



EMPLOYMENT TRIBUNALS

Claimant: Mary Kuye

Respondent: Medway Council

Heard at: London South Tribunal **On:** 3 to 7 November 2025

Before: Employment Judge L Clarke

Members: Miss H Bharadia

Mr S Goodden

Representation:

Claimant: Ms Kuye in person

Respondent: E Sole (Counsel)

JUDGMENT

- (1) At relevant times the Claimant was a disabled person as defined by section 6 Equality Act 2010 because of:
 - (i) Dyslexia (from the commencement of her employment)
 - (ii) Irritable Bowel Syndrome (from May 2022 onwards)
 - (iii) Depression (from November 2021 onwards)
- (2) The complaint of direct disability discrimination is not well-founded and is dismissed.
- (3) The complaint of direct race discrimination is not well-founded and is dismissed.
- (4) The complaint of unfavourable treatment because of something arising in consequence of disability is not well-founded and is dismissed.
- (5) The complaint of failure to make reasonable adjustments for disability is not well-founded and is dismissed.
- (6) The complaint of harassment related to race is not well-founded and is dismissed.
- (7) The complaint of harassment related to disability is not well-founded and is dismissed.
- (8) The complaint of victimisation is not well-founded and is dismissed.
- (9) The complaint in respect of holiday pay is not well-founded and is dismissed.

The respondent was not in breach of contract and did not otherwise fail to pay the Claimant for holiday accrued but not taken on the date the Claimant's employment ended.
- (10) The complaint of unauthorised deductions from wages is dismissed on withdrawal.

WRITTEN REASONS

Introduction

1. The Claimant was employed as a newly qualified social worker (NQSW) at Medway Council.
2. The Claimant's continuous employment started on 12th October 2020 and ended with her dismissal by letter dated 22nd August 2022.
3. The Claimant notified ACAS under the early conciliation procedure on 19th May 2022 in respect of her first claim against the Respondent. The ACAS certificate was issued on 20th June 2022. She notified ACAS again under the early conciliation procedure on 18th November 2022 in respect of her second claim against the Respondent. The second ACAS certificate was issued on 18th November 2022.
4. By her first claim no. 2302433/2022, received on 20th July 2022, the Claimant sought compensation for race and disability discrimination, victimisation, harassment and failure to provide reasonable adjustments.
5. By her second claim no 2304828/2022, received on 17th December 2022, the Claimant additionally sought compensation for unfair dismissal, arrears of pay/unlawful deduction from wages, and holiday pay.
6. The claims and issues were originally discussed and clarified at a case management hearing on 15th June 2023, when a case management order set out the agreed issues (subject to some additions or amendments required to be made by the parties) and judgement was also given dismissing the unfair dismissal claim on the basis that the Claimant did not have the requisite 2 years continuous service and consequently the Tribunal lacked jurisdiction.
7. The Respondent accepts that the Claimant is (and was at the material times) disabled by reason of her dyslexia but did not accept that she was disabled by Irritable Bowel Syndrome or Depression and resisted all the claims.
8. The case was initially listed for a 5 day final merits and remedy hearing between 17th June 2024 and 21st June 2024. That hearing was vacated as the parties were not ready and a further case management hearing took place on 20th June 2024, when an application to strike out the claim made by the Respondent was considered but refused.
9. The case was re-listed and heard between 3rd to 7th November 2025 at an in-person hearing.
10. On the first day of the hearing, and also on the second and third days, considerable time was spent resolving issues relating to the documents. Namely, to ensure that the Claimant had at court with her a complete and coherent copy of the main trial bundle printed on green paper and copies of all other relevant documents. Also, considering whether additional documents should be

admitted. The Claimant sought to introduce further documents not contained in the main trial bundle and an additional witness statement. After taking time to consider the various documentation that the Claimant sought to introduce, the Respondent did not object to their inclusion and the Tribunal admitted 3 supplementary bundles and an additional Needs Assessment document (see paragraph 15 below) in the course of the hearing as well as the Claimant's additional witness statement. In the event the only documents which the Claimant sought to be admitted but which the Tribunal did not admit were those for which the Claimant could not provide complete copies and which could not be located by the Respondent.

11. During the hearing numerous adjustments were made for the Claimant's disabilities. The Tribunal procedure and process was explained to the Claimant at the outset and she was prompted and/or reminded at key stages of the steps required. Late documentation was admitted and additional copies of documents were provided to the Claimant on several occasions when she had not brought her own copies with her. The Claimant's understanding was checked where it appeared necessary and any misunderstandings corrected by re-phrasing and/or repeating in simple language. Straightforward language and single point questions were used in cross-examination of the Claimant. The Tribunal assisted as necessary to rephrase the Claimant's questions for the Respondent's witnesses when she had difficulty formulating a question in cross-examination and the witness could not answer the question she had posed. The Claimant was provided with the Respondent's written submissions on the Law on the morning of 5th November 2025 and the Respondent's written submissions on the Facts on 6th November 2025 to give her the maximum time to process them before being required to respond to them. In the Claimant's final submissions, heard on 7th November 2025, she was prompted to address the Tribunal on the various issues that she did not initially address. Additionally, throughout the Tribunal took short (5 minutes minimum) breaks every hour and offered the Claimant the option to request a break orally or by raising her hand at any other time (which the Claimant did not take).
12. This judgment and reasons deal with merits only and follow an abbreviated oral judgment delivered on 7th November 2025 as a reasonable adjustment for Ms Kuye (agreed by both parties) as there was insufficient time for a full oral judgment.
13. Notwithstanding the brief oral judgment, the parties were informed that time for appeal will run from receipt of the written judgment and reasons and that there would likely be a delay of several weeks before they were received.

The Issues

14. The list of issues was finalised during the first 2 days of the final hearing following discussion with the parties and is appended to this judgment.

The Documents and Evidence

15. The Tribunal considered a main trial bundle of 977 electronic pages (provided in both electronic and hard copy format), incorporating a supplementary bundle

provided by the Claimant. The electronic pdf pagination does not match the hard copy pagination appearing on the pages. In addition, the Tribunal were referred to 3 supplementary bundles (Bundles 2, 3 and 4) produced by the Claimant and a further document that was not contained in a bundle, namely an 11 page Needs Assessment Report produced by PeoplePlus following an assessment which took place on 23rd May 2022.

16. Throughout this judgment, text in bold within square brackets without a prefix refers to the pages of the main hard copy trial bundle. References to pages of the supplementary bundles appear in text in bold within square brackets with a prefix “**B2**”, “**B3**” or “**B4**” as appropriate.
17. The Tribunal was also assisted by a chronology, cast list and list of key documents and by the Respondent’s written submissions on law and fact (2 separate documents).
18. At the hearing, the Claimant represented herself and gave sworn evidence. In her oral evidence she adopted her two witness statements and the supplementary pages of her ET1 in claim number 2302433/2022 [**16-20**] as her evidence in chief.
19. The Respondent was represented by Counsel, Ms E Sole, who called sworn oral evidence from Jane Easten and Kelly Cogger and whose witness statements the Tribunal considered. The Tribunal also considered statements from Jenny Bartlett and Marcus Castell who did not attend the Tribunal for cross-examination.

The Submissions

20. The Tribunal considered the Respondent’s written closing submissions, and heard oral submissions from Counsel for the Respondent, Ms Sole, and from the Claimant herself.
21. The Respondent’s oral submissions were in line with, and expanded upon, its written submissions and addressed mainly whether the Claimant was disabled by depression or IBS and that the reasonable adjustments required were those which removed the substantial disadvantage to the Claimant. Also, that the failure to make adjustments requested by the Claimant or recorded in the Access to Work needs assessments would not necessarily amount to a failure to make reasonable adjustments.
22. In addition, the Respondent highlighted some of the evidence, asserted that the Claimant’s evidence had been difficult to follow, only loosely tied to the facts, failed to address material matters and was unreliable. The Claimant’s evidence was contrasted with that of the Respondent whose witnesses the Tribunal was asked to find were straightforward and reliable.
23. The Respondent referred to the following additional cases in submissions in relation to reasonable adjustments and asserted:

- (i) ***RBS v Ashton [2011] ICR 632***: It does not matter what process was adopted to reach a conclusion, what matters is the practical effect of the measure.
 - (ii) ***Tarbuck v Sainsbury's Supermarkets Ltd [2006] IRLR 664***: The duty to make reasonable adjustments does not include a duty to consult, and consultation is not itself a reasonable adjustment
24. In submissions the Respondent conceded the following matters:
- (i) there was no dispute that the matters at paragraph 4.2 of the List of Issues had occurred;
 - (ii) the Respondent had the PCP's set out at 5.2.1. and 5.2.2 of the List of Issues;
 - (iii) the grievances set out in 7.1.1 of the List of Issues were made; and
 - (iv) the things listed at 7.2 of the List of Issues occurred, save that the reduction in the Claimant's pay between May and August 2022 to half pay only took place in respect of periods when the Claimant was on sick leave (which the Claimant agreed was correct).
25. Despite being given an explanation as to the purpose of submissions and what they should address, the Claimant's submissions were initially brief and focussed on how depression and IBS affected her and how long they had persisted. They did not initially address the majority of the issues.
26. The Tribunal prompted the Claimant to address each of the main claims and to explain why the Respondent's actions were not satisfactory or amounted to discrimination, harassment or victimisation but the Claimant offered little more explanation than an assertion of her beliefs as to how she should have been treated and that the Respondent's actions were discriminatory and linked to her disability and/or grievances.
27. She did make the following key submissions:
- (i) all the adjustments highlighted on the Access to Work Needs Assessment of December 2020 should have been put in place by June or July 2021 at the latest;
 - (ii) she should not have been required to start the ASYE programme until all adjustments were in place.
 - (iii) she relied on her post August 2022 (dismissal) payslip [753] and the correspondence from the Respondent at [245 & 249] in support of her claim for unpaid holiday pay;
 - (iv) the failure to make reasonable adjustments was an ongoing issue.
28. She conceded that the Tribunal had heard no evidence that any of the actions she complained about were related to her race. She also confirmed that her claim for an unauthorised deduction from wages was that she had been paid less on her final payslip than the Respondent had declared to the DWP that she had been paid (for her Universal Credit claim) and she informed the Tribunal that she did not seek to pursue that claim.

29. Despite having given no evidence about her reasons for not bringing the claims sooner, and notwithstanding that her first claim had been issued prior to her dismissal, in submissions she asserted that she did not do so because she was following the procedures at her workplace and only had the option to bring the claims following her dismissal.

The Law

Standard of Proof

30. The party who bears the burden of proving the claim, or any element of the claim, must do so on the balance of probabilities.

Holiday Pay

31. The Claimant was entitled to be paid in lieu of accrued, but untaken, holiday on termination of employment.

Disability

32. Sections 6 and 212 and Schedule 1 of the Equality Act 2010 ("EA 2010") defines when a person has a disability within the meaning of that act. A person will have a disability if they have a physical or mental impairment and the impairment has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.
33. It is not necessary to identify the cause of an impairment but lack of a cause may have evidential value in determining whether the Claimant genuinely has the impairment at all.
34. An effect will be substantial if it is more than minor or trivial. It is a matter of fact for the tribunal to determine whether the impairment has a substantial adverse effect on activities (which are not limited to solely work activities).
35. The effect of an impairment will be long-term if:
- (i) It has lasted for at least 12 months;
 - (ii) It is likely to last for at least 12 months; or
 - (iii) It is likely to last for the rest of the life of the person affected.
- and if it 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.
36. The effect of medical treatments or measures (other than spectacles or contact lenses) are to be disregarded in considering whether a condition has a substantial adverse effect on the ability of the person concerned to carry out normal day-to-day activities.
37. The Tribunal must take into account the Secretary of State's guidance.

