THE EMPLOYMENT TRIBUNALS

Claimant: Miss E Allbright

Respondent: The London Borough of Haringey

On: 12 November 2025

Heard at: Norwich (by CVP)

Before: Employment Judge M Warren

Representation
For the Claimant: Mr A Effiong, Tribunal Advocate
For the Respondent: Ms C Jennings, Counsel

CASE MANAGEMENT
PRELIMINARY HEARING (PUBLIC)
SUMMARY

JUDGMENT

1. The Claimant's application to amend her claim in so far as the amendments are set out in the List of Issues agreed today, is granted.

2. The Claimant's application to amend her claim to include additional complaints of harassment related to disability and victimisation is refused.

3. The Respondent's application for a Deposit Order is refused.

REASONS

Background

1. Miss Allbright remains in the employment of the Respondent as a Housing Officer and has been so employed since 2007. She issued these proceedings on 4 November 2024. The case came before Employment Judge Young at a Case Management Preliminary Hearing on 3 October

2025. EJ Young identified the issues in the case and then set up this Public Preliminary Hearing in order to:

1.1. Consider any application to amend;

1.2. Consider any application for a Deposit Order;

1.3. Consider any other applications which may be made; and

1.4. List the case for a Dispute Resolution Appointment.

Papers before me today

2. For today's hearing, I have been provided with a Bundle from the Respondent's solicitors for which I am grateful. Each party has provided an Agenda and Miss Allbright has provided an Income and Expenses Schedule in view of the anticipated application for a Deposit Order.

3. Miss Allbright has not hitherto had legal representation. After the last Preliminary Hearing, she consulted solicitors and so today, she has the benefit of legal representation from Mr Effiong who works for those solicitors as a Para Legal.

Amendment to the List of Issues

4. Mr Effiong has submitted proposed amendments to the List of Issues, changing various dates and replacing a reference to the Library to a reference to the Job Centre. He explained these changes arise out of his taking instructions from Miss Allbright. Ms Jennings confirmed that the Respondent took a sensible and pragmatic approach and confirmed that it had no objection to these amendments being made, (quite rightly if I may say so).

5. The parties also agreed and just to be absolutely clear, that the Claimant's case is to be taken as set out by the List of Issues and insofar as leave to amend is required, she has that leave.

Application to Amend

Law

6. The tribunal's power to allow or refuse amendments arises out its general case management powers in Rule 30 of the Employment Tribunals 2024 rules of procedure.

7. In exercising its discretion, a tribunal should take into account all the relevant circumstances and should balance the relative injustice and hardship of allowing or refusing the amendment. The seminal authority is Selkent Bus v Moore [1996] ICR 836. Non-exhaustive examples of what might be relevant circumstances given by Mummery J, (as he then was) in

that case included:

7.1. The nature of the amendment, whether it is a minor error, a new fact, a new allegation or a new claim;

7.2. The applicability of time limits and if the claim is out of time, whether time should be extended, and

7.3. The timing and manner of the application and in particular, why an application had not been made sooner.

That is not a check list.

8. On the question of time limits, section 123(1) of the Equality Act 2010 requires that a claim of discrimination shall be brought before the end of the period of three months beginning with the date of the act to which the complaint relates or such further period as the Tribunal thinks just and equitable. Conduct extended over a period of time is treated as having been done at the end of that period, (section 123(3).

9. In Abertawe Bro Morgannwg University Local Health Board v Morgan [2018] EWCA Civ 640 Underhill LJ explained that just because an amendment relates to allegations that are out of time, that does not mean we should automatically disallow it. It is in our discretion to allow the amendment. However, that the allegations are out of time is an important factor on the side of the scales against allowing the amendment. A wholly different new claim ought not to be allowed out of time in the absence of, "very special circumstances" but, "where it is closely connected with the claim originally pleaded ….justice does not require the same approach". Court of Appeal clarified that there was no requirement to apply the Limitation Act checklist or any other check list under the wide discretion afforded tribunals by s123(1), although it was often useful to do so. The only requirement is not to leave a significant factor out of account, (paragraph 18). Further, there is no requirement that the tribunal must be satisfied that there was a good reason for any delay; the absence of a reason or the nature of the reason are factors to take into account, (paragraph 25).

