



EMPLOYMENT TRIBUNALS

Claimant: Miss M Craig

Respondent: Peasmarsh Place (Country Care) Limited

Heard at: London South Employment Tribunal

On: 15, 16 and 17 December 2025

Before: EJ J England, Mr S Corkerton and Mr C Rogers

Representation

Claimant: Representing herself

Respondent: Mr R Pal (Litigation Consultant)

JUDGMENT having been sent to the parties on 8 January 2026 and written reasons having been requested by the Respondent in accordance with Rule 62(3) of the Employment Tribunals Rules of Procedure 2013, the following reasons are provided:

REASONS

Claims

1. By a claim form issued on 10/05/24, the Claimant brought claims for:
 - a. Constructive unfair dismissal.
 - b. Pregnancy discrimination (s.18 EA 2010).
2. The Respondent defended those claims, arguing that the Claimant resigned because she had found another job and the acts of discrimination either did not happen or were not related to pregnancy or maternity leave.
3. The issues were discussed at the start of the hearing:
 - a. The parties agreed at the outset that the issues had been set out in the PH Order of 02/06/25.
 - b. The Tribunal raised that although the PH Order had allowed an amendment application to add in claims of unfair and discriminatory constructive dismissal, only the issues for the unfair claim had been included in the PH Order. By agreement, the Tribunal therefore

included an issue relating to a discriminatory constructive dismissal, listed below.

- c. Mr Pal clarified that no fair reason was alleged if there was a constructive dismissal.

Procedure

4. The papers the Tribunal received were a bundle of 378 pages as well as witness statements and further documents as set out below.
 - a. The Respondent had included a redacted document on the basis of legal privilege [375] but produced an unredacted version after the Tribunal's enquiry when it was accepted that the discussions were with HR advisors not legal advisors.
 - b. The respondent also produced in the trial an excel table which we were informed showed the hours worked by the Claimant.
 - c. As explained, we read as many of those documents highlighted in the witness statements as possible, as well as documents flagged in cross examination.
 - d. References within this judgment in square brackets are to pages of the bundle with a colon indicating a paragraph number. References to two letters followed by a number refers to a paragraph of a witness statement indicated by initials.
 - i. The Claimant's witness statement repeats numbering so the following reference is used: [MCx:y], denoting page x, paragraph y of MC's witness statement.
5. The parties relied on evidence from the following witnesses who were called to give oral evidence, except where indicated:
 - a. Claimant: herself only
 - b. Respondent:
 - i. Mr Steve Winter.
 - ii. Mrs Carol Martin.
6. Submissions: At the end of the hearing, the Claimant provided oral submissions. Mr Pal for the Respondent provided oral submissions with a written document summarising the general legal position.
7. This Judgment is the unanimous findings and conclusions of the tribunal. The Judgment sent to the parties on 08/01/26 mistakenly omitted the Tribunal wing members' names from the heading.
8. Adjustments: none were requested after discussion.

Findings of Fact

9. The parties gave evidence about a number of matters and this judgment will not make findings on all. It is not the Tribunal's function to record all of the evidence presented and this judgment does not attempt to do so. Although

all relevant evidence has been considered, the findings focus on those matters that are material to the issues.

10. R's business:

- a. The Respondent is a residential care home providing, "care services for frail and elderly residents who do not require qualified nursing input" [SW2]
- b. In considering the size and administrative resources of the Respondent per s.98(4) Employment Rights Act 1996, we note that at the time of events the Respondent employed approximately 30 people [SW3].

11. The Claimant's role:

- a. The Claimant was a Deputy Manager from 21st January 2022 to 3rd April 2024.
- b. Her role was largely office based but she could also contribute to more direct care of residents, particularly as cover or when on call.

12. Contract [159-167]:

- a. The contract of employment states the Claimant's hours of work as 32 hours per week with no reference to a possible change in hours.
- b. However, it was agreed that during the process of hiring the Claimant there was a discussion that suggested hours and/or days of work may change in the future after discussion.

13. In Autumn 2022 the Claimant suffered a prolapsed disc in her back [150]. She was put on light duties on the advice of her GP between October 2022 - June 2023 (when she began maternity leave).

14. In November 2022, the Claimant discovered she was pregnant. R was informed by letter dated 29/11/22 [74] and a Mat B1 form was to follow.