38. An impairment will not amount to a disability under the Equality Act 2010 until it meets the “long-term” condition and there can be no discrimination in relation to acts which take place before that criterion is met: **Tesco Stores Ltd v Tennant [2019] 11 WLUK 730; [2020] IRLR 363**.

Direct Race/Disability Discrimination

39. Section 13 EA 2010 confers on employees the right not to be discriminated against on the grounds of race or disability. Enforcement of that right is by way of complaint to the Tribunal under section 120 EA 2010.
40. The Claimant must show that she was subjected to less favourable treatment by the Respondent and that such less favourable treatment was because of her race or disability.
41. Under section 6 EA 2010, the protected characteristic of disability relates to a person who has, or has had, a particular disability and a reference to persons who share a protected characteristic is a reference to persons who have the same disability.
42. Under section 9 EA 2010 the protected characteristic of race includes colour, nationality and ethnic or national origins and relates to a person of a particular racial group.
43. In determining whether there has been less favourable treatment, there must be no material difference between the circumstances of the Claimant and the comparator – s23(1) EA 2010. It is a question of fact and degree whether someone whose circumstances are not precisely the same can be an appropriate comparator - **Hewage -v- Grampian Health Board [2021] UKSC 37**. The tribunal can consider a hypothetical comparator if there is no actual comparator, or as well as any actual comparator, but it may be easier to consider “the reason why” the employer treated the Claimant the way it did and then consider whether it was less favourable treatment because of the protected characteristic – **Shamoon -v- Chief Constable of the Royal Ulster Constabulary [2003] UKHL 11; [2003] IRLR 285** and **Aylott -v- Stockton on Tees Borough Council [2010] IRLR 994 (CA)**. Unfair or unreasonable treatment on its own is not enough – **Glasgow City Council v Zafar [1998] IRLR 36, HL**.

Discrimination Arising from Disability

44. S.15 of the Equality Act 2010 (“EA 2010”) confers on employees the right not to be treated unfavourably because of something arising in consequence of disability which the employer cannot show is a proportionate means of achieving a legitimate aim. Enforcement of that right is by way of complaint to the Tribunal under section 120 EA 2010.
45. The employer will not be liable for discrimination under this head if it can prove that it did not know, and could not reasonably have been expected to know, that the Claimant had the disability - S.15(2) EA 2010.

46. However, the employer does not need to be aware of the link between the disability and the something arising in consequence – **City of York Council v Grosset [2018] EWCA Civ 1105** and the something arising need only be a significant (more than trivial) influence on the unfavourable treatment, not the sole cause – **Pnaiser v NHS England [2016] IRLR 170, EAT**.
47. In considering the justification defence, the tribunal will have to consider:
- (i) What was the Respondent's aim, that is, what was the treatment trying to achieve;
 - (ii) Was the aim legitimate; and
 - (iii) Was the treatment a proportionate means of achieving that aim.
48. The more serious the impact, the more cogent the justification must be. It is necessary for the tribunal to balance the reasonable needs of the employer against the discriminatory effect of the treatment on the employee and to determine whether the employer's needs outweigh the Claimant's right not to be discriminated against on the basis of disability. The tribunal must consider:
- (i) Whether the aim is sufficiently important to justify the treatment;
 - (ii) Whether there is any rational connection between the aim and the less favourable treatment or disadvantage suffered;
 - (iii) Whether the chosen means are no more than is necessary to accomplish the aim (and whether proportionate alternative measures could have been taken without a discriminatory effect);
 - (iv) Whether the steps complained of strike a fair balance between the need to accomplish the aim and the detriment suffered.
- Department for Work and Pensions v Boyers [2022] IRLR 741.**

Reasonable Adjustments

49. Section 20 of the EA 2010 confers on employers to the duty to make reasonable adjustments for disabled persons to avoid disadvantage. Enforcement of that right is by way of complaint to the Tribunal under section 120 EA 2010.
50. Once disability within the meaning of the EA 2010 has been established or admitted, the Claimant must show that either:
- (a) a provision, criterion or practice of the employer or a physical feature of his workplace, put the Claimant at a substantial disadvantage in comparison with persons who are not disabled; OR
 - (b) that he would be put at a substantial disadvantage compared to a non-disabled person without the provision of an auxiliary aid or service.
51. The Claimant will also have to show that the Respondent failed to take reasonable steps to avoid the disadvantage or that it was reasonable to provide the auxiliary aid or service.
52. The Tribunal will need to decide:
- (1) What is the problem (ie what is causing the disadvantage)?

- (2) Is the disadvantage substantial (this is a question of fact, to be objectively assessed and will be substantial if the disadvantage is more than minor or trivial)?
 - (3) Is the disadvantage because of the Claimant's disability?
 - (4) Would an adjustment help?
 - (5) Is the adjustment reasonable (in particular in terms of practicability, which may include the extent of disruption caused, the cost, the financial resources of the employer, the availability to the employer of financial assistance and the type and size of the employer)?
53. Although adjustments need only be reasonable, the employer may have to treat the employee more favourably than a non-disabled persons in order to remove the disadvantage and it may be reasonable to positively discriminate - **Archibald v Fife Council**.
54. Tribunals must take into account any part of the Equality and Human Rights Commission Employment Code of Practice ("the Code") which appears relevant.
55. There must be a real prospect that the proposed adjustment would make a difference – the Code at 6.28.
56. Carrying out an assessment is not a reasonable adjustment - **Tarbuck v Sainsbury's Supermarkets Ltd [2006] IRLR 664 and Spence v Intype Libra Ltd UKEAT/0617/0** - as an assessment alone and of itself would not mitigate the disadvantages to the Claimant or prevent those disadvantages. It would only inform the employer as to what steps might have that effect.
57. A failure to make reasonable adjustments is not a continuing act but an omission to do something (whether the omission as deliberate or inadvertent) – **Kingston Upon Hull City Council v Matuszowicz [2009] EWCA Civ 22**. Time for claims for failure to make reasonable adjustments begins to run from when it becomes, or ought to have become, clear to the employee that the employer was not complying with its duty to make reasonable adjustments and is an objective test – **Abertawe Bro Morgannwg University Local Health Board v Morgan [2018] IRLR 1050, Fernandes v Department of Work and Pensions [2023] IRLR 967**.

Harassment

58. Sections 26 and 40 EA 2010 confer on employees the right not to be subjected to unwanted conduct related to race or disability that has the purpose or effect of violating the employee's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the employee.
59. In determining whether has that effect, the Claimant's perception, the other circumstances of the case and whether it was reasonable for the conduct to have that effect must be taken into consideration.
60. It is not enough that conduct was simply upsetting.

Victimisation

61. Section 27 EA 2010 confers on employees the right not to be subjected to a detriment because they have done, or the employer believes that they have done, or may do, a protected act. Enforcement of that right is by way of complaint to the Tribunal under section 120 EA 2010.
62. The Claimant must show that they have been subjected to a detriment because they have done, or the employer believes that they have done, or may do, one of the protected acts set out in s27(2), that is:
 - (i) Bringing proceedings under the EA 2010;
 - (ii) Giving evidence or information in connection with proceedings under the EA 2010;
 - (iii) Doing any other thing for the purpose of or in connection with the EA 2010; or
 - (iv) Making an allegation (whether or not express) that the person subjecting the Claimant to detriment, or another person, has contravened the EA 2010.
63. References to contravening the EA 2010 include references to committing a breach of an equality clause or rule – s.27(5) EA 2010.
64. “Detriment” means a disadvantage. It covers most adverse treatment at work and need not involve economic detriment. It does not include conduct which amounts to harassment - s. 212(1) EA 2010.
65. In determining whether there has been a detriment, the tribunal must consider whether the employee/worker was disadvantaged in the circumstances in which he thereafter had to work from the point of view of the victim and the victim’s opinion that the treatment was to their detriment is sufficient if reasonably held. However, an unjustified sense of grievance about an allegedly discriminatory decision cannot constitute “detriment”. Only if a reasonable worker (but not *all* reasonable workers) would or might take the view that in all the circumstances he had been disadvantaged will there have been a detriment. This is not either a subjective test or a wholly objective test. ***Shamoon -v- Chief Constable of the Royal Ulster Constabulary [2003] UKHL 11; [2003] IRLR 285***, applied in ***Wharburton -v- Chief Constable of Northamptonshire Police [2022] ICR 925***.
66. The person who subjects the Claimant to the detriment must know that the Claimant did the protected act unless they have been influenced or manipulated to carry out the detriment by a different person who was aware of the protected act.
67. The Claimant will not however be protected from protected act complaints about discrimination if they make a false allegation in bad faith – s27(3) EA 2010.

Burden of Proof

68. S.136 EA 2010 sets out a two-stage burden of proof for claims brought under the Act which has been subject to clarification and guidance, in particular in ***Igen -v- Wong [2005] EWCA Civ 142; [2005] IRLR 258***:

Stage 1: The prima facie case

There must be primary facts from which the tribunal could decide, in the absence of any other explanation, that discrimination took place. It is not necessary that a tribunal would definitely find discrimination, only that reasonable tribunal properly concluding on the balance of probabilities could do so.

The burden of proof is on the Claimant: ***Ayodele -v- (1) Citylink Ltd (2) Napier [2018] IRLR 114, CA.; Royal Mail Group Ltd -v- Efofi [2021] UKSC 22*** and the tribunal must take into account all of the evidence adduced (not only that of the Claimant) and any argument made by the Respondent (eg that a comparator is not truly comparable). The tribunal should not take into account any explanation for the treatment given by the Respondent.

A difference in status and treatment is not sufficient to shift the burden of proof – ***Madarassy -v- Nomura International plc [2007] ICR 867*** and there must also be something to suggest that any difference in treatment was due to the relevant characteristic – ***B -v- A [2010] IRLR 400***.

Stage 2: the burden shifts

The Respondent must prove that it did not discriminate against the Claimant by proving that the treatment was in no sense whatsoever because of the protected characteristic. Cogent evidence is expected to discharge the burden of proof.

69. In ***Hewage -v- Grampian Health Board [2021] UKSC 37*** the Supreme Court said of the burden of proof provisions that “They will require careful attention where there is room for doubt as to the facts necessary to establish discrimination. But they have nothing to offer where the tribunal is on a position to make positive findings on the evidence one way or the other.”
70. The tribunal may draw inferences from the primary facts found, should consider not merely each separate incident but the global cumulative effect of the primary facts found and must be mindful that discrimination may be unconscious – ***King -v- The Great Britain-China Centre [1991] IRLR 513 (CA), Anya -v- University of Oxford [2001] IRLR 377 (CA)*** and ***Nagarajan -v- London Regional Transport [1999] IRLR 572, HL***.

Relevant Findings of Fact and Associated Conclusions

71. The Tribunal found all the witnesses who gave oral evidence to be honest witnesses who were doing their best to assist the Tribunal and give accurate recollections of what happened.
72. The Tribunal had no doubt that the Claimant genuinely believed that she had been poorly treated and discriminated against by the Respondent but found that she became locked into a drive for the adjustments she wanted and her focus on these closed her mind to other things that the Respondent had put in place or

offered to put in place. She considered the ASYE programme and her role as a NQSW to be one and the same, which was not accurate. Nor was it reasonable to expect that she would not be required to undertake any social work or start the ASYE programme until ALL possible adjustments she sought had been put in place.

