



EMPLOYMENT TRIBUNALS

Claimant: Mr Gabriel Severi

Respondent: Bridewell Consulting Limited

Heard at: Watford Employment Tribunal

On: 16,17,18,19,22,23 (deliberation) 24,25 September 2025, 6 and 8 October 2025

Before: Employment Judge Alliott

Members: Mr D Bean

Mr A Scott

Representation

Claimant: In person

Respondent: Mr Steven Gittins (counsel)

RESERVED JUDGMENT

The judgment of the tribunal is that:

1. The claimant's wrongful dismissal, direct disability discrimination, discrimination arising from disability, indirect discrimination, failure to make reasonable adjustments, harassment related to disability, victimisation and wrongful dismissal claims are dismissed.

REASONS

Introduction

1. The claimant was employed by the respondent as a Senior Consultant on 26 June 2023. He was dismissed with immediate effect on 17 October 2023 and paid one week's notice in lieu. By a claim form presented on 9 November 2023, following a period of early conciliation from 17 October to 9 November 2023, the claimant brings claims of disability discrimination (direct, arising from disability, indirect and failure to make reasonable adjustments), harassment, victimisation, and wrongful dismissal. The respondent defends the claims.

The issues

2. The issues were set out in a case summary by Employment Judge Findlay following a CMPH held on 23 April 2025. Pursuant to the orders of Employment

Judge Findlay the claimant submitted amendments to the list of issues. In addition, the respondent emailed the legitimate aims for the purposes of the section 15 discrimination arising from disability claim. The amendments and the additions are incorporated into this list of issues.

“The Complaints

52. The claimant is making the following complaints:

- 52.1 Direct disability discrimination;
- 52.2 Failure to make reasonable adjustments
- 52.3 Discrimination arising from disability
- 52.4 Indirect discrimination
- 52.5 Harassment related to disability
- 52.6 Victimisation
- 52.7 Breach of contract (notice pay)

53. **Note:** the claimant is **not making any claim of race discrimination** and the reference to race in EJ Daley’s order is an error.

The Issues

54. The issues the Tribunal will decide are set out below.

1. **Time limits**

1.1 Given the date the claim form was presented and the dates of early conciliation, any complaint about something that happened before **18 July 2023** may not have been brought in time.

1.2 Were the discrimination and victimisation complaints made within the time limit in section 123 of the Equality Act 2010? The Tribunal will decide:

1.2.1 Was the claim made to the Tribunal within three months (plus early conciliation extension) of the act to which the complaint relates?

1.2.2 If not, was there conduct extending over a period?

1.2.3 If so, was the claim made to the Tribunal within three months (plus early conciliation extension) of the end of that period?

1.2.4 If not, were the claims made within a further period that the Tribunal thinks is just and equitable? The Tribunal will decide:

1.2.4.1 Why were the complaints not made to the Tribunal in time?

1.2.4.2 In any event, is it just and equitable in all the circumstances to extend time?

2. **Wrongful dismissal / Notice pay**

2.1 What was the claimant’s notice period?

- 2.2 Was the claimant paid for that notice period?
- 2.3 If not, did the claimant do something so serious that the respondent was entitled to dismiss without notice?

3. Disability

- 3.1 Did the claimant have a disability as defined in section 6 of the Equality Act 2010 at the time of the events the claim is about? The Tribunal will decide:
 - 3.1.1 Did they have a physical or mental impairment: Trauma (ADHD and ASC are admitted, but not knowledge of ASC)?
 - 3.1.2 Did it have a substantial adverse effect on their ability to carry out day-to-day activities?
 - 3.1.3 If not, did the claimant have medical treatment, including medication, or take other measures to treat or correct the impairment?
 - 3.1.4 Would the impairment have had a substantial adverse effect on their ability to carry out day-to-day activities without the treatment or other measures?
 - 3.1.5 Were the effects of the impairment long-term? The Tribunal will decide:
 - 3.1.5.1 did they last at least 12 months, or were they likely to last at least 12 months?
 - 3.1.5.2 if not, were they likely to recur?

4. Direct disability discrimination (Equality Act 2010 section 13)

- 4.1 Did the respondent do the following things:
 - 4.1.1 Ignore concerns raised by the Claimant through his employment,
 - 4.1.2 Use behaviours arising from the claimant's disabilities as the following KPI and PMP targets from 17 August 2023: Team Dynamics (including criticising the claimant for using the greeting "hey Guys" in an email), Demonstrate ability to manage conflict effectively during client interactions, Enhance understanding of organisational structure and key contacts for improved client communication, Improve time management during meetings, Demonstrate good communication ability with clients.
 - 4.1.3 The Respondent refusing job applied for on 15 November 2024
 - 4.1.4 The Respondent making accusations of a misunderstanding on 6 October 2023
 - 4.1.5 Failing to implement reasonable adjustments agreed on 4.08.2023, those being :
 - 4.1.5.1 being more empathetic/mindful of treating the claimant in a more supportive fashion
 - 4.1.5.2 managers to provide more guided and constructive feedback to the claimant;

- 4.1.5.3 trusting the claimant's ability to carry out his role and that his queries will be necessary in order to complete tasks;
- 4.1.5.4 ensuring that communication was frequent and effective, identifying issues and finding solutions, explaining any difficulties to the claimant and giving him an opportunity to act upon criticism;
- 4.1.5.5 Ensuring that the claimant's team and the People Operations team completed and applied learning from neurodiversity training
- 4.1.5.6 Referring the claimant to occupational health;
- 4.1.5.7 providing the claimant with a document titled "The Bridewell way", explaining how he should behave and why, and permitting the claimant an opportunity to ask questions about that;

4.2 Was that less favourable treatment?

The Tribunal will decide whether the claimant was treated worse than someone else was treated. There must be no material difference between their circumstances and the claimant's.

If there was nobody in the same circumstances as the claimant, the Tribunal will decide whether they were treated worse than someone else would have been treated.

The claimant says they were treated worse than :

For section 4.1.1, comparator is Bashiru and Samuel Helkvist – both are individuals without disabilities and the claimant alleges their complaints that were raised informally were acted upon, but concerns informally raised by the Claimant were ignored.

For section 4.1.2, hypothetical comparator is a colleague without disability, thus also without behaviours arising from disability. [Judge's note: although the claimant alleges this is direct discrimination it may be better described as a complaint under section 15 of the Equality Act 2010].

For section 4.1.3, comparator is George Ross, who the claimant alleges was given the promotion despite being less qualified and experienced than the Claimant. The only difference being that George is not disabled.

For section 4.1.4, hypothetical comparator is a colleague without disability,

For section 4.1.5, comparators are Bashiru and Samuel Helkvist, both individuals are not disabled and had no accountable responsibility to implement reasonable adjustments. While the claimant who is disabled was held accountable to his KPIs and PMP.

If so, was it because of disability ?

5. Discrimination arising from disability (Equality Act 2010 section 15)

- 5.1 Did the respondent treat the claimant unfavourably by:
 - 5.1.1 Improper use of PMP by managers, including using behaviours arising from disability as targets for KPI and PMP (for details see allegation 4.1.2 above) from 17 August 2023
 - 5.1.2 extending probation period
 - 5.1.3 dismissing him
 - 5.1.4 “Gaslighting”/Misleading the Claimant in relation to KPIs and misunderstandings from 17 August 2023 as follows
 - 5.1.4.1 Using the performance management programme to extend the claimants probation period;
 - 5.1.4.2 During discussion of KPI's, the claimant’s senior manager Bashiru telling him “don't think too deeply about it, we all have to do KPI's”;
 - 5.1.4.3 In a meeting after the claimant’s probation and PMP was extended, Bashiru stated, in reference to the investigation of the claimants working hours “it's your misunderstanding not mine”;
- 5.2 Did the following things arise in consequence of the claimant’s disability:
 - 5.2.1 All behaviours listed under “Areas for improvement” in the PMP and the relevant KPIs, as set out at 4.1.2 above?
 - 5.2.2 Communication deficits / Misunderstandings
- 5.3 Was the unfavourable treatment because of any of those things?
- 5.4 Was the treatment a proportionate means of achieving a legitimate aim?
From the email dated 11/6/2025:-

The respondent says that its aims were:
 - 5.4.1 Ensuring operational efficiency and maintaining a consistent standard of communication across the workforce.
 - 5.4.2 Promoting a harmonious and inclusive work environment.
 - 5.4.3 Maintaining a fair, consistent and transparent process for performance, adjustments, and discipline.
 - 5.4.4 Adhering to policies while maintaining procedural integrity and accountability.
- 5.5 The Tribunal will decide in particular:
 - 5.5.1 was the treatment an appropriate and reasonably necessary way to achieve those aims;
 - 5.5.2 could something less discriminatory have been done instead;
 - 5.5.3 how should the needs of the claimant and the respondent be balanced?
- 5.6 Did the respondent know or could it reasonably have been expected to know that the claimant had the disabilities of Trauma/ASC? From what date?

6. Indirect discrimination (Equality Act 2010 section 19)

6.1 A “PCP” is a provision, criterion or practice. Did the respondent have the following PCP:

- 6.1.1 Unclear, subjective and/or contradictory instructions from managers and Kyle M from 27 June 2023,
- 6.1.2 ~~RA that adds further responsibilities on disabled people from 4 August 2023 (see direction 19 above).~~ Managerial support that adds further burden on disabled individuals.
- 6.1.3 Managers holding employees accountable to implicit soft skills targets from 17 August 2023 (see 4.1.2 above);
- 6.1.4 Managers raising formal complaints without prior informal attempts from 17 August 2023
- 6.1.5 KPIs and PMPs approved without discrimination checks from 17 August 2023
- 6.1.6 Veracity of claims in KPIs and PMPs are not validated by HR from 17 August 2023,
- 6.1.7 Managers treating behaviours arising from disability as lack of soft skills in KPI and PMP from 17 August 2023
- 6.1.8 Ignoring concerns raised informally throughout the Claimant’s employment;
- 6.1.9 Improper grievance and disciplinary investigation by Anna Leslie from 6 October 2023 (i.e. used as a device to get rid of the claimant as cheaply as possible)
- 6.1.10 ~~RA without measurable targets or review process from 4 August 2023 (see direction 19)~~ Lack of accountability for managerial support duties.
- 6.1.11 Improper/unbalanced use of PMP and KPIs from 17 August 2023
- 6.1.12 ~~Managers not implementing reasonable adjustments agreed from 17 August 2023 (see direction 19 above)~~

6.2 Did the respondent apply the PCP to the claimant?

6.3 Did the respondent apply the PCP to persons with whom the claimant does not share the characteristic, or would it have done so?

6.4 Did the PCP put persons with whom the claimant shares the relevant disability at a particular disadvantage when compared with persons with whom the claimant does not share the characteristic, in that:

- 6.4.1 Neurodiverse people are often worse than others at perceiving implicit information and need to understand poorly worded instructions, placing them at a disadvantage
- 6.4.2 ~~Using RA to add further barriers to disabled people increases the disadvantages between them and normal people [see direction 19];~~ Managerial support that adds burdens on disabled people makes it harder for them to match the performance of non-disabled people.
- 6.4.3 Neurodiverse people are often worse than others at perceiving implicit social rules (soft skills), placing them at a disadvantage;
- 6.4.4 Behaviours arising will result in neurodiverse people receiving more complaints than non-disabled people;

- 6.4.5 Disabled people are at a higher risk of PMP abuse due to behaviours arising which might disgruntle managers;
- 6.4.6 Neurodiverse people are more likely to raise complaints than neurotypical people, making them more affected;
- 6.4.7 Employers can use disciplinary procedures to disguise discrimination, this would not affect neurotypical people;
- 6.4.8 ~~Non disabled people who don't need RA are not affected by RA without measurable targets or review processes (see direction 19 above)~~, Neurodiverse individuals suffer greater detriment than non-disabled workers when managerial support is absent.
- 6.4.9 ~~Non disabled people who don't need RA are not affected by the Respondent not implementing reasonable adjustments~~

6.5 Did the PCP put the claimant at that disadvantage?

6.6 Was the PCP a proportionate means of achieving a legitimate aim? The respondent says that its aims were:

6.6.1 Was the treatment a proportionate means of achieving a legitimate aim?

From the email dated 11/6/2025:-

The respondent says that its aims were:

6.6.1.1 Ensuring operational efficiency and maintaining a consistent standard of communication across the workforce.

6.6.1.2 Promoting a harmonious and inclusive work environment.

6.6.1.3 Maintaining a fair, consistent and transparent process for performance, adjustments, and discipline.

6.6.1.4 Adhering to policies while maintaining procedural integrity and accountability.

6.7 The Tribunal will decide in particular:

6.7.1 was the PCP an appropriate and reasonably necessary way to achieve those aims;

6.7.2 could something less discriminatory have been done instead;

6.7.3 how should the needs of the claimant and the respondent be balanced?

7. Reasonable Adjustments (Equality Act 2010 sections 20 & 21)

7.1 Did the respondent know or could it reasonably have been expected to know that the claimant had the disability? From what date?

7.2 A "PCP" is a provision, criterion or practice. Did the respondent have the following PCPs:

- 7.2.1 Unclear, subject and/or contradictory instructions from managers and Kyle M from 27 June 2023;
- 7.2.2 ~~RA that adds further responsibilities on disabled people from 4 August 2023~~; Managerial support that adds further burden on disabled individuals.
- 7.2.3 Managers holding employees accountable to implicit soft skills targets from 17 August 2023 – same as 4.1.2 above;
- 7.2.4 Managers raising formal complaints without prior informal attempts from 17 August 2023; the claimant says the “formal complaints” are the KPIs and PMP targets applied to him and also the complaint about timekeeping/timesheets;
- 7.2.5 KPIs and PMPs approved without discrimination checks from 17 August 2023
- 7.2.6 Veracity of claims in KPIs and PMPs are not validated by HR from 17 August 2023
- 7.2.7 Managers treating behaviours arising from disability as lack of soft skills in KPI and PMP from 17 August 2023 (duplicates 7.2.3);
- 7.2.8 Ignoring concerns raised informally throughout the Claimant’s employment,
- 7.2.9 Improper grievance and disciplinary investigation by Anna Leslie from 6 October 2023, (not following ACAS Code and predetermined to dismiss C as cheaply as possible)
- 7.2.10 ~~RA without measurable targets or review process from 4 August 2023~~, Lack of accountability for managerial support duties.
- 7.2.11 Improper/unbalanced use of PMP and KPIs from 17 August 2023 (e.g. re email starting “Hey Guys”),
- 7.2.12 ~~Managers not implementing reasonable adjustments agreed from 17 August 2023~~

- 7.3 Did the PCPs put the claimant at a substantial disadvantage compared to someone without the claimant’s disability, in that – see 6.4.1 to 6.4.9 above

- 7.4 Did the respondent know or could it reasonably have been expected to know that the claimant was likely to be placed at the disadvantage?