15. 20/12/22 the Claimant had supervision with Julie Harper [75-76]. Ms Harper discussed the hour/day reduction that had been raised during her appointment. There had been no further discussions regarding this until that point and as a fact this was now shortly after her pregnancy declaration, as the Claimant emphasises in her witness statement.

16. The Claimant responded to the meeting after discussions with her union [77].

17. At some point after the Claimant had announced her pregnancy, the Claimant claims that changes to CQC inspections were being discussed and she was told by a colleague, Ms Emma Stonham, "you don't need to know that you won't be here much longer" [C5:5]. Our findings about this matter are addressed below.

18. On the day before her maternity leave was due to start, the Claimant discussed with Ms Martin how she was feeling, including that she had decided to start maternity leave a month early because of comments that made to her [C5:7].
19. The Claimant commenced her maternity leave on 14/06/23 [78;196] and gave birth on 07/08/23 [204]. Applying s.18(6) EA 2010, the protected period was from when the Claimant's pregnancy begins (the Claimant stated in opening that she found out she was pregnant around 28/11/22) to when she returned to work on 02/01/24. The parties informed the Tribunal of this position, which appears correct based on a commencement of maternity leave on 14/06/23.
20. By email of 04/10/23, the Claimant contacted Ms Martin to discuss her return to work [81]. They then met on 09/10/23 and the Claimant explained her wish to return on 02/01/24. The Claimant was told that the Respondent would respond to her once the board had considered her proposal.
21. The Claimant chased an answer by email of 03/11/23 [83] and Mr Winter replied, stating that she should have received a letter by that point [83]. We accept the Claimant's evidence that she had never received that letter. A letter dated 12/10/23 was then emailed to the Claimant on 04/11/23 [85; 87], informing the Claimant that Mr Winter was "reviewing the management structure and forecasting the financial position" so he would get back to the Claimant about her suggested return to work. No other information about her return was or had since been provided and the Claimant was informed that Keeping in Touch days would be arranged, but they had not been and never were.
22. By email of 06/11/23 the Claimant again chased for an answer about her return to work, emphasising that she needed to arrange childcare [85]. She was informed by reply that day [86], "Yes - we would also be working to a January timeframe" but with no further specifics, as well as being told:

"The biggest challenge at the moment is our review of overall staffing levels and management structures. It is not a secret that this has been a very difficult 18 months for us and we are having to review all of our costs including the management structures. You will, of course, be a part of that review whether you are on maternity leave or not".
23. Mr Winter arranged to meet the Claimant on 12/12/23 to discuss the Claimant's return to work as well as "the current plans at Peasmarsh Place" [88]. To the Claimant's understandable surprise given the ambiguity of information to this point, at the meeting the Claimant was informed that she may be made redundant [SW74-75, MC6:6]. Mr Winter stated that there was going to be a board meeting that day to decide.

24. The Claimant chased for an update on 14/12/23 [90] and received a letter dated 16/12/23 informing her that her role “may now be at risk of redundancy” [214]. She responded to query why she was the only member of staff identified as being at risk and to discuss the next meeting [91], after which her trade union became involved [92].
25. The Claimant spoke to Mr Winter on 21/12/23 and was informed that her return date was now agreed 12 days later for 02/01/24.
26. The Claimant returned to work on 02/01/24 and states that she was “advised by Julie she and Emma had worked hard to make the home a much happier place to work since I was on maternity leave” [MC7:2], considered below.
27. On 12/01/24 the Claimant attended a meeting and was informed by Mr Winter that she was no longer at risk of redundancy [248]/
28. The Claimant provided a grievance by email of 14/02/24 [113, 283] which outlined various issues, including her difficulties in returning to work and perceived discrimination. She had a meeting to discuss on 22/02/24.
29. The Claimant resigned on 06/03/24
30. A grievance decision was provided on 18/03/24 [128; 133]. The Claimant appealed and a decision sent on 19/05/24 [335].
31. The ACAS EC dates are 21/03/24 – 29/04/24 and the claim was issued on 10/05/24.
32. The Claimant commenced a new job on 08/04/24.

THE LAW

Discrimination

33. Mr Pal provided a helpful note summarising some of the general principles relevant to the well established law in this matter. For the discrimination claim this was:
- a. “Direct discrimination occurs where “because of a protected characteristic, A treats B less favourably than A treats or would treat others” ([section 13\(1\)](#), EqA 2010)”.
 - i. The Tribunal noted that this was a s.18, not s.13, claim but considered that the test of “because of” was the same.
 - b. “No comparator is required for pregnancy or maternity discrimination (s. 18 EqA 2010)”.

