



EMPLOYMENT TRIBUNALS

Claimant: Martin Madden
Respondent: Commissioner of Police of the Metropolis
Heard at: Croydon
On: 2, 3, 4, 5 & 6 February 2026
Before: Employment Judge Liz Ord
Tribunal Member N Murphy
Tribunal Member D Newlyn

Representation:

Claimant: Mrs L Madden (lay representative)
Respondent: Mr J Chegwidden (counsel)

RESERVED JUDGMENT

The unanimous decision of the panel is:

1. The following claims are well founded and succeed:
 - a. unfair dismissal;
 - b. discrimination arising from disability.

2. The following claims are not well founded and fail:
 - a. indirect disability discrimination;
 - b. failure to make reasonable adjustments.

REASONS

The Complaints and Issues

1. The claimant complains of:
 - 1.1. Unfair dismissal;
 - 1.2. Indirect disability;

- 1.3. Discrimination arising from disability;
 - 1.4. Failure to make reasonable adjustments.
2. The issues for the tribunal were determined at a case management hearing on 12.6.2025 and slightly amended at the start of the final hearing. They are set out in the attached Annex.

Evidence

3. The tribunal had before it the following documentary evidence: a documents bundle of 688 pages; witness statements from Martin Madden, Raj Johal and Daniel Pickett.
4. On behalf of the claimant the tribunal heard evidence on oath from:
 - 4.1. Martin Madden (the claimant).
5. On behalf of the respondent the tribunal heard evidence on oath from:
 - 5.1. Raj Johal (disciplinary chair);
 - 5.2. Daniel Pickett (appeal member).
6. Number references in brackets [01] are to the documents bundle.
7. Only findings of fact relevant to the issues, and those necessary for the tribunal to determine, have been referred to in this judgment. It has not been necessary, and neither would it be proportionate, to determine each and every fact in dispute. The tribunal has not referred to every document it read and/or was taken to in the findings below, but that does not mean it was not considered if the tribunal was taken to the document in evidence or as part of a reading list. The tribunal notified the parties at the outset of the hearing that they would only read documents that they were specifically referred to and would only read documents referred to in witness statements insofar as they were identified as being relevant to an issue in the case.

The Law

Unfair dismissal

8. Section 94(1) of the Employment Rights Act 1996 (ERA) – An employee has the right not to be unfairly dismissed by his employer.
9. Section 98(2) ERA provides that conduct of an employee is a potentially fair reason for dismissal.
10. Section 98(4) - whether the dismissal is fair or unfair (having regard to the reason shown by the employer) depends on whether in the circumstances (including the size and administrative resources of the employer's undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee, and shall be determined in accordance with equity and the substantial merits of the case.

11. In a conduct case, once a potentially fair reason for dismissal is established, the key question for the tribunal is whether the employer acted reasonably or unreasonably in treating the reason as a sufficient reason to dismiss the employee. This involves considering a “band of reasonable responses”, whereby the tribunal must not decide the case on the basis of what it would have done had it been the employer, but rather on the basis of whether the employer acted in a reasonable way given the reason for dismissal. Dismissal can be a reasonable step even if not dismissing would also be a reasonable step.

Discrimination arising from disability

12. Section 15 Equality Act 2010 (EqA)

- (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.

Indirect discrimination

13. Section 19 EqA –

- (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.

Duty to make reasonable adjustments

14. Sections 20 and 21 EqA –

Where a provision, criterion or practice of the respondent or a physical feature puts a disabled person at a substantial disadvantage in comparison with persons who are not disabled, the respondent has a duty to take such steps as it is reasonable to have to take to avoid the disadvantage.

Other law

15. All other law/caselaw as raised by the parties was considered.

Findings of Fact

16. The claimant was employed by the respondent since 19.11.2001 until his dismissal on 6.2.2024. At all material times he worked as a Band E Quality Control (QC) Officer within the Police National Computer Bureau (PNCB). Apart from the allegations of gross misconduct, which led to his dismissal, he had a clean disciplinary record.

Medical issues and diagnosis

17. The claimant suffered with stress and anxiety and was referred to Occupational Health (OH) in October 2021 [report at 499-501]. He felt overwhelmed, anxious and emotionally unstable and in August 2022 he suffered a mental health breakdown. He underwent counselling.
18. The claimant was assessed by a Consultant Psychiatrist, Dr Nathan Anthony, on 20.9.2022. The Consultant's assessment report dated 10.10.2022 [230-5] indicated that the claimant clearly struggled with inattention and impulsivity with significant difficulties evidenced since childhood. He diagnosed Attention Deficit Hyperactivity Disorder (ADHD) Combined Type, with comorbidity of fluctuating Anxiety Disorder, Emotional Dysregulation, Dysphoria, and marked Rejection Sensitivity Dysphoria (RSD) which causes significant difficulties within interpersonal relationships.
19. The report explained that ADHD is a neurodevelopmental condition and impacts daily functioning, learning, working and mood regulation. Whilst ADHD is not "cured", knowing about it is empowering and enables lifestyle skills and coping mechanisms to be learnt.
20. Dr Anthony recorded Mrs Madden's observations that the claimant's RSD impacted his interpersonal functioning. It was noted that his ADHD caused him significant difficulties managing frustration and emotional regulation leading to significant interpersonal difficulties. His impulsivity is noted. Dr Anthony suggested medication.