- 7.5 What steps could have been taken to avoid the disadvantage? The claimant suggests:
 - 7.5.1 Allowing the Claimant to engage in clarifying discussions;
 - 7.5.2 HR to seek expert advice regarding ~~RA~~ this practice
 - 7.5.3 Holding employees accountable only to pre-written and specified targets
 - 7.5.4 Informally identify further RA for behaviours arising,
 - 7.5.5 Formal anti-discrimination screening done by HR on KPIs and PMPs raised by managers,
 - 7.5.6 Seek evidence for every claim in a KPI or PMP to validate if they are true, malicious or frivolous,
 - 7.5.7 Informal mediations to identify mutual solutions for concerns raised informally
 - 7.5.8 Strict adherence to objective and diligent investigation,
 - 7.5.9 ~~Use standardised and SMART criteria for PMPs and KPIs, apply SMART targets to RA, and a periodic review process, Use~~

SMART targets and review process for managerial support duties

7.5.10 ~~Implement an accountability process for RA.~~

7.6 Was it reasonable for the respondent to have to take those steps and when?

7.7 Did the respondent fail to take those steps?

8. Harassment related to disability (Equality Act 2010 section 26)

8.1 Did the respondent do the following things:

8.1.1 The Respondent making accusations of misunderstandings on 6 October 2023

8.1.2 Bashiru telling the Claimant “don’t think about it too deeply” in relation to KPIs on 17 August 2023

8.1.3 Improper use of PMP, including raising false accusations on 29 September 2023 (re delaying GCPSAR Project)

8.1.4 Discriminating KPI and PMP targets and probation extension on 17 August 2023

8.1.5 Not implementing reasonable adjustments on 17 August 2023

8.1.6 Improper grievance and disciplinary investigations from 6 October 2023 (predetermined/not following ACAS)

8.1.7 Ignoring concerns raised informally throughout the Claimant’s employment

8.1.8 RA that adds further responsibilities on disabled people from 4 August 2023.

8.2 If so, was that unwanted conduct?

8.3 Did it relate to disability?

8.4 Did the conduct have the purpose of violating the claimant’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant?

8.5 If not, did it have that effect? The Tribunal will take into account the claimant’s perception, the other circumstances of the case and whether it is reasonable for the conduct to have that effect.

9. Victimisation (Equality Act 2010 section 27)

9.1 Did the claimant do a protected act as follows:

9.1.1 Requesting reasonable adjustments to managers from the start of his employment?

9.1.2 Complaining about RA failures, suspicion of raising formal grievance and suspicion of future Tribunal claim to manager

9.1.3 Raising a formal grievance to Samuel Helkvist, 6.10.2023

9.1.4 Raising a Tribunal claim

9.1.5 Requesting reasonable adjustments, raising formal grievance and suspicion of future Tribunal claim [Note: repetition of 9.1.1 /9.1.3 above],

9.1.6 Suspicion of future Tribunal claim [repetition?]

- 9.1.7 Requesting reasonable adjustments and suspicion of future formal grievance to Bashiru [may overlap with 9.1.2]
 - 9.2 Did the respondent do the following things:
 - 9.2.1 Managers raised behaviours arising from disability as targets in KPIs on 17 August 2023 onwards [for details see direct discrimination above]
 - 9.2.2 Improper use of PMP, including raising false accusations, by managers from 29 September 2023 onwards [for details see above]
 - 9.2.3 Samuel Helkvist declined the claimant training time on 9 October 2023
 - 9.2.4 Refusing job claimant applied for on 15 November 2024
 - 9.2.5 Improper dismissal investigation and biased outcome on 29 September 2023 onwards [for details see above]
 - 9.2.6 Improper grievance and appeal investigation on 9 October 2023 onwards,
 - 9.2.7 Raising an allegation regarding working hours directly to HR on 3 October 2023,
 - 9.2.8 Not implementing reasonable adjustments agreed on 17 August onwards.
 - 9.3 By doing so, did it subject the claimant to detriment?
 - 9.4 If so, was it because the claimant did a protected act?
 - 9.5 Was it because the respondent believed the claimant had done, or might do, a protected act?
- 10. Remedy for discrimination or victimisation**
- 10.1 Should the Tribunal make a recommendation that the respondent take steps to reduce any adverse effect on the claimant? What should it recommend?
 - 10.2 What financial losses has the discrimination caused the claimant?
 - 10.3 Has the respondent proven that the claimant failed to take reasonable steps to replace any lost earnings, such as by failing to take reasonable steps to find another job?
 - 10.4 For what period of loss should the claimant be compensated?
 - 10.5 What injury to feelings has the discrimination caused the claimant and how much compensation should be awarded for that?
 - 10.6 Has the discrimination caused the claimant personal injury and how much compensation should be awarded for that?
 - 10.7 Is there a chance that the claimant's employment would have ended in any event? Should their compensation be reduced as a result?
 - 10.8 Did the ACAS Code of Practice on Disciplinary and Grievance Procedures apply?
 - 10.9 Did the respondent or the claimant unreasonably fail to comply with it?

10.10 If so is it just and equitable to increase or decrease any award payable to the claimant?

10.11 By what proportion, up to 25%?

10.12 Should interest be awarded? How much?"

The law

55. Equality Act section 13(1) states:-

“13 Direct discrimination

- (1) A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.”

56. Equality Act section 15 (1) and (2) states:-

“15 Discrimination arising from disability

- (1) A person (A) discriminates against a disabled person (B) if—
 - (a) A treats B unfavourably because of something arising in consequence of B's disability, and
 - (b) A cannot show that the treatment is a proportionate means of achieving a legitimate aim.
- (2) Subsection (1) does not apply if A shows that A did not know, and could not reasonably have been expected to know, that B had the disability.”

57. Equality Act section 19 (1) and (2) states:-

“19 Indirect discrimination

- (1) A person (A) discriminates against another (B) if A applies to B a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic of B's.
- (2) For the purposes of subsection (1), a provision, criterion or practice is discriminatory in relation to a relevant protected characteristic of B's if—
 - (a) A applies, or would apply, it to persons with whom B does not share the characteristic,
 - (b) it puts, or would put, persons with whom B shares the characteristic at a particular disadvantage when compared with persons with whom B does not share it,
 - (c) it puts, or would put, B at that disadvantage, and
 - (d) A cannot show it to be a proportionate means of achieving a legitimate aim.”

58. Equality Act section 20(1) and (3) states:-

“20 Duty to make adjustments

- (1) Where this Act imposes a duty to make reasonable adjustments on a person, this section, sections 21 and 22 and the applicable Schedule apply; and for those purposes, a person on whom the duty is imposed is referred to as A.

...

- (3) The first requirement is a requirement, where a provision, criterion or practice of A's puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage.”

59. Equality Act section 21(1) and (2) states:-

“21 Failure to comply with duty

- (1) A failure to comply with the first, second or third requirement is a failure to comply with a duty to make reasonable adjustments.
- (2) A discriminates against a disabled person if A fails to comply with that duty in relation to that person.”

60. Equality Act section 23(1) states:-

“23 Comparison by reference to circumstances

- (1) On a comparison of cases for the purposes of section 13, 14,19 or 19A there must be no material difference between the circumstances relating to each case.”

61. Equality Act section 26(1) and (4) states:-

26 Harassment

- (1) A person (A) harasses another (B) if—
- (a) A engages in unwanted conduct related to a relevant protected characteristic, and
- (b) the conduct has the purpose or effect of—
- (i) violating B's dignity, or
- (ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for B.

...

...

- (4) In deciding whether conduct has the effect referred to in subsection (1)(b), each of the following must be taken into account—
- (a) the perception of B;
- (b) the other circumstances of the case;
- (c) whether it is reasonable for the conduct to have that effect.

62. Equality Act section 27(1) and (2) states:-

“27 Victimisation

- (1) A person (A) victimises another person (B) if A subjects B to a detriment because—
 - (a) B does a protected act, or
 - (b) A believes that B has done, or may do, a protected act.
- (2) Each of the following is a protected act—
 - (a) bringing proceedings under this Act;
 - (b) giving evidence or information in connection with proceedings under this Act;
 - (c) doing any other thing for the purposes of or in connection with this Act;
 - (d) making an allegation (whether or not express) that A or another person has contravened this Act.”

63. Equality Act section 123(1)(2) and (3) states:-

“123 Time limits

- (1) Subject to section 140B proceedings on a complaint within section 120 may not be brought after the end of—
 - (a) the period of 3 months starting with the date of the act to which the complaint relates, or
 - (b) such other period as the employment tribunal thinks just and equitable.
- (2) Proceedings may not be brought in reliance on section 121(1) after the end of—
 - (a) the period of 6 months starting with the date of the act to which the proceedings relate, or
 - (b) such other period as the employment tribunal thinks just and equitable.
- (3) For the purposes of this section—
 - (a) conduct extending over a period is to be treated as done at the end of the period;
 - (b) failure to do something is to be treated as occurring when the person in question decided on it.”

64. Equality Act section 136 (1)(2) and (3) state:-

“136 Burden of proof

- (1) This section applies to any proceedings relating to a contravention of this Act.

- (2) If there are facts from which the court could decide, in the absence of any other explanation, that a person (A) contravened the provision concerned, the court must hold that the contravention occurred.
- (3) But subsection (2) does not apply if A shows that A did not contravene the provision.”

The evidence

65. We had a trial bundle of 976 pages and a supplementary bundle of 453 pages.
66. During the hearing we were shown an extract of a video recording of the second meeting held on 6 October 2023. The claimant provided us with two stills from that video.
67. During the course of the hearing we were provided with further documentation as follows:-
 - 67.1 Electronic copies of messages between Sam Helkvist and Bashiru Mohammed on 3 October 2023;
 - 67.2 Emails between Anna Leslie, the claimant and Ruth Billen on 6 October 2023;
 - 67.3 The Bridewell Competency Framework;
 - 67.4 A screenshot of a 'LOGS' which we were told showed that Ruth Billen received the VPN data at 13.22 on 6 October 2023;
 - 67.5 Emails between Anna Leslie, the claimant and Ruth Billen on 6 October 2023;
 - 67.6 The OH referral dated 2 October 2023.
68. We had witness statements and heard evidence from the following:
 - (i) The claimant.
 - (ii) Mr Sam Helkvist, Principal Security Consultant, Head of Security Architecture, Manager.
 - (iii) Ms Hannah Roome, Talent Acquisition Manager.
 - (iv) Mr Emran Ali, Associate Director, Security.
 - (v) Ms Hannah Rees, Head of Operations.
 - (vi) Ms Anna Leslie, Senior People Business Partner, grievance investigator.
 - (vii) Mr Scott Nicholson, Co-Chief Executive Officer, Grievance Appeal Officer

(viii) Ms Ruth Billen, Chief Financial Officer, dismissing officer.

69. The respondent provided written closing submissions for which we are grateful.

Claimant's initial application

70. Prior to this hearing the claimant made a number of applications which he consolidated into a single document which we had on the first day of this hearing. One application was to prevent the respondent and their counsel from participating in this hearing. In essence, the claimant's point was that he was concerned that there was a material risk that the tribunal would be misled by dishonest arguments used by the respondent. I indicated to the claimant that his application could only be determined once we had heard all the evidence and that to exclude the respondent from participating in the hearing would be very unfair.

71. The other applications the claimant sought to advance were for a preparation time order, aggravated damages, exemplary damages and payment of his three-month notice period. I indicated to the claimant that he could make an application for a preparation time order once the liability hearing had concluded and that the rest of his applications were remedies and not appropriate for a preliminary application.

72. In the circumstances, the claimant accepted the explanations I gave and did not persist with his application.

Disability

73. The claimant asserts that he was disabled within the meaning of the Equality Act 2010 by reason of ADHD (Attention Deficit Hyperactivity Disorder), ASC (Autistic Spectrum Condition), and trauma.

74. The respondent accepts that the claimant was disabled at all material times by reason of ADHD and ASC. The respondent accepts knowledge of ADHD but does not accept knowledge of ASC. The respondent denies trauma.

75. We have a Teams message from Sam Helkvist dated 28 July 2023 wherein he references the claimant's ADHD, Aspergers and potential autism. As such, we find that the respondent had knowledge that the claimant was disabled by reason of autism even though it was not actually diagnosed until the claimant had a psychiatric report dated 11 October 2023.

76. During the course of closing submissions, it became clear that the claimant's reference to trauma was to PTSD (Post Traumatic Stress Disorder).

77. In our judgment, it is not strictly necessary for us to come to a definitive ruling on whether or not the claimant was disabled within the meaning of the Equality Act 2010 by reason of PTSD. This is because it would be something of an artificial exercise for us to try and distinguish what things arose from ADHD and ASC as distinct from anything that arose as a result of PTSD. Further, the respondent has not disputed any of the things arising in consequence of the claimant's

disability that are set out in section 5.2 of the list of issues.

78. The claimant has not been diagnosed with PTSD. The claimant took us to various documents, the most significant of which was dated 3 February 2023 which raises the possibility that stress was affecting the efficacy of the medication he was taking for ADHD. As it is, we find that the claimant did not have the disability of PTSD at any relevant time.