34. When considering whether actions occurred “because of” pregnancy/maternity leave at s.18 EA 2010, the Tribunal considered two further points particularly relevant to this case:

- a. The Tribunal considered it important to recognise the distinction to something having occurred ‘but for’ pregnancy/maternity leave. Some of the Claimant’s allegations we felt confused the two tests on the basis, for example, that ‘but for’ the pregnancy the Claimant would not have been absent from work, but that does not mean anything that happened connected to her absence from work was ‘because of’ pregnancy/maternity leave. *South West Yorkshire Partnership NHS Foundation Trust v Jackson and others* (Unreported, UKEAT/0090/18/BA, 22 November 2018) provides useful discussion on the point.
- b. Pregnancy/maternity leave does not need to be sole reason but a material factor/effective cause operating on the decision maker’s mind (see *Nagarajan v London Regional Transport* [1999] IRLR 572; *Madarassy v Nomura International* [2007] IRLR 246; *Taylor v OCS Group Ltd* [2006] EWCA Civ 702).

Unfair Dismissal

35. As per Mr Pal’s note:

- a. “A constructive dismissal occurs where the employee resigns in response to conduct by the employer that amounts to a repudiatory breach of contract.
- b. Section 95 (1)c of the Employment Rights Act 1996 states the employee terminates the contract under which he is employed (with or without notice) in circumstances in which he is entitled to terminate it without notice by reason of the employer’s conduct”.

36. The Claimant was relying on a breach of the implied term of trust and confidence. In summary, to succeed in claiming constructive dismissal, the Claimant must demonstrate that:

- i) The Respondent committed a breach of contract so severe that it went to the root of the contract (*Western Excavating (ECC) Ltd v Sharp* [1978] ICR 221). If an employer does ‘without reasonable and proper cause, conduct itself in a manner calculated or likely to destroy or seriously damage the relationship of confidence and trust between employer and employee’ (a breach of the implied term of trust and confidence), this will be sufficient to demonstrate this serious breach (*Malik v Bank of Credit and Commerce International SA* [1997] IRLR 462; *Morrow v Safeway Stores* [2002] IRLR

9; *Baldwin v Brighton and Hove CC* [2007] ICR 680). The employer's actions are assessed objectively and if on an objective approach there has been no breach then the claim fails (*Omilaju v Waltham Forest London Borough Council* [2005] EWCA Civ 1493).

- ii) The Claimant left because of this breach (*Walker v Josiah Wedgewood & Sons Ltd* [1978] ICR 744); and
- iii) The Claimant has not waived the breach by affirming the contract (*WE Cox Toner (International) Ltd v Crook* [1981] ICR 823). The EAT emphasised in *Chindove v Morrisons Supermarket* (Langstaff P, 2014) that the focus should not be on time that has elapsed but whether the employee has demonstrated they have made a choice.

37. The Tribunal noted that in considering the implied term of trust and confidence, the principle of breach should not be overused or invoked too easily (*Leach v The Office of Communications* [2012] IRLR 839). In *Croft v Consignia* [2002] IRLR 851, Lindsay P highlighted the need for conduct to be of sufficient seriousness and magnitude to breach the implied term of trust and confidence, stating at para. 69:

“It is an unusual term in that it is only breached by acts or omissions which seriously damage or destroy the necessary trust and confidence. Both sides are expected to absorb lesser blows.”

CONCLUSIONS

38. The following section addresses the Tribunal's conclusions on the issues and makes further findings of fact where necessary.

Jurisdiction

39. Time limits are addressed where relevant below.

Did the respondent change the Claimant's working pattern by changing it from 32 hours worked as four days per week from February 2022 to January 2023, to 32 hours worked as three days per week from January 2023?

40. Did the alleged event happen?

- a. It is agreed evidence that this happened [C4:2] and also agreed that when the Claimant returned from maternity leave she reverted to 4

days a week [cross examination of SW, excel chart of the Claimant's hours].