Tracey Ingram communications

21. The claimant's neurodiversity meant he did not always pick up on social cues and he struggled with social boundaries.
22. On 5.9.2022 the claimant's line manager, Tracey Ingram, emailed him saying she had on more than one occasion received messages from him of a "forward" nature. Whilst she had a sense of humour and was happy to engage with a laugh, she was his line manager and happily married and she felt a line had been crossed. She acknowledged that he was having counselling [69].
23. The claimant replied that he had only been messing about. From then on he would say nothing. He would not have a laugh nor joke [241-2]
24. Ms Ingram replied that there was absolutely no problem with a laugh or a joke as long as it doesn't upset or offend anyone [241].
25. The claimant responded saying he knew she was happily married. He was only messing and being silly. He meant nothing in what he had said. But he couldn't risk any more of this. So from then onwards he would not joke about and all things he said would just be work related [241].
26. From then on the claimant ceased any banter with Ms Ingram and kept the relationship on a more professional footing to avoid any misunderstandings.
27. The claimant sent Ms Ingram Dr Anthony's report on 10.10.2022 [71]. He met with Ms Ingram on 15.11.2022 to discuss his ADHD and informed her that he

would not be starting ADHD medication until he had his high blood pressure under control [74].

Disciplinary action

Context

28. Since Sir Mark Rowley took up the post of Commissioner of Police of the Metropolis in September 2022, there has been a focus on tackling what is seen as unacceptable behaviours in the Met.

Policies

29. Relevant extracts from The Police Staff Discipline Standard Operating Procedure of July 2022 (SOP) are set out below.
30. 2.1 states that “Staff will not be dismissed for a first time discipline breach, except in cases of gross misconduct where a lesser sanction would be inappropriate” [253].
31. 2.5 provides for staff to be accompanied at a hearing by an accredited union representative or a police officer or staff member. An employee cannot be accompanied by any other representative, including a family member [254].
32. 2.10 states that consideration should always be given to an individual’s disability when contemplating any disciplinary action. Advice should be sought through the HR Contact Centre if an individual is disabled and/or reasonable adjustments may be required [254].
33. 8.1 says that it is not possible to be precise about the boundaries between the levels of misconduct [259]. It gives examples at 8.2 of what may be considered serious enough for summary dismissal including harassment on the grounds of sex, attitudes towards other member of staff, and misconduct likely to bring the Met into disrepute [259-61].
34. 12.5 provides that a proportionate investigation process to establish the facts should be undertaken with the minimum of delay [263].
35. 15.1. states that employees should be advised that proven cases of gross misconduct will result in their dismissal unless relevant mitigation indicates that an alternative outcome would be more proportionate and/or appropriate [265].
36. 15.2 provides that gross misconduct is misconduct so serious as to amount to a fundamental breach of the contract of employment entitling the employer to bring the contract to an end without notice, subject to the alleged misconduct being found proven. When considering whether conduct amounts to gross misconduct, there are a number of factors to be taken into account by the gross misconduct panel, including the role, band, experience and mitigating circumstances and the damage, or potential damage the alleged actions have caused the Met [265].
37. The Code of Ethics of July 2014 [277-308] is also of relevance.

Paul Warnett call

38. On 26.4.2023 Mr Paul Warnett (Operation Assure Vetting Lead) called the claimant unexpectedly on Teams and said allegations had been made against him. He referred to a message sent by the claimant to a colleague, Jennifer Hall, about a joystick. Mr Warnett referred to there being other instances with other women but without giving any details.
39. This was the first time the claimant had heard about these allegations.
40. He responded by email the same day saying the comment was made in September 2022 on Facebook outside of work, and he thought the colleague was a friend who understood his banter. He was more than happy to apologise to this person, but would not do so without his agreement. He went on to explain about his ADHD making him feel socially awkward and blurring boundaries between what he should and shouldn't say. He referred to his impulsive behaviour causing him to speak before he could think. He said he was truly sorry for any offence and the last thing he wanted to do was make anyone feel uncomfortable [111].

