by the PCP at issue.

31. Although very little was said about this, it seems to me that the appropriate pool is all those call centre employees who have pre-school children who attend a paid-for childcare facility, since I consider this pool is capable of testing the particular allegation of indirect race discrimination and is compatible with s.23(1) EqA which requires that "on a comparison of cases for the purposes of s.19 there must be no material difference between the circumstances relating to each case".

32. It is then necessary to consider, within that pool, whether the PCP puts women at a particular disadvantage. A usual way of testing this would be to compare the proportion of men in the pool who can comply with the PCP as against the proportion of women in the pool who can comply with it.

33. Unfortunately, there was no evidence before me of the numbers of men and women working the call centre (or even of the total number), let alone of the number of men and women in the pool I have identified, and there is no evidence of any woman working in the call centre other than the Claimant who was unable to work for enough hours to make working financially viable.

34. Further, even if I were to assume in the Claimant's favour that, because mothers are generally speaking the primary caregivers, it is likely to be the mothers in the pool who both drop off and pick up their children from the paid-for childcare facility, the factors which might make such an arrangement less financially viable than a working from home alternative (and thereby put those women at a disadvantage) are the respective costs of the childcare in both scenarios, the hours for which that childcare is available and, in the case of working in the call centre, the commute time involved (which eats into the available working hours for the mother). In this respect it is important to make the general point that a woman will need to have childcare for pre-school age children in place for all the hours she is working (at least during the children's waking hours), whether she is working in the call centre or working from home, and the particular point that in this case (unsurprisingly) the Respondent has a policy that working from home cannot be used as a substitute for childcare. Given the range of potential different costs of in-home childcare compared to childcare outside the home, the range of hours for which different childcare providers make themselves available and the differences in individual commute times, I find it is impossible to assume without any evidence to support such a proposition that working in the control centre is significantly less financially viable for women than working from home. I appreciate that this was the Claimant's experience, however this appears to have been due to the limited hours for which her children's nursery was available, her commute time of ½ hr each way, and, more significantly, the fact that it turns out that for some of the time she was intending to work from home while simultaneously looking after her children.

35. Moreover, in *SoS for Trade and Industry v Rutherford (no 2)* [2004] EWCA 1186 the Court of Appeal observed that concentration on only the disadvantaged

group can lead to seriously misleading results, especially in cases where most people in the pool are not disadvantaged. At paragraph 28 Mummery LJ gave the following example: where 99.5 per cent of men and 99 per cent of women can comply with a PCP, if the focus is shifted to the proportions of men and women who cannot comply (i.e. one per cent of women and 0.5 per cent of men), the result would be that twice as many women as men cannot comply with the requirement. However that "would not be a sound or sensible basis for holding that the disputed requirement, with which the vast majority of both men and women can comply, had a disparate impact on women".

36. I therefore cannot find that simply because the PCP put the Claimant at a disadvantage, it put women in general at a disadvantage. It therefore follows that the Claimant has failed to prove that the PCP put women at a particular disadvantage within the meaning of s.19(2)(b) EqA and the claim for indirect discrimination therefore falls to be dismissed.

37. For the sake of completeness, however, and in case the above analysis is wrong, and women were or would be put at a particular disadvantage by the requirement to work in the call centre, the next question is whether the Respondent can show that the PCP was a proportionate means of achieving a legitimate aim.

38. The legitimate aims pleaded by the Respondent at paragraph 31 of its amended response are as follows:

    - Delivering an effective and efficient service during emergencies;
    - Compliance with best practice, guidance and protocols in respect of responding to 999 and 101 calls; and
    - Ensuring that there was sufficient staff available to take the calls.

39. I accept that these are the aims the PCP is intended to achieve and consider they are plainly legitimate aims.

40. As regards the issue of proportionality, the employer is required to show that the PCP corresponds to a real need on the part of the employer, that the PCP is appropriate for achieving the employer's objective, and that the PCP is reasonably necessary for this purpose. In this latter respect an employer is not required to prove there was no other way of achieving its objectives. On the other hand, the test is something more than the "range of reasonable responses" test that applies in unfair dismissal claims.

41. In this case it is common ground that 999 and 101 calls cannot be taken at home and must be taken at the call centre. That is unsurprising given that they can be sensitive, distressing and confidential and that a call handler working from home wouldn't be able to react quickly to obtain support or escalate the response required. ZL stated in her evidence that she didn't believe the public would expect anything but such calls to be taken in an efficient and controlled environment and I agree with her opinion. In any event, as already stated, the Claimant has not sought to argue otherwise.