41. If occurring, did the events happen “because of” the pregnancy?:

- a. The change followed a discussion at the Claimant's job interview, although we accept there had been no follow up since [77].
- b. The Claimant's contract [159] does not stipulate which days should be worked, which we found unhelpful and unclear in providing the Claimant with clarity on her days but also gave a degree of explanation about why there was a change discussed.
- c. The Claimant's case in submissions and CROSS EXAMINATION was that the discussion about a change was “convenient” a short while after her pregnancy announcement. This was the strongest point in the Claimant's favour but by itself or when looking at the totality of evidence we did not find this persuasive that pregnancy/maternity leave was a reason for the change; correlation is not the same as causation.
- d. Other than a coincidence in timing, there was no reason to suggest that this occurred because of the pregnancy, including when we stepped back and looked at the overview of issues and the Respondent's actions.
- e. The Tribunal could not perceive any advantage for the Respondent to reduce the Claimant's days, nor was one explored by the Claimant in evidence. She would be on the same pay, including for her maternity period, for example.
- f. Moreover, at [77] she stated she was surprised and worried about reducing her hours but twice says she was “happy” to change her days and thereafter there was no follow up from her to suggest otherwise, despite working for about 6 months more before maternity leave. In cross examination the Claimant stated that ‘perhaps she should have rephrased her email’ but the Tribunal considered that the Respondent was simply acting on what they reasonably considered to be an agreed discussion with the Claimant and could see no reason why the Respondent would second guess her email.

42. Our conclusion was that this event did not happen because of pregnancy/maternity leave. It occurred because of an operational need and was agreed with her.

Did the respondent fail to maintain contact during the protected period with the Claimant?

43. Did the alleged event happen?

- a. There were no keeping in touch days that occurred in the Claimant's maternity leave.

- i. At the very end of her evidence, Ms Martin answered a question from Mr Corkerton to state vaguely that keeping in touch days were attempted, but there were no specifics provided and no supporting evidence. We placed no weight on this new evidence, noting no supporting documentation or that this had been suggested elsewhere.
 - ii. The letter of 12/10/23 [87] is the only reference we could find to keeping in touch days, stating that some would happen, but despite the Claimant not returning to work for 3 months, none occurred.
- b. In general there was a lack of communication such as email or letters to the Claimant. The evidence [81-94] shows communication was instigated by the Claimant in early October then big gaps in responses from the Respondent, an unfortunate failure of a letter to arrive to the Claimant but nevertheless very little proactivity from the Respondent to follow up on discussions about the Claimant's return and then a concerning morph into what was being treated as an informal redundancy consultation, all with a very late confirmation of the actual date the Claimant was to return. The Claimant's view that the redundancy information was "a shock" [91] was seen by the Tribunal as a perfectly understandable reaction, albeit a likely understatement.
- c. The Respondent highlights that the Claimant attended the summer fete 10 days after her son was born. This was a one off event and hardly compelling evidence of keeping in touch with their employee. Other straws clutched at were the 'family connection' of the Claimant being related to one of the staff and this would apparently have led to informal keeping in touch, but no written evidence of this was produced, nor was this developed in any way to show the Respondent met the duties we would expect of the Respondent, especially in the context of the communication that did occur about redundancy.

44. These events did occur in the protected period: the Claimant was on maternity leave.

45. If occurring, did the events happen "because of" the pregnancy?

- a. Ultimately the above events only occurred because the Claimant was absent due to her pregnancy.
- b. We considered the 'but for' distinction highlighted above but considered the events too tied up and connected with the Claimant's maternity leave to distinguish the causation elements.
- c. As a comparison (not 'comparator'), we do not think the Respondent would have treated a person who was absent for long term sickness the same, for example, because acting reasonably and in their own interests the Respondent would have had more interest in getting

them back to work. This is even more evident because the Claimant was actively chasing to return to work.

- d. We accept that for some of the time the Respondent was dealing with the financial strain of a potential restructure but nevertheless there was poor communication in a period that only came about when the Claimant was on her maternity leave and due to that absence.
- e. We considered the Respondent argues that part of their reasoning was to leave a 'new mum' in peace, but this was not enough to displace our view. Ultimately this was not a new mum seeking or encouraging peace but a new mum who was proactively chasing her employer to try and get back to work. We did not consider the Respondent's explanation sufficient therefore to displace the evidence of discrimination.
- f. We concluded that the Claimant's time on maternity leave was not the sole reason for the failure to maintain contact but it was an operative/material factor.

46. Jurisdiction (time limits):

- a. The claim is in time because it was a continuing act that occurred throughout her protected period, thereby ending 'in time'.

Did the respondent say to the Claimant 'you won't be here soon'? If so, what was the context.