Investigation

41. On 2.5.2023 the claimant received a Notice Of Investigation (NOI) into an allegation that he had behaved in an inappropriate manner towards several female colleagues, where he had engaged in unwanted attention, inappropriate conversation and comments containing sexual innuendo [112-3].
42. It is common ground that the claimant is a disabled person by virtue of his ADHD. The tribunal was not taken to any evidence to demonstrate that the claimant's disability was considered when contemplating disciplinary action. Consequently, we find that it was not.
43. The terms of reference for the Investigating Officer (IO) concerned breaching standards of professional behaviour in relation to discreditable conduct, and behaving inappropriately on more than one occasion towards female colleagues.
44. The recipients of the claimant's comments were Tracey Ingram, Jennifer Hall and Troyangel Vydellingum. Statements were taken from each of them, and also Emma Rodrigues, who supported Ms Hall's evidence. The claimant responded under caution.

Tracey Ingram allegations

45. Tracey Ingram, who is the claimant's line manager (Band D), gave her statement on 15.5.2023 [201-3]. She said the claimant was hyperactive, unpredictable and had mood swings, and that he made flippant comments and inappropriate jokes with sexual innuendos. She gave the following examples of comments made to her:
- "Can I tell you, you look lovely in your WhatsApp photo"
 - "It always makes me smile when I see your face"

- When preparing for a meeting he said he would “make sure [he’d] got it up for [her].

46. She said the claimant had also made comments about other female colleagues and gave the following examples:

- A female in the office was trying to find something in her handbag and he said “get your bits out” making the person feel uncomfortable.
- The claimant commented on the trousers Jen Hall was wearing.
- Another girl called Sam had a similar situation to Jen; he was inviting her to the gym with him and she felt uncomfortable.

47. She had sent him an email in September 2022 about his inappropriate communication, and he had responded saying he was only messing. As far as she was concerned the matters relating to her had been addressed and the comments did not particularly affect her, but were annoying. The claimant was very apologetic and somewhat shocked and said no malice was intended, which she believed. However, it was still unwanted and inappropriate, especially with what is going on in the Met. She believed he would try and blame everything on his ADHD.

48. She did not feel uncomfortable or unsafe around him because she knew a line had been drawn and he was unlikely to cross it with her again. Since the NOI was given to him, he had been an angel. She thought he had insight into his behaviour because he was able to change.

Jennifer Hall allegations

49. Jennifer Hall, who is a Band E employee in the PNCB [204-6], gave her statement on 24.5.2023. She said the claimant could be quite loud and somewhat awkward, as he did not seem to notice social cues very well. His moods were up and down.

50. The first inappropriate comment to her was in the summer of last year. He was off work and had messaged her on Facebook saying he was not feeling good. She responded saying at least he had his PS5 (games console) to keep him busy. He replied with “yea you can’t beat a good old play with myself on my joy stick” with laughing crying emojis. She said she was shocked and disgusted with this and did not reply. She did not tell anyone about this message at the time because she was worried she was reading too much into it.

51. She and the claimant had talked in the office about going to the work gym. The claimant kept telling her to go, but she had a gym membership elsewhere. It made her feel awkward and embarrassed so she ended the conversation and turned away, although the claimant proceeded to ask her what she wore in the gym. She replied that she just wore normal gym clothes. Later that evening, being on 6.1.2023, the claimant messaged her asking “did I upset you the other day?” She did not respond.

52. The second comment was made around one or two months ago. She manages an Academy for staff who have finished PNC training, at which

mentoring is offered. She liaised with the claimant regarding a staff member, and she offered to send him that person's stats sheet so he could easily identify the pieces of work to QC. That would save him having to search the inbox. The claimant replied "I would kiss you but may get the office talking lol". This made her feel incredibly uncomfortable.

53. There is often a sexual or flirty meaning behind his messages. The messages had now stopped. She has not spoken to anyone about this, although her line manager and his line manager are involved.

Troyangel Vydelingum allegations

54. Troyangel Vydelingum, who is a Band D team leader within the PNCB, provided her witness statement on 24.5.2023 [207-8]. She said had the following to say:
55. The claimant was overly friendly, but came across as a nice person.
56. In December 2022 she had posted a picture of herself on Facebook from when she was 17 or 18 years old in a cheerleader costume. She was joking about wishing she could be that skinny again. Her personal friends commented and liked it and there was banter related to the photograph.
57. The claimant sent her a message (not on Facebook) saying "I didn't know you were a cheerleader", to which she replied "It was a hero's and Villains Party ...". The claimant responded "... I was going to ask where are your Pom Poms" followed by laughing crying emojis.
58. She thought the comment was quite crude and did not reply. It could be perceived either way but she found it rude. She never reported it and just brushed it off. At the time she did not think too much of it.
59. Later she was chatting with Jen Hall, who told her the claimant had messaged her inappropriately. She then realised there was a pattern and it was worse than she first thought. It upset her when she found out what had happened to Jen.