73. The Tribunal found the Claimant's first witness statement to be extremely confused and difficult to follow and her second statement to consist largely of a chronology of the factual events which were not significantly in dispute. She did not provide written evidence that addressed and supported all the aspects of her claims. The Tribunal also found her oral evidence to be confused and frequently difficult to follow. She struggled to give straightforward answers to even simple questions and at times gave answers that were inconsistent with her other evidence. The Tribunal accepted that some of these issues may have related her difficulties arising from her disabilities (in particular dyslexia), and took pains to try to alleviate those difficulties, but her inability to give a consistent history, even with all reasonable adjustments, the internal contradictions in her evidence and the making of assertions which clearly contradicted known facts, (such as that at paragraph 29 above), led the Tribunal to conclude that she was a poor historian and that her evidence was of poor quality and not reliable where it differed from contemporaneous written documents.
74. By contrast, the Tribunal found that the Respondent's witnesses who gave oral evidence were careful to say when they were not sure or did not know and gave evidence that was consistent with the contemporaneous written documents. The Tribunal found them to be consistent, reliable and credible witnesses.
75. The Tribunal considered the statements of the Respondent's witnesses who did not give oral evidence and took into account that the Claimant had had no ability to cross-examine them. The Tribunal placed weight on the contents of these statements only to the extent that they provided evidence of uncontested factual matters or where the contents were consistent with, and supported by, contemporaneous written documents.
76. In consequence of all the matters set out above, in determining this claim, the Tribunal relied heavily on the contemporaneous documents (whose validity was not challenged) and where recollections appeared to differ from contemporaneous documents, the Tribunal preferred the evidence of the contemporaneous documents. The Tribunal considered that the contemporaneous documents provided a more accurate account of events than individual memories which are malleable and, over the extended period between the events occurring and the evidence being given may have been considered/reconsidered on numerous occasions and unintentionally reinterpreted, refocussed and amended in light of new information over time.
77. The primary events were largely uncontentious.
78. There were numerous issues raised by the Claimant which it was unnecessary to determine in order to determine the Claimant's claims. The Tribunal did not seek to determine every matter in issue between the parties but focussed on

those disputes that would assist the Tribunal to determine the matters on the list of issues. The main factual disputes in this context were whether:

- (i) the Respondent had questioned the Claimant's ability to acquire her social work degree;
- (ii) the Respondent questioned the Claimant's disability (dyslexia) at probationary meetings;
- (iii) the Respondent told the Claimant to complete the work risk assessment (for stress) herself; and
- (iv) the Respondent had paid the Claimant all the holiday pay that she was due on termination – this revolved around how the Respondent had treated a period of unauthorised absence between 4th to 7th July 2022.

The Claims

- 79. The Claimant was employed as a newly qualified social worker (NQSW) at Medway Council [99-107] from 12th October 2020. Her employment commenced during a period when COVID-19 restrictions remained in place and front line social work was usually carried out by phone or video link. The Claimant was initially therefore largely able to work from home. A group induction of all the NQSWs was carried out by MS Teams.
- 80. It was the Claimant's first social work job following the conclusion of her social work degree and her registration as a social worker and was subject to a minimum 12 month probationary period.
- 81. At the time of her application and the commencement of her employment she declared dyslexia as a disability affecting her but did not declare any other conditions or disabilities.
- 82. Medway Council required all NQSW to enrol upon, and complete, the Assessed and Supported Year in Employment ("ASYE"). This was one of the reasons why the Claimant wanted the job with Medway. The ASYE was an add-on to the role of NQSW (the job the Claimant was employed to do) and the Claimant's role was not solely to complete the ASYE. Although the ASYE is not mandatory to work as a social worker, it is often a desirable or required qualification by employers of social workers.
- 83. The ASYE programme is assessed as "pass" or "fail" and any NQSW who does not obtain a "pass" will not progress beyond the probationary period into a permanent Social Worker post with Medway Council [102].
- 84. The ASYE programme is a national programme and is ordinarily expected to be completed within a 12 month period by all those enrolled on it [431]. Medway Council adopted this expectation and provided specific Guidance for NQSW undertaking ASYE [406 – 442]. The key objectives of the ASYE are to enable the NQSW to develop skills, knowledge and capability and strengthen professional confidence. It provides focused supervision, support, guidance and casework experience with the aim of improving the quality of social work and bridging the transition between social work student to competent and capable professional [412].

85. The progress of the NQSW on the ASYE programme is mandatorily assessed at 3 months, 6 months and 11 months through review meetings and submitted written work. At each stage there are 2 key documents: a Record of Support and Progressive Assessment (ROSPA) and a Critical Reflection Log (CRL). The CRL is produced by the NQSW at first instance and must include evidence of meeting of the requirements of the ASYE, a demonstration of the NQSW's progressive development against the Knowledge and Skills Statements and the Professional Capabilities Framework. It must also contain professional feedback, feedback from persons requiring care and support and direct observations by the ASYE assessor.
86. If concerns are raised, they are recorded at and addressed at the reviews which form part of the ROSPA. If the assessor at 3 or 6 months is concerned that the requirements of ASYE are not being met or the NQSW has had a period of sick leave, they can call for a further discretionary review at 9 months [414 & 425].
87. An electronic portfolio containing relevant documents is maintained and submission dates for each stage are set by the ASYE co-ordinator at the start of the programme, although extensions may be sought and/or granted, usually only in exceptional circumstances [428]. Once the portfolio is 100% complete it is submitted and, following submission, it will be moderated [428]. Partially complete portfolios are not submitted or moderated.
88. The Claimant commenced the ASYE programme on 30th October 2020 [390-396] when it was noted that, as a result of dyslexia, she needed a longer time to complete paperwork, liked to be given the opportunity to prepare for meetings and supervisions in advance, liked to plan and make notes of what she needs to discuss and found it challenging when having to think on the spot [395].
89. She was given adjustments tailored to these requirements including being given 3 days per month of protected time to complete ASYE work instead of having 2 days per month as the other ASYE NSQW's were given.
90. Additionally, an Access to Work workplace needs assessment was undertaken on 15th December 2020. PeoplePlus provided a report ("the A2WR") [278-292] which referenced the Claimant's dyslexia and set out a number of recommendations to remove barriers identified as a result of her dyslexia. No other conditions or impairments were reported or considered. The recommendations were for:
- (i) Dragon Professional Individual software v15
 - (ii) USB headset
 - (iii) 2x ½ days Dragon Professional Individual training
 - (iv) Texthelp read and write Gold Version ATW Edition
 - (v) 1x ½ day training for Texthelp read and write Gold Version ATW Edition
 - (vi) Ideamapper Pro
 - (vii) 1x ½ day of Ideamapper Pro training
 - (viii) A4 sized Coloured overlays

- (ix) 6 x ½ days Coping Strategies Training (3 focusing on grammar, punctuation and sentence structure and 3 focusing on improving her memory, concentration and reducing distraction)
 - (x) Phillips SpeechAir Smart Voice Recorder 2
 - (xi) U Top Laptop stand
 - (xii) Microbreak: Mind (software)
91. An access to work grant to facilitate the adjustments was approved on 22nd December 2020 [339].
92. By around January 2021, before any of the adjustments recommended by the A2WR were in place, the Claimant was beginning to have some difficulties keeping up with the pace of work and managing her time. As a result, between 12th January 2021 and 1st March 2021 the Respondent paused allocations of new social work cases to her to give her an opportunity to catch up on her written work (both for ASYE and her general NQSW duties) [229].
93. Nevertheless, on 15th January 2021, prior to any of the A2WR's recommended adjustments being put into place, the Claimant successfully completed her first (3month) ASYE review [539-542]. It was noted that she had been referred to workplace assessment for reasonable adjustments and that she was receiving regular supervisions, with her assessor informing the co-ordinator that she could spend up to 30 minutes each day providing informal supervision.
94. The Respondent began to implement the recommendations from the A2WR in about January 2021. It is unclear exactly when the various recommendations were each implemented but by February 2021 Dragon and other software had been installed for the Claimant.
95. On 1st March 2021 the Claimant's ASYE assessor was changed from Emelia Boateng to Nikita Large due to a reorganisation. The Claimant continued to be scheduled to receive regular formal supervision.
96. At her supervision with Nekita Large on 29th March 2021 the Claimant confirmed that all equipment had been installed on her laptop and all training had taken place. The Claimant identified no additional areas requiring support [230].
97. The Claimant's 6 month ASYE review was originally scheduled for 15th April 2021 but was put back to 7th May 2021 (having been delayed due to unavailability of the assessor). However, on 7th May 2021 the Claimant's informed her assessor that due to "unforeseen circumstances" her work for the 6 month review was not complete [199]. She had been required to attend to a client on 7th May 2021 in the time she had anticipated completing her paperwork. Ms Large agreed to rearrange the review [199]. It was re-arranged to 18th June 2021.
98. On around 11th May 2021 Nekita Large received a complaint about the Claimant from the service user the Claimant had seen on 7th May 2021. In an informal, without notice, virtual meeting on 13th May 2021 the Claimant was advised of the complaint and of a further meeting, which took place on 14th May 2021, to discuss

the complaint and conduct fact finding. At that meeting on 14th May 2021 the Claimant was asked to provide a response by 18th May 2021.

99. The meeting on 14th May 2021 was not a disciplinary meeting but merely an informal discussion. Nevertheless, on 18th May 2021 the Claimant raised an informal grievance against Nekita Large [513-514] about having been called into the meeting without sufficient time or information to prepare. The Claimant also began a period of sick leave on 18th May 2021 attributed to “stress at work” which lasted until 8th June 2021.
100. On her return to work on 9th June 2021 the Claimant had a ‘return to work’ meeting with Jackie Dalton where she was informed that as a result of her sick leave her social work case load had been reallocated [297].
101. Following the informal grievance, on 10th June 2021 the Claimant raised a formal grievance regarding Nekita Large and the meeting on 14th May 2021 and the breakdown in their relationship. In light of the grievance, she requested an alternative ASYE assessor for the forthcoming 6 month review [525].
102. By 17th June 2021 the Claimant had uploaded the CRL required for the 6 month review. The review meeting itself was deferred to 24th June 2021 and, in light of the Claimant’s concerns, took place with Stephanie Bryant, the ASYE co-ordinator, rather than with Nekita Large.
103. Ms Bryant did not consider that the CRL produced by the Claimant was up to the required standard and recorded her comments [555-557]. Consequently she made a recommendation for an Action Plan and 9 month review to support the Claimant to complete the programme successfully as, based on the evidence presented, she did not consider that the Claimant was making satisfactory progress. The Action Plan put in place following this meeting is at [559-564].
104. On 2nd July 2021, the Respondent replaced Nekita Large as the Claimant’s ASYE assessor and informed the Claimant that Marcus Castell would be her new supervisor.
105. The Claimant met with Mr Castell on 8th July 2021 and 12th July 2021 and from 12th July 2025 Mr Castell began supervising the Claimant at weekly meetings, concentrating on achieving the targets set out in the Action Plan. He reviewed the Claimant’s ASYE work and on 14th July 2021 he gave suggestions as to how to improve her 6 month CRL [529-532].
106. Mr Castell continued to express concerns and provide support and constructive guidance [519-520, 533-535, 537-538, 305] throughout further supervisions in the run up to the 9 month ASYE assessment which was scheduled for 1st September 2021. The Claimant was asked to re-draft her 6 month CRL before 1st August 2021 and to complete a 9 month CRL. Her case allocation was again paused from 2nd August 2021 to enable her to catch up.
107. Of note, the Claimant’s draft CRL for the 6 month review at this time stated “*I am able to manage my caseloads and plan my day more effectively with the software*

provided for my learning needs. This has been a very important resource to enable me to keep focus on tasks in a timely manner. I have also been able to access resources to manage stress when dealing with my cases. I have also been able to attend online resources to maintain my wellbeing” [532].