42. Although call handlers do undertake other tasks as part of their duties, in particular completing crime reports and responding to emails from the public, and these are important tasks, their core and most important role is to take

incoming 999 and 101 calls and if they were able simply to choose to work from home and effectively chose not to do the most important part of their job the system would collapse.

43. A PCP that call-handlers work in the call centre therefore plainly corresponds to a real need on the part of the employer and is appropriate for achieving its purpose.

44. As regards whether the requirement for call centre staff to work in the call centre was reasonably necessary to achieve the aims set out above, the Appellant's case is effectively that the PCP was not reasonably necessary and that exceptions could be made to allow working from home without undermining those aims, and further that exceptions had been made for other people. Her position was that there was plenty of administrative work, including writing up crime reports, that she could do from home, and that during the course of the hearing the Respondent had downplayed the amount of such work.

45. Further, the Claimant stressed that she had only asked to work from home until September 2024 when her eldest child became eligible for more nursery funded hours, and that since she had made it clear to the Respondent that if she wasn't permitted to work from home she would resign, the Respondent must have known it would be in a worse position by refusing her request than allowing it, as by refusing it they would lose her altogether whereas by allowing it they would gain her back as a call handler from September. Furthermore, if she resigned they couldn't replace her quickly since it could be 6-8 months before a new call handler was ready to take calls independently and without the support of a coach. Also, since at that time she was on maternity leave, the Respondent wouldn't be losing her as a call handler as such, she just wouldn't be returning to the call centre when expected. The Claimant also stated that she was aware of four other people who had been allowed to work from home; three had been for health reasons but in one case a call handler who was under investigation for being under the influence of alcohol while at work had worked from home while the investigation was taking place.

46. In this respect I heard a lot of evidence as regards the amount of administrative work available (that is work other than call taking such as the recording of crimes and answering emails, particularly emails from the public). From that evidence it appears that while, as one might expect, the volume of that kind of work fluctuated significantly, in general the call centre was coping with the volume better during the period of the Claimant's maternity leave than it had been previously and demand on individual employees was reducing. So much so that whereas a third-party agency had previously been contracted to assist with the task of crime recording, that contract was being terminated. Accordingly, the likelihood is that had the Claimant been permitted to work from home, while there would have been administrative work available for her to do most of the time there may also have been occasions when no such work was available.

47. However, I do not consider the availability of administrative work to be the most important factor here. The core task of someone in the Claimant's role was to take 999 and 101 roles and by working from home she would not be able to do that job. Further her request was being made at a time when, following a recent

inspection, HMIC had highlighted concerns that the Respondent was not answering calls fast enough which meant that abandonment rates of calls were higher than average and response times were impacted. HMIC had directed the Respondent to make improvements by March and May 2024 (depending on the area of business), failing which the Respondent was at risk of being put into the equivalent of special measures. PI Smith gave evidence that because of the inspection report Police Officers were being drafted into the call centre on a temporary basis and that most rotas were being supported by up to three Police Officers to meet that core need.

48. It is true that there was some evidence of individuals being permitted to work from home, but it is also true that this was only in very limited and exceptional circumstances. Two were permitted to work from home or to work on a hybrid basis for a short period of time as a reasonable adjustment because of ill-health and to facilitate a return to full-time working in the office. A third individual was permitted to work from home on a long-term basis due to a life-threatening illness following Covid and in event retired on medical grounds because they could not return to the office. As mentioned previously a fourth individual worked from home during the period of a disciplinary investigation. It was unclear whether he was permitted to work from home or required to do so by the Professional Standards Department. There was no evidence of anyone in the call-centre being permitted to work from home because of childcare or other caring responsibilities.

49. The Claimant argues that she too was only asking to work from home for a limited period and further that if she was not allowed to do so she was going to resign, which would put the Respondent in an even worse position. However, the fact is that a request under s.80F of the ERA is a request by an employee to change their terms and conditions of employment. I accept that at the time she made the request the Claimant genuinely believed she would want and be able to return to working in the call centre in September 2024, but the Respondent was entitled to be concerned that her position might change.

50. Moreover, and in any event, the Respondent was entitled to also have regard to the wider consequences of allowing the Claimant's request to work from home. It is true that the Claimant's personal circumstances were very difficult, and the requirement to work in the office had an acute impact on her, however many employees have children or other caring responsibilities which at different times and for different reasons might make working in the office very difficult. Yet, by making an exception for the Claimant the Respondent would almost inevitably open itself up to many such similar requests from other people. The fact the Claimant herself has sought to make her case by using examples of others being allowed to work from home, even in circumstances materially different from her own, is a ready illustration of the point.