10. For what it is worth, the Limitation Act checklist as modified in the case of British Coal Corporation v Keeble [1997] IRLR 336 is as follows:

10.1. One should have regard to the relative prejudice to each of the parties, (this is so in respect of any exercise of judicial discretion);

10.2. One should also have regard to all of the circumstances of the case which includes:

10.2.1. The length and reason for delay;

10.2.2. The extent that cogency of evidence is likely to be affected;

10.2.3. The cooperation of the Respondent in the provision of information requested, if relevant;

10.2.4. The promptness with which the Claimant had acted once she knew of facts giving rise to the cause of action, and

10.2.5. Steps taken by the Claimant to obtain advice once she knew of the possibility of taking action.

11. Selkent was revisited by Underhill LJ in the Court of Appeal in Abercrombie v Aga Rangemaster Ltd [2014] ICR 209 and the guidance of Mummery J approved. Commenting on the now often referred to distinction between label substitution on pleaded facts as compared to substantial alterations pleading new causes of action, Underhill LJ said that it was clear that Mummery J was not suggesting so formalistic an approach that the fact that an amendment pleading a new cause of action, weighed heavily against allowing an amendment. These are just factors likely to be relevant in striking the balance of injustice and hardship. He said that the focus should be not so much on, "formal classification" but more on the extent to which the amendment is likely to involve different lines of enquiry, *"the greater the difference between the factual and legal issues raised by the new claim and by the old, the less likely it is that it will be permitted".* See paragraphs 47 and 48.

12. The law relating to amendments was revisited by Taylor J in Vaughan v Modality Partnership [2021] ICR 535. Within that Judgment, he said:

> *"21. Underhill LJ [a reference to Abercrombie] focused on the practical consequences of allowing an amendment. Such a practical approach should underlie the entire balancing exercise. Representatives would be well advised to start by considering, possibly putting the Selkent factors to one side for a moment, what will be the real practical consequences of allowing or refusing the amendment. If the application to amend is refused how severe will the consequences be, in terms of the prospects of success of the claim or defence; if permitted what will be the practical problems in responding. This requires a focus on reality rather than assumptions. It requires representatives to take instructions, where possible, about matters such as whether witnesses remember the events and/or have records relevant to the matters raised in the proposed amendment. Representatives have a duty to advance arguments about prejudice on the basis of instructions rather than supposition. They should not allege prejudice that does not really exist. It will often be appropriate to consent to an amendment that causes no real prejudice. This will save time and money and allow the parties and tribunal to get on with the job of determining the*

claim.

22. Refusal of an amendment will self-evidently always cause some perceived prejudice to the person applying to amend. They will have been refused permission to do something that they wanted to do, presumably for what they thought was a good reason. Submissions in favour of an application to amend should not rely only on the fact that a refusal will mean that the applying party does not get what they want; the real question is will they be prevented from getting what they need. This requires an explanation of why the amendment is of practical importance because, for example, it is necessary to advance an important part of a claim or defence. This is not a risk-free exercise as it potentially exposes a weakness in a claim or defence that might be exploited if the application is refused. That is why it is always much better to get pleadings right in the first place, rather than having to seek a discretionary amendment later."

13. In exercising my discretion, I must have regard to the Overriding Objective and must seek to balance the relative prejudice to the parties. Rule 2 sets out the Overriding Objective as follows:

The overriding objective of these Rules is to enable Employment Tribunals to deal with cases fairly and justly. Dealing with a case fairly and justly includes, so far as practicable—

(a) ensuring that the parties are on an equal footing;

(b) dealing with cases in ways which are proportionate to the complexity and importance of the issues;

(c) avoiding unnecessary formality and seeking flexibility in the proceedings;

(d) avoiding delay, so far as compatible with proper consideration of the issues; and

(e) saving expense.

A Tribunal shall seek to give effect to the overriding objective in interpreting, or exercising any power given to it by, these Rules. The parties and their representatives shall assist the Tribunal to further the overriding objective and in particular shall co-operate generally with each other and with the Tribunal.

The Application

14. The application is set out in an email from Mr Effiong of 24 October 2025. We established this morning going through it that the first element of the amendment applied for in relation to failure to make reasonable

adjustments has already been covered in the amendments Mr Effiong made to the List of Issues and to which the Respondents have very sensibly not taken any objection. To that extent the amendment application has already succeeded.

15. The outstanding application to amend comes under two headings and I will set out how the application reads:

15.1. Harassment related to disability:

> 4 September 2024 – David Charlotte falsely stated that the Claimant agreed to borough-wide home visits, ignoring her own OH adjustments – this caused severe distress leading to a panic attack, and paranoia and urgent Crisis Team home visit welfare check.