The facts

79. The respondent is a fast-growing cyber security consulting and managed security services company. It delivers complex security and privacy projects to a broad range of clients. The company has grown rapidly and we were told currently employs about 320 people. We were told that approximately 40 employees are neurodiverse as it is not uncommon with those who have the skillset for cyber security programming.
80. Sam Helkvist was in contact with the claimant during the recruitment process on 14 April and 9 May 2023. In his witness statement the claimant states that he disclosed that he was neurodivergent during those interviews and was told repeatedly that Bridewell was a supportive environment.
81. The claimant began his employment on 26 June 2023.
82. The claimant's contract of employment contains the following:-

“3.2 The first three months of the Employee's employment shall be probationary. The Employee's employment will be terminated during this period at any time on one week's prior notice. This notice must be given in writing. The company may, at its discretion extend this probationary period for up to a further three months. During this probationary period, the employee's performance and suitability for continued employment will be monitored. At the end of the probationary period the employee will be informed either verbally or in writing that they have successfully completed their probationary period.

3.3 Subject to clause 3.2, this contract will continue until terminated by either side on written notice of termination as follows. The period of notice to be given by the company or the employee shall be three months' notice after successful completion of the employee's probationary period.

...

4.2 The employee's normal hours of work will be 40 hours each week.

4.3 The company operates a policy of flexibility around core hours of 10am - 4pm subject to the business requirements for the relevant department (this is inclusive with a daily lunch break of 60 minutes).”

And

“13 Intellectual property

13.1 The Employee shall give the Company full written details of all inventions and of all works embodying Intellectual Property Rights made wholly or

partially by them at any time during the course of the Appointment which relate to, or are reasonably capable of being used in, the business of the Company. The Employee acknowledges that all Intellectual Property Rights subsisting (or which may in the future subsist) in all such inventions and works shall automatically, on creation, vest in the Company absolutely.”

83. As part of his “onboarding” the claimant signed an Employee Information Security Declaration form. This contains the following:-

“Employee commitment

Bridewell Consulting Limited’s information systems are one of the company’s most valuable assets. Our success and the privacy of our customer depend on the protection of this information against theft, unauthorised alteration, destruction, or disclosure to outside interests.

Bridewell Consulting has the legal and ethical responsibility to safeguard the privacy of our customers and employees and to protect the confidentiality and integrity of their information.

Additionally, Bridewell Consulting employees must assure the confidentiality of its human resources, payroll, and management of information.”

84. The respondent has a People Employee Handbook. This contains the following:-

“1.13 Confidentiality

It is a condition of your employment that you have a duty of confidentiality with regards to Bridewell and our clients. Bridewell has contractual obligations with respect to the confidential information of its customers, contractors, suppliers and other third parties with whom we have a business relationship. Improper handling of such information can lead to a loss of trust, damage to reputation and legal claims against the company for damages.

Bridewell information and Client Information includes, but is not limited to; technical information concerning products and services, technical architecture, software codes, trade secrets, major changes in organisation, policies, procedures, customer contact lists, employee data, competitive bid information, prices paid or received for services or any other information or data which if published, released, or otherwise disseminated might be used to the detriment of the company or its directors or effect its ability to transact business to its best interests or to the personal benefit of a member of Bridewell personnel releasing the data as information etc.

You must not discuss any company or client information with anyone outside of the company or specific work you are undertaken [sic] as an employee of Bridewell.

Any such breach of confidentiality will be deemed as gross misconduct except as otherwise provided or as permitted by any current legislation and will be dealt with under the disciplinary procedure and may lead to your dismissal.”

And

“1.14 Computer, email, and internet use

...

You are also not permitted to process any Bridewell information (including client data) on your personal device, unless you have written approval from a director, which will be reviewed on a periodic basis.

All files are required to be stored on SharePoint, or alternatively for personal files, within OneDrive . Files must not be stored on your PC/desktop.”

And

“1.15 Use of IT equipment, internet and phones

...

The use of Bridewell IT systems may be monitored for the purposes of information security, operational management, maintenance, business needs and to ensure that all use is compliant with all laws, regulations, and Bridewell policies.”

85. Also within the Handbook is the disciplinary policy & procedure. This contains the following:-

“6.14 Examples of gross misconduct.

The following are examples of offences which may be regarded as gross misconduct and will normally result in summary dismissal. This is not an exhaustive list:

...

Falsification of information

Dishonesty

Failure to follow the company’s procedure with regards to IT security...”

86. The claimant was employed as a Senior Consultant-Security Architect. His line manager was Bashiru Mohammed. Bashiru Mohammed’s line manager was Samuel Helkvist. The nature of the respondent’s business was such that the employees worked remotely and most communications were via Teams. Also in the claimant’s team was George Ross and Jack Pye.
87. The respondent has a standard five-day onboarding process.
88. On 26 and 27 June 2023 the claimant had onboarding meetings. We have a message from the claimant on 26 June saying:-
- “Just had a meeting with Bashiru, nice guy! Explained things well.”
89. Also, during his first week, the claimant was tasked to work on a project for a client called Dunnhumby with the project referred to as DUH005. This was a project managed by Sam Helkvist that Bashiru Mohammed was not involved in and, as such, Sam Helkvist was involved in directly managing the claimant for much of the time.

90. The claimant began work on DUH005 in his first week on 29 June 2023. The claimant was joining the project in circumstances where a certain amount of work had already been done. We have messages between the claimant and Sam Helkvist on 29 June 2023 wherein the claimant is raising queries which are answered by Sam Helkvist. The claimant was provided with a DUH005 change report and a hyperlink to a deliverables folder where he could see everything that had been delivered on the project to date. The claimant was stating that he had not been provided with the scheme of work and Sam Helkvist sent him a screenshot of the scope of work to be done for the client.
91. We have messages from 3 July 2023 between the claimant and Sam Helkvist. The claimant had clearly accessed the hyperlink to the deliverables folder and had looked at it. The claimant queried the methodology on the DUH005 project and suggested an alternative method of working. This was addressed by Sam Helkvist on 4 July 2023 and he told the claimant that they could not change the methodology as it was the methodology of the entire consultancy at Bridewell and also because the client was somewhat difficult. The claimant responded that due to his neurodiversity and the way he processed information, the methodology could cause him problems and that he would need to set up a workshop with the client. Sam Helkvist told the claimant that he was more than happy for the claimant to set up a workshop. The claimant set up a workshop and it took place.
92. As part of the claimant's work on the DUH005 project, the claimant was tasked to produce a template to obtain relevant information from the client. As part of this, the claimant was asked to develop a broader template with standardised questions that could be used for other clients in the future. Sam Helkvist referred to it as "killing two birds with one stone."
93. We have a number of exchanges of messages on 7 July 2023 between the claimant and Sam Helkvist. The claimant had accessed an Excel spreadsheet of the work already done and had returned it with comments attached. Sam Helkvist informed the claimant that he needed to be asking questions and we have a great many exchanges between the two as to how the task should be done. It is fair to say that in one of his messages the claimant states:-
- "It may appear that we're going around in circles – but that's because of my ADHD I'm trying to process contradictory information and draw out what the desirable outcome is."
- And
- "This is an area I need reasonable adjustment for, and when in our interview I said my weakness is handling conflict, this is exactly what I mean – my sentence was misunderstood, and now I am a hundred percent uncertain whether anything I have said up to this point has been sufficiently understood."
94. The claimant raised a series of queries in order to understand the objective of the review, the desirable outcome and what was being searched for.
95. On 7 July 2023 after three-and three-quarter hours of exchanges from 9.46 to 1.33, Sam Helkvist sent a two-page message to the claimant setting out the desirable outcome and a plan of action of 20 steps the claimant needed to take

successfully to complete the deliverables along with a report framework. The exchanges end with Sam Helkvist saying to the claimant:-

“I can’t give any more time to Dunnhumby today mate. I have four sales proposals to get out by 4:30pm.

If this doesn’t make sense, re-read it a few times, and if there’s still problems, schedule a meeting with me on Monday and we’ll make a start on it together 👍”

And

“(I’m not meaning to cut you off – I just really, really need to crack on or we’re not going to have any work in 20 days! 😊)”

96. In his witness statement the claimant states:-

“Issues started in early July as Samuel failed to explain the required objectives of a project and my attempts to clarify these turned adversarial.”

97. We find that Sam Helkvist did not fail to explain the required objectives of the project. We find that Sam Helkvist went out of his way to spend three- and three-quarter hours explaining to the claimant the objectives and the needs of the project. Further, we find that the nature of the exchanges between the two of them was not adversarial. That said, we are prepared to accept that from a neurodiverse perspective, the claimant perceived difficulties in understanding what was required of him and regarded the exchanges as adversarial.

98. In his witness statement the claimant states that within the same week he reached out to HR to request reasonable adjustments to improve communication and to avoid it becoming adversarial again. We assume that the claimant did this later on the afternoon of Friday 7 July 2023.

99. We have a message dated 10 July 2023 timed at 8.35am from Kate Harris of HR to the claimant which says as follows:-

“Heya, if you can send me an email letting me know what reasonable adjustments you need and reasons and I can look into it for you, we may already have some tools and licenses for certain neurodiverse employees that I can extend to you. Happy to have a chat with you later too.”

100. The respondent has a Staff Opinion Survey platform called Officevibe. Standard questions are posed to employees to give them an opportunity to provide feedback. Hannah Rees of HR gave evidence that she first came into contact with the claimant following feedback he provided on Officevibe on 12 July 2023. The claimant had written:-

“ I haven’t been provided with company objectives and cascading team objectives that guide the aims of my own personal work.

I’ve been provided tasks to do, but without clear outcomes and success metrics that I can aim towards. It feels like I am just a set of fingers typing someone else’s words on a keyboard.

Ideas and proposals I suggest have been shot down without significant consideration or explanation as to why.”

101. Hannah Rees replied on Officevibe as follows:-

“Hi Gabriel, I am grateful that you took the time to share this with me. Have you raised this with your line manager to explain that you are unclear on the company/team objectives? It is disappointing to hear you feel you have been “shot down,” if you can clarify on this further for me, I will pick this up, as no employee should be in that position. We have an open culture where all ideas should be welcomed,”

102. In relation to the same issue on 28 July 2023, Sam Helkvist replied:-

“Hi Gabe. It will be good to get instances where this happened because it shouldn't be happening. It's not always possible to adopt new ideas mid-project, and unfortunately you've landed exactly there. But our consultants ideas are always leveraged into the next time we deliver that piece of work. So even if it didn't happen this time, it doesn't mean that it can't happen next time.”

103. At 9.30am on 13 July 2023, the claimant messaged Hannah Rees as follows:-

“Hi Hannah, I've read your responses via Officevibe, happy to jump into a teams call when both of our calendars are free and we can discuss it further.

Ultimately at this stage I would like to deal with the problem in the most sensitive way possible, as I know I'm walking on eggshells. I don't want to offend anybody or hurt my chances of building a long-term relationship with my superiors.”

104. It would appear that a meeting with Kate Harris had already been arranged as Hannah Rees asked if the claimant would mind if she joined it.

105. Hannah Rees gave evidence that during the meeting the claimant was not specific about what reasonable adjustments he required. She mentioned supportive measures that the respondent had put in place for other neurodiverse colleagues but the claimant could not specify how the respondent could best support him or describe any supportive measures that had worked for him previously. She said the claimant “cited” he wanted “empathy” and “trust” but was not specific in how the respondent could do this.

106. On 13 July 2023 Hannah Rees sent a follow-up email to the claimant as follows:-

“Just to confirm the next steps we agreed:

1. Please share with me any assessment reports you have which we can review for any reasonable adjustments that need to be made, as a baseline.
2. I will have conversations with Sam and Craig so they understand how best they can communicate moving forwards.
3. I will set up a catch-up meeting for us in a few weeks' time to understand how things are improving. Meeting invitation to follow.

As mentioned, Kate Harris is always available should you need further assistance in the meantime.”

107. Following the meeting, the claimant forwarded a diagnosis report to Hannah Rees. That was a report from a consultant psychiatrist dated 7 December 2021 which had diagnosed the claimant with ADHD.
108. Hannah Rees read through the article and medical diagnosis report. She also completed four modules of neurodiversity training either on or by 7 August 2023.
109. We note that on 19 July 2023, on Officevibe, the claimant answered the question “What are some of the highlights you’ve experienced since starting with us?” – “A fabulously supportive HR Team, and I love the guide programme. The consultants are incredibly knowledgeable and I’ve already had amazing cyber security conversations.”
110. On 21 July 2023, Hannah Rees sent the claimant an email as follows:-

“I just wanted to touch base with you following our previous conversation.

I have spoken with Craig [Moore – Squad Leader], Sam [Helkvist] and Bash [Mohammed] over the past week to discuss communication style and how we can provide further clarity for you. They are all fully supportive of this and you having a successful career at Bridewell. What I therefore propose as a next step is to have a meeting with yourself, Sam, Bash, Hannah and I to discuss how we can all form a plan of action to help support you in your role.

The HR Team are equally looking into further neurodiversity training for managers.”

111. The claimant replied, stating that he deeply appreciated that.
112. We have a message exchange on 28 July 2023 between Emma Leith, Director of Consulting, and Sam Helkvist, as follows:-

“Emma Leith

Re neurodiversity, we discussed it on the exec call earlier. Training was given a while back. I’m going to have a chat with Hannah as I think we should look at manager training on neurodiversity specifically.

Sam Helkvist

I’ve specifically raised with Hannah that I am unable to manage Gabriel, as is Bash, with his particular neurodiversity requirements. This requires a specialist to train us.

Training may have been given a while back, but it wasn’t to me or Bash. We need more than things to look out for, we actually need to know how to day to day manage Gab’s ADHD, Asperger’s, and potential Autism.”

113. In due course, a meeting was arranged on 4 August 2023 with the claimant, Kate Harris, Sam Helkvist and Bashiru Mohammed. It was entitled “Solutions Meeting.”
114. In the claimant’s witness statement, the claimant states that during the meeting Bash was making overbearing criticisms instead of focusing on the meeting objectives. It is this perception the claimant called Bash ‘trying to throw him under the bus’.

115. In her witness statement Hannah Rees states that whilst Bashiru explained his point of view, she did not see or hear any examples of Bashiru trying to 'throw him under a bus.' We accept the evidence of Hannah Rees but acknowledge that the claimant's neurodiverse condition may have led him to perceive Bash's comments in a different light.
116. Following the meeting, an email was sent by Kate Harris summarising what had been agreed. The email reads as follows:-

"Thank you for your time today. I just wanted to send over some of the points and solutions we discussed in the meeting held to further help and support Gabriel in his role at Bridewell.