47. Did the alleged event happen?

- a. C5 says this happened and she is the only primary witness. There is no direct evidence to refute her evidence.
- b. The Respondent's witnesses were not much on site. They were not there every day; Mr Winter explained that he was on site every 4-6 weeks and Ms Martin was there 2 days a week at most. Their evidence [SW18] was that they did not hear the comment and were not aware of it but rightly accepted in cross examination that this did not mean the events did not happen.
- c. The alleged perpetrator, Ms Stonham was not called by the Respondent. We did note that the first time Ms Stonham appears to have been identified, at least to the Tribunal, was seemingly in the Claimant's witness statement. If the Respondent had any doubts, they could have sought clarity at the PH, or after the PH. They also had the option to make an application to call Ms Stonham once witness statement were exchanged, or produce a document as evidence, but none of these steps were taken.

48. Our conclusion was that the events did happen in the way outlined in the Claimant's witness statement, i.e. it was said to the Claimant in the context of upcoming changes, words were said to her either the same or in very

similar terms that, “you don’t need to know that you won’t be here much longer”.

49. As explored in the cross examination of the Claimant, we considered whether this was said innocently on the basis of telling the Claimant to “relax”, as alluded to in the Claimant’s witness statement. We considered therefore whether this was sufficient to amount to a detriment as well as analysing the context to establish what happened. Our conclusion was that although the sentiment of ‘relax’ would have been used at times, there was also a degree of dismissiveness, particularly in the specific example given at MC5:5 and the inclusion of “you don’t need to know”. The Tribunal found this assessment borderline but ultimately without Ms Stonham here to explain any more nuance to what was said the Tribunal accepted the evidence of the Claimant about what happened and the detrimental context.

50. If occurring, did the events happen “because of” the pregnancy?

- a. The Tribunal concluded that ‘yes’ was the only answer. The comment was made because of the Claimant’s upcoming maternity leave because that is why she was not going to ‘be here much longer’. It would be artificial to distinguish the comment from her pregnancy/maternity leave.
- b. No contrary reason for making the statement was evidenced. Our conclusion about ‘relax’ is above.

51. Jurisdiction (time limits):

- a. Based on [MC5:6] this event must have occurred before May 2023 and is therefore approximately 7 months out of time.
- b. This was not conduct extending over a period because it was a one off act.
- c. The Tribunal however concluded that it was just and equitable (s.123 EA 2010) to extend time because:
 - i. As stated by the Claimant in submissions, she was about to go on her first maternity leave. The Tribunal do not expect her to have been issuing tribunal claims at this time.
 - ii. For the Claimant personally, she had previously had a miscarriage the previous year and was understandably emotional and stressed/sensitive about her current pregnancy. As MC5:7 explains, she had started her leave early because of the perception of how she was treated.
 - iii. When she finished maternity leave and was ‘in time’, this was in the context of poor communication from the Respondent (as above), she was informed that potential redundancies would be reviewed in May 2024 and she had by then a 5 month old baby.
 - iv. The Tribunal concluded that it was just and equitable to extend time to the period when the claim did issue her claim.

52. This claim therefore succeeds.

Did the respondent remove duties from the Claimant. What were those duties? Why were they removed?

53. Did the alleged event happen?

- a. The Claimant's answer to the Tribunal was that the only change was to the administration of medication.
- b. SW's witness statement explained the changes due to the EMAR system and the Tribunal accepted the explanation he provides, with no contrary information.

54. If occurring, did the events happen "because of" the pregnancy?:

- a. On the basis of SW's witness statement we accepted there had to be a change and subsequent training for the reasons he provides, i.e. the requirements of the CQC and the Claimant's absence that meant she required further training. The fact she was absent due to maternity leave specifically was not an operative factor.

55. As a general point from here in the chronology, we considered that the Claimant misinterpreted or misperceived some events, seeing events worse than they were detrimental and caused by her pregnancy. We felt that was a factor in perception but we also felt that this was understandable given what had occurred before her maternity leave and the process that had occurred in terms of her return to work and the poor communication.

Was the Claimant restricted from online platforms and/or have e-mails diverted from 2nd January 2024?

56. Did the alleged event happen?

- a. Noting the allegation is "from", the Claimant's own case is that all access was restored by the morning of the 3rd January (submissions), consistent with [SW44].
- b. To extent the Claimant did not have access on 2nd January:
 - i. It was reasonable and common practice to restrict her access when on maternity leave; she was not working and there was no apparent need for access.
 - ii. This was consistent with the Respondent's policy.
 - iii. There was a small delay in access but we had not seen the Claimant chasing before the point of her e-mail late in the day on 2nd January seeking access [99], by which point she had email access
- c. The Tribunal accept there was therefore delayed access but this was a relatively minor event.