108. Notwithstanding that her work allocation had been paused, the Claimant had a further period of sickness absence between 31st August 2021 to 20th September 2021 as a result of work related stress and bereavement [304]. Consequently, her 9 month review was postponed to 22nd September 2021 following a return to work meeting on 21st September 2021.
109. At the return to work meeting on 21st September 2021 [299] it was noted that adjustments recommended by the A2WR were outstanding, namely: laptop stand, microbreak software and coping strategies course.
110. At the ASYE 9 months review on 22nd September 2021 the Claimant was informed that some requested documentation was missing and, in light of that and the quality of the work produced, it was not likely that she would complete the ASYE programme [569]. Mr Castell provided a detailed and balanced report dated 29th September 2021 [315-326] which highlighted positive elements as well as setting out his concerns and providing examples to support them.
111. He concluded that her CRL at the 6 month review “*did not demonstrate that she had adequately grasped the concept. Mary was provided with guidance on writing reflectively and asked to resubmit. Despite reminders to resubmit I have not received a new draft. As a Social Work Graduate, it would be assumed that Mary had developed adequate reflective skills during her degree*” [326].
112. The Claimant relied upon the last sentence in this quoted segment, as well as similar comments she alleged were made orally by Mr Castell and others, as evidence that the Respondent had questioned her ability to acquire a social work degree. The Tribunal did not accept that any of the written or oral comments the Claimant relied upon could have reasonably been interpreted as questioning her ability to acquire a social work degree. Rather, the Tribunal considered that the comments amounted to no more than that the various persons making them considered that as a result of having successfully completed her degree, the Claimant had the skills she required to undertake the ASYE programme.
113. Similarly, the Claimant was unable to provide any evidence that the Tribunal considered could reasonably be understood to indicate that the Respondent (or any of its servants) had questioned that she had a disability (dyslexia). On the contrary, the documentary and oral evidence of the Respondent’s witnesses clearly indicated that they were alive to and accepted, that she was disabled by reason of dyslexia and that they had made numerous adjustments to attempt to alleviate the disadvantage arising from it. The Claimant’s interpretation and/or understanding of things said in probation meetings or written in reports did not stand up to independent scrutiny as they were not interpretations or understandings that any reasonable person considering the words said or written could have reached.

114. Mr Castell's report further noted that during the last year the Claimant had had a reduced caseload of 2 allocations per week but had struggled to meet deadlines and complete assessments despite also having 2 allocation breaks, both of which preceded sickness absence due to work related stress. Despite acknowledging that her dyslexia presented the Claimant with additional difficulties, he determined that her extremely limited output of work on a weekly and monthly basis meant that there were insufficient grounds to consider grounds for extension to the ASYE.
115. By this time, the anniversary of her employment was pending and as a result of her failure to pass the 6 or 9 month ASYE reviews, the Claimant was invited to attend a probationary meeting, which took place on 13th October 2021 [272-277]. At the meeting the Claimant noted that there were outstanding adjustments recommended in the A2WR (6 x ½ day Coping strategy course, laptop stand, microbreak software and training) and expressed the view that her dyslexia had not been taken into account. She requested an Occupational Health review.
116. The probationary meeting decision was given in a letter dated 29th October 2021 [383]. The panel concluded that not all the adjustments required were implemented in a fair and reasonable time frame so that her success in the role could not be fairly determined at that stage. The panel decided to extend the probationary period by 3 months to allow her to complete her ASYE successfully and noted that *"The 3-month period will not start until all the recommendations from the access to work report have been implemented. I anticipate that this would at the latest be 01/12/2021."*
117. The panel clearly did not envisage that there would be a further extended period of delay and expected the 3 month extension to start no later 1st December 2021. In fact, the Claimant chose to book her Coping Strategy courses at intervals and over an extended period such that they were not in fact completed due to be completed until sometime in January or February 2022 (although in fact as a result of absences she did not in fact complete them by this date). The Tribunal did not consider that this was in the contemplation of the panel and found that the Tribunal's decision was not to delay the start date of the Probationary extension to some undetermined future time in the distant future when all adjustments were in place and the coping strategy courses completed. This would have enabled the Claimant to defer the extension period indefinitely according to when she chose to book the sessions. Rather, the Tribunal considered that the panel's intention was to provide that the extension period should begin when all of the adjustments were in place or on 1st December 2021 whichever was the earliest.
118. In the meantime, the Claimant's grievance was progressed and on 14th October 2021 she attended a grievance meeting [873-881]. The outcome of that meeting was provided by letter dated 21st October 2021 [882-883] which upheld parts of her grievance, finding that information on her change of ASYE assessor could have been better explained and that as some adjustments remained outstanding, the reasonable adjustments could have been done better. The aspects of her grievance which related to the meeting on 14th May 2021 and breakdown of her relationship with Nekita Large were not upheld.

119. The Respondent also arranged for an Occupational Health assessment. That assessment took place and resulted in a report dated 30th November 2021 [**293-294/585-587**] which concluded that the Claimant had dyslexia, irritable bowel syndrome and depression and that these have a substantial impact on her day to day functioning. It noted that she was on nighttime medication for depression which caused drowsiness at the start of the day but concluded that she was fit to continue in current post with suggested adjustments and recommended:
- (i) Time to attend medical appointments;
 - (ii) Future sickness to be reviewed in light of the underlying conditions;
 - (iii) An assessment by access to work scheme regarding her work from the office;
 - (iv) A dedicated workstation at the office may be necessary;
 - (v) Reasonable adjustments before her probation assessment; and
 - (vi) Work stress risk assessment.
- It also suggested consideration should be given to allowing her to work from home.
120. In the event, the Respondent, having anticipated a start date of the 3 month probationary extension no later than 1st December 2021, deferred the start date further to give the opportunity to implement the recommendations of the A2WR and the Occupational Health Assessment.
121. Although the start date of the probationary period was deferred, the Claimant was still expected to continue her NQSW role and to continue to work on the ASYE to bring it up to the required standard during the intervening period. However, although she continued to collect her salary, from 1st December 2021 she was not allocated any new social work cases and was given protected time to complete her ASYE, both of which were adjustments for her disability.
122. At a meeting on 12th January 2022 the Claimant confirmed that her ASYE portfolio work that had been outstanding was now up to date [**B2: 10**]. The Claimant's 9 month review was initially scheduled for 28th February 2022 in line with the indication that the 3 month probationary period would start no later than 1st December 2022 but was subsequently deferred until 29th March 2022 [**676**].
123. On 1st February 2022, immediately before a period of leave (between 3rd February 2022 and 18th February 2022), the Claimant requested a Microsoft Teams meeting on 21st February 2022 regarding reasonable adjustments as she said she did not "*feel comfortable coming into work for a face to face meeting as I would still like to request to work from home in relation to my disability*" [**B2:4**]. In subsequent e-mails she declined to say why she would not feel comfortable [**B2: 1-3**].
124. From 21st February 2022 (the day she was due back at work) the Claimant commenced a period of sick leave which lasted until 27th March 2022. The reason given for her sick leave was work related stress.
125. During this period of sickness she lodged a further grievance on 24th March 2022 [**667-676**]. The Claimant complained that she was being required to carry out her

day to day duties as a NQSW and commence her 3 month probationary extension of the ASYE programme without all her reasonable adjustments being put in place (she still had 2 coping strategy sessions outstanding).

126. Notwithstanding the grievance, the Claimant's second probation meeting took place on 29th March 2022. On the same day the Claimant was placed on garden leave – she was not required to undertake any NQSW or to attend the office. This lasted until 15th May 2022.
127. By letter dated 14th April 2022 the Claimant was informed of the outcome of the second probationary review [270-271]. The panel noted that the Claimant had stated that all her ASYE work had been completed but had not been uploaded to the portal and that there was ambiguity about the start date of the probationary extension period. The panel was satisfied that the 3 month extension ceased at the end of March 2022 but took into account the Claimant's annual leave and sickness absence in this period and made an interim decision to place a hold on the Probationary hearing outcome and to afford the Claimant the opportunity to submit her ASYE work (the outstanding work was listed), requiring all outstanding documentation to be submitted by 22nd April 2022.
128. The period of gardening leave should have afforded the Claimant ample time to work on the outstanding ASYE paperwork.
129. The Claimant's grievance of 24th March 2022 was dealt with by the Respondent's sending a grievance outcome letter on 21st April 2022 [679] which concluded that the matters raised in the grievance were directly linked to her ongoing Probation Process and were already being considered within that process and in accordance with the Respondent's Probationary Policy. Further, that as a result, the grievance required no further investigation under the Grievance and Harassment policy. That position was in line with paragraph 6.6 of the Grievance and Harassment policy [781].
130. On 27th April 2022 Marcus Castell, the Claimant's ASYE assessor, approved the Claimant's revised 6 month CRL. He sent her an e-mail advising her of this but informing her that he was not able to approve her 9 month CRL because it did not provide sufficient evidence regarding development. He informed her that her 9 month review would take place on 3rd May 2022 and said that "*.. I am unable to predict that you will successfully complete the ASYE. However over the next three months we will work to get you there.*" He asked her to re-draft her 9 month CRL and advised her to use her garden leave to do so and to research aspects of working with people with mental health support needs [511].
131. That e-mail was copied to a number of other individuals on the Respondent's staff, including the ASYE co-ordinator, various HR staff and Senior Management. The Claimant did not raise any concern that anyone had been unnecessarily copied into that e-mail at the time and the Claimant could not, in her oral evidence, identify anyone who had been copied in and explain why there was not a legitimate reason for that person's inclusion despite being asked about this. She merely expressed that she had seen most of the persons in (various) other e-mails but that previously e-mails to her had only been cc'd to perhaps 1 other

person. The Tribunal considered the persons who had been copied in and their roles in the Respondent's organisation, noting that the e-mail had been copied to persons with various management or supervisory roles in relation to the Claimant specifically or the NQSW/ASYE's generally but was unable to find that there was anyone who had been obviously copied into the e-mail inappropriately.

