



EMPLOYMENT TRIBUNALS

Claimant: Miss G Wilkinson
Respondent: The Hall Thornton Dale Limited
Heard at Leeds **ON:** 5, 6, 7 and 8 May 2026

BEFORE: Employment Judge Brain

REPRESENTATION:

Claimant: In person with assistance from Mr D Edmund (partner)
Respondent: Ms L Bairstow, Counsel

FULL WRITTEN REASONS

Introduction, preliminaries, and the law.

1. These full written reasons are provided at the request of the claimant.
2. This matter benefitted from a case management hearing which came before Employment Judge James on 9 September 2025.
3. The issues in the claim were identified in the annex to the case management order sent to the parties on 5 December 2025.
4. The claims were of an alleged failure by the respondent to make reasonable adjustments for the claimant's admitted disability from impairments arising from her diagnosed condition of diabetes and of victimisation.
5. The reasonable adjustments claim was dismissed on the morning of the third day of the hearing held on 7 May 2026. This followed a discussion on the afternoon of the second day as to the prospects of the reasonable adjustments claim succeeding. The discussion was in view of the claimant's acceptance in evidence that the respondent had made an adjustment in allowing the claimant to attend to her diabetic needs during her working hours (which was the first of the adjustments which the respondent had allegedly failed to implement). The second adjustment which the respondent had allegedly failed to implement was not allowing the claimant to start work at 08:30 am instead of at 08:00 am. The difficulty for the claimant with this allegation was that the problem with an 08:00 start arose from childcare needs and did not arise out of her disability.
6. The claimant, after being given some time to reflect on the afternoon of the second day, said that she wished to continue with the reasonable adjustments claims. The claimant said that she had been confused by the questions about

her diabetic needs and had not meant to say that the respondent had made the requisite adjustment for her diabetic needs.

7. Ms Bairstow objected to the claimant's wish to resile from the admission about this elicited in cross examination. The Tribunal closed the second day with a direction that the claimant's application to resile from the admission and if successful consequent case management directions would be heard as a preliminary matter on the morning of the third day. The Tribunal observed that Ms Bairstow's cross examination had been properly conducted. Her questions were very clear, and the Tribunal indicated that the claimant would need to persuade the Tribunal that she had been acting under some kind of duress or otherwise would need to show good reason to permit a change of stance.
8. On the morning of the third day, the claimant confirmed that she wished to withdraw the reasonable adjustments claim. Before dismissing the claim, the Tribunal ensured that the claimant understood the implications of doing so. The claimant confirmed that she did. The withdrawal being unequivocal, the reasonable adjustments claim was dismissed.
9. Before withdrawing the reasonable adjustments complaint, the claimant said that the Tribunal had not taken her anxiety into account. She was asked to expand on this but did not do so. She simply said that she wished to continue with the hearing.
10. The withdrawal did not impact the Tribunal victimisation claim. The Tribunal can set out the law on victimisation succinctly.
11. By section 27 of the 2010 Act:
(1) A person (A) victimises another person (B) if A subjects B to a detriment because —
(a) B does a protected act, or
(b) A believes that B has done, or may do, a protected act.
(2) Each of the following is a protected act —
...
(c) doing any other thing for the purposes of or in connection with this Act;
(d) making an allegation (whether or not express) that A or another person has contravened this Act.
12. The respondent does not dispute that the claimant's grievance of 22 January 2025 at pages 985 and 986 of the bundle is a protected act for the purposes of section 27(2).
13. Victimisation against employees by employers is made unlawful in the workplace by section 39(4) of the 2010 Act. This provides that an employer shall not victimise an employee by dismissing them (including constructively dismissing them) and by subjecting them to a detriment.
14. The 2010 Act does not contain a definition of the word "*detriment*". An employee is protected against being subjected to detriment by victimisation. Paragraphs 9.8 and 9.9 of the Equality and Human Rights Commission's *Code*

of Practice provides that, "Generally, a detriment is anything which the individual concerned might reasonably consider change at their position for the worse or put them at a disadvantage. This could include being rejected for promotion, denied an opportunity to represent the organisation at external events, excluded from opportunities to train, or overlooked in the allocation of discretionary bonuses or performance related awards ... A detriment might also include a threat made to the complainant which they take seriously, and it is reasonable for them to take it seriously. There is no need to demonstrate physical or economic consequences. However, an unjustified sense of grievance alone would not be enough to establish detriment."