Martin Maddens's statement under caution

60. The claimant gave a statement under caution on 2.8.2023 [151-4], making the following points:
61. He made a lot of jokes and banter and saw Ms Ingram, Ms Hall and Ms Vydelingum as no more than colleagues who he had friendly relationship with. Therefore he joked with them as he would with any friend outside of work in his personal life. He realised now that perhaps he interpreted these relationships as friendships wrongly.
62. He stopped making such comments to Tracey when she informed him she was uncomfortable with them and said they were inappropriate. Neither Jennifer nor Troyangel raised concerns with him about his behaviour. He was mortified that he had upset them and had no bad or sexual intentions towards them.

63. He accepted responsibility for his actions but said they needed to be viewed in the context of his medical diagnosis. He had suffered a mental health crisis in the summer of 2022 and was diagnosed with ADHD and RSD in October 2022, but was unable to start medication because of high blood pressure until February 2023. He set out his main symptoms including difficulty picking up social cues, not thinking before impulsively speaking or typing, and difficulty with social interactions. He enclosed the report from Dr Anthony.
64. With respect to Tracey Ingram, he said he was just paying her friendly compliments. He did not recall the "Make sure I've got it up for you" comment, but said it was likely he meant he would have the information required for the teams meeting "up" i.e. in of him. The "Get your bits out" comment was meant literally, as she was taking "bits" out of her bag. When Tracey spoke to him last September, she was not specific about what comments she found inappropriate.
65. He was extremely concerned about the way Tracey talked about his diagnosis. Her saying she believed her would try and blame everything on the ADHD, showed a complete lack of understanding of his condition and how it affected him.
66. Turning to Jennifer Hall and the comment "Yeah you can't beat a good old play with myself on my joy stick", he said the comment was made in jest, as he found innuendos humorous and it was part of his humour. He understood that the comment could be seen as inappropriate and he was sorry for the upset caused.
67. With regards to the gym comments, he thought this was an innocent conversation. He was just joking, suggesting she join the work gym as it was free. The "I would kiss you" comment was not any sort of advance. He accepted that it read badly, but said it was in response to her solving an issue for him. The "may get the office talking lol" was just a joke but he accepted it could be seen as inappropriate and he apologised.
68. He stopped the messages when Paul told him about the joystick complaint.
69. Turning to Troyanel Vydellingum and the "cheerleader" comments, he did not mean anything sexual. The pom poms comment was a literal question as, if she had been a cheerleader, he assumed she would use them. This was not supposed to be an innuendo or have any double meaning.
70. In conclusion, he was remorseful and did not intend to cause upset and discomfort. He would be much more careful with how he interacted with colleagues now this had been brought to his attention.

IO recommendation

71. The IO produced in a report dated 30.10.2023 [191-197] in which he opined that there was insufficient evidence for gross misconduct, but sufficient evidence for a case to answer for misconduct [196].

Appropriate Authority determination

72. The IO report went to the Appropriate Authority, who determined on 21.11.2023 that, if the inappropriate comments were substantiated, this would constitute gross misconduct [190].

Disciplinary hearing

73. On 22.1.2024 the claimant was invited to a gross misconduct hearing to take place on 6.2.2024 to answer the allegation that:

“Between 2022 and 2023 [he] Martin Madden made inappropriate comments, some of which were of a sexual nature towards [his] female work colleague(s).” Mr Raj Johal was to be the chairperson [181].

74. The claimant instructed a solicitor and he sent a detailed letter [165-9] by email at 11.54 on 22.1.2024 to Sofia Papadopoulou (the misconduct hearing case manager) [174].

75. The letter set out the claimant’s medical conditions and mental health issues and how that had impacted his behaviours. The solicitor explained that, due to high blood pressure, he had to wait until 7.2.2022 to start medication (20mg Elvanse) and it was not until August 2023 that it was increase to the correct dose (60mg Elvanse).

76. He referred to the stress on the claimant of the prolonged disciplinary process, causing him to take sick leave from 9.5.2023 to 29.8.2023. It was not until 7.12.2023 that the claimant received a letter (dated 20.11.2023) informing him that he had a gross misconduct case to answer.

77. He said dismissal would be disability discrimination because there was a clear and obvious causal link between the alleged conduct and the ADHD diagnosis and its related symptoms. The claimant struggled with social cues and was not receiving appropriate medication at the time.

78. He suggested that dismissal seemed inevitable, given the pursuance of a “Gross Misconduct” disciplinary hearing, which was premeditative before considering all the evidence. Dismissal would not be within the band of reasonable responses and would be substantively unfair.