132. A further probation meeting took place on 11th May 2022 [268]. The outcome of this meeting was that a 3 month extension was agreed to start on 16th May 2022, following the end of the Claimant's garden leave on 15th May 2022, and the Claimant would be moved to work with the Community Support Mental Health Team for the remaining weeks of her ASYE. The Claimant's ASYE assessor was again changed, at her request and to reflect her change in Team, and became Jane Easton. Reasonable and agreed actions were embodied in a further Action Plan to support the Claimant to complete the ASYE programme [440-444]. Dates for a meeting with Jane Easton and a Team induction were also set.
133. The Action Plan [440-444] was finalised with Jane Easton following a meeting on 17th May 2022 and provided a detailed and carefully structured breakdown of what was required, what action was to be taken (and by whom) and the dates by which the actions should be taken. The Claimant's final ASYE portfolio submission date was set for 5th August 2022 (some 21.5 months after she first commenced the programme and an effective extension of over 9 months as against the expected standard completion period of 12 months).
134. On 25th May 2022 the Claimant had a further Access to Work needs assessment in relation to returning to work in the office [Additional report, not in bundle] as recommended by the Occupational Health Report of 30th November 2021. That report ("the A2WR2") listed the Claimant's disabilities as dyslexia and depression. It noted that she had a mixed working environment: working from home and in an open plan office without an allocated desk. It did not mention irritable bowel syndrome. The report recommended:
 - (i) Neurodiversity Disability Awareness training for colleagues (remotely via webinar);
 - (ii) Grammarly Premium;
 - (iii) Adjusting systems to improve accessibility (font size and colour contrasts);
 - (iv) Allocated desk in a quiet area;
 - (v) Noise cancelling headphones
 - (vi) Support worker assistance
 - (vii) Extra time for tasks
 - (viii) Mental Health Support Service access (offered by Access to work)
 - (ix) Later start when working in the Office
 - (x) Workplace passport
135. The Tribunal found that the disadvantages arising from depression and those arising from dyslexia were mainly the same, including difficulties with concentration and completing tasks, and that the adjustments required (eg requiring more time to complete tasks) essentially overlapped.
136. Further, it was unclear whether the A2WR2 had taken into consideration all of the adjustments previously provided and whether the software recommended

(Grammarly Premium) was merely duplicating functions which software previously provided (eg Texthelp, Dragon and Ideamapper) already offered.

137. The Claimant had a further period of sickness absence between 25th May 2022 and 5th June 2022.
138. On her return she had a meeting with Jenny Bartlett on 7th June 2022 [455-457]. Unfortunately, by this time the Claimant had already failed to meet the steps required by the Action Plan and had fallen behind, including in relation to relatively straightforward matters such as booking development days and supervision times into her calendar/keeping her diary up to date. At the meeting the Claimant sought to further defer the start date of her further 3 month probationary period, which Jenny Bartlett told her she did not have power to do. The Claimant then threatened to take everyone to the Tribunal and said she would not be doing what was needed as her period of extension should not start until all adjustments were in place. At the date of this meeting the A2WR2 was not available to the Respondent. E-mail correspondence on the same date repeated the request to move the start date of her 3 month probationary period extension [446] and sent further e-mails regarding the timetable in the action plan which she considered to be unfair.
139. Having reviewed the terms of the action plan and the history to that point, the Tribunal did not find that the timetable set out in the action plan was in fact unfair.
140. The Claimant had a further period of self-certified sickness between 8th and 15th June 2022.
141. From 17th May 2022, the Claimant did not attend the Respondent's office, did not attend scheduled supervision sessions with Jane Easton, or the scheduled team induction, she did not start or complete any social work activities and she did not submit her revised 9 month CRL or attend a meeting scheduled on 4th July 2022 to discuss her office attendance, ASYE progress and outstanding training and 9 month CRL [448].
142. In fact, after requesting, but not being granted, annual leave on 4th to 7th July 2022 [467] she nevertheless took leave on these dates, which was consequently classed as unauthorised [469].
143. Notwithstanding her refusal to attend the office on request, that she was not doing any social work as required by her NQSW role and the taking of unauthorised leave, no disciplinary action was taken against the Claimant by the Respondent in respect of these matters.
144. The meeting which did not take place on 4th July 2022 was re-scheduled to 11th July 2022 and took place between Jenny Bartlett and the Claimant [496-499]. On the same date the Claimant provided the Respondent with a Workplace Passport that she had prepared [472-478]. The workplace passport detailed the Claimant's disabilities as dyslexia, Irritable Bowel Syndrome and Depression and cited the recommendations made in the Occupational Health Report, A2WT and A2WR2.

145. During the meeting the Claimant was advised of the reasons why it was important for her to attend the office some of the time and was told she could work from home to complete reports once she had undertaken some social work activity. The Claimant was also advised that a dedicated working space in the office had been agreed and a later start time for office working (save for on limited occasions where a 9am start would be necessary) and that noise cancelling headphones would be provided. The Claimant was also advised that health appointments could be taken but the Claimant was expected to complete work around them. In fact the Claimant agreed in her evidence that she was not denied time away from work to attend health appointments and regular counselling
146. The Claimant's failure to meet the Action plan targets and the ASYE requirements were also discussed in the meeting on 11th July 2022. The Claimant was reminded, and warned, that her ASYE portfolio would need to be completed by 5th August 2022 and that her 9 month CRL would have to be completed in advance to allow time for review.
147. The Claimant asserts that on various dates including 3rd May 2022 and 11th May 2022 (unclear) she was told by Jenny Bartlett and/or Marcus Castell and/or Stephanie Bryant to complete the stress at work risk assessment that had been recommended by the Occupational Health assessment herself without assistance from the Respondent.
148. Having considered the contemporaneous documentation (including the notes of the probationary hearing on 12th August 2022 and the meeting on 11th July 2022 [497]) and heard the oral evidence of the Claimant and the Respondent's witnesses, the Tribunal was satisfied that the Claimant had at no stage been told or asked to complete the risk assessment by herself. She had been asked to begin the first stage of the risk assessment by considering and writing down what it was that stressed her at work in advance of sitting down with the Respondent to undertake the risk assessment. This was entirely in line with the Respondent's Stress Risk Assessment Guidance [822] which required consultation with the staff member involved and the requested adjustments for her dyslexia – that she needed time to process and make notes in advance of meetings. In fact, as the Claimant never provided any material to the Claimant about what caused her stress at work, the risk assessment was never completed, the Respondent taking the rational and reasonable view that it was impossible to undertake a risk assessment of her stress at work in the vacuum of not knowing what it was that stressed the Claimant.
149. On 3rd August 2022 the Claimant raised a further grievance [884-887] with a supporting statement [673-676]. This raised harassment by Marcus Castell, complaints about the ASYE implementation and failure to implement reasonable adjustments.
150. This grievance was never formally progressed, having been overtaken by the events below and the termination of the Claimant's employment.
151. The Claimant did not submit all the material required for her ASYE portfolio in advance of her third probationary meeting on 12th August 2022 (re-arranged from

5th August 2022 to accommodate her trade union representative's availability). At that meeting, chaired by Kelly Cogger [185-198], the Claimant had met none of her target dates in the Action Plan [440-444] and had not accepted or attended supervision invites or logged her study dates into her calendar. She had not undertaken any social work activities since 16th May 2022 and had not attended the office despite requests to do so. Although there were some adjustments recommended in the A2WR2 outstanding, it was unclear whether the Grammarly Premium software recommended would meet the Claimant's requirements or duplicate software already provided. The Claimant had not arranged support worker assistance despite funding having been agreed (this was her responsibility) and had not arranged the various software training (although the software was installed and was used by the Claimant). Neurodiversity Disability Awareness training for colleagues had not occurred and was the Respondent's responsibility to organise but required time and planning and was not something which could be put in place immediately. The Claimant listed the adjustments she considered were outstanding [190]. A decision was deferred to enable review and consideration of material and the Claimant was afforded a further opportunity to submit her 9 month CRL during the following week whilst that was taking place.

152. The Claimant did not complete and submit her 9 month CRL after the review hearing and by letter dated 22nd August 2022 Kelly Cogger wrote to her to the Claimant with the outcome of the third probationary meeting [360-365]. She noted that the probationary period had been extended on two occasions and that the panel had assessed the reasonable adjustments that had been made. The panel concluded that the duty to make reasonable adjustments had been met and that the Claimant had served 22 months (rather than the standard 12 months) probation and had been given numerous opportunities to reach the required standards with appropriate training, guidance and support, but had failed to do so. On the basis that the Claimant had failed to meet the required standards of conduct, performance and attendance reasonably expected during a prolonged probationary period, her employment was terminated and she was advised she was not required to work her notice period but would receive payment in lieu. A schedule of the reasonable adjustments the Claimant had asserted were outstanding and the panel's response/conclusions regarding those adjustments was attached as part of the outcome letter.
153. The Claimant subsequently appealed her dismissal [707] but that appeal was dismissed following an appeal hearing on 10th October 2022 [355-359]. As no issues for the Tribunal to determine arose in relation to that appeal it has not been considered further.
154. Following her dismissal the Claimant received her final payslip [753] dated 23rd September 2022. She received the sums set out on the payslip but raised a query in respect of her annual leave and sick leave payments [258].
155. The Claimant's case is that she was underpaid in her final pay for holiday accrued during employment but not taken at the termination of employment. The Claimant's case was based solely on e-mails sent by the Respondent at [245 & 249] which suggested that she may have been underpaid and was owed one of the amounts set out in those e-mails. The Claimant did not separately adduce

any evidence other than the e-mail chain to show what holiday had accrued, what holiday had been taken or in relation to any leave carried over. Nor was the Tribunal directed towards any other evidence other than the e-mail chain of which the 2 e-mails relied upon by the Claimant formed a part.

156. The Tribunal found that the 2 e-mails relied upon by the Claimant were only a small part of an e-mail chain passing between the Respondent's employees regarding the Claimant's holiday pay entitlement and final pay in December 2022 following the Claimant's pay query. Taken as a whole [244-258], the determination as to whether the Claimant was underpaid (as she submitted) or overpaid (as the Respondent submitted (no claim for repayment having been made) turned on how the Claimant's period of unauthorised leave between 4th to 7th July 2022 was treated by the Respondent. The e-mail's relied on by the Claimant were near the beginning of the chain and based solely on the days recorded as annual leave. The remainder of the chain considered the overall position and in particular, how the period of unauthorised absence between 4th – 7th July 2022 had been dealt with. Over the course of the chain, investigations determined that there had been no deduction from wages for this period, and that when this was taken into account, the Claimant had in fact been overpaid by £103.48 in her final payslip. The Respondent also determined that no steps would be taken to recover that sum.
157. The Claimant, in her evidence, initially said she had not been paid for the period of 4th – 7th July 2022 but subsequently clarified that this was merely an assumption and agreed that in fact she had not had any money deducted from her July/August 2022 wages for this period. Considering all of the above, the Tribunal found that her pay had not been deducted in July/August 2022 in respect of her unauthorised absence between 4th to 7th July 2022 and that, on the information before the Tribunal contained in the full e-mail chain, that being the only evidence available, the Tribunal was not satisfied on the balance of probabilities that the Claimant had accrued any leave that she had not been paid for in her final pay packet.
158. The Claimant also adduced evidence in relation to her unauthorised deduction claim at item 10 on the List of Issues, asserting that she had been underpaid what she was owed by relying on her Universal Credit journal where it was recorded that her earnings reported by her employer were £3,413.81 [37A-38A] and asserting that as this was what the Respondent had reported to Universal Credit, this was what she should have been paid. This assertion was based on a misapprehension or misunderstanding. After exploration in her oral evidence she confirmed that the period covered by the Universal Credit report was 7th October 2022 to 6th November 2022 and that she had been working for someone other than the Respondent during this period. The Claimant consequently withdrew this element of her claim in her final submissions. Had she not done so, the Tribunal would have been satisfied that the amount on the Universal Credit report as being her reported earnings did not represent an amount reported solely by the Respondent and would not have been satisfied that there was any evidence which, on the balance of probabilities, demonstrated that the Respondent had paid her less than she had earned.