If I have missed out anything, or anyone would like to add some additional points/suggestions please do. Gabriel, if you could read through, double check and let us know if the solutions we have suggested below would help and also let us know about the Occupational Health review as a good option for helping to provide any further reasonable workplace adjustments we haven't considered. Thank you.

EMPATHY

- Gabriel would like for us to have an enhanced level of empathy when working with him on certain projects and to be mindful of thinking in a more supportive way.

GUIDED/CONSTRUCTIVE FEEDBACK

- Gabriel has asked for direct feedback and welcomes a more direct approach in meetings when needed to help him focus.
- For his managers to provide constructive criticism; or as Gabriel calls it in his terminology – a guided approach to his work.

TRUST

- To help solve the problem of keeping the focus on priorities on what needs to be done at the time, where we can comfortably draw a line because a piece of work is time critical; versus Gabriel wanting to understand something further in a greater depth. From a business perspective we can explain it, but right now we need to focus on X,Y,Z, so where we can we all meet in the middle where we support Gabriel but also support the managers with what they need to deliver from the team and client. How do we solve the balance – trust!
- Trust is a solution to this problem. If trust is built between Gabriel and his managers it will in turn create the safety to freely express without worry or anxiety about being criticised.

COMMUNICATION

- Using the example of trust, an employee has to trust their manager as their manager has more experience but also communication will help process the next steps.
Communicating frequently and effectively and to the point.

- We can't target specific things or predict when an issue may happen. Through enhanced communications we can note the issue, identify the significant factors, identify potential solutions and it might be a case of trial and error until we find the solution but by communicating openly and safely we will get there.

TRAINING

- Education- Hannah ran through the neurodiversity training we have now added to our internal LMS platform. This will help Gabriel and his managers and others in the business to educate and support our staff and create a wider understanding of neurodiversity and how to work with our neurodiverse employees. For all of Sam's team to complete this training as well as the People Ops Team.

OCCUPATIONAL HEALTH

- To further help us in terms of reasonable adjustments in the workplace, would an Occupational Health assessment support us in achieving additional resources we haven't discussed or considered.

BRIDEWELL WAY

- Teach Gabriel the Bridewell way so he can comprehend knowledge and reduce that gap.
- Potentially create a document that explains how we do things the way we do and the reasons why. It could be a document where you can have your own time to review and ask questions which will help you to understand the process and gives you the opportunity to ask questions and we can address them rather than tripping up over the same things again and again.

Thank you for reading this and as mentioned above please add any supporting /additional comments you would like to."

117. During the course of the meeting the claimant had sent a sideline chat to Hannah Rees referencing being thrown under the bus. Hannah Rees did not reply during the meeting but did contact the claimant shortly thereafter to explain that she did not think that Bash had been acting in that way. Hannah Rees gives evidence that the claimant then thanked her and said he felt calmer and that she had talked him down. We accept that evidence.

118. We have quoted the reasonable adjustments email in its totality as the claimant criticises the reasonable adjustments on the basis that they were not measurable or objective adjustments, that the emphasis was on the claimant to change and that there were no adjustments for the claimant's managers. In our judgment, the claimant's criticisms are unfounded. Empathy and trust were issues raised by the claimant and, in our judgment, it would be nigh on impossible to have objective and measurable outcomes. The meeting was held with the claimant's line managers and feedback, trust, communication and training all involved actions to be taken by management as well as the claimant. Whilst the claimant accepted that he read this document, he told us that he overlooked the fact that he was to get back to Kate Harris to consent to the Occupational Health referral.

119. The claimant also did not take the opportunity to add any additional comments

or supporting reasonable adjustments. In his witness statement the claimant claims that this was because he was too afraid to raise any further complaints. We reject the claimant's evidence on that point. We have seen evidence of the claimant forcefully and repeatedly expressing his views both before and after this time. We find that the claimant would not be reticent in expressing his views in the event that he thought the reasonable adjustments were inadequate in some way.

120. Although we do not have the dates the courses were completed, Bashiru Mohammad did one module of neurodiversity training and Sam Helkvist did three modules.
121. We have no evidence of the claimant complaining about any of the reasonable adjustments not being acted upon.
122. It is clear to us that in the first half of August 2023 Sam Helkvist and Bash Mohammed had some concerns with the claimant's performance. In an email dated 14 August 2023 from Sam Helkvist to Bashiru Mohammed, Sam Helkvist issued the following direction:-

“Subject: KPIs for Gabriel

Hi Bash,

Please can you clearly communicate the following to Gabriel:

1. He needs to show improvement in his professional conduct with clients. It's not appropriate to address the clients as “Guys” – especially DH. – See GS001.
2. He needs to show improvement on “picking your battles” with the client – See GS002. This would have been an absolute disaster if he'd sent this email.
3. He needs to show improvement in understanding who sits where in the organisation and how best to contact them. He mentioned earlier he hasn't been able to reach Zvi via Teams – that'll likely be because the guy is a director of an entire wing of a massive company, and the correct approach would be email in this case, but sometimes the PA of the director.
4. He needs to show improvement on the use of his time with others on the call and the effectiveness of the conversation. You mentioned on 2nd [should be 4th] August in the HR chat with Gabriel about him running over on meetings and he asked for examples. I have not had one meeting which stuck to time – all the others he's run over on. We've got to support him in this, as discussed on the call, but he's got a part to play in this, too.

Gabriel's delivery skills are not in question – he is delivering well. I am disappointed in his professional conduct around soft skills, and he needs to improve on this rapidly.

Please can you clearly provide Gabriel with this list of improvements in a 1 to 1, set them as KPIs for probation under “soft skills,” and then summarise them in writing to him, copying myself and Kate in.”

123. GS001 and 002 are screenshots of an email where the claimant addressed the client as “Hi guys” and a draft email response to a client stating, “That's rude”.

124. On 17 August 2023, Bashiru Mohammed sent the claimant five draft KPIs. The claimant replied with a message consisting only of a link to “How to write SMART goals (with examples).” SMART stands for Specific, Measurable, Achievable, Realistic, Timed.

125. Later, on 17 August 2023, Bashiru Mohammed sent the claimant a message as follows:-

“Hope our conversation makes sense. Please don’t read too much into the PKI [**should be KPI**], they are a formality as you would imagine that the review process need to be based on a set of criteria and that is what this is for.”

126. Later, on 17 August 2023, the claimant sent back the draft KPIs with alterations and his comments.

127. Later, on 18 August, Bashiru Mohammed emailed the claimant with the KPIs. The claimant’s suggested target of 75% under language sensitivity had been removed and the target was effectively 100%. The claimant’s input on conflict management was adopted. The claimant’s input on organisational awareness was adopted in that it was made clear that it related to client organisations. The claimant’s input on effective time management was partially adopted but the assessment of timekeeping being recorded was not set out and there was no percentage compliance merely the words “significantly reduce.” The fifth KPI had been dropped.

128. On 18 August, the claimant replied:-

“Happy with these, except the last one regarding timekeeping.”

129. The claimant then goes on to invite Bashiru Mohammed to consider a number of comments seeking to clarify whether the meetings to be monitored were formal or informal and various other issues. The claimant concludes the email by stating:-

“I appreciate your time reading through this.”

130. The claimant complains that his email was ignored. Whilst we have not seen a response from Bashiru Mohammed, the way the claimant was putting his points do not suggest that a response was necessarily required. We note that one of the comments made by the claimant is as follows:-

“This should avoid the potential for “entrapment” where the conductor intentionally engages me in a conversation that appears informal or where time limits appear to be flexible without informing me otherwise and later uses this against me.”

131. We find this a somewhat troubling statement. It suggests that the claimant perceived the purpose of the KPIs was in some way to trap him and cause him to fail his probation. We find that that was not the purpose of the KPIs and the purpose of the KPIs was to performance manage certain concerns with the claimant’s performance. However, we accept that the claimant’s neurodiversity caused him to have this perception. We have cited this extract as, as will be seen later, the claimant laid significance on the word “entrapment” being used by

Bashiru Mohammed in a later message.

132. In any event, the claimant did not follow up his email dated 18 August which, in our judgment, the claimant was well capable of doing had he thought the matter to be important and needing a response.

133. Further, we have seen no complaints from the claimant about any failure to apply the reasonable adjustments agreed. In his witness statement the claimant puts it as follows:-

“The following months until my probation review (29th September) were mostly uneventful.”

134. The exceptions that the claimant references concern details of project delivery. The claimant states:-

“I carried on as normal and aimed to meet the KPIs despite my concerns.”

135. We have the claimant’s entry on Officevibe from 1 September 2023 as follows:-

“After thorough consideration after the meeting we have had, I have the following feedback:

Neurodiversity support could benefit from an accountability system similar to Performance reviews.

Such that KPIs are defined and agreed and progress reviewed regularly to ensure positive motion.

I am satisfied with the support I’m being informally provided, therefore this is not a criticism.

The formal method described above is simply a natural evolution of the support.”

136. Further, on 25 September 2023, the claimant posted on Officevibe in answer to the question:

“What can your business do better when promoting wellness?”

The claimant answered:

“Proactive systems tend to work better than reactive systems.

Currently Bridewell responds really well when an employee reaches out due to suffering.

However it would be better to implement systems to prevent predictable suffering in the first place, an effort which is currently non-existent at Bridewell.”

137. We have part of the response from Emma Leith on 28 September 2023 as follows:-

“A really good point and I couldn’t agree more. We do...”

138. The claimant's end of probation meeting was held on 29 September 2023. Sam Helkvist gave us evidence that he decided to extend the probation due to concerns about the claimant's overall fulfilling of the role. We have seen messages sent by Sam Helkvist to Kate Harris early on 29 September which suggest Sam Helkvist either wrote or finalised the Performance Management Plan early that morning. He sent it to Kate Harris for immediate review and amendment. The PMP was based on the KPIs earlier devised with two extra ones added. We find that there were genuine performance concerns and the extension of the claimant's probation period was not a contrivance in order to allow the respondent to find disciplinary grounds for dismissal.

139. We have the probation meeting minutes. The claimant is recorded as saying:-

“Bash and yourself have been nothing short of supportive which I really appreciate. Very early on I opened up about having ADHD and got my ASD assessment on 11th October so we will know more about that, despite the inherent difficulties with that you guys have definitely risen to the challenge and demonstrated willingness to participate and improve and I can't be more thankful to that.”

140. In response, Sam Helkvist is recorded as saying:-

“That's good to know and that's good feedback. That's definitely something we are pleased with. I would agree with what you've said, I have got no serious concerns about your delivery output – I think your output and your knowledge is absolutely exceptional and, in that sense, you are an excellent addition to the team. It's worth us starting by saying that and your delivery output is excellent.”

141. During the meeting, the claimant's mid-term KPIs were discussed. The various issues were discussed and it was acknowledged that the claimant had shown improvement on some of them. Towards the end, Sam Helkvist is recorded as saying:-

“So where we are at we can see you're making good progress with the markers set and we've added a couple more so as a result of that we are going to extend your probation by four weeks until 27th October. We will check in with you weekly on a Friday to check two things. To run through as we've just done with the KPIs – we've put it all in a table so Bash can give you feedback for where improve[ment] is needed and where things are going well, and for you to say I need this support, so that's where we are at.

To also help us out we could really do with your going to see an OH therapist who will specifically tell us what we can do to support you, because none of us on the call are ADHD experts, I know 50 % on this call have ADHD that we know of, but that being said your medical report doesn't say how we as your employer can help – it just says part of your diagnosis.”

142. The claimant acknowledged that he must have missed the OH referral reference earlier.

143. At the end of the meeting Kate Harris from HR is recorded as saying:-

“Going forward you will have a weekly one to one with Bash and perhaps I can attend some of the meetings if it helps too and I am happy to help and support you as a mentor in any areas you need and be that sounding board and we can have some offline chats.

Are you happy Gabe? All ok?

The claimant:

“Yes, I appreciate that very much. I’ll need to review of course the documents sent out.”

144. On 2 October 2023, the claimant was on annual leave.

145. On 2 October 2023, Anna Leslie referred the claimant to Occupational Health. The referral states:-

“Briefly describe the reason why you are requesting this referral.

Answer: Gabriel joined the business just over three months ago and other [although] his performance with written work and output is at a good standard, his soft skills, communication, timekeeping, and general awareness is not at a good level. We are aware that that this things can be affected by ADHD so we are looking for help and guidance on reasonable adjustments that we can put in place for him. We have extended his probation for this. I have attached his JD as well as the probation letter to give you as much information as possible.”

146. It is fair to say, as the claimant pointed out to us, that Anna Leslie answered the question, ‘Are there any adjustments already in place?’ with “No.” We find that that answer was manifestly incorrect.

147. On 2 October 2023, the claimant was sent the probation extension letter which had the Performance Management Plan/performance improvement table attached to it.

148. The performance improvement table had six areas for improvement, namely:-

- Client communication – formal greetings.
- Client communications – correct mode of communication.
- Conflict management – appropriate wording to the client.
- Effective time management – for meetings.
- Team dynamic – interaction with management and colleagues.
- Delivery – correct scoping for the length of the project.

149. On 3 October 2023 at 11.24, the claimant sent an email to Kate Harris as follows:-

“Could we schedule an hour to discuss this, I have serious concerns. – I’m cc’ing my personal email address to retain a personal record of this email as I believe this to be incredibly serious. There are a lot of elements which I believe to be completely unfair, to the point that I’d be willing to raise a formal grievance for, unless it can be addressed informally.”

150. Since the claimant was dismissed for issues relating to his working hours, we

have looked closely as to why it was that the claimant's hours were investigated.

151. Somewhat surprisingly, key messages sent on 3 October 2023 were not included in our bundle and were only supplied to us during the course of this hearing.
152. We have messages from Sam Helkvist to Bashiru Mohammed starting at 8.01am. They go as follows:-

“SH: Hi mate. Please can you ask Gabriel to give us some induction [indication] of his start and end times. It can't be this scatty. I don't care when it is (tell him that) but it needs to be a) consistent and b) known.

Please also be sure you have four meetings, one a week, set up with him to discuss that PMP table.

...

SH: Yeah, basically what time he's starting in the morning, what time he's finishing his day, and to let us know.