57. If occurring, did the events happen “because of” the pregnancy?

- a. We felt this was a claim where causation was only satisfied on the ‘but for’ test.
- b. We accepted Mr Winter's explanation that there was an outsourced IT company in operation and they were asked to restore access by 2nd January. There was some delay in them expecting this and this seems to have been the Christmas and New Year break period.
- c. The Tribunal considered that another factor was simply poor management, which was unsurprising given how late the Claimant's returned to work had been organised.

Did the respondent fail to carry out risk assessments? The Claimant says the respondent failed to carry out a risk assessment during the period 29th November 2022 to 14th June 2023, and in respect of the Claimant's return to work on 2nd January 2024. The respondent says that it had carried out risk assessments in respect of the Claimant relating to her back injury.

58. To the extent that a failure related to her back injury was relied upon, this element cannot have been influenced by pregnancy or maternity leave cause a back injury occurred before she was pregnant.

59. A failure prior to maternity leave?

- a. Did the alleged event happen?
 - i. There had been a failure in the sense that there had not been a formal written document that had been produced. That seemed to be because the informal assessment related to her back injury just ‘rolled into’ her pregnancy risk assessment in how it was treated by the Respondent. There was nothing more, such as concerning the specific risks about pregnancy beyond manual handling, such as respiratory issues, shingles/chicken pox etc.
 - ii. We noted that the Claimant was not asking for one or chasing one so seemingly was content with the extent one had been carried out or the need for one.
- b. If occurring, did the events happen “because of” the pregnancy?
 - i. The Respondent had poor administration and recording and this was the same for her back risk assessment, which remained undocumented at the time. Their procedure was the same, i.e. just as inadequate.
 - ii. We also noted that this is a relatively small business with a small management team and we accept the point made by Mr Winter that for this business, reflecting the industry in which it operates, pregnancy is not a common issue that the employer manages.
 - iii. We accepted that this event occurred ‘but for’ pregnancy/maternity leave but not ‘because of’.

60. A failure after 02/01/24?

- a. There was a failure in the sense that no written document was produced but it was not something the Claimant was particularly chasing at the time. A retrospective risk assessment was created [122] and then informal process applied.
- b. We struggled to understand what difference the Claimant alleges this would have made. At the time, nor now, does the Claimant suggest she should have had a change in duties or there were any risks particular to her. She said at the time that she was happy to do all the duties including being back on call.
- c. If occurring, did the events happen “because of” the pregnancy?
 - i. There was no reason to think the Respondent would have acted differently with any other period of absence.
 - ii. We again considered the respondents poor management administration and experience of pregnancy issues to be relevant as to the reasons for their actions.

Did the respondent produce false documents? The Claimant says the respondent produced false documents dated 18th May 2023 and 2nd January 2024, when these documents were created on 14th February 2024. The respondent says on 14th February 2024 it retrospectively created documents which it dated 18th May 2023 and 2nd January 2024.

61. Did the alleged event happen?

- a. As per the allegation, it is agreed that the Respondent retrospectively created the two risk assessment documents [122-127].
- b. Whether they did so “falsely”?
 - i. The Tribunal did not understand from the Claimant’s evidence why she said the documents were “false” beyond the agreed point that they were retrospectively created, which the Respondent has always accepted when raised.
 - ii. Ms Harper could have been more upfront in expressly stating she had only made them recently but she did not, nor has the Respondent ever, suggested that the Respondent made the documents after discussion with the Claimant at the time (which would be more arguably ‘false’). When providing the documents, Ms Harper stated they had not been discussed with the Claimant [121].
 - iii. Ms Harper did not sign the documents as she could have done to suggest she completed the documents at the time [123].
 - iv. In these circumstances, the Tribunal did not consider that the label of “false” applied.

62. If occurring, did the events happen “because of” the pregnancy?:

- a. The actions of the Respondent reflect what the Tribunal consider to be poor administration at the time and a small, perhaps inadequately trained, management team. We accept the Respondent's evidence that since these events lessons have been learned [SM50-53].
- b. If there was a physical injury that required a similar risk assessment, the Tribunal consider that the Respondent's actions would have been the same. This is evidenced because when the Claimant suffered her back injury there was a risk assessment that resulted in her reduced duties, yet again there was no written documentation produced.
- c. Here, the retrospective documentation was only produced because the Claimant flagged that it had not been produced and then asked for it [121], not because of an intention to deceive.