159. Having set out the main factual background, I turn to the Tribunal's findings of fact and conclusions on the specific claims made by the Claimant and set out on the list of issues, noting that there was no dispute between the parties that at all material times the Claimant was disabled as a result of her dyslexia. Whilst the determination of disability, direct disability discrimination and race discrimination claims and that the claims for holiday pay/unpaid wages raise discrete issues, the claim for reasonable adjustments underpins all of the other claims and so the Tribunal considered the claims in a different order from that set out on the list of issues.

The Claimant's Disabilities

160. The Respondent denied that the Claimant was disabled by irritable bowel syndrome (IBS) or depression although these conditions amount to mental or physical impairments.
161. The Claimant provided limited independent evidence in respect of either of these conditions, with only a brief extract from her GP records [745] confirming medication for both depression (sertraline) and IBS (Mebeverine, CosmoCol and Omeprazole) being prescribed in May 2022 and evidence from the Claimant's GP (signed with a statement of truth in relation to a claim for disabled students allowance in 2025) that the Claimant had been diagnosed with IBS on 10th January 2012 [4A].
162. The Claimant's disability impact statement [112-116] did not particularly assist the Tribunal to determine the issues because of concerns about the Claimant's reliability as a historian (as set out above) and because it provides contradictory evidence as to the date of diagnosis of IBS (2021 and 2020, neither of which accords with the GP evidence). It records the date of diagnosis of depression as September 2021 and contains limited evidence as to the impact of the conditions on the Claimant's day to day activities. Hopelessness, difficulty sleeping, difficulty concentrating and fatigue are described in relation to depression, and stomach pains, constant need for the toilet, lack of energy, trouble sleeping and consequent difficulties going out in relation to IBS.
163. There was no evidence that either IBS or depression were affecting the Claimant's day to day functions at the start of her employment, and she did not declare either to the Respondent. Neither IBS nor depression were mentioned in the first A2WR (December 2020) [278- 292] and no sick notes [747, 749, 751] or the Claimant's record as to the reasons for her sickness taken from those sick notes [112] refer to either condition.
164. However, both IBS and depression were recorded in the Occupational Health Report of 30th November 2021 [293-294] as disabilities and globally her disabilities were said to have a substantial impact on the Claimant's day to day functioning (without any explanation as to how each of her disabilities affected her). By the date of this report the Claimant had started taking medication for depression (as recorded in the report), which the Tribunal considered would have been unlikely to have been prescribed unless her symptoms, described in her impact statement at [112] were having a significant impact on her day to day

functioning. The description of the impact of depression on the Claimant in the Occupational Health report is consistent with that in the Claimant's impact statement.

165. IBS and anxiety related to IBS, as well as the need for a close bathroom as a result, and mental health difficulties were recorded in the Remploy e-mail to the Respondents of 7th March 2022 [593] which recommended consideration of home and/or hybrid working.
166. Depression (but not IBS) was included with the description of the Claimant's disabilities in the A2WR2 of May 2022 where it was recorded that the Claimant managed it through use of anti-depressants and anxiety medication.
167. Taking all of the above into consideration and applying it to law set out at paragraphs 32 – 38 above, the Tribunal concluded that in relation to the IBS, this was a long term impairment that had persisted since 2012 and, although dormant prior to the start of her employment was likely to (and did) recur. Following its recurrence in about late 2021, it lasted in excess of 12 months. Medication was prescribed and the Tribunal concluded that by the point when medication was prescribed, it was likely, on the balance of probabilities, that the IBS was having a more than trivial impact on the Claimant's day to day functioning, including her ability to travel any significant distance from a bathroom. The Tribunal had no credible evidence that the Claimant had received treatment by way of medication until around May 2022 but found that from this point the IBS had a substantial and long-term adverse effect on the Claimant's ability to carry out normal day-to-day activities, or would have done but for the medication she took.
168. In relation to depression, the Tribunal found that from November 2021, when there was evidence that the Claimant had started medication for depression, this impairment amounted to a disability. By this time, it was likely to last at least 12 months, (in fact, we now know that it did in fact last far longer.) It was also having a substantial adverse effect on the Claimant's ability to carry out normal day-to-day activities, as described in the impact statement, Occupational Health report and A2WR2 and would be likely to continue to do so for over 12 months in the absence of medical treatment and/or other measures.
169. In neither case could the Tribunal be satisfied that the conditions of IBS and depression amounted to a disability prior to the dates it was satisfied that medication had commenced. The Tribunal was not satisfied that prior to that time that either impairment was having a substantial effect on the Claimant's ability to carry out normal day-to-day activities based on the limited evidence presented by the Claimant and the absence of any earlier contemporaneous record of any impact upon her. In relation to the depression, until medication was prescribed the Tribunal did not consider that it could be said that the impairment was likely to be long term.
170. The Tribunal noted that there was a substantial overlap in the impact on the Claimant of her depression and her dyslexia, particularly because both gave rise to difficulty with concentration, anxiety, tiredness and difficulty sleeping. The Tribunal therefore concluded that there was no material difference in the type of

adjustments that were required to alleviate the disadvantage arising from the Claimant's disability of depression and those required to alleviate the disadvantages arising from her dyslexia.

171. Further, in relation to the disability of IBS, the Tribunal noted nothing in relation to the list of issues turned on this matter. No adjustments had been suggested for this disability save for relieving anxiety and the Claimant was not claiming that she required adjustments that were not made for this disability. No other aspect of her claim relied on her being disabled by reason of IBS.

Direct Discrimination - Race

172. The Claimant bears the burden of proving her claim. She adduced no evidence (oral or written) that her race was in any way relevant to, or a factor in, the treatment she complained of. There must be primary facts from which the Tribunal could decide, in the absence of any other explanation, that discrimination related to race took place and the Tribunal received no evidence of any such primary facts, nor was the Claimant able to draw the Tribunal's attention to any when specifically asked about this in her closing submissions. As the Claimant did not establish any basis for this claim it will be dismissed.

Harassment related to Race

173. For the same reasons, as set out in paragraph 172 above, the Claimant's claim for harassment related to race must also be dismissed.

Direct Disability Discrimination

174. The Claimant's claim for direct disability discrimination is based on the Respondent not having satisfactorily responded to her health and safety grievance raised on 23rd March 2022.
175. The basis of that grievance was the Respondent's failure to make reasonable adjustments or take her disability into account [667]. The Claimant had complained that 2 of the 6 coping strategies sessions recommended by the A2WR of December 2020 remained outstanding and she was not able to complete her 3 month ASYE extension.
176. The Respondent's response to that grievance [679] determined that no further investigation was required as the same issues that the Claimant raised in her grievance were being considered in the ongoing probationary process.
177. The outcome of the probationary process at this time was given by letter [270-271]. This followed probationary meetings on 13th October 2021 [272-277] and 29th March 2022. It is clear from the notes of the meeting on 13th October 2021 and the outcome letter that the question of the adjustments required for the Claimant's disability of dyslexia, the outstanding adjustments (including the outstanding coping strategy sessions) and her difficulties regarding completion of the ASYE were all considered. The outcome was that the probationary hearing

process would be put on hold, and the Claimant would be given a 3 month extension to complete and submit the outstanding ASYE work.

178. In reaching that conclusion the probationary process panel considered the ambiguity in relation to the start date of the earlier (post October 2021 probationary meeting) 3 month ASYE extension period having regard to the fact that recommended adjustments remained outstanding after the 1st December 2021, the Claimant's periods of sickness and her periods of annual leave.
179. In light of this, the Tribunal was satisfied that the Respondent's response to the grievance was satisfactory in that it was both proportionate and entirely reasonable. Although the detailed grievance procedure in the policy at [777] was not followed, paragraph 6.6 of that procedure [781] entitled the Respondent to deal with it in the manner that they did. The Tribunal noted that the Claimant was allowed to be accompanied by her union representative at the probationary hearings and that he was recorded as being present at those meetings for which the Tribunal had minutes. There was no disadvantage to the Claimant from the process adopted in relation to the probationary matter as opposed to that set out in the grievance procedure and the Tribunal was not satisfied that there would have been any material difference to the Claimant had the Respondent followed the full grievance process and dealt with the grievance independently of the probationary process. The issues and the potential outcome/remedy options were essentially the same whichever process was followed.
180. No evidence was put before the Tribunal as to any other person who was treated more favourably than the Claimant and the reasons why the Respondent adopted the stance that it did are clearly set out in the letter responding to the grievance [679], are in accordance with its written processes and amount to a logical and, in the Tribunal's view valid, reason, namely to avoid unnecessary duplication and waste of resources and avoid the risk of inconsistent outcomes. The Claimant adduced no evidence capable of supporting a conclusion that a person without the Claimant's disabilities would have been treated differently.
181. The Tribunal found no primary facts from which the Tribunal could decide, in the absence of any other explanation, that the Claimant's disability was a factor in how the Respondent dealt with the grievance (as opposed to being the subject matter of the grievance) or that the Claimant was treated less favourably because of her disability.
182. The Tribunal was also not satisfied that, taking into account those matters above and the lack of any obvious material disadvantage to the Claimant in terms of remedy or process, that even if the treatment had been discriminatory, the reasonable worker would not have considered that the treatment amounted to a detriment and the Tribunal would not have found that it did.
183. The claim is therefore dismissed as being unfounded.

Reasonable Adjustments

184. The PCP's at 5.2 of the List of Issues have been accepted by the Respondent. It did require people to complete the ASYE course within 12 months and require people on the ASYE course of physically attend the workplace to undertake their role.
185. The Tribunal also found that as a result of her dyslexia, the Claimant was put at a substantial disadvantage as a result of her well-documented need for extra time to complete tasks, particularly written tasks, and her difficulties with time management, both of which arose from her dyslexia. Also, as a result of her absences due to sick leave which arose from the stress she felt as a result of the difficulties arising from her dyslexia.
186. The Respondent was aware of her dyslexia from the commencement of her employment and that it would place her at a disadvantage as a result. By the time it received the A2WR dated December 2020 and the Occupational Health report of 30th November 2021 it had further information as to the precise difficulties and disadvantages faced by the Claimant as a result of her dyslexia.
187. The only real issue in this case is therefore whether there were any reasonable adjustments which could and should have been made by the Respondent that would have avoided or mitigated the disadvantages.
188. Section 5.5 of the list of issues sets out several steps which the Claimant says the Respondent should have taken to avoid the disadvantages arising from her dyslexia. The Tribunal considered each of them but did not limit its consideration to those steps on the List of Issues. The Tribunal also considered the A2WRT, A2WR2, Occupational Health report and Remploy correspondence of 7th March 2022 [593] each of which set out steps that the authors of those documents, who are professional advisors in this area with special training, considered should be taken to avoid the disadvantages to the Claimant of dyslexia. Some of those documents also indicated steps that should be considered to avoid the disadvantages of IBS and/or depression. Nevertheless, the Tribunal is required to carry out its own consideration as to the steps that could be taken and the recommendations of others are not definitive or exhaustive. The Tribunal therefore conducted its own assessment of the adjustment(s) required and whether it was reasonable for the employer to take that step.
189. The Tribunal found that workplace assessments are not themselves a step to avoid disadvantage but merely a tool to assist employers to identify such steps. Failure to undertake an assessment does not therefore amount to a failure to make a reasonable adjustment.
190. Although the Claimant asserted that the Respondent should have adhered to and followed various policies of the Respondent, the Claimant did not identify any particular policy, or part of any policy, that the Respondent failed to follow save in relation to the matters already considered in relation to direct discrimination above and a vague assertion that the Respondent did not strictly follow its procedure for granting ASYE extensions to the letter (by use of the identified

forms). The Tribunal was not otherwise directed to any other breach of policy. The Tribunal could not identify that any breach of procedure by failure to use the precise forms for an ASYE extension had disadvantaged or prejudiced the Claimant in any way or that strict adherence to the forms policy was required in order to avoid the disadvantages of her disabilities. The Respondent had granted two extensions notwithstanding that the Claimant did not appear to have made a request for an extension on the correct form. The Tribunal was unable to find any evidence that, save in that respect, any policy had in fact been breached.