So if it's 10 to 6 that's fine, but it has to be that every day and we need to know.

It obviously can fluctuate and I'm not on about making sure it's to the minute. (I worked for someone like that and I hated it, so I don't want that).

If I'm looking for him at 9am and he's not here, that's fine, but I also have no idea when he's going to be online.

What the problem is, is Ben and Scott want to know about that PAM work for Springer and we can't find Gabe! Lol”

153. Scott is Scott Nicholson, the Co-Chief Executive Officer.
154. The instruction to Bashiru Mohammed to ask the claimant about his log on and log off times therefore was made prior to the claimant raising complaints about the PMP and indicating that he may raise a formal grievance.
155. In the minutes of the interview with Bashiru Mohammed made on 10 October 2023 as part of the investigation into the claimant's grievance, Bashiru Mohammed describes what he then did as follows:-

“Anna Leslie: Can you just give us your take on what happened in that meeting?

Bashir Mohammed: So prior to that meeting, I had received a message from Sam to find out the times that Gabriel logs on and off so I thought it would come across as him being targeted so I wouldn't ask him directly when he logs off and logs in. So, I said to Sam I would rather ask the general question in a team meeting so everyone can tell me when they log in and log off. I recorded George [Ross] as 9-6, and myself as 9.30-5.30 and Gabriel said 9.30 - 4.30 and he said it's his working within the core hours.”

156. Kate Harris, Bashiru Mohammed and the claimant had a meeting on 4 October

2023 starting at 8.31am to discuss the PMP.

157. The meeting was one hour and six minutes long and the claimant was given an opportunity to articulate his concerns about the PMP. An AI generated transcript was clearly later considered by Kate Harris as she has highlighted parts and colour coded questions.
158. It is not clear to us when Bashiru Mohammed reported the claimant's log on and log off times to HR. We have an exchange of messages between Kate Harris and Bashiru Mohammed on 4 October 2023 which the claimant has relied upon as being sinister. The exchange is as follows:-

“Kate Harris: Bashiru Mohammed please can you get that email out if you haven't already about confirming start and end times with the team, and certain individuals confirming their times so it can be documented as we need to know hours for resourcing and and and... thankyou!

Bashiru Mohammed: Hi Kate, I wanted to reply to your earlier message now before it slips. My original intention was not to send email requesting individual log in and log off times. Instead, during our weekly meeting on Tuesday, I asked team members to share their schedules. Gabriel indicated availability from 09:30 to 16:30, George from 09:00 to 18:00, and myself from 08:30 to 17:30.

Subsequently, a team member approached me, expressing concern that this might be perceived as micromanagement. Recognising the potential for misinterpretation, I've reconsidered the approach of sending an email, as it might be seen as yet another entrapment tactic. My proposed solution is to discuss this matter with Gabriel during our upcoming Friday meeting. This will not only confirm his schedule but also provide an opportunity to explain the significance of our business core hours.”

159. The claimant has suggested that the message from Kate Harris, in effect, was targeting him and that the reason log on and log off times were required was not for resourcing but in order to try and find a disciplinary reason to dismiss him. He suggests that Bashiru Mohammed's reference to entrapment shows that he was being targeted. As far as Bashiru Mohammed's use of the word “entrapment” is concerned, in our judgment that was reactive to the fact that Bashiru Mohammed had previously had the claimant claiming the respondent was trying to entrap him. We will return to our views on what Kate Harris was saying in due course.
160. At 10.22 on 5 October 2023, Sam Helkvist sent an email to the claimant stating as follows:-

“Subject: Dunnhumby call: 4th October 2023

Hello Gabriel

I wanted to pop an email across to congratulate you on how well you chaired the Dunnhumby Review Call for your SAR Report yesterday. You put your points forward

very well, with just enough detail, gave the client plenty of space to put their point forward, which you listened to diligently and supported where appropriate or put forward other ideas for them to consider.

At times, it was a contentious call. It's hard in those environments to stay objective, but you did just that and progressed the review forward well.

This is exactly the improvement Bridewell are hoping to see in response to the PMP – so well done and keep up the good work. I've copied in Bash as your LM and Kate who I know from our conversation yesterday, is involved with where we are with the PMP process.”

161. We have some Teams messages between Sam Helkvist and Kate Harris on 5 October 2023. The first starts at 9.23am. It states:-

“GS did very well on his call with DH yesterday. I've emailed him and copied you in and explained to him in a call yesterday that he should keep his emails like this to evidence improvement.

I'm hoping this email helps him realise that we're not trying to oust him through this process, and are concerned with seeing him improve.”

162. We observe that the timing of this Teams message is one hour and one minute before the email quoted above. It appears to be referencing the email timed at 10.22 but we had no explanation as to why the times may differ.

163. The message chain goes on with Kate Harris replying:-

“Hey Sam, are you both free for a catch up this afternoon with me and Anna just to run through some things and also Friday please.

Have you seen the War and Peace doc yet?”

164. Later, Bashiru Mohammed comments in relation to the “War and Peace doc”:-

“Kate, I think your comments are great. This meeting you are proposing would be useful for us to brainstorm so we all have a consistent approach. “

165. The reference to Kate making comments leads us to conclude that the ‘War and Peace’ document was the transcript of the meeting on 4 October 2023. The transcript is 18 pages long of single line script. It is predominantly the claimant speaking.

166. A meeting was arranged for 11.30. The attendees were Sam Helkvist, Bashiru Mohammed, Kate Harris and Anna Leslie. None of the respondents' witnesses give any evidence concerning what occurred at this meeting. The potential relevance of the meeting only really became apparent on Day 4 of this hearing when the claimant played to us the extract from the video recording of the second meeting on 6 October 2023. The claimant subsequently produced two screenshots. The first is timed at 10.29 and records Kate Harris messaging Bashiru Mohammed at 12.26 saying “Don't say anything.” The second still is timed at 12.51. At that moment Kate Harris shared her screen and the claimant told us that as her mouse hovers over the Microsoft Word icon, it shows

documents that she had open on her device. The claimant detected that one of the documents was titled “2023. 10.06_dismissal letter_Ga.” Whilst the claimant had disclosed the video to the respondent, this was the first time that the claimant brought his discovery to the attention of the respondents and us.

167. Whilst the claimant’s name is not on that file in full, we find that it probably was a draft dismissal letter for the claimant created on 6 October 2023. The claimant has not highlighted this issue in his witness statement. Had he done so, the respondent may have been in a position to investigate and interview Kate Harris as to why she may have had a draft dismissal letter on 6 October 2023. Kate Harris has left the respondent’s employment.
168. We have Teams messages from the afternoon of 5 October 2023 timed at 2.50pm, between Anna Leslie and Sam Helkvist. These state as follows:-

“Anna Leslie: Hey Sam, does Gab have a customer laptop or just a Bridewell one?”

Sam Helkvist: He has some access to Dunnhumby via remote access.
But no device.”

That exchange took place after the meeting at 11.30am

169. It was Anna Leslie’s evidence that she was not involved in the investigation of the claimant concerning his work hours. She characterised her actions on the 5th and in the first meeting on 6th October as holding a meeting to discuss something that had been brought to her attention to see if an investigation was needed. Nevertheless, in our judgment, her actions were effectively an investigation. We infer that the reason she was asking about whether the claimant had a customer laptop on 5 October was to see if there was an alternative explanation as to why the claimant was not logged on his work laptop at certain times. That in turn leads us to conclude that in HR there was an awareness that the claimant had not been logging on for the core hours on his work laptop.
170. We have a Teams message from the claimant timed at 10.15am on 6 October 2023 wherein he states:-
- “Bash never raised this concern with me, he went straight to HR...”
171. The claimant therefore was aware that he had been reported to HR about concerns that he was not working his contracted hours before the first meeting on 6 October 2023.
172. The concerns about the claimant’s log on and log off times were sufficient for Anna Leslie and Kate Harris to have a meeting at about 11am on 6 October with the claimant. The claimant was asked about his log-on and log-off hours and it was the claimant’s evidence that he told them that he worked on his own laptop and also made notes using pen and paper. In his witness statement he refers to Anna questioning him regarding an allegation that the claimant was not performing his contractual hours.
173. Following the first meeting on 6 October 2023 Anna Leslie sent the claimant an email at 2.58pm on 6 October 2023 as follows:-

“Following on from our conversation earlier would you put all your service development work into a shared folder and send a link to the folder across to me within the hour please?”

174. At 3.16pm on 6 October the claimant replied as follows:-

“Maybe I’m reading too much into this and misrepresenting your intent.

In the context of our conversation this morning (where you made me aware that Bash reported me to HR for concerns regarding my working hours), it appears that your line of enquiry is to identify whether the time I have spent on service development matches what is claimed by my timesheet. I just want to make sure I’m given a fair chance to represent myself.

...

Most of my service development work doesn’t exist as documents that can be shared.

I have taken research time, and I have modelled various solutions to find the one I’d like to suggest to Sam.

I’ve discarded the ones that were not functional, and as such I can’t send you failed models.

I cannot share with you evidence of the articles I have read, or videos I have watched, or the people I have spoken to (Bridewell or external experts) who have assisted in brainstorming ideas.

The only documents that I can send are notes that I have kept of the functional models and high-level spreadsheets, which I have not yet had an opportunity to send to Sam for approval given that all service development has been cancelled.

After reading my comment above, please let me know how you would like to proceed.

I’d personally much prefer to present the idea, rather than share pictures of notepad scribbles I have done.”

175. In his witness statement dealing with the dismissal interview on 17 October 2023, the claimant puts it as follows:-

“...I stress that what I had done was not a breach of security policy and I informed her that the data used was not a reliable proxy for my hours worked.”

176. We note that the claimant references speaking to external experts in this email.

177. In cross examination the claimant gave various reasons why he was not logged on for the core hours on his work laptop, for example, that he could have been contacted on his work mobile and answer emails on his work mobile and that it was laziness that led him to work on his own personal laptop. It was the claimant’s evidence that he only ever accessed publicly available information on his laptop and that that would not have compromised the respondent’s security. It was noticeable that when the claimant was taken to the day [13 September 2023] where he was only recorded as being logged on for 47 minutes and asked what he was doing for the remaining seven plus hours, the claimant was

at something of a loss to explain saying he could have been at a conference or on annual leave or waiting "on call" for a client. The data was that the claimant was not at a conference or on annual leave on 13 September 2023.

178. We find that the claimant may well have done research on his own personal laptop and made notes using a paper and pen. However, we find that that does not explain the amount of time he spent not logged on to his work laptop.
179. Anna Leslie told us that the purpose of the meeting on 5 October 2023 was to run through doing things the right way for the PMP review meeting on 6 October 2023.
180. At some stage on the morning of 6 October 2023 before 11.35, Sam Helkvist and Ruth Billen had a conversation. Sam Helkvist contacted Ruth Billen via a Teams call to ask if she could run a report of all time charged to training codes by the claimant to see if the claimant had any training time left that could be utilised. Ruth Billen ran an export from salesforce on all timecards posted by the claimant to understand how much time had been charged to the training codes. Ruth Billen confirmed to Sam Helkvist that the claimant had sufficient training time remaining to allow him to undertake the training he wanted to do. It was whilst Ruth Billen was speaking to Sam Helkvist about the training that Sam Helkvist raised concerns over the claimant's timekeeping and working hours. It was this conversation that caused her to task IT in producing the VPN logs at 11.35 on 6 October 2023.
181. We were told that the data was given to Ruth Billen at 13.22 on 6 October 2023. We find that it became immediately apparent to Ruth Billen that the claimant was very often not logging on with his work laptop for the core hours. Ruth Billen told us that she disregarded the first two weeks of the claimant's employment but thereafter she had never seen times like the claimants. She told us she spoke to the IT Team to get their view to ensure that she understood the data. We have got the claimant's log in documents for the whole of his employment and a list of connection/disconnection times of his work laptop. By way of example of what the data showed, on the 1,2 and 3 August the claimant was recorded as being logged on for between 5 hours and 17 minutes and 5 hours and 28 minutes but his timesheets recorded him charging eight hours. On 13 September 2023 the claimant was recorded as being logged on for only 47 minutes. There are numerous other examples. The connection/disconnection data is not perfect in that, on occasions, there are two disconnections in a row without a connection in between. Further, there are brief log-ons recorded late at night and early in the morning, we were told that there may be technical reasons why those issues arose, for example, the computer not being logged off but "going to sleep" due to non-use and then starting up again when being used and automatic log on and log off during the course of the night. Be that as it may, the examples of two disconnections in a row are few and far between and we find that the data was sufficiently reliable to show that the claimant was not logging on to his work computer during the core hours of 10-4 on many days, was often spending well short of his eight hour working day on the work laptop and that he was consistently submitting chargeable hours in excess of the time spent on his work laptop.