15.2. Victimisation:

> 31 July 2024 – the Head of Services insisted the Claimant should be managed by two managers from the same Service, despite HR advising that this was not policy.

16. The Head of Service we clarified was one Beverly Faulkner.

Discussion and Conclusions

17. These are new allegations under existing heads of claim. They are out of time; I calculate 11 months and 13 months respectively. Arguably they might be part of a continuing act, although that is not pleaded and not referred to in the application.

18. It is not correct to suggest, as Mr Effiong appeared to suggest in his email, that just because EJ Young anticipated that there would be an application to amend, it is therefore just and equitable to grant it; absolutely not.

19. The reasons given for the late application, is that Miss Allbright was not previously legally represented, she was assisted by a friend who had some knowledge of Employment Law, apparently, but not a legal representative. She instructed Solicitors after the last Case Management Hearing on 3 October and now has the benefit of Mr Effiong's able assistance.

20. The factual matrix of her case was set out in quite a lengthy and full document filed with the ET1 Claim Form. It is a fair point to make that you do not need legal representation to identify factual allegations that you want to make. I note it is now one year since the claim was issued on 4 November 2024. Inevitably in these situations, the cogency of evidence will have been affected by the passage of time as peoples' memories fade. Mr Effiong says that the two complaints are well documented and that might be so, I do not know. There is undoubtedly some little prejudice in

the loss of cogency of evidence with the passage of time, one does not want to exaggerate that, but there undoubtedly will be an element of that.

21. It is also true that there will of course, as there always is if an amendment is allowed, a cost to the Respondent. There will be the cost of amending the Grounds of Resistance, the cost of time spent in speaking to relevant witnesses to gather the Respondent's evidence and put together the documents that might need to be disclosed with regard to those specific allegations.

22. Ms Jennings' criticism of the wording of the application to amend is certainly well made in the absence of context and detail.

23. What of prejudice to Miss Allbright if the amendment is not permitted? This brings me to Judge Tayler's decision in Vaughan where he speaks of the need to look at what the Claimant really needs. As I have said, she has given a detailed narrative when she issued her Claim Form. The matters that were pressing to her will no doubt have been set out in that document and the matters raised by these amendments are no doubt matters that she has thought of since. The most important matters will have been in her original claim. Furthermore, the Claimant has already had an opportunity to amend her claim. From the List of Issues one can see that effectively, it has been amended by EJ Young extracting from her at the last Preliminary Hearing clarification of what she was complaining about and then setting that out in the List of Issues. That was her chance to pick up on anything which she may have felt she had left out.

24. Looking at the List of Issues one can see that the essence of her case is already there, set out. It seems to me that she does not really need any further expansion of her case. For these reasons taken in the round, I have decided on this occasion that the application to amend will not be permitted.

Application for a Deposit Order

Law

25. The power to make a Deposit Order is contained in Rule 40 of the Tribunals Rules of Procedure 2024. It is where there is little reasonable prospects of success.

26. There must be a proper basis for doubting the likelihood of the party being able to establish the facts essential to the claim, Hemdan v Ishmail and another UKEAT/0021/16.

27. Although one has a wider discretion that in relation to strike out, there is still a need for caution before making a Deposit Order when key facts are in dispute. A core factual dispute ought usually to be resolved at a final hearing, see Hemdan referred to above and Sami v Avellan [2022] EAT

22.

28. These principles were recently approved and helpful summarised by Eady P in Rojha v Zinc Media Group plc [2023] EAT 39. Eady P emphasised the two stage approach when considering whether to make a deposit order: (1) the threshold condition that the allegation or argument stands little reasonable prospect of success; and (2) the exercise of a judicial discretion as to whether to make such an order. She endorsed the Judgment of Simler J in Hemdan that:

> *"The purpose of a deposit order is to identify at an early stage claims with little prospect of success and to discourage the pursuit of those claims by requiring a sum to be paid and by creating a risk of costs ultimately if the claim fails…the purpose is emphatically not…to make it difficult to access justice or to effect a strike out through the back door". (para. 10-11)*
>
> *"Accordingly, it is essential that when such an order is deemed appropriate it does not operate to restrict disproportionately the fair trial rights of the paying party or to impair access to justice. That means that a deposit order must both pursue a legitimate aim and demonstrate a reasonable degree of proportionality between the means used and the aim pursued" (para. 16)*

The Application

29. The basis of application for a Deposit Order has been sensibly narrowed down by Ms Jennings. In terms of the victimisation complaint, she makes the very good point that two of the three protected acts post date the alleged detriments. When we noticed that, Mr Effiong properly agreed that those two protected acts should be deleted from the List of Issues, because they cannot possibly have been the cause of something which happened beforehand.