79. He also said there were procedural flaws because the respondent delayed the process without explanation; all allegations were dated between September 2022 and April 2023. The claimant should have been disciplined progressively instead of bundling historical issues together, which were not raised at the time. The following points were set out for consideration at the disciplinary hearing:

- A 22 year unblemished record;
- ADHD that was not properly treated until August 2023. A statement from the claimant’s psychotherapist, David Flavin, was attached [162];
- Since moving roles he had worked without incident and Ms Ingram described him as being an angel;
- He struggles to pick up on social cues and, had his conduct been flagged to him in September 2022, the rest of the incidents would have been avoided.

80. He went on to say that the claimant had shown remorse and accepted that there should be a disciplinary process, but owing to the considerable mitigation and significant concerns with the respondent's processes and support mechanisms, gross misconduct would be wholly inappropriate in this instance. Finally he requested that, by way of reasonable adjustment, the claimant answer written questions as opposed to attending the hearing in person.
81. David Flavin, who specialises in emotional issues in adults with ADHD, set out his thoughts in his statement of 18.1.2024 [162-4]. He explained what ADHD was and how it affects the structure of the brain. He had been working with the claimant on his emotional reactions to situations since July 2023. They had together worked on the emotions the claimant experienced about the incidents such as guilt, shame, anger, anxiety and depression. They had set up coping strategies.
82. A key area they had worked on was behavioural inhibition, including impulsive behaviour and speech. He explained that people with hyperactive and impulsive type ADHD, which the claimant had, find it much harder to refrain from saying something that comes to mind. The claimant had shown great improvement in the areas they had worked on, and towards the end of 2023 and into 2024 he had showed a much-improved outlook and resilience in handling difficult situations.
83. Neither the solicitor's letter nor Mr Flavin's statement were put in the disciplinary bundle [disciplinary bundle 179-314]. Neither were they included in the additional items considered by the panel [338 C; 672]. There is nothing in the evidence to demonstrate they were in evidence before the panel. We find that the panel did not consider them.
84. On 26.1.2024 his wife emailed Ms Papadopoulou [170] informing her that the unnecessarily prolonged process was having a profound detrimental impact on his mental health. She said he was experiencing extended periods of low mood and depression, which was now manifesting as suicidal thoughts. His symptoms were further exacerbated by his ADHD and emotional dysregulation.
85. Mrs Madden asked that the claimant partake in the hearing by way of written questions and answers. She also stated that the respondent had stopped him going to the work gym, which he used on a regular basis. No explanation had been given. The explained that the gym was a massive outlet for the claimant and helped him regulate his ADHD symptoms and stress. Taking it away was compounding the issue.
86. The tribunal accept that the delays were substantial and had a detrimental impact on the claimant's health. Because of his poor health, the claimant was unable to attend the hearing personally.
87. The claimant was not in the trade union and did not want to ask a work colleague to represent him, due to embarrassment.
88. On 31.1.2024 the claimant's solicitor wrote to the respondent informing them that the protracted process had detrimentally impacted the claimant's mental

health, which was exacerbated by his ADHD. He was not medically fit to attend the hearing and requested reasonable adjustments of either participating in writing or having a family member attend in his place [173].

89. On 1.2.2024 Mr Johal agreed to the reasonable adjustment of allowing the claimant not to attend the hearing and answering questions in writing sent to him the morning before [175].
90. On 5.2.2024 at 12.10 Mr Johal emailed the questions to the claimant and asked for a response by 9.30 the following day [177].
91. The disciplinary hearing proceeded on 6.2.2024 without the claimant. The following are points of note from the transcript [318-341].
92. The Chair said the claimant admitted the events but denied the motivation was necessarily sexual [321 F].
93. The IO presented the case against the claimant. He summarised by saying the claimant had made three female colleagues feel extremely uncomfortable with sexual comments [324 F].
94. The Chair read out the claimant's answers to written questions. A few points to note in the claimant's responses are:
 - Now that he was on medication and having weekly therapy sessions, which were focussed on the comments and how he interacted with people, he was now fully aware that they were inappropriate. He was deeply remorseful. Due to his ADHD he struggled to make friends and socialise especially as he did not pick up on social cues. This was particularly true at the relevant time as he was not receiving the appropriate treatment and medication. He did not have many friends outside work and he was just trying to build relationships. He was encouraged by colleagues in the office to be loud and jovial as they said the office was quiet and not the same when he was in [331 D, E, F].
 - Since reading the colleagues' statements and understanding the way the comments had been perceived, he fully understood they may have made colleagues uncomfortable. That was not his intention and he was mortified to think that was the impact of his actions [332 B,C].
 - With respect to Tracey Ingram, he was never given a full explanation about what the inappropriate comments were. If he had been told at the time, he would have fully understood and he would not have made future comments. Since being made aware of the comments that caused offence, he has completely changed his behaviour. As a sufferer of ADHD, he needed his employer to provide express and clear instructions as a reasonable adjustment to allow him to understand his actions and adjust his behaviour accordingly [334 A, B, C].
95. The panel unanimously agreed that the facts of the case were proven. The claimant was given 30 minutes to respond [335 C, D, E].