15. This passage within the EHRC Code summarises the relevant case law upon this issue. In **Shamoon v Royal Ulster Constabulary [2003] UKHL 11**, the House of Lords held that a detriment exists if a reasonable worker would or might take the view that the treatment was in all the circumstances to their disadvantage. The House of Lords also said that an unjustified sense of grievance could not amount to a detriment. It is sufficient that a reasonable worker might take the view that the conduct in question was detrimental. Therefore, the situation must be looked at from the complainant's point of view, but the perception of detriment must be reasonable in the circumstances.
16. The detriment in question must be because of the protected act or because the employer believes the complainant to have done or that they might do a protected act.
17. In **Nagarajan v London Regional Transport [1999] ICR 877, HL** it was held to be sufficient if the protected acts had a significant influence on the employer's decision making. In **Igen Limited (formerly Leeds Careers Guidance) and others v Wong and others [2005] ICR 931** it was clarified that for an influence to be "*significant*" it must be more than trivial.
18. The protected act being admitted, it is for the claimant to show that the respondent subjected her to detrimental treatment and that the detriment was caused by the protected act. There is a burden of proof upon her to do so pursuant to section 136 of the 2010 Act which provides,
 - (1) This section applies to any proceedings related to a contravention of this Act.
 - (2) If there are facts from which the Court could decide, in the absence of any other explanation, that a person (A) contravenes the provision concerned, the Court must hold that contravention occurred.
 - (3) But subsection (2) does not apply if A shows A did not contravene the provision.
19. The alleged detriments are in paragraphs 4.2.1, 4.2.3, and 4.2.4 of the case management order of Employment Judge James identified at a case management hearing on 9 September 2025.
20. The Tribunal will now turn the findings that have been made on these allegations. In assessing them and the credibility of the allegations, the Tribunal has in mind the guidance given by Leggatt J in **Gestmin SGSP S.A. v Credit Suisse (UK) Ltd & another [2013] EWHC 3560 (Comm)** about the effect of

litigation upon the reliability of oral evidence and the general tendency to believe one's memory to be more faithful than it is. Memory is fluid and constantly re-written whenever retrieved and subject to influence by external information, such as the process of civil litigation itself, when a witness will often have a stake in a particular version of events. Leggatt J suggested that inferences drawn from contemporaneous documents and known or probable facts will be more reliable than oral evidence.

Findings of fact, discussion and conclusions

21. The claimant worked for the respondent as a domestic assistant at the Hall Residential Home, a 47 room care home which provides residential care for older persons, dementia care, permanent care, respite care, and care for younger adults.
22. Her employment commenced on 14 August 2023 (pages 160 to 173). She was employed to work a minimum of 24 hours a week over four days (page 161). Her hours in fact increased to 30 per week from 22 January 2024 and then reverted to 24 per week from 1 May 2024.
23. Her job description is at pages 174 and 175. It is not disputed that she was employed to work as cleaner but from the start her job extended to laundry work as well (p833). The claimant's account was that she had difficulty when asked to do both roles at the same time but was able to do one or the other. They are both manual jobs. The respondent took no issue with this.
24. The claimant was at first line managed by Angela Watson, then Bob Fretwell-Munns, and then from 18 November 2024 Karen Loble. The registered manager always was Diane Hagan.
25. The claimant progressed well and no concerns about her work were raised in the reviews carried out by Mrs Hagan at pages 195 to 200. There was no suggestion of any issues generally with the quality of the claimant's work at any point.
26. The organisation of the domestic team's duties is described by Mrs Hagan around paragraph 30 of her witness statement. The team worked on a four-week rota published four weeks in advance. The respondent accepted that this was liable to change where circumstances changed, such as staff sickness or residents moving out or passing away. Indeed, there is an example of the rota being changed at short notice at the claimant's request on 21 April 2025 (page 1036).
27. The Hall Residential Home is split into zones or blocks for the purposes of organising the domestic work. The claimant agreed that while some zones had more bedrooms than others, those with fewer bedrooms had more communal areas. Some areas were harder than others. The work was hard in all zones.
28. The claimant's email at pages 985 and 986 (accepted as the protected act) was addressed to Mrs Hagan and complained of Mrs Loble's actions towards the claimant. There was a generalised allegation of her "*turning nasty*" towards the claimant and particular concerns about an incident on 14 January 2025 where the claimant experienced a serious hypoglycaemic episode and of being shouted at on 17 January 2025 about Christopher Evans handing in his notice.