30. Ms Jennings rightly confirmed the Respondent does not seek a Deposit Order in respect of the complaint about the reasonable adjustments complaint. The time limit for a reasonable adjustments claim runs from the date that the Respondent ought reasonably to have taken the decision to make the adjustments; that should be borne in mind.

31. It is primarily on the direct discrimination claim that Ms Jennings focuses her submissions. If one looks at those allegations in the List of Issues there is: reduction of sick pay in the Autumn of 2022; her suspension in June to October 2023: allegations of gross misconduct in July 2023; removal of home working in March 2023; removal of adjustments in January 2023; refusing to implement phased return to work in October 2021; a threat to initiate capability proceedings in or around May or June 2024, and the last allegation is post issue 5 February 2025.

32. These are nearly all on the face of it, out of time. The penultimate allegation, point 7, is a month or two out of time only.

33. Ms Jennings says that there is little prospect of the Claimant succeeding in persuading the Tribunal that these all amounted to a continuing act so as to bring them in time, or that it is just and equitable to extend time.

34. In respect of the harassment complaint, Ms Jennings makes the point that there is just the one allegation which is, that in September 2023 Miss Allbright discovered the Head of Service had referred to her in a WhatsApp to somebody else as a "fuck wit".

35. Now I turn to the pleaded claim, because it assists me in reaching my decision. There are some exerts from the pleaded claim, that is the document attached to the ET1 when it was filed, I want to quote,

> "The Claimant maintains that her sickness absence resulted from the consistent disregard for her mental health needs and the unfavourable working conditions imposed, which led to a lapse … in directing management to withhold reasonable adjustments … Senior Management influence on actions impacting the Claimant … repeated incidences of non-compliance with Occupational Health directives."

36. Miss Allbright refers to the "fuck wit" remark, which she said demonstrated the manager's negative views and attitude towards her.

37. It seems to me unrepresented as she was at the time, although assisted by somebody with a little knowledge, she has set out a case of a prevailing culture of disregarding and being annoyed by, her disabilities. I do not think I can begin to assess whether there is any merit in that, without hearing evidence.

38. On the harassment point, I would make the observation that having regard to her allegations that her Senior Manager described her to somebody else as a, "fuck wit", I am certainly not going to make a finding that she has no reasonable prospect of persuading the Tribunal that it is just and equitable to extend time in respect of that remark.

39. For those reasons I am not going to make a Deposit Order.

List of Issues

40. I will set out in an Appendix to this Hearing Summary (Appendix 1) the List of Issues as prepared by EJ Young, amended to reflect those discussed and agreed today. My amendments are in bold.

Dispute Resolution Appointment

41. In the presence of the parties and on the basis of their availability, I made arrangements with the Listing Team for the case to be listed for a Dispute Resolution Appointment with a time estimate of one half a day, by Cloud Video Platform (CVP) to commence at 10am, on 17 March 2027.

42. It was explained to the parties that Dispute Resolution Appointments are now being listed where the case is of six days durratiob or more and one is therefore listed in this case. At Appendix 2 is further information about such appointments and standard directions have been made in preparation for it.

Leave to Amend the Grounds of Resistance

43. I confirmed that the Respondent should have leave to amend its Grounds of Resistance, if so advised, insofar as may be occasioned by the further clarification of the Claimant's claims as set out in the revised List of Issues.

ORDERS

Made under the Employment Tribunal Rules 2024

LEAVE to AMEND

1. The Respondent has leave to amend its Grounds of Resistance, if so advised, insofar as may be occasioned by the further clarification of the Claimant's claims as set out in the revised List of Issues.

DISPUTE RESOLUTION APPOINTMENT

2. There will be a Dispute Resolution Appointment on **17 March 2027** by Cloud Video Platform (CVP). The Appointment will start at **10am**. A separate Notice of Hearing will be sent to the parties.

PREPARATION for the DISPUTE RESOLUTION APPOINTMENT

3. The Claimant and the Respondent must by **3 March 2027** prepare and send to each other:

    3.1. A Position Statement; and
    3.2. an up to date Schedule of Loss (Claimant) and / or Counter Schedule of Loss (Respondent).