Did the respondent notify the Claimant that she was at risk of redundancy?

63. This did occur, as per the written contemporaneous documents [214].

64. If occurring, did the events happen "because of" the pregnancy?

- a. The Tribunal considered whether the notification only of the Claimant was an attempt to take advantage of her absence due to her maternity leave and remove her before she could return.
- b. The Claimant appeared to be the only Employee notified and there was not a full explanation provided at the time about why she was the only one.
- c. However, against this, the Tribunal considered:
 - i. There were genuine financial concerns. Mr Winter's evidence was unchallenged and the Claimant herself accepted the challenges in cross examination.
 - ii. There was no incentive for the Respondent to get rid of the Claimant rather than another employee. We've seen nothing to suggest the Claimant was not seen as a 'good worker' and she was returning to work (not, for example, about to take a lengthy period of maternity leave).
 - iii. We accept Ms Martin's evidence in cross examination that she was part of many conversations in which the Respondent was discussing 'Megan's work' ahead of her anticipated return.
 - iv. The Tribunal accept the evidence at SW67-70 about the comparative roles and the differing considerations of regulatory requirements and costings.
 - v. Ultimately the Respondent did not make the Claimant redundant despite the freedom an employer has to make such decisions.

65. Our conclusion was therefore this act did not succeed as an act of discrimination. However, we did think the Claimant was badly treated in terms of communication:

- a. There was a troubling view from the Respondent they they were only conducting some form of informal redundancy consultation, for example by references to, 'if matters progressed' [SW70] they may have done things differently and it seemed that the respondent treated this as a half way procedure between a 'formal/proper' procedure and their perception of an informal redundancy procedure in which they were only warning of a potential redundancy situation.
- b. There were delays and ambiguities in the contemporaneous communication.
- c. We accept it was a difficult situation given the genuine financial difficulties but the procedure adopted of a 'soft launch' of potential redundancy meant the Claimant was left confused and understandably concerned, all within the context of the ambiguity of her return date.

UNFAIR CONSTRUCTIVE DISMISSAL

66. The Tribunal considered the actions said to have caused the fundamental breach of contract set out under sub-headings below.

Notify the Claimant she was at risk of redundancy.

67. This did occur, as above. Also as set out above, we did consider this problematic and that it would cause some damage to the relationship of trust and confidence.

68. However we did not consider that this would destroy or seriously damage the relationship of trust and confidence and we also felt that the respondent's actions had a reasonable and proper cause. The respondent did have genuine financial problems and to have not told the Claimant she was at risk of redundancy when she was would be more problematic for the parties' relationship.

69. In addition, the Claimant did return to work so we considered that this act if considered alone as a breach, it was waived.

Amend the Claimant's role on her return from maternity leave.

+ Alter the Claimant's job description on her return from maternity leave.

+ Did her roles and responsibilities remain with the home manager and administrator.

70. These acts we considered combined because they have the same factual basis.

71. As above, we did not consider that these events occurred in the way relied upon.

72. Communication could have been better, such as specific dates provided about when the Claimant would have been trained on the new system, and indeed had there been better keeping in touch when she was on maternity leave about these changes she may not have perceived these changes in the way she did when she returned. However, we did not consider that this destroyed or seriously damaged the relationship of trust and confidence.

The Claimant was not made to feel welcome back into her job role making the work environment toxic

+ Was the Claimant allowed to work in a toxic environment where the administrator and home manager did not speak with or include her in discussions?

+

By failing to fulfil an agreement be flexible with the Claimant's childcare arrangements when she returned to work in January 2024.

73. These allegations are also combined because of their factual overlap.

74. We found the references to a "toxic" environment to be vague and very general and therefore not compelling. We did not think the examples given in the Claimant's evidence suggested such an environment and we thought her perception after the poorly handled communication about her return to work was understandable but nevertheless a misperception about how unwelcome she was. The specific examples given are addressed below.

75. A failure on the Respondent's part to be flexible about childcare [254, 313-318]:

- a. In cross examination, the Claimant accepted that the Respondent had been flexible about childcare and she was up front in saying they had been flexible as a whole and it was just one half a day inflexibility example that she could give [316].
- b. When we looked at the contemporaneous documents we considered that the employer had been flexible and the specific half day example put them in a very difficult position because of the lack of clarity the Claimant provided and the Respondent was entitled to need more clarity to plan their staff levels.
- c. We did not consider that this destroyed or seriously damaged the relationship of trust and confidence.