51. The simple fact of the matter is that the core job of being a call handler can only be done in the call centre and having insufficient staff answering those calls risks the effective provision of an essential public service. The Respondent has also shown that the Claimant's request to work from home came at a time when it was having particular difficulty in meeting the required standards of response times in respect of 999 and 101 calls and when it would have been particularly

difficult both from an operational point of view and as a matter of policy to have allowed that request.

52. In the light of the above, I am satisfied that the requirement to work in the call centre was reasonably necessary to achieve the legitimate aims pleaded by the Respondent, essentially delivering an effective and efficient emergency service, ensuring the availability of sufficient staff to take such calls, and compliance with the relevant protocols and guidance.

53. It follows that had I found that the requirement to work in the call centre discriminated against the Claimant on the grounds of sex I would have found that it was nevertheless objectively justified.

Section 80G(1) Employment Rights Act 1996

54. Section 80G(1) ERA provides that an employer to whom an application for a contract variation under s.80F is made "shall deal with the application in a reasonable manner".

55. Although the Respondent followed the process set out above, the Claimant says the application was not dealt with reasonably, first, because the Respondent did not consider a trial period, and secondly, because she requested data which would demonstrate the amount of administrative work to be done but this were not provided.

56. As regards the fact the Respondent did not offer a trial period, I do not regard this as unreasonable. For all the reasons set out above, the Respondent required the Claimant to return to work in the call centre at the end of her maternity leave. Further and in any event, there was no point in trialing a way of working (namely working from home) that could not continue beyond the trial period because it was not acceptable to the Respondent, and a trial period of itself (normally three months) would not have availed the Claimant since she said she needed to work from home until September 2024.

57. As regards the data requested by the Claimant, by this she meant reports that she says were compiled by the supervisors each hour showing the number of emails awaiting a reply and crime reports outstanding. The Claimant did not refer to the data in her application but at the appeal hearing asked PI Smith if any "statistics around demand [of administrative based work] had been submitted by ZL". PI Smith said they had not been but that he would seek to get them. PI Smith's evidence was that he had asked the supervisors in the contact centre if there was data as regards how the volume of administrative work was measured and comparisons with the number of staff available to do it and was told there were no such statistics.

58. I accept PI Smith's evidence in this respect and I don't accept, as the Claimant alleged, that the Respondent deliberately failed to provide her with the data because the data helped her case. It may well have been that there were crossed wires and PI Smith didn't understand (or the supervisor whom he asked didn't understand) that the Claimant was asking for the hourly supervisor's statistics, which merely showed the numbers of outstanding tasks each and every hour, rather than for data that could give a fuller analysis of the picture.

59. Furthermore, I accept, as PI Smith states in his letter of 14 January 2024 that he had considered the potential availability of administrative work away from call-taking prior to making his decision in that he had spoken to Performance Managers and other Senior Managers in the Contact Centre and had been informed that there was likely to be a reduction in demand for staff to undertake such secondary functions. In any event, the volume (or lack) of administrative work was not the main reason why the Claimant's application was refused.

60. I am therefore not satisfied that the Respondent failed to deal with the Claimant's application in a reasonable manner because it did not provide her with the supervisor's hourly statistics.

Unfair Dismissal

61. At the Preliminary Hearing on 5 March 2025 the Claimant was issued with a strike out warning on the grounds she was not dismissed and continued in the Respondent's employment. If the Claimant objected to the proposal, she was to write to the Tribunal within 14 days setting out her objections. She did not do so.

62. On 4 November 2025 the Respondent asked the Claimant to confirm that she was not pursuing her claim for unfair dismissal. The Claimant responded stating that she only applied for her new role with the Respondent due to a lack of any alternative option and wanted the judge to consider the matter.

63. As the outset of the hearing the Respondent made a strike out application which I refused on the grounds that I considered that in the light of the authorities of *Hogg v Dover College* [1990] ICR 39 and *Z v Y* UK/EAT/0169/20/RN, the Claimant might, depending on the facts, have an arguable case for constructive unfair dismissal.

64. However, any claim for constructive unfair dismissal depends upon the Claimant first showing that a fundamental breach of contract on the part of the Respondent and in view of my findings above she has failed to do so.

65. Accordingly, regardless of the potential application of the above authorities, the complaint of unfair dismissal must fail.

Approved By:

Employment Judge S Moore
Date: 14 November 2025

Sent to the parties on:

8 December 2025

For the Tribunal:

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