4. A Position Statement is a document setting out what you would wish to achieve in order to resolve the dispute in these proceedings by agreement. Your Position Statement must be no more than one A4 page, font size 12.

5. The Claimant and the Respondent must co-operate to agree the content of a Bundle of documents to be used at the Dispute Resolution Appointment. The Bundle must contain:

   5.1. the Claim Form, the Response Form, any Amendment to the Claim or Response that the Tribunal has permitted and any response to a request for further information made by a party or Ordered by the Tribunal;
   5.2. both Position Statements;
   5.3. the up to date Schedule of Loss and Counter Schedule of Loss;
   5.4. all Witness Statements that will be relied upon at the Final Hearing;
   5.5. any Expert Witness Evidence Ordered by the Tribunal; and
   5.6. no more than 30 additional pages of essential documents: either 30 pages agreed by the Claimant and the Respondent, or 15 pages each.

6. The Bundle must be in PDF format with an Index and sequential page numbers.

7. The Claimant must by **10am on the working day before** the Dispute Resolution Appointment upload the Bundle to the Tribunal's Document Upload Centre. They must request a link to the Document Upload Centre from the Tribunal if required.

Public access to employment tribunal decisions

The parties should note that all judgments and reasons for the judgments are published, in full, online at *www.gov.uk/employment-tribunal-decisions* shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

President's guidance

The attention of the parties is drawn to the Presidential Guidance on 'General Case Management', which can be found at: *www.judiciary.gov.uk/publications/employment-rules-and-legislation-practice-directions/*

Other matters

(a) Any person who without reasonable excuse fails to comply with an Order to which section 7(4) of the Employment Tribunals Act 1996 applies shall be liable on summary conviction to a fine of £1,000.00.

(b) Under rule 6, if this Order is not complied with, the Tribunal may take such action as it considers just which may include (a) waiving or varying

the requirement; (b) striking out the claim or the response, in whole or in part, in accordance with rule 37; (c) barring or restricting a party's participation in the proceedings; and/or (d) awarding costs in accordance with rule 74-84.

(c) You may apply under rule 29 for this Order to be varied, suspended or set aside.

Approved by:

Employment Judge M Warren

Dated: 9 December 2025

ORDERS SENT TO THE PARTIES ON

..29 January 2026.....

.....
FOR THE TRIBUNAL OFFICE

Recording and Transcription

Please note that if a Tribunal Hearing has been recorded you may request a transcript of the recording, for which a charge is likely to be payable in most but not all circumstances. 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:

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

APPENDIX 1

LIST of ISSUES

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 2 May 2024 may not have been brought in time.

    1.2 Were the discrimination 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. **Disability**

    2.1 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:

        2.1.1 Did they have a physical impairment of:

            2.1.1.1 Fibroids (2001),

            2.1.1.2 PCOS (2002),

            2.1.1.3 Dysmenorrhoea (2009),

            2.1.1.4 Menorrhagia (2012).

            2.1.1.5 Musculoskeletal & Neurological: Lower back pain (2002, diagnosed 2016),

            2.1.1.6 Multiple joints pain (2020),

2.1.1.7 Osteoarthritis in right hip (onset 2023 - diagnosed 2024),

2.1.1.8 Femoroacetabular Impingement, Hallux Valgus/ Hallus, L/Sesamoid pain with reduced fibro-fatty padding Limitus (2022–24.

2.1.1.9 Bladder & bowel incontinence (2022)

2.1.2 Did they have a mental impairment of :

2.1.2.1 Anxiety (2014),

2.1.2.2 Depression with Anxiety (2017),

2.1.2.3 Panic Attacks (2018),

2.1.2.4 Mixed Anxiety & Depressive Disorder (2021),

2.1.2.5 Agoraphobia (2022).

2.2

2.2.1 Did it have a substantial adverse effect on their ability to carry out day-to-day activities?

2.2.2 If not, did the Claimant have medical treatment, including medication, or take other measures to treat or correct the impairment?

2.2.3 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?

2.2.4 Were the effects of the impairment long-term? The Tribunal will decide:

2.2.4.1 did they last at least 12 months, or were they likely to last at least 12 months?

2.2.4.2 if not, were they likely to recur?