She also complained about Mrs Lobley's behaviour in throwing clothes and towels onto trollies and that she was angrily "*storming around.*"

29. The email at pages 985 and 986 was sent on 22 January 2025 following a meeting between the claimant and Mrs Hagan the previous day at which these matters had been raised. The claimant intimated possibly resigning. Mrs Hagan suggested she take two weeks of sick leave and for reflection. The claimant returned to work on 3 February 2025.
30. The matters of which the claimant complained in the protected act were not of course caused by that act. They pre-dated it.
31. The claimant's case is that after the protected act, her work was subjected to extra scrutiny by Mrs Lobley and there was an unfair allocation of the heaviest work, being the deep cleans.
32. One example of excessive scrutiny was that Mrs Lobley complained about a ring mark left on or in a bathroom cabinet in room 14. This was an incident which took place on 23 April 2025.
33. The claimant was directed by Employment Judge James to give further information of any other examples of extra scrutiny. The claimant endeavoured to comply with this direction by giving the further information at pages 58 and 59. No specific examples of extra scrutiny were provided. (In evidence the claimant picked up on a message in page 967 of 18 May 2025 to which I shall come in due course).
34. The incident of 23 April 2025 was mentioned by the claimant in her email of 7 May 2025 addressed to Mrs Hagan (pages 1000 to 1002) - the specific reference is in page 1001 (fourth paragraph). The claimant there alleged that Mrs Lobley had sought her out to point the mark out to her and had asked Hedd Angharad to redo it.
35. The domestic cleaning record at page 755 shows that the claimant cleaned room 14 on 23 April 2025. She initialled to say that she had done so in accordance with the respondent's practice. This was signed off by Mrs Lobley as having been done, in her capacity as head housekeeper and the claimant's line manager.
36. Page 1027 is a close up of the entry at page 755. This shows that room 14 was down for a deep clean, which was changed to a weekly clean. The entry at page 755 then has a third entry, reverting to a record of a deep clean. The third entry was made by Mrs Lobley.
37. That the claimant did deep clean room 14 is recorded in a message sent by her to Mrs Lobley on 26 April 2025 (page 159). The claimant accepted in the message that she had not managed to get rid of the mark in the bathroom cabinet. She complained that Nicole Mather (a domestic assistant who had started work for the respondent in January 2025) was critical of her work and was usurping Mrs Lobley's authority and was picking her (the claimant) up on the slightest thing. The issue of Ms Mather's usurpation was a complaint amongst the staff at the time, shown by the messages between the claimant and Janet Dykes of 14 and 25 April 2025 at pages 960 and 961.
38. Mrs Lobley, for her part, had no issue with the claimant's work. In her message at page 159, she complimented the claimant on "*a fantastic job*" and that she had not discussed room 14 with Ms Mather. She (Mrs Lobley) had found out

about the issue from "*the girls*" (clarified in Mrs Lobley's evidence as Janice Dykes).