96. In the meantime, the claimant's personal history sheet was read out and it was noted that there was no record of him previously being disciplined [336 C].
97. The claimant's response referred to his mental health breakdown and subsequent ADHD diagnosis, which came as a massive shock, and then the blow of being told about his high blood pressure. All of the comments were made at a very troubled time. He was not thinking straight and not receiving treatment for his ADHD. His ADHD symptoms were exacerbated by the stress of it all [337 B, C, D].
98. The panel adjourned to consider the sanction for gross misconduct. Their unanimous decision was dismissal without notice [338 A, B].
99. The Chair noted that, in order to apply an alternative sanction, and for the claimant's employment to continue, the panel needed to have confidence that there would not be a repetition of the behaviour in the future and for mitigations to explain his behaviours and outweigh the seriousness of the allegations [338 E].
100. The panel considered the mitigation around the claimant's ADHD [338 F-G; 339 A-G; 340]
101. They reached the unanimous conclusion that the claimant's actions constituted such severe breaches of the expected Standards of Professional Behaviour, to amount to an irretrievable breakdown in confidence between the employer and employee, rendering his continued employment untenable [340 C].
102. They set out their reasons in the Panel's Rationale [670-4]. The rationale recorded: In respect of the harm test, the behaviours have clearly caused distress to the complainants ... [point 6 at 671].
103. It does not refer to the risk of recurring behaviour. Neither is there any mention of the claimant being disabled.
104. Mr Johal in evidence stated that the main reason for the panel's decision to dismiss was the effect of the claimant's comments on the recipients and the breach of standards. He said that, whilst the risk of recurrence was not in the rationale, it had been considered, and there is always a residual risk in such cases.
105. The outcome letter was sent to the claimant on 6.2.2024 [316-7].

Appeal

106. The claimant appealed on the basis the decision to dismiss for gross misconduct was both substantively and procedurally unfair for the reasons set out in his email of 16.2.2024 [343-4].
107. On 29.3.2024 he sent various comments and documents to the respondent for consideration, and asked for confirmation of receipt, as he was not convinced all his evidence submitted to the disciplinary hearing was seen

[360]. Amongst the documents was a second statement from David Flavin dated 28.3.2024 [363-4]. Under separate cover he re-sent Mr Flavin's first statement and his solicitor's letter of January 2024 [396].

108. On 9.4.2024 Dr Anthony wrote to the respondent informing them that the ADHD medication had taken from February 2023 to September 2023 to reach an effective dose due to blood pressure problems. He said he had met with the claimant on 2.4.2024 and had noted a marked improvement in his ADHD traits [414].
109. The respondent referred the claimant to OH for advice on the impact of his conditions on communication with colleagues, and to assist with reasonable adjustments for the appeal. Following a telephone consultation on 13.5.2024, the OH report advised that the claimant had health conditions which could impact his communication with colleagues. Regarding adjustments, it recorded that the claimant would like emotional support at the hearing from his wife or solicitor, and not to attend himself, but for questions to be sent to him so he had time to process and answer [480-2].
110. The appeal hearing took place on 14.6.2024 and was heard by Deputy Assistant Commissioner (DAC) Valentine (Chair) and Daniel Pickett [minutes at 563-74]. As reasonable adjustments, the claimant was permitted to attend via Teams in the presence of his wife as "welfare representative" for moral support [553; 559]. He also sent in written answers to questions [504-11].
111. The appeal was not a rehearing. The Chair explained that they were not there to rehear the whole case. Their focus was on the grounds of appeal and they would consider new evidence not previously advanced [567 A,B].
112. The claimant asked whether the panel had read the two statements from his psychotherapist, David Flavin and Mr Pickett replied that they had and it was all in the bundle [567 E,F].
113. The appeal was dismissed [572 A].
114. DAC Valentine said the panel was satisfied that medical evidence was appropriately considered by the earlier misconduct hearing. And the panel did not believe that the additional medical opinion offered and considered by himself and Mr Pickett fundamentally changed what had previously been considered [572 E]. There is no reference to missing documents at the disciplinary hearing, namely, the solicitor's letter and Mr Flavin's first statement.
115. The reasons for the appeal decision are set out in the Panel's Rationale [582-5], which acknowledges "the implications of the Equality Act 2010".
116. The appeal outcome letter was sent to the claimant on 14.6.2024 [578-9].