76. The alleged comment from Ms Harper about the workplace being nicer:

- a. We thought the most likely conclusion was something along the lines of what was recorded in the notes of that meeting and that had been misinterpreted by the Claimant.

- b. As outlined, there is a degree of the Claimant misperceiving events in this part of the chronology and her own witness statement says, "I was advised by Julie she and Emma had worked hard to make the home a much happier place to work since I was on maternity leave", which we considered a materially different sentiment to what is alleged in the claim. The claim suggests that it was said that because the Claimant was not there the work environment was nicer but we consider that what was said and intended was that there had been work done while she was away to address the underlying workplace issues.
- c. We would be surprised if something as blatant and stark as what was alleged in the claim form was actually said.
- d. The alleged comment is not in the Claimant's grievance, despite making comments about what was said on the same date.
- e. MC4 details Ms Harper as supportive elsewhere and about the previous miscarriage.

77. The change of a resident's mobility plan:

- a. We did not consider that this was an issue of the Claimant thinking she knew better than others, as the Respondents' witness statements suggest, but did think it was an example of the claimant feeling miffed that she had not been consulted.
- b. We accept the explanation given by Mr Winter's statement that the care plan had been outlined, it was a change because the plan was not working, the change occurred during the Claimant's absence and the Respondent did not contact her because she was absent [SW112-117].
- c. We did not consider that this destroyed or seriously damaged the relationship of trust and confidence.

Conclusion

78. In light of the above we did not therefore conclude that the implied term of trust and confidence had been breached nor did we consider that there had been a constructive dismissal. This applies on any analysis of the facts, whether the acts are analysed as individual or cumulative breaches and whether a 'last straw' doctrine is considered.

79. We accepted that the Claimant resigned in response to what she perceived as a breach of contract and in submissions it was stated on behalf of the respondent that they were not suggesting the Claimant did affirm the contract before resigning.

DISCRIMINATORY CONSTRUCTIVE DISMISSAL

80. We have not found that there was a constructive dismissal and therefore do not find that there has been a discriminatory constructive dismissal.

REMEDY

81. The parties were agreed that:

- a. Only an award for injury to feelings was appropriate in light of the claims we had upheld, i.e. no financial loss.
- b. The lower *Vento* bracket was applicable.
- c. No further evidence was needed to determine remedy.
- d. If interest on an award was to be awarded that a midpoint between May 2023 and the Claimant's return to work was appropriate, fair and reflective of the tribunal's powers and discretion under *Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996*.

82. In submissions the respondent argued:

- a. A cumulative award of £2500 was appropriate.
- b. The Respondent accepted what had been found regarding the failure to maintain contact but there was no ill will and they considered that the Claimant wanted some time alone. In addition there was a crossover with the redundancy process and they need to not cause stress to the Claimant.
- c. The comment by Ms Stonham was a one off and may have been intended to mean 'relax'.
- d. No interest should be awarded because the respondent did not mean to cause harm.

83. In submissions the Claimant argued:

- a. A cumulative award of £11,000 was appropriate.
- b. The only meeting held with her was initiated by her, the impact on her had been very hard and she was concerned that such actions could happen again.
- c. Interest should be awarded.

84. The Tribunal's conclusion was:

- a. A cumulative award of £5,500 was appropriate. This represented approximately £4000 for the 'not keeping in touch' detriment and the remainder for the comment.
- b. We considered the not keeping in touch detriment to be relatively serious because it had a broader impact about how the claimant felt during what was a very important time to her of her maternity leave, it had a major effect on her return to work and how welcome she felt

and ultimately her return to work was dragged out of the Respondent from her chasing in October period.

- c. We found the comment detriment significant despite being a one off because it set the tone for maternity leave and the Claimant's enjoyment of that special period.
- d. We did not find the Respondents submissions persuasive and felt they overlapped with liability considerations. Our role was to make an award based on the effect on the Claimant, not reflective of the respondents guilt; whether that be by punishing the respondent or letting them off because of a lack of intent.
- e. We saw no reason to depart from the default position of awarding interest. Our calculation was that halfway between 01/05/23 and 02/01/24 was 01/09/23 and from 01/09/23 to the date of calculation was 246 days. Applying the statutory rate of interest of 8% this produced £1010 interest.

Employment Judge England

Date 27 February 2026

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