182. It is the respondent's case that Ruth Billen only asked IT to obtain VPN logs of the claimant's times logged on on his work laptop on 6 October 2023. We were told during closing submissions that a Robert Kitching, of IT, had run the report at 11.35 and the data was given to Ruth Billen at 13.22 on 6 October 2023. Ruth Billen gives evidence in her witness statement that she was the only individual party to the information from the VPN logs and the only person who could request them.
183. We have not been helped by the claimant raising another issue in closing submissions for the first time. This is the observation that the VPN logs and data produced have only got a log in time of 15 minutes on 6 October and end at 8.54am on 6 October 2023. The claimant suggested that that demonstrated that that was when the data was harvested as if it had been harvested at 11.35 then his log on time would have been shown until then. None of that was put by the claimant to either Ruth Billen or Sam Helkvist. The irony is that if VPN logs had been available on, say, 4 or 5 October it would have revealed the claimant was consistently not logging on for his core hours and was charging more hours for the client than he should have been at a much earlier stage. The irony is that if the claimant is correct then it fits in more with the facts as presented to us that HR was investigating his hours from 3 October, realised the seriousness of his conduct, and were preparing a draft dismissal letter. Doing the best we can, on incomplete evidence and in circumstances where important points have been made after the evidence has concluded and without being put to the relevant witnesses, in our judgment that is what probably happened. We find that any such dismissal decision or potential decision to dismiss the claimant at that stage was unrelated to his disabilities and was on the basis of the information suggesting that the claimant had not been logging on and logging off on his work laptop for the requisite hours and had been submitting timesheets in excess of the probable hours worked.
184. The Second meeting on 6 October 2023 was recorded on video and audio and an AI generated transcript has been placed before us. The transcript is 37 pages and inaccurate in a number of places (e.g. "10 to 4" comes out as 3:50).
185. The claimant played the audio of the meeting at the time that Kate Harris can be seen typing the message that was revealed in the screen shot where she says, "Don't say anything" to Bashiru Mohammed. At that time, the claimant was complaining that Bashiru Mohammed had gone straight to HR with the concern about his hours logged on and the claimant was stating that, as far as he was concerned, that was in breach of the reasonable adjustment to raise matters with him informally first so that he had an opportunity to change. Again, doing the best we can with incomplete evidence, we find that the comment was probably made by Kate Harris as she could see the conversation straying into the area of log on and log off hours which she was aware was serious, would probably lead to the dismissal of the claimant and was being formally investigated by Ruth Billen at that precise time.
186. The claimant complains that the meeting did not address his concerns from 4 October but was treated as a normal PMP meeting where he was being asked to provide evidence of improvement against the KPIs. During the meeting, the claimant was questioning the validity of the PMPs and raising his neurodiversity

in the context of such things as communication and misunderstanding. At one point Kate Harris says as follows:-

“That ties in quite nicely because on some of the things you say you want direct feedback, but sometimes you also say that you suffer from severe anxiety when we provide it. So it’s a kind of an issue to raise. Just how do we give you the feedback that you’re asking for in a way that it’s not going to cause anxiety?”

187. At 3.25 on 6 October 2023 the claimant sent an email to Kate Harris as follows:-

“Regarding the recorded conversation today regarding Bash’s misunderstanding of my statements on Tuesday, I have thought diligently on how to address this issue in a conclusive manner. It is becoming clear that Bash is making the situation very confrontational, and it is impacting my mental health. So, I would like your assistance to raise a formal grievance.”

188. The misunderstanding the claimant was referring to relates to his hours of logging on and logging off. It is the claimant’s case that Bashiru Mohammed misunderstood him in concluding that he was saying he only worked from 9.30 to 4.30 and that there was some confusion about what the core hours were.

189. The claimant was advised by Kate Harris how he should put in a grievance and this he did at 7.29pm on 6 October 2023. The grievance cited two reasons:-

- “1. Failure to implement reasonable adjustments.
2. Harassment.”

190. Anna Leslie was assigned to deal with the grievance. She held a grievance interview with the claimant on 10 October 2023 from 10-11.23am.

191. Also on 10 October Anna Leslie interview Bashiru Mohammed and George Ross. Anna Leslie also interviewed Hannah Rees and Sam Helkvist on 11 October 2023.

192. Anna Leslie wrote the grievance outcome letter which is dated 16 October 2023 and which was sent to the claimant on 17 October 2023. The claimant’s grievance was rejected.

193. The claimant requested a call following the grievance outcome and Anna Leslie spoke to the claimant on 23 October 2023. The grievance was further discussed.

194. The claimant appealed and his appeal was heard by Scott Nicholson on 24 October 2023. The appeal was rejected.

195. In her witness statement Ruth Billen states as follows:-

“I reviewed the logs and identified significant discrepancies between the hours that the claimant’s laptop was connected to the VPN and the hours submitted within his timesheets which is the basis for billing clients. In addition, within the logs there were multiple days where the first log on from the claimant’s laptop was significantly after the start of the core hours of 10-4 operated by the company.”

And

“Upon review of all the information available to me in relation to the timesheets and use of the device, there was sufficient evidence to support that the timesheets were not supported by the actual hours being undertaken by the claimant.”

196. We heard evidence that the respondent’s clients could, at any time, request to inspect the timesheets for which they were being charged.

197. Due to the fact that the claimant had less than two years’ continuous service, a decision was made by Ruth Billen to dismiss the claimant. The respondent refers to it as a short service dismissal which explains why there was a lack of any procedure.

198. The claimant was informed as follows:-

“We have had an issue raised with us around your timekeeping and system access which we have had to investigate, and I know that you had a conversation with Anna Leslie about this previously.

As part of our review, we have looked at your laptop VPN connectivity data and have identified significant inconsistencies with the time that you have submitted as being billable to a client and the time that your laptop has been on and being used.

...

The behaviour has been consistent throughout August and September where we can see hours charged to the client being significantly higher than the time period that your laptop/Bridewell devices are active.

You are not permitted to undertake Bridewell work on a non-Bridewell machine as clearly stated in our policies which you reviewed and accepted as part of your onboarding process.

In addition, there are multiple days across the 4-month period since joining when your first sign-in or activity is outside of our core hours (10-4) and this was not pre-agreed with your line manager.

Our clients have the right to audit our timesheets and other data to support the timecards and the level of time on your devices is significantly lower than the time charged to clients. We do not expect significant levels of offline working for the assignments you have been working on in the last two months.

On this basis, we have taken the difficult decision to terminate your employment with immediate effect under a short service dismissal.”

199. The claimant reiterated that he did not do all his work on his work computer. He referenced working on his own computer and on paper. Ruth Billen summed up:-

“The discrepancies are too large and concerning and this is the decision we have come to.”

200. We find that the reason for the claimant’s dismissal was gross misconduct. We

find that Ruth Billen genuinely believed the claimant had committed gross misconduct in a number of respects. We find that the respondent conducted a reasonable investigation. The investigation established the following:-

- 200.1 That the claimant was consistently not logging on with his work laptop for the core hours of 10-4.
- 200.2 That the claimant, on occasion, was logging on as late as 13.56.
- 200.3 That the claimant was logging on to the work laptop for five hours or so but delivering a timesheet for eight hours work.
- 200.4 That the claimant was using his own personal laptop for work purposes. Whilst the claimant suggested that he only accessed publicly available data via his personal laptop, his email of 6 October 2023 in response to Anna Leslie suggests that he had notes of the functional models and high level spreadsheets he had created but not yet sent to Sam Helkvist. Further, that email indicates that the claimant had spoken to external experts to brainstorm ideas. Both of those activities are expressly forbidden by the employee handbook.
201. We find that Ruth Billen's genuine belief in the reason for dismissal was based on reasonable grounds.
202. In November 2024 the respondent advertised a new role within the business for a Senior Lead Architect. Eighty-six people applied for the role.
203. On 15 November 2024 the claimant applied for the role. By that time the respondent had already begun interviews and had two candidates booked in for final interviews.
204. Nevertheless, Hannah Roome forwarded the claimant's CV to Emran Ali for review. Eighteen minutes later Emran Ali replied:-

“Thank you for sharing the below CV. While the application demonstrates technical expertise, unfortunately, it doesn't quite highlight sufficient experience in management, leading teams, and overseeing complex projects to align with the sector lead role we're hiring for.

Additionally, we've recently completed two final interviews this week with the candidates who bring more extensive leadership experience to the table, and we are likely to potentially proceed with offering the role to one of them.”
205. Indeed, one of the two candidates was the successful candidate.
206. Neither Hannah Roome nor Emran Ali knew the claimant personally and, although Emran Ali said that he was aware the claimant had been dismissed, he was unaware that the claimant had brought a claim before the employment tribunal. We accept that evidence.
207. We have got a copy of the claimant's three-page CV. When the claimant was invited to highlight where his management experience and team leadership skills

were set out, he could not do so.

Conclusions by reference to the list of issues.

208. The list of issues is 10 pages long and contains some quite general allegations, e.g. “ignore concerns raised by the claimant through his employment” and PCP of “Unclear, subjective and/or contradictory instructions from managers and Kylem from 27 June 2023”.

Wrongful dismissal/notice pay

209. We find that the extension of the claimant’s probation period was in accordance with the contract of employment and was not a breach of the claimant’s contract of employment. We find that the claimant’s notice period was one week and that the claimant was paid for that notice period. In so far as we have to make a finding on the issue, we find that the claimant did commit gross misconduct entitling the respondent to dismiss him without notice but, nevertheless, paid him his notice period.

Disability

210. We find that the claimant was disabled within the meaning of the Equality Act 2010 at all relevant times by reason of ADHD and ASC.

211. We find that the claimant was not disabled within the meaning of the Equality Act 2010 at all relevant times by reason of trauma/PTSD.

Direct disability discrimination (Equality Act 2010 section 13)

212. Issue 4.1.1 is:

“Ignore concerns raised by the claimant through his employment.”

213. Taken as a whole, as can be seen from our review of the interactions with the claimant, it is clear to us that the claimant’s concerns were not ignored throughout his employment. We find that the respondent was actively engaged with the claimant and endeavoured to assist him. The KPIs were devised in collaboration with the claimant. After the PMP was sent to the claimant and when he requested a meeting to discuss the PMPs, a meeting was held with him on 4 October 2023 to do just that. The claimant pointed to the fact that there was no response to his 4 August 2023 email relating to the timekeeping KPI but, as found above, we do not find the fact that there was no response to that would constitute ignoring the claimant through[out] his employment.

214. The claimant pointed to the fact that his 1 September 2023 Officevibe entry wherein he suggested a formal method of performance reviews was not responded to. Whilst that may not have been responded to, we do not find that that constitutes ignoring concerns raised by the claimant through[out] his employment.

215. Consequently, we find that alleged treatment 4.1.1. is not proved.

216. Issue 4.1.2 is:

“Used behaviours arising from the claimant’s disabilities as the following KPI and PMP targets from 17 August 2023: Team dynamics (including criticising the claimant for using the greeting “Hey guys” in an email), demonstrate ability to manage conflict effectively during client interactions, enhance understanding of organisational structure and key contacts for improved client communication, improve time management during meetings, demonstrate good communication ability with clients.”

217. The respondent has accepted that all behaviours listed under “Areas for improvement” in the PMP and the relevant KPIs, as set out at 4.1.2 above, did arise in consequence of the claimant’s disability.

218. Accordingly, the treatment alleged in issue 4.1.2 is proved.

219. The comparator relied upon is a hypothetical comparator, namely a colleague without disability, thus also without behaviours arising from disability. We find that that is not an appropriate comparator. The comparator has to be in not materially different circumstances. The hypothetical comparator has to be a non-disabled colleague about whom there were the same performance issues. In our judgment such a hypothetical comparator would have been placed with the same KPI/PMP targets from 17 August 2023. Consequently, we find that this was not less favourable treatment.

220. Issue 4.1.3 is:

“The respondent refusing job applied for on 15 November 2024.”

221. The claimant was not successful in his application for the job on 15 November 2024 and as such, issue 4.1.3 is proved.

222. The comparator contended for is George Ross who we heard was promoted internally during the summer of 2024. Whether or not George Ross was less qualified and experienced than the claimant is irrelevant as, at the relevant time, the claimant was not employed by the respondent. We find that George Ross is not an appropriate comparator because there was a material difference in his status.

223. A hypothetical comparator would be a non-disabled applicant with the same CV as the claimant who applied at the same late stage. It is quite clear to us that the claimant was not successful in his application for the job because his CV did not demonstrate the relevant management and team leading skills and that there was a better candidate who was preferred. We find that a hypothetical comparator would have been treated exactly the same. Consequently, we do not find that this was less favourable treatment.

224. Issue 4.1.4 is:

“The respondent making accusations of a misunderstanding on 6 October 2023.”

225. The evidence on this issue was not entirely clear but we have taken it to be Bashiru Mohammed saying to the claimant in the second meeting on 6 October

2023 that the claimant's neurodiverse condition sometimes meant that the respondent's intentions were perceived wrongly by the claimant. That is what is recorded during the course of that meeting. To that extent, we find that the facts alleged in issue 4.1.4 are proved.

226. The comparator relied upon is a colleague without disability. However, in our judgment, such a comparator would have to be a colleague who was perceiving the respondent's actions in a different way to how they were intended. In our judgment, comments such as Bashiru Mohammed's would have been made to such a comparator. Consequently, we find that that was not less favourable treatment.

227. Issue 4.1.5 is:

“Failing to implement reasonable adjustments agreed on 4.08.2023, those being:

4.1.5.1 being more empathetic/mindful of treating the claimant in a more supportive fashion

4.1.5.2 managers to provide more guided and constructive feedback to the claimant;

4.1.5.3 trusting the claimant's ability to carry out his role and that his queries will be necessary in order to complete tasks;

4.1.5.4 ensuring that communication was frequent and effective, identifying issues and finding solutions, explaining any difficulties to the claimant and giving him an opportunity to act upon criticism;

4.1.5.5 Ensuring that the claimant's team and the People Operations team completed and applied learning from neurodiversity training

4.1.5.6 Referring the claimant to occupational health;

4.1.5.7 providing the claimant with a document titled “The Bridewell way”, explaining how he should behave and why, and permitting the claimant an opportunity to ask questions about that”

228. The respondent did not fail to refer the claimant to Occupational Health. The claimant was referred on 2 October 2023.

229. It is correct to say that one of the reasonable adjustments suggested on 4 August 2023 was “potentially create a document...”. At that stage it was clearly not definite that such a document would be created. No evidence has been placed before us to suggest that the document was created. However, we cannot characterise its non-creation as a failure to provide it as a reasonable adjustment. The claimant does not appear to have pursued the matter thereafter. In any event, we will be addressing reasonable adjustments in due course.

230. As far as the other reasonable adjustments are concerned, we have had plenty of evidence that the claimant was supported by both his line managers and HR, that he was given guided and constructive feedback, that he was trusted to carry out his role and that both parties were seeking to improve communication. Further, that management were invited to complete neurodiversity training. As

such, we do not find that there was a failure to implement those reasonable adjustments. Accordingly, issue 4.1.5 is not proved.

231. Consequently, the claimant's claims of direct disability discrimination are dismissed.

Discrimination arising from disability (Equality Act 2010 section 15)

232. Issue 5.2 is:

“Did the following things arise in consequence of the claimant's disability:

5.2.1 All behaviours listed under “Areas for improvement” in the PMP and the relevant KPIs, as set out at 4.1.2 above?

5.2.2 Communication deficits / Misunderstandings”

233. The respondent accepted that those things arose in consequence of the claimant's disability. Consequently, we find that those things did arise in consequence of the claimant's disability.