Discussion and Conclusions

Unfair dismissal

Procedural Fairness

Delay and reasonable adjustments

117. There were significant delays in the process, in that it took nine months from notification of the investigation to disciplinary hearing. This was against the spirit of the SOP. It caused the claimant substantial, additional distress, which contributed to his poor mental health. It was his mental health at the time, which prevented him from attending the disciplinary hearing.
118. Reasonable adjustments were made for the disciplinary by allowing the claimant not to attend, and permitting him to answer questions and make submissions in writing. However, this was not as effective as being in attendance. This was all the more so, given there was nobody else present on his behalf to challenge the evidence and present his case.
119. As the claimant was a disabled person in a poor state of mental health, the respondent should have offered additional reasonable adjustments at the disciplinary hearing. At the appeal hearing the claimant was allowed to attend remotely with the support of his wife. There is no good reason why the same was not offered for the disciplinary hearing. It was unreasonable not to have done so.
120. The claimant was disadvantaged by not-attending the disciplinary hearing.

Missing evidence

121. The claimant's solicitor's letter and his psychotherapist's statement were not considered at the disciplinary hearing.
122. The solicitor's letter was important because it was the only legally drafted representation that the claimant submitted and it set out his case clearly and in some detail.
123. The psychotherapist's statement was important because it explained the behavioural work he had done with the claimant over the last six months, and how this had led to great behavioural improvement.
124. These documents, if considered, may have altered the outcome of the disciplinary hearing. This is particularly so, as the IO's report stated there was insufficient evidence for gross misconduct.

Whether the claimant was treated as a disabled person

125. The respondent accepts that the claimant is disabled because of his ADHD. However, his disability was not considered prior to taking disciplinary action, contrary to the SOP. Furthermore, as there is no reference to the claimant being disabled in the minutes of the disciplinary hearing, we conclude that, at best, this was given little weight.

Substantive fairness

126. The disciplinary panel did not have all the submitted evidence before them. This makes the substantive decision unsafe.

127. Furthermore, Mr Johal in evidence said it was the effect on the complainants, along with the breach of standards, which led the panel to their conclusion.

128. The IO exaggerated the impact on the complainants by saying the claimant made three female colleagues feel extremely uncomfortable with sexual comments. In fact, it was only Ms Hall, who was so effected. Ms Ingram and Ms Vydelingum, who were both senior to the claimant, did not feel uncomfortable, but simply found the comments inappropriate. This factual inaccuracy carried through to the panel's rationale, which recorded the effect of the claimant's behaviours as clearly causing distress to the complainants.

129. With respect to standards, the main concern appeared to be damage or potential damage to reputation. There was no actual reputational damage in evidence and potential damage is only speculative.

Whether the appeal rectified the defects

130. The appeal was not a rehearing. To cure the defects, and undertake a sound balancing exercise between conduct and mitigation, the panel would have needed to reconsider the matter de novo. Consequently, the appeal did not rectify the defects.

Conclusion

131. The tribunal concludes that the respondent dismissed the claimant, after undertaking a proportionate investigation, because they genuinely believed he was guilty of misconduct. However, in all the circumstances of the case, it was not fair and reasonable within the band of reasonable responses.

Discrimination arising from disability

132. The respondent knew about the claimant's ADHD and its co-morbidities from October 2022. It concedes that the claimant was disabled at all material times due to his ADHD.

133. The tribunal is asked to consider whether the claimant's struggle to communicate with colleagues and adhere with social norms, was something arising in consequence of the claimant's disability. From all the evidence we have seen and heard, we find that it was.

134. Making the comments, that were the subject of the disciplinary action, was an element of the claimant's struggle to communicate with colleagues and adhere to social norms. His social boundaries were blurred and he did not observe social cues. He did not appreciate that his actions were inappropriate in the workplace. He did not realise what impact his comments might have on those he treated as his work friends. Once the claimant was explicitly told how the comments were being interpreted, he understood and stopped. In oral evidence he said he stopped talking to them because it was the only way he could control it. We accept this.

135. The claimant was dismissed because of the comments. This was unfavourable treatment because of something arising in consequence of his disability.

136. We have considered the legitimate aims defence, as set out in the list of issues. However, we do not accept that these aims justify the respondent's treatment. Therefore, we conclude that there was no justification for the claimant's dismissal.

Indirect disability discrimination

137. We have considered the cases and articles put forward in evidence by the claimant. However, each case must be considered on its own merits, and the articles are not detailed surveys of a culture.

138. The evidence is insufficient to make a finding that there is a general practice of not considering ADHD in gross misconduct hearings or of making inadequate adjustments for ADHD employees. Therefore, this complaint is not made out.