191. The Tribunal agreed that providing the Claimant with extra time to complete ASYE assessments and extra supervisions prior to assessments, and discounting periods of sick absence arising from disability would avoid the disadvantages of the Claimant's dyslexia and that it would be reasonable to take these steps but found on the evidence that the Respondent had provided these adjustments.
192. The Claimant was given or offered:
 - (i) Three protected days per calendar month rather than two per calendar month for ASYE work from the commencement of the ASYE;
 - (ii) More regular supervision than would have been the case for other ASYE candidates, including weekly supervisions with Mr Castell and fortnightly supervisions between May 2022 to August 2022 (albeit that the Claimant didn't avail herself of this opportunity);
 - (iii) A reduced caseload of 2 allocations per week;
 - (iv) Three periods when she was formally not given new case allocations of social work: between January to March 2021, in August 2021, and in December 2021;
 - (v) A period when she was not required to undertake social work on cases during her garden leave between 29th March 2022 and 15th May 2022;
 - (vi) A further period when, as a result of not attending the office and engaging with the Respondent from May 2022 onwards she undertook no social work activity;
 - (vii) Two formal extensions, each of 3 months to the ASYE programme which, together with informal extensions as a result of difficulties with scheduled review dates causing postponement and absences, which together effectively meant that she was given 22 months to complete the programme rather than the standard 12 months. The total periods of extension far exceeded the total periods of the Claimant's sickness absence.
193. In addition, no action was taken against the Claimant in relation to capability arising from sickness absence or failure to undertake social work activities and no disciplinary action was taken against her notwithstanding that she had refused to come into the office when asked to do so and had taken several days of unauthorised leave. These were also considered to be adjustments for the Claimant's disability.

194. The Tribunal noted that the following additional adjustments had been offered or implemented by the Respondent following the A2WR and/or Occupation Health report and/or A2WR2:
- (i) Hardware and software to alleviate her dyslexia difficulties with language, grammar, spelling, focus, anxiety and translation of thoughts into words: Dragon (dictation), Microbreak, a Phillips voice recorder and the training for those programmes.
 - (ii) Six ½ day Coping Strategies courses.
 - (iii) A specialist laptop stand.
 - (iv) Protected time for medical appointments.
 - (v) Protected time for mental health appointments, in particular for her attendance at Havering Mind for 1 hour every Wednesday.
 - (vi) Detailed action plans which set out clearly the actions she was required to take to achieve the ASYE goals along with the timetables for doing so, broken down into stages with clear aims and dates.
 - (vii) A support worker, subject only to the Claimant making precise arrangements regarding who and when (which she did not).
 - (viii) Hybrid working even after COVID-19 restrictions were lifted – the Claimant was expected to come into the office to undertake her primary social work duties but was able to work from home to write up her social work and undertake her ASYE write up.
 - (ix) Meetings and Supervisions scheduled by remote means.
 - (x) Start and finish times adjusted for when she was expected to be in the office to accommodate her travel difficulties/morning drowsiness from medication.
 - (xi) A dedicated work-space in a quiet area in the office.
 - (xii) Noise cancelling headphones for office use.
 - (xiii) Clear and detailed oral and written feedback and guidance on how to bring her CRL up to standard by Mr Castell in particular, including by e-mail and in the report which formed part of her online ASYE portfolio.
195. In effect, virtually all of the recommendations of the various external professionals, who are the specialists in workplace adjustments and needs, had been implemented by the Respondents. Those that were not, were not fully implemented largely due to the Claimant's failure to engage (by arranging a support worker or responding to queries about whether Grammarly was different from the products already provided or by attending the office) and the Claimant was supported by other steps which mitigated or avoided the disadvantages, such as the detailed action plans and alternative software so that the Tribunal could not be satisfied that any outstanding adjustments would have made any material difference.
196. The Claimant herself provided a work-place adjustments passport, albeit not until July 2022, but the Tribunal was unable to identify how this would have avoided any disadvantage arising from the Claimant's disabilities over and above the steps that were implemented by the Respondent.
197. The Tribunal did not consider that, post the lifting of COVID-19 restrictions, it was reasonable for the Claimant to have been permitted to continue to work entirely remotely having regard to the nature of the social work the Claimant was required

to undertake, and the training, supervision and ability to learn from colleagues which were an integral part of her role as well as her need for additional support.

198. The Claimant claimed that, as a reasonable adjustment, the provision of all other adjustments should have been in place prior to the Claimant being required to undertake social work or start the ASYE programme. The Tribunal disagreed. Although it was satisfied that such a measure may have avoided disadvantages to the Claimant arising from her disability, the Tribunal did not find that such an adjustment would have been a reasonable one for the Respondent to have made, considering the size and type of employer, the practicability of such arrangements and the likely costs as well as prospects of the adjustment being effective.
199. The Claimant was employed as a NQSW by a local council and was paid to undertake this role using public funds. The ASYE programme was an additional requirement which utilised and built upon the primary social work role. The adjustments to remove disadvantage were bespoke to the Claimant and by necessity took time to identify and implement. The Claimant had skills that she had developed during her degree and her disabilities did not prevent her from undertaking social work or participating effectively in the programme. The Tribunal noted that she successfully passed the 3 month ASYE review without any adjustments in place at all other than the additional day of protected time per calendar month and a reduced case allocation. The other adjustments put in place, in particular the additional time, hardware and software, additional supervisions, allocation pauses, and ASYE extensions were sufficient to mitigate the disadvantages arising from her disabilities. The practical effect of the adjustment sought by the Claimant would have been that she would have been paid for an extended period without undertaking any of her duties or commencing the ASYE programme, despite that being a requirement of her probationary period. This was not an adjustment recommended by any professional specialist.
200. Looking at the package of adjustments overall, the Tribunal was unable to identify any adjustments that it would have been reasonable for the Respondent to make but which it did not take at an appropriate point.
201. Although no separate adjustments were specifically implemented for IBS or depression after the dates that the Tribunal found these amounted to disabilities, the steps otherwise taken in relation to dyslexia were also appropriate to remove the disadvantages of these impairments and the Tribunal was unable to identify any additional steps that could have been taken and which it would have been reasonable for the Respondent to take.
202. The Tribunal as therefore unable to conclude that, on the balance of probabilities, that the Respondent had failed to make any reasonable adjustments and her claim under sections 20 and 21 of the Equality Act 2010 will therefore be dismissed.

Discrimination arising from Disability

203. The Tribunal considered those things the Claimant alleged that the Respondent had done as set out at 4.1 on the list of issues and noted that it was not required to decide whether those things listed at 4.2 arose from the Claimant's disability as it was accepted by the Respondent that they did.
204. The Tribunal accepted that the aims set out by the Respondent of ensuring standards prescribed by the ASYE programme were met, ensuring a certain level of attendance was maintained so that it had sufficient cover for the work required, and affording employees flexible working conditions were in fact aims and were legitimate aims. The Tribunal was also satisfied that the Respondent permitted its employees to have time off to attend medical appointments and ensure well-being. There was no evidence to suggest that they did not and the Claimant agreed that she had not been refused time off to attend appointments.
205. Although it is clear that the Claimant considered her treatment at the hands of the Respondent to be unfavourable, and to attribute that treatment to her disability, the Tribunal reached a different conclusion.
206. The Tribunal did not find that the Respondent failed to give the Claimant proper support to complete her ASYE. As set out above, the Claimant was given extensive support through supervisions, guidance, action plans, and feedback in the ASYE assessments and was further supported through the provision of a substantial number of adjustments to avoid the disadvantages of her disabilities.
207. Having reviewed the written material relied upon by the Claimant and set out at 4.1.2 of the List of Issues, the Tribunal did not accept that there was evidence to support the Claimant's assertion that she was questioned about her capabilities to acquire her university degree. As set out above, whilst Mr Castell commented on the Claimant's University degree (see paragraphs 111-112 above) he asserted it as evidence of her skills, not as a question of her capability to earn it. No other document referred to by the Claimant could, in the opinion of the Tribunal, be interpreted in the manner she attributed. The Tribunal considered that the Claimant had misunderstood the written comments, reading adverse comment where none in fact existed. In light of this, the Tribunal did not find her recollection of what was said to her orally, which she could not directly quote, and for which there was limited or no contemporaneous evidence, could be considered credible or reliable.
208. The Tribunal agreed that the contemporaneous evidence shows that the Claimant was called into a meeting on 14th May 2021 to discuss a complaint made against her by a service user. The Tribunal did not however find evidence to support the Claimant's assertion that this was unfavourable treatment. The meeting on 14th May 2021 was not a disciplinary meeting, it was a preliminary discussion. She had been asked to attend the meeting the day before and had to be told about the complaint and asked about the circumstances surrounding it at some point, and at the earliest opportunity whilst matters remained fresh in her mind. No evidence of the details of the meeting was presented to the Tribunal and the Claimant's complaint is only that she was unprepared for the meeting.

No disciplinary proceedings arose from it. The Tribunal found that the treatment was not unfavourable, and in any event was not linked to one of the specified things arising in consequence of the Claimant's disability.

209. The Tribunal was not satisfied that the Claimant's assertion that she was denied the ability to work from home in January/February 2022 was correct. There is no evidence to support this assertion other than her own recollection, which for reasons set out above, the Tribunal does not find reliable. No occupational health report, access to work report or Remploy recommendation mandated working from home as a necessary adjustment, although the Respondent was asked to consider it. Whilst working from home had been necessary during COVID-19 lockdowns, once the concerns over COVID-19 abated, the Respondent, had good reason to ask the Claimant to return to working from the office as working from home was not optimal for the social work or the support and supervision a newly qualified social worker undertaking ASYE would benefit from. The Tribunal found that the Respondents offered hybrid working, requesting that she attend the office only when that furthered supporting her and/or the social work required it. In fact, she was given substantial leeway regarding attendance and adjusted hours to facilitate it. Nevertheless, the Claimant was reluctant to attend the office for unspecified reasons and in fact worked from home without disciplinary action being taken against her for her refusal to attend the office. The Tribunal concluded that even if the Claimant had been denied the ability to work from home, it did not amount to unfavourable treatment arising from her disability.
210. The Claimant also complained that between May 2021 and August 2022 Stephanie Bryant did not allow the Claimant to meet other colleagues that started the ASYE programme (2020/2021 cohort) at the same time and that as a consequence, the Claimant had to go through the process on her own. The Tribunal is not satisfied that Stephanie Bryant or any other of the Respondent's servants or agents prevented the Claimant from meeting other 2020/2021 ASYE cohorts. An MS Teams induction between the cohort took place initially (remotely as necessitated by the COVID-19 pandemic restrictions) at the start of the programme and no complaint is made about being unable to meet with colleagues between October 2020 and May 2021.
211. The Tribunal accepted the oral evidence of Jane Easton that the reason why the Claimant did not share the monthly group sessions with the other 2020/2021 ASYE cohort from May 2021 onwards was that the Claimant had fallen out of step with them due to her delay in progressing through the ASYE programme as a result of not passing the 6 month stage in March/April 2021. She was therefore in a different place from her colleagues and the joint group was not therefore appropriate. There was no other cohort to join of NQSW on the ASYE programme who were at the same stage as she was. By May 2021 the cohort who had started the ASYE programme at the same time as the Claimant had progressed beyond the Claimant and by October 2021, they had completed the ASYE. The Tribunal was not satisfied on the balance of probabilities that the Respondent had not allowed the Claimant to meet other colleagues, or that, had it done so, on the balance of probabilities that the reason for not allowing it was a discriminatory one.