234. Issue 5.1.1 is:

“Improper use of PMP by managers, including using behaviours arising from disability as targets for KPI and PMP (for details see allegation 4.1.2 above) from 17 August 2023.”

235. We have found that the treatment alleged in allegation 4.1.2 is proved. However, for the purposes of this allegation we need to go on to consider whether the use of the PMP and KPI was “improper”.

236. The claimant was in his probation period. We find that there were genuine performance concerns by management. In our judgment, it was perfectly legitimate for management to identify the performance concerns in both the KPIs and the PMP. Indeed, we find that clearly identifying what the performance concerns were, setting out what improvement was required and indicating that the claimant's performance would be monitored was in keeping how the claimant wanted to be managed. He wanted clear instructions and providing that in the KPI and PMP would have done that. In our judgment, the use of the PMP and KPI was not improper. Consequently, we find issue 5.1.1 not proved.

237. Issue 5.1.2 is:

“extending probation period”

238. The claimant's probation period was extended on 29 September 2023. As such, we find issue 5.1.2 is proved.

239. We go on to consider whether extending the claimant's probation period was unfavourable treatment.

240. We have no doubt that the claimant regarded the extension of his probation period as unfavourable treatment. Nevertheless, the fact of the matter is that the alternative to an extension of the probation period would most likely have been the dismissal of the claimant for failing his probation period. As such, in our judgment, the extension of the probation period was favourable treatment in that it gave the claimant a further opportunity to rectify the performance issues and demonstrate that he was capable of the requisite soft skills. Apart from anything else, the extension of the claimant's probation period allowed his referral to Occupational Health with the resulting recommendations for human-based support.

241. On 11 October 2023, Anna Leslie was sent the Occupational Health report on the claimant. The Occupational Health report concluded as follows:-

“Recommended technology-based support

We discussed the assistive technologies available, which, after going through the range, it appears they would not be needed to provide any further support in his role.

Recommended human-based support

I have recommended that Gabriel have the following human-based support.

- Having access to a workplace mentor/buddy will benefit when required; Gabriel would prefer for the “buddy”, to be frank, if he is asking too many questions and if it is easier to schedule time into the day/week.

I have recommended using OneNote to control to do lists during the day, with the ability to customise the notes.

- I have recommended that they adopt the Eisenhower Matrix technique with note-taking and managing priority, whether this is with tasks or emails during their working day.
- I have recommended listening to a brown, white, green or pink noise to help retain information and concentration when completing cases within the role.
- I recommend that all instruction be provided as far in advance as possible, clearly and concisely, to be provided verbally and written. Gabriel would prefer the instructions to be direct to clarify what is expected on specific tasks.
- Recommend that they follow the 20-20-20 vision/break rule. Every 20 minutes, take at least 20 seconds away from the monitor, looking at something 20 feet away; a programme can be downloaded to support this. (20-20-20- eye care)
- I recommend he utilise the Microsoft Immersive Reader feature available on Word, Teams and Edge.”

242. The claimant criticised this report on the basis that all the recommendations were directed towards the claimant to take action and did not involve input for management in terms of understanding his neurodiverse condition. However, as we have already observed, the KPIs did involve significant management action in their approach to the claimant's neurodiverse condition and neurodiversity

training was made available to management.

243. Issue 5.1.3 is:-

“dismissing him”

244. The claimant was dismissed and, as such, issue 5.1.3 is proved. Further, we find that that was unfavourable treatment.

245. We find that the unfavourable treatment was not because of any of the things arising in consequence of the claimant’s disability. The unfavourable treatment was because the claimant had not been logging on with his work laptop during core hours, was logging on late, was presenting timesheets with exaggerated hours for charging purposes and was working on his own laptop. All of these were disciplinary issues and unrelated to the capability performance concerns that the KPI and PMP were dealing with.

246. Issue 5.1.4 is:-

“Gaslighting”/Misleading the Claimant in relation to KPIs and misunderstandings from 17 August 2023 as follows:

5.1.4.1 Using the performance management programme to extend the claimants probation period;

5.1.4.2 During discussion of KPI's, the claimant’s senior manager Bashiru telling him “don't think too deeply about it, we all have to do KPI's”;

5.1.4.3 In a meeting after the claimant’s probation and PMP was extended, Bashiru stated, in reference to the investigation of the claimants working hours “it's your misunderstanding not mine;”

247. The respondent did use the Performance Management Programme to extend the claimant’s probation period. As such, issue 5.1.4.1 is proved.

248. We have evidence that on 17 August 2023 Bashiru Mohammed messaged the claimant as follows:-

“Please don’t read too much into the PKI [sic], they are a formality...”

249. That is the exchange that the claimant references in his witness statement. Whilst we do not have evidence of the precise words alleged in issue 5.1.4.2, we find that the essence of it is proved.

250. We have evidence that in the performance management meeting on 6 October 2023, Bashiru Mohammed did refer to the claimant misunderstanding the respondent’s intent. Again, the exact words alleged do not appear in the transcript, but we are prepared to find that the essence of this issue 5.1.4.3 is proved.

251. We have gone on to consider whether that treatment constituted

“gaslighting”/misleading the claimant in relation to the KPIs.

252. We have taken gaslighting as being “the practice of psychologically manipulating someone into questioning their own sanity, memory, or powers of reasoning”.
253. We find that the performance issues that management had were genuine. The claimant’s probation period was extended in order to address these performance issues. We find that the comment by Bashiru Mohammed to the effect that the claimant should not think too deeply about the KPIs was merely to reassure him that it was a positive step and not in some way designed to get him to fail his probation. Further, we find that the reference by Bashiru to misunderstanding in the meeting of 6 October, was in the context of the claimant considering that management were trying to get him to fail his probation.
254. We find that the facts proved did not constitute “gaslighting” or misleading the claimant. We find that the treatment was not trying to deceive or manipulate the claimant into thinking that he was not performing well. Consequently, we find issue 5.1.4 is not proved.
255. Consequently, the claimant’s discrimination arising from disability claims are dismissed.

Indirect discrimination Equality Act 2010 section 19)

256. We first consider the alleged PCPs.

257. Alleged PCP 6.1.1 is:

“Unclear, subjective and/or contradictory instructions from managers and Kyle M from 27 June 2023.”

258. We heard no real evidence concerning Kyle M. The evidence we have seen does not support the suggestion that there were unclear, subjective and/or contradictory instructions from managers. The claimant’s knowledge of systems and cybersecurity architecture and his delivery was never questioned, and he was always praised. As such, instructions given to him must have been clear. We find that the respondent did not have this as a PCP.

259. Alleged PCP 6.1.2 is:-

“Managerial support that adds further burden on disabled individuals.”

260. We have had considerable difficulty in assessing whether this could be a PCP. Doing the best we can, in order to constitute a PCP one would have to strip out “that adds further burden on disabled individuals” which would leave us with a very general PCP or “managerial support”. That is so general as to be meaningless. Again, doing the best we can, it probably relates to managing the claimant’s soft skills utilising KPI and PMP which we will deal with under alleged PCP 6.1.7. Consequently, we find alleged PCP 6.1.2 not proved.

261. Alleged PCP 6.1.3 is:-

“Managers holding employees accountable to implicit soft skills targets from 17 August 2023 (see 4.1.2 above);”

262. Whilst this is not particularly well worded, we find that the respondent did have a PCP of expecting senior consultants to have soft skills.

263. Alleged PCP 6.1.4 is:-

“Managers raising formal complaints without prior informal attempts from 17 August 2023”

264. We have treated this as the claimant’s complaint that when the issue arose concerning his logged-on hours, the matter was referred to HR without it being raised informally with him, thereby giving him an opportunity to change his conduct. We find performance or capability issues were dealt with informally on occasions. However, we take this PCP as relating to potential disciplinary issues. We find that there was a PCP of not raising serious disciplinary issues informally but dealing with the matter formally via HR.

265. Alleged PCP 6.1.5 is:-

“KPIs and PMPs approved without discrimination checks from 17 August 2023”

266. Again, this has not been happily drafted, and we are unaware as to what “discrimination checks” are being contended for. However, doing the best we can, it is clear to us the KPIs were devised by Sam Helkvist and Bashiru Mohammed, that HR were kept informed and the claimant’s views were sought. Further, it is clear that the PMP was referred to HR prior to being discussed with the claimant. That said, we are prepared to accept that discrimination checks would involve Occupational Health, and we find that the KPIs and PMPs were approved without OH referral. As such, we find this PCP is proved.

267. Alleged PCP 6.1.6 is:-

“Veracity of claims in KPIs and PMPs are not validated by HR from 17 August 2023.”

268. We take the “veracity of claims” as meaning “veracity of performance issues”. It is correct to say that the veracity of the performance issues raised in the KPIs and PMP were not validated by HR. Consequently, we find this PCP is proved.

269. Alleged PCP 6.1.7 is:-

“Managers treating behaviours arising from disability as lack of soft skills in KPI and PMP from 17 August 2023.”

270. Again, we find that this PCP has not been drafted well. The words “arising from disability” should not really be in there. However, we treat this PCP as being in effect managers dealing with concerns about a lack of soft skills in KPI and

PMPs. As such, we find this PCP is proved.

271. Alleged PCP 6.1.8 is:-

“Ignoring concerns raised informally throughout the Claimant’s employment;”

272. This is a specific allegation concerning the claimant, it cannot be applied to persons with whom the claimant does not share the characteristic. In any event, we find that the respondent did not ignore concerns raised informally throughout the claimant’s employment. As such, this PCP is not proved.

273. Alleged PCP 6.1.9 is:-

“Improper grievance and disciplinary investigation by Anna Leslie from 6 October 2023 (i.e. used as a device to get rid of the claimant as cheaply as possible).”

274. Obviously enough, the respondent does have the PCP of grievance and disciplinary procedures. Further, it is clear that Anna Leslie dealt with the claimant’s grievance and was involved in making enquiries early in the disciplinary investigation. We find that the conduct of the grievance procedure and the disciplinary procedure was not improper. We do not understand the reference to the grievance and disciplinary investigation being used as a device to get rid of the claimant as cheaply as possible. We understood this allegation as relating to the claimant’s theory that his probation was extended in order to keep him on a one week notice entitlement whilst misconduct issues were found /manufactured in order to dismiss him on a disciplinary basis. We reject that theory.

275. Since this is specific to the claimant, so it cannot constitute a PCP as it cannot be applied to persons with whom the claimant does not share the characteristic. Consequently, we find this PCP is not proved.

276. Alleged PCP 6.1.10 is:-

“Lack of accountability for managerial support duties.”

277. We take this as being a complaint that when management were supporting employees, for example on a PMP, there was no monitoring or accountability of those support mechanisms. We find that there was no such lack of monitoring or accountability. The PMP performance chart was clearly a living document as it was added to. The monitoring was to be weekly by line management. The second iteration records ongoing input. For example, under Team dynamic there is the entry:-

“Potentially – to be put on hold until OH report is back for reasonable adjustments to be made and understood by both parties.”

278. Consequently, we find this alleged PCP is not proved.

279. Alleged PCP 6.1.11 is:-

“Improper/unbalanced use of PMP and KPIs from 17 August 2023.”

280. We have found that the utilisation of the PMP and KPIs was not improper or unbalanced. Accordingly, this alleged PCP is not proved.
281. We find that the respondent did apply the PCPs proved to the claimant.
282. We find that the respondent did apply those PCPs to persons with whom the claimant does not share the characteristic.
283. Before we deal expressly with whether any of the PCPs that we have found put the claimant at a particular disadvantage compared with persons with whom the claimant does not share the characteristic, we make some general observations on the eight propositions that the claimant has advanced in issue 6.4. As far as the statements contained in 6.4.1, 6.4.3, 6.4.4 and 6.4.6 are concerned, we accept them as general propositions. As far as 6.4.2 and 6.4.8 are concerned, these appear to us to be contradictory as one references managerial support adding burdens on disabled people and the other asserts greater suffering due to a lack of managerial support. Issues 6.4.5 and 6.4.7 do not link to a PCP as they allege abuse by managers or disguised discriminatory conduct.
284. We find that the expectation for senior consultants to have soft skills would put persons with whom the claimant shares the relevant disability at a particular disadvantage as neurodiverse people are often worse than others at perceiving implicit social rules and that the PCP did put the claimant at that disadvantage.
285. We find that not dealing with disciplinary issues informally did not put persons with whom the claimant shared the relevant disability at a particular disadvantage when compared with persons with whom the claimant does not share the characteristic. This is because both disabled and non-disabled individuals faced with disciplinary action would have had the matter referred to HR for formal investigation.
286. We find that not sending the KPI/PMP to OH for discrimination checks did not put persons with whom the claimant shares the relevant disability at a particular disadvantage when compared with persons whom the claimant does not share this characteristic. This is because any “discrimination check” would not remove the performance issue. The purpose of the KPI/PMP was clearly to identify the performance issue, put it in writing so that the employee was quite clear as to what the issue was and how it was to be addressed. Further, the KPI/PMP was to support the employee in improving his performance. As such, the support would be equally available for both disabled and non-disabled employees.
287. We find that not having the performance issues checked and validated by HR did not put persons with whom the claimant shares the relevant disability at a particular disadvantage when compared with persons with whom the claimant does not share the characteristic. This is because, if performance issues in the KPI/PMP were not accurate, then that would be the same for both disabled and non-disabled employees.

288. We find that treating performance issues relating to soft skills by way of a KPI and PMP did not put persons with whom the claimant shares the relevant disability at a particular disadvantage when compared with whom the claimant does not share the characteristic. This is because we find that the KPI/PMPs were used to identify the performance issues, set them out clearly in writing so the employee could understand them, set out what improvement was expected and put in place a regime for monitoring them.
289. The legitimate aims advanced by the respondent are in very general terms. By specific reference to the PMP it is clear to us that the legitimate aim that was being addressed was to ensure that clients were addressed correctly, inappropriate emails were not sent to clients, that meetings ran on time, that communication with the claimant's line managers and colleagues was more focused and respectful and that timings for delivery were more accurate. We find that those were legitimate aims.
290. We find that the PCP was a proportionate means of achieving that legitimate aim. The respondent could not be expected to have employees alienating clients and had a legitimate interest in the other management issues. We find that something less discriminatory could not have been done.
291. Consequently, we find that the indirect discrimination claim is dismissed.