3. **Direct disability discrimination (Equality Act 2010 section 13)**

3.1 The Claimant relies on the disabilities above.

3.2 Did the Respondent do the following things:

3.2.1 Reduce the Claimant’s sick pay from 25 June to December 2022.

3.2.2 Did Michelle Bridgeman (line manager at the time) and Siobahn Francis in HR suspend the Claimant from 8 June to 29 October **2022** on “medical grounds” without evidence of illness?

3.2.3 On 3 July 2023, Jordan Sailsman alleged that the Claimant‘s conduct amounted to gross misconduct without substantiation.

3.2.4 **In March** 2023, Michelle Bridgeman removed the Claimant's reasonable adjustments to work from home despite OH advice.

3.2.5 On 9 January 2023, Michelle Bridgeman removed adjustments despite OH advice

3.2.6 **In** October 202**1**, Jason Brynes refused to implement phased returns and stress monitoring

3.2.7 **Around May/June** 2024, did Markisha Roache & HR threaten to initiate capability proceedings, despite being aware of the Claimant's ongoing medical and mental health conditions, and despite recommendations from OH to make reasonable adjustments?

3.2.8 On 5 February 2025, did Markisha Roache & **Shenade Dowde-Cain of** HR threaten formal action and require the Claimant to take the day off as sick leave if her requests for home working were refused, despite OH recommendations for Flexible working as part of reasonable adjustments?

3.3 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 has not named anyone in particular who they say was treated better than they were.

3.4 If so, was it because of disability?

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

4.1 Did the Respondent know, or could it reasonably have been expected to know, that the Claimant had the disability? From what date?

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

4.2.1 From **July** 2024, there was a requirement to perform home visits across the borough

4.2.2 From **5 September** 2024, a requirement to work from the office

4.2.3 From February 2025, apply unmodified workload targets

4.2.4 In September 2024 & February 2025, apply standard absence management to disability absences

4.2.5 In July 2024, apply a requirement to work in the **Job Centre**

4.3 Did the PCPs put the Claimant at a substantial disadvantage compared to someone without the Claimant's disability, in that?

4.3.1 The Claimant is required to ask the client for use of their toilet because of her bowel issues during home visits
4.3.2 The Claimant is caused anxiety because she is required to use the toilet at short notice.
4.3.3 Triggered flare-ups of mental health, arthritis, and panic attacks because of the home visits
4.3.4 High case load increases the Claimant's anxiety and depression
4.3.5 The Claimant is more likely to be dismissed by the Respondent because of the standard application of the absence management policy.
4.3.6 The Claimant cannot increase her medication and access the crisis team when she is in the office.
4.3.7 The chairs in the **Job Centre** were aggravating the Claimant's back pain and musculoskeletal issues.
4.3.8 Cannot concentrate in a noisy environment and external noises because of the Claimant's mental health.

4.4 Did the Respondent know, or could it reasonably have been expected to know that the Claimant was likely to be placed at the disadvantage?

4.5 What steps could have been taken to avoid the disadvantage? The Claimant suggests:

4.5.1 Exemption from or limitation of home visits
4.5.2 Limiting home visits radius
4.5.3 Access to Work support providing funding for transportation to and from work and in work visits .
4.5.4 Flexibility to work from home when ill/ have flare ups.
4.5.5 Regular one to one
4.5.6 Reduction in workload and KPI
4.5.7 Easy and quick access to a toilet
4.5.8 Provision of an ergonomic chair

4.6 Was it reasonable for the Respondent to have to take those steps and when?

4.7 Did the Respondent fail to take those steps?

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

5.1 Did the Respondent do the following things:

5.1.1 In **September** 2023, the Claimant discovered that Beverley Faulkner Head Service sent a WhatsApp message to the Claimant's line manager, Jason Brynes, that the Claimant was a "fuck wit".

5.2 If so, was that unwanted conduct?

5.3 Did it relate to disability?

5.4 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?

5.5 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.

6. **Victimisation (Equality Act 2010 section 27)**

6.1 Did the Claimant do a protected act as follows:

6.1.1 In her Grievance dated 30 September 2022
6.1.2 In her second grievance dated 16 August 2024
6.1.3 In her Claim form dated 4 November 2024

6.2 Did the Respondent do the following things:

6.2.1 In January **and March** 2023 did Michelle Bridgeman withdraw agreed OH reasonable adjustments
6.2.2 In June/July 2024 did David Charlotte withdraw OH agreed reasonable adjustments
6.2.3 In July 2023 did Jordan Sailsman write a hostile letter that alleged that the Claimant's conduct amounted to gross misconduct.