Failure to make reasonable adjustments

139. The SOP does not allow proxy representation by family members, as envisaged by the claimant. Despite the disadvantage to him, it was not reasonable to expect the respondent to make this adjustment. Therefore, this complaint is not made out.

Employment Judge Liz Ord

Date 13 February 2026

Notes

Public access to employment tribunal decisions

Judgements 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.

ANNEX

AMENDED LIST OF ISSUES

[This list was amended as indicated by EJ Ord at the outset of the hearing, 2 February 2026.]

1 Jurisdiction

- 1.1 Given the date the claim form was presented and the dates of early conciliation, any complaint about any act or omission which took place more than three months before that date (allowing for any extension under the early conciliation provisions) is potentially out of time, so that the tribunal may not have jurisdiction.
- 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 or omission 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?

2 Unfair Dismissal

- 2.1 The Respondent accepts that the Claimant was dismissed.
- 2.2 What was the reason or principal reason for dismissal? The Respondent avers that the reason was the potentially fair reason of conduct.
- 2.3 Was the Claimant's dismissal fair and reasonable in all of the circumstances- including, taking into account the size and administrative resources of the Respondent (section 98(4))? The following questions will be relevant to that enquiry:
 - 2.3.1 Whether the *Burchell* test was complied with, namely:
 - (a) whether the Respondent had a genuine belief that the Claimant was guilty of misconduct
 - (b) whether the Respondent had reasonable grounds to sustain that belief and
 - (c) whether the Respondent had conducted as much of an investigation into the matter as was reasonable in all the circumstances of the case.
 - 2.3.2 Whether the Claimant's dismissal was procedurally fair including whether he was afforded a fair appeal.

2.3.3 Whether the sanction of dismissal fell within the range of reasonable responses that a reasonable employer could take.

3 Disability

3.1 The Respondent has conceded that at all material times the Claimant's ADHD amounted to a disability.

4 Indirect Disability Discrimination

4.1 Did the Respondent apply the following provision, or practice (PCP) generally, namely that:

4.1.1 ADHD is not considered in gross misconduct hearings; and inadequate adjustments are made for ADHD employees going through the process.

4.2 Did this put the Claimant at a particular disadvantage compared with others who are not disabled? The Claimant asserts:

4.2.1 The Respondent disregarded key mitigation in respect of the Claimant's ADHD diagnosis and how this would have impacted his actions, in particular the Claimant's communication with colleagues at the material time.

4.3 Was the Claimant put to the particular disadvantage alleged by the Claimant?

4.4 Is the PCP a proportionate means of achieving a legitimate aim?

5 Discrimination arising from disability

5.1 Did the following constitute 'something arising in consequence of the Claimant's disability':

5.1.1 The Claimant struggles to communicate with colleagues and adhere with social norms.

5.2 Did R treat C unfavourably because of any of the matters mentioned above? The Claimant relies upon the following alleged acts as instances of unfavourable treatment:

5.2.1 Termination of his employment

5.3 Did the Respondent treat the Claimant unfavourably as alleged by the Claimant?

5.4 If so, was the unfavourable treatment because of the 'something arising in consequence of the Claimant's disability'?

5.5 If so, was the treatment a proportionate means of achieving a legitimate aim? The Respondent relies upon the following:

5.5.1 The proper management of an operational police force to advance and fulfil the primary function of the police force to preserve order, prevent the commission of offences and bring offenders to justice;

5.5.2 Ensure resources are managed appropriately with due regard to the public purse

5.5.3 Protection of employee wellbeing

5.5.4 Effective management of employees' behaviour and upholding the required standards of behaviour.

6 Failure to make reasonable adjustments

6.1 Did the Respondent apply the following provision, or practice (PCP) generally, namely that:

6.1.1 Failing to allow the Claimant to be represented by a proxy

6.2 Did the application of any such PCP put the Claimant at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled in that:

6.2.1 The Claimant was not able to adequately represent himself during the disciplinary hearing which would have had a material impact on the Respondent's decision to dismiss the Claimant.

6.3 Did the Respondent take such steps as were reasonable to avoid the disadvantage? The burden of proof does not lie on the Claimant, however it is helpful to know the adjustments asserted as reasonably required and they are identified as follows:

6.3.1 C should have been allowed to have a proxy attend the disciplinary hearing.

6.4 Did the Respondent know, or could it reasonably be expected to know that the Claimant was likely to be placed at the disadvantage set out above?

6.5 Remedy

6.6 What is the Claimant's basic award?

6.7 What is the Claimant's compensatory award?

6.8 Is the Claimant entitled to an award for injury to feelings in accordance with the guidelines set out in *Vento v Chief Constable of West Yorkshire Police (No 2) [2003] IRLR 102*?

6.9 Has the Claimant taken reasonable steps to mitigate their loss?