39. When counsel for the respondent pointed out the discrepancy between the contemporaneous messages in page 159 (as to how Mrs Lobley found out about the bathroom cabinet mark) and the claimant's contention in paragraph 4 of her email sent to Mrs Hagan of 7 May 2025 (that Mrs Lobley had spotted it herself), the claimant said that she had overheard Mrs Lobley and Ms Mather discussing it in the laundry room.
40. This was a third version of events - the other two being that Mrs Lobley had been told of it by Ms Dykes and/or had observed it herself and sought out the claimant.
41. There was no reference to overhearing a conversation in the laundry room in the claimant's witness statement. This impacts on the credibility of the claimant's account as if it happened in that way, one may have expected it to appear in the witness statement.
42. It is possible, as the claimant said, for all three of these to be true. Mrs Lobley may have been told of an issue with the claimant's work by Ms Dykes, inspected the bathroom cabinet and discussed matters with Ms Mather in the laundry room. Indeed, Mrs Lobley says in paragraph 78 of her witness statement that after being told by other staff of criticism from Ms Mather about the claimant, Mrs Lobley checked the room and was satisfied that the claimant's work was of a good standard.
43. However, the key issue to be decided is whether the claimant has made out her case that Mrs Lobley complained to or about the claimant concerning the ring mark on or around 26 April 2025 such as to constitute extra scrutiny. That is the issue for the Tribunal per the list of issues drawn up by Employment Judge James after the case management hearing held on 9 September 2025.
44. The contemporaneous documentary evidence is persuasive that Mrs Lobley, far from complaining to the claimant and berating her about her poor work, was highly complimentary of her. The messages on page 159 are against the claimant's case and undermine it. There was no evidence of any action (formal or informal) taken by Mrs Lobley or the respondent against the claimant at around this time consistent with overbearing scrutiny or pressure. Per **Gestmin**, the documentation created at the time is compelling.
45. Mrs Lobley's target for complaint was Ms Mather. The messages at page 965 (between Mrs Lobley and Ms Dykes) are highly critical of Ms Mather. These are dated 25 April 2025, just two days after the bathroom cabinet ring incident. Mrs Lobley resolved to take action. In her witness statement (in paragraph 80) Mrs Lobley says she spoke with Ms Mather. The Tribunal accepts that she did so. That action is consistent with the messages at the time, and that Mrs Lobley had got the message from the claimant and Ms Dykes that not only was Ms Mather's work poor, but she was also exercising authority she didn't possess and was undermining Mrs Lobley.
46. The cleaning records from page 671 onwards are those completed by Mrs Lobley after she became the head housekeeper. This records that everyone's work was inspected by her, not just that of the claimant. That the claimant's work was checked by Mrs Lobley cannot in itself be the subject of any complaint of course- that was her role as head housekeeper.

47. The claimant was right to draw attention to discrepancies in the records, for example at page 700. It cannot be the case that Mrs Lobley inspected on the dates entered at the bottom of the form which pre-date when the cleaning was undertaken. This does call into question the reliability of the records. However, Mrs Lobley did at least sign them, in contrast to those prior to her appointment as head housekeeper. The previous incumbents did not do so, and the very earliest records do not have the relevant section for the head housekeeper to sign on the proforma which was redesigned. The claimant did not complain that the other head housekeepers were targeting her.
48. Mrs Lobley explained the dating errors as being due to her being new to the role. The Tribunal accepts that when taking on a new role, there is a lot to become acquainted with. Further, it is against the probabilities that Mrs Lobley would not check others' work. That is a key part of her role. We know that she was doing this because she herself complained about Mrs Mather's work to Ms Dykes (page 965).
49. An equally valid point raised by the claimant was that Mrs Lobley had signed off Ms Mather's work the subject of the criticism at page 965. This is in reference to the relevant entry at page 755. Mrs Lobley could not recall the day. This is credible as one day will be very much like another.
50. It is credible that she did check the work as she had done with the claimant on 23 April 2025. Mrs Lobley worked diligently that week (and doubtless other weeks) in checking the domestics' work as shown by the messages at pages 159 and 965. There was also a tension in the claimant's case. On the one hand, she said in the further particulars in page 58 that Mrs Lobley did not always do checks yet on the other hand that she subjected the claimant to excessive checks.
51. Puling this together, therefore, the Tribunal concludes that Mrs Lobley did check the claimant's work on 23 April 2025. She credited the claimant with a deep clean and of doing a fantastic job. This cannot reasonably be perceived as excessive scrutiny. It was part of Mrs Lobley's role. She did not criticise the claimant for not being able to remove the mark in the cabinet. More generally, everyone's work was checked by Mrs Lobley. The claimant was not singled out for unfair scrutiny.
52. The other specific instance where the claimant perceived criticism was the message of 18 May 2025 in page 967. This (from Mrs Lobley to Ms Dykes) says that the domestic staff will need to manage. The claimant was on sick leave at this time (having resigned with notice on 28 April 2025 and gone on sick leave on 6 May 2025) and was not the subject of this discussion. It is hard to see how this is criticism of the domestic staff anyway. It simply says they will have to manage with the resources they have and may be perceived as a supportive stance.
53. The claimant complained that Mrs Lobley left deep cleans to the end of the week when the claimant was due on shift and allocated these to the claimant. It is agreed that the deep cleans are the heaviest kind of work.
54. However, in cross examination, the claimant accepted that deep cleans arise unpredictably and the need for them is random. The records from page 712 (when the claimant returned to work from a period of sick leave) show that the claimant was allocated six deep cleans in the three-month period to early May