6.3 By doing so, did it subject the Claimant to detriment?

6.4 If so, was it because the Claimant did a protected act?

6.5 Was it because the Respondent believed the Claimant had done, or might do, a protected act?

7. **Remedy for discrimination or victimisation**

7.1 Should the Tribunal make a recommendation that the Respondent take steps to reduce any adverse effect on the Claimant? What should it recommend?

7.2 What financial losses has the discrimination caused the Claimant?

7.3 Has the Claimant taken reasonable steps to replace lost earnings, for example by looking for another job?

7.4 If not, for what period of loss should the Claimant be compensated?

7.5 What injury to feelings has the discrimination caused the Claimant and how much compensation should be awarded for that?

7.6 Has the discrimination caused the Claimant personal injury and how much compensation should be awarded for that?

7.7 Is there a chance that the Claimant's employment would have ended in any event? Should their compensation be reduced as a result?

7.8 Did the ACAS Code of Practice on Disciplinary and Grievance Procedures apply?

7.9 Did the Respondent or the Claimant unreasonably fail to comply with it by [specify breach]?

7.10 If so, is it just and equitable to increase or decrease any award payable to the Claimant?

7.11 By what proportion, up to 25%?

7.12 Should interest be awarded? How much?

APPENDIX 2

1. In this region of the Employment Tribunals, a **Dispute Resolution Appointment** will take place in any case that is listed for a **final hearing of six days or longer.**

2. The appointment will take place approximately 6 weeks after the date on which the parties have been ordered to exchange their Witness Statements. It will last no more than 2 hours. If you have not exchanged your Witness Statements on time and this affects the Dispute Resolution Appointment, a Judge may consider making a costs or other order.

3. The **purpose** of the appointment is to encourage the parties to resolve their dispute by agreement. At the Hearing a Judge who has been trained in judicial mediation will try to assist the parties to reach an agreement. Orders will be made in advance of the appointment requiring the parties to provide documents and information to give the Judge an overview of the claim and response.

4. The Judge at the appointment may be able to express a view on whether either party is being unrealistic about any part of the claim or response, or about the amounts of compensation that might be awarded. In some cases, the Judge may be able to express an opinion on the strength or weakness of the claim or response (or parts of them).

5. Dispute Resolution Appointments are private, confidential hearings. The Judge who conducts the appointment will not conduct the Final Hearing in the case if no agreement is reached. If the judge expresses a view about the strength or weakness of the claim or response, or about the amount being claimed or disputed, that is not binding on the parties. It is hoped that it will help them to reach their own agreement. **Anything said at the Dispute Resolution Appointment must be kept confidential and must not be referred to in any later correspondence or hearing.**

6. The Judge may ask the parties to involve ACAS if they reach an agreement in principle to resolve the dispute. If the parties are not able to reach agreement at the Dispute Resolution Appointment, but are willing to try judicial mediation, the Judge may list a judicial mediation hearing. Usually, this will not be done in any case in which there has already been a judicial mediation.

7. Unrepresented parties are encouraged to have someone with them for support at the Dispute Resolution Appointment. Representatives should arrange for someone with authority to reach decisions to accompany them.

8. The Tribunal conducts Dispute Resolution Appointments to fulfil its duties under Rules 2 and 3 of the Employment Tribunal Rules. Rule 3 requires the Tribunal to encourage the parties to use the services of ACAS, judicial or other mediation, or other means of resolving their disputes by agreement wherever this is practicable and appropriate. Rule 2 requires the Tribunal to give effect to the overriding objective.

9. The overriding objective is to deal with cases fairly and justly. This includes:

   - ensuring that the parties are on an equal footing;
   - dealing with cases in ways which are proportionate to the complexity and importance of the issues;

- avoiding unnecessary formality and seeking flexibility in the proceedings;
- avoiding delay, so far as compatible with proper consideration of the issues; and
- saving expense.

These principles will be applied in Dispute Resolution Appointments.

10. Although some necessary case management orders may be made by the Judge at end of the Dispute Resolution Appointment, the purpose of the appointment will be to focus on ways of encouraging the parties to resolve their dispute by agreement. It would not be appropriate at a Dispute Resolution Appointment to consider matters such as making a deposit order or striking out a claim or response; dealing with an amendment application; or dealing with a detailed dispute about the file of documents for use at the Final Hearing.