Reasonable adjustments (Equality Act 2010 sections & 21)

292. The PCPs relied upon are broadly similar to those alleged under the indirect discrimination claim. Issue 7.2.4 has an additional sentence making clear that the issue relates to both the KPI/PMP and also the disciplinary issue. Issue 7.2.9 adds in an allegation that the grievance and disciplinary investigation did not follow the Acas Code and that there was a predetermined decision to dismiss the claimant. Issue 7.2.11 adds in an example of an email starting "Hey guys".
293. As far as the differences are concerned, we have already found that there was a PCP of not dealing with disciplinary issues informally and that performance or capability issues were dealt with informally. We find that the respondent did not have a PCP of not following the Acas Code for grievance investigations. We find that the respondent did follow the Acas Code for the grievance investigation. We find that the respondent did have a PCP of not following the Acas Code on disciplinary matters for those who did not have two years continuous service and therefore could be dealt with as a short service dismissal. We will deal with whether or not the decision to dismiss the claimant was predetermined in due course. We find that the example of the emails starting "Hey guys" does not alter our previous decision on this alleged PCP.
294. Consequently, for the same reasons as under the indirect discrimination PCPs, we find the alleged PCP 7.2.3, 7.2.4, 7.2.5, 7.2.6 and 7.2.7 are proved to the extent that we have previously indicated.
295. We find that PCP 7.2.3 did put the claimant at a substantial disadvantage compared to someone without the claimant's disability. We have found that all the remaining PCPs did not put the claimant at a substantial disadvantage

compared to someone without the claimant's disability and repeat that finding here.

296. We find that the respondent did know or could reasonably have been expected to know that the claimant was likely to be placed at the disadvantage.
297. The claimant has suggested nine steps that could be taken to avoid the disadvantage.
298. Step 7.5.2 is for HR to seek expert advice regarding this practice. We find that following the meeting on 4 August 2023 the respondent clearly wanted to refer the claimant to OH, but he overlooked this. The claimant agreed to being referred to OH at the probation meeting on 29 September 2023. He was referred to OH on 2 October and spoke to them on 4 October 2023. The report was sent to Anna Leslie on 11 October 2023. The report contains a number of recommendations. We have no doubt that had the claimant not been dismissed for disciplinary reasons, those recommendations would have been put in place.
299. As far as step 7.5.1 is concerned, clearly there was some issue concerning whether the claimant was engaging in clarifying discussions or going further by debating decisions with senior members of the team and not accepting it when a decision had been made. However, as already cited, the performance management table records that the PMP team dynamic was put on hold until the OH report was provided.
300. Step 7.5.3 is holding employees accountable only to pre-written and specified targets. We find that the KPIs/PMP were doing precisely that.
301. Step 7.5.4 suggests informally identifying further reasonable adjustments for behaviours arising. We are not sure why the claimant is seeking this to be done informally. The overwhelming impression we get is that the claimant needed things clearly defined and set out on paper. The issue of reasonable adjustments was addressed at the meeting on 4 August which had follow up action. Further, following the probation review on 29 September 2023 the claimant agreed to and was referred to OH which recommended further reasonable adjustments.
302. Step 7.5.5 suggests anti-discrimination screening done by HR on KPIs and PMPs. As we have already observed, HR was involved in both processes. Further, as we have already found, we fail to see how anti-discrimination screening could have coped with the performance issues that were raised. Once again, we observe that the KPIs and PMP were put in place to support the claimant in the successful completion of his probation.
303. Step 7.5.6 is for every performance issue in a KPI or PMP to be validated. This arises from the claimant's complaint that the delivery aspect of the PMP which stated that the 20-day scoping for the Dunnhumby Project was a huge underestimation because the claimant spent a couple of weeks redefining a methodology that was not necessary was wrong. It would appear that the underestimation of the project was not due to the claimant spending a couple of weeks redefining the methodology. It was explained by other factors outside the claimant's control. However, validating the performance issues in the KPI would

not address any disadvantage arising from the claimant's difficulty with soft skills. In our judgment, this was just a management error.

304. Step 7.5.7 suggests informal mediation to identify solutions for concerns raised informally. Again, we are not sure why this should be done informally when the KPI/PMP clearly defined the performance issue, what was to be done about it and how it was to be monitored. In our judgment, that was more satisfactory than it being done informally which would have potentially led to misunderstandings.
305. Steps 7.5.8 and 7.5.9 suggest a strict adherence to objective and diligent investigation and using SMART targets and a review process for managerial support duties. As we have already observed, providing objective measures for some of the reasonable adjustments suggested such as empathy and setting them out in SMART target would be, in our judgment, nigh on impossible. There was a review process for managerial support duties.
306. We have considered the issue of reasonable adjustments on a holistic basis. From our review of all the evidence it is clear to us that the respondent was endeavouring at all stages to provide achievable reasonable adjustments. In circumstances where the claimant did not articulate what his precise needs were, we find that the respondent took reasonable steps to identify what it could do. By way of example, Sam Helkvist gave evidence that the claimant was allowed flexible working, that he provided substantial extra support for the claimant in his management which included several one-to-ones with the claimant etc. Due to the delay in obtaining the Occupational Health input, which was down to the claimant, by the time of the claimant's dismissal the process of putting in place appropriate and effective reasonable adjustments had not concluded. In all the circumstances, we do not find that the respondent failed to make reasonable adjustments.
307. Consequently, the claim of failure to make reasonable adjustments is dismissed.

Harassment related to disability (Equality Act 2010 section 26)

308. Issue 8.1.1 is:-

“The Respondent making accusations of misunderstandings on 6 October 2023.”

309. As already found, Bashiru Mohammed did on 6 October 2023 say to the claimant that he may have understood the respondent's actions. To that extent, issue 8.1.1 is proved.

310. Issue 8.1.2 is:-

“Bashiru telling the Claimant “don't think about it too deeply” in relation to KPIs on 17 August 2023.”

311. As already found, although the exact words quoted were not used, we have found that the essence of this did take place. Consequently, issue 8.1.2 is proved.

312. Issue 8.1.3 is:-

“Improper use of PMP, including raising false accusations on 29 September 2023 (re delaying GCPSAR Project)”

313. We have already found that the use of the PMP was not improper. As recited above, we accept that one of the performance issues raised against the claimant in relation to the underestimate of 20 days scope was not an accurate performance issue as far as the claimant is concerned. However, in our judgment that did not render the use of PMP improper. The error was not malicious or frivolous and was just a management error. Consequently, we find issue 8.1.3 not proved.

314. Issue 8.1.4 is:-

“Discriminating KPI and PMP targets and probation extension on 17 August 2023.”

315. We find that the KPI and PMP targets were not discriminatory and neither was the probation extension. Consequently, we find issue 8.1.4 not proved.

316. Issue 8.1.5 is:-

“Not implementing reasonable adjustments on 17 August 2023.”

317. We find that reasonable adjustments were implemented following the meeting on 4 August 2023. Further, the KPIs were put in place from 18 August 2023. Consequently, issue 8.1.5 is not proved.

318. Issue 8.1.6 is:-

“Improper grievance and disciplinary investigations from 6 October 2023 (predetermined/not following ACAS).”

319. We have already found that the grievance investigation was conducted properly and in accordance with the Acas guidelines. We have already found that the disciplinary investigation from 6 October 2023 did not follow the Acas Code of Conduct as the claimant did not have two years qualifying service and his dismissal was treated as a short service dismissal. The decision to dismiss was predetermined in the sense that it had been taken prior to the meeting on 17 October 2023. To that extent, issue 8.1.6 is proved.

320. Issue 8.1.7 is:-

“Ignoring concerns raised informally throughout the Claimant’s employment.”

321. We have found that the claimant’s concerns were not ignored throughout his employment. Consequently, issue 8.1.7 is not proved.

322. Issue 8.1.8 is:-

“RA [reasonable adjustments] that adds further responsibilities on disabled people from 4 August 2023.”

323. We find it surprising that the claimant should be alleging that the provision of reasonable adjustments constituted unwanted conduct. Be that as it may, we

have approached this on the basis that the claimant has asserted that all the reasonable adjustments put the onus on himself and did not address management in helping management understand his neurodiversity. We reject that argument. As we have already found, the reasonable adjustments raised following 4 August 2023 meeting placed a lot of responsibility on management in terms of empathy, constructive feedback, trust, communication and training. Consequently, issue 8.1.8 is not proved.

324. We find that Bashiru Mohammed during the long meeting on 6 October 2023 telling the claimant that he was misunderstanding the respondent's actions and motives was not unwanted conduct. It was merely a comment in a long discussion seeking to reassure the claimant that the respondent was not trying to engineer him to fail his probation.
325. We find that Bashiru Mohammed telling the claimant words to the effect "Don't think about it too deeply" in relation to the KPIs on 17 August 2023 was not unwanted conduct. We find that it was the claimant's line manager seeking to be supportive and reassuring.
326. We find that not following the Acas Code of Conduct when dismissing the claimant was unwanted conduct.
327. We find that it was not related to the claimant's disability. It was because the claimant had less than two years qualifying service and, consequently, the respondent could ignore the Acas Code of Conduct with impunity.
328. Consequently, the claimant's harassment related to disability claims are dismissed.

Victimisation (Equality Act 2010 section 27)

329. Issue 9.1.1 is:-

"Requesting reasonable adjustments to managers from the start of his employment."

330. We find that the claimant did request reasonable adjustments to managers from the start of his employment and that this was a protected act.

331. Issue 9.1.2 is:-

"Complaining about RA failures, suspicion of raising formal grievance and suspicion of future Tribunal claim to manager."

332. We find that the claimant did raise issues concerning reasonable adjustments during the course of his employment. We find that the claimant did raise the possibility of making a formal grievance on 6 October 2023. We have had no evidence that the claimant hinted at bringing a future tribunal claim to an unnamed manager. To that extent, we find the facts alleged in issue 9.1.2 are proved and constituted protected acts.

333. It is accepted by the respondent that issues 9.1.3 and 9.1.4 are protected acts (9.1.3 the formal grievance was actually made to Human Resources and not Samuel Helkvist).

334. Issues 9.1.5, 9.1.6 and 9.1.7 are duplicates of findings we have already made.

335. Issue 9.2.1 is:-

“Managers raised behaviours arising from disability as targets in KPIs on 17 August 2023 onwards [for details see direct discrimination above]

336. We have previously found that this was proved and, consequently, issue 9.2.1 is proved.

337. Issue 9.2.2 is:-

“Improper use of PMP, including raising false accusations, by managers from 29 September 2023 onwards [for details see above]”

338. We have already found that the use of the PMP was not improper. Consequently, issue 9.2.2 is not proved.

339. Issue 9.2.3 is:-

“Samuel Helkvist declined the claimant training time on 9 October 2023.”

340. This allegation concerns an exchange of messages between Sam Helkvist and the claimant on 9 October 2023. The claimant was asking when he would be able to undertake an exam for the purposes of his training. The claimant asked if he could use the 25% non-util time for training and Sam Helkvist replied that of the 25% non-util time, 5% was for management time – timesheets and resource planner etc. Sam Helkvist went on to say:-

“Of that 20%, so long as there is no billable work (in SA or the wider company) and no service development work, you can use it for training.”

341. We find that Sam Helkvist was not declining the claimant training time but indicating the circumstances when he could take training time. Consequently, we find issue 9.2.3 not proved.

342. Issue 9.3.4 is:-

“Refusing job claimant applied for on 15 November 2024.”

343. The claimant was unsuccessful in his application for the job applied for on 15 November 2024 and to that extent we find issue 9.2.4 is proved.

344. Issue 9.2.5 is:-

“Improper dismissal investigation and biased outcome on 29 September 2023 onwards [for details see above].”

345. We find that the dismissal investigation was entirely proper. We find that the outcome of the probation review meeting on 29 September 2023 was not biased but based on genuine performance concerns. Consequently, we find issue 9.2.5 not proved.

346. Issue 9.2.6 is:-

“Improper grievance and appeal investigation on 9 October 2023 onwards.”

347. We find that the grievance and appeal investigation process was not improper. Consequently, we find issue 9.2.6 is not proved.

348. Issue 9.2.7 is:-

“Raising an allegation regarding working hours directly to HR on 3 October 2023.”

349. Bashiru Mohammed did raise an allegation regarding the claimant’s working hours directly to HR on or about 3 October 2023. Consequently, we find issue 9.2.7 is proved.

350. Issue 9.2.8 is:-

“Not implementing reasonable adjustments agreed on 17 August onwards.”

351. We have found that reasonable adjustments were implemented following the 17 August 2023 meeting and the 17 August 2023 KPIs. As the claimant himself observed, the month between 18 August and 29 September was mostly uneventful. Consequently, we find issue 9.2.8 is not proved.

352. As far as 9.2.1 is concerned, we find that that was not a detriment. Our reasons are the same as under the direct discrimination claim.

353. As far as issue 9.2.4 is concerned, we find that that was a detriment.

354. As far as issue 9.2.7 is concerned, we find that that was a detriment.

355. We find that the claimant’s failure to be appointed for the job applied for on 15 November 2024 was not because the claimant did a protected act. We find it was because he was less qualified than the two individuals who had already been shortlisted.

356. As far as raising an allegation regarding the claimant’s working hours directly to HR on 3 October 2023 is concerned, we find that it was not because the claimant did a protected act. We find that it was because of the serious concerns of a disciplinary nature had been raised concerning the claimant’s conduct.

357. Consequently, the claimant’s victimisation claims are dismissed.

358. For the above reasons, all of the claimant’s claims are dismissed.

Approved by:

Employment Judge Alliott

Date: 7 January 2026

JUDGMENT SENT TO THE PARTIES ON

7 January 2026

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FOR THE TRIBUNAL OFFICE

Notes

All judgments (apart from judgments under Rule 51) and any written reasons for the judgments are published, in full, online at <https://www.gov.uk/employment-tribunal-decisions> shortly after a copy has been sent to the claimants and respondents.

If a Tribunal hearing has been recorded, you may request a transcript of the recording. Unless there are exceptional circumstances, you will have to pay for it. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings and accompanying Guidance, which can be found here:

www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/