2025, Ms Mather was allocated seven, Ms Angharad four and Ms Dykes one-and-a half.

55. This statistical analysis of the contemporaneous records is strong evidence that the claimant was not allocated more than her fair share of deep cleans during the final three months that she was in work and that deep cleans could take place at any point. They were not saved up to be given to the claimant.
56. The claimant sought to argue that the numbers of staff at this time was such to render the analysis carried out by Ms Bristow to be unreliable. On my analysis, five sets of initials - GW LC JD NM HA- feature (with KL also appearing to do some cleaning). The key point however is that the analysis of deep cleans across the relevant period from 3 February 2025 does not show any unfair or skewed allocation of deep cleans to the claimant.
57. The tribunal can accept that the claimant had a perception of unfairness. This was borne out of frustration with Ms Mather and the respondent's handling of her, together with her understandable health concerns.
58. In the Tribunal's judgment, the claimant's feelings towards Mrs Lobley were badly affected by the hypoglycaemic episode of 14 January 2025. The claimant movingly described this in evidence as a life-threatening episode. She contends that Mrs Lobley handled the incident badly and in a way that was potentially injurious to her health. The Tribunal need not make any factual findings about what actually happened that day. However, the claimant's email to Mrs Hagan sent the very next day is powerful contemporaneous evidence of how the claimant felt at the time.
59. There may also have been an issue with Mrs Lobley moving to a position of authority over the claimant which can be a difficulty where there has hitherto been a friendly relationship between people at the same level. The claimant and Mrs Lobley were friendly to the extent that the claimant bought her a very well-received and much appreciated gift for Christmas in 2024.
60. In the Tribunal's judgment the health scare coloured the claimant's perception of Mrs Lobley. It is unsurprising that she felt Mrs Lobley was scrutinising her, as her role had changed and she didn't have to do that before her appointment as head housekeeper.
61. However, while subjectively the claimant's perception may have been of excessive scrutiny and unfair allocation of heavier tasks, objectively this is not borne out by the evidence and the statistical analysis of it.
62. Further, in a message of 11 March 2025 (page 159) Mrs Lobley was sympathetic to the claimant's inability to deep clean that day due to staff shortages. She told her to "*do what you can, impossible for deep cleans, don't worry.*" This is at odds with a manager acting oppressively towards an employee and consistent with a picture of a supportive environment. The tenor of the messaging at page 159 (after the incident of 14 January 2025) is mutually friendly (with 'kisses') and indeed Mrs Lobley said in evidence that she did not perceive there to be any unfriendliness or cooling towards her from the claimant.
63. This being said, although Mrs Lobley did not detect it, for the reasons given the Tribunal can accept that the claimant's subjective feelings towards her had become less affectionate after 14 January 2025.

64. Objectively however, on the evidence before me, the allegation of unfair allocation of strenuous tasks is not made out and fails on the facts.
65. It follows that the third complaint of constructive dismissal must fail, as the basis of such- extra scrutiny and unfair work allocation- are not made out on the facts. There is no basis for a finding that by such actions the respondent was in fundamental breach of the employment contract.

Approved by Employment Judge Brain

Date: 28 May 2026