212. If the Tribunal is wrong about any of the matters above, it would nevertheless have concluded that the treatment was a proportionate means of achieving the Respondent's legitimate aims.
213. The Claimant, in her oral evidence, accepted that the role of a social worker was a hugely important one which was at times stressful and could be time critical. It was important that the Claimant should be prepared and able to meet the demands of the role. The purpose of the ASYE programme is to promote and support those undertaking it to reach the standard required for this important role and the Respondent, and the wider public at large to whom they have responsibility, had a need for competent social workers who are able to meet the demanding requirements of the role. The Tribunal concluded that the treatment the Tribunal found had occurred (being called into the meeting on 14th May 2021, being required to work partially in the office, and not participating in group sessions with her 2020/2021 cohort after May 2021) were all matters which were appropriate and reasonably necessary to achieve the Respondents legitimate aims. The Respondent's need for capable and competent social workers who were able to meet the requirements of the role, including at times working quickly or under pressure, outweighed the Claimant's needs. Nothing less discriminatory could reasonably have done which met both the Respondent's and the Claimant's needs.
214. The claim for discrimination arising from disability is not therefore substantiated and will be dismissed.

Harassment related to Disability

215. The Tribunal considered those matters at 6.1 of the List of Issues.
216. The e-mail sent to the Claimant on 27th April 2022 regarding an extension of time to complete work is at [511] and was copied to a number of others. For the reasons set out at paragraph 131 above, the Tribunal did not find that it had been copied to any of those individuals unnecessarily. The contents of the e-mail were clearly relevant to those who were in a line management structure above the Claimant or involved in or overseeing the ASYE programme.
217. The Tribunal was also unable to accept, for the reasons set out above, that either Marcus Castell or Stephanie Bryant questioned the Claimant's disability at the probationary meeting in May 2022 (which actually took place on 11th May not 3rd May). The Claimant's description of what was said as set out in the list of issues was not given in evidence and did not in any event appear to the Tribunal to amount to a questioning of the Claimant's disability. In fact no evidence about precisely what was said, or how the Claimant's disability was questioned was given and no contemporaneous documentation that the Tribunal was referred to appeared to question whether the Claimant had dyslexia amounting to a disability. The Tribunal did not find this allegation proved.
218. Nor was the Tribunal satisfied that the Claimant was told to complete the work stress risk assessment herself for the reasons set out at paragraphs 147-148 above. The Claimant was asked to consider what she felt caused her stress in

order to provide input to inform the risk assessment. This was something the Respondent could not identify without her input. She was not asked to undertake the assessment herself and there is no evidence that she provided the input so as to enable the Respondent to undertake the assessment.

219. The Tribunal accepted that Marcus Castell's ASYE reports in respect of the Claimant's progress did include negative comments including his opinion that the Claimant had not met the standard required, had provided limited evidence of professional progression between June and August and would be unlikely to be able to complete the ASYE programme as set out at [600, 601, 603, 604 & 315].
220. The Tribunal is however satisfied that Marcus Castell provided an honest opinion and his comments were his own subjective view as the Claimant's assessor against the criteria he was required to apply. None of his comments went beyond a constructive assessment and feedback to assist the Claimant to understand where she was in relation to the ASYE criteria and to warn her of concerns about her progress to enable her to have a realistic understanding of her position. His comments were objectively justified with examples from the Claimant's work and his conclusions were therefore well evidenced. He balanced his negative comments about the Claimant's work with positive praise and highlighted things the Claimant had done well which met criteria. Overall his report was entirely as would be expected of appropriate feedback. Whilst his comments were unwelcome to the Claimant and difficult for her to accept, and his conduct was therefore unwanted, and subjectively impacted the Claimant, it was not reasonable for the conduct to have that effect. No reasonable person would consider that genuine, honest feedback supported by evidence (as the Tribunal found this to be) from a person tasked with assessing the Claimant against set criteria had the purpose or effect of violating the Claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the Claimant, although it was no doubt upsetting to receive.
221. In light of its findings above, the Tribunal found no harassment relating to disability and this claim will be dismissed.

Victimisation

222. The Respondent accepted that grievances were raised as set out at 7.1.1 of the List of Issues and that these amounted to protected acts. The Tribunal agreed.
223. The Respondent also accepted that the Respondent did the things alleged at 7.2 of the List of Issues, save for clarifying that the wages reduction between May to August 2022 related only to periods during which the Claimant was on sickness absence. The Claimant agreed with this assertion and the Tribunal was not directed to any evidence as to the wages paid to the Claimant during this period. Having considered the notes of the probationary meeting on 12th August 2022 [185-198], and the outcome letter [360] the Tribunal found no evidence that the Claimant had not been listened to during the meeting although it is correct that she did not achieve the outcome she sought.

224. The Tribunal therefore only had to consider whether the matters at 7.2 (as clarified) amounted to a detriment.
225. The Tribunal was satisfied that termination of the Claimant's employment and reductions in wages amounted to detriments to the Claimant.
226. The Tribunal did not find that being told she had not passed the various stages of the ASYE, or being placed on garden leave, amounted to detriments.
227. The Claimant continued to be paid whilst on garden leave but was not required to go into work or undertake social work. She had the opportunity to catch up on her ASYE work and any other work outstanding and her ASYE review was pending and a period of absence from work did not appear to be detrimental to her prospects of passing that review. It was not adverse treatment and the Claimant did not articulate any reason why it was to her detriment. The Tribunal did not consider it likely, on a balance of probabilities, that a reasonable worker would or might take the view that in all the circumstances he had been disadvantaged.
228. Not passing the ASYE might have been detrimental to the Claimant but could not be considered a detriment when she failed to meet a national standard for a qualification. Being told that she had not met the standard was merely information and was coupled with feedback as to how she could do so. It could not, in the opinion of the Tribunal, amount to adverse treatment and no reasonable worker would or might take the view that in all the circumstances he had been disadvantaged by being told of something that was factually correct of this nature.
229. The Tribunal was not satisfied that either termination of the Claimant's employment or the reductions in wages during periods of sick leave between May to August 2022 were because of the protected acts the Claimant did. The only evidence that the Claimant advanced in this respect was that Marcus Castell knew that she had made the grievances. There was no evidence presented to the Tribunal that he was the person responsible for reducing her pay during periods of sickness absence, or as to who in fact was. Nor was there any evidence that the pay reduction contravened the Respondent's sickness policies or that whoever other than Marcus Castell who may have been responsible for deciding to implement a deduction was aware that the Claimant had raised grievances and undertaken protected acts.
230. Marcus Castell was not the dismissing officer or involved in the decision to terminate the Claimant's employment and he was not her ASYE assessor at the date of dismissal. The Tribunal accepted the evidence of Kelly Cogger that she did not know that the Claimant had raised any grievance when she conducted the probationary hearing in August 2022 and subsequently decided to dismiss the Claimant.
231. The Tribunal accepted that the Claimant genuinely believed that the conduct she complained of had occurred because she had done protected acts by raising grievances concerning the treatment of her disability, but the Tribunal found no

evidence to support that belief or to support any causative link between the conduct and the protected acts. The claim for victimisation will therefore be dismissed.

Holiday Pay

232. As set out above, the only evidence for this claim put forward by the Claimant, who must prove her claim on the balance of probabilities, was the e-mails of the Respondent at [245 & 249]. She relied solely on the Respondent's calculations and provided no independent evidence to enable the Tribunal to determine the claim on any other basis.
233. The isolated e-mails the Claimant relies upon support her claim but the Tribunal found that they cannot appropriately be read in isolation from the whole e-mail chain at [244-258]. As set out at paragraphs 155-157, when considered as a whole, the Respondent's calculations do not support her claim. The e-mail chain as a whole indicates that the period of unauthorised absence taken by the Claimant between 4th to 11th July 2022 was contemporaneously checked and no deductions were found to have been made for that period. It was therefore treated by the Respondent as annual leave notwithstanding that it had not been authorised, resulting in the initial calculations in the early stage of the e-mail chain relied on by the Claimant not being accurate (as they did not take this into account). The correct position taking this into account was that the Claimant had been overpaid for her outstanding holiday entitlement at termination. The Respondents have not sought to recover the overpayment.
234. The claim for unpaid holiday pay will be dismissed, the Tribunal not being satisfied that the Claimant had any untaken annual leave that was not paid in lieu in her final pay packet.

Unauthorised Deductions from Wages

235. In her final submissions the Claimant effectively withdrew her claim for unauthorised deduction of wages. The Claimant explained this claim as being a claim for the difference between what she was in fact paid by the Respondent under her final payslip and the amount the Respondent reported to Universal Credit that the Claimant had been paid.
236. Had the Claimant not withdrawn this claim, the Tribunal would not have been satisfied that the Respondent had reported a different amount to that on her final payslip to Universal Credit or that there had been any unauthorised deduction and would have dismissed the claim.
237. The Claimant's case on this issue derived solely from her universal credit award letter at [37A-38A] which reported the Claimant's and obviously arose from the Claimant's misunderstanding of that document as set out in paragraph 158 above.

Time Limits

238. As the Tribunal concluded that there was no factual basis for any of the claims to succeed on the merits, the Tribunal did not go on to consider in depth whether the claims were brought in time.
239. The Tribunal however found that:
- (i) The claims for holiday pay and unauthorised deduction from wages were brought within time (which was not disputed by the Respondent).
 - (ii) The failure to implement reasonable adjustments does not amount to conduct extending over a period but is a single act which occurs on the date when the adjustments should have been put in place.
 - (iii) The Claimant lodged her first claim for discrimination (claim no: 2302433/2022) on 20th July 2022. Taking into account the ACAS conciliation period, a complaint about something that happened before 20th February 2022 would have been outside the primary limitation period unless it formed part of a series of conduct extending over a period.
 - (iv) In relation to the adjustments, the majority of these derived from the A2WR and on the Claimant's own evidence should have been in place by no later than June/July 2021. The claim for failure to make these reasonable adjustments was made outside the primary limitation period.
 - (v) The Claimant's first claim for discrimination (claim no: 2302433/2022) was made during the course of her employment. The Tribunal was not satisfied that the reason given by the Claimant in her final submissions for not making her claims promptly (that she had to wait to make her claims until her employment was terminated) was reliable or credible.
 - (vi) The Claimant adduced no evidence as to why, if any of her claims were found to be out of time, they were not made in time or why it would nevertheless be just and equitable to extend time. There was therefore no basis on which the Tribunal could exercise its discretion to extend time for any claim which fell outside the primary limitation period.

Conclusions

240. For the reasons set out above, the Tribunal concluded that none of the Claimant's claims were well-founded and that all should be dismissed.
241. No claim having succeeded, there was no need for a remedy hearing and none was held.

Employment Judge Clarke
Date: 31 December 2025

Sent to the parties on:
Date: 6 January 2026